

Managing Risk



Spain Agency, Inc.

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625 Route 6 • Mahopac, NY 10541 • (845) 628-1700, (800) 247-5521
www.spainins.com



Safety

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Improve Your Eye-Q: Avoid Eye Injuries

Each day about 2,000 U.S. workers have a job-related eye injury that requires medical treatment. About one-third of the injuries are treated in hospital emergency departments and more than 100 of these injuries result in one or more days of lost work. Men experienced far more eye injuries than women, and men age 25 to 44 suffered more eye injuries than men in other age groups.

Potential eye hazards are found in nearly every industry. However, workers who were most at risk of incurring an eye injury include those in the manufacturing, construction and trade industries; and those in the production, installation, maintenance, repair, extraction and service occupations.

The majority of eye injuries result from small particles or objects striking or abrading the eye. Exam-



ples include metal slivers, wood chips, dust and cement chips that are ejected by tools, blown by wind or fall from above a worker. Some of these objects, such as nails, staples or slivers of wood or metal, can penetrate the eyeball and result in a permanent loss of vision. Large objects may also strike the eye/face,

continued on next page

Risk Tip

In 2011, an Oregon woman won workers' compensation benefits for breaking her arm while tripping over her own dog.

The case, *Mary S. Sandberg vs. J.C. Penney Co. Inc.*, involved a decorator who spent most of her working time meeting with customers in their homes. Penney required her to have all current fabrics on hand. Because she could not safely store all of them in her vehicle, the employer instructed her to store the fabrics at home, or any other safe and dry place. Sandberg tripped on her dog when removing 'old' fabrics from her van and replacing them with fabrics stored in her garage.

Her employer denied the claim, saying the dog was not an employment-related hazard, as did the administrative law judge and the state

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or a worker may run into an object causing blunt force trauma to the eyeball or eye socket.

Chemical burns to one or both eyes from splashes of industrial chemicals or cleaning products are common. Thermal burns to the eye occur as well. Among welders, their assistants, and nearby workers, UV radiation burns (welder's flash) routinely damage workers' eyes and surrounding tissue.

In addition to common eye injuries, health care workers, laboratory staff, janitorial workers, animal handlers and other workers may be at risk of acquiring infectious diseases via ocular exposure.

Infectious diseases can be transmitted through the mucous membranes of the eye as a result of direct exposure (e.g., blood splashes, respiratory droplets generated during coughing or suctioning) or from touching the eyes with contaminated fingers or other objects. The infections may result in relatively minor conjunctivitis or reddening/soreness of the eye, or in a life-threatening disease such as HIV, Hepatitis B, or possibly even avian influenza. If a worker can prove his/her disease stems from work-related causes, workers' compensation may apply.

In some states, the workers' compensation system presumes that certain diseases, such as HIV and hepatitis, are work-related for healthcare and public safety workers. This means that if an eligible worker contracts a condition specified by workers' comp law, he/she is automatically eligible for lost time and medical expense benefits under workers' compensation without having to prove the disease is work-related.

Prevention Steps

Occupational Safety and Health Administration (OSHA) standards require that employers provide workers with suitable eye protection. To be effective in preventing injury, the eyewear must be of the appropriate type for the hazard encountered, and it must be properly fitted to the individual or adjustable to provide appropriate coverage. It should be comfortable and allow for sufficient peripheral vision.

workers' compensation board. On review the board reversed, saying, "If an employer, for its own advantage, demands that a worker furnish the work premises, the risks of those premises encountered in connection with the performance of work are risks of the work environment, even if they are outside of the employer's control, and injuries resulting from those risks arise out of the employment."

For more on managing telecommuting risks, please see P. 4.

Selection of protective eyewear appropriate for a given task should be made based on a hazard assessment of each activity, including regulatory requirements when applicable. If affected employees wear prescription lenses while engaged in hazardous operations, the employer must ensure that their eye protection incorporates the prescription, or that eye protection can be worn over prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses. The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

If a hazard from flying objects exists, eyewear must also provide side protection. Detachable side protectors (such as clip-on or slide-on side shields) are acceptable. Employers should also use engineering controls, such as screens, to reduce eye injuries and to protect against ocular infection exposures. Personal protective eyewear, such as goggles, face shields, safety glasses or full face respirators must also be used when a possibility of eye infection exists.

The eye protection you choose will depend on the nature and extent of the hazard, the circumstances of exposure, other protective equipment used, and the employee's personal vision needs. We can help you evaluate eye safety at your worksite. For more information, please contact us. ■

Protect Your Company from Auto Liability Claims

More than 9.5 million motor vehicles were involved in crashes that caused property damage or bodily injury during 2010, according to Census Bureau data. And one in four auto accidents results in an injury claim, found a study by the Insurance Research Council. Protect your organization from this exposure with the right coverage!

