Although the great majority of workers’ compensation claims are valid, an understanding of claims procedures and available options can facilitate the process and ensure fairness for all concerned. Fraud, regardless of the form it takes, adds to the cost of your insurance. During the past 10 years, the growth of insurance fraud has outpaced most other factors contributing to rising insurance premiums.

According to the Insurance Information Institute, fraud accounts for 10 percent of the total claim dollars across all lines of business. Based on total industry losses in recent years, that amounts to about $20 billion a year in unmerited claims payments—and that may be a conservative number. Nobody knows exactly how much is lost each year. Unfortunately, workers’ compensation insurance provides the best opportunity for fraud to hide behind seemingly legitimate claims.

How to Spot a Dishonest Claim

Surely the vast majority of American employees are honest, and their workers’ compensation claims are legitimate. But some employees file workers’ compensation claims that are dishonest in some way (claims for injuries due to a previous accident, injuries that occurred away from the place of employment, or some other misrepresentation).

Here are some common signs of a misrepresented claim:

• An injury reported 24 to 48 hours after it allegedly occurred.
• A Monday report of an accident that allegedly occurred on Friday.
• Lack of corroborating witnesses,
• The circumstances surrounding the accident, as explained by the injured employee, seem to be inconceivable within the work environment

If you doubt the validity of a reported injury or any circumstances surrounding it, all information should be brought immediately to your claim representative’s attention. Your carrier should carefully determine coverage, thoroughly investigate claims, accurately apply the law, promptly and fairly pay meritorious claims and vigorously defend claims without merit.

It is important to remember that the initial written claim report should indicate that an injury is “alleged” by the employee. Do not report an alleged injury as an actual fact. Any hearsay or speculative information that raises questions of compensability or employee honesty should always be provided separately from the initial written claim report. You can do this in one of three ways: call the claim representative to verbally relay any suspicions, attach a note to the employee’s first report or

FIGHTING FRAUD

in Workers’ Compensation Insurance

By Don Brown
send the information or evidence the employer can provide on a claim.

If you want to question a claim, your claim representative will discuss the pros and cons with you to determine the best course of action. Then, when a claim is questioned, a more in-depth investigation will be required. This could include an independent medical examination, a poll of other employees for information or, in extreme cases, an undercover investigation of the employee’s routine activities away from the job. This additional investigation can last a few days or several months.

**Know the Law**

Proving fraud is very difficult, and it is a problem that insurers are grappling with now more than ever.

State laws often hinder thorough investigations of suspected fraudulent claims. Many times insurers must rush investigations or face fines from state insurance departments and lawsuits from claimants for delaying payments. In most states, insurers have two weeks to start paying workers’ compensation claims, and that is not a lot of time to thoroughly investigate
a suspected fraudulent claim. And even after an insurance company has gathered what would seem to be indisputable proof of fraud, it will often lose its case.

If an insurance company denies a claim, the incident may then be reviewed by the local workers’ compensation industrial commission. If the claim denial is upheld, the employee has a specific time period (which varies by state) to pursue the claim before the industrial commission appeal panel. If the hearing again upholds the claim denial, the employee is still allowed to file an appeal with the civil court. Appeal procedures also vary by state.

The insurance industry, with claims-handling experience covering a variety of businesses over many decades, has verified that the great majority of workers’ compensation claims are valid. If, however, you suspect something might be wrong with a particular claim, you should know the claims procedures and the available options.

You should help control the effect of fraud on your workers’ compensation premiums. Contact your insurance carrier for complete information on its commitment to identify, investigate and defend against fraudulent claims.

About the Author
Don Brown is a CNA loss-control account manager and has more than two decades of management experience in CNA field operations. He currently manages loss-control services for 12 national associations, including The Association of the Wall and Ceiling Industries—International.