

# Texas non-subscriber program

Sedgwick offers comprehensive claims services, aggressive cost control strategies and benefit plan support for employers participating in the Texas non-subscriber program.

Texas is one of the largest and most populous states in the U.S. There are also many aspects of the state's business environment that set it apart from the rest of the country. Among them is a unique occupational injury option available for Texas employers. Texas is the only state where businesses can opt out of the state-run workers' compensation system altogether or elect to participate in a non-subscriber program. The option has been available since 1913 and interest peaked in the mid 1980s when Texas workers' compensation costs increased to some of the highest in the nation. According to the latest data from the Texas Department of Insurance, approximately 28% of Texas businesses were operating as non-subscribers in 2018.\*

## Non-subscriber programs – A Sedgwick specialty

Sedgwick is a leading global provider of technology-enabled risk, benefits and integrated business solutions. Our experienced management team has the unique jurisdictional knowledge and overall industry expertise to manage claims quickly and efficiently while providing outstanding service.

Sedgwick's Richardson, Texas office specializes in non-subscriber claims administration. We provide services for several medium and large employers, and many Fortune® 500 companies that have chosen this cost-effective option. Our team has an in-depth understanding of all the elements that go into creating a responsible and successful non-subscriber program; and can provide benefit plan support, attorney and vendor recommendations, and assist with all facets of program compliance.

## The first step

It is a common practice for employers to start with a non-subscriber feasibility study. By engaging outside experts, you can have access to the right information to develop an occupational injury benefit

plan with benefit levels and estimated costs, a communication plan and a timeline for your company to begin your program. The feasibility study may include:

- Claims and insurance cost estimates based on at least five years of loss history
- The claims process used by non-subscribers (in-house or outsourced) vs. the Texas workers' compensation system process
- Liability and benefit exposure for a non-subscriber program, as well as pertinent legislation, case law and defense strategies for liability claims
- State and federal regulatory requirements applicable to non-subscribers and your contractual commitments to carry Texas workers' compensation insurance or equivalent coverage
- A communication plan to inform your Texas workforce of the pending change
- A review of safety programs and procedures to ensure proper safety equipment is furnished, rules have been established, employee training is provided, regular inspections are being conducted and industry-specific OSHA standards are consistently followed

## Understanding the unique challenges non-subscribers face

As a non-subscriber, an employer no longer falls under the protection of the exclusive remedy of workers' compensation, which makes timely liability investigations essential. When an occupational injury or illness occurs, the employer cannot claim that it was caused by another employee, the employee assumed the risk knowingly, or contributed to the injury. They must show something the employer did, or did not do, that caused or contributed to the injury. A responsible non-subscriber program requires losses to be covered by insurance, a retention plan or self-insurance plan with excess coverage, or a pure self-insured or self-funded plan.

We conduct a full liability and benefit entitlement investigation upfront to be further prepared for the potential of future lawsuits, and to mitigate the actual or alleged damages. Sedgwick's non-subscriber claims examiners will do a timely liability investigation to secure evidence and witnesses, and give an accurate review of the location's potential exposure. This approach takes knowledgeable examiners with a history of successful claim outcomes – that is what you'll consistently find at Sedgwick.

## Benefit plan support

Many Texas employers that are non-subscribers have turned to Sedgwick to help support their benefit plan development efforts under the Employee Retirement Income Security Act of 1974 (ERISA), which includes minimum standards for most voluntarily established pension and health plans offered by private employers and protects employee rights. With a benefit plan in place, employers are able to direct and manage medical care for workplace injury claims.

Employers' benefit plans must comply with ERISA laws, and federal reporting and disclosure standards outlined in programs such as Medicare, Medicaid, Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), and Age Discrimination in Employment Act (ADEA).

## Advantages for employers

An occupational injury benefit plan is a critical element that offers several advantages for employers, including:

- Well-defined cost control options through medical networks, providers and managed care systems
- An official outline for conditions of coverage, claim procedures, wage replacement, reporting timelines/limit amounts and return to work provisions
- Dispute resolution and settlement guidance, arbitration clauses and optional subrogation instructions

Developing and supporting a comprehensive benefit plan requires a team of dedicated claims professionals who understand your business requirements. Sedgwick offers the insight needed to ensure all the necessary details are included and the plan is right for your business.

