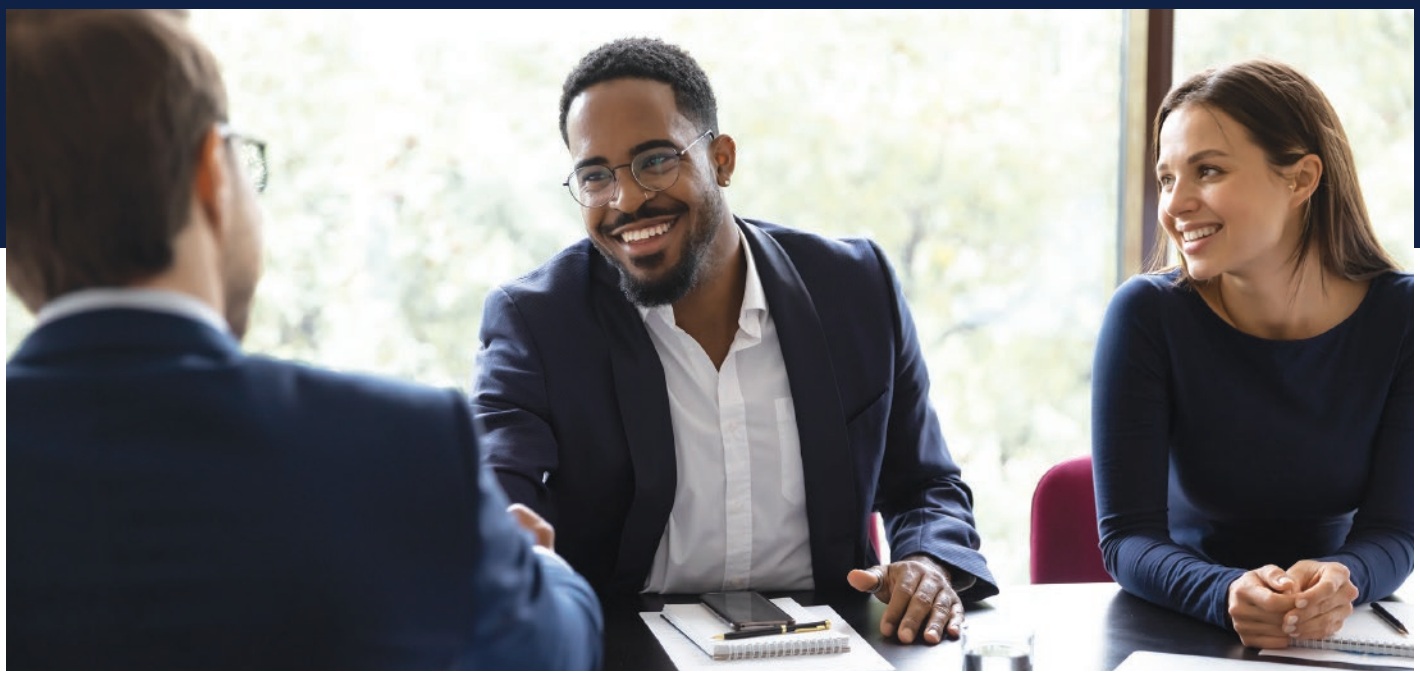
THE EXECUTIVES IN WORKERS' COMPENSATION

EWC NEWSLETTER

Resources to Help With Your Biggest Challenges, Insights From Industry Experts.



The Art of Customer Service in Workers' Compensation

BY NICHOLAS H. NEWSUM
EDITED BY PETER KARLIN AND BRIAN G. LERNER

Whether you are defense or applicant-centric, workers' compensation is a customer service job. If we want to succeed in this arena, we must strive to meet or exceed customer service expectations. To achieve that goal, we must know our audience and adjust ourselves to the personality of the customer.[1]

This begs the question: Who is our customer? Speaking in general terms, an applicant attorney's client is obviously the applicant, and defense counsel's client is the insurance carrier, third party administrator, insured or employer. However, should a defense attorney consider an applicant as a customer as well? Although defense attorneys are shaking their heads "no," it is undeniable that defendants' failure to protect an applicant's basic legal interests can inevitably increase defendants' liability. A recently issued panel opinion brings this point home.

On June 15, 2020, the WCAB issued its decision, *Daniel Moreno v. Hidden Valley Ranch*, (2020) Cal Wrk. Comp. P.D. LEXIS 194 (*"Moreno"*), wherein the WCAB granted an applicant's Petition for Reconsideration from a WCJ's order finding no good cause to set aside the Order Approving Compromise and Release agreement (the "OACR"), dated 10/9/2017. See *Moreno*, at 194. The applicant argued that good cause existed to set aside the

SEPTEMBER 15, 2020

In This Issue:

OACR because applicant was never notified of his right to a qualified medical evaluator (QME) panel *before* he agreed to settle his claim while unrepresented. The applicant subsequently became legally represented and filed a Petition to Set Aside the OACR, dated 6/28/2019. *Id.*, at *7 – *8. The case proceeded to trial on 2/26/2020 on the sole issue of whether there was good cause to set aside the Order Approving. The WCJ issued a Findings and Award determining that no good cause existed to set aside the OACR. *Id.*, at *7 - *8. On appeal, however, the WCAB reversed the WCJ's findings. *Id.*, at *16. The WCAB held that good cause existed to set aside the parties' OACR due to, among other reasons, an avoidable procedural defect per California Labor Code section 4061, i.e., that defendants failed to provide notice to applicant of his right to a QME panel *before* applicant agreed to settle his claim. *Id.*, at *16 - *17. The fact that the insurance carrier provided notice to applicant of his right to a QME panel *after* the OACR issued on 10/9/2017 did not cure this defect. *Id.*
The WCAB in *Moreno* stated,

> In this matter, applicant entered into a settlement agreement with defendant while unrepresented. This agreement was entered into and approved before applicant was apprised of his right to a QME panel. Defendant's subsequent notice to applicant of his right to request a panel after the settlement was approved is disingenuous and inadequate. Once applicant's settlement including resolution of indemnity benefits **[*15]** and medical treatment was approved, he no longer had the right to dispute the treating physician's "opinion" regarding permanent disability. It is also unclear how applicant could have objected to the treating physician's reporting if he is not notified by defendant of how to do so. Applicant was not represented by an attorney and testified that he had no prior workers' compensation cases so it may fairly be presumed that he was unfamiliar with the medical-legal evaluation process at the *time of settlement*.
> *Id.*, at *14 - *15.

Regarding the other "procedural irregularities" that contributed to the WCAB's finding that good cause existed to set aside the OACR, the WCAB stated,

> Here, the WCJ relied solely on two medical reports to approve a proper compromise and release. These medical reports gave no indication of whether applicant had sustained permanent impairment from his injury. Furthermore, the settlement agreement stated that applicant was still receiving temporary disability and medical treatment. Defendant did not submit documentation with the settlement agreement that applicant had been notified of his right to request a QME panel before entering the agreement.
> *Id.*, at *16.

> IN THE BOOK *MAKING YOUR CASE: THE ART OF PERSUADING JUDGES* WRITTEN BY THE LATE GREAT ANTONIN SCALIA AND BRYAN A. GARNER, IT STATES, "AN EVER-PRESENT FACTOR, . . . AND ONE THAT YOU CAN ALWAYS INFLUENCE, IS THE HUMAN PROCLIVITY TO BE MORE RECEPTIVE TO ARGUMENT FROM A PERSON WHO IS BOTH TRUSTED AND LIKED." IN SHORT, IT IS EASIER TO BE PERSUADED BY SOMEONE WE ADMIRE THAN SOMEONE WE DETEST.

If you are familiar with California workers' compensation case law, you know that rescission of an OACR is as rare as hens' teeth. This is a valuable lesson. Defendants' failure to serve applicant, here with basic legal rights in workers' compensation, resulted in unraveling an OACR while increasing litigation costs. The lesson is clear: Defense counsel should reasonably consider serving each applicant in connection with rudimentary legal interests while advancing the case toward resolution. Doing so should not be an affront to those sitting at the defense table.

