

## What Is This Thing Called Workers Compensation?

The growth of the industrial revolution saw increases in medical expenses, lost income, and loss of human life. An injured worker's only way to collect damages was to initiate a tort liability suit based on the alleged negligence of his or her employer. The industrialized nations of Europe and the United States sought a better way to resolve work-related injury compensation.

In 1911 several states passed the first workers compensation laws in the United States. By 1913 over one-quarter of the states had workers compensation laws — and finally by 1948 *all* states had these laws in place.

Let's fast-forward to today and review the six basic underlying objectives associated with the current workers compensation laws.

- 1) Provide injured workers or their dependents with reasonable income and medical benefits, regardless of who was at fault
- 2) Provide a single “exclusive” or “sole” remedy without costly litigation and delays
- 3) Relieve public and private charities from being financially drained — which occurs when industrial accidents are uncompensated
- 4) Encourage *maximum* employer “active” interest in safety and rehabilitation through appropriate experience-rating mechanisms
- 5) Use rehabilitation to restore the worker's earning capacity and work capability
- 6) Promote open accident investigations — which is the foundation for preventing similar incidents from occurring in the future

The workers compensation laws of today cover approximately 90 percent of all wage and salary employees. The following categories of workers are commonly *not* covered under workers compensation laws (it should be noted that these may vary from state to state):

- ◆ Self-employed (owner)
- ◆ Professional athletes
- ◆ Short-term temporary laborers
- ◆ Seasonal or agricultural farm laborers
- ◆ Volunteer workers
- ◆ Workers covered by other labor laws (such as railroad and maritime workers who are specifically listed under the acts)

Minors are covered under most workers compensation laws. In some states if a minor is *illegally* employed and becomes eligible for workers compensation, the amount of benefits may be *double or*

*triple* the standard rates. The purpose of this is to penalize the employer and to account for the lost earning capacity of this young individual. The employer may face additional penalties under the law for permitting an illegally employed minor to become injured.

## Types of Benefits Provided by Workers Compensation Insurance

### Medical Benefits

Medical benefits are designed to pay all the costs associated with the medical treatment of a work-related injury or illness. Usually this benefit is provided without a dollar or time limit. Approximately 30 percent of the total dollars paid out in the compensation system are medical benefits.

Work-related injuries or illnesses involving just the medical benefits are called *medical-only claims* or *med claims*, because loss of wages or substantial physical impairment did not occur.

### Cash Benefits

Workers compensation provides cash benefits to a worker who has received a legitimate occupational injury or disease. The amount and the length of time cash benefits are provided are based on the type of disability involved.

*Temporary Partial Disability* — the worker is unable to perform his or her regular job duties while recovering from the injury, but has the ability to work at a position requiring less stress and strain on the worker; full recovery and return to work are expected.

*Temporary Total Disability* — the worker is completely unable to work for a period of time because of a job-related injury; full recovery and return to work are expected; most disability cases are of this type.

*Permanent Partial Disability* — the worker has some permanent reduction associated with his or her work capability, but is still able to be employed.

*Permanent Total Disability* — the worker is injured on the job and can no longer work, even following medical and rehabilitative treatment.

Most of the awards and money paid out as income are for temporary total or permanent partial disability. The temporary total disability classification has the largest number of cases.

The amount of income benefits paid for a temporary and permanent total disability case is a percentage of the employee's normal wage. Most states determine that amount by using a formula. In Michigan, the injured worker's current weekly benefit is 80 percent of the after-tax average weekly wage. When a worker has been identified as having a permanent total disability, in most states he or she would receive payments for life.

## Permanent Partial Disability Payments

- ◆ *Scheduled* — These injuries result in the loss, or complete loss of use, of a specific body member. The wage loss is based on the extent of the impairment and the state's predetermined schedule.
- ◆ *Nonscheduled* — Many states' weekly benefit payments are based on the concept of "wage loss" replacement; compensation pays the difference between the wage earned before and after injury.

If the occupational injuries or diseases the worker receives on the job result in his or her death, the worker's spouse will receive a fixed amount or a percentage of the deceased worker's annual income. If the surviving spouse remarries, these benefits usually stop. An established amount will be provided to cover funeral costs.

