



Workers' Compensation

Risk Control





Workers' Compensation costs continue to escalate. Technology and legislative pressures have altered the health and safety landscape for employers like you, who must meet the challenges of the aging workforce and continually improve productivity. The United States Bureau of Labor Statistics indicates that in 2000, workers age 55 and over accounted for 13% of the workforce. By 2020, this group is expected to account for 20%.¹ Canadian statistics indicate a similar trend. In 2001, about 15% of the workforce stood within 10 years of retirement. By 2011, it is expected that nearly a fifth of Canadian baby boomers will be at least 61.

¹Toossi, Mitra, "A Century of Change: The U.S. Labor Force, 1950-2050," *Monthly Labor Review*, May 2002, U.S. Bureau of Labor Statistics.

Whether you own a small business or operate a large enterprise, you have complicated workplace risks. Today, employers meet stronger social obligations for healthy work environments. There are multiple constraints for sufficient insurance coverage. Claim processing is the tip of the iceberg for employee safety and health.

These complicated challenges pose many questions:

- What is the business impact for getting workers back to work as soon as medically permissible?
- How does managed care reduce medical costs?
- Does your health and safety program start with the first day on the job?
- Why do injured workers straddle between Workers' Compensation and disability claims file under the ADA (Americans with Disabilities Act)?
- Why are customers demanding to understand your operations prior to purchasing your products?

Maintaining profitability in light of these challenges requires a *Triple Bottom Line* Workers' Compensation strategy — one that addresses:

- Strengthening employee hiring practices.
- Managing injury/illness in the workplace.
- Creating an effective workplace health and safety organization for your employees and customers.



CNA's *Triple Bottom Line* approach to Workers' Compensation can help prevent accidents and control workplace injuries/illnesses. Our *Triple Bottom Line* approach communicates a strong commitment to employees, their families, your customers and the community.

This strategy equates to:

- Clear and consistent business communication.
- Fair and efficient labor practices.
- Lower healthcare and Workers' Compensation costs.
- A more productive aging workforce.
- Improved employee wellness.
- Improved plant operations and customer satisfaction.
- Assistance with defense planning against product liability claims.
- A commitment to meeting your corporate social responsibilities.

Workers' Compensation Law – The Basics

State Workers' Compensation systems are in place to help compensate employees for work-related accidents, which may involve rehabilitating injured employees and/or minimizing personal accident losses.

It involves:

- Compensation for the injured person.
- Rehabilitation (e.g., proper medical care, vocational rehabilitation and reasonable accommodations for the individual with a disability).
- Cost allocation among employers and industries according to losses.

Each condition has parameters that are a result of the person's injury and its impact on returning to work. A serious injury is the result of any accident in which a worker suffers a fatality, loss of a limb or serious disfigurement. It also covers greater than 24 hours of hospitalization for more than medical observation.

A collaborative managed-care team should focus on the worker and the work. For CNA customers, the "work" team consists of medical case managers, vocational rehabilitation experts and risk control consultants. Running parallel to the medical care is a work plan. A work plan modifies the jobs and/or designs employee accommodations, as needed. CNA professionals maintain regular updates (to the plan) and determine the claim compensability.

The employee's role is to report claims early. This facilitates medical treatment and reduces the likelihood of lost time. Employees should follow their physicians' directions, i.e., assigned medical and return-to-work plan, to avoid possible rejection of claims.

Spotting Fraud and Abuse

Not all workers abide by the spirit of Workers' Compensation and the associated costs are borne by the employer.

Evidence of waste, fraud and abuse can happen with many parts of this compensation system. The National Insurance Crime Bureau reports that Workers' Compensation fraud costs the insurance industry \$5 billion each year.

Following are some instances that could indicate abuse:

- The person filing the claim is often not at home or unavailable by phone.
- Their address is a post office box or the person has moved out of state.
- The injury coincides with a layoff, termination or plant closing.
- The person filing the claim has another job (or trade skill) or a full-time avocational activity.
- The rehabilitation report contains evidence that the person filing the claim is maintaining an active life.
- No organic basis exists for disability.
- The person filing the claim appears to have made a full recovery and has not returned to the job.
- There are no witnesses to the accident.
- The person filing the claim has a prior history of filing.
- Doctors' reports are contradictory.
- A soft-tissue injury is claimed to have produced a long-term disability.

