

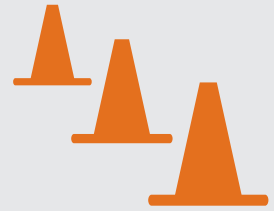
Workers' Comp & Safety News



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Workers' Comp 101

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Second Injury Funds: Are You Leaving Money on the Table?

Most states introduced second injury funds after World War II to encourage employers to hire injured veterans. Though the

enactment of the Americans with Disabilities Act (ADA) in 1990 prompted at least 19 states to abolish their second injury funds, approximately half the states still have SIFs. Businesses in these states that do not take advantage of SIFs could be losing many thousands of dollars over the life of a claim.

Second injury funds (SIFs) protect employers from higher costs that can result when a workplace injury aggravates an employee's prior disability. The worker's original impairment can be of any type or cause — work-related or not — as long as it is permanent and serious enough to pose an obstacle to obtaining employment.

SIFs work on the theory that people with certain health conditions have a tendency to suffer

additional injuries. For example, an employee who has had prior back surgery, heart disease or carpal tunnel syndrome may suffer greater injuries or take longer to recuperate after a workplace injury than an employee with no prior disability.

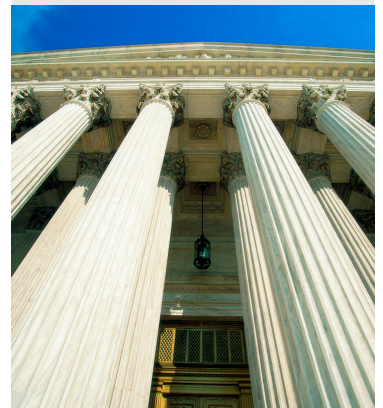
When this occurs, the second injury fund helps pay the difference between the benefit the worker would have received for the workplace injury alone and the benefit for the aggravated disability. The fund can either re-

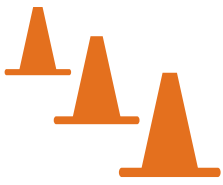
imburse the insurance carrier (or a self-insured employer) or take over the claim.

Second injury funds function as separate agencies within the state's workers' compensation system. SIFs are usually funded by special assessments, commonly about 4 percent on workers' compensation premiums, or on losses paid the previous year, says Barry Llewellyn, senior divisional executive for regulatory services at the National Council on Compensation Insurance.

This Just In

An illegal alien won workers' compensation benefits in Rhode Island, reported the *Providence Journal*. What made the case unusual was that he had been deported and allowed to return to the U.S. on a humanitarian visa to claim benefits. In late October, Workers' Compensation Judge Bruce Q. Morin ordered William Gorman to pay Edgar Velásquez \$800 for two weeks' salary and medical costs for a chainsaw injury that slashed his face to the bone. Velásquez' attorney alleged that Gorman alerted immigration officials to avoid responsibility. Immigration officials seized Velásquez outside the judicial building just before the workers' compensation hearing. Gorman's attorney acknowledged that Gorman carried no workers' compensation insurance.





Do You Recognize the Danger of Drug-Impaired Driving?

Everyone knows that drinking and driving is a deadly combination, but few take the problem of drug-impaired driving nearly as seriously. Just one accident caused by a driver whose judgment and reflexes are impaired by drugs can result in tragedy and cost your business thousands.

According to the National Survey on Drug Use and Health released in September 2003, almost 11 million Americans drove under the influence of illegal drugs in the previous year. The drugged driving rate was at least 10 percent for persons between the ages of 17 and 25; and 21-year-olds were the age group most likely to drive under the influence of drugs, with 18 percent reporting such behavior during the previous year.

Research conducted by Michael J. Walsh, Ph.D. in Maryland provided even more dramatic results. He found that drugs were present in more than 50 percent of the drivers taken to the University of Maryland Shock Trauma Center.

Both those studies related to well-known illegal drugs like marijuana and cocaine, whose dangers are well known and for which there are robust laws and sanctions.

Experiments have shown that users of depressants such as cannabis find it difficult to stay in one lane on the road and may be un-

aware that they are drifting into the path of oncoming traffic. Drivers under the influence of cannabis may also find complex driving situations, such as busy roads or uncontrolled intersections, more difficult to negotiate than they would when driving drug-free.

Stimulants like cocaine and speed might make drivers over-confident and aggressive, while those under the influence of hallucinogens like LSD might react erratically to imaginary obstacles or sounds.

