What's in your workers' comp policy?

Any employer knows the cost of covering employees under the workers' compensation insurance plan with the state Department of Labor & Industries (L&I) is an expensive budget item. And most employers are aware that the costs of claims directly impact workers' compensation premium rates.

But what most employers don't know is that those costs also affect a company's ability to win jobs because many general contractors are only interested in companies with low experience modification ratings (EMR). An EMR is a number assigned by L&I to all businesses. All businesses are assigned an EMR of 1.0 when they first apply for a workers' compensation account with L&I. Over subsequent years, the EMR will steadily decrease for businesses which have never had an employee file a workers' compensation claim, or conversely, steadily increase for every claim filed. So a business's EMR is a snapshot of how a business has fared in preventing workplace injuries.

If a subcontractor's EMR is low, it indicates to the general contractor that subcontractor is concerned about safety on the job site and is doing a good job preventing on the job injuries.

So the $64,000 question is how can an employer control their company's EMR?

Kept on Salary

It is almost inevitable that no matter how safety conscious an employer is, an on the job injury will eventually occur. The severity of the incident and how the employer reacts and manages the situation will impact the EMR. Many employers implement a Kept on Salary (KOS) policy, which means a worker is paid full wages and benefits by his/her employer, instead of collecting workers' compensation benefits from L&I, while off work due to an injury.

The recommended timeframe for paying KOS is at least 10 days and not more than 30 days. This time period should be used by the employer to contact the doctor to obtain physical restrictions and approval of a written light duty job description. It is then up to the employer whether they want to pay full wages until the worker is released to full duty or reduce the wage to fair value for the light duty job. If the wage is reduced, L&I will pay Loss of Earning Power benefits at a rate of 80 percent of the difference between the job of injury wage and the light duty job wage.

KOS is not for everyone, but for companies who are able to shoulder the extra costs up front, it is a way to help loyal employees maintain their income until they are able to return to work while at the same time keeping workers' comp rates down. Several factors determine whether KOS is advantageous to a company—the size of the company, employee turnover and other criteria. Employers considering KOS should carefully assess whether the extra up-front costs, versus a possible rate increase 18 to 24 months in the future, makes financial sense.

Early Return to Work—Light Duty

An Early Return to Work (ERTW) program is also instrumental in helping to contain claim costs and an employer's EMR. Usually, the most effective means of achieving ERTW is via an offer of a light duty job until the injured worker is recovered and capable of returning to their regular job.

Light duty job descriptions must be approved by the attending physician**, in writing**, and job offers for light duty work must also be made **in writing** (verbal job offers are not acceptable to L&I).

The light duty job offer must include a written copy of the job description as well as the doctor's written approval. If a worker declines the offer then he/she is no longer entitled to KOS from the employer or time loss benefits from L&I. However, if the offer is made verbally, the worker will receive time loss benefits even if the job is declined. L&I's policy and the law are very clear about the **"do it in writing"** rule and there are no exceptions made if an offer is made verbally and the worker declines. The worker who declines a verbal job offer for light duty work will be paid time loss benefits or KOS so long as the doctor has certified him/her to be on light duty. Remember—if the injured worker was KOS, the employer would need to pay KOS until a written job offer is made in order to keep the time loss from being reflected on the account.

How to Make it Happen

For many companies, implementing KOS and ERTW plans result in an improvement in their EMR and reduce their up-front workers' compensation premiums. Some companies can even earn a "claim free" status, if they have no indemnity costs (time loss or permanent partial disability payments) for three consecutive years.

Every year BIAW mails an updated *Procedure Packet* to each of the companies that have been accepted into the BIAW ROII program. This valuable resource provides an explanation on how to implement a KOS and ERTW program, contains the forms needed to make it official and gives step-by-step instructions with sample documents to simplify the process and provide quick turn around time in helping injured workers get back to work. If you are a ROII participant, call your BIAW Claim Specialist at 800-228-4229 for questions about whether your company can benefit from a KOS or ERTW policy.

If you're not a ROII member, visit the BIAW website at www.BIAW.com for more information to help determine whether your company can benefit, as well as downloadable documents to put a KOS and ERTW policy in place.