

WORKERS COMPENSATION: HOW EMR IMPACTS YOUR COMP PREMIUM & THE IMPORTANCE OF A RETURN TO WORK PROGRAM

February 2019

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Presentation Overview

- Workers Compensation & The EMR
- Why Return to Work
- Keys to RTW Success

What is Workers Compensation Insurance?

- No fault insurance for workers injured while in their scope of work (*Not the Same as OSHA recordable*)
 - Pays for medical bills & lost wages
 - “Exclusive Remedy”
 - Required everywhere except Texas
- ## **“Non-Subscription” Option**

The Policy:

- Coverage A- Medical & Lost Wages
Statutory Limits
- Coverage B- Employers Liability
Defined Limits (\$1M)

Workers Compensation Insurance: How does it work?

- Rate by Class Code
X Payroll
X UW Factor
X EMR = Premium

Workers Compensation Insurance

What is an EMR?

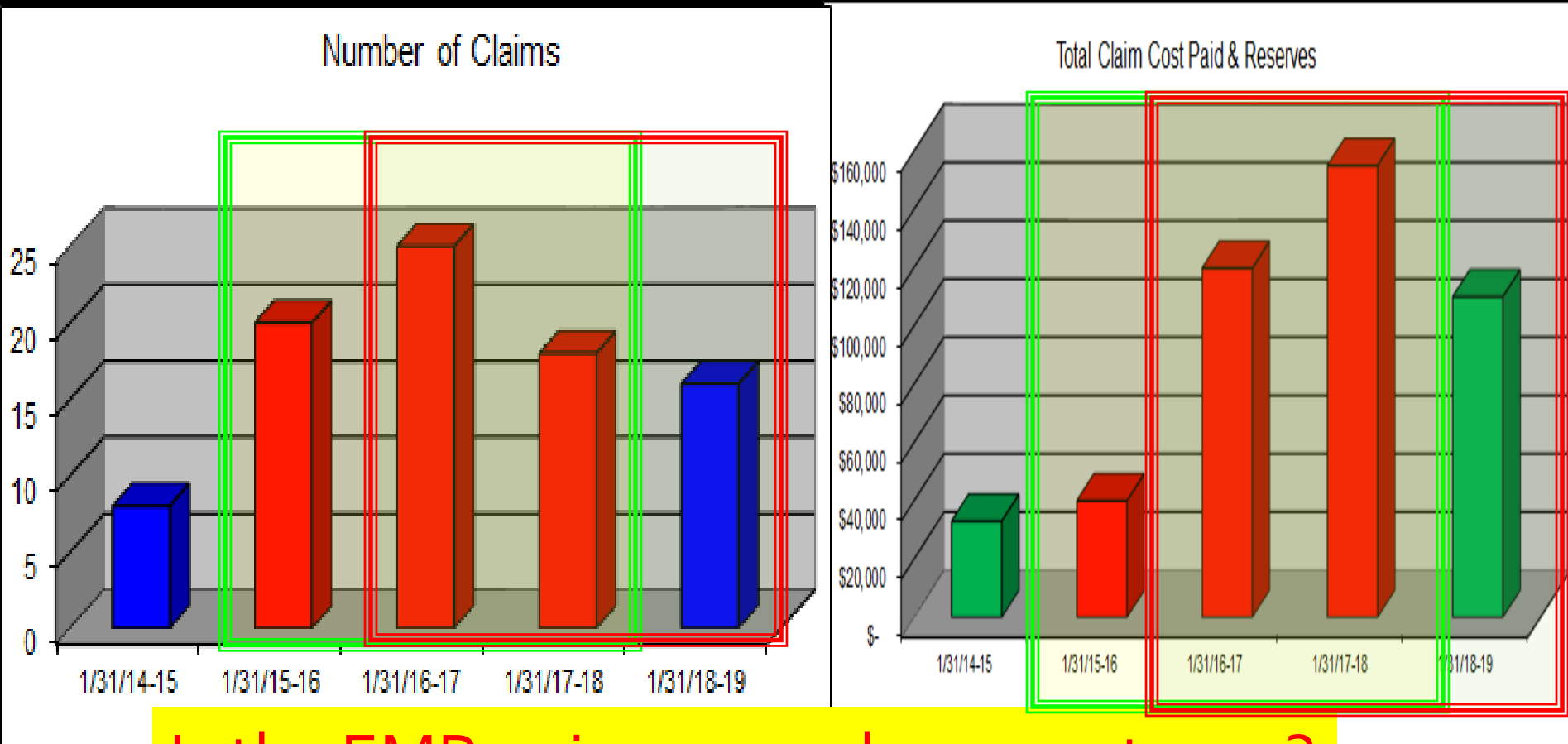
- 3 Year Claim experience compared to industry
- Work comp premium calculation component
- 1.0 is "Average"

What does this mean?

