**BNL Workers’ Compensation Claims Management Program**

**Introduction**

The overriding documentation for the Claims Management Program, under the US Department of Energy (DOE) requirements in the contractual agreement between the latter and Brookhaven Science Associates, LLC (BSA) for the Management and Operation of Brookhaven National Laboratory (Contract # DE-AC02-98CH10886, Section H26: “Workers’ Compensation Insurance”) parsed to the Safety Engineering Group of the Safety and Health Services Division and the current version of DOE Order 350.1: “Contractor Human Resource Management Programs”, found under the Benefits section of the Order, belonging to the Human Resources and Occupational Medicine Division.

At BNL, the Workers’ Compensation, Automobile Liability, Commercial General Liability, specific Pollution Liability, and specific Owner’s and Contractor’s Liability policies, and their associated parts, are administered by three part-time members of the Safety Engineering Group (total 1.5 FTEs), within the Safety and Health Services Division.

The Workers’ Compensation Program Administrator has the responsibility for claim review and administration, and is dedicated as 0.5 FTE for all of the policies mentioned above. A Staff Specialist, who does most of the paperwork, claims filing and forms, and has face-to-face contact with claimants, and the Return-To-Work Coordinator, who monitors that part of the program, are both only 0.5 FTE dedicated to claims management at BNL. The actual management of the claims is contracted out to an insurance carrier under an incurred loss retrospective insurance policy.

**Assessment**

The Claims Management Program staff periodically conducts assessments and reviews of the program and its related procedures, such as the Return to Work or Transitional Duty Program, and makes recommendations to senior management.

Benchmarks are developed and progress is measured by experience factors against them. Loss Cost Trends are established by triangles provided by the carrier.

On an annual basis, the program staff review existing procedures with carrier representatives to discuss and analyze reserve assignments, case handling and activity checks, etc. The Claims Handling Instruction is occasionally modified as a result. This instruction is available to the carrier personnel on line.

Injured workers may receive instructions on the workers’ compensation process either directly through the administrative staff, or from the nurses at the Occupational Medicine Clinic (OMC), or from co-workers.

A critical part of the program is ongoing review of all open and closed claims. Significantly, under the WC Laws of the State of New York, the longer a compensable claim remains open, the more it will cost. To try to expedite injured worker needs and get the claim to maximum medical improvement, the BNL WC staff works closely with the Legal Office, Labor Relations, the Directors’ Office, Human Resource and Occupational Medicine Division and Senior Managers. A Case Management Meeting is held weekly to go over all new and some older open claims, with the carrier on conference call. More will be discussed later about this process.

The objective of this program is to provide an organized, pre-planned process that begins from the time an employee is injured until they return to work on full duty, while maintaining a thorough, cost effective program of providing for those workers who sustain injuries or illnesses that occur in and out of the course of their employment by managing each and every claim to the extent possible. That includes providing for indemnity related to their loss of compensation and the costs of medical treatment. Cost of injury per employee is a significant benchmark and the need is to show continuous improvement.

One aspect of the program that needs development is education and communication beyond those actively involved in the program. This will be discussed later.

