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Alert Newsletter

Director's Column

by Liz Houlding, Director

The Risk Management Division (RMD) was busy reviewing proposed legislation and preparing fiscal notes during the past legislative session. When it was all said and done, bills were passed that in some cases will have an impact on how we do business.

Specifically, restrictions were added regarding agreements in construction contracts. These contracts now prohibit provisions that require a party to provide insurance coverage to one or more parties for the negligence or intentional acts or omissions of the other parties. This changes the long-standing practice whereby a subcontractor indemnifies a general contractor for negligence of the general contractor, and general contractors indemnify owners for the negligence of the owner. However, there are several exceptions to the prohibition:

- workers' compensation insurance,
- performance/payment bonds,
- project specific insurance policies including Builder's Risk policies and Owner/Contractor Controlled Insurance Programs/Policies (OCIPS/CCIPS),
- agreements to provide insurance for promisee's vicarious liability or liability imposed by warranty arising out of the acts or omissions of the promisor, and
- building and construction contracts for work within 50 feet of public or private railroads, or railroads regulated by the Federal Railroad Administration.

Because this legislation only applies to agreements entered into on or after August 1, 2013, it will be some time before we see how this amendment will be interpreted by the courts.

After many years with no changes to the Workers' Compensation Statutes, this past session produced some significant changes. Of most importance, the definitions of an occupational disease and a personal injury were expanded to include mental impairments, if certain criteria are met for a diagnosis of post-traumatic stress disorder, and the impairments arise out of and within the course and scope of employment. Until there is actual experience to show the impact, we can only guess as to how this change will impact the State's Workers' Compensation Program.

Another change includes an increase to 102 percent of the statewide average weekly wage to determine the maximum weekly benefit payable to injured workers. This change increases the maximum weekly compensation rate from the current rate of $850 to $963.90 for injuries occurring on or after October 1, 2013. Additional legislative changes place limitations on the length of time for the provision of job development services, and services provided by rehabilitation consultants are limited to the services that are a part of an approved rehabilitation plan. Finally, the cost of living adjustment (COLA) delay was decreased from 4 years to 3 years and the COLA cap was increased from 2 percent to 3 percent. Although there were several other changes, these are the highlights and the changes anticipated to have the greatest financial impact.

I encourage all who are able to attend our 7th Annual Safety and Loss Control Conference on October 1st and 2nd to come and learn more about the changes resulting from the past legislative session.

Special Points of Interest

- Register now for the Safety and Loss Control Conference!
- Time's running out on GHS training requirement.
- There's a change in CorVel's ergonomic services.

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What's Wrong With These Pictures?

Unapproved gas cans inside flammable cabinets

Machine guards out of adjustment

Storage of combustibles and cleaning supplies in Electrical Equipment Vault

Get Control of Your Agency Compliance Issues

by Boyd Abbe, CSP, Safety Consultant

For years, people that work in safety departments have been looking for issues that might be cited in a MN OSHA inspection. If you look at the OSHA.gov website you can find a list of the Top 10 cited issues, and the list stays nearly the same year after year. Issues like LockOut/TagOut, Right to Know, Machine Guarding, Respiratory Protection, PPE Use, Fall Protection, Safety Training, etc., consistently make the list!

All of these issues are critical to your safety program, but is it because they are compliance issues that could draw a penalty or is it because they are the issues that could lead to an injury or death if they are not in control? Hopefully, you have realized that the safety of the worker is the key element. The fines, although they sting, are not nearly as painful as the cost of the injuries related to these issues. The medical costs, workers' compensation costs, loss of productivity, administrative time processing and chasing claims, and loss of wages to the employee can be devastating both to the agency and the employee.

In my first few months with the State of MN, I've had the opportunity to visit numerous workplaces and develop my own list of most frequent safety issues. Not surprisingly, my list of "out-of-compliance" issues follows the OSHA Top 10 list very closely. My most frequently noted compliance issues looks like this:

- Blocked fire extinguishers
- Eyewash stations blocked, not inspected on a weekly basis, dirty, not working properly
- Plastic gas cans — not safety cans, stored outside flammable cabinets
- Blocked exit aisles/doors
- Pedestal equipment like grinders and drill presses not anchored to the floor
- Table saws with no blade guards in place and no anti-restart device protection
- Electrical safety issues with extension cords used as permanent wiring, daisy chained power strips, and power strips used inappropriately for other than office equipment
- Blocked electrical panels, 36" work space in front of panels filled with combustible materials, circuit breakers unlabeled, electrical vaults used as storage for combustible materials
- Machine guarding on bench grinders missing or not set correctly (tool rest at 1/8th inch clearance and tongue guard within 1/4 inch of wheel)
- Lack of/dirty/unused PPE

Now, I'd like to tell you that if you could correct all these issues, and keep them corrected from now on, you would never have another lost time injury. We all know better than that! However, the proper attention to these details will minimize risks and help to create a culture that values safe work practices.

