

Workers' Comp & Safety News



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Workers' Comp

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Telemedicine and Workers Comp

Telemedicine has been around since the 1960s, "When physicians [ran] a microwave line under the Boston Harbor to connect Massachusetts General Hospital with Logan International Airport in order to examine patients at the airport clinic while avoiding Boston traffic," according to Brian Eastwood, senior editor of *CIO.com*.

Generally, telemedicine uses document sharing, teleconferencing, smartphones, mobile wireless devices and other computer-mediated means to assist patients in their care. In many cases it's more efficient and economical for healthcare professionals to use technology to communicate with patients. Using synchronous video calls, healthcare professionals can identify and resolve healthcare issues and send prescriptions electronically to the pharmacy.

But only now is telemedicine starting to have an impact on the delivery of healthcare for workers' comp. Still, there are pros and cons.



This Just In

Should nurses be the primary point of contact for injured workers?

22 percent of injured workers who had not returned to work within 30 days of an injury reported that they feared being fired, according to interviews with workers in 15 states in 2013-15 by the Workers Compensation Research Institute.

Lack of trust in the workplace can make employees fearful of losing their job. These workers, according to the WCRI, tend to have worse outcomes when recovering from accidents.

"In many corporations, workers are no longer seen as a valuable asset, as a key to the success

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Advantages:

- ✦ **Access to care in rural areas.** Injured workers in rural areas often don't have good access to medical facilities. They spend a great deal of time traveling to hospitals and clinics for medical treatment. Some injured workers may have to travel more than 20 miles for an office visit or physical therapy session. Traveling long distances can hinder injured workers in receiving timely medical attention and keeping follow-up appointments, and may further delay recovery and return to work.
- ✦ **Reduced Waiting Time.** When injured workers speak with a virtual physician or healthcare professional, hospital or clinic waiting room time can be significantly reduced. The Centers for Disease Control (CDC) indicated that the average wait time in an emergency room is two hours. This includes 30 minutes of wait time and 90 minutes to be evaluated and treated. Having access to a virtual physician can increase efficiencies and allow better use of resources and time.
- ✦ **Cost Savings.** Telemedicine can mean significant cost savings. The average cost of a medical claim file is between \$5,000 and \$7,500. The average cost of an emergency room visit can be several thousand dollars. These costs don't factor in follow-up visits, physical therapy sessions and possible diagnostic testing if required. Telemedicine services for non-complex issues on average can cost as little as \$99 for the initial visit and \$69 for a follow-up visit.

Disadvantages:

- ✦ **Patient Choice.** Telemedicine protocols do not typically accommodate injured workers who want to select their treating physician. Only one physician is usually on call for evaluating injuries via video chat. This poses a problem in states where workers comp laws permit patient choice.
- ✦ **Quality Outcomes.** There has been limited research to address the quality outcomes of telemedicine. Current research has only focused on cost control and access to care. More research must be done.
- ✦ **Trust.** Establishing relationships and building trust with treating physicians are vital for an injured worker's speedy recovery and return to work. Although on-line communication is familiar to anyone who uses Facebook, Twitter and other electronic media, critics argue that it's too impersonal. Obviously the impact of intangibles such as a physician's "bedside manner," among other advantages of in-person care, would be lost with strictly telemedicine care.
- ✦ **Other Potential Obstacles.** There are also regulatory issues with telemedicine, most importantly the issue of physician licensing in multiple states. Currently, physicians are only authorized to treat patients in the states where they are licensed. Telemedicine will eventually enable physicians to provide medical treatment in multiple states. Would that require licensing in every state? These are potential

of the organization," says Joe Paduda, a blogger on workers' comp and principal at Health Strategy Associates LLC. "They are seen as costs."

In the WCRI study, workers whose supervisors and claims handlers were supportive of them had better recovery outcomes. Nurses are trained to be supportive, so Joe Paduda suggests assigning a nurse to be the primary contact person for injured workers.

"When you think about it, nurses are trained to care for people. They are trained to ask questions, be supportive, to respect where people are coming from." They will tend to be more supportive than company personnel whose focus is not necessarily on the worker as much as covering their responsibilities relating to the injury, said Paduda.

hurdles physicians may confront in order to practice medicine in a telemedicine environment.