Example- Painting Contractor

$$8.32 \times (\$4,000,000 / 100) \times 1.25 = \$416,000$$

Workers Compensation Claim Experience



Is the EMR going up or down next year?



ABC Company, Inc.

WORKERS COMPENSATION EXPERIENCE RATING

Copyright, 1999-2000, All rights reserved. This experience modification factor is comprised of computations and information which are the proprietary and exclusive property of the National Council on Compensation Insurance, Inc. (NCCI). No further use, dissemination, sale, transfer, assignment or disposition of this experience rating modification factor or any part thereof may be used without the written consent of NCCI. NCCI makes no representation or warranty, expressed or implied, as to any matter whatsoever including but not limited to the accuracy of any information, product or service furnished hereunder and, as to NCCI, recipient of this experience rating modification factor subscribes to and utilizes the information service "as is".

Name
of
Risk

Risk Ident No:
State

Effective Date: 01/31/2009

TEXAS

Your Claim info

Your Class Codes

Your Payroll

Expected Losses

Your EMR

CODE	ELR	D-RATIO	PAYROLL	EXPECTED LOSSES	EXP. PRIM. LOSSES	CLAIM DATA	IJ	PRIM. ES
42 Carrier						EFF-DATE	01/31/2005	EXP-DATE 01/31/2006
7600	119	24	287,626			NO. 6	6 *	1,683 1,683
8017	137	25	1,373,261					
8742	018	24	89,917					
8810	011	24	320,707	353				
POLICY-TOTAL			2,071,511					1,683
Carrier		14397	POLICY#			EFF-DATE	01/31/2006	EXP-DATE 01/31/2007
7600	119	24	326,240	3,882	932		4 F	2,645 2,645
8017	137	25	1,554,752	21,300	5,325		5 F	1,618 1,618
8742	018	24	115,496	208	50		5 F	3,373 3,373
8810	011	24	341,275	375	90	NO. 12	6 *	4,389 4,389
POLICY-TOTAL			2,337,763					12,025
Carrier		10456	POLICY#			EFF-DATE	01/31/2007	EXP-DATE 01/31/2008
7600	119	24	310,888	3,700	888		4 F	16,021 5,000
8017	137	25	1,750,854	23,987	5,997		5 O	9,844 5,000
8742	018	24	75,118	135	32	NO. 4	6 *	1,187 1,187
8810	011	24	364,470	401	96		6 F	3,275 3,275
							6 F	3,911 3,911
POLICY-TOTAL			2,501,330					34,238
	(A) 017	(B)	(C) Expected Excess (D-E) 57,680	(D) 76,740	(E) 19,060		(H) 47,946	(I) 32,081

* Total by Policy Year of all cases \$2,000 or less.
Limited Loss.

Page 1
Date 10/08/2008

	(11) PRIMARY LOSSES	VALUE	EXCESS	(14) TOTAL	(15) EXP. MOD. (J) / (K)
ACTUAL	(I) 32,081	(C) x (1-W) + (G) 61,337	(A) x (F) 2,697	(J) 96,115	
EXPECTED	(E) 19,060	61,337	(A) x (C) 9,806	(K) 90,203	1.07

EMR Calculation

EXPECTED/EXPECTED PRIMARY LOSSES



WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: ABC INSURED LLC

Risk ID: 42XXXXXXX

Rating Effective Date: 04/1/2014

Production Date: 12/06/2013

State: TEXAS

42-TEXAS

Firm ID:

Firm Name:

ABC INSURED LLC

Carrier: 29939

Policy No. WC01200062

EL

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Pri Losses	Exp Pri Losses	Exp Pri Losses	Exp Pri Losses	Exp Pri Losses
5606	.28	.22	67,250	188					2,191
6216	1.58	.21	456,242	7,209	1,514	99M0639455	5	F	4,628
					1,623	99L0607755	5	F	25,555
					10	NO. 5	6	*	3,059
					8				
Policy Total:			1,023,530	Premium:	60,584	Total Act Inc Losses:	35,433		

Expected Primary Losses – The portion of the expected losses that are expected to be primary losses

Expected Losses – The dollar amount of the losses expected, based on the class code and payroll amount.

