Why Did You Pay That Claim?!?!

As your workers' compensation insurance company, we receive many questions concerning why we make payments on specific claims. Various explanations for questions that arise are discussed in this article. Please remember that these are general concepts that do not apply in every situation, but are generally held true. As with all workers' compensation situations, each incident is fact specific and must be evaluated separately.

**Falls:** Whether a fall is compensable depends on what caused it. If the employee slips in a puddle at work, it's compensable. If the employee is just standing somewhere and suddenly collapses, the fall might be due to an "internal breakdown" and not be compensable. This is very rare and difficult to prove. There is a "kicker"—if the employee falls from an "internal breakdown" wholly unrelated to their work, and hits an object on the way down, the claim will probably be compensable. The reason? The work put the employee in a place where there are objects that can cause injury.

**Aggravation of a Pre-Existing Condition:** This has always been a confusing area. The question is, if someone is hurt or has back problems, why do we have to pay for treatment to the same body part?

We will use the back as an example, as that is where many of these questions arise. Many people have back problems, such as degenerative disc disease (DDD) that often occurs with aging. If the employee injures their back and the level of DDD is not at all changed or not made worse, then there was no aggravation. If the DDD is aggravated by the injury, then the injury is compensable. Even if the DDD is not aggravated, if the back was injured in some other way, the physician that assigns the impairment rating would take both the DDD and the injury into consideration. Courts have found that the initial injury can trigger a latent condition, making both the injury and the latent condition compensable.

**Auto Accidents:** These fall under the "going and coming" rule. There are so many variations, please understand that what is said here is the most general of guidance. The "going and coming" general rule is that accidents going to and coming from work are not compensable. There are exceptions that make these accidents compensable. Some examples of these exceptions: if the employer supplies the car; if the employee is charged with a duty while going to or coming from work; if the way into work is inherently dangerous; if the employee is performing a special errand for the employer (such as after normal working hours or on a day he does not ordinarily work) and if the commute is brought into the scope of work by agreement or contract.

Please feel free to call Bob McCulloch or Cyndy Polk in our legal department if you have any questions concerning the compensability of a claim.
Ask SAF....

Q Am I covered by workers' compensation insurance while working for my employer away from my employer's premises?

A Yes. If you are accidentally injured while performing work-related duties away from your employer's place of business, your injury would be covered. A simple test for determining whether your injury is covered is to ask yourself this question: Did the accidental injury occur in a place where I may reasonably be expected to perform my job duties while I was performing those duties?
Workers' Compensation Premiums: Why are premiums adjusted at the end of the policy year?

One of the most common questions we hear at the State Accident Fund concerning premium determination concerns the confusion over premium adjustments. As you know, workers' compensation premiums are based on the total wages and salaries paid or payable (your payroll) by your agency for services of individuals who could receive workers' compensation benefits for work-related injuries as provided by South Carolina statute.

Since you do not know exactly what your wages and salaries will be at the beginning of the policy year, you provide us with an estimate of what you expect your payroll costs to be for the year. Because this is only an estimate, the premium you pay is also an estimate of what the final cost will be. **It's only at the end of the year that you know what the actual payroll costs were and only then can we determine your actual premium for the year.** Thus, although workers' compensation insurance premiums are based on actual payroll during the policy period, exact payrolls cannot be determined in advance.

If you have any questions about premium determination, please feel free to contact our Policyholders Services Department.

Welcome New Policyholders!

**Thank You!**

- Beech Island Fire Department  
  Beech Island, SC

- Gilbert-Summit Rural Water District  
  Gilbert, SC

- Givhans Fire Department  
  Ridgeville, SC

- Graniteville-Vaucluse-Warrenville  
  Volunteer Fire Department  
  Graniteville, SC

- Hugar Rural Fire Department  
  Moncks Corner, SC

- Jackson First Alert Rescue Squad  
  Jackson, SC

- Sumter WIA  
  Sumter, SC
Ergonomics -- What Now?

As you may recall from our last newsletter, OSHA’s Ergonomics Standard was repealed by Congress earlier this year. However, the underlying law is still in force. Chapter 15 of Title 29 addresses the “Duties of Employers and Employees”.

"Duties of employer and employees
(a) Each employer --
(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;
(2) shall comply with occupational safety and health standards promulgated under this chapter.
(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this chapter which are applicable to his own actions and conduct."

OSHA can and still does fine employers for ergonomically unsound practices.

