



Obesity Increasing Work Comp Costs: How You Can Help

Adult obesity is a mounting problem in the United States, and there is increasing evidence that it contributes significantly to the cost of medical care and lost wage benefits in workers' compensation claims. The National Council on Compensation Insurance (NCCI), the nation's largest provider of workers' compensation and employee injury data, recently published some compelling statistics regarding the effect of adult obesity on workers' compensation claims.

Alarming findings

The NCCI reports that in a study conducted by researchers at Duke University, evidence was recorded to substantiate that for the "morbidly obese" (those with a Body Mass Index [BMI] of 35 or higher), the medical costs per 100 full-time equivalent employees are nearly seven times as high as for employees of recommended weight. The study, which analyzed claims from 36 U.S.

states over nine years, also showed that the effect of obesity on medical costs matures over time. In comparing claims of obese adults to those of the non-obese, medical costs proved to be 2.8 times more expensive at the 12-month mark; costs rose to 4.5 times more expensive at three years, and 5.3 times higher at five years. Overall, obese workers filed twice as many claims, had 13 times as many lost workdays, and experienced medical and indemnity costs that were seven and 11 times as high, respectively.



In This Issue...

Obesity Increasing Work Comp Costs: How You Can Help.....	1
Work Comp 101: Required Employer Postings.....	2
ICA Releases 2010 Work-related Fatality Statistics.....	3
Industrial Commission Announces 2012 State Minimum Wage Increase.....	3
NCCI Recommends 2012 Rate Increase.....	4
New Highway Worker Compliance Rule in Effect.....	4
E-mod Calculation Changes Could Mean Changes in Premium.....	5
New Exposure Notice and Reporting Forms Now Available.....	7
Top 10 OSHA Violations 2011.....	7
Board of Trustees.....	8

What can I do?

So, what can an employer do to help combat obesity and, in turn, control workers' compensation costs? Organizations such as the NCCI, the Centers for Disease Control and Prevention (CDC), and the Wellness Council of America (WELCOA) have endorsed employers' initiatives to create workplace "wellness" programs in an effort to promote good health of their employees. An effective employee

See Obesity Increasing on page 6

Required Employer Postings


Arizona law requires that employers post several notices regarding salient workers' compensation issues. Through a review of the statutory mandates addressing these notices, an understanding of the responsibilities pertaining to Arizona's employers can be achieved.

A.R.S. § 23-964 requires an employer to post in "conspicuous places about his place of business" a notice stating it has complied with state laws that ensure workers' compensation benefits will be paid to injured employees. The employer accomplishes this by either purchasing a workers' compensation insurance policy, belonging to an insurance pool that provides coverage, or obtaining authorization from the Industrial Commission of Arizona (ICA) to administer benefits on a self-insured basis.

Furthermore, A.R.S. § 23-906(D) states that a notice must be posted in both English and Spanish that informs employees of their right under Arizona's Constitution to reject workers' compensation coverage before an injury occurs. The notice informs workers that this rejection must be in writing, and that the necessary forms are available from their employer. When an employee properly rejects coverage, he or she is then entitled to sue their employer in civil court for damages from accidental injuries occurring within the course and scope of their employment. If a rejection form is not received, it is presumed the employee has chosen workers' compensation benefits as his or her exclusive legal remedy against the employer following an on-the-job injury.

An employee will rarely choose to reject workers' compensation in favor of having the ability to pursue a civil remedy against the employer. However, Article 18, Section 8 of Arizona's Constitution provides the option of rejecting coverage to only those individuals engaged in "private employment." Thus, employees of public entities are not entitled to choose a civil remedy in lieu of accepting workers' compensation benefits.

