

Workers' compensation costs bring challenges for South Carolina employees and employers

While the State of South Carolina is generally considered pro-business, our workers' compensation practices are causing constriction in the insurance market, driving up costs for some employers and hampering our ability to compete nationally. An analysis of rates among key non-office employers, including the manufacturing industries that largely fuel our state's



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economy, shows that our blended rate for workers' compensation insurance is 30% higher than that of neighboring states with similar worker populations. To make matters worse, actual claims payouts are also significantly higher than those of neighboring states, driving some carriers to consider pulling out of the market entirely – a move that could spell disaster for some higher-risk employers.

It's important to have a little background information to put this in perspective. Workers' compensation policies, payouts and maximum allowable rates are determined by each individual state's State Insurance Commission (SIC) in conjunction with the National Commission on Compensation Insurance (NCCI), which publishes annual actuarial tables with recommended payouts by injury and industry.

Settlements are determined by three cost drivers: actual medical costs, related fees (largely legal and claims management fees) and indemnity charges (lost wages and injury permanency ratings).

Each state is free to use the NCCI suggested amounts or to establish their own amounts. Each State Insurance Commission also determines their maximum allowable rate through overall claims cost analysis. South Carolina's costs are higher in all three areas. While medical costs are essentially beyond the control of the State Insurance Commission, higher costs in fees and indemnity are due largely to decisions made by the State Insurance Commission in two key areas.

Along with a small handful of other states, South Carolina has chosen to adopt an indemnity multiplier, mean-

ing that when determining a settlement, it's SIC multiplies the NCCI-recommended amount. While the modifier can vary, South Carolina has opted to adopt a multiplier of two for most claims. Higher legal fees in South Carolina are also driven by the attorney review of nearly every settlement, no matter how simple. This requirement adds hundreds of dollars onto the cost of even the smallest claim.

The higher cost of claims for non-office workers in South Carolina has resulted in the higher claims outlined above. However, since the state has also capped the rates that can be charged by carriers, some carriers have decided that the allowed increases are not enough to make South Carolina an attractive market for them and are considering abandoning the market entirely. Having fewer options in the higher-risk manufacturing-dominated insurance market is likely to result in fewer options, compounding cost increases exponentially.

One might argue that South Carolina's SIC is simply looking to protect the interest of workers, but this position is short-sighted at best.

These higher claims costs are not absorbed by the insurance company but passed along to employers, who end up hiring fewer people or decreasing wages to compensate for the financial shortfall.

These policies also make it difficult for larger employers – the very ones South Carolina works hardest to attract and retain – because they pay these costs, dollar for dollar, until they hit their per claim deductible. This, too, leaves them with fewer resources to compensate their employees and could make South Carolina a less attractive state in which to operate a manufacturing business, ultimately resulting in less opportunity and higher unemployment rates in our state.

With this in mind, it's important for employers to make their voices heard in encouraging some basic workers' compensation policy changes. However, since many of these factors are beyond their direct control, smart employers recognize their own responsibility in proactively managing and controlling claims. Here are some key steps to help keep workers' compensation insurance and claims costs in check:

Get expert help – Buying workers compensation insurance is complex

and requires a unique skill set. Using a broker or working with a PEO (professional employer organization) will help you find the best policy and carrier for your specific population and needs. This is especially important in higher-risk categories, such as heavy manufacturing, long-haul trucking, construction and roofing.

Find the right broker for your needs – Look for companies that have systematic claims management systems and tools and internal resources and ancillary services that help mitigate claims and prevent loss. Be sure to verify their client base and ask for references, and remember, because regulations vary greatly from state to state and industry to industry, geographic support in the areas where you operate and knowledge of your category and SIC codes are essential.

Don't challenge every claim – It's easy for employers to get jaded and believe that they are experiencing false or exaggerated claims, but choose your battles to avoid lawsuit and judgments. Remember that the 2X multiplier in South Carolina only comes into play for adjudicated claims, so you may be able to avoid more expensive claims if you settle early.

Get them back to work as quickly and fairly as possible – The number one cost driver for workers' compensation claims is failure to achieve a timely and fair return to work. Resist the temptation to drag out the process and, whatever you do, do not sever a relationship with a claimant. According to most brokers, having an effective return-to-work program can save employers 30% or more.

Establish and communicate claims management policies – Surprisingly, many employers have no formal written policies related to workers' compensation issues. Be sure that you have formal return to work policies and procedures, light-duty work descriptions and claims management processes in place and that employees are familiar with these policies to manage expectations and facilitate a more rapid return to the workplace in whatever capacity is best suited to the claimant's needs.

Set up a triage system – Most workers compensation claims result from soft tissue injuries that may or may not require a trip to a hospital or emergency room. Avoiding ER visits by setting up an on-site medical clinic or triage

nurse can cut claim costs in half. Remember your supervisors are not medical professionals and are not qualified to judge the extent of an injury or issue, so defer to the professionals, but do it in a cost-effective, efficient manner.

Advocate for yourself – You do not need to blindly accept adjusters' decisions. Be an active participant in the process, ask questions and challenge incorrect assertions.

Analyze your costs – Employers should do a cost run to examine current indemnity, temporary total disability (TTD) and medical expense to ensure that percentages are in-line with industry and regional claims and make changes with coverage accordingly.

While there are many huge benefits to doing business in our state, our workers' compensation policies, including the 2X multiplier and the need for legal review in all cases, need to be closely monitored and possibly overhauled for the mutual benefit of employers and workers. A few tweaks to the system from employers and the SIC, in conjunction with eliminating frivolous lawsuits through tort reform and more effective claims management, will go a long way toward keeping our state competitive regionally and nationally.

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