

Workers Compensation and Office Ergo 101

MTA Wisconsin
9/16/21



Agenda

- Worker's Compensation Review
 - How to lower cost through prevention
 - What is WC
 - The cost of WC
 - Reporting Injuries
- Office Ergo 101 – both home and office

Questions

- What is the first state to adopt Worker's Compensation Legislation?
- What year?
- What insurance company?
- Before this year, what did employees have to do to get benefits if injured at work?

Lower WC cost Through Prevention

- Set a good example – “employees watch you” – you do the right thing even when no one is watching....
- Assess hazards:
 - Observe employees - correct unsafe acts and recognize positive behaviors
 - Observe environment - correct unsafe conditions and continue to monitor going forward
- Training Paradigm - tell, show, explain why, check, retrain
- Provide fair, consistent and progressive enforcement
- Implement and review safety programs
- Safety/risk management committee and subsequent sub-committees, as needed

Lower WC cost Through Prevention

- Strong written safety program that is supported by management
- Strong post injury management
 - Clinic relationship, if possible
 - Incident Review (prompt)
 - Don't like "Accident Investigation" – WHY?
 - Correcting issues/root causes, don't let your team use "employee was careless"
 - Light duty – early return to work. Working athlete mentality
- Have fun with it – we all win together; safety doesn't need to be "strict"

Incident Review Procedures

- Questions for anyone involved in the “incident”
 - What’s the process?
 - Who completes?
 - Root cause of injury determined?
 - Corrective actions taken?
 - Who’s responsible for follow up?

Best question I never see on forms “Tell me what you were doing (or thinking) before you got hurt?” Most times, this answer is your root cause!

Safety Culture

Every Organization has one...

Safety Culture - It's either good, bad, ugly (or somewhere in between). What is yours?

How do we move it in a positive direction? Easy visual signs for me:

- Smiles on EEs faces
- Housekeeping – I have based my 30 plus year insurance carrier on this
- Employees use PPE

These are three very simple concepts but really give me a quick glimpse that employers “got it”

Why develop a strong safety culture? Single greatest impact on accident reduction.



What is Worker's Compensation



What is Workers' Compensation

- No Fault – regardless of any unsafe act committed by employee
- Pays benefits for accidental injuries and illnesses related to work
- Benefits include medical treatment, rehabilitation and income replacement

Types of Injuries

Accidental vs. Occupational

Types of Injuries

- Accidental injury (traumatic)
 - Unexpected/unforeseen
- Occupational injury (occupational disease)
 - Mental or physical harm resulting from occupational exposure, not sudden or traumatic as to definition of an accident.

Types of Claims

Medical Only vs. Indemnity

Medical Only vs. Indemnity

- Medical only = no compensable lost time from work, no resulting permanent partial disability.
- Indemnity = employee has sustained a wage loss or sustained permanent residuals from compensable injury at work.
 - **Three-day** waiting period – known as time in “limbo”
 - WC benefits for lost-time (indemnity) commence fourth day
 - If employee is off more than **seven days**; three-day waiting period is paid
 - Benefits based on six-day work week
 - Sundays are not counted in disability period

Types of Benefits

Medical vs. Indemnity



Medical Benefits

- Unlimited medical, surgical, chiropractic, psychological, podiatric, dental and hospital treatment.
- Includes artificial appliances to cure and relieve effects of the injury.
 - Examples: Prosthetics, crutches, cane, etc.
- Employee has choice of treating practitioner.
- Employee is entitled to a second opinion at the cost of insured/carrier.

