

WORKER'S COMPENSATION

Return To Work



UNITED HEARTLAND

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Items To Be Covered

- ◆ RTW Rational
- ◆ The Benefits To All
- ◆ The Associated Costs
- ◆ Common Pitfalls
- ◆ Rational
- ◆ Responsibilities
- ◆ How To Do It Right



RTW Rational



RTW Rational

Return To work By Another Name

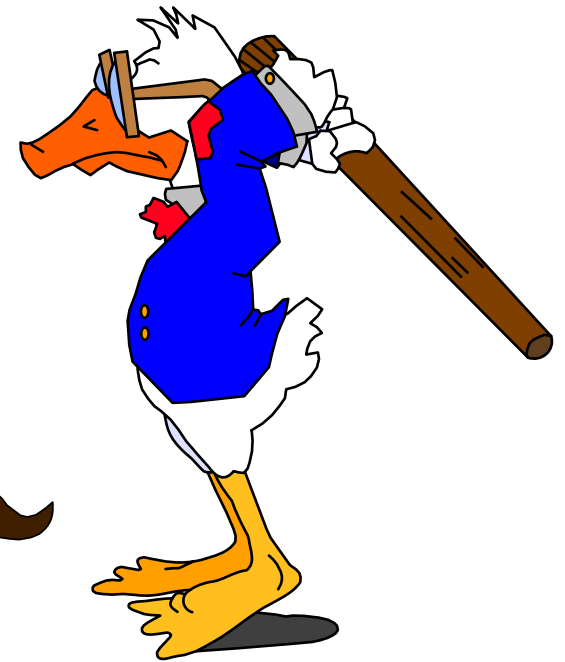
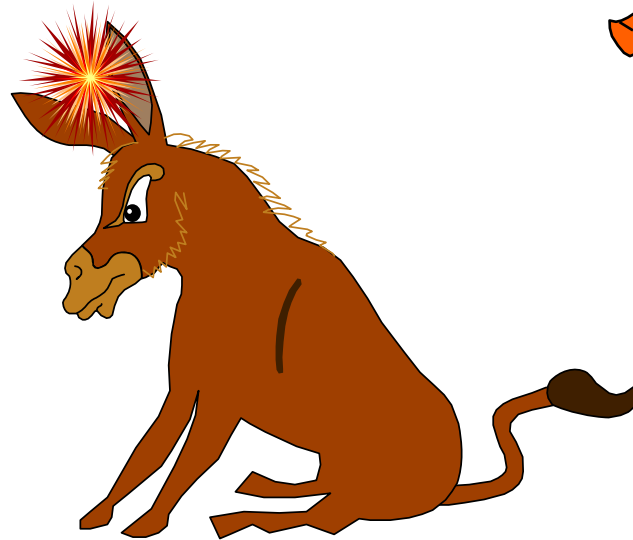
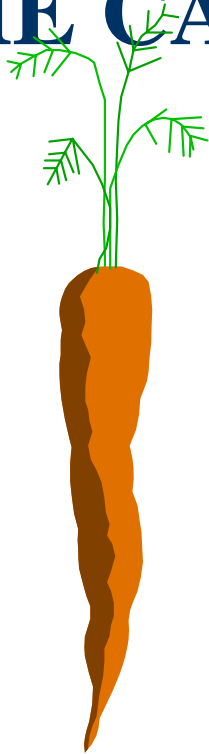
- ◆ Light duty
- ◆ Modified duty
- ◆ Return to work (RTW)
- ◆ **Temporary duty**
- ◆ Transitional work
- ◆ Work hardening

RTW Rational

- ◆ Reasons for doing RTW
 - Financial
 - ❖ Controls cost of claim
 - ❖ Controls experience mod
 - ❖ Provides meaningful return on loss
 - Moral
 - ❖ Employee is a valuable resource
 - ❖ Obligation to get the worker back to pre-injury state

EXPERIENCE MOD IT'S PURPOSE

THE CARROT OR THE STICK



Medical Vs. Indemnity

- ❖ A \$1000 medical claim goes into the formula as \$300
 - Medical only receives a 70% discount
 - Thus lighter impact on the mod
- ❖ A \$1000 indemnity claim goes into the formula as \$1000
 - Indemnity- first \$1 of loss wages....claim goes in at full value

EXPERIENCE MOD THE IMPACTS

2007-2008

CURRENT POLICY
YEAR

2006-2007

YEAR IN WAITING

2005-2006

2004-2005

2003-2004



YEARS USED TO
DEVELOP THE
MOD

THE 1998 - 99 YEAR
DROPS OFF

EXPERIENCE MOD THE IMPACTS

2009-2010



First year the 2007 -
2008 injuries
impact your mod.

