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MINOR INJURY
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NEED
SURGERY

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Sedgwick is proud to provide the seventh issue of the ***edge***, our quarterly publication dedicated to shining a light on our industry's leading-edge topics that shape our collective future.

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MINOR INJURY
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Right data, right decisions, right results

BY **EDWARD E. CANAVAN, AIC, ARM**
VP, Workers' Compensation Practice and
Compliance, Sedgwick

Without the right approach and resources to help the employee recover, even a minor back injury has the potential to become a costly, complex claim. Predicting the exact outcome of every claim is difficult, but certain factors and characteristics can be used to help identify complex cases early and achieve the best possible outcomes.

With rare, catastrophic cases that result in life-altering injuries, engaging the right resources from day one can help improve the patient's recovery. Most complex claims are not initially defined as catastrophic; it is the claim's path that can lead to the complexity and increased cost. This may include comorbidities impacting the employee's recovery, the use or misuse of opioids, psychosocial issues or other concerns. Successful claim resolution hinges on identifying these characteristics and working to ensure the employee gets the right medical care.

CONTROLLING COSTLY, COMPLEX CLAIMS

Being able to recognize warning signs and effectively address claim issues in real time can have a positive impact on the claim's outcome. A decision optimization platform provides the technology needed to detect workplace injury claims that have a high likelihood of becoming complex and costly by looking at factors such as comorbidities, opioid utilization, behavioral health issues and litigation. The system can also trigger claims to be reviewed when they reach certain cost levels. In addition to identifying these characteristics, decision optimization, also referred to as predictive analytics, uses existing data to determine patterns and predict future outcomes and trends based on those patterns.

Important steps to prevent claims from becoming complex include identifying the key indicators above, and then deploying targeted strategies to mitigate the risk and address the cost drivers. It could prevent a simple strained wrist from turning into a claim with \$100,000 in reserves.

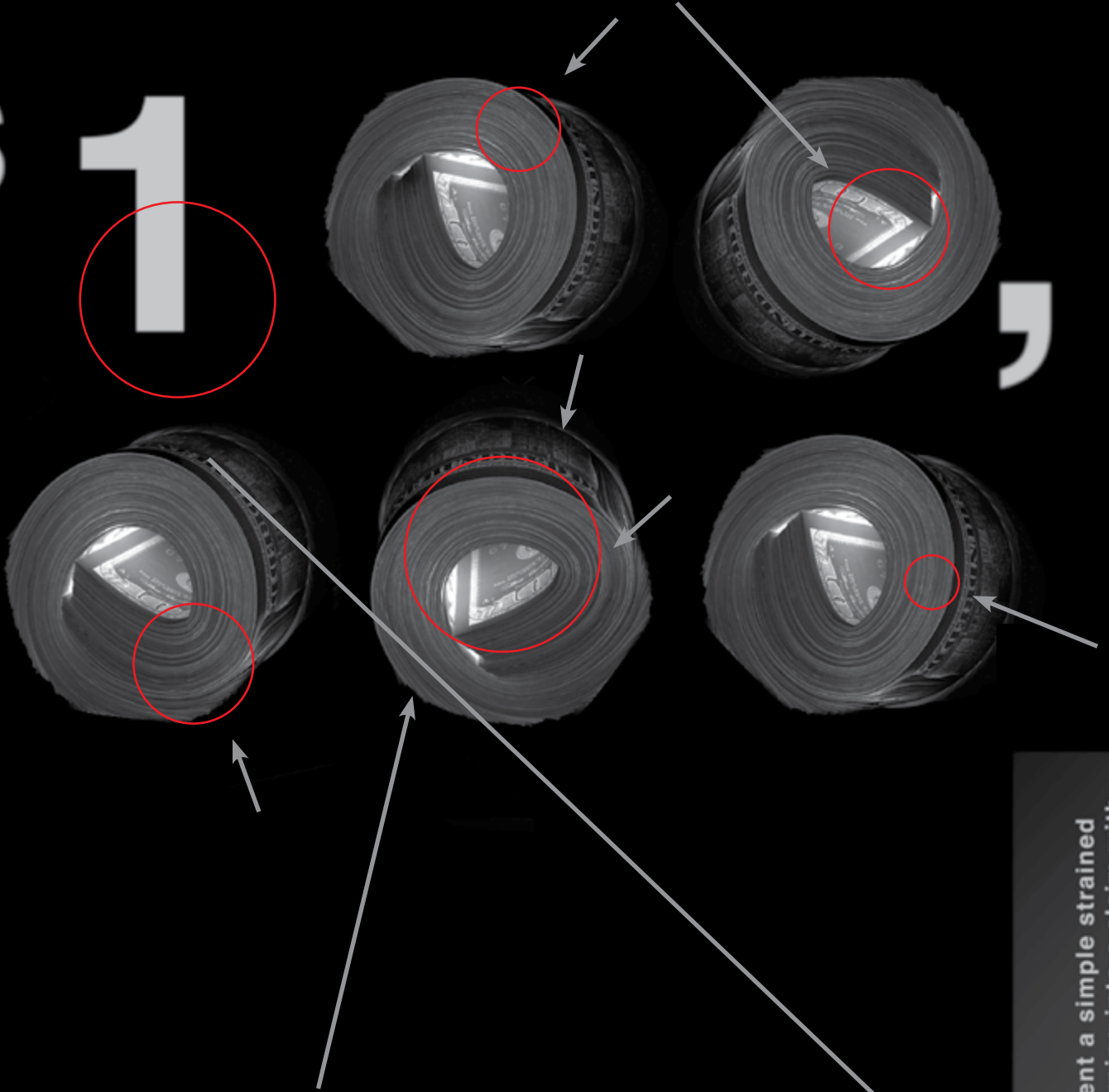
When a complex case is detected, the claims and managed care teams must work closely together to engage the right resources to help improve the outcome. This may include connecting the injured employees with the right care to assist them on their path toward recovery or communicating with the employee to help reduce any potential litigation.

EMPLOYER CONSIDERATIONS FOR CATASTROPHIC CLAIMS

Critical steps for catastrophic cases include identifying the proper medical care early and establishing a plan for physical and occupational therapy. Being there from day one includes integrating expert advisors and clinical resources, and communicating with the claims team, clinicians, and the employee's family and employer to ensure the employee is on the best possible path to recovery. Successful programs include experienced claims and managed care teams, medical treatment provided by specialized centers of excellence, and a proven process for developing customized care focused on the whole person – not just the injury. *(See our article on page 5 to learn more about the medical centers of excellence.)*

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NOTE:
It could prevent a simple strained
wrist from turning into a claim with
\$100,000 in reserves.



NOTE:
Matching an employee with a severe injury with the specialized medical care they need can put them on the best path toward recovery – and ultimately help improve their quality of life.

The path to a successful recovery goes beyond treating the injury

BY **DANA DALY**

AVP, Managed Care Client Services, Sedgwick

Providing the right care is about being there for the injured person at every turn – throughout the medical treatment and rehabilitation process, and during their adjustment to life at home. The medical centers of excellence offer specialized care and the latest treatment options that can positively impact the employee's recovery and help them achieve a better quality of life. They are designed for complex and catastrophic injuries such as burns and traumatic brain and spinal cord injuries.

A colleague on our complex claims team visited one of the centers of excellence in our network and spoke to a patient who is among a group of people in the same situation. He explained that they have a support system of peers struggling with similar issues. They can talk about their experiences and when they feel depressed, they can lift each other up because they understand. There was a gentleman who had a spinal cord injury and they were teaching him how to text/voice command; he had only been there five days and that one thing gave him a first-time sense of some control over his situation. If a patient doesn't have that ability to communicate or even just call a nurse, they can feel completely helpless and afraid. For a 40-year-old man with a severe spinal cord injury, the provider expertise and peer support at a center of excellence are significant advantages compared to a general rehabilitation center.

