

The Municipal RISK MANAGER

SPRING 2019

A Publication of the Maine Municipal Association

Reduce Costs by Preventing Slips, Trips and Falls



Maintaining a safe environment for employees and visitors to your workplace is an essential element of risk management. Slips, trips and falls are among the most common and costly workplace accidents across all industries, accounting for 35% of incidents and 65% of lost work days.

Investing in employee education on preventing slip, trip and fall hazards and ingraining safety best practices into your workplace's culture can lead to substantial long-term cost savings. Consider that the average cost of a typical slip and fall injury is \$20,000 while the cost to defend a slip and fall claim is \$50,000. Additionally, an employee misses an average of 38 work days with a slip-related injury, costing your organization in lost productivity while driving up your insurance costs.

Slip and fall injuries are costly

These statistics stand true for the communities that are participating Members of the MMA Workers Compensation Fund. Over the past five (5) years, the MMA Workers Compensation Fund has incurred claims in excess of

\$14,830,000 from slip, trip and fall claims.

When we examine the root cause of slip, trip and fall claims we find that the most common causes of slip and fall accidents are poor walking surfaces (55%) and inadequate footwear (24%), accounting for 79% of incidents.

The good news

The majority of slips, trips and falls in the workplace are preventable as long as we work together. All of these hazards can be addressed and mitigated through the implementation of slip, trip and fall prevention best practices.

Workplace and Work Process Design

Designing your workplace and processes to prevent potential exposure to hazards will keep your employees safe while reducing your potential liability and costs. Your organization should:

- Contain work processes to prevent discharge, splatter or spillage of liquids, oils, particles or dust onto the floor.
- Use drip trays to contain leaks of lubricant from machinery and perform regularly scheduled maintenance.
- Use adequate ventilation to avoid smoke, steam and condensation of water and grease.

Story Continued on Page 26

Understanding Independent Contractors

Definition of "Independent Contractor" for Workers' Compensation Act

On January 1, 2013 a new law went in effect defining who qualifies as an independent contractor for purposes of workers' compensation.

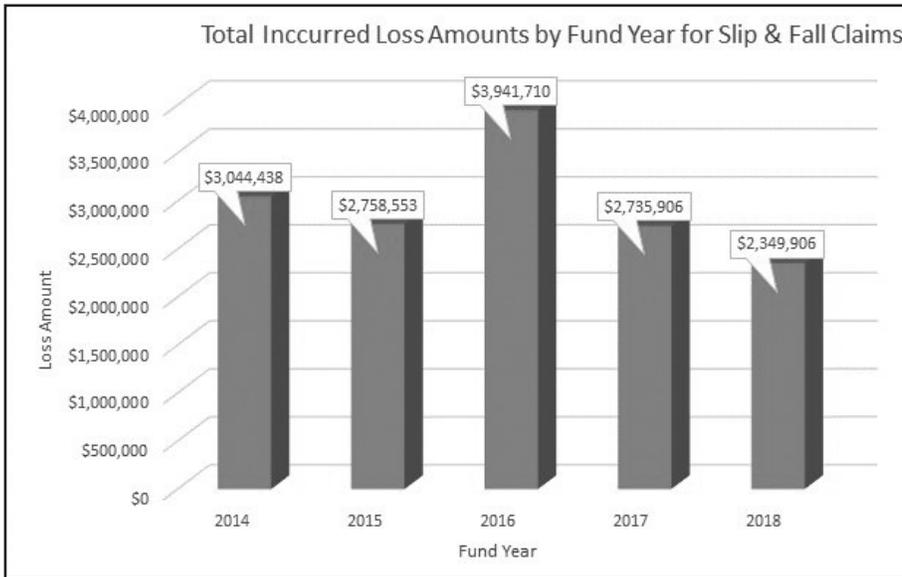
An important goal of the new law is to make it easier to determine who is, and who is not, an employee. For the first time, all workers will be presumed to be employees for purposes of workers' compensation. The employing entity will be responsible for proving an individual performing services for remuneration is not an employee. The new law creates a uniform definition of independent contractor for the Workers' Compensation Act and the Maine

Department of Labor (MDOL). The Board's predetermination process remains in effect.

It is important to remember that predeterminations (except for landowners who hire wood harvesters) are "rebuttable." This means that the Board can still find that the person is an employee in a later proceeding before the Board. Also, MDOL cannot rely on a Board predetermination as evidence of employment status for proceedings with MDOL. Individuals hiring and those seeking work as independent contractors should become familiar with their rights and responsibilities under Maine law to make informed

Story Continued on Page 27

Reduce Costs by Preventing Slips, Trips and Falls *(cont'd)*



- Provide adequate lighting to keep work areas, aisles, stairwells and other paths of travel well-lit.
- Make sure stairs have sufficient hand rails.
- Provide effective drainage and work platforms.
- Install slip-resistant floors in high risk areas.

