

# MISSOURI

## EMPLOYMENT LAW

### Workers' Compensation – Employee Eligibility



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

The Missouri Workers' Compensation Law (WCL) establishes the requirements an individual must meet in order to receive workers' compensation benefits in the state. The [Missouri Division of Workers' Compensation](#) (Division) administers the WCL and resolves any disputes regarding eligibility.

#### STATE RESOURCES

**Missouri Division of Workers' Compensation [website](#)**

#### Workplace Poster

Employers may use [this notice](#) to satisfy their workers' compensation posting requirements.

#### Employer's First Report

Employers must file [this report](#) within 30 days after learning of an employee's work-related injury.

#### OVERVIEW

In general, to be eligible to receive workers' compensation benefits in Missouri, an individual must:

- Meet the WCL's definition of a **covered employee**; and
- Sustain a **compensable condition**.

#### COVERED EMPLOYEES

Under the WCL, a "covered employee" includes any individual in Missouri who:

- Is in the service of an employer under any written or oral contract of hire (which may be expressed or implied); and
- Either works in the construction industry or is employed by an employer that has at least five employees.

If an employer is subject to the WCL, all of its employees, with few exceptions, must be covered. The WCL specifically includes minors as covered employees, even if they are illegally employed.

#### EXCLUSIONS

The WCL specifies that the following are **not** employees for whom an employer must provide workers' compensation coverage:

- Owner-operators of leased motor vehicles that are operated in commercial zones;
- Any person performing services for board, lodging, aid or sustenance received from any religious, charitable or relief organization;
- Farm laborers;
- Domestic servants in a private home;



- Real estate agents;
- Direct sellers;
- Confined inmates and state mental health facility patients or residents who provide work exclusively on behalf of the governmental entity that has custody over them;
- Volunteers working for tax-exempt organizations; and
- Individuals providing services as adjudicators, sports officials and contest workers for interscholastic activities or similar amateur youth programs who are not otherwise employed by the sponsoring organization.

### **ELECTIVE COVERAGE**

Employers with fewer than five employees may elect to become subject to the WCL by purchasing a valid workers' compensation policy that covers their employees or by being a member of a group self-insurance organization and providing written notice of the coverage election to the organization. In addition, all employers may elect to provide coverage for, and become subject to the WCL, in regard to any employees that are otherwise not considered covered employees under the law.

Partners and sole proprietors may also elect to provide coverage for themselves as individuals. If a partner or sole proprietor does elect to provide coverage for him or herself, the coverage must also include all of his or her employees, if any, who would not otherwise be eligible for the coverage under the WCL.

Finally, the WCL allows members of a limited liability company (LLC) and certain owners of corporations to reject coverage for themselves under the WCL.

### **COMPENSABLE CONDITIONS**

Compensable conditions include both accidental injuries and occupational diseases that arise out of and in the course of a covered employee's employment. An employee claiming benefits under the WCL has the burden of proving a condition meets the requirements for compensability under the law.

An **injury** is defined as violence to the physical structure of the body and to personal property that is used to make up the physical structure of the body (such as artificial limbs and eyeglasses).

An **injury by accident** is compensable only if the workplace accident was the prevailing factor that caused both the medical condition and disability. "Prevailing factor" is defined as the primary factor, in relation to any other factor, causing both the resulting medical condition and the disability.

An **accident** is an unexpected traumatic event or unusual strain that can be defined by time and place of occurrence and that produces objective symptoms at the time of the specific event during a single work shift. It is not enough for an employee's work to be merely a triggering or precipitating factor in an injury. To be compensable, an injury must come from a hazard or risk to which a worker would **not** have been equally exposed outside of and unrelated to the employment in normal, non-employment life.

An **occupational disease** is defined as an identifiable disease arising, with or without human fault, out of and in the course of employment. Like injuries by accident, an **injury by occupational disease** is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and the disability. The disease must also appear, after its contraction, to have:



- Originated in a risk associated with the employment; and
- Flowed from that source as a rational result.

A disease is **not** compensable if it is an ordinary disease of life to which the public is exposed outside of employment or if it is the result of ordinary, gradual deterioration of the body caused by aging or by normal activities of day-to-day living.

Where occupational exposure was the primary factor in causing a condition, compensable occupational diseases may include:

- Injuries due to repetitive motion;
- Loss of hearing in one or both ears due to prolonged exposure to harmful noise in employment;
- Disability caused by exposure to radiation; and
- Contagious or communicable diseases.

### ***CONDITIONS WITH HEIGHTENED BURDENS OF PROOF***

The WCL includes certain conditions for which an employee must prove additional facts before they may be considered compensable.

The first is a **mental injury** that results from workplace stress. For a mental injury caused by workplace stress to be compensable, the employee must prove the stress was “extraordinary and unusual,” as measured by objective standards and actual events. Extraordinary and unusual stress does **not** include disciplinary action, a job transfer, a layoff, a demotion, a termination or any similar action taken in good faith by an employer.

**Hernias** are also subject to a heightened standard of proof for compensability under the WCL. For a hernia to be compensable, the employee must prove to the satisfaction of the Division that there was an accident or unusual strain that caused the hernia and that the hernia did not exist before the event.

Finally, a **disease of the lungs, respiratory tract, heart or cardiovascular system** may be compensable only if the employee can show it was **directly** caused by exposure to smoke, gases or inadequate oxygen during cleanup or disposal work in an illegal controlled substance manufacturing laboratory.

### ***EXCLUSIONS***

Any condition that meets the above requirements for compensability may nevertheless be excluded under WCL based on certain causes. Specifically, a condition is **not** compensable if it was caused by the employee's:

- Intentional self-infliction;
- Participation in a recreational activity or program that was not required by the employer;
- Use of alcohol or prescribed non-prescribed controlled substances; or
- Unreasonable refusal to submit to medical treatment.

### **EMPLOYEE RESPONSIBILITIES**

A covered employee who sustains a compensable condition may lose his or her rights to receive benefits, either in whole or in part, for several reasons under the WCL. In particular, an employee forfeits his or her rights to some or all workers' compensation benefits unless he or she satisfies the WCL requirements to:



- Provide written notice of the condition to the employer within **30 days** after an accident or diagnosis of an occupational disease (unless the employer was not prejudiced by the failure);
- Submit to a post-injury test for alcohol or non-prescribed controlled substances upon the employer's request;
- Submit to a medical examination upon request by the employer or the Division;
- Submit to a vocational rehabilitation assessment and accept vocational rehabilitation services offered by the employer; and
- File a claim for benefits with the Division within **two years** after the injury or the employer's last payment of benefits under the WCL.

An employee may also lose his or her right to receive benefits if he or she is terminated from the employment for misconduct after an injury.

### MORE INFORMATION

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