



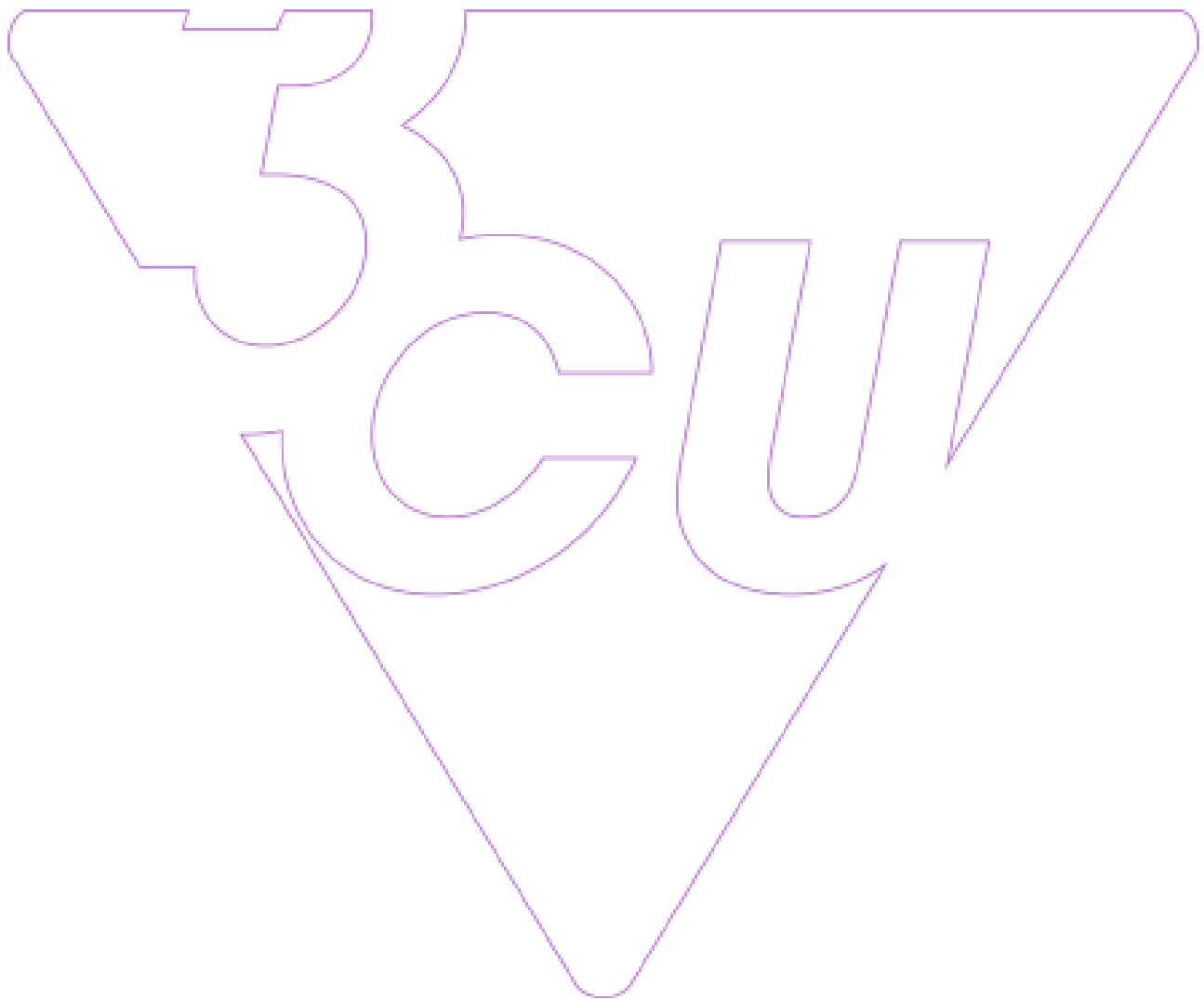
Pre-Loss Claims Consultation



The following is offered by 3CU in an effort to assist you with driving the best outcomes in the event of a claim including preventative measures to utilize which may lead to favorable results for your company. These tips are general guidelines, as each state administers their own programs. This will be updated and expanded periodically and distributed to 3CU customers only. If you have any questions, please feel free to contact your assigned 3CU claims professional.

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Claims Reporting and RTW



How to Report a Claim

Report claims to 3CU in one of several ways. All claims should be reported, including incident-only claims, within one business day. Your dedicated claims professional will contact you within 24 hours.

Report a Claim to 3CU in Five Convenient Ways:

- 1. Use the First Notice of Loss (FNOL) application on our secure website.**
 - This allows you to receive a claim number immediately after submission, which would otherwise not be available until our team sets up the claim.
 - The FNOL application also allows you to upload attachments.
- 2. Email the following documents to ReportAClaim@3CU.com and your designated claims examiner:**
 - Accident investigation form
 - First report of injury form
 - Medical documentation
- 3. Visit 3CU.com, click on 'Contact' and then click 'Report a Claim' in the left-hand menu.**
- 4. Call toll-free: 1-866-641-2328.**
- 5. Fax: 1-866-323-1034.**

Prompt Reporting Saves

There's a proven correlation between prompt claims reporting and loss mitigation. Employers who report claims promptly often see significant benefits, including:

- Lower experience modifications
- Reduced instances of fraud
- Increased defense on fraud cases
- Prompt and appropriate medical treatment for injured workers
- Reduced medical, administrative and litigation costs
- Reduced lost-work time
- Reduced indemnity payments

Contact us at info@3CU.com or call 1-866-641-2328 to develop a customized claims reporting process.

Prompt Claims Reporting and Return-to-Work

Identifies best practices for reporting a claim after an incident occurs. It is critically important that you report a claim to 3CU for handling after it occurs. Return to work lets you to bring an employee back to work from a workplace accident while accommodating doctor's restrictions.

