Self-Insurer

The World's Leading Alternative Risk Transfer Journal Since 1984



MAXIMUM Security MAXIMUM Satisfaction MAXIMUM Transparency MAXIMUM Savings

We protect your money





With each and every negotiation, Assent obtains a signed agreement by the provider to secure full and final settlement.

Alleviate dispute concerns and prevent balanced

billing by letting Assent MAXimize your security.

Take it to the MAX



December 2013 The Self-Insurer (ISSN 10913815) is published monthly by Self-Insurers' Publishing Corp. (SIPC), Postmaster: Send address changes to The Self-Insurer P.O. Box 1237 Simpsonville, SC 29681

Editorial Staff

PUBLISHING DIRECTOR James A. Kinder

MANAGING EDITOR Erica Massey

SENIOR EDITOR Gretchen Grote

CONTRIBUTING EDITOR Mike Ferguson

DIRECTOR OF OPERATIONS Justin Miller

DIRECTOR OF ADVERTISING Shane Byars

Editorial and Advertising Office P.O. 1237, Simpsonville, SC 2968 I (888) 394-5688

2013 Self-Insurers'
Publishing Corp. Officers

James A. Kinder, CEO/Chairman Erica M. Massey, President Lynne Bolduc, Esq. Secretary

Self-Insurer

The World's Leading Alternative Risk Transfer Journal Since 1984

DECEMBER 2013 | Volume 62

FEATURES



Resolving Medical Claims with Structured Settlements by Bill Wakelee

FP 2
TOZ 3
LPED 4

On-Site & Near-Site Clinics Offer Value in Benefit Structure for Self-Insured Employers

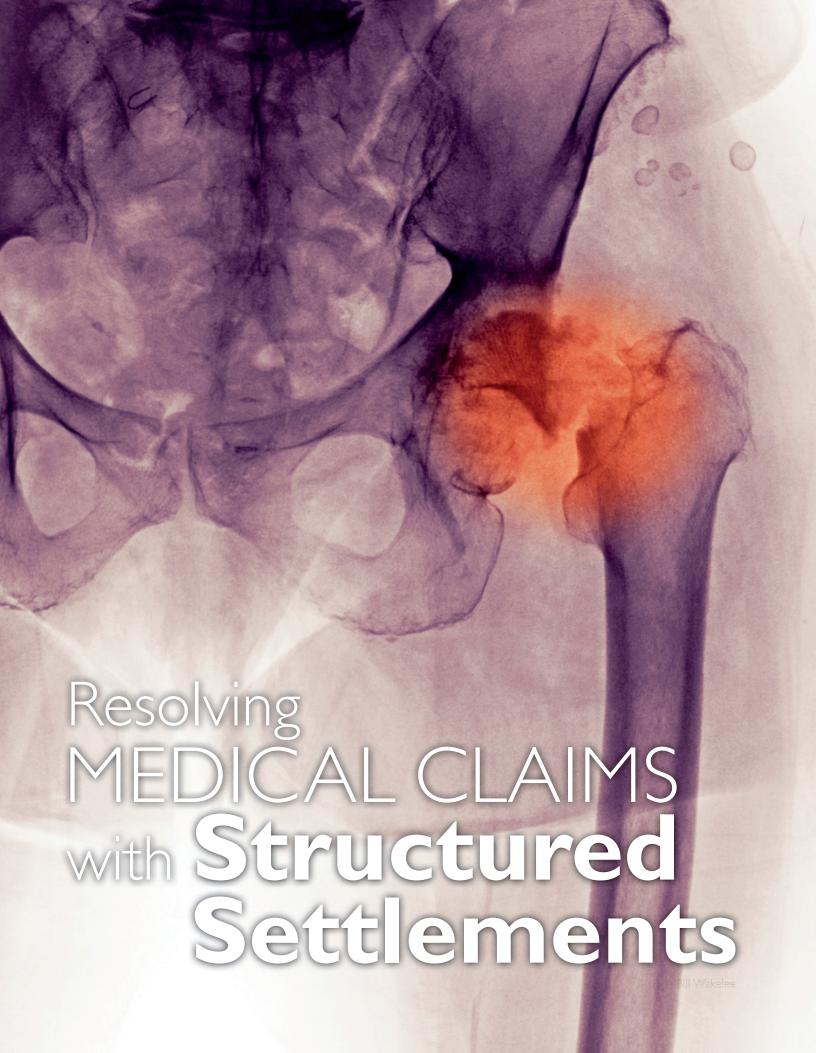
by David Boucher

ARTICLES

- 12 ART Gallery: A Fable of Lemmings and Men
- PPACA, HIPAA and Federal Health
 Benefit Mandates: Health Care Reform
 Update Treasury and IRS Issue Proposed
 Rules on Reporting Requirements for
 Employers and Group Health Plans

