Now that the posting date for the OSHA 200 (February 1-28) has come and gone, do you feel you have a good understanding of the 200 form? If you do, guess what! Our friends at the Occupational Safety and Health Administration have gone and changed the rules. OSHA’s recordkeeping requirements, in place since 1971, were designed to help employers recognize workplace hazards and correct hazardous conditions by keeping track of work-related injuries and illnesses and their causes. The revised rule will produce better information about occupational injuries and illnesses while simplifying the overall recordkeeping system for employers. The rule will also better protect employees’ privacy.

The final rule becomes effective on January 1, 2002, and will affect approximately 1.3 million establishments. OSHA is publishing the rule now to give employers ample time to learn the new requirements and to revise computer systems they may be using for recordkeeping. (During this transition period, employers must adhere to requirements of the original rule.)

The revised rule includes a provision for recording needlestick and sharp injuries that is consistent with recently-passed legislation requiring OSHA to revise its bloodborne pathogens standard to address such injuries. This provision is expected to result in a significant increase in recordable cases annually.

One of the least understood concepts of recordkeeping has been restricted work; the new rule clarifies the definition of restricted work or light duty and makes it easier to record those cases. Work-related injuries are also better defined to ensure the recording only of appropriate cases while excluding cases clearly unrelated to work.

The revised rule also promotes improved employee awareness and involvement in the recordkeeping process, providing workers and their representatives’ access to the information on recordkeeping forms and increasing awareness of potential hazards in the workplace. Privacy concerns of employees have also been addressed; the former rule had no privacy protections covering the log used to record work-related injuries and illnesses.

These are just a few of the changes that the new OSHA 300 (formerly the OSHA 200) incorporates. Fear not, the Safety and Loss Control unit is working to organize a training session to include all of the upcoming changes and to give you a chance to ask questions about the new form.

Listed below is your Safety and Loss Control Team. Please contact us to learn more about the OSHA 300 and when the training session will be available.

Ray Coleman 803.896.5855 or rcoleman@saf.state.sc.us
Russell Rush 803.896.5808 or rrush@saf.state.sc.us
Tim Hinson 803.896.5935 or thinson@saf.state.sc.us

Inside this Issue:
- Hardening Workers' Comp Market
- CompEndium Update
- OSHA Ergonomics Standards Repealed
Am I covered by workers’ compensation insurance 24 hours per day, 7 days per week?

No. Unlike regular health or dental insurance, workers’ compensation insurance only protects you while you are performing job-related duties for your employer. Generally, you are covered from the time you arrive at work until the time you leave. In other words, you are covered only during the period of employment. There are, however, certain exceptions to this general rule.

For example, you may be covered while going to or from work if transportation is provided by the employer; when you are required to work after normal work hours; or when the only way in or out of your workplace is inherently dangerous and is maintained by your employer.

If your agency, association or group has an upcoming event in which you would like the State Accident Fund to participate, 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!
Hard Market Ahead for Workers’ Compensation

As we have been reporting for over a year, the workers’ compensation insurance market is beginning to show real signs of hardening. After an extended period of deeply discounted premiums and an abundance of available coverage, we are beginning to see the cost of premiums rise and several carriers are beginning to stop writing coverage in South Carolina. In several states, premium rates could climb by more than ten percent in the next year and continue to climb each year thereafter.

There are numerous factors which contribute to the escalating premiums. Perhaps the most influential factor is the rapidly rising cost of medical care. We are seeing double digit increases in health care costs which we haven’t experienced since the early 1990s.

Additionally, private insurers have, for the past several years, been writing workers’ compensation insurance coverage at “depressed” rates to attract new policyholders. These premiums can no longer pay the costs of the losses that are being incurred and rates are beginning to increase.

Remember that the State Accident Fund provides a GUARANTEED source of workers’ compensation coverage for you and your employees. You need not worry about us entering and exiting the market depending on the profitability of the line.

Keep in mind that the best way to decrease your premium costs is to reduce the number and severity of injuries in your workplace. The SAF is here to provide assistance to you in establishing an effective Safety and Loss Control program. We are just a phone call away!

Welcome New Policyholders!

Orangeburg Department of Disabilities & Special Needs
Orangeburg, SC

Taylors Fire & Sewer District
Taylors, SC
Recent Court Decisions

Several new cases of interest have been decided by the South Carolina Court of Appeals in the last few months. These cases involve some of the more interesting and strongly litigated questions in workers' compensation: carpal tunnel syndrome and heart attacks.

Miriam Pee v. AVM, Inc. and Arvin Industries, Inc., filed by the Court of Appeals on January 8, 2001, decided a question which has been vexing everybody associated with workers’ compensation: Is carpal tunnel syndrome (CTS) an injury by accident or an occupational disease? The Court of Appeals has decided that CTS is an injury by accident.