What Does the Future Hold for Telemedicine in WC?

Because of its advantages and in spite of its disadvantages, telemedicine is here to stay and we will most likely see it used more often with workers' compensation claims.

For more information on how telemedicine can play a part in your workers' comp program, please contact us. ■

Workers' Comp and the Gig Economy

On-demand businesses, including firms like Postmates, Uber, Lyft, Task Rabbit and other businesses where workers and clients are connected by a digital platform, want their workers treated as independent contractors. Judges in states like Washington and California, however, see things differently.

In October 2016, the Washington State Department of Labor & Industries ordered San Francisco-based Postmates, Inc., which delivers groceries ordered with an app, to pay accumulated back workers' comp premiums to the state's monopoly workers' comp provider.

In California, a driver for Uber was awarded damages by the California Labor Commissioner's Office for being misclassified as an independent contractor. The ruling is being appealed by Uber, but class-action lawsuits from other drivers are in the works.

Confrontations like these have occurred throughout the nation, not to mention the rest of the world, where the ways services have been traditionally provided and paid for are being upended.

The rationale for on-demand or gig economy employers sidestepping workers' comp has been the fragmented nature of its employment relationships. "Much of the on-demand economy is not structured around having a business model where they employ full-time workers," said Kristin Sharp, Washington-based executive director of the Shift Commission on Work, Workers, and Technology to *BNA Bloomberg*.

There is little doubt that many gig econ-



omy jobs are hazardous. Uber, Lyft and Postmates drivers face the same risks as taxi drivers, whose likelihood of getting killed on the job is five times the average.

New York State requires Uber drivers to participate in its Black Car Fund, which provides workers' comp insurance to taxi and limo drivers. Uber drivers are required to pay a 2.44 percent fee based on the fare to the fund.

Lack of Insurer Innovation

One problem is that the workers' comp insurance industry hasn't been very innovative about offering solutions. "A business can hire gig workers to do their job and that business is free to classify those workers as employees for work comp purposes and purchase a work comp policy and they would be covered," said Steven A. Bennett, associate general counsel and director of workers' compensation pro-

grams for the American Insurance Association.

But a tailored product for the special needs of a gig economy employer would make more sense, especially from a marketing standpoint, according to Los Angeles-based Edward Canavan, vice president of workers' compensation practice and compliance at TPA Sedgwick Claims Management Services Inc.

And what about the cost shifting that's going on right now, where auto insurers are taking on more risk in these situations? "If I was a carrier," said Canavan, "I would start thinking about coverage issues, I would start thinking about liability issues, I would start thinking about cost shifting...could these workers potentially be tempted to shift costs somewhere else because they don't have coverage?"

Even if gig economy workers are independent contractors, some sort of workers' comp protections, even something like New York's Black Car Fund, might be a good idea. Please contact us for more information. ■

Taking a Closer Look at Integrated Disability

The concept of integrated disability — combining the administration of the disability component of workers' comp and the disability programs in the benefits arena — has been around for a while without having gained traction at most firms. But several factors are motivating employers to take a closer look.

Integrated Disability Issues:

- ✳ Increased complexity of dealing with leave regulations at the federal level, including the Americans with Disabilities Act and Family Medical Leave Act — as well as regulations on state and municipal levels where there are at least 500 different regulations in all.
- ✳ Inconsistencies in leave policies on the workers' comp side and the human resources side, exposing employers to audits and fines.
- ✳ Reductions in lost time— Absentee rates declined by 10 to 25 percent when employers implemented integrated disability management programs, according to a white paper by Sedgwick Claims Management Services.
- ✳ Administrative cost savings — when data is analyzed collectively, better preventive programs can be designed.
- ✳ Opportunities to combine initiatives that improve overall employee health while reducing workers' comp incidents, such as health screenings and education, smoking cessation programs, health interventions, and even cooking classes with suggestions about how to prepare simple, healthy meals.

What seems like a good idea in concept, though, has been difficult to put in practice mainly because of organizational silos, according to Tim Rarick, vice president of product strategy and solutions at Phoenix-based Matrix Absence Management Inc.