The specialty providers at the centers of excellence treat the whole person. The team is experienced in identifying the best treatment to help produce the best results, and avoid secondary or long-term issues. Secondary complications such as skin breakdowns, infections and pulmonary issues delay recovery and they could be life-threatening. Even a minor complication can lengthen the hospital stay and increase medical costs, so getting the injured employee the right care early on can help decrease the overall cost of the claim. In addition, staff members work closely with injured employees and family members to provide education on maintaining their health and well-being once discharged from the hospital. Nurse case managers work with the hospital team to ensure that a smooth transition to the home environment occurs along with the necessary specialty equipment and follow-up care.

In our industry, we can help ensure employees with severe injuries receive the right care by engaging expert resources early and being there to assist them every step of the way. Matching an employee with a severe injury with the specialized medical care they need can put them on the best path toward recovery – and ultimately help improve their quality of life.

NOTE:
Patient looks forward to working again after traumatic brain injury.

PATIENT LOOKS FORWARD TO WORKING AGAIN AFTER TRAUMATIC BRAIN INJURY.

A 37-year-old electrical technician was traveling for work on a motorcycle when he was involved in a serious accident. He was not wearing a helmet and suffered a traumatic brain injury. He was transported to a local emergency room and then airlifted to another hospital where a craniotomy was performed the same day. Three weeks later, he was released to a rehabilitation program and transported to the Rehabilitation Institute of Chicago (RIC), one of the centers of excellence for individuals with severe brain injuries. He was an inpatient for 11 days and then attended a day program at RIC for a few weeks following his inpatient stay. He was still experiencing irritability and impulsiveness, and having a hard time with his thought process. Existing health issues include post-traumatic stress disorder and hearing loss from serving in the Iraq war. Even with these continued problems, the employee is very motivated to return to work. Once he completes a driving evaluation and he is cleared to drive, we fully anticipate the employee will return to work full duty. Sedgwick's catastrophic nurse case managers assisted the patient throughout his treatment and recovery process. We expect a successful outcome due to the nurses' teamwork, the motivation of the employee, his family's cooperation and his treatment at RIC.





When weather-related disasters strike

BY **TIM WIRTH**

*National General Adjuster,
Vericlim, a Sedgwick company*

In January 2017 alone, severe weather events in the United States caused insured losses in the hundreds of millions of dollars. These destructive storms claimed lives and damaged homes and businesses. Tornadoes and severe storms caused extensive damage in Georgia, Mississippi, Alabama, Louisiana and Florida, and winter storms with flash floods, mudslides and debris flows caused significant damage in California.¹

Now that spring is here, many areas of the country are enjoying the warmer temperatures, but this season also brings the continuing threat of severe weather.

When businesses are physically damaged and financial losses occur due to severe weather, it is important to have the resources needed to get up and running again as quickly as possible. If your company has a plan in place that they can execute when severe weather strikes, they will be in a much better position to respond and it makes the claims process proactive vs. reactive.

BEING PREPARED

From the standpoint of being prepared for weather, businesses can be proactive by completing an exterior walk around of the building to make sure there are no loose pieces of siding, shingles or roofing materials. When storm season starts, these small issues in the building envelope can allow water into the building and can quickly turn into a much more severe loss if loose materials are grabbed by the wind. That's where a little bit of maintenance spending can go a long way toward preventing a catastrophic loss.

In addition to inspections by your own employees, partnering with your insurance carrier's risk engineers is a great opportunity to get some outside perspective on identifying risks that may impact your most crucial locations.

Planning ahead puts businesses in a better position no matter what the weather brings. One of the most important things a company can do to prepare for severe weather is to develop a business continuity plan. Many of these plans include steps to address each aspect of the operation such as their supply chain, manufacturing capabilities, distribution, communication, and repairs and restoration if any damage occurs to the building.



According to the National Oceanic and Atmospheric Administration (NOAA), 2016 brought Hurricane Matthew and various other weather events including hail storms in Texas; flooding in Louisiana, West Virginia and Texas; tornadoes in the East, Southeast and Ohio Valley; and severe weather and tornadoes in the Rockies and Southern U.S.²





For this spring, NOAA is forecasting higher than average precipitation for the northern Plains, northern Rockies and the Gulf Coast from the western Florida Panhandle to Texas.³

If your company has a plan in place that they can execute when severe weather strikes, they will be in a much better position to respond and it makes the claims process **proactive vs. reactive.**

Risks are unique for each type of company. As a result, business continuity plans for factories, retail stores, distribution centers, financial services companies and other types of organizations will all be different. Plans can be customized for each type of business, but the key steps that are common for most companies include:



Identify the scope of the plan



Identify key business areas



Identify critical functions



Identify dependencies between various business areas and functions



Determine acceptable downtime for each critical function



Create a plan to maintain operations⁴

Consider an example of a manufacturing facility in Oklahoma – for this company, the main weather-related concern would be a direct hit by a tornado. The first line of defense is making sure that small, preventable losses don't become issues. The company will want to make sure the outside of the building is maintained so there is

no easy way for water to make its way into the building and cause larger damages. If the building gets hit, the business will need to identify other facilities that can step in and help with production and distribution activities. The objective is to continue to be able to get products delivered and minimize the impact on customers. It is important to have a preferred emergency mitigation contractor, demolition contractor and general contractor in the event that they have to make large-scale building repairs. In addition, having a back-up generator or an agreement with a service provider that can supply power will make a world of difference when it comes to their capabilities and the safety of their employees.

EMPLOYEE-RELATED CONCERNS

Many weather events like floods and tornados can cause widespread damage so, in addition to your business, your employees' homes may be damaged. Your facility may not have gotten hit, but most of your employees might live in areas damaged by the tornado or they are dealing with flooding and your workforce is strained. You may not have access to labor even though your facility is able to operate. If your employees suffered damages of their own, it may impact their ability to complete their normal day-to-day operations. They may not be able to be at work for a period of time so you may need to bring in a temporary workforce until your employees are able to return.

KEEPING CUSTOMERS UPDATED

When it impacts service to customers, communication is the primary focus. If you have the big plant in the area and it just got hit by a tornado, it will most likely be covered multiple times a day on the news.



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To be successful, communicate early and communicate often. It is critical to communicate effectively with customers and stakeholders about what you're doing, what you have in place and how you're taking steps to reduce the impact on them as much as possible.