Now, speaking in broader terms, all of us – defense attorneys, adjusters, and applicant attorneys – have a vested interest in providing top-notch customer service as an integral part of sustaining a successful professional life. The following provides insight into each person's role.

Defense Attorneys and the Art of Excellent Customer Care

I have always been a defense attorney at heart, though my first career choice in workers' compensation was as a paralegal and, somehow, I ended up at a notorious 100 percent applicant firm. After that, I worked as a paralegal for a defense firm, and now I am a California defense attorney.

My experience includes litigating convoluted fraud matters to possible life pension cases and nearly everything in between. I have assisted colleagues with difficult fact patterns and complex legal issues. I have seen cases where the applicant suffered severe and significant injuries, such as loss of limbs and the ability to walk. Each case required a particular set of skills, which I have acquired over my career, and based on those, depending on the facts, I would encourage my clients to mitigate versus litigate.

For instance, when confronted with a serious injury, gentleness and empathy generally prevail. Consider treating the applicant as if he or she was close family or a good friend. This conduct is achievable while protecting your client(s) and, at the same time, expediting resolution of legal disputes that may arise. Through this process, you will likely

reduce litigation costs and overall exposure. Providing customer service to all, especially opposing counsel, will likely benefit your client as it has mine. In the book *Making Your Case: The Art of Persuading Judges* written by the late great Antonin Scalia and Bryan A. Garner, it states, "[a]n ever-present factor, . . . and one that you can always influence, is the human proclivity to be more receptive to argument from a person who is both trusted and liked." In short, it is easier to be persuaded by someone we admire than someone we detest. Not to belabor the point, but even the ancient Athenian orator, Isocrates, is quoted as stating, "The man who wishes to persuade people will not be negligent as to the matter of character . . . for who does not know that words carry greater conviction when spoken by a man of good repute?"[2] In other words, it does not hurt to be liked and trusted.

Claims Adjusters and Customer Service

An adjuster is generally involved in the claim from beginning to end and usually has significant one-on-one contact with an injured worker. Notwithstanding the employer, the adjuster usually provides the injured worker's first impression as to how the claim will be handled. To this end, there is no greater pitfall for an adjuster than a lack of empathy for the injured worker. An adjuster needs to remain cognizant of the fact that conversations with the injured worker must be courteous and helpful while ensuring timely and adequate provision of benefits.

In my humble opinion, the best adjusters are aware of their role as a customer service tactician. Adjusters who are successful in providing top-notch customer service are often highly compensated. This echelon of adjusters understands pivotal moments in each claim, including when to involve a defense attorney. A savvy, experienced adjuster usually knows when providing benefits is better than possibly agitating an injured worker. Being less attuned to careful claims management creates complications; those generally trigger the injured worker to retain an applicant attorney who may drive up medical expenses while likely increasing legal expenses.

There is sound economics in delivering compassion to injured workers. This is achievable, and when peering through this lens, it is wise for experienced executives in the insurance industry to seek out adjusters who understand and deliver excellent customer service.

Applicant Attorneys

Applicant attorneys are seemingly the most incentivized to provide an all-around customer service approach. Applicant attorneys must be able to maintain their current client base while expanding it, and the most profitable way is likely through word of mouth from satisfied applicants. When considering high-value cases versus the run-of-the-mill work injury with moderate to minimal settlement value, an applicant attorney may favor the high-value case over the lower-value cases. This is probably the wrong approach. All cases have the potential to provide income and referrals. Providing excellent customer service on the continuum, as a matter of practice, has far-reaching benefits.

Attorneys who, for instance, provide their personal cell phone number(s), answer phone calls after regular working hours, and fight for smaller benefits are in full(er) service mode. Those attorneys will likely garner the reputation of being an invaluable asset to each applicant. It's a no brainer that spending years heavily litigating a case to only be subbed out because an applicant felt neglected is highly unsettling and financially painful. This is also true of not receiving coveted word-of-mouth referrals due to perceived poor service, which in turn will have detrimental short and long term effects on one's business. Applicant attorneys may be shaking their heads while thinking that they cannot be overwhelmingly available to each applicant. However, possibly this means there are too many clients or not enough cherry-picking to foster sustainable high customer satisfaction.

Through the lens of an applicant attorney who is highly customer-service oriented, we see someone who approaches nearly everyone in our field, including judges, applicants, adjusters and other attorneys, with respect and dignity. An applicant attorney focused on customer service will likely experience lower litigation costs, a less inundated calendar, and greater outcomes for their clients. These attorneys will develop a reputation of reasonableness and trust in the eyes of judges. They will also receive more responsiveness from adjusters and defense counsel. In turn, these applicant attorneys will obtain better outcomes for their applicants.

Now that we covered questions swirling around the topic of "customer service," I will leave you with a couple of additional thought-provoking inquiries. Is your purpose in the workers' compensation arena to provide exemplary customer service? If not, then what is your goal? Whatever your objective may be, I encourage you to determine whether you are achieving the greatest possible outcome. If not, maybe it's time to recalibrate.

For this author, excellent customer service is paramount. It is always the goal.

Always in service,
Nicholas H. Newsum

Nicholas Newsum is a Senior Associate at Karlin, Hiura & LaSota LLP.
He can be reached by phone at 619-415-6087 or
by email at nnewsum@KHLlawyers.com.

Karlin Hiura & LaSota

Visit us at www.KHLlawyers.com

[1] Buchanan, Leigh (1 March 2011). "A Customer Service Makeover". Inc. magazine. Retrieved 29 Oct 2012; https://en.wikipedia.org/wiki/Customer_service#cite_note-1. Retrieved by Nicholas Newsum on 17 Aug 2020.

[2] Antonin Scalia and Brian Garner, Making Your Case: The Art of Persuading Judges (St. Paul Minnesota: Thomspon/West, 2008), xxiii.

DON'T SETTLE FOR AVERAGE.

CHOOSE APPLEBY & COMPANY.
WE DO SUBPOENAS, ON-SITE COPYING & INVESTIGATIONS.

Are you looking to partner with a service provider who listens to you and provides the service and results you desire?

Appleby & Company offers flexible solutions to fit your needs – providing faster results, more accurate evidence and securely transferring data at every stage of the process. Appleby & Company has been in business since 1958 – our team understands the complexity of your workload and we know your time is important. Appleby & Company is here to partner with you to simplify your world.

APPLEBY & CO.
INC

Big business knowledge.
Small business service.

Find out how Appleby & Company can help you, by contacting us today.

contact@applebyco.com
www.applebyco.com

Phone: (888) 544-2600
Fax: (866) 284-5929

New California DOI Fraud Compliance Regulations Explained

BY DALENE BARTHOLOMEW CFE, CIFI

"Being compliant in CA takes experience, expertise, attention to detail, and just a little bit of crazy."

On June 19, 2020, the California Department of Insurance (CDI) filed their updates to the DOI Special Investigative Units (SIU) Regulations pertaining to fraud compliance. These changes have been in the works for almost 18 months and were the collaboration of the CDI, the insurance industry and several of us who are SIU experts. Most of the new provisions go into effect October 1, 2020, while others must be implemented no later than April 1, 2021. Now that the updates are complete, we'd like to provide you with an overview of what's new in the changes, what it means for you, and how we can help.

What Does This Mean for You?

For starters, the CA DOI is now conducting many more audits than before. The new regulations aren't just more stringent - they're also much more complex. The CA DOI is significantly more likely to check up on whether you're meeting them, too. And if you haven't guessed it by now, the answer is yes, fines for non-compliance are also increasing. These changes add up to a landscape rife with pitfalls and steeped in increased risk for your business.

Are You at Risk of Being Impacted?

In short, yes. If you operate any part of your insurance program or business in California, then this explicitly applies to you. Insurance carriers, TPAs and self-insured corporations are at particularly high risk of exposure for failing to meet the new standards.

Despite COVID-19, wildfires or drought, we still need to meet all the demands of the insurance regulators as there has been no "pause" in mandatory compliance with all regulatory obligations.

What Are the Potential Costs?

Not only are the new regulations dense and more stringent, but they also significantly increase both the likelihood of an audit, the complexity of an audit and the fines being levied for failure to comply. Audits performed by the CA Department of Insurance are not only rigorous, but they can also be quite punishing, with fines levied up to $10,000 per finding.