I think the best way to keep these issues from reoccurring is to take pictures of them in your own facilities and then use the pictures in a slide set as a training tool. The "What's wrong with this picture?" format is always thought-provoking, and it is very eye opening as well. When you explain what's wrong you need to explain what could happen or what is likely to happen if the issue is left uncorrected. That knowledge empowers people who would normally not notice the hazard to correct it or at least report the issue to a supervisor or the safety committee. It is also a good way to get people to think about what they are doing when they park equipment, garbage cans, brooms, etc., in front of or near safety equipment. If everyone in the agency knows and understands what the compliance issues are, and which are the most likely to cause an injury, they are much less likely to walk past them without noticing them and taking action to correct them on the spot.

Having that empowered work force and a supervisory team that encourages safe behavior is the critical element in moving past compliance-based safety programs. If you have any thoughts or questions on how to promote safe worker behavior or need some help identifying which compliance issues seem to be your biggest problem, feel free to contact me for assistance at boyd.abbe@state.mn.us.

CorVel's Certified Workers' Compensation Managed Care Services

by Gary Westman, Workers' Compensation Program Manager

The Workers' Compensation Program awarded the contract for certified managed health care services to CorVel effective July 1, 2013. The initial contract period is two years. The contract can be extended for three additional one-year periods through June 30, 2018.

Under the contract CoVel services include:

- Provider Network
- Designated Medical Clinics
- Nurse Phone Line
- Medical Case Management
- Medical Bill Processing
- Pharmacy Benefit Management
- Posters and other publications for agencies

The administrative fee for CorVel's services remains at $2.17 per employee per month through June 30, 2015.

We continue to be pleased that the pharmacy benefit management plan offered by CorVel, called CCRx, consistently has over 90 percent usage compliance by state employees filling their prescriptions for work-related injuries. This results in direct savings to state agencies, as the average prescription filled has a cost savings of 8 to 10 percent when filled through CCRx. These savings, when added up across all workers' compensation claims, are a significant cost reduction for state government, given that our total annual cost for pharmacy now exceeds $1.4 million annually.

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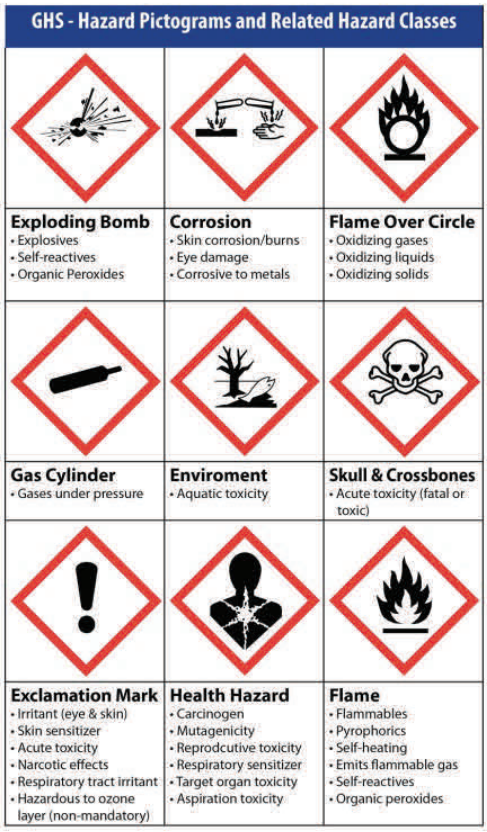
Under the new contract, there is a change regarding the provision of ergonomic services. If your agency wants to request ergonomic services for safety & loss control purposes from CorVel or another vendor, you will need to contact Administration's Materials Management Division at (651) 296-2600 or through their web pages at http://www.mmd.admin.state.mn.us to determine the appropriate type of agreement your agency needs to use for these services. If the employee has an open workers' compensation claim and an ergonomic assessment is specifically related to their workers' compensation claim, you should work with the workers' compensation claims management specialist to determine the best approach for providing the service. Costs related to an ergonomic assessment might be covered under the workers' compensation claim.

