

**NYSIF**<sup>®</sup>

NEW YORK STATE INSURANCE FUND

*Workers' Comp.*

# ADVISOR

nysif.com

January, February, March 2008

- Proper Billing Practices
- Safety
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- Proper claims filing
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NYSIF Policyholders' Educational Forums

**Reducing Costs**

**Reforms**

**and You -**

**Making It**

**Work**

**'You Can't Afford Not  
To Do This'**



Policyholder Services Marketing Manager Richard Morrison

# Costly Mistakes About Comp.

Most employers view workers' comp. as a business necessity. This is where they go wrong, according to Frank Pennachio, CWCA, a co-founder and director of curriculum at the Institute of WorkComp Professionals, writing in *Credit Union Magazine*. When rates decline, as in New York, many businesses redirect attention and finances elsewhere. He cautions that such a reaction is shortsighted.

Employers can benefit by taking steps to guarantee long-term workers' comp. savings (something he and WCA "Safety Cop" Gary Dombroff agree on; see page 7). Mr. Pennachio lists the major mistakes, excerpted below, he says employers make when it comes to achieving long-term workers' comp. savings:

- **Confusing lower rates with cost reductions.** Employers are often surprised to learn that a reduction in rates does not always mean a reduction in costs. Rates alone do not determine overall cost. An experience modification factor (mod) tailors the cost of insurance to the individual loss performance of an employer. (See Mr. Dombroff's column on page 7.)



- **Becoming complacent.** While fewer accidents and claims contributed to a decline in rates, claim costs—including indemnity and medical care—continue to rise. Don't let lower prices shift focus away from injury management and cost containment.

- **Focusing on direct costs only.** Premium costs often represent only 20-30% of overall injury expenses. Indirect costs—overtime, temp labor, increased training, production delays, increased stress, property or equipment damage—represent several times the direct cost of an injury, and have a much greater impact on overall costs than rate decreases.

- **Thinking that rates will stay low.** The plan expects that if rates go down, so should injury costs. If employers do not manage injury effectively and claims do not go down, the employers' mod goes up. When rates go up, an increased mod will wipe out any savings garnered during the declining rate cycle.

- **Viewing workers' comp. as an expense.** More than a necessary expense, it is a controllable aspect of business that if managed properly will have a measurable and positive return on investment. Employers can increase revenues and reduce costs by effectively managing injuries and getting employees back to work quickly. Recognize that workers' comp. begins at the date of hire and avoid costs by hiring the right people.

- **Separating workers' comp. from employee retention.** Retaining skilled employees is one of the most difficult challenges for employers. Turnover is anywhere from 50 to 150% of an employee's annual salary. Injuries that are not managed properly can result in unnecessary loss of skilled labor. Studies show that employees' satisfaction with their employer's

tionately high incidence of musculoskeletal injuries among construction workers. Go to [www.cdc.gov/niosh/docs/2007-122/](http://www.cdc.gov/niosh/docs/2007-122/) to download Dept. of Health and Human Services Pub. No. 2007-122.

## OSHA Rules on PPE

With few exceptions, OSHA's final rule, issued Nov. 15, 2007, makes clear that employers must provide all personal protective equipment at no cost to employees.

## 17 New NYSIF Safety Matters

Find 17 new construction titles for large and small contractors at [nysif.com](http://nysif.com) > *Safety & Risk Management* > *Safety Resources* > *Safety Matters*.

## Rx for Construction MSDs

A new guidebook, *Simple Solutions: Ergonomics for Construction Workers*, recommends preventative measures used at construction sites to address the disproportio-

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## In This Issue

### An Educated Policyholder

Hundreds of policyholders came to NYSIF's

Educational Forums last year to learn about controlling costs and managing

claims. WCA devotes this issue to those topics so you can learn what they learned.

Pages 3-6



### Mind Your Mod

Employers who want to sustain workers' comp. reform savings must look beyond rates. *Safety Cop's* advice on how to bring comp. costs down.

Page 7



response to an injury has a much larger impact on employment stability than does their satisfaction with healthcare itself. A plan that focuses on communication and return to work is far more effective in reducing workers' comp. costs than declining rates.

