

companion

A workers' compensation resource for employers served by SFM Companies

MEDICAL COSTS

Work injuries' special problems. How SFM addresses them. What you can do.

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The Work Comp Experts

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Failure to offer light duty ends in costly settlement

An interesting look at news involving the interplay between workers' compensation and employment law was carried recently in *National Underwriter* magazine.

"As the economy went into freefall and employers refused to entertain requests for light-duty jobs, the (Equal Employment Opportunity Commission) stepped up enforcement of federal leave and disability laws." That "ushered in a new exposure and financial wrinkle for employers who may not understand how easy it is to create the link between workers' compensation and disability protection," the magazine reports.

In a case against Sears Roebuck, "the EEOC settled the largest Americans with Disabilities Act lawsuit, which had arisen out of a workers' comp claim. According to the EEOC, Sears

failed to offer light duty or accommodate injured employees when they attempted to return to work. The settlement was set at \$6.2 million."

Says National Underwriter: "As a warning to all the employers out there who said 'we have no light duty' before evaluating their exposures, this case clearly delineates the link between workers' compensation and the ADA. . . . Injuries create avenues for employment litigation."

The case also demonstrates the value of employment practices liability coverage, which is available as an endorsement to your SFM workers' compensation policy in Minnesota, Wisconsin, Iowa and South Dakota. For more, talk with your independent insurance agent.

BRIEFS

Wisconsin, Iowa, Nebraska ban texting while driving

Wisconsin, Iowa and Nebraska enacted laws this year banning text messaging while driving. The new laws place them among 26 states with bans on texting while driving.

The Nebraska law makes texting a secondary offense, so a driver must first be pulled over for a primary offense.

Current Minnesota law bans texting for all drivers and bans all cell phone use for drivers under age 18 who are operating with a learner or provisional license, according to the Governors Highway Safety Association.

As an employer, you may want to educate employee drivers about the texting laws in your state and consider updating employee policies to prohibit all cell phone use while driving.

SFM physicians elected officers of national society

SFM Medical Director Dr. Dan Janiga and SFM physician Dr. Beth Baker recently were elected officers of the American College of Occupational and Environmental Medicine.

Janiga was installed as speaker-elect to the ACOEM's House of Delegates. Baker was elected to a two-year term as secretary-treasurer. Both also serve on the ACOEM Board of Directors.

The ACOEM, the nation's largest medical society, promotes the health of workers through preventive medicine, clinical care, research and education. The House of Delegates is ACOEM's legislative arm, which makes recommendations to the ACOEM board on policy matters affecting the college.

Merriam, Mars re-elected to SFM board of directors

SFM Board Vice Chair Gene Merriam and Robert Mars were re-elected to four-year terms on the board of directors at SFM's annual policyholder meeting June 21.

Merriam, of Coon Rapids, Minn., is president of Freshwater Society. Mars, of Eden Prairie, Minn., is president of WP & RS Mars Co.

Policyholders also retained Strohm Ballweg LLP, Madison, Wis., as SFM's independent auditor.

Boost your safety committee

SFM presented "Safety Committees: Create one with purpose or boost yours for results" seminar recently at the Minnesota Safety Council conference in Minneapolis.

More than 150 attending learned about compliance requirements including who must have a safety committee, walked through mistakes to avoid, and experienced a role play showing how a dysfunctional safety committee fails.

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Scholarships

SFM Foundation awards college scholarships to 10 students

Ten students of parents fatally or seriously injured on the job have been awarded higher education scholarships of up to \$5,000 each by SFM Foundation for the 2010-11 school year. Each student's scholarship is renewed annually for up to five years.

This year's 10 scholarships are in addition to nine awarded in 2009, the foundation's first year.

The scholarship opportunity is available to students of parents fatally or seriously

injured while working for Minnesota or Wisconsin employers, regardless of the employer's workers' compensation insurer.

Response from contributors continues to be strong, according to foundation officials. Contributions raised through the foundation's second annual "Golfing for Scholarships," conducted in June at Prestwick Golf Club in Woodbury, Minn., totaled more than \$47,000, up 10 percent over 2009. Contributors include

independent agents, SFM business partners, SFM employees, and members of the legal and medical communities.

For more, see www.sfmic.com/foundation, or SFM Foundation on Facebook.



