

Workers' Compensation – Employer Penalties

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

Minnesota workers' compensation laws impose penalties on employers that fail to comply with state requirements. The [Division of Workers' Compensation](#) (DWC), part of the Minnesota Department of Labor and Industry, enforces compliance with these laws throughout the state.

FAILURE TO MAINTAIN ADEQUATE COVERAGE

Employers must maintain adequate workers' compensation coverage for their employees through either an insurance policy or the DWC's authorization to self-insure. Employers that operate without the required coverage may be subject to numerous fines and even criminal charges.

ADMINISTRATIVE PENALTIES

The fine for failing to provide workers' compensation coverage as required is **\$1,000** per affected employee. Each week in which an employee is not adequately covered is a separate offense. These fines may become a lien on any employer property.

In addition, Minnesota law prohibits every state and local licensing agency from issuing or renewing a license to an employer that does not submit proof of adequate workers' compensation coverage. Employers that falsely a proof of coverage to a licensing agency may be subject to a **\$2,000 fine**.

CRIMINAL PENALTIES

Employers that willfully and intentionally fail to provide adequate coverage for their employees may be charged with a gross misdemeanor, which is punishable by fines of up to **\$3,000**.

REQUIRING EMPLOYEES TO FUND THEIR COVERAGE

Employers may not allow or require their employees to pay any portion of their workers' compensation coverage. Employers that charge or deduct any funds from employee wages for the costs of workers' compensation coverage may face **misdemeanor** charges and a fine of **up to 400 percent** of the amount withheld from the employees' wages. Some exceptions may be possible with DWC approval.

FAILURE TO PAY BENEFITS

Employers must begin paying workers' compensation benefits to an injured employee or formally deny his or her workers' compensation claim within **14 days** after receiving notice of a work-related

condition. Employers must also pay medical expenses for treatment of an employee's work-related condition within **30 days** after receiving a bill from a medical provider. Employers that fail to make these payments on time are subject to administrative fines and may be required to reimburse any payments made by the Special Compensation Fund, which provides workers' compensation benefits to injured employees whose employers do not have adequate coverage.

ADMINISTRATIVE PENALTIES

If an employee is entitled to receive workers' compensation benefits and the employer fails to pay the benefits on time, the DWC may order the employer to pay the employee an additional amount that is calculated as a percentage of the late or unpaid benefits. The penalty rate increases for greater delays in payment, as outlined in the table below.

Number of Late Days	Penalty Rate	Maximum
15	30 percent	Up to \$500
16 -30	55 percent	Up to \$1,500
30-60	80 percent	Up to \$3,500
61 or more	105 percent	Up to \$5,000

Instead of this graded penalty, however, the DWC may impose a **\$2,000** fine against any employer that does not pay benefits or that fails to file a notice of denial in a timely manner.

While these penalties may be assessed against an insurance provider, Minnesota law allows insurers to recover any portion of the fine from the employers they cover, in proportion to the employer's fault in causing the delay. Any penalty paid by an insurer will be treated as a loss in an experience rated plan, retrospective rating plan or dividend calculation (where appropriate) and may affect an employer's future insurance premiums.

In addition to the fines described above, the DWC may require an employer to pay **interest** on any delayed benefit. The annual interest rate for late payments totaling \$50,000 or less depends on the secondary market yield for U.S. Treasury bills. The annual interest rate for amounts higher than \$50,000 is 10 percent.

REIMBURSING THE SPECIAL COMPENSATION FUND

If the Special Compensation Fund pays an employee's benefits, the DWC may require the employer to:

- Reimburse the Special Compensation Fund for the actual amount of benefits paid to the employee;
- Cover any attorney fees paid to the employee's attorney by the Special Compensation Fund; and
- Pay a penalty equal to **65 percent of all the benefits** that the DWC orders to be paid to the employee.

