

# Employee Benefits Report



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Safety

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## Protecting Teen Workers

Summer vacation is nearly here. For many teens, that means their first job. For their employers, it means additional safety responsibilities.

The National Institute for Occupational Safety and Health (NIOSH) estimates that in the United States, 200,000 teens aged 14 to 17 are injured on the job every year. The most common injuries suffered by working teens are lacerations, contusions, abrasions, sprains and strains, burns and fractures or dislocations. Not surprisingly, most injuries occur in the workplaces that employ the most teens — retail shops, restaurants, and grocery stores.

Teens are injured at a higher rate than adult workers, even though youths are prohibited from

holding the most dangerous types of jobs, such as mining, manufacturing and construction. Teens' energy, enthusiasm, and desire for increased challenge and responsibility — combined with a reluctance to ask questions or make demands — can result in them assuming tasks for which they are either unprepared or incapable of performing safely.

The physical characteristics of teens also make them vulnerable to workplace injury. Adolescents, especially boys, grow at very different rates. Small teens may not be able to reach machine parts and may lack the strength required for certain tasks. Large boys may be given adult tasks simply because of their size, without regard for their lack of experience and maturity.

### Legal Considerations

The federal Fair Labor Standards Act (FLSA) and child labor regulations establish both wage-and-hour

## This Just In

Don't Be a Zombie at Work, a free online game, helps teens understand workplace safety. The American Society of Safety Engineers developed the game as part of a new "Target Teen Work Safety" electronic tool kit.

The zombie game takes players through a variety of workplaces and risks — good and bad — to illustrate how to work safely and how occupational safety, health and environmental (SH&E) professionals help prevent injuries and illnesses. The game is free at [www.asse.org/zombieproject/](http://www.asse.org/zombieproject/) and features the imaginary evil "BodgeDab" industries. Players help their co-workers avoid becoming "zombies" by finding tools and using



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and occupational safety standards for youth. States also have laws governing allowable hours and occupations for youth. When state and federal standards differ, the standard that provides the greatest protection to teen workers will apply.

Generally, youth of any age can work for businesses entirely owned by their parents, except those under 16 may not be employed in mining or manufacturing, and no one under age 18 may be employed in any occupation deemed hazardous by the Secretary of Labor.

Children under 14 years of age may only work in jobs that are exempt from the FLSA. They may also perform work not covered by the FLSA, such as completing minor chores around private homes or casual baby-sitting.

Some, but not all, states require minor workers to obtain work permits. Check the U.S. Department of Labor's website at [www.dol.gov/whd/state/certification.htm](http://www.dol.gov/whd/state/certification.htm) for a list of requirements by state.

Generally, hazardous occupations off-limits to minors include:

- ✱ Logging or sawmilling. Most jobs banned.
- ✱ Operating power-driven hoisting devices such as cranes, derricks, hoists, high-lift trucks, manlifts, and freight elevators; operating certain power-driven hoists and work assist vehicles; riding a forklift as a passenger.
- ✱ Working at poultry slaughtering and packaging plants.
- ✱ Working in forest fire fighting, forestry services, and timber tract management.
- ✱ Operating balers and compactors.
- ✱ Operating power-driven chain saws, wood chippers, reciprocating saws and abrasive cutting discs.

The following suggestions will help you stay in compliance with applicable wage/hour requirements and ensure the safety of teen workers:

- 1 Never assume that teens understand the hazards involved in any situation, task, equipment or material, even it seems like common sense. Teens have limited experience and even the most

information from the game's SH&E professionals to stay safe on the job.

This summer, experts expect employers to hire fewer than 1 million teens over the summer, one of the lowest seasonal gains in teen employment since 1949, and only slightly higher than last year's dismal figures. Still, more than one-third (34.9 percent) of teens held a job in 2010. Employers have an obligation to protect these younger, more vulnerable workers. For more information on the special safety needs of teen workers, please see the article on page 1.

intelligent lack the judgment of an adult.

- 2 Give young workers clear instructions for every new task. Provide regular refresher courses.
- 3 Provide hands-on training for use of equipment. Discuss possible hazards and demonstrate safety precautions.
- 4 Provide safety gear where appropriate and make sure it fits properly.
- 5 Assign mentors or "buddies" who have more experience to partner with your young workers.
- 6 Encourage teens to ask questions and to point out possible hazards.
- 7 Implement procedures to distinguish underage workers from others to avoid violating work hour and task regulations. For example, you might give underage workers different colored timecards and label equipment that cannot be operated by underage workers.

