

Documenting of employment history may reduce future liability

The thousands upon thousands of workers' compensation claims that have come through the BIAW claim assistance program over the last 24 years have provided our claims staff much insight into construction workers' employment patterns and the types of injuries they experience.

One obvious observation is that many employees in the construction trades tend to move from employer to employer due to construction projects ending and new ones starting elsewhere. Another is that construction workers generally are a hard-working bunch, which means after years of cumulative exposure to repetitive activities innate to construction, the aging worker can start to "wear out." As a result, many aging construction workers file claims for such injuries as hearing loss or joint problems. The exposure to noisy equipment impacts hearing and the repetitive activity of bending, kneeling, heavy lifting, hammering, sawing, and using vibratory tools takes its toll on hands, wrists, elbows, shoulders, hips, knees and backs. This is not surprising or new to most employers. What may be surprising to some employers is that they can, in many cases, control the costs associated with claims of this type.

The state Department of Labor & Industries (L&I) distinguishes between two types of injury claims. The most common claim is for acute, traumatic injury—such as falling off of a roof and breaking a leg or cutting a finger. The second type of claim is for the cumulative exposure or "Occupational Disease" conditions—carpal tunnel syndrome, joint problems, etc. The costs for traumatic injury claims are charged 100% to the employer at the time of injury. That is, if the worker falls and breaks a leg while working for you, your company will be charged for all of the costs associated with that injury.

However, Occupational Disease (OD) claims are adjudicated under separate guide-

lines. OD claim costs are segregated over all of the work that contributed to the development of the occupational disease or condition and may be charged to multiple employers accordingly. For instance, a 50 year old carpenter who has been in the construction trade for thirty years may have had many employers. L&I asks the worker to provide a work history and then divides the liability across the board. So, if the employee entered the work force at the age of 20 and worked for the last employer for only 15 of the 30 years, then 50% of the claim costs would be charged to that employer instead of 100%. In fact, L&I does not assess any charges to employers where the exposure is less than 10% of the work history.

However, in order for L&I to complete a fair liability assessment of the employers, they must have an accurate work history. This is not always easy for L&I as many employees (sometimes unintentionally, sometimes not) leave out parts of their work history when L&I requests the information from them. But employers can help themselves get a fair liability assessment for an OD claim by providing L&I with accurate information on a claimants' employment history.

How is it possible for an employer to have better or more complete information than L&I on a workers' employment history? It's simple. By obtaining as much work history information from the worker as possible **at the time of hire**. Job applications for all new employees should contain instructions to fill them out as completely as possible, especially with accurate start and end dates. Later, when an OD claim is filed by a worker, you, the employer, will have the information on file that can help L&I accurately assess how much, if any, of the OD claim costs will be charged to your L&I account. Having this information can literally save you thousands of dollars on one claim.

If L&I determines the claim costs should

be segregated among more than one employer, they will issue the liability assessment on a legal order. Employers have 60 days to dispute the order. Having employment history on your workers allows you to compare that information to what the worker provided to L&I. If there are discrepancies, L&I will adjust the liability assessment. It pays to have good records on hand.

Here's an example of a real case where good record-keeping on the part of a BIAW employer saved them substantial dollars:

A flagger filed a carpal tunnel claim for both hands (more costs were incurred when she was successful in adding elbow and shoulder problems to the claim). The injured worker did not provide a complete employment history to L&I, and, based upon her paperwork alone, 100% of the charges (a whopping \$198,000) were going to be charged to the most recent employer. Fortunately, this BIAW member employer had requested detailed work history information at the time of hire and forwarded that information to L&I. The employer's diligence at the time of hire resulted in 0% of the claim costs being charged against their account (since the current employer accounted for less than 10% of the work history). So, the employer's attention to detail prevented what could have been a costly claim that increased their workers' compensation taxes. What could have been another L&I claim horror story turned out to be a success story instead.

As the workforce ages, more OD claims will be filed. Employers must be prepared to face OD claims by adopting strong hiring practices that include obtaining complete work histories. If you have any questions or need assistance regarding your workers' compensation account, contact your BIAW Claim specialist at 800-228-4229. 

