

# AlaCOMP

A Workers' Compensation Self Insurance Fund

## ***Claims Webinar***

*The Best Workers Compensation Plan is a  
Safety- Focused Work Environment*



**Presented By Wayne Currie, retired AlaCOMP Claims Supervisor**

**don't just insure. BE SURE.**

# AlaCOMP Focus

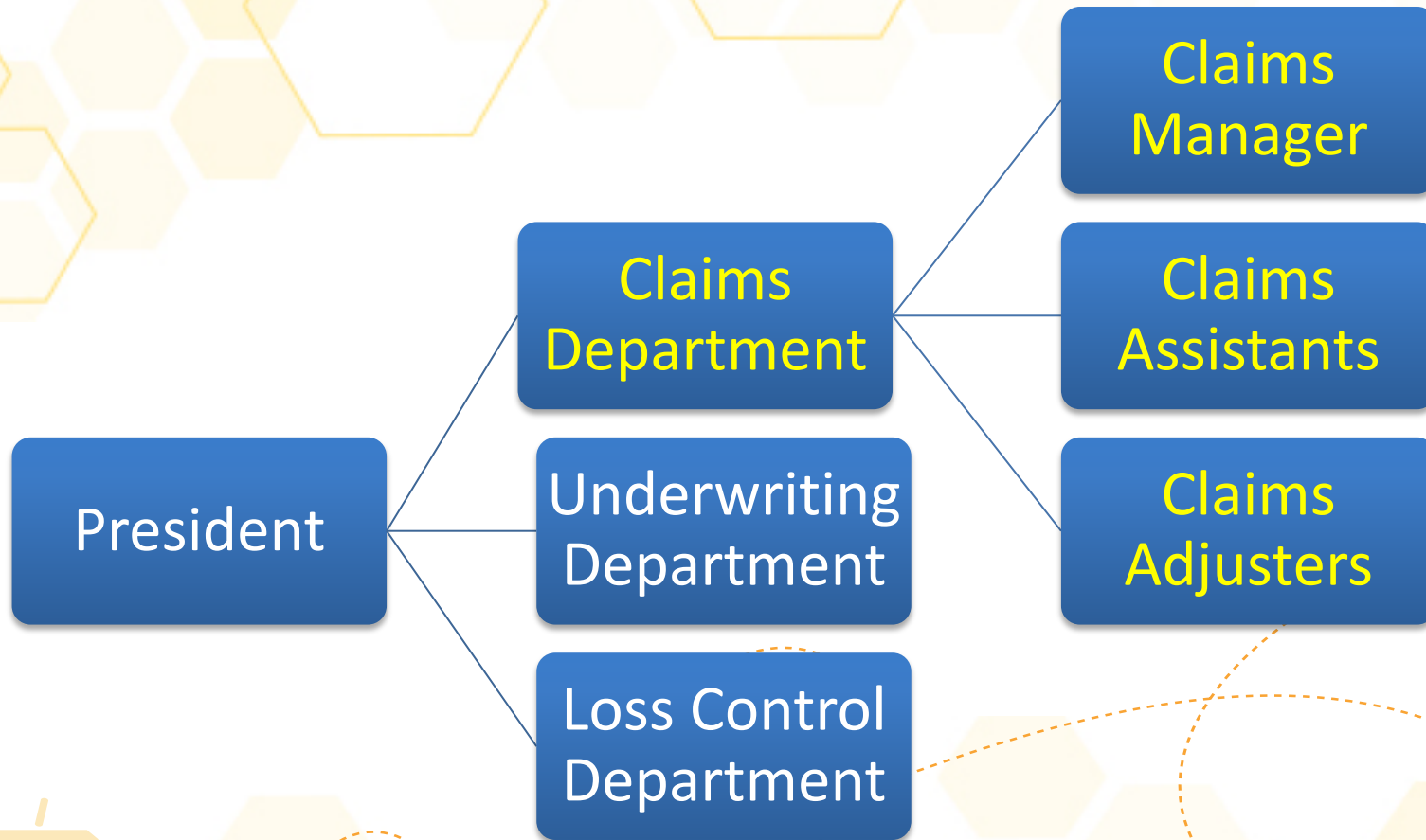
- Working together we are better
- Keep a safe workplace by conducting safety meetings
  - Include:
    - discussions of past accidents/incidents
    - Ways to prevent them
- Plan to reduce accidents = less serious injuries and more savings
- *You can do this!*