Prompt reporting, defined as providing 3CU with a claim or potential claim within 24 hours, is critical to controlling your costs.

A comprehensive analysis/study was conducted on this issue and the results were as follows:

- Claims reported within two weeks were 18% more expensive than those reported in one week.
- The cost of claims reported as late as five weeks increased by as much as 45%!
- 22% of claims were litigated when they were reported at 10 days after the injury.
- Litigated claims jumped to 47% when reported after 30 days.

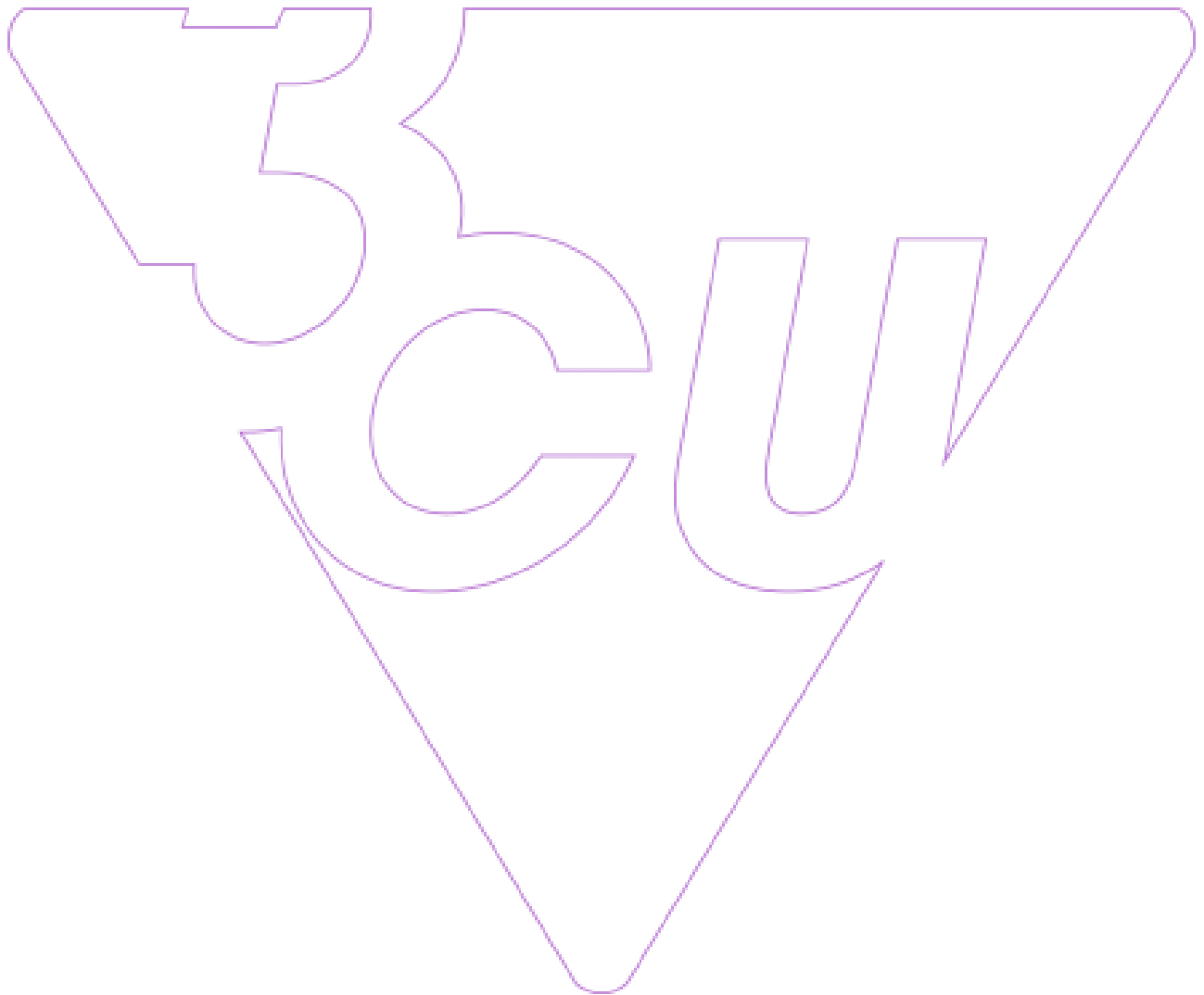
- **Action item:** Set the expectation with staff that immediate reporting is required. Make sure to define immediate. Identify any obstacles from achieving the requirements.
- **Action item:** Establish a process that takes into account the identified hurdles (which are generally logistical issues) and rectify them.
- **Action item:** Train the staff on the process and inform them of the discipline procedure if it is not strictly adhered to. Few things within a comp claim environment will drive up your costs unnecessarily faster than late reporting — up to 50% more!

- **Having a solid return-to-work (RTW) program in combination with a prompt reporting program are the two most effective steps you can take to help reduce your experience modifier and insurance rates.**

RTW programs help injured employees financially and mentally. Medical costs and litigation rates are far lower when RTW is employed. In addition, RTW programs are very effective at fighting fraud. A fraudulent claimant often wants to stay home or work another job while collecting disability pay. Your commitment to RTW does not allow them to attain their objectives. These are often the most frustrating cases, but superior management on your part will overcome a claimant's gamesmanship.

- **Action item:** Develop a detailed job safety analysis (JSA) for each position outlining the physical job demands. Identify essential vs. non-essential functions. These will assist you in determining the tasks and capabilities your employee can perform and get them back to work quickly.
- **Action item:** Other methods include identifying an ongoing list of projects no one seems able to complete with selected work being chosen based on the employee's restrictions.
- **Action item:** The last resort is off-siting an employee to a charity and donating their time. 3CU works with vendors who can assist you in the structuring of a not-for-profit RTW solution.

Layoffs/Reduction in Force



Layoffs and Reductions in Force (RIF)

When staff reductions are necessary, some employees may attempt to make workers' compensation claims. The following recommendations may help to minimize claims.

