

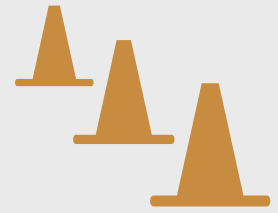
Workers' Comp & Safety News



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Workers' Compensation 101

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Workers' Compensation and OSHA: What's the Connection?

Although OSHA and workers' compensation both relate to worker safety, they play different roles. Read on for more information.



Sometimes employers confuse workers' compensation requirements with Occupational Safety and Health Administration (OSHA) standards. Some of the confusion relates to what is recordable on the OSHA 300 log (first aid, reportable, lost-time) with what falls under workers' compensation, such as restricted duty, lost-time, and the ever-important written return-to-work policy.

Though OSHA safety standards and the legislative statutes governing workers' compensation differ, employers must understand both sets of requirements to optimize their experience ratings without compromising their

employees' safety or health.

As an example, an employee slips and falls down a couple of stairs at work and injures an ankle. The employee promptly reports the injury and a supervisor takes him to the local urgent care facility. The ankle is x-rayed, the employee is drug-tested according to your post-injury substance abuse policy, and the employee is released with instructions to alternate ice and heat and return to work on his next scheduled shift.

Is this recordable under OSHA? Is it compensable under workers' compensation?

Now let's say that night the same employee experiences discomfort and can't sleep well, so

decides he will stay home from work the next day to give his ankle more rest. He calls his supervisor prior to the start of his shift and says he will not be in because his ankle still hurts.

Is this now a lost-time injury to log under OSHA? Is the employee's day off from work compensable under workers' compensation statutes?

In the first example, the injury is a "first aid" under OSHA because the employee was provided diagnostics (x-rays) with no prescription medication and no reference to restricted or modified duty. Workers' compensation would cover the cost for the hospital visit and x-rays, provided the injury resulted from the employee performing assigned tasks at work.

In the second example, the injury is not a lost-time injury because the employee chose to stay home without a physician's direction. The injury wasn't severe enough to require missing work and the physician did not issue an order for the employee to stay at home. Therefore, work-

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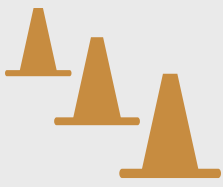
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Safety Incentives: Do They Work?

Workers who have filed a compensable lost time claim are more than twice as likely to file an additional claim, according to recent research. Multiple injuries can indicate a worker hasn't healed completely—or a safety problem.

There is an ongoing debate within the safety profession about safety incentives. Do incentives amount to “paying off” employees to do the job they are already being paid to do? Do they actually reduce injuries? Can they increase job performance? Let's take a look at what incentives are, how you can use them, and what precautions to take if you do so.

First, let's discuss the difference between incentives and recognition. An incentive offers something as a reward to work safely. Recognition provides a reward for having worked safely. I personally prefer recognition for a job well done rather than hoping my employee elects to work safely based on what I will give him or her.

Behavior-based safety over the years has promoted incentive and recognition programs to reward and encourage employees' ongoing positive performance. Various companies have used safety luncheons, small gifts, large gifts, vacations, cash bonuses, etc. to achieve what they hope to get. How employees perceive and value these recognitions will determine how successful the program is or will be.

So what is a safety incentive? Basically, it is something to provide employees as a reward or recognition for achieving stated safety goals. It does not have to be expensive. Studies have shown that often employees wish to have simple verbal and/or public recognition for a job well done (such as a pat on the back or handshake in front of peers) instead of money. Too often, we forget to offer our employees praise for doing a good job.

How are incentives used? In safety, incentives are used in a number of ways. I would strongly suggest that you do not use incentives for not having injuries. Not having an injury does not necessarily mean your employees

worked safely; it could simply mean that they were lucky and avoided an injury. Also, if not having an injury is your only goal, you create a disincentive for reporting injuries.

You can reward employees for meeting a number of measurable expectations: performance goals in production and safety, proper use of personal protective equipment during assigned tasks, proper use of tools and equipment, participation in safety meetings, taking initiative to identify and correct hazards, team or unit participation in hazard recognition and removal in the work area(s), review of procedures with others prior to performing a job, proper use of pre-shift equipment checklists and submitting safety suggestions, to name just a few.

