UNION RESOURCES-MANAGEMENT AND THE UNION WORKING AS A TEAM

COURSE #14

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GOING FOR THE GOLD AND ACHIEVING SUCCESS TOGETHER!
Objectives

• Identify the factors that contribute to an effective coop/partnership in order to support a successful worker’s compensation program.

• Identify creative ways in which agencies have optimized the working relationship with union resources to improve morale and reduce complaints.

• Discuss the importance of asking the right questions. Is this a difficult case or is this just a really difficult employee? How to deal with both.

• Discuss using technology to communicate and educate employees on the FECA.
Working as a Team

• Working together to achieve the rights on behalf of the injured employee is not a Union thing, it is not even a management thing, it is the right thing. Starting first with the right objective.

• Discuss the techniques of educating employees, whether at the Union level or workers’ compensation level, to “ask the right questions” to resolve problems and address concerns dealing with their injury or disease claims.

• Importance of effective communication

Strategy for success!
Questions for Audience

• Does your agency foster a team approach?
• How do you communicate to your employees, supervisors, managers, safety, Union officials, etc. on your workers’ compensation program?
• Who are the key players in your agency’s injury process?
• Are your supervisors part of the solution or part of the problem?
• Does the employee help in addressing the issues of the claim?
• Is the employee sabotaging the process by failing to provide accurate information or medical documentation?
• How do we turn a difficult case around?
• Does everyone understand their role and responsibilities in your injury/disease process?
• How does your Safety interface with the key players?
Define Teamwork

“Cooperative effort by members of a group or team to achieve a common goal”

- Integrated interactive team concept approach to the injury/disease process
- Where everyone understands their roles and responsibilities in the process
- Collaborative work environment where everyone works together
- Getting the employee to participate actively in their own case

Is the employee blaming everyone why their case is not going well? Now what?
Integrated Interactive Process

• Non-confrontational environment where good communication is a mandatory requirement

• Who is involved?
  – Workers’ Compensation and the Employee
  – Supervisor, Safety, Employee, and the Union
  – Supervisor, Safety, Employee, Workers’ Compensation, Occupational Health
  – Union, Workers’ Compensation, Employee, Supervisor, Safety, Occupational Health, Management, etc.
  – Workers’ Compensation, Employee and OWCP

Situations can be any combination of the above at any given time requiring immediate attention and resolution
Avoid Crash and Burn

- Be considerate and be prepared to achieve and receive success

- Set the tone for reaching your goals by laying down a good foundation

- Be willing to listen and share important information, when needed

- Set the right action in place to share that success with others
Discuss

• HR/Workers’ Compensation is responsible for administering an effective program that is: 1) consistent with the FECA and Federal Regulations; 2) effective and customer oriented; and 3) cost efficient and utilizes resources inside and outside the agency.

• Fostering a team work environment to create a successful Workers’ Compensation Program while also meeting the needs of the injured employee and providing a safe workplace.

• How can the Union assist in these objectives?

• How can the employee help themselves?
LAWS AND REGULATIONS

- FECA is a law regulated by 5 U.S.C. 8101 et seq.
- American with Disability Act (ADA) was a law signed by President Bush July 26, 1990.
- Civil Rights Law for the disabled - passage to Title V of the Rehabilitation Act of 1973
- Retention rights, pay issues, accommodation, re-employment, training, etc. (and other issues that might come up)
- OSHA Regulations and guidelines
- Agencies policies and procedures
Federal Employees Compensation Act (FECA)

• Remember the FECA is an entitlement program
• It is non-negotiable
• Both management and the Union want the same thing - standard processes and procedures implemented that are consistent with Federal Law and Regulations
To be eligible for the FECA the injury must meet the following requirements:

- injured in performance of duty, reporting requirement and “fact of injury” established, and
- provide “prima facie evidence” that disability is related to job
Confidentiality of Records

• Remember the FECA is protected under the Privacy Act and only the employee, his or her representative (if any), and agency personnel may have access to the file and reported records.

• Union representative cannot be represented as an Union Official in discussing an employee’s injury case or sharing it with other parties.

