Best Practices & Ethics for Claims Handling
Ethics:

The discipline concerned with what is morally good and bad, right and wrong.

Involves systematizing, defending, and recommending right and wrong behavior.

Ethics is based on standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues.
Claims Handling & Ethics

The self administrating nature of the Montana Workers’ Compensation system requires claims examiners to act ethically in all aspects of claims handling.

This requires claims examiner to develop and maintain standards “ethics” that guide their claims examining.

Standards are drawn from:

- Statutes
- Rules
- Case Law
- Employer Policy & Standards
- Personal beliefs

- Customers: Injured workers, employers and providers
- Instate examiner requirement
- Claim documentation and availability requirements
- Use of third-party administrators
- Medical fee schedule requirements
- Undisputed medical bill payment
- Claim denial explanation
- Explanation of benefit denial
- Wage-loss benefit calculations explanation
- Examiner change notice
- Payments with in 14 days on accepted claim
- Settlement payments within 30 days
- Settlements require department approval order
- Department to adopt rules to implement
Rule

- Provides context for examiners when applying the Workers’ Compensation Act

Specific Information:
- 24.28.101 Mediation
- 24.29.816 Examiner Decisions
- 24.29.1201 Settlements
- 24.29.1501 Payment of Medical
- 24.29.1801 Stay at Work/Return to Work
- 24.29.3101 5-Year Closure/Reopening
- 24.29.4301 Claim Reporting
Case Law

Duty to Investigate:
• *Marcott v. Louisiana Pacific Corp.*, 275 Mont. 197, 911 P.2d 1129 (1996)

Examiner Decisions:
• *Hernandez v. ACE USA*, 2003 MTWCC 31

Medical Records:
• *Floyd v. Zurich Am. Ins. Co. of Ill.*, 2017 MTWCC 4
• *Pate v. State Fund*, 2019 MTWCC 2

Claimant Communications:
• *Gryttenholm v. Fremont Industrial Indemnity Co.*, 2002 MTWCC 24
• *Berry v. Mid Century*, 2020 MTWCC 10

Ex Parte Communications:
Bad Faith

Bad Faith is breaking a legal commitment to another party.

- Translating policy language in an unreasonable way
- Denying benefits on a claim in an unreasonable way
- Failing to investigate a claim appropriately
- Unreasonably delaying a payment
Employer policies and standards help identify “Ethical” or right and wrong examining practices.

- Customer Service
- Communication
- On-going Relationships
- Confidentiality
Customer Service

Take time to consider each customer interaction completely

- Listen carefully, make sure you understand the question
- Is there a question
- Find out what steps the person has taken to find an answer
- Answer the question immediately if possible
- Simple answer is best
- Refer them to a written resource if possible
- If you need additional time or resource - Explain
  - Advise if you cannot handle the question right now
  - See if someone else is available to help
  - Research questions and get back to them
  - Identify a specific time frame for follow-up and ensure you contact them within that specified time frame
Communication

Prompt, Factual, Professional

- Positive customer engagement
  - Clarify the Work Comp process
  - Sets expectation for treatment

- Mutual exchange of information
  - Builds rapport and relationships
  - Creates transparency
  - Clarifies claim details

- Timely and informed claims decisions
  - Defines roles and expectations
  - Builds credibility
  - Promotes SAW/RTW
Communication

In-person

• Use eye contact
• Watch your body language
  • Crossed arms & legs
  • Posture
  • Facial expressions

Telephone

• Answer incoming calls unless approved to direct calls to an answering service
• Respond to messages within 24 hours of receiving
• Document any decisions provided over the phone
Telephone Communication Tips

• Avoid assumptions, you may be the first contact with the worker’s compensation system
• Mindfulness of the injured workers situation, they may be dealing with pain
• Communicate with empathy but remain firm about decisions made or information needed
• Gain agreement on a course of action
• Establish clear timeline for action or response and ensure consistent follow up
• Avoid acronyms or jargon, explain medical or legal terms if necessary
• Focus on specific issues
• Don’t assume what the customer wants or needs
• Know your audience and make sure you are communicating in a way they will understand
• Acknowledge mistakes, apologize and correct it
• Offer further assistance
• Make sure no question went unanswered
Active listening improves communication

- Listen for content
- Ask clarifying questions
- Stop talking
- Free your mind from other thoughts
- Don’t prepare your response while the other person is talking
- Resist the urge to interrupt
- Repeat the person’s message to check for understanding
- Communicate with empathy
On-going Relationships

On-going communication with involved parties is essential to achieve best possible claim outcomes.

- Frequency
- Timeliness
- Follow-up

Ex-Parte Communications

- Does the injured worker know about the communication and have an opportunity to participate?
- Treatment Vs. Claims Management
Confidentiality

• Always maintain confidentiality of claim files
• Keep workplace discussions business-related
• Avoid discussing claims information in public areas
• Only access claims files assigned to you, unless there is a business need
• Only work or review claims assigned to other staff at the direction of management
• Do not discuss work apart from work
Personal Belief

Diversity Refers to all the ways in which people are different.

• Race/National Orientation
• Color, skin or hair
• Religion/Creed
• Gender
• Sexual Orientation
• Age
• Physical or Mental Disability
• Veteran Status
• Vaccination Status

As Well as:
• Class
• Education
• Religion
• Social Styles
• Thinking Styles
• Political Ideas
Customer Service – Rules of the Road

- Be nice and display empathy – our customers are people, not transactions
- Show respect
- Be professional – you represent DLI and the State of Montana
- Be honest
- Be knowledgeable – understand the programs we regulate
- Exercise patience
- Be accountable - always follow through and follow-up
- Listen
- Help customers help themselves – resolve issues with least amount of friction
- Say thank you
Questions/ Discussion