

# Trust Intelligence

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## The Rising Cost of Workers' Compensation

Throughout history, every industry has had its fair share of booms and busts, hard and soft markets, and periods of volatility and uncertainty. The workers' compensation industry is no different. The recent economic downturn has driven increased unemployment rates and with escalating medical and pharmaceutical costs, an aging workforce, obesity, and new Medicare regulations, the trends are clearly demonstrating that workers' compensation claim costs are significantly rising. On top of it all, lower investment yields by insurance carriers has put greater pressure on their underwriters to get it right the first time in pricing a policy commensurate to the risk.

The Department of Labor indicates that inflation for medical care has been surging ahead of general inflation causing workers' compensation claim costs to rise. According to the Insurance Information Institute, if trends hold, the medical costs associated with workers' compensation claims nationally are projected to equal 70% of total claim costs by 2017, compared to 46% back in the mid 1980's.

The reasons for the increase in medical care costs are many, but some of the major factors include the availability of high cost procedures such as spinal fusions that have shown to have poor outcomes among workers' compensation patients, along with the escalation of narcotics prescribing practices and other pain management procedures for the growing population of chronic pain patients.

Obesity is increasing among all ages. According to the report "Obesity and Workers' Compensation," developed by the American Medical Association in 2007, obese workers file twice as many workers' compensation claims as healthy weight workers. Obesity often contributes to complications in the recovery process, as the ability to achieve full functional restoration is delayed and frequently requires more medical treatment for longer periods of time.

Our workforce is aging. The number of people over 55 is growing; more than 35% of this age group is actively working in the United States. Over the next seven years, that number is expected to increase by another third. The natural aging process and, for some workers, a lifetime of poor lifestyle choices, has had a direct impact on older workers who are injured on the job. The recovery period is longer than that of a younger worker, and more medical treatments and procedures are often used which directly correlates into higher claim costs. And with 401k retirement plans and personal savings accounts taking significant hits in a prolonged anemic economy, the Bureau of Labor Statistics anticipates that more and more workers may well work into their late sixties and early seventies as time goes on.

Medicare has long been concerned that cost shifting has occurred making it responsible for costs that should have been paid from other sources, such as a workers' compensation payer. The Medicare, Medicaid, and SCHIP Extension Act of 2007 has virtually put a stop to that with strict regulations placed on insurance carriers to make sure Medicare's interests are protected up front when settling a claim. This legislation and the federal bureaucracy that goes along with it has caused significant timing delays in settling claims, and more often than not, the money requested by Medicare to settle a claim or what is referred to as a Medicare Set Aside (MSA) has resulted in significant increases to the total settlement value of a claim.

For members who want to learn more about "*The Changing Workers' Compensation Environment in Connecticut*", join us at the Trust on Tuesday, April 30, 2013 for an educational program from 9:00 a.m. to 12:30 p.m. This program is geared toward the executive or corporate level and will provide insight into a major cost driver for your organization.

To register, please contact Jennifer Garnett at (203) 678-0123 or [garnett@wctrust.com](mailto:garnett@wctrust.com). There is no cost for Trust members.

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# The Trust Now Offers the Trust Academy for Insurance Professionals



For over 20 years, the Trust has served Connecticut's brokers and Agents well by providing a top tier workers' compensation insurance product for their clients.

In order to further expand our services to the broker/agent community, the Trust has now opened the Trust Academy for Insurance Professionals. We are now a licensed provider with the State of Connecticut to afford licensing, CE, law & ethics and professional insurance designation courses i.e., ARM, ACSR, AAI, AINS as well as new programs which will build relationships with agents and brokers. The new educational facility here in Wallingford provides state of the art resources to support the upcoming curriculum.

Ed Meaney, CPCU, of Think Beyond, LLC will coordinate the Academy. Ed has over 42 years in the insurance industry and his teaching experience includes University of New Haven, Southern Connecticut State University, Hartford Graduate Center, The American Institutes, and most recently Educational Director for Independent Insurance Agents of Connecticut in Wethersfield. He is an active member in the Society of CPCU as well as a member the Hartford chapter of the Professional Liability Underwriters Society. Please feel to call us with any course suggestions with respects to our new program.