2008-2009

2007-2008

2006-2007

2005-2006

2004-2005



**CURRENT POLICY
YEAR**

THE 2004-05 YEAR
DROPS OFF

EXPERIENCE MOD THE IMPACTS

2012-2013



First year the 2007 -
2008 injuries
doesn't impact your
mod.

2011-2012

2010-2011

2009-2010

2008-2009

2007-2008



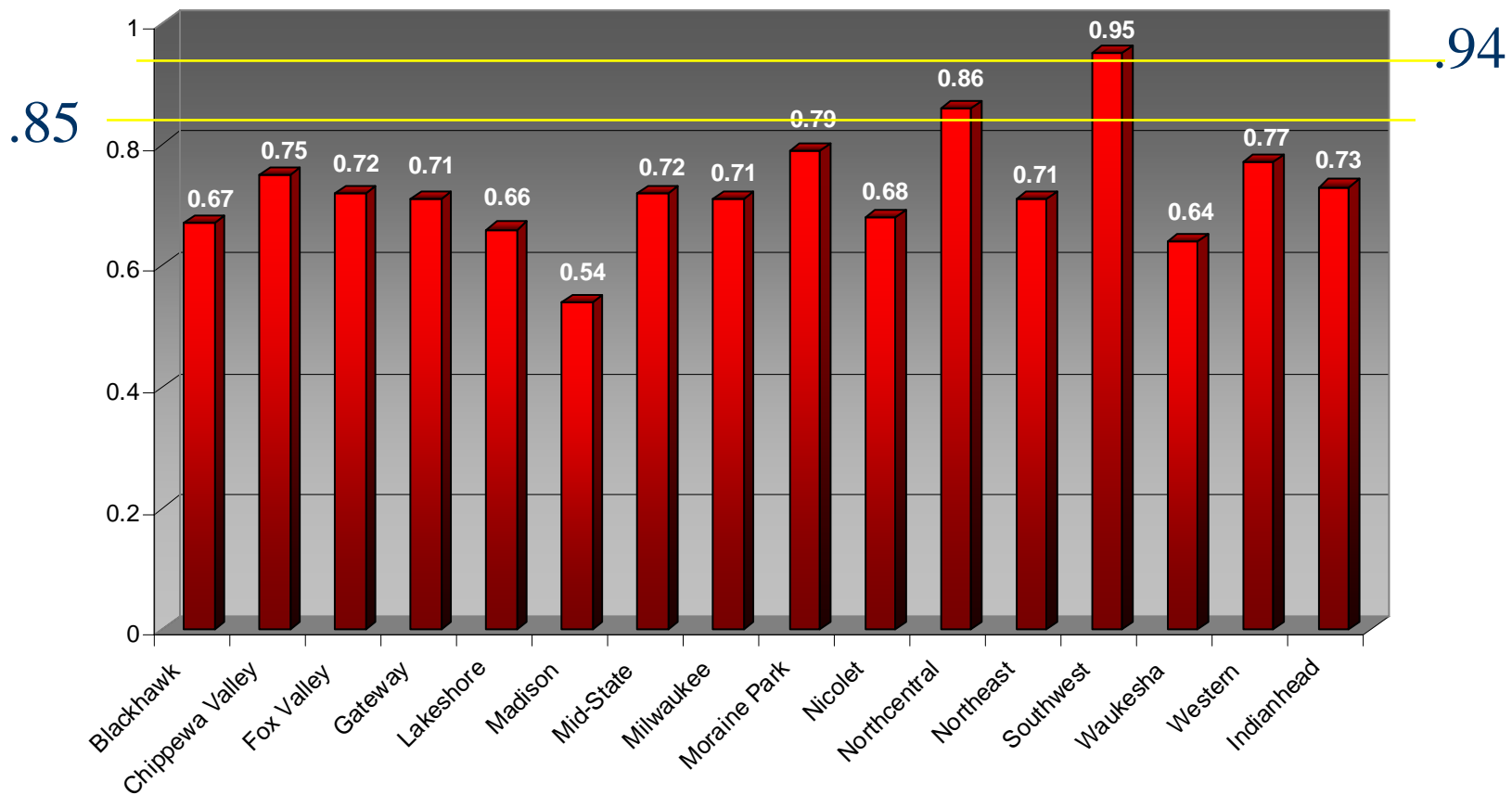
CURRENT POLICY
YEAR

The Average Mod

6-1-04 to 5-31-05

- ◆ 21,464
- ◆ 15,307 (71.3%) earned a credit mod
- ◆ .85 half above vs. half are below
- ◆ .94 is ave. when considering the weighting and size of the account.
- ◆ 2 mods less than .50.
- ◆ 23 mods between .50 & .59

