



## COMPOLOGY COMP

# Establish a Level Playing Field for Workers' Comp or Get Blindsided by High Premiums

BY JAMES KERIN

**T**he highest paid player on an NFL team is the quarterback. The second highest paid player is the left tackle, because the left tackle's job is to protect the quarterback from what he can't see coming."

This is the opening monologue from the film, "The Blind Side," albeit slightly paraphrased. And what that quarterback can't see coming is pretty much the same thing employers can't see either. For the QB, the blow comes courtesy of a 300-lb linebacker. For the employer, the hit that could end a promising business career comes from escalating workers' compensation costs.

But there are ways to create a level playing field (and maybe even a home-field advantage) and it starts by using the proper techniques needed to control those costs. And it's a multi-pronged procedure that starts with pre-employment physicals to prevent hiring losses before they occur.

I have worked with clients that have been plagued with prior losses because they hired people with pre-existing conditions, i.e. bad backs, bad knees. These employees were an injury time bomb waiting to go off and the medical payments were higher than the injury itself because of pre-existing conditions. So the key to help level the playing field is to have a post-offer, pre-employment physical, and have a physician knowledgeable in occupational medicine interview

the prospective employee. You also want to get them back to work as quickly as possible because an effective return-to-work program is going to stop the payout of a claim.

Return-to-work can run the gamut from bringing them in to do lighter office work, to being a helper on a project. Maybe instead of hoisting 75-lb boxes into a delivery van, they are *driving* the delivery van. When you have an employee returning to work and you are paying them on a limited-duty basis, it reduces the amount of money that the carrier is paying on the indemnity side of a claim, or more





precisely what they're paying him for his lost wages. So the faster you get him back on the job, the quicker you will limit both the claim and the amount that the insurance company is paying or holding against the claim and reserve.

An HVAC company that we do business with on Long Island had a severely overweight employee get injured. It was determined that the conditions were pre-existing, enabling us to get some of the claim reduced through a second injury fund. Then he returned to work as a dispatcher, which meant he wasn't vulnerable to a second occurrence of the same injury. This allowed us to reduce the immediate loss of wages that were being paid, as well as the ultimate total payout in the amount of time they were going to pay. This action took the company's reserve from almost \$180,000 down to approximately \$80,000.

Once a claim has taken place it's imperative to work with the insurance company in order to make sure that the cases are not being overcharged from a cost standpoint and the reserves are being properly managed. This is paramount because the employer's reserves have a major impact on the cost of the policy.

As a business owner you are hemorrhaging money unless you understand the rules of the game. And one of the major things you need to understand is the ins and outs of the premium audit. This means you need to have your payroll records easily understandable, be able to explain to an auditor in 25 words or less what you do, where you do it, and how you do it; and segregate the duties of your employees so the premium calculations are appropriate and you're not being overcharged.

A premium audit process can also work to your advantage as you may be entitled to credits. In New York there are premium adjustment credits that can be applied. For instance, in the New York Construction Classification Program there is a calculation that's done on one form based upon your payroll records which can give you a credit based on your average hourly wages. This is designed to set up a *level playing field* between higher pay-level employers, i.e. union and non-union businesses, and prevailing wage because the unions pay a higher wage per hour. This allows contractors with higher average hourly wages not to pay inflated premiums where no additional exposure exists.

Take the steps I have outlined and you will no longer feel like you are on the ground end of a see-saw, looking up at a workers' compensation system with all the cards stacked in its favor. And once the field is level, you'll never be blindsided by high costs again.

*This article is adapted from an article by Jim Kerin, CEO for the Millennium Alliance Group. This article in its entirety appeared in the Long Island Business Journal. This material is provided as general information and is not a substitute for legal or other professional advice.*



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