Wage reporting

Periodic wage reporting, premium pay system available online



SFM recently launched an online wage reporting system, giving employers who participate in wage reporting the ease of doing it electronically.

Wage reporting is especially helpful for employers that have fluctuating cash flow cycles during the year.

Through SFM's web-based system, you can:

- Easily report your company's payroll.
- Conveniently pay your organization's workers' compensation premium.
- Access previously submitted wage reports and SFM invoices.

Employers may choose to report wages

and pay premiums monthly, quarterly or semiannually.

You can register for wage reporting at your next policy renewal.

For more information, talk with your insurance agent or visit www.sfmic.com > Employers > Online Services.

Treatment guides

Changes to Minnesota treatment parameters nearing approval

Significant changes to Minnesota's treatment parameters and permanent partial disability schedule are expected to go into effect by late fall following the approval of Gov. Tim Pawlenty and the Office of Administrative Hearings.

Treatment parameters establish reasonably required treatment of workers with compensable injuries and facilitate communication between healthcare providers and insurance companies.

Some of the amendments to the treat-

ment parameters and PPD schedule include:

- **Generics.** Generic versions of the following medications are generally to be preferred: non-steroidal anti-inflammatory, muscle relaxants and opioids.
- **Opioids.** Limitations on duration of opioid medication unless certain conditions are met.
- **Pain.** Complex regional pain syndrome or Reflex Sympathetic Dystrophy (RSD) is to be rated under individual sections such as motor or sensory loss

rather than groupings of mild, moderate or severe.





- **Shoulders.** Rotator cuff tears that are repaired surgically and treatment results in normal function are to receive a 0 percent PPD rating.

"Some of these changes were suggested by the Department of Labor and Industry and others are based on evidence-based medicine," said Dr. Beth Baker, SFM physician and chair of the Minnesota Medical Services Review Board.



BRUSH UP on work comp

Take advantage of SFM's newly revised Resource Catalog

-  Legal advice
-  Claims practices
-  Injury prevention tips
-  Self-help tools

Easily sort and search topics.
View related items. Download
or order.

Visit SFM's Resource Catalog,
one of many upgrades to
SFM's redesigned website.

www.sfmic.com >
**Employers >
Resources >
Resource Catalog**

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'Stay on your feet'

SFM campaign helps employers prevent costly slip, trip injuries

SFM is helping employers keep employees from falling down on the job with "Stay on your feet" materials.

Slip, trip and fall injuries are the most common cause of workplace injuries, according to the National Safety Council. Nationally, the average slip, trip or fall injury costs more than \$20,000. As you know, that can significantly impact your premium.

The "Stay on your feet" campaign

focuses on major hazards including cords, clutter, liquid and stairs as primary causes of slips, trips and falls.

As an SFM policyholder, you can order "Stay on your feet" posters, table tents, paycheck stuffers and other turnkey training materials at no charge. Go to www.sfmic.com > Employers > Injury Prevention > SFM's Safety Resources > Slip, Trip and Fall. ♦



"Stay on your feet" posters are available through SFM's website.

Horseplay

Are employees' injuries covered by workers' compensation?



By Beth Mandel, Esq.
SFM Senior Defense Counsel

Scenario: Joe and Mike are goofing around near the assembly line during work hours. Joe pushes Mike, who stumbles, and Mike throws a cardboard box at Joe. Neither intends to hurt the other, but Mike is struck in the eye by the box and sustains a contusion injury. He requires medical attention and is taken to the emergency room.

Is this a compensable work-related injury?

States vary. The courts in Minnesota—unlike Iowa, Nebraska, South Dakota and Wisconsin—have ruled consistently that injuries resulting from horseplay are indeed compensable. The main question in these cases is whether the injury resulted from conduct involving a risk or hazard of the work environment which the employer could reasonably have anticipated.

In other words, if an employee is injured by a product that is thrown by another employee or sustains a back injury resulting from an exuberant hug from another co-employee, the injury will most likely be compensable.

A notable exception would be an employee's intentional desire to hurt another employee, during work hours and on the premises, for some reason other than the employee's employment. These are injuries that are motivated by personal animosity for the victim and typically have to do with arguments or circumstances not connected to the employment. An example may be an employee who steals something from the home of another employee and the argument is brought into work the next day and escalates into a physical confrontation on the premises. Any injuries resulting from this confrontation would



not be compensable work-related injuries.

