Seven Ways Employers Can Reduce the Number of Workers’ Compensation Claims Involving an Attorney

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Attorney involvement in workers’ compensation claims drives up the cost for the employer and can reduce the value payout of the claim for the employee. Across the US, 44 percent of all lost-time claims had attorney involvement. The median cost of a lost-time claim including attorney involvement is 4.25 times higher than a lost-time claim without attorney involvement.

PERCENTAGE OF CLAIMS WITH ATTORNEY INVOLVEMENT

<table>
<thead>
<tr>
<th></th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Claims</td>
<td>15%</td>
</tr>
<tr>
<td>Lost-Time Claims</td>
<td>44%</td>
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</tbody>
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What Cost Factor Is Associated With Your Company’s Location?

While each case is unique, some state jurisdictions generally have more attorney involvement. The U.S. Chamber Institute for Legal Reform ranks states’ tort liability systems. Lockton’s InfoLock® Database provides the frequency of attorney involvement and associated costs for Lockton clients’ workers’ compensation programs.

The table below groups states by their 2012 U.S. Chamber Institute for Legal Reform Lawsuit Climate Report (www.instituteforlegalreform.com/states) overall rankings (1=best; 50=worst) and shows average settlement costs with and without litigation. It also includes a cost factor to be applied to claims within these jurisdictions.

<table>
<thead>
<tr>
<th>Ranking</th>
<th>States based on Overall Rankings of 2012 State Liability Systems Survey*</th>
<th>Frequency of Attorney Involvement</th>
<th>Median Settlement Cost for Lost-Time Claims</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>All Claims</td>
<td>Lost-Time Claims</td>
</tr>
<tr>
<td>1–10</td>
<td>Delaware, Nebraska, Wyoming, Minnesota, Kansas, Idaho, Virginia, North Dakota, Utah, Iowa</td>
<td>11%</td>
<td>36%</td>
</tr>
<tr>
<td>11–20</td>
<td>South Dakota, Maine, Alaska, Indiana, Wisconsin, Vermont, Arizona, New York, Massachusetts, North Carolina</td>
<td>10%</td>
<td>34%</td>
</tr>
<tr>
<td>31–40</td>
<td>Rhode Island, New Jersey, Maryland, Missouri, Arkansas, Texas, Nevada, Kentucky, South Carolina, Pennsylvania</td>
<td>16%</td>
<td>44%</td>
</tr>
<tr>
<td>41–50</td>
<td>Florida, Oklahoma, Alabama, New Mexico, Montana, Illinois, California, Mississippi, Louisiana, West Virginia</td>
<td>19%</td>
<td>51%</td>
</tr>
</tbody>
</table>

*Note: excludes Washington, DC

Analysis includes all closed US workers’ compensation claims in Lockton’s InfoLock® P&C Database with accident years 2005 through 2010, excluding report-only claims, valued as of June 30, 2014.
What drives injured employees to hire an attorney?

Simply stated—fear. The vast majority of individuals depend on their job for survival and ability to care for their family. When an injury disrupts their ability to work, it can be scary. Fears may include:

- Loss of job or current position.
- Denial of the claim.
- Ability to work in the future.
- Fear of not recovering to preinjury health status.
- Benefits from the injury (disability benefits and/or medical treatment) will not be received in a timely manner.
- Embarrassment from having an injury or having worked unsafely.

What can employers do to reduce the number of workers’ compensation claims that involve an attorney?

**Prevention.** While not all injuries can be avoided, having a safety program in place can reduce the overall number of injuries and workers’ compensation claims at your company.

**Caring Company Culture.** When you are a company that cares about employees, people want to work for you and injured employees will want to return to work after an injury.

**Clear Policies and Procedures.** All employees and managers should know how to report claims, what to do if an injury occurs, where to seek medical treatment, and that the company treats employees kindly when they get hurt. Knowing what to expect prevents fear of the unknown.

**Positive Communication.** Reach out to injured employees to let them know that they are missed and that the company is there to help.

Return-to-Work/Transitional-Duty Programs. The fewer days the employee is away from work, the lower the cost of the claim. Employees will also benefit from not allowing their health insurance or other benefits to lapse. Employees should know that the company policy is to provide transitional duty in most situations.

**Claims/Injury Management.** Ensure that the employee is receiving the care he or she needs, both from the treating physician and your insurer/claims administrator. Unpaid medical bills and delays in treatment are known to lead to litigation. By advocating for the employee, he or she will not need to hire an attorney to act on his or her behalf.

**Train Supervisors and Managers.** Train supervisors and managers how to talk to injured workers, coordinate with other leave programs, and provide appropriate transitional duty.

There will always be some cases, particularly those involving severe injuries, where an attorney will be involved. With the proper procedures in place, that number can be reduced, helping both the employer and employee. Your Lockton team can help you improve your business by building a strong workers’ compensation claims program.
Our Mission
To be the worldwide value and service leader in insurance brokerage, employee benefits, and risk management

Our Goal
To be the best place to do business and to work