

The Dream Team Approach to Case Management

To succeed in workers' compensation, everybody needs to be using the same playbook.

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For the most part, we all strive to be better as a person, parent, friend, family member, and employee. When we are lacking in any of these capacities, someone is usually right there to tell us what we are doing right and wrong. We all have room to grow, not just in the literal sense, but in what we know, what we do with what we know, and what we can still learn.

The workers' compensation arena is no different. Whether you are a claims professional, employer, broker, or attorney, your position carries with it certain duties and responsibilities: to continuously look for and apply innovative approaches to defend a claim, to limit exposure, to reduce costs, and ultimately to close a claim. For successful case management in workers' compensation, it is imperative that everyone work from the same playbook. When that happens, you've got a "Workers' Compensation Dream Team."

With a Dream Team approach, everyone knows her role and communicates clearly with the other team members to reach common goals. To effectively facilitate this approach, the playbook for each team member must be diligently followed.

The Broker's Playbook

The broker must have a solid understanding of the company's business and potential liabilities in order to provide the employer with the proper insurance coverage to protect the

company and its employees. The broker must learn and understand the client's operation and, most notably, the client's claims and risk management philosophies. This involves assessing insurance needs, developing relationships, negotiating with the underwriters (and their claims teams), reviewing and amending policies, overseeing the claims process, and collecting insurance premiums. Brokers also must possess the ability to assess and prioritize complex and changing risk.

When evaluating a company's risk management policies, the broker's playbook should address:

- Hiring practices
- Return to work
- Safety initiative
- Claims management and investigative procedures
- Emergency claims response
- Protocols
- Wellness culture

Industries and companies differ, so developing a customized risk management program is important. As a liaison to the carrier, the broker has to assess and understand the resources at her disposal. To maximize these resources, the broker should consider claims reporting procedures, PPO networks, physician panels, managed care, pharmacy benefit managers, data analytics, online access to financial and claims professional notes, and subrogation.

Educating the employer and coordinating claims reviews, holding strategy meetings, and agreeing on claims handling instructions all are important components to this process. In all cases, the broker must provide ongoing claims advocacy.

The Employer's Playbook

As an employer, it is important to emphasize a positive culture. In this regard, it is essential to create and train a risk and safety management team. Additionally, it is beneficial to educate employees at all levels and panel/company physicians on the workers' compensation system. Training should emphasize prompt, timely, and accurate reporting, preparation of incident reports with all the relevant facts and witness statements, as well as protocols for drug and alcohol testing and post-accident testing.

Additionally, instituting a well-developed return-to-work program, along with maintaining pre-injury and modified duty/light duty job descriptions, is essential in managing potential claims. Coordinating job offers with all personnel and maintaining and documenting all personnel files, including disciplinary actions and accurate wage records on all employees, is vital.

The employer also should identify possible unemployment, sickness and accident, Social Security, and pension credit issues. It is important that the employer remains cognizant of any potential ADA, FMLA and EEOC issues, and develops strategies to handle situations involving these relevant statutes.

Weekly, monthly, and/or quarterly meetings with personnel and management regarding risk and safety guidelines encourage teamwork from all the players. It is critical to maintain open communication with all personnel handling workers' compensation loss, as this will lead to reducing costs and minimizing exposure to claims. Prompt and continuous contact with the injured employee ensures a

positive relationship and likely results in a faster return to work.

The Claims Professional's Playbook

With strong knowledge of the applicable workers' compensation law and statutory requirements, the claims professional maintains and coordinates contact with the employer's claims team to determine that appropriate forms are accurately and timely filed. Duties also include confirming policy coverage and investigating claims, including obtaining recorded statements of employees, managing contact with witnesses and managers, securing an incident report, and reviewing details of the exact mechanism of injury. Further, the claims professional must handle all benefit and payment procedures and assess the validity and exposure of the claim. Maintaining a claims diary system, analyzing claims financials, documenting subrogation activity, assessing insurers' reserves, and coordinating and directing outside service providers are necessary tasks for the claims professional.

Ultimately, the claims professional is responsible for managing complex and problematic high-visibility claims within the company. Her ability to develop and maintain professional customer service relationships will enhance a defense later in litigation. The claims professional's ability to address customer service requirements and to coordinate with the broker, employer, and attorney is critical in achieving the best possible outcome.

The Attorney's Playbook

The attorney is the final member of the Dream Team. The attorney identifies the risk management and personnel involved in the claim, learns the client's file-handling guidelines, and complies with them throughout the life of the claim. The attorney's job is to identify all of the red flags in the litigation and to recommend a course of action to the other team members. She will assess what, if any, defenses exist, including notice, jurisdiction, mechanism of injury, disability, and whether

any key elements of the claim cannot be proven. Often, an on-site inspection with the workers' compensation judge is helpful in visualizing the mechanism of injury and the physical demands (or lack thereof) of the employee's job. The attorney verifies witnesses and evaluates their credibility, and decides whether live or deposition testimony is the best approach.

The attorney's main job is to advocate a position and aggressively create defenses. She also must assess and mitigate exposure by providing a cost-benefit analysis to defending the claim. Communication through claims review and strategy meetings is critical for the attorney to coordinate and effectuate the use of all players' ideas concerning the claim. For the attorney, maintaining a team approach philosophy throughout the claims process

remains the best strategy in the workers' compensation arena.

As on any team, issues and challenges will arise. However, identifying the specific role of each team member and effectively communicating that role to others will serve to enhance and strengthen the ultimate goals of defending a claim, limiting exposure, reducing costs, and closing claims. A Dream Team working at full capacity results in the most successful case management of workers' compensation claims.



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