A.A.C. R20-5-164(A) requires employers to post next to the notice required under A.R.S. § 23-906(D) two other ICA notices: *Work Exposure to Bodily Fluids and Work Exposure to Methicillin-resistant Staphylococcus Aureus (MRSA), Spinal Meningitis, or Tuberculosis (TB)*. The purpose of these notices is to inform employees of the statutory requirements necessary to make a prima-facie case for potential claims involving exposure to HIV/AIDS, MRSA, TB, hepatitis C, or spinal meningitis. Since exposure to any of these maladies must be reported in writing to the employer, the ICA has recently disseminated a form for this purpose entitled *Report of Significant Work Exposure to Bodily Fluids or Other Infectious Material*.

All Arizona employers must meet statutory requirements regarding the various posting notices. Strict compliance by employers will ensure that employees are given the opportunity to be properly informed of their rights and obligations under Arizona's workers' compensation laws. All of the state-mandated notices referenced in this article, as well as the reporting form, are available on the Arizona Municipal Risk Retention Pool's website at www.amrrp.org. 

ICA Releases 2010 Work-related Fatality Statistics

The Industrial Commission of Arizona (ICA) has released the 2010 Census of Fatal Occupational Injuries (CFOI). The CFOI is compiled each year to document and analyze the number, type, and cause of all work-related fatalities in Arizona, and is a cooperative effort with the U.S. Department of Labor's Bureau of Labor Statistics. The data released is preliminary for collection year 2010; revised and final data will be available from the ICA by mid-2012.

The CFOI identifies that in 2010, the three leading causes of work-related deaths were transportation fatalities (including highway, pedestrian, rail, and aircraft accidents), assaults and other violent acts, and falls.


- Transportation accidents were the leading cause of work-related fatalities in 2010. Of Arizona's 27 transportation-related fatalities in 2010, seven were highway accidents, nine were aircraft accidents, and four were the result of workers being struck by a vehicle while on the job.
- The second leading cause of occupational fatalities in 2010 was assault or other violent act, resulting in 24 deaths. Sadly, this type of death had a prominent increase, up from 10 fatalities of the same nature in 2009.
- The third most common cause of employee death was falling. Nine workers fell to their deaths in 2010, seven of those falling to a lower level.

By industry, the trade transportation industry had the most fatalities with 18; the construction industry had 13; and the professional business industry had eight deaths.

By occupation, the transportation and material-moving fields lost 19 workers; the construction/extraction and installation/maintenance/repair fields each lost nine workers; and the management and sales-related fields each lost seven workers. The protective services field lost nine workers in 2010; seven of those were police officers killed in the line of duty.

The CFOI also collected data regarding the demographics of each worker killed on the job:

- There were 75 total work-related fatalities in Arizona in 2010; 67 of those were men.
- By ethnicity/race, 43 deaths were white (non-Hispanic) workers, 18 were of Hispanic descent, five were Asian, and the remaining six were "other" or not reported.
- Workers in the 45- to 54-year old group had the highest occurrence of occupational fatality, with 20 deaths.


For additional information on work-related deaths in Arizona, visit the Industrial Commission's website at www.ica.state.az.us. National work-related fatality statistics can be accessed at the Bureau of Labor Statistics' website at www.bls.gov. 

Industrial Commission Announces 2012 State Minimum Wage Increase

The Raise the Minimum Wage for Working Arizonans Act of 2006 established an Arizona minimum wage and provided for an annual cost of living increase. The cost of living, based on the federal Consumer Price Index, U.S., City Average (CPI-U), is analyzed every 12 months, ending each August 31. Comparing August 2011 to August 2010, the CPU-I increased 3.8 percent.

The Industrial Commission of Arizona, at a public meeting held on October 13, 2011, determined that Arizona's current

minimum wage of \$7.35 per hour will increase to \$7.65 per hour for 2012. The new Arizona minimum wage took effect January 1, 2012, and will be higher than the 2012 federal minimum wage of \$7.25.

For more information regarding Arizona's minimum wage and employers' obligations, visit the Industrial Commission's website at www.ica.state.az.us. 

