



*In a mathematical sense a zero sum game is a loser's game when it is valued in terms of utility. The best decision for both is to refuse to play the game.*

Peter Bernstein  
AGAINST THE GODS The Remarkable Story of Risk, Page 113

## The Workers' Compensation Zero Sum Game

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Workers' compensation claims administration often results in a zero sum game. In order for one party to win, the other must lose. The reason claims administration is a zero sum game is that it is considered a commodity by many employers. Decisions are made at the transaction level because there is no perceived value in paying more per transaction than necessary.

Claims administration ultimately fails to control costs because the focus is on savings derived from controlling the costs of individual transactions. The focus of the employer is to hire a claims administrator at a low per-claim cost. The focus of the administrator is to share revenues with cost containment service providers which, in turn, derive "savings" by controlling the cost of medical services. The medical services provider retaliates by creating more transactions through briefer visits with each injured worker and authorizing the use of additional diagnostic services, physical therapy, and pharmacy.

The result for the employee is that quality of care deteriorates because the focus of claims administration is on treating the injury rather than treating the patient. The employer also loses because even though the frequency of claims is declining, the severity of claims is increasing. This unhealthy competition among industry players creates optimal conditions for a zero sum game since one party has to lose for another party to win.

In the March 2007 edition of the *Journal of American Medical Association* the authors, writing about the state of group health care, said:

*Today's dysfunctional health care competition is a zero sum game. One player's win is another's loss. Costs are "reduced" by shifting them to others. Physicians are pressured to "improve productivity" by skimping on time spent with patients. Physicians win by cutting better deals with their hospitals or by setting up their own profit making ventures.<sup>1</sup>*

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Workers' compensation for years has mimicked the medical cost control concepts of group health. Employers must ask themselves the following questions:

1. Are the overall costs of my workers' compensation program escalating?
2. Does this cost cutting really create "savings" or are the "savings" derived from the adversarial relationship that exists within the industry?
3. Would the program improve if I contracted directly with physicians who share my vision of patient care? Would these physicians speak to my adjusters and human resource personnel about patient care and return-to-work options in exchange for a fair payment for each patient visit?
4. Is it really beneficial for controlling severity of claims if physicians join mega clinics and pool their resources to set up profit-making ventures such as diagnostic labs or physical therapy clinics?

The conclusion is self-evident. A doctor who is focused on "assembly line" medical care is not going to have time to help with controlling severity. The doctor's focus is on making each visit as brief as possible and ordering ancillary services that create more transactions per patient.

The situation for the claims administrator is very similar to the medical provider. Most claims administration contracts are based on a fee per claim. The fee per claim is artificially low because of the request for proposal process that rewards the lowest bidder with the business. The shortfall is corrected by providing in-house ancillary services or contracting with vendors who will share revenue. The more services that are added to each claim, the more revenue increases. These services include bill review, enhanced bill review, case management, prescription services, utilization review, and surveillance. Just as the medical provider increases efficiency by spending less time with each patient, the claims adjuster increases efficiency by spending less time on each case and turning over personal contact to case management.

Claims administrators win only when the employer and physician lose. Fee-per-claim contracts are only profitable

if the employer has the same claim severity or worse each year. Severity creates the need for more cost control services which generate more transactions and more revenue.

#### **Key questions employers must ask are:**

1. Does my organization want to enter into a claims administration contract where the true cost of claims administration is hidden in revenue-sharing arrangements with cost control services?
2. Does my organization want assembly line adjusting where case managers are assigned to most loss time cases?
3. Is it cost effective for the adjuster and the provider to be adversaries?

Commodity thinking creates a zero sum where each transaction is scrutinized, but no one asks the question about the quality of these transactions and whether the number of transactions is appropriate.

#### **Now let's write this zero sum equation:**

1. The employer wants lower costs through control of each transaction.
2. The claims administrator responds by offering a low cost-per-claim program and utilizing cost containment services.
3. Cost containment services cut transactional fees and force assembly line health care.
4. The medical provider responds by reducing time spent with the patient and providing ancillary services that increase the number of transactions per patient.
5. The employer receives a lower cost per transaction but higher overall costs.
6. The employee loses on the quality of care and is more likely to hire counsel.
7. Overall program costs increase as claims severity increases.

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How can employers combat this zero sum effect and rewrite the equation to favor their programs and risk management goals? The solution is to remove negative competition.

The employer must take the lead by focusing risk management goals on overall employee health. Instead of hiring nurses to cut transactional costs, employers should use the money to set up wellness clinics. Organizations should be concerned about employee health and help them manage chronic conditions such as diabetes, hypertension, obesity, and thyroid conditions. These chronic conditions, if not properly monitored, contribute to the severity of a claim because they have to be controlled after the injury to promote recovery.

In relation to medical services, employers should concentrate on selecting providers who are interested in patient care. In exchange for a fair price, employers should ask the doctor to assist in decreasing severity by being more accessible. The provider should actively review cases and encourage employees to participate in return-to-work programs.

In selecting claims administrators, employers should request that the administrator focus on the resources needed and offer a transparent fee structure. Employers must decide if they want enough adjusters to simply handle the transactions or if they want them to be involved in training programs and on-site visits with employees and medical providers. Are there other services where their input is needed such as loss control, marketing, or underwriting?

Teamwork among employers, vendors, and providers is the key to healthy competition. Providers and vendors should be selected based on merit and results as measured in fewer lost days and overall savings. The goal of employers, providers, and vendors should be providing quality health care to employees regardless of whether or not they are injured. Claims administration contracts should be changed based on cost plus arrangements rather than a fee-per-claim scenario.

In conclusion, a system based on transactional review may have had its merits, but the assembly line efficiency mandated by this process is having an unhealthy effect and

degrading patient care. Medical providers should consider offering their services directly to employers rather than relying on PPO networks for volume. Employers should consider forming industry buying groups or contract directly with providers for customized health services. Claims administrators should repackage their services and offer transparent pricing, lower caseloads for each adjuster, and less utilization of cost containment services.

Teamwork among all involved parties is the only way to control the overall cost of workers' compensation. The employer is the key in changing from commodity thinking to progressive risk management. The alternative is the further encroachment of state regulatory agencies that exacerbate the problem by mandating more cost control services. The marketplace is the best venue for solving the spiraling cost of medical care, and it is up to the employer to demand healthy competition.



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<sup>1</sup> Journal of American Medical Association; How Physicians Can Change the Future of Healthcare, Michael E. Porter, PhD, MBA and Elizabeth Olmstead Teisberg, PhD, MEnga, MS, March 2007.