

INDIANA

EMPLOYMENT LAW

Workers' Compensation – Employee Eligibility



Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees or their survivors for work-related injuries, diseases and deaths. Workers' compensation is governed by state law.

The Indiana Worker's Compensation and Occupational Disease Acts (WC Acts) establish who is eligible for coverage and benefits. The [Workers' Compensation Board of Indiana](#) (Board) handles workers' compensation claims and makes eligibility determinations in the state.

STATE RESOURCES

Workers' Compensation Board of Indiana [website](#)

OVERVIEW

To be eligible to receive workers' compensation benefits in Indiana, an individual must:

- Be a **covered employee** under the WC Acts; and
- Sustain a **compensable condition**.

COVERED EMPLOYEES

For coverage purposes, the WC Acts generally define an "employee" as any person who serves another under any contract of hire or apprenticeship. Employment contracts may be written or implied.

The WC Acts specifically include the following as covered employees:

- Minors (defined as those who are under age 17);
- Unpaid participants under the federal School to Work Opportunities Act;
- An individual engaging in coal mining;
- Corporate officers (though they may opt out); and
- Employees working outside of the state.

EXCLUSIONS

The WC Acts specifically exclude the following individuals from coverage:

- Railroad employees engaged in train service;
- Members of municipal corporations and fire and police departments (but municipalities may elect to purchase coverage for medical benefits);
- Casual laborers;
- Farm and agricultural employees;
- Household employees;



- Part-time youth coaches who work for nonprofit corporations;
- Real estate professionals;
- Owner-operators providing a motor vehicle and driver services under a written contract;
- Members and managers of a limited liability company (LLC);
- Independent contractors (as defined by IRS guidelines); and
- Members and managers of limited liability companies (LLCs).

ELECTIVE COVERAGE

Most workers who are excluded from mandatory coverage under the WC Acts may become covered if their employers elect to include them under their workers' compensation coverage.

To provide elective coverage, an employer must provide written notice to any affected employee **at least 30 days** prior to any accident resulting in injury or death. The employer must also file a copy of the election notice with the Board within **five days** of providing it to affected employees.

In addition, certain individuals are allowed to **opt out** of workers' compensation coverage in the state. These include:

- Executive officers of a corporation (some exceptions apply);
- Members and managers of an LLC;
- Owners of a sole proprietorship; and
- Partners in a partnership.

COMPENSABLE CONDITIONS

To be compensable, an injury or disease must arise out of and in the course and scope of employment. For accidental injury claims, this requires the employee to show that he or she sustained an injury as the result of an accident that occurred while the employee was performing work for the employer.

For occupational disease claims, an employee must show:

- He or she sustained a disease;
- There was a direct causal connection between the work and the disease;
- The disease followed as a natural incident of the work;
- The employment was the proximate cause of the disease;
- The disease did not come from a hazard to which workers would have been equally exposed outside of the employment; and
- The disease was incidental to the character of the business and not independent of the relation of the employer and employee.

DISQUALIFICATION FROM BENEFITS

Even when an eligible employee has a compensable injury, other factors may prevent him or her from receiving workers' compensation benefits. The WC Acts specify that employees are not eligible for compensation if an otherwise work-related injury or disease was due to the employee's:

- Self-infliction;



- Intoxication;
- Commission of an offense;
- Failure to use a safety appliance;
- Failure to obey a written rule that the employer had conspicuously posted in the workplace; or
- Failure to perform any statutory duty.

EMPLOYEE RESPONSIBILITIES

The WC Acts set additional expectations and responsibilities for employees who expect to receive workers' compensation benefits. Failing to satisfy these may cause an individual to lose his or her right to receive benefits, in whole or in part.

In addition to other duties, an employee must:

- Provide written notice of injury to the employer **within 30 days** (failures may be excusable if the employer had actual knowledge of the injury or if the employer was not prejudiced by the lack of notice) or notice of an occupational disease **as soon as practicable** after the employee becomes unable to work due to the illness;
- Accept all medical treatment provided by the employer for the claimed condition;
- Submit to medical exams upon the employer's request or upon an order from the Board;
- Accept reasonable offers of suitable work made by the employer (if the work offered is within any work restrictions that result from an accidental injury); and
- File an Application for Adjustment of Claim with the Board **within two years** of an accident or **within two years** after the date of disablement, if claiming an occupational disease (or, if the employer paid any benefits, **within one year** of either the last authorized medical treatment for the claimed condition or the date the employer last issued a workers' compensation payment, whichever is later).

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the Board [website](#) for more information on workers' compensation laws in Indiana.