

THE RISE OF INSURANCE FRAUD

Preventive Steps for OSH Professionals

By Russell M. Clayton

Consider the following scenarios: Example 1: Not having enough accrued time off available, an employee decided to report a fictitious workplace injury, thinking that a workers' compensation claim would cover lost wages during an upcoming vacation.

Example 2: An employee has been unable to return to work due to a legitimate injury that happened several weeks prior. Worried about imminent layoffs for the winter season, the employee pretends that the injury is not healing, even though the person is feeling much better.

Example 3: An employee is injured while playing sports over the weekend. Disgruntled about several situations at work (e.g., wages, long hours, demanding supervisor), the employee decides to report the injury as though it had happened at work.

These true accounts epitomize a growing trend: fraud. OSH professionals are engaged in meaningful work and have many demands on their time. Effort expended on fraudulent claims becomes wasted time and diverts OSH professionals' attention from other matters. Additionally, fraud takes valuable resources from companies and can have a detrimental impact on a business, its employees and the community.

Understanding Fraud

Fraudulent behavior negatively affects society at large. The Coalition Against Insurance Fraud (CAIF, 2018) reports that "at least \$80 billion is stolen each year" across all lines of insurance. More specifically, it estimates that "workers' compensation insurance fraud costs insurers and employers \$6 billion a year" (CAIF as cited in Employers, 2011). However, the true impact of fraud extends far beyond finances. Fraudulent acts by workers can have a detrimental effect on workplace morale, production and public perception of a company. As Dimmock and Gerken (2018) note:

The costs of a problematic employee go beyond the direct effects of that employee's actions—bad behaviors of one employee spill over into the behaviors of other employees through peer effects. By underappreciating these spill-over effects, a few malignant employees can infect an otherwise healthy corporate culture.

Fraudulent activity manifests in various ways. This article highlights the characteristics of premium and claimant fraud in workers' compensation insurance.

One prevalent example of premium fraud is when an employer fails to file a claim with its insurance company and instead directly pays for the cost of the incident. This practice is illegal and is considered insurance fraud. Each state has various laws, statutes and requirements pertaining to the filing of injury claims. Consider the language of such a requirement set forth by the Minnesota Department of Labor and Industry (2017): "It is illegal for an employer that has workers' compensation insurance to directly pay medical bills on a workers' compensation claim. Medical bills are required to be paid by the employer's workers' compensation insurer."

Claimant fraud is committed by the employee who was allegedly involved in an incident. Examples of this may include lying about a claim (false claims), staging an incident, or exaggerating the nature or severity of a claim. One extreme example of claimant fraud involved a bus driver in Florida who exaggerated the effects of a work injury and pretended to have the mental capacity of a 5-year-old (Hunter, 2004). He and his wife collected \$774,000 in workers' compensation benefits. Private investigators learned that not only could the man "still drive, but he was also hunting and golfing." The two were arrested on a golf course.

Fraud Awareness & Recognition

How can OSH professionals recognize fraudulent claims in the workplace? Perhaps the most effective recognition method is to simply identify behaviors that are strange or out of the ordinary. It is quite common for supervisors and managers to retroactively say of deceitful claims "I knew that something about this incident wasn't making sense" or "something about this claim didn't feel right." Effective leadership requires that leaders pay attention to (and act on) these feelings and observations. Employers (2020),

a provider of workers' compensation insurance, identifies common factors that are often present in fraudulent workers' compensation claims, including the following key indicators that OSH professionals should consider:

1. Monday morning or late reporting of an injury: The alleged injury occurred early on a Monday morning or late on a Friday afternoon but is not reported until the following week.
 2. Employment changes: The reported incident occurred immediately before or after a strike, job termination, layoff or at the conclusion of seasonal work.
 3. No witnesses: There were no witnesses to the incident.
 4. Conflicting descriptions: The employee's description of the incident changes or conflicts with medical reports or witness accounts.
 5. History of claims: The claimant has a history of suspicious or litigated claims.
- The key to eliminating fraudulent claims is to establish clean and clear processes and procedures relating to workplace incidents. Ultimately, leaders should err on the side of overcommunicating through the entire claim process. Clear, consistent communication with all involved parties can dramatically curtail the potential for fraudulent claims.

Seeking Solutions

What can OSH professionals do to address fraud? As Benjamin Franklin said, "An ounce of prevention is worth a pound of cure." Perhaps the most important action is found in how we treat employees. The ultimate objective is to create an environment where employees feel valued and needed. Following are four important actions that OSH professionals can take to curtail workplace fraud.

Improve Employee Morale

Every effort to improve employee morale at your workplace is an investment. When people have positive working relationships, their general attitude is likewise positive and optimistic. They are less likely to be vindictive and vengeful.

Rationalization for committing fraud is much more difficult when an employee feels well-treated by the employer. Gestures need not be big. Small efforts can make a huge difference. Saying “please” and “thank you” can be more impactful than we realize.

Nawaz (2020) highlights the importance of this seemingly small gesture, explaining that:

As managers, it’s essential to express gratitude to your employees. . . . Almost every employee needs to hear that their dedication is noticed and it matters. Further, gratitude is proven to show improvements in self-esteem, achieving career goals, decision-making, productivity and resilience.

