

BAYLOR BULLETIN

Baylor Associates, Inc.

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2006 WORKERS' COMPENSATION PROGRAM

Thank you for your confidence in us and we appreciate the privilege of working with you to control your workers' compensation cost. We have outlined below some essential procedures as well as the responsibilities of our associates who handle particular elements of your cost control program.

You may e-mail anyone at Baylor Associates by addressing the transmission to the associate's first initial, last name and then followed by "@baylorwc.com". Mr. Drushel's e-mail address is kdrushel@kedlaw.com.

On claims matters, contact our claims administrators, Betty Gillan, Ext. 7609; Tracy Johnson, Ext. 7607; or Rand Worcester, Ext. 7612.

Make a copy for your records and then be sure to forward to us the original of any information directed to you from the Ohio Bureau of Workers' Compensation, Industrial Commission of Ohio, and claimant's representatives or other outside third parties. This includes both rejected and certified claims. After our review, we will forward it to the appropriate party. Forward us copies of any information directed to your Managed Care Organization (MCO).

Please FAX us hearing notices immediately at (440)546-7601.

For inquiries on BWC billings, rates, premium, alternative programs or BWC visits contact Joel Danner at Ext. 7614 or Bruce Baylor at Ext. 7611. The original of a payroll

report and premium payment is always filed directly with the Ohio Bureau of Workers' Compensation so that they receive it no later than the end of February and the end of August. Remember, a post mark does not constitute receipt. The reports and premium payments must be in the hands of the Bureau by the due date. Be sure to forward us a copy.

Be sure to always consult with us concerning any acquisitions or dispositions of operations. Such transactions may affect your manual classifications, your experience rate and your standing in a workers' compensation group rating plan. We will hold this information in the strictest confidence.

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MCO OPEN ENROLLMENT IN MAY

In May the BWC will conduct open enrollment under its Health Partnership Program. Every Ohio workers' compensation policy is assigned a Managed Care Organization ("MCO"). They are employed by the BWC to manage medical treatment under claims.

Open Enrollment occurs every even numbered year. It is when you are provided the opportunity to change your MCO.

MCO's serve the BWC, claimants and employers. They are suppose to treat both employers and injured workers equally.

Baylor Associates is not an MCO. We are retained by you to manage all aspects of your workers' compensation. We interface with most MCO's. Should you ever have any questions concerning their service, please contact us.

COURT AFFIRMS DENIAL OF WORKERS' COMP BENEFITS FOR "PSYCHOLOGICAL ONLY" CLAIMS



“an employee who suffers a back injury may be compensated for the depression that results from his disability; an employee who is depressed due to job-related emotional distress will not receive workers’ compensation benefits.”

On December 28, 2005, the Supreme Court of Ohio upheld Ohio’s statutory exclusion of claims for psychological conditions that do not arise out of a work-related physical injury or disease. In other words, an employee who suffers a back injury may be compensated for the depression that results from his disability; an employee who is depressed due to job-related emotional distress will not receive workers’ compensation benefits.

The Ohio Revised Code specifically excludes “psychiatric conditions” from the definition of a compensable work injury “except where the conditions have arisen from an injury or occupational disease.” Though this specific statutory language was not added by the General Assembly until 1986, the workers’ compensation system and the Ohio courts had historically applied this same exclusion.

The recent legal challenge to this specific exclusion involved Bank One and Kimberly McCrone, one of its tellers. McCrone was employed at a Canton branch for approximately

three years. During that time, the branch was robbed twice. At the first robbery on December 20, 2000, McCrone was present but was not the teller involved; however, she was the teller robbed on August 4, 2001. Although McCrone returned to work without claiming adverse effects after the first robbery, she was diagnosed with post-traumatic stress disorder after the second robbery and has not worked for the bank since that time. She filed for workers’ compensation benefits for her psychological condition stemming from the second robbery, but benefits were denied because she had not suffered a physical injury. McCrone challenged the law because she believed that she was unfairly denied benefits for an otherwise work-related medical problem simply because she lacked a physical injury as a result of the robbery.

In upholding existing Ohio law, the Supreme Court found that Ohio possessed a legitimate governmental interest in limiting claims for psychiatric conditions: “It is reasonable to expect government to protect the self-supporting nature of

the Workers’ Compensation Fund, to distribute available resources so that benefit payments are kept at an adequate level for covered injuries rather than at an inadequate level for all potential disabilities, and to maintain a contribution rate not unduly burdensome to participating employers.”

As indicated above, the Court’s decision does not alter the way in which the workers’ compensation system has consistently dealt with purely psychiatric claims. Unlike employers in an ever-expanding majority of states that recognize such claims in one form or another, Ohio employers are not faced with additional claims that would be problematic to defend.

Editor’s Note: The foregoing is not intended as a substitute for legal advice on this topic. Additional questions may be directed to the author, Kelly E. Drushel, Esq., at (440) 546-7616 or (800) 478-6499.

76th ANNUAL SAFETY CONGRESS

The Bureau of Workers' Compensation (BWC) has announced the 76th annual Ohio Safety Congress and Expo will take place at the Columbus Convention Center from Tuesday, March 28th through Thursday, March 30th. After 75 years, and over 150,000 attendees, Safety Congress is the second largest occupational safety and health event in the nation.

