

# Report fraudulent activities to minimize your workers' comp costs

Regular readers of this column know one of the most effective ways to minimize workers' compensation claims costs is to report fraudulent activity to the state Department of Labor & Industries (L&I).

Typically, when employers think of workers' compensation fraud, they think of workers faking injuries. However, there is another group associated with workers' compensation fraud—health care providers. A surprising number of health care providers take advantage of the workers' compen-

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Usually the unscrupulous health care provider's actions are not as overt as "making up" injuries or billing L&I for procedures that were never done. A more indirect way providers abuse the system is for the attending physician to refuse to communicate directly with employer or to greatly delay communications necessary to implement a return to work/light duty program for the injured workers. The result—the health care provider continues to treat (and bill) the worker; the worker continues to draw time-loss payments; and the employer

continues to pick up the tab.

Doctors' offices will often cite the confidentiality rules under HIPPA (Federal privacy regulations) as their reason for not releasing a workers' health information directly to an employer. However, under the workers' compensation law in Washington, doctors are **required** to provide an employer with the restrictions that have been placed on the injured worker and they must cooperate with assisting the employer in implementing a return to work/light duty work program. Any member of BIAW's Return On Industrial Insurance (ROII) program encountering a situation where a physician denies such information should contact their BIAW Claim Specialist.

While not as common as the above mentioned fraud, there are still instances of more serious and overt fraud that not only affect employer's rates and retrospective ratings refunds, but also endanger the health of the worker. Unnecessary surgeries, treatments, prescriptions, etc. are still commonplace among some health care providers more concerned about profits than their patients.

An example of one such "dirty doctor" comes from a news release issued by the state Department of Health (November 6, 2006) reporting the suspension of Seattle-area doctor Solomon Kamson for performing spinal surgeries he was not qualified to perform because he is not a surgeon. Rather, Kamson's medical certification is in anesthesiology. Dr. Kamson performed many surgeries on patients who later learned their conditions were not considered serious enough to require surgery. Dr. Kamson was an approved health care provider for workers' compensation claims and performed surgeries that were approved for payment by L&I—even though he is not a surgeon.

ROII member employers should discuss any questionable treatment or behavior on the part of health care providers with their

BIAW Claims Specialist. BIAW will report such concerns to L&I for investigation and follow-up. If L&I doesn't hear about these cases, they cannot investigate or prosecute fraudulent providers.

Unfortunately, a recent ruling by the Washington Supreme Court will make prosecution of fraudulent and dangerous health care providers even more difficult. The Court decision has changed the rules concerning burden of proof. Prior to the new ruling, "preponderance of evidence" was the standard needed for the state to proceed with disciplinary action against a health care provider. Now the state will have to prove "clear and convincing evidence," a tougher burden to prove in a case of fraud or inappropriate treatment. Because of this ruling, it is now even more important for employers to be as involved in an injured worker's care as is legally possible.

Employers' persistence in staying abreast of what is happening with their employees' workers' compensation claims, combined with implementing a comprehensive program to prevent injuries and contain workers' compensation costs, will pay off in the long run. Employers with solid light or modified-duty return to work programs and who maintain contact with their injured worker and doctor during the claims process are receiving big returns on their investment of time and effort through decreasing premium rates and higher retrospective rating refunds. In addition, these employers are establishing better employer/employee relationships which result in more loyal and productive workers.

If you are a ROII member unsure about your rights and responsibilities as an employer regarding workers' compensation issues, please contact your BIAW Claim Specialist at 800-228-4229. [☰](#)

