

# Workers' Compensation Claims: Minimizing Costs and Maximizing Care



ASA American Staffing Association


STAFFING WORLD<sup>®</sup>  
SW2022

1

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2

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3

## We All Know the Challenges...and/or Frustrations

How client/host employer site evaluations are critical to minimizing costs.

Caring for the injured worker while ensuring cost containment can be tricky.

How can you provide the fastest medical treatment?

Why and How does a Return-to-Work program save you so much cost of a claim?

Can you really take control of a workers' compensation claim?

How to work with your carrier and what they really need from you.

4

Another real Challenge is Covering a Plethora of Material in a 45 Minute Session....



In Reality, we can only scratch the surface or outline information for these topics. It may feel like taking a drink out of a fire plug

It will be valuable and immediately useful, but also will challenge you to examine your operations

However, you will likely take copious notes and have lots of questions and would like to drill down much deeper

We have **links, presentations and resources** to help guide you to drill as deep and you want or need based on your company's situation. Look at the end of the presentation for a plethora of information

5

Minimizing Costs

CLIENT ON-BOARDING PROCESS  
**DUAL**



**HOST EMPLOYER MUST PROVIDE A SAFE WORKPLACE**



**YOU HAVE THE RESPONSIBILITY TO PROVIDE ASSOCIATES A SAFE WORK ENVIRONMENT**



*Employers must provide a safe work environment.*

*Confidential & Proprietary*

6

Minimizing Costs

# What do you need in a Worksite Assessment?

## Company Need (Indicators)

- Understanding tasks
  - General Labor???
- Understanding what title(s) mean
  - get a JD
- Safety of environment
  - Clean and organized
- PPE
  - What and why
- Operating a Motor Vehicle
  - CDL, Non-CDL, Forklifts
  - Additional steps in the process

vs.

## Legal "Watch Outs"

- OSHA
  - Open cases
  - Type of Fines past 3 years
- Risk exposure
  - What's too high?
    - How much risk the company is willing to take
    - Set Limits
- Insurance requirements
  - WC Code(s) cannot service
  - Prohibited task, cannot service

7

Minimizing Costs

# Do your Due Diligence

Incidence Rate Evaluation  
 OSHA 300 Logs & 300A Review  
 Experience Modification Rating (EMR)



$$IR = \frac{(Inj + ILL) \times 200,000 \text{ Hrs. or } Inj + Ill}{\text{Total Hours Worked} \quad \quad \quad EE}$$

## Set Goals

If greater than **10% IR**, ask for their last 3 OSHA reports (the OSHA 300 Log **and** the OSHA 300A Summary pages), if the company has less than 11 employees, they're not required to keep these reports, so in that case ask for their work comp loss runs/trend reports.

### Experience Modification Rating

- We prefer working with clients whose **EMR is 1.00** or below. (Actual Losses/Expected Losses)

8

8

### Violation Detail

9

Standard Cited: 19260451 C02 IV *General requirements.*

Violation Items						
Nr: 1006430.015	Citation: 01001	Issuance: 01/06/2015	ReportingID: 0627700			
Viol Type: Serious	NrInstances: 1	Contest Date:				
Abatement Date: 01/08/2015 2	Nr Exposed: 2	Final Order: 02/17/2015				
Initial Penalty: \$2,800.00	REC:	Emphasis:				
Current Penalty: \$1,680.00	Gravity: 10	Haz Category:				

Click here to look up standard 1926.451 (c) (2)(iv)

Penalty and Failure to Abate Event History						
Type	Event	Date	Penalty	Abatement	Type	FTA Insp
Penalty	Z: Issued	01/06/2015	\$2,800.00	01/08/2015	Serious	
Penalty	I: Informal Settlement	02/17/2015	\$1,680.00	01/08/2015	Serious	