EMR Calculation

$$\frac{\text{Actual Losses}}{\text{Expected Losses}} = \text{EMR}$$

Actual Formula

$$\frac{A_p + (1-W)E_e + B + WA_e}{E_p + (1-W)E_e + B + WE_e}$$

W= Weight

Basic EMR Calculation

Is Your EMR

ADD This
Column


Compare to
This Column

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses	
5474	1.56	.40	3,442,422	53,702	21,481	99M0660530	04	F	24,048	15,500	
5606	.36	.39	481,858	1,735	677	99P0679073	05	F	2,107	2,107	
8742	.09	.38	68,000	61	23	99M0669611	05	F	4,393	4,393	
8809	.07	.35	90,100	63	22	99M0668153	05	F	4,454	4,454	
8810	.06	.41	143,086	86	35	99P0679512	06	F	2,013	2,013	
						NO. 5	06	*	3,104	3,104	
Policy Total:				4,225,466	Subject Premium:	\$22,238	Total Act Inc Losses:			40,119	\$31,571

$$\frac{\text{Actual Losses}}{\text{Expected Losses}} = \frac{31,571}{22,238} = 1.42$$

Medical Only Claims

INJURY CODE (IJ)

	WORKERS COMPENSATION EXPERIENCE RATING	
Risk Name: ABC INSURED LLC	Risk ID: 42XXXXXXX	
Rating Effective Date: 04/1/2014	Production Date: 12/06/2013	State: TEXAS

42-TEXAS

Carrier: 299

Code	ELR
5606	.28
6216	1.58
8265	1.74
8742	.01
8810	.06

Policy Total:

11) Injury Code

Death (01)

Permanent Total Disability (02)

Major Permanent Partial Disability (03)

Minor Permanent Partial Disability (04)

Temporary Total or Temporary Partial Disability (05)

Medical Only (06)

Contract Medical or Hospital Allowance (07)

Compromise Death—California Only (08)

Permanent Partial Disability (09)

D LLC

04/1/2010

Exp Date: 04/1/2011

Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
99L0616453	5	F	2,191	2,191
99M0639455	5	F	4,628	4,628
00L0607755	5	F	25,555	5,000
NO. 5	6	*	3,059	3,059
Total Act Inc Losses:			35,433	

EMR Calculations

- Loss Limitation Changes:
 - Per claim \$107,000 to \$230,500
 - Per event \$214,000 to \$461,000
- Split Point Changes from \$5,000 to \$16,000
- Medical only claims discounted 70%

Primary Losses Are
Now Capped
@ \$16,000

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
0042	1.23	.25	226,896	2,791	698	1311430	4	O	32,144	16,000
5213	1.57	.21	54,248	852	179	1292019	4	O	200,775 #	16,000
5606	.28	.22	1,075,818	3,012	663	1295889	5	F	5,535	5,535
6219	1.49	.21	2,002,234	29,833	6,265	NO. 5	6	*	1,040	1,040
6229	.79	.24	594,129	4,694	1,127	1265496	6	F	1,448	1,448
6306	1.66	.21	1,085,130	18,013	3,783	1266513	6	F	1,711	1,711
6319	1.09	.22	665,615	7,255	1,596					
8227	.81	.22	111,562	904	199					
8809	.07	.20	312,000	218	44					
8810	.06	.22	917,599	551	121					
Policy Total:				7,045,231	Subject Premium:	301,152	Total Act Inc Losses:			252,449

Question: Should you continue paying your medical only claims out of pocket?

Why use the EMR to Evaluate Safety?

- Easy to compare versus other companies
- Different than OSHA Incident Rate
- Shows effective injury management & severity

Why are you evaluating the subcontractor or vendor?



Who would you hire?