The first course to be offered at the Trust Academy for Insurance Professionals will be **"The Changing Workers' Compensation Environment in Connecticut"**

This course covers the following:

- Current workers' compensation insurance industry
- Field Experience Rating Plan Changes
- Negative trends directly impacting claims experience
- Audit & Payroll Classifications

The course is scheduled for Tuesday, April 9, 2013 from 9:00 a.m. to 12:30 p.m. Brokers can register by contacting Jennifer Garnett at (203) 678-0123 or email [garnett@wctrust.com](mailto:garnett@wctrust.com). Fee is \$60 and provides 3 CE/PC credits

## SMARTPAY "Pay As You Go" PREMIUM PAYMENT PROGRAM

This new payment option is available to Trust members. It calculates earned premium based on the payroll amounts incurred for each payroll period. The "Pay as You Go" program will help eliminate large premium adjustments at audit, giving members a more accurate, budget friendly, economical way for handling their workers' compensation premiums. Ask your broker today about **SmartPay!**



## Did You Know??

When it comes to business owners/sole proprietors, partnerships, corporate officers or Limited Liability Corporations (LLC's), do you know who is or is not covered under a CT workers' compensation policy?

**Individuals / Sole Proprietors:** Not covered. May elect to be covered by filing an inclusion form with the Workers' Compensation Commission (WCC).

**Partners:** Automatically covered. May elect exclusion by filing an exclusion form with the WCC. However, if one partner elects exclusion then all partners must elect exclusion.

**Corporate Officers:** Automatically covered. May elect exclusion by filing an exclusion form with the WCC.

**LLC's - Single Member:** Not covered. May elect to be covered by filing an inclusion form with the WCC.

**LLC's - Multi-Member:** Automatically covered. May elect exclusion by filing an exclusion form with the WCC.

Your agent/broker should file the inclusion or exclusion forms with the WCC and once the form is on file, it remains in force until changed. You should review this annually with your agent/broker as personal situations can change and someone who elected to be excluded in prior years may now see the need to be included due to marriage, children, etc. If you have any questions please contact your agent.

# Members Celebrate 20 Years with the Trust

In the past few months, Diane Ritucci, President & CEO, and Pat Cramer, Account Executive have visited members in appreciation of their 20 years of membership with the Trust. We are honored and privileged to be able to partner with them and presented a plaque in recognition of their longstanding support of the Trust. A tray of cookies was also brought to share with their staff. These agencies recently marked their 20 year anniversary: Visiting Nurse & Hospice of Fairfield County, The APT Foundation in New Haven and Reliance House in Norwich.

To lighten the mood for a visit from their Workers' Compensation Carrier, Reliance House staff decided to have a little fun with us by dressing up as injured workers. Check out what we saw as we entered their conference room. We were so happy to find it was just a joke!

We wish you all continued success and appreciate your loyalty and support of the Trust.



Sharon Bradley, President & CEO of Visiting Nurse & Hospice of Fairfield County, Wilton, CT



Lynn Madden & Michelle Michaud of The APT Foundation, New Haven, CT



Carrie Dyer, Chief Operating Officer of Reliance House, Norwich, CT



Roberta Murtagh, Executive Director of Central Naugatuck Valley HELP Waterbury, CT

Pictured with Diane Ritucci, honorees accept their 20th anniversary plaques.

## O'Donnell Family Cuts Coupons for Community Orgs

Trust staff member, Karen O'Donnell and her family have started what they call "Coupon Care". She and her family cut and collect coupons from friends, family and co-workers, and then find the best deals combined with coupons to buy grocery items for pennies on the dollar. She then seeks out organizations who can use those items. Items commonly donated include toiletries, non-perishable food items, pet food and school supplies.

Since June of 2011, the O'Donnell family has donated to over 16 different organizations in Connecticut. She has enlisted the help of co-workers to identify Trust members who may have a need for donated items. Trust members who have benefited from "Coupon Care" include:

- Center for Women and Families, Bridgeport*
- Domestic Violence Crisis Center, Stamford*
- Interval House, Hartford*
- New London Homeless Hospitality Shelter*
- Hands On Hartford Food Bank*
- Safe Futures Women's Shelter of New London*



Hats off and many thanks to Karen and her family. She is an inspiration to all of us at the Trust!



# Keep your New Years Resolutions Get Fit & Stay Healthy

Many people started the year with a focus to lose weight, get healthy and most importantly, STAY HEALTHY! We have compiled a few tips that may surprise you and some that can help you shed those extra pesky pounds to make keeping your New Year's Resolutions a little easier:

- Coffee is the richest source of antioxidant in the American diet, but adding cream and sugar turns a 10 calorie cup of coffee into 80 calories (just one of these will earn you 7 added pounds by the end of the year).
- If you cut only 96 calories per day from your diet, you can shed 10 pounds over the course of a year.
- EAT THOSE NUTS - Did you know that just 1 oz of walnuts has as many omega-3 fats as a 4oz piece of salmon? How about Almonds? They can keep your skin looking healthier!
- WORKOUT! And before or after your workout, eat Greek yogurt, it will help to keep your joints greased!
- People who eat more than two servings per day of vegetables have a 40% slower rate of cognitive decline than those who eat one serving or less.
- Stressed? Eat strawberries, they have been known to help ease stress.