If the expired worker has dependent children, they too will receive death benefits until they reach a specific age established by the state. Children who are incapable of independence will receive benefits throughout their lives.

## Rehabilitation Benefits

Physical rehabilitation benefits play an important role in medical benefits — they help the worker return to work. There are times when the worker cannot return to his or her original job, which may require that rehabilitation extend beyond medical treatment.

In an effort to assist the injured worker, identify meaningful and productive employment, a vocational rehabilitation counselor may be brought into the picture. This individual will determine the worker's physical capacity, education level, abilities, and aptitudes. Vocational rehabilitation plays an important part in the worker's overall injury-management process.

## Why Be Concerned About Workers Compensation Costs?

Workers compensation costs for U.S. employers were \$48 billion in 1989 (the first year this data became available). Since that time the amount has grown on an annual basis by 15 percent. Between 1988 and 1998 the average cost of a serious injury increased by more than 300 percent for lost wages and by 400 percent for medical costs. The severity and number of serious injuries determine the organization's loss ratio more so than the overall accident frequency. The 80/20 rule applies very nicely here: 80 percent of accident costs are associated with approximately 20 percent of the incidents.

## Three Main Driving Forces Behind Workers Compensation Costs

- 1) The type of employment activity
- 2) The job classification
- 3) The organization's past loss prevention record

## Additional Workers Compensation Cost Factors

- ◆ An increase in workers compensation costs will be reflected when there is an increase in employee wages; a 10 percent increase in wages will result in approximately a 10 percent increase in premium
- ◆ Medical costs
- ◆ Litigation costs (incidences have tripled in recent years)
- ◆ Fraud on the part of the employee and/or the medical care provider

## How to Lower Your Workers Compensation Costs

### Begin at the Top of the Organization

A solid foundation for any organization begins with the executive level of management. This level defines the core values, the products or services offered to the public for a profit, the internal “acceptable work performance,” and priorities. Any organization’s program without executive-level active support is destined to fail.

The executive level must be committed to establishing and cultivating the environment — an atmosphere where employees are motivated, not by fear, but out of genuine concern for reducing the organization’s workers compensation costs. It is not just the safety, risk management, benefits, and/or human resources departments who are responsible for identifying ways to lower workers compensation costs — the employees know their job tasks better than anyone else. They are the individuals who must be encouraged to identify continuous self-improvement items such as, but not limited to:

- ◆ Processes
- ◆ Equipment
- ◆ Employee training

If this approach sounds a lot like the approach used to implement a safety culture into an organization, it is! Sound safety management is critical to reducing workers compensation costs. The type of safety and the workers compensation performance acceptable within the organization is directly related to the importance assigned to it from the executive level of management. Without this, the safety and workers compensation plan will be viewed as nothing more than a nuisance necessary to do business, always standing in the way of profits.

### **Step 1** Trickle Down the Authority and Responsibility

Trickle down the authority and responsibility for the following from the executive level of management:

- ◆ The organization-wide safety and health program
- ◆ The organization’s mission statement, reflecting the vision and commitment to safety and workers compensation
- ◆ Establish a process that will effectively communicate the safety, health, and workers compensation vision, values, and beliefs to employees, suppliers, outside contractors, and customers

- ◆ Financial support for the safety program — capital expenditures, hazard recognition and correction
- ◆ Daily support of the safety and workers compensation policies and procedures
- ◆ A positive atmosphere encouraging individual initiative. Provide the authority and accountability to *all* employees — “safety begins with you” is more than just a slogan; it must become the organization’s acceptable culture behavior
- ◆ Require all levels of management to demonstrate on a regular basis the ways they promote safety within the organization

## Step 2 Document Trends

- ◆ Identify occupational injury and disease trends by conducting a review of the last five years of:
  - All work-related injuries and diseases
  - All workers compensation claims
  - Loss runs (obtain these from your workers compensation carrier)

What are the overall trends associated with your industry or organization? (A good place to find this information is from your professional publications, web sites, and the Federal Government’s Bureau of Labor and Statistics [BLS].)

- ◆ Based on the trend information obtained, begin performing a safety analysis or critical exposure assessment on the job classifications with the highest exposures.
- ◆ Investigate if an auditing process is in place to serve as an internal benchmark of the effectiveness of the safety, health, and workers compensation programs.
- ◆ Review all safety, health, and workers compensation training records for the last five years.

