

Workers compensation basics for your business



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About Markel's Risk Solution Services team

Risk Solution Services provides technical insight related to existing and potential insured risk at Markel. The team partners with our customers, claims, and underwriters to educate on both current and future risk trends and supports our clients with a broad offering of risk management solutions.

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Safety for your organization

Even though there may be many aspects that are similar, the safety programs for every organization will in all likelihood look very different. Like any other effort to manage your risks, your plan will need to identify the risks you face and in turn, determine how they will be managed.

There are many hazardous activities carried out in most every industry that can result in a serious injury or even death if not managed properly. Your risks may include things such as:

- The physical work environment
- Occupational hazards (i.e. slips and falls, chemicals, cuts/lacerations)
- Machinery, processing, and substances used
- Work practices and systems of work

A commitment to managing these safety and health risks is a great way for your organization to protect your greatest resource – your people. Spending time on health and safety can help create a better work environment and improve your worker morale. Workplace accidents on the other hand, due to a lack of this kind of commitment, can have an immense impact on your injured workers, their co-workers, and on their families in terms of pain, suffering, disability, stress, and loss or change of employment. Your organization can incur direct costs that may include claims costs, increased insurance premiums, and fines. There are also indirect costs, which may include damage to property, the cost of finding and training temporary employees, and production or service interruption leading to loss of customers. The total cost of an accident can be significant.



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At first, managing workers compensation for your organization may seem like a daunting task. You want to protect your employees while still keeping your premiums as low as possible. There are many challenges to address. Avoiding accidents is a sure way to not only protect your employees but also keep your premium costs down. Where do you start? What should you focus on? A good way for you to begin is to identify areas that warrant your initial safety efforts by asking a few basic questions:

- How frequently do safety incidents arise?
- How will our management deal with them?
- Who is responsible for mitigation efforts?
- What costs are associated with each event?
- What costs are associated with initiatives to mitigate them?
- What safety and legal regulations are applicable to our organization?
- What are the training and recordkeeping requirements?

You might also ask your insurance agent to help you answer some of the questions above so you can determine your safety risks and in turn start putting together a safety program to specifically address your organization's risks. In OSHA's [Safety and Health Program Management Guidelines](#), they suggest the following core elements be included in a safety and health program to aid in managing workplace risks:

Management leadership

- Top management demonstrates its commitment to continuous improvement in safety and health, communicates that commitment to workers, and sets program expectations and responsibilities.
- Managers at all levels make safety and health a core organizational value, establish safety and health goals/objectives, provide adequate resources and support for the program, and set a good example.



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Worker participation

- Workers and their representatives are involved in all aspects of the program including setting goals, identifying and reporting hazards, investigating incidents, and tracking progress.
- All workers, including contractors and temporary workers, understand their roles and responsibilities under the program and what they need to do to effectively carry them out.
- Workers are encouraged and have a means to communicate openly with management and to report safety and health concerns without fear of retaliation.
- Any potential barriers or obstacles to worker participation in the program (for example, language, lack of information, or disincentives) are removed or addressed.

Hazard identification and assessment

- Procedures are put in place to continually identify workplace hazards and evaluate risks.
- An initial assessment of existing hazards and control measures is followed by periodic inspections and reassessments to identify new hazards.

Hazard prevention and control

- Employers and workers cooperate to identify and select options for eliminating, preventing, or controlling workplace hazards.
- A plan is developed that ensures controls are implemented, interim protection is provided, progress is tracked, and the effectiveness of controls is verified.

Education and training

- All workers are trained to understand how the program works and how to carry out the responsibilities assigned to them under the program.
- All workers are trained to recognize workplace hazards and to understand the control measures that have been implemented.

Program evaluation and improvement

- Control measures are periodically evaluated for effectiveness.
- Processes are established to monitor program performance, verify program implementation, identify program deficiencies and opportunities for improvement, and take actions necessary to improve the program and overall safety and health performance.

Coordination and communication on multiemployer worksites

- The host employer and all contract employers coordinate on work planning and scheduling to identify and resolve any conflicts that could impact safety or health.
- Workers from both the host and contract employer are informed about the hazards present at the worksite and the hazards that work of the contract employer may create on site.

By having an organized and integrated approach to the safety and health program for your company, you can be well on your way to better managing the welfare of your employees and avoiding accidents and their associated costs.

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Understanding workers compensation basics

Workers compensation was one of the first insurance programs adopted broadly throughout the United States. It is designed to provide a satisfactory way to address the medical and economic aspects of employment-related injuries.

With this insurance, your workers are provided benefits for certain conditions sustained in the course of employment such as injury, disability, and death. These benefits are paid without regard to fault in exchange for the worker giving up their right to sue their employer.

Most states have compulsory workers compensation laws requiring employers to accept and comply with all provisions of the law. The purpose of these workers compensation laws is to provide benefits for any of your employees who suffer an occupational injury or disease.