Source: "Cook This, Not That" by David Zinczenko and Matt Goulding

## OSHA News: Stay Compliant

Below are some tips from the Trust's Loss Control department to assist members in staying compliant with OSHA's rules and regulations.

**POST YOUR OSHA LOG** - The OSHA 300A form must be posted from February 1 through April 30<sup>th</sup> and removed no later than May 1<sup>st</sup>. Organizations with multiple locations are allowed to keep one OSHA 300 log but the 300A form must be specific to each location.

**DART, INCIDENCE & SEVERITY SURVEY** - Last month, we sent out a DART Rate survey as part of our annual service to our members. We strongly urge you to participate in this confidential survey. Your organization's individual results will be calculated and compared to other Trust members and average State rates for CT organizations similarly classified. OSHA utilizes DART Rates to target organizations for inspections. This service will allow your organization to know what your Rates are in advance and can be used as a tool to benchmark successful programs.

**NEP FOR NURSING/RESIDENTIAL FACILITIES** - OSHA's National Emphasis Program (NEP) is in year number two of a 3 year initiative. OSHA will target facilities with high DART Rates (days away from work rate). Unannounced inspections will focus on hazards including exposure to blood and other potentially infectious material; exposure to other communicable diseases such as tuberculosis; ergonomic stressors related to lifting patients; workplace violence; and slips, trips and falls, and chemicals in the workplace.

**HAZARD COMMUNICATION STANDARD** - Changes are coming to the Hazard Communication standard. The revision to the existing standard mandates a single set of harmonized criteria for classifying chemicals according to their health and physical hazards and specifies hazard communication elements for labeling and safety data sheets.

*OSHA requires that all affected employees be trained by December 1, 2013 on the new label elements and safety data sheet format, in addition to the current training requirements. To facilitate understanding of this new Hazard Communication Standard, the Trust has partnered with OSHA to hold an Educational Seminar on June 11, 2013 from 9:00 a.m. to 11:00 a.m.. This course will be Train-the-Trainer course. Due to high demand for this program, we have added a repeat class to run in the afternoon from 1:00 p.m. to 3:00 p.m. To register, contact Jennifer Garnett at (203) 678-0123 or garnett@wctrust.com.*

# Schoolcraft Decision Raises the Cost of Hospitalizations

A recent decision rendered by Workers' Compensation Commissioner David W. Schoolcraft in the Second District in Norwich has significant impact for all employers throughout the state of Connecticut. The decision concerns payment to hospitals for treating workers' compensation patients. If the decision stands, it could potentially increase workers' compensation claim costs for hospital services by 40 to 50 percent.

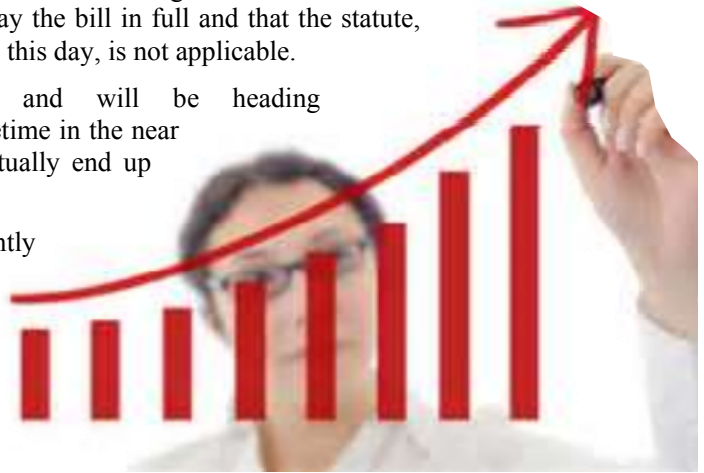
At issue is the applicability of General Statutes 31-294d(d) which language clearly speaks to the fact that a hospital shall provide medical treatment to injured workers in workers' compensation cases at the hospital's actual cost versus their billed charges. This statute, which has remained in the Workers' Compensation Act for decades, is now being challenged as a result of Commissioner Schoolcraft's decision.

The issue was brought to a head when an attorney representing a hospital in the southeastern part of the state challenged the statute when several insurers paid the hospital what it actually cost the hospital to render services to injured workers' covered under their insured's policy versus the hospital's billed charges. The decision before Commissioner Schoolcraft was whether the 31-294d (d) statute was still valid, and whether billed charges of the hospital are considered their actual cost.

