

Trends and Impacts of WC Attorney Involvement and Costs

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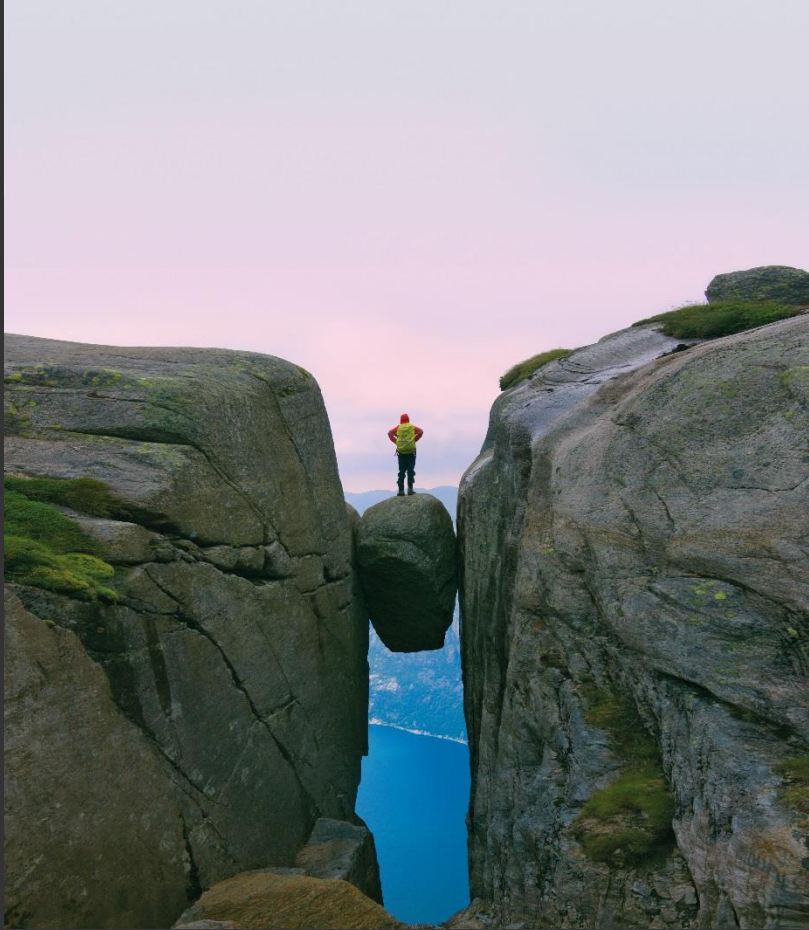
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Objectives

- ✓ Discuss internal and external factors that drive attorney incidence and litigation rates
- ✓ Provide an overview of litigation management trends and common practices utilized by carriers and third party administrators

What drives attorney incidence and WC litigation?



Carrier controlled drivers:

- ▶ Compensability disputes and partial denials
- ▶ Denial of medical treatment
- ▶ Temporary and permanent benefit level disputes
- ▶ Failure to meet statutory requirements such as timeliness of response

External drivers:

- ▶ Changes in medical treatment guidelines
- ▶ Changes to temporary and permanent benefit levels and durations
- ▶ State specific WC processes
- ▶ Employer pre and post loss practices
- ▶ Medical provider selection and options

What is litigation management?

What is a litigated claim?

- Assignment of defense counsel
- Pre trial or administrative hearing
- Depositions or testimony

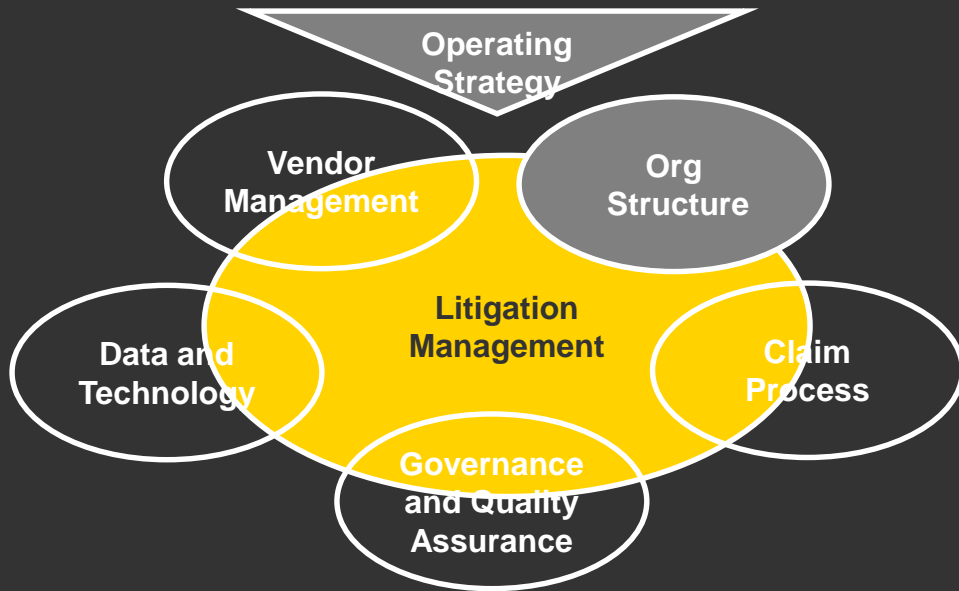
What is litigation management?