Good Housekeeping

Maintaining work areas free of clutter and obstacles will greatly reduce hazards and exposure to accidents. Good housekeeping should start at the top and filter throughout the organization. Instilling cleanliness and organization in your company will ensure accountability and send a message to your employees that management is committed to a safe environment.

Instilling this behavior within the culture of your business will allow it to become second-nature to your employees.

Assess high-risk areas

Conducting proactive and regular assessments of high-risk areas is an effective preventive measure. The areas that should be assessed regularly include:

- Transition areas
- Building entrances
- Doorways
- Parking lots
- Common areas

Maintain Mats and Runners

When it comes to mats and runners, attention to detail can reduce accidents.

- Select the appropriate mat based on location and performance needs. For example, a kitchen may require a different mat than an entrance way.
- Limit the difference in height between floor surfaces and mats to

no more than ¼ to ½ inch.

- Inspect mats and runners so they are not curled.
- Inspect regularly for deterioration or build-up of contaminants.

Pay attention to footwear

A simple yet commonly overlooked aspect of your prevention program is requiring the use of proper footwear. Either provide or hold your employees accountable for wearing slip-resistant footwear. Features of footwear that should be taken into account include:

- Tread design
- Harness and shape of sole and heel
- Abrasion, oil, chemical and heat resistance

Footwear that becomes damaged or worn out should be replaced immediately.

Learning To “Walk” Again

Walking is an activity that most of us do not put any thought into; however, adjusting how you walk in certain situations and being cognizant of your surroundings can prevent injuries. Some useful tips include:

- Avoid “distracted walking,” including walking while texting or emailing.
- Turn sideways and take short steps when walking on slopes.
- Shorten your stride when hazards are present or when walking on slippery surfaces. Point your toes slightly to the sides i.e. “the penguin walk.”
- If possible, keep your hands free for better balance.
- Turn slightly toward the wall on stairs and use the handrail. 🏠

MM The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

Publisher: Risk Management Services
Editor: Marcus Ballou
Layout Designer: Jaime G. Clark
 P.O. Box 9109, Augusta, ME 04332-9109
 1-800-590-5583 or (207) 626-5583

MMA RISK MANAGEMENT SERVICES

For a full listing of available programs and services please visit:
www.memun.org/insurance-services/risk-management-services
 or contact Marcus Ballou at: mballou@memun.org

Understanding Independent Contractors *(cont'd)*

decisions and avoid future problems.

Who is an independent contractor?

Independent contractors are individuals who perform services for remuneration (pay or some other form of consideration) under a verbal or written contract, but who are not under the essential control or superintendence of the other person, both under the contract and in fact. The worker must also meet specific criteria (see *What does the Board consider* below).

If I have a written contract of service does that mean I am an independent contractor?

The existence of a contract—written or verbal—is one of the factors the Board uses to determine whether a worker is an independent contractor. However, the Board is required to consider additional factors, and having a written contract will not, by itself, make an individual an independent contractor.

Does the Board define independent contractor the same as the MDOL, MRS or IRS?

The new law creates a uniform definition of independent contractor for the Board and MDOL only. The Maine and Internal Revenue Services could not be included due to differences in federal law. However, the new definition contains tests used by the IRS, so individuals determined to be independent contractors for workers' compensation or unemployment will likely be treated as independent contractors for tax purposes. If you have questions you should contact a tax professional.

Is an independent contractor required to have workers' compensation insurance?

No, however an independent contractor is required to have workers' compensation insurance for any employees hired by the independent contractor.

Who determines whether a worker is an independent contractor?

The Maine Workers' Compensation Board determines whether a person is an independent contractor for purposes of maintaining mandatory workers' compensation insurance and/or claims

by injured workers.

Can a worker and the employing entity agree the worker is an independent contractor?

No. The Board will decide if the worker meets the requirements to be an independent contractor in a claim for benefits or during an investigation into whether an employer should have workers' compensation insurance coverage. A written contract or verbal agreement that a worker is an independent contractor will be considered but does not control a final decision by the Board.

How can I find out whether I am an independent contractor?

Anyone may request that the Workers' Compensation Board make a "predetermination" of their employment status; that is whether they likely are or are not an independent contractor. Applications for predetermination of Independent Contractor Status are available on the Board's website <http://www.maine.gov/wcb/Departments/>

[coverage/independentcontractor.html](http://www.maine.gov/wcb/Departments/coverage/independentcontractor.html) (Maine Workers' Compensation Board) or by contacting Lisa Bachelder at (207) 287-7071 or 1-888-801-9087.

Does a predetermination apply for any work I perform?

