

The Now and the Next

Setting Priorities in Workers' Compensation

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Objectives



This course will provide insight and strategies for your workers' compensation program.



It will teach you to apply the concept of “The Now and the Next” approach to your workers' compensation program



How you to better identify and prioritize actions, including:

- What to do right now
- What to do in the near future
- Setting and achieving long term goals

The “Now and the Next”



Term coined by Dr. Caren Siehl at Arizona State University



Good leaders react to present demands, while also being proactive about more sweeping changes in the future



They deal with both continuity and the need for changes, short-term pressures and long-term demands



“A paradox-savvy leader can simultaneously deal with the ‘now’ context while also addressing the ‘future.’ An excellent example of an effective leader focusing on the overarching tension involving *both* the present and future was Admiral James Stockdale.” (Van Bergen, Massey, & Bressler, Admin. Issues Journal Vol. 7)

A Navy Pilot's last thoughts before crashing...

“On the 9th of September 1965, I flew right into a flak trap, at tree-top level, 500 knots, in a little A-4 airplane--cockpit walls not even three feet apart which I couldn't steer after it was on fire, control system shot out. After ejection I had about 30 seconds to make my last statement in freedom before I landed on the main street of that little village right ahead. “And so help me, I whispered to myself: **‘Five years down there at least. I'm leaving the world of technology and entering the world of Epictetus.’”**”

Admiral James Stockdale, “The Role of the Pressure Cooker”

Who is Epictetus?

Roman philosopher born c. 50 AD

To Epictetus, all external events are beyond our control; he argues that we should accept whatever happens calmly and dispassionately. However, individuals are responsible for their own actions, which they can examine and control through rigorous self-discipline.

“Your happiness depends on three things, all of which are within your power: your will, your ideas concerning the events in which you are involved, and the use you make of your ideas.”

“There is only way to happiness and that is to cease worrying about things which are beyond our power or our will. It’s not what happens to you, but how you react to it that matters.”

Philosopher Fighter Pilot



When Stockdale crashed, his only possession was a copy of the *Enchiridion* by Epictetus, and he credited this Stoic philosophy for saving his life. He saw that endless positivity, without confronting reality, led to despair. This led him to formulate what has come to be known as the "Stockdale Paradox"



"You must maintain unwavering faith that you can and will prevail in the end, regardless of the difficulties, and at the same time, have the discipline to confront the most brutal facts of your current reality, whatever they might be."

Paradox

A paradox is not a contradiction:

You cannot travel north and south at the same time = contradiction

A paradox *seems* like a contradiction, but in reality is not.

“The cheap is expensive” means that buying poor quality goods or vehicles actually results in higher costs in the long run

We must embrace the “both/and” approach here, not the “either/or”

“Frankenstein” was the name of the scientist, not his monster, but it is also true that, in a way, the scientist *was* the monster

Stockdale Paradox

Historically, management was a rational enterprise, based on data and logic.

Increasingly in modern workplaces, these have been pushed aside, in favor of endless positivity, often crossing over into willful ignorance

Stockdale observed during his captivity that prisoners who lost faith were the ones who assumed, without any basis, that they would be freed by an arbitrary date

The Stockdale Paradox challenges the idea that you should simply be positive and optimistic when facing challenges and ambiguity, noting that such attitudes can create unrealistic expectations that will ultimately disappoint.

Stockdale Paradox (continued)



Confront the brutal reality of your current situation. This model is a reminder to avoid denial or false positivity, and encourages you to face your current reality. This involves acknowledging how bad or painful that reality is and investing in anything in your power to make a difference.



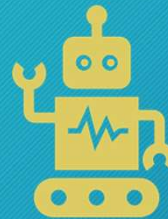
The final essential part of this model is to keep long-term faith that you will prevail. Rather than putting out fires, nurture the confidence that you will get through this period of challenge, no matter how long it takes. This represents a form of long-term optimism or faith in the ultimate outcome.