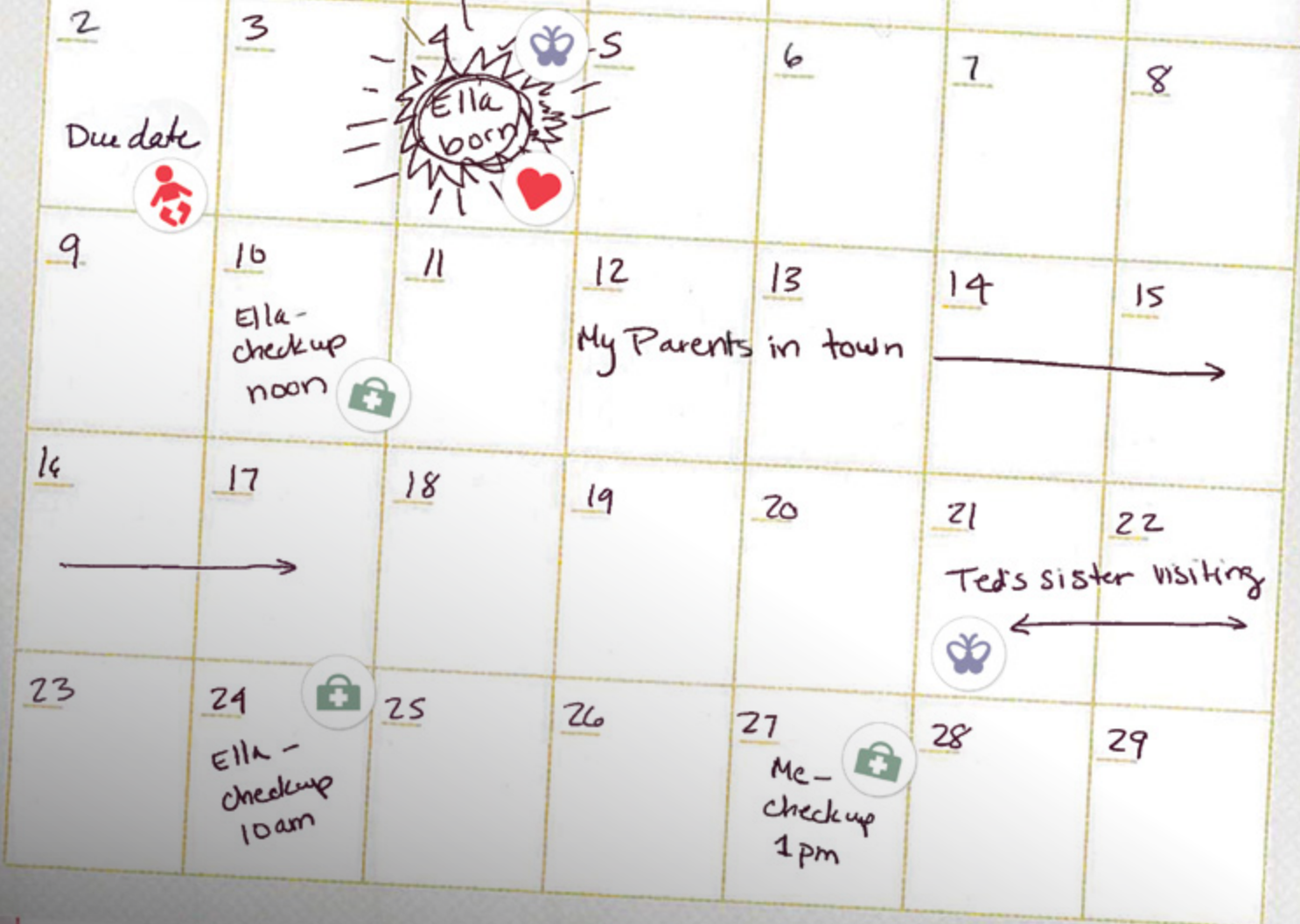
Manage expectations by telling customers what your capabilities are going to be and when they are going to be available.

In the case of the factory damaged by a tornado, the sales team may not be able to tell customers when they will be shipping products again, but they can tell them that they don't have an answer right now and they'll give them an update in 48 hours. If they still don't know at that point, then they can tell them they think it could be as early as five days from now and give them another update in 48 hours. Continual communication ensures the customer receives correct information as opposed to being in the dark and drawing their own conclusions.

If it is a retail location that cannot reach out to customers by phone or email, managers can use signage on the building to direct them to the next closest location so they have another option while the store is being repaired. Redirection demonstrates to the customers that the store has considered the impact the closure may have on them, which can help reinforce brand loyalty.

INDUSTRY EXPERTISE MAKES ALL THE DIFFERENCE

A claims management company that provides loss adjusting services will help the insurance carrier by measuring the scope of the loss, communicating with all of the service providers involved, reaching agreements regarding the evaluation and ultimately making payment recommendations. Vericlam, a subsidiary of Sedgwick, is a global loss adjusting and claims management company with extensive experience assisting businesses with weather-related property losses. Our expert team takes care of coordinating with engineers, accountants, architects and all of the parties involved to streamline the process, and ensures the best possible outcome for our customers.



Paid parental leave benefits growing among employers

BY **BRYON BASS**
SVP, Disability and Absence Management, Sedgwick

You may have heard industry news reports about employers offering four months, six months or even two years of paid leave for their employees. The amount of time varies, but there are certainly an increasing number of employers in the public and private sector adding this benefit. For the past four years, paid parental leave has been a growing trend among technology firms. More recently, financial services companies and others are beginning to join them.

FOR COMPANIES WITH A GLOBAL LEAVE POLICY,
THE FOLLOWING LEAVE TYPES ARE OFFERED:



94%

OFFER
MATERNITY
LEAVE



76%

OFFER
PATERNITY
LEAVE



73%

OFFER
ADOPTION
LEAVE



67%

OFFER
PARENTAL
LEAVE

Only 19% of companies had one global leave policy that includes all four types of leave — maternity, paternity, adoption, and parental.¹

According to the Integrated Benefits Institute (IBI), employers are moving toward offering paid parental leave because they want to care for their employees and create family-friendly workplaces. Building policies that are in line with prevailing social expectations is also a key reason employers are embracing this benefit. As an added advantage, paid parental, bonding and family leave offer enhanced benefits that not all employers provide, supporting their efforts to attract and retain talented employees.

Mercer studied parental leave among employers in the company's 2016 Global Parental Leave Report. Among the companies that responded, 36% indicated they have a global parental leave policy. For these companies, the leave types include maternity (94%), paternity (76%), adoption (73%) and parental (67%).¹ Of the 64% without a global policy, 12% are considering implementing one. Only 19% of companies had one global leave policy that includes all four types of leave – maternity, paternity, adoption and parental.¹

Among Sedgwick's customers, at least a dozen have implemented some type of paid parental leave program in the past year.

In addition to the private sector, paid family leave programs are also being introduced at the federal, state and municipal levels. Below are the programs and effective dates. See the *Edging up* section in this issue to learn more about the new programs in San Francisco and New York.

- Federal employees – effective January 1, 2015
- New Jersey – introduced January 1, 2009
- Rhode Island – effective January 1, 2014
- San Francisco – effective January 1, 2017
- New York – effective January 1, 2018²

KEY CONSIDERATIONS FOR EMPLOYERS

There are no federal mandates related to paid parental, bonding and family leave for employers, but we could start to see an influx in paid parental or family leave at the state or local level. Few states currently have rules for employers related to parental leave, so employers have the ability to write their plan any way they want to. As a result, designing a program is more about benchmarking than it is compliance. Employers want their programs to be competitive with what other organizations are offering.

For national companies or those with employees in multiple states, policies are generally consistent across their employee population. Offering the same program for all locations is good for employee morale and can increase job satisfaction.



In addition to the private sector, paid family leave programs are also being introduced at the federal, state and municipal levels. Above are the programs and effective dates. See the [Edging up](#) section in this issue to learn more about the new programs in San Francisco and New York.



