

THE SIU STANDARD

FOR CA WORKERS' COMPENSATION



Provider fraud leads to SIU profitability

By Matthew R. Hopkins, CIFI 

Do you have a provider problem? If your Special Investigations Unit (SIU) is not facilitating bulk settlements or lien consolidations with abusive or fraudulent providers, then you have the following problems:

- Whether you have an out-sourced or internal SIU, the SIU is inadequate
- Millions of dollars are being paid by Claims that can be saved (depending on the size of your program)
- Providers are targeting your company
- The SIU will not become a profit center

Most SIU's, especially out-sourced, are inadequate because many do not understand what it takes to handle provider fraud and profitably resolve the investigation through either a bulk settlement, lien consolidation or other civil action.

It is very rare to have a profitable workers' compensation SIU program in California. Carriers in CA spend millions of dollars per year on typical claims investigations. These are frequently AOE/COE, surveillance and subrogation type investigations. However, how many carriers can say their allocated investigative claim costs are paid for by a profitable SIU program?

Restitution received on prosecuted claimant and premium fraud cases generally do not yield profitability alone. So, after the SIU completed the clinic inspections, reviewing claim files for billing patterns, data mining, etc., what did they do with that information? If the SIU response is to wait for

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law enforcement to act then that is the *wrong* strategy. This is common with most, if not all, out-sourced SIU's. They just don't know or have the experience to effectively resolve provider abuse and fraud. The SIU strategy has to change so investigative efforts are used in a powerful and profitable way.

Global settlements should usually be the SIU's first exit strategy once abuse or fraud has been determined. The #1 goal is to limit the company's liability of a suspect provider while law enforcement investigates. Even if a provider is convicted years down the road, their bills and liens do not disappear and how much did you spend defending bills/liens on a case by case basis?

A company's business decision to pursue one of three potential outcomes of a global settlement (a nominal amount, zero sum or positive cash reimbursement) does not impact a criminal case unless the settlement is more than a nominal amount. Significant settlements are discouraged if the provider is suspected of fraud.

Argus West experience with Providers:

Provider TINS investigated:	400+
Provider resolutions:	123
Provider savings:	\$33+ million
Avg. bill paid by Claims prior to SIU:	35%
Avg. bill paid once SIU involved:	5%

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Surveillance Tips

The following are a few examples of how to better use money allocated for surveillance. Using video results to their full potential is essential as it can impact the following:

- Resolves the claim quicker
- Reduces overall exposure
- Manages the claim file effectively rather than processing it
- Assists in getting an injured worker (IW) back to work sooner
- Determines the direction of the claim ie: to SIU or not to SIU

If you have video of an unrepresented injured workers performing above and beyond their restrictions, you should immediately do the following:

- **Call the IW** and ask questions regarding their abilities ie: pain levels (1-10), what they can and can't do before and after the date of injury and relate the questions of ability to activities obtained on film
- Thoroughly document the conversation in Notepad and articulate inconsistencies
- If you believe a material misrepresentation has occurred, refer the claim to the SIU

For the represented injured worker:

- Does the compelling video show the IW doing anything above and beyond their restrictions?
- Review the most recent PR-2, medical report, physical therapy session, etc., and compare the subjective complaints to the video
- If you believe a material misrepresentation has occurred, refer the claim file to the SIU
- If you have not obtained a deposition at this point, it's time to set one up quickly
- Compare their testimony to the video

In both scenario's, you are creating a fork in the road. The above will determine the following:

- If the IW is truthful about his/her abilities, you are now in a better position to obtain a favorable supplemental report from the PTP
- If the IW misrepresents his/her abilities, you now have compelling evidence to present to the PTP
- In each case, the PTP is being presented with the video and statements made by the IW. This gives the PTP a better perspective to address restrictions, RTW, MMI status, PD reductions, fraud, etc.

Ideally, the SIU should meet with the PTP to address the IW's statements and the video. This helps answer all the necessary questions rather than receiving a supplemental report that may not address all the issues, however, this is not always feasible depending on the status of the claim. When you send video to a PTP, QME or AME for review, you should always send the IW statements, whether they be the phone statements, deposition statements or in a medical report.

Using the IW statements in conjunction with the video is much more compelling to a physician. It identifies potential material misrepresentations being asserted by the IW. This will lead to better and more thorough supplemental reports from the doctor.

