

Sending Your Employees Into Battle: Coordinating Care for Government Contractors in Conflict and Post-Conflict Zones



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There are few instances when risk management, legal, finance and human resources all need to be on the same page. One of the most critical examples of this nexus may be found when companies are deploying their most valuable assets—their employees—overseas into either hostile or remote areas of the world.

Until recently, Federal Government Contractors, Non-Governmental Organizations (NGOs) and other companies operating in countries such as Iraq and Afghanistan were able to depend on the U.S. Military for medical treatment and evacuation assistance. As the number of contractors rapidly multiplied, the Armed Forces resources strained under the weight of sustaining a civilian population that was quickly rivaling its own. In addition, the move into nontraditional theaters such as Central and Eastern Africa has created a need to locate and procure “first-world” medical care and accessible evacuation services.

Now that companies are essentially “on their own” with respect to treatment and evacuation of their employees in nonlife threatening circumstances, risk managers, HR professionals and other executives must examine how their international insurance policies, which can provide payment for and access to medical and repatriation services, will respond in the wake of a crisis.

Risk and HR professionals are increasingly aware that they could be

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caught off-guard by “that phone call at three in the morning” from an overseas deployment that required immediate action in terms of securing local medical care, evacuation to more modern treatment facilities or perhaps worse. For example, some Government Contractors have had to learn on the fly and were not certain if they needed to call their Defense Base Act (DBA) provider, the Personal Accident/Business Travel Accident (BTA) insurer or a third-party international travel company that includes evacuation services as part of their contract. Some of these organizations even needed to take matters into their own hands and arrange for emergency transportation without military or insurer assistance.

Where companies in the past had been able to rely on traditional programs such as DBA, International Medical, Personal Accident/BTA, Life Insurance and Kidnap and Ransom to somehow cover the costs of employee emergencies outside the United States, management now needs to take a more proactive approach to providing a “holistic” approach to protecting their OCONUS (Outside the Continental United States) employee base.

Prior to the Iraq War, DBA was considered an obscure U.S. Longshoremen and Harbor workers (USL&H) rider to Workers’ Compensation programs that rarely generated any claim activity. Since 2003, DBA has achieved notoriety and unprecedented Government scrutiny due to its high rates, limited carrier participation and heavy claims activity. While DBA is required on U.S. Federal Government contracts conducted overseas, there are two important issues that should be recognized by Risk Managers and HR

professionals that demonstrate that it may not be the panacea for all international accidents, injuries or illnesses.

First, any contracts with or work for sovereign foreign governments and organizations without U.S. involvement or funding would implicate Foreign Voluntary Compensation versus DBA. This is a very important distinction in that the War Hazards Compensation reimbursement available to insurers under DBA is not a viable remedy under Foreign Voluntary Compensation. Underwriters have indicated to us that they are very reluctant to provide this cover without the War Hazards safety net. Rates for Foreign Voluntary Compensation may trend in a similar upward trajectory to what DBA experienced as insurers feel their way through the appropriate pricing methodology. Because this transformation from DBA to Foreign Voluntary Compensation for hazardous deployments is so new, there is no credible claims information to provide guidance for insureds and insurers (and their actuaries) on correct pricing methodologies.

Second, companies have seen a rise in nonwork-related injuries and illnesses finding their way into their DBA claims experience. Recently, I reviewed a program and their nonwork-related injuries and illnesses totalled 12 percent of the claims and 15 percent of the dollar value of claims. Most often, any nonoccupational claims are properly denied. However, the emergence of this trend indicates that clients are unsure as to what exactly constitutes a DBA claim or that there is inadequate International Medical cover in place to assist employees. In either instance,

companies need to proactively determine which program is triggered and where claims should be reported in order to expedite treatment and payment, often a single occurrence depending on the country. We would recommend that these organizations work closely with their broker to design a streamlined approach to coordinated medical care.