**Workers’ Compensation Management Best Practices**

1. Prompt and timely reporting of all injuries and illnesses. Although the WC Laws allow for a significant delay, BNL requires immediate notification to the line organization and the OMC. We realize that no matter whether the employee has a minor or a major injury, (s)he is going to understand very quickly that the employer is unconcerned about their well-being when the injury or illness is ignored. The carrier case manager assigned will also be able to start the claims handling process, moving the claim forward. The sooner the employee is treated, the sooner the healing begins, and the sooner the employee will be able to return to work.
2. Formal post-injury procedures exist in both the Injury Illness Notification and Analysis Subject Area and the Injury Management Subject Area. Analysis/Investigation of all injuries is required.to have the most accurate record of the claim, interviews must be conducted promptly. Write down what is said and who said it. If there is footware, tools, machines or other equipment involved, inspect it and document any failures. Do not dispose of anything involved until the carrier has an opportunity to inspect same, or have it inspected.
3. Directing Medical Care. This would be a great thing, if it were permitted by NYS Law. Absent that, there is some direction that can be exerted by the carrier during the first 30 days and by the OMC, in that they provide lists of providers if requested and may direct the injured employee to a specific provider when they expedite appointments. However, after thirty days, if the claimants are dissatisfied, they may shop around. This is a difficult area because the medical provider has no incentive to talk to the employer, however, may speak with the employer’s medical clinic. The latter is not guaranteed. We have had some successes with a few providers when the subject is transitional duty.
4. Effective Employee Communication. This may be one of the weaknesses in the current program. Information is initially provided directly to the injured/ill employee by the OMC nurses. An information sheet on what to expect has been provided to the IBEW, to some investigators and supervisors and is available in the WC offices in Building 120. However, this has not had a wide distribution. Were this available in the SBMS, that might provide for more effective communication. However, that decision has not yet been made yet by management. Remember the employee is going to be feeling vulnerable after an injury and will be concerned about 1) obtaining the needed future medical care, 2) how they are going to replace lost income (especially if they are running out of accrued sick leave), 3) losing their job if they are unable to work, and 4) the prospect of possibly being disabled and unable to ever return to the job.
5. Communication with Adjusters is a plus. The WC staff and the OMC staff have the benefit of direct communication with the carrier claims handlers. A senior carrier WC team member takes part in a conference call each week with the BNL Case Management Team. Follow up is-also completed with the BNL Return-to-Work Coordinator in separate discussions with the adjusters and carrier nurse case managers as needed and by a confirming email where necessary.
6. We have an established Return to Work Program, but not an overall policy sponsored by senior management. It has been very successful, despite not having that high level policy. The policy would state how employees are the Lab’s most valuable asset. If this is well-known prior to any accident, the employee is more likely to inform the medical provider of the program and they may be able to perform transitional work until they are able to work full duty.
7. Periodic Claims Reviews are conducted twice a year (Spring and Fall) minimally. After providing the carrier with 45 days advance notice, the administrator provides a list of claims for which a strategic review will be held. Typically the adjusters complete an immediate update for each of the claims. If the claims are held at Brookhaven, a file review is not conducted. The file review, a sampling of paper files is only conducted when the Claim Review is held at the carrier’s offices. We are aware of the costs involved as a result of poor handling. Consideration has been given to hiring a claims auditor to review the files. Claims have typically developed as expected. However, it should be noted that there is a tendency to have claim add-ons which have nothing to do with the original injury. These are usually mental and consequential. They are approved by the WCB on a trial basis and eventually blow the medical costs out of the water. Examples are anxiety, depression, sleep apnea and sexual dysfunction.
8. Consistent Hiring and Screening Practices do not fall under the purview of this program, but under Human Resources. Keeping in mind that you hire the whole person, one could visualize how much this practice could be beneficial, or…
9. Dedicated Workers’ Compensation Managers. The program at BNL is managed fully by only one person (a fourth level Safety Engineer), part time (0.5 FTE).
10. Utilization of Medical Advisors. The OMC has a staff of doctors, nurses, nurse practitioner, therapists who advise and consult from our end. The carrier has their nurse case managers and regional medical advisors. Meanwhile, the claimants have their providers, attorneys and the WCB.

**Workers’ Compensation Program Services Provided to BSA by the Carrier (We do not use a Third Party Administrator (TPA), nor a Broker:**

