

School: ATEC – Claims
Course: Subrogation 102: Getting the Word Out & Making a Recovery
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Summary

In "Subrogation 102: Getting the Word Out & Making a Recovery," Ryan Ihrke, a seasoned workers' compensation professional from Iowa Specialty Claims Consulting, builds upon the foundational knowledge presented in Subrogation 101. This course focuses on the practical steps and legal nuances involved in effectively communicating and recovering subrogation claims.

Recap of Subrogation 101: Ihrke begins with a brief recap of Subrogation 101, emphasizing the concept of subrogation as stepping into the shoes of another party to recover debts or damages. He reiterates the importance of identifying subrogation opportunities, such as auto accidents or premises liability cases, and the role of negligence in these claims. The distinction between subrogation and liens is highlighted, noting that subrogation is an overarching term often used interchangeably with various recovery methods.

Communicating Subrogation Claims: Effective communication is crucial for asserting subrogation rights. Ihrke discusses the use of notices of lien to inform relevant parties about the workers' compensation carrier's claim. These notices can be initial, ongoing, or final, and must clearly outline the accident, the role of the workers' compensation carrier, and the injured worker's details. It is important to include pertinent information such as the date of the accident, claim numbers, and the expectation of recovery based on the investigation. Regular updates (every 30 to 60 days) should be provided to keep all parties informed about ongoing payments and to ensure acknowledgment of the lien.

Key Parties to Notify: Identifying and notifying the right parties is critical. Ihrke emphasizes the importance of informing the at-fault party and their insurance carrier, as well as the injured worker and their attorney. In some jurisdictions, legal requirements mandate notifying the injured worker within a certain timeframe before pursuing the at-fault party. Ensuring all parties are aware of the lien helps lay the groundwork for recovery and maintains transparency throughout the process.

Intervening in Third-Party Lawsuits: When an injured worker files a lawsuit against a third party, the workers' compensation carrier may need to intervene. This can involve filing an intervention to become a party to the lawsuit or simply filing a notice of lien with the court. Intervening allows the carrier to participate in discovery and stay

informed about motions and hearings. However, the decision to intervene depends on the jurisdiction and the potential recovery amount. In some cases, filing a notice of lien may suffice to protect the carrier's interests.

Recoverable Elements and Challenges: Ihrke outlines the recoverable elements in a workers' compensation claim, including medical and indemnity benefits. These should be clearly presented to the at-fault carrier and the injured worker's attorney. Non-recoverable elements, such as administrative expenses, should not be included. Challenges may arise when layering a no-fault workers' compensation claim over a tort claim, leading to discrepancies in the perceived extent of damages. Collaboration with the injured worker's attorney can help address these challenges and align interests for successful recovery.

Special Considerations: Several special considerations affect subrogation recovery. Statutes of limitations for third-party claims are generally longer than for workers' compensation claims and vary by state. Municipal immunity can impose shorter timeframes for pursuing claims against government entities. Uninsured and underinsured motorist coverage often precludes recovery for the workers' compensation carrier. Additionally, the "made whole" doctrine in some jurisdictions requires showing that the injured worker has been fully compensated before the carrier can recover.

In conclusion, effective subrogation recovery requires thorough communication, understanding of legal requirements, and collaboration with involved parties. Ihrke's detailed guidance provides valuable insights for professionals navigating the complexities of workers' compensation subrogation.

Learning Objectives

1. Understand the process and importance of notifying relevant parties about a subrogation or lien claim.
2. Learn the appropriate methods and timing for sending initial, ongoing, and final notices of lien.
3. Identify the key parties to notify and the necessary information to include in lien notices.
4. Understand the legal implications and procedural requirements for intervening in third-party lawsuits.
5. Learn about the recoverable elements in a workers' compensation claim and the common challenges in subrogation recovery.

Primary Takeaways

1. Effective communication through notices of lien is essential for asserting and maintaining subrogation claims.
2. It is crucial to notify all relevant parties, including at-fault carriers, injured workers, and their attorneys, to preserve subrogation rights.
3. The recovery process often involves negotiating and sometimes reducing liens to reach settlements.
4. Understanding jurisdiction-specific rules, such as statutes of limitations and municipal immunity, is vital for successful subrogation.
5. Working collaboratively with the injured worker's attorney can align interests and facilitate the recovery process.

Course Outline

- 1) Introduction to Subrogation 102
 - a) Course Overview
 - b) Recap of Subrogation 101
 - i) Definition and basic concepts
 - ii) Identifying subrogation potential
 - iii) Investigating subrogation
 - iv) Understanding negligence
 - c) Importance of Effective Communication
- 2) Sending Notices of Lien
 - a) Initial Notices
 - i) Purpose and content
 - ii) Timing and format
 - b) Ongoing Notices
 - i) Regular updates
 - ii) Including payment details
 - c) Final Notices
 - i) Finalizing amounts
 - ii) Requesting acknowledgment
 - d) Best Practices
 - i) Frequency of updates
 - ii) Ensuring receipt and response
- 3) Key Parties to Notify
 - a) At-Fault Parties and Their Carriers
 - i) Identifying insurance coverage
 - ii) Direct communication

- b) Injured Workers and Their Attorneys
 - i) Keeping them informed
 - ii) Legal obligations and collaboration
- c) Defense Counsel
 - i) Role in providing legal guidance
 - ii) Assisting with procedural requirements
- 4) Intervening in Third-Party Lawsuits
 - a) Understanding Jurisdictional Requirements
 - i) When and how to file an intervention
 - ii) Alternatives to intervention
 - b) Filing Notices of Lien in Court
 - i) Importance of timely filings
 - ii) Examples of jurisdiction-specific rules
 - c) Working with Injured Worker's Attorney
 - i) Aligning interests
 - ii) Sharing in attorney fees
- 5) Recoverable Elements in Workers' Compensation Claims
 - a) Medical and Indemnity Benefits
 - i) Types of recoverable medical costs
 - ii) Types of recoverable indemnity benefits
 - b) Non-Recoverable Elements
 - i) Administrative and unallocated expenses
 - ii) State fund payments
 - c) Negotiating and Resolving Claims
 - i) Strategies for lien reduction
 - ii) Future credits and offsets
- 6) Special Considerations in Subrogation
 - a) Statutes of Limitations
 - i) Importance of tracking deadlines
 - ii) Example scenarios
 - b) Municipal Immunity
 - i) Shortened timeframes for claims
 - ii) Specific rules for government entities
 - c) Uninsured and Underinsured Motorist Coverage
 - i) Limitations on recovery
 - ii) Jurisdiction-specific variations
 - d) Made Whole Doctrine and Duplicate Benefits
 - i) Legal implications

- ii) Common challenges and solutions
- 7) Conclusion
- a) Summary of Key Points
 - b) Importance of Ongoing Education
 - c) Recommended Resources
 - i) Defense counsel
 - ii) Publications and charts

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