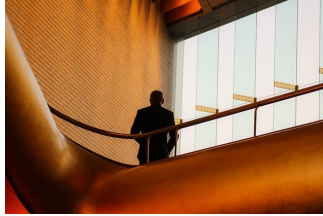




## How does the Workers' Compensation System Impact Businesses and Commercial Agents?



*Insured Solutions CEO, Eric Stein sat down for a recent interview to discuss how the Workers' Compensation system affects business owners. How does the system work (or not work) for businesses? What are the pitfalls for business owners? How does Insured Solutions help protect business owners from the Workers' Compensation system?*

### Businesses

**Interviewer:** *Eric, thanks for being with us. So, when a business owner purchases Workers' Compensation insurance, what are they looking for?*

**Stein:** Okay, so the owner starts the company, let's say a plumbing company, and they really just want to buy the insurance to cover their employees when they get hurt because that's the law. They want to get it at the most cost-effective price they can because it's a big part of their overall expense. Then once they have the insurance, almost like consumer auto insurance, they just want to forget about it.

So when there's an accident and an employee gets hurt, they want to send the employee to the doctor and let the insurance pay the bill, just like medical insurance would. They don't want to have to deal with the details beyond filing the claim, because the insurance company is supposed to take over and deal with all details. They think that the workers' compensation insurance carrier is just like medical insurance and is incented to keep the claim cost low like the business owner would want it done. But the reality is different.

**Interviewer:** *How so?*

**Stein:** Businesses interview and screen related to the position being filled. They don't have the training related to "predators." These are employees who are wise to the workers' compensation system and move from employer to employer milking the system. They're really not hurt and all they want is to get a paid vacation at the new employer's expense and all they want is to get a paid vacation at the new employer's expense.

So the issue of workers' compensation fraud is an HR component that the businesses are not usually trained to handle properly. They have heard about it but they don't know how to deal with it. So the employee tries to defraud the system, fakes an injury and then the client allows the insurance carrier to manage that claim like it's a legitimate claim when many times it's not. So they're trusting the carrier to do what they think they're supposed to do, but they don't know that the carrier is going to treat it like any other injury, let the bills pile up and just pay them. And the carrier may leave the employee out of work for an extended period of time. Even when the client tries to tell the carrier, "Hey! This one is fraud." and even if the carrier suspects fraud, it costs



so much to prove it. The carrier is incented to just pay the claim because it costs more to fight the claim.

**Interviewer:** *So that brings us to the court system? How does the system handle workers' comp?*

**Stein:** The courts that deal with worker's comp issues are very pro employee because they want to treat workers' compensation like health insurance and let it take care of the employee because they think the big insurance carrier has a ton of money. So the courts are stacked against the client.

Attorneys are looking for employees who are injured and they advertise on television. When the attorney gets involved, they have a group of physicians they work with that are basically in cahoots with the attorney to milk the claim. And the attorney knows how to delay and cause the claim to be extended beyond just any medical treatment so they can get the highest price possible for the claim out of the carrier.

The doctors are incented to see the employee more often to get more in fees. The workers' comp judges are also incented to help the employee because they are not doctors. They have to defer to the "professionals." So the judges side with the employee whether they agree it's obvious its fraud or not because there might be some sort of extenuating medical situation that extends beyond the claim. They want to make sure they don't cut-off the employees' benefits from the carrier too soon.

**Interviewer:** *That makes sense. What do those benefits amount to, and is it better for the client to let the carrier keep paying those benefits to the employee while the claim goes through the system?*

**Stein:** I believe the benefits amount to 66% of their highest wage, but you are better off getting the employee to come back to work. That would help validate whether the employee is truly injured or not injured after the doctor releases him to light duty. Like a deductible, you want to pay as much as you can without it hitting your limit because that affects your experience modifier which affects your rate a few years later. Similar to auto insurance, sometimes if you have a \$500 deductible and a \$200 claim, it's just better not to report the claim and just pay for the fender bender.

**Interviewer:** *Because if you keep filing claims then your insurance rates are going to go up, right?*

**Stein:** Right! That's why you want to try to return the employee back to work to keep the indemnity portion of the claim to a minimum. It also helps assist in the management of the claim because the employee is in your office, and you keep an eye on the process, the problems, the doctor's appointments, and so on. When the client lets the employee stay home, the carrier is actually paying the employee, so some of the clients are saying, "Let the carriers just pay the employee. I don't have anything for him to do!" But in reality those dollars are calculated as part of the claim, and cause the claim expenses to go up higher and higher the longer the employee is out of work.

