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A Human Resource Consulting Firm

Workers' Compensation It's Got a Language of Its Own

As employers and managers, most of us have had experience with workers' compensation (WC). Most states (not all) require WC to be provided to all employees. On the association's HR Hotline, we receive many calls on this subject. Many callers are suspicious of WC claims and are confused by all the legal jargon, terms, and abbreviations used in the paperwork.

The suspicion about false claims is sometimes valid, but the confusion about the terms used is always genuine. Dealing with workers' compensation administrators (or claims adjusters or attorneys) prompts many employers to just file the paperwork and figure out the results as they occur. But they might regret that decision when they see the next year's WC costs for their company. It might be helpful to have a simple minidictionary of terms used by the WC folks. So here is a list of some of the more common terms, some simple and some not so simple, that you will most likely encounter if you have enough WC claims.

Average Weekly Wage (AWW)

AWW is used to determine the employee's rate of wage loss for temporary or partial disability or permanent total disability. It is usually determined to be the employee's total wages for the previous year divided by 52.

Benefit Review Conference (BRC)

Some states offer BRC to help resolve disputes and issues arising from on-the-job (OTJ) injuries. They typically involve an informal mediation conference administered by a neutral hearing officer or ombudsman. If a dispute is resolved at a BRC, an agreement is drawn up and signed by the two parties.

Claims Adjuster (CA)

Protecting the interests of the insured, the CA investigates and advises on the proper claim conditions, terms, and amounts.

Case Manager (CM) or Nurse Case Manager (NCM)

CMs or NCMs are often assigned by third-party administrators (not the employee or employer) or WC carriers to monitor and assist with the coordinating of the medical aspects of the WC claim.

CMs are generally nurses or social workers and some are employees of the WC carrier, while others are independent contractors. In some cases, particularly those that involve serious injuries, the CM will attend the medical appointments with the claimant.

Carpal Tunnel Syndrome (CTS)

CTS is a nerve condition in the wrist that can be caused by many job-related activities, including computer keyboarding.

Date of Injury (DOI) or Date of Accident (DOA)

Employee (EE)

Employer (ER)

Functional Capacity Evaluation (FCE)

An FCE is a series of tests administered to a WC claimant by a physical therapist or other health care professional. FCE evaluators can review job descriptions to determine the injured worker's capabilities and restrictions. The evaluator typically submits a final, detailed report of these findings to the WC carrier.

Full Duty (FD)

First Report of Injury (FROI)

Following an OTJ injury, employers are usually required to file an FROI with the state agency that oversees WC.

Future Medicals (Future Meds)

Employers are often responsible for payment of medical expenses related to the OTJ injury. Medical benefits are often lifetime benefits, which can mean that the employer will be paying for the future meds (that relate to this injury) of the claimant for life. In some states, the

employer and the employee may reach a mutual settlement to remove that future obligation.

Independent Medical Examination (IME)

An IME is a physical assessment of the claimant's OTJ injuries by an independent physician. In states where this is allowed, it can be a valuable tool for the company that suspects fraud or abuse.

Impairment Rating (IR)

An IR (sometimes called a physical impairment) is a medical assessment of a claimant's injury. It is usually stated as a percentage rate such as a 50 percent IR. A physician may assign an IR rating to the person's body as a whole or just to a specific body part. The IR rating is then used to calculate the WC benefits.

Injured Worker (IW) or Injured Employee (IE)

Light Duty (LD)

LD is a modified or reduced work assignment to accommodate the employee's injury and capabilities. LD usually is designed to return the employee to work sooner.

Life Expectancy (LE)

LE refers to the life expectancy of the employee and, particularly in cases of permanent total disability, is sometimes a factor used to determine the value of benefits owed to an injured employee. For example, the settlement amount for a 30-year-old man with a life-long permanent injury will be much higher than the same injury for a 56-year-old man.

