A Day in the Life of a Workers' Compensation Claim

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In a risk management role, it is not hard to picture this scenario... Monday morning you arrive at the office and you get word of a serious motor vehicle accident and a county employee is in the hospital. Maybe you are new to workers’ compensation. You ask yourself, what do I do next? What form do I send? Where should it be sent? When is it due? In order to be organized and prepared for what it is inevitable, you can use this sample claim scenario presented in this session.

In this session, answers to the following questions will be provided.

1. What is the first step? Setting priorities. First priority of the county is to make certain that the employee has and is receiving proper medical treatment. Report compliance requirements are important, but the health and well-being of the employee is of greatest importance. Please notify the Pool by phone or email of a serious claim immediately – seek guidance and medical case management assistance.
   a. How urgent is the medical need? Level of care? ER vs. occupational clinic? Can telemedicine be an option?
   b. What is the role of a network provider in an emergency care scenario?
   c. What is the role of the ER physician? Role of Treating Physician?

2. What legal deadlines concerning forms to do I have to comply with to ensure my county is in compliance with the Texas Workers’ Compensation Act?
   a. What information goes on the main claim reporting forms and why is it important?
      i. First Notice of Injury (DWC-1)
      ii. Employer’s Wage Statement (DWC-3)
      iii. Supplemental Report of Injury (DWC-6)
      iv. Employer’s Request for Reimbursement (DWC-2)

3. What are some best practices for internal reporting for a complete investigation of injuries? Should the County complete an internal investigation? Preserving evidence for compensability and subrogation investigations? How can future claims be avoided?

4. What are some best practices for external reporting procedures to ensure compliance with the Texas Workers’ Compensation Act? Online claim reporting, email vs. fax – handling of personal data and health information?
5. How do I properly offer modified duty and ensure compliance with the WC Act as well as avoid overpayments of benefits? How does a RTW program impact the success of a county’s workers compensation program?

6. What benefits are injured workers eligible for and when do they get them? Reminder to rely on the claims examiners contracted with the Pool to make compensability and determine eligibility for insurance – they are licensed professionals and perform this service on behalf of the Pool and its members.

Day 1: The Wreck

At 8:00 a.m. Chief Deputy calls you and says one of his deputies, Sam Safety was injured in a vehicle accident during pursuit the day before. What’s next? Ensure employees, regardless of the seriousness of the injury, are provided medical care. Then start investigating!


Best Practice Tip #1: Always make sure information is recorded on an internal accident/loss report as soon as practicable after an accident or injury. A complete investigation from the county ensures a complete investigation from the Pool and that benefits are paid for claims timely and accurately.

Also remember to preserve evidence such as damaged vehicles or equipment the employee was working with. This protects subrogation rights in the event a third party is responsible for the accident and injury.


3. Is the deputy losing time and/or has he sought medical treatment? Complete the First Report of Injury (DWC-1) – See Page 30 of the WC Claims Resource Guide. File with the Pool and the Injured Worker. Also make sure to send the injured worker the “Notice of Injured Employee Rights and Responsibilities”. This is a legal requirement.

4. Are you continuing full salary for the deputy as required by the Texas Constitution, Article 3, Section 52(e)? If so, let the claims examiner know as soon as practicable. This information must be reported electronically to the Division of Workers’ Compensation (DWC) by the Pool and there are compliance penalties for failure to do so.
The Workers’ Compensation Law

Texas Labor Code §409.005 requires counties to notify the Pool within 8 calendar days of receiving notice of a work-related injury, illness or death that results in more than one day of lost time. The DWC-1: Employer’s First Report of Injury is used for this purpose.

At the same time the DWC-1 is filed with the Pool, the DWC-1 must also be sent to the injured worker, along with a copy of the Notice of Injured Employee Rights and Responsibilities in the Texas Workers’ Compensation System.

**Best Practice Tip #2:** Report any injury regardless of lost time. Think about how this can help the county and the injured worker. Record only claims do not cost the county any extra money to report. Preserve the integrity of the investigation and have a record of the facts. Small injuries turn into large injuries very often.

**Best Practice Tip #3:** Employee Rights and Responsibilities form can also be part of any new employee orientation. This will eliminate confusion if and when an injury occurs, and will put an injured worker at ease.

