

# City of McAllen And TRISTAR

## Role of the TPA and Employer in Facilitating Positive Claim Outcomes

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### Workers' Compensation Claims

Texas PRIMA November 2018

transforming risk into opportunity\*



## Parties – Workers' Compensation

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- Employee
- Employer
- Insurance Company / TPA / Adjuster
- Doctor or Medical Provider
  
- Other:
  - Case manager
  - Attorney
  - TDI / DWC



## Claims Process

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

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## What is Workers' Compensation?

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- 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

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- 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

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- 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

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- 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

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- 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

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- **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

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- **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

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- 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

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- **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

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- 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

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

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## Denied Claims

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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

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- 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

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**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

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- 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

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- PTSD
- Cancer Claims
- Illness

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## Ways to Share Information

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- 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

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- 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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