



SISC Safety and Loss Risk Management Bulletin

Managing Workers' Compensation Losses

January 2004

Introduction

For many districts, the financial impact of workers' compensation is significant. Therefore, reducing such costs becomes a priority. District administrators who have committed their districts to the management and reduction of workers' compensation costs have seen a significant decrease in the overall impact to the district; it can be done.

Taking a reactive approach will result in the management of accidents and illnesses rather than managing health and safety. A reactive approach is also very costly. Districts that commit themselves to a proactive approach can get ahead of the curve. The cost savings and overall workplace management can be significant. The purpose of this document is to provide guidance with respect to the role the SISC I claims examiner and district personnel have as partners in the area of managing workers' compensation claims and costs.

Role and Authority of District

The following items represent the role of district personnel in managing workers' compensation costs. Several items may not directly relate to the claim process, but can have an overall impact on the outcome of a claim.

Accident Investigation. Accident investigation is an important part of the loss reduction effort. A complete investigation can reveal problem areas, poor work practices, defective equipment, the need for additional training, etc.

The investigation conducted by the district is different from, and possibly in addition to, any investigation conducted by SISC I. The district should conduct an internal investigation of all reported incidents. Thorough investigations also send a powerful message to employees that there will be questions and follow up on incidents.

Essential Job Functions/Job Descriptions.

The school district has the sole responsibility to accurately identify the essential job functions. Complete job descriptions should be available for each official position in the district and forwarded to the treating physician in the event of a lost time injury. If the essential functions are not accurately identified it becomes difficult to make appropriate placement decisions on both a temporary and/or permanent basis. This may result in an employee who returns to work and is unable to actually perform the job, or it may result in an employee who is barred from returning but can actually perform the job. Both instances can result in financial loss to the district.

First Aid Program. It is legal and appropriate for a district to directly pay the cost of first aid injuries. A district does not have to report such claims to the SISC I office. This results in a one-time cost to the district rather than the cost of a formal claim being used in the experience modification calculation for a



period of three years. A formal program is necessary to implement such a policy.

Functional Capacity Evaluations. The district has the legal authority to require an employee to submit to a medical evaluation that is job related and consistent with business necessity. This may include requiring an employee to pass a return to work examination if the district disputes the work release given by the employee's treating physician.



Although the legal authority exists, a district should be careful when exercising this authority when related to an industrial injury. Such examinations should only be conducted in coordination with the SISC I claims examiner and the Director of the SISC Safety and Loss Control department. In some instances, a functional capacity examination may be authorized and paid through SISC I. Because of the complexity of this type of examination, approved providers are not available in all areas.

Modified or Alternate Work. When an employee reaches permanent and stationary status, if he/she cannot return to their usual and customary position the district must advise the SISC I claim examiner if permanent modified or alternate work is available. If it is determined that permanent modified or alternate work is not available, the employee may be eligible for vocational rehabilitation benefits. SISC I cannot initiate the vocational rehabilitation process until this determination has been made. This is a decision that must be made accurately as well as timely. In some instances, the district may require assistance in assessing job placement options to explore if an employee can continue in his/her previous position or if alternate positions meet the restrictions. The SISC Safety and Loss Control

department is available to provide assistance in this area.

Questioning the Claim. District personnel, either management or employees, may have information that challenges the validity of a claim. This information may include the possibility of fraud or malingering. In either case, it is important for all such information to be forwarded to the SISC I claims examiner. An investigation may be authorized up to and including surveillance of the employee.

Payment Classification. Benefits are paid based on an employee's wages. Therefore, it is critical to have accurate information regarding wage rates. Often an employee holds more than one job in a district. It is important to report all wage information and job categories to the SISC I examiner. Inaccurate information can have an adverse impact due to overpayments or enforcement penalties.

Pre-Placement Examinations. Hiring the best candidate is always the main goal in any hiring process. However, too often the physical capabilities of an individual are not properly taken into account. Pre-placement medical examinations, which include a functional capacity evaluation, is an effective way to ensure the candidate is physically able to perform the required or essential functions of the job. SISC I has an incentive program which covers a portion of the cost of these examinations where there is an approved provider available. For the same reasons as the functional capacity examinations, there are not approved providers available in all areas.

Reasonable Accommodation. If an injury has resulted in a physical disability pursuant to state and federal law, the district has an obligation to initiate an interactive process to evaluate the potential of reasonable accommodation. This process should be conducted separate from, but concurrent with, the assessment for modified or alternate work.

Note that physical disability pursuant to state disability laws are separate from disability within the workers' compensation area. Contact the Director of the Safety and Loss Control department for assistance with this process.

Return to Work Program. Also called Temporary Work Assignment programs; this is the single-most powerful tool a district has to reduce workers' compensation costs. The district has the authority and latitude to assign an employee temporary tasks that are within the prescribed work restrictions. Keeping an employee in the workplace during the recovery process provides productive work for both the district and the employee, and saves substantial claims costs. A copy of a model program can be obtained from the SISC Safety and Loss Control department. Personalized assistance is also available to help with program implementation.

