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WORKERS' COMPENSATION

Medical costs for workplace injuries soar

by Dinita L. James

An employee who is injured on the job is entitled to lifetime medical benefits to treat the injury and, in some cases, temporary compensation for lost wages. A report posted on the Industrial Commission of Arizona's (ICA) website on August 12 indicates that employers in Arizona continue to pay a higher proportion of workers' compensation benefits for medical care than employers in other parts of the country. The new data on the high costs of medical care for injured workers drive home one important reason for employers to have workers' comp insurance. We emphasize one reason because there are several other equally important reasons for securing coverage.

Medical benefits costs

According to the ICA's report, Arizona is going in the wrong direction. In 2010, the last full year of data in the report, medical costs made up 71% of the total workers' comp benefits paid in Arizona. That reversed a trend of the medical costs percentage going down over the previous four years (the number peaked at 74% in 2006). The low point was 2009, when only 69% of workers' comp benefits went to medical costs.

Arizona has consistently paid out a higher share of medical costs than other states. The report includes data from 34 states, and in 2010, the average medical costs percentage for those states was only 58%. That figure is the highest number in the 10 years included in the report.

Arizona also pays more than the national average on overall medical costs per claim. In 2010, the average cost over the life of a lost-time claim in Arizona was \$36,000; the national average was \$28,000. Over the 10-year period included in the report, the total medical costs per claim nearly doubled. In 2001, the total cost per lost-time claim in Arizona was only \$20,000.

Mandatory insurance

Arizona employers are required to carry workers' comp insurance regardless of the number of workers

they have or whether workers are part-time, full-time, minors, aliens, or family members. Employers that meet certain financial requirements can ask the ICA for permission to be self-insured for workers' comp purposes.

There are stiff penalties for employers that ignore the requirement. The ICA can sue and obtain a court order to shut down businesses that fail to provide workers' comp coverage for employees. The ICA has filed a steady stream of lawsuits in recent months. For example, one day in July, the commission's attorneys sued to shut down three separate businesses.

In addition to the "death penalty" of shutting down a business, state officials can seek civil penalties. The penalties increase for repeat violations, with an initial penalty of \$1,000 and a \$10,000 penalty for a third violation in a five-year period.

If you don't have insurance and one of your employees gets hurt, the employee has the option of filing a civil lawsuit against you. To have a valid claim, all an employee has to prove is that an injury occurred on the job. A worker can obtain uncapped lost wages in court, while workers' comp benefits are capped within the workers' comp system. However, that's not the worst of it. In a civil lawsuit, an injured worker can recover for pain and suffering and win punitive damages in egregious cases; none of those remedies are available when the employer has workers' comp insurance.

If you don't have workers' comp insurance, injured employees also have the option to pursue a claim with the ICA's Special Fund Division. If the claim is paid, the Special Fund will seek to be reimbursed for all benefits paid plus a 10% penalty and interest.

The worst penalty, however, is prison. While criminal prosecutions are rare, employers that do not carry workers' comp insurance or have the ICA's permission to self-insure are guilty of a class 6 felony.

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Bottom line

Workplace safety needs to be on the minds of all Arizona employers. But safety measures are not always successful, no matter how vigilantly they are pursued. In 2011, the last year for which the Arizona Division of Occupational Safety and Health has complete information, 65 workers were killed on the job in Arizona. When

on-the-job injuries occur, you must have proper insurance coverage in place; the consequences of not doing so can be devastating.

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