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# AlaCOMP's Team



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# Be Prepared to deal with Adversity



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# How it Began:

- Kaiser Wilhelm and Otto Von Bismarck of Germany 1876
  - The problem: German guild workers starving if they were injured at work
  - Why: length of time for litigation
- Injured workers and employers each gave up defenses:
  - Employer gave up the right to use negligence
  - Employee gave up the right to sue the employer for injury
- This became no-fault insurance
- In the State of Alabama, we use the Minnesota model
- It is a state by state controlled system not a federal system

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# What is Workers Compensation

- First and foremost it is INSURANCE
- Provides wage replacement and medical benefits to injured employees
  - In exchange the employee gives up the right to sue the employer for the type of negligence
- Known as “The Collective Bargain”



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# Why was WorkComp Created?

- Prevent employers from becoming insolvent
- Ensure security of injury compensation for injured workers
- Immunity for both parties

## **FUN FACT:**

**Alabama's Workers Compensation Law will  
turn 100 on January 1, 2020**



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# Workers' Compensation Insurance – Broken Down

- **Disability Insurance:** Acts as wages when providing weekly payments
- **Risk Insurance:** Compensation for Economic loss for past and future wages
- **Medical Insurance:** Acting as Health Insurance: Reimbursement for medical expenses as a result of injury
- **Life Insurance:** When workers are killed their families receive death benefits
- All in one package called Workers' Compensation

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# Do Four Things Really Well

- The comprehensive thread that runs through all that we do for our customers – *The Highest Quality Claims Case Management principles*
- Do four things really well:
  - **Hire quality** people
  - **Train** these **quality** people
  - **Focus on Loss Control(Safety)** at all times
  - **File Your Claims Very Timely (ASAP)**



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# Workers' Compensation Law

- No payments available for punitive damages, pain & suffering - generally
- The Exception: Outrageous claims supported by the Court - very rare egregious cases



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# What is Workers' Compensation

- Highest quality injury exposure insurance
- 2<sup>nd</sup> most expensive benefit you provide your employees
  - Health Insurance most expensive
- More than a \$90 Billion Dollar Industry annually
  - Health Care is a \$2.5 Trillion Dollar industry



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# AlaCOMP Resources

## We Educate our employers base though:

1. Our Claims Reporting Guide
2. We provide the forms necessary to file your claim via
  - Email ([claimesfirstreport@alacompins.com](mailto:claimesfirstreport@alacompins.com))
  - Fax
  - US Mail
3. Now **AVAILABLE** - electronic filing via AlaCOMP web portal
4. Day to day contact on Claims reporting
5. Training provided: online webinars, Safety Library, and hazard alerts
6. We serve you and your employees!



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# Terms of Interest

Disability

Work related injury

Mechanism of injury

Impairment

MMI (Maximum Medical Improvement)

Compensability

Accident or Incident

Allowed Condition



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# Basic Claims Information

- As soon as you are notified of an injury:
  - The claim is to be files All Claims are required to be filed on a State of Alabama WCC Form 2
- Medical Claims : Less than 4 days disability
- Lost Time Claims: 4 or more days disability as established by the Treating Doctor
- We provide the forms in both electronic and paper format to you to download and complete(We encourage electronic filing)
- We recently added the ability to file a Claim through our web portal
  - AlaCOMP will provide a User ID and Password
- *Claims Reporting Guide* - an instructional tutorial located on our website - [www.alacompins.com](http://www.alacompins.com)

## CONTACT INFO:

AlaCOMP: 888-661-7119 or 334-215-8480

Fax: 334-215-8480

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# A Sound WorkComp Strategy

- Wellness
- Employee Selection Practices
- Fraud Prevention
- Drug-Free workplace
- Management Commitment



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# Accidents & Incidents

- Every accident there are 600 incidents.
- What should you do?
- Create an Incident /Accident Evaluation Team
- Must have Senior leadership and strong technical support
- Document the Who, What, Where, When, Why and How



# 3 Point Contacts

1. We contact the injured worker for a statement of injury
  2. We contact the Employer for a statement of the injury
  3. We contact the Provider of record (your choosing) for reported statement on the injury
- Performed within 72 hours of receipt of claim
  - Compare 3 statements for consistency



