Dealing with skyrocketing workers' compensation costs

Source: www.TurfMagazine.com

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Just as with death and taxes, it appears that workers' compensation claims, and the costs associated with them, will inevitably rise. Workers' compensation, a program that forces employers to provide health insurance and cash benefits to employees hurt on the job, has always been a significant, and frequently overlooked, expense for lawn care and landscape operations.

Workers' compensation is the exclusive remedy for workers who sustain occupational injury or illness. Injured or ill employees, in other words, cannot sue the employer for personal injury or negligence. Workers' compensation benefits are fixed by law. Additionally, workers' compensation systems provide employers a mechanism for facilitating the return of employees to work.

The workers' compensation laws, in general, establish the liability of an employer for injuries or sicknesses that arise out of and in the course of employment. The liability is created without regard to the fault or negligence of the employer. While it is the law and there is no way around it, managing or reducing the costs associated with workers' compensation has virtually become a necessity in today's economy.

Workers' compensation

Workers' compensation (or workman's comp) insurance is a form of state-regulated, no-fault liability insurance, which covers employee medical expenses, lost wages, rehabilitation services and death that results from work-related injury or illness. Employers in every state, except Texas, are required by law to provide workers' compensation coverage. Employees injured in the workplace are eligible for workers' compensation benefits regardless of fault. This means that ill or injured employees do not have to prove employer negligence to claim benefits.

Since its inception in the early 1900s, workers’ compensation insurance has always been state regulated. As a result, each state has its own body of workers’ compensation law. The goal of each workers’ compensation system is the same, to reduce disputes and litigation arising from work-related injury and illness.

The benefits paid under workers’ compensation are financed three basic ways: by a nonprofit state fund, a private insurance company, or by an employer or group of employers, referred to as self-insurance or group self-insurance. Self-insurance has traditionally been reserved for large, highly capitalized companies, although some states are now allowing smaller companies in like industries to collectively fund self-insurance plans, enabling members to meet the necessary financing requirements, yet also manage risk.

Not all states permit all three structures. Some states, such as North Dakota, are state fund “exclusive,” meaning private insurers cannot sell workers’ compensation in the state. Others, such as California, are “competitive,” allowing private insurers to compete against the state fund. Still others, like Illinois, have no state fund and require employers to buy workers’ compensation insurance from a private insurer.

Insuring insurance

By law, workers’ compensation is always no-fault insurance, meaning employers must cover occupational injury or illness even if the employee is at fault. In reality, most workers’ compensation laws require insurance companies to provide “full medical benefits” to injured/ill employees. What’s more, most state laws do not set time or monetary limits on workers’ compensation medical coverage. Exceptions are Arkansas, Florida, Hawaii, New Jersey, Ohio, Montana and Tennessee.

When seeking insurance coverage, the first step for every landscape contractor, lawn care professional, business owner or manager is to verify that state law allows the operation to purchase workers’ compensation insurance from a private insurer. As was stated above, some states prohibit this. If the state or states the employer operates in is “competitive,” quotes from multiple providers can be obtained. Comparing polices and selecting the one with the best price and benefits is a fairly routine strategy. However, in order to receive quotes, be prepared to provide information about the business and its prior workers’ compensation history.

All workers’ compensation laws require insurers to pay a portion of lost wages due to a work-related disability. Regardless of disability classification, carriers are generally required to pay no less than 66 2/3 of a claimant’s lost wages up to a set dollar maximum for the duration of their disability or a set number of weeks. Only Arizona (55 percent) and Massachusetts (60 percent) workers’ compensation laws have wage percentages below 66 2/3 percent. Colorado, Florida, Nevada, North Dakota, Ohio and Washington do not set percentages.

Who really pays?

Many employers mistakenly believe that the insurance company pays for injury losses and accident costs. This is not true. Admittedly, some insurance companies do offer so-called “guaranteed cost” insurance, where all losses are covered, but far more have “deductible” coverage. Operations with guaranteed cost coverage with no deductible still need to be concerned about workers’ compensation because premium costs are generally based on their loss experience, also called the experience modification factor or “mod.”

This means that the employer’s past history of losses forms the basis of what an insurance company will charge the business for workers’ compensation insurance premiums. In this way, the operation’s loss history determines how much they will be charged for workers’ compensation insurance.

The operation’s safety record also affects workers’ compensation premiums. If an insurer finds the employer’s record is better than the industry average after performing a risk evaluation, the business’ premiums could be reduced. If its record is worse than the average, the reverse is almost inevitable.

In addition to the operation’s history of claims and safety record, insurance premiums are determined by the workers’ compensation classification of the business, and the degree of hazard associated with that classification. Each classification is assigned a rate or loss cost, based on the insurer’s experience with that business type, which strongly affects a business’ final premiums. Consequently, it’s essential that the business be classified correctly. No mean chore, since there are more than 600 classifications to choose from.

Controlling workers’ compensation costs

Workers’ compensation costs are often high because the injury process is not closely managed; therefore, there are too many claims lasting too long. Fortunately, keeping workers’ compensation costs manageable is feasible.

Be serious about workplace safety, posting warnings and safety instructions around the workplace. Also, investing in safety training and requiring employees to wear proper safety gear helps reduce workers’ compensation costs. A safety consultation with a state workers’ compensation representative or a private consultant will reduce the operation’s long-term costs.

You can also reduce costs by managing the injury process from beginning to end. Starting with rapidly reporting the claim to controlling the claim throughout its life span, every stage should be managed and monitored by the employer.

In addition, every business shoulddo the following:

<0x2022> Communicate regularly with injured employees. Research indicates that this lowers costs per claim and encourages employees to return to work faster.

<0x2022> Consider self-insurance for workers' compensation in order to provide medical benefits via a managed health care provider.

<0x2022> If state law allows it, institute an early return-to-work program. This includes educating your designated physician about the rigors of your business and each employee position.

<0x2022> Review your workers' compensation claims and costs on a quarterly basis with an eye for addressing safety issues and overexpenditures.

Costs

At the end of the day, all workers' compensation insurance coverage will be decided by how much in losses the insurer believes the employer will incur. Start by selecting an insurance broker or agent that is familiar with the vagaries of your industry.

For the majority of companies, workers' compensation ranks as the greatest percentage of their insurance dollar; often as high as 30 percent, according to many recent studies. Unfortunately, while many lawn care and landscaping businesses continue to battle with escalating costs and continuing layoffs, the financial impact of ever-increasing workers' compensation insurance costs often goes unrecognized.

Increases in medical expenditures continue to outpace inflation. Ten years ago, medical costs represented 40 percent of total claims expenses. Today, medical represents 60 percent of workers' compensation costs. On high-dollar claims, medical represents an even higher percentage of the total exposure. Additionally, industry data indicates that comorbidity factors, such as obesity and the aging workforce, are significantly increasing medical costs. Finally, the utilization of opioids, or narcotics, continues to rise at alarming rates.

It's also important to note that advances in medical treatment contribute to rising claim costs. Ten years ago, an injured worker with a severe spinal cord or brain injury had a very short life expectancy. However, medical advances are allowing these injured workers to live longer and with a higher quality of life. In addition, new prescription drugs are constantly coming into the market. The costs of these new drugs are significantly more than the current drugs being utilized, because there is no generic equivalent available.

These increasing claims costs are having a significant impact on the traditional workers' compensation market. In order to stay solvent, many insurance companies will be forced to raise their rates.

Employers, insurers and brokers that team together can successfully trim the cost of workers' compensation. Consider your insurance broker and insurance claims handler or third-party administrator, as a partner. Together, a cost-reduction plan can be developed before workers' compensation costs climb even further.

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