

# Work Comp Insights

CLG Insurance - Your Workers' Compensation Partner

## Employee Fraud

Workers' compensation coverage is intended to help your organization cover expenses that may result from employees getting ill or injured on the job. Nevertheless, there is always a chance that one or more of your employees may attempt to take advantage of this coverage by committing fraud.

An employee can participate in workers' compensation fraud by intentionally misrepresenting their illness or injury—whether that entails lying about the cause or severity of their condition or even faking the ailment altogether—for their own gain. Such fraud can lead to a range of ramifications for your organization, elevating overall coverage costs and potentially hindering your reputation.

Review the following guidance to learn more about employee fraud in the scope of workers' compensation and how to prevent this fraud from occurring within your organization.

### Employee Fraud Explained

There are several ways that employees can engage in workers' compensation fraud—all of which center around fabricating at least one element of their associated illnesses or injuries. The most common methods include:

- **Falsely attributing the ailment**—This practice refers to an employee becoming ill or injured outside of the workplace, but

claiming that their condition occurred while they were on the job in order to utilize workers' compensation coverage. For example, an employee may fall and strain their back within their own home, but claim the injury happened due to a slip and trip incident in the workplace.

- **Malingering**—This practice entails an employee exaggerating the severity of an occupational illness or injury in an attempt to prolong their workers' compensation benefits. For instance, an employee may experience a mild hand sprain injury on the job, but claim that the injury is more painful or debilitating than it truly is to extend their allotted recovery time. Further, the employee may claim that they are still recovering from the injury even after they are fully healed.
- **Fully faking the condition**—This practice refers to an employee devising a phony work-related illness or injury in order to leverage workers' compensation coverage. For example, an employee may assert that they suffered a repetitive motion injury on the job for the purpose of filing a claim when—in reality—such an injury never actually took place.

Employees can commit workers' compensation insurance fraud for a variety of reasons, including the following:

- **Insurance advantages**—An employee may be motivated to engage in fraud due to the associated financial advantages of filing a claim through workers' compensation coverage versus their personal health insurance—specifically, not having to cover a deductible or copayment.



- **Disability benefits**—An employee may commit fraud to obtain or extend their time off of work, as well as their associated disability benefits.
- **Workload demands**—An employee may participate in fraud for the purpose of being assigned a less demanding workload than what their role typically allows. This may include working reduced hours and performing light-duty tasks.
- **Access to drugs**—In some cases, an employee with a history of addiction or drug abuse problems may commit fraud to gain access to prescribed medications during their treatment—namely, opioids.
- **Job security**—If an employee fears that they are in danger of losing their job due to upcoming layoffs or their own poor performance, they may engage in fraud under the false belief that filing a workers' compensation claim will somehow allow them to maintain their position.
- **Past grievances**—A disgruntled employee who is holding onto previous conflicts or experiencing ongoing issues with their organization may participate in fraud as an inappropriate means of retaliation.
- **Coverage misunderstandings**—An employee may feel compelled to commit fraud under the incorrect assumption that their organization won't face any repercussions for the resulting claim, therefore justifying the fraud as a harmless act.

In any case, employee fraud can lead to serious consequences for your organization. Specifically, such fraud can result in longer and more complicated claims—ultimately compounding overall claim-related expenses and elevating your experience modification factor. What's worse, the presence of complex and costly claims can make your organization seem riskier

to insure, thus prompting your insurer to increase your premium pricing as well.

Apart from coverage ramifications, employee fraud can also affect the overall success of your organization. After all, an extensive workers' compensation claims history caused by employee fraud could harm your organization's reputation, impacting your relationships with stakeholders and shareholders. Depending on your organization's industry, a troubling claims history could also lessen your ability to obtain work and secure important business contracts.

Further, it's important to note that employee fraud (like all forms of fraud) is illegal. If any of your employees are found guilty of committing fraud, they could be subject to significant civil penalties, court injunctions, criminal charges and—in severe cases—jail time.

### Preventing Employee Fraud

Fortunately, there are several steps that your organization can take to help prevent employee fraud. Consider these best practices:

- **Utilize effective hiring methods.** Be sure to implement a hiring process that allows your organization to identify capable and trustworthy applicants. In particular, utilizing criminal background checks can help determine candidates' integrity. In addition, pre-work screenings should be conducted post-hire to confirm that employees can meet the physical demands of their positions. Keep in mind that all hiring methods must remain compliant with applicable federal, state and local employment regulations.
- **Establish proper risk management programs.** Make sure your organization develops an adequate workplace safety and return-to-work program. These programs are crucial in keeping employees safe on the job and supporting them upon their eventual return to work following an illness

or injury. Together, such programs can help limit workers' compensation claims and keep costs under control when claims do occur, thus minimizing opportunities for employees to engage in fraud.

- **Educate your employees.** Ensure your employees are well-informed on the topic of fraud by discussing it during routine training sessions. Specifically, outline when it is and isn't appropriate to file a workers' compensation claim, how a fraudulent claim can negatively impact your organization and what consequences employees could face for committing fraud.
- **Encourage prompt reporting.** Instruct your employees to report any instances of illness or injury as soon as they occur, no matter how minor. In doing so, employees will receive timely evaluations and effective treatment offerings before their illnesses or injuries escalate into more severe ailments and—subsequently—more complex claims. Overall, prompt reporting fosters open communication and allows for immediate care, making it significantly more difficult for employees to take advantage of your workers' compensation program.
- **Carefully assess claims.** Adopt a diligent process for assessing workers' compensation claims within your organization. This process will permit you to detect potentially illegitimate claims and help deter employees from attempting fraud. When assessing claims, look for any red flags that could indicate employee fraud. This might include situations where:
  - The injury or illness is reported by a newly hired employee
  - The injury or illness is reported at the beginning of a shift
  - No one else witnessed the incident that caused the employee's illness or injury,

despite the employee frequently working near others

- The employee does not provide a cause for their illness or injury
  - The employee changes their account of how the illness or injury occurred
  - The employee is difficult to contact throughout the claim process
  - The employee switches medical providers during treatment for their illness or injury, even though the treatment regimen from their initial provider was effective
  - The employee has a history of disciplinary issues
- **Report any suspicions.** If you suspect that employee fraud could be taking place within your organization, report your suspicions to your claims adjuster immediately. From there, the claims adjuster may leverage a variety of strategies to help determine whether an employee's claim is legitimate or requires corrective action. These strategies include the following:
    - Analyzing the employee's medical records
    - Arranging an independent medical examination of the employee
    - Engaging in video or social media surveillance of the employee
    - Performing unscheduled visits to assess the employee's condition with the nurse case manager

Overall, it's critical for your organization to be proactive in preventing and identifying employee fraud in your workers' compensation program. Contact us today for additional workers' compensation resources.