

Public Deception

SOCIAL MEDIA EMERGING AS A TOOL TO UNCOVER WORKERS' COMPENSATION FRAUD, COMPLEMENT SURVEILLANCE

— Written By Bruce Shutan

If the pandemic taught working Americans anything at all, it was that the fine line separating work from life has considerably thinned. Many frustrations about work and life were aired on social media, which was a slippery slope even prior to Covid-19 turning the world on its head.

Employees and even executives have been terminated over controversial social-media posts in the age of cancel culture. Not everything that's shared on these popular digital platforms, of course, is negative or hateful. Social media helps people find new employment opportunities, as well as stay in touch with friends and family. But it also can land some in hot water if they have nefarious plans and end up revealing too much about their life outside of work.

Case in point: workers' compensation fraud, which costs insurers and employers an estimated \$6 billion a year, according to the Coalition Against Insurance Fraud. Although rare in the work comp space relative to other types of insurance fraud, it's important to be careful about what is classified as fraud, especially in certain jurisdictions, explains Matthew Yehling, director of claims for Midwest Employers Casualty, a Berkley company. "Having 50 different jurisdictions obviously adds a little complexity," he says.





Matt Yehling

A plethora of information that's now available online has made it much easier for adjusters to crack open suspicious cases, especially given the prevalence of the world's most popular social-media platform which Statista estimates at 2.8 billion monthly active users.

"Think of everything that's on Facebook," observes Yehling, who presented on this topic at SIIA's 2020 virtual national conference. "People say, 'I

don't have social media.' Well, if you're at a party, and your friends are taking pictures, where do you think those pictures end up? They're on Facebook. They're on Snapchat. They're on Instagram."

Similar avenues that might ensnarl low-profile or private individuals in a social media web of lies may include a fishing tournament whose results are posted online. Yehling recalls photos of someone performing in a band on a Friday night when just two days earlier "he was telling the doctor that he couldn't do anything." Having hard conversations about such discrepancies could go a long way toward nipping any malingering in the bud. "I've seen examples of that," he reports, "and all of a sudden, the injury that may have been lingering has had a recovery."

A men's workout group that Yehling participates in outside of work hours offers another glimpse into how employers could learn that some work comp claims may not square with the real world. The routine recording and posting of videos to what he describes as a "private" link on YouTube could easily unmask fraudulent activity. These examples, which along with a seemingly endless stream of other leisurely activities involving millions of working Americans, offer a potential treasure trove of compromising positions for those investigating work comp fraud.

SHOT IN THE ARM FOR SURVEILLANCE

Simple social media checks often provide surveillance teams the ammunition they need to uncover work comp fraud, notes Erin McBride, AVP, regional claims manager for Mackinaw Administrators, LLC, who co-presented with Yehling. In many cases, she says it's photo tagging that crack cases, especially if claimants are savvy enough not to advertise side hustles that land them in trouble.

Having worked with many surveillance companies, Yehling believes they would all agree that social media has enhanced their ability to capture smoking-gun moments. However, he suggests that employers show prudence when hiring these firms because "it can be quite costly to have somebody surveilled for eight hours a day... As an insurance carrier, the last thing I want people to think is that we're surveilling 10,000 injured employees."

McBride has literally seen her share of false work comp claims from head to toe. In one instance, a county worker from an employer client indicated that a head injury caused ongoing headaches that kept her from working in noisy, sunlit environments.

"Somebody tagged her in a social media post where she was dancing in a nightclub with loud noises, bright lights and tons of people," she reports. "We were able to show that video to the physician and her inconsistencies, and he actually sent her back to work, and were able to refuse further benefits after that."



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Erin McBride

Another individual who worked as a parks-and-roads laborer claimed to have carpal tunnel syndrome. The problem was that a doctor who examined her couldn't pinpoint any job duties that caused this injury. "We looked on her social media, and the adjuster found that there were a lot of pictures of cakes and cookies," she explains. "So, we put out some surveillance feelers to try and see what this person did on the side. Come to find out, she had a cake and cookie decorating business and was doing a lot of intricate decorating."

The revelation was shared with her physician who identified that activity as the cause, not her job duties, which led to her claim being denied. Once again, the claimant was smart enough not to post about her activities off the clock, but overlooked tagged photos, which did her in.

A similar case involved a woman whose foot injury prevented her from working as a corrections officer. Every time adjusters tried to contact her, voicemails were followed by callbacks with lots of background noise that raised red flags. Her social media posts featured tagged photos that revealed a DJ side gig at weekend parties that she was careful not to promote on her own profile. It didn't take long for investigators to catch her in the act. Surveillance video showed the DJ decked out in high heels and dancing up a storm.

The evidence was shown to her doctor and attorney, proving once and for all that her disability was falsified.

"She wasn't savvy enough to know that if people tagged her at certain events that we would be able to find it after that," McBride says.

RED-FLAGGED PATTERNS

A common pattern that Yehling has seen with fraudulent cases is that they generally start off small, but then all of a sudden injured employees cannot lift anything at work. Red flags are raised when employers learn that claimants are lifting their grandkids or pictures of them visiting the zoo or engaged in various activities are posted on social media.



"When they go to that doctor's appointment on Monday," he says, "it's not as bad as the neck collar that you used to see in those commercials, but they're moving slowly, and they tell the doctor they can barely get out of bed."

