WORKCOMPADVISORY
Helpful Information to reduce Workers' Compensation costs

Six benchmarks for evaluating Return-to-Work programs

While there is significant evidence that return-to-work programs are a best practice for effective cost control, they have not been immune to the severe contraction in the economy. As businesses have had to make tough choices and reorganize their operations in order to survive, the value of return-to-work programs has come into question.

Companies that have the acumen to improve efficiency, batten down the hatches and emerge competitive make careful choices that will sustain their economic success. Processes are evaluated, fine tuned, reworked or eliminated and return-to-work programs should be no exception.

The basic tenets of a return-to-work program are that employees will recover faster, be happier with their care and return to their full-duty jobs sooner, leading to improved morale, higher productivity and lower premium rates for employers. Here are six key benchmarks to effectively evaluate return-to-work efforts:

1. How quickly injured workers return to work

The biggest potential for cost savings comes when employees return to work before it becomes a lost-time claim. While severity of the injury may require lost-time, it is often factors that employers can control, such as late reporting, delayed medical treatment, or slowness in offering a return to transitional work that cause lost-time claims.

Poor communication with physicians is also a common stumbling block. Faced with demanding schedules, physicians who do not have sufficient information about a worker's responsibilities or the availability of transitional work, take the safe route and send the worker home, sometimes even asking how much time off they think they need.

2. How to monitor and evaluate progress

A well-designed return to work policy establishes time frames consistent with medical disability guidelines for an injured employee to gradually return to the pre-injury job. Employers, employees and medical providers need to be on the same page about exactly what the employee can do.

While there will be differences in recovery and disability durations based on comorbidities, pain tolerance and motivation, the plan needs to establish reasonable expectations based on guidance from the preferred medical provider. Work assignments must progress, matching functional tasks with changing abilities and restrictions.

Importantly, the plan must have the flexibility to deal with cases that are not progressing. Return-to-work jobs are transitional and should not last for more than 30 - 90 days. There will be individual cases where the program does not work or save the dollars expected and they must be dealt with in a proper and legal manner.

3. Supervisor support of the program

When workforces are lean, supervisors understandably struggle with the idea of paying an injured worker full salary for modified work. While they may grasp the high costs of the alternative - to pay the injured workers both indemnity and medical costs - the supervisor's focus is on the task at hand, getting the work done.

In the best-case scenario, the injured employee is a strong, respected worker with limited reduced productivity and the supervisor embraces his or her return. But there are circumstances when a "bad apple" can threaten the entire return-to-work effort.

Supervisors are the most important cogs in the success of the program. They are key to establishing functional job descriptions and alternative duty assignments. They also must ensure that the injured employee does not exceed work restrictions, limiting the possibility of aggravating the injury. And they must monitor the employee's progress.

If supervisors believe the program caters to a group of employees who work less or milk the system, then the issue is rooted, not in return-to-work, but in poor hiring and inadequate performance appraisals.

4. Defining transitional jobs

No transitional work available is probably the top excuse for reducing or eliminating return-to-work programs. The struggling economy has meant changing job descriptions, extra work for those employed, declining morale and less loyalty. As soon as the opportunity arises, productive workers who perceive they are not valued will seek other opportunities.

Even in today's economy, knowledgeable and experienced employees are difficult to replace. Employees who return to work with modified job schedules and/or reduced hours can help to ease the strain on co-workers when given productive, meaningful responsibilities. The list of transitional jobs should not be static; conducting regular audits of what tasks are available with existing employees benefits the program and strengthens morale.

5. Effectiveness of reducing litigation

When Workers' Comp claims move from the Workers' Comp system into the employment litigation area, employers' costs skyrocket. Employees who return to work quickly and feel positive about their experience with the company are less likely to seek legal counsel. A modified job offer also can be advantageous to the employer if an employee declines a job offer and the case is litigated. A recently published decision in New York, *Browne v. Medford Multicare* (2011 NY Slip Op 07764), demonstrates the value of modified work offers.

The claimant, a certified nurse's aide, suffered injuries when she fell at work. Thereafter, she successfully applied for Workers' Compensation benefits and was found to have a partial disability. An orthopedic surgeon who conducted several independent medical examinations opined that the claimant had a moderate partial disability and was capable of performing light-duty work with specified restrictions. The employer offered her a detailed light-duty work assignment that matched with her physical limitation. Her treating physician advised against accepting the offer, and she refused. The Workers' Compensation Board found and the Appellate Division of the Supreme Court of NY agreed, the claimant in refusing the assignment had voluntarily withdrawn from the labor market and had no compensable lost time following the employer's last offer of light-duty work.

6. The high cost consequences of no plan

It behooves employers to adapt the attitude that every injured employee off work is at risk of a costly, extended absence. Disability itself can become a self-perpetuating mindset, fueled further today by the realities of harsh job prospects. The odds of returning to work drop by 50% by just the twelfth week of disability according to the American College of Occupational and

Environmental Medicine (ACOEM).

When a return-to-work program becomes a casualty of the economic malaise, the long-term costs of the alternative - to pay the injured workers both indemnity and medical costs or to settle the claim - are often not calculated. Workers' Compensation is not forgiving and the system is built so that employers pay the cost, over and over. Employers without return-to-work not only incur the costs of hiring and training a replacement, but also face increased claim reserves, a higher Experience Modification factor for three years and higher premiums.

It costs to keep the employee at home, it costs to settle the claim, it increases premiums for three years and has the indirect cost of increasing litigation possibilities and adversely affecting morale. Additionally companies that bid on large projects may lose out on opportunities as a result of a high Mod.

As rates begin to inch up and changes in experience rating calculations take hold, employers with high loss experiences will pay a hefty price. While most agree that the objectives of return-to-work are laudable, it must be well conceived, well managed and part of a coordinated risk management program to make economic sense. This means on-going evaluation so that the cost savings are quantified on both a short and long-term basis.