

Combating Soft Tissue Injury Fraud in the U. S. Auto Insurance Industry

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The Scope of the Problem

The U.S. auto insurance industry has long been plagued with the extraordinary high costs of over treatment of legitimate injuries and treatment of non-existing soft tissue injuries. These events are often defined as soft or opportunistic fraud and hard fraud, respectively. Consider the following findings from U.S. industry studies over the last decade:

1. In 1995, the Rand Corporation estimated that the total cost of excess claims was between \$13 and \$18 billion in 1993. This study also found that approximately 59 percent of soft tissue injury (e.g., strains, sprains and other subjective injuries) costs were excessive¹.
2. In 2000, a public attitude survey conducted by the Insurance Research Council (www.ircweb.org) found that 35 percent of Americans surveyed believed it is acceptable to exaggerate insurance claims under certain circumstances².
3. In 2000, another study by the Insurance Research Council (IRC) found that 33 percent of third party injury claims contained opportunistic fraud. The study further indicated that this fraud was more prevalent when attorneys were involved in the settlement process³.

Another U.S. study by the IRC in 2003 found that the most common injuries among auto injury claimants were sprains and strains. These injuries were found among 87 percent of BI claimants and 79 percent of PIP claimants and were the most severe injury in 71 and 62 percent of BI and PIP claimants, respectively⁴. From these studies, it is quite clear that the above-noted fraud is prevalent in the population of soft tissue injury claims and its costs have a material adverse impact on the price consumers pay for auto insurance in the U.S. Industry experts in the U.S. have suggested that only 10 percent of the soft tissue injury fraud can be attributed to organized fraud. Consequently, the vast majority

¹ Carroll, Stephen, Abrahamse, Allen and Vaiana, Macy. The Costs of Excess Medical Claims for Automobile Personal Injuries. Santa Monica: Rand, 1995.

² Public Attitude Monitor 2000, Issue 1, Insurance Research Council, June 2000.

³ Sprains and Strains Resulting From Auto Accidents: An Analysis of Auto Insurance Claims, Insurance Research Council, June 2000.

⁴ Auto Injury Insurance Claims: Countrywide Patterns in Treatment, Cost, and Compensation, Insurance Research Council, December 2003.

of soft tissue injury fraud must be recognized and resisted on a claim-by-claim basis by front line claim professionals to effectively combat this significant problem.

The 2003 IRC study provides additional insights about characteristics that are relevant to soft tissue injury claims:

1. The percentage of claimants reporting sprain or strain injuries is higher among claimants in central city or suburban accidents compared to claimants injured in medium-size cities, small towns or rural areas⁵.
2. Claimants represented by attorneys receive more medical treatment, incur greater losses, and receive higher gross payments than non-represented claimants⁶.

As also reported by this IRC study, common handling techniques used to evaluate soft tissue injury claims include index bureau checks (most common), medical audits, computerized expert systems, peer reviews and independent medical exams⁷. Data gathered by Injury Sciences, in San Antonio, Texas, from a sampling of nearly 5,000 closed BI claims from 29 different U.S. auto insurers offers some additional insight into other common solutions that are highly effective in reducing the costs associated with soft tissue injury fraud.

Low Impact Programs

In the U.S., these programs are also commonly referred to as LIST (for low impact soft tissue), MIST (minor impact soft tissue), and MIP (minor impact program). These programs began emerging in the early 90's as an approach used by special investigation units (SIUs) to combat soft tissue injury fraud. Then and now, these low impact programs have common characteristics: 1) recognition criteria that define the subject auto accident as a low severity collision, and 2) once identified as a low severity collision, use of biomechanical principles and data to identify unlikely or exaggerated soft tissue injuries.