- **Measuring the wrong thing.** Treating workers' comp. as a commodity leads to measuring it by the lowest common denominator—price. If employers are not measuring the true financial impact of work-related injuries, they cannot effectively manage them. The benefits of improved hiring practice, medical relationships, and effective injury management will reduce both the number of claims and costs of claims, resulting in a lower mod. Unlike declining rates, a reduced mod is a guaranteed way to drive down costs over the long term.

## New NYSIF Safety Group

NYSIF established Safety Group 581 for nursing homes and assisted living facilities effective Oct. 1, 2007, managed by NY Safety Group LLC. Group 581 is serviced by NYSIF Safety Group Office #2.

## Correction

WCA printed an incorrect web address for NYS economic and social indicators. The correct address is [ppinys.org](http://ppinys.org).

# 'You Can't Afford Not To Do This'

**N**YSIF held a second series of policyholder educational forums in the fall of 2007 to provide policyholders with information on how to reduce their workers' compensation costs and let them know that NYSIF is here to help.

These forums followed an earlier series last spring. In total, NYSIF delivered its message to nearly 1,200 participants during 2007. Like the first forums, the second series took place in eight regions across the state from Buffalo to Long Island.

"Our goal," NYSIF CEO/Executive Director David P. Wehner said, "is to educate our policyholders, while at the same time learning how we can be a better insurance carrier for you."

This article expands our outreach to more policyholders by focusing on simple ways discussed at the forums to control workers' comp. and claims costs. As always, you can contact NYSIF 24/7 at [nysif.com](http://nysif.com) with questions for your underwriter, case manager, or any NYSIF business office.



**Here To Help:** CEO David Wehner, PHS Marketing Mgr. Rich Morrison and Claims Director Ed Hiller (l.-r.) availed themselves to policyholders at fall forums.

## Managing Your Workers' Compensation Costs

Presenter: Policyholder Services Marketing Manager Richard Morrison

***"Safety is something I'm passionate about, and it leads to something else that everybody is passionate about—saving money!"***

Policyholder Services Marketing Manager Richard Morrison opened his presentation with that statement.

Discussing the average premium rate reduction resulting from the 2007 workers' comp. reform, Mr. Morrison explained that the manual rate for each industry's classification code is determined by the reported losses for that classification. As a result, some classes pay less than the average; some pay more.

For individual policyholders, there is always one constant in the difference between which business pays more or less when an underwriter prices a policy. "No matter how premium is calculated," Mr. Morrison said, "fewer claims means less cost. It's a simple as that."

Back to Mr. Morrison's passion, a safe workplace means fewer claims, something NYSIF wants our policyholders to be passionate about as well.

***"NYSIF is here to work with you to create a safe work environment where good things get done by safe working people."***

Having an onsite safety survey done by one of NYSIF's



safety consultants is not something policyholders should approach with trepidation, he said.

"We're not police, we're on the same side," Mr. Morrison said. "We're here to see what you're doing right and point out where we can help you do things better to reduce your accident exposure."

Sensing some policyholders might still be reluctant to take the necessary steps to improve safety, Mr. Morrison quickly got to the best part about implementing and maintaining an effective safety program.

***"You don't have to spend a ton of money to get things done."***

According to Mr. Morrison, the backbone of any loss prevention program is the reduction of unsafe acts and unsafe conditions on a daily basis. Safe work habits, he said, are the result of education, training, continuous observation and feedback, which requires a lot of repetition, but not a lot of cash.

"You can't afford not to do this," he said.

Just as most of us instinctively buckle up before going for a car ride because we are frequently reminded that seat belt use saves lives, continual reinforcement is the key to safe work practices.

Actions do speak louder than words. Supervisors should always wear the same protective gear that workers on the job site are required to wear, for example, and during a walk-through a CEO should do the same.

# YOU CAN'T AFFORD NOT TO DO THIS

*"It's the simple things that develop good safety habits."*

Safety committees comprised of senior management, front line supervisors and employees are an effective tool to identify and address workplace safety issues and help impart safe work practices, but, Mr. Morrison cautions, the committee must act upon identified hazards, safety recommendations and corrective measures to be effectual.

