For employers who are covered by both OSHA’s Recordkeeping rules and Workers’ Compensation insurance, it can be a challenge to know if a work-related injury or illness requires reporting or recording. Although most work-related injuries meet the reporting criteria of both systems, there are exceptions. This white paper highlights the most common disconnects between the two systems.

OSHA is a Federal agency whose rules apply to most US private sector employers.

Workers’ Compensation is regulated at the state level and involves varying contractual agreements between insurance carriers and employers.

Why are there two systems for counting work-related injuries and illnesses?

At the time OSHA was created, the variation among state Workers’ Compensation systems and the absence of an aggregated collection of that data resulted in Congress providing OSHA with a core purpose of establishing a standardized reporting system to “accurately describe the nature of the occupational safety and health problem . . .”

OSHAct of 1970 §2(b)(12)
OSHA Recordkeeping is based on regulations that emphasize safety-relevant data collection and have uses for OSHA inspectors, the Bureau of Labor Statistics, and employees, in addition to employers. Workers’ Compensation is a form of no-fault insurance designed to provide compensation to injured workers for wage replacement and medical and rehabilitative expenses. Claim listing details usually emphasize financials more than safety-related content.

OSHA’s Log of Work-Related Injuries and Illnesses covers all workers in a given establishment who are supervised by the host employer. Under OSHA, injuries to contracted or temporary employees are recordable by the supervising employer, regardless of whose Workers’ Compensation insurance applies. Because Workers’ Compensation insurance is the responsibility of the employer, who an injured employee works for is a primary claim adjustment criterion. Contracted or temporary employees, for example, are not usually covered by the Workers’ Compensation insurance of the host employer.

OSHA has non-negotiable criteria for recording work-related injuries and illnesses, such as medical treatment beyond first aid, listed significant injury and illness types, and conditions that exceed a listed illness threshold. These criteria apply regardless of who provides the related medical service or determines the medical condition. Therefore, an event in which a medical provider provides first aid-type treatment would not be considered OSHA-recordable, even if performed repeatedly. The same principle applies for diagnostic services or observation by a medical provider. A Worker’s Compensation claim could be opened for the medical expenses in these circumstances.

WHERE IT GETS CONFUSING

Medical Treatment

OSHA requires recording medical treatment, but not first aid. OSHA does not consider prescription medication administered solely for diagnostic purposes to be medical treatment, and therefore, is not a recordable case. Use of non-prescription medication at a non-prescription dose is considered to be first aid, and therefore, is not recordable. The converse of either statement would require recording the case. Workers’ Compensation would normally cover the medication cost used or prescribed by a healthcare provider, regardless of intent or dose.
When Could a Workers’ Compensation Claim Not Be OSHA Recordable?

Employers with low claim reporting thresholds may report cases to Workers’ Compensation which OSHA does not consider recordable, such as “notice, only”-type events involving pain or other symptom that does not necessarily result in medical referral or lost or restricted work. Employers who practice this “report everything” approach are usually trying to avoid late reporting consequences that can increase the cost of a claim. These cases are normally not captured by the OSHA Recordkeeping system, unless they develop into more consequential events.

OSHA excludes from its understanding of “work-related” nine listed circumstances, including:

- When an employee is injured doing personal tasks
- Participating in a volunteer activity
- Acting in the role of a member of the public
- Suffering from an idiopathic condition/illness
- Parking lot injuries if the employee is commuting at the time of a motor vehicle accident.

Whether any of these circumstances would be compensable under Workers’ Compensation varies by jurisdiction. OSHA and Workers’ Compensation may also diverge in regard to applicability to travel status, working from home, and degree of aggravation of a pre-existing injury.

When Could a Case be OSHA Recordable but Not Require a Workers’ Compensation Claim?

If an employer has in-house medical resources, for example, they may provide medical treatment (which is OSHA-recordable), but if no lost time results, a Workers’ Compensation claim may not be opened. Employers with high claim reporting thresholds may not report a low severity claim, but those cases may be otherwise recordable. Some listed recordable conditions, such as a hearing loss of 25 dB accompanied by a standard threshold shift, may not have a related Workers’ Compensation claim.


How Do You Classify Cases and Count Days?

OSHA’s log provides check boxes for “Injury,” four types of illness, and “All other illnesses.” These classifications, plus other check boxes for “Days away from work” or “Job transfer or restriction,” have OSHA meanings that may not align with the terms used in Workers’ Compensation. For example, if an employee cannot work the day after an injury, OSHA considers that to be a day away from work. OSHA counts calendar days in which an employee is unable to work.

Workers’ Compensation would not consider that outcome to be a lost time case until after the waiting period in that jurisdiction has been exceeded. Workers’ Compensation covers only work days missed. Cases that result in restricted time count against the employer in OSHA’s severity rate calculations, while providing alternative work to an injured employee is viewed as a cost containment measure in Workers’ Compensation.

Importance of Knowing the Differences

Both systems require accurate data to function as intended. Updating two systems with overlapping but different criteria can result in errors. OSHA’s Data Initiative collects site-level logs from employers in certain industries which increases the probability of inspection at those locations. A proposed rule would require employers with over 250 employees, or who meet other criteria, to submit their logs electronically to OSHA on a quarterly basis. Not only would that change provide real-time data for OSHA purposes, but the data would be made public—visible to customers, competitors, insurers, unions, and other interests. Claims not reported to the Workers’ Compensation insurer in a timely manner commonly result in higher costs because of communication gaps, lack of provider coordination, and a higher level of attorney involvement. Knowing the differences between the two systems facilitates accurate reporting and recording which should keep employers on the favorable side of both systems.

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