**UNITED STATES DEPARTMENT OF LABOR**

<p><b>Occupational Safety and Health Administration</b> 200 Constitution Ave NW Washington, DC 20210 800-321-6742 (OSHA) TTY www.OSHA.gov</p>	<p><b>FEDERAL GOVERNMENT</b> White House Disaster Recovery Assistance USA.gov No Fear Act Data U.S. Office of Special Counsel</p>	<p><b>OCCUPATIONAL SAFETY AND HEALTH</b> Frequently Asked Questions A - Z Index Freedom of Information Act Read the OSHA Newsletter Subscribe to the OSHA Newsletter OSHA Publications Office of Inspector General</p>	<p><b>ABOUT THE SITE</b> Freedom of Information Act Privacy &amp; Security Statement Disclaimers Important Website Notices Plug-Ins Used by DOL Accessibility Statement</p>
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9

### Minimizing Costs

## Document on Worksite Assessments

<https://www.osha.gov/pls/imis/establishment.html>

A. **For All Assignments:** Please discuss these topics with your client:

How many OSHA Recordable injuries this year? \_\_\_\_\_ How many employees this year? \_\_\_\_\_ → \_\_\_\_\_ IR%

How many OSHA Recordable injuries last year? \_\_\_\_\_ How many employees last year? \_\_\_\_\_ → \_\_\_\_\_ IR%

Formula: (Recordable Injuries ÷ Employees) X 100 = IR

What are typical injuries for the operation? \_\_\_\_\_

[Establishment Search](#)

True  False The client has no OSHA citations within the past three years.

True  False There are no open citations.

If false, describe client's steps to correct the violation: \_\_\_\_\_

True  False Elwood associates will not be trusted with unattended premises, handle cash or other valuables, have access to personally identifiable information of others, work in or around personal residences, have direct contact with patients or work with or near children. (See Instruction #1.)

RISK

10

Minimizing Costs

# Paying attention to Triggers

Head:	<input type="checkbox"/> Hard Hat	<input type="checkbox"/> Bump Cap	
Ear:	<input type="checkbox"/> Ear Plugs	<input type="checkbox"/> Earmuffs	
Eyes/Face:	<input type="checkbox"/> Safety Glasses	<input type="checkbox"/> Goggles	<input type="checkbox"/> Face Shield
Hand:	<input type="checkbox"/> Leather Gloves	<input type="checkbox"/> Nitrile Gloves	<input type="checkbox"/> Chem-Resistant
Clothing:	<input type="checkbox"/> Hi-Viz Vest	<input type="checkbox"/> Tyvek	<input type="checkbox"/> Flame Resistant
Feet:	<input type="checkbox"/> Safety Toe Shoes	<input type="checkbox"/> Metatarsals	<input type="checkbox"/> Slip Resistant
Welding:	<input type="checkbox"/> Welding Hood	<input type="checkbox"/> Gloves	<input type="checkbox"/> Sleeves/Apron/Chaps
Respiratory <sup>†</sup> :	<input type="checkbox"/> Filtering (N95)	<input type="checkbox"/> Half-Mask	<input type="checkbox"/> Full-Face
Elevation:	<input type="checkbox"/> Body Harness <i>(be sure to complete Section 8.B.)</i>		
Other:			

<sup>†</sup> These respirator questions must be answered:  
 If respiratory protection will be used; confirm the following with the client *(these are required)*:

Medical questionnaire will be completed by Associates     Associates medically evaluated before using a respirator

Fit testing completed by:     Client or     Clinic    Training completed by:     Client or     Clinic

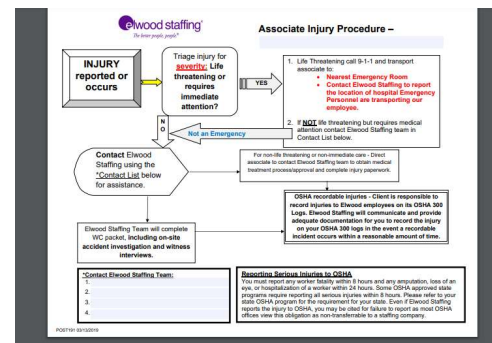
11

Maximizing Care- Workers' Comp Claims

# Accident and Injury Management and its Impact!

## Must Have(s)

- Relationship with Clients-Safety Partnership
- Protocols for accident and injury management
  - Written,
  - Checklist
  - Inj. Packet to go
- Triage and Medical Providers
  - After hours important to stay away from ER
- Return to Work programs, value and cost reduction
  - We will share more on the tremendous effectiveness of RTW later
- Dedicated and Trained Staff-Don't rely on your insurance professional



