

Security: Theft and Claims

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Overview

- **Identity Theft**
- **Workers' Compensation**
- **Employment Practice Liability**

Identity Theft

- Dramatic rise since 2005
 - Corporate
 - Personal
 - 88 million Americans information compromised
- Internet/Electronic Data Transactions
 - How dependant is your company?
 - What information is your company receiving or transmitting?
- Not covered under Crime/Employee Dishonesty Coverage

Exposures

- Non Public Information
- Personally Identifiable Information
- Negligence anywhere in the world
- FACTA Compliance
- Every Company has different exposure based on operations

Individual Consequences of Identity Theft

- Able to Secure/Damaged Credit
- Difficulty in clearing records
- Bill Collectors
- Unpaid tax issues
- Potential Bankruptcy filed

Corporate Costs / Damages

- Legal Liability Damages
- Defense Costs
- Regulatory Action Expense
- Notification Costs
- Crisis Expenses
- Fines / Penalties for noncompliance
- Loss of Customer

Corporate Identity Theft

- Information Companies Hold
 - Company
 - Financial
 - Customer
 - Credit / Banking
 - Employees on site at customer
 - Employee HR
 - Social Security
 - Drivers License
 - Medical Information
 - Banking (Direct Deposit)

Where is the information obtained?

- Paper Records
 - Sensitive information locked away?
 - Who has access?
 - If broken into, are they safe?
- Computer Records
 - Network Security
 - Internal
 - External
 - Theft of laptops/desktops
 - Employee leaving/terminated

Federal Trade Commission (FTC) New Identity Theft Laws

- January 1st FTC issues “Red Flag Rules”
 - **Law applies to businesses and individuals that possess consumer information for a business purpose.**
 - Mainly for Banks and Financial Institutions
 - Also applies to companies:
 - Billing customers regularly
 - Lines of credit given to customer
 - Personal, Family or Household purposes
 - Multiple payments or transactions

Federal Trade Commission (FTC) New Identity Theft Laws

- January 1st FTC issues “Red Flag Rules” fines
 - Federal and state fines of \$2,500 per occurrence
 - Civil liability of \$1,000 per occurrence
 - Class actions lawsuits with no statutory limitations
 - Actual losses of an individual (\$92,000 average)

FACTA Red Flag Rules

1. Create an ID Theft Prevention Policy/Program
2. Appoint senior management to oversee plan
3. Train staff
4. Establish mitigation plan

Federal Trade Commission (FTC)

New Identity Theft Laws

- Gramm-Leach-Bliley Act
 - Organizations that **maintains personal financial information regarding clients or customers**
 - **Organization**
 - **Business Owner**
 - Non Public Information
 - Laws stricter than Red Flag Laws
 - Jail time can be associated
 - Up to \$1,000,000 fines
 - Mitigation rules same as FACTA

Examples of Industries Affected by One or Both Laws

- Trucking Companies
- Staffing Companies
- Auto Dealers
- Nursing Homes
- Banks
- Anyone collecting financial information
- Outsourced services at a customer location
 - Janitorial, landlord, HVAC, IT, Payroll

Shredding Laws

- Affect every business
- All non public information shredded
- All HIPPA aspects
- Need to have secure fashion to dispose of documents

What Companies Need to Do To Protect and Prevent Identity Theft

- Corporate Training/Policies
- Employee Training
- Hold Harmless/Contractual Agreements
- Insurance Products
 - Corporate Protection
 - Individual Protection
- Seek Consultation / Education

For Additional Information

- Clint Anderson, Assurance Agency
 - Identity Theft Risk Management Specialist
 - Federally Certified
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 - Note member of Will County CED for free consultation

Workers' Compensation Claims

What is Workers' Compensation?

- Remember it is ***Workers'*** Compensation not ***Employers*** Compensation
 - Pro employee
- No-fault system of benefits for occupational injuries and illnesses
- Each state administers its own laws
- Covers all employees from the first day
- Illinois recently amended

Effects of Workers' Compensation

- Employee
 - Depression
 - Family stress
 - Resentment against the employer
- Employer
 - 2nd biggest expense to payroll
 - Experience Modifier
 - Takes time to repair

Key Illinois Amendments

- Medical Fee Schedule Established
 - Increase or Decrease?
- Balance Billing Prohibited
- Utilization Reviews
- Benefit Increases and Changes
- Temporary Partial Disability Benefits
- Commission Process Expedited
- Penalties Increased
- Fraud Statute Established

