

Manager/Supervisor Risk Management
#22– 1/24/12

TOPIC: WORKERS' COMPENSATION – AOE-COE

For an injury to trigger benefits in the Workers' Compensation system it has to "arise out of employment," and occur in the "course of employment." In other words the injury must be "proximately caused by employment." IT IS NOT THE EMPLOYER'S (OR THEIR SUPERVISORS) RESPONSIBILITY TO DETERMINE WHETHER AN INJURY SATISFIES THE AOE-COE REQUIREMENT. If an employee alleges a workplace injury the supervisor should provide the employee with a claim form (DWC 1) and report the injury by processing an Employer's First Report of Injury (5020) along with any information or concerns they might have. The claims examiner has the responsibility for making the decision of compensability after reviewing all pertinent information.

An AOE-COE issue will generally result in an investigation to determine whether the claim is compensable. To anticipate some of the issues contained in the investigation, the supervisor should understand that there are special defenses to compensability defined in the Labor Code:

- Intoxication; the intoxication must actually be the cause (i.e. not just being intoxicated).
- Intentionally self-inflicted injuries are not compensable; negligently self-inflicted injuries are.
- Suicide; but it requires the employee to "willfully and deliberately cause their own death."
- Altercations; personal disputes between employees are not in the scope of employment.
- Felonious act; committing a crime is not part of the job.
- Recreational activities that are not reasonably expected by the employer are not AOE-COE.

Common compensability questions that have occurred on our files include:

- Breaks (including lunch) on premises: injuries are usually compensable;
- Breaks taken off premises: are usually not.
- Going to and Coming to work: injuries during the commute are usually not covered.
- Parking lot: an injury in the employer's parking lot is usually covered.
- Travel: an employee is generally covered by WC while on business travel for conferences and meetings, and includes mixed business and pleasure if the employer allows it.

Each decision on compensability is fact specific to that individual injury, and YCPARMIA AOE-COE denials are rare. The Labor Code requires the laws to be "liberally construed by the courts with the purpose of extending their benefits for the protections of persons in the course of their employment." The effect of this liberal construction rule is to tilt the playing field to the workers advantage. Claims are still denied when warranted, but the employer's documentation must be complete.

In summary, it is not the manager/supervisor's responsibility to determine whether a claim is compensable, but they should anticipate that they might be asked questions that address AOE-COE issues when compensability is questioned.

Next topic: Workers' Compensation – Good Faith Personnel Defense