Preplanning for Your Triple Bottom Line Approach to Workers' Compensation

To be proactive you must anticipate risks. This requires knowledge about your labor force, operations with their associated risks and worker capacity. The CNA Risk Model can help to identify the following work risks:

- **Musculoskeletal exposures** — According to the National Safety Council (NSC), almost 31% of all work injuries are caused by overexertion.¹
- **Bruises, contusions and lacerations** — According to the NSC these are the next most frequent injury causes.¹
- **Slips, trips and falls** — The NSC classifies falls as approximately 17% of injuries.¹
- **Job stress** — According to the National Institute for Occupational Safety and Health, job stress is “the harmful physical and emotional responses that occur when the requirements of the job do not match the capabilities, resources or needs of the worker.” Corporations tend to view stress as a personal problem, rooted in an employee’s lifestyle, psychological makeup and personality. Unions often view stress as the result of excessive work demands, poor supervision or conflicting job demands. Shift work, stress and safety usually go hand in hand.
- **Mechanical hazards** — e.g., improper machine guards, cluttered aisles, electrical hazards, life safety hazards and pressure hazards.
- **Occupational health hazards** — e.g., airborne contaminants – dust, fumes, smoke, aerosols, mists, gases and vapors. These hazards are inhaled or creep into the body by the skin, mouth or ears.

¹ National Safety Council, *Accident Facts* (Chicago: National Safety Council, 2002), 37.

If you want to know how your risks compare to other industries, contact associations such as the NSC. The NSC divides industries into categories: agriculture, mining, construction, manufacturing, transportation/public utilities, trade, services and public sector. Injuries are then classified according to the type of accident that caused them. Accident types include: overexertion, being struck by or against an object, falls, bodily reactions, caught in or between objects, motor vehicle, coming in contact with radiation or other caustics, being rubbed or abraded and coming in contact with temperature extremes.

Other sources include:

- The Bureau of Labor Statistics (BLS)
- Centers for Disease Control (CDC)
- National Center for Health Statistics (NCHS)



Triple Bottom Line — Step 1: Strengthening Employment Hiring Practices

Selecting skilled, dependable employees is the first step in establishing an organization's health and safety culture. Selecting the right people for the right job avoids long-term financial and operational problems.

Job Description and Essential Job Function

The Americans with Disabilities Act (ADA) is a national mandate established to enforce standards designed to eliminate discrimination against individuals with disabilities. Of the five titles within this Act, Titles I: Employment, III: Public Accommodations, and V: Miscellaneous Provisions have implications for employees at work. Written job descriptions are not required, but they are powerful tools we recommend as a foundation for prudent hiring practices. Descriptions define the essential functions of the job. Listing physical job demands ensures that applicants are selected and/or returned to the appropriate job.

Job Demand and Physical Capacity Gap Assessment

With the aging workforce and staff shrinkage, employers are concerned about employee "fitness for duty." Some employers use job demand and physical capacity information for work hardening and rehabilitation of the employee. Job demand screening (e.g., job assimilation, isokinetics) can also be used as a pre-employment assessment when related to "fitness for duty." Bridging the gap between a worker's capacity and production will strengthen your financial status and employee well-being.

Pre-employment/Post-offer Screening (Including Interviews and Background Checks)

In order to gain insight into an applicant's experience, communication skills and abilities to perform the job, effective interviewing requires planning. The ADA has strict guidelines pertaining to questions that may or may not be asked during the interview. CNA Risk Control consultants bring simple employment "pre-steps" to a long-term employer/employee relationship.

Background screenings include:

- **Credit records** — About an individual's creditworthiness.
- **Criminal background checks** — Regarding the occurrence of theft and embezzlement and workplace violence episodes.
- **Drug and alcohol tests** — Regarding potential safety/health problems. These checks can help control absenteeism and increase productivity in the workplace. Currently, a urine test is the only accepted method for federally regulated programs. The Department of Transportation and the Department of Defense have specific regulations that exist for this type of screening and should be followed accordingly.

