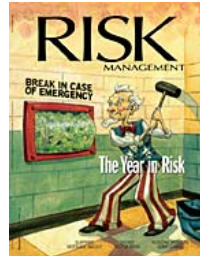


# RISK MANAGEMENT

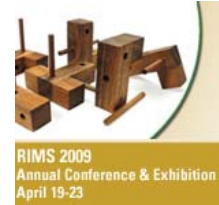

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## Ten Steps to Fewer Workers Compensation Claims

by Karen A. Mulroy



With many 2009 budgets likely cut to the bone in response to the ongoing financial crisis, it is especially important that every employer do anything that they can do to control costs. One way to do this is to minimize the risk of losses from workers compensation claims-something much easier said than done. But to help with that, try applying the following 10 steps to your enterprise. They could go a long way to identifying injury-causing risks and developing a plan to reduce work-related injuries and workers compensation claims.

### I

#### Identify risks within your specific business

Some risks may be obvious, even to the most casual observer, but do not stop there. Employers need to assess risk in terms of both severity of consequences and probability of occurrence. We can all envision a worst-case scenario in which chemicals combine to produce toxicity or an explosion. We also know that unguarded moving parts on a machine can cause devastating injuries. Certainly, employers can and must identify these high-risk situations and implement safety practices to protect against them. The consequences of these risks are severe, but the probability of their occurrence on any given day may not be that great. But chances are, this is not where you experience your greatest exposure in terms of workers compensation claims. Like the old saying "death by a thousand cuts," the risks producing less severe consequences have the greatest probability of occurrence in any given day on the job. This is consistent with one widely accepted formula for risk quantification:

$$\text{Rate of Occurrence} \times \text{Impact of Effect} = \text{Risk}$$

Look deeper into your business to find out where these problem areas are.

### II

#### Analyze past claim history

As an employer, your company's past claim history holds important clues and is a good place to start. It can help identify injury trends or risk patterns within your company and ways to eliminate or reduce those risks.

Consider the nature of the work-related injuries reported in a given period of time. Are there a disproportionate number of slip and fall injuries? If so, why? What was it about employment conditions that may have caused this trend? Did the injuries tend to occur in a specific area or department? Look for common clusters or scenarios.

Your past claim history can also help determine which areas generate the fewest injuries or claims. Try to find out what that department does-or does not do-that is so effective in reducing or eliminating work injuries.

### III

#### Document and keep meticulous records of work-related injuries

Be meticulous in documenting and reporting injuries as they occur. Anyone in a position to accept notification of a work-related injury from an employee should be trained to record critical information such as:

- Who was injured?
- What happened?
- When did it happen?
- Where did the injury occur?

- How/why did the injury occur?
- Were there witnesses? Did anyone see the injury occur? If so, obtain names and take signed and dated statements from those individuals, and place them in a logical and secure place.
- What is the nature of the injury? What part(s) of the worker's body was injured in the occurrence?

This information should be recorded as soon as possible and maintained in the normal course of business. By following this practice, employers will acquire consistently reported and reliable information about injuries. Through timely investigation of injuries as they occur, employers can often find specific factors that led to the injury and what circumstances were present to contribute to the injury. Only then can the employer identify each risk factor and develop ways to counter those risk factors.

If an injury leads to a workers compensation claim, never underestimate the power of good documentation and meticulous record-keeping by the employer to assist in the defense of those claims. Memories may fade with time, but properly maintained documentation and evidence can last forever. Injury documentation, record-keeping and evidence preservation are topics too broad to cover here, but your insurance carrier or defense counsel can serve as great sources of information and guidance. Partner with these resources and work together to develop strategies for proper documentation before litigation even occurs.

## IV

### **Network with similar companies**

The more information an employer has, the more effective that employer can be in identifying risks and injury trends. Networking is an important tool in minimizing workers compensation claims.

Meeting with representatives of comparable businesses or work settings can allow everyone to learn from past experiences-positive and negative-in minimizing the risk of work injuries, identifying injury risks common to those industries, or identifying ways to eliminate those risks altogether.

## V

### **Develop a plan to minimize identified risks of injury that are specific to your business needs**

Do this in the context of your own analysis of your individual business and its associated risks, and incorporate information from the networking sessions with businesses with similar risks.

Break down the risk information into its basic components as it relates to your business. Develop a spreadsheet or chart that identifies as many of the risks-common and uncommon-in your workplace. Identify factors that can modify, eliminate or neutralize those risk factors.

