

White Paper

## **Disability Management**

By Rodney K. Platt, WorldatWork  
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One of the biggest threats to corporate profits is employee absence. Employers pay for absence through disability wage replacement, temporary labor costs, decreased productivity, questionable product quality and potential lost revenue. Addressing these issues, risk managers have long used case management and return-to-work interventions to mitigate occupational injury costs, which reached about \$56 billion in 2000.

But in the past decade, the incidence of nonoccupational disability claims in the United States increased by 60 percent, and that trend is not expected to change. While employer return-to-work efforts have had a significant impact on workers' compensation loss costs, they often have ignored nonoccupational disabilities, which also cause employee absence and present the same cost risks as an occupational claim. In total, employers' costs resulting from occupational and nonoccupational disability absences are estimated to be \$458,150 per 100 workers each year, according to the Work Loss Data Institute.

To deal with these combined cost drivers, many employers are considering common return-to-work strategies, which manage occupational and non-occupational cases equally. When employers implement common practices across benefits programs, they have better outcomes than when they use these practices separately, allowing them to tap deeper into lost-time costs, according to a recent Watson Wyatt/Washington Business Group on Health (WBGH) Staying at Work survey.

Absence management starts with understanding and controlling the incidence of lost-time events. Utilization analysis lets an employer look at the reasons behind employee absences to get a clear picture of what is driving lost time. Do workers' compensation cases represent a majority of absences, or do non-occupational claims, such as maternity leave, account for the lion's share? Do employees perceive time off as an entitlement or do they understand that sick days are a benefit?

For some employers, unnecessary use of the Family and Medical Leave Act (FMLA) contributes heavily to lost-time costs. Even today, 10 years after the law went into effect, HR departments continue to be challenged with implementing FMLA fairly and consistently. Compliance effectiveness ranges from companies that challenge every request because they don't fully understand the complex regulations to those that approve all leaves so they can't be accused of not

adhering to the law. In a recent survey, more than half of the respondents said they provided FMLA leave to cases they felt were not legitimate.

This white paper covers several types of programs that deal with disability management.

### **Integrated Benefits**

One way benefits managers are addressing the challenge of enhancing productivity is by combining several of their health and welfare benefits plans into one integrated plan that focuses on returning ill or injured employees to health, with the objective of a safe and timely return to work.

Rather than categorize injuries and illnesses according to where they happen and then set up distinct systems and processes to manage them that way, injuries and illnesses are viewed the same no matter where they take place. By removing the artificial barrier of where an injury or illness occurs, one streamlined process is established to manage all of a company's benefits plans and HR policies, i.e., health care, short-term disability, long-term disability, workers' compensation and sick pay. Getting employees back to work becomes the focus.

In an integrated benefits environment, there is one phone number to report a claim, one team to manage medical treatment and the claims process, one system to capture all pertinent information and one effective return-to-work plan. Consequently, multiple processes and redundant activities are eliminated and all medical and lost-time claims are managed through the same integrated process. This system provides several key advantages.

One advantage of integrating a company's benefits plans is that it could save money in lost wages and lost time. Another related advantage is increased productivity. These advantages get employees back to work sooner.

Think about the processes a company currently has in place for managing health care, disability and workers' compensation claims.

- How quickly are illnesses and injuries reported?
- How long does it take to complete all the necessary paperwork, e.g., work-injury forms, disability forms?
- When the cause of an illness or injury is ambiguous, how long does it take to determine whether the workers' compensation or disability program applies?
- How many doctors referred through workers' compensation program do ill or injured employees visit before a consistent care program is in place?

In addition, there are many other hidden costs such as overtime, customer satisfaction, recruiting costs, potential tax issues, lost business, morale, unnecessary medical costs, etc. The bottom line is that by the time these issues

are resolved, missed workdays have mounted. The company is paying for medical bills and wages to absent employees and experiencing a drain on productivity.

With an integrated benefits program, there is an organized system that focuses on achieving successful and timely return-to-work outcomes, resulting in shortened absences, decreased lost-time costs and increased productivity levels.

Another advantage of integrated benefits plans is that administration is eased all the way around – for employee, employer and physician. Employees usually dial a toll-free telephone number to initiate a claim, instead of completing different forms for different types of medical and lost-time claims. Likewise, administration for benefits managers is simplified – they can access information easily and quickly through one, up-to-date, centralized computer system. Physicians are not bothered with duplicate phone calls and multiple forms from different parties, so their administration is eased as well.

Finally, because integrated benefits plans generate a simplified process, employees usually are more satisfied with their benefits program. This promotes employee loyalty and productivity, and also serves as a tool to help attract high-quality employees.