INDUSTRY LEADERSHIP

32 SIIA President's Message



atastrophic and high value workers' compensation claims frequently have two parts that need to be resolved, indemnity benefits and medical benefits. Depending on State statutes, both parts of the claims are often settled at the same time. While the value of indemnity benefits can be debated by attorneys and claims professionals, it is often the medical portion of the claim that present the biggest challenge to the resolution of the workers' compensation claim.

The settlement negotiations and the resolution of large workers' compensation claims are often difficult due to a host of reasons. The injured employee has a level of anxiety about what the future holds. There is a level of worry over paying future living expenses, the cost of on-going medical care, and the impact of the employee's injury on their family. Often this anxiety about the future leads the injured employee to hire an attorney.

When an injury leaves the employee with a chronic, lifetime medical issue, the employee's fear of what the future holds often makes it difficult to resolve the medical portion of the workers' compensation claim. Injured employees often look at the cost of their medical care since their injury and make the erroneous assumption that their future medical care will cost as much per year in the future as the medical care has cost each year since their injury. Employees frequently don't understand the needed amount of medical care will taper off with time.

Injured employees who do not have a financial background often do not understand the reasons for a structured settlement offer, the concept and process of how it works, or the significant advantages it could have for their situation. Frequently, if the

employee is not properly advised by his/her attorney, the employee will say "give me the money, and I will manage it." However, once an injured employee learns the benefits of a structured settlement, they often opt for this solution to help resolve both their indemnity and medical claims.

The injured employee is justifiably fearful of what the future cost of medical care will be. A structured settlement can bridge the gap between the employee's fear of the unknown future medical cost, and the reality of the medical care cost. To achieve this, a medical cost projection can be completed to establish the estimated cost of future medical care. A structured settlement of the medical cost, with an independent administrator of the payments for medical services, can relieve the injured employee of trying to manage these often substantial and complex costs.

Structuring both the indemnity and medical portions of the workers' compensation claim often work where a lump-sum settlement doesn't, due to the way a structured settlement pays the injured employee. Instead of the injured employee receiving a lump sum, the employee receives a series of periodic payments over an extended period of time, often for the life of an employee with a catastrophic injury.

The structured settlement professional, through the use of highly rated life insurer annuities, designs a payment plan to cover the cost of future medical care. These plans are based on medical cost projections obtained from experts who have reviewed the injured employee's medical information. The structured settlement professional also often arranges a second annuity, to cover both immediate and future income needs, as well as any other miscellaneous costs and expenses.

To address the injured employee's concerns about their future medical care cost, claims professionals and attorneys will turn to companies that specialize in life care planning. In a life care plan, the medical history of the injured employee is reviewed – both the injury medical history and the employees other non-injury medical issues (obesity, diabetes, hypertension, etc.) that could impact the cost of future medical treatment related to the workers' compensation injury.

It is often the case that a substandard age rating, or rated age, will be issued for the claimant based on their reduced life expectancy from all their medical issues, regardless of whether they are claim related or not. This rated age allows the structured settlement broker to recognize significant discounts on the pricing of the annuities used in their settlement designs, giving additional flexibility to the negotiations process.

The medical professionals providing the life care plan will review the employee's medical history to estimate the cost of future medical care including:

- Doctor visits
- · Diagnostic testing
- Surgical needs
- Therapeutic treatments
- Medical supplies
- Durable medical equipment (wheelchairs, hospital beds, etc.)
- Prosthetic or orthopedic requirements
- Medications
- · Home health care aides or facility based medical care
- · Handicap modifications of residence
- Medical/handicap transportation needs

At this point, the structured settlement professional can play an important role in the settlement

negotiations. They will sit down with the injured employee, and the employee's attorney, to discuss the future medical and financial needs. It is often the case that a structured settlement design, which addresses both the medical and indemnity portions of the claim, can be created to meet the needs of the injured employee while staying within the adjuster's settlement range.