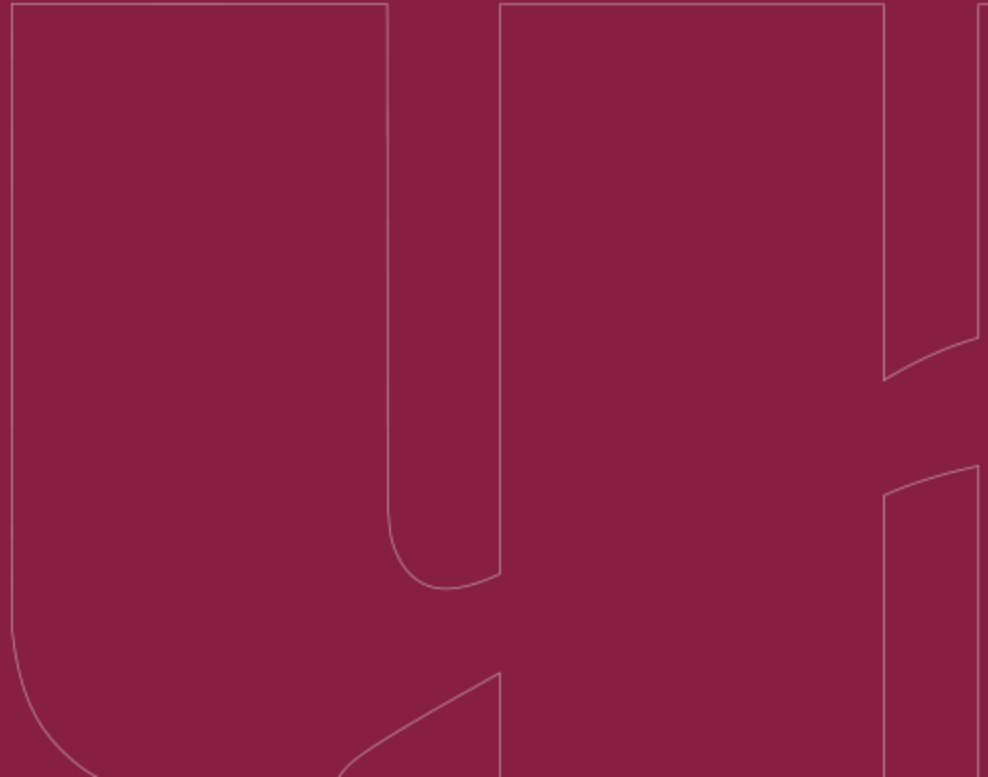
Indemnity (Lost Time) Benefits

- Wage income replacement – 66.6% - not-taxed
- TTD – Temporary total disability for lost wages (i.e., off work for several weeks)
- TPD – Temporary partial disability for partial loss of wages (i.e., 20 lb. lifting restriction for two weeks)
- PPD – Permanent partial disability for functional impairment resulting from injury (i.e., loss of finger, amputation)
- PTD – Permanent total disability (i.e., maybe a career ending injury)
- Vocational Benefits – Retraining, re-schooling
- Statue of Limitations – guess the # of years....

102.52 Indemnity – PPD Schedule for WI

- Here are a few:
 - 500 weeks – loss of arm at shoulder, 450 weeks if at elbow
 - 500 weeks – loss of leg at hip, 425 weeks if at knee
 - 250 weeks – loss of foot at ankle
 - 83 weeks – loss of big toe, varies then by toe, by joint from 4 to 25 weeks
 - 400 weeks – loss of hand
 - 50 to 160 weeks – loss of thumb
 - 225 weeks – loss of all fingers, then varies by finger, by joint from 6 to 60 weeks – if dominant hand, benefits increase by 25%
 - 275 weeks – loss of an eye or total impairment
 - 330 weeks – total deafness, 55 weeks for only one ear

Basic Rules for Workers' Compensation in Wisconsin



Basic Rules for WC in Wisconsin

- **Compensability**
 - Employee under the act at time of hire
 - The employee must sustain an injury
 - At the time of injury, employee must be in the course and scope of employment
 - The injury must arise out of employment
 - Discuss deviation of work, horseplay, intoxication, traveling employee, etc.