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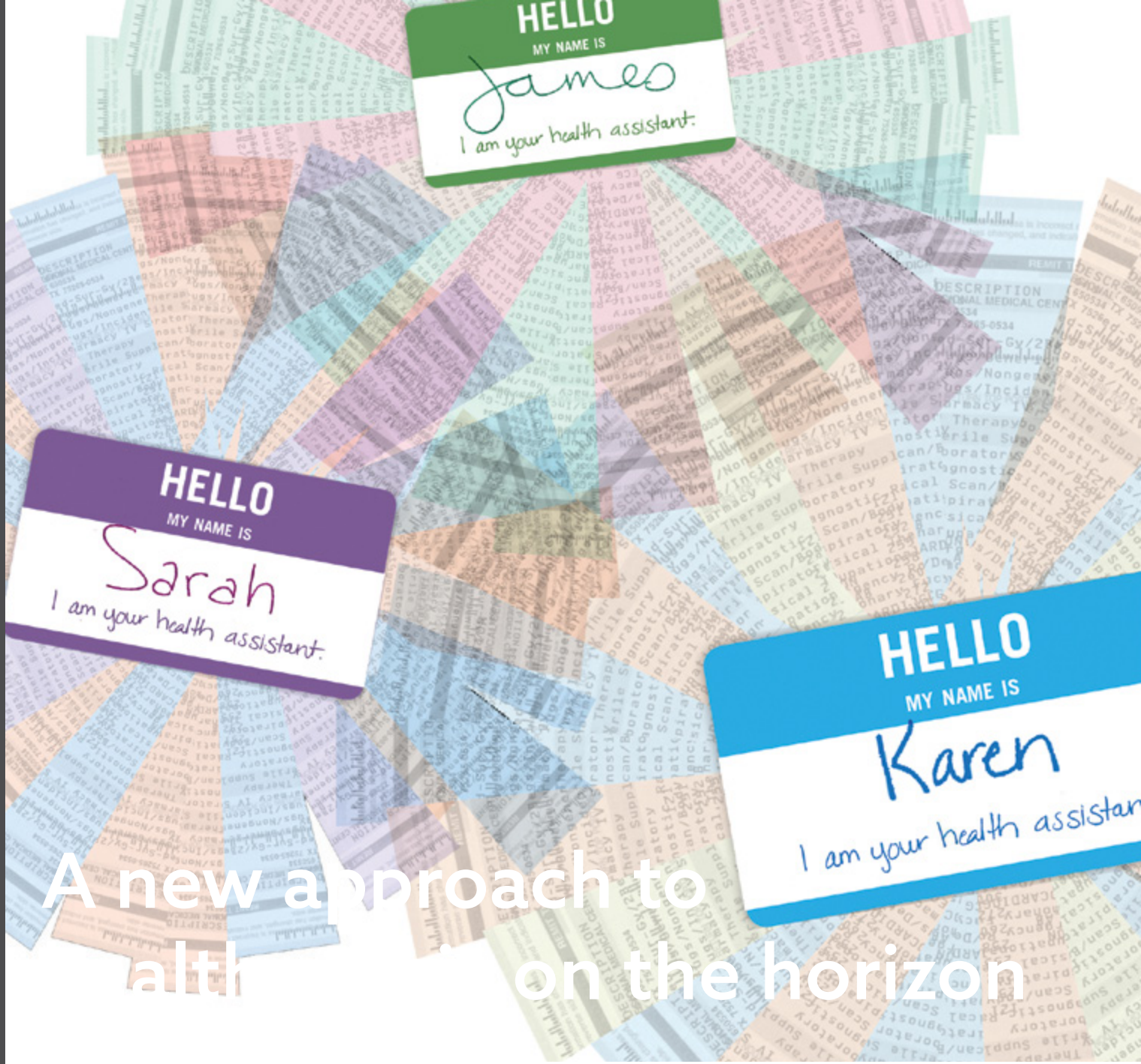
https://youtu.be/YMxqlo_4Hhw

When developing or reviewing a paid family leave policy, make sure the policy is not discriminatory against the mother or the father – it must be consistent. Part of the Equal Employment Opportunity Commission’s strategic enforcement efforts this year include ensuring male and female employees are provided with an equal amount of time for parental leave purposes. For example, an employer cannot have a policy that reduces the time a woman can use for the bonding leave because she used part of her time during recovery after childbirth.

Ensure your human resources policies and procedures address parental leave entitlements and how they coordinate with other laws such as the Family and Medical Leave Act (FMLA) and disability. In addition, employers have the right to determine eligibility such as requiring some service time before benefits are accrued, or using vacation/sick time or paid time off benefits before qualifying for parental leave pay.

SHAPING YOUR PROGRAM

When employers have an experienced team helping them develop and manage the program, they can be sure that it is equitable for all employees. Employers are exploring what other companies are doing related to the average amount of time off, the percentage of wages being paid, and other benchmarks so they can decide what is best for their organization. Sedgwick can help businesses navigate the complexities of paid parental leave and help employers that would like to introduce or expand these benefits for their employees.



A new approach to health on the horizon

BY **KIMBERLY GEORGE**
SVP, Corporate Development, M&A,
and Healthcare, Sedgwick

Imagine having a single resource for all of your questions related to medical treatment and billing, workers' compensation and disability claims, and leave of absence concerns. Health assistants soon will fill this new role as a part of employee benefit programs. Employees participating in their employer's plan will be assigned an assistant who can offer valuable assistance with a wide range of healthcare needs and they will be there for you regardless of what might happen with your health.

Because healthcare can be complex, it's very difficult for employees and their family members to know how to navigate all of the programs and health-related benefits their employer offers – and know who to call for what. Because so many of the benefits are dependent upon one another, but not necessarily integrated, a plan member may have to go to multiple resources to get their questions answered.

An employee's own health issues, as well as the medical needs of their family, can impact productivity. Having someone who can guide the employee through the entire process for themselves and all family members on the health plan can save time and improve employee satisfaction.

INTEGRATING SERVICES

A health assistant works in a virtual world with doctors, nutritionists, disability and workers' compensation specialists, and many other clinical experts who can access the data they need to address the employee's concerns. They are all on the same team and everything is integrated.

Each assistant ensures employees get the information they need, and connects them with experts who can assist with a wide range of topics in specific areas such as mental health, cancer and pregnancy. The health assistant will help the person with the topic they're calling about, and then look beyond the initial question to see if there are other areas where they can be of assistance. For example, a woman may call asking about her deductible and, in the conversation, the health assistant finds out that she has breast cancer. The assistant will look into her question about the deductible, and then mention that there is a nurse on the team who is a cancer specialist and she is available to help with questions if needed.

A health assistant works in a virtual world with doctors, nutritionists, disability and workers' compensation specialists, and many other clinical experts who can access the data they need to address the employee's concerns.

This type of program is the first to link health plan, workers' compensation, disability and leave of absence, and job accommodation offerings together. Data integration allows the team to provide proactive assistance to the consumer, and offers an opportunity to streamline enrollment and pay reimbursements through a holistic health and productivity approach.

Consider this example with a pregnancy – the health assistant can help the mother plan for pre-natal care, delivery, well-baby check-ups and enrolling the baby in the health plan. They also will automatically enroll the mother in her employer's disability and leave program, so she does not have to make a separate call to do this or worry about collecting medical documentation and figuring out who needs what. If the mother has a question about disability, then the health assistant will ask a disability specialist to join the call. The assistant stays on the line with the disability specialist to gather information in case the mother has questions later. This type of communication ensures all parties have the same information, and it can help streamline the process and improve efficiency during future calls.



HELLO

MY NAME IS

Karen

I am your health assistant.



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The program also encompasses the three pillars of health – physical, emotional and financial health.

Financial health is becoming much more important because benefit members have higher deductibles and co-pay requirements with consumer-driven health plans, making costs a big factor in their medical decisions. With emotional challenges driving up absence and impacting productivity, ensuring mental health has the same robust care as physical health is an important element of the new model.

A POSITIVE PATIENT EXPERIENCE OFFERS ADVANTAGES FOR EVERYONE

The health assistant is somebody that has a very empathetic approach and a strong level of influence. The technology and training used in this model are based on the book written by Dr. Robert B. Cialdin entitled “Influence – The Psychology of Persuasion.” The assistant ensures the employee receives the information they are calling for and helps them from start to finish – no matter what their needs are. This new model is designed to streamline the process, reduce additional calls and ultimately, save time.

Early adopter employers offering health assistants for health plan benefits consistently experience healthcare spend reductions and improved consumer satisfaction. With the integration of health and productivity solutions, we not only anticipate the reduction in healthcare spend, but also expect a positive impact on days away from work and claim durations. In addition, consumers will have a streamlined benefit solution and consistent way in which they access assistance and care, regardless of how they are hurt or how an illness develops. Employers have an opportunity to consolidate benefit solutions across their risk management and human resources environments improving consumer engagement.

Patient experience drives patient engagement, which drives a positive outcome. Improving the employee experience is a top priority. If their experience is better, they will be more engaged – it’s true in healthcare, it’s true in retail and it’s true in most businesses today.



