

Manager/Supervisor Risk Management

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A twice weekly e-mail training for YCPARMIA members

TOPIC: SUBROGATION

Subrogation is an important cost savings tool for insurance companies, self-insured entities and pools. In simple terms the doctrine allows a party (usually an insurance company) who has paid a loss or debt on the part of another (usually their insured) to succeed to the rights of that party to pursue recovery against a third party that was responsible for causing the loss. The insurance company “stands in the shoes” of its insured. Its right of recovery is no greater than its insured’s right, and is limited to what they actually paid.

The law prohibits a party from recovering twice for the same injury or damage. If a claimant chooses to have their insurance carrier pay for the loss, then the insured’s right to pursue recovery against the party that injured them is transferred, at least to the extent of payments made, to the insurance carrier.

In auto claims, when a claimant’s carrier pays for the damage to their insured’s vehicle, they come back against the entity for reimbursement of what they paid. Conversely, when the entity’s property is damaged, and YCPARMIA pays for repairs, we pursue the responsible party through their insurance carrier for reimbursement. If they are uninsured we attempt to work out a payment plan with the responsible party.

Another big area for subrogation is workers’ compensation. The Labor Code requires the employer to pay for certain benefits, and the employer’s carrier has the right to pursue recovery against a third party that caused the injury to their employee. This will be discussed in greater detail in a future topic, but for now it is sufficient to understand that YCPARMIA’s right of recovery for WC benefits paid to an injured worker precludes the injured worker from pursuing payment for the same thing. There may be damages, like pain and suffering, which are not covered by WC; the injured worker can pursue recovery against the party that injured them for any non-WC damages without interference by us.

What should a supervisor take from all of this? It is vitally important to document what caused injury or damage, and to document who was involved. In an auto accident always get the name of the other party’s insurance carrier. In your accident report always include anything the other party says about “fault.”

Next topic: Don’t admit fault