My thoughts in order to make sense of what I am saying.

The concept of complex claim(s) needs to be understood in the 2 visible silos of the workers compensation conception. Although the silos form the framework of workers compensation the system/process has smudged what is considered to be “exceedingly complex” when in reality there is nothing complex to any of it.

The two silos are workplace injury and workers compensation claim.

A workplace injury can be anything from a paper cut to a fatal incident. However it is not and it can never be a workers compensation claim. This is a medical incident (regardless of the type of injury) There is no requirement under any legislation to lodge an application for workers compensation. Not every workplace maintains incident/injury records. There are in-house private agreements between employer and worker that known industry injuries are recorded and medical attention provided and paid for by the employer. The main reason this is done is simply because the process taken by the claims agents adds time and expense to the workplace but provides no benefit to either the employer or the worker. The private records are diligently maintained should at some later date that information be required by either employer or worker. (the workers compensation concept does not approve of this however the legislation has not been broken)

A worker’s compensation claim is a series of steps starting with the lodgement of a worker’s compensation claim form. It is however not a compensable claim until the claim is accepted by the system. This is a legal/mathematical process set within the legislation and driven by a mathematical algorthyum with set parameters based on known/accepted information.

Known information
- Age
- Gender -Gender orientation
- Marial status
- Employment/industry
- Post code (residential) (I recommend you speak with [redacted]
- Treating GP (I recommend you speak with [redacted]

There would be sub-headings under these as well.

A claims agent has 10 days to either accept or reject the application.

The application is viewed within the assessment area of the claims agent to match type of injury against the known industry injury list.

E.G Hair dressers develop tendentious and shoulder strains as well as chemical sensitivity.

Process workers develop carpal tunnel elbow should and neck strain injuries.

Nursing staff have sprains strains slips abrasions needlestick and vicarious trauma

Investigation of the application include is the applicant a smoker. Carpal tunnel in the dominant wrist of a person who smokes may be considered to be a lifestyle injury rather than a workplace injury even if the applicant is employed within an industry where carpal tunnel is a known industry injury.

For the benefit of this outline I will focus on the acceptance of a lodged workers compensation application. As this is where complex claims are found.

After the application is accepted, the claim is then sent to a case manager with a set of guidelines in regards to what is the required outcome for the agent not for the employer or the injured worker.

There is a profit loss ratio in place. The case manager has a 3-5-minute time frame per week to read the file and start the process of removing the claimant from the system in the shortest and least expensive manner possible. The "known" healing time for the injury is provided. The list of IMEs (Independent Medical Expert) from the preferred provider list is provided should it be understood that the injury may/will require specialist treatment. The list of preferred rehabilitation providers is also known and the touch points/communication required is automated so that regardless of how many times a case manager is changed the process is maintained.

This is where the claims process fails.

There is no tolerance for anything outside of the guideline.

E.G Post surgery an injured worker contracts a Golden Staph infection. The logical belief is that the case manager will automatically accept that had surgery not been required the Golden Staph infection would not have happened and the "new injury" will be added to the existing compensable claim. However (dependant on the claims agent) that may not be correct, a new application for the Golden Staph injury may/should be lodged in order to maintain the correct history. The majority of case managers would not inform the injured worker of this responsibility as it would impede the process and add extra time and expense to the claim.

The requirement to return an injured worker to pre-injury status is also mishandled.

The intention of the legislation is to return the injured worker to near as possible pre-injury health and then to their pre-injury ability and then to (where possible) pre-injury employment.

Not every person will be able to return to pre-injury employment.

E.G. a long-haul transport driver who suffered 2nd degree burns to legs arms and hands after pulling another driver out of a prime mover that had caught fire may also be suffering from PTSD after seeing too many transport injuries and deaths. The burns will heal and not require on-going medical treatment/intervention.

If the PTSD is not attended to then there is no way this driver will ever get inside a prime mover ever again.

Case managers have scant understanding of PTSD and even less understanding of the transport industry.

