The management of occupational injuries and diseases – from an insurer perspective

Treatment of injured or diseased workers is almost always experienced as a nightmare for the different stakeholders involved. A clear understanding of the relevant legislation and the functions of the different role players is needed to pave the way for changing this experience and perception. The occupational medical practitioner (OMP) is in my opinion the most suitable to orchestrate and co-ordinate communication between the different role players.

LEGISLATION

Workers’ compensation in South Africa is governed by two pieces of legislation namely the Compensation for Occupational Injuries and Disease Act, No. 130 of 1993 (COIDA)¹ and the Occupational Disease in Mines and Works Act, No. 78 of 1973 (ODMWA)² and the Occupational Diseases in Mines and Works Amendment, No 208 of 1993.³

The control and administration of COIDA is under the auspices of the Department of Labour through the office of the Compensation Commissioner (CC) as appointed by the Minister of Labour. Two mutual assurances, Rand Mutual Assurance and Federated Employers Mutual, were granted a licence in terms of section 30 of COIDA, to administer on behalf of the CC.

The control and administration of ODMWA is under the auspices of the Department of Health, through the Medical Bureau for Occupational Diseases (MBOD). The bureau will process claims and then submit them to the Compensation Commissioner for Occupational Disease (CCOD).

Other pieces of legislation that regulate the health and safety conditions in the workplace are the Occupational Health and Safety Act, No. 85 of 1993 (OHSA),⁴ and the Mine Health and Safety Act, No 29 of 1996 (MHSAC).⁵ However, this article will focus more specifically on COIDA.

COIDA¹

The sections in COIDA clearly define the responsibilities of the different role players in order to process and make informed decisions with regards to liability and settlement.

The four important groups of role players are the:

- insurer;
- the employer;
- the employee concerned; and
- the service provider, which includes all the different disciplines of medical service providers that will render services to the injured.

A brief summary of the main roles and responsibilities of each group and a more in-depth discussion on the position of the OMP and medical service provider will highlight the importance of a systematic approach in the management of occupational injuries and diseases.

ROLE PLAYERS

Insurer

The insurer is responsible for administration of the act through:

- registration of employers (see exempted employers in the act);
- assessment of the industry and related risks involved;
- calculation and collection of premium and provision for reserve funding;
- exercise control over Mutual assurances and their provisional settlement powers;
- make informed decisions based on the documents submitted and in accordance with COIDA requirements;
- payment of benefits such as loss of earnings, medical treatment and permanent disability;
- informing injured and employer of decisions and final outcome;
- administration of the appeal process; and
- issue of different Instructions to clarify the position in regards to claims for specific conditions.

(COIDA¹ – Chapters II, III and IV, sections 1–37)

Although the insurer can develop and implement all systems to control and administer the whole process, the submission of documentation by the other role players is not only the initiating step of the claims cycle but will in most cases also determine the outcome.

Rand Mutual Assurance monitors the compliance of different role players and will then take action to solve specific problem areas identified through system reports.

Most problems are encountered with the non-reporting of incidents, fragmented and incomplete submission of documents that all impact on claims registration, adjudication and eventually delays with decision-making, payment of accounts and financial hardship to the injured.
Employer
The employer’s role is most crucial. Duties of an employer are outlined hereafter.
• Registration of an employer with an insurer is compulsory with the start of any employer–employee relationship (excluding domestic workers and exempted employers).
• Employee information is not included in a specific section of the act, but is a critical aspect of the employer-employee relationship. It should include in-house incident reporting procedure, emergency procedure, explanation of benefits and appeal process.
• Accident reporting within 7 days of the date of the incident.
• Disease reporting within 14 days after (confirmation of) diagnosis of occupational disease.
• Although the most important step, most problems are experienced at the employer level and commonly involve non-reporting, incomplete details on documents or delay with submission of supporting documentation.
• Submission of medical reports within 14 days to insurer.
• Payment of loss of earnings calculated in accordance with the schedules of COIDA for the first three months.
• Submission of a claim from the insurer for temporary total (or partial) disability (TTD or TPD) after the first three months with supporting documents.
• The employer is the channel for communication between insured and injured.