As a result, the claim is better managed rather than being processed. It gives a clearer picture of what the POA should be, helps close files quicker, returns IW to work sooner, reduces overall claims costs and helps mitigate malingering claimants.

Lastly, lying to the claims examiner about their abilities is likely a case of insurance fraud. You do not need a deposition to prove insurance fraud. Immediately, the SIU should be filing the FD-1 (SFC) with law enforcement and aggressively pursuing these material misrepresentations for criminal action.

Aspen Medical Resources

Judge Walter Schwarm issued a search warrant on Aug. 13th, 2012 for violations charged by The Orange County DA's office of grand theft and making false fraudulent claims. Public records reveal Aspen billed for a hot and cold water circulation pad, with pump, separately even though this is an all-inclusive unit. Aspen billed for the device separately at a 14 day rental rate of \$1,890.00. The same unit can cost between \$295 - \$500. Aspen Medical claims Fee Schedule does not have a CPT code for a dual unit. Prosecutors have charged four individuals of Aspen with multiple felony counts in a \$36 Million Fraud Scheme.

Advanced Professional Imaging and Better Sleeping Medical Center - Sim Hoffman

Sim Hoffman was indicted by a grand jury in 2011 for overbilling and running a medical mill. Recently 884 counts against Sim Hoffman have been dismissed in this \$17 million dollar fraud case. Orange County DA Shaddi Kamiabipour intends to refile the case, as it appears some evidence was not given to the Grand Jury for consideration prior to the indictment.

Pacific Hospital of Long Beach - Michael Drobot

CA State Fund filed a RICO lawsuit alleging Drobot's entities have been illegally overcharging for medical services in CA Work Comp. Other companies named as defendants are; Long Beach Pain Center Medical Clinic, Coastal Express Pharmacy, Long Beach Prescription Pharmacy and Meds Management Group.

Frontline Medical Group - Munir Uwaydah

Fraud and murder can and does happen in CA Work Comp. It has been alleged over \$300 million have been defrauded from the CA work comp system. In 2009, a business negotiation to further Uwaydah's pharmaceutical interests with Greg Redding ended. Three days later, Greg's daughter Juliana, who had briefly dated Uwaydah, was found murdered. Police say DNA evidence linked Kelly Soo Park to the scene of the crime. Park was an employee of Uwaydah and described by Uwaydah as his personal "female James Bond". Uwaydah has fled the country to Lebanon and denies the allegations of his involvement.

So. CA Attorney Used Cappers

Walter Martinez of Alta Loma, CA pled guilty to over 40 counts of using at least three cappers. More than \$250k in checks was written to the alleged cappers between 2009 and 2012. Martinez was sentenced to one year in jail, three years felony probation and \$91k fine.

Prime Healthcare

An employee of Prime Healthcare has filed a \$50 million whistle-blower lawsuit for fraud. Allegations include up-coding patient bills in order to receive higher reimbursement. The suit alleges similar practices took place at 14 other Prime hospitals in CA. A response by Prime suggests the allegations are "speculative nonsense." The FBI has questioned former Prime staff members and at this time the U.S. Attorney's Office has not yet joined the case.

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Having the right investigator(s) and attorney is absolute key to developing a strong enough case to bring the provider to the table and be willing to negotiate a global settlement. The majority of abusive or fraudulent providers do not want the evidence you have acquired to be shared with the industry through a lien consolidation.

It must be emphasized that an investigator sitting behind a desk is insufficient. Unless your investigator is out on the street developing “sources”, obtaining statements of witnesses to the billing practices and getting hard evidence, the SIU will not be successful in global settlements, lien consolidation or civil actions.

To determine an SIU’s profitability, first combine the ALAE and ULAE costs. This includes all investigative expenses paid for typical claims investigations plus the fully-loaded salaries of SIU personnel. If the SIU is out-sourced, what is the annual cost of the program?