Under the ADA, drug/alcohol screening is not considered a medical evaluation and, therefore, can be administered prior to a job offer. However, state laws may prohibit this practice. Consult your legal counsel for state-specific requirements.

Triple Bottom Line — Step 2: Management of Injury/Illness in the Workplace

Handling the injury means:

1. Meeting regulatory Workers' Compensation obligations.
2. Managing the claim process.
3. Demonstrating your follow-up. This step has been the primary focus of many Workers' Compensation Programs (e.g., Claims Management and Return-to-Work).

Aging Workforce Modifications/Accommodations

Experienced employees are valued in each organization. Accommodate your workforce by rethinking work arrangements to include flexible work schedules, adaptable workplaces (e.g., ergonomic changes, increased lighting, telecommuting, computer vision exams) and reorganization of jobs (e.g., job sharing). In addition, consider health and wellness initiatives (e.g., Employee Assistance Programs and fitness facilities/promotions).

Incident/Accident Investigation

CNA Risk Control recommends immediate investigation of incidents/accidents to gain accurate information — avoiding the likelihood of losing or blurring of important facts. Don't stop investigating only incidents/accidents; "near misses" also need accurate follow-up and corrective action to reduce the frequency of claims.

Consider the following:

- Address the needs of the injured worker.
- Isolate the accident scene so curious onlookers don't remove, disturb or unknowingly destroy vital evidence.
- Record pertinent evidence using written notes, sketches, photography, videotape, dictated observations and diagrams.
- Identify witnesses (at times a second interview is needed).
- Direct and manage all communication. Assure all employees that you will address all potential causal factors.
- Determine the findings, conclusions and course of corrective actions. Supervise the preparation of the report. Maintain control of the solutions.
- Spoilage of evidence may be an issue if the scene of an accident is changed or altered without notice to the injured party. Consider bringing in trained investigators.

Managing the Claim

Expenses of adjusting a claim (e.g., court costs, adjuster fees, lawyers, claimant salaries) is one part of case management. Case management is collaboration between the medical management of the injury and the work plan. We believe in a strong commitment to managing the medical care team — employee, physician/rehabilitation providers and medical case managers. We recommend a work plan that is tailored toward the reduction/control of the injury and/or occupational disease.

Return-to-Work (RTW)

Work defines multiple reward levels for individuals. All organizations need a Return-to-Work process, coordinated by a team of professionals: RTW coordinator, claim representative, treating physician, rehabilitation professional, health and safety coordinator, supervisor and employee. To maximize this solution, understand employee work demands and promote the necessary healing process.

Determine the effectiveness of each key element of a Return-to-Work process:

- Management commitment.
- Clearly defined responsibilities.
- Compliance with applicable laws and regulations.
- Established, modified work and procedures.
- Accident investigation practices.
- Prompt injury reporting.
- Identification of medical providers.
- Productive recovery from an integrated work plan.



Triple Bottom Line — Step 3: Creating a Health and Safety Organization for Employees and Customers

Visible evidence of a commitment to health and safety is displayed with an injury prevention program. A prevention program demonstrates to employees and customers that you are managing your employment risks and matching people to work.

Health and Safety System

Accident avoidance goes beyond regulatory compliance. The cause of failure can start with an unsafe act or condition. Safety systems connect the product before it is built or put into operation. These programs can help control/eliminate hazards to ensure proper timing, staging and manufacturing. Reshaping the health and safety landscape brings quality control, suitably trained workers and a strong commitment to continuous improvement.

Lean Ergonomics

Identifying risks associated with musculoskeletal injuries is the initial step to ergonomics. CNA Risk Control consultants go beyond the identification of physical stress from work. We believe you can better understand job exposures, specific job demands and workforce tolerances with Lean Ergonomics, an approach that assesses jobs by eliminating wasteful motions and unnecessary job steps. As a result, there is less human effort, less inventory and less wasteful job tasks. Lean Ergonomics maximizes work efficiency and worker production. Product quality assurance is a secondary benefit from this business solution.