# Accident/Incident Report

- Step 1: Get the medical care for the injured employee
  - If serious go to the emergency room
  - If not serious go to the Urgent Care
- Step 2: Documentation
  - Who: Identify the employees involved
  - When: Exact time down to the minute
  - What: The details of what happened/ be specific
  - Where: The specific location. If off-site, streets and addresses listed
  - Why: What caused this incident/accident
  - How: The events leading up to this accident.
  - Was it workplace violence?
  - List the witnesses
  - Were pictures taken? Was it caught on camera?
  - What were the injuries?
  - Cause of the accident?
  - Share this information with your staff



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# Claims Management Plan

- Conduct an immediate accident analysis
  - Include:
    - Pictures
    - Statements
    - Date
    - Time, etc.
- Get **INVOLVED** at the top early
- Develop early RTW options
- Communicate with injured employees
- Have a Plan Ready: Do a report
- Serious injuries may require OSHA 300 report
- Notify AlaCOMP using a WCC2 report



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# Claims Statistics

- **Medical only/No Lost Time**

- No more than 3 day Disability
- Cost: ~\$900
- Estimate: for every delay in reporting \$100

- **Lost Time Claims**

- More than 3 days Disability
- Cost: ~\$38,000
- At least 20 of the top 30 claims are related to the back/neck
- Estimate: for every delay in reporting \$1,000/day
- Comp Rate: Minimum \$229/ Maximum \$832 per week



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# Key Points in Claims

- To and From work rule: An injury that occurs while an employee is on his/her way to or from work normally DOES NOT qualify as work related
- Heart attacks, as normal events of life, normally do not qualify as work related
- Due process was not impeded by workers compensation: U S Supreme Court 1917 New York Central Railway vs White



# Key Facts

- It is illegal (in Alabama) to ask a prospective employee if they have ever filed WorkComp or terminate them if they do
- Employers are generally immune from negligence claims, but they are not immune from gross negligence claims. Don't go there!
- Injured workers are allowed to have lawyers in their claims; The lawyers are capped at 15% for their fees
- The State of Alabama makes available Ombudsman Services to those unrepresented
- Ombudsman Toll Free Number: 1 800-528-5166



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# The 4 Elements of a Claim

- Severity (Most Important)
- Frequency
- Duration
- Lag Time



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# The 6 Defenses an Employer may Use

- Intentional accident
- Horseplay
- Drugs & Alcohol involved
- Caused by another employer (Subrogation)
- Act of God
- Fraud



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# Knowledge of Basic Medical Injuries

- Establish very specific Allowed Conditions
- Do not deviate from them, without medical Doctors establishing the burden of proof
- Know basic medical terminology
- If it's not on the basic medical intake, it should be aggressively scrutinized
- You should be required to pay for the injuries you caused period—no more/no less
- Encourage Modified duty at every opportunity
- Remember: Initial Burden of Proof of Injury is always the Claimant's responsibility



# Alabama Employer Rights

## 1. Choose the Treating Doctor (very important)

- We can help you with your selection

## 2. Investigate the Claim

- We can do this for you with your input
- WorkComp payments are not taxable



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# Drugs Today

- More are taken today in the workplace than ever before
- Drugs are exponentially stronger and more effective than ever
- Legal drugs are now the drugs of preference in more than 50%
- Drug users are 5 times more likely to injure themselves and their co-workers
- The injuries are 5 to 7 times more severe
- Set up a recurring drug test for your employees

## Fatal Drug Overdoses – Jefferson County

2012	57
2011	30
2010	12
2009	18

85% are White males

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# Drug Policy

- Give a copy to each employee
- Have the employee sign
- Put it in their personnel folders
- Educate your Employee:
  - No “compensation” if they test positive
  - If it is a cause of the injury



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# What do you do if your worker tests +

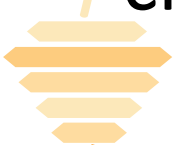
- **Section 25-5-1 of the Alabama Code states that no workers' compensation benefits shall be allowed for an injury or death caused by "accidents due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs."**
- **This company requires that you submit to a drug test in accordance with the standards adopted for drug testing by the U.S. Department of Transportation in 49 C.F. R. Part 40 immediately after you experience a work related accident or as soon after such accident as is medically possible.**
- **Section 25-5-1 of the Alabama Code also states that no workers' compensation benefits shall be allowed if an employee refuses to submit to or cooperate with a blood or urine test as set out above after a work related accident after that employee has been warned in writing that such refusal would forfeit the employee's right to recover workers' compensation benefits.**
- **Provide your employees a copy of this statement, have them date and sign it, and put it in their personnel folder, and keep it.**
- *They need to know, there will be no "compensation" if they test positive and it is a cause of the injury.*