- Management of claims that have potential for litigation with a focus on mitigating both loss and expense exposure
 - Litigation avoidance
 - Litigation management

Operational Components of Litigation Management

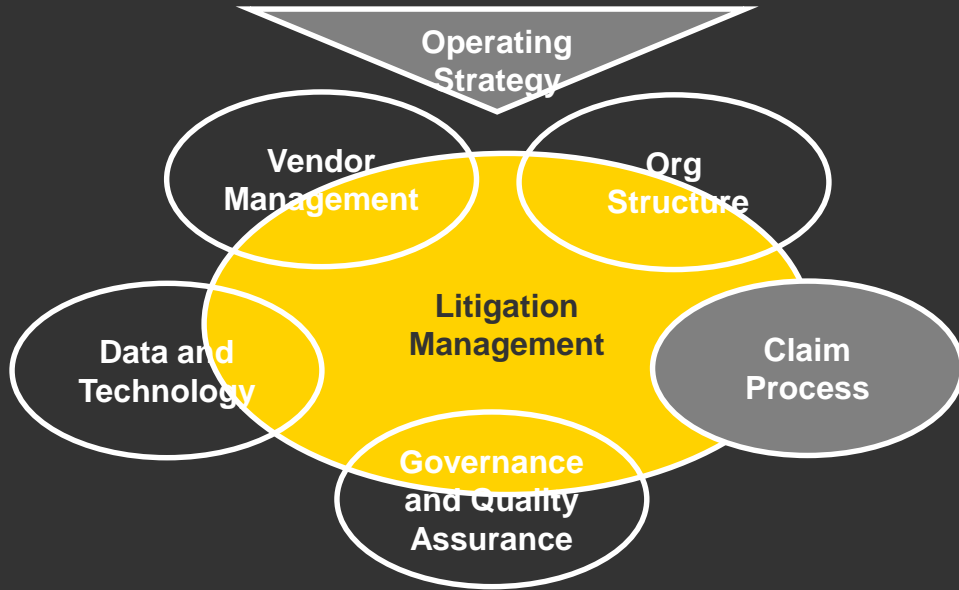


Organizational structure



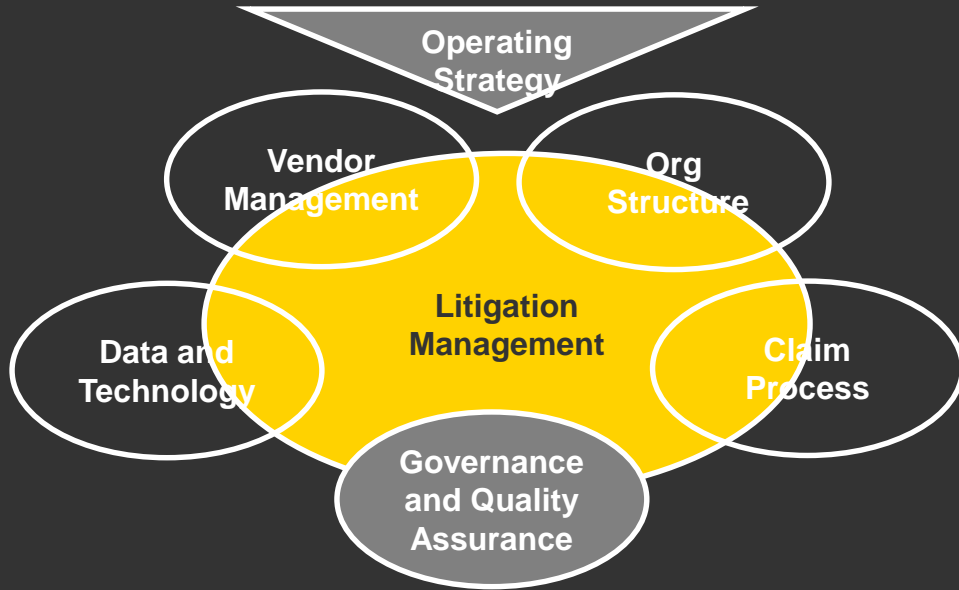
- ▶ Dedicated litigation claim adjusting units
 - ▶ Triggers
 - ▶ Attorney represented claims
 - ▶ Filing of dispute or notice of hearing/trial
 - ▶ Settlement demands/negotiations
 - ▶ Skills
 - ▶ Tenured and experienced staff
 - ▶ Negotiation skills
- ▶ In-house defense counsel
 - ▶ Full ownership model
 - ▶ Partial ownership model
 - ▶ Supervisory type role
 - ▶ Consultative role