In the weeds on marijuana and workers' compensation

BY **DARRELL BROWN**
Chief Claims Officer, Sedgwick

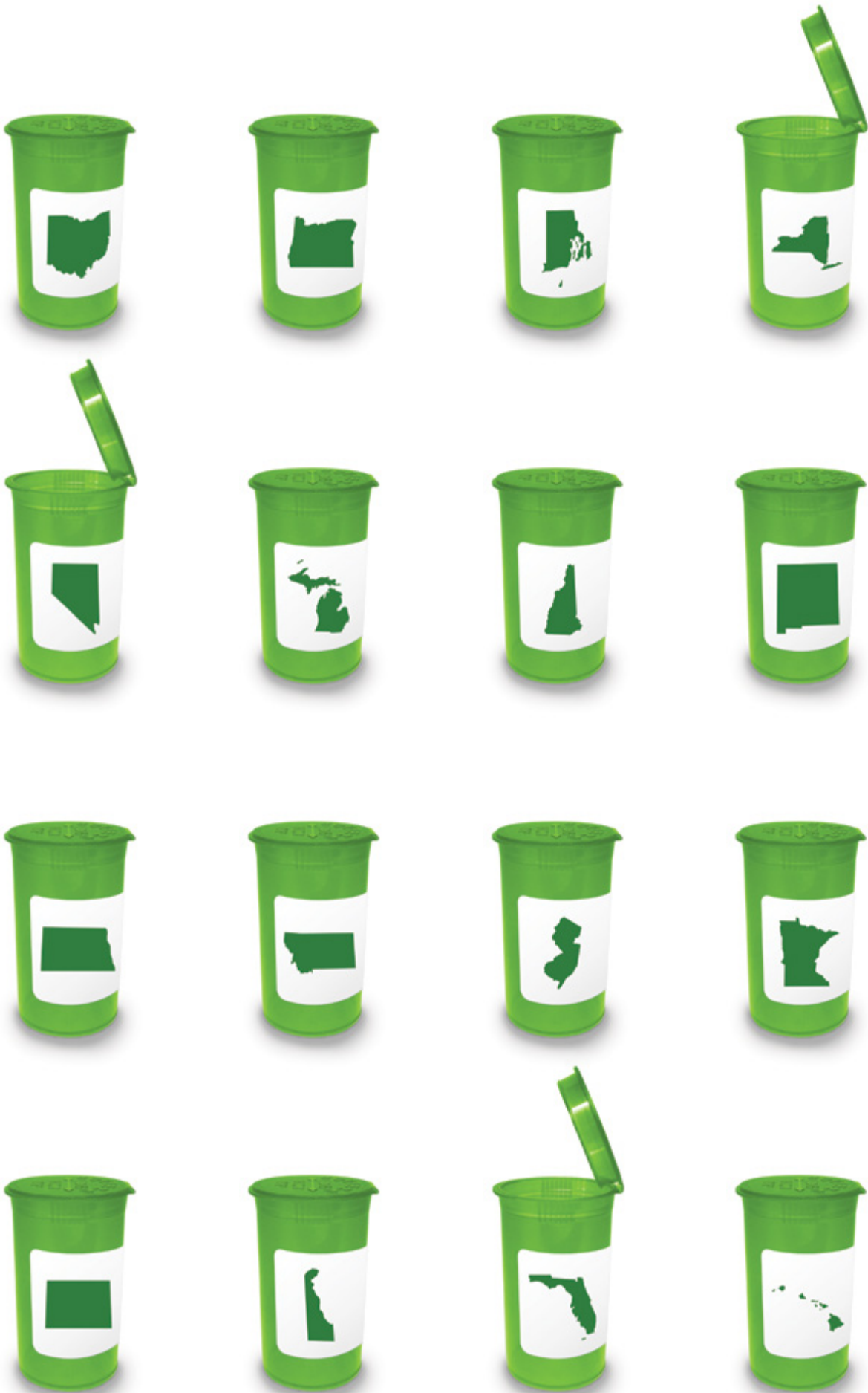
It's a topic that gets much buzz – how will the cloud of legislation surrounding recreational and medical marijuana use impact businesses, specifically when it comes to compensability for workers' compensation? I am sure you have all caught up on news about additional states voting to legalize marijuana for medical use and adult recreational use during the November 2016 election. Let's take a look at those changes, as well as what action they may prompt to shake up the state and federal status quo.

After receiving certified results of a state recount, 2016 closed with Maine Gov. Paul LePage issuing a proclamation of the Referendum Question 1 vote that allows recreational use of marijuana by those at least 21 years of age. Maine joins Alaska, California, Colorado, Massachusetts, Nevada, Oregon, Washington and the District of Columbia in voting to legalize marijuana for adult recreational use. Arizona was the only state where voters rejected a legalization measure during the November election.

With the passage of ballot initiatives in Arkansas, Florida and North Dakota, medical marijuana is now legal in 28 states and the District of Columbia, Guam and Puerto Rico.

An additional 17 states have laws that only allow the use of "low THC, high cannabidiol (CBD)" products for specified medical conditions. The National Conference of State Legislatures provides a summary of those state laws on their website at www.ncsl.org.





STICKINESS IN THE STATES

Despite the increase in the number of states that have legalized the medicinal use of marijuana, the impact on workers' compensation claims was limited until about three years ago.

In 2014, New Mexico became the first state to have a state appellate court order a workers' compensation insurance carrier to provide reimbursement to an injured worker for medical marijuana. The New Mexico Workers' Compensation Administration began requiring employers and insurers to reimburse injured workers when the state's healthcare provider fee schedule took effect January 1, 2016. The trend continues to grow.

In two recent decisions, the Appellate Division of the Maine Workers' Compensation Board affirmed two different administrative law judge (ALJ) awards reimbursing workers for their medical marijuana expenses, *Bourgoin v. Twin Rivers Paper Co.* and *Noll v. Lepage Bakeries*.

On December 15, 2016, an ALJ in New Jersey issued an order in *Watson v. 84 Lumber* requiring reimbursement of an injured worker for medical marijuana payment. It should be noted that this is a division level case, so this decision is not binding on other New Jersey courts. The case is not being appealed.

It is noteworthy that in each of the above cases:

- Marijuana was recommended by physicians only after other treatment regimens for chronic pain were attempted without success, and
- These judges were not persuaded by the fact that marijuana remains illegal under federal law.

FEDERAL HAZE

While there has been some activity on the federal side over the past year, it has not changed the fact that marijuana, even for medicinal use, violates federal law.

Marijuana remains illegal under federal law because it is listed under Schedule I in the Controlled Substances Act (CSA), along with other drugs such as heroin. Schedule I substances are illegal to distribute, prescribe, purchase, or use outside of medical research due to "a high potential for abuse" and "no currently accepted medical use in treatment in the United States." As a result of this status, physicians recommend the use of marijuana instead of prescribe.

On July 19, 2016, the Drug Enforcement Administration (DEA) denied two petitions to reschedule marijuana concluding that it continues to meet the criteria for control under Schedule I because:

- *Marijuana has a high potential for abuse.* This is based on the Department of Health and Human Services (HHS) evaluation and additional data gathered by DEA.

- *Marijuana has no currently accepted medical use in treatment in the United States.* Using an established five-part test, it was determined that marijuana has no “currently accepted medical use” because, as detailed in HHS evaluation, the drug’s chemistry is not known and reproducible; there are no adequate safety studies; there are no adequate and well-controlled studies proving its effectiveness; the drug is not accepted by qualified experts; and the scientific evidence is not widely available.
- *Marijuana lacks accepted safety for use under medical supervision.* At present, there are no U.S. Food and Drug Administration (FDA)-approved marijuana products, nor is marijuana under a New Drug Application (NDA) evaluation at the FDA for any indication.

Interestingly, the DEA noted that marijuana could not be placed in a schedule less restrictive than Schedule II in view of U.S. obligations under international drug control treaties.

Although marijuana is not being rescheduled at this time, on August 11, 2016 the DEA announced a policy change meant to increase research by expanding the number of DEA-registered facilities allowed to grow and distribute marijuana for FDA-authorized research purposes.

Currently, the U.S. Department of Justice (DOJ) marijuana enforcement policy is to allow states to create their own “strong, state-based enforcement efforts,” but DOJ reserves its right to challenge the states’ legalization laws at any time necessary.

Congress passed the Consolidated Appropriations Act (CAA) of 2016 that in Section 542 restricts federal law enforcement activity in states that allow medical marijuana cultivation, distribution, and use. Now that voters in half of the states have voted for legalization of medical marijuana, will Congress take action to change its scheduling?



