

AC25
3. \$13
v6/2
Copy 3

Volume 6, Issue 2

Winter 2001

THE SAF SOURCE

*SC State Accident Fund's Quarterly Workers' Compensation
News and Information Resource*

Third Party Recoveries

Accidents in Workers' Compensation are often caused by the actions of others who are not directly involved in the work being performed. Third party (TPY) practice in Workers' Compensation cases can involve much more than just medical care or payment of a claim, and can result in the recovery of funds from the at-fault third party. The third party claim starts when a workers' compensation accident or injury is caused by someone (or something) not connected to the work. The most common example is a worker in a vehicle on official business who is hit by another person who is not connected with the work (the third party). Another less common example is a worker injured by a defective product. In most motor vehicle accidents the Fund can only recover when the other driver is at fault.

In all instances the injured worker has the right to full workers' compensation benefits and the right to proceed against the third party. Only when the injured worker settles the claim against the third party without the Fund's knowledge or agreement can workers' compensation benefits be denied. In TPY situations, the Fund puts the third party's insurance carrier on notice that it has a lien against that carrier for workers' compensation payments made, medical expenses and any final settlement. The injured worker, or his/her attorney, usually negotiates with the opposing insurance carrier for a settlement. If a settlement is reached, SAF is entitled to a portion of that settlement, but must pay part of the attorney fees and costs to the injured worker's attorney. SAF cannot recover more than what was paid out in the case, and very rarely is 100% of the lien recovered.

In some instances the injured worker's damages are greater than the third party's insurance coverage limits, but the third party case is settled before going to trial. If the Fund and the claimant's attorney cannot reach agreement on what the Fund should be paid from the settlement, the matter is heard by the Workers' Compensation Commission in a reduction of lien hearing. This is the only instance where the Commission can take into account such factors as pain and suffering, and other elements of damages, that can be shown in a civil court case but not in a workers' compensation case. The Commission then determines what amount the injured worker *could* have been awarded in the third party suit in civil court (called "total cognizable damages at law"). After the Commission makes that determination, it then decides what portion of the actual settlement the Fund should receive to satisfy the lien. For example, the injured worker's attorney could prove \$200,000 damages from an auto wreck, but settles the case for \$100,000, or 50% of the value of the case. The dispute would be over how much the Fund's lien should be reduced. The Fund is also responsible for paying attorney fees and costs to the claimant's attorney, but only to the extent that the Fund benefited from the settlement. Using

the previous example, if the Fund was awarded 1/3 of the \$100,000 settlement, the Fund would be obligated to pay 1/3 of the attorney fees and costs. The unwritten guidelines used by the Commission are 1/3 to the claimant, 1/3 to the attorney and 1/3 to the Fund.

If you have any questions concerning third party claims please do not hesitate to call your adjuster or team attorney.

Inside this Issue:

NEW COLUMN: Ask SAF	2
SAF Teams Up With CompEndium	3
Medical Costs on the Rise	5



Please feel free to write, e-mail or call the editor with any questions you would like to see addressed in this column.

Ask SAF....

Q What is the difference between the State Accident Fund and the SC Workers' Compensation Commission?

A The State Accident Fund (SAF) and the SC Workers' Compensation Commission are two separate and distinct state agencies with totally different functions. The SAF provides workers' compensation

insurance coverage for **public employees**. The SC Workers' Compensation Commission is responsible for determining what benefits **all** injured workers (both public and private sector) may be entitled to under South Carolina law.

In other words, the SAF is an insurance company and the Workers' Compensation Commission is the state regulatory agency.

If your agency, association or group has an upcoming event it would like the State Accident Fund to participate in, please give us a call! We are available to exhibit, visit or speak on various subjects concerning workers' compensation.

Please contact Teresa Wyatt at 803.896.5813 or twyatt@saf.state.sc.us for further details!

The SAF Source is a quarterly newsletter published by the South Carolina State Accident Fund as a vehicle to provide news, technical information and guidance to state/local government policyholders, policymakers and others concerned with the management of workers' compensation programs.

Teresa V. Wyatt, Editor 803.896.5813 or twyatt@saf.state.sc.us

Irvin D. "Pete" Parker, Director 803.896.5875 or pparker@saf.state.sc.us

Comments and contributions may be sent to: PO Box 102100 Columbia, SC 29221-5000

Contributors: Ross Gamble, Janis Howard, Bob McCulloch, Russell Rush, Teresa Wyatt

SAF and CompEndium Offer New Service to Customers

Effective January 1, 2001, the State Accident Fund and CompEndium Services Company began an innovative workers' compensation medical management program. This innovation promises to significantly reduce paperwork and streamline the delivery of quality medical services to injured workers. Studies show that early intervention with high quality medical services is the key to timely recovery and return to work and, thus, reduced system costs.

This innovation is made possible through effective use of technologies not available until recently. Using the internet and linked relational databases, CompEndium and the State Accident Fund will provide real time medical case management by a staff of registered nurses.

We are phasing in this program to better ensure its success and minimize inconvenience or confusion for our customers. On January 1, the Department of Corrections, Department of Juvenile Justice and Department of Mental Health began using the system. Our plan is to make this service available to the remainder of our customers by June 1, 2001. You will be contacted by a representative of the State Accident Fund and CompEndium in the near future.

If you have any questions regarding this service, please feel free to contact us.