If you have questions about the CorVel contract, please contact Gary Westman at (651) 201-3030 or gary.westman@state.mn.us

Time is Running Out on GHS Training Requirement!

by Jim Kubisiak, State Industrial Hygienist

The clock is ticking! Hopefully you have already heard that with the implementation of the revised Hazard Communication Standard comes new required employee training. The revised standard is being phased in over time and the first deadline is December 1st 2013. By this date, covered employees need to have received training on the new label elements and the new standardized format of safety data sheets (SDS). OSHA has a great fact sheet on the training requirements that can be found online at: https://www.osha.gov/Publications/OSHA3642.pdf In addition, MnOSHA will be presenting an overview of the requirements of the new standard at the 2013 Safety and Loss Control Conference coming up this fall. Additional questions should be directed to Jim Kubisiak, State Industrial Hygienist, at james.kubisiak@state.mn.us.



2013 State Safety & Loss Control Conference

Register now for the 7th annual State Safety & Loss Control Conference, presented by the Department of Administration's Risk Management Division, in cooperation with Minnesota State Colleges and Universities. This year's conference is scheduled for October 1-2, 2013, at the Hennepin Technical College - Eden Prairie Campus. As with previous years, the conference is expected to offer exceptional networking opportunities and professional development in the areas of workers' compensation, safety, loss control, and risk management.

With a full conference registration fee of only $50, you will not find a better value for professional development. Early bird conference registration is now open and runs through September 25, 2013. Visit the conference website to review the agenda and register: mn.gov/mnsafe/conference/index.html

Our goal this year is to increase conference attendance by 25 percent over last year! To help us meet this goal, please share these dates with personnel in your organization that have direct and indirect responsibilities for workers' compensation, safety, and risk management, such as human resources, facilities management, and finance associates. Hope to see you at the conference!

The Importance of Being Earnest

by Scott Johnson, Claims Manager

We're Risk Management, not the Perpich Center for Arts Education, so I am not talking about the use of fictitious personae to escape our obligations in life from Oscar Wilde's play. Instead, I am talking about our obligations to promptly report our incidents. No matter what type of insurance coverage you maintain, it is important to be earnest when it comes to prompt incident reporting on the coverages you maintain. It has been repeatedly proven in insurance research that identifying situations early and reporting them quickly to an insurance carrier helps to keep costs down, to expedite the process, and to shorten the recovery period so that everyday operations can quickly be resumed.

When an incident occurs, it is important to address it right away. Whether it is a liability situation, auto physical damage, or property damage, reporting your incident will enable us to provide guidance on how to proceed. Our experience will help control damage or document conditions that will prove useful in protecting you later on. We will assist in quickly responding to an event based upon the type of incident, and also create the evidence needed to assess a liability situation.

Because prompt reporting of incidents is so beneficial to cost containment, customer service, and loss control, the Property & Casualty Unit is going to implement a new goal for FY2014. We will be striving to have incidents reported to us within 24 hours of the event or notification of the event. We expect that this will result in more timely resolution of the claims, quicker restoration times, and improvements in safety. It should also help to control the cost of claims so that we might be able to pass those savings on to our insureds through higher dividends.

Keep your insurance coverages in mind and report events that occur within 24 hours. These events should include situations where damage occurs to buildings or vehicles, and situations where a non-employee might have been injured (sometime the injuries do not become apparent until days later. Please report these incidents when they occur rather than when they are reported, if you can). We will review the event and provide guidance where we can. This can be in the areas of loss mitigation, subrogation recovery, or future loss control.

So how do you report an incident? Review our claim reporting guide found at http://mn.gov/administration/images/agency_claim_reporting.pdf. Go to our website, our forms are stored there. They can be found in the Resources section under Risk Management, http://mn.gov/administration/government/risk/resources/. Select the form for your type of incident and follow the instructions on the form. Questions regarding incident reporting, or our 24 hour goal, should be directed to Scott Johnson at 651-201-2592 or by email at scott.f.johnson@state.mn.us.

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