



## Worker's Compensation

HR Update 14/11

Have you ever had a worker claim for workers compensation but you suspect that the claim may not be legitimate?

Don't worry you are not alone. Worker's compensation fraud is when a person dishonestly obtains payment or other benefits under worker's compensation legislation. Usually, the claim will be rejected because the insurer will determine that either the injury was not work related or the worker is no longer incapacitated and they are fit for work.

However, On some occasions, the insurer may not get it right and the worker will receive payments even though you believe that one of the above scenarios applies. It is very frustrating for an employer to convince the insurer that the claim is fraudulent.

If you don't get the outcome you want from the insurer, you can invest time and resources into undertaking an internal investigation with the aim of disproving the claim. While this may be costly and time consuming, it can make a big difference in the long run by avoiding increased premiums and improving morale amongst your workforce. If you have suspicions then your employees probably do too.

### **Case study**

A worker lodged a claim for compensation for a genuine back injury sustained in May 2008 while working as a scaffolder. An investigation by the safety regulator in 2011 established that he had failed to disclose he was working as an electrical trade assistant while receiving weekly compensation payments for a period of two years. He was convicted and sentenced to 9 months imprisonment (suspended) and ordered to pay restitution of over \$50 000 in legal costs.

### **HR tips**

As an employer you should always be aware of the potential for fraudulent claims and provide as much information to the insurer. However, if you disagree with the insurer's decision, you should undertake your own investigation by:

1. Gathering and analysing documentary evidence. What was written on the workers compensation certificate? What was recorded on the Accident/Incident report?
2. Conducting surveillance of the worker. Engage a professional to ensure there are no accusations of stalking etc.
3. Collecting statements from witnesses. Staff may have overheard statements made by the worker? The worker may have made a comment about the claim?
4. Conducting interviews with the parties involved in the alleged incident. What did they actually see? Were they eyewitnesses to the incident or just saw it after the fact?

*Source: Health & Safety Bulletin, Joanna Weekes, 8 May 2014*