Basic Rules for WC in Wisconsin

- Benefits
 - Medical, Unlimited
 - Indemnity/lost time (TTD paid until employee is RTW; PPD paid based on schedule)

Basic Rules for WC in Wisconsin

- Disputes
 - Typical Disputes
 - Out of course and scope of employment
 - Lack of reporting
 - PTD (inability to work in any capacity)

Calculation of Benefits

Indemnity



Lost Time/Indemnity

- Date of injury is a non compensable day
- Three-day waiting period in Wisconsin, day 4 starts indemnity payments
- Seven-day disability period
 - If disability exceeds seven days, waiting period is paid
- Sundays are excluded from disability period (don't confuse with OSHA recordkeeping, Sunday is counted)

Calendar of Events

| Sun | Monday | Tuesday | Wed | Thurs | Fri | Sat |
|-------|--------|---------|-------|-------|-------|-------|
| | | | | | 10/02 | 10/03 |
| 10/04 | 10/05 | 10/06 | 10/07 | 10/08 | 10/09 | 10/10 |
| | 10/12 | | | | | |
| 10/18 | 10/19 | 10/20 | 10/21 | 10/22 | 10/23 | 10/24 |
| | | | | | | |

Date of Injury -- Disability Period -- Benefits Paid -- RTW

Rate Calculation

- Hourly Rate x Average Hours Worked/Day
- Gross Earnings 52 Calendar Weeks Preceding Injury
- Paid at the Higher Amount @ $2/3$ or x .6667

$\$10.00 \times 40 = \$400.00 = \$20,800$ for 52 wks

$\$400 \times .6667 = \266.80 (TTD Rate)

Rate Calculation

- Overtime hours included if part of a normal work week
- Monthly salary converted to weekly by multiplying $\text{salary}/12$ months = monthly salary x .215 per week (Remember Sundays not included and account for 14% of a month)
- Part-Time Escalation to Full Time (need to do math based on 52 weeks)

WI WKC 9572 – Maximum Wage and Rate Chart

(as of 1/1/20)

| EFFECTIVE DATE | 01/01/2021 | 01/01/2020 |
|---|--------------|--------------|
| MAXIMUM WEEKLY WAGE FOR TEMPORARY, PERMANENT | \$1,641.00 | \$1,576.50 |
| TOTAL & DEATH BENEFITS | | |
| WEEKLY RATE | \$1,094.00 | \$1,051.00 |
| DAILY RATE | \$182.33 | \$175.17 |
| MAXIMUM WAGE FOR PERMANENT PARTIAL ONLY | \$543.00 | \$543.00 |
| MONTHLY RATE | \$1,568.67 | \$1,568.67 |
| WEEKLY RATE | \$362.00 | \$362.00 |
| MAXIMUM ANNUAL WAGE (WEEKLY WAGE X 50) | \$82,050.00 | \$78,825.00 |
| MAXIMUM DEATH BENEFIT (ANNUAL WAGE X 4) | \$328,200.00 | \$315,300.00 |
| MAXIMUM PAYMENT TO SPOUSE | | |
| MONTHLY RATE | \$4,740.66 | \$4,554.33 |
| WEEKLY RATE | \$1,094.00 | \$1,051.00 |
| MAXIMUM PAYMENT FROM CHILDREN'S FUND | | |
| MONTHLY RATE | \$474.07 | \$455.43 |
| WEEKLY RATE | \$109.40 | \$105.10 |
| DEATH BENEFITS TO UNESTRANGED PARENTS | \$6,500.00 | \$6,500.00 |
| MAXIMUM BURIAL EXPENSE | \$10,000.00 | \$10,000.00 |
| PAYMENT INTO STATE FUND s. 102.59 | \$20,000.00 | \$20,000.00 |
| PAYMENT INTO STATE FUND TOTAL DEPENDENCY-- s. 102.49 | \$20,000.00 | \$20,000.00 |

Data from chart taken from
<https://dwd.wisconsin.gov/dwd/publications/wc/WKC-9572-P.pdf>

Experience Modification Rates



Workers' Compensation

- Wisconsin Compensation Rating Bureau
- Determinants:
 - - how hazardous the jobs are in your industry
 - - gross payroll
 - - past loss experience

