

## Keeping a Lid on Workers' Comp Costs

by Robert Criner

Every year, a notice comes in the mail from our insurance carrier informing us that we're due for an audit of our workers' compensation exposure. If you've been through one of these, you know it's either a relative breeze or a royal pain, depending on your level of preparedness. We've always had our paperwork more or less in order, but over the years, we've learned specific ways to minimize the time and money spent on this business essential.

The most important thing you can do to save yourself money at an audit is to be completely prepared: Have your payroll records and all subcontractor certificates ready for review. This is especially true with the widespread use of digital information systems; insurance companies have become very good at audits. It may also help to put the auditor at ease if you provide a little hospitality in the form of coffee and a cookie or muffin. If you're nice, the favor's likely to be returned.

### Choosing a Carrier

Shopping for workers' compensation insurance isn't entirely a matter of getting the best price. Because it's a state-regulated service, the basic rates are set in stone. Individual insurers are allowed to apply a markup, however, which varies by carrier. These markups are public information, available on request from your state regulatory agency. The differences are generally minor, 1 or 2 percentage points (but may be as much as 15% for certain classes in some states).

What I look at is the quality of service provided by the agent and the carrier—how helpful are they in providing information and explaining options? You may

find that one agency seems more even-handed assessing your classifications than another. Some understand the construction industry, and others do not. Look for an agent who takes the time to discover what you do and how you do it. In the long run, the right vendor can save you significant amounts of money by advising you how best to put your insurance program together, rather than merely comparing rates and letting mistakes from one year carry over into another.

### Use the Right Classifications

To control your annual expenditure, classify your employees correctly. It's a big mistake to post all employees under the same classification; a carpenter carries a much higher exposure rating than an office employee. In most states, insurance carriers determine the experience ratings of an industry based on the Scopes Manual, published by the independent National Council on Compensation Insurance (NCCI). Your state or carrier may even allow you to split the payroll of an individual employee between classes; in that case, NCCI rules require you to keep a daily payroll record of the different classifications—you can't use broad percentages. Work with a knowledgeable insurance professional to be sure you're taking advantage of all rules and regulations in the best way possible.

*Who's who?* Never leave classification entirely up to the carrier. Your insurer (or auditor) is likely to take the simplest route to classification—if they're covering Robert's Remodeling, for example, every employee, including Robert's accountant, salesperson, and receptionist, may be automatically classified under general carpentry. Ask your

insurance agent to walk you through the various classifications and find the right categories for your people. The difference can be huge: the rate for carpentry (5651) is \$8.87 per \$100 of payroll, while the rate for sales (8742) is only 25¢ per \$100 of payroll. Everyone from field supervisors to the sales and clerical staff must be properly classified.

As the business owner, I classify myself as a salesperson. Why don't I take myself off workers' comp and just carry a disability policy? Because under the sales classification, I pay next to nothing. I also carry a disability policy because it covers me if I'm injured away from the job or become seriously ill, which workers' comp doesn't cover.

*Primary functions.* Years ago, we broke down our employee classifications by percentage of exposure—if an employee spent 40% of the year roofing and 60% of the year painting, we reported that, and our insurer adjusted the rates. That worked for a couple of years, but then our insurer disallowed mixed classifications and arbitrarily reclassified my entire company under general carpentry.

That was my wake-up call. Determined to classify each of my employees properly, I contacted my state's insurance regulatory bureau and requested a list of possible classifications within a residential remodeling business. The bureau sent excerpts from the Scopes Manual, and I compared my employees' functions against them. Then I contacted the NCCI to get the payroll rates for our area for the respective classifications.

Classifying an employee under an inappropriate category is illegal, but to classify a worker who performs a range of tasks under his or her primary capacity

## DECK LEDGER

is generally accepted. For example, an employee who is primarily a carpenter may install a minor amount of roofing without being forced into the costly roofing classification. And as a salesperson, I can take a fall from a roof during a sales inspection and still have my injuries and downtime legitimately covered by workers' comp. But if an employee installs roofing 60% of the time, roofing is the appropriate classification. We subcontract all of our roofing for that reason.

