

Welcome



We are pleased to bring you the spring edition of QBE Connect, our national newsletter.

In this edition we bring to you an update on Comcare and the

Self Insurance Arrangements Review commissioned by the Hon. Julia Gillard MP. The Board of the Safety, Rehabilitation and Compensation Commission met last month and it is hoped that an announcement on the outcome of the self insurance review will be made shortly. We will keep you fully informed of any decision in this regard as this may offer varying opportunities for employers in this country.

We are very pleased with the level of attendance at our various training programs held in metropolitan and regional Australia this year. Our training courses span a myriad of subjects including but not limited to A Quick Guide to Workers Compensation, Accredited OHS Consultation, An Introduction to Return to Work Coordination and are held across every jurisdiction in Australia excluding Queensland. A total of nine courses are on offer in 2008 and you will find out more about our training courses for the remainder of this year inside this edition. For 2009, we will have two new courses introduced and these are Business Continuity and A National Summary to Workers Compensation, assisting in unravelling the mystery surrounding the extensive legislation governing personal injury in this country. Our 2009 National Training Calendar will be released this quarter and we hope you can take advantage of this offering.

Also in this edition are some case studies which you may find useful surrounding fraud. Managing our responsibility in this regard includes appropriately identifying and managing instances of allegations of fraud to ensure QBE meets the expectations of customers as well as federal and state regulators.

As a workers compensation insurer, QBE is committed to ensuring the appropriate delivery of workers compensation entitlements to genuine injured workers and their employers.

Our next edition will provide information about the application of succession rules in NSW and Victoria as it relates to the application of successor wages and claims information in the calculation of premiums. These succession rules often contain financial surprises following the acquisition of businesses or entities and the application of premiums in the newly formed organisation.

In the interim, if there is anything our staff can do to better meet your insurance needs, please talk to us.

Jason Hammond
National Manager, Workers Compensation

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QBE Connect MICU turns 1

The QBE Connect national newsletter is about providing you with relevant and timely information to assist you in managing your workers compensation risk. If there are any topics you would like to see covered in the newsletter please email qbeconnect@qbe.com

Comcare and Self Insurance Arrangements Review

On 11 December 2007 the Minister for Employment and Workplace Relations, the Hon Julia Gillard MP, announced a moratorium on new applications from private sector corporations wanting to join the Comcare scheme. The Deputy Prime Minister announced that applications from companies that had already been declared eligible to apply for a self insurance licence should be considered on their merits.

The Minister also announced a review of the self-insurance arrangements under the Comcare scheme. Terms of Reference for the review were later released, and interested parties were invited to make submissions to the review. Submission closed on 29 February 2008, with over sixty submissions being lodged by various groups.

The aim of the review was to ensure that Comcare is a suitable OHS and workers' compensation system for licensees and their

employees. The review sought information and recommendations on issues such as whether Comcare provides:

- Appropriate OHS and workers' compensation coverage
- Effective rehabilitation and return to work outcomes
- Appropriate consultation mechanisms for employees affected by an employer's application for a licence.

The Department of Education, Employment and Workplace Relations (DEEWR) managed the review process, DEEWR appointing Mr Taylor Fry, Taylor Fry Consulting, to conduct the review and develop formal recommendations. A final recommendations report was submitted to the Deputy Prime Minister on 31 July, and we are awaiting a response.

In the interim, the Safety, Rehabilitation and Compensation Commission (the Commission) has approved applications from private sector corporations wanting to move to the Comcare scheme whose applications had been lodged prior to the moratorium.

The Board of the Commission was meeting in September and it is hoped that an announcement on the outcome of the self insurance review will be made then. For further information, you can visit www.comcare.gov.au

If you like to know more about Self Insurance arrangements, please contact Marianne Coutant, Manager Self Insurance Services on (03) 9246 2446.

Have You Registered for Workers Compensation Training This Year?

COURSE TITLE & LOCATION	DATE
An Introduction to Return to Work Coordination	
Sydney	3 & 4 December
A Quick Guide to Workers Compensation	
Lismore	12 November
Newcastle	6 November
Knox	13 November
Launceston	19 November
Accident Investigation and Incident Notification	
Bendigo	13 November
Albury	19 November
Geelong	12 November
Manual Handling Risk Assessment	
Bendigo	13 November
Albury	19 November
Geelong	26 November
Knox	7 November
Perth	19 November
Making Sense of OHS and Risk Management	
Shepparton	18 November
Hobart	12 November
Integrated Approach to OHS, Workers Compensation and Return to Work	
Parramatta	7 November
Melbourne	6 November
Canberra	19 November
Perth	5 November

Register Now!

