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Manufacturing

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Taking Control of Workers Compensation Costs

Often we hear business owners complain about the cost of insurance, particularly workers compensation. They proclaim that there is nothing they can do because the State sets the rates. Although that is partially correct, there actually may be a great deal a business can do to reduce the costs for workers compensation (as well as other business insurance).

Determine that the correct rating classifications are being used for your business activities

Although workers compensation rates are determined by the State Compensation Rating and Inspection Bureau (CRIB) or specific carrier filings, too often we find the classification used by the insurance company may not be the most appropriate to the business activities or is even contrary to the rules established by CRIB.

The insurance company cannot change your classification without CRIB approval.

For some companies, there may be several classifications that may be considered appropriate for your business activities and there can be a considerable rate variable between them. There may be several reasons the insurance underwriter will want to use a different rate and classification than assigned by CRIB—and you won't even know if they are within their rights to do so, unless you ask.

Some common business categories which may be subject to classification issues include:

- Construction
- Manufacturing (with separate warehousing or trucking)
- Retail or Wholesale
- Trucking
- Delivery Services
- Home Health Care Services
- Appliance Installation or Repair
- Landscaping/Lawn Maintenance

Your broker or consultant has access to (1) information which would confirm the assigned classification by CRIB compared to that being used by the insurance company and (2) the rates for the various classifications. Should you find an error (even if it is several years after the fact) you may have a case to recover any overcharges incurred.

Don't pay more than necessary because of an incorrect experience modification

Most businesses that have been established for a few years and that generate a specific premium level are eligible to receive an experience modification. This factor is determined to measure your business against the average business in your industry. If you have better experience than the average you receive a reduction in premium. If you have more claims than the average your premium is increased by the experience modification.

The calculation of the experience modification by CRIB or NCCI is based on the payroll, premium and claim information supplied by the insurance company. This information may not be accurate. A review of the factors can be retrospective going back several years and corrections that result in premium savings can be significant. In addition, current claims should be evaluated to determine if settlement options are available in order to reduce future experience modification effects. Such analysis should be performed at least annually and should be completed in advance of your renewal to effect the experience modification used.

The true costs of High Deductible and Retrospective Rating plans

For various reasons, businesses may have elected to have their insurance provided on a deductible or retrospective rating plan rather than on a guaranteed cost basis. It may be that the insurance company is unwilling to write the businesses without an alternative plan due to prior claims experience. It may be that the business experience has been favorable and they wish to retain greater control and cost savings potential. There are indeed some very good reasons to use such plans, provided you go in with your eyes wide open. The element of surprise can be significant if you don't understand the true costs of these programs.

Especially with Retrospective Rated plans, the effects of claims can be reflected in plan calculations for years after the policy term expires. Sometimes it may feel like you are never done paying since rating adjustments continue for a set number of years into the future or until all claims for that policy year are closed out. There are a number of steps that should be taken each year to monitor claims and the information used in the calculations to ensure they are accurate and fair.

Often with a High Deductible plan, issues of collateral requirements need to be addressed. Is the amount and type of collateral appropriate? Have circumstances changed that warrant negotiation of a different type of plan or different type and amount of collateral? Again, the key is aggressive monitoring and critical analysis. Often such activities are beyond the scope of internal staff or even your broker's staff, but such services can be obtained utilizing an insurance or risk management consultant.

A comprehensive Claims Review saves you money

Aggressive claims management and review can reduce the time period for which claims must be paid, reducing the total claim amounts impacting your rating plan and premium. Various settlement options may be available and can be determined by you and your insurance advisor working with the claims adjuster. Physician selection is your right as a business owner in many states. Careful monitoring can aid in getting a worker back on the job or getting appropriate, cost effective care. Reducing claims payments and open claims may provide options for negotiations with insurance companies which can save you money for years to come.

It matters which insurance company you select

Although rates are governed by CRIB or specific carrier filings, the availability of different rating programs or access to committed claims management and loss control services can impact your costs for future years. Some insurance companies offer dividend programs that share profits with policyholders based on individual or carrier experience. There may be services you are entitled to as part of your premium that should be explored.

Avoid additional surcharges by getting out of Assigned Risk

If your insurance was placed through the Assigned Risk plan, you may be incurring significant unnecessary surcharges. Some businesses find themselves in the Assigned Risk plan without really understanding why. Perhaps the broker you have your insurance with does not have access to insurance companies that your business is suited to and without any other alternative to offer doesn't tell you that you indeed have alternatives, but through other broker sources. Unfortunately, there are indeed times when the broker's desire to retain business and commissions results in actions that are not in your best interest.

These surcharges can also be eliminated when you place your coverage directly with an insurance company on a voluntary basis. Even if you have poor claims experience, it is possible to show an insurance company how they can help you improve your business and make your account profitable to them—which, in turn, reduces your costs.

Get the extra services you are paying for

Premiums include insurance company overhead costs for claims handling and loss prevention services. There are a great deal of services from the insurance company and other resources available to you often at no additional cost. If your broker or consultant is not seeking these out for you, enlist someone that will truly be your advocate. The return on investment for loss prevention and claims management services can be quite significant. Often it is just a matter of knowing what is available and a willingness to make small operational or behavioral changes in the workplace to gain cost savings and a competitive advantage.

Legal recourse

Abuses by professional employer organizations, brokers or insurance companies in manipulating classification codes and inflating workers compensation premiums should be questioned and pursued vigorously. When the classification of any business has been established by the State Rating Bureau, no policy shall be issued or endorsed nor adjustment of premiums made under any circumstances without approval by the State Rating Bureau.

In the event that requests for corrections are unresponsive or inadequate, lawsuits may be required, asserting claims based on contact, tort, fraud and related causes of action. Various entities involved in the application, placement, underwriting and issuance of worker's compensation policies may be liable to the business owners for damages proximately resulting in overcharging a business for worker's compensation insurance. Brokers involved in the chain of procuring worker's compensation insurance policies may be sued for knowingly or negligently failing to recognize errors in classification codes utilized to calculate premiums, resulting in excessive premiums charged to businesses. Direct, consequential and, in certain instances, punitive damages may be recovered against those involved in the manipulation of classification codes.

Many states have consumer fraud laws that protect business owners against fraudulent and deceptive practices. Such laws and other statutory schemes and court rules provide for the assessment of attorneys fees and related costs, including utilization of experts, in the event one were to prevail in a law suit.

Corporate CFOs and others responsible for procuring insurance for their employers should take a hard look at escalating costs of insuring their businesses. Consulting with a qualified risk manager and an attorney knowledgeable in this area may reap substantial benefits to the business owner. Because of the complexities and nuances associated with the calculation and underwriting of worker's compensation policies or other insurance policies, an insurance coverage audit conducted with the guidance of a certified risk management specialist is essential to establishing adherence to contractual and legal obligations to the insured business and the merits of a potential law suit to recover damages.

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