

**San Francisco/Bay Area**

6160 Center Street, Suite B  
Clayton, CA 94517  
P: (925) 673-2200  
F: (925) 673-2212  
E: info@imcservices.com

**Napa/Lake County Area**

P.O. Box 1232  
Middletown, CA 95461  
P: (707) 987-8644  
F: (707) 987-8641  
E: info@imcservices.com

Website: www.imcservices.com



## Telecommuting Policy for Workers Comp

Employees working from home are still working; therefore, an injury that occurs during the course of employment remains compensable, even if it happens at the employee's home. As more employers choose to allow telecommuting, the realm of what's considered work and what isn't gets cloudy.

While employers can appreciate the benefits of employees working from home, the idea of being liable for an injury suffered at the worker's residence can be unsettling.

According to *Claims* magazine, employers should consider drafting a telecommuting

policy. This policy should cover specific subjects, such as work hours, break periods, work areas on the premises and traveling

to and from the premises for work (for example, going to the electronics store to purchase software needed for a work application). This policy should be agreed upon by employer and employee. Finally, a copy of the policy should be sent to the workers compensation insurer for review.

With each claim being fact-specific, such a policy

may assist both the employer and the employee in drawing distinctions between work and home activities. ■



## Foreign-Born Workers at Risk

According to an AFL-CIO study, foreign-born workers are at much higher risk of workplace fatality.

The study finds that Hispanic men suffered the highest number of fatal injuries of any gender or ethnicity group. Fatalities among Hispanic male workers increased 86% between 1992 and 2006. More than 2/3 of the deceased were born outside the U.S.

The study also reports that the percentage of fatalities among all foreign-born workers is rising. While the number of foreign-born employees increased by 22% between 1996 and

2000, their share of fatal injuries increased by 43%.

These statistics might indicate a failure to communicate or enforce safety procedures, or they could suggest that foreign-born workers are taking on more dangerous jobs. Job safety should be priority one irrespective of worker ethnicity, and employers bear responsibility for properly educating and monitoring employees in the area of work safety. Always include worker feedback as part of the training process so you can ensure your employees understand and can implement safety practices. ■

## Accounting for Overtime



**L**ong days, longer weeks, and looming deadlines are just a few of the reasons why your dedicated team works overtime. This begs the question: Since workers compensation premiums are based on remuneration (payroll), should additional dollars paid as overtime be included in reported payroll?

Most states allow the amount paid in excess of regular or “straight time” pay to be deducted from remuneration estimates for the purpose of generating workers compensation premium. Employers who intend to do so should proceed with caution. Records must clearly separate normal pay versus overtime pay. These records should indicate the additional hours worked and the pay provided and should be categorized by individual employees as well as by classification, which is the category used to group employees’ payroll based on their workplace tasks (e.g., clerical staff, drivers, machinist, etc.).

Keeping detailed records concerning overtime may seem tedious; however, this practice is essential in avoiding an error or omission that will result in additional workers compensation premium due after an audit is conducted. ■

## Is a Comp Fraud Audit Coming Your Way?

Because of widespread workers compensation fraud perpetrated by employers, laws are being tightened and audits are being conducted. Some states have made workers compensation premium fraud a felony, resulting in substantial fines and significant jail time.

In California alone, it is estimated that high-risk industries such as construction could be hiding as much as 75% of their payrolls for certain jobs. A 2007 study by the University of California Berkeley estimates that this fraud costs insurers \$3.8 billion in lost premiums annually. Fraud losses raise premiums for businesses and

consumers alike.

In efforts to control fraud, which usually occurs using off-the-books cash payments or shell firms acting under the guise of an independent contractor, states like California are stepping up their auditing procedures, with some even choosing to search for discrepancies by re-auditing select accounts to compare with information provided to insurers.

Regularly running a self-audit and stringently complying with local laws and insurer mandates will aid your company should a re-audit come your way. ■

## Forklift Emissions Dangers

More than 100 workers are killed and some 20,000 are injured each year in accidents involving forklifts. While many of these injuries are caused by collision and overturn of the forklift, many workers become seriously ill due to carbon dioxide emissions.

When gas-powered forklifts are used in enclosed or partially enclosed areas, danger exists. While all gas-powered engines produce some emissions, many forklifts are built with worse pollution control standards than road vehicles.