Only a Few Courses Remaining for 2008

Register now on-line at www.qbe.com.au/workerscompensation/training

Telephone Toll Free 1800 198 243

Email training@qbe.com

Fax Toll Free 1800 051 807

And a Sneak Preview of What's New for 2009 ...

1. Business Continuity

A brief overview of the importance of Business Continuity and how to build plans that will improve the resilience and capability of your business in an emergency situation.

2. An Introduction to Workers Compensation Nationally

An overview of workers compensation management in all states including the legislative differences and similarities for the lodging of claims, rehabilitation and return to work responsibilities of employers.

Western Australia Workers' Compensation Licensed Insurers Best Practice Guidelines 2008



Recognising that workers compensation claims are the result of injury and incapacity suffered by members of the community, Approved Insurers will treat claimants with care and understanding. The image to fulfil is one of fairness and honesty in dealing with Injured Workers.

The Best Practice Guidelines has been developed by the Western Australia

licensed Workers' Compensation Insurers Consultative Group, presenting a framework within which Approved Insurers should work within the management of claims made by workers following a work related injury.

The Guidelines and appendices are designed to achieve a sensible and reasonable approach by Approved Insurers as well as consistency as far as possible with the focus on a fair, speedy and effective handling of Workers' compensation claims, for injured workers and employers along with the processes associated with claims management.

The Guidelines demonstrate a willingness and acceptance by insurers to approach claims management in a transparent and timely manner. For the Guidelines to achieve their aim, a similar approach by

employers, injured workers and other relevant parties is essential.

The Licensed Insurers Best Practice Guidelines 2008 will initially address the special requirements of the Act and replace the existing Guidelines. The Licensed Insurers Best Practice Guidelines is intended to be a living document and as such, may be progressively developed as operational requirements change or following consultation with all stakeholders and agreement between all Insurers.

WorkCover WA supports the development of a set of Best Practice Guidelines and encourages suggestions for improvement, noting the Guidelines may be amended by agreement between Insurers. A copy of the document is available via the WorkCover website – www.workcover.wa.gov.au

Successful Prosecution of an Employer After Failing to Supply Wage Records to WorkCover WA

WorkCover WA has recently successfully prosecuted an employer in the Perth Magistrate's Court for failing to supply wage records and other documents after bring services notices by a WorkCover WA compliance officer. The employer was fined \$700 and ordered to pay a further \$1,019.20 in costs as a result of the prosecution.

WorkCover WA's compliance manager wished to remind employers there is a requirement under The Workers' Compensation and Injury Management Act 1981 for employers to produce such documents when served such a notice. In this case the employer chose to ignore the notices.

QBE Connecting...Occupational Physician File Review Program



Occupational Physicians are medical practitioners who specialise in the management of work related injury and disease and have specialist qualifications in occupational health and safety, injury management and return to work. These doctors are frequently called upon to assist with management of workers' compensation claims and other bodily injury claims. From a claims perspective this has traditionally focussed on the use of formal, independent medical assessments. Whilst there are always circumstances where independent reviews may be required, they are expensive and the waiting lists are long. However, best practice management of injury and return to work relies on timely access to expert medical information and advice. This type of information is often difficult or time consuming to obtain.

Reviewing a claim one to one with an occupational physician has greatly assisted in the strategic planning process for case management, particularly in regard to medical management and return to work strategies.

Every month on a weekly basis, our branch in Perth, have three experienced local occupational physicians come to meet with QBE Case Managers to review and discuss claims. The aim of the program is to assist case managers with early injury management intervention on bodily injury claims and ultimately to achieve optimal return to work and claims outcomes for employers and injured workers.

His Honour, District Court Judge Philip McCann was recently appointed as the new Dispute Resolution Directorate Commissioner.

In his speech he commented on the Judiciary's integral role since the statutory system of Workers' Compensation in WA since 1902, the role of the D.R.D., his intention to review the D.R.D. rules, the development of professional bodies to promote continuing education and social interaction for the improvement and maintenance of professional standards.

Alleged Fraud – We Take It Seriously at QBE

As a workers compensation insurer, QBE is committed to ensure the appropriate delivery of workers compensation entitlements to injured workers and their employers. Managing this responsibility includes appropriately identifying and managing instances of alleged fraud to ensure QBE meets the expectations of federal and state regulators, clients and stakeholders while also meeting our legal obligation to deal with fraud when it is detected or suspected.