Generally yes (with the exception of landowners who hire wood harvesters). However a predetermination is rebuttable (meaning the Board can still find that the person is an employee in a later proceeding). If there is a claim for benefits or investigation regarding coverage, the individual performing services is presumed to be an employee and the employer has the burden of proving an individual is an independent contractor both under the contract of hire and under the actual specifics of the work performed.

For more information regarding the INDEPENDENT CONTRACTORS & WORKERS' COMPENSATION, contact [Lisa Bachelder](mailto:Lisa.Bachelder@wcb.maine.gov) at (207) 287-7071 or visit www.maine.gov/wcb. 🏠

Top 10 Driving Distractions Involved in Fatal Car Crashes



Of the more than 65,000 people killed in car crashes in 2010 and 2011, one in 10 involved instances where at least one of the drivers was distracted, according to the Fatality Analysis Reporting System (FARS), a nationwide census of fatal motor vehicle traffic crashes maintained by the National Highway Traffic Safety Administration.

Distracted driving is any activity that takes a driver's eyes off the road, hands off the wheel or mind off the primary task of driving safely.

Below are the top 10 distractions involved in fatal car crashes:

1. Generally distracted or "lost in thought"
2. Cell phone use
3. Outside person, object or event
4. Other occupants in the car
5. Using or reaching for a device that was brought into the vehicle
6. Eating or drinking
7. Adjusting audio or climate controls
8. Using other devices/controls integral to the vehicle
9. A moving object in the vehicle, such as a pet or insect
10. Smoking-related

Distracted driving is dangerous and all too common, as it is one of the leading causes of motor vehicle crashes in the United States. Dedicating ourselves to and reinforcing safe driving practices will make them second nature and save lives in the process. 🏠

Need a Lift? – Here is Help

Despite availability of machinery and equipment, lifting, moving and carrying are still requirements of many job tasks. Back injuries and muscle strains often result from cumulative trauma due to poor lifting techniques. That is why it is important to use safe lifting and materials handling techniques.

Practice the following safe lifting techniques:

Get a sense how heavy the object is by lifting one corner or side. Try moving the object by pushing it with one foot. If you cannot move it with your foot, you should ask for help in moving the object.



Make sure that there is room to lift the object without twisting or turning. Identify the most direct route to where you are taking the load and putting it down. Consider obstacles, trip hazards, wet/slippery or uneven surfaces, doorways or stairs, and any equipment or vehicular traffic you may encounter.

Stand with your legs about shoulder-width apart and with one foot slightly in front of the other, and make sure you have good, secure footing.

Bend at the knees and get a good grip. Heels should be slightly off the floor; you should be as close to the object as possible. Palms should be against the object, do not use fingertips. If using gloves, make sure they are on securely and you have a firm grip on the object.

Lift slowly using your leg muscles while keeping your back straight. Do not bend the back or twist or turn at the waist. Your leg muscles should do the work. When starting the lift, tense your stomach and buttocks muscles, keep your head and neck straight.

Keep the load close to your body; that way less stress is placed on your back.

If you have to change direction while carrying the load, pivot on your feet instead of twisting at the waist. Keep your body straight and in-line with the load you are carrying.

If you feel any pain when trying to lift an item, put it down immediately! 🏠

Property & Casualty Pool Renewal Reminder

We would like to thank our Members for their cooperation with the completion of the Property & Casualty Pool Renewal Applications. The Property & Casualty Pool renewal application were due March 31, 2019 and we want our Members to know that help is available. If you would like assistance with the completion of your application or just have a question, please contact Marcus Ballou (mballou@memun.org) at 1-(800) 590-5583, so we can help.

Serving Maine Communities Is What We Do And All We Do

FREQUENTLY ASKED QUESTIONS:

Question:

What Is Agreed Value Coverage

Answer:

Are you aware that your municipality has the option of adding Agreed Value Coverage to your Fire Department and Emergency Medical Services vehicles through the MMA Property & Casualty Pool? Agreed Value coverage grants your municipality the ability to plan for the future and actually specify the auto physical damage value that you need to replace your existing vehicle with a new like kind and quality vehicle in the event of a loss. Agreed Value Coverage removes the questions and the “what ifs” and ensures that your department and your community is protected.

How Agreed Value Coverage Works:

With respect to the vehicles listed on your vehicle schedule, we will provide physical damage coverage for these scheduled vehicles on an Agreed Value basis.

In the event of a physical damage loss, we will pay the lesser of:

- a) The cost to repair the vehicle; or
- b) The cost to repair or replace a damaged part with a part of like kind and quality without a deduction of depreciation; or
- c) The cost to replace the vehicle with a comparable new vehicle manufactured to current specification set by NFPA, the U.S. Department of Transportation or similar organization; or
- d) The Agreed Value shown on the vehicle schedule.

Please look for this new Frequently Asked Questions section of the Municipal Risk Manager each quarter. If you have a question you would like to ask please email Marcus Ballou at mballou@memun.org