What's New in the Changes?

The full regulations are on the California DOI website; they include changes to:

- SIU contracted responsibilities including specific language to incorporate in written agreements
- Investigation and referral of suspected insurance fraud with a focus on credible referrals, referral content and completion level of the investigation
- Anti-Fraud Training with a focus on the hours of training and maintaining of records
- Law Enforcement communication and a change in the number of days within which to respond
- SIU Annual Report now requires reporting of number of hours of fraud investigation
- SIU Staffing to meet requirements for adequate staff and level of expertise

The recent changes present a challenge the entire industry must adjust to meet, so it is now more important than ever to find the right partner to reduce your regulatory burden. We provide solutions that are easy to integrate and can be customized for any situation or program.

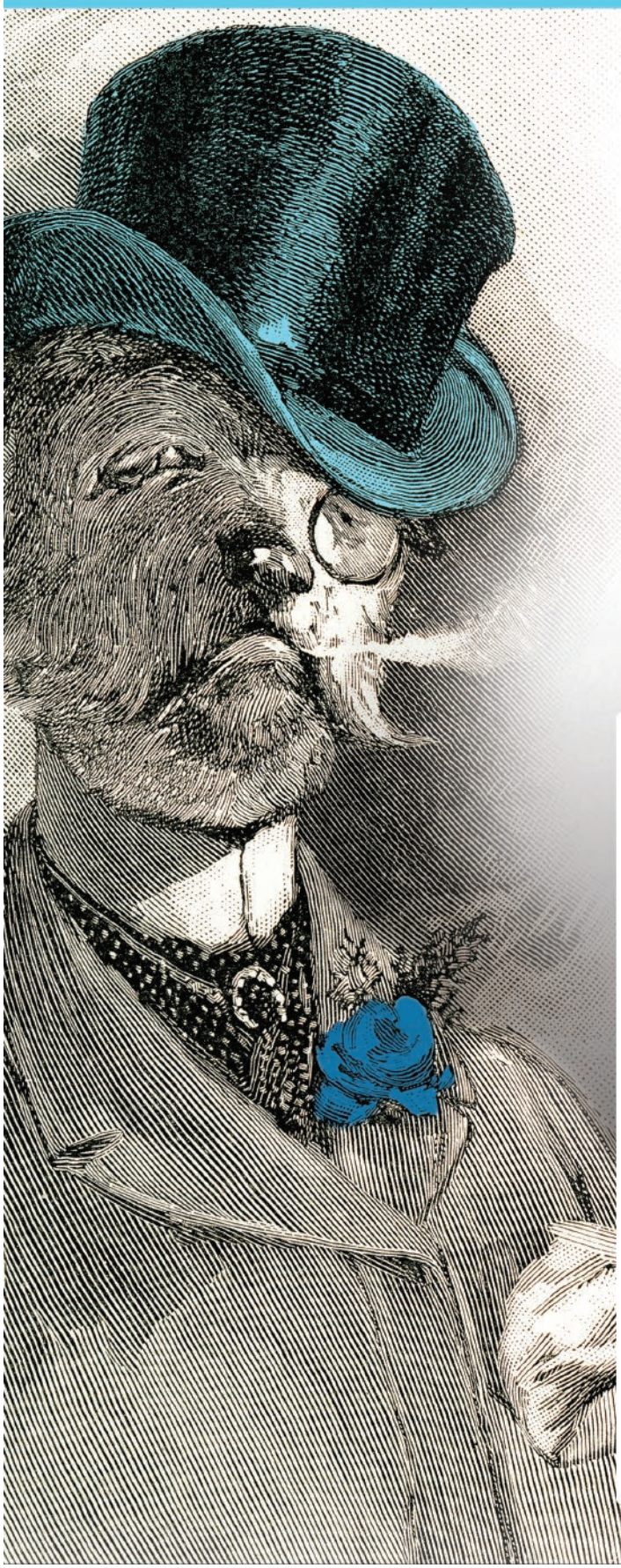
What is the Solution?

When you make us a part of your suspicious claims investigation, you're gaining the benefit of more than just our industry-leading, nationwide bench strength in SIU and fraud investigations. You're also building a partnership where proven expertise in regulatory compliance and training means meeting these new thresholds with confidence. Let's talk. *Click here to read the complete white paper.*

Dalene Bartholomew CFE, CIFI, Vice President

A Certified Insurance Fraud Investigator and Certified Fraud Examiner, Dalene enjoys providing innovative fraud solutions and creating strategic partnerships. Forward-thinking senior executive with 20+ year record of success combatting all lines of insurance fraud including the prosecution of over 200 premium, provider, and claimant cases nationwide. A recognized speaker, author, insurance fraud specialist, expert witness, anti-fraud training expert and problem solver.

PROBE Information | VRC Investigations | dalene@probeinfo.com | 916.676.4976| www.probeinfo.com www.vrcinvestigations.com



Put a Leash on Old Dog Claims

Ever wonder how you can make better progress on old claims that have stalled? Learn why some old dog files defy settlement and become more complex and costly over time and discover how to leverage new approaches to settle them for good.

ISO Claims Partners

A Verisk Business

COVID-19 and Workers' Comp

Observations From a Risk Manager

BY DAVID B. DOLNICK, ARM, CRIS

Back in January, few in the workers' compensation community thought a relatively unknown virus called SARS-CoV-2 would cause such widespread disruptions. As Danish physicist Niels Bohr noted, "Prediction is very difficult, especially if it's about the future." Present times are proving him correct as the US, and the globe, wrestle with COVID-19. Safely containing the pandemic is a vast and vitally important project for us all. It's important, however, to look into the future a bit, at least as well as we can, and attempt some educated guesses about what paths our industry might take when facing an uncertain road ahead.

First, an observation: many forecasts look at the Spanish Flu of 1918-1920 as a model for today, but those comparisons have flaws. In 1918, commercial air travel had barely begun, and automobiles were not nearly as commonly available. Rapid long-distance travel was not possible, slowing the spread of that pandemic when compared to the present one. The internet, email, television, and cell phones didn't exist. Those technologies now help foster the spread of both information and disinformation, with differing but profound impacts. From a medical perspective, influenza generally has fewer lingering health issues for most survivors than has been found in some COVID-19 cases. These times, and this pandemic, are different from anything in our history, much less our recent experience.

Looking ahead, in workers' compensation, we should expect two related but different impacts. First, the claims arising out of COVID-19 will begin affecting our workloads in increasing numbers. Second, the drop in premium income or its equivalents due to the recession will reduce carrier and self-insured incomes, thus reducing the funds available to pay those very claims.

On a positive note, the majority of workers' compensation claims from COVID-19 are likely to be relatively minor, tracking the disease profile as a whole. We face, however, as yet unknown hurdles due to the long-term effects of the disease. There is a growing body of significant clinical and laboratory evidence that COVID-19 impacts the heart, lungs, kidneys, and brain[1] of those infected, and increasing evidence that some of those impacts may be present in relatively moderate infections. The clinical significance of those findings is still being explored, but any long-term sequelae will almost certainly be covered under workers' compensation if the initial infection was also covered. It does not appear that those potential costs are included in the WCIRB's estimate of California's COVID-19 coverage presumption, or similar coverage mandates in other jurisdictions.

Compounding the longer-term claim issues is the impact of the current economic conditions brought on by the pandemic. Most economists agree that the US and the rest of the world are in a recession that will likely last into 2021 at least. The National Council of Compensation Insurers notes that job losses are nearing 50 percent in some sectors, especially those industries where workers are required to be in close contact with the public or other employees.[2] New claims filings tend to fall during recessionary periods, which makes sense when you consider that employment falls and businesses tend to retain older, more experienced employees who are less likely to be injured during their work. The retention of older workers, however, may prove problematic during the pandemic for employees who cannot work remotely, as those are also the population facing increasing risks from COVID-19. Most of the projections for workers' compensation do not include the potential impact of permanent disability in their costs.[3] Yet, that impact is not likely to be zero for the reasons discussed above. If our industry is to be of value and service to those with covered COVID-19 claims, we need to face those questions head-on and start planning now for their impact on our caseloads, our reserves, and our staffing needs over the next several years.