What type of training is provided for new and transferred employees?  
If injury and illness trends have been identified, what type of training would aid in the prevention? Was initial training ever provided to job classifications with these injury and illness trends?

- ◆ Establish realistic measurable outcomes; observe, audit, and inspect

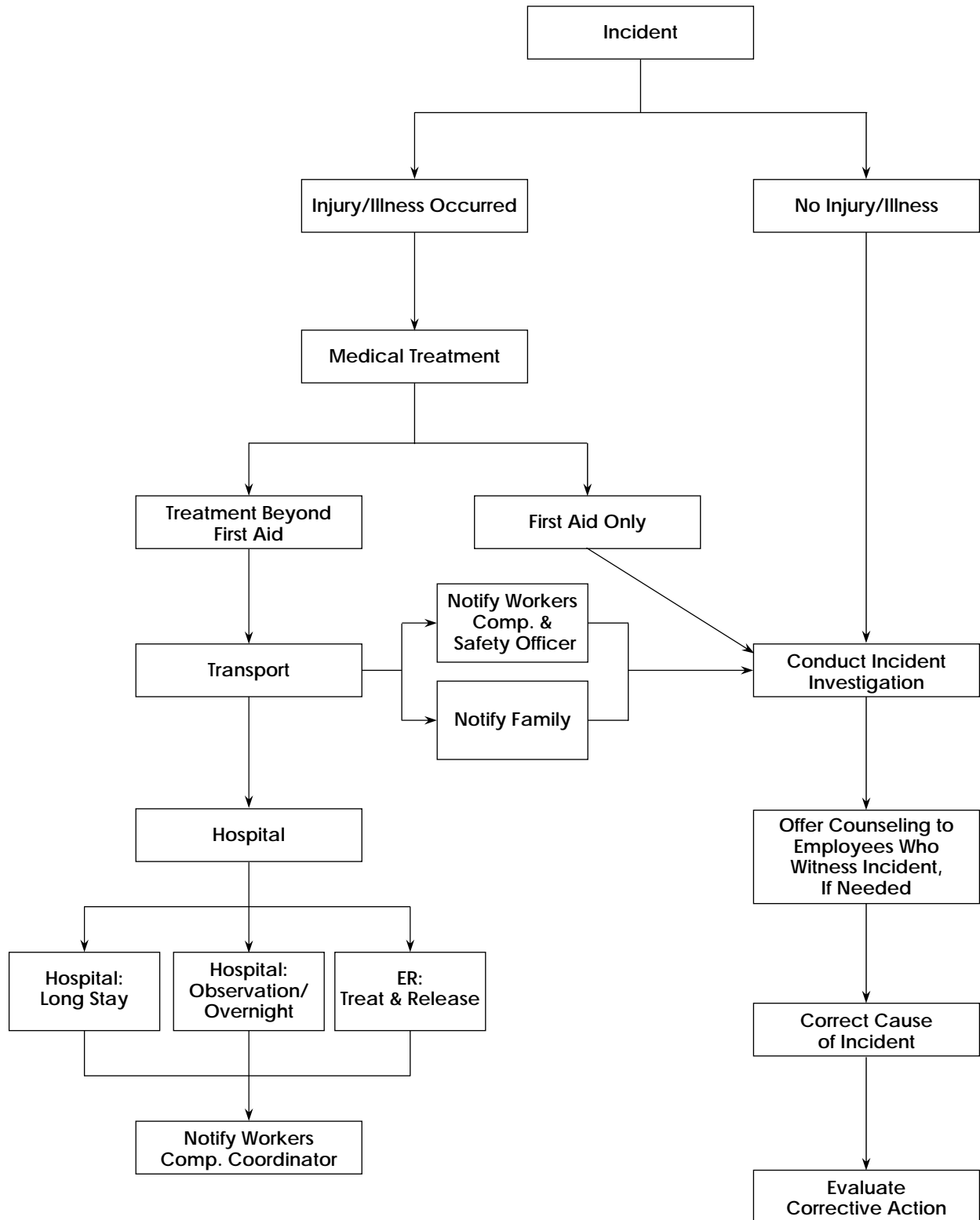
### Step 3 Develop Written Programs, Policies, and Procedures

- ◆ Do written job descriptions exist for each job category within your organization?
  - If they exist, are they current?
  - Do they define the major tasks performed and list all related knowledge and skills required to perform the job?
  - What are the hiring procedures of the organization?
  