In this issue of the QBE Connect national newsletter we describe what constitutes fraud as it is legally defined and the fraud indicators which you can look out for which support appropriate identification and investigation of the statistically small number of cases which require specialist management of fraudulent behaviour.

In the last 12 months our ACT branch has referred two suspected fraudulent workers compensation claims to the Australian Federal Police in the ACT. The specific details of these cases are outlined in the case studies provided which highlight QBE's investigative process and the evidence obtained. These referrals were considered strong cases to prosecute following identification of fraud indicators and investigation in partnership with the employer and key stakeholders. QBE continues to liaise closely with the Australian Federal Police and Office of Regulatory Services WorkCover to progress these referrals.

What Legally Constitutes Fraud?

Fraud occurs when someone knowingly lies to obtain some benefit or advantage to

which they are not otherwise entitled, or someone knowingly denies some benefit that is due and to which someone is entitled

Fraud may be accomplished through the aid of forged documents and most cases of fraud are proved using these documents as evidence. A suspect document may be a fake or an altered original document. The absence of the original document and the use of copies may suggest the documents are not legitimate. If copies have been provided always ask for the original. Always look for the obvious differences in the documents. For additional information see article *'Documents can be used to perpetrate fraud'*, QBE Connect newsletter, Edition 10, Autumn 2008.

Case Study 1.

The injured worker was employed as a security guard and was rostered on a mobile patrol from 6pm on the date of reported injury. Not long after commencing duty the injured worker reported that he ran out of petrol and was forced to push his disabled vehicle into a service station in order to get fuel for his car. He subsequently lodged a

workers compensation claim in relation to a shoulder injury. In the course of investigating the circumstances of the claim, it was confirmed that the service station was equipped with video surveillance and that footage indicated the vehicle was driven onto the service station apron. This information was shared with the worker, who then suggested that he managed to restart the vehicle at the entrance to the service station. Incidentally, at no time did he contact his supervisor to report the

alleged breakdown. Further inquiries confirm that petrol was purchased at 6.13pm when the vehicle took on 36 litres in a 38 litre tank. The previous custodian of the vehicle did not believe it was near empty when handed over at the change of shift. The employer also reported that the worker had previously applied for leave for a shoulder operation. The circumstances of this claim have been referred to the Australian Federal Police in Canberra.

Case Study 2.

The injured worker was employed as a service delivery supervisor for an outsourcing company in Canberra. He was rostered for duty between 3.30pm and 11pm on the date of reported injury. He describes being injured in a motor vehicle accident on his way to work. The

injured worker stated that a third party ran into the back of his stationary vehicle causing extensive damage and rendering the vehicle undrivable. He reported that he exchanged details with the other driver but did not get the details of the other vehicle. Police were not called to the scene even though the injured worker claims to have reported the incident. However police records failed to identify any such report.

The case manager was concerned about the claim. Despite extensive investigations, the third party claimed to be responsible could not be located. The injured worker did not lodge a claim with his motor vehicle insurer and he was unable to identify the panel beater who allegedly repaired his vehicle. The claim was subsequently declined and the matter was referred to the Australian Federal Police in Canberra.

What are the Indicators of Fraud?

Only a small percentage of claims are fraudulent, with a higher proportion exhibiting signs of abuse. Fraud indicators have been developed by the insurance industry in an attempt to help identify those claims that might require further investigation. However, these are only a guide. The existence of one or a number of fraud indicators may not necessarily point to a fraudulent claim. Great care needs to be exercised in assessing a possible fraudulent claim. For example, the following table provides a list of possible fraud indicators:

In the Injured worker / employee look for the following indicators:	In the incident look for the following:
<ul style="list-style-type: none"> » disgruntled » facing redundancy » excessive time off prior to claim » history of short term employment » new in the job » having financial difficulties » claim occurs following disciplinary proceedings » unexplained change of Medical Practitioner » history of soft tissue/subjective injuries » family/associates receiving compensation/unemployment benefits » information or 'tip off' that claimant working » provides PO Box or insists they collect benefits » refuses home visits by providers » actively involved in contact activities (sport) » difficult to contact at home by phone » inquiry from potential employer » continually cancels or changes appointments » employee refuses diagnostic procedures » family not aware of the claim » immediate return to work following claim settlement 	<ul style="list-style-type: none"> » occurrence late Friday evening or after arrival at work following weekend/holiday » occurrence not witnessed or there is conflicting evidence » rumours that injury may not be genuine » occurrence in an area out side of normal work environment » occurrence involves activity outside of employees usual status » medical examination/report inconsistent with circumstances of injury » occurrence consistent with a suspicious pattern of claims » no time, date and place of occurrence provided at the time » occurrence near the end of probationary period » details of occurrence are generally inconsistent or questionable » occurrence not reported immediately to supervisor

If you would like further information regarding suspected fraudulent matters and how QBE will manage these incidents, please contact your QBE Case Manager.