Each year, Safety Congress introduces a slate of new presenters and unique topics that advocate for a safer workplace and 2006 will be no different. Protecting Our Youngest Workers is a new seminar that

focuses on creating a road map to safely transition younger employees into the workplace and help them understand how to avoid hazards that could lead to serious injury. The four hour session will take place from 9:00 AM to 1:00 PM on March 30.

Safety Congress also will dedicate a portion of its program to the unique challenges faced by small businesses that often have fewer resources at their disposal. Therefore, many of the seminars on March 29 will focus on helping craft solutions to better control workplace injuries and associated costs.

Collectively, there are more than 150 hours of

educational sessions ranging from high-level safety strategies to techniques for use specific industries. Also, more than 200 exhibitors will take the floor in the Expo Marketplace to offer tools and tips on how to protect Ohio workers from being injured at work.

For additional information on Safety Congress, including information on seminars, continuing education, expo area and advance registration, please visit BWC's Web site at ohiobwc.com or call 1-800OHIOBWC. Attendees also can register onsite.



OHIO SAFETY CONGRESS & EXPO

Thousands of Ohio employers and employees use the Ohio Safety Congress & Expo to personalize a professional development plan that fits their own unique needs.

March 28-30, 2006
Greater Columbus Convention Center

BWC AGENDA '06 TO IMPROVE OPERATIONS

The Ohio Bureau of Workers' Compensation (BWC) unveiled Agenda '06 as part of an initiative to improve efficiency and effectiveness of the agency's operations. New administrator Bill Mabe said that a focus on fairness with new enhancements could generate an additional \$424 million to the bureau's bottom line in 2006.

A large part of the increase will be from increased revenue. By transitioning solely to fixed-income investments and establishing more

stringent controls based upon modern investment operations, BWC will generate an additional \$100 million in cash flow this year. Also BWC estimates \$130 million in savings by pursuing outstanding receivables; addressing inequities in the system; refining the claim reserving process and increasing electronic payments.

BWC will aggressively try to reduce expenses through better control of health-care costs. Bureau staff is working to identify more competitive fee schedules: negotiate more

cost-effective purchases of medical equipment and services; provided better drug utilization control; and review drug reimbursement schedules to incorporate lower cost medications.

Legislatively, the bureau continues to support Senate Bill 7, which if enacted in its current form, would generate more than \$100 million in savings while making Ohio more competitive on a national scale. To find the entire report go to ohiobwc.com

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We're on the Web!

See us at:

www.baylorwc.com

Crossroads

of safety & health

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20 available
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education units and
PDP Plus step 6
credit

**Tuition is Free
May 2-4, 2006
BWC's Garfield
Heights
Customer Service
Office**

For more information
log on to ohioabc.com.
click Ohio Employers,
then Training, or call 1-
800-OHIOBWC, and
press 2 and then 2
again.

KEY SAFETY PROGRAM PARAMETERS

A written safety and health policy signed by the top company official that expresses the employer's values and commitment to workplace safety and health. The safety and health policy must clearly state your company is committed to effective safety management and wants to provide a safe working environment. The commitment is by the owners, management and employees. The policy must stress the safe work environment is initially provided and continuously maintained for all employees. This may be the first step in implementing effective safety and health programs.

The top executive in your company should sign the safety and health policy. The policy must be given to all employees. A special meeting can be held to communicate the policy to all employees. Annual review of the safety and health policy with all employees will show your continued

commitment. Include in the policy the responsibility and role of the manager, supervisor, team leader and employee. The policy should also mention returning injured or ill employees to work as soon as possible.

Visible senior management leadership that promotes the belief that the management of safety is an organizational value. Senior management must act as a role model for all employees in creating a safe work environment. Senior management will establish the importance of safety in all operations and by taking the lead; management helps in the campaign to reduce accidents. Senior management's leadership, support and active commitment encourages management and employees to make the safety health system successful.

To promote visible, active senior management

leadership, issue a safety policy that assigns roles and responsibilities and establishes annual and long-term safety goals. Senior management should discuss safety processes and improvements regularly in all staff and employee meetings and authorize the necessary resources. Management should accompany supervisors, safety team members or safety committee members during periodic departmental surveys and openly discuss safety issues with employees during the surveys. Senior management participation in meetings with accident prevention coordinators and as a student in employee safety training programs. Senior management should personally present safety recognition awards to deserving employees. Senior management must determine the progress of the safety and health processes by reviewing the minutes of safety committee meetings and safety survey reports.

2006 BENEFIT RATES

For injuries sustained in 2006, the maximum weekly benefit rate for Temporary Total, Permanent Total, Wage Loss, Permanent Partial Scheduled Loss and Death is \$704. The maximum weekly benefit rate for Percentage of Permanent Partial Disability is \$234.67. If a

claimant is receiving Social Security Retirement Benefits, then the maximum weekly Temporary Total and Permanent Total Benefit rate is \$469.33.

The minimum weekly benefit rate for Temporary Total is \$234.67. The minimum weekly rate for

Permanent Total and Death is \$352.

The highest award for permanent partial scheduled loss is that paid for the loss of arm. It is \$158,400.