Property and Casualty News
Fall 2009

KAPNICK INSURANCE GROUP

Managing your WC Experience Modification

For many businesses workers compensation is the largest single property or liability insurance policy they buy. Because of the experience rating component that goes into workers compensation premium calculations, it has two other unique characteristics: it's the most volatile policy, in terms of possible premium fluctuations from one year to the next, and it is, by far, the policy over which policyholders can exercise the most control over their cost, if they choose.

Workers compensation laws differ in every state and jurisdiction, but all have an experience rating component by which premiums for the current policy period will be modified, either up or down, to reflect an employer's actual past loss experience. Thirty four states subscribe to the National Council on Compensation Insurance (NCCI), and follow NCCI rules for promulgating experience modifications; the rest have their own independent rating bureaus, which do the same thing. In broad general terms, an experience modification of 1.00 could best be thought of as the theoretical average for all employers in that classification. A modification of 1.21 (a twenty one percent debit) could be interpreted to indicate claim experience twenty one percent worse than average, while a modification of .92 would suggest experience eight percent better than average.

There are certain common denominators between the NCCI experience rating format and that of all the other states: 1) Any employer who generates a workers compensation premium over a certain low minimum threshold will be subject to experience modification. 2) The modification will be based on a rolling three year experience period, not including the most recent (or just expired) year. 3) Claims for each of the three years in the experience period will be valued at a specific point in time (usually six months from the expiration of the prior policy) for experience rating purposes; later changes in the values of claims will not impact the modification until a year later. 4) There are weighting factors in the rating formula so that smaller employers have their experience leavened by statewide averages and don't get disproportionately hit by a bad claim year, while larger employers will have their modification based to a greater extent on their own experience. 5) And the rating formula is also structured to give more weight in the modification to frequency of claims, rather than the size of claims.

An experience modification is essentially a comparison of what total claims you should have had, compared to what you did have. If you understand how experience rating works, you can use that knowledge to better manage and predict your workers compensation costs. Here are some things you should know.

Timing Issues: Your modification is based on a rolling three year period, not including the most recent year. For example, if your workers compensation policy renews on October 1st, 2009, the period that determines the modification that will apply for 2009 are the policies that were effective October 1st, 2005, 2006, and 2007. In 2010 the 2005 year will drop out of the rating formula, and experience from 2008 will come in.

Your actual audited workers compensation payroll for those years is reported to the rating bureau, along with claims valued at the six month mark, in this example April 1st, 2009. Since claim values reported include not only actual payments for claims incurred during each policy year, but adjusters estimates of future payments (reserves), too, claim values for each year can go up or down for the three years they are in your rating formula, impacting your experience modification.

You can use this information to your advantage.
Suppose you had a claim for an injury that initially looked serious; the claim adjuster sets a reserve at several thousand dollars to cover anticipated costs. The injury proves to be minor, the employee is back to work quickly, and the amount actually spent is small. Eventually the adjuster will revisit the file, remove the reserve, and close the claim for the small amount paid. If this is done on April 15th, your next experience modification will still reflect the higher claim value as of April 1st. If the adjuster closes the file on March 31st, it won't.

Larger employers should be constantly monitoring their open claims; that scrutiny should be especially sharp in the ninety days prior to the claim valuation date. But even smaller employers can benefit from taking a close look at their open claims a month prior to the experience modification valuation date.

You can also predict your experience modification (and your premium costs) months in advance of the policy renewal. With your current experience modification worksheet, your final payroll audit for the new year going into the rating period, and the losses for those years on the valuation date, you have the information needed to project what the experience modification will be six months down the road. State promulgated workers compensation rates may change during that time, but you'll still be close enough to know what to expect, and avoid any unpleasant surprises.

Frequency vs. Severity Issues: Claim values affect your experience modification. You should keep an eye on both the size and frequency of claims.

Most rating formulas cap the size of a claim for rating purposes; the typical NCCI maximum value is $5,000. All claims below that count in full toward your modification; above that, only $5,000 goes into the primary rating formula no matter how large the claim grows.

This means two things. Smaller employers, in particular, need not worry that one very large claim will drive their modification (and premium) through the roof; there will be some impact, but it is limited by the cap. However, any employer who shows a frequency of claims, even smaller ones, will be penalized. Put another way, one $50,000 claim has far less effect on your modification than ten $5,000 claims.

Management Issues: The experience modification formula directly ties your workers compensation premium costs to your actual claims experience. Here's the bottom line: if you want lower workers compensation premiums, you want to create a safe workplace that results in fewer claims, and you want to manage claims that do occur to the lowest possible cost.