For more suggestions on protecting underage and other workers, please contact us. ■

Children 13 or Younger	Children 14+	Youth 16+
<p><b>Can:</b>                      deliver newspapers                      baby-sit                      work as an actor</p>	<p><b>Can</b> work in a(n):                      office                      grocery or retail store                      restaurant                      movie theater                      amusement park</p>	<p><b>Can</b> do any job or occupation that is not deemed to be hazardous as noted on the federal web site:   <a href="http://youthrules.dol.gov">http://youthrules.dol.gov</a></p>

# Ensuring the Success of Early Return-to-Work Programs

Did you know that an injured worker who remains off the job for more than six months has only a 25 percent chance of returning to work at all? Getting a worker back on the job in a productive capacity as quickly as medically feasible makes that worker less likely to become a long-term disability statistic...and saves you money.

In these recessionary times, employers are giving early return-to-work programs another look. A return-to-work program can reduce your lost-time payments, along with the indirect costs of a lost-time injury. These include lost productivity, overtime, job retraining and hiring replacements. Experts estimate these indirect expenses can cost up to five times more than an injured employee's benefits.

## Beware the Pitfalls

Early return-to-work programs can include modified-duty jobs, on-site rehabilitation and full-time pay incentives to stimulate worker recovery and return. Injured workers need not be 100 percent healed to return to work, as long as they are supervised by a practical medical and rehabilitation plan.

Keep in mind, however, that federal and state employment laws may affect your return-to-work program. These include the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act (ADAAA), which increased protections for disabled workers to include workers with a perceived disability.

The Family Medical Leave Act (FMLA) requires employers of 50 or more employees to give up to 12 weeks of unpaid, job-protected leave to eligible employees for the birth or adoption of a child or for the serious illness of the employee or a spouse, child or parent. If the FMLA applies to your organization, you should coordinate any leave

available under the FMLA with disability leave. The FMLA does not require employees to be paid during their leave; however, an employee may opt to take up to 12 weeks of unpaid leave due to disability.

To avoid legal problems, we recommend your return-to-work program include the following:

- 1 Written guidelines.** Your guidelines should state who is eligible for early return-to-work (i.e., workers expected to make a full recovery or to need only "reasonable accommodations"). Having guidelines that reflect current workers' compensation and employment law and applying them consistently can help you avoid discrimination suits.
- 2 Job descriptions for every employee.** Current job descriptions can help you identify the essential tasks of every job. Often



an injured employee can be returned to his/her usual job with modifications. A job description can help you and the employee's physician determine whether this is possible.

- 3 A catalog of light-duty jobs.** A "busywork" job is of no value to the company or the employee. Having a list of temporary jobs that could be performed by workers with a variety of injuries can help return injured workers to productive work and avoid wasting money.
- 4 Training.** Employees returning to modified or light-duty work will likely need training on new equipment or procedures. Training helps ensure they know how to do their job without aggravating their injury.
- 5 Evaluation.** Regularly evaluate employees in modified-duty or light-duty jobs. Is the job appropriate for their level of disability? Are they ready to return to their regular occupation? Do they need further modifications?
- 6 Termination.** The goal of a return-to-work program is to return employees to their regular job. If it becomes clear a worker's disability precludes this, you need to ensure your termination procedures comply with discrimination and other employment laws.
- 7 Updating.** Regularly review your policies and procedures to ensure they comply with state workers' compensation and employment laws, and federal laws such as the ADAA and FMLA.

For assistance in developing a return-to-work program, please contact us. ■

## Studies Prove Obesity Increases Claim Costs

"Work-related injuries are far more costly if the injured worker is obese," reported the National Council on Compensation Insurance (NCCI) in December 2010. "The dramatically higher medical costs suggest that the types and nature of injuries sustained by obese workers, especially the 'morbidly obese,' are more likely to result in permanent disabilities."



**W**ith two-thirds of American adults now overweight, including one-third who are obese, this news should concern all employers.

Weight affects your workers' compensation costs in several ways. First, the obese file more claims. A 2007 study by Duke University Medical Center found that morbidly obese workers (those whose weights are 100 percent or more above normal for their height) filed 45 percent more claims than workers of normal weight. Their claims also cost more — with 5.4 times the medical costs and nearly 8 times the indemnity claim costs as claims from workers of normal weight.

A study by the American Medical Association concurred that obese workers have higher claim costs, finding that obese workers with work-

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ers' comp claims have five times more lost days and their medical costs are more than twice as high as people of recommended weight.

Similarly, a study published by the *Archives of Internal Medicine* confirms that overweight workers are more likely to file workers' comp claims. Among workers of normal weight, nearly six out of 100 filed workers' comp claims. Among overweight workers, that number rose to 11 claims per 100 workers. This study also reported that medical and indemnity costs rose with the worker's BMI, or body mass index. Medical and indemnity claim costs for overweight workers were nearly twice that for claimants of normal weight.