Look to outside sources if necessary to identify the latest techniques, tools and best practices that you can incorporate into your risk management program. Insurance companies, brokers, trade associations, risk management associations and attorneys are invaluable sources of information.

## VI

### **Develop a best practices program tailored to your risk management needs**

Once you have identified risks specific to your business or industry, focus on identifying your industry's best practices in risk management, safety and incident response, timely reporting of work-related injuries, document retention, and preservation of evidence. Customize them for your own company's needs. Look at what works, then look for ways to make it work better for your company.

After injury prevention, timely intervention is an employer's best ally in curbing workers compensation injuries and claim exposure. If a risk can be minimized as soon as possible after it has been recognized, chances of injury to others can be reduced. Timely intervention after injury also can help minimize the effects of the injury on both the injured worker and the employer by affording quicker access to medical care and addressing lost time issues. If your state workers compensation laws allow the employer to direct and control medical treatment, timely investigation and intervention post-injury will lead to more efficient and effective medical treatment decisions.

Employers should also become familiar with possible legal affirmative defenses that may be available in the event a workers compensation claim is filed. Your best practices program should incorporate this awareness so that red flag issues are identified early in the process. Use your workers compensation insurance provider or attorney to help identify these legal issues.

For example, in some states and under certain circumstances, the failure of an

employee to give timely notice of a work-related injury may defeat a workers compensation claim-but only if the employer can present effective evidence or documentation of failure to report injury, and how the employer would have reacted to the injury if it had been timely reported. This evidence can include documentation of the date and time the injury was first reported, whether the employer had opportunity to timely investigate the circumstances of the injury and take appropriate measures to verify the claim, or whether the employer was able to timely direct medical treatment or control lost time.

Best practices also includes developing a consistent approach to record-keeping, document retention and preservation of evidence. Inevitably, there are situations where injury leads to the filing of a workers compensation claim. An employer's consistent approach to incident response, injury reporting, document retention in the form of statements from the injured worker, witnesses or co-workers, and preserving key evidence will play a critical role in the successful defense of the claim.

## **VII**

### **Commit the best practices program to paper**

Just as most companies should have a policy and procedure manual, employers are strongly advised to commit their best practices program to writing in a manual or other user-friendly format and make sure that all employees have access to it. The plan can be comprehensive, identifying all risks and safety/risk management techniques for your company, or it can be specific to a particular department. Post key points of the plan as needed in a conspicuous place, and make the plan available for inspection in a central location. Having employees sign an acknowledgement sheet is a good way to document that an employee was made aware of these practices and has reviewed them.

## **VIII**

### **Communicate the best practices program to your employees**

Workplace safety benefits each employee. Make sure everyone in the workplace is aware of risks or scenarios specific to your business, and make sure that all employees have a role in preventing work-related accidents.

In the event that a work-related accident does occur, make sure everyone knows what to expect and what is expected of them in terms of timely reporting, incident response, documentation and preservation of evidence.

No matter how good a best practices program is, employers cannot convince their employees of its value unless they themselves believe in the program and are committed to its use. Employees cannot use best practices if they do not know they exist.

Utilize in-house seminars or safety and risk management programs in your workplace. Tailor those meetings or programs to specific departments or employee groups. Teach employees in human resources, leadership or supervisory roles how to document injuries, preserve evidence and investigate in a consistent and systematic way.

If your business uses shift work, be sure to include time for seminars and programs for employees working all shifts. Take advantage of any outside groups or resources that are willing to come into your workplace and present an in-house seminar on safety, injury prevention or risk management. Give your employees all the tools they need-not only ones specific to their trade-to be active participants in workplace safety and risk management.

## **IX**

### **Apply the best practices program consistently**

Once you have gone through the meticulous analysis of risk and identified best practices to eliminate or modify those risks, and then educated all employees, all that remains is to consistently apply the best practices program-all the time, every time. Work with employees and help them to apply the plan in real-life situations until best practices become second nature. Continue to reinforce the importance of that plan with periodic in-house seminars or group meetings.

## **X**

### **Never stop your pursuit of a safe workplace**

It is essential to periodically review your company's claim history and safety practices. Maintain network connections with other comparable businesses or work settings, and risk management and trade associations in order to stay on top of trends, risk identification, tools, resources and safety techniques.

Update your company's best practices program as often as necessary to ensure its effectiveness. View it as a work in progress or a living document that can adapt as your business risks change. By doing so, you will instill behaviors and a mind-set that is destined to protect your business while reducing the risk of work-related injuries to your employees.

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