Some key benefits of an integrated benefits plan include:

***Early claim notification and intervention.*** A formalized process facilitates fast and easy reporting of injuries and illnesses so that appropriate care and treatment can begin quickly.

***Coordinated claims management.*** An integrated claim intake and management process coordinates all aspects of the claims process and medical treatment.

***A consistent set of clinical guidelines.*** Medical protocols uniformly direct a patient's care regardless of whether the illness or injury occurred at work or at home.

***Integrated technology.*** A single repository of information ties together all types of benefits and provides meaningful data to all parties involved in the process.

***“Lost-time literate” medical providers.*** Physicians and other medical professionals have been educated about job function, return-to-work strategies and disability.

***Partnerships aimed at speeding return to work.*** Cooperative work relationships among physician, employer, employee and insurance carrier develop proactive return-to-work strategies.

## **Is Your Company Ready for Benefits Integration?**

Consider the following questions to gauge whether benefits integration sounds like a better approach for delivering a company's benefits:

***Does the company need to enhance productivity?*** By the year 2006, studies report that the United States will face a shortage of 2 million workers, with skilled workers notably scarce. Companies will be forced to maximize productivity from existing workers and more closely monitor their lost-time costs.

***Does the company have a consistent return-to-work philosophy for all medical conditions?*** A successful return-to-work program begins with consistent return-to-work practices and an active partnership with a carrier to enforce such policies as job accommodations, light duty and part-time work. Managing each disability, regardless of its diagnosis, to its best possible outcome will increase the rate of an employee's quick and safe return to work.

***Do or can benefits and risk management work collaboratively?***

***Does the company need to reduce costs and time associated with benefits administration?*** As both benefits manager salaries (especially in companies with 5,000 or more employees) and costs for benefits outsourcing increase, the need to drive down these costs grows steadily.

***Does senior management view the benefits programs as more than just the cost of doing business, but as investments with measurable payoffs?*** Top executives, particularly those in the most competitive industries, are highly motivated by the opportunity to attract and retain the best employees.

If four or more of the above questions solicited a "yes" response, chances are the company is a strong candidate for integration.

## **How Do You Get Started?**

Among the first considerations to getting started with benefits integration are having benefits providers who will collaborate on designing return-to-work plans, and a workplace that can make accommodations.

There are a number of different options for getting started. Based on the company's preferences and organizational readiness, select from among four of the most common models of integrated benefits plans:

- Short-term disability, paid time off, sick leave or salary continuance and long-term disability programs. Many companies start with integrating these programs first.
- Disability and health care. Integrate short- and long-term disability programs, and then add the health care plan at renewal time.

- Disability and workers' compensation. Integrate short- and long-term disability plans, and then add the workers' compensation plan.
- Full integration. Combines short- and long-term disability plans with workers' compensation and health care plans.

The results of improved lost time costs and productivity, simpler administration and happier employees will grow as the company gets closer to having a totally integrated benefits plan. Overall, integration can offer a company advantages that traditional approaches to benefits delivery do not.

### **Paid Time Off Programs (PTOs)**

In today's economy, companies need to be able to measure and quantify productivity to keep their customers, shareholders and Wall Street happy. Getting a handle on employee absence helps companies better manage their business and correctly predict their bottom-line liability and upscale potential. Paid-time-off programs (PTOs) are gaining popularity as a means of responding to productivity issues, work/life balance issues, cost containment, employee empowerment and accountability, and employee attraction and retention. A 2001 study by CCH Inc. showed that PTO programs received the highest effectiveness rating for controlling employee absence, above factors such as disciplinary action, bonus and personal recognition.

### **PTOs Defined**

A PTO program typically combines sick leave, vacation time, personal leave and floating holidays. Less common, but sometimes included, are fixed holidays, bereavement and salary continuation/ short-term disability. With PTOs, employees can take time off for any reason as long as it is scheduled with supervisors. Time off also can be used for unplanned reasons such as sickness and emergencies, but its main purpose is to encourage scheduled time off. Time can be taken in increments (hourly, half-day, etc.), allowing employees to maximize their benefit.

### **The Employee Perspective**

Employees perceive PTO programs as a progressive tool to help them achieve work/life balance, which is a developmental need for busy employees. With PTOs, employees can choose when to take time off, regardless of reason. This is especially important to an increasingly diverse work force, which has fewer common holidays, and more outside responsibilities and activities. PTOs also have an element of privacy to them in that employees don't have to explain their scheduled absences.