"For everyone to buy into it, you have to follow through and follow up," he said.

NYSIF has an extensive repository of safety training materials that are available free and can be printed from our web site. Some of these materials may be good to place in with paychecks, Mr. Morrison suggested. "People have to look at them," he said.

Downloadable materials at [nysif.com](http://nysif.com) include a variety of one-page handouts and monthly safety topics appropriate for "tool-box talks" addressing an array of safety topics. There are more than 40 posters that are applicable to many industries, and effectively reinforce safety messages by remaining displayed in areas where they'll be seen by employees.

"Maybe it's the one day someone doesn't put on the goggles, and then sees the poster."

*"You want them to be able to come in and go home the same way they started the day, and so do we."*

And, of course, policyholders can arrange for NYSIF to provide training on many safety topics.

"Sometimes, if a different person delivers the safety message, it can be the difference," Mr. Morrison said. "We don't want people to get hurt at work so we're going to work with you to get that done. You want them to be able to come in and go home the same way they started the day, and so do we."

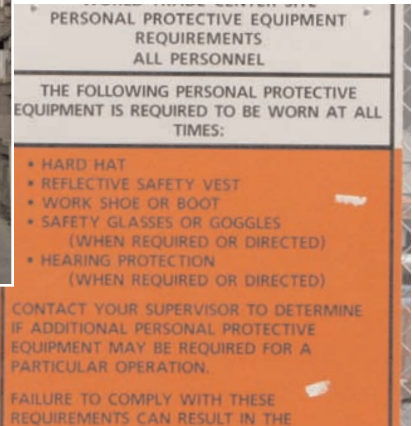
## Simple Things Develop Good Safety Habits

*Maybe it's the one day someone doesn't put on the goggles, and then sees the poster . . .*

With more than 40 titles available for downloading at [nysif.com](http://nysif.com), NYSIF safety posters can have a dramatic impact on your employees actions in practicing safe work habits in any industry. Other NYSIF free safety training materials are good as handouts or to include with paychecks, where they're sure to get noticed.



## Actions Speak Louder Than Words

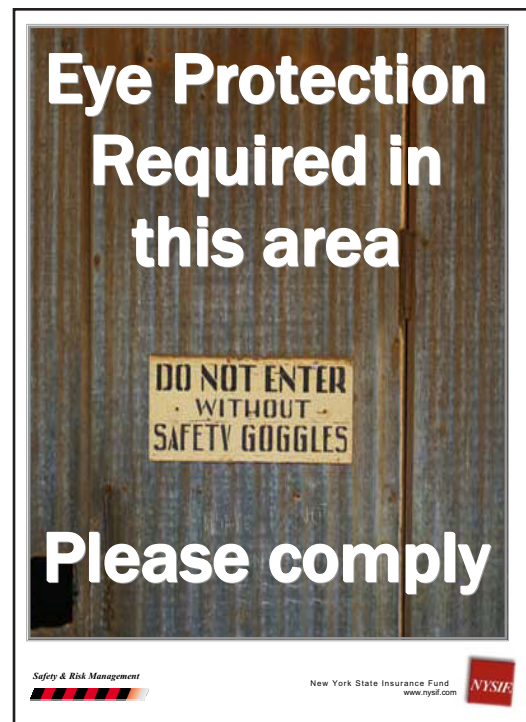


Safety committees are effective in imparting safe work habits when

they identify safety hazards and follow up on corrective



measures, as are supervisors and CEOs who wear protective gear on the job site to reinforce posted directives they expect other employees to follow.



## YOU CAN'T AFFORD NOT TO DO THIS

### Introduction to Workers' Comp. Claims and Reform Legislation

Presenter: Claims Director Edward Hiller

***"Knowledge is power; Understanding the workers' compensation claim process can help save you money."***

NYSIF Claims Director Edward Hiller used these words at the outset of his presentation.

Mr. Hiller placed an emphasis on the importance of early intervention and cooperation from the employer and the employee in the claims case management process.

Mr. Hiller said NYSIF's "cradle to grave" claims handling means case managers are assigned cases from inception to conclusion. By intervening early in the process, case managers establish and continue a rapport with the policyholder and claimant that may ultimately lead to shorter claim duration and lower cost claims.