The maze of International Benefits can be difficult for companies and their employees to navigate. One of the first questions employees typically ask of their HR professional prior to deployment is how, if at all, their domestic medical coverage will work while they are traveling outside the U.S. Add to the mix, perhaps, an International Medical plan or potential DBA coverage for occupational injuries or endemic disease and confusion often ensues, and “what ifs” and various scenarios replace a productive and reassuring dialogue. HR professionals should always be aware of any locations where their employees are to be deployed where medical providers could require prompt payment either up-front or upon discharge and how the company’s insurance provider(s) can help to manage those scenarios.

Personal Accident or Business Travel Accident (BTA) coverage for employees traveling to “conflict, post-conflict or other unstable environments” requires considerable attention from Risk and HR. Insurers usually charge higher rates for war risk cover and require strict reporting of travel exposure. Companies should verify that their BTA program contains the appropriate war risk rider, in addition to ensuring that countries of travel are not excluded. In addition, we recommend that companies work with their brokers to arrange suitable reporting and payment requirements. Retrospective or post-policy additional premium audits can be a substantial hit to the profitability of certain contracts, especially those that are fixed price. An allocation issue could also arise if the contract that needs to be billed no longer is active. We also recommend that these types of policies are reviewed every two to three years to ensure that pricing is competitive, and that coverage is comprehensive and appropriate.

One of the worst kept secrets of any risk management portfolio is the Kidnap and Ransom (K&R) policy. While details of the limits and coverage terms are often kept under wraps, its existence amongst larger companies is a well-known fact. Fortune 500 companies often debate the need for a policy, given cash on hand for extortion or ransom payments. However, the most important aspect of any K&R policy is the availability of crisis consulting or hostage negotiation services. The competitive premiums for high limits, broad terms and multi-year policies create a compelling cost-effective alternative to engaging crisis firms on an ad hoc basis. We strongly recommend that companies reexamine their K&R program to ensure that it is tailored to match employee deployments. In addition, the third-party consulting provided as part of the program should not be shelved until an actual crisis arises. These firms also provide important pre-deployment risk mitigation training and country alerts that should be considered, especially when entering new parts of the world.

A common thread among all of these programs that is often overlooked is coverage for (and assistance services related to) emergency medical evacuation. One could argue that there is some form of evacuation or repatriation coverage as part of each of the aforementioned policies. But the question that always seems to arise is “which policy responds to what incident?” Other queries include, “what happens if there is political instability?” or “how do I get my employees out of country during a natural disaster?” Another important consideration is whether an evacuation service can even obtain landing permission in or appropriate aircraft for certain areas. These are not questions that should wait to be answered until an organization experiences a crisis.

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The good news is that there are companies that specialize in evacuation and repatriation services such as ISOS, AIG Assist, Zurich Assist, alfaevac, etc. However, companies should recognize where these services may be embedded in current programs and which may need to procure a la carte. The only certainty is that the U.S. Military is getting out of the evacuation business for U.S. Government Contractors.

Because of the multitude of options available to U.S. companies doing business overseas, Lockton recognizes the need to take a holistic or “big picture” approach to coordinating the various disciplines involved in protecting our clients’ employees while deployed. We are actively engaging insurers, evacuation providers and crisis management/threat assessment organizations to work toward a “total solution approach.” Whether it is one insured product that contains all the necessary components or a coordinated portfolio of providers and resources working in concert with our clients, Lockton is bringing together our Property and Casualty, Employee Benefits and Management Liability resources to better advise and serve our clients.

We recommend that risk management, legal and contracts professionals work with the contracting agency to determine any potential medical care and evacuation services available from the U.S. Government. In addition, companies may also find out through this diligence that they are now also responsible for their own protection (e.g., engaging private security details). This is an important distinction that will not only impact the safety of a company’s people, but also bring into play how employing a private security firm could potentially impact the organization’s Commercial General Liability and/or Professional Liability exposures.

This “holistic” approach will only succeed if companies’ risk, legal, finance and HR all work toward the common goal of a coordinated solution for protecting their most important assets deployed in dangerous or remote parts of the world.



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