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07/08/12

RE: Worker's Compensation Scheme Review

Dear Sir/Madam,

In our 20 years of business we have never had a compensation claim against us until just over 12 months ago and this definitely opened our eyes to the operation of the scheme through Workcover and Qcomp. The false claims that we have seen in our small part of Queensland alone, significantly contribute to the financial burden of the government and in turn taxpayers due to the limitations and claimant bias of the Worker's Compensation Scheme. Also in addressing these claims, with relevant submissions to Workcover and Qcomp, most of the burden is on us, the employers and in turn the economy, due to the time these claims take away from productivity in a business. Dealing with both Workcover and Qcomp is frustrating with their lack of communication and bias towards the claimant. Our submission is relevant to the specific point below, being investigated by the committee.

'WorkCover's current and future financial position and its impact on the Queensland economy, the State's competitiveness and employment growth; '

Although we have seen in the act that the 'Burden of Proof' of a claim is on the employee and not up to the employer to disprove baseless claims, this is not the case in reality when dealing with Qcomp. 'Burden of Proof' should be about the claimant proving how and when the incident occurred and not just providing a medical report stating that they have an injury. Another point is where does common sense and responsibility of a worker for their actions causing an injury, take away the burden from the employer to pay these claims? Where an employee has not followed the Safe Work Practices that are in place, the employer should not be responsible for the whole burden of any injury sustained.

Furthermore it is not the job of a medical doctor or specialist to make a decision on or about the claim for Qcomp or Workcover, as we have witnessed, it is their job to assess the medical opinion of the doctor(s) and then make a decision on the claim. Also, in our experience, these medical reports are very biased as the doctor or specialist have only a one sided description of the incident by the claimant and then write the report.

False claims are being accepted by Workcover before, as in our recent experience, any injury has been reported to the employer.

Aggravation of an existing injury, as set out in the current act, is another area that is ambiguous and is being used fraudulently, in our experience and in other cases we have heard about and needs to be addressed and re-defined. Where there is an existing injury in an employee, there should be a declaration before employment, to the employer, making them aware of the condition. Many aggravations can be linked to the age of employees and naturally occurring age related injuries due to various other reasons besides physical use. This part of the act, also does not take into account the situation and actions of an employee in their non-working time. These outside work actions could easily be the significant contributing factor(s) to the claimant's injury and not the claimant's employment duties.

Workcover is the only insurance company I know where the policy holder pays a premium to compensate someone else, who they already have contract with, even though the claim could be the claimant's own fault and there is no assessment of the claim and the claim is made by the insured against the policy holder and the insurer is biased against the policy holder and towards paying claims.

Suggested changes to the act:

1. Assessment and causation of the claim at the place of business in the presence of the employer, employee(claimant) and an authoritative third party(insurance assessor).
2. 'Burden of Proof' to mean proving how, when and where the injury occurred and not just that an injury has occurred.
3. Medical doctors to only state medical opinions and not give claim assessment, especially when the employer has not been consulted or workplace or duty assessed.
4. Check that the charges by medical doctors/specialists and other businesses consulted or used for Workcover patients/cases are not exorbitant and above their normal charges, which has been our experience.
5. Easier access for employers to challenge claims.
6. Mediation, similar to a Small Claims case, made available.
7. Exact definition of 'aggravation of an existing injury'.
8. In the case of an aggravation, to re-define the term 'a significant contributing factor' to mean the work and work methods, as designated by the employee's Safe Work Practices, the employee carries out, to amount to at least 51% of the employee's work time that was attributed to the aggravation. That is, 51% of the time the worker works per week at a place of employment, in comparison to the time spent in other employment, own business, or home duties, to be a significant contributing factor to any aggravation.
9. Statement of any pre-existing injuries to the employer at the time of a job application so that employers are aware of a particular injury and can adjust duties accordingly to prevent any aggravation.
10. Travel to and from the workplace should be excluded from policy coverage as an employer cannot possibly be responsible for the actions of an employee while they are away from the workplace area.
11. Suspension of any payments or treatments when case is being investigated by Qcomp.
12. In the case of a dismissal of a claim, claimant to pay back any expenses already paid to them.

Thank you.

Sincerely,

Geoff Mansell.
Owner.