Keep your intentions very tightly communicated.

On average, work comp claims jump 50% after layoffs are known or rumored.

- **Action item:** Keep the number of people who know of the layoffs to an absolute minimum. This includes not communicating the end of a job.
- **Action item:** When an announcement is made, release the affected staff immediately and escort them off the premises (unless prior notice is required by the law).

• **If it becomes obvious to staff that a RIF is inevitable, do it quickly.**

By letting situations linger, it enables staff to contemplate how they are going to “get even,” which often can be a claim.

- **Action item:** Unless prior notice is required by the law, call staff into your offices in very small groups and let them go. A mass announcement for an all-staff meeting held days away from the event is a recipe for multiple claims.

• **Put heavy emphasis on unemployment benefits.**

Being aware of unemployment benefits as an income source may decrease an injured worker's angst and thereby decrease the potential for work comp fraud. Some states allow workers' comp and unemployment benefits to work in tandem as an offset; other states only allow one, but not both.

- **Action item:** Before implementing an RIF, investigate all your options with a qualified attorney so you will be able to accurately and timely communicate options to the affected employees.
- **Action item:** Call your 3CU adjuster as soon as you determine when a RIF is required. We will work with you on all options for claim risk mitigation including reporting processes for terminated staff.

• **Make sure all personnel records are up-to-date for staff before pursuing RIFs.**

An employee may try to switch sick time into an alleged comp injury if they run out of sick time. Make sure all health claims have strong documentation for “off-the-job” reasons as well.

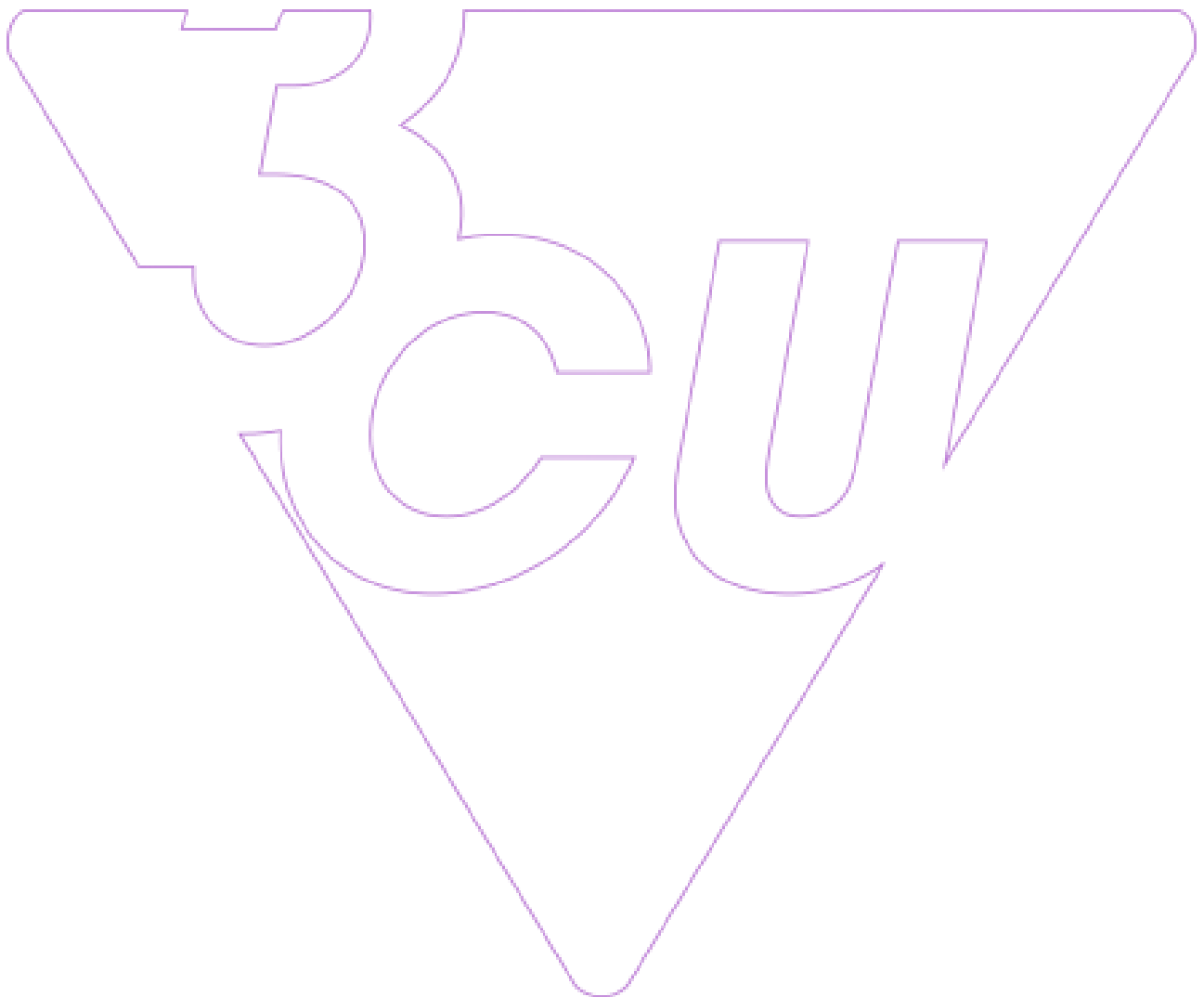
- **Action item:** All absences need to be carefully documented as accurate records are vital to your defense.

• **Conduct an exit interview quickly after your announcement.**

This allows you to verify and document with each employee that there are no injuries.

- **Action item:** Contact 3CU and we can assist with resources.

Subrogation



Subrogation

The act of seeking damages from others when either equipment (yours or a third party's) or another employee (or a third party) intentionally causes your employee to be injured. Subrogation laws vary dramatically from state to state.