The data assimilated by Injury Sciences overwhelmingly demonstrates that properly deployed low impact programs have a substantial influence on reducing soft tissue injury fraud. Specifically, the overall metrics reflect an average reduction of BI injury claim cost of 63% across approximately one-third of the BI injury claim population. Given the high frequency and average costs of BI claims, these results provide a staggering benefit to any single auto insurer and the industry as a whole. The opportunities for these reductions have similar patterns to the previously noted claims studies. Specifically, reductions have been documented to be substantially greater in central city and suburban accidents and in claims involving representation by attorneys. As a result, companies with concentrations of claims with these attributes achieve even greater benefits.

⁵ *ibid.*

⁶ *ibid.*

⁷ *ibid.*

Key success factors in achieving these significant results include:

1. Expanding low impact programs outside of SIUs. SIU staffs are not large enough to investigate, evaluate and settle approximately one-third of an insurance company's auto BI claims and investigate organized fraud. As a result, front line claims professionals specializing in adjusting injury claims must be trained to execute the fundamentals of low impact programs.
2. Expanding criteria for the inclusion of eligible claims. Recognition criteria for low impact programs have generally been those collisions that have resulted in auto damage that is less than \$1,000 or damage that appears to be cosmetic. Injury Sciences' studies have found that the use of this criteria results in carriers missing over 60% of the low impact claims. Today, data from over 1,200 human subject tests from various biomechanical studies conducted in the U.S., Europe and the Pacific Rim are available to identify and resist fabricated or exaggerated soft tissue injury claims when the impact severity involves a ΔV (an engineering metric which measures the "change in velocity" a vehicle experiences as a result of a collision) of 10 mph or less. Desktop forensic technology deployed via the Internet is now available to facilitate a claims professional's quick and accurate calculation of ΔV based on the actual damage sustained by the vehicles without involving the high cost of accident reconstruction experts. Also, in the U.S., similar ΔV data can be extracted from a vehicle's event data recorder (EDR) or "black box" and used to calculate the ΔV of the struck vehicle. This EDR data can now be extracted from select GM, Ford, Saturn and Isuzu models sold in the U.S. When a 10 mph or less ΔV is used as the eligibility criterion, approximately one-third of all BI claims can be evaluated with low impact program processes. Even higher percentages (i.e., 40-45 percent) of BI claim populations can be evaluated with these processes in city and suburban areas plagued with traffic congestion.
3. Early recognition and intervention. Fraudulent medical treatment is far more unlikely and better contained if the perpetrators know up front that their recovery period and medical treatment is being actively monitored due to the low severity of their collision and that over treatment will not be funded. Consequently, the requisite information to calculate ΔV , such as damage repair estimates and photographs of accident damage (both vehicles preferred) should be gathered as quickly as possible. When the ΔV is 10 mph or less, the injury claimed can be appropriately compared to the extensive human subject test experience (also available through the Internet) previously noted. Caution is required in this process as legitimate pre-existing medical conditions and other physical conditions must be considered as they can limit the applicability of human testing. In this regard, information related to seating location and posture should be secured and considered as it also could affect the applicability of human subject research. As with the calculation of ΔV , forensic technology is available through the Internet to facilitate a claim

professional's quick and accurate comparison of injury claims to existing human subject research without involving the high cost of biomechanical experts. As soon as appropriate comparisons are evaluated, expected recovery periods and the basis for these expectations must be proactively and effectively communicated to the claimant or the claimant's attorney to deter fraudulent or opportunistic behavior.

4. Consistent implementation. Sometimes injury claims are not made until months after an accident, and well after the involved vehicles have been repaired. Consistent procurement of repair estimates and photographs of vehicles while they are damaged, even when no injury is claimed, will prepare the claims professional to address injury claims should they arise. While all companies must prudently manage expenses, the cost of obtaining photographs pales in comparison to the cost of only one week of unnecessary soft tissue injury treatment. Consequently, spending the necessary funds to be consistently prepared for the worst makes for a sound fiscal strategy. With consistent implementation, fraud deterrence is maximized. There is also an added benefit of consistent and fair handling of all claimants.

While there are many other techniques and intricacies involved with successful and effective low impact programs, attending to the preceding steps have transformed low impact claims evaluation programs into high impact programs for the containment of soft tissue injury fraud.