

# Don't be a victim

How to fight workers' compensation fraud

**A**ny employer can become a victim of workers' compensation fraud. The opportunity may present itself at any time, and employees struggling in a down economy or anticipating layoffs may be more likely to take advantage of the system.

"Workers' compensation fraud impacts insurance premiums for every business in the country, even if the fraud does not involve your employees," says Rob Wilson, president of Employco Group, a division of The Wilson Companies. "It's even more costly to your business if it involves one of your employees, which adds to your indirect costs."

*Smart Business* spoke with Wilson about the steps employers can take to prevent fraud, how to identify it if it occurs and how to keep tabs on workers' compensation claims.

## Is workers' compensation fraud more prevalent during a down economy?

Yes. Employees are concerned that they may be laid off and may be aware that workers' compensation benefits are more attractive than unemployment benefits. Plus, there is no time limit on how long benefits can be paid, and there is a possible lump sum payment for partial or permanent disability.

## What is the cost to the employer?

There is a direct cost to the employer plus an indirect cost. Each employer has an experience modification factor that is unique to his business. This is calculated by a national rating organization and is based on an employer's payroll, expected losses and actual losses. If an employer is hit with several fraudulent claims, the factor will increase and result in significantly higher premiums. The factor can range from a 35 percent credit to a 75 percent debit. An increase in claims will result in a major increase in your premiums for the three years following your next renewal.

## What are some red flags that might indicate a fraudulent claim?

There are several red flags to watch for:

- An injury that occurs without any witnesses is suspicious. The employee may claim he tripped and fell in the supply room when he was working alone.

- Claiming a back injury on Monday can be suspicious as the injury could have occurred over the weekend.



**Rob Wilson**

President

Employco Group, a division of The Wilson Companies

■ Rotator cuff injuries should be carefully reviewed to determine if the injury was actually work-related. Analyze the injured employee's job duties to see if the work performed could lead to the injury.

We have a client whose clerical employee thought that her rotator cuff injury was caused by her typing. It turned out that she was a part-time volunteer at an animal shelter where she regularly lifted cages containing animals. The workers' compensation claim was denied because it was not work-related.

## What can employers do to prevent workers' compensation fraud?

The obvious is to try to hire honest, dedicated employees. Communicate to the employees that the company vigorously fights workers' compensation fraud and will prosecute employees who are involved in fraudulent claims, including malingering.

As a business owner, you should also take the necessary steps to make sure that you have an effective safety plan that is adhered to. You should be sure that the employees have the necessary safety equipment, such as safety glasses, steel-toe shoes and/or any other equipment that is appropriate for the job.

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## What should an employer do if it suspects it is a victim of fraud?

You should know why you suspect fraud and report your suspicions to the claims adjuster. Ask the adjuster to order surveillance of the suspect.

The insurance adjuster should be able to have surveillance conducted by an independent firm that specializes in conducting surveillance.

If fraud is uncovered, you should press the adjuster to file a complaint with the authorities. Be sure the adjuster investigates the claim, including taking testimony from any witnesses who may have been in the area when the alleged claim occurred.

## When should you be concerned with the problem of malingering?

When an employee claims he is not recovered from his injury and the facts suggest that he is, it's time to take action. He may be malingering. If so, your future premiums will increase because the claim payments are escalating.

You should take steps to verify that he is malingering. First, push for an independent medical examination of the employee to determine if he is faking the injury, then ask the adjuster to conduct surveillance on the individual.

We had one case in which the employee claimed severe back pain when he tripped over his own feet and fell. He claimed that he could not work as a driver because of the pain. Because of our suspicions, we engaged an independent firm to conduct surveillance of the claimant.

The investigator filmed him digging out a tree stump with an axe. At the next industrial commission hearing, he was confronted with the video and immediately left the hearing. We filed a complaint with authorities and pressed charges and successfully collected part of the money we paid to him. He pled guilty to insurance fraud.

Workers' compensation fraud increases the direct and indirect cost of running your business. Therefore, it is in your best interest to fight any fraudulent claim.

Fraud will continue to be a problem unless all business owners unite and stand up to fight all fraudulent claims. <<

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