

What's new in workers' comp?

IBA's **Joe Rosengarten** caught up with experts in the space to get the inside scoop on a segment that continues to exhibit steady growth

WORKERS' COMPENSATION insurance plays a critical role for both employers and employees. It enables workers to cover their expenses if they get injured at work, and it allows employers to carry out their operations safe in the knowledge that a workplace accident will not result in financial ruin.

The majority of workers' comp claims are fairly straightforward and are handled in the standard markets, but this is a massive and expanding space. The growth of workers' comp is tied closely to the strength of the overall economy. The labor market is booming, domestic equity indexes are performing well, and workers' compensation premiums have been rising steadily since 2011 after experiencing a significant drop-off in the second half of the last decade during the global financial crisis. According to Moody's, workers' comp ranks as the largest commercial line written by US P&C insurers, contributing 10% of direct written premiums.

Most workers' comp claims are related

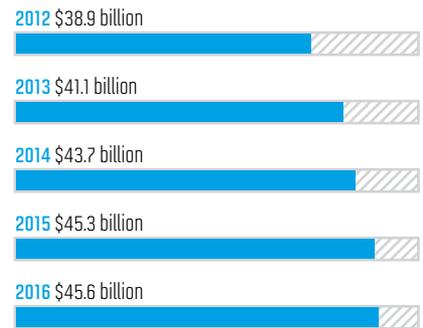
to repetitive strain injuries or one-off accidents that lead to injury, like a slip, trip or fall. A regular workers' comp policy usually provides coverage for medical care, temporary and permanent disability benefits, supplemental job displacement benefits, and death benefits, which are made payable to the deceased's spouse, children or other dependents if the insured dies as a result of a job-related injury or illness. While the standard market generally handles straightforward workers' comp claims, the complex and difficult-to-manage files often fall to the excess market.

Trends to watch

According to Robert L. Sagrillo, president and chief legal officer at NuQuest, the most significant factor driving the increased cost of settling workers' comp claims in the past decade is the rise of Medicare Set-Asides [MSA], which protect Medicare from funding medical benefits that should have

PREMIUMS ON THE RISE

Workers' comp net premiums



Source: NAIC, S&P Global Market Intelligence, Insurance Information Institute, National Council on Compensation Insurance

been expensed to the party responsible for the injury.

"Of course, over time, the cost of medical care has increased, but I believe the more significant factor is the reliance by stakeholders on the voluntary Centers for Medicare & Medicaid Services review of MSAs," Sagrillo says. "Our analysis of claim data suggests that such reliance results in approximately a 30% to 50% increase in the cost of the MSA and approximately a 15% to 20% increase in the cost of settlement."

An important development in the MSA space has been the creation of non-submit MSAs. Sagrillo notes that by projecting future Medicare-covered medical expenses using evidence-based medicine and standards of care, MSAs can be reduced by 30% to 50% for clients.

"By including post-settlement administration tools with our NuShield MSA, we are helping claimants, post-settlement, ensure that they are able to procure their medical treatment at the lowest possible cost, thereby preserving MSA funds long-term," Sagrillo says. "To provide stakeholders with a comfort level that they have appropriately considered Medicare's interest in their settlement, we indemnify the parties."

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Matthew Zender, SVP of workers' comp strategy at AmTrust North America, describes the current period as "transformative" for the workers' compensation market. The gig economy is creating an evolution in the world of work, and the traditional bricks-and-mortar workplace is not necessarily the place where employee and employer meet and carry out their respective functions. The current shift goes deeper than simply having employees work from home – Zender refers to this modern phenomenon as the "disintermediation or dislocation between the workplace, the employee and the employer."

"The emerging gig economy is changing the nature of who is even considered an employee and who they are employed by," he says. "Uber is the most notable example, but

happening; a lot of the jobs that may have involved more severe claims just don't exist to the same extent," Zender says. "Those factors have led to some pretty dramatic changes in frequency trends, which translate into changes in rate. That has an impact on the overall premium base and challenges carriers like us to ask whether or not rate levels are still adequate."

The agent's role

Agents and brokers play an important role in helping clients maximize their workers' compensation investment. The first step is to develop a comprehensive understanding of each customer's business and recommend a company whose capabilities align with the client's needs.