How do you as an employer safeguard your workplace against seemingly avoidable injuries?

If you or a supervisor witness unsafe "horseplay" on the premises, it is best to

deal with it swiftly by prohibiting the conduct in writing, and universally reinforcing the message with progressive discipline for any future violations of your instructions. In general, if an employee is ultimately injured while performing a prohibited act, the injury is not compensable. ♦



Patty Fix, special education transportation supervisor, performs a light-duty copying job following a work-related accident.



Mechanic Adam Bernardy performs a light-duty job in the Schmitt & Sons parts department.

Light-duty strategy reduces costs for growing bus company

LAKEVILLE, Minn.—Schmitt & Sons Buses Inc. approaches return-to-work aggressively, putting its plan into action at the beginning of each claim. As a result, the company has reduced its losses due to work injuries even while tripling in size.

With more than 380 employees and 270 vehicles, the company is diligent and creative when addressing return to work.

“We haven’t seen a medical restriction yet that we can’t accommodate with some type of light-duty work,” said President Dan Schmitt. “Return to work is a benefit all the way around for the injured employee and the company.”

Building employee awareness

Employee awareness about return-to-work expectations is key, according to HR and Compliance Manager Karen Halstead.

“We post our return-to-work policy at each of our locations and include it in our employee handbook,” she said.

The company typically sees minor strains and slip-and-fall injuries from its employees, who are mostly mechanics and drivers.



Schmitt & Sons President Dan Schmitt at the company's Lakeville, Minn., location.

Forging relationships

Additionally, Halstead has built a relationship with a local clinic that specializes in occupational injuries.

“The clinic staff has a copy of our return-to-work policy and is well aware that we work to accommodate medical restrictions. It’s rare that our employees are taken off work to recuperate,” Halstead said.

When employees choose to seek treatment with their primary physicians, Halstead and the SFM claims representative communicate with the physicians about the company’s return-to-work philosophy.

“Regular communication with all parties produces better return-to-work results, and the employee recovers quicker from the injury,” Halstead said.

Tapping into supervisors

Schmitt & Sons works with supervisors to find light-duty tasks that accommodate restrictions. Over time, the company has developed an extensive light-duty job task list that includes work in its parts department, office or as a bus aide.

“I’m sure other employers can think of things that need to be or should be done around the office. Even if the task seems menial, it should be added to the list so you can easily assign it if an employee has specific medical restrictions,” Schmitt said.

“A positive approach, a standing plan and flexibility help bring it all together,” he said.◆



About the Premier Partner Award

SFM serves more than 13,000 employers across the Midwest. We engaged nearly our entire SFM staff in choosing this year’s five winners of our Premier Partner Award. The award recognizes these employers for outstanding performance in workers’ compensation and putting good ideas into action.

~ Editor

“We haven’t seen a medical restriction yet that we can’t accommodate.”

MEDICAL COSTS

**Work injuries' special problems.
How SFM addresses them.
What you can do.**



Controlling medical costs helps control your workers' comp premium

With workplace injuries, you as an employer have special opportunities to help control medical costs.

So does SFM, your workers' compensation insurer.

SFM addresses them with expert cost-control systems and superlative results.

How about you, the employer: Are you taking advantage of your opportunities, these critical points where your action makes a difference?

Growth in medical costs

Medical costs in workers' compensation have been rising steeply for many years. In Minnesota, for instance, medical costs now account for more than 60 percent of total workers' compensation claims costs, up from 40 percent a few years ago. The remaining claims costs are wage-replacement benefits.

Medical costs have been rising faster in workers' compensation than in group health and other medical reimbursement systems. There may be further cost-shifting to workers' comp, and the recently enacted federal healthcare reform legislation may play out with both positive and negative impacts on workers' comp systems.

There may be little you can do directly to stem those tides. But there is a lot you can do to control costs if one of your employees is injured on the job.

You've already taken the first step by partnering with SFM, an insurer that specializes in controlling the costs incurred by injured employees and managing their claims for the best overall outcomes.

Issues that can arise with your injured employee's medical costs

Think of medical cost issues falling generally into four buckets.