In Pee, the Court stated CTS has characteristics of both an occupational disease (it usually occurs gradually) and injury by accident (small traumatic events). Since the issue of which category CTS falls into has not been addressed by the SC Supreme Court, it fell on the Court of Appeals to address it. The case is not over yet - there is a petition by the employer for a rehearing to the Court of Appeals and if that is not granted, the employer will petition the Supreme Court for a decision.

CTS as a work-related injury must be factually supported and reviewed on a case by case basis. The focus must be on the injury itself and not on a specific event. The Court in Pee stated, "a slip, fall, or other fortuitous event or accident in the cause of the injury is not required." Ultimately, the issue of CTS will probably be decided by the legislature in the same way the legislature enacted a statute addressing stress in the workplace.

Lockridge v. Santens of America, Inc., filed on February 20, 2001, addressed the question of what constitutes unusual and extraordinary conditions of employment so as to make a heart attack compensable, and how conflicting opinions by doctors should be reconciled. Lockridge, a supervisor, was required to fill in for an employee, and had a heart attack. As in Pee, the Court emphasized review on a case by case basis, and that most decisions rest on the facts of each individual case.

The Court added a twist - the phrase “extreme conditions” - to the already established standards for heart attacks, unexpected strain or overexertion in performance of duties or unusual or extraordinary conditions of employment. As examples, the Court used extreme increase in workload, unexpected altercation with a supervisor and climbing a high ladder in extreme heat. If the actions that caused the heart attack fall within an employee’s job duties or responsibilities, the claim will probably not meet the tests to be compensable.

Testimony was taken from two doctors in the case, who had conflicting opinions as to whether Lockridge’s heart attack was caused by exertion at work. The Full Commission gave greater weight to one doctor’s testimony, and the Court reemphasized that is conclusive – once the appeal gets past that level, the facts of the case are “set” and cannot be changed or reviewed.

These and other cases can be read on the Internet. Log on to www.judicial.state.sc.us. Pee is in 2001 Advance Sheet # 2, and Lockridge is in Advance Sheet # 7.
CompEndium Update

In our last issue we told you about a new service for our customers. Effective January 1, 2001 we began a pilot program with CompEndium Services, Inc. CompEndium assists the State Accident Fund by providing real time medical case management for injured workers, with a focus on early intervention, by a staff of registered nurses.

The three agencies that have been involved in the pilot program since January 1 are already experiencing a combined 15% cost savings from this program.

Most other state agencies began using this new program on April 1. The service will be available to the remainder of our customers on June 1, 2001.

As a medical management company, CompEndium is dedicated exclusively to worker’s compensation and uniquely addressing the challenges and problems associated with it. Real time interaction twenty-four hours a day, seven days a week is one of the key components of the program. Registered nurses are available around the clock for discussion of case details, OSHA consultation, or other medical or administrative needs. When an injury occurs, this case management is the first point of contact at anytime of the day or night.

Question: What is the key to the success of the CompEndium managed care system?
Answer: Real-time certification and approval of all components of a treatment plan, AT THE TIME OF TREATMENT.

Question: What is CompEndium’s service approach?
Answer: CompEndium professionals continue to provide services after the initial doctor visit. Injured workers are contacted after every medical event.

Question: What is the team based approach?
Answer: A managed care team of specialized nurses with a minimum of five years clinical experience and three years claim management experience.

Question: How are First Reports handled?
Answer: CompEndium completes a First Report of Injury after every initial claim and transmits it to the State Accident Fund.

Question: Who determines compensability?
Answer: The State Accident Fund adjuster assigned to your account makes all compensability decisions.

Question: What long term benefits can we anticipate?
Answer: 1. A reduction in lost time and indemnity costs.
2. A reduction in medical costs,
3. A reduction in the average length of claims.
5. Increasing satisfaction among injured workers.
6. Simplifying the overall worker’s compensation process for employers.
7. 24-hour managed care for all compensable injuries.
8. Stabilization and potential decrease in worker’s compensation insurance rates.
OSHAs Ergonomics Standard Repealed

The OSHA Ergonomics Standard proposed during the final days of the Clinton Administration has now been repealed. Most businesses in the country expressed concern over the cost to implement these new standards, including a new requirement for Work Restriction Protection payments to employees.

President George W. Bush signed the Joint Resolution of Disapproval of the OSHA Ergonomics Standard on March 20, 2001. This disapproval had already been passed by Congress on March 7, and was the first use of Congress’s Congressional Review Act of 1996. This action repeals the ergonomics standard in its entirety, removes any obligations on state OSHAs to adopt these or similar standards and eliminates compliance regulations that would have taken effect later this year. Additionally, it prohibits OSHA from adopting new rules that are similar to the ones that were repealed.

The new Secretary of Labor, Elaine L. Chao, has said she would study the issue of ergonomics which may involve new rulemaking. However, she indicated that OSHA would address the concerns of the business community and others over the repealed standards.