Biggest Claim Issues

- Malingering and disputed claims
- Attorney involvement
- Insurance carriers
 - Reserving and settlements
 - Resolution of claim files
 - Status of claims
- Fraud claims
- Employee late reporting of claim
- Aggravations of pre-existing injuries
- Understanding the system

Solutions

- **Communication**
- Education on Workers' Compensation
- Setting up internal claim practices/policies
- Actively involved in all claim aspects
- Don't be afraid to think outside of the box and ask questions
- Utilize agent and carrier services
- Occupational Clinics

Internal Claim Procedures

- The employer has the best access to claim data for the loss
- Don't depend on the insurance carrier to know and do everything!
- Can speed up resolution or declination
- Helps dispute possible future claim issues
- Safety Committee/Internal Reviews
- Disciplinary Actions
- Communication

Internal Claim Procedures

- **Communication** is the KEY!
 - Employees
 - Supervisors/management
 - Insurance carriers
 - Physicians/Occupational Clinic
- Development of procedures
 - Specific for your industry
 - Easy to understand and user friendly
- Dedicated claim/risk manager
 - Someone who can devote time
 - Can learn the process
 - Respected individual (employees and management)

What should you have in place?

- Procedure in writing & training
 - Employee handbook or new hire signoff
 - One for supervisor and one for employees
- Specialized reporting forms (see examples)
 - Employee, supervisor and witness forms
 - Language specific for workforce
 - User friendly
- Treatment Direction
 - Occupational Clinics – Non-life threat
 - Hospital – Emergency or off hours
- Internal claim files
 - Document, document, document
 - Keep separate from HR file
 - Keep up with filing
- System of internal claim review/diary
 - Internal review (safety committees)
 - Pro-active communication with injured employee

Reporting Workers' Compensation Claims

- Claims need to be reported immediately.
 - Claim reported two weeks after the occurrence, settlements are 18% higher than if reported in the first seven days. Three to four weeks-30% higher. One month later-45% higher.
 - Helps determine compensability.

Red Flag Indicators

- Injury occurs on Friday, not reported until Monday
- Accident is not witnessed
- Rumors
- Injury occurs in an area that the employee has no business being
- Details are vague or contradictory
- Something is not right
- Problematic employee
- Refuses to follow company procedure or fill out report forms
- Neck and Back Clinic/Medicos Hispanicos

Attorney Involvement

- If an attorney is representing a claimant, studies have showed that they are “five times” more expensive if no attorney was involved.
- Can not prevent 100% of the time
 - Repeat/fraudulent claimants
 - Denied/disputed claims and treatment
 - Media/union advertisement
 - Turn on the TV!

Preventing Attorney Involvement

- Communication
 - Be in active contact with employee until claim/treatment is resolved, the biggest issues are:
 - Collection notices or bills received by employee
 - Insurance carrier handling issues
 - Delay in benefits (TTD)
 - Treatment approval
 - Adjuster issues

Insurance Carriers

- Guided by Best Practice Guidelines
- For Record Only Claims
- Adjuster workloads
- Adjuster turnover
- “Green” adjuster
- Reserving and settlement of claims
 - Ask questions “why”
 - Have an expert claims advocate
- Claim Reviews
 - One review 7 months prior to renewal****
- Action Plans for resolutions

Other items to consider

- Occupational Medical Facilities
 - Non Emergency injuries
 - Use drug screening a soft push (Choice rule)
 - Return to Work addressed
- Surveillance
 - Not everyone is a candidate
 - Results of surveillance
 - Mitigation of claim
 - Fraud charges
- Agent/Broker Involvement
 - Claim Reviews
 - Loss Control - Trending

Employment Practice Liability Claims

Employment Practice Liability

- Typical Claims:
 - Sexual Harassment
 - Discrimination
 - Wrongful Termination
 - Whistle Blower Claims
- New trend in claims against companies
- Not many companies take this coverage
- Legal judgments and defense costs

Changes in the Law

- Discrimination claims
 - No long heard by EEOC
 - Can file direct action in the courts
 - Increase cost of the claim
 - Legal
 - Management Time
 - Less Workers' Comp and more EPLI claims

Employment Practice Liability Coverage

- Make sure when purchasing an EPLI policy it contains:
 - First and Third Party Coverage
 - Defense outside of the limit
 - No Hammer Clause
 - Choice of Council
 - Deductable options
 - Defense cost NOT reimbursed

Questions?

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