

# MYTHS REALITIES

OF WORKERS COMPENSATION COST CONTAINMENT

ONCE UPON A TIME, THERE EXISTED A WORLD WROUGHT  
WITH OVERWHELMED CLAIMS HANDLERS UNABLE TO  
PROPERLY CONTAIN THE COSTS OF WORKERS COMP.

YET, RATHER THAN ADMIT THEIR FAILINGS, LEG-  
ENDARY TALES EVOLVED FORETELLING HOW NO MERE MOR-  
TAL COULD CONQUER THE MIGHTY BEAST.

THUS, THE TANGLED ODYSSEY BEGAN.

TODAY, HOWEVER, WE KNOW THESE TALES TO BE MYTHS.  
BUT STILL, THE IMPOSSIBILITY OF WORKERS COMPENSATION  
COST CONTAINMENT REMAINS HERALDED BY MANY.

HERE, WE SLAY THE DRAGON.



**MYTH:** There is nothing you can do to control workers compensation costs. It is a necessary cost of doing business.

**REALITY:** Management has heard this for decades and is rarely aware of all the steps that can be taken to reduce workers compensation costs. But there are tried and true methods to reduce costs such as returning employees to work as soon as they are medically able to perform any type of transitional duty job.

Management must begin with a “can do” attitude and develop creative ideas to bring employees back to work more rapidly. Include your broker, insurance account executive, TPA claims manager and medical advisor in a brainstorming and planning meeting. Have flip charts around the room for notes, and have the facilitator prepare thought-provoking questions in advance, such as, “What is your post-injury process?” or “What steps occur immediately after an employee is injured?”

**MYTH:** High workers compensation costs are caused by aggressive plaintiff’s attorneys and laws that favor employees.

**REALITY:** While it is true to a limited extent that both aggressive plaintiffs’ lawyers and claimant-skewed laws can prolong an employee’s time out of work and force claim costs skyward, the largest factors driving the

cost of a claim are things that companies can control. Inaction, lack of planning and poor commu-

nication with the employee, adjuster and medical providers are major gaps that drive the cost of workers compensation higher. Poor workplace morale and failure to take advantage of existing opportunities represent other gaps in company processes. These gaps cost companies millions of dollars each year, but tools are readily available to prevent them.

If you operate in a state where employees are allowed to go to the physician of their choice, for example, you can encourage them to consult a physician who is an advocate of transitional duty. Many will use the suggested doctor. If the employee’s doctor has visited your operation to see the jobs the employees perform, it can be helpful to build a solid relationship between the company and the treating doctor. There are many things within its control that a company can do to reduce its costs.

**MYTH:** Cost containment programs are a “quick fix” to the high costs of workers compensation.

**REALITY:** An effective workers compensation cost containment program is a systematic and thorough approach to cost reduction—not a quick fix. It focuses on multiple areas that are all tied together with an effective communication strategy. The design and development of a workers compensation cost containment program can be done within a few months if there are dedicated resources making this a priority.

High workers compensation costs frequently involve lack of communication, lack of adequate personnel, lack of resources, and other gaps within a company, which can all be corrected once the problems are identified.

The companies that have high workers compensation costs are those that have too many claims lasting too long.

The bottom line is that the length of time

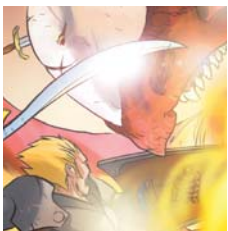
an employee is out of work is often disproportionate to the severity of the injury. To bring the length of time an employee is out of work back in line, a company must have a comprehensive return-to-work program with 90% of injured employees returning to work within the first few days of an injury.

To do this, you will need a company policy mandating all employees’ participation in the return to work program as a condition of employment. You will need to make sure the doctor provides work restrictions during the first medical appointment and you will need to assign a transitional duty job as soon as you receive the workplace job restrictions. While this may sound like a cumbersome task, with the appropriate tools and the right approach, these steps can be put in place very quickly, often within a few weeks.

**MYTH:** The best way to reduce workers compensation costs is to switch insurance companies or third party administrators.

**REALITY:** More often than not, the best way to reduce workers compensation costs is to build a better relationship with your *current* claims administrator. The major cause of discontent between carriers and insureds is lack of communication, which causes a perception that something is being done improperly. For example, in several situations a company believed nurse case management was too expensive. Upon audit by a medical advisor, however, it was determined that the nurse case management service should be used more, but it just needed to be brought in earlier. It was not effective when it was used—and thus seemed expensive and wasteful—because it was used too late in the process.

Start to build a better relationship by becoming more informed about the services your claims administrator offers. Hold a “vendor day,” and invite your TPA in with every service they offer. Ask for samples of reports and deliverables so you can understand the product and will know



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when to request services. Have them bring brochures prior to the event so you can read them and ask knowledgeable questions about the services.

Visit one or two claims offices and observe the process. Learn the categories of desks at your carrier. For example, are there four levels of adjusters or five? Do adjusters have backup and clerical support to get medical files or provide other support assistance? Sit at the intake desk, and then join the lost-time and medical adjusters for a few minutes at their desks. Ask to see what happens to medical bills when they enter the system until the time they are paid and filed. This will give you a better understanding of how you can interact more effectively, what information adjusters need from you, and what information you can provide about your workplace and employees.

Then invite your adjusters to visit your workplace so they know what your company does, the types of jobs and skills required of the employees. They can then better visualize exactly how an injury occurred much more so than if they had never been to your facility.