12

12

Maximizing Care- Workers' Comp Claims

Accident Protocol – The Steps

Gather the data, take care of associate first

- **Immediate notification**
  - Commitment to care and no Lag Time
- **Don't lose the accident scene**
  - witnesses
  - associate involvement
- **Medical attention**
  - Triage of claim,
    - after hours
    - first aid
    - transportation to the treating facility
- **Determination of extent of injuries**
  - Who you will need on the recovery team
- **Representation at the treating facility**
  - Displays who's in control
  - Direct effective medical treatment
- **The reporting process**
  - Inj. Packet to go
  - Injured employee's statement
- **Drug testing**
  - Some states can deny claim, check your state

13

Maximizing Care- Workers' Comp Claims

Claims Happen, now what?

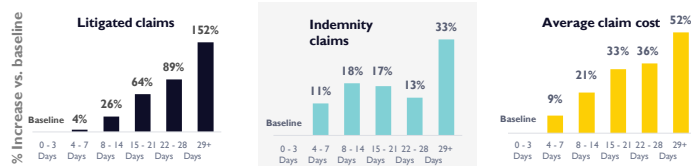
- **Who's Controlling the claim?**
  - *If we don't, they will*
- **Lag time significantly impacts claim outcome**
  - Accurate statements from injured employee
    - Compared to WSE (task, location)
    - Who What When Where Why How
  - Witnesses get lost
  - Information gets altered
- **Prompt care may limit attorney involvement**
  - Branch Management involvement
  - Medical Provider
  - Claims Manager
  - Insurance Adjuster
  - Communication is key
- **Can we Control the risks/Claims?**
  - Determination of compensability of a claim is essential in controlling claim
    - Fraud
    - Subrogation
- **Be the Eyes / Ears, Paint a picture**
  - Better Input, Better Outcome

14

## LAG TIME STATS & FACTS

83% of all claims in excess of \$10,000 resulted in lost time payments to the employee. **Why is this significant?**

- Anytime an employee misses more than 3 days of work, your workers' compensation insurance begins making lost wage payments. Ultimately, these payments negatively impact future insurance premiums for years to come.



Two simple steps can dramatically decrease the lag time on reporting workers' compensation insurance claims.

**Retrain employees on proper incident reporting.** One of the most common reasons for late reporting stems from the need to backtrack to find pertinent information.

**Reengineer the work comp claim reporting process with an emphasis on streamlining.** Employees should have a single contact within the organization to report injuries to. Identify a backup to assume this role in case of an absence.

15

## Minimizing Costs

### Tie it all together

- Tie in the Worksite Evaluation information with post accident/injury investigation
  - Were they supposed to be doing what they were doing when injured?
  - Were they trained appropriately, new to the tasks/position as promised
  - Don't forget about the Follow up worksites
    - There doing WHAT?
- Review completed worksite and compare accident investigation
  - Tasks approved vs. tasks not approved
  - PPE used/not used a factor?
  - Training completed / not completed
- Don't forget to Fix the cause,
  - Not the problem

16



## RTW– Goals and Outcomes of an Effective Modified Duty Program

- Reduces workers' compensation abuse, fraud and bad hires and litigation cost
- Expedites return to work
- Reduces temporary disability benefits and indemnity payments (wages)
- Maintain the health and productivity of employees who have been injured.
- Maintains a viable experienced workforce
- Increases employee morale
- Decreases ex mods, loss costs and ultimately workers' comp costs
- NCCI information confirms modified or a RTW program reduces the cost of a claim by as much as 80%.



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17

## RTW– Goals and Outcomes of an Effective Modified Duty Program (continued)

- Decreases ex mods, loss costs and ultimately workers' comp costs
- NCCI information confirms modified or a RTW program reduces the cost of a claim by as much as 80%.

What carriers are saying...

“Workers not back to the job within 90 days of injury have less than a 50% likelihood of returning. Those who don't return after 120 days have less than a 10% chance of ever returning to work at any Employers with aggressive Return to Work programs can reduce average disability duration by almost 20%.”



