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**METRO INDIANAPOLIS COALITION**  
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**WORKER'S COMPENSATION FRAUD**  
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Worker's Compensation benefits are payable for "personal injury or death by accident arising out of and in the course of the employment." Indiana Code 22-3-2-2-(a) Those benefits include:

- Medical Treatment
- Temporary Disability Compensation
- Permanent Injury Compensation

Fraud is "an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing." Black's Law Dictionary.

Any intentional action by an employee to obtain a benefit not otherwise due is fraudulent. In most cases, an injury occurred and the fraud is opportunistic. But, in some situations the entire claim is a fabrication.

(Employers can be guilty of fraudulent activities with regard to worker's compensation too! Those activities include the misclassification of employees, the under reporting of payroll and the failure to report claims, all to avoid the payment of an insurance premium. And, a conspiracy to deny a legitimate worker's compensation claim may create a RICO action for relief.)

The National Insurance Crime Bureau reports a 71% increase in the number of suspicious claims during the recent economic downturn. There are many lists of "red flags" for worker's compensation fraud. Red flags are circumstances which raise suspicion.

- Disgruntled employee – demoted, fired, or denied a promotion or raise
- Employee hard to contact – working or “playing” elsewhere
- New employee – prior history of claims or pre-existing condition
- No witnesses – Co-worker, bystander, forensic evidence
- Inconsistent stories – co-worker, nurse, doctor, adjuster
- Accident occurs on Monday – week-end activity, return from lay-off or vacation

But, suspicious claims are not the same as fraudulent claims. Fraud must be proven by evidence sufficient to establish an intention to get the unwarranted benefit.

Worker’s compensation fraud occurs where there is:

- Medical treatment for a pre-existing condition
- Longer than necessary period of disability
- Unwarranted temporary restrictions
- Unwarranted permanent restrictions
- Exaggerated loss of physical function or pain

Proof of the fraud in seeking these benefits requires evidence which is inconsistent with the employee’s statement in support of the benefit and proof that the employee knew it was inconsistent. This evidence is obtained by good claims procedures and thorough investigation.

- Require prompt reporting of injury
- Require immediate written description by claimant.
- Obtain written witness interviews
- Document physical facts at scene
- Consider employee motive
- Compile and discuss information
- Consider strength and credibility of evidence
- Consider the tests for compensability and affirmative defenses.
- Perform outside investigations and surveillance, including social networking sites
- Obtain family doctor records

Employees must understand that having a work related injury does not mean that their ship has come in. Preparing and distributing to employees a summary of Indiana benefits and your worker’s compensation program may go a long way toward reducing expectations and increasing compliance. It is easier to prevent fraud than to prove fraud.

- Hire the right people
- Avoid risks of injury
- Select and educate your company doctor
- Provide accurate job descriptions to your company doctor
- Accept and comply with light duty restrictions
- Monitor employee ability and compliance