

# **A PENNSYLVANIA WORKERS' COMPENSATION**

## **4 - PHASE CHECKLIST**

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### **Pre-Claim Phase**

- ❖ Properly prepared and appropriately posted panel list of designated healthcare providers.
- ❖ Maintaining current addresses of all employees.
- ❖ Explore social activities of all employees.
- ❖ Open communication with employees, supervisors, managers and HR to maintain favorable relations.
- ❖ Maintaining constant relationships with employees throughout employment relationship.
- ❖ Coordinated awareness with employees, supervisors, HR and managers regarding reporting injuries and administering the rights and duties at the time of hire and at the time of an alleged injury.
- ❖ Regular and continuous education of employees, managers, supervisors, and HR regarding safety, employment related issues and reporting guidelines.
- ❖ Education of employees, administrative supervisors, personnel, and panel physicians regarding changes in the law and emphasis on timely reporting and documentation.
- ❖ Maintaining complete and timely documented personnel files on all employees that can be relied upon for employment matters and also litigated matters.
- ❖ Be sure to timely document all employment related issues including disciplinary actions.
- ❖ Maintaining accurate physical demand job descriptions of all available positions.
- ❖ Maintain a well-developed return to work program for all employees.
- ❖ Awareness of all benefits paid to employees including wages, bonuses, incentives, vacation, sickness and accident and the nature and extent to which they are funded by the employer.
- ❖ Development of post-accident testing of alcohol and drugs for any accidents involving equipment, tools and vehicles and acknowledgement of this policy through

company handbook and regular and continuous educational meetings with all employees.

- ❖ Properly and timely providing all employees the "Workers' Compensation Information".

### **Initial Claim Phase**

- ❖ Prompt and thorough investigation upon knowledge of a claim with employees, supervisors, and witnesses to insure all factual information is gathered timely and well documented to accurately assess the initial phase of the claim.
- ❖ Be sure to document with dates all pertinent information gathered during this phase.
- ❖ Consider obtaining timely written statements where applicable and appropriate.
- ❖ Be sure to properly and timely file all Bureau forms once a determination has been made to accept or deny a Claim.
- ❖ Be sure to accurately and thoroughly complete the employer's report of injury and have employees complete accident reports after any alleged injury outlining the circumstances of the injury, time, date and extent of injury and complaints, and any witnesses to reduce any confusion and discrepancies and to be used in other phases of the claim process.
- ❖ Be sure to obtain accurate wages including bonuses, vacation and overtime to properly calculate the average weekly wage.
- ❖ Obtain all medical records including emergency room visits, panel physicians, treating physician as well as all diagnostic study films and reports.
- ❖ Carefully monitor the extent and nature of medical treatment and constantly obtain any and all updated medical records.
- ❖ Question employees as to their activities and hobbies outside of work.
- ❖ Obtain family physician's identification, address and records.
- ❖ Maintain constant communication with claims handler, HR, supervisors and managers to coordinate any and all communication and maintain open communication to determine exact dates of disability and basis for any and all wage loss.

- ❖ Clarify exact nature of injury and alleged injury with identification of any and all initial complaints and exact circumstances surrounding notice of the claim and how that was given.
- ❖ Determine employee's entitlement or pursuit of any other benefits including Unemployment, Social Security, Pension, Severance, Sickness and Accident during the wage loss period and the nature and extent funded by the employee and/or the employer.
- ❖ Accurate description of the injury or the alleged injury and development and documentation of any and all changes in description of complaints and nature of injury.
- ❖ Utilize the Bureau forms LIBC 760 "Employee Verification of Employment, Self-Employment or Change in Physical Condition", LIBC 750 "Employee Report of Wages other than Workers' Compensation" and LIBC 756 "Employee's Report of Benefits".
- ❖ Be sure to Utilize LIBC 757 "Notice of Ability To Return to Work" with attached medical release releasing the employee to return to work in any capacity whether from a treating physician and/or IME physician or any medical healthcare provider treating the employee and sending that form regular and certified mail.
- ❖ Identification of appropriate medical expert and arranging evaluation (providing expert with all medical records and diagnostic study films for review and evaluation in conjunction with the physical exam)
- ❖ Obtaining medical records supporting any return to work and immediate investigation as to any job offers and prior thereto issuance of an LIBC 757 "Notice of Ability to Return to Work".
- ❖ Consideration to sending any/all documents including Bureau records certified and regular mail when employees are unrepresented and certain documents even if Claimant is represented where applicable to insure receipt and document proof of receipt.
- ❖ Conduct index check, activities check and surveillance.