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18

## Components of a RTW Program

- Program guidelines
- Roles and responsibilities
- Enforcement/Compliance of program
- ROI Analysis of RTW Program



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19

## Program Guidelines

- Procedures for returning to full duty
- Procedures for non-modified duty candidates
- Procedures for refusal of assignment
- Performance standards and expectations
- Characteristics of modified duty assignments: when, where and how to use
- List of available modified duty assignments, locations
- Third party placement companies specifically for Modified Duty  
(Not all companies are the same - do your research)



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20

## Program Guidelines-Qualification Issues

- Modified duty assignments must be given to injured employees with any kind of job restriction if at all possible.
  - Should be paid normal wages to prevent litigation or indemnity claim
- These modified jobs are assigned when injured employees are not able to perform their regular job duties, and when the treating physicians have provided job restrictions to the employer.
  - The restrictions are designed to promote healing and prevent further injury.



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21

## Program Guidelines- Specific Direction

- Certain state regulations apply
  - Example - AZ has passed legislation that states modified duty assignments must be completed at the branch or client location. Alternatives like not-for-profit organizations are not allowed.
- Certain states have verbiage that must be included in the modified duty offer to be considered bona fide
  - Example - TX Department of Workers' Compensation Rule 129.6
- Use your resources
  - Check with your adjuster, TPA and/or insurance carrier.



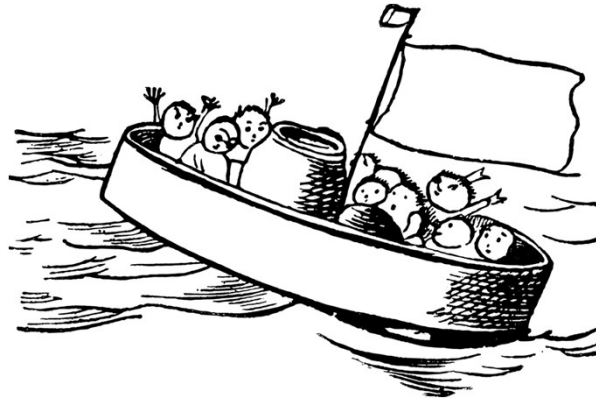
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22

## Roles and Responsibilities

- Staffing Company Risk Manager
- Claims Administrator/Carrier
- Staffing Company Branch Manager
- Medical Providers
- Customers/Clients/Host Employers
- Employees



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23

## Roles and Responsibilities-Details to Sort

Who will handle?

- Modified duty offers
- Nature of assignment
- Length or duration of the assignment
- Procedures for monitoring assignments



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24

## Implementation and Compliance

- A Best-in-Class RTW Program will need to be implemented company-wide with Top Management Buy-In
- Once implemented in all corporate and branch offices, a compliance schedule should be set up
  - Who?
  - To What Degree?
  - Non-compliance Consequences?

*Check out our RTW hand-out for a one-page outlined process*



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25

## RTW Best Practices & Ex Mod and Loss Cost Impact

There are basically, Four Types of Wcomp Coverages for Staffing firms

- Standard first dollar or Guaranteed Cost (Ex Mod directly applied)
- High, Medium or Small Deductibles (Loss Cost/Loss Pick developed)
- Captive Coverage which is usually a high deductible SIR
- Coverage through a PEO which will apply some sort of Deductible, Ex Mod or rating process.



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26

## RTW Best Practices Ex Mod and Loss Cost Impact

- Also, simply put, Four Factors Impact your experience modifier or lost cost and are all applied to your type of Wcomp in some form:
  - Loss Ratios or total losses against payroll/premium
  - Severity of Losses
  - Frequency of Claims
  - Class Code Rating or Expected Losses



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27

## RTW Best Practices Ex Mod and Loss Cost Impact- Experience Rating Basics

### Frequency vs. Severity

- A significant feature of experience rating is that it recognizes that the *cost* of a specific accident is often left to chance and is statistically less predictable than the fact that the accident *occurred*.
  - **Employer A**—1 loss totaling \$50,000
  - **Employer B**—10 losses totaling \$50,000
- Employer A—with the one large loss—is more stable, particularly when you consider that any one of the 10 small accidents of Employer B could incur higher costs than the \$50,000 amount, given the proper combination of circumstances.



