

# Help reduce workers' claim costs by reporting suspicious behavior

Many of us have heard the stories about workers with supposedly debilitating injuries that render them unable to work—all the while hearing whisperings among other employees about the hunting trip they and the “injured” worker went on and the big catch he packed out of the woods. Or how they saw the “injured” worker dancing at a party. Or how he’s making money on the side selling fire wood that, by the way, he cuts, stacks and even loads for his customers.

Even when employers offer evidence of fraud and information about the claimant’s suspect behavior, too often the state Department of Labor & Industries (L&I) has displayed a shocking apathy. Reports of workers on the take go unanswered, all while the employer continues to pick up the tab.

### New Law Aids Employer in Proving Fraud

But the Legislature this year passed a new law that making it easier to crack down on offenders. Historically, there was not much that could be done to get L&I to issue overpayment orders and close claims unless all of the agencies’ “nine points of fraud” could be proven. The difficulty was that the “nine points” revolve around the worker knowingly engaging in fraud or proving the worker knew he was engaging in activity that was against the law. Cases where L&I was certain all nine points were proven were often overturned when the claimant pleaded ignorance, claiming he didn’t realize he was doing anything wrong.

The new law, which went into affect June 10, allows L&I to prosecute claimants for “willful misrepresentation.” These cases are considered far easier to win in court than proving the “nine points” of fraud—but the punishment for conviction of “willful misrepresentation” is the same as for a

fraud conviction. Any worker found guilty is required to repay the total amount of any payments plus a 50 percent fine.

### Options to Report Fraud

There are different ways employers can proceed when they are suspicious of an injured worker’s behavior or activity. Hiring a private investigator who is experienced in workers’ compensation or disability insurance fraud is helpful to gather initial information that can then be given to L&I for an in-depth fraud review. Or...

**1** ...the private investigator can bypass L&I and go directly to the doctor to provide video and observation notes that show the patient engaging in activity that is outside of the prescribed restrictions. Doctors are usually quick to admit the patient has fooled them and will release the patient to go back to work. When this happens, the claimant usually realizes the jig is up and will not dispute the termination of benefits. Keep in mind, however, there usually is no fraud review following this type of resolution and the employer pays all of the costs for the investigation...

**2** ...if the employer chooses to have L&I conduct the investigation they can report the claimant’s activity directly to the L&I claim manager and request an investigation, or the employer can utilize L&I’s website, which provides three choices for reporting claim fraud. Go to [www.lni.wa.gov/ClaimsInsurance/WorkersCompFraud/FormPub/default.asp](http://www.lni.wa.gov/ClaimsInsurance/WorkersCompFraud/FormPub/default.asp) and scroll down to either *Report Claim Fraud*, to be used when a questionable claim is filed; *Report Disability Fraud*, when a claimant is working while receiving benefits; or *Report Unfair Benefits Fraud*, when a worker is engaging in physical activity that is not consistent with the prescribed restrictions. Choose the

appropriate type of investigation and complete the form. Your report can be filed anonymously and the information you submit will be kept out of the public file until the investigation is completed and a final determination has been made by the fraud adjudicator.

### Medical Providers Under Microscope

This new crack down on fraud isn’t just directed towards claim fraud. L&I claims they have added more investigators to look into employer and provider fraud as well. Doctors and other medical providers who misrepresent a claimant’s condition will be targeted, and a new computer system is being utilized to detect duplicate or improper billing. Employers who do not pay premiums or cheat the system by closing up shop and opening a new business to avoid the cost of increased taxes due to high claim costs will also be pursued for prosecution.

### Reporting Fraud Will Reduce Employer Costs

If this new rule results in the consistent and rigorous application that the Legislature intended, there should be a reduction in costs that will benefit everyone involved in the workers’ compensation claim process. Weeding out those who engage in “willful misrepresentation” is a good start, but it depends on everyone being diligent and responsible in reporting fraud. BIAW members can contact their BIAW Claim Specialist at 800-228-4229 to determine the best way to follow-up on suspicions of “willful misrepresentation” by a worker, another employer or a provider. 