“Now and the Next” is Everywhere



Not just a “to do” list, but a schedule of steps

Example: Weddings (reserving venue, clergy, save the date, etc.)



Every military force in history has had to use logistics

Example: Resources (supplies, food, fuel, transportation)



Every physician has to plan as well

Example: History of injury/illness and records have to be obtained , options for treatment , plan, medication/surgery, therapy, multiple complications

What does this
have to do with
workers
compensation and
setting priorities?



FECA Benefits need to be paid promptly, then stopped when appropriate.



This is not a contradiction, but rather a paradox because they are both true (both/and, not either/or).



We are always obligated to transmit forms in a timely manner and address agency and employee concerns objectively.



Sometimes we advocate for *some* benefits and *challenge* others.

The “Now and the Next” Applied

We must place tasks in logical sequence

What must we do *now, soon, in a month, in a year?*

What is within my control vs. what is not?

What is the best source of the information I need?

Management asks you to make a job offer...but the employee has not been released to work.

Employee asks many questions about benefits...but has not even applied for them yet.

Most importantly, the injury compensation specialist must remember their role and responsibilities versus those of the injured employee and OWCP.

“Persist and Resist” - Epictetus



We are more likely to meet long-term goals by doing the right thing right now. Good work now will save time and money later while AND expedite appropriate benefits



Stop looking at the same cases over and over again if there are no actions to be taken at this time. Create reminders for future actions.



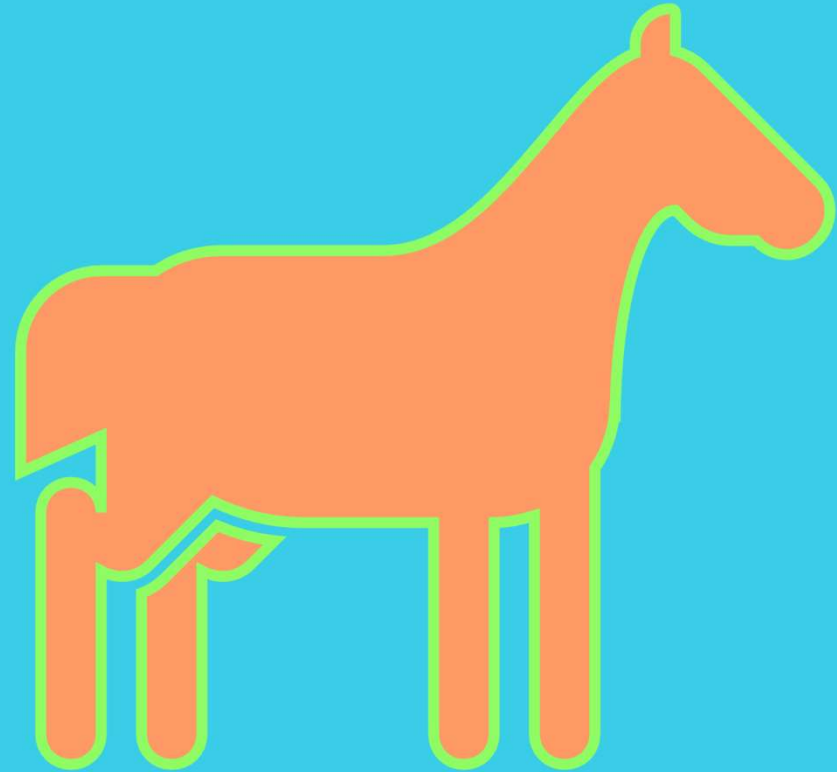
Persist in your long-term goals but resist getting emotional or frustrated over what we cannot change or control.



Track and take credit for your work and savings

Parable of the unruly horse

- Do not let your enthusiasm become a runaway horse
- Setting priorities and discipline (bridle)
- The disciplined horse can bring supplies and save lives (benefits) then bring the rider home again (back to work)
- The undisciplined horse runs over everyone (employees) and can harm its rider (employer)



Habits to Avoid in the “Now/Next”

Working as if everything needs to be done immediately or not at all

Thinking that this is about you, not the agency or the employee

Being vague and unclear

Thinking you know everything rather than doing research

Taking on the duties of other people

Not including your contact information in emails or letters

Escalate situations instead of diffusing them

Not answer questions

Not taking responsibility

Scenarios

When we go through these scenarios, consider:

1

What you can do right now?