**Interviewer:** *Let's talk more about that, because employers are hesitant to bring somebody back to work on light duty when it's not the employee's job description. What are they afraid of? Why don't they do it?*

**Stein:** The number one reason is they feel like there's not a position that's really legitimate for the employee to do. For example, if they have him in the office, they've already got another office manager and there's nothing for this employee to do that relates to that position anymore.

Number two, they trust that the carrier is actually going to pay the employee 66% of their salary like an



insurance carrier would do on a disability claim, forgetting the fact that that really is going to appear on his loss record and cause his premium to go up.

The third reason is they're given instructions from the doctor on what the employee can do and can't do, like if they can lift over 10 pounds, or if they can sit for this amount of time, etc.

**Interviewer:** *So if you're paying a machine worker to come back and answer phones, do you have to pay them the same rate as their original position?*

**Stein:** No, they can pay at the lower rate that would normally be paid for the lower job functions. They (clients) don't know that they can pay on a lower price.

**Interviewer:** *And doesn't it behoove the employer in the long run to pay the employee for light duty, rather than have the claim expanded? Regarding fraud, doesn't the employee's case look more legitimate the longer they are out of work?*

**Stein:** Yeah! That's true. It's worth it to pay the employee because it keeps dollars off the client's claim and helps the client keep an eye on the employee. Also, if the employee refuses to accept the offer for light duty, neither the carrier nor the client has to pay, so that's how you can find out if it is fraud or not.

**Interviewer:** *So we now know it's best to get employees in for light duty, but we've also discussed things that can make it hard for a client to do so. How can you help?*

**Stein:** We train. As soon as our nurses begin tracking the claim we have internal nurses that fight for the client and claims adjusters. We have nurses and claims adjusters that are speaking to the physicians and letting the physicians know that as soon as possible this client has a light duty position available. So as soon as they're able to be released, we would like them released because we have light duty program that can absorb any industry, any injury in any form that's needed, either at work or at home.

We let the doctors know that, so that we can ask the doctor to cooperate into releasing the employee into the light duty. Again, doctors aren't usually incented to make that happen quickly, so you have to, unfortunately, have some person dedicated, like a nurse and claim adjuster in continually following up to make sure that doctors then send a release form for light duty with instructions. That is crucial.

We handle the training with the client on getting a notification to the employee that can be tracked to show that they either accept the light duty or refuse it. If they accept it, we coordinate the light duty with the client and explain the whole process, and we can administer the light duty 100% if needed at the home of the employee. If it is refused, then there's proper documentation now on file, and that information is then sent to the insurance carrier by our office, and the money is not paid by the carrier or the employer. So it's 100% return to work program, and our nurses and adjusters handle the coordination with the doctor, the employee and the client, so that the client can focus on handling their business. Then we make sure that it's documented and done properly, and we coordinate it, train it, and handle it 100%. The client does not have to do anything other than provide the workspace for the employee.

**Interviewer:** *This process starts immediately upon injury of a worker?*

**Stein:** Yes. When an employee is injured, the claim is reported to the office. Our nurses do a 3-point contact



with the employee, the doctor and the employer to make sure to coordinate all the information about the claim in writing. And it's done so that we can provide that information quickly to the carrier so that they have the best and latest information available to proceed with the claim. Sometimes the registered nurse is able to triage the claim in such a way where the employee may not have to go to a doctor or hospital. It might be aspirin, elevation, and icepacks, what have you, something very simple that the employee can do at home without even visiting a doctor if it is a very minor injury. Then our claims adjusters (who are on the client side and not on the carrier side of the coin) will coordinate all claim forms: doctor's visits, hospital visits, claim reserve, and claim communication. The claim adjusters do a lot of the leg work, and being "air traffic controllers" in terms of data gathering for the injury as it relates to the employee, the physician, and the employer. We are also able to provide information about wages, etc. that the client doesn't have time to immediately gather, because we handle other services for the client, such as payroll.

**Interviewer:** *That's a lot of moving parts! How do you get cases closed and settled quickly?*

**Stein:** We have a post claims management team that includes the risk managers, claims adjusters, nurses and in-house attorneys that represent us and the client to basically try to close the claim quicker by providing the pressure of the light duty, and trying to negotiate the lower cost with the carriers and the adjusters at the carrier's level. Clients have to have an advocate like us representing them in a relationship with a carrier that doesn't really represent them.