### Why Weight Matters

The NCCI study compared differences in outcomes between workplace injury claims where obesity was a factor to claims with virtually identical characteristics with no obesity diagnosis. It found that for claims involving the same injury type, medical treatments and costs and claim duration were generally greater for obese claimants. It also found that injuries are more likely to create permanent disabilities when an injured worker is obese.

Why does weight make such a difference? Obesity makes surgery more difficult and wound complications more likely to occur. It also leads to other conditions, which can make complications more likely, such as high blood pressure and diabetes. Individuals with high blood pressure and diabetes face a greater risk of blood clots and heart and lung complications, according to Dr. James O'Hara, an orthopedic surgeon who performs workers' comp medical evaluations.

Extra weight can also make it more difficult to recuperate from injuries such as sprains, strains and fractures, particularly in the lower limbs, because of the extra weight placed on them. Additionally, O'Hara says that research indicates that fat cells in obese people can produce substances that are similar to ones that cause inflammatory joint disease. The extra collection of fat cells in itself may cause additional joint destruction, leading to additional treatment and costs — not because of gravity alone, but due to “cumulative hormonal effects.”

### Wellness Programs

Many benefit managers or human resource departments have introduced wellness programs to control employer group medical costs. Until recently, risk managers have not been interested in wellness plans, because workers' compensation has historically focused on specific, job-related injuries. Now that many workers' compensation managers recognize the workers' comp costs associated with obesity, they are teaming up with HR to develop wellness programs.

Wellness programs can represent a serious commitment of time and money. To ensure you spend your money wisely, we recommend taking a systematic approach. To begin:

- 1 Analyze your current workers' compensation and group medical claim costs. How much can be attributed to overweight and obesity?
- 2 Assess employees' healthcare needs and your current health insurance and wellness programs. Do they adequately address weight control, nutrition and fitness?
- 4 Survey employees for attitudes on managing their health and fitness. What types of programs appeal to them? What incentives would encourage them to use these programs?
- 5 What is your budget?

Once you've determined the extent of the problem and your budget:

- 1 Raise awareness of fitness and wellness through employee communications.
- 2 Identify at-risk employees with individual health assessments.
- 3 Tailor weight management programs to the needs of the individual and your budget. These can range from group programs, such as Weight Watchers or Overeaters Anonymous, to more individualized approaches, such as coaching with a personal trainer, nutritional counseling and psychological counseling.
- 4 Offer incentives for employees who take positive steps toward wellness, such as exercising a certain number of hours per week, reaching a target weight, getting their cholesterol tested, etc. Incentives

can range from paid days off, to free or discounted health club memberships, to discounts or rebates on health insurance premiums — anything that might reward positive changes.

If you are considering offering premium discounts or other financial rewards, be aware that nondiscrimination rules under HIPAA, the Health Insurance Portability and Accessibility Act, will apply. The rules require wellness programs offering financial incentives to meet five requirements. These are:

- 1 The total reward for all wellness programs that require satisfaction of a health-related standard generally must not exceed 20 percent of the cost of employee-only coverage under the plan.
- 2 The program must be reasonably designed to promote health and prevent disease.
- 3 The program must give individuals eligible to participate the opportunity to qualify for the reward at least once per year.
- 4 The reward must be available to all similarly situated individuals. For example, if you offer a weight-loss program, all overweight employees must be allowed to participate. The program must allow a reasonable alternative (or waiver) to any individual who finds it unreasonably difficult due to a medical condition, or medically inadvisable, to satisfy the initial standard.
- 5 The plan must disclose in all materials describing the program the availability of a reasonable alternative standard (or the possibility of a waiver).

For more suggestions on controlling workers' compensation costs, please contact us. ■

## Defining “Overweight” and “Obese”

**T**he U.S. Centers for Disease Control define overweight and obesity as “ranges of weight that are greater than what is generally considered healthy for a given height” and that “increase the likelihood of certain diseases and other health problems.” The CDC uses body mass index, a ratio of weight to height, to determine weight ranges for overweight and obesity.

An adult who has a BMI between 25 and 29.9 is considered overweight,

while an adult with a BMI of 30 or higher is considered obese. To put this in perspective, a man of average height (5'9") would be considered overweight at 169 to 202 pounds, and obese at 203 pounds or more. A woman of average height (5'4") would be considered overweight at 145 to 169 pounds, and obese at 174 pounds or more.

The National Institutes of Health reports that more than two-thirds (68 percent) of all adults in the U.S. are over-

weight, while 33.8 percent are obese. Although the BMI correlates with body fat for most people, it does not measure body fat. As a result, people with a lot of lean muscle mass, such as athletes, could have a BMI that indicates they are overweight when they actually have little body fat.

For more information and access to an online BMI calculator, see [www.cdc.gov/healthyweight/assessing/bmi/adult\\_BMI/index.html](http://www.cdc.gov/healthyweight/assessing/bmi/adult_BMI/index.html). ■

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