The Cost

$$\text{RATE "X" } \frac{\text{PAYROLL "X" MOD.}}{\$100} =$$

TOTAL PREMIUM

Class Code Rates for 2021 – effective 10/1/20

| CLASS CODE | DESCRIPTION | CURRENT RATE |
|------------|---|---------------------------------|
| 8810 | Clerical Office Employees | \$0.19 |
| 9412 | Municipal operations | \$3.61 – was \$3.78 last year |
| 7720 | Police officers (FYI - firefighters are \$3.70) | \$3.17 – was \$2.85 last year |
| | Others as an example | |
| 2881 | Furniture Manufacturing | \$6.46 – was \$5.99 last year |
| 5551 | Roofing | \$22.17 – was \$21.69 last year |
| 5059 | Steel Erection | \$18.42 - same as last year |

Above rates effective 10/1/20 taken from <https://www.wcrb.org/class-code-lookup/>

Experience Modification

- Indication of how safe or unsafe an organization has worked during a **three-year** period
- Each year, Mod updates are given to every organization
- 1.00 - unity
- Less than 1.00 – credit modifier, Over 1.00 – debit modifier
- Uses 3 years of past History – for 2021, don't count 2020 losses, count 2019, 18 and 17
- Takes 3 years to Do/Undo

ABC Inc = **0.93**

Premium Example with Rates - CHANGE

Rate x Payroll x Mod

| | |
|-----------------------------------|---|
| • 8810: Clerical Office Employees | $\$0.19 \times \frac{\$1,200,000}{100} = \$2,280$ |
| • 9412: Municipal Operations | $\$3.61 \times \frac{\$3,200,000}{100} = \$115,520$ |
| • 7720: Police officers | $\$3.17 \times \frac{\$2,750,000}{100} = \$87,175$ |
| Standard Premium - | \$204,975 |
| x Mod | <u>0.93</u> |
| Adjusted Premium | \$190,626 |

\$14K savings with lower mod

What if...Mod is 1.07, Adjusted Premium would be \$219,323

Changes In the Law



Key Items in WC Law Changes

- Reduce the statute of limitations for traumatic injuries from 12 years to six years
- Allow apportionment of permanent partial disability (PPD) – require employees to disclose all previous permanent disabilities or impairments to the alleged injured body parts so that liability for employees' conditions can be apportioned between the prior impairments and the injuries resulting from the alleged work event
- Fund a position at the Department of Justice (1) to fight workers' compensation fraud – EE, ER and insurance carrier fraud

Key Items in WC Law Changes

- Eliminate benefits to workers who violate an employer's drug and alcohol policy if the use of the drugs/alcohol are shown to be the cause of the injury – still need to prove.....Employers will/should expect this pushback
 - Policy wasn't clear
 - Employee didn't violate the written policy
 - The drugs/alcohol didn't cause the injury
 - Claims that employee never reviewed a copy of the written policy

Key Items in WC Law Changes

- Allow the employer/carrier to deny benefits if a worker is brought back to work on light duty and they subsequently are fired for good cause, these include:
 - Safety violations
 - Ignoring specific directives of the employer
 - Misconduct or substantial fault
 - Positive results from post accident drug/alcohol tests

102.57 Violations of Safety Provisions Penalty

- If injury is caused by the failure of the **employer** to comply with any statute, rule, OSHA or order of the Department of Safety and Professional Services (DSPS handles public sector).
 - Compensation and death benefits shall be increased by 15 percent (not to exceed \$15,000). This is paid directly to the injured employee.
- Failure of an employer reasonably to enforce compliance by employees constitutes failure by the employer to comply with that statute, rule or order.

102.58 Decreased compensation

- If injury is caused by the failure of the **employee** to use safety devices that are provided, that are adequately maintained, and the use of which is reasonably enforced by the employer;
- If injury results from the **employee's** failure to obey any reasonable rule adopted, reasonably enforced by the employer for the safety of the employee, and of which the employee has notice, or;
- If injury results from the intoxication of the employee by alcohol beverages, use of a controlled substance, or a controlled substance analog;
 - The compensation and death benefit shall be reduced by 15% (not to exceed \$15,000).