1 Treatment. From an occupational medicine point of view, or from a workers' compensation perspective, the prescribed treatment sometimes presents issues such as:

- It is not focused on getting the injured employee back to work.
- It is more expensive than other treatments that are equally effective.
- It involves traditional surgery when noninvasive techniques are now available that result in faster recovery at less cost.

The connection is your experience modification factor, or e-mod.

Your e-mod number reflects your organization's workers' compensation loss experience relative to businesses similar to yours in size and type. Your e-mod is a factor in your premium calculation: The lower the e-mod, the lower the premium.

Best practice: Monitor your e-mod.

For more, see SFM's "E-mods" *CompTalk*. Download or order at sfmtic.com > Employers > Resources > Resource Catalog.

- It involves drugs or dose amounts that exceed what is needed to be effective. This occurs especially with painkillers.
- It exceeds state guidelines. Minnesota and Wisconsin have adopted state regulatory guidelines for treating work injuries. They are intended to avoid excessive treatment. However, not all doctors and chiropractors are familiar with them.
- 2 Disability ratings.** Ratings for permanent disability compensate the employee with a dollar amount that is commensurate with the physical impairment caused by the work injury. Minnesota, Wisconsin, South Dakota, Iowa and Nebraska have adopted systems for rating the severity of permanent disabilities. They are intended to ensure fair compensation for all parties involved. However, not all doctors have the special expertise to apply the disability ratings accurately.
- 3 Billing oversights.** For instance, the statement from the provider charges twice for the same service. Or it charges for a higher, more expensive level of service. Or it breaks apart a package of services and charges separately for each item, producing a higher overall cost. Or it charges for services or equipment that were not provided.
- 4 The injured employee—**
 - Has other medical, emotional or financial problems that cause him to want to prolong medical care and workers' compensation wage-replacement benefits.
 - Abuses drugs.
 - Does not understand his treatment program. Or doesn't follow it.
 - Needs guidance on what to do, where to go.

MEDICAL COSTS



Resolving those issues starts with the right approach

Each of these and other issues requires skilled specialists. SFM's experts work in teams. Along with the claims representative, they include doctors, nurses, attorneys, claims technicians, and others.

Fundamentals they work by—

Quality care. Results in better health and well-being for your employee. Leads to lower overall costs in the long run, and better outcomes for everyone.

Early care. Results in better outcomes mentally and physically, and is focused on returning the employee to a productive lifestyle.

Low cost. Quality care and other fundamentals lead to low cost. SFM's business practices and specialized cost-control systems manage for it. More on that later.

Effectiveness in containing medical costs is one reason SFM's claim costs are significantly less than the industry average.

Evidence-based medicine. Emerged in the medical industry in recent years to help identify the most effective treatment options. Reports the findings of objective evidence of treatment outcomes. Especially valuable in occupational medicine and early return-to-work; however, SFM's experience is that not all treating doctors are up to date on EBM's findings.

Stay-at-work. Recognizes that many injured employees are medically and safely capable of recuperating on the job rather than at home. A model that nicely complements return-to-work. Results in the best outcomes for both employer and employee. Given national prominence by the 60 Summits Project. Embraced by SFM.

Take these 3 leadership steps to make a difference in workers' comp costs

1 Hire right.

Out of the thousands of workers' compensation claims SFM manages each year, it sees claims and costs that employers likely would have avoided had they followed more careful hiring practices. Those include pre-employment physicals, criminal background checks, educational background checks, drug and alcohol testing, driving record checks, reference checks, Social Security verification, thorough job descriptions, up-to-date application forms, and more.

For detailed advice on each of those, see the January 2010 *Companion* at www.sfmic.com > Employers > Resources > Publications.

Good investments: Talking with an employment attorney. Taking advantage of human resources management associations.

2 Beef up wellness.

Gone are the days when employee health was considered a personal lifestyle choice

that was none of the employer's business. Poor individual health drives up group health costs, increases absenteeism, and decreases productivity. Poor fitness leads to work injuries and higher workers' compensation premiums. Obesity and smoking are two of the biggest problems.

Wellness programs lead to healthier employees and lower costs. If you don't have a program, consider starting one. If you have one, consider the next step to improve it.

Consider employee assistance plans. Besides being a resource for employees generally, an EAP can help address the personal emotional or dependency issues that play into some workers' compensation claims.

