



Oil Patch Quarterly

Exclusive Program Managed by Sisk & Company

First Quarter 2011

INSURANCE NOTES

Employee dishonesty – Are you protected?

Recently a bookkeeper was arrested on suspicion of felony theft for stealing \$760,000 from a Boulder, Colorado company.

Boulder detectives launched their investigation in December after another accountant, who was filling in, discovered what appeared to be a large amount of money being transferred to two separate personal bank accounts. The company conducted an audit and notified police about the suspected embezzlement.

The bookkeeper began working for the company in June 2007, and investigators say they believe the individual began diverting funds two months later.

This case shows why it is so important that all business owners consider the impact of employee dishonesty. At Sisk and Company we can provide you with options on how to manage this risk. Call Tom Sisk to learn how we can help – 303-831-7100.

OSHA Issues Guidance on PPE

In February, OSHA issued a guidance directive concerning Personal Protective Equipment (PPE). The directive addressed PPE for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers.

The directive reaffirmed that employers shall assess the workplace to determine if hazards are present, or are likely to be present. If such hazards are identified, the employer shall:

- Select, and have each affected employee use, the types of PPE that will protect them from the hazards identified in the hazard assessment;
- Communicate selection decisions to each affected employee; and
- Select PPE that properly fits each affected employee.

The employer shall verify that the required workplace hazard assessment has been performed through a written certification. In addition, the employer shall provide training to each employee who is required to use PPE. Each such employee shall be trained in specific criteria required by the standards and shall demonstrate an understanding of the training, and the ability to use PPE properly, before being allowed to perform work requiring the use of the necessary PPE.

In most situations, the Employer is required to pay for the PPE required by the hazard assessment. However, there are a few exceptions as indicated below:

- Non-specialty safety-toe footwear and non-specialty prescription safety eyewear, if worn off the job-site;
- Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or
- Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

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LESSONS LEARNED

Cost of Late Reporting

Injured worker (IW) is a 25 year old earning \$1250.00 per week. While performing his normal job duties he injures his back, reports the injury, but declines treatment.

The employer knew of the accident, but never reported it. The IW had a known pre-existing back condition, and went to his own doctor. After about 4 months, the IW and employer had a separation of employment. Following this separation, the IW hired an attorney who filed a claim for an alleged back injury.

Potential claim cost due to not reporting for 6 months.

Up to \$500 a day penalty from the Division of Workers Comp for failure to report. Potentially this is \$91,000, if \$500 a day at 182 days is ordered. Pinnacol would not pay any of this.

Six months of lost wages (4 months partial lost wages and 2 months full lost wages). Reserve would be \$807.24 (max rate) at 20 weeks or \$16,144.80, and whole person impairment of 10% percent or \$54,246.53 (6 months of reported pain has been exceeded).

Medical reserve is set at \$14,000 for evaluation, office visits, diagnostic testing, physical therapy, etc.

The initial total reserve for this claim is set at \$84,400.

*Continued on next column
"Work Comp – Lessons Learned"*

Health Care Reform – More Confusion then Ever

At Sisk & Company we strive to keep abreast of current events in the risk control and insurance markets. Recently we came across the following statistics that we want to share with you. If you would like to discuss how Sisk can help you set up a cost effective health care program, call Todd at 303-831-7100.

The points below were in an article from "Investor's Business Daily" that provided statistics from a survey by the United Nations World Health Organization:

- Percentage of men and women who survived a cancer five years after diagnosis: U.S. 65% ---- England 46% ----Canada 42%
- Percentage of patients diagnosed with diabetes who received treatment within six months:
U.S. 93% ---- England 15% ----- Canada 43%
- Percentage of seniors needing hip replacement who received it within six months: U.S. 90% ---- England 15% ----- Canada 43%
- Percentage referred to a medical specialist who see one within one month: U.S. 77% ---- England 40% ---- Canada 43%
- Number of MRI scanners (a prime diagnostic tool) per million people: U.S. 71 ---- England 14 ----- Canada 18
- Percentage of seniors (65+), with low income, who say they are in "excellent health": U.S. 12% ----- England 2% ----- Canada 6%

This web address will connect you to the National Center for Policy Analysis <http://www.ncpa.org/pub/ba649>

Work Comp – Lessons Learned - Continued from column at left

If the claim would have been reported timely – within 48 hours

There would not be the risk of a \$91,000 penalty by the Division of Workers Comp.

Since the IW declined treatment at the time of injury, there would not be initial lost wages, impairment or medical reserve set for claim. (If the IW later hired an attorney, a reserve would be necessary pending the outcome of the hearing.)

Lost wages would be \$807.24 for 10 weeks or \$8,072.40, indemnity would be 5 percent or \$27,123.27. Because treatment was declined it would be harder to link the current condition to the reported incident. Medical reserve would be about \$7,000.00.

Total reserve would be \$42,195.66. Since the "injury" was reported timely with treatment declined, the likelihood is that a doctor would say the current problem is not related to the work injury so the IW winning at hearing is greatly decreased. Therefore, the entire reserve of \$42,195.66 could be released, for a total cost of \$0.

Well Run Safety Program Vital to Controlling Losses and Holding Down Costs

As business in the oil patch begins to increase, we are starting to see that some companies forget the hard lessons of the recent past as it relates to hiring employees and managing a safety program. We typically find that employers experience “problem” workers’ compensation claims, when they have dropped their guard as it relates to their safety program.

