



Workers' Compensation vs. Private Disability - Reporting Strategies To Avoid Problems When Claim Is Not Reported Properly

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It's frustrating when members claim to have suffered a workplace injury, but their actions and statements on private insurance forms suggest otherwise.

Political Grief Submitting WSIB Claims

Dealing with the workers compensation board (WSIB) and employer hostility aimed at workers who make workers compensation claims can be a major aggravation. As a result of the political aggravation many workers are tempted to not bother pursuing WSIB benefits for work related disabilities. Instead, claims for private disability payments are made.

The longer a worker waits to report a work injury claim, the more difficult it is to establish all of the facts necessary to support the claim. This is particularly true when it comes to verifying the existence of a disabling injury. A delay in reporting will also cast doubt on the honesty of the worker was well. This creates even more difficulty in establishing the history of the claim. Submitting claims after a layoff are equally problematic.

Failure to File WSIB Claim For Fear of Layoff

Over the years I have written articles and dealt with many members who claim to have been injured at work. There is no question many members believe that filing a WSIB claim will result in a layoff when the next chop takes place. One cannot argue with real life experience, particularly in an industry where members have no seniority, and employers are obliged to provide one hours' notice re shortage of work. I've used the term economic calculus to describe the considerations members make when deciding whether to file a WSIB claim.

In my experience, members will avoid submitting a WSIB claim and apply for union disability benefits from Great-West Life (GWL) because a buck is a buck no matter the source of money, but fail to consider how their legal rights and entitlement will be affected later on. Buyer's remorse aside, members' actions can be very prejudicial down the road and trying to convert a GWL claim into WSIB claim is like putting toothpaste back in a tube.

Tell Coworkers & Employer You're Injured

In a recent case a member claimed to have suffered a work related arm injury, but entered the union disability stream before speaking to me. When I investigated the alleged injury, it was clear the member suffered a final let-go incident at work while drilling. Furthermore, in speaking to the co-workers on site who worked with the injured member, they described a hard working electrician. They also recall he was able to perform his job in the weeks and days leading up to the work injury,

and distinctly remember that on the date of injury he complained about hurting his arm, and was unable to perform his job afterwards.

When the member first sought medical attention on the day of injury the health professional did not record that the patient reported a work related injury. Instead, there was reference to a non-work related injury a month earlier, notwithstanding testimony from coworkers, injured member, and employer who all confirmed he did not have any limitations or disability until the work related injury.

It's important that members consistently report work injury claims to health professionals and on insurance forms. If you don't, your statements at a later date can and will be used against you.

Unfortunately when the member completed his union disability application which asks you and your health professional whether this is a work related injury, they both ticked the box No. The member submitted a WSIB claim, but it was denied because there was no proof of accident.

Tell Health Professional If Injury Is Work Related

Health professionals are like a parish priest and I encourage members tell the doctor whether an injury is work related, or suspected. Even if the member doesn't submit a WSIB claim for fear of layoff, embedded in your physician's clinical notes is exculpatory evidence that you suffered a work injury. Those clinical notations carry significant weight in appeal hearings whether a member suffered a work related injury.

When members tell their health professional they got hurt in a fight or slipped on stairs at home, this breaks the chain of causation that you suffered a work related injury.

Complainers Do Better Than Strong Silent Types

Working in a unionized industry does not mean you should surrender your rights because you fear a layoff. Any accident, or any onset of pain associated with work should be reported to the employer and recorded in writing even if medical attention is not required at the time. At the very least, co-workers should be informed about the accident or onset of pain. If you're working with work related pain that is not disabling at the moment, you should make co-workers and the employer aware of the ongoing pain and the related cause of pain to work. When it comes to compensation, complainers almost always do better than the strong silent types.

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