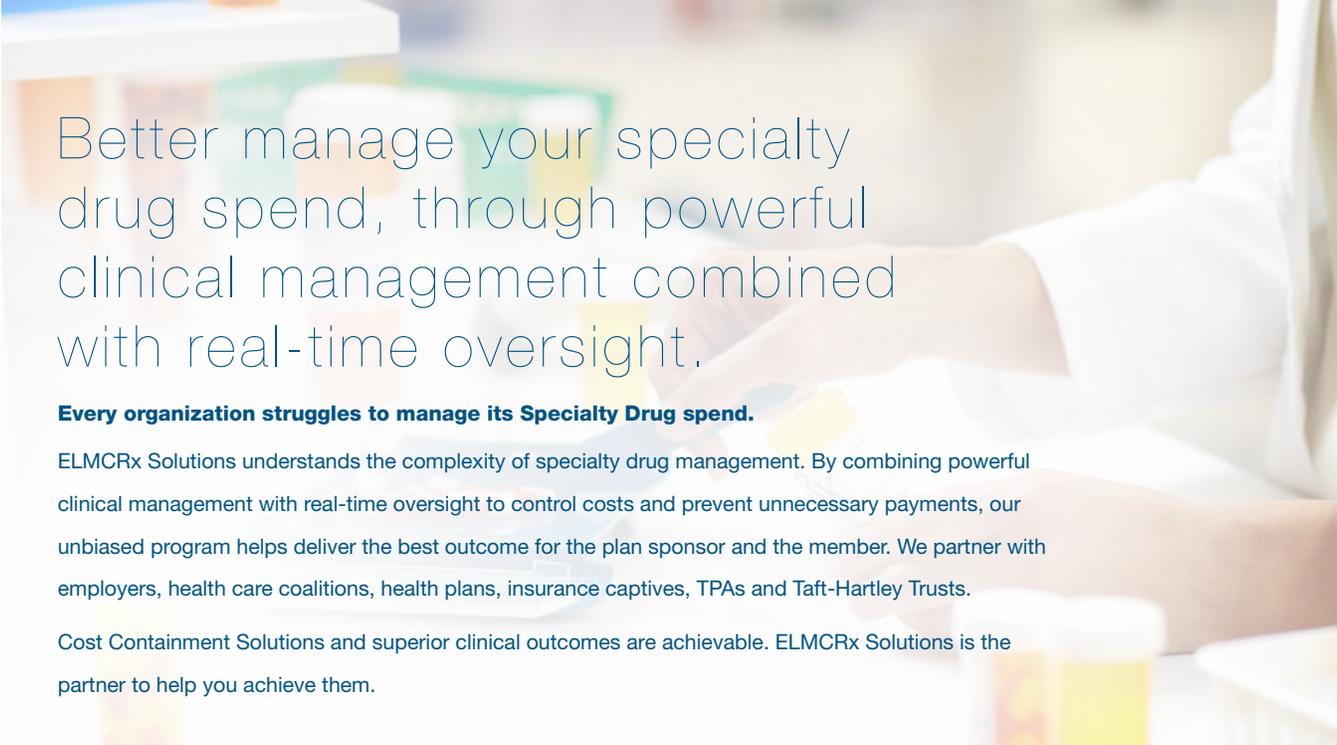
One tricky task for investigators is to determine whether any potentially incriminating social-media posts could be misconstrued or misrepresented. For example,

photographs might not be current. "Just because you see a picture of the buffed-out guy in his headshot lifting a 100-pound weight, that could have been him from 10 years ago," Yehling explains.

He remembers a very different scenario unfolding with a construction worker who was also active in the Screen Actors Guild and built like Arnold Schwarzenegger had some explaining to do. Although claiming that he couldn't lift a 10-pound weight at work, photos of the work comp claimant at a Mr. Universe-type competition were splashed all over social media. "You could figure out what days it was and where he was engaged in those activities," he says.

He says smartphones, often the primary engine fueling social media, can be used as a tool to prove safety violations occurred when someone was injured, noting how those who are in motor vehicle accidents are among some of the worst work comp claims.

"We've had instances of using cell phone records to track how somebody alleged a claim had occurred," Yehling reports. "Most employers allow you to have your cell phone in your pocket nowadays, and most people have them in arm's reach. If they're walking around and they have a mobile job and something's happened, that's another potential avenue for information gathering."



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But if they're exaggerating, or there's some kind of activity going on that's clearly not benefitting the recovery or the organization, then we want to make sure that we're paying the right thing." ■

Bruce Shutan is a Portland, Oregon-based freelance writer who has closely covered the employee benefits for more than 30 years.

INNOCENT UNTIL PROVEN GUILTY

While there always will be attempts to defraud the workers' comp system, McBride says a majority of claims are paid and it's important that adjusters be objective and approach all cases from the standpoint that claimants are innocent until proven guilty. In a similar vein, she urges employers that self-insure work comp not to be overly tainted in their view of the potential for criminal activity.

"We do have a responsibility to take care of the individual that's injured, get them the best care that they need, rehabilitate them, and get them back to work," she adds.

In order for employers to help prevent work comp fraud from occurring in the first place, Yehling notes the importance of keeping open the lines of communication. That means having constructive and uplifting conversations between injured employees and their supervisors about a range of topics. Examples include how they're approaching return to work, letting them know they're missed on the factory floor or in an office setting, asking how they're feeling and encouraging a positive attitude.

"The more you interact with injured employees, have those dialogues and show concern for them, I think the better the result will be," he believes. "I think most carriers have that mentality..."