



The Sonoma County Grand Jury

HOLES IN THE EMPLOYEE BENEFIT SAFETY NET?

July 1, 2004

Summary

The 2003-2004 Sonoma County grand jury reviewed the county departments that provide medical services and compensation for sick, injured and disabled employees: Human Services, Health Services, Human Resources, Risk Management and Disability Retirement. State and federal laws mandate that workers are entitled to have job protection while they are recuperating from an illness or injury, as well as a means to return to work. The jury found that there were inadequacies in the systems that should provide ready access for employees to receive the services they need.

Although most employees could navigate the systems with varying degrees of success, there were others who found them cumbersome, inconsistent and time consuming. The county needs to offer additional assistance to these employees to understand the programs that provide accommodation, workers' compensation and short and long term disability. The grand jury, therefore, encourages the county to become more aware of the needs of ill/injured workers and make reasonable accommodation so that they can perform their job assignment in an appropriate manner. Consideration should be given to develop a new, independent position for an employee advocate who has medical and legal expertise to guide employees who are unsure of their options through the maze of systems to ensure that they receive appropriate outcomes.

Reason for Investigation

The grand jury received a complaint alleging that workers' compensation, accommodation, short term disability, long term disability and disability retirement systems were contradictory, confusing and adversarial. The result was that the county workforce had no viable employee benefit safety net. It was alleged that the county incurred increased costs when inexperienced workers were hired to replace experienced ill/injured employees who had been let go. Workplace efficiency decreased, customer relationships suffered and productivity declined.

Background

The complaint stated that several Sonoma County employees experienced problems with short term and long term disability, workers' compensation claims, reasonable accommodation and disability retirement. This raised concerns about their lack of understanding and their inability to navigate these complex systems. When employees requested reasonable accommodation, disputes arose as to who would determine the accommodation: the employee's physician, a county appointed qualified medical examiner (QME), the Americans with Disability Act (ADA) or the workers' compensation physician. It was alleged that short term disability required a two week waiting period and provided a small benefit lasting a maximum of seven weeks.

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Resolution of long term disabilities varied between departments and employees experienced long delays before claims were accepted or denied. This frequently created financial hardships for affected employees.

Investigative Procedures

The grand jury

Interviewed the following Sonoma County employees:

- Complainant
- Coalition of Labor Unions Chairperson
- Service Employees International Union (SEIU) General Manager
- Director, Department of Health Services
- Director, Department of Human Resources
- Risk Management Administrator
- Director, Department of Human Services
- Deputy County Counsel
- Manager, Employee Relations
- Two employees dealing with accommodation issues
- Manager, Retirement Benefits

Reviewed the following Sonoma County documents:

- *Revised Employee Benefits Package*, June 2003, given to all new employees
- *Employee Assistance* pamphlet
- "Disability Retirement Committee Minutes"
- "Civil Service Commission Committee Minutes"
- *Workers' Compensation Report*, May 2003
- Newspaper articles addressing workers' compensation and disability issues, fall 2002-spring 2004
- Documents submitted by complainants included fifteen documents related to workers' compensation and nineteen documents related to disability
- "Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate Reasonable Accommodation", October 2001
- *Assembly Bill 2222: Civil Rights, Disability*
- Department of Health Services: *Injury and Illness Prevention Program*, February 2004
- "Accident/Incident Investigation Procedure and Form"
- Department of Health Services: "Hazard Assessment"
- "Employee Hazard Report Form"
- "Periodic Office Safety Inspection Form"
- "Division Health and Safety Training Matrices"
- "General Grievance Form"

Attended

- Civil Service Commission Meetings

Findings

F1. As an equal opportunity employer, the county is mandated to comply with federal and state disability laws. An employee who believes that s/he has suffered discrimination of any kind is encouraged to bring this to the attention of the Sonoma County Equal Employment Opportunity Manager.

