

Overseeing Workers' Compensation



ROBERT JOHNSON | McDONALD'S CORPORATION

Robert Johnson is the managing counsel of the Workers' Compensation Practice Group at McDonald's Corporation headquarters in Oak Brook, Ill. He can be reached at robert.johnson@us.mcd.com.

situation

In most corporations, workers' compensation claims are managed by the human resources, insurance or risk management departments.

At McDonald's, workers' compensation costs have been reduced significantly by moving oversight of claims to the legal department.

in-house counsel challenge

The legal department should review existing workers' compensation processes and outside legal costs to determine whether more efficient

and cost-effective methodologies can be implemented. If they can, alternative measures must be developed and presented to upper management.

approach adopted

McDonald's annual workers' compensation claims typically number in the thousands. Most are relatively common "garden variety"

claims, including: slips and falls, burns, cuts or lacerations, and/or injuries from lifting.

Until a year ago, claims were handled by a third-party administrator. But a review by the legal department found McDonald's spending four times as much on workers' compensation claims as on general liability lawsuits.

Further examination revealed that while indemnity claims—claims involving lost work time—represented only 20 percent of annual workers' compensation claims, they represented 80 percent to 85 percent of workers' compensation costs. The review also revealed McDonald's had about 140 law firms handling its workers' compensation claims, nationwide. There were no clear methodologies in place in terms of how firms were selected or how they should manage cases; legal fees ranged from \$100/hour to \$300/hour.

Since McDonald's is self-insured, every dollar saved goes back to the corporation, so legal viewed the situation as a tremendous savings opportunity. After agreeing to take over the process, legal assessed previous law firm billings to determine which firms provided the best overall value for the legal services rendered and established a list of preferred law firms. The list now comprises 40 law firms. Most

implementation steps

- Review workers' compensation procedures and costs.
- Develop a list of preferred law firms in exchange for volume discounts.
- Develop new procedures to handle cases more efficiently and cost-effectively.
- Establish fixed fees for reoccurring tasks.
- Re-examine work absence protocols to get employees back to work as soon as possible.

represent McDonald's exclusively in one state—though a few handle multiple states—in exchange for a volume fee discount.

Legal also implemented a new national rate and/or flat fee schedule for each type of claim. For example, the department analyzed the number of hours required for a routine slip and fall claim and established a flat fee for such claims. Further, fees were set for specific tasks, like filing an appearance or attending a hearing. The new national hourly rate and flat fees have reduced legal costs substantially and provided tighter control over each case.

Finally, each case is now closely monitored, and efforts are made to reduce claims costs further by shortening the time an employee is absent from work. For example, processes are now in place to determine whether alternative tasks can be found for a worker recovering from an injury.

measuring success

For companies in labor-intensive industries, workers' compensation cases often generate substantial legal costs. Moving the claims process to the legal department is appropriate and can result in substantial savings.