- **If an injury occurs involving equipment owned or non-owned, preserve all evidence immediately.**

Subrogation potential is often determined immediately after the accident occurs.

- **Action item:** Preserve the equipment and any evidence. Train staff on the importance of scene preservation until all equipment is secured.
- **Action item:** Take scene photos, obtain manuals, receipts, invoices and any work orders.
- **Action item:** Review contracts for third-party liability.
- **Action item:** Keep all manuals and receipts no matter how old they may be.

- **A comprehensive investigation is critical.**

Witness statements, photographs, diagrams and root cause analysis are imperative in piecing the details of an accident together. An immediate response is often required.

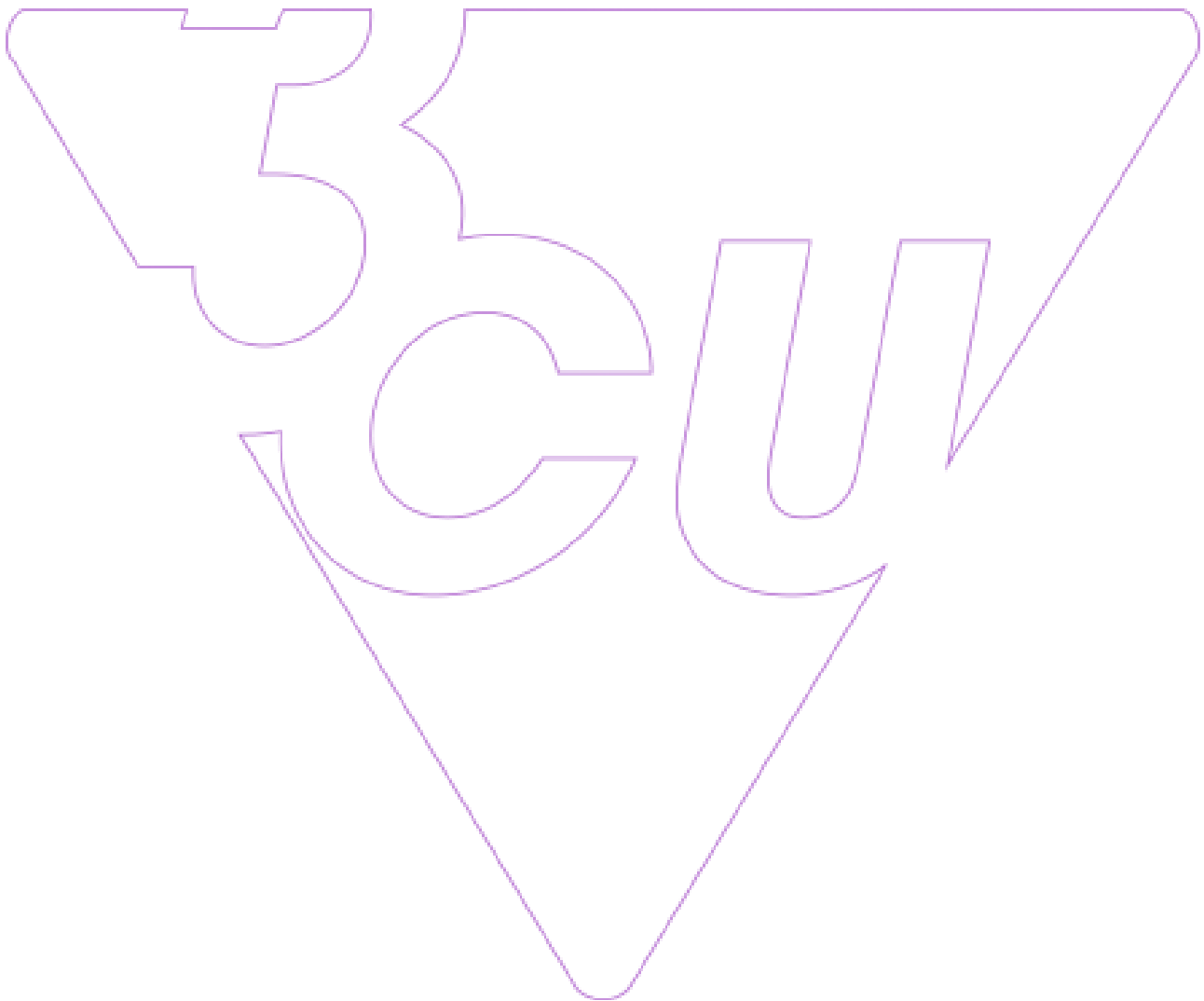
- **Action item:** Contact 3CU so we can train your investigators on how to properly conduct an investigation. The key is repetition. A good investigation is the result of a learned skill. The more investigations they conduct, the better they become.
- **Action item:** Limit the number of investigators in your company so they become better at it.

- **Pre-planning for subrogation opportunities is very beneficial.**

The time to prepare for an investigation is before the accident, not during the chaos that ensues after.

- **Action item:** Establish who will be responsible for what tasks and establish written procedures to follow after an accident occurs.
 - **Action item:** Avoid chaos with a pre-plan including evidence control, communication plans, work continuity, etc.
 - **Action item:** Organize equipment manuals and related information so it is accessible should an incident occur.
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Fraud



Fraud

Includes information and tips on preventing and reducing work comp fraud.

Be extra cautious with short-term hires or new, permanent members of your company.

Short-term hires have no allegiance to your company. It takes time for new employees to become a part of the team and understand your commitment to safety. New employees are more susceptible to legitimate injuries because they may not have been acclimated to the position and safety processes. They often have a mentality where they believe they need to prove themselves. Likewise, those same employees also pose a fraud risk in instances where they come to the new employer with the intention of claiming an illegitimate injury or, seeking treatment for an old injury they would like to have covered under workers' compensation. It is often difficult to identify a true professional claimant in the hiring process.

