
Work Comp Roundup

Reduce Your Workers Comp Costs

How Mediation Saves Workers Compensation Dollars

Teddy Snyder · Tuesday, September 3rd, 2013

Mediation of Workers Compensation claims is commonplace in some states and mandatory in a couple (e.g., South Carolina as of 5/15/2013). Elsewhere, such as in California, claims professionals and attorneys are just starting to catch on to the benefits of mediation.

Multiple Appearances With Judge Can Accomplish Little

Budget cutbacks and increasing caseloads mean less time for cases to be heard by a workers compensation judge. The result is multiple appearances which accomplish little. This costs the employer money for the defense attorney's fees and consequential costs from the inability to get a ruling. For the injured worker's attorney who typically will receive a fixed percentage contingent fee, each appearance without resolution decreases the attorney's hourly rate of compensation. The injured worker shares the employer's frustration with the inability to get a ruling, with consequent stress and depression. Sometimes this frustration causes the injured worker to seek new counsel with instructions to "be more aggressive."

In contrast, mediation is as fast and efficient as the parties want it to be. Mediations can be scheduled for a time and place of the parties' convenience. As much time as is necessary can be allocated for the mediation. The issues to be resolved can be as narrow as definition of the industrial injury or as broad as conclusion of all indemnity, medical and penalty claims.

Mediation Facilitates Communication and Settlement

Mediation focuses the parties' attention. This contrasts with a court appearance where an attorney may be juggling appearances in multiple courtrooms.

Mediation can result in settlement when the parties are unable to negotiate a settlement on their own. The presence of the neutral can facilitate communication. Typically, parties will be together for some of the mediation and sometimes in separate sessions. Separate sessions, known as caucuses, allow the mediator to exercise shuttle diplomacy. Settlement can result even when the parties or attorneys are hostile.

The mediation may be the only opportunity the injured worker gets to tell the story of the injury and treatment. For many injured workers, relating the narrative allows them to put it in the past and move on, a good result for all concerned.

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This entry was posted on Tuesday, September 3rd, 2013 at 10:40 am and is filed under [Structured Settlements](#)

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