NCCI Recommends 2012 Rate Increase

The National Council on Compensation Insurance (NCCI), the nation's largest provider of workers' compensation and employee injury data, annually compiles and releases statistics to be used in calculating insurance rates. Their findings for Arizona:


- ❖ Due in large part to the loss of jobs in the construction industry, there was a 46 percent decrease in Arizona premium.
- ❖ Arizona experiences a work comp claim rate of approximately 4,541 claims per 100,000 workers; on average, 3,812 are medical only and 729 involve lost time. Lost time claims have increased since 2010.
- ❖ Average distribution of Arizona claim dollars:
 - 84 percent are for medical expenses
 - 10.2 percent are for temporary total disability claims
 - 5.6 percent are for permanent partial disability claims
 - 0.1 percent is for permanent total disability claims
- ❖ There has been an increase in the cost of medical expenses, due to increased utilization of benefits and medical inflation.

- Average medical cost per Arizona claim in 1995: \$18,100
- Average medical cost per Arizona claim in 2009: \$42,300

As a result of these findings, the NCCI has recommended an average 5.2 percent rate increase for Arizona. Notably, some class codes will be higher and some will be lower.

NCCI rate recommendations are only advisory. AMRRP workers' compensation rates are calculated based on Members' loss experience and are not directly tied to NCCI figures.


Although the AMRRP has generally performed better than the industry, the Pool has experienced the effects of increased claims and higher medical costs. These factors will be taken into consideration as AMRRP workers' compensation rates for 2012 are calculated.

For questions regarding calculation of the Pool's workers' compensation rates, contact the AMRRP's Administrator, Southwest Risk Services, at (602) 996-8810. 

New Highway Worker Compliance Rule in Effect

In November 2006, the final rule on high-visibility safety apparel for highway workers was published in the Federal Register (Code of Federal Regulations, Title 23; Part 634). The U.S. Department of Transportation's Federal Highway Administration (FHWA) published the rule in an effort to reduce the likelihood of worker fatalities and injuries caused by motor vehicles and construction equipment on the nation's highways.

The rule, in effect for all federal-aid highways since November 2008, requires all workers who are exposed to either traffic or construction equipment to wear high-visibility safety apparel. The final phase-in date for compliance was December 31, 2011, and will require high-visibility safety apparel to be worn by workers on all public roads, including those not receiving federal aid.

For more information on this regulation, visit the Federal Highway Administration's website at www.fhwa.gov. 

E-mod Calculation Changes Could Mean Changes in Premium

The National Council on Compensation Insurance (NCCI), which collects workers' compensation and workplace injury statistics, analyzes industry trends, and makes insurance rate recommendations, is adopting some changes to the formula it uses in its calculations.

The NCCI uses proprietary software to compute an experience modifier, or "e-mod". Using complex algorithms, NCCI's software compares the actual workers' compensation claim experience of an entity with what would be expected from an entity of like characteristics- a city of similar size and population, for instance. A value, or e-mod, is assigned to each entity based on its unique workers' compensation experience as compared to the average:

- An e-mod of 0.99 or lower = Better, or less, claim experience
- An e-mod of 1.00 = Average claim experience
- An e-mod of 1.01 or higher = Worse, or more, claim experience

Once an e-mod is assigned, it is applied to the premium, which, consequently, will fluctuate up or down depending on the insured's prior workers' compensation claim history. For example, if three different cities each had a base premium of \$100,000, each city's e-mod would affect their premiums as follows:

	Premium	e-mod	Payment
City A	\$100,000	0.80	\$80,000
City B	\$100,000	1.00	\$100,000
City C	\$100,000	1.20	\$120,000

What factors does the NCCI consider when calculating an e-mod? A large portion of the formula is based on primary and excess losses. To determine primary losses, NCCI caps all work comp claims at \$5,000. Any dollar amount over the initial \$5,000 allowance is recorded as an excess loss. For example:

- \$4,000 claim = \$4,000 primary loss / \$0 excess loss
- \$10,000 claim = \$5,000 primary loss / \$5,000 excess loss

- \$15,000 claim = \$5,000 primary loss / \$10,000 excess loss

Primary losses are used to measure claim frequency, while excess losses are used to measure claim severity. When calculating an e-mod, more weight is given to the primary losses. A municipality that has many small, primary losses poses a greater insurance risk than a municipality that has an occasional severe excess loss.