**MYTH:** The first step in cost containment must be to reduce the costs of your medical providers.

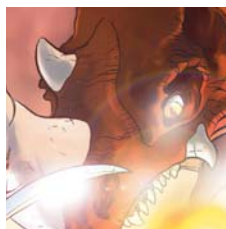
**REALITY:** Reducing your medical providers' fees is a noteworthy cause, but it is not the first thing to be done. If you have employees sitting home on workers compensation, you should bring them back to work before you focus on medical cost containment issues.

If you can reduce the number of "lost days" and bring your employees back to some sort of transitional duty position, you will be taking a giant step toward controlling your comp costs. Because for each day your employees are out of work, you pay more in indemnity payments.

Half the cost of workers comp is lost wages. Indemnity payments are tax-free payments made to your employees to replace the wages they lose while they are out of work. The sooner employees go back to work, the more money you will save.

While it is true that some will only be partially productive during the transitional duty period, it is always better to have partially productive employees at work than entirely unproductive employees at home. Also, the longer someone remains out of the workplace, the less likely it is that they will ever return to your workforce and the more likely it is they will suffer some level of clinical depression.

As your lost-day count goes down, so will all of the other costs associated



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with workers compensation, especially medical. Employees seeking to stay out of work often use a doctor as a safety net and seek treatment continuously in order to accomplish their objective of staying out of work longer.

Keep in mind that while the injured employee is out of work, the company is paying a replacement employee as well. And if the injured employee was employed by another company in addition to yours, the employee's indemnity check may include lost wage payments for both jobs if he or she is unable to work at the other job as a result of an injury suffered at your company.

In this scenario, you would be paying up to the equivalent of *three* lost wage payments until you bring an injured employee back to work (two for

the out-of-work employee plus a replacement worker).

Calculating the real cost to the company for those three jobs shows the full impact of a workers comp claim to management—and it is a great way to build upper-level commitment when requesting resources.

**MYTH:** Employees stay out of work intentionally because they do not want to go back to work.

**REALITY:** While it is certainly true in some situations, this is not always the case. Employees often do not come back to work because a company will not offer them a transitional duty assignment while they recuperate. In situations where an employer has only a few, narrow job classifications in its operation, there are not many transitional duty options. It is important for these employers to locate jobs that are not obvious at first glance in order to give the employee at least some options to return to work.

Employees are motivated to come back to work because they have friends in the workforce, they need a steady routine and they do not want to become deconditioned while not working. In many cases, employees become depressed with the loss of their routine, especially when the only replacement is hours of nothing at home. Everyone needs a destination to go to each day.

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**MYTH:** If you have unions, you will never lower your workers compensation costs.

**REALITY:** While implementing a workers compensation program in a unionized company can be more challenging, it is usually not. Begin with a positive, cooperative, win-win attitude. Sit down and discuss the situation with the bargaining committee; educate them about workers comp and the need for transitional duty and they will usually facilitate the program. They need to be aware that staying out of work for extended

periods of time normally does not help an injured employee heal, and, in fact, the employee's health often deteriorates because mental health can be compromised by depression once the employee loses his daily routine and social network.

Focus on the economic consequences and interests of the membership and determine how those costs impact union funds. For instance, if members are older, emphasize how money spent on workers compensation may be draining their welfare fund and how the savings will help their retirement accounts. Sometimes they will have very creative ideas about how a new transitional duty program can be effectively integrated, and they will make you aware of collateral source benefits that need to be eliminated. In one recent case, the union was angry because management had not tried to do more to stop several fraudulent claims.

**MYTH:** To get a slow claim moving, the best thing to do is request an Independent Medical Evaluation.

**REALITY:** If a claim is stalled, it is quite common for the adjuster to recommend getting an IME to ascertain the status of the claimant. In some cases this may be effective and warranted, but sometimes this only

makes a bad situation worse. It makes it worse when the timing is not right, when inadequate medical records are included with the IME packet or when inadequate medical questions are asked of the doctor who is performing the IME. You might want to consider a Functional Capacity Evaluation instead. Or, you might want to conduct a brief surveillance of the claimant to assess his or her level of ability—or lack thereof.

Perhaps the biggest problem with IMEs is not obtaining medical records from prior to the workplace injury. If the MRI post workplace injury shows a herniated disk but there is a history of back pain, a record of that herniated disk might be found in earlier medical records. If so, it is important to distinguish a recurrence of the workplace injury from the natural progression of an underlying disease. A "recurrence" may in fact just be the progression of a pre-existing condition. This is often seen in cases of spinal stenosis, for example—one of the more severe manifestations of degenerative arthritis. It is very helpful, then, to have a medical doctor in the role of medical advisor review who can screen all IME requests.

Sometimes an IME can hurt more than help. This is particularly true when there are insufficient medical records. Without the latest MRI and/or

a pre-injury baseline, an IME physician has to rely on the claimant's version of events and is unable to provide an objective opinion based on all facts.

**MYTH:** Once cost containment initiatives are implemented, workers compensation premiums will immediately go down.

**REALITY:** With a proper cost containment program, loss costs will fall immediately. But premiums may take several years to fall because they are calculated on a company's experience modification, which is based upon a three-year rolling average. As each good year "rolls" into your experience, a bad year drops out so it could take up to three years for the full benefit of a cost containment program to be reflected in your premiums.

Armed with this wisdom of reality and the willingness to dispel traditional cost containment myths, you too will be able to slay the formerly invincible workers comp dragon. ■

*Rebecca Shafer is an attorney and a risk consultant specializing in the field of cost containment. She recently developed the Workers Compensation Injury Management Tool Kit, an online service located at [www.workerscompkit.com](http://www.workerscompkit.com) designed to help companies manage their workers compensation costs.*

