



Monthly Strategies

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How do we help an employee we suspect is the victim of domestic violence?

Domestic violence is a full-blown epidemic in the U.S., affecting 1 in 4 women and 1 in 10 men, and the impact on their lives often extends far beyond their homes.

A full 96% of employed domestic violence victims report problems at work due to their abuse, and 44% of full-time employed adults in the U.S. report experiencing the effects of domestic violence at work. But despite these startling statistics more than 70% of companies lack programs to address workplace violence.

It's important to understand that victims of domestic violence often don't tell their supervisors or HR that they are being abused out of fear or shame. If abuse is suspected, watch for these warning signs:

- Wears long sleeves or sunglasses at inappropriate times to conceal injuries.
- Startles easily.
- Arrives early or late to work.
- Appears fatigued.
- Exhibits fear, anxiety or depression.
- Has unexplained injuries.
- Shows a decrease in productivity.
- Takes more unplanned time off.

Employers can help abuse victims by directing them to experts in the company's employee assistance program or local shelters. Avoid trying to counsel the person directly.

Other ways in which an employers can help include:

- Ask the employee what changes in the work environment would make them feel safer, such as providing priority parking and escorts from the parking area.
- Change the employee's office phone number and remove the employee's name from

automated contact lists. Install panic buttons for the employee and receptionist.

- Place plants or partitions around the employee's work area to serve as barricades to prevent the abuser from walking directly up to the employee. Notify the police.
- Save any threatening messages received at the workplace for future legal action. Provide time off or flexible work hours for counseling and court appearances.
- Ask the employee to obtain a restraining order that includes the workplace and keep a copy on hand.
- Create policies specifically for domestic abuse situations and provide training to employees. Include guidance on security plans.

If the employee refuses to contact police or to cooperate with your security plan, the employer still has a responsibility to protect the employee and co-workers on the premises. Under the general duty clause of the U.S. Occupational Safety and Health Act, employers are required to take "feasible steps to minimize risks" in workplaces where "the risk of violence and significant personal injury are significant enough to be 'recognized hazards,' " according to a letter of interpretation provided by the U.S. Occupational Safety and Health Administration.

Some states allow companies whose employees have received threats to obtain their own restraining orders to keep abusive partners off the premises.

Before taking action against an employee suspected of being a domestic violence victim, check state laws. Many states have laws protecting the workplace rights of victims of domestic or sexual violence. Even in states that don't, employers should establish written policies on leave requests and related issues.

How to administer a workers' compensation claim

This is the typical process for administering a workers' compensation claim, following an employee's work-related injury or illness.

Educate the Team – It's important to educate staff on workers' compensation coverage and injury/illness reporting requirements. Employer's should create policies and procedures that are included in employee handbooks and post the state's poster and notice requirements. Ensure that supervisors know when, where and how to report work-related injuries and illnesses.

Report Incidents to Appropriate Parties - In accordance with the organization's policies and procedures, employees should be trained to report the incident to the company's designated representative. The first responder, supervisor or company representative should determine whether first aid is required and can be performed on the scene or if additional emergency care is required at a health care facility. Depending on the severity of the injury, the employer may need to notify the employee's emergency contact of the incident. The employer should take immediate action to ensure that the worksite where the incident occurred is safe and secure to prevent additional incidents.

Complete Injury/Illness Reports - The employer should meet with the employee to complete the "first report of injury" or workers' compensation claim forms provided by their workers' compensation carrier or the state's workers' compensation agency. The report usually requires the following information: date of injury, the place where it occurred, a description of the injury or illness, the date the employer became aware of the injury or illness, the date that the employee received the form, the date the employee returned the form to the employer, and any other required information.

During the meeting, the company representative should share with the employee the claims procedures, the benefits available to the employee and whom to contact for any concerns. Items frequently covered in this discussion include:

- **Injury/illness report.** A report of the occupational injury/illness should be made with the employer in a timely manner. Employers typically request that employees report occupational injuries/illnesses immediately but no later than 24 to 48 hours after the incident. This allows an employer to timely investigate the matter and take safety measures to avoid further incidents.
- **Physician selection.** Under some state laws, an employer may initially select the physician

who is designated for seeing employees with work-related injuries and illnesses. The company representative should inform employees of their options for seeking medical attention.