- **Action item:** When short term employees are needed, consider hiring through a temporary service.
- **Action item:** If you are hiring short-term, implement a strong new hire orientation process emphasizing safety rules and training.
- **Action item:** Set the initial tone demonstrating your diligence in managing work comp-related issues.
- **Action item:** Consider the implementation of pre-employment, post-offer physicals (designed to ensure the individual is capable of meeting the essential functions of the job), applications and background checks.
- **Action item:** Consider the use of a daily injury-sign out safety program.
- **Action item:** Spending time with a labor lawyer upfront can save you time, headaches and money later from bad faith claimants or deficient workplace practices and controls.

- **Be careful with short-term hires who work alone.**

This is a perfect opportunity to allege an injury with no management oversight. Assign new staff to work with a trusted employee.

- **Action item:** Try to change your work structure so short-term hires do not work alone or are not out of sight until they prove themselves. If an employee is intending to file a fraudulent claim, if you are keeping close watch on them, they are likely to get frustrated and leave.
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- **Trusted co-workers can at times be your best defense against fraudulent claims.**

If properly trained, trusted co-workers can be an extra set of eyes and ears for validating or disproving fraud statements from others. Remind them that fraud against the company negatively impacts all honest employees.

- **Action item:** Pick a handful of your best, most trusted employees. Train them on the adverse affects work comp claims have on your bottom line and how they harm your ability to successfully bid on business. This includes teaching them “red flags” to listen and look for. Stress that this is not a snitch role, but a company preservation action. 3CU is happy to assist with resources.

- **Be wary of an injury that was not reported in a timely manner.**

This may occur when an employee is being coached or has obtained a lawyer. Demand immediate reporting of any claim. Also, we **strongly recommend** implementing a daily “I was not hurt on the job today” written sign-off process for all staff. This process adds considerable strength to the defense of late-reported fraudulent claims.

- **Action item:** Set the expectation that claims will be reported immediately.
- **Action item:** Track the communication needs within your company and establish accountability processes to achieve the timeline. It is often beneficial to roll out a comprehensive program that includes accident investigation training at the same time. Call 3CU for a sample template you can use for daily sign-outs and for assistance in the implementation of this program.

- **Be wary of the “I just bumped my shoulder, but I’ll be OK” type of employee report.**

This is a classic fraud statement. The employee knows they need to report it and did so. Subsequently, they hire a lawyer and begin treatment and the claim spins out of control without anyone knowing about it. Any type of injury comment needs to be reported and managed officially and quickly.

- **Action item:** Adopt 3CU’s “leave no stone unturned” approach to accident investigation, accident reporting and accountability programs. We have specific processes in place for when an employee reports an injury but refuses medical treatment. Train your supervisors that any report of an injury, no matter how small, needs to be immediately acted upon with the established reporting processes.

- **Be wary of claims reported on Monday mornings, especially for staff with no health insurance.**

Some employees that injure themselves over the weekend may report the injury as a comp claim on Monday morning.

- **Action item:** Extensive investigation is required along with recorded statements. Often the claimant will make comments to co-workers regarding weekend activities that need to be reported.
 - **Action item:** Observe employees as they arrive for work first thing in the morning and pay attention to signs of any injury before the workday starts.
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- **Action item:** The start of the workday is a great time for a stretch-and-flex program and a pre-job planning safety meeting to ensure that everyone appears fit for duty.

 - **Be wary of any employee with known financial difficulties.**

Some employees experiencing financial difficulties may see work comp as a way out not knowing it can take years to receive any type of payment.

 - **Action item:** Set a tone and expectation within your company that you will vigorously pursue and investigate any work comp claim.
 - **Action item:** Be sure to reinforce the safety aspects and corrective action process when legitimate injuries occur.
 - **Action item:** Likewise, support legitimately injured employees in their recovery efforts, including transitional return to work.

 - **Be wary if a claimant changes medical providers or refuses to be treated by your company physician (where allowed).**

Most injured employees want to recover and get back to work. Often, when an employee changes doctors or refuses treatment by the company physician, it is because the employee has secondary gain motives or intentions of going out on disability. While there are certainly legitimate reasons to change doctors, this is a red flag that needs to be considered with the other facts in the case.

 - **Action item:** Depending on what jurisdictional law applies to the injury, the recourse can be vastly different. Send the employee to the company physician and report the claim immediately to 3CU.
 - **Action item:** Aside from conducting a prompt investigation, it is in everyone's best interest to get the employee prompt quality medical care to resolve the problem. We will assist in direction of care to top-tier physicians identified by 3CU's Care Analytics®.

 - **Be wary of an employee who takes unusual risks, such as not being where they are supposed to be or acting careless.**

This type of situation can always be dangerous, regardless of intent. It may occur when an employee believes getting hurt is a good way to get some time off of work.

 - **Action item:** Reinforce the rules quickly, document and implement a disciplinary action, and watch the employee closely! Let them know you are aware of their change in behavior and are watching them.
 - **Action item:** Consider installing workplace cameras as they often pay for themselves and are very valuable in the claims defense process.
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- **Be wary of an employee with multiple employers over a short period of time.**

While there may be valid reasons, it could also be a chronic work comp fraud issue or be related to attempts to file a work comp claim.

- **Action item:** During the interview process, ask directly about the reasons for multiple moves. Watch for a lack of consistency within their answers, especially after repeated questioning.
- **Action item:** Consider performing background checks that include checking references and confirming prior employment.

- **Be wary if the claimant avoids the use of U.S. mail.**

Professional law breakers try to avoid using U.S. mail, as doing so could result in additional criminal charges.

- **Action item:** During the interview process, ask directly about the reasons for multiple moves. Watch for a lack of consistency within their answers, especially after repeated questioning.
- **Action item:** If an employee insists on dropping off correspondence at your office, it should raise a big red flag. Report it to 3CU.

- **Be wary if it is known that a claimant's family members are savvy about work comp.**

Often times, claimants trying to “work the system” have in-depth knowledge of comp laws and benefits. They may attempt to use that knowledge to obtain duplicative benefits from new employers.