Additionally, you can reward employees who take on additional responsibilities. Examples include: visual monthly inspection of fire extinguishers; regular inspection and removal/replacement of expired items in first aid boxes; ensuring eye wash stations are clean, clear and functional; becoming a mentor to properly train someone in a task; reviewing and/or writing job safety analyses—all of these activities are valid for recognition.

Precautions. For a reward system to work, it has to meet some basic criteria: it needs to have personal value or meaning to the recipient, it has to be immediate or based on the short-term achievement of goals, and it should be given in as public a setting as possible. If you wait a year to recognize an achievement, the recognition loses its significance and you lose the momentum of others seeing it, hearing it and wanting to replicate it. Offering a pocket knife or ball cap to someone who would prefer a \$10 gift card will not motivate that person to participate.

Such a system must be simple in design and

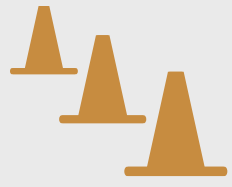


implementation. I know a company in which the incentive program was so complicated, it took a corporate official (the one who designed it) 45 minutes to explain it. After the meeting, no one else could re-explain how it worked. Also, as noted earlier, what you decide to reward is important. If your goal is zero injuries and employees lose rewards for having an injury, there will be no injuries—at least none that you learn about. That is a fatality waiting to happen!

There are commercial vendors who “sell” safety reward programs. These vendors can offer ideas, suggestions, gifts and administrative support. Some provide tax advantages. The precaution is that you need a budget, you need to ensure that what they are offering is what you need and your employees want, and you need to just say no if what they want you to buy is not what you want. That is not to steer you away from these vendors – they have a great deal of experience, knowledge and forethought that can help you design or continue your program. Shop around and see what the differences are in cost, gifts, administration and support.

One last precaution – don't keep any program too long. Once the reward becomes a perceived entitlement, your program is no longer effective. Don't be afraid to mix it up and change things around. Keep it fluid and always strive to raise the bar, but not too soon. If the target keeps moving and people perceive they can never hit it, your program will flop.

So, decide how you want your reward system to work—incentives vs. recognition. Choose measurable activities with reasonable and realistic (achievable) goals. Shop around,



OSHA—continued from Page 1

ers' compensation would not pay for lost time. The missed time is no different than had the employee called in sick or to take time off for any other personal reason.

These examples illustrate the differences in how injuries may be reported and why they may or may not be compensable, even though they occurred at work. Still, there is a connection, a "partnership," between OSHA and workers' compensation that directly affects you as an employer. OSHA encourages employers to have written safety programs with employee participation. Your workers' comp insurance carrier may discount your premiums if you have such a program.

Employers must actively reduce exposures to hazards to comply with the General Duty Clause. The OSH Act allows employees who believe an immediate hazard or a violation of a safety or health standard exists the ability to request an inspection. This helps ensure employee participation and reduces hazard exposures in the workplace.

OSHA expects employers to train employees to respond to an emergency that may occur at work. Such preparation reduces the potential of employee injury during an emergency and lowers the employer's costs in both medical and business recovery expenses.

Another connection between OSHA and workers' compensation is that insurance carriers review your OSHA citations and 300 Log

The General Duty Clause

The General Duty Clause of the federal Occupational Safety and Health Act of 1970 requires each employer to 1) "...furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;" and 2) "...comply with occupational safety and health standards promulgated under this Act."

The Act created OSHA, a federal agency, although states have their own safety and health agencies as well. OSHA (and state OSH agencies) have the authority to promulgate regulations governing worker safety and to fine employers that do not meet these standards. State safety and health laws can be stricter than feder-

al OSH standards, but not more lenient.

Workers' compensation systems, on the other hand, are governed by state law. Every state except Texas requires employers to provide workers' compensation to their employees, with some exceptions for smaller employers, family farms and the like.

Workers' compensation pays for first aid and medical treatment of workers injured at work, and partially replaces wages lost due to work-related injuries or illnesses. State law governs what benefits the employer (or its insurer) must provide, on a "no-fault" basis. Having a no-fault system where benefits are mandated by law eliminates much of the litigation that would otherwise result when an employee is injured at work. ■

when it is time to renew coverage. An increase in injuries, either reported to the carrier or OSHA recordables, will raise your premiums. An increase in OSHA citations (whether from random inspection or a complaint investigation) will also raise your premiums. Showing both OSHA and your insurance carrier that you are proactive in identifying and removing hazards and properly training employees to recognize and correct hazards will generally

result in lower premiums and a more pleasant visit when an OSHA inspector shows up at your door.