***"NYSIF completes 'three-point contact' by also establishing a positive working relationship with the employer, employee and the medical provider."***

Early intervention with the provider helps NYSIF set a timely, thoughtful and adequate reserve for compensation and medical payments, and expedites proper treatment for the specific type of injury.

Early intervention with the employer alerts NYSIF to any special concerns in the case and helps identify light-duty assignments that, with medical clearance, may be appropriate for a return to work until the claimant can resume full duty.

#### Reducing Comp. Costs — The Basics

\*Visit [nysif.com](http://nysif.com) for more information

\***Safety** - Training materials, presentations, posters, checklists

\***Creating and Validating Certificates** - eCERTS<sup>sm</sup>

\***Audit Preparation** - *Safety & Risk Management*>*Small Business*>*Payroll Reporting & Premium Audit*

\***Fraud Detection and Reporting** - Click the eyebrow link on the homepage.

\***Return-to-Work** - *Safety & Risk Management*>*Risk Management*>*Limiting Liability*>*Return To Work*

\***Report/Monitor Claims** - NYSIF eFROI<sup>sm</sup> and CONNECTS

\***Review Billing** - *Online Services*>*Workers' Compensation*>*Account Billing Information*

**Proper Hiring Practices** - Be consistent in your approach. You can offer a contingent employment physical based on the requirements of the job.



#### Time Is Of The Essence

Cooperation from the employer and the employee in the early stages of a workers' comp. claim is essential in the case management process. Early intervention can lead to shorter claim duration and lower claim costs. Time wasted is money lost.

***"If you come away with one concept about containing claims costs and the 2007 workers' comp. reforms, it is to facilitate a return to work."***

"All the studies show that the longer they stay out, the harder it is to get them back," he added. "Working together with the employer, NYSIF will do anything we can do to get them back to work and keep them from falling out of the labor pool."

Studies also show employers play a vital role in shorter claims duration and lower medical costs through early intervention by reaching out to the injured employee and conveying concern and support for the claimant, Mr. Hiller said.

Likewise, NYSIF is in contact with the claimant early in the process to develop a positive working relationship, and also to determine the nature of the injury and ask for a description of the accident.

"There are several reasons we want to talk to the claimant," he said. "Most importantly, we want them to know we care about them, we're on the case, and if they're really hurt we're going to get them the treatment they need and get them back to work as soon as possible."

***"If they're malingering, we'll also be in touch."***

Another component of the 2007 reforms calls for increased enforcement and stiffer penalties for workers' compensation fraud. One reason NYSIF may call a claimant is to establish a fact pattern in the description of the accident, or identify discrepancies. NYSIF maintains contact to check on a claimant's progress, as well.

Mr. Hiller pointed out some of the signs of potential claimant fraud that send up so-called "Red Flags" which all NYSIF Claims personnel are trained to spot, and which employers should be on the lookout for, including claimant employment history, claimant

## YOU CAN'T AFFORD NOT TO DO THIS

### From 5

personal history, accident circumstances and claimant behavior. [For a detailed list of "Red Flags" see the NYSIF brochure, Fighting Fraud, at [nysif.com](http://nysif.com)>About NYSIF>Online Publications.]

Mr. Hiller reminded employers of the waiting period for compensation payments to begin for their injured workers. Under the law, there are no compensation payments for the first seven days of a claim unless the disability extends beyond 14 calendar days. He said delays could be caused by a lack of medical evidence in a case, or questions about an injured worker's weekly pay rate or degree of disability.

He cautioned employers that while the 2007 reforms cap permanent partial disability awards at 525 weeks based on an escalating scale determined by an injured worker's loss of



earning capacity, beginning July 1, 2007 benefits for all accidents or disabilities increase in increments each year until they reach two-thirds of the average weekly wage in New York State in 2010. [For details of the new compensation rates, see A Claims Guide for the Employer at [nysif.com](http://nysif.com)>About NYSIF>Online Publications.]

### Forum Feedback

"In all the years I have worked, my interaction with the people of the State Insurance Fund has been phenomenal.