The real issue is the repetitive stress injuries (RSI) often referred to as “cumulative trauma disorders”, the causes of which are complicated. They have increased significantly over the last several years and have a tendency to be more expensive than “regular” injuries. Carpal-tunnel syndrome is the major culprit. However, there are also sudden and immediate injuries—strains, sprains, etc. that arise from employees working in an ergonomically unsound manner. Employers must take preventative actions to avoid such injuries.

Experience Modifiers (AKA E-Mods)

The State Accident Fund uses the experience rating plan developed by the National Council on Compensation Insurance (NCCI). The latest amendment to the plan discounts medical-only losses. Previously all losses were treated the same in that the first $5,000 of any loss was fully counted in your experience modification (e-mod), regardless of the type of loss. Now medical-only losses are discounted, with only 30% of their dollar value included in the experience modification. (Please note that not all policies are experience rated.)

As a reminder, losses don’t get factored into an experience modification immediately. Claims that occur during the current policy year are not a part of this year’s or next year’s experience modification. They are not included until after the second year and remain in the formula for three years.

If you would like further information concerning your e-mod, please contact your premium auditor.

Have a Safe & Happy Summer!
SAF Safety and Health Video Library

The State Accident Fund has a special free service we provide to our policyholders: the Safety Library! The SAF’s library features training videos to supplement your safety and health programs. They are available for you to borrow free of charge. Each policyholder is allowed to check out two videos at a time for a two week time period. Below are listed some of the many titles available for your use! For a complete listing, or to borrow one of our videos, please call your Safety and Loss Control Specialist.

Accidents
Accident Investigation
Accident Reporting & Investigation (C-1)
It Only Takes a Second
Near Misses (B-3)
Shortcuts (B-4)
Star Witness: Accident Reporting

Back Awareness
Back Belts
Back on Track: Back Pain & Injury Prevention Program
Back Wise: Ways to a Healthy Back
Save Your Back Program: Patient Transfer
Worker’s Enemy Number One

Disaster Preparedness
Disaster Preparedness: What To Do If It Happens (C-3)
Egress/Exit Safety
Natural Disaster Preparedness

Driving
Driving Defensively I
Driving Defensively II
Drive Safely (B-3)
Flagging Operations & Procedures
Passenger Van & Shuttle Bus Operations I
Passenger Van & Shuttle Bus Operations II

Equipment and Machines
Hand Tool Safety
Machine & Equipment Safety (C-2)
Machine Safety Guards
Shock Hazards: Power Tools
Shortcut to Disaster: Part I - Chainsaws
Shortcut to Disaster: Part II - Chainsaws
Table Saws
What a Grind: Grinding Wheels

Ergonomics
Basic Ergonomics
Body Mechanics: Preventing Pain & Strain (B-4)
Preventing Hand Injury: 3 Lines of Defense (C-2)
Repetitive Motion Injury: Prevention is in Your Hands (C-3)

Fire Safety
Fire Extinguisher Training & Use

First Aid
Heat Can Kill
Heat Stress (C-4)
Thermal Burns

General Workplace Safety
Commitment to Safety: Safety Orientation (C-1)
Employee Responsibilities
Improving Employee Safety Performance
Managing Safety & Health
On Any Given Day
Safety Matters
There’s No Magic to Safety
The Safety Mentor
Workplace Safety: Everybody’s Business
Work Zone Safety (C-2)

Hazardous Materials
First on the Scene: Hazardous Materials Safety
Judge, Jury and Executioner: H2S Gas
Safe Handling of Compressed Gas
Up In Smoke: Flammable Liquids
Working with Hazardous Materials: 10 Steps to Greater Safety (B-1)

Outdoors
Grounds Keeping Safety: Be a Pro!
Outdoor Safety: Critters & Plants
Pesticide Primer
The ABCs of Workers' Comp

Temporary Total (TT) Benefits—Weekly compensation paid to an employee who is unable to work due to a work-related injury or illness. These benefits begin after a seven (7) day waiting period.

Temporary Partial (TP) Benefits—Weekly compensation paid to an employee who has returned to work in a limited capacity after a work-related injury and is earning less than two-thirds of their pre-accident income.

Permanent Partial Disability (PPD) — The impact of a permanent impairment on an employee's ability to meet personal or occupational demands. It is the gap between what a person can do and what the person needs or wants to do. Disability is a subjective determination and is ultimately decided by the South Carolina Workers' Compensation Commission.