The new administration may change the broad leeway states have been given to regulate marijuana usage and sales.

- President Trump has expressed varying views regarding medical and recreational marijuana over the years.
- Attorney General Jeff Sessions, a former federal prosecutor, has expressed opposition to medical and recreational marijuana.
- Secretary of Health and Human Services Tom Price, a physician, has also been a vocal opponent of legalization.

If the conflict between federal and state law is not resolved politically, the U.S. Supreme Court may have the last word. The high court last weighed in on marijuana in 2005. In an unsigned opinion issued March 2016, the high court refused to hear a request from Nebraska and Oklahoma to declare Colorado's legalization of marijuana unconstitutional because it is against federal law and therefore violates the Constitution's supremacy clause, which states federal law trumps state laws. Justices Alito and Thomas dissented. Will President Trump's latest addition to the U.S. Supreme Court make a difference?

Yes, the future of federal marijuana policy and enforcement remains hazy. What is clear is that employers contending with this complex and rapidly changing issue must understand the laws and relevant legal decisions pertaining to marijuana in each of the states where their business operates.

In such an uncertain time, we will continue to provide updates and perspective. We recommend seeking legal assistance to develop a sound company policy addressing the use and reimbursement of medical marijuana for on-the-job injuries.



ADDITIONAL RESOURCE

Read our blogs on the impact of marijuana legislation - <http://blog.sedgwick.com/?s=marijuana>



Expert view

Q&A with Stewart Steel, President, Sedgwick International and CEO, Vericlim U.K.

The "Expert view" column presents a wide range of topics offering valuable insights and information for customers.

edge:
Tell us about your role in the company.

Stewart:
Since 2009, I've led Vericlim's owned operations in the U.K. and been a member of the board of the vrs adjusters' network, which comprises 3,500 licensed partners with expertise

in loss adjusting and claims management in more than 140 territories around the world. Since Sedgwick and Vericlim joined forces in 2014, my leadership role has expanded to encompass all of our collective operations outside of North America, which right now represent 650 colleagues and continue to grow.

The focus of our team is meeting the claims and insurance needs of clients in the U.K. and Ireland, together with handling claims programs for multi-nationals and corporate entities from key hubs in London, Dublin and Rawdon (Leeds). The majority of our business in the U.K. is property loss adjusting, along with a

degree of liability and other specialty services. In Ireland, our focus is much broader to include business process outsourcing (BPO) and other “non-claims” services in addition to core loss adjusting. Thanks to our shared emphasis on customer service excellence, Sedgwick and Vericclaim have earned a strong reputation for quality and efficiency in the global market, and we take great pride in that.

edge:

What are you working on now that will have an impact on customers in the near future?

Stewart:

A significant development focus for us in the U.K. is to enhance our TPA [third-party claims administration] capacity. Vericclaim became a more significant player in that space when we acquired Certo in 2015 and our team is working hard to expand that division of our business so we can better serve our customers.

Additionally, our U.K. and Ireland operations are investing heavily in technology, especially self-service capabilities. In this day and age, customers expect real-time access to actionable data; our information technology specialists are in the midst of building a platform to give clients greater ability to look into the programs Vericclaim manages for them. From a research and development perspective, we’re also looking at a new service offering: handling lower-value cases using greater automation and self-serve technologies.

Outside of the U.K. and Ireland, we are actively exploring opportunities to expand our global footprint through acquisition and partnership.

And all the while, in response to market demand, we continue to maintain our reputation for – and key focus on – high-end loss adjusting.

edge:

What can the company’s global operations offer U.S. clients with overseas exposures?

Stewart:

Between Sedgwick, Vericclaim and our licensed partners in the vrs adjusters’ network, not only do we have market-leading expertise in adjusting and claims management, but we also have a deep knowledge and appreciation of the regulatory, cultural and commercial idiosyncrasies prevailing in hundreds of locations around the world. Indeed, it is often the cultural challenges that overcome competitors endeavoring to manage complex claims and programs outside their own domain.

Through the relationships we’ve established over the last 2 ½ years between Vericclaim and our Sedgwick counterparts in the U.S., we are confident we shall offer services that will delight existing and new clients for years to come.

edge:

There's been a lot of talk about the global impact of the U.K. leaving the European Union. How has the prospect of "Brexit" affected your business?

Stewart:

Here in the U.K., we haven't seen anything like the great Armageddon that many predicted. Brexit is certainly on our risk register, but we don't foresee any obvious negative impact to our business as things are currently developing. Even if all the major insurance companies were to relocate elsewhere in Europe – an extraordinarily unlikely scenario – there would still be claims to be handled in the U.K. Additionally, our investment in the OSG Group, the No. 1 loss adjusting and claims administration provider in Ireland, offers us

strong protection against any sort of economic collapse in the U.K. Put simply, we are well positioned to continue providing top-tier service and supporting customers based in North America, Europe and beyond – no matter what the coming years may bring.

edge:

What do you see on the horizon for Sedgwick and Vericlim globally?

Stewart:

Being part of an organization of Sedgwick's scope gives us the ability to think big. The Vericlim team has really embraced Sedgwick's "can-do" attitude and "caring counts" philosophy; if a client has a need, we'll pool our global resources and find a way to take care of it for them, no matter where they're located. Looking ahead, our eye is on enlarging our footprint of

owned operations in other parts of the world. We're exploring some interesting opportunities to grow our presence and indigenous expertise in the Iberian Peninsula and Southeast Asia.

Having teams across the globe also opens the door to new strategic possibilities. For example, positioning colleagues in various time zones gives us the ability to "leverage the clock" and add extra shifts to the workday in other regions. A wider infrastructure and additional human resources around the world means we can be more responsive and deliver more timely service to current and future clients. It's all part of our forward-looking approach to satisfying customers' increasingly complex needs in today's 24/7 global economy – and long into the future.

STEWART STEEL

As President of Sedgwick International and CEO of Vericlim U.K., Stewart is responsible for the leadership and direction of the business. He also serves on the global vrs adjusters' board and is responsible for the leadership and development of the organization's European and African regions. Stewart began his adjusting career in 1983 and over the years, he has served in various leadership roles within the industry. In 2009, he began the development of Vericlim U.K. and currently oversees all international operations outside of North America.



Community spotlight

Giving the gift of hope

BY **KIM KRAUSS**

SVP, Marketing and Communications, Sedgwick

Every year during the holiday season, Sedgwick engages with a charitable organization that is meaningful to our customers, community and colleagues.

This past holiday season, Sedgwick was honored to give the gift of hope by supporting the mission of the Red Cross, a worldwide organization dedicated to helping people in need, by turning compassion into action. As our company continues to expand internationally, we also wanted a partner with an international footprint.

At Sedgwick, we believe that **caring counts**SM every day, but we are especially reminded of its importance during the holidays.



As a reflection of our caring counts spirit, and our corporate responsibility to support the communities in which we work and live, we joined the strong network of volunteers, donors and partners that represent the Red Cross by giving the gift of hope.

Colleagues supported people affected by disasters, as well as members of the military and their families; learned about health and safety education; participated in blood drives; and aided in international relief and development. We were honored to unite with the Red Cross and engaged in many exciting activities to support our goal of giving back.

People turn to the Red Cross in their darkest hours because they know they can depend on them for immediate relief and help through their recovery. Our colleagues also take care of the needs of people who had something unexpected happen to them around the world every day.



About every eight minutes, the Red Cross responds to a disaster, from single-family and apartment home fires to severe storms, floods and wildfires. In 2016, the Red Cross responded to 50% more major disasters compared to the previous year. In the U.S., these large-scale events include tornadoes and flooding in Texas, California wildfires, flooding in West Virginia and Louisiana, Hurricane Matthew and more. International humanitarian efforts, including support for victims of wildfires in Alberta, have been the focus for the Canadian and Irish and British Red Cross.

