

Work Comp Insights

MST Insurance Solutions, Inc. - Your Workers' Compensation Partner

Layoff Considerations and How to Prepare for Potential Claims

Layoffs are an unfortunate reality for many businesses. Whether a layoff is planned or unplanned, a business can suffer major reputational harm or even be taken to court following a large-scale termination.

In fact, it's not unheard of for layoffs (and even just the threat of layoffs) to increase workers' compensation claims, particularly in a tight job market. This is because individuals faced with a loss of income, temporary unemployment benefits and the likelihood of unaffordable health insurance may look to workers' compensation as a way to sustain their income.

Although employers must never attempt to stop any individual from filing a workers' compensation claim (legitimate or otherwise), there are steps you can take to help minimize your business's liability for future claims.

Communicate With Your Insurance Carrier and Legal Professionals

First and foremost, it's crucial that you let your insurance carrier know about any downsizing

plans. This is because your carrier can provide tips for dealing with any workers' compensation claims that may follow the downsizing. Working closely with a legal professional can also help you understand the relevant workers' compensation laws in your jurisdiction.

If a claim does arise, you should immediately report any suspicions you have about the claim —along with all the reasons for your suspicions—to both your workers' compensation carrier and legal professionals. The earlier you voice concerns, the more opportunities you'll have to investigate the claim, gather medical evidence and discuss defense strategies.

Have Strong Reporting and Investigation Procedures in Place

Workers' compensation claims are not often decided by a singular bit of information or evidence. Rather, employers must cover multiple angles in order to defend against questionable claims effectively.

For instance, employers could provide documentation of anecdotal evidence (e.g., no one saw the individual get hurt). Objective evidence (e.g., an independent medical exam's X-ray or MRI) is also important for a strong defense. To help gather this kind of evidence and stay ahead of potential claims, accident reporting and investigation is crucial.

Regularly revisit your accident reporting policies, and require all employees to report accidents immediately, no matter how minor. Following a reported incident, you should investigate immediately. Consider separating witnesses from each other in order to get an accurate picture of what happened. Document these



incidents and investigations thoroughly, and secure witness statements and signatures whenever possible.

Finally, as part of an employee's exit interview, you should consider having the employee sign a form stating whether he or she has been involved in any unreported accidents or hazardous exposures while on the job. This can help you defend against unexpected claims that arise after a layoff.

Maintain Strong Recordkeeping Practices

When it comes to combating questionable future claims, accurate recordkeeping can make all the difference. Above all, employers need to know where employee records are kept and should secure photocopies of them as backups. Employers should also:

- Assign a trustworthy employee to oversee employee records. This individual should be able to provide and explain these records in court.
- Maintain a photographic or video record of your premises. This can help illustrate the conditions of your building and workspaces in the event of a claim.
- Consider using and keeping records of termination interviews in order to help determine the risk of any future workers' compensation claims. You may also want to consider performing termination physicals, as these can be useful in case an employee files a claim after being laid off. Specifically, these physicals can help establish an employee's health and fitness at the time their employment ended.

Finally, employers should ensure employee records are not destroyed, since payroll, schedules and accident reports may become vital evidence.

Invest in Employee Assistance Programs

Terminations can put employees in an antagonistic frame of mind, which can lead them to bring questionable claims that they wouldn't make otherwise. However, this risk may be reduced if an employer demonstrates that it cares about an employee's well-being during an exit interview.

To accomplish this, many employers provide resume counseling, therapy and other services that demonstrate concern for a former employee's welfare. These simple actions can ensure employees don't take a layoff personally.

Watch for Risk Indicators

To better protect themselves, employers should be aware of certain indicators that they may be at risk of a future claim:

- The employee is disgruntled after being fired or laid off.
- The employee has been told his or her employment is about to end.
- The employee is having financial difficulties.

It should also be noted that a lack of witnesses and medical evidence can indicate that a claim is questionable. Make note of these instances, as they can come in handy in the event of a claim.

Have a Strategy in Place

While employers must never attempt to prevent an employee from making a workers' compensation claim, the above tips can assist in avoiding and defending against questionable claims. Employee reductions can pose a significant challenge for employers and are often devastating turns of events for employees. It is important for employers to have a layoff strategy broken down into goals and an action plan for the company.

For more workers' compensations strategies and

advice, contact MST Insurance Solutions, Inc.
today.