Improve Post-Incident Communication

When an employee is injured, the interactions that follow determine the trajectory of a claim. For example, if an employee must stay home because of an injury, it can feel devastating if company representatives (e.g., supervisor, human resources, safety department) never reach out to them. In the absence of communication, the injured employee may begin to wonder and become concerned. “Is my employer mad at me?” “Will I lose my job?” These concerns are valid and may lead to an employee feeling pressure to exaggerate a claim or prolong or delay recovery.

In contrast, if regular contact is made between the employer and the injured worker, this can result in a dramatically different outcome. The employee may feel needed and missed. It has been said that “the death of communication is the birth of resentment.” By maintaining healthy levels of communication, we can avoid the potential rationalization that an employee may use to commit fraud.

Effectively Manage Claims

In the spirit of continuous improvement, companies should periodically reevaluate their processes and procedures for claims management. Gaps in the process must be closed. Areas of emphasis include the initial filing of injury claims, reviewing medical notes, and partnering with claims adjusters and nurse case managers. Examples of this kind of improvement may include creating a policy that requires all incidents to be immediately reported to a supervisor.

As OSH professionals gain awareness of fraud and the factors that give rise to it, they will be better equipped to confront the issue. Coupled with a real dedication to people, these mitigating efforts can ultimately relieve the workplace of this damaging practice.

This helps root out fraudulent reports that show up days or weeks after the date of the incident.

Another example is establishing clear expectations regarding post-incident medical care. As a matter of policy, employees who need advanced medical treatment should be directed to a list of authorized occupational healthcare providers, rather than being allowed to choose their own provider. Every aspect of claims management represents an important part of keeping claimants honest. If an injury is fraudulent, OSH professionals can best identify and manage it through proactive involvement.

Eliminate Fraud Opportunities

Donald Cressey was an American criminologist and pioneer in the study of unlawful behavior and organized crime. His research focused on embezzlers, or people he called “trust violators.” He created the “fraud triangle”: a model for explaining why otherwise good people commit fraud. The model describes three factors that must be simultaneously present for a person to commit fraud: pressure, perceived opportunity and rationalization (ACFE, 2022). Cressey hypothesized that trusted persons become trust violators when they conceive of themselves as having a financial problem which is nonshareable (pressure), know that the problem can be secretly resolved by violating the position of financial trust (perceived opportunity) and can apply to their own conduct justifications

Russell M. Clayton, M.S., CSP, is corporate safety director for Clyde Cos. Inc., in Orem, UT. His experience as a safety professional spans industries such as heavy civil construction, mining, manufacturing, transportation and retail. He holds an M.S. in Occupational Safety and Health from Columbia Southern University and a B.S. in Construction Management from Brigham Young University-Idaho. He is a professional member of ASSP’s Utah Chapter.

that enable them to use the entrusted funds or property (rationalization). As with a three-legged stool, the entire structure fails at the loss of one leg. Employers can minimize fraudulent opportunities by reducing or eliminating the pressure, opportunity or rationalization on which employees stand to justify their fraudulent actions.

Conclusion

Fraudulent insurance claims are not victimless crimes. Individuals and companies alike suffer major financial loss because of this misconduct. Genuine care and concern for employees are the bedrock from which we manage this growing trend. Safety is bigger than numbers and dollars; safety is important because people are important. As OSH professionals gain awareness of fraud and the factors that give rise to it, they will be better equipped to confront the issue. Coupled with a real dedication to people, these mitigating efforts can ultimately relieve the workplace of this damaging practice. It will require full commitment from all levels of the labor pool. Beyond saving dollars, this effort aims to restore integrity and confidence in America’s workforce. **PSJ**

References

- Association of Certified Fraud Examiners (ACFE). (2022). Fraud 101: What is fraud? <https://bit.ly/3O421J0>
- Coalition Against Insurance Fraud (CAIF). (2018). Fraud stats: Impact. <https://bit.ly/3tr13gA>
- Dimmock, S. & Gerken, W.C. (2018, March 5). Research: How one bad employee can corrupt a whole team. *Harvard Business Review*. <https://bit.ly/2FrduBJ>
- Minnesota Department of Labor and Industry. (2017). Workers’ compensation insurance: May an employer directly pay medical bills? <https://bit.ly/3AdNjJI>
- Employers. (2011). Workers’ compensation claim fraud. <https://bit.ly/3g5swBi>
- Employers. (2020). Top ten warning signs of fraud. <https://bit.ly/3E834Dc>
- Hunter. (2004). Workers’ comp scams that push the limits. *ABC News*. <https://abcnews.go.com/GMA/story?id=127996>
- Nawaz, S. (2020, May 22). In times of crisis, a little thanks goes a long way. *Harvard Business Review*. <https://bit.ly/3tyt31G>

Cite this article

Clayton, R.M. (2022, Dec.). The rise of insurance fraud: Preventive steps for OSH professionals. *Professional Safety*, 67(12), 32-33.