In honor of our business partnership this past year and in tribute to the compassion shown to people in need every day, Sedgwick donated \$50,000 to the Red Cross. Their work impacts lives every day and we were grateful to lend our support.



EMERGING
INDUSTRY
ISSUES

Edging up

*Short takes on emerging industry issues –
government compliance updates, new paid parental
leave laws and new Medicare set-asides*

The alphabet soup of government compliance

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There are many recent industry-related changes and others on the horizon that could have a significant impact on employer programs. Some of these legislative updates and rule changes occurred during 2016 and will become effective soon; others were announced more recently and are still pending final approval.

WORKERS' COMPENSATION



ISO ClaimSearch enhancement

As of February 1, 2017, the per-claimant submission rate for an index bureau report increased from \$9.20 to \$9.50 to support product development and enhancements. All workers' compensation indexes search the entire ISO database regardless of the age of the claim.

The ISO ClaimSearch index system is a valuable investigation tool that satisfies multiple statutory and regulatory requirements such as:

- Individual state mandatory and voluntary child support requirements – When an index is submitted, ISO ClaimSearch searches the Child

Support Lien Network and the federal Office of Child Support Enforcement databases. If our claim matches a record in the database, the state child support enforcement agency will receive the match information. If the agency decides to place a lien on a claim, the agency will notify your company directly.

- Medicaid reporting – The ISO ClaimSearch Medicaid Reporting Service keeps us in compliance with the Medicaid reporting and verification requirements in Rhode Island.
- Auto line of business – Reporting to the ISO ClaimSearch system satisfies the auto reporting requirements for theft and salvage claims in six states and for Regulation 64 of New York. It also fulfills reporting requirements of auto insurance and auto accident reporting in New Jersey and Pennsylvania.

An initial index search using the ISO ClaimSearch database service provides a historical look back on claim history, as well as the following defined period of updates:

- Casualty – One year of continuous updates; claims are searched for a five-year period from date received
- Property – 60 days of continuous updates
- Vehicle – 30 days of continuous updates; claims with VINs are searched back to 1981 when they became 17 digits



New WCIRB reporting requirement for first aid claims

On January 1, 2017, all insured employers within the state of California were required to begin reporting all claims for which medical treatment costs are incurred. The Workers' Compensation

Rating Bureau of California (WCIRB) amended the [California Workers' Compensation Uniform Statistical Reporting Plan-1995](#) clarifying the requirement to report first aid and small medical only claims regardless of whether the cost of medical treatment is paid by an employer or the insurer. The [WCIRB Bulletin No. 2016-25](#) summarizes these changes. To comply, insured employers paying medical costs for first aid medical treatment must report those claims and the related medical costs to Sedgwick. We will create a medical only claim file and report it to the insurance carrier. Physicians must send copies of the Doctor's First Report of Occupational Injury or Illness to the insurance carrier or employer within five days of the initial examination. The insurer or employer must submit the physician's report with the Department of Industrial Relations within five days of receipt. Any employer or physician who fails to comply may be assessed a penalty.



ERISA and FMLA compliance

The U.S. Department of Labor (DOL) continues to increase their compliance reviews on Family and Medical Leave Act (FMLA) and Employee Retirement Income Security Act (ERISA) plans. The DOL can perform compliance reviews for the FMLA and the ERISA without a formal complaint or cause. Sedgwick monitors legislative changes related to the FMLA, ERISA and other industry programs; and we continue to provide information on major changes that impact our clients. For DOL updates, please see the [DOL website](#).



OSHA reporting requirements

The Occupational Safety and Health Administration (OSHA) introduced a new requirement for U.S. employers to submit records electronically. The [final rule](#), published on May 12, 2016, includes the following reporting deadlines for employers:

2016 reporting year

- Employers that have establishments with a headcount of 20–249 employees and/or a headcount of at least 250 employees must submit their 300A reports by July 1, 2017

2017 reporting year

- Employers that have establishments with a headcount of at least 250 employees must submit their OSHA 300A along with certain elements of their OSHA 300 and 301 by July 1, 2018
- Employers that have establishments with a headcount of 20–249 employees must submit their 300A by July 1, 2018

2018 reporting year

- Employers that have establishments with a headcount of at least 250 employees must submit their OSHA 300A along with certain elements of their OSHA 300 and 301 by March 2, 2019
- Employers that have establishments with a headcount of 20–249 employees must submit their OSHA 300A by March 2, 2019

Sedgwick will be able to submit reports on behalf of customers that utilize our OSHA services to meet this electronic reporting requirement. However, employers will ultimately be responsible for the completeness and accuracy of the data. For more information on the format of the files to be prepared for submission, please contact your client services director.

DISABILITY AND LEAVE



EEOC compliance

Recently, the U.S. Equal Employment Opportunity Commission (EEOC) issued a [Strategic Enforcement Plan \(SEP\) for Fiscal Years 2017-2021](#). For compliance purposes, the EEOC narrows its focus on the Americans with Disabilities Act (ADA) to issues related to qualification standards and inflexible leave policies that discriminate against individuals with disabilities. Additional areas include accommodating pregnancy-related limitations under the ADA and the Pregnancy Discrimination Act.

PROPERTY

Florida Supreme Court decision impacts property loss claims

A recent opinion of the Florida Supreme Court on property insurance coverage dramatically impacted future cases related to coverages in circumstances where several causes result in property damages, and at least one or more is covered by insurance and others are specifically excluded or not covered. With the [Sebo Florida Supreme Court decision](#) on December 1, 2016, Florida has adopted the “concurrent cause” doctrine when analyzing property insurance coverages and losses. If at least one of several independent causes constitute, in part, a concurrent cause of the overall loss, and that cause is covered by insurance, the entire claim should be covered. In the *Sebo* decision, the combination of wind-driven rain during a hurricane (which was covered under the insurance policy) and defective construction or workmanship on an \$8 million mansion on the Florida coast (which was specifically excluded under the policy) caused the total loss of the entire residence. The insurance company had denied coverage based on the defective workmanship exclusion. The company lost the case as a result of the Florida Supreme Court’s ruling.





New paid leave laws introduced

BY **SHARON ANDRUS**

Director, National Technical Compliance, Disability Administration, Sedgwick

Paid family leave and paid parental leave are currently key topics for employers as they look to expand benefits for their employees. Recently, San Francisco introduced a paid parental leave ordinance and New York announced a new paid family leave benefits law. Below is a brief summary on each of these.

San Francisco

The San Francisco paid parental leave ordinance (SF PPLO) impacts all San Francisco-based employers with more than 50 employees nationwide. For example, a company with 1,000 employees across the U.S. and 25 working in San Francisco would be required to provide benefits to their San Francisco team as of January 1, 2017. Employers with 35 or more employees are required to comply beginning July 1, 2017 and employers with 20 or more employees on January 1, 2018.

The law requires employers to provide six weeks of supplemental paid parental leave to employees working in San Francisco for the birth of a child, and the placement of a child for adoption or foster care. Employers must provide up to 45% of supplemental pay so that, when combined with California paid family leave (CA PFL) benefits, employees will receive up to 100% of their normal gross weekly wages (subject to CA PFL maximums). The leave must be completed in the first 12 months after the birth or placement of the child.

Eligibility requirements:

- Employee commenced employment with the covered employer at least 180 days before the start of the leave
- The employee performs at least eight hours per week of work in San Francisco for the employer
- At least 40% of the employee's total weekly hours for that employer are in San Francisco
- Employee must be eligible for and receiving CA PFL for baby bonding

One way that employers can comply with (or be exempt from) the SF PPLO is by providing equivalent benefits under their existing paid parental leave policy. Employers should review their policy to be sure it satisfies the following minimum requirements of the SF PPLO:

- Applies to all employees regardless of (for example):
 - Full-time/part-time status
 - Salaried/hourly
 - Union/non-union
 - Exempt/non-exempt
- Provides 100% of pay up to six weeks for bonding with a newborn, an adopted child or a foster child
- Eligibility for leave cannot be greater than 180 days of employment prior to the start of the leave
- Applies equally to mothers and fathers
- Applies equally to primary and secondary caregivers

Another way employers can comply with the SF PPLO is by handling it under their California Voluntary Disability/Paid Family leave plan.