## Litigation Phase

- ❖ Immediate acknowledgement of claim to proper claims handler.
- ❖ Immediately secure legal counsel to represent interests.

- ❖ **Designate an individual(s) to monitor the receipt of any new claims, assignment notices of new claims to Judges to insure timely answer is being filed (20 days for filing of the Answer from the date of notice of Assignment).**
- ❖ **Be sure to utilize correct Bureau forms with correct required information and use of correct Bureau codes.**
- ❖ **Verify if timely and accurate notice of claim was provided by employee.**
- ❖ **Determine factual defenses.**
- ❖ **Verify third-party litigation and monitor subrogation interest.**
- ❖ **Verify employee's legal counsel.**
- ❖ **Maintain contact and relationship with legal counsel to insure any and all factual information is being relayed to develop any and all defenses.**
- ❖ **Carefully monitor nature and extent of medical treatment and obtain all medical records and share with Claim handler and counsel.**
- ❖ **Conduct index check and activity check along with surveillance where appropriate.**
- ❖ **Acknowledgement of potential ADA, FMLA and EEOC Claims and ramifications and strategies to handle situation involving these statutes.**
- ❖ **Investigation regarding the involvement of any alcohol and drugs and obtain any post accident testing of alcohol and drugs.**
- ❖ **Be sure to verify the employment status of the employee who has filed the Claim.**
- ❖ **Establish credits for Unemployment, Sickness and Accident, Social Security, Pension, and Severance.**
- ❖ **Consider submission of emergency room records where favorable and/or other medical records as evidence when applicable.**
- ❖ **Consider obtaining disciplinary records and submission of such evidence as a defense where appropriate.**
- ❖ **Awareness of penalties for any violation of the Act and avoid same.**
- ❖ **Retaining vocational experts where necessary to limit exposure and issuance of the Financial Disclosure Letter to employee and employee's counsel regular and certified mail before vocational expert proceeds with vocational activity.**

## Aftermath Phase

- ❖ **Determine credits and offsets against any compensation benefits including but not limited to Unemployment Compensation, Severance, Pension, Social Security and Sickness and Accident.**
- ❖ **Determine employee's receipt of the Social Security Disability at any and all times and its impact in the status of benefits or any settlement of the Claim.**
- ❖ **Maintain and monitor closely any and all medical records as employee's continue to treat and verification of any and all changes in medical status to determine the potential for a termination of suspension and/or modification of any benefits.**
- ❖ **Closely monitor medical to challenge reasonableness and necessity and causal relationship.**
- ❖ **Timely utilize the Utilization Review process to challenge the reasonableness and necessity of medical treatment.**
- ❖ **Continuous and constant communication with employees, supervisors, personnel and management to verify immediately when employee returns to work or work available.**
- ❖ **Prompt issuance of the Notification of Suspension or Modification within 7 days of an employee's return to work to avoid any delay in documenting same with Bureau and avoid the need for litigation.**
- ❖ **Consider independent medical examinations with an appropriate board certified expert to limit exposure approximately ever six months and determine the extent and nature of ongoing medical treatment at all times throughout treatment status.**
- ❖ **Consider resolution of the matter by full Compromise and Release of all medical and indemnity/resolution by Compromise and Release of indemnity and open medical/resolution of indemnity and limit medical.**
- ❖ **Verification of any Medicare issues and whether a Medicare set aside is required.**
- ❖ **Consider Mediation and have present the Claim handler, employer/employer's counsel, and employee/ employee's counsel in an effort to limit and control exposure, limit issues, resolve issues and/or resolve entire claim.**
- ❖ **Monitor receipt of benefits to determine when it is appropriate to move forward with an impairment rating evaluation and whether an IRE is to be considered and moving forward timely with same. Should an IRE result in a change in the Claimant's disability status to partial, consider continuing with IME's for purposes of limiting exposure even after an IRE is rendered as status could still change.**

- ❖ **Consider after retaining a vocational expert who performs an earning power evaluation/labor market survey, also making available 2 jobs following the traditional job placement efforts.**
- ❖ **Maintain contact with employee and employee's counsel to continue to assess exposure, medical status and case value.**

**AUTHOR'S COMMENTS: This checklist is a general outline of areas to consider when handling Workers' Compensation matters. As always, each case should be reviewed on a case by case basis and if questions arise, contact with your defense counsel is recommended.**