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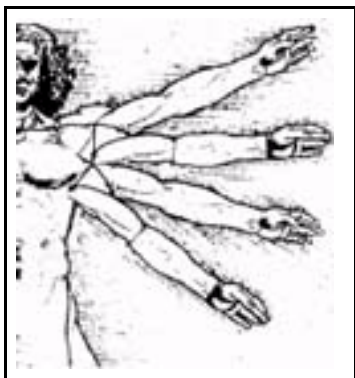
Loss Control Newsletter

January 2001



Midwestern Insurance Alliance maintains the goal of providing our insureds with a wide range of loss control services. Only one of which is this monthly *Loss Control Newsletter*. To become aware of the many other services offered, contact Loss Control Manager, Keith Wertz at (502) 429-9990 or send e-mail to krwertz@midwesterninsurance.com

OSHA ISSUES NEW RULE



ERGONOMICS

Why did OSHA issue an Ergonomics Program Rule?

OSHA has issued an ergonomics rule to reduce musculoskeletal disorders (MSDs) developed by workers whose jobs involve repetitive motions, force, awkward postures, contact stress and vibration. The principle behind ergonomics is that by fitting the job to the worker (through adjusting a workstation, rotating between jobs or using mechanical assists) MSDs can be reduced and ultimately eliminated.

Who is covered by the rule?

Regardless of how many employees you have, all employers are required to abide by the new rule with the exception of employers whose primary operations are covered by OSHA's construction, maritime or agricultural standards, or employers who operate a railroad.

What does the rule require employers to do?

The rule requires employers to inform workers about common MSDs, MSD signs and symptoms and the importance of early reporting. When a worker reports signs or symptoms of an MSD, the employer must determine whether the injury meets the definition of an MSD incident -- *a work-related MSD that requires medical*

treatment beyond first aid, assignment to a light duty job or temporary removal from work to recover, or work-related MSD signs or MSD symptoms that last for seven or more consecutive days. If it is an MSD Incident, the employer must check the job, using a Basic Screening Tool to determine whether the job exposes the worker to risk factors that could trigger MSD problems. OSHA's Ergonomics Rule provides a Basic Screening Tool that identifies risk factors that could lead to MSD hazards. If the risk factors on the job meet the levels of exposure in the Basic Screening Tool, then the job will have met the standard's Action Trigger.

What happens when the worker's job meets the standard's Action Trigger?

If the job meets the Action Trigger, the employer must implement the following program elements:

- Management Leadership and Employee Participation
- Job Hazard Analysis and Control
- Training
- MSD Management
- Work Restriction Protection
- Program Evaluation
- Recordkeeping

Surprise... A New OSHA Regulation

Amidst the controversy over dimpled and pregnant chads and seemingly endless vote counts, re-counts and re-re-counts, the federal government has passed into law the OSHA Ergonomics Rule that has been so deeply entrenched in controversy. The intent of this newsletter, therefore, is to inform business owners about this rule, it's content and implications. It is notable that this is simply a cursory overview of the OSHA Ergonomics Rule. More detailed information is certain to be included in future newsletter editions and is available upon request from the Loss Control Department of Midwestern Insurance Alliance.

The following is a brief explanation of each of the above-mentioned program elements.

A. Management Leadership and Employee Participation:

The employer must set up an MSD reporting and response system and an ergonomics program and provide supervisors with the responsibility and resources to run the program. The employer must also assure that policies encourage and do not discourage employee participation in the program, or the reporting of MSDs, MSD signs and symptoms, and MSD hazards.

Employees and their representatives must have ways to report MSDs, MSD signs and symptoms and MSD hazards in the workplace, and receive prompt responses to those reports. Employees must also be given the opportunity to participate in the development, implementation, and evaluation of the ergonomics program.

B. Job Hazard Analysis and Control:

If a job meets the Action Trigger, the employer must conduct a job hazard analysis to determine whether MSD hazards exist in the job. If hazards are found, the employer must implement control measures to reduce the hazards. Employees must be involved in the identification and control of hazards.

C. Training:

The employer must provide training to employees in jobs that meet the Action Trigger, their supervisors or team leaders and other employees involved in setting up and managing your ergonomics program.

D. MSD Management:

Employees must be provided, at no cost, with prompt access to a Health Care Professional (HCP), evaluation and follow-up of an MSD incident, and any temporary work restrictions that the employer or the HCP determine to be necessary. Temporary work restrictions include limitations on the work activities of the employee in his or her current job, transfer of the employee to a temporary alternative duty job, or temporary removal from work.

E. Work Restriction Protection:

If all the talk about OSHA, MSD, HCP, Action Triggers, Job Hazard Analyses and Screening Tools has left you numb... it's time to perk up. **Now the Topic is \$\$\$.**

The rule indicates that employers must provide Work Restriction Protection (WRP) to employees who receive temporary work restrictions. This means maintaining 100% of earnings and full benefits for employees who receive limitations on the work activities in their current job or transfer to a temporary alternative duty job. This is referring to individuals on "light duty" (modified duty).

The rule also states that 90% of earnings and full benefits must be paid to employees who are removed from work. This is contrary to the 66.67% that Kentucky and most other state workers' compensation statute provide for.

OSHA's work restriction protection (WRP) provision does not supersede workers' compensation. OSHA believes WRP is necessary because, unlike most OSHA standards which require employer action when employers are exposed to hazards, the Ergonomics Rule only requires action after an injury has been reported. The standard's success in protecting workers, therefore, depends on workers' willingness to report injuries as soon as they occur. However, OSHA feels that there is substantial evidence that, absent protection from economic loss, workers are reluctant to report injuries because they fear losing pay, being fired, or being subjected to other forms of "discrimination." The assumption is that, knowing that they will not lose pay as a result of a necessary work absence will make employees more willing to come forward to report their injuries and to participate in the MSD management process. Employers may deduct any workers' compensation payments the employee receives from the amount of WRP benefits paid to the worker.

According to the rule, WRP is good for 90 days, or until the employee is able to safely return to the job, or until an HCP determines that the employee is too disabled to ever return to the job, whichever comes first.

Second Opinion: The rule also contains a process permitting the employee to use his or her own HCP as well as the employer's HCP to determine whether work restrictions are required. A third HCP may be chosen by the employee and the employer if the first two disagree.

F. Program Evaluation:

The employer must evaluate the ergonomics program to make sure it is effective. The employer must ask employees what they think of it, check to see if hazards are being addressed, and make any necessary changes.

G. Recordkeeping:

Employers with 11 or more employees, including part-time employees, must keep written or electronic records of employee reports of MSDs, MSD signs and symptoms and MSD hazards, responses to such reports, job hazard analyses, hazard control measures, ergonomics program evaluations, and records of work restrictions and the HCP's written opinions. Employees and their representatives must be provided access to these records.

Ergonomics Program Rule Offers Some Flexibility

Employers whose workers have experienced a few isolated MSDs may be able to use the "Quick Fix" option to reduce hazards and avoid implementing many parts of the program.

Employers who already have ergonomics programs may be able to "grandfather" existing programs.

The employer may discontinue parts of the program under certain conditions.

More Information

The full OSHA Ergonomics Rule can be found at...
www.osha-slc.gov/ergonomics-standard/