What steps would follow in the near future?

What the long-term goal should be?

2

What is your role?

What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

Scenario Number 1 Leonardo

- You were notified that your employee Leonardo fell of a ladder and has sustained a serious injury.
- Leonardo is well liked at his service and has an excellent performance evaluations.
- He has a broken leg and is currently unconscious.
- Leonardo was rushed to a local emergency room and has been taken into surgery.

What should you do NOW?
What should you do NEXT?

Scenario Number 1 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Send a CA-16
- Supervisor or AR file on a claim on Leonardo's behalf
- Ask DOL to assign a Field Nurse
- Discuss with supervisor/payroll how COP should be paid

Scenario Number 1 Leonardo Continued

- Leonardo's surgery was a success!
- Unfortunately, he not regained work capacity and his COP period is about to expire.
- Leonardo has not been able to get into physical therapy.
- Leonardo has been placed on the DMI and has started to appear on your PEER Reports.

What should you do **NOW?**
What should you do **NEXT?**

Scenario Number 1 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Provide guidance on CA-7 process.
- Talk with Field Nurse or CE about inability to obtain physical therapy. IW can escalate the issue through ECOMP.
- Continue to monitor medical documentation for work capacity.

Scenario Number 1 Leonardo Continued

- It is well past the expected duration for return to work for sedentary duty and Leonardo's attending physician continues to state he is totally disabled. The Field Nurse has closed the case without RTW.
- You continue to receive the same medical report over and over. The only change appears to be the date.
- Leonardo's bills aren't being paid and creditors are starting to hound him.
- Leonardo's coworkers indicate they have seen him at the grocery store and are increasingly upset at having to provide coverage. Leonardo's supervisor now indicates that he is a terrible employee with performance and conduct issues.

Scenario Number 1 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Let attending physician know about the availability of light duty.
- Request Second Opinion medical exam based on duration of disability and redundant medical.
- Escalate bill payment issue in ECOMP.
- Let Supervisor know that performance and conduct issues are not addressed through WC program.

Scenario Number 1 Leonardo Continued

- The Second Opinion medical examination found that Leonardo is at MMI and has full-time work capacity.
- The Claims Examiner assigned the weight of medical evidence to the SECOP examiner.
- Unfortunately, Leonardo cannot perform all of his DOI position requirements. Management is unhappy about this and is pressuring you to make him return to his DOI position immediately or to have him removed so they can backfill his position.
- Leonardo tells you that he is processing a disability retirement.

Scenario Number 1 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Work to identify a permanent job offer either in DOI position with modification or other position that the IW is vocationally and physically able to perform.
- Remind supervisor that the IW has statutory restoration rights.
- Processing a disability retirement should not stop RTW efforts.

Scenario Number Two Michelangelo

- Your employee, Michelangelo, states they are sick because they have been exposed to black mold in his workplace.
- Michelangelo's Supervisor indicates that there is no mold, no one else in the workplace is sick, and Michealangelo complains all of time.
- After he files his claim, Michelangelo provides a doctor's note putting him off work.
- Michelangelo's supervisor wants to mark him AWOL and asks for claim information to send to ELR.

What should you do NOW?

What should you do NEXT?

Scenario Number 2 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Ensure the IW is advised on process to file a CA-2.
- Provide the IW the appropriate CA-35 checklist.
- Make Safety Office aware that air quality studies are required.
- Advise the Supervisor the IW has the right to use AL, SL, or LWOP pending adjudication of their claim.
- Remind Supervisor that WC records cannot be used in connection with personnel actions, including removal.

Scenario Number Two Michealangelo Continued

- Michelangelo calls your office stating that he does not have any medical insurance or sick leave.
- He indicates he cannot perform his duties.
- Safety performed air quality testing and they do not show the presence of any mold spores.