- **Medical expenses.** Health care facilities typically ask employees if injuries or illnesses are work-related. To ensure medical bills are sent to the appropriate place for payment, the company representative should give employees the employer's contact information, if self-insured, or the workers' compensation carrier before any medical visit. It's important to advise employees to retain any documentation received from related medical visits.
- **Travel reimbursement.** Travel to and from medical treatment may be reimbursable in accordance with the plan or with the state's specific workers' compensation regulations.
- **Compensation benefits.** The company representative may want to discuss how wage replacement benefits work. Depending on the state compensation benefit, the employee may be entitled to 66 percent of wages up to 100 percent of the state average weekly wage after a specified waiting period. The representative may also want to inform employees of the use of paid leave benefits such as sick, vacation or paid time off during waiting periods and periods of wage replacement. Use of paid leave benefits while receiving workers' compensation benefits vary by state law.
- **Family and Medical Leave (FMLA) or DE PFML.** If applicable, an FMLA- or DE PFML covered employer should provide the eligible employee with required notices.

File Injury/Illness Reports - Next the organization files the incident report with the company's workers' compensation carrier.

Stay in Contact with the Worker's Compensation Carrier - Employers must maintain contact with the workers' compensation carrier on the employee's claim. The employer may need to forward medical documentation to the workers' compensation carrier or provide the number of lost workdays, the employee's return-to-work status and any salary continuation to determine wage replacement benefits.

Stay in Contact with the Employee - The company representative next informs the employee

that the claim has been submitted and when to expect contact from the workers' compensation carrier regarding wage replacement and medical treatment. The company representative should then establish a schedule of regular follow-up on the employee's progress by telephone, mail or e-mail to let the employee know that their well-being and return to work are important to the organization.

Establish a Timeline for Return to Work -

Establishing a timeline for the employee's return to work is imperative, as is making the determination about potential restrictions that may require accommodation and whether the employer will be able to accommodate the employee's needs. An employer may also need to consider if workers' compensation benefits will run concurrently with leave under the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), state leave laws or a company-provided leave of absence. The employer should have a policy in place that includes how leave interacts with workers' compensation.

Return the Employee to Work - Returning an employee back to work should be one of the main focuses for the employer, even if it is in a light duty capacity. The employer's policy should be a thoughtful, well-written document that can be administered with care, taking the employee's needs into consideration.

An employee's return to work may have doctor-directed medical restrictions that may allow the employee to return on restricted or light duty, which is typically less physically and mentally demanding than the employee's normal job. If the employee is eligible for FMLA leave or state benefits, they can accept the light duty assignment, which will not count toward FMLA leave because the employee has returned to work and is no longer taking leave. Alternatively, the employee can continue to be out on the available FMLA, or state benefits leave. The employer may not penalize or retaliate against the employee for opting to remain on FMLA or state benefit leave. However, the employer is allowed to restrict the employee from receiving wage replacement benefits through workers' compensation and short-term disability when the employee opts to take the leave instead of working, based on the doctor-directed medical restrictions.

Making temporary accommodations to assist the employee in returning to work after an incident will be advantageous to the employee, making them feel connected to the organization and contributing

to it. As for the employer, making the accommodations can help reduce costs by decreasing the need for temporary help and overtime. It may also reduce workers' compensation rates. Returning the employee temporarily to a different position is allowable as long as the employee's restrictions and ability to perform the tasks/duties are taken into consideration. In the absence of a company policy regarding return to work/light duty, the ADA may still require an employer to consider reasonable accommodations to allow an employee to return to work. The ADA does not require an employer to create a position or to eliminate the essential job functions. However, the Equal Employment Opportunity Commission (EEOC) recognizes that employers may have to reassign or transfer an employee with a disability as a reasonable accommodation to an alternate position that meets the light duty restrictions if such a position is vacant or available, and the employee qualifies for it.

Continue Leave or Terminate When an Employee Is Unable to Return to Work - An employee's doctor may provide a fitness-for-duty document that states that the employee is not ready to return to work and may not be able to return for some time or not at all. In this case, the employer will have to look at whether the employee is eligible for additional leave under the FMLA, the ADA, state leave or leave under the company's policies and practices. Some state workers' compensation laws have anti-retaliation provisions that may preclude an employer from terminating an employee for being absent due to a work-related injury; other states have legal precedent limiting an employer's ability to terminate a worker receiving workers' compensation benefits. Beyond these laws, there may be no obligation to continue to employ the individual; however, as with any termination, employers should seek legal guidance specific to their circumstances.

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