How to Lower Your Experience Modification Rate through Early Return to Work

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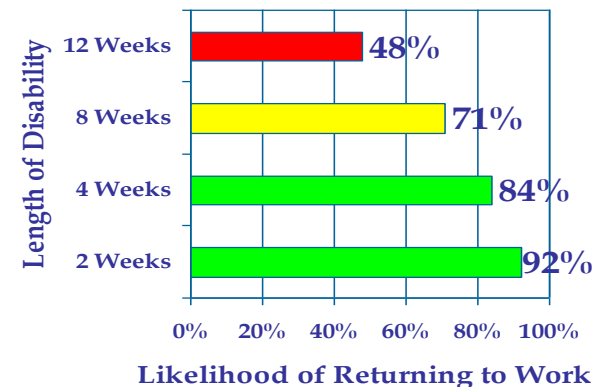
Light Duty Best Practices

- Develop formal written program
- Educate employees – place in EE handbook
- Inform medical community where it makes sense
- Develop job list for departments, think about what can be done based in restriction, i.e., 20 lb lifting restriction
- Be consistent when possible

Modified / Alternate Duty Impact on the Experience Mod

- Medical Only – receives a 70% discount
 - \$1000 medical only claim goes into the formula as if it were a \$300 claim
 - Lighter impact on the experience mod
- Indemnity – does not receive discount
 - Effective 10/1/16, the first \$16,500 of an indemnity claim goes into the formula as a \$16.5K claim

Probability of Returning Injured Worker to Pre-Injury Job Versus Length of Time Away From Work



Modified / Alternate Duty Impact Example (1)

| Loss Type | Total Incurred | Limited Loss | Year 1 | Year 2 | Year 3 |
|-----------|----------------|--------------|---------|---------|---------|
| Indemnity | \$3,275 | \$3,275 | \$2,333 | \$4,667 | \$7,000 |
| Medical | \$3,211 | \$ 963 | \$ 614 | \$1,228 | \$1,842 |

70% reduction



Cumulative premium costs



Direct and Indirect Costs of Accidents – 1:1 ratio

- Direct

- Medical Bills
- Lost Wages

- Indirect

- Loss of skilled worker
- Training replacements
- Loss of productivity, work stoppage
- Accident investigation, corrective actions
- Administrative expenses



- Damage to reputation (scheduling delays)
- Property/equipment damage
- Low employee morale, increased absenteeism
- Increased insurance costs

Timely Reporting

- Delays in reporting can cause WC claim costs to increase by up to 51%, according to the National Council of Compensation Insurance, Inc.
- NCCI indicates each day of late reporting can increase claims costs by 2.4% per day

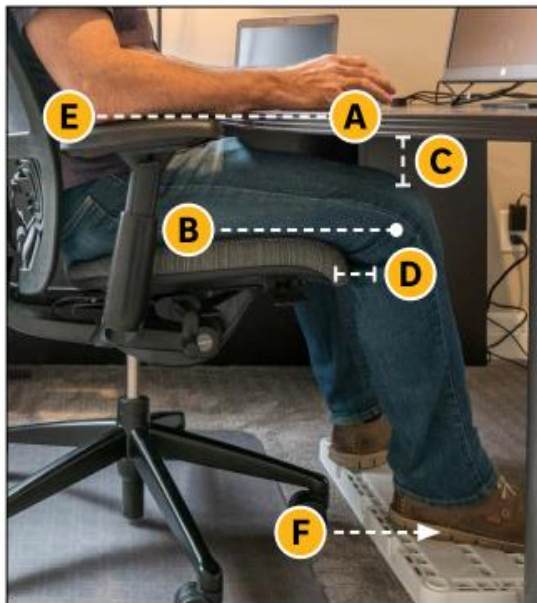
Office Ergonomics



Best Practice's - both office and home

- Chairs

- You will be amazed how many people get a chair (especially at work) and don't know how to adjust (lots of levers and knobs)



Chair

- A. Match elbow height to keyboard surface height
- B. Keep thighs parallel to seat for uniform support
- C. Ensure work surface height provides clearance for legs to fit under*
- D. Adjust seat pan so there is 2-3 inches between calf and front of cushion
- E. Position arm rest to support elbow at resting height, be in-line with shoulder and not cause shrugging – arm rest should not extend past wrist
- F. Make sure feet are fully supported on floor or footrest

* Try removing the pencil drawer or other obstructions if more legroom is needed.

