

Why Is My Comp So High?

An explanation of the factors driving expense costs in workers' compensation insurance

The provision of workers' compensation coverage for employees generates many different types of expenses. Most of these expenses are incurred in an effort to lower the long-term costs of open workers' compensation claims. Most of the time, spending \$1,000 in a claim expense may save you hundreds of thousands of dollars wasted in medical or indemnity abuse or misuse over the life of a claim.

The most common of these costs are briefly explained below:

Nurse Case Management:

A good nurse case manager can make a dramatic impact in cost savings to a claim. A nurse case manager works with the claimant and their doctors either telephonically or in person to move the medical recovery along and prevent claimant malingering. The nurse may arrange for additional specialized care if he/she deems it appropriate, and may have a more frank conversation with the treating doctors about the plan of care and holding the claimant accountable for their own recovery. The nurse case manager is our best line of defense in the battle to control overuse, misuse and abuse of very powerful, addictive and expensive narcotic medications. Since Nurse Case Managers have been able to utilize the 2010 Medical Treatment Guidelines to bring medical costs down, NCA's in house case managers have been able to save our clients over \$1,000,000 in medical costs for brand-name or inappropriate drugs.

Vocational Rehabilitation:

Vocational rehabilitation has been a growing expense in the workers' compensation arena because of recent legislation that determines the amount of wage replacement benefits awarded to a claimant based on their "loss of wage earning capacity" after a workplace accident. The vocational rehabilitation expert works with the injured worker to find employment that is suitable to the claimants' physical capabilities. Because of their certifications, these experts provide an opinion on the employability of an injured worker based not only on their physical limitations, but also on vocational factors including age, language skills and educational background. If a vocational rehabilitation specialist finds that someone who is 50% medically disabled has not been limited in their employment because of the injury, the workers' compensation judge may determine a 0% loss of wage earning capacity, effectively terminating wage replacement benefits. As a result, this claims expense can provide dramatic savings on a claim.

Investigation:

Private investigators are best known for providing videos of a claimant "caught in the act" faking an injury or disability. While these cases are dramatic, they are fairly rare and are only a portion of what these vendors can provide for workers' compensation cases. Investigators provide the eyes on the ground for a claims adjuster. They may provide footage of a claimant exaggerating their disability or performing tasks that they claim to be unable to perform. This footage can be helpful in coordination with a medical doctor's opinion after viewing the footage. A private investigator can also investigate a scene of an accident to gather more detailed facts and photographs, as well as signed witness statements. An in-person investigation of a claim initially may prevent the claimant or witnesses from lying about the event in question when they are required to sign an official statement. Investigators also

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provide “alive and well” checks to make sure that long-term claimants are still using their benefits (as opposed to a son cashing his deceased mother’s benefit checks). Money spent on the assignment of an investigator on a file may result in substantial savings if their work is able to lower the awards a claimant receives, successfully prosecutes fraud, or provide enough attention that a claimant may agree to settle their claim when they wouldn’t before.

Attorney Fees:

Litigation of a claim can be very expensive and very difficult. The workers’ compensation law is complex and is written in favor of the injured worker. However, the use of an attorney or the careful decision to litigate an issue on a claim can save on a file, especially if you are able to win on issues of fraud, if you are able to utilize the Medical Treatment Guidelines to deny an expensive medical procedure, or if you are able to have an Administrative Decision rendered that gives a lower percentage of disability (and therefor lower wage replacement benefits) for a claim.

Independent Medical Exam:

Claimants are able to treat with any provider they prefer. Many times, a treating provider may give a medical opinion that is biased by their longstanding personal relationship with their patient. A sympathetic medical opinion on work capabilities and injury severity often results in much higher medical or wage replacement costs. By hiring an independent physician, we may realize savings if there is an unbiased opinion that gives a more realistic view of the medical condition and work capabilities.

These claim expenses are the best opportunity for a self-insured entity to take advantage of the legislation that has been passed to help New York State employers keep the cost of workers’ compensation coverage down. If aggressive cost containment strategies are utilized, the medical and indemnity costs associate with workers’ compensation may decline dramatically over time, especially given the often decades-long tail of this type of coverage.