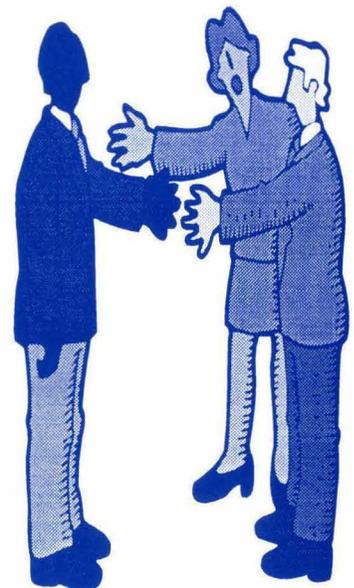


Welcome New Policyholders!

*City of Sumter
Sumter, SC*

*Lincolville Volunteer Rescue Squad
Summerville, SC*

*Pendleton Rescue Squad
Pendleton, SC*



Safety & Loss Control Update

It's that time of year again! OSHA requires that you post a copy of the right hand section of your OSHA 200 Log in a conspicuous place from February 1 to March 1. Remember, it must be totaled and certified.

Another year has gone by and it's time to take a safety inventory for the year 2000. Take a look at your OSHA 200 Injury/Illness Log. How does it look? Did you meet your goals for the year? Many of you did; many of you didn't. Where do you go from here?

Those of you who saw a decrease in injuries/illnesses have something to crow about and you can use your performance to build momentum for 2001. Let your employees know how much their improved performance is appreciated and encourage them to continue to place workplace safety as their highest priority. Take a little time to acknowledge those who have contributed to your safety program because it can be a thankless job.

Those of you whose performance fell short of expectations may need to do a self-evaluation to try to pinpoint problems that may need your attention. To what can the majority of the injuries be attributed? (Mechanical failures, carelessness, heavy lifting, slips, trips, falls, etc.) What part of the body is most often injured? (Backs, hands and fingers, eyes, etc.) Do you have an active safety program in place? (Safety committees, audits, management commitment and support, etc.) Are you placing enough emphasis on safety performance or is safety seen as only a peripheral concern among your employees? Are employees properly trained to deal with the safety hazards they encounter on a daily basis and on other OSHA-required topics? Would you be ready if an OSHA Compliance Officer knocked on your door today?

Help is available! The Safety and Loss Control unit can help you with almost any safety issue you may have. We provide training and consultation free of charge to all clients of the State Accident Fund. Give us a call and see what we can do for you!

The Safety and Loss Control Team of the SAF has a new member! Tim Hinson has replaced Michelle Berry as our newest Safety and Loss Control Specialist. He now handles all of Michelle's former accounts. Tim's experience includes 5 years as an OSHA Compliance Officer and most recently he worked as a risk management consultant for a private workers' compensation company. We look forward to utilizing his energy and experience in your service.

Listed below is your Safety and Loss Control Team. Please do not hesitate to call them at any time!

<i>Ray Coleman</i>	<i>803.896.5855</i>	<i>rcoleman@saf.state.sc.us</i>
<i>Russell Rush</i>	<i>803.896.5808</i>	<i>rrush@saf.state.sc.us</i>
<i>Tim Hinson</i>	<i>803.896.5935</i>	<i>thinson@saf.state.sc.us</i>



We Need Your Help! Help Us Decide How to Serve YOU Better

In the next ninety (90) days, the State Accident Fund will be mailing out our **seventh Annual Policyholder Survey** to a random sample of policyholders. We need your help with this important task. As your workers' compensation carrier, it is our responsibility to provide you with the highest level of service.

This annual survey is the main tool for gathering information on how well we are meeting your needs. It also gives us valuable suggestions in areas that we may need to improve service and provides us with ideas on how we can enhance the services we currently provide.

Since we began surveying our policyholders, the information gathered has led to many changes in our service delivery system. Your feedback and suggestions initiated such things as the simplification of our claims handling system, the installation of e-mail for our adjusters and the creation of our on-line policyholder services.

Please take a few minutes out of your busy schedule to complete and return the survey. Your input will help us serve you better.

Medical Costs Continue to Rise

Health care costs nationwide are expected to rise 11% in 2001. That is according to William M. Mercer, Inc., a consulting firm. Their predictions are mirrored by many other health care consultants around the nation. This projected increase would be the largest increase since 1992. Another survey by Buck Consultants Inc. predicts an increase of nearly 20% next year in the cost of prescription drugs. This large increase in health care costs will force companies to pass the costs on to their employees.

Workers compensation insurance is no different from this trend. Medical costs continue to rise in the treatment of injured workers. Remember how important it is to have an effective Safety and Loss Control program in place to reduce workplace injuries. ***We can only reduce your costs if the number and severity of injuries decrease.*** If you need assistance setting up a Safety and Loss Control program, please contact us.



THE SAF SOURCE

*SC State Accident Fund's Quarterly
Workers' Compensation
News and Information Resource*

SC State Accident Fund
Post Office Box 102100
800 Dutch Square Boulevard, Suite 160
Columbia, SC 29221-5000
Phone: 803.896.5800 or 800.521.6576
Fax: 803.896.5828
Email: twyatt@saf.state.sc.us

S. C. STATE LIBRARY
FEB 8 2001
STATE DOCUMENTS

**A New Millennium,
A New Dedication to Safety**

**WE'RE ON THE WEB!
WWW.STATE.SC.US/SAF**

South Carolina's 1999 Workplace Injury & Illness Rate Remains Steady

South Carolina's workplace injury and illness rate for 1999 remained steady for the second year in a row. The rate was 5.8 injuries and illnesses per 100 workers and includes both public and private sector employees. This is the lowest rate since the state began enforcing the Occupational Safety and Health Act in 1973.

The rate for state government rose to 5.5 from 5.2 in 1998, while the rate for local government dropped to 6.7 from 7.1 in 1998. The most hazardous industry was manufacturing with a rate of 6.8.

South Carolina's rate of 5.8 is lower than the national rate for private industry, which is 6.3.

Put Safety First!