

Workers' compensation insurance

Protect your most valuable assets — your employees. **Interviewed by Elizabeth Grace Saunders**

Before workers' compensation legislation, the scales of justice tipped heavily in favor of businesses. Although employees technically had recourse to obtain compensation for on-the-job injuries, in reality they had little power.

"Prior to 1911, if workers were injured on the job in the course of their employment, they had to sue their employers in a court of law to attempt recovery of any lost wages or the cost of their medical treatment," says Robert S. Sprague, regional underwriting manager for workers' compensation at Westfield Insurance. "In other words, they had to prove that their injuries were the direct result of their employers' negligence."

Smart Business spoke with Sprague about the history and the purpose of workers' compensation and about how to prevent workers' compensation claims.

Why did injured employees have little chance of receiving compensation before 1911?

At this point in the Industrial Revolution, there was little chance that rank-and-file workers would have the financial resources to take on their employer in a court of law. If injured employees did make it to court, their employers received protection from five common-law obligations and three defenses. These obligations and defenses insulated them from losing any potential suit by an injured employee.

Workers injured and unable to return to gainful employment, as well as dependents of fatally injured workers, had little opportunity to recoup financially. These workers and their families often became challenges to the charitable infrastructure of society at large. Additionally, common law at the turn of the century held that only the employee could sue for damages. That meant if employees died or were too injured to personally sue, their spouses and dependent children had no recourse.

What legislative changes brought about the current workers' compensation system?

Several states attempted to address this inequity after the turn of the century. But it



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for workers' compensation
Westfield Insurance

was not until Wisconsin succeeded in 1911 that workers' compensation insurance became an equitable solution to assisting the legitimately injured worker. Wisconsin's legislation truly empowered injured employees because it defeated the employers' comfortable common-law defenses and exposed the employers' assets if they declined to purchase workers' compensation insurance. By 1934, almost all state jurisdictions had some form of workers' compensation protection.

What are the basic components of workers' compensation?

- Provide benefits to victims of job-related injuries or to their dependents, regardless of fault
- Reduce payment of fees to lawyers and witnesses
- Provide a single remedy by reducing court delays and costs associated with litigation
- Relieve the potential for burden on government or social agencies that might need to take care of the uncompensated injured worker

- Promote employer safety and rehabilitation programs for the work force

- Study accident cause and prevention

- Reduce the number of accidents and injuries

What is the most important element of workers' compensation?

Above all else, the intent of workers' compensation insurance is to be a no-fault system. This insures that employers will promptly pay medical expenses of injured employees and replace an equitable portion of their lost wages without any court action. This also limits employees to workers' compensation as the exclusive remedy for incidents, even against negligent employers.

How does prevention of workers' compensation claims benefit companies?

After an accident, valued employees may not be able to perform at the same level they performed before an injury. People who can no longer run the machines, drive the trucks, construct the buildings, answer the phones, or conduct the mission of the enterprise as they did before an injury will always influence the bottom-line result. The ability of the business to prevent claims, or mitigate the severity of the personnel disruption, will help companies perform better than competitors who cannot or will not address the safety of their workplace environments.

ROBERT S. SPRAGUE is regional underwriting manager for workers' compensation. Reach him at (800) 243-0210, ext. 8386 or bobsprague@westfieldgrp.com. In business for more than 158 years, Westfield Insurance provides commercial and personal insurance services to customers in 17 states. Represented by leading independent insurance agencies, the product we offer is peace of mind and our promise of protection is supported by a commitment to service excellence. For more information, visit www.westfieldinsurance.com.

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