Dolnick Risk Advisors

David Dolnick is founder and President of Dolnick Risk Advisors and has over 40 years' experience in construction risk management, occupational safety & health, loss prevention and commercial insurance.

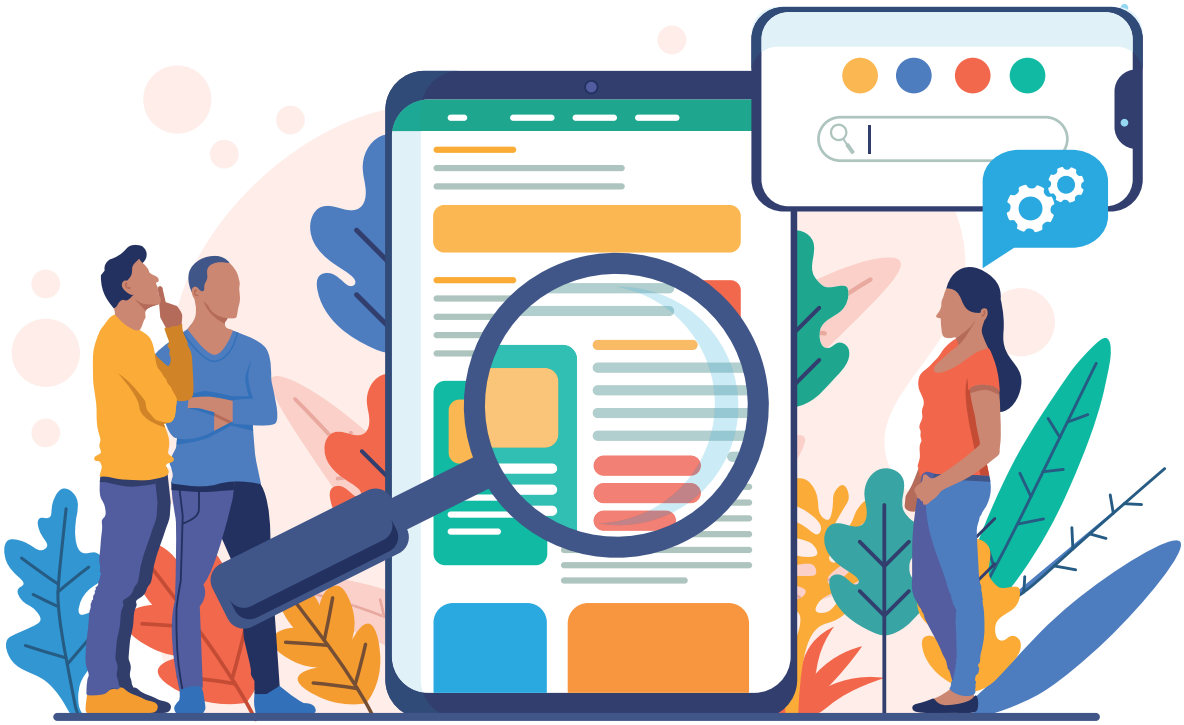
DOLNICK RISK ADVISORS
PO BOX 231047 I SAN DIEGO CA 92193
(619) 569-2280
DAVE@DOLNICKRISK.COM

[1] Source: https://www.healthcentral.com/article/long-term-effects-coronavirus accessed August 12, 2020 2:45 pm.

[2] Source: https://www.ncci.com/SecureDocuments/QEB/Insights_QEB_2020_Q2-PhysicalProximity.html accessed August 12, 2020 3:01 pm

[3] Source: NCCI Webinar available at https://www.ncci.com/Articles/Pages/Insights-COVID-19-Impact-on-WorkersComp.aspx# accessed August 12, 2020 3:05 pm

Want the best provider directory?



- Most intuitive, easiest to navigate
- Best technology; many customizable options
- We're the easiest tech partner to work with; few restrictions on data format and frequency, we don't "nickel & dime"
- Price advantage over the competition
- Better product, better service, best decision

Intellegenex®

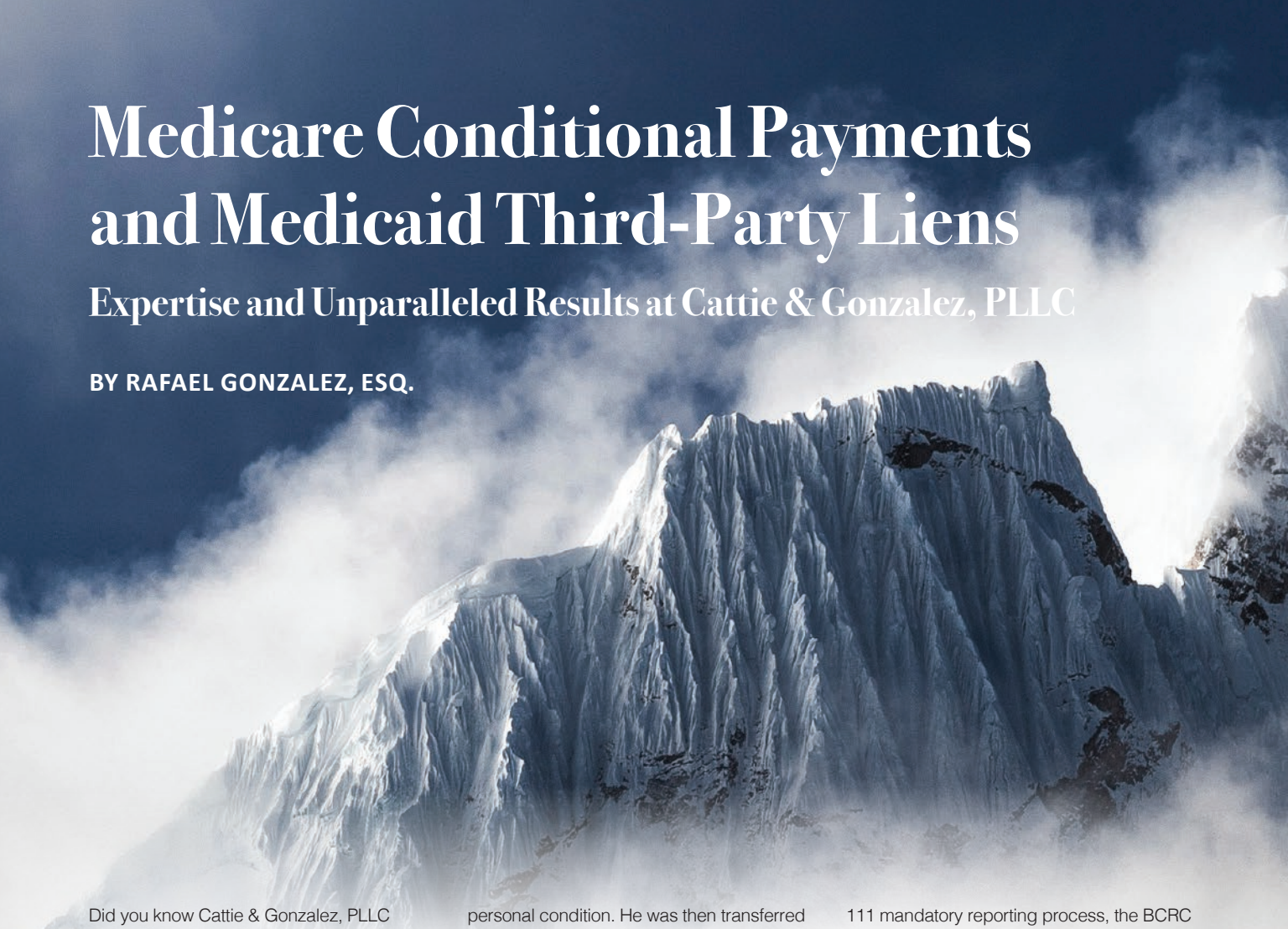
https://intellegenex.com

Call us: 949.278.7042

Medicare Conditional Payments and Medicaid Third-Party Liens

Expertise and Unparalleled Results at Cattie & Gonzalez, PLLC

BY RAFAEL GONZALEZ, ESQ.