Best Practice's - both office and home

- Monitors



Single or Dual Monitor

- Position both monitors at the same height
- If working from one screen more than the other, center primary screen
- If working from both screens equally, space them evenly
- Position both monitors at an arm's length away
- Ensure top of screen is at eye level unless using multi-focal lenses
- Multi-focal lenses – lower screen to avoid lifting chin and extending neck, adjust the monitor distance for proper focus
- Avoid glare or screen reflection by moving monitor location on desk or adjusting tilt angle

Best Practice's - both office and home

- Laptop



Laptop (stand, external keyboard, etc.)

- Avoid working from laptop for extended periods of time (pictured upper left) as it causes awkward postures
- Use a laptop riser to position monitor at eye level
- Use an external keyboard and mouse to avoid reaching

Best Practice's - both office and home

- Desk set-up
 - Big think is clutter
 - Do you see something that could be added to the desk (hint – in front of keyboard)



Desk Setup

- Align monitor, keyboard and working materials in center of desk
- Position paperwork behind keyboard or next to monitor – utilize a document holder
- Utilize task lighting – when needed
- Position frequently used tools and equipment within easy reach

Best Practice's - both office and home

- Body alignment

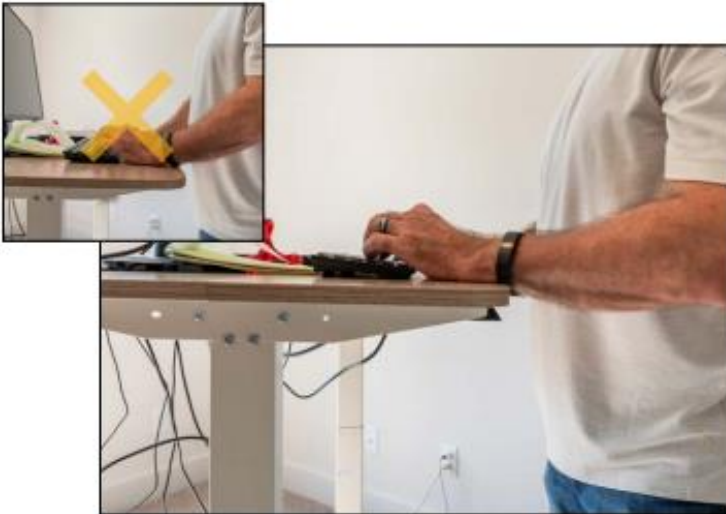


Body Alignment

- Align ears, shoulders and elbows over hips
- Adjust backrest tension or lock back rest to support this position
- Keep elbow height level with work surface
- Use keyboard tray if elbow height does not match work surface
- Keep mouse and keyboard nearby to avoid reaching

Best Practice's - both office and home

- Standing desk
 - These can be pricey
 - At our company, we want a medical release for these



Standing Desk

- Keep elbow height level with work surface
- Wear comfortable shoes and stand on mat
- Shift weight from one leg to the other
- Use a footrest
- Alternate time between standing and sitting

Office ergo – few other items

- Foot-rests – use those old 3 ring binders up, they work great
- To me, the chair is the most important thing, if not comfortable, the user won't be comfortable
- Older buildings/office equipment – may need modifications, a lot of desks have “square” edges, get good wrist support
- Get headsets for staff who are on the phone
- Tough to control ergo for EEs who work at home, provide tips to ensure safety
- OSHA Computer Workstations eTool - <https://www.osha.gov/etools/computer-workstations>
- UH - <https://www.unitedheartland.com/resources/topic-overview-office-ergonomics/>

Discussion?

- Thank you!





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