- ◆ Determine if *at least* the following safety, health, and workers compensation policies have been established *in writing*. Do they reflect the *current* operations of your organization?
  - Hazard Communication
  - Emergency Procedures
  - Lockout/Tagout
  - Electrical Safety-Related Work Practices
  - Guarding for Power Transmissions
  - Incident Investigation and Reporting (see page 9 for a sample general reporting procedure flowchart)

### Step 4 Review Your Organization's Workers Compensation Policy

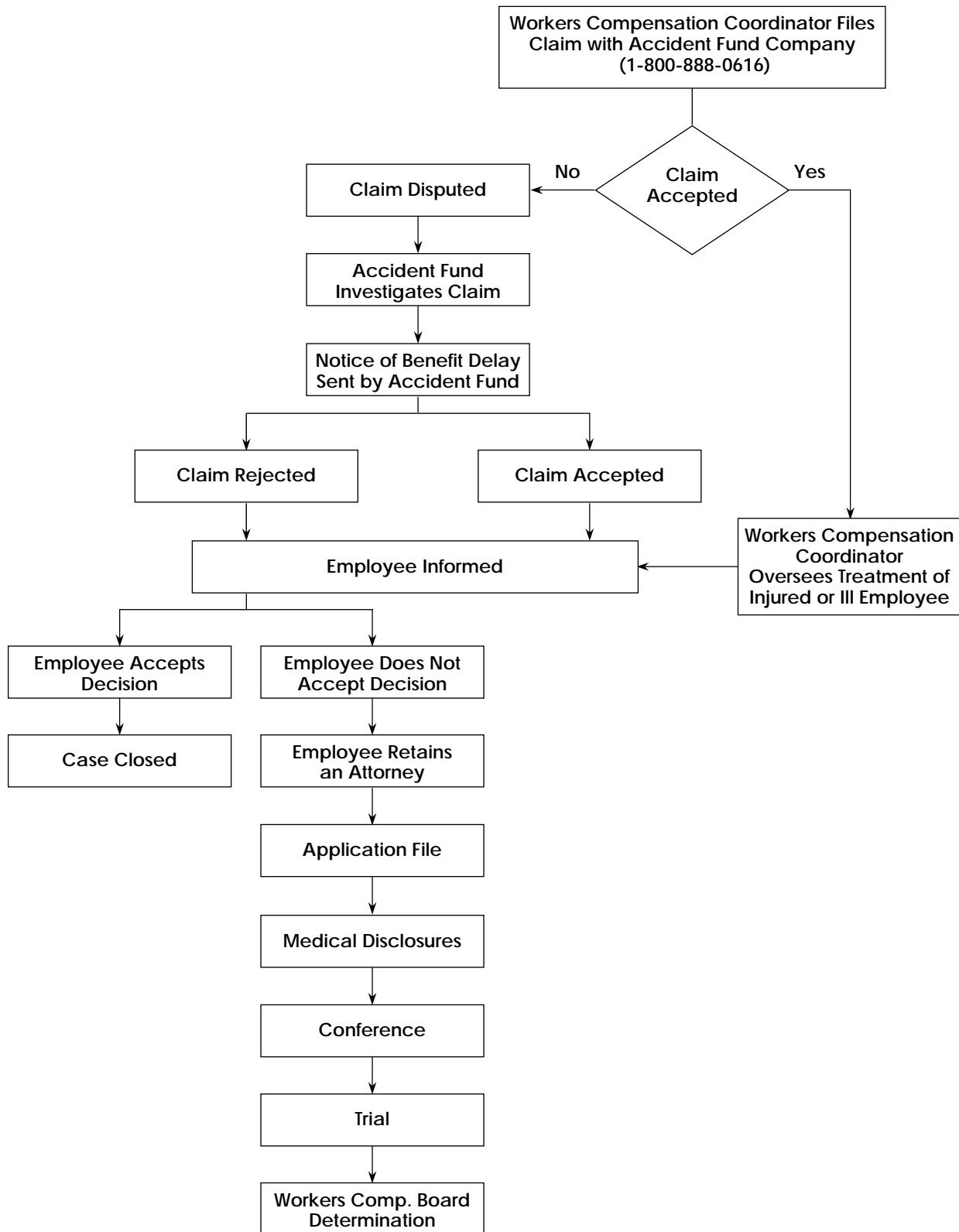
- ◆ Review the class codes listed on your policy
  
- ◆ Identify the type of services provided by the policy
  - How often will your organization be furnished with loss runs?
  - What types of Loss Prevention services are available to your organization (on-site visits, publication materials, training, assessments, videos)?
  