But there is less awareness about the dangers of driving while taking legal drugs. A host of legal prescription and over-the-counter drugs such as antihistamines, anti-anxiety drugs and even common ibuprofen can have disorienting effects on users, causing symptoms such as drowsiness, excitability, altered depth perception and increased or slowed reaction time. The problem prompted The National Safety Council (NSC) to launch a public awareness campaign on the issue. Print, TV and radio ads urged those taking drugs to carefully read the directions and warning labels on medication,

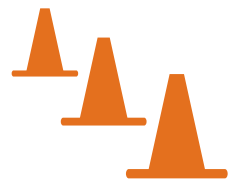
ascertain the possible side effects and to ask for alternatives with fewer side effects.

Even the most benign of drugs can have debilitating side effects for some drivers, according to drunkdrivingdefense.com. Aspirin, taken at the maximum dose, can have the same effect as 0.5% of alcohol in the bloodstream. If taken in conjunction with alcohol, aspirin will accelerate the passage of alcohol into the bloodstream. Ibuprofen is known to have mind- and mood-altering qualities when taken in large doses, as does Aleve.

The anti-nausea and anti-motion sickness drug Dramamine can result in excessive drowsiness or dizziness, while the cough suppressant Robitussin can mimic LSD when taken in large doses, causing vomiting, mild hallucinations, loss of judgment and dissociative amnesia. Prolonged abuse can lead to psychosis. Prescription painkillers such as Vicodin, OxyContin and other opiates have severely debilitating effects, while mood enhancers such as SSRIs and other anti-depressants can severely

DRUGS—continued on Page 3





FUNDS—continued from Page 1

Many self-insured employers fail to maximize use of SIFs because the rules and regulations differ widely from state to state. David Jollin and Dorothy Linsner of the Insurance Recovery Group estimate that between 15 percent and 25 percent of SIF recovery opportunities are either not collected, under-collected, or not collected in a timely fashion.

How much does this translate to?

According to Jollin and Linsner, SIFs currently disburse approximately \$750 million a year, of which an estimated \$100 million pays claims that are eligible for initial reimbursement. A single claim for reimbursement in New York could be worth more than \$250,000 over the life of the claim. States that take over payments to employees (rather than reimbursing insurers after they have made the payments) account for another estimated \$250 million a year in disbursements, of which \$30 million may be from claims initially submitted for takeover each year. If 15 percent to 25 percent of these opportunities are missed, this means that insurers and self-insured employers are leaving \$19.5 million to \$32.5 million in initial recoveries on the table each year.

Because most relevant injuries are long-term in nature, and companies often do not pay the assessment directly, employers and insurers often fail to realize how much they are leaving behind, says David Uehlein, founder and president of Insurance Recovery Group. "Second injury funds are there for the purpose of reimbursing eligible insurers and employers," he says. "Employers that don't ask for this money won't get it, but they will continue to finance the fund regardless..."

The most crucial step in accessing SIFs is to document the worker's prior injury. Some states require medical certification. Others accept as little as a memo in the worker's file as soon as the prior disability becomes known to the employer. In all states, however, employers must comply with ADA provisions that prohibit them from asking job candidates about their disability and limit them to questions on whether the candidate will be able to perform specific job functions.

For more information on second injury funds or special workers' compensation considerations for disabled employees, please contact us. ■

TPA—continued from Page 4

dling your claims manage? How experienced is he or she? What is his/her support team like?

Most TPAs will conduct an initial assessment of a prospective client's situation and make generalized recommendations as part of the bid process, says Darrell Brown, of Sedgwick Claims Management Services, Inc. As negotiations continue, potential clients will have to decide how much data they wish to release as they try to whittle down a shortlist.

At a May 2006 session of the Risk & Insurance Management Society Inc.'s conference, panelists stressed the importance of providing detailed information to prospective TPAs to find the right fit. As reported by *Business Insurance*, that information should include your company's:

- ✓ Overall corporate and risk management structure
- ✓ Detailed claims frequency information
- ✓ Deadline for implementation
- ✓ Whether the new TPA will be assuming takeover claims.

As you narrow down your list, you will want to research a TPA's affiliations. Many TPAs are owned by insurers or are part of larger organizations that own other businesses. While this might not pose a problem, you will want to know these affiliations so you can avoid potential conflicts of interest.

You will also want to request TPAs to fully disclose whether they receive compensation from providers. Some TPAs accept reimbursement or fees from managed care providers. A 2005 article in *CFO Magazine*, "Where Workers' Compensation Goes Wrong," remarked that this "could promote conflicts of interest as well as an overabundance of doctor visits." Denise Goto, senior director of tax and risk management for Hawaiian Airlines, told the magazine that if a TPA shows "...hesitation on disclosing that information — or even having a frank discussion — I think that would be a red flag."