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Matthew Zender, AmTrust North America

there are lots of other smaller and less publicized companies that are also interesting to watch."

Zender has also seen some highly encouraging frequency trends within workers' comp in recent years. Companies are beginning to identify the direct connection between workplace safety and the downstream benefits it provides, such as happier and more productive workplace environments and greater operational efficiencies. As a result, companies are investing time and money to create workplaces that are safer than ever before.

"Another part of the frequency trend is related to the job shifting that has been

"Agents also help clients understand how they can minimize their cost of risk by providing employees with access to healthcare and safety programs designed to reduce loss frequency and severity, and ultimately experience modifications," says Jeff Gans, SVP of workers' compensation at RIC General Agency, a division of Worldwide Facilities.

Incidents of workers' comp fraud, which has a significant impact on the overall market, are on the rise. In its most common form, workers' compensation fraud involves employees exaggerating injuries and taking longer to return to work than expected or

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SECTOR FOCUS: WORKERS' COMP

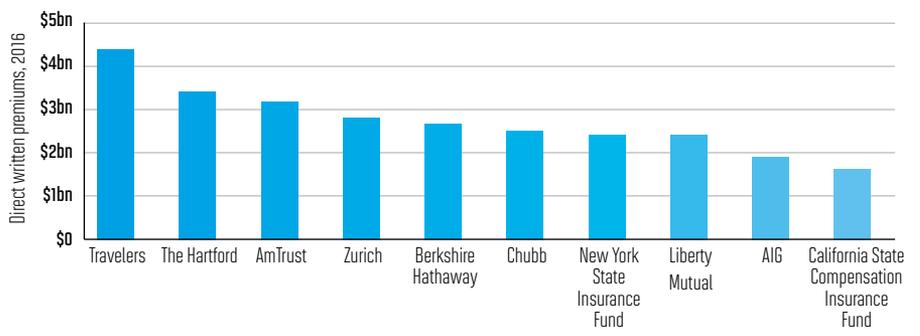


making claims for injuries that happened away from the workplace. It also encompasses businesses not reporting an employee's payroll until claims are reported and medical providers prescribing unnecessary tests and treatments.

Agents and brokers should be on the lookout for red flags that can point to the possibility of workers' comp fraud. "Does the injured employee offer multiple versions of how the accident occurred, refuse examination or tests to confirm an injury, have a second job, or can't be reached at home while on disability?" Gans says. "Or did the accident causing the injury lack witnesses, occur late on a Friday afternoon, in an area not frequented by the employee, and/or doesn't appear to be associated with the employee's job duties?"

Earlier this year, a California-based security company owner was arrested for allegedly scamming his insurer out of \$3.2 million. The California Department of Insurance accused Troy Carson of underreporting his payroll expenses by more than \$12 million

LEADING WRITERS OF WORKERS' COMP



Source: Statista, 2016



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Jeff Gans, RIC General Agency

in order to lower his workers' comp costs. His company also allegedly discouraged its workers from reporting injuries, and the Department of Insurance says Carson created a new company and fabricated the number of employees and how much he was paying them in order to reduce his insurance costs.

"A major red flag is if you notice numerous claims from the same individual or someone having an unusually long time off work for what appeared to be a non-serious injury," says Charles C. Caldwell, president and CEO

of Midlands Management Corporation. "Surveillance can be authorized when there is reason to believe that the person affected is doing strenuous activity, such as sports participation, when they are reporting injuries that prevent them from working. In some instances, these cases might be referred to local authorities."

As the economy continues to grow and the labor market strengthens even further, the workers' comp space represents a good opportunity for agents to specialize in a growing niche. But making the commit-

ment to becoming an expert is imperative for savvy agents, says Todd S. Pollock, senior vice president of workers' compensation at Worldwide Facilities.

"Agents and brokers need to decide whether they are happy to be a generalist or if they want to be an expert in a particular field," he says. "To become a leader in workers' comp, an agent needs to first pinpoint the space as their area of expertise. Then they need to get to know the intricacies of workers' comp and how it might affect their client's specific line of business." 

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