- ◆ Understand the claims reporting procedure
  
- ◆ Understand the steps associated with claims management following an injury or illness (see page 10 for a sample general claims management procedure flowchart)
  - What role will the workers compensation insurance company play?
  - What does your organization need to do to remain on top of the claim?

## An Incident Has Occurred ...





## Claims Management Following an Injury or Illness



## **Step 5** Establish an Effective Return-to-Work Program

- ◆ Organizations without a return-to-work program will have higher costs because of the unnecessary time away from work.
- ◆ If your organization does not have a Return-to-Work Program, develop one now *before* it is needed.

Identify the responsibility and authority for senior and upper management, the safety and health professional, the workers compensation coordinator, the manager/supervisor/foreman, and the employee

Establish an excellent relationship with the medical care provider

Implement a work-related incident (accident/illness) procedure

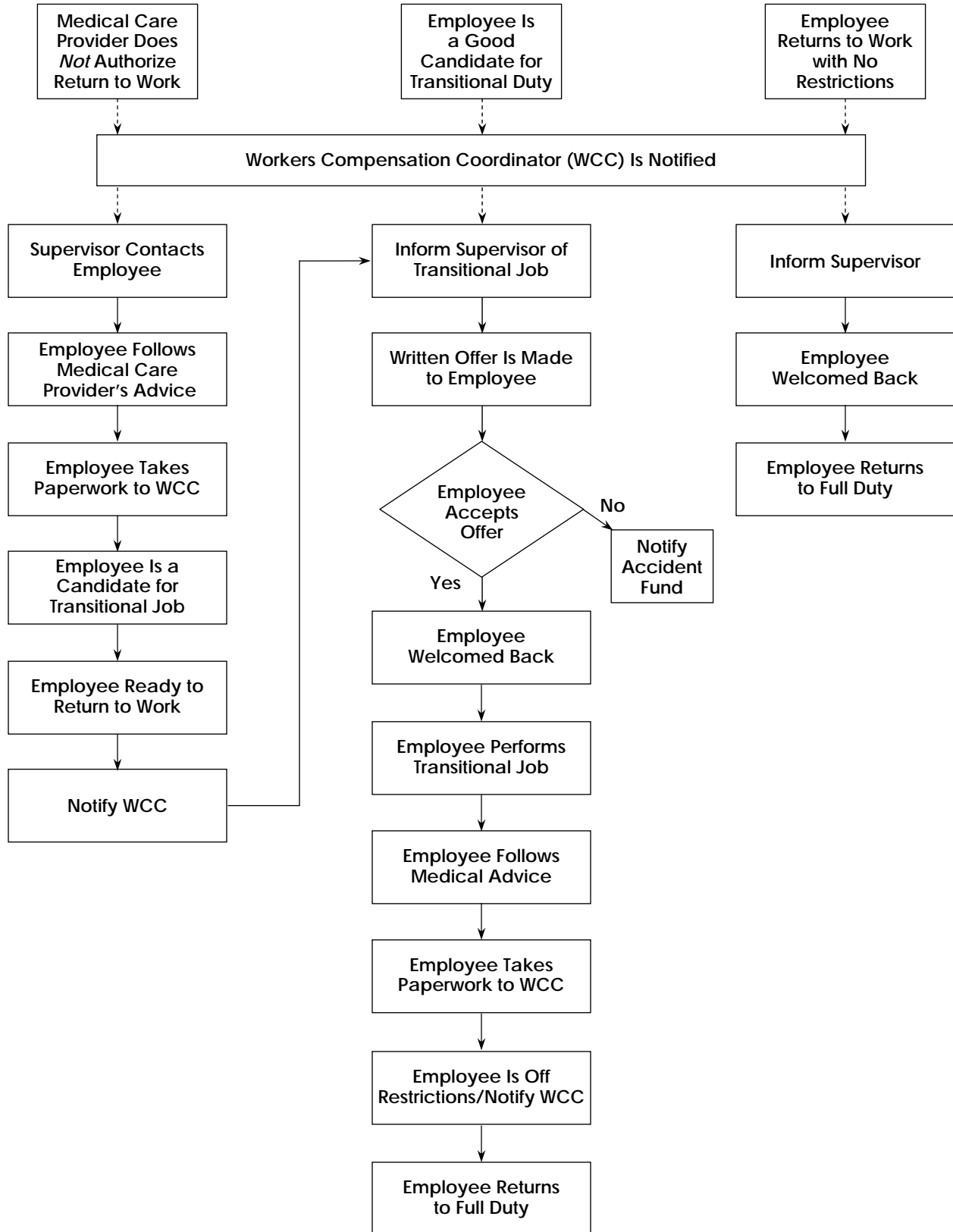
Establish a transitional duty procedure (see page 12 for a sample transitional duty flowchart)