Contractor #1 EMR= .84

Contractor had 2 fatalities in the past four years

Contractor #2 EMR = 1.36

Contractor had 1 lost time claim in the past three years involving an office staff member with a carpal tunnel claim

Flaws of the EMR to Evaluate Safety?

- The EMR is Designed for Insurance & Premium Computation
- Subcontracted Work & Uninsured workers *Ex: Paper GCs, Temps, Painters, etc...*
- Claims Unrelated to Operations can impact EMR *Ex: CTS injury office staff*
- Medical procedure issues
- Subrogation issues *Ex: Auto Accident*
- Adverse Impact on Small Employers

Impact of Claims on EMR

- Large Loss EMR Impact
- Example : EMR = 1.03

State	Loss Date	Claim Cost	Impact on EMR	EMR w/o Loss
■ TX	12/1/2015	\$61,761	0.1209	.9120
■ TX	1/1/2017	\$18,886	0.0557	.9772
■ TX	9/26/2016	\$14,095	0.0484	.9845
■ TX	8/28/2016	\$12,506	0.0460	.9869
■ TX	4/1/2015	\$11,124	0.0439	.9890

EMR- Class Code Flaws

5183 - Filed Rate = \$5.27	ELR	D-ratio
	Expected loss	Expected primary
Asbestos Insulation Removal from Pipes or Boilers & Drivers	1.08	0.23
Butane, Propane and Other LPG Systems - Installation and maintenance of Equipment - &	1.08	0.23
Industrial Pipe Work Noc & Drivers	1.08	0.23
Lawn Sprinkler Installation & Drivers	1.08	0.23
Liquefied Petroleum Gas Systems - Installation and maintenance of Equipment - & Drivers	1.08	0.23
Plumbing Noc & Drivers	1.08	0.23
Septic Tank Installation: Setting Tank and Necessary Pipe Work & Drivers	1.08	0.23

Remember the Underwriting Factor?

What can you do to control your Experience Modifier?

- ✓ Don't have any claims
- ✓ Manage reserves & Review your EMR
- ✓ Pay small medical only claims out of pocket... *with caution*
- ✓ Control cost on claims (Return to Work)

Why Return to Work?

- It's the LAW
- \$\$\$

Return to Work & The Law

- ADA
- FMLA
- Department of Labor



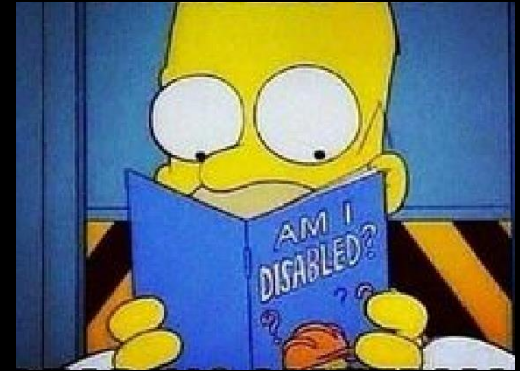
The Americans with Disabilities Act

- Covered employers: **15+ employees** who work 20 or more calendar weeks per year
- Protects qualified employees and applicants with a disability who, *with or without **reasonable accommodation**, can perform essential functions of the job*
- ***Affirmatively requires employer to provide reasonable accommodations to injured employees***



What is a “Reasonable Accommodation”?

- Know or should have known about disability
- An accommodation was available to the employer that is not unduly burdensome
- Potential Problems:
 - Employer failed to make the accommodation
 - Employer failed to explore a reasonable accommodation



Most Lost Time on the Job Injuries would require exploring the feasibility of an accommodation

Accommodations that *Might* Be Reasonable

- Work from home
- Reduced hours
- Ergonomic seating
- Schedule change
- Job restructuring
- Reassignment to a *vacant* position



These are all great ideas for an effective return to work program

Family Medical Leave Act

- Work at a location where at least **50 employees** are employed at the location or within 75 miles of the location
- Leave allowed for qualified workers with a “serious health condition”
 - 12 workweeks/year (**UNPAID**)
 - Reinstatement rights to same or substantially similar job
- Interplay with Workers Compensation
 - **Start the FMLA Clock**
 - Do not have to hold position open forever