PTOs are a strong attraction tool for new employees and are a particularly good retention tool for existing employees, increasing the commitment of those who don't abuse time off by giving them more days.

## **The Employer Perspective**

Sick time often is used for reasons other than illness. According to a 2001 study by CCH, the most common reasons for unscheduled absences are:

- Personal illness (32 percent)
- Family issues (21 percent)
- Stress (19 percent)
- Entitlement mentality (9 percent).

In addition, many organizations provide new employees with sick time before they qualify for vacation. Others provide sick time in a lump sum at the beginning of the year before vacation time has been earned. Both scenarios provide an incentive to use sick time for other reasons. A PTO keeps employees honest – they can use accrued time in their PTO bank, or they can take unpaid leave.

Although PTOs take a certain amount of discipline in tracking, supervisors often are more compliant in tracking and reporting because they have less guesswork on how to record time taken for personal reasons.

## **Balance Sheet Implications**

A PTO program can keep costs at a predictable level if the design is supported by a thorough fiscal analysis of current benefit design and utilization. This analysis can help drive the decision whether a PTO would benefit the organization.

It is important to look at how time-off costs are accounted for before PTO and how they will change, if at all. Vacation is accrued as a liability, while sick leave does not generally appear on the balance sheet – it is “use it or lose it.” Unlike vacation, sick leave in traditional programs is not usually paid to the employee upon termination. With a PTO, sick leave is treated as an accrued liability. It is very important that the finance department be involved in PTO discussions so that the full costs and implications are understood and planned for in advance.

To know if a PTO program is right for your company, first determine the goals and objectives of the company’s absence program. Evaluate the benefits and potential drawbacks, and then design a program appropriate to the organization’s culture and business environment. Design and administration of PTO programs vary widely depending on programs included, carryover provisions, relationship to attendance policies and other absence programs.

For more detailed information, consult the WorldatWork white paper on PTO programs.

## **FMLA**

The Family and Medical Leave Act of 1993 (FMLA), as originally conceived, was a straightforward piece of legislation designed to provide time off for employees

needing to care for themselves or family members and clear guidance for employers. This boiled down to four relatively simple categories to take up to 12 weeks off from work:

- To care for a newborn infant
- To recover from a serious illness or injury
- To care for a seriously ill family member
- To care for the mental or physical needs of an eligible employee's aging parent.

The spirit of FMLA remains clear, but implementation in strict accordance with U.S. Department of Labor (DOL) guidelines is tricky. HR departments need to be well versed on more than 130 pages covering the initial legislation and subsequent guidelines issued by the DOL, and that's just at the federal level. States have added their own interpretations and legislation regarding family leave, further complicating the challenges and noncompliance risks of companies with employees in multiple states.

There always will be demand for employee benefit leave programs for situations, such as bereavement, marriage, education opportunities or sabbaticals, and employers can continue distinguishing themselves by the array of benefits they offer outside of those mandated by the FMLA. Employers can design programs and eligibility to be consistent with their culture and the value placed on a robust employee benefits plan.

However, FMLA-mandated leaves allow less leeway for employer control and interpretation. Add to this the mélange of labor regulations, including the Americans with Disabilities Act of 1990 (ADA), the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA), workers' compensation and short-term disability (STD) legislation, and it's easy to see why many employers fail to maintain strict compliance with all federal and state regulations.

There are several critical issues that make the FMLA difficult to manage.

***Managing Intermittent Leave.*** Managing intermittent leave can be more important than one would think. While most employers might associate FMLA with a 12-week period to stay home with a newborn child, that is not the most frequent reason for taking leave. The most common situation triggering leave is the care of an employee's own serious health condition, which can mean intermittent bouts of illness or a variable treatment schedule.

Once a condition is certified, the employee needs to notify his or her supervisor that they are taking FMLA time, which can be applied in the smallest interval of payroll time supported by the employer's payroll system. For some employees, those intervals can be as small as one one-hundredth of an hour. This means

that the FMLA administrator has to track 12 weeks of leave – usually 480 hours – in potentially tiny blocks of time spread over an entire year.

It is clear why keeping track of intermittent time away from the job in such a situation quickly becomes the most taxing aspect to manage. Compared with a maternity leave's continuous time off, many employee health conditions, including depression, anxiety, diabetes, emphysema and cancer, can be broken up under FMLA into small blocks of time. There are many common conditions that trigger an FMLA leave that lack a clear-cut start or end, such as childbirth.