Primary losses are currently capped at \$5,000, however, that cap will be changing in the near future. Effective January 1, 2013, the primary loss cap will increase to \$10,000. On January 1, 2014, it will increase to \$13,500; in 2015, the cap will increase yet again, to \$15,000 per claim.

Although not an NCCI subscriber, the AMRRP does use the NCCI e-mod calculation methodology.

What does this mean for Members? Starting with the July 2013 policy renewal, the dollar values of the more heavily weighted primary losses will increase. While the increased value of primary losses will be somewhat offset by a decreased value in excess losses, for Members with a high claim frequency, this will mean increased e-mods. Members with few claims may see no change, or may even see a decrease.

The Pool has several Members that have elected to decline reimbursement from the AMRRP for temporary partial and temporary total disability (TTD) payments. Any amount that the AMRRP pays in temporary partial or temporary total disability benefits goes into the e-mod calculation at 100 percent, while "medical only" claims are valued at 30 percent. For example:

	Medical Benefits Paid	Temporary Total Disability Paid	\$ amount submitted for e-mod calculation
Claim A	\$3,000	\$100	\$3,100
Claim B	\$3,000	\$0	\$900

Another option for Members is the AMRRP Work Comp Deductible program which may also help Members save on

See e-mod Calculation on page 6

Obesity increasing continued from page 1

wellness program can take many forms, from employers providing workout facilities, to sponsoring company-wide “biggest loser” or similar weight-loss competitions. The CDC recommends that adults get 20 minutes of vigorous physical activity at least three times a week to promote a healthy lifestyle, but reports that only about 30 percent of adult Americans are meeting this goal. WELCOA suggests issuing pedometers to employees, or hosting “stair-climbing” challenges. As part of a wellness program, employers have the power to promote healthy eating as well. According to Eric Schlosser’s book, *Fast Food Nation*, Americans spent about \$6 billion on fast food in 1970; in 2000, they spent \$110 billion. WELCOA offers that stocking break room vending machines with healthy snack options can promote healthy eating, and may even help employees eliminate bad snack choices altogether.

How do I start a wellness program?

When initiating a workplace wellness program, organization is crucial. WELCOA suggests the following tips for developing an effective program:

1. Enlist senior management- Healthy practices should be company-wide! Be sure to include members from each department, and from all administrative levels.
2. Establish a wellness team/committee- Committee membership should be voluntary, and members should meet regularly to communicate successes and brainstorm new ideas.

3. Collect info to drive new initiatives- Employee comments/concerns, upcoming holidays, and public events (5K runs, etc.) can all be great sources for new and revised goals.
4. Develop an annual operating plan- Your workplace wellness plan should be ongoing; regular meetings foster continued success.
5. Choose appropriate health initiatives- Employees will likely start out at a variety of fitness levels. Be sure that there are goals that are attainable for every employee.
6. Develop a supportive atmosphere- Awards ceremonies, goal-reaching parties, and recognition from members of management can provide positive impact on employees.
7. Consistently assess outcomes- Celebrate goals and set new objectives; your wellness program should constantly evolve.

Many resources for starting a wellness plan can be found online. Check out the following websites for more information:

Wellness Council of America:
www.welcoa.com

Infinite Wellness Solutions:
www.infinetwellnesssolutions.com

Centers for Disease Control and Prevention:
www.cdc.gov

National Council on Compensation Insurance:
www.ncci.com



e-mod Calculation continued from page 5

their workers’ compensation premium. To explore more of the options that the AMRRP is offering, contact Ed Bantel at (602) 368-6618.

As always, the best way to reduce claim frequency is to prevent accidents in the workplace. A Risk Manager or Safety Committee can be instrumental in decreasing workers’ compensation claims. Remember also that the AMRRP can

help. An AMRRP loss control consultant can work with you to find new ways to reduce accidents and claims. Members can contact the Loss Control Department through the Pool’s Administrator, Southwest Risk Services, at (602) 996-8810.



