

## Guidance Note

### Are You Suspicious About a Workers' Comp Claim?

By Debbie Young, Managing Director, Aurenda

As an employer have you ever had that sneaky suspicion about a workers' compensation claim that could be bogus? Tabloid TV is full of horror stories so it is hard to get the facts.

Given the complexity of the Workers' Compensation and Occupational Safety and Health legislation, and the rights of all parties involved, this situation can be very stressful.

What are your options if you don't believe that a worker's injury occurred at work, or is legitimate?

Well, there are strict parameters related to the lodgement, assessment and decisions on workers' compensation claims. It is important to realise that it is a worker's right to lodge a workers' compensation claim if they produce a First Medical Certificate. You must provide them with a Workers' Compensation Claim Form 2B and lodge the completed paperwork to your insurer within three working days.

Employers have rights as well; on the Employer's Report of Injury, you must state that you do not support the claim the worker has made, and request a factual investigation because of your concerns. Also, pick up the phone and ring your Claims Manager to express your concerns about the legitimacy of the claim. Ask your Claims Manager to pend the claim as soon as they receive it.

The insurer is required to notify the worker that the claim is pended and explain why. They must also let the worker know that legal advice is available to them - at your cost.

If the claim is relatively minor, it may be better to accept it on a 'without prejudice' basis since the worker's legal fees may be more than the claims costs.

Immediately begin collecting supporting information, such as statements from co-workers who saw 'Joe' hurt himself playing footie on the weekend, or from a colleague who knows that 'Joe' has already been receiving treatment for this condition. It is critical to collect this information immediately, since evidence gathered beyond the initial 14-day window of opportunity is inadmissible.

Continue to manage the situation as if the claim is legitimate - this mitigates future cost exposure, especially should the claim end up being accepted at a later date.

If you believe that a worker is exaggerating the symptoms of their injury or malingering, it may be useful to place the worker under surveillance. Communicate your concerns to your Claims Manager as soon as you have them.

It is important to have very clear strategies in place about what you will do with surveillance vision. Provide your insurer with as much information as you can about the possible movements of the worker, any appointments they have, or upcoming events in their personal life. Surveillance of the injured worker that demonstrates that they are legitimate is just as worthwhile as catching them out.

Aurenda delivers peace of mind in cases like this. Even if the eventual outcome is not ideal, you will feel that you had some control over the process and gained an understanding of your options, as



opposed to feeling targeted and helpless. We work with and on behalf of you, assisting you to assume greater control and make the decisions that result in better relationships with your injured (or allegedly injured!) workers.

Fraudulent claims can be extremely frustrating to deal with - but keep your cool and remember that sometimes you have to lose the battle to win the war.

### **About Aurenda**

Aurenda is a specialist, independent provider of worker injury risk management services based in North Fremantle, Western Australia. Their background includes teams of professionals with risk management, paramedical, workers' compensation and safety experience.

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