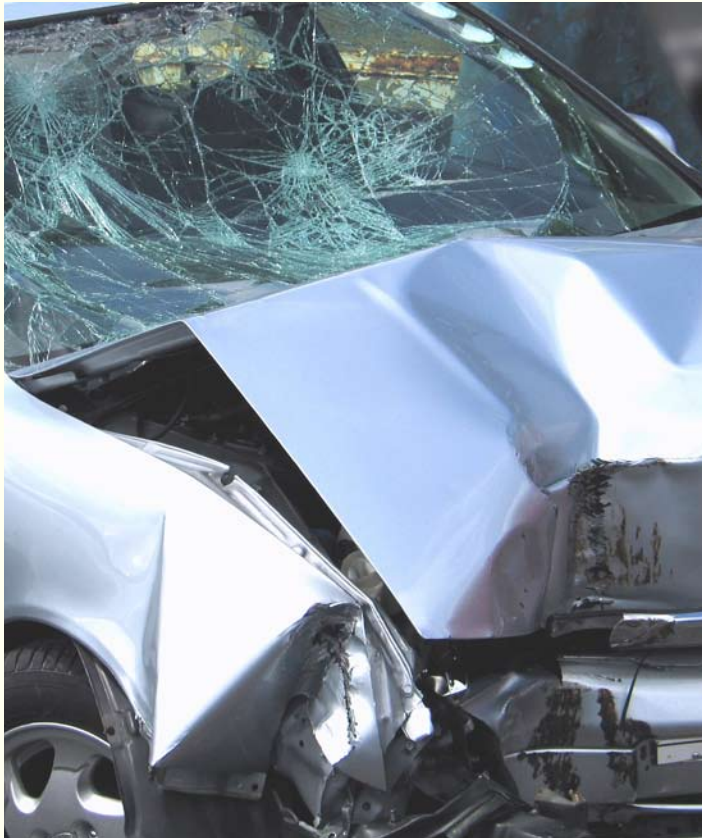
If one of your employees causes property damage, injury or death to another while driving on company business, your company could become liable. In addition to the human cost, involvement in an injury or fatal accident can create adverse publicity, cause lost work time and potentially cost thousands of dollars in liability claims.

For many reasons, it makes sense to take measures to prevent auto accidents and to minimize the company's liability when an accident does occur. Practical action steps include:

- 1** Define the jobs that involve driving. If a job requires driving, obtain copies of applicants' motor vehicle records (MVRs) from the state department of motor vehicles before making a job offer. Be sure to obtain applicants' written permission before doing this to avoid violating any Don't Toss Those Old Liability Policies privacy regulations. Use the MVRs to screen out any applicants whose records indicate unsafe driving behaviors.
- 2** Request MVRs on a regular basis — at least once a year — for all employees whose jobs involve driving or who are given company cars.
- 3** If an employee needs to drive infrequently on business — for example, on a business trip — you might save time by requesting the employee to provide a copy of his or her own motor vehicle record abstract.
- 4** Develop a company driving policy. U.S. Department of Transportation statistics reveal that most accidents involve unsafe driving behavior. Your policy should require seat belt use for the driver and all occupants, prohibit driving while intoxicated (including while under the influence of legally prescribed drugs that can impair reflexes, judgment or vision), and require safe use of cell phones and other mobile devices while driving. Many companies (and some states) allow only hands-free devices or ban the use of mobile devices altogether while the vehicle is moving.
- 5** Your driving policy should also include a list of disciplinary actions the company will take for violations. This could include a point system, where drivers receive points for various moving violations, along with listing offenses that will result in termination of driving privileges or employment, such as DUIs, reckless driving charges or vehicular manslaughter.
- 6** To minimize paperwork, have employees sign a consent form at time of hire, authorizing the company to review their MVRs on an annual or as-needed basis, and that they have read and agree to abide by the company's driving policy.
- 7** Provide written notification to employees who have corporate cars or who rent cars for business purposes that the company's insurance policy will not provide coverage for personal use of these cars, and that the employee should carry personal auto insurance.
- 8** Require employees who use their own cars for business to carry certain minimum liability limits on their personal auto policy. The Insurance Information Institute recommends that individuals buy a minimum of \$100,000 in coverage per person and \$300,000 per accident; however, employees should consult their personal insurance advisor.
- 9** Since some accidents involving employees' personal vehicles will exceed the limits of their personal coverage, your company might want to buy additional protection for itself through a difference in conditions (DIC) policy. This nonstandard policy can cover exposures not covered by other policies on either an excess or first-

dollar basis, such as first-party physical damage. If you have large numbers of employees who use personal autos for business, you might also want to discuss arranging a group personal umbrella or excess insurance program for these employees, to supplement their coverage under their personal auto policy.