New Exposure Notice and Reporting Forms Now Available

Recent passage of House Bill (HB) 2476 has resulted in some changes to the statute (A.R.S. § 23-1043.04 [A-H]) that addresses claims involving exposures to methicillin-resistant staphylococcus aureus (MRSA), spinal meningitis, and tuberculosis (TB) by certain types of employees such as firefighters and police officers. The law, which had previously required that a report outlining details of a possible “significant exposure” be submitted within 10 days of occurrence, has been revised to allow employees covered under the statute up to 30 days following an alleged incident to file a report.

Furthermore, the new law mandates that for claims involving MRSA, the employee must be diagnosed with the disease within the 15 days immediately following timely reporting of possible exposure. This portion of the new law provides an extension of time for the employee to receive positive diagnosis, which had previously required a diagnosis be made “within two to ten days of the possible significant exposure.”

These changes went into effect on July 20, 2011, and a revised employer-posted notice incorporating these changes must be on display at each workplace. The notice must be prominently displayed in an area of the workplace that is frequented by employees.

Employers are also required to use a revised “Report of Significant Work Exposure to Bodily Fluids or Other Infectious Material” form when reporting work-related exposures to bodily fluids, MRSA, spinal meningitis, or TB.

Downloadable copies of the new posting notice and the new bodily fluid exposure reporting form can be accessed under the “claims” tab on the AMRRP’s website: www.amrrp.org, or on the Industrial Commission of Arizona’s website: www.ica.state.us.



Top 10 OSHA Violations 2011

In an effort to educate employers and workers, the Occupational Safety and Health Administration (OSHA) has released the list of the 10 most frequently cited safety violations in 2011. The list includes data from inspection period October 1, 2010 to September 30, 2011.

1. **Fall protection in construction** (OSHA standard #1926.501): 7,139 violations. The Bureau of Labor Statistics (BLS), the division of the Department of Labor which collects and analyzes workplace injury and fatality data from OSHA to disseminate to the public, reports that 260 workers died in fiscal year 2010 due to violations of this standard.
2. **Scaffolding in construction** (1926.451): 7,069 violations. BLS reports 37 fatalities in 2010 as a result of incidents involving faulty scaffolding.
3. **Hazard communication** (1910.1200): 6,538 violations. OSHA reports that in one fatal incident, a worker lit a lighter to see the level of material inside a barrel, and the substance ignited. Proper labeling should have been in place to indicate the amount and combustibility of the material inside the barrel.
4. **Respiratory protection** (1910.134): 3,944 violations. Five million workers in the United States are covered under this standard and are required to wear respirators while at work.

5. **Lockout/tagout** (1910.147): 3,639 violations. On average, an employee injured as a result of an incident connected to this standard spends 24 days away from work.

6. **Electrical wiring methods** (1910.305): 3,584 violations. This standard is not reserved solely for engineers and electricians who work directly with live electricity; office workers and administrative staff who use any type of electrical equipment are also affected.

7. **Powered industrial trucks** (1910.178): 3,432 violations. BLS reports that in 2010, there were 8,410 injuries connected to the use of forklifts and other powered industrial trucks.

8. **Ladders in construction** (1926.1053): 3,244 violations. Falls are consistently one of the top three causes of workplace fatalities.

9. **Electrical general requirements** (1910.303): 2,683 violations. This standard is in place to prevent injury or death from electric shock, fires, and explosions.

10. **Machine guarding** (1910.212): 2,748 violations. This standard also includes anchoring of equipment.

For more information regarding workplace safety standards and compliance, visit OSHA’s website at www.osha.gov.





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AMRRP is a non-profit corporation created in 1987. Its primary purpose is to provide property, casualty and workers' compensation insurance coverage to Arizona municipalities. AMRRP is sponsored by the League of Arizona Cities and Towns. AMRRP is governed by a nine member Board, selected by representatives of Arizona cities and towns.

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