1. Claims are filed either electronically through the carrier web portal, or telephonically by direct claims call-in to an operator at: 1-800-362-0000.
2. Case handlers must make 3 point contact (with the employee, doctor and BNL) within 72 hours of assignment to the claim.
3. BNL maintains two RISKTRAC work stations in Safety Engineering for direct computer access to claims and other data/information. This is the carrier’s Risk Management Information System.
4. Currently Claims Reviews are held twice a year in the spring and late fall.
5. Strategic Claims reviews address the plan of action to get the employee back to work, reach maximum medical improvement, has everything been done and has it been documented in the file. The objective is to resolve and close the claim as soon as possible. The longer it remains open, the more it will cost. These reviews are attended by a wide assortment of personnel such as: The Team Manager, Case Managers for related cases (either present or available telephonically), the National Account Manager, the Loss Prevention Program Manager, and if the review is held at the carrier location, the Regional Medical Director attends.
6. The Spring review comes just prior to the annual Valuation date (June 1st). This is a time when claims are frozen until such time as the new Interim Adjustment to the Retrospective Premium can be calculated. This bill usually arrives at BNL from the Mid-August to the Mid September time frame. It is mailed to the Administrator, who will validate it and notify Fiscal of the payment due. In the case of refunds, we do not accept refunds but allow the carrier to credit the claims.
7. Claims adjusters file periodic updates on their open claims with the BSA WC Administrator. Any time a case reserve is increased by more than $10,000, the adjuster must send a notice to the Administrator for approval.
8. Although there is basically a dedicated group/team of “Claims Management personnel” that handle BSA claims…the Claims Service Team. Some more mature claims are handled outside of that team. For example: For cases that are medical only, a small group handles those type of claims. Whereas there are also those groups that handle major ongoing medical and complex cases. Meanwhile, the team will handle current troublesome claims, and experts will get involved in settlements and pension claims. Where necessary, the “Claims Service Team” will request opinions and guidance from their legal staff counsels.
9. On request from BSA, the carrier will provide Certificates of Insurance, and policy information.
10. The carrier also provides licensed hearing representative, or staff attorneys to attend hearings. They file a hearing Report for each hearing they attend. BSA can also receive a copy through the carrier adjuster/case manager.
11. In cases where BSA management has specific questions about a specific claims (in addition to getting answers by other means), the carrier will set up a teleconference with the attorney representing BNL to discuss same.
12. The WC Administrator has input on all claims and may disagree with the carrier and its IME and authorize or promote treatment despite their disagreement.
13. The Senior/Lead Claims Adjuster calls in to the OMC weekly to take part in the WC Case Management Meeting. This serves as an open forum on the most active cases being handled at the OMC and allows the medical staff to request various reports to help manage claims on our end. The carrier may also request information from the clinic, if the release is authorized.
14. The carrier representatives also discuss settlement authority with the BSA Administrator in order to close open claims. The status of the claim is reviewed by a submitted update in writing, determination of the influence of medicare setaside amounts, medicare cost overruns, Section 32 and 25A issues, and other costs are relayed to BNL along with the expressed settlement offer and potential reserve increase or decrease as a result.
15. For each bill submitted to the carrier, a utilization review is conducted and payments made as necessary and in accordance with the Workers’ Compensation Law and those cases covered under the specifics of the Medical Treatment Guidelines since 12/1/2011.
16. The carrier also provides referral services through Third Party Vendors for Independent Medical Examinations, prescription drug services, diagnostic tests such as CT scans and MRIs. They also have a Provider Network. If WC claimants use those providers, payments are discounted for us.
17. The policies also cover Foreign Travel Endorsements, and by law, the Terrorism Risk Insurance Adjustment (TRIAA) which is required each year.
18. Where there is suspicion of fraud, the carrier provides Activity Checks, ISO insurance checks and surveillance activities. The latter carries a stiff price, but is often used.
19. Loss Prevention Services are provided under the contract. We need to request some services, but many are included as part of the annual plan. We currently use 675 hours of service annually for Industrial Hygiene and Industrial Safety use (help on assessments, training, project oversight, subject matter literature on-line, consultation, etc.). As part of the agreement, we use the carrier safety lab and research center in Hopkinton, MA to process $200K of samples per year.
20. The carrier also provides telephonic and field deployed Nurse Case Managers to help expedite treatment in some cases, with great results. The nurse case manager will also review doctor’s requests for variance under the Medical Treatment Guidelines. To back them up, the carrier also has Regional Medical Directors to advise on carrier decisions.
21. The carrier also has Field Investigators who may conduct employee contact, activity checks and otherwise investigate claims on behalf of the carrier. Of course this is usually long after BNL has conducted its own investigation.
22. In those cases where employees and former employees qualify, the carrier will monitor their progress in Vocational Rehabilitation, usually done through VESID mandated by the WCB.
23. The carrier will also provide for direct contact with defense attorney’s handling claims, or just for advice/counsel on the best way to proceed legally, as often as deemed necessary.
24. Other services are not listed here, but are available by virtue of pay as you go such as transportation and translation services.