Maximum Medical Improvement (MMI)

To finally resolve most WC claims, the claimant must reach his MMI. Typically, MMI is determined by the treating physician when an injured employee's condition has stabilized to the point that no major change in his condition is expected in the near future despite further medical treatment. Once MMI is determined, the payment of temporary WC benefits may be suspended.

Medicare Set-Aside Agreement (MSA)

MSAs sometime come into play when a WC case is settled and the employer will no longer be responsible for the future meds. This is often because the employee/claimant is on Medicare or is about to be. As part of the settlement, money for the related medical expenses is set-aside in a bank account. These set-aside funds are to be used solely to pay for the medical costs that would otherwise have been paid by the employer. The primary purpose of MSAs is to assure that the federal government doesn't get saddled with those costs via Medicare.

Permanent Partial Disability (PPD)

Once a worker has been assigned MMI and is capable of returning to gainful employment but will also have some loss of function as a result of the OTJ injury, that employee is entitled to PPD benefits. PPD describes a disability that is less than a total disability and varies by which part of the body is injured.

Permanent Total Disability (PTD)

PTD benefits are payable to employees who will never be able to return to gainful employment because of an OTJ injury. In most states, employees will be granted life-long benefit payments based on their AWW.

Physical Therapy (PT)

PT is the treatment of an injury through the use of therapeutic exercise. Although expensive, PT is considered a cost saving because it typically brings the employee back to normal capabilities much sooner and often prevents permanent impairment. Light-duty work without PT is usually not recommended as the employee never regains full capacity.

Retaliatory Discharge (RD) or Wrongful Termination (WT)

Many state and federal laws are in place to assure that an employee is not terminated *because* he or she filed a WC claim. To retaliate against an employee for filing a claim is always considered a very serious offense that has its own set of consequences. Even in cases where the employee is committing fraud and the company has done nothing wrong otherwise, retaliation against the employee can still be charged against the company.

Return to Work (RTW)

Third Party Administrator (TPA)

As it relates to WC, a TPA is an organization that processes claims on an employer's behalf. Even when a large company is self-insured for WC, it will often outsource the oversight and administration of the company's WC claims to a TPA.

Temporary Partial Disability (TPD)

When an employee returns to work following an OTJ injury but has not achieved his MMI and is earning less than his prior AWW, the employee is entitled to TPD benefits. Typically, TPD benefits are payable at the rate of two-thirds of the difference between what the employee earned at the time of the accident and

what he or she is now earning. However, TPD is very seldom used in WC claims.

Temporary Total Disability (TTD)

When an employee is injured OTJ and cannot return to work, the employee is considered temporarily totally disabled during convalescence. TTD benefits are normally paid weekly at the rate of two-thirds of the employee's AWW (subject to a maximum cap). For example, if the worker usually makes \$600 per week, his or her TTD benefit would be \$400 per week for the entire period for which the worker is considered totally disabled. Once the employee has reached MMI, the TTD benefits would be discontinued.

Utilization Review (UR)

UR is used in many states for employers or claims adjusters to review whether treatment is medically necessary.

Vocational Benefits (voc benefits)

In many states the injured employee who cannot return to work may be offered vocational training for new skills that may allow them to reenter the workforce later. Often the employer is required to pay these expenses.

Vocational Expert (voc expert)

Either party may obtain the services of a voc expert. Voc experts are often retained when an employee hasn't returned to work following an injury or has returned at a lower wage rate. The voc expert provides advice on the employee's potential aptitudes and skills combined with training as a means to prepare for other occupations, sometimes with the same employer. Often they will provide an analytical report of these findings, which may include a voc rating based on the employee's loss of earnings capacity. That voc rating may be used as a tool to

determine PPD benefits for which the injured employee may be entitled. It may also be used as a settlement negotiation tactic or as persuasive evidence to a fact finder or claims adjuster.

Workers' Compensation Rate (WC rate)

Also referred to as the "comp rate" or "work comp rate," the WC rate typically is two-thirds of the employee's AWW and often is used to calculate an injured employee's temporary or permanent disability benefits.

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