## Non-subscription managed care services

In addition to expert claims administration, Sedgwick also provides managed care services including bill review, nurse case management

and assistance with provider network development. Your benefit plan should clearly identify the managed care benefits, procedures for employees to follow, and the administration guidelines that will serve as a road map to wellness and return to work. With the help of a professional who specializes in non-subscriber benefit plans, you can design and implement a program that provides excellent occupational injury benefits, and access to provider networks that ensure timely, quality care and maximum savings. Key services and areas we assist with include:

### Medical networks

Medical networks include pre-approved physicians, medical clinics, pharmacies, diagnostic testing centers and physical therapy facilities. Networks can be self-created or developed by a vendor. Self-created networks can result in higher costs, but may offer more direct control of physicians and clinics you would like to use. Vendor developed networks usually result in lower costs, faster receipt of information, and can make it easier to direct care. Vendors monitor provider practice patterns and adherence to client protocols by working closely with company representatives, claims examiners and nurse case managers. Evidence-based medicine guidelines must also be followed and usage is monitored. Provider retention is based upon patient satisfaction, communication with clients, successful outcomes and adherence to the occupational injury benefit plan.

### Bill review

Sedgwick's internal medical bill review solution provides consistent, timely, and effective cost-containment for medical and pharmacy bills. We have a direct interface between bill review systems and our proprietary claims management system to capture all medical bill data and drive process efficiency at the examiner desk level.

### Medical case management

Our team of registered nurses provides medical case management, clinical intervention and management services to help reduce healthcare costs and improve outcomes. By intervening at the moment an injury or illness occurs, they can determine the best course of action and ensure the employee is treated quickly, while avoiding unnecessary steps and added claim costs. Sedgwick also has a medical director on staff who will call clients to discuss treatment options as needed to ensure optimal outcomes.

### Added savings through vendor partners

We maximize savings for clients through vendor partners for pharmacy and drug cards, diagnostic testing, durable medical equipment and physical therapy. Medical advisors can also help control medical

costs and may be used as needed. A medical advisor can assist with questionable or difficult cases in areas such as medical causation, benefit determination issues, referrals to other healthcare specialists, drug utilization and complications related to pre-existing conditions.

## Training and communication for a smooth transition

Before launching a new benefit plan, employers should provide and explain the following information for their employees and management team:

- All employees must receive a written notice explaining that they no longer have Texas workers' compensation coverage. They should also be given a copy of the occupational injury benefit plan with an acknowledgment form that will need to be signed and returned to human resources staff along with any other agreements.
- Employers must clearly display a workplace poster noting they are a non-subscriber.
- Human resources staff will need to understand plan rules, return to work guidelines and modified duty provisions. They should have all forms and rules, and actively track employee acknowledgment forms and arbitration agreements.
- Supervisors should be trained on injury reporting and return to work procedures, and must know where to send employees for medical treatment.

## Proven results

Sedgwick's Texas non-subscriber staff serves clients in a variety of industries, including retail, auto parts, restaurant/hotel, shipping, healthcare, meat packing, banking and office equipment. These types of businesses generally have high frequency/low severity claims. When employers opt out of the Texas workers' compensation system and elect to participate in a non-subscriber program, they see an average savings of 20% to 80% based on the number of claims. Clients generally see the most savings in medical and indemnity claim costs.

In the first year after a large retail company chose the non-subscriber option in Texas and selected Sedgwick to manage their program, they saved more than \$10 million. The areas that produced the most savings included the use of a medical network that specialized in non-subscriber claims and the company's active involvement in the safety training provided for their employees.

## The Sedgwick difference

Our team understands the unique elements of each client's business, and the necessity for customization and flexibility. Sedgwick's non-subscriber services offer several advantages for employers.

- Our claims examiners consistently assess liability exposure; they also provide full liability investigations on every case and maintain separate files for each claim exposure
- We take an active approach to litigation mitigation and management
- Our team offers ERISA expertise and can support your occupational injury benefit plan allowing for consistent claims handling that ensures compliance
- With our extensive array of integrated services, we can provide aggressive medical management, expert return to work and safety programs, and assistance with network development
- Our state-of-the-art information management system handles claim intake; and features customized dashboards, loss allocation and reporting capabilities, as well as streamlined data fields that make it easier to recognize loss trending and identify potential pre-loss safety concerns

## Dedicated to helping our clients

Choosing to become a non-subscriber brings many benefits as well as an increased level of responsibility – for your employees and your company. The Sedgwick team is here to help you every step of the way.

For over 50 years, Sedgwick has been delivering the solutions employers want and need through excellent customer service and innovation. The cornerstones of our business include personal relationships and an in-depth understanding of the dynamic challenges our clients face. We believe that individualized customer service is vital to our success.

To learn more about our Texas non-subscriber program, contact:

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\* Biennial Report to the 86th Legislature, December 2018. Texas Department of Insurance, Division of Workers' Compensation. <https://www.tdi.texas.gov/reports/dwc/documents/2018dwcbiennrpt.pdf>

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