Risks from Home Based Employees

It is becoming more and more common for businesses to allow (or require) some of their employees to work at home. In these days of relatively inexpensive and powerful computers and reliable high speed internet and phone connections, there is no productivity penalty, and potentially some gains, from home based employment. Many business prognosticators have noted that there is no longer the same need or advantage to gathering large numbers of employees in one place to work, and predict that within twenty years as much of thirty percent of work that is currently done in an office setting will be done at home.

There are insurance implications to this, of course. For the most part current insurance policies can be adapted to reflect the additional exposures from home based employment, but employers need to keep a few things in mind. Some examples to think about:

Workers Compensation: An employee who is injured while working for you at home is every bit as entitled to workers compensation benefits as one who sits at the desk outside your office door. But if a home based employee goes downstairs for a glass of water and slips on a wet spot on the kitchen floor, is that a compensable injury? How about the carpal tunnel injury the home based employee develops from a non-ergonomic work setup at home? There are many questions about how much control can you actually exert over a workspace in your employee's home to avoid these types of claims.

Liability: The FedEx driver dropping off a package of business documents trips on some kids toys on the front porch steps. He sues, you as the employer, possibly, but your employee, the homeowner, definitely. Just as definitely, the homeowner's policy claim adjuster looks at the business pursuits exclusion in the unendorsed homeowner's policy and denies coverage to the employee.

Questions to ask: Does your home based employee have liability coverage in their homeowners (or renters) policy? What limits? Are those policies endorsed to cover business pursuits? Does your liability policy provide coverage for your home based employees? Are their homes scheduled locations? These problems can all be fixed, but we need to know if there is a problem, first.

Autos: Your home based employee runs out of toner for their printer and jumps in their car to run to the store to buy more; on the way home, they cause an accident.

Where is their coverage for liability from that claim? That is business use of the auto; in some states, that might not be covered under the employee's personal auto policy. Does your employee even have an auto policy? What limits? Do you have non-owned auto coverage to protect you? Can (or should) your auto policy extend to cover your employee in this situation? And what about the collision damage? Again, talk to us about this.

Property and EDP equipment: Are you furnishing the computer and other equipment your employees use at home? How much is there, and how is it insured? An unendorsed homeowners policy usually won't cover property used for business purposes; does your policy cover property while off your premises?

Your employee leaves their laptop and PDA in their car to run into Starbucks for a cup of coffee; they are stolen. Besides the equipment, what information is on that laptop, and how secure is the data? Your employee at home is logged onto your system through their desktop computer, runs out for an errand, and their teenager sits down at the keyboard and rambles through your system. Or the employee accesses the internet through an unsecured home wi-fi network; the connection is hacked by someone three doors down. As we have noted in earlier issues, you probably have no insurance coverage for any of these losses; prevention is your goal.

What to do after an auto accident

Most people do have a basic understanding of what to do after an accident, but here are few additional pointers that could be useful, but might not spring immediately to mind.

1) **Take pictures.** Most everybody these days carries a cell phone, and most of these now have cameras. Try to get shots of the vehicles involved, people, the general area where the accident occurred, and anything else that seems pertinent.

2) **Don't admit or discuss liability with anyone at the scene of the accident.** People tend to get a little shaken up, even by relatively minor accidents, often leading to volubility. Save those conversations for the staff at our office or your insurance company.

3) **Report the accident to us immediately.** And while the details are still fresh in your mind, write your own account of what happened. Be sure to make note of anything the other involved parties said about their injuries or as to how they may have contributed to or avoided the accident.

It's the holiday season – a time to brighten your home with seasonal decorations. While adding sparkle to the holidays, decorations are also fire hazards. To decorate the safe way, try these tips:

Holiday Lighting & Decorations

Mixing and matching lights can create a fire hazard — keep outside lights outdoors and inside lights indoors.

When buying electrical decorations, look for the UL rating and follow installation and maintenance instructions.

Inspect new and used lights; discard any light strings that have cracks, exposed wire or loose connections. Also check the light bulbs and replace as needed.

Don't join more than 200 midget lights or 50 larger lamps through one string or cord, and don't connect more than three sets of lights to an extension cord.

Test lights by plugging them in for a few minutes to ensure good working order.

Plug outside lighting into a ground fault circuit interrupting (GFCI) outlet only.

Never secure outdoor lighting or extension cords with staples or nails.

Do not close doors or windows on extension cords, or run them under rugs or carpeting.

Unplug ALL decorations and lights before leaving the house or going to bed.

Seasonal lighting is not for permanent installation or use. Take the decorations down when the holidays are over.