- 10 Check the limits of your company's business auto policy. Limits that were adequate several years ago might not provide enough protection for today's more litigious environment. For information, please call us. ■



Workers' Compensation and the Telecommuter

The terms "telework," "telecommuting," "flexible workplace," "remote work," "virtual work" and "mobile work" all refer to work done outside of the traditional on-site work environment. These terms refer to anything from jobs that are completely "virtual" or mobile, to arrangements that enable employees to work from home a few days per week or per month. Regardless of what you call it, telecommuting can raise some problematic workers' compensation questions.

According to the nonprofit World at Work institute, 26 million U.S. working adults worked at home at least one day a month in 2010. The Telework Research Network estimates another 15 to 20 million work at home part-time, and about 2 million people consider their home their primary place of work, not including the self-employed and independent contractors.

In a recent survey, an overwhelming majority (86 percent) of teleworkers reported being more productive, with lower stress levels and a better balance between work and home life. Employers that allow telecommuting enjoy increased employee loyalty and lower costs.

Despite the benefits, telecommuting does have some drawbacks. Although the risk of injury in a home office may be far lower than in factories, mines and mills, telecommuters are as likely as other office workers to suffer from back injuries and repetitive strain problems. They also face other office hazards, such as trip-and-fall accidents, along with risk of injury from fire if they lack an adequate electrical system, or if they don't have a smoke detector or fire extinguisher nearby.

Your obligation to compensate employees for work-related injuries and illnesses applies no matter where they work. (Those who permanently work abroad might have coverage under other laws.) Employers cannot simply declare someone an independent contractor to get out of paying workers' comp or employment taxes. The Internal Revenue Service and state tax authorities have very strict rules for what constitutes an independent contractor. For details, see www.irs.gov/pub/irs-pdf/p1779.pdf.

Identifying the Risk

Requiring inspections of teleworkers' home offices seems intrusive, and may actually increase an employer's liability if an injury later occurs. However, you can require employees to self-certify the safety of their workspaces. The U.S. Office of Personnel Management offers a sample self-certification safety checklist for home-based teleworkers, to be completed by the telecommuter, at www.opm.gov/wrkfam/telecomm/selfcert.htm.

Many telecommuters also face a risk of repetitive stress injuries (RSIs), due to heavy computer use. Although you have no legal obligation to provide ergonomic training or equipment, you may still want to do so, from both a moral and practical standpoint. RSIs can be painful and disabling, causing lost time and productivity. Providing properly fitted equipment and training can protect your valued employees at relatively low cost.

Work-Related or Not?

In a review of the literature conducted for the Virginia Department of Transportation, researcher Ken Winter concluded, "The most common legal liability [associated with telecommuting] seems to stem from workers' compensation concerns and the fact that it is often unclear precisely when telecommuters are working, when they are preparing to work, and when they have temporarily stopped working."

When a telecommuter has an injury at home, how do you determine whether it was work-related or not? Some companies solve this problem by requiring telecommuters to work set hours. Injuries that

occur in this time period are assumed to be work-related, others are not. However, flexibility is one of the chief benefits of telecommuting. If you don't want to set up rigid schedules for telecommuters, you can separate a telecommuter's work time from personal time by using some kind of log-in system. Telecommuters can call in to the office when beginning and ending their day, log in to the company's network, use a logging device on their own computer or manually record their working hours. Whichever method you use, make sure telecommuters know what to do after a work-related injury, and stress the importance of prompt reporting.

We can help you minimize the risks posed by telecommuting employees. For more information, please contact us. ■



Simple Steps to Reduce Telecommuting-Related Risks

Employers' responsibilities:

- 1 Provide clear job descriptions, goals and reporting procedures for your telecommuting employees.
- 2 Ensure your workers' compensation coverage applies to telecommuters. For example, if you have out-of-state teleworkers, make sure you have "other states" coverage.
- 3 Verify that the organization's general liability policy applies to the acts of telecommuters.
- 4 Provide workers with the right equipment and support.
- 5 Offer training and guidelines for efficient teleworking.
- 6 Ensure your employees know what to do in the event of a work-related injury and how to report a claim. Stress the importance of early reporting.
- 7 If your workers' compensation insurer has a network of preferred providers, make sure your telecommuting employees have a list of nearby providers and their contact information.

Employees' responsibilities:

- 1 Provide work space, with ergonomically correct chair, desk and computer equipment.
- 2 Complete a safety checklist certifying the space is free from hazards. This checklist is not legally binding, but details management expectations and, if signed, assumes employee compliance.
- 3 Verify that having a home work space will not violate the terms of their homeowners insurance policy, community CC&Rs or local ordinances.
- 4 Immediately report any work-related accident to the supervisor with all medical documentation related to the accident. If the employer's workers' compensation claims manager or insurer deems an inspection necessary, the employee agrees to cooperate with the inspector. ■

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