Did you know Cattie & Gonzalez, PLLC is the only national law firm focusing its entire practice on Medicare and Medicaid secondary payer issues? Our conditional payment team is formidable. They work on the most complex cases, the most difficult situations, the most challenging auto, liability, no-fault, and workers' compensation claims. And on every case, they produce outstanding results. No matter whether on the plaintiff or defense side, whether it involves Medicare, an advantage plan, a prescription plan, Medicaid, a managed care organization, or military or VA payments - Cattie & Gonzalez, PLLC's expertise and results are unparalleled. Consider these recent examples of the tremendous savings our conditional payment team achieved for our clients.

Motor Vehicle Accident Liability Claim

In a recent liability MVA case, the claimant was at a hospital treating for an unrelated personal condition. He was then transferred by ambulance to another hospital. Unfortunately, the ambulance had a rollover accident en route to the second hospital, causing severe and permanent injury to the claimant.

As a result of misreporting the claim to CMS, the CRC had an open case with a demand. After several months, the MSP vendor hired by the insurer was unable to get the CRC to close down their case. As a result, Cattie & Gonzalez, PLLC was hired to clean up the file and resolve the conditional payment. Our team was able to get the CRC to shut down its case and transfer all of the conditional payments to the BCRC.

Because of the nature of the injury and medical treatment resulting therefrom, there were many conditional payments that had bundled charges with injury-related and pre-existing conditions. Once the carrier reported the settlement through their Section 111 mandatory reporting process, the BCRC issued a final demand for $60,129.43.

Our team examined all of the hospital billing itemizations and identified the cost of care after unbundling the charges. Consequently, our team identified only $8,803.64 in conditional payments for the actual injury related to the claim. In addition, our team included several legal arguments based on regulations and case law applicable to the situation and facts of the case. After submitting our request for redetermination, the BCRC approved and reduced the final demand to $8,803.64.

Unknown Medicare Advantage Plan Conditional Payments

In another recent case, the client hired Cattie & Gonzalez, PLLC after settling the case for $20,000 to resolve the Medicare (A&B) conditional payments. Our team obtained a $0 CPL in six days, which considering the facts of the case, alerted us to a potential

Medicare advantage plan situation. After speaking with the claimant and obtaining information about his Medicare Part C plan coverage, our team reached out and confirmed a lien in the amount of $58,433.

After several conversations and a couple of letters arguing unrelated charges, the limited settlement amount, and the claimant's financial difficulties, the Medicare advantage plan agreed to compromise its $58,433 demand to $2,750.

Hired to Handle Both Liability (BCRC) and Work Comp (CRC) Claims

We know it does not happen with other vendors very often: a case has both a liability and a workers' compensation component to it, on which both claimant and carrier hire us to independently work on conditional payments at the CRC and BCRC. But that is exactly what happened on this file in which the workers' compensation carrier hired Cattie & Gonzalez, PLLC to appeal a $68,589.25 final demand, all unrelated. After our team produced a detailed analysis of each payment and an explanation of their lack of relatedness, we were able to get the CRC redetermination approved, and the final demand reduced to $0.

In addition to being hired by the workers' compensation carrier, the plaintiff counsel also hired Cattie & Gonzalez, PLLC to handle the BCRC conditional payments. Our team filed multiple disputes with the BCRC, as Medicare kept adding new pre and post-settlement charges. Using our previous CRC decision, as well as a detailed analysis of each payment, our conditional payment team was able to obtain a $0 final demand from the BCRC.

> WITH CURRENTLY OVER 62 MILLION MEDICARE BENEFICIARIES AND OVER 72 MILLION MEDICAID ENROLLEES, WE ARE SEEING MORE DUAL-ELIGIBLE CLAIMS. AS A RESULT, CATTIE & GONZALEZ, PLLC IS REGULARLY HIRED TO HANDLE BOTH CLAIMS.

Hired to Handle Both Medicare and Medicaid Secondary Payer Issues

With currently over 62 million Medicare beneficiaries and over 72 million Medicaid enrollees, we are seeing more dual-eligible claims. As a result, Cattie & Gonzalez, PLLC is regularly hired to handle both claims. In this particular case, we were hired to resolve both a Medicare and a New Jersey Medicaid lien. With policy limits of $14,000, Medicare conditional payments of $22,896.76, and a New Jersey Medicaid lien of $16,431.83, our team was asked to resolve both within the policy limits.

In addition to our legal arguments, we submitted an SSA-632-BK waiver to Medicare, and within 30 days received a favorable decision from the BCRC, with full waiver granted. Our conditional payments team then used this decision, the nature of the compromise settlement, and the resulting financial difficulties to file for waiver of the New Jersey Medicaid lien. Again, our team received a fully favorable decision from New Jersey Medicaid, with a full waiver granted.

Conclusion

We specialize in all components of Medicare and Medicaid secondary payer legal and compliance issues. Our team, made of lawyers and paralegals with decades of experience handling mandatory reporting, conditional payments, liens, set aside allocations, and special needs trusts, works every day on the most complex, difficult, and time-sensitive cases. Again and again, our team's innovative solutions, impressive work products, and solid and resounding legal and medical arguments achieve overwhelmingly positive results.

CATTIE & GONZALEZ
A Higher Standard in MSP Compliance

About Cattie & Gonzalez, PLLC

The only national law firm focusing its entire law practice on Medicare and Medicaid secondary payer issues, Cattie & Gonzalez, PLLC provides its clients the highest quality MSP compliance advice in a law firm environment, establishing an attorney/client relationship. The Firm stands behind its work and will defend its opinions, advice, and work product, including any post-settlement conditional payments arising from the client's application of and reliance on the Firm's Medicare Set-Aside (MSA) Legal Opinion. To reach us, email John Cattie at jcattie@cattielaw.com or Rafael Gonzalez at rgonzalez@cattielaw.com, call us at (844) 546-3500, or visit us at www.cattielaw.com.

About Rafael Gonzalez, Esq.

Rafael is a partner in Cattie & Gonzalez, PLLC, the first national law firm focusing its entire law practice on Medicare and Medicaid compliance issues in the liability, no-fault, and workers' compensation industries. He is an attorney with extensive expertise in auto, medical malpractice, products liability, nursing home, med-pay, and workers' compensation claims, as well as Social Security, Medicare, Medicaid, and affordable care compliance. He is active on LinkedIn, Twitter, Facebook, Instagram, and YouTube.

MEDICARE PROTOCOLS
& COMPLIANCE AUTHORITY

Strong Leadership
Compliance Savvy
Trusted Partnership

mynuquest.com

NuQuest®

NuQuest is the leading provider of Medicare Secondary Payer (MSP) compliance solutions, including Medicare Set-Aside Allocation (MSA), Medical Cost Projection, Section 111 services and Professional Administration services.

- **MSA Solutions:** Liability MSA, E-MSA, Medical Cost Projections with Free MSA
- **NuShield** - The Certified MSA
- **Settlement Services:** Compliance Consulting & Training, Claim Settlement Services
- **Medical Bridge Accounts**
- **Section 111 Services:** Consultation Services and Reporting Solutions
- **Lien Resolution Services**: Conditional Payment Investigation & Negotiation
- **Bridge Pointe Administration:** Opal Professional Administration & Onyx Self Administration Services

We set the industry standard for outstanding customer service, quality and technology and take pride in being a trusted advisor to each and every one of our customers, consistently meeting their needs and exceeding their expectations.

Our team of industry professionals can help guide you on which products best meet the needs of a case or claim. NuQuest has a wide range of products and services to support your MSP compliance needs. Together we can determine the best course of action. **Call Now!**

(866) 858-7161

COVID-19's Impact on Transit & Workers' Compensation

BY KEN HERNANDEZ, CHIEF RISK, SAFETY AND ASSET MANAGEMENT OFFICER AT LA METRO AND CATHY YATES, DIRECTOR, WORKERS' COMPENSATION ADMINISTRATION AT LA METRO

It goes without saying that, like with almost every aspect of society, the COVID-19 pandemic has dramatically impacted public transit. The disruption began on March 19th, when Governor Newsom issued a stay-at-home order to protect Californians and slow down the spread of COVID-19. Like the rest of the nation, public transit plummeted statewide as people started to work from home or avoid buses and trains for fear of contracting COVID-19. The impact on Los Angeles County Metropolitan Transportation Authority (LA Metro) is no different.