They are kind, courteous and very informative. I actually look forward to calling them when I need help."

—Rosemary Liss,  
Office Manager, J C Smith, Inc.

**"As benefits rise, it's more important than ever for employers to become proactive in the claims process to keep their workers' comp. costs down."**

In cases where NYSIF is successful in gaining employer and employee cooperation, Mr. Hiller said NYSIF will help facilitate a medically approved return to work for injured workers through proactive case management. Among other specifics, NYSIF discusses physical capabilities/limitations with the claimant's doctor, helps policyholders identify return to work options, and assists in the development of modified duty assignments that meet with medical requirements.

Mr. Hiller said policyholders could contact him [[ehill@nysif.com](mailto:ehill@nysif.com)] if they want to arrange a return to work consultation.

### Fraud File

## Arrests In Sweeps Hike Crackdown In Milestone Year

Working together with the New York State Insurance Department Frauds Bureau, the Workers' Comp. Board Fraud Inspector General, and district attorneys and law enforcement agencies across the state, NYSIF produced yet another unyielding campaign in its crackdown on fraud in 2007 in a milestone year.

As the year ended, NYSIF closed in on another benchmark for cases resulting in fraud arrests in New York State, with five fraud sweeps in downstate jurisdictions of Queens, the Bronx, New Rochelle, Westchester and Nassau increasing the final total.

NYSIF's crackdown on fraud surpassed the 1,000 arrest mark in 2007, coinciding with NYSIF's Division of Confidential Investigations (DCI) entering its 10th year

under DCI Director Larry LaPointe. DCI is among the top anti-fraud units in the nation.

"In the past 10 years, NYSIF cases have produced more than \$130 million in restitution and estimated future savings," CEO David Wehner said. "We're proud of our record, which is a credit to our entire staff, our anti-fraud training, and the cooperation we receive from the state Insurance Department, the Fraud Inspector General, local law enforcement authorities and the public in combating fraud."

To report suspected fraud confidentially to NYSIF go to [nysif.com](http://nysif.com)>Online Services and scroll down the right side menu to report workers' comp. or disability benefits fraud, or if you want to speak to an investigator call **877-WCNYSIF**.

**NYSIF is leading the fight against workers' compensation fraud.**

**You can help.**



**'Red Flags' of Claims Fraud Policy and Provider Fraud Reporting Fraud to NYSIF**

Eliot Spitzer Governor Robert H. Hurbut Chairman David P. Wehner CEO/Executive Director

Our anti-fraud guide lists '**red flags**' of claimant fraud. Download a copy at [nysif.com](http://nysif.com)>Online Publications, or call **212-312-9121**

# Start Now to Sustain '07 Reform Savings

**T**he workers' comp. reforms of 2007, led by Governor Eliot Spitzer, drove down the cost of insurance. Now your challenge is to lock in those lower premiums for years to come. How? The experiences of other states that have benefited from reform suggest a greater emphasis on safety and loss prevention.

In a blog for the *Workers' Comp Insider*, Jon Coppleman writes about Massachusetts employers, for example: "They understood the relationship between their losses and their future costs. They learned that loss prevention was worth every reasonable effort."

Understanding loss-sensitive premium elements is a first step. Two key factors determine your workers' comp. premium: manual rates applied to your payroll, and your company's individual accident experience rating modification ("mod"). While lower claims costs may reduce manual rates, you should focus on improving your mod by reducing the frequency of workplace accidents.

The experience rating plan recognizes that although similar employers pay the same basic manual rates, they may have different loss histories and may not have similar commitments to safety. The plan adjusts for those differences by modifying the overall premium paid by the employer.

## MIND YOUR MOD

Currently, the NY Compensation Insurance Rating Board compares your company's losses to the "expected" or average loss experience generated by businesses similar in type and size to yours during a three-year rating period. This results in the mod factor, which is a percentage credit or debit applied to your premium. If your losses are less than average for your type and size of business, your premium decreases; a poor loss history increases your premium.

Another critical point about the mod: The formula penalizes accident frequency more than severity. This is due to a feature called split rating. Currently, claims valued over \$5,000 go into the rating formula at a discounted value; those below \$5,000 go in at full value. As a result, several smaller losses can affect your premium more than one large loss. Businesses with fewer accidents, therefore, usually develop better mods.