Unfortunately for employers all throughout the state, Commissioner Schoolcraft agreed with the position that the hospital's charges are considered their cost, and barring a direct contractual discount agreement between the workers' compensation payer and the hospital, the payer shall pay the bill in full and that the statute, which still remains in the Workers' Compensation statute book to this day, is not applicable.

The Schoolcraft decision is currently under appeal and will be heading to the Workers' Compensation Commission Review Board sometime in the near future. Some insiders close to the issue say that it may eventually end up before the Connecticut Supreme Court to decide.

The Trust is closely monitoring the appeal process and is currently involved in an outreach program to advise and educate state legislators, members, TPA clients and other trade organizations on the potential negative impact this will have on workers' compensation costs in Connecticut should this decision not be overturned.



## Advanced Training for Nurse Case Managers

With new advances in medical technology involving the latest and greatest procedures and surgical treatments being utilized in workers' compensation cases, our claims staff needs to be better educated in what these treatments and surgical interventions are all about and, more importantly, how they are being used to treat today's injured workers. This need is especially true with our in-house nurse case management team. These are the clinical folks who are on the front line, day in and day out, working directly with the injured workers, physicians and adjusters to ensure the patient is getting the best quality care possible, and that these suggested treatments actually work!



To keep up with this growing demand, our nurses have been participating in monthly clinical educational sessions with William Druckemiller, M.D., our neurosurgical consultant. These training modules are intended to assist our nurses with better understanding the key aspects of appropriate clinical care for treating injured workers' with special attention focused on cervical and low back injuries; a common and often times the most costly type of loss in the healthcare industry.

This advanced educational training for our nurse case management team is just another example of the Trust's continued commitment to its staff, and to our members and their employees who look to us to help them with their care and recovery from a work related injury.

# Legal Corner: Connecticut Data Breach Law

Attorney John M. Letizia, Managing Partner, Letizia, Ambrose & Falls, PC, New Haven, CT



Connecticut's legislature enacted a new law effective last October that requires organizations to notify the Attorney General of a security breach affecting Connecticut residents, in addition to notifying the state residents who may be affected. The law also clarifies that the statute's notification provisions apply to "residents of this state."

As in the prior breach notification law, anyone who conducts business in the state, and who, in the ordinary course of business, owns, licenses or maintains computerized data that includes personal information to disclose a security breach to the state residents whose personal information is believed to have been compromised. Now, however, organizations are also required to notify the Attorney General no later than the time when the affected residents are notified. The Attorney General's Office has created a new dedicated email address for reporting, [ag.breach@ct.gov](mailto:ag.breach@ct.gov). The Attorney General's Office has requested that the following information be included in any breach notification:

- 1) Person reporting, name of organization and contact information;
- 2) List of the types of personal information that were or are reasonably believed to have been breached;
- 3) Description of the breach, including the date of breach and the number of residents affected; and
- 4) Whether the notification was delayed due to a law enforcement investigation (if applicable)

Two Notifications - Like the old law it replaces, this new law continues to provide that an organization is deemed to comply with the statute's notification requirements when it complies with its own internal breach notification procedure (such as under the Health Information Technology for Economic and Clinical Health Act ("HITECH" Act)). However, the organization must also notify the Attorney General of the breach. The failure to comply with these breach notification requirements may constitute an unfair trade practice, and the breach notification requirements are enforceable by the Attorney General.

In addition, the new law clarifies that the statute's notification requirements are applicable when there has been a breach of security involving the personal information of "a resident of this state." This clarification raises the question of what obligation a Connecticut organization has to the residents of other states whose personal information is maintained on a computer in Connecticut. The answer may depend on the requirements of the breach notification laws that are enacted in other states.

In light of these new provisions, organizations should revise their breach notification policies and procedures to ensure that the Attorney General is notified of a security breach no later than when affected Connecticut residents are notified. In addition, organizations that operate in multiple states, or that operate only in Connecticut but also maintain personal information of residents from other states, should stay informed about the breach notification requirements in the states applicable to their organization practices. If you would like a copy of this law, please email John M. Letizia, Atty. at [letizia@laflegal.com](mailto:letizia@laflegal.com).



## What Do You Think?

The claimant was released to modified duty that the employer could not accommodate. The claimant pursued temporary partial benefits, but had relocated to Florida with no plans on returning to Connecticut. Was the claimant entitled to the temporary partial benefits?

### Answer:

For a claimant to be eligible for temporary partial benefits, the Statute requires her to be ready, willing and able to work in the same locality. Since the claimant had no intention on moving back to Connecticut, the Commissioner found that the claimant had forfeited her entitlement to temporary partial benefits unless she moves back to Connecticut.