Is Your WorkCover Levy Too High Due To Incorrect Coding of ‘Secondary Disability’ Claims?



In South Australia, the Workers Rehabilitation and Compensation Act 1986 (the Act) allows workers to claim compensation for secondary disabilities. A secondary disability is defined as a disability that is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior disability. It does not matter whether the prior disability is work related or not.

When a workers compensation claim is defined and injury coded as a secondary disability, the claim costs for that claim are removed from the overall claims costs used in calculating the performance index and in determining whether any supplementary levy is applied.

In the last two years the compensating authority has adopted quite a restrictive approach in determining secondary disabilities, often requiring the prior disability to be ‘symptomatic’.

In the recent matter of Skycity Adelaide Pty Ltd v WorkCover [2008] SAWLRP 9, Sparke Helmore Lawyers represented the employer, the WorkCover Levy Review Panel (the Panel) found that:

- There was a statutory duty on WorkCover, through the claims agent, to investigate whether there was evidence of a prior disability at the time any claim is made,
- There are cases where there can be latent prior disabilities that do not give rise to symptoms,
- It was not necessary for a prior disability to be symptomatic at the time a subsequent disability arises in order to qualify as a secondary disability.

What Does This Mean for Employers?

- Employers can request the compensating authority to investigate whether there is evidence of a prior disability at the time any claim is made, especially if the employer suspects that a prior disability may exist.
- If the compensating authority refuses to apply a secondary disability code to a claim on the basis that the prior disability was not symptomatic, employers should consider whether to challenge that decision.

- Employers should also properly scrutinise their levy notices to ensure their claims have been coded correctly and seek appropriate advice if they suspect that they have not.

How Can We Help...

QBE can represent employers on these claims to achieve the same results as in the SkyCity Adelaide Pty matter. We can arrange for Sparke Helmore to work with us to achieve this outcome.

QBE’s role is to facilitate the initial review of claims files, make recommendations to employers regarding these claims and act on their behalf in dealing with the claims agent. Sparke Helmore Lawyers will then undertake any subsequent legal work in the Section 72 of the Act, appeal process, including representation at the Panel.

If you would like to know more about the claims costs affecting your WorkCover levy in South Australia, please contact QBE on (08) 8213 5300.

An Actuarial Report Has Been Released Detailing Costing for Proposed Scheme Changes

The Tasmanian Government appointed Alan Clayton to undertake a review of certain aspects of the Tasmanian Workers Compensation Scheme (the scheme). The report findings were set out in the Clayton Report in September 2007. The recommendations included in this report have now been costed by the scheme actuaries, Bateup Consulting Group. To access the full report visit www.workcover.tas.gov.au/resources/research_papers/clayton_recommendations

The costing have been categorised into four packages, which is currently under review by the Tasmanian WorkCover Board. The

proposed changes result in a increase to the average scheme rate of between 10% - 20% depending upon the package. One of the more heavily weighted costing is the proposed introduction of the Narrative Test for common law. It has been recommended by Alan Clayton that the Narrative Test outlined in section 134AB of the Accident Compensation Act 1985 (Vic) be considered as the model for this purpose.

Injured workers who do not have a whole person impairment of 30% or more can access common law through what is called the Narrative Test. Under the Narrative Test the injured worker must prove that they

have any one of the following:

- a permanent, serious impairment or loss of body function,
- a permanent, serious disfigurement,
- a permanent, severe mental disorder or permanent, severe behavioural disturbance or disorder.

Other costs include the extension of weekly benefits to normal retirement age and the extension of weekly benefits according to the level of Whole Person Impairment (WPI) assessment and increases in lump sum benefits.

Man Faces Jail for Defrauding \$44,000 from WorkSafe

A Caulfield South man was convicted today and faces the possibility of eight months in jail, for fraudulently obtaining more than \$44,000 in workers compensation payments, for making a false declaration in relation to his workplace injury claim and for providing false information.