Reporting Claims. Proper claim filing and follow up is essential. Incomplete paperwork or inaccurate reports can lead to claim processing problems. Claims that might have been denied must sometimes be accepted because of poor reporting. Conversely, reporting claims that are not actually claims (when the employee does not seek medical attention) is unnecessary and only adds to the administrative burden of SISC I. This increased administrative cost must be passed along to member districts.

Temporary Disability Dates. Reporting to SISC I when the employee is on the job, or is not working, is critical in establishing accurate payments. Overpayments can result when the district has failed to advise the SISC I examiner of the employee's work status. As a rule, once the money is paid it doesn't come back. Therefore, accurate timekeeping is crucial.

Verifying Work Restrictions. Ultimately, it is the district's responsibility to manage its employees. This includes making placement decisions that are consistent with an

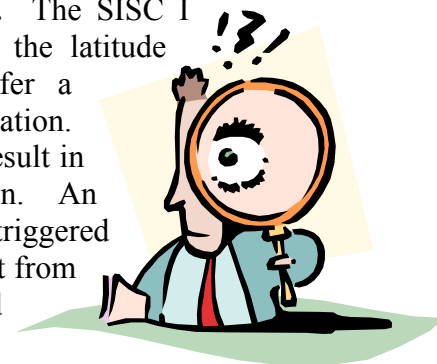
employee's medical restrictions. The district should not hesitate to verify work restrictions with the SISC I claims examiner and the treating physician whenever there is a question regarding the employee's work restrictions.

The district has the authority to discuss the restrictions and placement of an employee directly with the treating physician. The form *Physicians Work Status Report* was designed to provide districts with this information. Forms are available from the SISC I office.

Role and Authority of SISC I

The following information represents the role and authority of SISC I in processing and managing employee injury claims. It is interesting to note that there is little latitude regarding the claim process on this end. Most of the latitude and discretion (and ultimately real control) lies with each district.

Claim Investigation. The SISC I claims examiner has the latitude and authority to refer a claim for investigation. Most claims do not result in a formal investigation. An investigation may be triggered by a conflicting report from the employee, and inconsistency of events reported, a question of medical condition, etc. An investigation may also be authorized if there is a question of whether the injury is job related. This investigation is different from the investigation conducted by the district.



Claim Acceptance. The examiner has the authority to accept and/or deny a workers' compensation claim. This authority is not dependent on the district agreeing with the decision.

SISC I is restricted by law to specific parameters, and occasionally a claim must be accepted as a matter of law even though there is a disagreement as to the validity or compensability of the claim. Many of these instances are due to reporting problems/errors on behalf of the district.

Claim Settlement/Closure. SISC I has a statutory obligation to provide benefits that are due an injured worker; however there is also an obligation to the member district and overall JPA. In some instances the examiner may work to negotiate a settlement of a claim so that the claim can be closed. This can save the cost of litigation and often saves future medical costs as well. In litigated cases, the amounts of the award are often non discretionary. That is, a district cannot simply choose not to pay if there is disagreement. Sometimes the district may not agree with a settlement offer/package or award, but it is important for the district to understand if the settlement is mandated.

Litigation. Once a claim is litigated (the employee is represented by an attorney), the SISC I examiner assigns the case to legal counsel. SISC has the discretion to choose the appropriate attorney. The legal process must be followed, and with litigated cases there is sometimes less latitude. Therefore both the examiner and the district are bound by the legal process and outcome.

Medical Review. If the SISC I examiner does not agree with the report from the treating physician it is possible to obtain another opinion. This often results when the injured employee seeks treatment from his/her own personal physician. There are limitations to this authority and the outcome is not always in the district's/SISC's favor.

Permanent Disability Payments. Permanent disability awards/payments are non discretionary. There are matters of dispute; however, once the final



determination has been made by a court, or negotiated in lieu of court, the payment must be made. Often the award and payment of permanent disability is greater than district personnel agree with; typically this problem cannot be resolved.

Temporary Disability Payments. The SISC I claims examiner has an obligation to pay benefits within a specified time frame. Penalties must be paid for late processing. Accurate wage information and dates of work are important to insure accurate payments are made.

Video Surveillance. Video surveillance may be authorized when there is an issue of fraud or malingering. The SISC I examiner contracts for this service with an outside professional organization. If there is a suspicion of fraud, the district should contact their claims examiner immediately; they should not attempt to conduct surveillance on their own.

Vocational Rehabilitation. The examiner is responsible to offer and coordinate vocational rehabilitation benefits after the district has advised the examiner that there is no modified or alternate work available. This benefit is dependent upon the district's direction.

Conclusion

With the workers' compensation system we currently have in place employers stand to lose a great deal of money if losses are not diligently controlled. The costs associated with workers' compensation have risen to the point that they cannot be ignored. It is, therefore, very important that all school districts understand and follow their role in managing workers' compensation costs.

For additional information or assistance contact your SISC Safety and Loss Control representative or your SISC I claims examiner.