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- F2. The county provides extensive benefits administered by Risk Management, including health coverage, retiree health coverage, insurance, retirement pension and long term disability.
- F3. During the past decade, the county's budgeted costs for workers' compensation have increased 154%, resulting in annual expenditures of over \$14,000,000 for FY 2003-2004. This prompted evaluation of the costs by the five major department heads whose workers' compensation claims account for 78% of the county's total workers' compensation costs. The departments with the highest costs due to the nature of their work include Sheriff, Human Services, Probation, Public Works and Health Services
- F4. Strategies recommended to reduce workers' compensation costs include implementation of an improved Injury and Illness Prevention Program (IIPP), a safety awareness summit meeting (June 2003), an audit of the county's medical costs and a focus on returning employees to work as quickly as medically feasible through a Transitional Duty/Return to Work Program.
- F5. The waiting period for Short Term Disability has been reduced to seven days.
- F6. The implementation in 2003-04 of pilot Safety and Loss Prevention and Transitional Duty/Return to Work Programs for the five major departments with the highest workers' compensation costs is an attempt to reduce injuries and to return injured workers to work as soon as possible but at least within 90 days after injury.
- F7. Since 1998, the average time for resolution for Long Term Disability Retirement, from application to date of acceptance of the retirement decision is 9.4 months.
- F8. The *Revised Employee Benefits Package* is given to all new employees detailing essentials of the employee benefits provided to them and information on steps to follow when an illness or injury occurs. This was implemented in June 2003. Within one month of hiring, the majority of new employees receive an eight-hour training session explaining this manual.
- F9. According to some employees, communication between representatives of unions, risk management, workers' compensation and disability retirement is less than adequate, resulting in poor collaboration and ineffective guidance for the employees.
- F10. Qualified Medical Examiners (QME) are physicians appointed by the County to determine the medical needs of ill/injured employees requesting accommodation and/or disability retirement. These physicians may be qualified to evaluate the needs of injured workers but they do not always have the medical expertise required to determine the needs of employees who develop an illness.
- F11. Reasonable accommodation for ill/injured employees does not seem to be applied appropriately in all departments. Some employees who requested accommodation, which is reasonable, perceived they have been rejected unfairly. Undue stress and anxiety arose in situations that could have been resolved with better communication.
- F12. The jury received unsolicited suggestions from management, union representatives and affected employees that an employee advocate position would benefit employees who

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have difficulty navigating the system to better focus on the most appropriate solution for their particular situation.

Conclusions

Many complaints regarding reasonable accommodation and workers' compensation should be resolved in a timely manner with the implementation of the revised 2003 Illness and Injury Prevention Program and the Safety and Loss Prevention and Transitional Duty/Return to Work Programs during 2003-04.

The majority of new employees receive an orientation session within one month of hiring with instruction given regarding their employee benefits. This includes information on health coverage, life insurance, long term disability, deferred compensation, educational leave, safety measures in the workplace, ergonomics and the Employee Assistance Program. However, a major weakness is some ill/injured workers, with many years of service, still lack understanding of where to go and what to do in the event of illness or injury. An employee advocate, who is knowledgeable in all the options, is needed to guide these employees.

Recommendations

- R1. The Board of Supervisors should create a new position for an independent employee advocate who has medical and legal expertise to guide ill/injured employees who are unsure of their options through the various benefit systems to ensure they receive the appropriate outcomes.
- R2. The Disability Retirement Board and Risk Management must meet with union representatives as often as necessary, but at least monthly, to establish better communication and understanding.
- R3. All mid-level management, division directors, supervisors and employees must be instructed on a regularly scheduled basis and at least twice during the year beginning in September 2004 in the revised Illness and Injury Prevention Program with greater emphasis on departmental responsibility.
- R4. Evaluation of the results of the pilot Safety and Loss Prevention and the Transitional Duty/Return to Work Program in the five major departments (Sheriff, Probation, Health Services, Public Works and Human Services) should be analyzed, and if cost effective implemented countywide.
- R5. For employees who develop an illness during their employment, the evaluation and recommendations of the employee's medical specialist should be given priority regarding accommodation and disability retirement if the county appointed Qualified Medical Examiner (QME) does not possess equal expertise.

Required Responses to Findings

None

Required Responses to Recommendations

County Board of Supervisors - R1 and R4
Human Resources - R1, R3, R4
Risk Management - R2, R3, R4, R5
Health Services - R3, R4

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Human Services - R3, R4

Retirement Board - R2, R3, R5

Probation - R3, R4

Sheriff - R3, R4

Public Works and Transportation - R3, R4