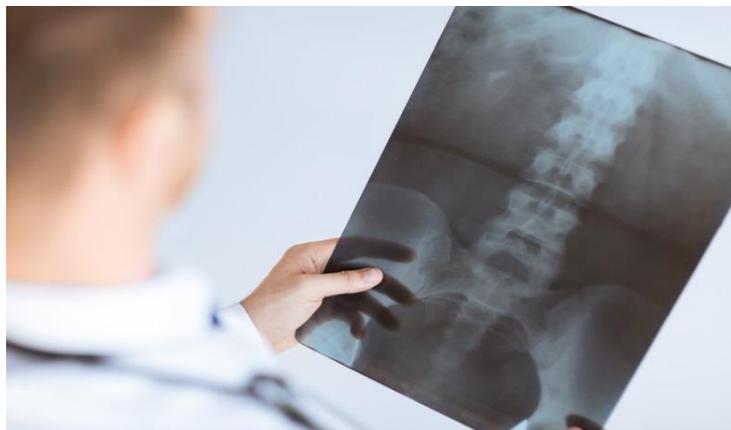
A medium to large carrier in CA will have the following types of costs:

- \$1+ million in annual investigative cost (AOE/COE’s, Subrogation, Surveillance)
- Over \$500k in fully loaded SIU salary

ROI can be calculated by restitution received on all prosecutions and the success of global settlements, lien consolidations and civil actions. The bulk of profitability will come from provider successes with real dollars saved that otherwise would have been paid by the claims department had the SIU not been involved.

For a medium to large size carrier in CA, based upon premium written, it is not unreasonable to show an SIU ROI of ten-fold with the above example. This has been accomplished and ROI is actually higher, in my experience.

Historical data is a great indicator to apply in determining savings. For example, review closed claims for the past 5 years and compare the total amount paid to a provider and the total billed by the provider prior to the SIU becoming involved.



This will tell you what claims have paid the provider, on average, after all the normal claims handling practices of bill review, lien negotiations, etc. were performed.

Most suspect providers bill inflated costs that are above fee schedule and, when resolved, their bills are paid anywhere from 30% to 60% of their original total bill. Sometimes the final percentage paid can be much higher depending on the type of service. Repackaged drugs used to be a good example and some bill review companies didn’t know actual wholesale costs. Compounding this problem, they resorted to using a highly inflated and manipulated Red Book and paid bills at 100%.

A successful and profitable SIU program can facilitate settlements throughout each year. Have providers walked away from over a million dollars in outstanding bills/liens? Absolutely they have!

Suspect providers are willing to settle quietly because they can still bill the other 99% of the market that has not forced them to the table.

If your company has a “tight” MPN, your exposure to abusive billers is minimized. The more unscrupulous providers know where marginal MPN control exists and will target those companies. It’s time you expected more from your SIU.

Is it easy to create an SIU to accomplish the above? No – it’s extremely difficult. In the next article, I will explain what it takes to create an effective SIU team, the need for a tough corporate mentality, litigation risks and associated costs.

How many global settlements with providers has your SIU obtained?



From 2003 to 2012, Matthew Hopkins was the National SIU Director at Berkshire Hathaway. At Berkshire, Mr. Hopkins developed a highly successful Provider Fraud Unit which abusive and fraudulent providers soon became familiar with. Also, Mr. Hopkins developed proactive strategies during the claim investigative process (AOE/COE's and surveillance) which helped reduce overall claim costs. These strategies are not being used by other PI companies. As such, Mr. Hopkins saw an opportunity for "Raising the SIU bar!" – the 2014 AW motto for the workers' compensation market. If you would like to know more about reducing overall claims costs, how investigations can help "manage" a claim better rather than "process" a claim with proactive AOE/COE investigative strategies or help with any SIU fraud program, contact Mr. Hopkins at: matt@arguswest.com

Argus West SIU Stat Experience:

Claimant & Premium Fraud:

FD-1's:	647
Prosecution Packages:	171
Arrests:	116
Restitution:	\$1,635,635.00

Provider Abuse & Fraud

Provider TINS investigated:	400+
Provider resolutions:	123
Provider savings:	\$33+ million
Avg. bill paid by Claims prior to SIU:	35%
Avg. bill paid once SIU involved:	5%

Argus West, Inc. SIU Program

- Quickly analyze all red flags on every AOE/COE & Surveillance report
- Provide a detailed POA for the CE
- POA designed for CE's to manage the claim file with proactive strategies
- Dual law enforcement reporting
- Prosecution packages with results
- Premium Fraud Investigations
- Unmatched Provider Fraud Investigations
- Facilitate Global Settlements, Lien Consolidations & Civil Suits
- Annual Compliance Reporting Nationally
- Preferred Vendor Management Program for large companies



DON'T BE THAT GUY!

Workers' Compensation fraud is a FELONY and your employer is taking this seriously.

Do you know someone who is lying, cheating and stealing benefits while you are hard at work?



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