PHT to refund more than $1.8 million to eligible members

Palmetto Hospital Trust will refund eligible members more than $1.8 million in 2016, while reducing payroll class code rates by 2%. With the most-recent refunds, Trust members will have received a total of $40 million in refunds between 2007-2016.

PHTS management will deliver the refund checks to eligible members during the first quarter of 2016. According to policies approved by the PHT board, only members participating in the Trust on the date of distribution are eligible to receive refunds. Additionally, to allow for loss development, the Trust’s refund policy provides for paying refunds to members over a period of years. The refunds approved by the board at its November 2015 meeting are based on Trust participation and claims experience in 2010-2013.

Larry Gray, AIC, executive vice president, claims & risk management at PHTS, says refunds and rate stability are attributable to members’ continued focus on preventing lifting injuries, emphasizing transitional duty programs, and prompt reporting of claims.

Along with providing specialized risk management and claims administration services specially designed to address the unique needs of the healthcare industry, PHTS remains committed to providing educational and information services to keep Trust members abreast of key developments. These are provided at no additional cost to Trust members.

For more details, contact Larry Gray at lgray@phts.com or 803.731.5300.
Managing hazards to improve workplace safety and reduce workers’ compensation claims

By: Ken Bukowski, VP, Healthcare, Allied Barton Security Services

The Department of Labor estimates employers pay roughly $1 billion weekly for direct workers’ compensation costs for the most disabling injuries and illnesses. According to the National Safety Council, there are 25,000 slips, trips or falls daily. Healthcare organizations that implement comprehensive injury and illness prevention programs can substantially reduce the volume and severity of workplace injuries and illnesses.

The healthcare industry has effectively addressed risks related to patient safety, and much of that work can be translated to similarly impact the safety of employees and contractors alike. The top eight recommendations for healthcare organizations to reduce workers’ compensation claims, and how they can leverage their safety and security personnel to assist in this endeavor, include the following:

1) Conduct a job safety analysis in which employees review their work tasks for potential hazards. Security officers can also inspect an area with a defined checklist.

2) Develop procedures for incident reporting. This can include protocol for theft or property damage, equipment problems that could create harm, or environmental safety hazards.

3) Analyze the root cause of incidents and near misses. A procedure should be developed that details who will be engaged in an investigation to identify lessons learned and opportunities to improve safety systems.

4) Address staffing issues and level of staffing. Too few security personnel appointed to the busy emergency room could be penny-wise and pound foolish.

5) Evaluate how security and medical personnel are trained. Does each employee understand what to do in an emergency? The choices they make can lead to distractions, inattention, risk-taking, or complacency.

6) Review environmental conditions which can become safety hazards to hospital patients, staff and visitors. Slippery and wet floors, sidewalks, or roads; rolled carpeting; uneven pavement; or poor lighting can increase the risk of injury. Weather hazards should be anticipated, proactively addressed, and/or immediately mitigated.

7) Review the hospital culture. Developing a positive, proactive culture can result in a transformed workplace with higher productivity, reduced turnover, and greater employee satisfaction.

8) Issue protective equipment for employees. While this is a last line of defense against workers’ compensation claims, having face shields available for security personnel dealing with a combative patient who likes to spit can be effective in preventing an exposure claim.

A well-trained security team knows to report hazards that could potentially cause an injury, and is just one component of your safety culture. A culture that integrates all aspects of safety will help to create a proactive, engaging, and healthy work environment.

Register now for MSLA and PROs Session

Registration is now open for the 15th Annual PHTS Medical Staff Leadership Advance, which will take place February 26-27, 2016 at the Francis Marion Hotel in Charleston. An invitation-only event, A Special Session for PHUP Liability Program Member Physician Risk Officers & Risk Managers, will be held the day prior, on Thursday, February 25, 2016.

The Advance, which is co-sponsored by Health Sciences South Carolina and the South Carolina Hospital Association, is an exceptionally useful program which consistently earns high marks from registrants each year. New this year is the offering of Continuing Nursing Education credits along with Continuing Medical Education credits for both programs. PHTS has also been approved to offer continuing education credits through the National Association of Medical Staff Services for the Advance.