DMI Experience Mods





The Indemnity Payment Impact

Large Losses

- ◆ \$48,368-Struck by other person (1999)
- ◆ \$34,760-Caught shoe on scale fell injured shoulder (2000)
- ◆ \$6,309-Low back strain (2000)
- ◆ \$22,428-Tripped on box (2001)

The Losses

Current Mod 1.10

- ♦ Injury code 5 is an indemnity claim
- ♦ Injury code 6 is a medical claim
- ♦ Injury code 9 is a Perm. Partial claim

Large Losses	IJ Code	Number	Incurred
1999	9	1	\$48,368
2000	5	1	\$34,760
2000	5	1	\$6,309
2001	5	1	\$22,428
Minor/Small losses			
1999	6	7	\$6,706
2000	6	9	\$10,466
2000	5	1	\$156
2001	6	6	\$4,164

Specific Loss Sensitivity Analysis

Premium cost estimates based on manual premium of \$85,616.

	State	Date	Actual Loss	Limited or Adjusted	Mod w/o Loss	Impact on Mod	Premium Costs		
							1 yr	2 yr	3 yr
Itemized/Large Losses									
Code 9	WI	12/1/1999	\$48,368	\$48,368	0.9564	0.1458	\$12,483	\$24,966	\$37,449
	WI	12/1/2000	\$34,760	\$34,760	0.9843	0.1179	\$10,094	\$20,188	\$30,282
Code 5	WI	12/1/2001	\$22,428	\$22,428	1.0096	0.0926	\$7,928	\$15,856	\$23,784
	WI	12/1/2000	\$6,309	\$6,309	1.0426	0.0596	\$5,103	\$10,206	\$15,309
Minor/Small Losses							\$35,608	\$71,216	\$106,824
Code 6	WI	12/1/2000	\$10,466	\$3,140	1.0664	0.0358	\$3,065	\$6,130	\$9,195
	WI	12/1/1999	\$6,706	\$2,012	1.0793	0.0229	\$1,961	\$3,922	\$5,883
Code 5	WI	12/1/2001	\$4,164	\$1,249	1.0880	0.0142	\$1,216	\$2,432	\$3,648
Code 6	WI	12/1/2000	\$156	\$156	1.1004	0.0018	\$154	\$308	\$462
Grand totals						0.4906	\$42,003	\$84,006	\$126,009

\$397 was indemnity, the rest was medical

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Code 6	WI	12/1/2000	\$29,446	\$8,834	0.8738	0.0321	\$2,748	\$5,496	\$8,244
	WI	12/1/2001	\$16,371	\$4,911	0.8818	0.0241	\$2,063	\$4,126	\$6,189
	WI	12/1/2000	\$5,912	\$1,774	0.8882	0.0177	\$1,515	\$3,030	\$4,545
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Code 6	WI	12/1/2000	\$156	\$156	0.9041	0.0018	\$154	\$308	\$462
Grand totals						0.2944	\$25,205	\$50,410	\$75,615

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Indemnity removed on 3 of 4 largest claims

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						\$18,809	\$37,618	\$56,427

Savings —————→ \$16,799 \$33,598 \$50,397



The Benefits To The Worker

RTW Rational

Benefits to the worker

- ◆ The longer the period of disability the more unlikely of ever returning to work
 - Greater than 6 months--50%
 - Longer than a year--25%
 - Longer than 2 years– very unlikely

RTW Rational

Benefits to the worker

- ◆ Allows worker to maintain full earning capacity
 - Vacation, PTO, sick days, driven by hours worked
 - 401K and/or company match, bonuses, profit sharing, SS earnings, pensions, etc.
 - Health and related coverage's paid for.
 - Family and medical leave remain available

RTW Rational

Benefits to the worker

- ◆ Provides a certain level of work hardening
- ◆ Gets the worker out of bed to be somewhere.
- ◆ Reduces the feeling of the unknown, no contact, home alone, no communication, etc
- ◆ Keeps worker from becoming dependent on a disability system