**Injury Management at BNL:**

For those who choose not to be prepared and wing it, they will face many risks.At BNL, of primary interest is always finding out answers to the usual interrogatives (Who?, What?, When?, Where? and How?) as soon as possible. Failure to ascertain these will result in a poor analysis and increase the risk of making an errant decision regarding whether the injury/illness actually occurred in and out of the course of their employment, as the claim will indicate. Therefore we maintain a readiness to investigate and follow-up in a timely manner.

Weighing the risks, there are cases reported that we typically will not accept. For example: where there is no causal relationship for a non-traumatic injury to a body part that would require trauma for that diagnosis; a worker reports tick and chigger bites that allegedly happened in the course of their work at BNL. Meanwhile, those critters are endemic in the region and the resulting problems could have happened anywhere; or a late reported and un-witnessed injury that you would not expect for that occupation. Naturally, these should receive the same amount of rigor as cases deemed acceptable, just to document and prove the validity of the decision.

Acceptance or denial of a claim depends on the evaluation of the case, beginning with the OMC evaluation, ESH evaluation and the carrier’s determination of whether to file a C-669 form to accept the claim, or to file a C-7 form to controvert it. The final determination of the path forward is made by the BNL WCA.

All injuries must be reported to the line supervisor and the OMC immediately. IBEW members have until the end of the shift. Most cases are reported timely. However, many of the most costly cases are reported late (>24 hours after the alleged injury), some weeks and months late. Some have all of the diagnostic work done under their regular medical insurance and some even have surgery…then they report it. All such cases are controverted, but rarely won by BSA at the Workers’ Compensation Board. The emphasis of DOE and BSA on tracking TRC/DART cases does not account for repeater cases. For OSHA a serious injury that occurs to an individual with a history of such injuries, may not be considered a new case. For the WCB each new incident becomes a new WC claim.

It is BNL policy that absences for alleged work-related injuries are only approved by the OMC. All employees reporting injuries and illnesses in or out of the course of their employment are followed by the OMC. The monitoring by the OMC only ends when they have no medical needs, no follow-up needed, no lost or restricted work time, or eventually go out on disability (LTD/SSDI).

The WC Administrator/OSHA Record-keeper serves the role as Injury Coordinator in determining the success or failure of the readiness to investigate and the post-injury procedure. This individual is the Subject Matter Expert for both the Injury/Illness Notification and Analysis and the Injury Management Subject Areas (see Flowchart attached <https://sbms.bnl.gov/sbmsearch/subjarea/130/130_Exh11.cfm?ExhibitID=7502> )

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**Determination of Need for BNL Risk Management Information System**

In the years prior to the merging of CompWatch (a WC database) and the Occupational Safety Management Information System (OSMIS) in FY2003 into Compliance Suite, the WCA maintained the WC database, which issued specified WC reports to management. During 2003, it was determined that one database would be able to manage both safety and WC information. BNL also began using the carrier’s Risktrac (RMIS) database. This database, along with the maintenance of up-to-date spreadsheets and reports, enables the WCA to provide needed information to HR, Legal, the Budget Office and DOE. At the present time, we see no need to prescribe to another RMIS, although an evaluation might be appropriate in lieu of the need to provide solutions by other means.