Department of Labor Rules

Improve Tracking of Workplace Injuries and Illnesses



"Employees' Right to Report Free from Retaliation"

Department of Labor Rules

Employee Rights Requirements Effective 11/1/2016

1. Inform Employees of their right to report workplace injuries

Poster:

<https://www.osha.gov/Publications/poster.html>

2. Develop procedures for reporting injuries *No discouragement*

3. No retaliation for workplace injuries *Affirms Whistle Blower rules*



Impact of Standard On Work Comp/ RTW

- Accident / Injury reporting policies
 - *"Must report all accidents or injuries within 24 hours"*
 - *Non-subscription ERISA plans*
- Post Accident Drug Testing
 - OSHAs Position: *"blanket post-injury drug-testing policies deter proper reporting of injuries"... REALLY?*
 - Conflicts with DOT & State Work Comp statutes
 - Opens the door for discrimination cases
- Incentive programs
 - *"Trip to Cancun if we go a year without accidents"*
 - Employee/ Supervisor bonus programs (TRIR)
- Injury Prevention "marketing"

Injury Prevention Marketing



Implementing a Return to Work Program

Employer RTW Perceptions

- CAN'T
- DON'T
- Not their job
- Insurance carrier's job

Employer's Role

- Develop Process & Forms
- Educate adjuster & physicians -promote partnership & understanding
- Educate employees
 - What RTW is and why is it important
 - What to do
 - What to expect
 - What is expected
 - Explain Work Comp

Adjuster's Role

- **Follows law and rules**
- Files report with DWC –Contacts injured employee, employer and doctor and maintains continuous communication with each
- Investigates, determines compensability
- Pays appropriate benefits, medical bills & lost wages
- Monitors and oversees appropriateness of treatment and lost time
- RTW coordination services

Return to Work... Keys to Success

1. Develop & Follow a Consistent Process
2. From Upper Management to employees –
The process from the injury, reporting, medical care, investigation, and modified duties is **clearly communicated.**
3. Clear Expectations –
 - Every employee will to return to work
 - Supervisors must find modified duties
 - Employees understand the path back to full duty
 - Manage the Process

Manage the Return to Work Process

- Initial Doctor Visit
 - ▣ Designated Clinic (In-Network?)
 - ▣ Hold Clinics Accountable
 - ▣ Attend Doctor Visits- *Ask Questions*
- Monitor Progress- BE PROACTIVE
- ***COMMUNICATE!***



Work Assignments

- It's NOT "Light Duty"
- REAL work – tasks, duties, functions
"Adds value to the organization"
- Make a list and keep it up to date
- Job demands analysis (weights, etc...)
- Work Status Report (DWC 73)
Clarification & Accurate Completion

Employee - You are required to report your injury to your employer within 30 days if your employer has workers' compensation insurance. You have the right to free assistance from the Texas Department of Insurance, Division of Workers' Compensation and may be entitled to certain medical and income benefits. For further information call your local Division field office or 1(800)-252-7031.



Empleado - Es necesario que reporte su lesión a su empleador dentro de 30 días a partir de la fecha en que se lesionó si es que su empleador cuenta con un seguro de compensación para trabajadores. Usted tiene derecho a recibir asistencia gratuita por parte de la División de Compensación para Trabajadores, y también puede tener derecho a ciertos beneficios médicos y monetarios. Para mayor información comuníquese con la oficina local de la División al teléfono 1-800-252-7031.

TEXAS WORKERS' COMPENSATION WORK STATUS REPORT

PART I: GENERAL INFORMATION

5. Doctor's Name and Degree

(for transmission purposes only)

Date Being Sent

PART III: ACTIVITY RESTRICTIONS* (ONLY COMPLETE IF BOX 13(D) IS CHECKED)

14. POSTURE RESTRICTIONS (if any):

Max Hours per day: 0 2 4 6 8

Other

Standing ☐☐☐☐☐ 1hr

Sitting ☐☐☐☐☒

Kneeling/Squatting ☒☐☐☐☐

Bending/Stooping ☒☐☐☐☐

Pushing/Pulling ☒☐☐☐☐

Twisting ☒☐☐☐☐

Other: ☐☐☐☐☐

15. RESTRICTIONS SPECIFIC TO (if applicable):

☒ Left Hand/Wrist

☐ Left Leg

☐ Right Hand/Wrist

☐ Right Leg

☐ Left Arm

☐ Back

☐ Right Arm

☐ Left Foot/Ankle

☐ Neck

☐ Right Foot/Ankle

Other:

16. OTHER RESTRICTIONS (if any):

17. MOTION RESTRICTIONS (if any):

Max Hours per day: 0 2 4 6 8

Other

Walking ☒☐☐☐☐

Climbing stairs/ladders ☒☐☐☐☐

Grasping/Squeezing ☒☐☐☐☐

Wrist flexion/extension ☒☐☐☐☐

Reaching ☒☐☐☐☐

Overhead Reaching ☒☐☐☐☐

Keyboarding ☒☐☐☐☐

Other:

18. LIFT/CARRY RESTRICTIONS (if any):

☐ May not lift/carry objects more than ____ lbs. for more than ____ hours per day

☒ May not perform any lifting/carrying

Other:

19. MISC. RESTRICTIONS (if any):

☐ Max hours per day of work: ____

☒ Sit/Stretch breaks of 1 per hr.

☐ Must wear splint/cast at work

☒ Must use crutches at all times

☒ No driving/operating heavy equipment

☐ Can only drive automatic transmission

☒ No work / ____ hours/day work:

☐ in extreme hot/cold environments

☒ at heights or on scaffolding

☐ Must keep ____ elevated ☐ clean & dry

☐ No skin contact with: ____

☐ Dressing changes necessary at work

☒ No running

20. MEDICATION RESTRICTIONS (if any):

☒ Must take prescription medication(s)

☐ Advised to take over-the-counter meds

☒ Medication may make drowsy (possible safety/driving issues)

☐ Neck

☐ Right Foot/Ankle

☐ May not perform any lifting/carrying

Other:

Other:

16. OTHER RESTRICTIONS (if any):

☐ Must take prescription medication(s)

☐ Advised to take over-the-counter meds

☐ Medication may make drowsy (possible safety/driving issues)

* These restrictions are based on the doctor's best understanding of the employee's essential job functions. If a particular restriction does not apply, it should be disregarded. If modified duty that meets these restrictions is not available, the patient should be considered to be off work. Note - these restrictions should be followed outside of work as well as at work.

PART IV: TREATMENT/FOLLOW-UP APPOINTMENT INFORMATION

21. Work Injury Diagnosis Information:

22. Expected Follow-up Services Include:

☐ Evaluation by the treating doctor on ____ (date) at ____ : ____ am/pm

☐ Referral to/Consult with ____ on ____ (date) at ____ : ____ am/pm

☐ Physical medicine ____ X per week for ____ weeks starting on ____ (date) at ____ : ____ am/pm

☐ Special studies (list): ____ on ____ (date) at ____ : ____ am/pm

☐ None. This is the last scheduled visit for this problem. At this time, no further medical care is anticipated.

Date / Time of Visit

EMPLOYEE'S SIGNATURE

DOCTOR'S SIGNATURE

Visit Type:

☐ Initial

☐ Follow-up

Role of Doctor:

☐ Designated doctor

☐ Treating doctor

☐ Carrier-selected RME

☐ DWC-selected RME

☐ Other doctor

RTW Opportunities

- Regular job- *If meets the restrictions*
- Trade jobs, cross train
- Fill in for absences
- Ask injured employee
- Ask other employees
- Ask the SUPERVISOR
- Part time work
- Different way of doing something

*It may take some time & thought
but it is worth the effort!*

Return-to-Work – Real World Example

A 32-year-old employee was lifting a pallet and suffered a significant injury to his back. His diagnosis was a herniated disc, which required back surgery.

- Prior to the injury, the Average Weekly Wage (AWW): \$628.55
- Weekly Compensation Rate: \$391.42

If no modified duty was available:

The benefit would continue at an annual rate of \$20,354.

The EMR would go from 0.80 to 1.02.

Alternative duty work was available:

The employee was brought back to work as a machine inspector. No additional weekly indemnity benefits were owed.

The EMR went from 0.80 to 0.81 by providing alternative duty.

Conclusion

- Understand The Work Comp Process
- Understand How the EMR Works
- Manage Claims
- Communicate
- Invest the time.. It will pay dividends

Questions???

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