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# Burden of Proof

- Employee must provide both medical and legal causation for the claim to be Compensable
- Not necessary to prove that the on the job accident was the sole cause, or even dominant cause for medical causation
- It is necessary that the on the job accident was in fact a contributing cause
- In a non-accidental injury claimant must meet their medical causation burden of proof by clear and convincing evidence



# Distracted Driving

- Create a policy
- Encourage all employees to oppose distracted driving—tweets, text,
  - It can have a serious impact on the employee's health insurance when off the job.
- Discourage “fatigue driving” by allowing driving breaks as necessary



# Workplace Violence

- Tell all employees in writing: it will not be tolerated
- Constantly evaluate your workplace climate
- Educate employees on workplace violence
- Do not allow guns in your workplaces
- Provide the due diligence security to prevent it from occurring
- Be extra sensitive to employee terminations, lock outside doors, be on alert for possible trouble
- Do not tolerate horseplay or harassment



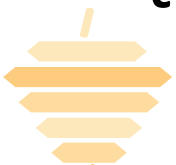
# Subrogation

- Someone else causes injury to your employee
- We pursue recovery of the damages—but they are limited by the law/court system
- It is normally well less than 25% of the total cost
- Workers Compensation is a state-managed system



# Workplace: The Future

- Two New significant Workplace Hazards
  - Global Bioterrorism: Anthrax, Bird Flu
  - Emerging Disease: Zika Virus, Nile Virus
- Employers must respond to controlling threat to the workplace and viruses don't stop at the door of the workplace."
- "Add a new contribution Karoshe' -- "Work to death



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# Fraud (estimates as high as 20%)

## Falls into Four Parts:

1. **False Injury/Remote Injury:** Worker claims a medical condition as a result of an employment injury when it's actually not
2. **Inflated injury:** When a worker exaggerates the extent of a disability resulting from an employment injury
3. **Old Injury/No New Injury:** When a worker claims compensation for an old injury by using a new false injury date
4. Worker works under the table and is drawing Work Comp/delays RTW and/or is a Malingerer



 **Don't forget Work Comp payments are not taxable**

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# Possible Types Work Comp Fraud Categories

- Doctors
- Lawyers
- Employers
- Insurance company employees
- Claimants
- Accounts for \$7.2 billion+ in added costs



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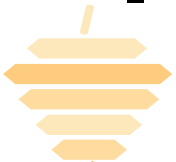
# Most Common Employer Fraud

- Under reporting payroll: Not charged properly
- Inflating experience: Employer claims workers more trained/experienced than they are
- Evasion: Not covering all employees just some
- Through opt out plans, not obtaining necessary coverage (ERISA)



# Our Most Successful Employers

- Use a Quality Treating doctor with appropriate specialist referrals
  - AlaCOMP can help
- Drug Test ALL Work Comp claims within 24 hours
  - AlaCOMP will pay if you do
- Conduct Regular & Frequent Quality Safety Meetings
- Top Management openly embraces Safety
- Do Quality accident investigations
- Investigate “Near Misses”: There are 600 near misses for every accident
- Reward Safety Success – up to you
- Hire Quality workers—really background investigate all new hires
- Provide substantial Training to all new employees
  - Use best - not worst to train



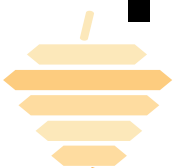
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# Alabama is on the Gulf Coast

- It has intra coastal navigable waterways
- The Jones Act applies to seafarers who operate more than 50 feet from the shore
- The Longshore and Harbor Workers Compensation Act
  - applies to working non-seafarers aboard navigating vessels
  - AlaCOMP does not cover either



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# Thank You for Your Support

- Plan - Reduce your injuries, thereby improving your safety performance, lowering your experience modifier, and increasing your profit margin
- Just Do it Well
- ***The Best Workers Compensation Plan is a Safety-Focused Work Environment***
- Thank You for being an important part of AlaCOMP
- Any Questions???



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