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28

## RTW Best Practices Ex Mod and Loss Cost Impact- Experience Rating Basics

### Medical-Only Claims

- Medical-only claims do not have as much of an impact on the mod because most states have approved the Experience Rating Adjustment (ERA), which limits the amount of such losses in the mod calculation. This ERA change to the formula decreases the incentive for employers to pay medical-only claims without reporting them to the insurance provider.
- **The mod calculation includes only 30%** of the actual primary and excess portions of an individual medical-only claim. As a result, medical-only claims are reduced by 70%. This reflects the impact of medical-only claims more appropriately.



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29

## RM Best Practices Ex Mod and Loss Cost Impact- Know Your Ex Mod Worksheets

WORKERS COMPENSATION EXPERIENCE RATING									
Risk Name: ANY INSURED					Risk ID: 990123456				
Rating Effective Date: 01/01/2021			Production Date: 10/01/2020			State: ANY STATE			
State	Wt	Exp Excess Losses	Expected Losses	Exp Prim Losses	Act Exc Losses	Ballast	Act Inc Losses	Act Prim Losses	
ANY	.14	120,018	176,190	56,172	31,985	47,400	130,920	98,935	
(A) Wt	(B)	(C) Exp Excess Losses (D - E)	(D) Expected Losses	(E) Exp Prim Losses	(F) Act Exc Losses (H - I)	(G) Ballast	(H) Act Inc Losses	(I) Act Prim Losses	
.14		120,018	176,190	56,172	31,985	47,400	100,569	68,584	



Medical-only claims (Injury Type 6) are reduced by 70%.



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30

## RTW Best Practices & Ex Mod and Loss Cost Impact “Bottom Line”

- Regardless of the type of Workers’ Compensation Insurance Program your company has, an Effective RTW or Modified Duty Program can save you 70-80% of the cost of a claim.
- The impact on your WComp cost can be the difference between a .80 Ex Mod and a 1.80 Ex Mod or a \$4.00 loss cost per 100 and a 7.00 loss cost per 100.
- American Airlines- ROI of \$7.3 Million last year which equates to a 12:1 ratio
  - 20% reduction of Litigation as well



31

## What Are Carriers and Insurance Professionals Saying About These Topics or Issues?

There are carriers, agents, brokers, wholesalers/Program Administrators in attendance.....Give us your thoughts on the Topics covered today



32



## Session Summary....It Is Your Turn Now

- What Did You Learn That Was Most Important To You or Your Company?
- What Was The Least Significant?
- What Were The Main Subjects Covered? “There may be a poker chip to win here”



33

Q&A



34

## References, Links and Contact Information

- ASA and Speakers RM Best Practices and various RTW and Risk Assessment tools

<https://tinyurl.com/43cs5c5s>

- NCCI website and Documents: <https://www.ncci.com/>

[https://www.ncci.com/articles/documents/uw\\_abc\\_exp\\_rating.pdf](https://www.ncci.com/articles/documents/uw_abc_exp_rating.pdf)

[https://www.ncci.com/Articles/Pages/II\\_Relationship-Accident-Report-Lag-Claim-Cost-WC-Insurance.pdf](https://www.ncci.com/Articles/Pages/II_Relationship-Accident-Report-Lag-Claim-Cost-WC-Insurance.pdf)

- NORA Best Practices for Host Employers



A4AF331B.pdf

Protecting Temporary Workers: Best Practices for Host Employers

Slide Deck for Use by Staffing Companies to Educate Host Employers

INSERT DATE

Link to document:  
[Protecting Temporary Workers: Best Practices for Host Employers](#)

QR code for document:



35

## Reference, Links and Contact Information

OSHA website-<https://www.osha.gov/>

OHSA link to Temporary Worker Initiatives: <https://www.osha.gov/temporaryworkers>

OHSA's Alliance and Ambassadorship with ASA:

[https://www.osha.gov/alliances/asa\\_staffing/asa\\_staffing](https://www.osha.gov/alliances/asa_staffing/asa_staffing)

Reach out to our speakers for more updates on the ASA Safety Standard of Excellence



- Sharon Davis [sharon.davis@elwoodstaffing.com](mailto:sharon.davis@elwoodstaffing.com) 713-203-0578
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36

**THANK YOU!**



37



38