***Communicating with Physicians and Care Providers.*** Benefits personnel receive information from physicians or care providers and, often, the application forms are incomplete or something seems amiss. Under FMLA, if the employer has a question about doctor-supplied information on a form, the question cannot come from typical HR personnel. At a minimum, a licensed practical nurse (LPN) must make the inquiry, even if it is to clarify handwriting on a form. The LPN also needs to work under a physician's supervision. Even then, the medical personnel can't challenge what the doctor puts on the form, but can ask clarifying or authenticating questions to confirm what was written.

This is an area in which many organizations have missed a component of the regulations, which allows for authentication and clarification of physician information, as well as second or third medical opinions.

***Determining a Serious Health Condition.*** DOL has issued rulings on what constitutes a serious health condition in select cases, and has established criteria to apply when considering other conditions. The criteria are both simple and confusing.

While the stated intent of the law is not to include such common illnesses as the flu or chicken pox as a serious health condition, an individual who is seen by a doctor several times and is given a prescription for medication easily could be approved for FMLA leave for either condition. Knowing the definitions and ensuring they are applied consistently is the critical challenge.

Though defining a serious health condition is a challenge under FMLA regulations, there are parameters to follow. DOL Private Letter Rulings provide ruling on FMLA conditions.

There are no clear-cut guidelines – some conditions start out not being so serious, but turn into life-threatening conditions. Typically, the organization processing FMLA requests must rely on the employee's health care provider to make the initial eligibility determination. Whoever screens the applications for the employer must rely on experience, training and knowledge of the law to determine which requests deem deeper inquiry.

***Administering Notification, Designation and Certification Requirements.***

Regulations require that employees be apprised of their FMLA rights. This can be done via a letter at hire, posting on a Web site or in an employee handbook. Posters must be displayed in the workplace as reminders.

Employers have two business days (48 hours) to formally respond to an employee's request for leave. Employees must be given confirmation of time taken under FMLA, and the documentation required to support an approved FMLA leave also is prescribed.

***Coordinating Leave with the ADA.*** While some FMLA requests will represent situations that are eligible for special accommodation under ADA, eligibility for each is intrinsically different. One does not guarantee the other. Requests for FMLA leave and an ADA accommodation also should be submitted independently and evaluated distinctly.

Many employers falsely assume that these are so closely linked that individual requests are covered under one or the other. It is important that administrators require employees to apply for ADA accommodation under ADA and apply for any necessary leave time under FMLA separately. For example, a customer service representative who needs wheelchair access to his desk and the restroom would be covered as an accommodation under ADA, while the same employee's annual examination would not be covered by FMLA, as it would not meet the serious health condition definition.

***Enforcing Absenteeism Policies.*** If an employee takes FMLA-designated time off, it cannot be counted against the employee in the absenteeism file. If other eligibility factors are met, the employee is guaranteed a return to the same or comparable job without penalty. There is a prevailing feeling that this rule has tied employers' hands with regard to absenteeism issues because FMLA time cannot be counted on an absence record.

Follow-up studies have shown that organizations suffering from excessive absenteeism have front-line managers failing to require that employees go through all the standard hoops to get FMLA forms filled out. Typically, employees pay a fee equal to an office visit charge for the doctor to fill out the certification form. By enforcing this rule, many frivolous leave requests are reduced.

***Managing Overall Compliance.*** FMLA regulations prescribe compliance in terms of timeliness of employee communications, unlawful denial and overall eligibility. They further cite penalties for failure to comply, ranging from replacing an employee's lost wages, benefits and/or other monetary loss, to double penalties plus any additional judgments.

***Keeping Your Head Above Water***

HR professionals are increasing efforts to reduce the risks associated with these

administrative issues. They are centralizing FMLA administration within their departments instead of having administration done in the field by a larger number of individuals who may not be able to implement policies consistently. They are purchasing job aids, such as forms, compliance guides, pre-packaged FMLA policies and FMLA training materials. Or they are purchasing software to support tracking.

The next step up is to consider outsourcing the service to an administrator who specializes in turnkey FMLA administration. Employers can provide an outside company with hours-worked and other readily available data, and from there they can rely on an outsourced administrator to:

- Determine FMLA eligibility
- Evaluate the leave request documentation for completeness
- Make the decision to approve or decline the request
- Handle communication to both the employer and employee
- Offer general customer service to employees and supervisors who have questions about a leave policy or FMLA
- Maintain all required documentation.

The penalty for failing to comply with FMLA makes employers liable for wages and benefits the employee lost plus interest or, if no wages or benefits were lost, any actual monetary losses plus interest. An employer who has not acted in good faith also is liable for an additional amount equal to lost wages or benefits, or actual monetary loss, plus interest, so the employee recovers double damages. The court also can order the employee's reinstatement or promotion.