# Medical Corner: Workers' Compensation Commission Protocol for Opioid Management

Mark Russi, MD, MPH, Medical Director, Workers' Compensation Trust

In 2012, the State of Connecticut Workers' Compensation Commission issued a medical protocol for opioid management of injured patients. The document is intended as a guideline for medical practitioners. While it does not supplant individual medical judgment, it lays out a number of expectations for provider/patient encounters.

The guideline states that opioid medications should be avoided when possible. When they must be prescribed, patients should receive them from a single provider and a single pharmacy. The medications should be weaned and discontinued as symptoms improve. During patient visits, a history should be obtained to ensure the medications are providing pain relief, and that side effects such as sedation and cognitive impairment are not occurring.

Patients receiving opioid medications for more than four weeks should have compliance monitoring documented.

Options for such monitoring, as deemed appropriate by the individual physician, include history, screening questionnaires, prescription monitoring program queries, urine drug tests, or pill counts. Use of narcotic agreements is also recommended for patients on opioids for more than 4 weeks.

When opioids are prescribed for more than 12 weeks, evaluation/consultation and treatment by a physician with appropriate specialty training in pain management should be considered.

Second opinion is recommended for patients receiving opioids at an equivalent dose of 90 mg morphine or more.

Long-term use of opioids is associated with substantial negative health effects, high costs, potential addiction, and lost productivity. The Connecticut Workers' Compensation guidance calls attention to the issue, and has potential to impact positively the prescribing and monitoring practices of physicians treating patients with workplace injuries. Alternatives to opioid medications include non-steroidal anti-inflammatories and other specifically targeted pain medications. Education and engagement in exercise and rehabilitative programs may also help transition patients away from long-term opioid use. It can be tremendously challenging to discontinue opioids in patients suffering from chronic pain. While the guidelines do not offer any easy answers, they have the potential to foster both a reduction in initiation of opioids following acute injuries, and a more careful approach to their longer term use.



## **WELCOME NEW MEMBERS**

24/7 Harmony Home Care Services, LLC  
Aware Recovery Care, Inc.  
B & M Homemaking and Companion Services  
Colonial Health & Rehab Center of Plainfield, LLC  
Mystic River Ambulance Association  
NE Sr. Choice LLC, dba Home Instead Senior Care  
Options Unlimited  
St. Luke's Home, Inc.  
Tender Heart Care, Inc.

## **WELCOME BACK TO THE TRUST**

New Horizons, Inc. dba Cherry Brook Health Center



## **PEER NETWORKING GROUPS**



The Trust is now offering Peer Group education meetings to our members. These groups allow members with similar exposures and challenges the opportunity to learn from each other. The following topics have been scheduled:

- April 24 Group Homes: Avoiding Resident Assaults**
- May 21 VNA & Home Health Organizations: Keeping Home Health Workers' Safe**
- June 26 Nursing & Personal Care Facilities: OSHA's NEP Initiative**

More Information will be forthcoming to individual peer groups.



# Upcoming 2013 Educational Programs for Members

The following seminars are offered by the Trust for the second quarter of 2013. These programs are designed to assist our members in gaining knowledge of issues that surround and support the reduction of work related injuries and associated claims. More detailed information is forthcoming. Most courses offer contact hours (CEUs) for Nursing Home Administrators. Your attendance is encouraged.

**The Changing Workers' Compensation Environment in Connecticut**

Tuesday, April 30th                      9:00 AM – 12:30 PM                      Members: FREE                      Value: \$100



**Sexual Harassment Prevention Training for Supervisors**

Thursday, May 2nd                      9:00 AM – 11:00 AM                      Members: FREE                      Value: \$100

**National Safety Council's 4-Hour Defensive Driving Course**

Thursday, May 30th                      8:30 AM – 1:00 PM                      Members: \$40                      Non-Members: \$60

**ADA and FMLA: An Advanced Program for Employers**

Wednesday, June 5th                      9:00 AM – 3:00 PM                      Members: FREE                      Value: \$300



**OSHA Global Hazard Communication Standard: A Train the Trainer Session**

Tuesday, June 11th                      9:00 AM – 11:00 AM                      Members: FREE                      Non-Members: \$10  
Second session added                      1:00 PM – 3:00 PM



**Transformational Leadership in Healthcare**

Friday, June 14th                      9:00 AM – 4:00 PM                      Members: \$60                      Value: \$300



**Creating Wellness Programs**

Wednesday, June 19th                      9:00 AM – 12:00 PM                      Members: FREE                      Value: \$100



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