The Benefits To The Employer



RTW Rational

Benefits To The Employer

- ◆ Keeps work comp costs in check
- ◆ Keeps worker in contact with co-workers and management
- ◆ Provides visual progress or lack of progress
- ◆ Allows for worker to be under a certain level of supervision for a set period of time



RTW Rational

Benefits to the employer

- ◆ Ensures worker is staying within restrictions at least while employed
- ◆ At a minimum allows some productivity
- ◆ Shows workforce you are concerned for the well-being of staff injured at work
- ◆ Reduces double dipping i.e. laid off and on work comp.



The Benefits To All



RTW Rational

Benefits to All



- ◆ Keeps employee out of a disability system
- ◆ Reduces fraud
- ◆ Reduces out of pocket expense for employees i.e. health coverage reimbursement
- ◆ Gets worker out of bed to be somewhere daily
- ◆ Establishes that worker is capable of working



Responsibilities

Employer Responsibilities

- ◆ Discuss at time of hire
- ◆ Treat injury
- ◆ Report to United Heartland
- ◆ Identify light duty tasks or components
 - Light duty doesn't have to be 8 hrs.
 - As close to/or components of the original job
 - Monitor task performance vs. restrictions
- ◆ Reconfirm that these tasks are temporary by nature

Employee responsibilities

- ◆ Report the accident to the employer
- ◆ Let medical provider know of light duty
- ◆ Provide restrictions to the employer
- ◆ Restrictions are 24 hour a day restrictions
- ◆ Live within those restrictions
- ◆ Notify employer of any change in condition

RTW Common Pitfalls

- ◆ Misunderstanding of intent of the practice by portions of workforce (Glass half full or empty)
- ◆ Light duty not thought about until the loss occurs
- ◆ No thought to the limitations
- ◆ Slow in reacting to the situation
- ◆ Little thought to workers skills

RTW Common Pitfalls

- ◆ Pick and choose it's use
 - Don't care for the worker
 - I'm too busy and don't have time to supervise the worker
 - It's our slow time of year
- ◆ Poor follow-up
- ◆ Improperly offered
- ◆ Administrator is not available. Vacation, out of town, etc.

RTW Common Pitfalls

- ◆ Poor or lack of communication
 - Between employer and employee
 - Between employer and comp carrier
 - Between employee and comp carrier
 - Between med provider and employer
 - Between med provider and work comp
 - Between various levels of management

RTW Common Pitfalls

- ◆ Unknown responsibilities-supervisor, management, and employee.
- ◆ Medical community reluctance for fear of employer/employees exceeding restrictions
- ◆ Performance barriers and or budget constraints



RTW

Making It Work

RTW Making It Work





RTW

Making It Work



- ◆ Making it work
 - Completing the loop of communication
 - Employee notifies you as soon as loss occurs
 - Employee is told that you have and will accommodate
 - Live within the restrictions
 - Making sure everyone is aware
 - Discuss at time of hire
 - Make sure the supervisor is on board
 - Include the medical community



RTW

Making It Work



- ◆ Preplan for light duty
 - Have area medical providers tour your operations
 - Having video library of temporary tasks
 - Have good job descriptions
 - Make regular contact with employee
 - Develop RTW task with 1-hand, weight, and mobility in mind



RTW

Making It Work



- ◆ Overcome the obstacles
 - Restrictions
 - Supervisor is being charged for payroll
 - Benefits in favor of being off
 - Other outside influences i.e. disability payments, child care, etc.



RTW

Making It Work



- ◆ Make the offer in writing
- ◆ Communicate, communicate, communicate
- ◆ Ideal, same job, same dept, same shift.
- ◆ Complete the circle

Example

- Injured employee give a release to RTW light duty with a restriction of right handed work only and to wear a left wrist splint. Authorization release employee to RTW on 9/26/06
- No work available. Employee able to return to work on 3/19/07
- If employee was able to RTW on 9/26/06, benefits owed would have been \$397.28
- Because of no transitional work, we paid an additional \$45,000

Modified Duty Concerns

- ◆ ADA vs. Light Duty
 - Separate the issues
 - Jobs are temporary
- ◆ Secondary injury while on restrictions
- ◆ Termination while on light duty
- ◆ Refusal of light duty
- ◆ Unions