Most employers embrace the spirit of the law, but find administration complex and unsupported by clear and common best practices. Many employers are maintaining programs that are more generous than what FMLA requires in terms of what situations qualify for leave, as it is safer to offer more than the minimum.

By understanding the details and nuances within the act that have been most difficult to manage in the past, employers can test their policies and practices, and make appropriate changes. The end result is likely to be a more clear-cut policy across the company and better compliance at a lower overall cost in terms of reduced lost wages and higher net productivity. Risk-reduction by avoiding future fines and audits is an additional organizational benefit.

### **Employee Assistance Programs (EAPs)**

Employers are faced with a difficult situation. On one hand, the cost of workplace stress and employee-related problems is high – and growing. On the other hand, the cost of replacing valuable workers in today's tight labor market may be even more challenging. It's no wonder that an increasing number of employers are turning to employee assistance programs (EAPs) to help them retain

experienced workers and return them to productive performance in the workplace.

Progressive employers now are keenly aware that personal problems are inextricably linked to workplace performance. As such, EAPs have evolved dramatically from the earliest programs, which addressed alcoholism and related problems in counseling sessions. Developments such as the rise of child care and elder care concerns, stricter interpretations of the Americans with Disabilities Act, the decline in employee loyalty and an increase in workplace violence have prompted employers to look at their EAPs in a new light. Today's EAPs cover a myriad of personal, lifestyle and work-related issues -- anything that can impact employee productivity including:

- Addictions such as gambling and substance abuse
- Financial or legal pressures
- Marital and family discord
- Child care and elder care responsibilities.

Because of their expanding scope, EAPs have become an increasingly popular way for employers to help employees overcome a variety of unresolved personal and work-related problems. The percentage of employers with EAPs has doubled in the past few years, rising to 48 percent of companies with more than 100 workers, according to an employee benefits survey by the U.S. Department of Labor (DOL). The survey also found that 15 percent of small businesses have EAPs.

### **Linking EAPs to Business Goals**

Most organizations agree that to compete in today's increasingly competitive global marketplace, employers need to achieve the dual goal of retaining talent and controlling costs. The growth of EAPs can be attributed largely to their ability to help employers achieve these goals simultaneously.

Rehabilitation of a valuable employee versus hiring and training a new employee can result in substantial cost savings for employers. EAPs cost employers only \$20 to \$30 per employee annually, but highly respected studies also indicate that with active intervention, EAPs lower costs by:

- Reducing employee turnover and absenteeism
- Reducing claims for long-term disability, workers' compensation, accidents, grievances and theft
- Reducing the number of legal actions against the employer
- Improving employee performance, productivity, morale, concentration and relationships with coworkers
- Reducing costs of medical plans, sick leave and training new hires.

The Federal Occupational Health (FOH), a division of the U.S. Department of Health and Human Services, conducted a study on the effects of EAP intervention in the late 1990s. FOH is the contractor of EAP services to the U.S. Postal Service and collects data on the health status of employees who use its EAP program to determine if employees benefit and become more productive after using the program. The survey found that EAP intervention led to client improvement in six areas:

- **Productivity.** EAP intervention led to a 58 percent reduction in the number of clients reporting that they experienced “quite a bit” of difficulty in doing their work or other regular, daily activities or “could not do their daily work” as a result of physical health. EAP intervention also led to a 70 percent reduction in the number of clients reporting they experienced “quite a bit” of difficulty or “extreme” difficulty in doing their work or other regular daily activities as a result of their emotional problems (such as feeling depressed, anxious or hopeless).
- **Work relationships.** EAP intervention resulted in a 71 percent reduction in the number of clients indicating that their physical or emotional problems interfered with their normal interactions with coworkers, family, friends or neighbors.
- **Health.** Because of EAP intervention, the number of clients reporting that their health was either “fair” or “poor” declined by more than 33 percent.
- **Attendance.** After EAP intervention, the average number of days clients indicated they were unexpectedly absent or tardy decreased from 2.15 days to an average of .97 days

While not always apparent, an employee’s personal problems can negatively impact productivity, morale and teamwork. Studies have indicated that EAPs are an effective way to help employees better manage situations in their work and personal lives. At the same time, EAPs help organizations achieve their business goals by enhancing employee productivity, lowering absenteeism and tardiness, and retaining staff.

Perhaps equally, if not more important, than these quantitative benefits is that offering an EAP is proof that a company cares about its employees. Employers that care about employees’ personal and work-related problems and that provide a quality EAP to help them resolve the issues will forge stronger bonds with their valued employees and will become employers of choice.

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