Fleet Safety

A fleet safety program provides criteria for the selection of drivers, ongoing driver training, fleet safety rules (including vehicle inspection checks) and routine maintenance of all company vehicles. The key to defensive driving can be summed up in three fundamental actions:

- **See** — Drive defensively, alertly watching the traffic scene for hazards that may appear.
- **Think** — Consider all possibilities to take to avoid an accident.
- **Act** — Implement the appropriate action to avoid an accident.

New Hire Orientation

Many nonfatal injuries and illnesses involve employees with less than one year of experience on the job. Orientation programs provide support and guidance for new hires. Coaching results in proper work habits. Your company's philosophy on health and safety is shared through the new hire orientation process.

Security Controls

Is the workplace secure or could a disgruntled individual simply walk in and harm employees? Security analysis identifies conditions, situations and practices that make employees vulnerable. Engineering controls prevent workplace violence by either removing the hazard or creating a barrier between it and employees (e.g., clear plastic partitions, interior windows, surveillance cameras, adequate lighting in the parking lot, pruning shrubbery, channeling means of ingress/egress). Administrative security controls impact how the work is done to minimize the vulnerability of employees and enforcement of sanctions when employees fail to follow work practices (e.g., conflict resolution management, establishment of violence reporting system).

Contractor Safety

People on your premises must operate under the same health and safety manner as your employees. Our contractor safety program can complement your current health and safety program and help you achieve regulatory compliance.

Record Keeping and Confidentiality

Maintaining timely and accurate records that also protect privacy helps keep companies compliant with applicable health and safety laws and regulations. Our Risk Control consultants understand the record keeping system needed for handling claims, documenting workplace solutions and maintaining compliance standards.

Wellness Programs

According to a 1991 study conducted by the National Safety Council¹:

1. 66% of survey respondents work for companies that sponsor a wellness program for employees.
2. Only 36% of respondents participate in their company's wellness program.
3. Of the companies that sponsor wellness programs, 43% are provided on-site and 57% off-site.

Employers are looking for innovative ways to keep long-term workers and minimize the effect of the aging process. A wellness program is any program designed to encourage employees to adopt a healthier lifestyle. A typical wellness program includes diet and exercise under the supervision of a qualified professional; stress management activities and special activities designed to help high-risk employees overcome such lifestyle behaviors as smoking or overeating.

¹ National Safety Council, *Accident Facts* (Chicago: National Safety Council, 2002), 37.



Industrial Hygiene

Occupational health practices contribute to your safety. The purpose is to prevent catastrophic accidents caused by major releases of physical, biological or chemical hazards. Written operational procedures, a hazard control program and formal incident investigations are key to controlling these exposures. When the work environment cannot be made safe by reengineering, personal protective equipment (PPE) is used. PPE poses a barrier between the worker and the hazard but does little to reduce or eliminate the risk.

Process Hazard Analysis (PHA) involves tracking your product from the moment it enters your facility, through manufacturing, to the transportation of the finished goods. This process helps you to understand the effects of chemical reactions in order to prevent the production of gases and fires. This process provides valuable information about product attributes and environmental impacts. PHA can assist in developing a product liability program.

Life Safety

Protection of the lives of people in buildings and structures, vehicles and vessels from fire, explosions and terrorism is a primary risk today. Prepare to address the construction, protection and occupancy issues necessary to minimize destruction and panic. A life safety program protects against significant unplanned events.



CNA



Let us help you create a better workplace today.

To learn more about how CNA Risk Control can help you manage risk, increase efficiencies and be more productive, call us toll-free at 866-262-0540.

Or, visit the CNA Risk Control Web site at www.cna.com/riskcontrol

To discover the broad range of insurance products available from CNA, contact your independent agent or broker or visit www.cna.com



The information, samples and suggestions presented in this document have been developed from sources believed to be reliable, but they should not be construed as legal advice. CNA accepts no legal responsibility for the correctness or completeness of this material or its application to specific factual situations. Consult competent legal counsel and/or other appropriate business advisors before using this material or deciding how to proceed in any specific situation. This document is for illustrative purposes only and is not a contract. Only an insurance policy can provide actual terms, coverages, amounts, conditions and exclusions. Copyright 2006 Continental Casualty Company. CNA is a service mark registered with the United States Patent and Trademark Office. All rights reserved.
EG WC 041806