Responsibility for controlling carbon dioxide inhalation falls on both operators and employers. To help avoid harm to workers from carbon dioxide, try the following:

**Avoid using the forklift indoors.** If this is not possible, provide adequate ventilation. Information about adequate ventilation can be found by visiting the website of the American Conference of Governmental Industrial Hygienists—[www.acgih.org](http://www.acgih.org).

**Avoid idling.** Even if outdoors, an idling forklift, especially one located



near windows or vent openings, can emit dangerous exhaust into areas occupied by workers.

**Keep the engine tuned and consider a catalytic converter.** Both measures will keep emissions low.

**Test exhaust with a carbon dioxide analyzer** on a regular basis and look for patterns that indicate emissions may be increasing.

**Finally, promote worker safety** through education, enforcement of operational guidelines, and the use of proper personal safety equipment, such as respirators. ■

## Implementing a Safety Plan

Insurance providers are consistently encouraging employers to develop written safety procedures. Some of these procedures are custom designed while others are boilerplate models provided from another resource, such as a trade association. Unfortunately, many programs, once initially distributed, are never read or updated again.

Indiana University safety experts Earl Blair and Barry Spurlock have developed a program to help employers develop and maintain a safety plan that could save you money on workers compensation costs. In addition to other steps, their plan includes the following:

### Develop safety measurement tools

These can include checklists, audits, surveys, observation methods, and

scorecards to evaluate employee and supervisor safety-plan adherence.

**Develop delivery strategies.** An unchecked program is a useless program. Inspections of safety efforts



must occur at regular intervals. The first step is to assign duties to inspectors and establish methods for recording findings.

### Set performance goals

For example: "This program should

result in a 20% decline in workplace injuries and overall cost of workers compensation within three years."

Realistic goals require patience and rationality—expecting a program to

produce a 50% drop in incidents in the first year, for example, may be unreasonable and contribute toward a sense of defeat.

### Monitor and adjust

Hold safety meetings and ask staff for feedback on your company's efforts to increase standards. If the first attempt at implementing a safety program isn't successful, review staff responses and adjust efforts accordingly.

For aid in designing and implementing a safety program that can reduce chances of injury and help lower workers compensation costs, visit [www.osha.gov](http://www.osha.gov). ■

## Presenteeism Is a Workplace Hazard

There is a relatively new corporate buzzword that has employees shivering, sweating, coughing and sneezing at their desks. It's "presenteeism"—used to describe workers who refuse to stay home when they're sick.

According to a survey by ComPsych Corp, 83% of workers say they have ignored obvious sickness to come to work. Common reasons cited for presenteeism include too large of a workload (37%), fear of taking time off (26%), and wanting to save sick days for when children fall ill (21%).

The first concern employers

should have is that one infected employee can spawn an entire office of zombies in just a few days—leading to declines in overall

**Sick workers are at a greater risk of on-the-job injury caused by an accident.**

productivity. A second and potentially more pressing concern is that sick workers are at a greater risk of on-the-job injury caused by an

accident. Being sick and having "medicine head" are proven to cause drowsiness and poor judgment, a dangerous combination whenever safety is concerned.

Adopt policies that encourage truly ill workers to stay home, and don't be afraid to ask machinery operators, stock boys and others involved in lifting, climbing or equipment operation if they are on medications that restrict activities.

Those individuals might not have to go home, but if it is possible they should be given alternate duties while medicating for illness, however mild. ■

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happy to give the same great  
service to all of your friends  
and business associates.

## Pre-existing Conditions

Is it possible for an employer to be held responsible for a work-related injury that stems from a pre-existing condition?

According to D. Troy Trimble, D.O., liability can be determined by the all-important "major contributing cause or factor." This is accomplished, he says, by reviewing the patient's medical history to ascertain if he or she has ever received consultation for similar pain. If the employee hasn't, the physician will likely consider the work incident the major contributing cause of the injury. If this is the case, the employer is probably liable for the worker's injury—even if subsequent tests show that the condition that led to the injury was pre-existing.

Sometimes, access to employees' medical history is restricted, and sometimes the condition itself isn't considered the major contributing factor. Assessing pre-existing conditions before assigning workers their duties can help. Adequate workers compensation coverage is critical. To review your workers comp risks, call one of our professionals today. ■