The Moorabbin Magistrates Court heard that 57 year old Igor Green was working as a machine operator with a Braeside tooling company in 2004 when he suffered a head injury after being struck by a piece of machinery.

Mr Igor's claim for workers compensation was accepted and he formally declared that he was not engaging in any form of employment while receiving weekly workers compensation payments.

Evidence revealed however, that while in receipt of compensation payments during 2005 and 2006, Mr Green was working as a taxi driver. He was paid in cash for his work. Despite this, Mr Green continued to report to his doctor and other medical practitioners that he had not returned to work.

Mr Green pleaded guilty to one charge of fraudulently obtaining payments, one charge of making a false declaration and six charges of providing false information under the Accident Compensation Act 1985.

He was convicted and ordered to repay the \$44,136 in compensation he obtained fraudulently. Mr Green was also sentenced to eight month's jail, to commence if he commits any further offences in the next 12 months.

WorkSafe Executive Director, Len Boehm said any fraud or corruption committed against WorkSafe, however large or small, was a major concern.

"This case highlights not one but three separate forms of deceit. Mr Green knew exactly what he was doing."

"While most workers are honest, a case like this can threaten to undermine community confidence and support in Victoria's workers compensation system."

"This case is an eye-opening reminder of the consequences of dishonesty."



Release of the Accident Compensation Act Review Report

The Hon. Tim Holding, MP has released the final report of the independent review of the Accident Compensation Act 1985 by Mr Peter Hanks QC. The final report has made 150 recommendations for the Government to consider. Four main areas of reform:

- » better rehabilitation and return to work outcomes
- » fair and accessible benefits
- » greater accountability and transparency and
- » improved understanding and usability of the legislation.

For a summary of the report visit <http://www.compensationreview.vic.gov.au/wps/wcm/connect/Accident+Compensation/Home/>

QBE Connect MICU turns 1

This month celebrates the first birthday of the Major Injury Claims Unit (MICU) at QBE. Despite some early teething issues, the branch has gone from strength to strength.

The MICU consists of two QBE Case Managers and an Assistant Case Manager. The case managers are Allied Health trained, with a Social Worker and the now newly appointed case manager, a qualified Occupational Therapist. The unit is now operating at full capacity, with branches having experienced a timely transfer of their major injury claims into this unit.

The unit works close liaison with the Rehabilitation Advisors, who are available to

provide ongoing support regarding the many and varied rehabilitation issues found commonly on MICU claims. This resource provides a multidisciplinary team approach to the management of these files and enables the MICU to better ensure the injured workers are in receipt of appropriate treatment and rehabilitation services. Per the QBE Connect way, collaboration of this nature ensures treatment remains reasonable and necessary and assists to reduce overall claims costs.

Case conferencing and treatment team meetings are an integral part of this unit, due to the issues arising from injuries of this nature and the complex treatment and

rehabilitation requirements. Many claims see the involvement of a large number of treatment specialists, which require coordination and ongoing support during the treatment period. This has resulted in 24 case conference meetings held over NSW, together with face-to-face meetings directly with injured workers and their families.

Moving forward, employers will see all new major injury claims are forwarded directly to the MICU, to ensure initial contact with stakeholders is made within QBE Connect time frames and stakeholders are provided with appropriate information and support, from inception of the claim through to closure.

QBE Australia

New South Wales

Sydney	(02) 9375 4444
Campbelltown	(02) 4621 9600
Lismore	(02) 6627 5999
Newcastle	(02) 4968 6444
Parramatta	(02) 8831 0322
Wollongong	(02) 4224 3487
Albury	(02) 6042 3555 1800 817 820

ACT

Canberra	(02) 6201 3333
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Tasmania

Hobart	(03) 6237 3866
Launceston	(03) 6332 0799

Victoria

Melbourne	(03) 9246 2444 1800 817 820
Albury	(02) 6042 3555 1800 817 820
Bendigo	(03) 5440 4700 1800 807 585
Geelong	(03) 5226 8788 1800 817 820
Knox	(03) 9246 2444 1800 817 820
Mildura	(03) 5051 1810 1800 817 820
Shepparton	(03) 5823 6400 1800 807 628

Northern Territory

Darwin	(08) 8982 3877
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South Australia

Adelaide	(08) 8213 5300
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Western Australia

Perth	(08) 9213 6100
Bunbury	(08) 9721 9200

CTP

NSW Sydney	1300 559 123
QLD Brisbane	(07) 3031 8484

Self Insurance Services

Marianne Coutant	(03) 9246 2446
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