



## *Is My Employee's Work Injury Legit?* **Red Flags A Claim May Be Bogus**

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Pennsylvania employees reported 174,216 work injuries in 2017. This is an increase of more than 15,000 on-the-job injuries reported in 2016 when Pennsylvania employers and insurers paid out a whopping **3.1 BILLION** to cover lost wages and medical treatment. As this figure illustrates, the costs associated with employee injuries can be staggering and while workers' compensation is an unavoidable cost of doing business, how many injuries are not legitimate? How many accidents are phony or staged turning a pre-existing condition into a work-related liability? It's impossible to gauge the number of bogus claims or what impact they have on premiums, but business owners are not helpless. Companies can take simple measures when conducting injury investigations to effectively uncover and stamp out bogus claims improving their bottom line.

It should be a no-brainer that all claims, no matter how big or small, must be investigated but many companies surpris-

ingly have no formal procedure in place or their "investigation" is limited to completing a report which contains only basic information. After all, isn't it the responsibility of the claims professional to conduct the investigation? Yes and no. While the insurer should do its own investigation, the devil is in the details and the most critical information can only come from the employer. An excellent starting point, whether you're a mom and pop shop or huge conglomerate, is to promptly gather all essential information and look for any red flags.

Here's a checklist to jumpstart the investigation.

- ✓ **New or recent hire.**
- ✓ **Injury is reported while employee is working through a temporary agency.**
- ✓ **Delay in reporting injury.**

- ✓ Injury allegedly happens on a Friday but is not reported until the following week.
- ✓ Injury occurs prior to news of a layoff, strike or plant closure.
- ✓ Injury reported after employee was fired or laid off.
- ✓ Employee is disgruntled (i.e., denied vacation, demoted or passed over for a promotion, poor performance review, job dissatisfaction, conflict with co-worker(s)).
- ✓ Recent discipline and termination imminent.
- ✓ Spike in absenteeism.
- ✓ Injury coincides with change in personal circumstances (i.e., illness of spouse, pregnancy of employee/spouse, end of seasonal work or project, spouse relocation, separation/divorce, childcare issues, enrollment in college).
- ✓ Injury reported before a planned retirement or vacation.
- ✓ Employee regularly uses FMLA leave or has history of STD or LTD claims.
- ✓ Employee has a history of work-related and/or personal injury claims.
- ✓ Employee is self-employed on the side with no workers' comp coverage.
- ✓ Rumors that accident outside of work.
- ✓ Employee account of accident/injury does not make sense or has varied.
- ✓ CCTV does not corroborate accident/injury.
- ✓ Body part(s) allegedly hurt changes.
- ✓ Incident is unwitnessed or witnessed only by friend or relative.
- ✓ Witness statements are contrary to employee account.
- ✓ Employee is uncooperative with investigation (i.e.,

**refuses to sign Medical Authorization or limits to post-injury records, refuses to provide Statement, does not return calls).**

- ✓ Refuses offers of modified work.
- ✓ Insists treating with "own doctor" instead of panel provider.
- ✓ Shows up at work utilizing "props" when not prescribed (i.e., back/neck/knee brace, arm sling, crutches/cane).
- ✓ Quickly hires attorney and asks about settlement.

Employers must promptly relay any red flags to their claims professional since we are under a 21-day deadline from the employee's first missed day of work to make a compensability determination or risk penalties. This is only 15 business days. Naturally, the presence of one or more red flags does



not necessarily mean a claim is not legitimate and the totality of the circumstances must always be considered but identifying red flags early on has proven to be an effective way of weeding out bogus claims.

*Amy has been representing employers, insurers and third-party administrators in workers' compensation matters for over 23 years. If you have any questions or would like more information, Amy can be reached at aandrews@zator-law.com or 610-841-5863.*