"Employers are required to have work comp coverage, so it is viewed as an insurance program and tends to fall to risk management. Disability is viewed as a benefit and part of compensation packages. There are two different buyers and two different mentalities, and because of this disparity, their focus tends to be different," Rarick told *Business Insurance* magazine.

One of the silo issues that's always been troubling for employers is that occupational injuries and non-occupational injuries are treated differently, eliminating the opportunity to reduce overhead costs by managing medical claims as a single process. But while the concern applies to workers' compensation medical claims, disability claims are a different matter.

Some employers are realizing that compliance is better addressed when the silos come down and disability is integrated, even if there are some hurdles.

"It's a very painful process trying to get everybody to work together," said Terri Rhodes, CEO of San Diego-based Disability Management Employer Coalition, to *Business Insurance*. "In the current environment, FMLA [applies to benefits administration] and ADA applies to workers' comp claims, so it's important if they are not integrated programs that they all communicate with each other. The [U. S. Department of Labor] and [U.S. Equal Employment Opportunity Commission] don't care about organizational silos." If they are integrated, though, they will communicate as a single voice.

Aside from compliance issues, the real benefits of integration can occur when workers' comp and disability programs work together to prevent injuries, improve medical outcomes and reduce costs.

"One of the things most people don't notice is the impact wellness and health plans can have on workers' comp," points out Matt Sears of EPIC Insurance. Smokers, people suffering from obesity and stressed workers in general have a higher risk of being injured at work — and these kinds of people also incur higher costs when they are injured on the job. Taking a holistic approach just makes



more sense. It's not only a more productive and efficient approach, it's also less stressful for employees.

"It's really taking an employee-centered position, not a company- or department-centered position, which is the way it used to

be," said Ms. Rhodes.

For more information on how your firm can take a more integrative approach to disability claims, please contact us. ■

How Investigations Can Improve Safety

Serious sleuthing after a workplace injury can not only help you discover the cause of a specific injury, it can also uncover hidden workplace hazards.

After an accident occurs, your first priority should be to get appropriate treatment for the injured worker. After that, you will want to take steps to prevent additional accidents from occurring. However, like at a crime scene, you'll want to make sure you don't disturb any evidence of what could have led to the accident before you have time to investigate.

What does a successful investigation uncover?

- ✿ direct cause of injury or accident
- ✿ peripheral and interrelated causes or results of the incident
- ✿ ways to promote safety and safe work methods
- ✿ ways to prevent similar incidents
- ✿ indirect and direct costs of the incident on wages, retraining, time lost, reduced production, etc.

To discover these facts requires a prompt and thorough investigation. Interview witnesses, other workers performing similar jobs or using the equipment — what were the direct causes of the accident? What were the indirect causes? What is the history of mishaps or near-misses in that department or among equipment users? What were actual and expected production levels when the accident occurred? Let witnesses use their own words and repeat their stories back to them to ensure understanding.

What Details Will You Need?

The information you'll need includes: was the employee performing his or her regular job when the injury occurred? Was he or she



involved in maintenance, repair or an infrequent task? Was he or she helping another worker (or vice versa) when the accident happened? Was the employee properly trained to perform the job and operate the equipment? Was he or she doing the job correctly? What were other workers doing at the time? Were "human" factors involved in the incident, such as fatigue, overtime, stress? What does the injured worker and his or her co-workers think about the "safety culture" in the workplace and management's commitment to it?

What Makes a Successful Investigator?

Successful interviewing requires a calm, sympathetic, systematic approach. Injured workers and their co-workers may be very emotional about the event or unclear about what actually happened. Showing a caring attitude and permitting traumatized or other affected workers to "clear the air" can also help the information-gathering process. Investigators can build trust and obtain more accurate information when they're straightforward about their role and their expectations.

To determine causes of an accident, a good investigator will look for gaps in information and facts that point away from a logical conclusion. But perhaps just as important as determining what caused the accident in question, he or she will be able to come up with recommendations for preventing similar accidents from happening again.

For tips on improving the effectiveness of your company's accident investigations, please call our office. ■



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