**WC Process following a Routine Claim Made**

1. Employee notifies supervision and the OMC. The latter examines the individual, etc.
2. The OMC notifies the ORPS categorizer, line management and SHSD telephonically. Meanwhile, they will give a WC Information Packet to the claimant and contact the WC Office in SHSD to begin the claim filing process. The OMC electronically files notes from the nurse and examining physician into their database and sends a secure facsimile to the WC Office.
3. The Line responds, along with the union safety representative if applicable to begin the investigation…
4. The WC Administrative Assistant contacts Personnel Records to obtain the specific information needed to file the C-2 (SSN, home address, telephone number, date of birth, date of hire, job title and salary/wages); and electronically files the First Report of Injury (C-2).
5. The carrier receives the C-2, sets up case file, assigns case and begins process, which includes contacting BNL, the claimant and medical provider within 72 hours of report filing.
6. The Workers’ Compensation Board follows its own evaluation procedure and may or may not index the claim, pending medical evidence and claimant response or lack of response (see attachment **WC Process Information Particularly for Injured BNL Workers.docx**).
7. Meanwhile, the injured employee is free to choose the treating provider. Members of bargaining units may look to their union representatives for advice on choosing doctors and attorneys to represent them. However, most employees wait until the Administrative Law Judge advises them that they should seek an attorney…especially if a claim is controverted.
8. The carrier forwards a WCB mandated packet of forms in Spanish and English to the claimant for completion, which the claimant returns as requested.
9. The BNL WC Office requests notification from the carrier, when Hearings are scheduled and testimony is requested. The BNL WCA will usually bring the witness/requested supervisor/manager, etc. to the WCB location to testify.
10. Eventually, following hearings, depositions and testimony, the WCB issues decisions on the claim for prima facie medical evidence, body parts, awards, and treatments covered in Notices of Decision. The latter are mailed to BNL for the record.

**Reserving**

One of the most significant aspects of the program is the reserving process. The carrier establishes the reserves, subject to approval of the WCA. Those reserves are subject to change over the lifetime of each claim and reflect the action levels of all players in the system.

1. The carrier establishes initial reserves on each case based on the criteria they set for indemnity, medical costs (treatment, pharmacy, diagnostics, peer reviews, etc.) and expenses (legal, utilization reviews, etc.)
2. Those reserves are reported to the WCA and are modified as necessary. Along the way, some losses will be Incurred But Not Reported (IBNR) according to state guidelines.
3. Some of the variables that will affect the reserves are:
4. Establishment of Prima Facie Medical Evidence by the claimant for additional body parts or physiological issues;
5. Type of Injury and treatment indicated;
6. Carrier Action Plan;
7. Claimant Attorney representation;
8. Success or failure of treatment modalities and the number of attempts (i.e. multiple surgeries);
9. Diagnostic testing (necessary and unnecessary);
10. Need for involvement of outside agencies (i.e. to set up pharmacy, IMEs, diagnostic testing, Medicare Setaside, etc.);
11. Progress of claim to conclusion (Section 32 settlement, Scheduled Loss of Use), Permanency determination, etc.); and
12. Oversight and acceptance by the Workers’ Compensation Administrator.
13. Strategic Claims Reviews are held twice a year. Recently, we have had the inclusion of discussions on particular claims with the carrier’s Regional Medical Director as an exceptional medical reviewer, who follows up on cases with treating medical providers to enable BNL to manage the cases better from a medical standpoint. This is further augmented by the inclusion of review by the RMD in special cases that may develop along the way and during the weekly Case Management Meetings.

**Timecards**

BNL does not follow the statutory requirements for loss of wages based on time away from work. Typically, the state requires a seven day waiting period prior to compensation, during which employees would receive no payment for days away from work.

Instead, we permit persons absent as a result of occupational injuries and illnesses to use their sick leave bank to continue pay at full salary. BNL even permits this for partial days and doctor visits, which are not reimbursable under the WC Law.. A new code needs to be developed to indicate when this code is not to be reimbursed, such as attending workers’ compensation hearings, scheduled vacation, and certain medical exams. Additional codes should be developed to indicate transitional duty jobs.

**Sick Leave and Tax Reimbursement**

WC awards are not subject to NY state taxes, nor to FICA or Medicare. The significance of the award amount will determine the payroll tax refund seen by the claimant after the PeopleSoft criteria are met.

Sick Leave is not an entitlement, although many employees view it as such. It is a benefit of employment at BNL and is available to all qualified employees. This enables continuance of wages during the worker’s absence due to illness or injury. As such, it can be a huge disincentive to return to work.

Employees typically can accumulate 108 days in their sick leave bank (an amount of time necessary to qualify for Long Term Disability benefits, if unable to return to work). Over and above that, non-exempt workers can redeem one day’s pay for each for days accrued above 108…an incentive for good attendance. This does not apply to exempt employees.

For those employees not returning to work, who have not accrued 108 days, they may convert vacation time to sick leave to cover their salary continuation benefits as needed. Beyond that, Lab organizations grant (without conditions or exceptions) an additional 12 days of sick leave, if the lost time exceeds 18 consecutive days.