DENYING OR DISCONTINUING A CLAIM

Minnesota's workers' compensation laws require employers to notify their injured employees before they deny a claim or benefits or discontinue benefit payments to an employee. The notice must explain the basis for the denial or discontinuance and must be specific enough to clearly convey, without further inquiry, the basis of the decision. The DWC may impose a **\$500 fine** on an employer that fails to provide this notice.

FRIVOLOUS CLAIMS AND DENIAL OF PAYMENT

Employers may be subject to a fine of up to **30 percent** of the total amount of benefits payable to an injured employee if they inexcusably delay in paying the benefits. The DWC may also increase the benefit amount by **25 percent** and require the payment of an annual interest rate of up to **12 percent** for any inexcusable delay.

Inexcusable delay of payment includes:

- Withholding payments until the employee agrees to sign a waiver releasing his or her right to claim further benefits;
- Denying a claim or presenting a claim or defense without a good faith investigation of the facts or on a basis that is clearly contrary to fact or law for the purpose of delaying payments or discontinuing compensation;
- Unreasonably delaying payment or discontinuing compensation;
- Neglecting or refusing to pay compensation; and
- Intentionally underpaying compensation.

VIOLATION OF RECORDING AND REPORTING REQUIREMENTS

Employers that fail to file any report required by Minnesota's workers' compensation laws may be subject to a **\$500 fine** per failure. **As of Aug. 31, 2020**, all reports must be filed electronically.

RETALIATION

Employers are prohibited from retaliating against an employee who seeks workers' compensation benefits. An employer that unlawfully retaliates may be sued in court for damages, and a court may order it to pay:

- The actual cost of damages incurred by the injured employee;
- Up to **three times** the amount of compensation to which the employee was entitled; and
- Court costs and reasonable attorneys' fees.

Employers are subject to the same penalties if they intentionally obstruct an employee who is seeking workers' compensation benefits.

FAILURE TO CONTINUE EMPLOYMENT

An employer may be required to pay a penalty of up to **\$15,000** if it refuses to offer continued employment to an injured employee. The penalty applies only if:

- The employer has more than 15 full-time equivalent employees;
- The employer refused to offer continued employment without reasonable cause; and
- Employment is available to the injured employee within his or her limitations.

POSTING REQUIREMENT VIOLATION

Employers must display a notice in their workplaces stating that they have a workers’ compensation insurance policy that complies with state law. The DWC provides a [model poster](#) employers may use to satisfy these requirements. Employers that fail to post a notice may be subject to a **\$500 fine**.

PROHIBITED PRACTICES AND PENALTIES FOR SELF-INSURED EMPLOYERS

Self-insured employers are subject to additional penalties for failures to comply with Minnesota’s workers' compensation laws. These penalties may be imposed in addition to any other penalty prescribed by law.

The table below provides an overview of the conduct that is prohibited and the penalties that may apply. If the DWC assesses any of these penalties against a self-insured employer, the employer may object and request a formal hearing.

Prohibited Conduct	Number of violations	Penalty
<ul style="list-style-type: none"> • Failing to reply within 30 calendar days to any written communication about a claim (claimant must request a response, 30 days counted after receipt of communication); • Failing to pay benefits or deny a benefit claim within 45 calendar days (45 days counted after receipt of claim); • Failing to pay or deny a medical treatment bill within 45 days (after receiving all information requested from medical provider); • Filing a claim denial without conducting an investigation; • Missing weekly benefit payments by more than three business days on more than three occasions in any 12-month period; • Failing to respond to a DWC claim inquiry within 30 days after receipt of inquiry; or • Altering information on any document filed with the DWC, without the notice and consent of any person who previously signed the document and who would adversely affected by the alteration. 	1 -5	Written warning
	6 – 10	\$3,000 per violation
	11 or more	\$6,000 per violation

Prohibited Conduct	Number of violations	Penalty
<ul style="list-style-type: none">• Failing to pay benefits within 45 days after receiving a DWC or court order; or• Advising a claimant not to obtain attorney representation or that payment will be delayed if the claimant involves an attorney.	1 – 5	\$3,000 per violation
	6 or more	\$6,000

MORE INFORMATION

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