- **Action item:** Manage them as you normally would; however, report any information of this type to 3CU, so we may manage the claim as required.

- **Know all the various ways an employee may try to commit fraud.**

It is critical to know the various methods of fraud to be able to identify them and fight the claim. They include:

- Staging an accident
- Faking an injury
- Claiming non-work-related injuries
- Inflating the degree of the injury
- Claiming old injuries are new ones
- General malingering to perpetuate the claim.

- **Action item:** Conduct a complete and thorough investigation using root cause analysis, witness statements, overall work history, pictures and any comments the claimant may have made to staff. As the claim progresses, inform 3CU of any developments you become aware of.
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- **Consider starting an anonymous tip line.**

Your core employees will look out for the good of the company but be reluctant to report a fellow employee.

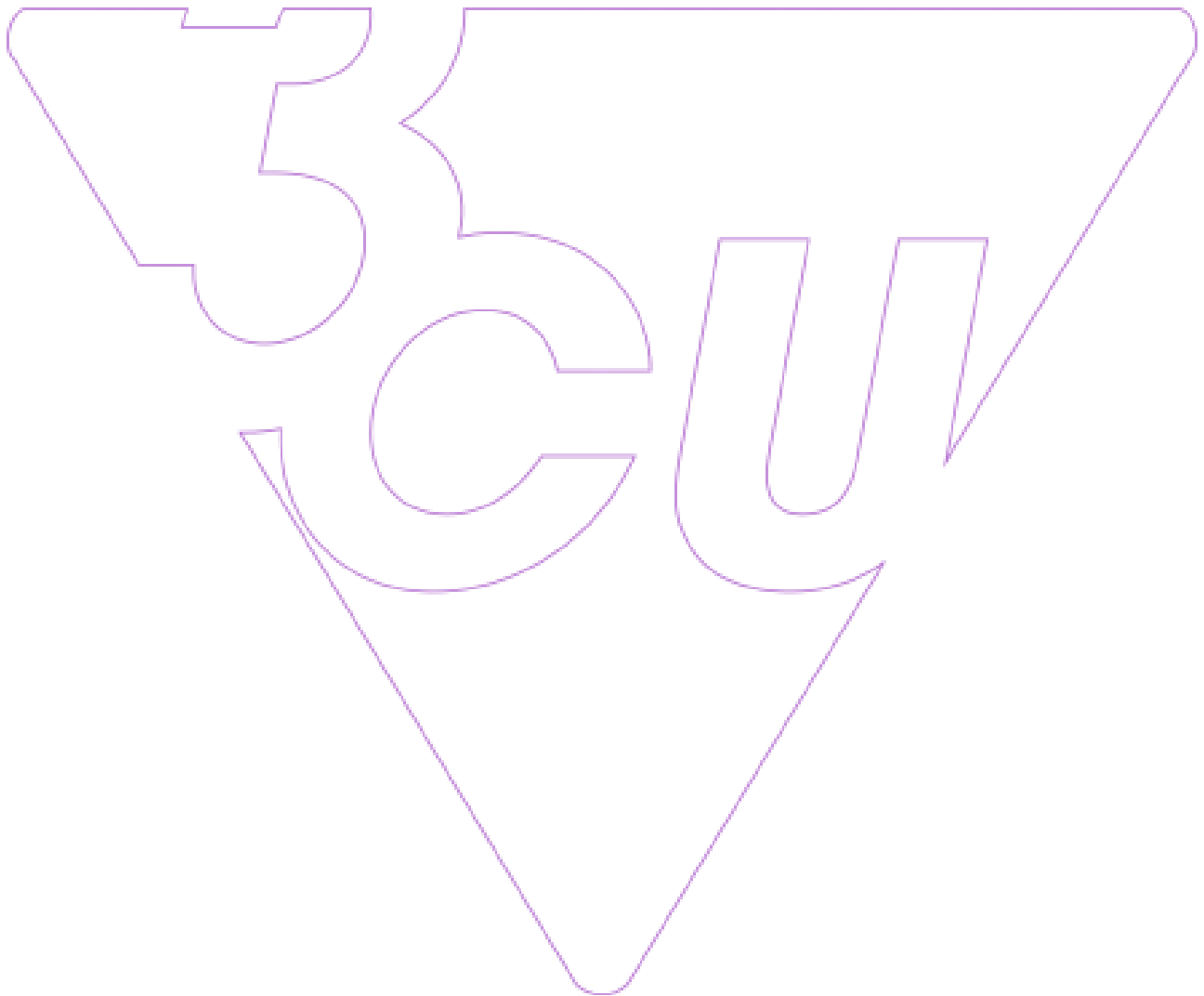
- **Action item:** This can be an 800-number, a locked suggestion box or any other method that provides anonymity.

- **Consider installing video cameras in your facility.**

Video cameras are cheaper than a comp claim, and footage can be used to fight fraudulent claims:

- **Action item:** Make sure work zones are covered entirely and that non-work zones are covered as much as possible as staff often allege injuries in non-populated areas.
 - **Action item:** High-definition cameras are worth the extra money. 3CU can use the video evidence in your defense, which can be very compelling at trial.
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Compensability



Compensability

Includes information on factors that may trigger a claim.

- **Take steps to train staff on how to protect themselves, be aware of their surroundings, and how to locate quick entrances and exits.**

Workers who are assaulted while in the course of their duties may be covered by workers' compensation if the injury arose in and out of the employee's employment with you. The courts' general view is that the employee would not likely be in that situation if they were not working for you.

- **Action item:** If you employ field-based staff, establish a regular training schedule to teach them how to be diligent in assessing their surroundings, especially in inner city locations. This type of training requires repetition, so it "sinks in" for employees.

