6 Workers’ Compensation Best Practices for Telecommuting Employees

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It’s no secret that the workplace is changing. Today’s technology enables us to work from anywhere in the world, while simultaneously keeping us connected 24/7. For telecommuting employees, this presents unprecedented freedom in choosing where to work, and a significant portion are taking advantage of this perk. A 2015 Gallup poll shows that 37% of American workers telecommute at least occasionally.

For employers, there are significant benefits to embracing the “work-from-anywhere” culture. Allowing employees to work from home helps to:

- Attract talent from a wider geographic area
- Boost worker retention
- Lower fixed costs
- Increase worker productivity

Telecommuting can also present unique challenges, including one that most employers don’t typically consider: the need for workers’ compensation insurance to cover employees working from home or other venues not controllable by the business.

While you might not consider telecommuters to be a significant workers’ compensation risk, the reality is that many employers are acting on blind faith about their employees’ work set-ups, particularly home offices. They could also be underestimating their exposure.

There are numerous scenarios in which employers could be found liable for injuries that occur in or near a home office. For instance, if a diligent employee wakes in the middle of the night, checks email on her smartphone while walking down a flight of steps and falls, would that be considered a work-related injury?

If an employee leaves his briefcase in his car, trips over his dog and breaks his leg while returning to the garage, can there be a claim against the employer? Is the employer liable if an employee develops deep vein thrombosis from sitting at his desk for hours on end and dies during work hours because of a blood clot?

While the ultimate coverage varies by state, scenarios like those listed above have been ruled
compensable. However, states define a worker’s compensation claim by saying the injury “must arise out of and occur within the course of employment.” The phrase within the course of employment can refer to the time, place and circumstances of the injury. If someone’s working from home, they could theoretically claim that any injury suffered in their home is work-related.

Even so, certain scenarios are not likely to be considered compensable:

1. An employee leaves the home office and is injured during a non-work-related errand
2. An employee takes a break from work and gets hurt vacuuming the house or cleaning the garage
3. An employee who sets up a remote office in a local coffee shop goes shopping next door and is injured in a slip-an-fall accident

Here are 6 best practices for creating a buttoned-up work-from-home policy:

1. Physically inspect the employee’s home office to make sure it is safe.
2. Clearly define the physical boundaries of the home office. If the boundaries are not well-established, an employer might be liable for an injury that happens anywhere on the employee’s property. If the employee has a desk job and works at a computer most of the time, you don’t want to be liable for a mishap that occurs in the garage.
3. Employers should set specific work hours and establish set breaks where possible. Without this policy, an employee could argue that an injury occurring at any time of day or night is work-related.
4. Specifically describe the scope of the employee’s activities. This reduces the possibility a clerical employee could successfully present a claim for doing a physical activity while in the home. The policy should make it clear that activities falling outside the employee’s job description are not the employer’s responsibility.
5. The employer should ensure that the employee’s desk, chair and the rest of the office set-up is ergonomically designed and similar to protections afforded employees at the office.
6. Employers should make it clear to employees that working from home is a privilege, not a right, and that the employer can take away the privilege at any time.

Allowing employees to work from home makes good business sense for many employers. However, it is not a free pass for the employer to ignore possible liability. Employers who offer workers the opportunity to work from home (or elsewhere) need to take a 360-degree view of what can go wrong, and approach telecommuting with their eyes wide open. They should be vigilant in understanding and addressing workers’ compensation exposure for telecommuters...before a claim is ever filed.

For more information, please call 1.877.426.7779