(COIDA\(^1\) – Chapters V and VI, sections 39,41,47,56 and 63; Chapter IX, sections 80–89)

The role and function of the employer is central to most aspects of work-related injuries and diseases. Failure of the employer to comply with COIDA has serious legal and financial implications and should be the responsibility of a dedicated department or individual. The appointed OMP is best positioned and legally obliged to accept responsibility for all health and safety matters on behalf of the employer.

(Section 13 MHSA\(^5\))

Reasons for the need for OMP and/or occupational health nurse practitioner (OHNP) involvement:
• are experts on occupational health legislation and best equipped in terms of knowledge;
• have superior knowledge of Instructions published for reporting and management of occupational injuries and disease;
• can provide the employee with information on COIDA during the pre-employment medical examination and induction;
• participate in and make input on incident reporting and control;
• only the OMP can confirm a diagnosis of occupational disease after having reviewed workplace exposure, confirmed with the clinical features and diagnosis, therefore all occupational disease should be reviewed and assessed by the OMP;
• should regularly review and follow up complicated injury cases – the OMP needs to keep employer updated on progress and prognosis of the seriously injured;
• manages absenteeism in general and injured or diseased cases in particular;

Employee
All employees should be well informed about their (own) rights on health and safety matters in the workplace and their role as per COIDA, which are as follows:
• reporting of (all) incidents to supervisor within time frames as per COIDA (employer does not have the right to refuse reporting because internal procedure not followed);
• can report directly to the CC or mutual concerned in cases where the employer refuses;

“A clear understanding of the relevant legislation and the functions of the different role players is needed...”
The OMP and OHNP are the most appropriate to manage the administration of the various processes and make sure that the injured or deceased receive the benefits to which they are entitled. At the same time the employer should also be informed about the health status of employees injured in the workplace and the cost and socio-economic implications as a result of injuries in the workplace.

**Medical service provider**

Service providers are uncertain with regards to their role and rights in terms of COIDA. COIDA clearly indicates the functions, roles and rights of medical service providers as follows:

- must visit medical provider and subject themselves to medical examination after an injury;
- request documentation of clinical findings;
- present for special medical examination when so requested by CC or mutual;
- take care of own health and safety;
- lodge an objection for increased compensation in case of employer negligence; and
- have the right to appeal against findings of CC.

(COIDA1 – Chapter V and VI sections 38, 42, 44, 51; Chapter X, sections 90, 91, 98 and 99)

Our experience is that injured employees are easily influenced by supervisors to not report “minor” injuries and often then present later with claimed complications as a result of those injuries. The insurer will have no records and the employee then needs to submit proof of the alleged incident. Negligence in such a case on the side of the employer is a criminal offence and the Department of Labour may award a fine to the employer to pay for expenses and permanent disability.

**CONCLUSION**

Interaction between various role players is crucial for optimal functioning of the management of a fair and equitable compensation system for injured and diseased workers. Figure 1 shows the “ideal” claims cycle and steps with the interaction of different role players to achieve this. Tables 1 and 2 are provided to indicate the number of claims delayed for settlement or processing due to outstanding processes from the employer side and medical service provider reports or documents respectively. Although they depict the RMA experience, it is likely to be similar at the CC but more pronounced because RMA actively drive and collect outstanding documents in order to reduce them. Mets reported and identified many such problems.6

Significant problems, with the major one being the delay in payment of accounts, are experienced by medical service providers as pointed out and are as a result of various reasons. The medical service provider can improve and assist the claim process under COIDA through the following measures:

- demand an employer report in case of all injuries reported by the injured or a witness;
- the submission of a detailed report on the clinical findings as well as the results and findings of special investigations;
- provide notes on the referral to specialists or other disciplines with follow-up on their report and findings;
- inform the injured of the process and the progress;
- be specific on:
  - the presence of pre-existing conditions;
  - the mechanism of the injury and the effect and relationship of the injury to the clinical findings;
  - severity of the injury and impact on the injured person’s ability to work; and
  - sick leave note with clear indication of the dates and return to work;
- in the case of prolonged recovery, submit a monthly progress report together with a sick note to enable the employer to recover the loss of earnings;
- submission of final report when the injured has reached maximal medical improvement (MMI);
- detailed description of the clinical findings as related to the injury and in accordance with the relevant instructions;
- most injuries are musculo-skeletal in nature and the range of movement model or amputation level are used to document the functional level; and
- do not create any expectations, avoid recording or awarding a percentage of disability unless the percentages as published.

Service providers are uncertain with regards to their role and rights in terms of COIDA. COIDA clearly indicates the functions, roles and rights of medical service providers as follows:

- should receive an accident report from employer stating the details of the injured and mechanism of injury;
- the insurer will cover all reasonable medical expenses related to injury or disease;
- treatment to be supported by a detailed medical report on clinical findings and treatment given;
- need for First, Progress and Final medical report depending on the length of active treatment;
- cost for the insurer according to published tariffs or deemed appropriate;
- may not levy a co-payment or additional charges to the injured;
- medical service providers to submit medical report within 14 days after treatment to employer (and/or insurer). Employer to submit to insurer;
- insurer can withhold payment if no medical report has been submitted;
- the insurer can request more detail on clinical findings at no extra cost; and
- must provide detailed medical report on the clinical findings and treatment in the prescribed format.

(COIDA1 – Chapters VII and VIII, all sections)

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Table 1. Outstanding documentation from employers as at 31 December 2009

<table>
<thead>
<tr>
<th>Comments</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days Off Interim (RM16) outstanding</td>
<td>351</td>
</tr>
<tr>
<td>Liability decision outstanding</td>
<td>238</td>
</tr>
<tr>
<td>Identity documents outstanding</td>
<td>170</td>
</tr>
<tr>
<td>Earnings at the Time of accident / disease</td>
<td>85</td>
</tr>
<tr>
<td>Confirm earnings</td>
<td>84</td>
</tr>
<tr>
<td>Employee banking details (RMD20)</td>
<td>66</td>
</tr>
<tr>
<td>Future probable earnings</td>
<td>52</td>
</tr>
<tr>
<td>RMD1 – Signed Accident Claim Form outstanding</td>
<td>51</td>
</tr>
</tbody>
</table>

Table 2. Outstanding medical reports and attendance of assessment clinics because of incomplete medical reporting as at 31 December 2009

<table>
<thead>
<tr>
<th>Description</th>
<th>Number of claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>First medical report outstanding</td>
<td>115</td>
</tr>
<tr>
<td>Progress medical report outstanding</td>
<td>153</td>
</tr>
<tr>
<td>Final medical report outstanding</td>
<td>462</td>
</tr>
<tr>
<td>Inconclusive final medical reports</td>
<td>10</td>
</tr>
<tr>
<td>Outstanding medical assessment</td>
<td>100</td>
</tr>
<tr>
<td>1st Impairment assessment clinic not attended</td>
<td>12</td>
</tr>
<tr>
<td>2nd Impairment assessment clinic not attended</td>
<td>7</td>
</tr>
</tbody>
</table>

“Most problems are encountered with the non-reporting of incidents, fragmented and incomplete submission of documents…”

Key: Insurer, Employer, Employee, Medical service provider

ICD 10 – International Classification of Diseases 10; IAC – Impairment Assessment Clinic;
PD – permanent disability

Figure 1. Typical claims cycle flow with medical department involvement, referral and recommended medical requirements

REFERENCES