- **Remember that not all accidents that take place at work are compensable.**

Injuries must arise "in the course" of employment and arise "out of the employment," which means they must be working for you in a time and place where they are supposed to be and, they are performing an activity that furthers your interests. Many courts consider if the employment created an "enhanced risk," whereas the employee would not have been exposed if it wasn't for their employment obligations. For example, tripping over your own feet or simply standing and fainting are generally not compensable. Likewise, deviations in travel for personal reasons or prohibited activities that do not further the employer's interests may not be covered.

- **Action item:** Make sure you conduct a thorough investigation. Capture all evidence, including witness statements and any available video footage.
- **Action item:** Submit the claim as fast as possible to 3CU so we can continue the investigation and determine compensability.

- **Allowing employees to take home company vehicles may increase your exposure.**

Some jurisdictions have ruled that if an employee is driving a company vehicle home after work hours or on a weekend, the employer may be liable for injuries sustained door to door. Some of the reasons include the employer receiving the benefit of advertising placed on the vehicle triggering coverage on employee's "off" time, the employee saved the employer storage area, or an employee is able to be more effective for the company by being "on call" or more readily available. Therefore, auto accidents to and from work can also potentially be covered under workers' compensation. They will almost always be covered if the accident occurs while the employee is on a mobile phone and the call is work-related.

- **Action item:** Consider removing any advertising off the vehicle completely or consider switching to a magnetic sign that can be easily removed when the vehicle is not used for official business.
- **Action item:** Have employees report to a location to pick up and drop off their company vehicles.

- **Action item:** Consider adopting a policy that prohibits employees from using a mobile phone while driving or, at a minimum, that requires employees to use hands-free options while driving.
- **Action item:** For employees who operate vehicles as a part of their normal job duties, offer defensive driver training courses that increase awareness of safe driving practices as well as awareness of employees' own driving habits.

- **Company-sponsored or company-endorsed athletic leagues can cause you to pay a comp claim.**

Some jurisdictions have ruled by endorsing the activity, it is an extension of your workplace; therefore, any injuries that arise are compensable.

- **Action item:** Do not endorse or sponsor athletic activities for staff. This includes not allowing early release from the workday to participate in a league even if you are not sponsoring it.
- **Action item:** If you do sponsor such an event after work hours, make sure employees understand the event is optional.
- **Action item:** Consider requiring participants to sign a waiver, acknowledging that their participation is voluntary, that they are participating at their own risk and at their own choice, and that their participation or attendance was not required by the employer.

- **Injuries sustained in the course of anticipated activity while on a “break” can be compensable.**

Activities that are performed routinely, condoned or where the employer has acquiesced are possibly compensable. In some jurisdictions, this has extended to an employee being burned by hot coffee and even employees playing basketball in the parking lot during lunch break.

- **Action item:** Monitor and control your staff and the surroundings while the employee is at the work location. Regulate activities that are not permissible on company or location premises.

- **If you require staff to stay in hotels, any injuries occurring there may be compensable.**

Even though they are not working, they are at a hotel based on your job requirements, and therefore may be compensable and most likely will be. If you have traveling employees, you're generally responsible for them 24/7.

- **Action item:** Train staff on your expectations when on the road and consider adopting safety rules covering prohibited behavior after the work day is completed for traveling employees. This includes conduct, transportation risks and general established rules when traveling.
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- **Illegal aliens likely are covered by workers' compensation and may increase your exposure.**

The reasons are diverse as each state has its own rationale for eligibility. Simply be aware that they likely are entitled to workers' compensation benefits. In some jurisdictions, if an employer hires an illegal alien, and as a result of an injury the employee becomes permanently restricted, the employee may be deemed a Permanent Total Disability because the employee can't be vocationally rehabilitated. The illegal immigrant may even be entitled to wage loss benefits for life if they are deported.

- **Action item:** Do not knowingly hire illegal aliens.
- **Action item:** Use E-verify and keep documentation.
- **Action item:** Require signed applications that have the employee attest that they are in the U.S. legally.
- **Action item:** Keep copies of all I-9 documentation.

- **Staff members traveling overseas require special attention.**

Staff who travel to dangerous areas need special cover. This includes kidnap and ransom insurance and often foreign voluntary coverage. Your broker should be notified to ensure proper coverage is secured prior to working outside the country. 3CU should be notified so we can ensure proper handling should an event occur.

- **Action item:** Notify your broker and 3CU if you plan to have staff travel overseas.
- **Action item:** Check with the state department for travel warnings.

- **When assessing work-related claims for occupational disease claims, specific criteria must be met for proof.**

It can often be difficult to determine if a disease was due to workplace exposure. Typical criteria include:

- Job title
 - Type of work performed
 - Duration of each activity
 - Dates of employment
 - Worker's age for each activity
 - Geographical and physical location of employment
 - Product or service produced
 - Condition of personal protective equipment (PPE) used and frequency and duration of use
 - Nature of the agents/substances the worker was exposed to including the frequency and duration of each substance.
- **Action item:** Conduct an industrial hygiene survey of your workplace. Even better, conduct personal air monitoring specific to each class of employee where exposure might exist. This includes tracking the duration of exposure and minimizing it where possible. The time to obtain this exposure information is **not** when a claim occurs.
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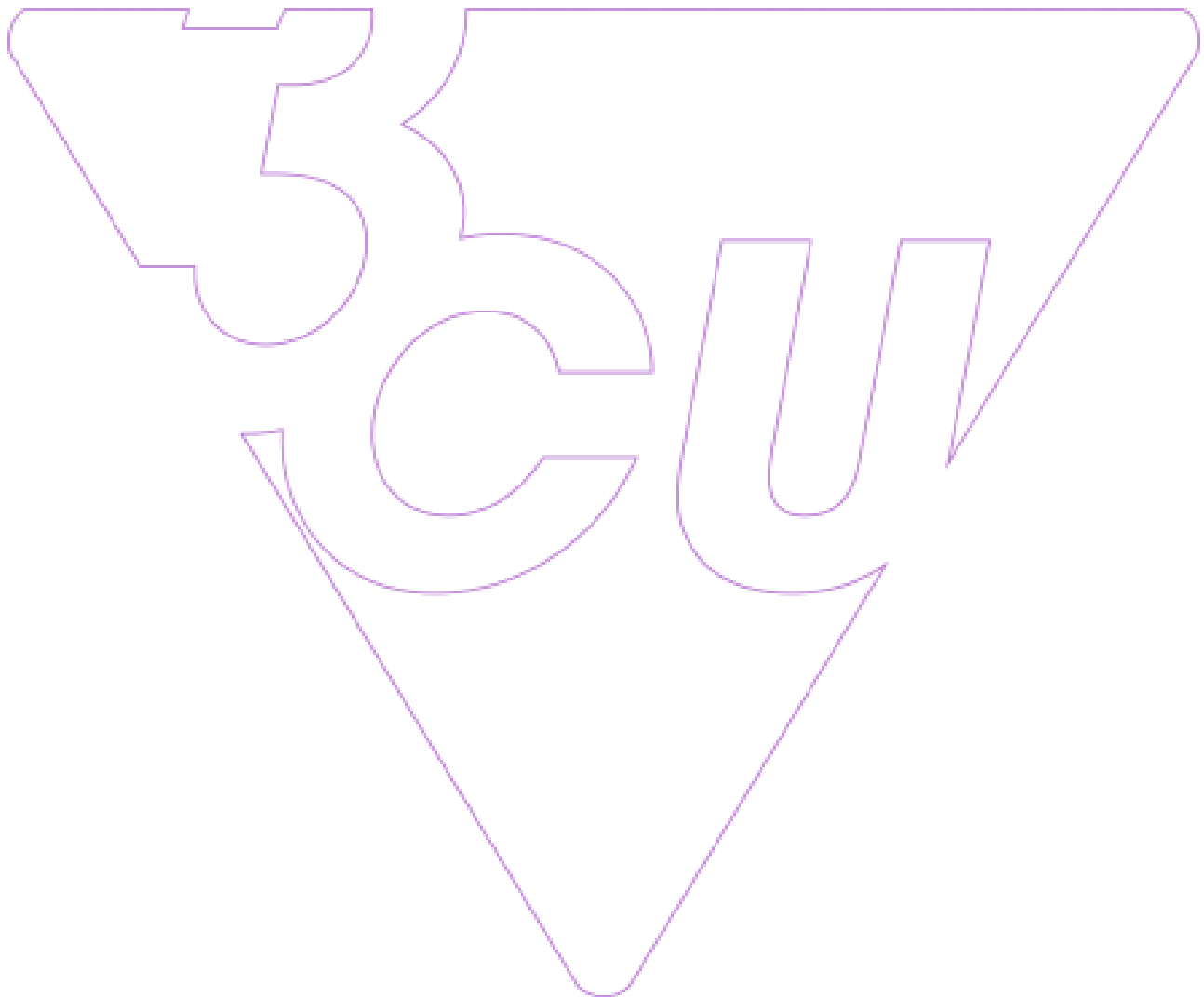
- **Evidence of disease exposure also plays a critical role.**

The presence of a chemical does not imply exposure. Generally, evidence includes industrial hygiene studies, inhalation/absorption information including the chemical/physical form of the agent, handling practices and equipment use, agent solubility, ventilation, general housekeeping and PPE use.

➤ **Action item:** After an industrial hygiene study is completed, analyze the specific exposures that may have occurred.

- Has PPE been used and for how long?
 - Can the exposure period be identified and quantified?
 - How does the substance get absorbed by humans? For example, what are the properties?
 - Analyze the specific factors of the chemical as it relates to human interactions.
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Workers' Comp Employment Practices



Workers' Compensation and Employment Practices

Managing your workers and their workers' compensation questions.

You cannot fire an employee for filing a comp claim. You may not bar someone from employment because you have knowledge of their previously filed work comp claims and use that as a reason for not hiring.

It is illegal in all jurisdictions.

- **Action item:** Work with your labor attorney to understand hiring and firing parameters and workers' compensation law.
- **Obesity greatly increases your workers' compensation exposure.**
 - Employees with a body mass index (BMI) of over 40 had 11.65 claims per 100 workers compared to workers in the recommend range of 18.5 to 24.9.
 - Any worker over 30 is considered obese.
 - In terms of average lost days from work, those over BMI of 40 averaged 183.63 lost days per 100 workers compared to those in the recommended range who averaged 14.19 lost days.
 - Average medical cost per claim was \$51,019 compared to \$7,503.
 - This was a study conducted by Duke University over a 7-year period and almost 12,000 workers.
- **Action item:** Consider health education programs to counsel your employees on healthy lifestyles.
- **Action item:** It may be possible to encourage healthy activity through health credits in collaboration with the general health insurance. The healthier your employees are, the less likely they are to have an injury and the more likely they will have a successful recovery, should an injury occur.
- **When an employee files a claim, they will typically have many questions, such as:**
 - How will I get paid?
 - It is new, uncharted territory for them and they are often scared.
 - When will I get paid?
 - Most cannot afford to miss a paycheck so this is a major concern.
 - How much will my check be?
 - Many do not understand workers' compensation pay is not taxable income.
 - Can I go to my primary physician?
 - Generally they feel like they are more in control by going to their doctor, which is usually allowed but dependent on the jurisdiction.
- **Action item:** Establish a level of comfort with the claimant by letting them know that you share a desire to get them the best possible care. It is imperative you communicate with them immediately after the claim occurs as they are naturally nervous about their situation. Failure to do so and ease their fears could lead to a litigated claim.
- **Action item:** In most states, while the employee has the right to seek treatment from their own physician, they are generally better off being treated with specialists. 3CU will refer them to physicians that regularly treat injured workers. Letting the employee know that you care and share the same goals often avoids unnecessary litigation and allows us to help the employee get the right treatment with the right providers at the right time!



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