5. Provide the injured worker with a MyMatrixx flyer (pharmacy benefit management program information) and Alliance (medical network of providers) information. The Alliance website will be most helpful to assist the injured worker in finding a treating doctor beyond emergency care – [www.pswca.org](http://www.pswca.org). This information is located in your Workers’ Compensation Claims Resource Guide pages 6-15. Also, be sure to check out the “Notification of WC Coverage Provider” on page 41 of the WC Claims Resource Guide. When this form is presented to the medical provider, bills will be routed correctly and not to health insurance providers.

NOTE: If your county participates in the Alliance medical network, employees are required to treat with an Alliance doctor with the exception of emergency care, diagnostic facilities and certain referral specialties. Certain exceptions can be made for counties where access to care is a challenge.

**Best Practice Tip #4:** Telemedicine: County employees can also take advantage of telemedicine treatment for minor injuries and follow-up care through RediMD.
Day 8: Deputy Sam Still Losing Time from Work Due to the Injury

At this point Sam qualifies for Temporary Income Benefits as he has reached the 8th day of “disability”. Disability is defined by the WC Act in Labor Code §401.011 (16) as the inability to obtain and retain preinjury wages due to a compensable injury.

However, if your county continues salary for the deputy, he does not have “disability” as defined by the WC Act. Therefore, the Pool will not issue Temporary Income Benefits to Sam. Just ensure you have communicated the amount of salary continuation to your examiner and the period it will cover as soon as possible. This ensures the examiner will not initiate TIBs and will notify DWC as required that salary is continuing.

No Temporary Income Benefits (TIBs) are paid if an employee’s full salary is continued. This is due to the statutory formula \[
\text{Average Weekly Wage or Pre-injury earnings} - \text{Post-injury earnings} = \text{Lost Wages} \times 70\% = \text{TIBs}.\]
No lost wages means no TIBs are due. Salary continuation is defined as a Post-injury Earning in workers’ compensation. Salary continuation is not a component or defined benefit in the Workers’ Compensation Act, but rather part of an income calculation that must be timely recorded and reported to DWC.

6. File the Employer’s Wage Statement (DWC-3) – with the Pool and the injured worker on the 8th day of disability. This form can be found on Page 35 of the WC Claims Resource Guide.

Why is this form needed if salary will continue? This form is required by law to calculate all income benefit types and injured worker may become eligible for. As you will learn later in this paper, Impairment Income Benefits, Supplemental Income Benefits, Lifetime Income Benefits and Death Benefits are all calculated from the DWC-3 form. Each benefit has statutory criteria for payment.

Best Practice Tip #5: File the DWC-3 as soon as the 8th day of disability is reached to avoid underpayments and overpayments of Temporary Income Benefits. Make sure all wages reported are before the date of injury.

You can report wages based on the pay cycle (Bi-weekly at 14 weeks of wages or monthly for a 3 month-period.)

Best Practice Tip#6: Make sure to report any pecuniary (monetary) fringe benefits on the DWC-3 that are discontinued such as health insurance. When pecuniary fringe benefits are discontinued, they are required to be part of the injured worker’s Average Weekly Wage for income benefit purposes.
**Reimbursement for Salary Continuation of Law Enforcement Employees**

During the period of “Disability” as defined by the Workers’ Compensation Act, reimbursement from the Pool for salary continuation of a law enforcement employee is available to the county in an amount equal to what the Pool would have paid in TIBs. If the county is interested in reimbursement, **The DWC-2: Employer’s Request for Reimbursement** can be completed and sent to the handling claims examiner. The examiner will review the request and issue payment to the member. This is a Pool member benefit and not required by law.

**Day 25: Deputy Sam Returns to Work – Modified Duty**

You receive a **Work Status Report (DWC-73)** from the injured employee’s doctor. Deputy Sam is healthy enough to come into work for a desk-job only. There are restrictions listed. Does your county have a return to work policy? Can you offer a job to comply with the restrictions? Assuming there is one and you have modified duty available, you will need to gather the following information to make a Bona Fide Offer of light duty:

1. Date returned to work
2. Weekly amount of wages that will be paid (full wages or partial wages?)
3. Period the wages covers
4. Location of modified duty. Geographically accessible for injured worker?
5. Shift or hours or employment
6. A statement that the job duties will be commensurate with the employee’s ability to work.