• A signed statement of acknowledgement by the employee designating the “Union Representative” to be a personal representative, giving permission to discuss facts regarding an injury cases must be granted before any discussions begins.

• Secure an agreement that everything is to remain confidential

• At meetings make sure everyone understands the purposes of the meetings – clarify to discuss this case only.
Working Together

• Union can be an ombudsman depending where they might be needed
  – Injury process
  – Filling out forms – provide possible assistance
  – RTW situations, etc.
OWCP AND THE UNION’S ROLE

- Educator
- Mediator
- Representative
- Advocate
- Liaison
- Support
- Ombudsman
The Union Representative can:

- Assist the workers’ compensation specialist/manager throughout the employee’s case by helping the employee understand what is needed to expedite their claim
- Help the member understand the filing process
- Help respond to the agency and OWCP’s request for information
- This might include assisting the employee in securing information from other parties, as needed
- Remember: A Union Representative is not acting as one in a workers’ compensation case but rather “only as a personal representative”
Union’s/Management Questions

• Why is the case becoming so difficult?
• Is the case a difficult workers compensation case or claim? Is the employee causing the pain?
  - questionable claim
  - missing information
  - fails to meet FECA requirements
• What does this case need?
  - Has DOL questioned or denied the claim?
  - Is this a fraudulent claim?
Summary of the Case of John Thomas

John Thomas is a Laborer, WG-04, working in the AOC. Unknown to the agency, he already had a history of back problems, non-work related. Prior to his injury on February 5, 2008, he was receiving current medical treatments (shots) to his back. We learned later his diagnosis for that injury was Herniated Discs and other medical conditions.
Continued

On February 8, 2008, John filed a CA-1 for a job related injury sustained on February 5th to his back while lifting a ladder. He requested treatment to a new doctor (not to the one who treated him the day before) which prescribed him disabled for 2 weeks – Lumbar Strain. He was released back to full duty. However, upon his return he began to miss time from work, failing to request FECA forms from his Field Coordinator/Supervisor. Finally, a few months later he asked for COP. He was instructed to have the Forms CA-17 and CA-20 completed and returned to document his eligibility.
Continued
When the forms were returned, medical treatment to his back prior to the date of his job-related injury and different medical conditions were noted. He had seen the wrong doctor. We contacted OWCP and they concurred retroactive COP could not be authorized. They reviewed the conflicting medical documentation, and requested, in writing, confirmation on medical condition(s) and prior history to determine eligibility of benefits for the new injury under FECA. Mr. Thomas did not provide the information.
Continued
Mr. Thomas was counseled numerous times by HR regarding the issues surrounding his FECA claim. Due to his failure to comply with DOL’s request, his claim was Denied on December 12, 2008. He was again counseled regarding his Appeal Rights, as described in the Denial Letter.
(Throughout the process he was continuously difficult, made accusations, and failed to provide accurate and timely information. In March of 2009 he went to the Union for help).
When a WC case becomes more difficult....

- Does the employee appear to “hold their breath” when addressing issues dealing with their case? With the Union? With WC?
- Argumentative? When you meet with the employee, do you bring witnesses?
- Are you being “accountable for things beyond your scope? Agency Payroll?
  - Transfer to the right individual
  - DOL’s CE, Hearing Representative, etc
Continued

• Remember
  - Document everything when dealing with this type of case and employee -

  Both Union and Workers’ Compensation
Union Representative can:

• Help monitor progress on the claim with employee
• Help employee with appeals process
• Represent employee in a hearing
• Help employee through EEO process to request reasonable accommodation
• Advise employee on retirement options
Union Representative can:

• Act as a facilitator in helping the employee apply for FECA benefits
• Help the employee return to work once medically approved – help employee to understand the process
• Assist employees in not being re-injured
• Assist the employee in understanding what proper medical documentation is needed to return to work
Logical Approach

Why do we want to Ask Questions?

• To help the customer more quickly
• To resolve problems more quickly
• To provide more timely customer service
• To implement improvements when needed
• To be proactive rather than reactive (how the results affect the mission of your agency)
• To administer the best Workers’ Compensation Program (including Safety and Occupational Health Programs) possible
Questions for the Right Approach

- Where does the injury or illness case fit in the Workers Compensation/Safety process?
- What are the issues confronting the case?
- Who has a problem?
- What needs to be resolved and who can resolve them?
- What other issues are arising that also need to be addressed?
- How can it be resolved?
- Who else needs to be part of the Team?
Employee’s Questions

The first question should not be “Do I need a lawyer?”