If the injured employee has already applied for and has started receiving Social Security Disability, or is within 30 months of being Medicare eligible, the life-care plan must be approved by a federal government agency, the Centers for Medicare and Medicaid Services (CMS). The document containing the injured employee's projected future medical cost/life care plan is known as a Medicare Set-aside Arrangement or Medicare Set-Aside Agreement (MSA). The medical experts working for CMS will review the same medical history as the life care planner. CMS will advise if they concur with the projected future

medical care cost or if they disagree. If they disagree, the provider of the MSA can review CMS's objection(s) and make the necessary adjustments to the life care plan and resubmit it for approval.

When the injured employee is not on Social Security Disability or will not be eligible for Medicare in the next 30 months, the future cost of medical care is analyzed and a medical cost projection (MCP) is calculated in the same manner as the MSA, but does not have to be submitted to CMS for approval.

Frequently the amount of money necessary to pay for the future medical care can be a large sum, a larger sum of money than most people have experience managing. This is where a structured settlement broker can greatly assist the parties. An immediate annuity bought from a highly rated life insurance company guarantees the funding of the medical care, and an independent administrator manages the payments when incurred. Professional administration of the medical benefits protects the employee from the risk of mismanagement of the settlement amount determined by the MSA of MCP. A structured settlement of the medical cost also prevents the unintentional depletion of the medical funds by the injured employee.

With a precise estimation of future medical costs, the claims professional or attorney is then ready to negotiate a resolution of the claim with the injured employee or employee's attorney. A settlement of the medical benefits portion of the claim can then be achieved because outside experts, not the claims professional or the employee's attorney, have established the future cost of medical care.

When a structured settlement concept and process are properly explained to an injured employee, the employee will often choose the financial security and peace of mind that a structured settlement provides.

The structured settlement of the medical benefits also benefits the workers'



A Revolutionary Passion for Savings

Reducing the Cost of Health Plans Through Innovative Technologies, Legal Expertise and Focused, Flexible Customer Service.

Cloims Recovery Services

Offering flexible service options and unmatched results...

> Subrogation & Reimbursement Case Referrals & Identification Overpayment Recovery

Plon Sonquoge Service Center

Taking advantage of the industry's greatest benefit - custom plan design...

Plan Document Assessments & Revisions Custom Plan Document Template Design

Third Party Contract & Policy Review

Consulting Services

We confront the issues impacting the health benefits industry...

Claim Processing Methods Outreach & Dispute Resolution Regulatory Compliance

The Phia Group Hosts Frequent Educational Webinars Free of Charge To Learn More and Register - Visit www.phiagroup.com

The Phia Group, LLC | 163 Bay State Drive Braintree, MA 02184 | Phone: 866-THE-PHIA | Email: info@phiagroup.com

HELP YOUR CLIENTS

TO THE BENEFITS OF STOP-LOSS.

He has a new heart. His employer has peace of mind. With stop-loss coverage from Sun Life, your clients are protected against catastrophic claims. And they get the benefit of an independent point of view from one of America's leading stop-loss providers. In the past three years alone, we processed 68,000 claims—over \$1.3 billion in payouts. Why not put our expertise to work for you? Ask your Sun Life rep how.

Life's brighter under the sun



sunlife.com/wakeup

Product offerings may not be available in all states and may vary depending on state laws and regulations.

© 2013 Sun Life Assurance Company of Canada, Wellesley Hills, MA 02481. All rights reserved. Sun Life Financial and the globe symbol are registered trademarks of Sun Life Assurance Company of Canada. PRODUCER USE ONLY.

SLPC 24843 08/13 (exp. 0)/14)





Expanding our product offerings

PartnerRe has expanded its expertise in health. Thanks to our acquisition of Presidio Reinsurance Group, we offer a wider breadth of accident and health coverage than ever before, plus tailored risk management solutions for virtually any accident and health underwriting need. And this health expertise is backed by the resources of PartnerRe, including our \$23 billion in assets, our global presence and our commitment to client service.

To discuss your health risk needs call 1-415-354-1551 or visit PartnerRe.com/health

Our Products and Services:

- HMO Reinsurance

- Specialty Medical

- Medical Reinsurance
- Provider Excess of Loss
- Employer Excess of Loss
- Insurance/Reinsurance
 International Medical
- Reinsurance
- PULSE + Plus™ Medical Management Program
- License Management Services

PartnerRe

compensation insurer. The cost of an annuity that pays out over a long period of time is cheaper than paying a lump sum now for all future medical care, simply due to the time value of money, and due to any rated ages received on the case.