Before claims are even made, we also have on-site risk management and online risk management options, whereby we have a risk manager that can come in and visit with the supervisors and the owner, or the employer at the employer site to do the training on the whole process of hiring, of claims management, fraud prevention, and return to work and safety. To be more specific, the on-site inspections include going over a five-step process that involves the entire process of hiring, claims administration, light duty return to work and so on. And then the courses will be ordered, particular issues for that industry can be discussed in terms of forklift training, OSHA training, specific to the actual jobs that the client is doing and then a walk-through of the facility to pick up on any basic safety information requirements that might be necessary to make the workplace safer. Our pre-hire training utilizes a form set that we created and had vetted by attorneys that is a legal way to pick up on workers comp fraud as it relates to the position that they interviewing for. The employer gets proper documentation and screening on the front end using physiological testing, behavioral testing, and forms that document prior injuries. All are provided at no additional cost and the training comes either online and/or in person. That's a very important part to add in to the client hiring procedure that clients do for every new hire.

**Interviewer:** *Thanks, Eric. I can see how most business owners wouldn't even be aware of many of these pitfalls, but it's good to know that there are clear solutions out there to help them avoid the traps.*

## Agents

**Interviewer:** *We've talked about how mismanagement of a claim can extend a claim and reward fraud, costing the client more money in the long run due to higher premiums. Does the agent, as a mediator, also face negative consequences if the client's case isn't handled correctly?*

**Stein:** Yes. The client is expecting them to find the lowest price possible and if you do not find the carrier that



has the lowest price then you are not doing your job for the client. So if they happen to have high numbers of claims and their experience MOD is causing their rates to be high, the agent gets blamed for not assisting them and keeping the rates low, even though some of it had to do with the client allowing themselves to get in that position by not following the best practices for workers' comp and claims management.

**Interviewer:** *So high claim volume creates higher MOD for a client, but how does that end up affecting their rate?*

**Stein:** When the client's MOD goes up that narrows down the number of carriers that the agent is able to actually get a quote from. So instead of 20 carriers if the MOD is over 1.5, now they may only have 2, so it severely limits the agents from being able to find them the lowest price, and even when the agent explains this, the client may not understand and is mad at the agent because they still think that the agent was responsible for not helping. The agent may end up losing that client, which can involve their other lines of coverage, including general liability, auto, building, medical, disability, and life.

**Interviewer:** *What are agents currently doing to try and avoid that?*

**Stein:** The agents, in response, have set up their own risk management and claims department, but they don't really have anything to do with the other areas that we deal with like return to work, light duty to return to work programs, hiring procedures, on site risk management, and online courses. They want to, but all they are able to do is just be reactive.

**Interviewer:** *And they aren't really equipped to deal with those issues, as their expertise lies in the sales of policies, right?*

**Stein:** Right. Their bread and butter is sales and marketing for insurance products. They understand a lot of the problems the clients are facing in risk management, but they aren't in business to deal with workers' comp and claims. They don't have enough commission to afford to be able to offer that to a client, especially if it is a smaller premium.

**Interviewer:** *So is there any way to help agents hold on to these clients who aren't as easy to place? Does Insured Solutions provide any services to help them?*

**Stein:** Yes. We have the worker's comp carriers and programs that can address clients in various industries that would traditionally have higher claims or a higher amount of claims, and we have the carrier selection to broaden that exterior selection so that we can help provide more options and more quotes that are better and more cost effective for the client. The agent can take a client, and instead of just trying to find them higher priced premiums, we're going to rehabilitate the client by offering the services we've talked about. We're going to train the client on how to be better employers in terms of workers' comp. There may be programs available to go under a lower MOD until the client can correct their own problems. The agent is now going to benefit from being able to supply these programs to the client and get the credit for it.

**Interviewer:** *What keeps an agent from doing these things on their own? The long term approach is the way to go, so surely some agents are already implementing strategies to keep clients on. What advantage does Insured Solutions have over the solo agent?*

**Stein:** A lot of agents do see the long view and they actually hire a third party firm or vendor to do these extra services like the nurse-case management, triage report, you know, risk managers to go on site. They sometimes



will pay out of their pocket to show their commitment to that client, to show them that they are trying to help them with the long view and that typically comes out of their commission, and they don't like having to do that. They don't have to. Our programs come with risk management services, along with an expanded selection of carriers that focus on hard to place clients or areas where the client is having difficulty with their claims. We have programs that match that because our carrier partners know we offer this long term risk management service for every single client, for every single program, at certain levels, and therefore we are allowed to represent that carrier and then offer that to the agent, so they can earn commission.

**Interviewer:** *That's great info, Eric. It's good to know that your solutions for helping clients also work through the agent and allow them to hold on to business they might otherwise lose.*