### Check Those Certificates of Insurance

Any subcontractor or trade contractor who works for us has to provide us with a current (annual) Certificate of Insurance—one that covers the dates he or she is actually working for us. At first, we dutifully collected certificates but didn't

really look them over. There are two boxes on a standard Certificate of Insurance, one for "workers' compensation," the other for "general liability."

We were caught with our pants down on that one. It turned out that the general liability certificates were meaningless to the workers' comp auditor. As a result, we paid on every uninsured sub's invoice for services rendered to my company during the past year. Although it cost us hundreds, not thousands, of dollars, it was an entirely avoidable and unpleasant surprise. Make sure that the "workers' compensation" box is checked and that the aggregate coverage is at least \$500,000 per incident. Also, make sure the certificate comes directly from the insurer and is valid for the period of time that the sub is working for you.

Not all subcontractors are required

to carry workers' comp insurance, but the general contractor is usually still required to provide coverage. In those cases, we notify the sub that we will calculate the proper withholding for the time that he works for us, and subtract that amount from his final bill. This is actually a good deal for both parties: Our sub has coverage while he's working on our job, and our company is protected from being sued if the sub gets hurt.

### Make Sure Subs Itemize Labor

In one instance, we hired a solo roofer who couldn't provide a Certificate of Insurance. The problem was, the bill he turned in wasn't itemized by labor and materials; it was a lump sum invoice for \$9,000. At the audit, we had no way to substantiate that nearly half the invoice reflected material costs. Auditors don't



**ARMADILLO** 

**A NEW BREED IN COMPOSITE DECKING**

Deck Expo booth #2132  
[www.ArmadilloDeck.com](http://www.ArmadilloDeck.com)



argue, and they don't make judgment calls. If your records show a lump sum amount, you'll end up paying on that total. Now we always make sure that our records and our subcontractor invoices itemize labor and materials.

After reviewing your subcontracted labor, the auditor will want to see your 941 quarterly payroll report, the form you use to pay your payroll tax. Because I want to control my employee category selection, I supply the auditor with a list that identifies each employee in his or her respective category. Individual employee earning reports are a simple menu choice in our accounting program or can be taken directly from form 941.

### Lowering Risk

Your insurance may be provided through your state's assigned-risk pool, which means that your insurer considers your company a poor risk. To get out of that pool, you first have to find out why you've been assigned to it. Your company may simply perform the kind of high-risk work that triggers a high experience rating. Maybe you should be hiring self-insured subcontractors to perform your riskiest tasks, like roofing.

If your company has a significant accident and claims rate, your rates are likely to be higher the following year and for years to come. A single \$10,000 claim settlement is less likely to trigger a high rating than a half-dozen minor incidents.

*Prevention still the best cure.* Look at your company's claims history and consider whether you've taken proper corrective actions. Institute and maintain a company safety program. It may take a few accident-free years to prove your risk rating should be lowered, but it's certainly a worthwhile exercise.

### To File or Not to File

That may be a question you'll ask yourself when an employee suffers an apparently minor injury. Rather than see your rates increase following a few stitches or

a broken bone, you might be tempted to cover the medical costs and recuperative time out of pocket. Be careful. If you don't report the injury when it occurs and complications from that same injury arise later, the carrier will decline coverage. You may also be in violation of state law. Your company's assets could then be

left wide open to a costly lawsuit, bound to be far more expensive than even a long-term rate hike. ❖

*Robert Criner owns Criner Remodeling in Newport News, Va. This is an updated version of an article that originally appeared in the Journal of Light Construction, June 2003.*

**PROWOOD DURA COLOR™**

**COLOR THAT LASTS.**

With Dura Color, colorant is driven deep into the wood fibers during the pressure-treating process, so you get color-treated wood that stays good looking longer. And, with guaranteed protection against termites and rot built in, it's more than just the color that's made to last. ProWood Dura Color from Universal Forest Products offers everything you need for your backyard — from fencing to decking, railing to timbers and everything in between.

**"Treated lumber never looked so good."**

Jason Cameron

Experience the professional grade difference. Contact your ProWood representative or visit us at [ProWoodLumber.com](http://ProWoodLumber.com)

**pro'wood**  
PROFESSIONAL GRADE™