Throughout LA County, public transit serves a vast number of residents across all socio-economic groups. Many people within these groups are essential workers who rely on LA Metro to provide necessary transportation. To continue to meet this demand, LA Metro takes our role seriously in supporting regional mobility and operating transit services that are vital to many thousands of residents and visitors.

At LA Metro, we work hard to ensure that our system remains as safe and clean as possible. Our buses and trains are cleaned daily prior to roll out, and we continuously monitor our cleaning and sanitation protocols. Face coverings are required by all our patrons while riding our system. We have also instituted rear door entry to maintain a safe distance between our operators and our riders. We continue to service disabled patrons through the front door of buses and provide loading assistance as needed. Operators wear facial coverings and sit behind a barrier that separates them from our patrons. These barriers serve as added protection for the operators and the public. We have also increased sanitation operations to LA Union Station facilities and strengthened cleaning regimens at major transit hubs. This includes focusing on cleaning high touch point areas such as handrails and ticket vending machines. This strengthened regimen helps reassure our patrons that we continue to work hard to ensure their safety throughout their essential trips.

Unlike most Angelinos who were forced to work from home during this pandemic, many LA Metro employees had to continue reporting to work locations to provide public transportation for essential workers. While our agency encourages our employees to work from home where applicable, the essential workers continue to report to work facilities daily. The employees in our workers' compensation department fit into that category. The department is not paperless at this time, and working from home or telecommuting has presented many obstacles. While we have pushed out as many employees as possible to meet the physical distancing guidelines from the CDC, most employees returned to the office full-time because the workload became too burdensome. This shift led us to review our seating configurations within the office to ensure that the six-foot distancing requirements were met. Our employees are also required to wear face coverings anytime they are away from their desks.

Similar to most agencies, we have implemented additional tools to assist in the telecommuting process, such as utilizing Zoom, Skype and Microsoft Teams to schedule virtual meetings to assist in reasonable accommodation meetings and claim discussions. We have also implemented split shifts, which help minimize the number of personnel in the office at any given time. We enforce a maximum capacity of four people with face coverings on all elevators within LA Metro Headquarters. Our conference rooms are marked with a maximum capacity of people depending on the room's size to ensure physical distancing guidelines can be met.

Another adjustment we made during the pandemic is to allow employees to dress casual while in the office. This change has helped reduce the stress levels of our essential employees who must report physically to work, and our staff seems to enjoy casual dress.

We have witnessed many changes in the industry throughout our careers. However, we have never witnessed anything like this pandemic. It has brought about continuous challenges that we have had to adapt to in order to continue to support our operations to provide essential transportation to LA's first responders and essential workers.

It has been almost eight months since the pandemic outbreak in the United States, and we still do not know what the future brings or what the new norm will be. However, at LA Metro we know that our employees are steadfast and have proven their ability to stay committed to ensuring our injured employees get the medical care they need to get back to work and continue providing critical mass transit services for the public.

LAW OFFICES OF
SCHLOSSBERG & UMHOLTZ
A LAW CORPORATION

WORKERS' COMPENSATION DEFENSE

OFFICES SERVING ALL CALIFORNIA VENUES

WCAB LOCATIONS

- ANAHEIM
- BAKERSFIELD
- EUREKA
- FRESNO
- LONG BEACH
- LOS ANGELES
- MARINA DEL REY
- OAKLAND
- OXNARD
- POMONA
- REDDING
- RIVERSIDE
- SACRAMENTO
- SALINAS
- SAN BERNARDINO
- SAN DIEGO
- SAN FRANCISCO
- SAN JOSE
- SAN LUIS OBISPO
- SANTA ANA
- SANTA BARBARA
- SANTA ROSA
- STOCKTON
- VAN NUYS

We proudly provide training on the ever changing rules of the workers' compensation system to keep you up to date.

Please contact us to schedule your team's training today!

Email us at:
info@schlossberglaw.com

WWW.SCHLOSSBERGLAW.COM

Founded in 1998, Schlossberg & Umholtz operate offices throughout the state of California. Workers' compensation laws change continuously and each case uniquely requires personal analysis. You need a firm that can quickly answer all of your questions regarding the current California workers' compensation laws. Further, you need a firm that can apply the law specifically to your claims. We guarantee to be that firm for you, every step of the way.

Orange County Office
3050 Saturn Street
Suite 100
Brea, CA 92821
714-526-8460

Los Angeles Office
5200 W. Century Blvd.
Suite 380
Los Angeles, CA 90045
310-568-8460

Northern California Office
2570 N. First Street
2nd Floor
San Jose, CA 95131
408-432-8460

The Challenges and Benefits of Working From Home

BY SABRINA DARSEY

Transitioning to a remote workforce since the COVID-19 pandemic has impacted many companies. While working from home has become more mainstream in our industry, many employees were required to work from home with no experience in it. The coronavirus pandemic has forced many businesses to expedite and expand their work-from-home program without much notice. My employer, Athens Administrators, began closing their offices in March 2020 and shifted to an all-remote work environment. As a manager of our San Diego office, I had concerns about managing staff remotely. Like many leaders, I was faced with a new challenge of supporting, communicating with, and keeping staff engaged during a pandemic.

One of the most critical aspects to consider during sheltering-in-place was communication. How were we going to conduct our face-to-face meetings, file reviews, presentations, and RFPs? Athens had already been using video conferencing for internal and some external meetings, but this would be on a much grander scale. We have all learned so much more about video conferencing and telecommuting, whether we wanted to or not. We had to open our homes to our business colleagues, which many of us would have preferred to keep separate. Thank goodness for the virtual backgrounds! Even though video conferencing lacks personal connection and deprives us of the personal touch provided by in-person meetings, there are some positive aspects:

- It is definitely better than conference calls.
- It builds connections and allows for easy collaboration.
- It is cost-efficient and reduces travel time and costs. It is easier to jump on a video call than travel to a meeting.
- It has flexibility and allows people from different geographical locations to gather in one place.
- It saves time; the meetings don't go as long as in-person meetings.
- It is an effective alternative way to conduct meetings and collaborate.

Working from home takes some time to get used to. No one was prepared for the COVID-19 pandemic and how it has changed the way we work, but this experience has made us reflect on some pros and cons of remote work.

Pros of remote work are:

- Less time spent in traffic, reduced stress.
- Decrease in commute time and expense.
- More time with family.
- Fewer interruptions, small talk, meetings.
- More flexibility.

Cons of remote work include:

- No separation between home and work.
- Hard to switch off, separate private life from work life.
- No personal interaction with co-workers or clients.
- Limited communication.

One of the most challenging issues is keeping your staff feeling safe, mentally connected and engaged. For most people, change is not easy. How do we help them cope with the consequences of the coronavirus pandemic?

- Lead them through uncertain times.
- Be open and transparent.
- Maintain your company's culture.
- Hold virtual staff meetings.
- Offer flexibility.
- Check in with employees.
- Pick up the phone rather than send an email.
- Support their mental health and employee assistance programs.
- Find a balance between work life and personal life.
- Do things that make you happy: nap, garden, exercise, or meditate.
- Focus on the positive.

Finally, the most crucial consideration for companies amongst all of the above challenges is providing exceptional customer service and meeting your clients' needs during this uncertain time. How do you serve your clients during the COVID-19 pandemic?

- Check in regularly.
- Keep them updated.
- Know the challenges they face.
- Think about their needs and how you can help.
- Support them through changes they need to make.
- Round-table difficult situations; bringing everyone's knowledge together leads to the best results.
- Be creative.
- Provide solutions.
- Communicate with empathy and compassion.
- Put your best foot forward.

What will work look like going forward, and will we look at work and life in new ways? I am not sure what the future will hold, but we are resilient, and I believe we will find success and happiness if we continue to work together and support one another.