Most of the claims involving this are bargaining unit personnel. Some of whom may be abusing the system. However, any modification to these benefits will have to be the subject of intense negotiation and will surely be resisted by the rank and file of all BNL employees. The idea of having two distinct policies related to sick leave is also objectionable.

The WC Office must also remain on alert with respect to personnel, who have long ceased to be active employees, but who may seek to have their sick and or vacation time refunded in cash by BNL because they were forced to use it while they were out of work. The WCB refers to this as a Jefferson case. The BNL WCA testifies and presents evidence at the WCB as to our policy to protect BNL from further loss.

**WC Claims Used as Backup for Federal claims, or Filed Consequential to a Federal Program**

Since legislation was passed as a result of former DOE contractor workers being forced to sue the government as a result of the failure of the employer and or state to provide for workers suffering from work incurred illnesses, some workers have filed WC claims in NY to back up claims filed under the federal programs. This has only occurred since the passage of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), effective in August 2001. Under this program, (which extends to survivors, contractors, guests and visitors) back up claims under WC have been made for asbestos, radiation, beryllium and chemical exposures. All have been controverted.

Another Federal Worker Program grants free medical screening for former workers. We have received many claims mainly for hearing losses as a result. Some claims are from personnel who left BNL decades ago. We expect these claims to continue being filed and will continue to have them controverted.

**New York State Statutory Rates**

Since June 30, 2007, the maximum weekly indemnity rate has nearly doubled (from $400 to $772.96 [the latter of which is the current State Average Weekly Wage]). In 2007, the WC benefits were modified by a reform act sponsored by then Governor Spitzer. Since July 1, 2010, the Commissioner of Labor determines what the State Average Weekly Wage (SAWW) is. All benefits reflect that SAWW determination. The projection for July 1, 2012 is $792.07, which will remain in effect until June 30, 2013.

For example: A disability resulting from a WC case in 2006, where a 20% Scheduled Loss of Use Award for the shoulder was based on the $400/week rate, would have resulted in an indemnity award of $24,960.

Similarly, the same award for a WC case in 2012 prior to July 1, 2012, would have resulted in an award of $48,233.

**Medical Costs**

Medical costs continue their upward trend, largely reinforced by some federal support programs. However, the most significant increase is in the prescription drug category. NSAID use is down, but narcotic pain medication and heavily advertised proprietary medications are expensive and drive up the cost. Control over the distribution of such medication is almost non-existent.

Patients insisting on the need for pain relief and their cooperating providers have created a new monster. Many persons become addicted to medications and couldn’t return to work if they wanted to. Fortunately, at BNL, personnel returning from long absences are given a Fitness for Duty Exam at the OMC. This is only a belated checkpoint…late in the process.

**Return to Work Transitional Duty Program and Process**

When an employee is injured on the job and is out of work, our goal is to return that employee to work as soon as one is medically and physically able. Transitional duty enables workers to stay in the work environment while they recuperate.

Among the problems that result when an employee is out of work for a long time are:

1. physical deconditioning and potential loss of marketable work skills;
2. absence makes them psychologically disassociate as employees;
3. develop clinical depression, which they relate to the injury as consequential;
4. change in routine no longer including work;
5. attorneys become involved and doctors fall in line;
6. may develop a fear of exacerbating the injury/increasing the pain;
7. indemnity payments become routine and nice to have (owed to them), and
8. overall claim cost and permanency increase.

The benefits of a transitional duty program for the worker are that they maintain their wage earning powers, stay engaged in the workplace, recovery may be quicker, promote emotional well-being and return to productive work.

Emphasis should be on the temporary and progressive nature of transitional duty and that such a job is typically similar to the employee’s regular job; and occurs during normal business hours, with the employee gradually increasing in time and capacity until eventual return to full duty.

Employees on transitional duty are not eligible for overtime, nor are they eligible to participate in Lab sponsored recreational activities.

The transitional duty period is limited to a maximum of 120 calendar days. Extensions beyond this may only be granted if reflective of continued employee progress. When employees reach Maximum Medical Improvement, they return to normal duties.