Scenario Number 2 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Advise the IW that there are no provisions for medical treatment for a CA-2.
- Let the IW know that there may be other HR leave programs outside WC while their claim is being adjudication.
- Advise the IW if they are unable to perform their duties and light duty is not available, they may be able to seek assistance through Reasonable Accommodation.
- Upload air quality studies and agency challenge based on air quality testing results.

Scenario Number Three Master Splinter

- Your employee, Master Splinter is found dead at his desk.
- The cause of death is determined to be cardiac arrest.
- The Supervisor says that Master Splinter had a history of heart issues and was overweight, a drinker and smoked two packs of Camels a day.

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Scenario Number 3 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Make sure HR/Payroll is aware of Master Splinter's death
- Report the death immediately to OWCP by telephone or telefax
- Complete Form CA-6, Official Superior's Report of Employee's Death
- Attempt to identify beneficiary(ies)

Scenario Number Three Master Splinter Continued

- Ms. Splinters call you every day indicating that she has no money and asking for your help.
- She states that she received a packet of forms from OWCP but has no idea what to do with them.
- OWCP is repeatedly asking you to provide information.

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Scenario Number 3 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Make beneficiary aware that other federal death benefits may be available.
- Offer to provide guidance or assistance in completing the forms.
- Ensure that forms and supportive documentation gets to OWCP timely.
- Injury/WC Personnel or Supervisor make any necessary medical contacts to secure necessary reports (i.e. hospital emergency room or coroner's office)
- Provide OWCP with any investigative reports and any additional information, if requested. If requested information is not available at the EA, make sure OWCP is aware.

Scenario Number Four Raphael

- An agency challenges a claim, but the challenge is not upheld. OWCP provides their reasons and accepts the claim.
- A year later, the agency challenges the claim again, providing a much longer challenge statement. OWCP provides a more detailed response but does not change their position.
- Ten years after the initial acceptance, a similar challenge and a similar response are again issued.
- THIRTY YEARS after the initial acceptance, the agency challenges again, escalating to an advisor and liaison.

What should you do NOW?

What should you do NEXT?

Scenario Number 4 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Agencies do not have appeal rights.
- EAs have the opportunity to challenge.
- If a claim has clear been accepted in error or new evidence comes to light at the beginning of a claim, they can ask for a Director's Review.
- If that decision is not favorable, no additional challenges are appropriate.
- Continuing to revisit acceptance reduces your credibility.
- Focus on ongoing case management activities and return to work efforts.

Scenario Number Five Donatello

- Donatello has been out on the Periodic Rolls for years.
- His attending physician indicates he is totally disabled due to a back injury. He has extensive physical limitations which include a limitation on walking, sitting, and standing. In addition, he is unable to bend, climb, or stoop.
- Donatello's supervisor forwards you pictures from Facebook showing him on vacation in Egypt, stating the flight is more than 14 hours.
- The photos also show a desert walking tour and pictures of Donatello riding both a donkey and an elephant.
- You also note pictures where Donatello appears to be working a career fair at his son's school.

What should you do NOW?

What should you do NEXT?

Scenario Number 5 Continued

1

What you can do right now?
What steps would follow in the near future?
What the long-term goal should be?

2

What is your role?
What is within your responsibility or sphere of influence vs. what you cannot control?

3

What details are not relevant to the DFEC issues and need to be excluded?

- Review FECA Bulletins 17-03, 17-04, 17-05
- Review the most recent medical and CA-1032
- Request an out-of-cycle CA-1031
- Determine if best route is OIG or OWCP
- Information can be sent to OWCP outside of ECOMP at FECA-EvidenceSubmission@dol.gov

Stockdale Paradox

“You must maintain unwavering faith that you can and will prevail in the end, regardless of the difficulties—and at the same time, have the discipline to confront the most brutal facts of your current reality, whatever they may be.”

Admiral James Stockdale

Questions?