Taking a proactive position with OSHA reduces your employees' exposure to hazards. It can also reduce your likelihood of an OSHA complaint and directly save you in injury costs and reporting. Don't underestimate the OSHA/workers' comp connection! ■

SAFETY—continued from Page 2

talk to vendors and talk to other safety professionals. Most of all, talk to your people and design a program that works. A successful reward program doesn't need a large budget. In the end, a program that works for you is one that recognizes and rewards the kinds of behaviors and achievements you want to encourage. ■

By Randy DeVaul, who has more than 25 years in safety and emergency response service. His articles have been published in Occupational Health & Safety, Industrial Safety & Hygiene News and other media.

Aging Workers and Workers' Compensation Costs

A recent study conducted by the Workers' Compensation Research Institute (www.wcrinet.org) found that workers' compensation costs are largely unaffected by the aging of the workforce. Employers will welcome this news, as the oldest baby boomers are entering retirement age, and the number of older workers is expected to double between 1995 and 2020.

Although the study showed that

middle-aged workers have more claims and higher workers' compensation costs than younger workers, the numbers flatten out for workers past middle age. The study included claims from eight large states—California, Connecticut, Florida, Georgia, Massachusetts, Minnesota, Pennsylvania and Texas—which account for 40 percent of the nation's workers' compensation benefits. ■



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Protecting Aging Workers: Reducing Injury Potential

The number of older workers is expected to double between 1995 and 2020. How can you address the special safety concerns of these workers?

It is no secret that as we age, our bodies change—our looks, our strength, our reflexes, our energy. Workers in physically demanding jobs may face an increased potential for injury, while those in more sedentary positions that require periodic lifting or other physical exertion may face higher risk of injury. Studies indicate that although aging workers overall experience fewer injuries, possibly due to their greater experience and caution, an injury requires longer recovery with more serious consequences.

What type of physical changes should we expect in aging workers? The following list covers some of the changes managers need to be aware of to protect employees' safety

and health:

- ✓ loss of strength
- ✓ lower range of motion
- ✓ loss of grip strength
- ✓ decline in posture
- ✓ reduced vision and hearing
- ✓ reduced blood flow and tactile response to heat and cold
- ✓ reduced nervous system response
- ✓ slower mental processing of information

Aging can also create health problems, such as circulatory and respiratory problems; high or low blood pressure; cataracts; glaucoma; hypo- and hyperthermia; and diseases

such as diabetes, various cancers, arthritis and angina or heart disease. All of these can create safety concerns.

Do not ask employees questions on personal health issues: that information might be protected under discrimination and privacy laws. However, you can find ways to solve age-related limitations through the use of ergonomics, tool and equipment selection, task assignments and shift schedules. Your workers' compensation carrier or an occupational safety professional can help you identify potential problems and their solutions.

Taking care of your older workers will reduce the potential for injury and help you retain these valuable and skilled workers. ■

Legal Drugs Can Impair Drivers

Many legally used drugs, both prescription and over-the-counter, can cause drowsiness or impair a driver's reflexes. These include painkillers such as oxycotin, antihistamines, antianxiety medications and other commonly used drugs. Particularly during the cold and flu season, reminding employees to read package inserts of all medications, and to stay off the road when under the influence of medications that can cause drowsiness, can prevent accidents and save lives. ■

Ohio Excludes Psychiatric Treatments

The Supreme Court of Ohio denied an employee workers' compensation benefits for psychological and psychiatric treatment following a thwarted armed robbery in which there was no physical injury. The Ohio workers' compensation statute specifically excludes psychiatric conditions from the definition of compensable injuries, except when the condition arises from a job-related physical injury or disease. ■

California Return-to-Work Program

California announced its new return-to-work program for employers of 50 or fewer workers. If an employer provides an active return-to-work program for its employees, the state will reimburse the employer up to \$2,500 in expenses. Getting employees back to work sooner results in direct savings to the employer in reduced workers' compensation benefits. ■