Sabrina Darsey
Division Claims Manager **Athens Administrators**
p: (619) 400-1451 f: (619) 374-2897 w: athensadmin.com e: sdarsey@athensadmin.com

Customer Service Is Our Specialty

"Everything we do is built around servicing our customer base – most of which take substantial risk with us. We don't have to be all things to all people. We can be laser-focused on that one type of buyer and that has allowed us to create some meaningful coverage enhancements in addition to value-added services in risk control and claims management."

– Tom Grove, Chief Business Development Officer

Tom Grove with members of Risk Services & Claims

Trusted
SAFETY NATIONAL
Since 1942

Proceed with Safety®

Workers' Compensation: Excess • Large Deductible • Large Guaranteed Cost • Defense Base Act • TEXcess®

Commercial Auto • Commercial General Liability • Umbrella / Excess Liability • Public Entity Liability • Cyber Risk
Loss Portfolio Transfers • Self-Insurance Bonds

This year has forced the workers' compensation industry to make major adjustments and adaptations to the way we operate, including how we communicate, protect our workforce, manage claims and provide the best treatment for injured workers. There is no going back to the way it once was and this evolution has only just begun.

Join us for the first-ever Out Front Ideas with Kimberly and Mark virtual conference, which will provide thought-provoking conversation on where we go from here. This two-day online event will feature top industry stakeholders providing various perspectives on the path forward for our industry.

SESSIONS AT A GLANCE (listed in Central Standard Time)

September 22:

10:00 am – The Path Forward: Industry CEO Perspectives

11:15 am – Navigating the Constant Evolution of Accommodation & Leave Laws

12:30 pm – The State of the Commercial Insurance Marketplace

01:30 pm – Collaboration Sessions

September 23:

10:00 am – The Future of Risk Management

11:15 am – Mental Health Issues in the Workplace: A Mounting Threat

12:30 pm – Adjusting & Adapting the Claims Handling Model

01:30 pm – Collaboration Sessions

View full descriptions and speaker listings for each session. Click here for details.

There is no cost to register and space is limited, so reserve your seat today!

REGISTER NOW!

What to Expect When You're Not Expecting

A QUICK STUDY OF HOW SB 1159 INCREASES EMPLOYER AND CLAIMS ADMINISTRATOR RESPONSIBILITIES

BY BRENNA E. HAMPTON

Update: At the time of writing, SB 1159 was expected to be signed by Governor Newsum. As of publication, the bill is still pending.

As part of a Senate session that extended past the midnight hour on August 31, 2020, SB 1159 was passed. Two additional bills that would have expanded the presumption - AB 196 and AB 664 - did not go through. While many in the California workers' compensation community long expected the Legislature to implement a workers' compensation presumption related to COVID-19, most did not expect the bill to have such teeth. Now that the bill has been signed into law, employers and claims administrators should take note of specific provisions such as those with potential to impose civil penalties on employers and requiring claims administrators to identify outbreaks.

SB 1159 contains several sections, three of which contain presumptions that apply to different groups of employees and with different rules as to how each presumption will be triggered.

Section 4 in particular includes new reporting requirements for employers with possible civil penalties, as well as new obligations of claims administrators, who are now tasked with using the employer-reported information to identify when an "outbreak" has occurred.

SECTION 1: MANDATORY REPORTING

Section 1 mandates special reporting by the Commission on Health and Safety and Workers' Compensation on COVID-19 and the new Regulations created by SB 1159 and their impact on the workers' compensation system to the Legislature by December 31, 2021.

SECTION 2: DATES OF INJURY 3/19/2020 – 7/05/2020

Section 2 creates new Labor Code Section 3212.86. This applies to dates of injury through 7/05/2020 and codifies the Executive Order (N-62-20) of May 6, 2020 wherein the Governor created a rebuttable presumption of industrial injury via COVID-19 for employees who performed work at an employer's direction (not at the employee's home or residence) between 3/19/2020 and 7/05/2020, and tested positive or were diagnosed within 14 days of their last day of work.

The Executive Order did not distinguish between types of employees but applied to all employees in one of 16 critical infrastructure segments.

Date of injury is clarified in the statute to be the last date on which the employee worked. If a diagnosis within 14 days of last worked date is used, it must be made by an MD, DO or state-licensed physician assistant or nurse practitioner, appropriately supervised. Testing must be confirmed within 30 days following diagnosis.

Compensation that is awarded for injury pursuant to this section shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

Temporary disability (TD) rules remain consistent with the Executive Order (N-62-20), with a need to exhaust supplemental sick leave and no waiting period for TD. Certification must be provided every 15 days for the first 45 days after diagnosis. Employers with MPNs in place may require certification for TD by an MPN physician absent valid pre-designation by the employee.

This section carries a 30-day discovery period. The Death Without Dependents Unit/ DIR to waive collection rights.

Section 3212.86 applies to all pending matters unless specifically addressed elsewhere by SB 1159, including pending claims relying on the Executive Order N-62-20 (5/06/2020), and this section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SECTION 3: FIRST RESPONDERS AND CERTAIN HEALTH CARE WORKERS

Section 3 adds Labor Code Section 3212.87. This applies to specific first responders, including but not limited to active firefighting members and peace officers, which are commonly covered by other presumptions. What makes this section interesting, and likely relevant with regard to COVID-19, is extension of the rebuttable presumption beyond first responders to include certain employees who provide direct patient care, or custodial employees in contact with COVID-19 patients, who work at a health facility, as a registered nurse, emergency medical technician I or II, paramedic, or who provide direct patient care for a home health agency.

For employees covered by Section 3, COVID-19 is presumed industrial for the first responders and health care workers covered by Section 3 where the date of injury is on or after 7/06/2020 AND the Employee

tested positive for COVID-19 within 14 days after a day they worked at the employee's place of employment at the employer's direction. The "date of injury" is clearly defined in this section as "the last date the employee performed labor or services at the employee's place of employment at the employer's direction prior to the positive test."

Compensation includes full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

Temporary disability and sick leave administration remain the same as in Section 2.

Section 3 adds a post-termination provision whereby employees covered by Section 3 (first responders and certain health care workers) receive the benefit of this presumption for up to 14 days following termination of service, starting with the last date they actually worked at the employee's place of employment (not based on the end of the employment relationship).

Section 3 creates a rebuttable presumption with a 30-day discovery period from filing of the claim form. Specific testing required – PCR or FDA-approved test. Does not include antibody testing.

The DIR to waive benefits otherwise payable to the Death Without Dependents Unit. This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SECTION 4: OUTBREAKS - ALL EMPLOYEES OTHER THAN FIRST RESPONDERS AND CERTAIN HEALTH CARE WORKERS

Section 4, the "Outbreak" section, adds Labor Code Section 3212.88, which can apply to any employee other than a first responder or health care worker covered by the presumption in Section 3/LC 3212.87, who tests positive during an outbreak at the employee's specific place of employment, and whose employer has five or more employees. If the presumption for an "outbreak" does not apply, the employee may still prove up injury by a preponderance of the evidence.

Section 4 creates a rebuttable presumption that COVID-19 was industrial. Unlike Sections 2 and 3, however, Section 4 implements a slightly longer 45-day discovery period.

Similar to Section 3, there is a post-termination clause in which the presumption extends for up to 14 days after the last date actually worked.

Section 4 of SB 1159 is different than the other presumptions in the creation of specific employer reporting obligations. Specifically, when the employer "knows or reasonably should know that an employee has tested positive for COVID-19," the employer shall report to their claims administrator in writing via electronic mail or facsimile within three business days all of the following:

(1) An employee has tested positive. For purposes of this reporting, the employer shall not provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless the employee asserts the infection is work related or has filed a claim form pursuant to Section 5401.

(2) The date that the employee tests positive, which is the date the specimen was collected for testing.

(3) The specific address or addresses of the employee's specific place of employment during the 14-day period preceding the date of the employee's positive test.

(4) The highest number of employees who reported to work at the employee's specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment. There is a limited exception to this for claims on or after July 6, 2020: employer must report on any given work day between July 6, 2020, and the effective date of this section.