A sample **Bona Fide Offer of Employment for modified/light duty** is located in the WC Claims Resource Guide on page 46.

7. **File the Supplemental Report of Injury - DWC-6** – with the Pool and the injured worker within 3 calendar days as required by law. This form can be found on Page 38 of the WC Claims Resource Guide. This form must be copied to the injured worker as well.

For non-law enforcement employees, modified duty jobs paid at less than pre-injury earnings or Average Weekly Wage, will require TIBs to be paid by the Pool.

Please also note the **DWC-6: Supplemental Report of Injury** is required when the employee resigns, or is terminated (10 calendar-day reporting requirement) and when he or she loses additional time after returning to work (intermittent disability). This is a 3 calendar-day reporting requirement.
**Best Practice Tip #7:** Consider a return to work program if your county currently does not offer one. The **TAC RMP Return to Work Resource Guide** will help you get started with information on law, sample forms and best practices to move forward.

Always ensure when modified duty is offered, it is offered on written “**Bona Fide Offer of Employment**” compliant with TDI- Division of Workers’ Compensation Rules. This information is also located in the Guide mentioned above.

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**Workers’ Compensation Medical and Income Benefits Summary**

As mentioned earlier in this paper, all workers’ compensation benefits are statutory and have certain criteria for payment.

**Medical benefits** are paid to injured workers for all healthcare reasonably required by the nature of the injury. They cannot be settled in the state of Texas. This implies a lifetime medical benefit as long as the treatment is related to the compensable injury suffered on the job. If an injured worker is treating for a non-work related illness or injury, the examiner can dispute extent of injury and file a denial with DWC. However, a medical opinion is needed before a dispute is provided. This can be done with a peer review medical provider. It is important to note claims examiners cannot direct care or offer medical opinions. Disputes are settled by DWC procedure using DWC-appointed doctors.

There are five types of income benefits an injured worker may be eligible for.

- **Income benefits** replace some of the money you lost because of your work-related injury or illness. Types of income benefits include:
  - Temporary Income benefits (TIBs) – temporary and partial wage replacements.
  - Impairment Income Benefits (IIBs) – paid when there is an impairment rating issued by an authorized doctor when Maximum Medical Improvement is reached.
  - Supplemental Income benefits (SIBs) – paid when there is underemployment or unemployment and other criteria such as a whole body impairment rating = to or greater than 15%. Paid monthly and approved quarterly upon completion of timely submitted applications with documentation of seeking employment.
  - Lifetime Income Benefits (LIBs) – paid for certain catastrophic injuries such as paralysis, brain and burn injuries.

- **Burial benefits** pay for some of an employee's funeral expenses to the person who paid those expenses.
• **Death benefits** help families replace some of the money lost when an employee dies because of a work-related injury or illness. Spouses of first responders can get death benefits for life even if they remarry (for marriages on or after September 1, 2017).

**How the Pool Can Help You**

In the event of an injury with a complex medical diagnosis or disability certification from a doctor, the Pool employs a **dedicated disability management nurse** to converse with the medical providers to ensure no lapse in care and access to the proper care needed for the injury.

While the Pool **cannot** direct medical care, measures such as peer reviews (clinical record reviews) and requests for an examination with a Division-appointed Designated Doctor can assist with determining the appropriateness of care, impairment and return to work options, if any.

Your claims team is always here to help with a **dedicated unit and team manager as well as a licensed claims associate and examiners**. You can find the contact list in the **WC Claims Resource Guide**.

**Helpful Resources**

Be sure to check the Division of Workers’ Compensation Website often to ensure you are using the correct forms and notices. Below are some helpful links for forms, notices and other important information concerning your responsibilities under the WC Act.

- **TAC - Workers' Comp Claim Forms and Notices** (How to file a claim online with the TAC RMP)
- **Workers' Compensation Employer Forms and Notices** (Division of Workers’ Compensation Website location of all forms and notices)
- **Employer resources** (DWC Website resources for employers)
- **Political Subdivision Workers Compensation Alliance** (medical network site for provider search)

**Questions?**

Contact the TAC Claims Supervisor – Helana Barmore, HelanaB@county.org or Stacy Corluccio, TAC Claims Manager, StacyC@county.org – (512) 478-8753.