- Employees have questions dealing with:
  - FECA entitlement
  - OSHA Safety issues
  - Occupational Health Issues
  - Employment issues dealing with their job
  - Pay and benefit issues

All the Federal programs are mandated by law...
Reactions

• Employees feel confused about the process
• Jump to conclusions due to a possible lack of understanding
• Supervisors do not totally understand the process (not accountable on a daily basis)
• Type of workforce may influence their interpretation of the process (Blue collar, seasonal, etc.)
Educate your Employees to Ask the Right Questions

- Have I reported the injury to my supervisor and appropriate personnel?
- Did I file the right claim?
- Did I require medical treatment and secure the proper FECA forms?
- Am I maintaining contact with my supervisor and presenting medical documentation to support my disability for FECA benefits?
- What type of benefits am I entitled to under the FECA?
- What about my pay?
- Who really makes the decision on entitlement of benefits? My agency or DOL?

What other questions should the employee be asking? How can I find some of those answers?
Collaborative Effort
Working as a Team to Reduce Injuries

• Union representation involved in
  – JOSH Committees (Jurisdiction Occupational Safety and Health Committees)
  – Safety Meetings
  – SHEC Meetings (Safety, JOSH, Workers’ Compensation, Occupational Health)

• Union works at high level management level to develop policies and procedures dealing with safety and occupational health issues
Continued

• JOSH Committee to deal with injuries/illness and hazards that occur in the workplace

• Participate in Labor Management Relations Meetings
  – Assist in implementation of policies and policies with front-line supervisors
Activities Include

• Review employee accident report
• Determine if correct procedures were followed
• Any problems with machinery/equipment?
• Perform incident investigation to review accident site – recommend change
• If procedures were incorrect - educate employees on proper techniques and procedures
• Request proper management intervention, if needed
• Consider ergonomics solutions, wherever possible or applicable
Office of the Architect of the Capitol
Unique

• Congressional Agency - Executive Regulations did not apply until recently
• OSHA Standards did not apply until 1995 (Congressional Accountability Act)
• Agency did not get the resources for positive change until calendar year 2000
  – Increased staff in WC Program Unit
  – Implemented a Five Year Strategic Plan for our Workers’ Compensation Program included safety
  – Established safety specialists in each jurisdiction
  – Implemented aggressive safety and occupational health programs
  – Catching-up became a top priority
  – Results have been large reductions in injury rates
  – Costs went down but other challenges arose
Workers’ Compensation (WC) Role

• WC worked with the Union Representative in meeting with their union members
• AOC implemented various hands-on-meetings with staff and union members to communicate and educate them on the FECA, its benefits, etc.
• WC held a number of training sessions to educate supervisors, Field Coordinators, safety specialists, managers, Union Representatives on the injury process
• Drafted fact sheets that explained FECA benefits, etc. (buy-back of leave, frequently asked questions)
Workers’ Compensation – Technology that Works

- HR created a workers’ compensation program website that provides relevant FECA information to all AOC employees
- Available 24/7 basis
- Reduced concerns expressed by Union Members
- Reduces anxiety about what to do if injured, responsibilities, etc.
- Provides immediate access to DOL websites, including bill paying
- Available to Night Workforce and when off shift
- Supervisors use information on website to counsel employees on the FECA
Results Have Been

- Reduction in injury rate from 17.8% to 2.53%
- Reduced hazards in workplace
- Increased productivity
- Safety made a top priority
- More interest with DOL and less needed intervention from the agency
AOC WEBSITE

• Is available on internet to everyone
  www.aoc.gov
• The Union is pleased with the access
• Addressed members needs
• Provided immediate access to DOL web pages
• Can use it at any time of the day
REMEMBER

Make your programs win-win situations for everyone. Plan for success. Good communication is one of the keys to a program’s success.

Thank you very much and have a safe trip back home.