Recent years have seen wellsprings of good advice on managing health and wellness programs. SFM's "Wellness Works" website pages and internet links are a good place to start. Go to www.sfmic.com > Employers > Resources > Wellness in the workplace > Wellness resources.

3 Practice return-to-work.

Or stay-at-work, as described above.

Everybody wins when an employee recuperates on the job rather than at home, within medical restrictions. To understand the financial implications for the employer, see SFM's "E-mods" *CompTalk* at www.sfmic.com > Employers > Resources > Resource Catalog.

One key to making return-to-work happen is your communications with the clinic. The treating doctor needs to know that you—his patient's employer—will find light-duty work within the medical restrictions so the employee can go back to work safely.

Another key: Using a quality clinic that practices occupational medicine. Not all clinics deliver equally effective treatment. And not all doctors are skilled in returning the patient to work sooner rather than later.

For more, see "To work or not to work?" in the July 2008 *Companion*, at www.sfmic.com > Employers > Resources > Publications > Companion archive.

SFM's specialists and teams manage for right care, low cost

Distinctive about them is the depth of expertise, the high degree to which they are integrated, and the demonstrated results, which help control premiums and provide additional benefits to employers' bottom lines. Highlights—

In-house physicians

These are practicing occupational medicine physicians with a range of medical specialties. An SFM physician reviews the treating doctor's assessment and treatment plan: Is the injury work-related? Is the treatment reasonable and necessary? Is the proposed diagnostic testing and surgery appropriate? Are disability ratings accurate?

SFM's physician expertise produces better outcomes and substantial savings. For instance, correcting disability ratings alone easily saves more than \$1,000 on an average case.

In-house nurses

SFM's in-house nurses and occupational therapists work directly with all injured

employees facing long-term treatment.

The nurse is a liaison between the injured employee, the employer and the medical provider. The nurse, together with the claims representative, manages the medical to keep treatment on track and return the employee to health and productivity, bringing the SFM physician into the discussion as needed.

This medical case management reduces both medical costs and workers' compensation wage-replacement benefits, resulting in significant savings. It produces additional savings by influencing the use of medical treatment options that are more effective or less costly.

Provider networks

These raise the quality of care and lower its cost. SFM's arrangement with the CorVel preferred provider organization offers policyholders a network through which they can receive medical care at discounted rates from providers who've met standards of quality. SFM's arrangement with ExpressScripts offers access to a wide network of pharmacies that fill prescriptions at discounted prices.

Medical bill review

Multiple levels of professional bill review ensure that providers are paid fairly. Review includes professional review by nurses. It applies state fee schedule limits, corrects billing oversights and reviews from the first dollar billed, reducing billed amounts by more than 30 percent on average.

In-house attorneys

Though not directly part of medical cost-containment, SFM's attorneys are closely involved with claims representatives, doctors, nurses and others in reviewing cases and resolving issues. Medical, employment and legal issues often become intertwined. SFM's legal expertise helps control costs across all fronts.

Partnering with employers

The 80-20 rule applies: The few most troublesome claims can account for a large share of claims costs. Problem claims are spotted early on. Solutions are strategized. Issues are headed off. They receive the most intensive team efforts and managed together with the employer for the best possible outcomes and lowest cost.

Partnership matters a great deal. That includes the employer doing its part to work with SFM in managing the developments of a claim. The SFM-employer partnership results in the most successful outcome. ♦

For more information about SFM's medical cost control services, contact SFM Medical Services Manager Rose Hatmaker, (952) 838-4420 or rose.hatmaker@sfmic.com.



How to contact SFM

General offices

Toll-free (800) 937-1181
Metro area (952) 838-4200
Fax (952) 838-2000
Email info@sfmic.com

To report a claim

Online www.sfmic.com
Toll-free (800) WC-CLAIM
Metro area (952) 838-2020

Lynn, Scharfenberg & Associates

Toll-free (800) 937-1181
Metro area (952) 838-4450

Your claims information

CompOnline® www.sfmic.com
Phone (952) 838-4200

Safety programs (952) 838-4309

CompRehab Inc. (952) 838-4400

SFM Risk Solutions (for TPA clients)

Online www.sfmic.com/TPA
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Employer wellness programs decrease
healthcare and workers' compensation
costs, studies show.

