

City of McAllen And TRISTAR

Role of the TPA and Employer in Facilitating Positive Claim Outcomes

Workers' Compensation Claims

Texas PRIMA November 2018

transforming risk into opportunity*



Parties – Workers' Compensation

- Employee
- Employer
- Insurance Company / TPA / Adjuster
- Doctor or Medical Provider

- Other:
 - Case manager
 - Attorney
 - TDI / DWC

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Claims Process

- Reporting
- Investigation
- Medical Care
- Return to Work
- Disputed / Denied Claims
- Hearings
- Catastrophic Claims

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What is Workers' Compensation?

- Workers' compensation is a state-regulated insurance program that provides covered employees with income and medical benefits if they sustain a work-related injury or illness.
- Texas private employers can choose whether or not to provide workers' compensation insurance coverage for their employees.
- Public employers must provide worker's compensation coverage for their employees.

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Claim Reporting - Employer

- Have an injury reporting plan in place
- It should be noted in the employee handbook
- Step by step instructions in the event of an accident
- Require prompt reporting – 24 to 48 hours or within the shift
 - Allows prompt medical care for the injured employee
- Preservation of evidence
- Contact with witnesses
- Prompt supervisor reporting to the workers' compensation person or department
- Hazard identification
- Accident prevention

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After the Incident or Accident

- The employer should respond immediately
- Seek proper medical care or provide first aid
- Secure the area – if the hazard still exists , eliminate it to protect others
- Determine the facts of the incident as soon as possible with a thorough on-site investigation while the incident is still fresh in everyone's mind
- Analyze the incident – why did this occur?
- What is the corrective action plan to prevent this from happening again?

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Employer Investigation

- Effective accident investigation is an essential step to manage the cost of losses and prevent future loss
- Can uncover fraudulent claims and identify subrogation potential
- Elements include
 - Written employee statement
 - Written witness statement
 - Supervisor's report
 - Internal follow up

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Employer Investigation

- Employer investigation
 - The employer has the best and most complete knowledge of the incident.
 - They know the location and any hazards that may be present.
 - They know the employee and their work record and ability
 - They know the job and requirements to complete the job
 - They are experts in their own company
 - They know their safety procedures

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Investigation

- Adjuster
 - confirm if the injury occurred in the course and scope of employment
 - In addition to their independent investigation, rely on the information provided by the employer.
- Employee
 - The employee must cooperate with the employer and adjuster
 - The employee will be required to provide a description of the incident and of the injuries. A recorded statement may be taken
- Employer
 - The employer should perform their own inquiry into the accident
 - The employer should gather all relevant information and to assist the adjuster
 - The employer and witnesses should be accessible to the adjuster

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Medical Treatment

- Treating Doctor
 - Acts as the gatekeeper to the employee's care
 - Communication is required
- Employee
 - Must be consistent with medical care
 - Must follow medical instruction
- Employer
 - Employer will receive copies of the work restrictions
- Adjuster
 - Manage medical treatment

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Medical Treatment

- The injured employee may seek treatment with a medical provider of their choice unless the employer or carrier participates in a network program.
- The treating doctor may refer to a specialist
- If the employer participates in a Network or 504 program, they may have a contractual relationship with the medical providers

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Return to Work – Full Duty

- **Treating Doctor**
 - Completes DWC 73 – medical report
- **Employee**
 - Contact adjuster and employer when full duty release received
- **Employer**
 - Employer will receive copy of the DWC 73
 - Communication with employee to confirm RTW
 - Share absence policies
- **Adjuster**
 - Communication with employee to confirm release to RTW
 - File appropriate forms with DWC

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Valued at 08/31 each Year and 05/31/2017 for 2016/2017

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Employee Communication

- Both the employer and the adjuster should maintain consistent contact with the injured employee.
- More complete information can be obtained when both the adjuster and the employer maintain contact.
- Working together will allow the employee to have resources to obtain the necessary information.
- Maintaining communication with the employee will improve the employee's claim experience.
- Being aware of the employee's understanding of the situation and their expectations allows for a smoother claims process.

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Return to Work – Modified Duty

- **Treating Doctor**
 - Completes DWC 73 – medical report
- **Employee**
 - Contact adjuster and employer with modified duty restrictions
 - Must follow medical instruction
- **Employer**
 - Provide a job description
 - Employer will receive copy of the DWC 73
 - Communication with adjuster and employee to confirm RTW availability
 - Bona fide offer of employment – time, place, wages, duration
- **Adjuster**
 - Communication with employer to confirm release to RTW
 - File appropriate forms with DWC

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Return to Work

- A Return to Work Program is a plan set up by an employer so injured workers can return to work more quickly and safely while they heal, either with changes to their regular job or in a temporary, alternate work assignment.
- The scope of the assignment is determined by the DWC-73 completed by the treating physician.
- The employer should send a bona fide offer of employment stating specifics of the assignment
- A Return to Work Program benefits both the employee and the employer.
- <http://www.tdi.texas.gov/wc/rtw/documents/rtwguide.pdf>

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Other Claim Issues

- Possible permanent restrictions
- Maximum Medical Improvement / Impairment Rating
- Ongoing Care
- Lifetime Medical

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Denied Claims

Once the adjuster completes the investigation it may be determined that the claim is not a compensable claim or parts of the claim are not compensable

- Employee
 - Will receive written notice of the denial – full or partial
 - Options to dispute the denial will be offered
- Employer
 - Employer may be contacted by the employee with questions
- Adjuster
 - Communication with employee to discuss denial
 - file appropriate forms with DWC

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Hearings

- Hearings take place in workers' compensation to resolve many disputes. Some examples are:
 - Disability
 - Wage calculation
 - Extent of Injury
 - Medical care
 - Unpaid bills
- Generally an attorney represents the employer at a hearing
 - The attorney would consult with both the adjuster and the employer prior to the hearing

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Hearings

Employee

Must attend the hearing to present their argument

Employer

Should attend to share information on the work environment and job specific details

Adjuster

Provides investigation to the attorney and prepares and acquires any additional necessary information

Attorney

Presents the argument on behalf of the employer / adjuster

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Catastrophic Claims

- Probably the most critical time to work together
 - All parties must communicate
 - Respect the wishes and privacy of the family
 - Appropriate, timely medical care essential
 - Timely complete all necessary filings with DWC
 - Cooperation with the employer on contact
 - Case managers recommended
 - Often attorney involvement

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Other Claim Situations

- PTSD
- Cancer Claims
- Illness

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Ways to Share Information

- Regular calls or meetings with your claims team
- Follow up on outstanding questions or concerns
- Call the adjuster with your injured employee
- Involve the supervisor in the adjuster's investigation
- Review claims in the on line system
- Ask questions

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Summary

- All parties have valuable knowledge about every claim
- The adjuster is the expert in dealing with the rules and law of workers' compensation
- The employer has the intimate knowledge of the employee's position and performance
- The employer may also have knowledge about extenuating circumstances about the accident or the employee
- The attorney provides a strategy based on the facts of the claim
- The adjuster will gather the medical information but the employer determines if return to work is possible

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Questions

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