E.G a long-haul B-Double with 15 hours work capacity per week was told by his case manager that she had found him the perfect return to work role. This man was to drive a courier van and deliver flowers from the flower market each morning. The case manager could not understand why the injured worker was beyond angry. The case manager had no idea what a B Double was nor did the case manager understand that for the injured worker to be able to take the job he would have to drive 3 hours to work and then do 3 hours work and then drive 3 hours home again which exceeded his medical capacity for driving. The case manager had no understanding of distance from the man's home to where he would be working.

Wording used in rehabilitation reports is also contributing factor.

I have read reports that are damning of the injured worker.

E.G. XYZ is a drama queen. This was written on the first page of an injured worker's file. No explanation was given for the description. The reason for the "drama" was quite simple, the injured worker was a single mother, one of her sons was autistic and required schedules in place in order for him to feel safe. None of this was considered to be important within the framework of the compensable claim; however, when the injured work told the rehabilitation provider that her son's stability and security was more important than anything else the rehabilitation provider noted that the injured worker was being overly dramatic. As a direct result of the description the injured worker struggled to gain the support and the medical treatment she required. The injury she sustained was not correctly treated medically and as a direct result this injured worker became reliant on opioid medication to the point where she had to have opioid pain patches to control the pain until yet another IME report agreed that the reason for the pain was due to required surgery not being provided within a timely manner.

What should have been a short turn around consisting of surgery and recovery time of a guesstimated 4-6 months turned into 5years of delay and denial and legal proceedings in order to gain the medical treatment that took far longer to heal from.

Complex claims are created within the claim's management process.

The workers compensation system as it stands now requires a known number of injured workers to enter not be interfered with and exit the system in a timely manner. This satisfies the claims contract and allows for the bonus payments to be made to the claim's agent. The bonus payments are made when the injured worker exits the compensation process regardless of whether or not the injured worker has returned to near as possible full-time employment or if they have been timed off of the system. The agent's preference is to remove the claimant as quickly as possible.

The remaining injured workers within the system are churned through the system in order to generate income for the system by the "process doing what needs to be done", this means that preferred providers benefit but there is no benefit for either the employer or the injured worker. At the end of the time limit the injured worker is simply tipped off the system with little attention provided to ensuring that the person has gained skills to return to the open workplace. No consideration has been given to the initialization of the injured worker who has been "trained" to hurry up and wait and to never question what the conveyor belt of case managers and some time different claims agents has or has not done.

As [redacted] will tell you his direction to me (when he was the CEO of WorkCover SA) was to build the better "mousetrap".

Which is why I wrote Craig's Table.

The focus is the direct opposite of what is found within the current workers compensation system. Each person understands that they have both the right and the responsibility to return to employment. Every challenge is not seen as a barrier it is seen for what it is a challenge that can and will be overcome. Pain is not a barrier it is something to be understood and worked with, depression is explained as part of the grief process. PTSD is accepted and worked with.

The only ones that Craig's Table believes that return to work is not possible are the ones with acute brain trauma. Everyone else including people who have been severely burned or require a wheelchair

etc can and must return to the workplace. These people need to be supported rather than rejected because of the financial costs involved in supporting the return to work outcomes required.

It is my belief that whilst the claims agents receive bonus payments their focus will remain on the least possible outlay for the maximum return. This satisfies the shareholders and satisfies the contract.

If penalty payments were required for not ensuring that injured workers had a chemist account set up or not told that it is the injured workers right to select the rehabilitation provider that they can work with, or not told that there is travel reimbursements, or not told that they have the right to have a support person with them at all times; then the claims process would be different.

I do not support the current outsourced claims management process.

My preference is for claims management to be returned in-house with the insurance underwriter having no say in the day to day management of claims. This would remove the bonus payment structure as WorkSafe Victoria would not be able to pay itself a bonus just for doing the job it is required to do under legislation.

I would also like to see a return of information that supports the injured worker process and supports the employer to remove the angst that the current process creates by the constant delays and expense that are not required.

It is my belief that although it may create confusion and expense to return claims management back in house the benefit of doing so would far outweigh the expense and time wasting with the current outsourced model that is over-regulated and over-rigid. Workers compensation needs to move from the urban myth that every injured worker is ripping off the system to remembering that the workers compensation system accepted the claim because of an accepted workplace injury.

Yours in service

Rosemary McKenzie-Ferguson

Founder

Craig's Table.

27th September 2020.