The following are some ideas regarding accident prevention programs.

Hazard Identification and Correction:

Look for known hazards and conduct workplace safety inspections. These activities should be carried out according to a defined schedule and are best done when the inspectors have a checklist of items to look at. Every inspection should produce a written report of identified deficiencies and it is important to ask, why did the deficiency exist? Involve employees in fixing hazards if they have the ability, knowledge and skills to do so.

Employee Training:

Some employee training is mandated by law, at other times operators may require that employees complete specific training classes (SafeLand is a good example). However, it is important that you identify the training you require your employees to complete.

In addition to immediate benefits of regulatory compliance and employees understanding safety expectations, it also sends a clear message to employees about the importance management places on workplace safety.

Employee Communication:

While an effective safety program will speak for itself, its effectiveness will be magnified when you provide your employees with information about it. Holding regular safety meetings, emphasizing the importance of pre-job briefings (JSA’s) and addressing safety concerns all help you prove to your employees that safety is truly important to the business.

In Colorado, an employer can receive a 5% WC premium discount (in addition to other discounts) by implementing a 6 step safety program. This program is referred to as Colorado Cost Containment. The items we just reviewed are part of the implementation of this program.

In Pennsylvania, employers can receive a 5% WC premium discount by establishing a safety committee that meets certain requirements and having the program approved by the PA Department of Labor and Industry.

At Sisk & Company we want to make sure you have the best insurance coverage and safety programs possible. Give us a call at 303-831-7100 for more info.

OSHA NEWS

OSHA at 40

April 28, 2011, marks the 40th anniversary of the establishment of OSHA. Since OSHA's creation, the nation has seen remarkable progress in worker health and safety. Throughout 2011, OSHA is presenting a series of activities to celebrate these accomplishments.

OSHA is providing an interactive timeline that marks important moments in the history of OSHA's efforts, along with those of its state partners, to reduce workplace injuries, illnesses and fatalities. The page is:

<http://www.osha.gov/osha40/timeline.html>

It is estimated that in 1970 around 14,000 workers were killed on the job. That number fell to approximately 4,340 in 2009. At the same time, U.S. employment has almost doubled and now includes over 130 million workers at more than 7.2 million worksites. Since the passage of the OSH Act, the rate of reported serious workplace injuries and illnesses has declined from 11 per 100 workers in 1972 to 3.6 per 100 workers in 2009.

OSHA safety and health standards, including those for trenching, machine guarding, asbestos, benzene, lead, and bloodborne pathogens are credited with helping prevent countless work-related injuries, illnesses and deaths.



OSHA PPE Guidance - *Continued from page 1*

An employer does not have to pay for PPE requested by an employee that exceeds the requirements outlined in the hazard assessment. However, the employer needs to provide replacement PPE when the PPE no longer provides the protection it was designed to provide, or when the previously provided PPE is no longer adequate or functional. The general guidance is:

- Employers must provide replacement PPE at no cost to the employee except when the employee has lost or intentionally damaged the PPE.
- The PPE may be considered "lost" if the employee comes to work without the issued PPE.
- The rule does not prohibit employers from sending employees home to retrieve the PPE or from charging an employee for replacement PPE when the employee fails to bring the PPE back to the workplace.
- Employers are free to develop and implement workplace rules, such as reasonable and appropriate disciplinary policies, replacement schedules, and allowances, to ensure that employees have and use the PPE that the employer has provided at no cost to employees.

If you have questions about this OSHA guidance, please call Dan Klimek at Sisk & Company – 303-831-7100, or visit the OSHA web site:

http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-01-050.pdf

NOTES FROM DAN

In the past few months I have been involved in some challenging claim and loss situations that once again prove how important it is to make sure you have your safety and contractual policies in place and that you do what these policies say you will do 100% of the time.

We have long maintained the importance of working with your Sisk account team to review your Master Service Agreements (MSA) so we can confirm that the insurance coverage you have is what is needed to comply with the MSA you just signed. We also ask clients "if they use sub-contractors", and many times we are told, "no, we are the sub".

In a recent case, a serious injury occurred and as we got involved in filing the claims and reviewing information, it became clear that:

- MSAs were not in place;
- Some of the indemnity language really put a burden on the MSEA member; and
- The MSEA member agreed to cover the cost of losses that they did not carry insurance for and if the loss occurred could likely destroy the company.

We want to reiterate again, before you sign an MSA or contract, work with your Sisk account team so you can sleep at night knowing your business is protected from huge uninsured losses that you agreed you would cover.

Contact Information

The Mountain States Energy Alliance (MSEA) is a not for profit association dedicated to helping members create a safer work environment in the oil and gas industry. The MSEA offers an exclusive workers' compensation program underwritten by Pinnacle Assurance for its members. MSEA members receive a 4% discount on their workers' compensation premium and may also qualify for a dividend payment based on favorable loss experience of the group. To see if your company qualifies for the program or for more information about the MSEA program contact one of the following:

Mike Eastop
Dave Tacha
Tom Sisk

For benefit information contact:
Todd Heiserman

For information on Energy
Services & Risk Control contact:
Adam Sack

The following websites provide excellent insurance and safety information:

www.tjsisk.com
www.gomsea.org
www.petrodocs.com

If you have questions or comments about this newsletter, contact:

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