### Monthly Safety Topics

Find safety topics at [nysif.com](http://nysif.com)> Safety & Risk Management> Small Business

**January** Avoid Winter Slip, Trip and Falls

**February** Poster - Driving (Poor Conditions)

**March** Electrical Safety Basics



Gary Dombroff, WCP

Expected losses are an important component of the mod. Manual rates currently are set by analyzing historical losses and computing an "expected loss rate" for each classification code. Many expected loss rates have declined along with the manual rates. However, when this occurs businesses are "expected" to incur less loss. If losses remain static or increase, the experience mod will rise.

## MAKE ACCIDENT PREVENTION YOUR STRATEGY

That's why accident prevention is your key strategy in managing your mod and lowering your premium. The Department of Labor advises, "It is only possible to lower the experience modifier by implementing a successful safety program." If you have a good safety program in place, continue it. If not, start one now and stick with it. **Please note: patience will be required.**

The Labor Dept. states: "It takes four complete policy years for the experience mod to truly benefit from reduced claims and better safety... Consistently controlling claims through safety and proper claims management will have a positive impact, but it does not happen immediately."

## PAY SMALL CLAIMS

So, hang in there, and complement your safety efforts with other cost control strategies. Consider paying non-reportable claims yourself to reduce your mod. This keeps smaller claims (which enter the mod formula at full value) out of the picture. Employers can pay medical costs directly for injuries requiring no more than two first aid treatments, or loss time from regular duties of less than one day beyond the working day or shift in which the accident occurred.

## ULTIMATELY, LOSSES CONTROL RATES

While manual rates are usually based on past loss experience, 2007's rate reductions were based, in part, upon new programs meant to lower future comp. costs. These include caps on permanent partial disability payments, pharmacy and medical goods fee schedules, safety incentive programs and other reforms. Overall, when claims costs go up, so do manual rates, but the future of ratemaking in New York is under review. In any event, whatever rates ultimately are used will almost certainly reflect incurred losses and costs, so it's prudent to control both now.

One last piece of advice: Once you decide to start or re-adjust your safety program, walk before you run. Address fundamentals first, such as machine guarding, housekeeping, accident reporting, OSHA compliance, etc. Remember, be patient. As NYSIF has said for decades: "A good experience rating is no accident!"

## Use eFROI For Your Records

The law requires employers to retain all accident records for 18 years, even if the claim is non-reportable. For such injuries, NYSIF assureds should complete the online First Report of Injury (NYSIF eFROI<sup>sm</sup>) C-2 form that can be filed if the injury later causes more lost time or medical treatment.



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Send WCA comments to [jmesa@nysif.com](mailto:jmesa@nysif.com)

### Workers' Comp. Advisor

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**199 Church Street**  
**New York, NY 10007**

## NYSIF Teen Worker Safety Promo a Hit at State Fair

**N**YSIF's effort to raise the level of teen safety awareness on the job was a hit with teens and parents at the New York State Fair in Syracuse. A steady stream of visitors to NYSIF's booth at the September fair learned about the hazards faced by teens and their rights in the workplace. If you know a working teen, you can print a bookmark (far, r.) at [nysif.com](http://nysif.com) > *Online Publications* that discusses teen worker safety.



**b safe @ wrk!**



**TEENS**  
**Know Your Rights!**

#### ASK the question:

- Does the job involve any hazards, like working with chemicals, hot grease, high noise levels or heavy equipment? If so, will I be trained in what to do to prevent injuries?
- Is there safety gear I'll be expected to wear? If so, who provides it?
- What specific health and safety training will I get before starting work, and who's my supervisor?
- What are my health and safety responsibilities, and whom do I go to with safety concerns?
- If I'm hurt at work, what should I do? Who's the first aid person?

Follow safe work practices for your job, as directed by your employer and/or supervisor. Working safely may slow you down, but ignoring safe work procedures is a fast track to injury. There are hazards in every workplace, and recognizing and dealing with them correctly may save your life or prevent serious injury.

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