Important wording within these laws include:

- A definition of “occupational injury” that appears in many state workers compensation laws is an injury “arising out of and in the course of employment.”
- “Arising out of employment” is generally interpreted to mean that the injury must arise out of a risk which is reasonably related to the employment.
- “In the course of employment” is generally interpreted to mean that for an injury to be compensable, it must occur when the worker is at work, during the hours in which they are expected to be there, and while they are engaged in the work that they are employed to do. In other words, it has to do with the time, place, and circumstances of the injury.

While early workers compensation laws had no provisions for occupational disease, each state has now either incorporated occupational disease coverage into workers compensation law or passed separate disease legislation.



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All workers compensation laws incorporate four types of benefits: medical, disability, rehabilitation, and survivor (also known as death benefits).

- Medical benefits provide payment for the medical treatment of an injured worker.
- Disability benefits compensate workers who are unable to work as a result of a work-related injury.
- Most states have laws addressing workers compensation rehabilitation benefits and every state accepts the provisions of the Federal Vocational Rehabilitation Act of 1973.
- Survivor benefits, also called “death benefits”, attempt to compensate a surviving spouse, children, or other relatives of a worker whose death results from an on-the-job injury.

The most common funding method to pay for these benefits is a workers compensation insurance policy from a private insurance company. Under this method you, as an employer, transfer all compensation obligations to your insurance company, which then pays worker benefits to your employees and handles other details required by law.

Fundamentals of managing workers compensation



Safety program

Reducing the frequency and severity of claims is the best way you can contain your total cost of workers compensation. Written safety programs that address the hazards your employees are exposed to, along with top management support and effective employee training, not only reduce direct claims expense, but eliminate the indirect or “hidden” costs of workers compensation claims. These programs can produce substantial savings for your organization over time, since related expenses such as loss of services, cost of training a new worker, temporary help, and administrative expense are often multiples of the direct claims costs incurred.

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Claim investigation

Your supervisors and managers will play a key role in preventing claims and must understand the importance of thoroughly investigating the causes of injuries and taking appropriate corrective action to eliminate unsafe conditions and practices that produce claims. It is frequently your supervisors who play a pivotal role in the opportunity for, and success of, return-to-work programs including modified duty and transitional work programs.

Actions taken by your supervisors immediately after an injury occurs can have a major impact on the ultimate disposition of your claims. These individuals are critical since they are frequently the first to know of claims and have the initial opportunity to investigate, direct, and manage events.

Claim reporting

Prompt reporting of insurance claims should be encouraged and is considered a best practice in workers compensation. There are significant benefits for promptly reporting all of your employee injuries. This includes:

- Most states have reporting requirements for insureds to report claims on a timely basis and may impose monetary fines as a penalty for failing to report claims.
- Prompt reporting allows the claim adjuster to complete a timely investigation of the loss to determine compensability and to determine an appropriate plan of action for resolving the claim.
- “Red flag indicators” of fraud are able to be detected and this allows the carrier to determine whether a case should be referred for surveillance or if there is an opportunity to pursue subrogation against a negligent third party.
- The prompt reporting of injuries allows medical treatment to occur within specialized occupational medical clinics familiar with treating workers compensation injuries with a focus on facilitating an early return-to-work to promote quicker healing.
- In some states, workers compensation benefits may be reduced (or altogether denied) if there is confirmed evidence of alcohol or a prohibited drug on a post incident drug test.



Medical control/provider selection and management

Proper selection of workers compensation medical providers, combined with effective referral procedures and ongoing provider communication programs, can significantly reduce your claims expense. Medical providers must understand your organization operations and human resources philosophies, should specialize in occupational medicine, and be willing to work closely with your insurer.

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Return-to-work

It is well established that returning injured employees to the workforce in a timely manner substantially decreases both direct and indirect costs. Programs that focus on managing temporary disability, permanent disability, and early return-to-work will have the greatest impact on reducing claims expense and increasing employee satisfaction and productivity.

There are many approaches to establishing return-to-work programs based on your organization's culture and individual needs. They range from simple "modified duty" plans to fully integrated "total absence management" programs seeking to use the same practices and protocols to manage all time off work – both occupational and non-occupational injury and illness. In addition to reducing workers compensation expense, these programs can decrease your exposure under the Americans with Disabilities Act (ADA) and other similar federal and state laws.



Know your experience rating or experience modification

An experience rating or modification provides a financial incentive to reduce workplace accidents. The rating does not apply to all employers. Most small employers are not eligible. Visit with your insurance agent to determine if or when you may qualify for an experience modification.

An experience modification compares your organization's loss or claims history to all other companies in the same industry that are similar in size. A modification of less than 1.00 reflects better than average losses while over 1.00 reflects worse than average losses. The modification increases or decreases the cost of your organization's workers compensation insurance premium. It must be applied to your policy regardless of the insurer.

Conclusion

There are many things to consider as you attempt to "fortify" your workers compensation exposures. Not only do you need to have controls in place to manage the safety and health risks inherent to your organization, you also need to have systems in place to manage a claim should it occur. Having an integrated management system such as this can greatly help your organization in addressing these risks.

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