Concerns

◆ ADA

- An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities (seeing, hearing, speaking, walking, breathing, performing manual task, learning or caring for oneself)
- Only injured workers who meet the ADA definition of an individual with a disability will be considered disabled under the ADA.
- Work related injuries do not always cause physical or mental impairments severe enough to substantially limit a major life activity.
- The disability must be permanent, not of temporary nature which most Worker's Compensation injuries are.
- Recently, a case was heard by the Supreme Court regarding ADA and Worker's Compensation. The Worker's Compensation claim was for CTS and case involved the injury worker not being able to perform manual task. Manual task was part of the original definition. However in this case, the courts ruled the injured employee was only precluded for doing the manual task of that particular position and the disability did not limit her from any other manual task in her daily living. This is a very strong statement from the Supreme Court emphasizing the ADA was established for true daily living disabilities, and not for individuals who are able to perform certain work functions.

The Law

- ◆ 102.43(9)

(9) Temporary disability, during which compensation shall be payable for loss of earnings, shall include the period during which an employee could return to a restricted type of work during the healing period, unless any of the following apply:

102.43(9)(a)

(a) Suitable employment that is within the physical and mental limitations of the employee is furnished to the employee by the employer or some other employer. For purposes of this paragraph, if the employer or some other employer makes a good faith offer of suitable employment that is within the physical and mental limitations of the employee and if the employee refuses without reasonable cause to accept that offer, the employee is considered to have returned to work as of the date of the offer at the earnings that the employee would have received but for the refusal. In case of a dispute as to the extent of an employee's physical or mental limitations or as to what employment is suitable within those limitations, the employee may file an application under s. 102.17 and ss. 102.17 to 102.26 shall apply.

102.43(9)(b)

(b) The employee's employment with the employer has been suspended or terminated due to the employee's alleged commission of a crime, the circumstances of which are substantially related to that employment, and the employee has been charged with the commission of that crime. If the employee is not found guilty of the crime, compensation for temporary disability shall be payable in full.

102.43(9)(c)

(c) The employee's employment with the employer has been suspended or terminated due to the employee's violation of the employer's policy concerning employee drug use during the period when the employee could return to a restricted type of work during the healing period. Compensation for temporary disability may be denied under this paragraph only if prior to the date of injury the employer's policy concerning employee drug use was established in writing and regularly enforced by the employer.

The Law

◆ Brakebush Brothers

- The commission determined that Richard Engel remained eligible for worker's compensation after his former employer, Brakebush Brothers, Inc., fired him for cause. On November 5, 1991, his doctor determined that Engel could resume light duty work. However, on November 7, 1991, Brakebush suspended Engel and on November 12, 1991, Brakebush terminated him for gross misconduct. Brakebush company policy prohibits “misrepresentation of facts or giving false or misleading information regarding a work injury.” Brakebush concluded that despite being diagnosed as totally incapacitated and ordered by Dr. Leonard to bed rest following his September 16, 1991 work injury, Engel had been playing in a pool league at a local establishment and bow hunting.

The Law

- ◆ Nystrom Vs Peters & Sons

- The applicant did not report for work. On August 25, 1988, the insured hand delivered to the applicant at his home a letter from them reminding him of their conversation on August 18, noting that if the applicant had transportation problems the employer would assist him in coming to **work**, and advising the applicant that if he did not report for work by 6 a.m. on Monday, August 29, 1988 for the available light-duty work he would be terminated. Notwithstanding this, the applicant did not return to work, and he was considered by the employer to have been terminated effective August 29, 1988. However, the employer continued to extend the opportunity to the applicant to justify his refusal to return to work, by sending him a letter on September 1, 1988 indicating that his termination of August 29 would stand unless by 4 p.m. on September 2 he showed just cause for his failure to report to work. Despite this, the applicant did not report to work and did not provide an explanation satisfactory to the employer for his failure to do

- ◆ The Result

- The application was dismissed. The order stated the applicant could have attempted the work, in order to determine if the problems he anticipated would arise. His refusal to even attempt to work was unreasonable. The employer's decision to discharge him, after allowing him every opportunity to respond, did not violate the Worker's Compensation Act.

Tips for success

- ◆ Send job offer certified to the employee's home
- ◆ Create a light duty/return to work form(s)
 - Read, understand and sign restrictions
 - Daily activity log
- ◆ Clarify restrictions and task requirements.
 - Questions call UH or medical provider directly



QUESTIONS?