Claim process



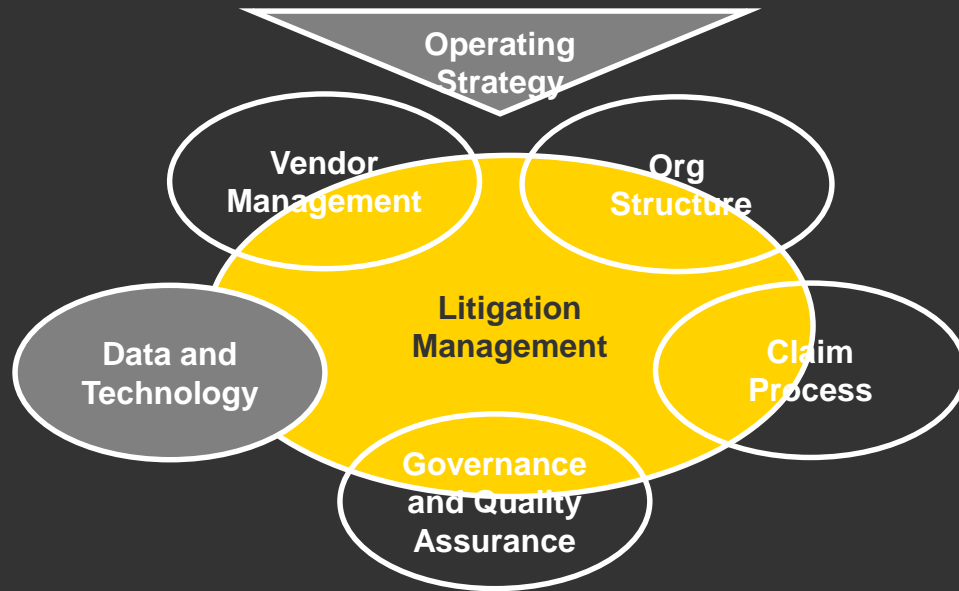
- ▶ Focus on initial investigation and compensability
 - ▶ Reduce delays
 - ▶ Escalated investigations on disputed claims
 - ▶ Early defense counsel involvement
- ▶ Litigation planning
 - ▶ Forecasting outcome of claim or treatment denials
 - ▶ Utilization of budgets
- ▶ Early settlement practices
 - ▶ Identification
 - ▶ Aggressive handling and realistic initial offers

Governance and quality assurance



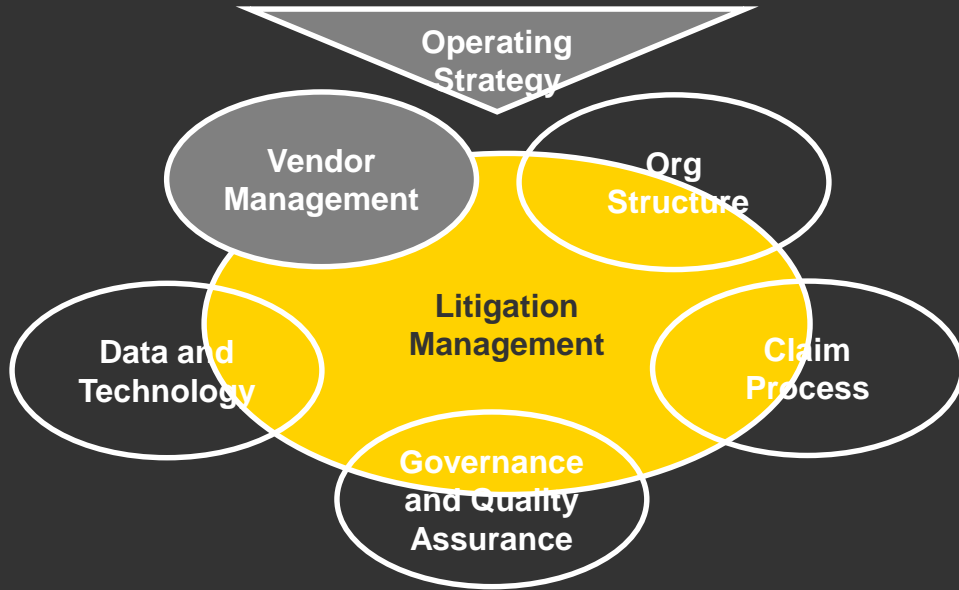
- ▶ **Quality assurance**
 - ▶ Assessment of both claims and legal resources
 - ▶ Measuring process and outcomes
 - ▶ Identifying root causes
 - ▶ Vendor evaluation and performance management
- ▶ **Governance**
 - ▶ Approval process tied to authority
 - ▶ Claim denial
 - ▶ Initiation of litigation

Data and technology



- ▶ Bill review technology
 - ▶ Integration with core claim management system
- ▶ Key Performance Indicators
 - ▶ Outcome
 - ▶ Expenses
 - ▶ Duration
 - ▶ QA results and claim leakage
- ▶ Other tools
 - ▶ Injury estimating software
 - ▶ Liability determination software

Vendor management



- ▶ Outside defense counsel management
 - ▶ Detailed service level agreements
 - ▶ Negotiated contracts and fee schedule
 - ▶ Flat fee vs hourly
- ▶ Utilization of other vendors
 - ▶ Medical management vendors
 - ▶ Special investigations

Summary

- ▶ Changes in the claim operation and approach to litigation management are important to understand as they may drive fluctuations in claim payments and durations

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