If transitional duty is made available, the employee’s doctor approves, and the employee refuses to participate, the carrier/employer will petition the WCB to reduce or eliminate indemnity rates.

One problem at BNL is that there is no corporate policy for this program, nor is there a straw man with which to compare it. The current program, with minor modifications has been in effect since FY07.

Within injury management, transitional duty (TD) is a key cost reduction component. Some of the significant aspects of the program are:

* The BNL WC Office works in close cooperation with the OMC, line management and the three bargaining units. Great care is taken not to violate union contracts by including such provisions in the program as the transitional duty will not workers into a position undergoing a reduction in force.
* Employees participating in this program are paid full salary, even for partial days.
* Ensure that employees on TD continue with the prescribed therapies and medical treatments to make sure they continue on the road to full recovery.
* BNL needs to develop a list of transitional duty jobs, which can be modified as needed to help workers recover, so that there is no delay in finding such work.
* BNL’s Return-to-Work Coordinator is both a safety and a health practitioner, who monitors personnel involved in the TD program as the eyes and ears of the OMC. He also reports progress back to the Line Organization.
* Prior to returning workers on TD, a Return-to-Work Planning Meeting is held at the OMC, with representatives from HR, the Line Organization, ESH Representative, OMC physician, OMC Nurse Case Manager, Return to Work Coordinator , union representative (if applicable) and the WC Administrator.
* Although occasionally problematic, wean personnel off such terms as “light duty”. At BNL, we have found that to have a negative message indicating the person in that capacity was not part of the team.

The official program is in the Injury Management Subject Area as follows:

<https://sbms.bnl.gov/sbmsearch/subjarea/167/167_exh2.cfm?ExhibitID=7107>

**Roles and Responsibilities (Under the Claims Management Program)**

**Injured/Ill Employees** are responsible for reporting all injuries and illnesses related to their employment immediately to their supervisor and the OMC, especially those that happen during the course of their day at BNL, while traveling on BNL business, or assignment off-site.. This includes participation in BERA-sponsored or other BNL sponsored recreational programs. Since we may not direct medical care, it is up to the individual to pursue medical care. How they pursue this, is up to them. They should get medical help ASAP. However, when reporting to the OMC, the latter may help expedite care to the extent possible. Bargaining Unit personnel may get additional assistance/guidance from respective unions.

**Safety & Health Services Division** houses the workers’ compensation offices under its Safety Engineering Division. The manager participates in Weekly Case Management Meetings and provides guidance and support as necessary.

**WC Administrator** runs this program and may provide other support as needed (i.e. as in the absence of the WC Administrative Assistant…filing forms and notice).

**WC Administrative Assistant** coordinates and supports the program through constant interaction with carrier personnel, OMC, claimants, inquiries from medical and legal providers, as well as the claimant. All WC-related paperwork passes through this office. The Assistant files all required forms from the first C-2 through medical and case documentation received. Claimants provide copies of reports, mileage, co-pays, etc. directly and occasionally to the assistant for processing. The Assistant may also counsel employees at their request.

**Return-to Work Coordinator** is a safety and a health professional who works closely between the Line organization, WC Administrator, OMC medical staff and carrier case personnel to ensure that persons approved for Transitional Duty, under an approved Plan, are progressing toward Maximum Medical Improvement and/or full duty.

**Human Resources and Occupational Medicine Division** is an integral partner in this program. At most Department of Energy (DOE) facilities, Human Resources is responsible for this program under Benefits. However, this is not the case at BNL. The OMC staff provides the medical support necessary for the success of the program. HR further supports the program through the involvement of Labor Relations staff, Complex HR Managers, as well as procedural and policy creation and implementation.

**Nurse Case Manager** is a member of the medical staff at the OMC, who keeps track of current cases, updates and keeps track of cases to be discussed at the Weekly Case Management //meeting, provides notification of all newly reported cases

**Legal Office** provides input and guidance on WC cases as necessary, review documents, meet and discuss cases with carrier attorneys, and participate in weekly case management meetings and Claims Reviews.

**Line Organizations** are responsible for the safety of their workers, securing the scene of the accident/incident, investigating/analyzing and documenting incident and injuries, ensuring that the worker reports to the OMC as required/assigned and for providing temporary transitional work.