If an employee who received a work-related injury or illness is unable to achieve pre-injury status and permanent work restrictions are required, establish a process to address this issue

## **Step 6** How to Select a Medical Care Provider

- ◆ Work with your workers compensation insurance company to identify a good medical care provider
- ◆ Select the medical provider based on the quality and type of occupational health services provided
- ◆ Review the willingness of the provider to cooperate with your organization's Return-to-Work Program
- ◆ Are the services provided by the medical care provider located under one roof, thus reducing the potential for miscommunication between services?
- ◆ How close is the medical care provider located to your organization?
- ◆ Is the medical care provider set up to supply your organization's Workers Compensation Coordinator with documentation following each employee's visit?
- ◆ How often will open cases be reviewed with your organization's Workers Compensation Coordinator?

## Transitional Duty



## Step 7 Stop Fraud Before It Starts

- ◆ Establish a “no tolerance” attitude for “beating the system.”
- ◆ Have a well-thought-out *written* incident policy — spell out the steps that will be taken before and after an incident.
- ◆ Establish and follow sound hiring practices. Find out as much as legally permitted about the individual before an offer is made.
  - ◆ Implement a substance abuse testing program.  
Each applicant should receive a detailed job description defining the essential job functions and physical demands of the position.  
After a conditional offer of employment is made, a physical examination based on the job description may be conducted. If the individual is found to be physically unable to perform the job tasks, the job offer may be withdrawn. Consult with your attorney and the Americans with Disabilities Act (ADA) first.
- ◆ Include information about the organization’s workers compensation plan in new employee orientations.
- ◆ A well-thought-out safety and health program that is implemented and supported by the executive level is the best method to reduce the potential for fraud.
- ◆ Even with the best safety and health program, there will still be incidents. The first thing the organization must do — and do quickly — is make sure the employees involved receive prompt and appropriate medical attention.
- ◆ Conduct an investigation of the incident immediately. Determine the *how’s*, the *where’s*, and the *who’s* of the incident.
- ◆ While the incident investigation is taking place, the organization’s workers compensation coordinator should contact the insurance company.
- ◆ The organization’s workers compensation coordinator should follow up with the employee about his or her injury or illness, benefits, and what procedures to follow.
- ◆ At least one person from the organization should remain in contact with the employee throughout his or her recovery — show real concern for his or her well-being, but do not hound the individual.
- ◆ The workers compensation coordinator should remain in contact with the insurance company and the physician in charge of the injured or ill employee’s case.

## Signs of Potential Fraud

- ◆ The individual who filed the claim is never home or available to answer the phone.
- ◆ The injury was filed just prior to a layoff, termination, or plant closing.
- ◆ No one witnessed the incident.
- ◆ The employee is close to retirement.
- ◆ The claimant receives all of his or her mail at a post office box.
- ◆ The medical reports concerning the injury or illness sustained do not support the employee's version of the incident.

## The Best Way to Lower Your Workers Compensation Costs

- ◆ *Prevent claims*

Implement a proactive safety and health program

- ◆ *IF a claim occurs ....*

Actively manage the claim to get the injured employee back to work

— Manage medical costs