Civil penalties can arise for an employer's intentional misrepresentation or failure to submit information when so required. There are detailed provisions for notices of violation, investigation and appeal, with up to ten thousand dollars ($10,000) to be assessed by the Labor Commissioner.

> …THE EXPANSION OF PRESUMPTIONS FOR EMPLOYEES BEYOND FIRST RESPONDERS IS A MARKED DEPARTURE FROM PREVIOUS PRESUMPTIONS. WHILE HIGHLY RELEVANT TO THE SPECIFIC COVID-19 PANDEMIC, THIS OPENS THE DOOR FOR FURTHER PRESUMPTIONS AS MAY BE DETERMINED BASED ON POLITICS AND CIRCUMSTANCE. THIS BILL DOES NOT, HOWEVER, PROVIDE MUCH TIME FOR WORRYING ABOUT THE FUTURE AND EMPLOYERS AND ADMINISTRATORS WOULD BE WELL-ADVISED TO CIRCLE THE WAGONS NOW TO CREATE MEANINGFUL PROCEDURES FOR RECORD-KEEPING AND REPORTING IN COMPLIANCE WITH THESE NEW RULES.

For the Section 4 "outbreak" presumption to be triggered, all of the following must apply:

- Date of injury is on or after July 6, 2020.
- The date of injury shall be the last date the employee performed labor or services at the employee's place of employment at the employer's direction prior to the positive test.

(1) Employee tests positive for COVID-19 within 14 days after a day that the employee performed labor or services at the employee's place of employment at the employer's direction.

(2) The day referenced in paragraph (1) on which the employee performed labor or services at the employee's place of employment at the employer's direction was on or after July 6, 2020.

(3) The employee's positive test occurred during a period of an "outbreak" at the employee's specific place of employment.

What and who determines if there's been an outbreak? The claims administrator! The claims administrator is to utilize the employer-reported information and measure the number of employees starting with the first employee to test positive as part of an outbreak. **An "outbreak" exists if** *one of the following* occurs at a specific place of employment within a 14-day period:

(A) If the employer has 100 employees or fewer at a specific place of employment, 4 employees test positive for COVID-19.

(B) If the employer has more than 100 employees at a specific place of employment, 4 percent of the number of employees who reported to the specific place of employment test positive for COVID-19.

(C) A specific place of employment is ordered to close by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health, or a school superintendent due to a risk of infection with COVID-19.

"A specific place of employment" means the building, store, facility, or agricultural field where an employee performs work at the employer's direction. It does not include the employee's home or residence, unless the employee provides home health care services to another individual at the employee's home or residence.

What if the employee worked in multiple locations for the same employer? In the case of an employee who performs work at the employer's direction in multiple places of employment within 14 days of the employee's positive test, the employee's positive test shall be counted for the purpose of determining the existence of an outbreak at each of those places of employment, and if an outbreak exists at any one of those places of employment, that shall be the employee's "specific place of employment."

The claims administrator shall use the information reported under this paragraph to determine if an outbreak has occurred from July 6, 2020, to the effective date of this section, for the purpose of applying the presumption under this section. This requires retroactive analysis in all pending claims.

A claim is not part of an outbreak if it occurs during a continuous 14-day period where the requisite number of positive tests under paragraph (4) of subdivision (m) have not been met. For purposes of applying the presumption in this section, the claims administrator shall continually evaluate each claim to determine whether the requisite number of positive tests have occurred during the surrounding 14-day periods.

Similar to the other sections of SB 1159, compensation is to include full hospital, surgical, medical treatment, disability indemnity, and death benefits. Additionally, temporary disability and 4850 benefits are subject to the same requirements as other sections: there is no waiting period, periodic recertification within the first 45 days of diagnosis is required, and supplemental sick leave benefits for COVID-19 must be exhausted first.

Some light is provided to employers in that evidence relevant to controverting the presumption may include, but is not limited to: (1) Evidence of measures in place to reduce potential transmission of COVID-19 in the employee's place of employment and (2) Evidence of an employee's nonoccupational risks of COVID-19 infection.

Applies to all pending matters, unless otherwise specified in this section, but is not a basis to rescind, alter, amend, or reopen any final award of workers' compensation benefits.

This section shall remain in effect only until January 1, 2023, and as of that date is repealed, but the impact could be much longer lasting in terms of the precedent set with these provisions. First, the expansion of presumptions for employees beyond first responders is a marked departure from previous presumptions. While highly relevant to the specific COVID-19 pandemic, this opens the door for further presumptions as may be determined based on politics and circumstance. This bill does not, however, provide much time for worrying about the future and employers and administrators would be well-advised to circle the wagons now to create meaningful procedures for record-keeping and reporting in compliance with these new rules.

Brenna Hampton is San Diego Office Managing Partner and California State Bar Association certified workers' compensation specialist at Hanna Brophy. She can be reached by email at bhampton@hannabrophy.com or by phone at 951-318-0368.

Lessons Learned About Return-To-Work

BY ROSIE ALVAREZ, SENIOR RETURN TO WORK ANALYST AT NETFLIX PRODUCTION RISK & INSURANCE

I've been fortunate to have gained a fair amount of experience across various fields – Human Resources, Leave Management, Return To Work (RTW), and Reasonable Accommodation. Two years ago, I decided to transition into the exciting world of production and accepted a role within Netflix to lead return-to-work efforts for the workers' compensation department. I've grown very passionate about helping injured workers succeed on the job while healing from their injuries. Along the way, I have gained a better understanding and appreciation of the challenges that an injured worker experiences while attempting to return to work after an injury.

Returning to work involves more than making accommodations for an injured worker's physical limitations. It's essential to keep the injured worker engaged by having constant communication and addressing all their concerns in a timely manner. It's to the benefit of the injured worker that their supervisor fully understands how they can best support them while healing from their injury. Employers and employees can benefit from encouraging employees who have been injured to get well and return to work as soon as possible. Return-to-work/light duty positions can help facilitate an employee to be able to stay at work while recovering from his or her illness or injury.

I now have a new appreciation for RTW matters. It's fulfilling knowing that I'm making a difference in someone's life by relating to their needs. My time on the claims side of the fence as an adjuster allowed me to thoroughly understand how quickly things can get convoluted and therefore very confusing for the injured worker. It is a great feeling to be able to walk employees through the process, step by step, and be an advocate.

I've learned that some employers have a misconception or completely overlook the need to discuss their RTW programs and philosophy upfront, and before an injury takes place. A proactive educational approach can help ensure the efficacy of an RTW program through increased collaboration by the injured worker and every stakeholder involved in the claims process. Instead, workers may see RTW as a reflection of their employer's lack of concern about their injury or physical limitation. Injured workers feel that their recovery is not the most important factor to their employer. This feeling is only intensified if their employer is seemingly more concerned about rushing them back to work and discontinuing TTD benefits.

After working with injured workers for so many years, I fully understand why it's crucial for employers to consider taking a proactive approach to RTW education. Informing workers of the health benefits, both physical and psychological, of work and the negative effects of absenteeism will go a long way to making employees feel like their well-being is always the utmost priority. Providing meaningful modified or transitional work helps employees feel like a productive member of society, and it speeds recovery and improves outcomes.

It's worth noting that partnership and collaboration is critical for a successful RTW program. An employer must get to know their service providers in the workers' compensation program to ensure they share the same philosophy and values. An excellent example of fostering a strong partnership and collaboration in the clinical arena involves an employer taking the time to do a site visit at a medical provider's clinic that actively treats their injured workers. This is important to ensure that the provider hears directly from the employer about company culture and clearly understands the physical demands of each position within the company. Partnership and collaboration enable meaningful dialogue around RTW and your perception of the value it provides your employees.

The implementation of a comprehensive and collaborative return-to-work program can appear to be complex and challenging. However, if an employer takes the time to engage the injured workers and understand their concerns and takes an advocate role and a proactive approach, you'll have a successful return-to-work program.

Our employees are our most important asset. If an employee sustains a workplace injury, the goal should be to minimize preventable absences with the employer and bring the employee back to work in a safe manner. We employers need to be committed to supporting our employees throughout the workers' compensation process.