We encourage you to register a team including board members, representatives from the C-Suite, VPMAs and CMOs, physician leaders of the medical staff (officers and department chairs alike), employed physician directors, and those in the organization who assist the above. To register or for more information, visit www.phts.com or contact Janine Wall, ARM, AIS, GBA, director of marketing at PHTS, at jwall@phts.com.
Workers’ compensation is referred to as a “grand bargain” struck between workers and employers, with workers injured on the job giving up their right to sue employers in civil court, in return for statutory benefits in a no-fault system. But in recent years both workers and employers have been chafing under the arrangement.

The so-called exclusive remedy is not completely exclusive, as a number of examples illustrate. In New York employers can be sued under the Scaffold Law for elevation-related hazards, while some states allow civil litigation under a third-party-over action. “In such cases, the employee sues a third party for contributing to their injury and then the third party brings in the employer on a contributory negligence action. For example, if an accident involves machinery, the machine manufacturer can bring the employer into the suit alleging that they inadequately trained their employees, that the machine was not properly maintained, or that it was modified by the employer,” as PropertyCasualty360.com explains.

Employers can also be sued under dual capacity suits, which allow the employee to sue their employer as supplier of a product, provider of a service, or owner of premises. For example, if a worker is injured using a machine manufactured by their employer, some states allow that injured employee to file suit against the employer based on their negligence as the manufacturer.

PropertyCasualty360.com notes RICO suits are yet another exception to exclusive remedy and courts in Michigan, Colorado, and Arizona have allowed injured workers to pursue a RICO complaint against their employer on the grounds that the employer “conspired” to deny medical treatment to injured workers by limiting physician referrals, prescribing practices, and exercising undue influence over treating physicians.

Also, constitutional challenges are the latest avenue for attempting to circumvent exclusive remedy protections. “There was much attention given to the Padgett case in Florida where a judge ruled that the Workers’ Compensation statutes were unconstitutional because statutory changes that reduced benefits to workers and raised thresholds of compensability had eroded the ‘grand bargain’ to the point that it was no longer valid. This case was reversed on appeal because of a technicality so the higher courts never ruled on the merits of the argument,” the publication adds.

On the other hand, workers should be aware many states allow for a comp claim to be disputed if it is proven the injured worker was intoxicated at the time of the accident. Some states allow for a reduction in benefits if the accident occurred because the worker violated a safety rule, such as not following lock-out/tag-out procedures, or not using protective gear.

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More ominously for workers, a Texas-based organization supported by Walmart, Best Buy, Lowes, and other multistate employers, is exploring pushing for legislation nationwide to allow employers to opt out of the workers’ compensation system. The group is a trade association of employers who have opted out in Texas and Oklahoma and want to do the same elsewhere. The Association for Responsive Alternatives to Workers’ Compensation (ARAWC) is also supported by Safeway, Macy’s, Kohl’s, and Sysco Food Services, among other large employers. The group’s members include broker AmWins Group, Great American Insurance Group, and Sedgwick.

Opt-out provisions recently received harsh treatment from Mother Jones, the liberal but well-regarded publication. It noted although employers are still required to provide some semblance of workers’ compensation, they can write their own rules governing when, for how long, and for which reasons an injured employee can receive medical benefits and wages.

In Texas, for instance, Walmart has written a plan that allows the company to select the arbitration company that hears claims disputes. In Oklahoma, Dillard’s requires workers to report injuries before the end of their shift to be eligible for workers’ comp.

The Center for Justice & Democracy at New York Law School also noted the enormous discretion employers enjoy under opt-out plans: An employer can decide whether a worker qualifies for any benefits. It can refuse to approve any treatment. It can completely deny compensation for certain kinds of disability.

“Depending on the law, an employee may retain the right to sue an employer for negligence. However, as a condition of employment, the employer can force the employee to sign a contract so all cases are resolved through an employer-designed, secret arbitration system rather than in court,” the center notes.

Three separate variations of opt-out bills were introduced in the first year of South Carolina’s current two-year session. One bill goes so far as to call for the total elimination of the South Carolina Workers’ Compensation Commission, while the other two seek less dramatic changes preferring to offer employers opt-out alternatives similar to those provided for in Texas.