The following items would need to be taken into consideration before determining if this is a viable solution:

- Perform a feasibility study if the voluntary plan is funded with employee contributions
- Amend the CA voluntary plan to include a separate class for SF employees that would pay 100% benefit
- Provide written notice to all employees of plan change; including the option to opt out of voluntary plan
- File revised plan document and employee notice to EDD for approval

If employers are not able to cover the SF PPLO obligation under their existing paid parental leave policy or CA voluntary plan, then they must create a separate policy and process to comply with the ordinance.

For more information on benefits, eligibility, supplemental payments and intermittent leave, along with frequently asked questions, please see the [Paid Parental Leave Ordinance](#) on the City and County of San Francisco website.

The benefit details and compliance requirements of new paid leave laws can be complex. If your company has questions or concerns related to the new San Francisco ordinance, please contact your Sedgwick client services director.

New York

On February 22, 2017, regulations for the New York Paid Family Leave Benefits Law (NY PFLBL) were released. Employers, unions, carriers and third party claims administrators can provide feedback and ask questions during a 45-day period before the regulations are finalized.

The NY PFLBL will become effective on January 1, 2018 and employees will receive benefits to:

- Care for the serious health condition of a family member, including a spouse or domestic partner, child (biological, adopted, foster or in loco parentis), parent, grandparent and grandchild
- Bond with a new child during the first 12 months after birth, adoption or foster care placement
- Care for a spouse, parent or child as a result of military exigency



The weekly benefit is scheduled to gradually increase in subsequent years and is based on a percentage of New York's statewide average weekly wage (AWW). Below are the percentages for the weekly benefit:

- January 1, 2018: 50% of weekly wage for 8 weeks
- January 1, 2019: 50% of weekly wage for 10 weeks
- January 1, 2020: 60% of weekly wage for 10 weeks
- January 1, 2021: 67% of weekly wage for 12 weeks

The benefits are designed to be fully funded by employee contributions, which will be deducted from the employees' pay. Full-time employees are eligible after 26 consecutive weeks of covered New York employment and part-time employees are eligible after 175 days of covered New York employment. When an employee returns to work, they must be restored to the same or a comparable position that they had prior to taking PFLBL.

Sedgwick is prepared to support customers for whom we administer statutory disability claims in New York to help them comply with the PFLBL. Pending the release of the final regulations, we recommend that employers:

- Evaluate their employee demographics to determine whether any employees meet the eligibility criteria
- Engage with a benefits consultant and/or legal counsel for guidance on policy/plan development including updating employee handbooks or leave material to include the PFLBL
- Prepare their payroll functions to add another deduction for the PFLBL
- Prepare to maintain the employees' existing health coverage for the duration of the PFLBL

For additional information on eligibility and benefits, please see [New York's paid family leave program](#) on the New York State website.

RESOURCES

Paid Parental Leave Ordinance. Office of Labor Standards Enforcement. City and County of San Francisco website.

<http://sfgov.org/olse/paid-parental-leave-ordinance>

New York's paid family leave program. New York State website.

<https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-how-it-works>

It is happening: LMSAs (and NFMSAs) are almost here

BY **MICHAEL R. MERLINO II, ESQ.**

SVP, Medicare Compliance, Sedgwick

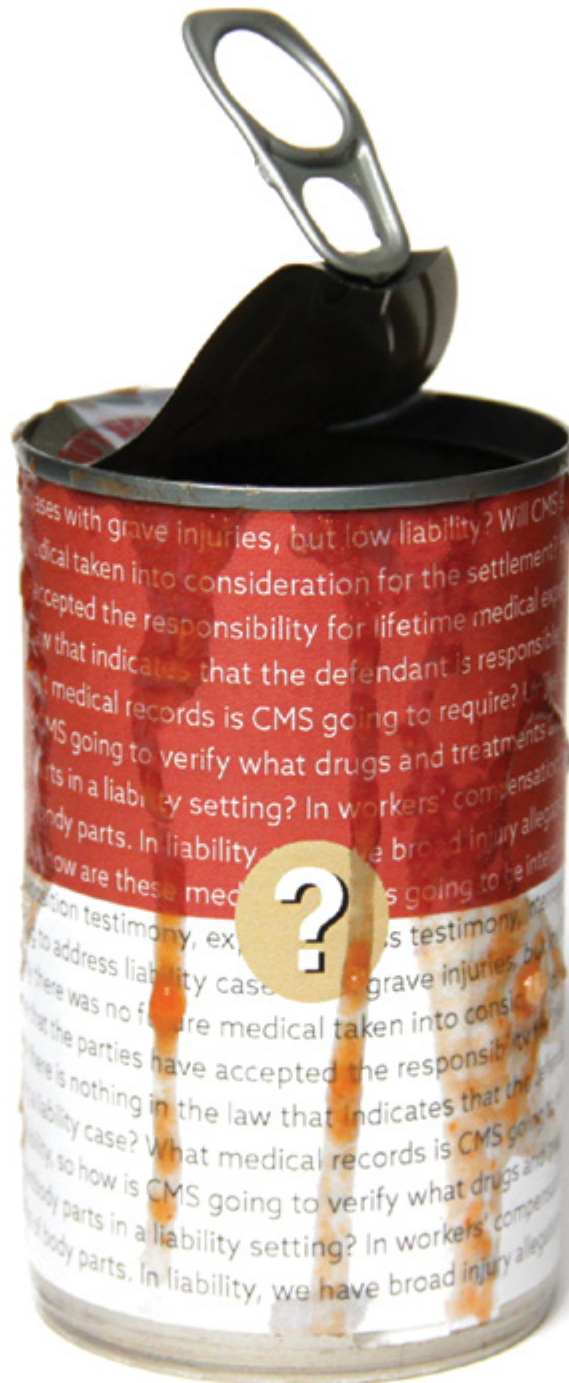
The Centers for Medicare & Medicaid Services (CMS) recently released a communication to providers, physicians and suppliers announcing that liability Medicare set-aside arrangements (LMSAs) and no-fault Medicare set-aside arrangements (NFMSAs) will be implemented on October 2, 2017.

The article did not contain any particulars about how the new set-asides are going to work, only noting that new processes and procedures would be forthcoming. Until more details become available, stakeholders are left wondering how the set-asides will affect their liability and no-fault claims. Here are some primary questions and concerns to consider:

- How are we going to address liability cases with grave injuries, but low liability? Will CMS see these cases as zero LMSA situations because clearly there was no future medical taken into consideration for the settlement?
- How is CMS going to price MSAs? Is it going to assume that the parties have accepted the responsibility for lifetime medical expense, as in workers' compensation? Will CMS recognize there is nothing in the law that indicates that the defendant is responsible for lifetime medical expenses when litigating or settling a liability case?
- What medical records is CMS going to require? Unlike workers' compensation, there are no payment histories in liability, so how is CMS going to verify what drugs and treatments are related to the liability case?
- How will CMS determine the relevant body parts in a liability setting? In workers' compensation, there are forms and processes for only litigating a relatively narrow list of body parts. In liability, we have broad injury allegations coupled with medical records that are alleged to relate to the incident. But how are these medical records going to be interpreted to determine the reality from the plaintiff's claims? Will CMS accept deposition testimony, expert witness testimony, interrogatories, etc. to disprove some of the medical treatment?

Our list of questions will grow as Sedgwick continues to evaluate the requirements and create best practices to drive optimal outcomes for customers and consumers.

We will monitor the situation and work with our customers, carriers and industry partners to provide additional analysis and revise our best practices. Our team will also watch CMS for additional details and continue to share information and recommendations in this area.



RESOURCE

MLN Matters, Medicare Learning Network, CMS, Department of Health and Human Services, February 3, 2017.

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