For example, let's say we have a 45 year old male who needs about \$10,000.00 in medical care for the next 25 years, a total cost of \$200,000.00. The cost of that annuity would be about \$165,000.00, representing a savings of \$35,000.00. Additional discounts might be available depending upon the negotiations, rated ages, the design of the annuity, whether lifetime payments were needed, and so on.

To achieve the best results when negotiating workers compensation

cases, it is best to partner with a structured settlement company that has an in-depth knowledge of the process and the marketplace, in order to properly design a settlement that addresses the medical needs of the employee, while obtaining the best price for the purchaser.

While a self-insured employer or an insurer can shop around for a new structured settlement company every time they have a large medical claim to settle, the more logical approach from both a cost and time standpoint is to identify a structured settlement company with whom a strategic partnership can be formed. There are several traits the self-insured employer or insurer should look for in selecting a structured settlement partner.

When choosing a structured settlement partner, the self-insured employer or insurer should look for a company that has offices in all the same states as the employer. While a structured settlement broker in Florida might be willing to fly to California to meet with the injured employee in a catastrophic claim, the same broker cannot afford to do this on a case where the purchase price of the annuity might be only \$50,000. Therefore, the structured settlement partner needs a geographical spread that covers all your business locations.

The structured settlement company selected for a partnership should also have a proven track record. Significant experience in the structured settlement business, local knowledge of the laws

We Don't Just Talk About Successful Teams: We Build Them



Teamwork is the foundation of any success story. With the right partner, collaboration and support, you can achieve lasting results. When you team up with Meritain Health, you gain the experience of our 30 plus years in the healthcare benefits industry, for a partnership you can rely on.

For more information, contact us today.



1.800.242.6226 www.meritain.com

© 2013. For self-funded accounts, benefits coverage is offered by your employer, with administrative services only provided by Meritain Health, an independent subsidiary of Aetna Life Insurance Company. 2013006

and jurisdictions of each State, and efficient internal processes, are critical elements when working with a structured settlement company. This will eliminate many of the obstacles that prevent less experienced brokers from reaching a structured settlement agreement on the complex medical cases.

In addition to geographical spread and experience, the structured settlement company needs to have the resources (life insurance companies) to provide the best possible price. A structured settlement company that places all its business with one or two life insurance companies will not be able to consistently provide the best purchase price for the structured settlement. The structured settlement company should have business relationships with all of the life insurance companies who provide structured settlement annuities. This allows the structured settlement company to consistently shop the entire marketplace for the best price on each case.

The structured settlement company should have the ability to customize each structured settlement to meet the needs of the injured employee. Often the biggest issue in resolving workers' compensation claims is the settlement gap between what the self-insured employer or insurer feels the claim is worth, and what the attorney for the injured employee is willing to settle for. Having the ability to customize the settlement to meet the injured employee needs, including life-care plans, while maintaining cost control for the employer or insurer, allows the structured settlement company to facilitate a settlement when the claimant, their attorney, and the employer or insurer are unable to reach an agreement on their own.

When partnering with a structured settlement company that has the proper geographical spread, experience, life insurance company partners, ability to customize the structured settlements, and a strong reputation, you can achieve the best results in the settlement of your workers compensation claims.

Taking advantage of the structured settlement process early and often in your claims evaluation process, will help insurers and employers settle cases more quickly and more efficiently. It is always more advantageous, where jurisdictionally possible, to consider the settlement of both medical and indemnity benefits at the same time, to maximize the advantages offered through structures. This process can help facilitate better settlements on all types of cases, whether they are relatively small, or catastrophic in nature.

Bill Wakelee, MBA, CSSC, is the Marketing Communications Director for Ringler Associates. He is a 25-plus year veteran of the claims, insurance and structured settlement industries. Bill has co-hosted more than 10 radio shows on the Legal Talk Network, is a frequent speaker at industry functions, and has published several articles on claims and financial topics. He is a faculty member at the Haub School of Business at St. Joseph's University in Philadelphia, as well an adjunct at Ursinus College. He can be reached at bwakelee@ringlerassociates.com.