

EMPLOYMENT CHECKS

FACTS, MYTHS & TIPS

The “employment check” is a commonly requested service from DigiStream’s clients. Most of these clients have engrained misunderstandings of what is possible in this realm of investigations. Since the possibility of outside employment is a common red flag in a workers’ compensation investigation, it is no surprise insureds, carriers, attorneys and third-party administrators seek to determine if a claimant is working while collecting workers’ compensation benefits.

EMPLOYMENT CHECK FACTS

- 1** When a client requests an employment check they are usually seeking to learn if the claimant is receiving wages (the popular phrase “working while collecting”) in addition to their benefits from the employer, the insured entity. In most cases, it is illegal to work (for pay) and collect wages without disclosing this employment. Upon submission of a worker’s compensation claim, most states require or encourage a warning to this effect which the claimant must acknowledge.¹
- 2** The client may believe the claimant is exceeding self-reported or doctor-imposed limitations at a second job. If the claimant is working, the presumption is that this is an opportune time to secure damaging surveillance footage.

¹ It is very important to note it is not always illegal to work while collecting benefits, so long as the work does not exceed the claimant’s restrictions or limitations, was previously held, or is approved by the insured and third-party administrator.

EMPLOYMENT CHECK MYTHS

- 1 There is no such thing as a national database which tracks if someone is working. The closest option is a credit check, which in some cases will track employment. Credit checks for employment are only moderately accurate and rarely timely. Keep in mind, credit checks require the signed release of the person being investigated.
- 2 Tax records also track employment, however a subpoena is required for such records from uncooperative claimants and would rarely be recognized in a workers' compensation case. However, with a signed release from the claimant, we can obtain Social Security wage confirmation or a copy of their tax returns. It should be noted that this requires active claimant participation and we have yet to have a client feel comfortable enough to pursue this option.
- 3 While obvious to most of us, there are no records kept when someone is paid in cash "under the table."

INVESTIGATIVE SUGGESTIONS

While no single database exists to track employment, we do have options. The following options are available to determine business affiliation, ownership or employment:

- a SOCIAL MEDIA INVESTIGATION
Like everything else, work history is often available online. The claimant may post his employment on Facebook or LinkedIn, advertise for his business on Craigslist, or complain about a customer at her new job on Twitter.
- b DATABASE SEARCH
While not returning many actual employment records, proprietary databases often alert an investigator to business associations using state mandated records, professional licenses and business registrations. If there is a suspicion a claimant has started his own business, this is a reasonable recommendation.
- c SURVEILLANCE
While self-explanatory, following and documenting a claimant involved in outside employment is the closest thing to a smoking gun in such an investigation.
- d SIGNED RELEASE
It should always be noted that an investigator can obtain records with the active participation of the claimant, should they want to cooperate with the TPA to "clear their name." Social Security wages and copies of tax returns are available, although this is an uncommon scenario due to a claimant's likely concern over privacy.