For more information on outsourcing claims administration, please call us. ■

DRUGS—continued from Page 2

affect judgment skills and alertness.

Doug Murdoch, who consults on vehicle fleet safety for Fortune 500 companies, says responsible fleet managers should educate drivers about the dangers of prescription and over-the-counter drugs. "Most people don't know about the dangers these drugs can pose when taken by drivers," he points out. "No one wants to be in an accident. If you teach people how to avoid them they generally will listen."

Signs and symptoms of impairment:

- ✓ Drowsiness
- ✓ Excitability
- ✓ Altered reaction times
- ✓ Altered depth perception

How can individuals avoid driving impaired?

- ✓ Talk to healthcare provider or pharmacist to learn the side effects of medication.
- ✓ Carefully read the directions and warning labels of medications.
- ✓ Ask healthcare provider about non-impairing alternatives.
- ✓ Never take more than the recommended dose.
- ✓ Don't mix medications without checking with healthcare provider or pharmacist first.
- ✓ Don't mix alcohol with medication.
- ✓ Make sure you know the signs and symptoms of drug impairment. ■



Outsource Hassles with a TPA

While some self-insured organizations manage claims in house, many choose a third-party administrator (TPA) to manage and investigate claims. A good TPA can streamline costs, relieve the organization of an administrative headache and allow it to concentrate on its core competency.

Dan Martinez, the CEO of Insurance Claims Consultants, points out other advantages. “You get a TPA that specializes in its work, who generally has experience working for major insurance companies and who has the knowledge and savvy to get things right.” In addition, some excess carriers prefer to work with TPAs.

“With rates for TPAs generally amounting to only a fraction of the claims an organization may face, the biggest mistake a risk manager can make is to focus on the upfront cost of the TPA’s contract rather than the ROI,” says Frank X. Altieri, president of PMA Management Corp., a Florida-based TPA. “Employers want control via an independent partnership with the TPA,” he added. “The ultimate goal is better results, i.e. lower costs, ease of doing business and good quality throughout the process.”

In order to maximize your ROI, howev-

er, you will want to find a TPA that has a proven track record in mitigating workers’ comp losses. Benchmarks to look for include increased claim closure rates, medical savings, subrogations and hastening injured workers’ recovery, according to Altieri. Many TPAs will also take a more proactive approach to reducing your accident frequency by developing safety and loss prevention strategies.

There are several steps risk managers can take to get the best TPA for their needs. Things you’ll want to evaluate include:

- ✓ How experienced is the TPA in handling organizations similar to yours?
- ✓ What is its reputation in the field? What is

its client retention rate?

- ✓ How quickly do they contact an injured worker?
- ✓ Do they establish a three-point contact with the worker, physician and employer?
- ✓ Does the TPA treat its own employees well, with reasonable workloads and adequate compensation to provide stability and reduce employee churn?
- ✓ How many claims will the adjuster han-



TPA—continued on Page 3

OSHA Issues Winter Warning

The Occupational Safety and Health Administration (OSHA) has issued a winter warning to employers and workers reminding them to take precautions to prevent cold-related health problems.

Prolonged exposure to freezing or cold temperatures may cause serious health problems such as trench foot, frostbite and hypothermia, OSHA said. In extreme cases including cold water immersion, exposure can lead to death. Danger signs include uncontrolled shivering, slurred speech, clumsy movements, fatigue and confused behavior. If these signs are observed, call for emergency help.

Cold Weather Tips

- ✦ Encourage workers to wear proper clothing for cold, wet and windy conditions, including layers that can be adjusted to changing conditions.

- ✦ Be sure workers in extreme conditions take a frequent short break in warm, dry shelters to allow their bodies to warm up.
- ✦ Try to schedule work for the warmest part of the day.
- ✦ Avoid exhaustion or fatigue, because muscles need energy to keep warm.
- ✦ Use the buddy system: work in pairs, so that workers can recognize danger signs in each other.
- ✦ Drink warm, sweet beverages (sugar water, sports-type drinks) and avoid drinks with caffeine (coffee, tea, sodas or hot chocolate) or alcohol.
- ✦ Eat warm, high-calorie foods such as hot pasta dishes.
- ✦ Remember, workers face increased health risks when they take certain medications, are in poor physical condition or suffer from illnesses such as diabetes, hypertension or cardiovascular disease. ■