Brown & Brown

PROPERTY & CASUALTY

Workers' Compensation Best Practices

Culture of Caring and Cost Savings

As your business grows and changes, so does your need to mitigate risk. It's imperative to identify ways to minimize the frequency and severity of accidents. The life of a claim directly results from the practices, policies and procedures an organization has in place.

Best practices are commercial or professional processes accepted or prescribed as correct or the most effective. These practices require education, implementation and adherence, which takes planning and effort.

When discussing Workers' Compensation, the difference between putting these best practices in place compared to neglecting to follow them impacts the injured employee, the employer and the carrier differently. Using best practices can frame all aspects of a claim and drive a more favorable outcome, reflected in the claims cycle – before, during and after the time of loss.

Pre-Claim Best Practices

What are you doing before the claim occurs? What you do before a claim directly influences the claim process.

It's imperative to **hire the right person** for the position. You should develop a comprehensive and detailed approach to hire the most qualified person for open roles, not just filling a slot. Always include background checks and appropriate testing, and make sure this thorough and respectful search is reflected throughout the interview process. If you hire the most qualified candidate, this may reduce the possibility of a subsequent claim.

Cultivate relationships with all parties impacted by a potential claim. A wide network of groups feels the effect of a claim, from the injured employee's family, medical care providers, insurance carrier and others. Establishing relationships with these groups will positively impact the claim trajectory and resolution.

SEE AN EXAMPLE

Active Claim Best Practices

In the event of an employee's injury, the work done in the pre-claim process will reverberate in the handling of the claim. The effectiveness of the pre-claim processes will impact the actual losses and expenses, getting the injured employee back to work, and the final resolution of the claim.

The **timely and accurate reporting** of claims is crucial. The term 'LAG time' measures the time of injury to the time it is reported to the carrier or Third-Party Claim Administrator ("TPA"). A shorter lag time generally has a positive impact on claims. Lag times can be used to evaluate the effectiveness of your pre-claim best practices. Make it a goal to have clear and specific protocols and action items when a claim occurs with one of your employees.

DID YOU KNOW?

NCCI statistics show that each day the report of a claim is delayed, it could lead to an average 4% increase in the total cost of the claim.

Communication is key. Different groups play a role in the impact and addressing of the claim. Emphasize a culture of caring for injured employees, showing a concern for their immediate well-being and how you can help them. Check in with them throughout their recovery to determine their medical status in regards to returning to work.

For medical providers, get updates on the medical status and courses of treatments, and provide information on the injured employee's job duties. If you are following pre-claim best practices, this relationship should be pre-existing.

With the claims team, monitor the claim status and discuss a resolution strategy. It's essential to help ensure everyone has the most up-to-date and relevant information to best address the claim and take the next steps.

As the employer, it's essential to **be involved in claim management** from start to finish. Shortly after the claim is reported, there should be a thorough investigation with all information documented and provided to the carrier. If possible, this search should include witness statements, videography, knowledge of pre-existing conditions and other factors that could impact the claim. If the carrier requests more information, that should be promptly addressed. A resolution plan should begin to take form.

Establish and always follow a return-to-work program. Uncertainty surrounding what will happen to the injured employee's job could raise claim costs.

The carrier will then determine the expected exposure and set reserves that reflect it. The employer should fully understand how those determinations were made by asking appropriate questions and having regular claim reviews.

There are many moving pieces in developing a **resolution strategy**, and all of them are built on a foundation of strong communication.

The adjuster should verify that the negotiated service agreement and cost containment procedures were accurately followed for cost management. As for litigation management, the pre-approved panel counsel should be prepared, organized and listed for the adjuster in the case that the defense counsel is necessary for the claim. This panel should contain qualified attorneys familiar with the practices of your specific industry.

Development should include timelines, contingency plans and exit strategies. The structure should be adaptable to the progression of the claim and clearly documented by the adjuster.

SEE AN EXAMPLE

Post-Claim Best Practices

Post-claim best practices are the policies that have an impact following the claim. They help you understand claim trends and manage the environment of the workplace. Two tools that stand out: claim reviews and a robust return-to-work policy.

Claim reviews take many different forms, but the overall goal is to help ensure the claim is on the right track towards resolution. These reviews can depend on the insurance carrier and occur annually, semi-annually or quarterly. They provide opportunities to ask the adjuster questions about the claim or reserves or voice any other ideas or action plans. The more frequent claims reviews take place, the better.

Make it a focus to **get the injured employee back to work as quickly as possible**, as permitted by medical recommendations. If possible, it's a good idea to offer an early, light-duty return-to-work program. This could improve employee morale, as well as decrease loss time claims. Consider the return-to-work program you offer and industry standards. Include your employees in these conversations to let them know about the offered programs.

SEE AN EXAMPLE

Minimize, Manage, Reduce

The implementation and adherence to best practices can profoundly impact the financial aspects of a claim and the future financial claim implications to the company. They are present in the following areas:

- Experience Modification Rating
- Actual claims costs
- Workers' Compensation Annual Premium
- Soft costs

Through the following *Practice in Action* example, it's evident that creating, implementing and following best practices can be beneficial to the parties involved in a claim. It is all about risk, and this approach helps to minimize, manage and reduce financial strain by lowering the impact of claims and, most importantly, getting injured employees back to work quickly and safely.

PRACTICE IN ACTION

Practice in Action

1 Pre-Claim
Practice in Action:

Company A - Best in Class

- Has active approach designed to find right person for the job and to minimize turnover.
- Has a very specific process in place outlined in an Employee Handbook (injury reporting steps; benefits; and RTW issues).
- Education on the Workers' Compensation (WC) Claims Reporting process and available benefits is done periodically and with new hires.
- Employee "Injury Packets" prepared and available to employees at all times.
- Has worked with their carrier/TPA to connect with local Occupational Medicine clinics providing job descriptions, RTW information, created Special Handling Instructions and implemented Litigation Management Guidelines.