**WC Carrier** (It has been Liberty Mutual since 1947.) They provide expertize for the WC process.

**Regional Medical Director** is the carrier’s expert on medical issues. He provides guidance to the carrier case managers, and indirectly to BNL on what actions are advisable on old as well as new claims.

**Weekly Case Management Meetings** are held in the large OMC conference room. A carrier case manager calls in to the meeting, requests are expedited, and case progress is discussed. Attendance is typically inclusive of a legal office representative, the nurse case manager, a representative of the director’s office, an ESH representative (usually the SHSD manager), the return to work coordinator, available medical staff, the OMC manager and the WC administrator.

**Explanation of Some Related Terms**

**Independent Medical Examinations (IME)** Pursuant to claims, the carrier will contact a vendor, who will arrange for an examination, history, record review and opinion with a medical provider corresponding to the credentials of the claimant’s provider (i.e. If the claimant’s orthopedic surgeon indicated the claimant needed surgery, the vendor who arrange for an orthopedic surgeon to examine the claimant and opine). The IME process Is strictly administered by the WCB.

**Functional Capacity Examinations (FCE)** are performed under direction of the OMC medical staff, or required to be performed, by a licensed and credentialed physical therapist for personnel returned to work after long absences and/or traumatic injuries. The FCE measures their ability to do the work at that time.

**Fitness for Duty** is determined by the OMC based on a set of established medical criteria to determine if the individual is ready to return to work and in what capacity.

**Cost Containment (medical, prescription [pharmacy benefits management], etc.)** We are currently reviewing the carrier-sponsored pharmacy First Fill Program for potential implementation and cost savings. Progressive Medical issues pharmacy cards to claimants which indicate that the cost of the script will not be the responsibility of the claimant.

**Preferred Provider Organization (PPO)** We receive a medical cost benefit when employees treat with those medical providers who are part of the carrier’s preferred provider network.

**Work Hardening** is the key portion of any return to work program. The latter program’s intent is to return the worker to his/her pre-injury abilities through gradual toughening to do the job.

**Rehabilitation (physical and occupational) as well as Physical Therapy** are covered under the program. At BNL, we are lucky to have physical therapy services on site. This is a huge benefit to those employees who take advantage of it (no co-pays, no time off from work, no time charge, no unnecessary travel, interaction with fellow employees). Rehabilitation services are not under our control but are a state-mandated recovery methodology that aids injured workers in re-training to promote their return to the workforce. We have actually had several successful incidents for BSA employees who returned to better jobs eventually as a result.

**Litigation** in terms of liability is the employer’s liability for the injury/illness and the extent to which they can be blamed. In simple terms, if the claim is questionable, and claimant is represented, BSA will be represented by the carrier’s legal staff, or legal contractor.

**Fraud** is difficult to assess. Although there are serious penalties under the state laws, for felony conviction, we have rarely been successful in prosecution of such incidents. When a suspicious claim is filed, the carrier is instructed to proceed with a records check, an activity check and eventually surveillance may be authorized. From these, reports are sent to the WCA, who will follow-up with Human Resources/Labor Relations for processing.

**Claims Resolution**

**Know the applicable statutes and regulatory practices regarding settlement**

**Know the Acceptable Settlement Range**

**Adjuster’s Case Action Plan**

**Provide answers to employee questions ASAP**

**Keep Americans with Disabilities Act issues in mind**

**Be aware of New York State jurisdictional and legal issues**

**Be cognizant of any loss of earnings issues and transitional duty pay issues**

**Future Medical needs is there a need for a pre-determined limit**

**What is the MSA for this case?**

**Can we bundle cases?**

**Is vocational rehabilitation an issue?**

**IME, Peer Review, Regional Medical Director – Permanency Rating**

**Defense Counsel – Adjudication**

**Medicare Setasides- Do we have CMS approval…At what rate?**

**Offsets between WC/PPD, LTD, SSA, and SSD**

**Offsets for prior injuries/ISO Central Index Bureau/Second Injury Fund if prior to 2007**

**Future employability**

**Voluntary Removal from the workforce**