Company B - Needs Improvement

- Has passive approach: "We need a body, fill out this application, when can you start?"
- Lack of policies/procedures likely results in high rate of employee turnover. Obsolete Employee Handbook.
- Upon hire, informs employee to contact supervisor if they should get hurt at work.
- Carrier/TPA claims information is placed in a file with the Risk Management Department including reporting process, benefits information and employer obligations list.
- No coordination with carrier/TPA regarding claim handling and litigation management.

BACK TO BEST PRACTICES

Practice in Action

2 Active Claim
Practice in Action:

Company A - Best in Class

- Driver A reviews his “Injury Packet” and notifies his supervisor.
- Driver A calls claim into nurse line outlined in the Injury Packet and is directed to a pre-determined Occ/Med Clinic for check up. The nurse line reports the claim to the Carrier/TPA upon completion of call.
- The claim is reported and the supervisor has the information ready for the adjusters call - lag time same day as incident.
- Weekly communication with Driver A to answer questions, to get updates and to explain return-to-work (RTW) program.
- Communication with medical care provider after each exam for current work status and updates on expected treatment and recovery.
- Ongoing contact with adjuster to stay current on status of the claim.
- Discussions with adjuster and defense counsel regarding claim status and resolution strategy.

Company B - Needs Improvement

- Driver B does not have supervisor’s name or employer directives, so he goes to emergency room for treatment and is told to follow up with his doctor if not better within a few days.
- Driver B calls in sick to work with back pain and tells supervisor he was injured at work. He then goes to his doctor and is kept off work for two weeks.
- Driver B retains attorney, who sends claims notice to employer. Employer forwards the claim notice to the carrier – lag time is 10 days.
- Lack of coordination of medical providers results in Driver B seeing doctor used frequently by his attorney to diagnose and treat his injury.
- No contact with the adjuster and is slow to respond to adjuster requests for information or updates.
- No resolution strategy discussed or in place.

BACK TO BEST PRACTICES

Practice in Action

2 Active Claim
Practice in Action:

Company A - Best in Class

- Conducts thorough investigation.
- Provides information to adjuster in a timely manner, so adjuster is able to make a determination on the compensability of the claim immediately and assign the appropriate resources to help in early resolution of the claim.
- After adjuster sets accurate reserves based on expected exposure, communicates with adjuster regarding reserve basis and asks relevant questions.
- Pre-arranged cost management measures with TPA/Carrier at onset of service agreement.
- Adjuster follows agreement and ensures any prescriptions, bills and extra expenses are reviewed thoroughly as agreed.
- Should a defense attorney be needed, adjuster has a specified list of highly qualified defense attorneys, approved by Company A, to choose from and a process to follow in any litigated claim.
- Adjuster and Company A agree to a plan of action early in the claim, including contingency plans and settlement options, to bring claim to resolution within a reasonable time frame.

Company B - Needs Improvement

- No investigation completed and no information provided to adjuster.
- Adjuster sets reserves to reflect a difficult and litigated claim as an estimate. Adjuster attempts to reach Company B contact to discuss return-to-work and programs available to aid in getting Driver B back to work, but gets no response.
- Internally questions Driver B's employment status with them: leave of absence or termination.
- Bills are paid through the bill service with minimal review.
- Adjuster confirmed retention and passes direction of claim to defense counsel.
- Defense counsel requests additional information from Company B and adjuster, but does not get a timely response.
- The claim stalls and Driver B continues to be off with and treat with his own doctors.

BACK TO BEST PRACTICES

Practice in Action

3 Post-Claim
Practice in Action:

Company A - Best in Class

- Driver A's direct supervisor, the safety manager, and the risk manager participate in the quarterly claim review.
- Confirms an understanding of the current status of the claim and resolution strategy and agrees to aid in anything the adjuster may need to resolve the claim.
- Agreed upon resolution strategy includes a Nurse Case Manager to contact preferred provider regarding a release to full duty and placement at Maximum Medical Improvement.
- Company A, Adjuster and Driver A are all informed Driver A has been released to return to full duty work, placed a MMI, with a small permanency rating to be paid.
- Driver A is back working his job and is able to return to his regular activities outside of work.
- Claim was reported and resolved within eight months.

Company B - Needs Improvement

- Risk Manager, who lacks information regarding the claim, sits in on the quarterly claim review, but asks no questions and defers to the adjuster to handle the claim as they see fit.
- Disappointed in the cost of the claim and Driver B continuing out of work, decision to replace Driver B is made internally and not communicated to adjuster. Driver B is angered by the termination and does not look for another job but continues to treat.
- Driver B's treating doctors have no further conservative treatment options and the complaints have remained the same from Driver B so surgery is suggested. Driver B undergoes surgery for his back pain.
- Adjuster continues to have bills paid through billing company and pays wage loss.
- Driver B's attorney presents settlement demand after employee reached MMI. Adjuster and defense counsel review and prepare settlement authority request.
- Company B is surprised at settlement recommendation, but they don't have the information to dispute any of the numbers so approve authority as requested.
- Claim is settled 2 years 6 months after report of claim.

BACK TO BEST PRACTICES

How Brown & Brown Can Help

For guidance, contact your team at Brown & Brown to further discuss this process. Learn how you can make a positive difference in your workers' compensation claims process through implementing best practices.

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Find Your Solution at BBrown.com