

EMPLOYMENT LAW SUMMARY

Alaska: Workers' Compensation – Employer Responsibilities



Because You're Different

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

The Alaska Workers' Compensation Act (WCA) establishes employer responsibilities relating to workers' compensation in the state. The [Alaska Division of Workers' Compensation](#) (Division), part of the Alaska Department of Labor and Workforce Development, administers the workers' compensation system.

COVERAGE REQUIREMENTS

Virtually all employers in Alaska must maintain adequate workers' compensation coverage for their employees at all times. Under the WCA, an "employer" includes any entity that employs **one or more employees** in connection with a business or industry in Alaska. An employer may satisfy this requirement by either:

- Purchasing an approved insurance policy; or
- Obtaining the Division's approval to self-insure.

Employers must pay the full cost of providing workers' compensation coverage. The WCA specifically prohibits employers from allowing or requiring employees to contribute to the cost of their coverage.

EXCLUSIONS

The WCA also excludes certain occupations and individuals from coverage. Excluded individuals include:

- Sole proprietors;
- Partners of a partnership;
- Executive officers of a nonprofit corporation;
- Part-time babysitters and noncommercial cleaners;
- Harvesters and similar part-time or transient workers;
- Sports officials for amateur events;
- Contract entertainers;
- Commercial fishers;
- Taxicab drivers whose compensation is by contractual arrangement;
- Participants in the Alaska temporary assistance program;
- Professional hockey team players and coaches who are covered under a health care insurance plan;
- Real estate sales people; and
- Transportation network company drivers.

As of Nov. 22, 2018, the WCA also specifically **excludes** individuals who are employed as independent contractors. For purposes of this exclusion, a person is an independent contractor only if the individual:

- Has an express contract to perform the services;
- Is free from direction and control over the means and manner of providing services to the employer;
- Incurs most of the expenses for tools, labor and other operational costs necessary to perform the services (except that materials and equipment may be supplied);
- Has an opportunity for profit and loss as a result of the services performed for the employer;
- Is free to hire and fire employees to help perform the services for the contracted work;
- Has all business, trade or professional licenses required under all applicable laws for the services provided;
- Follows federal Internal Revenue Service requirements by either:
 - Obtaining an employer identification number, if required;
 - Filing business or self-employment tax returns for the previous tax year to report profit or income earned for the same type of services provided under the contract; or
 - Intending to file business or self-employment tax returns for the current tax year to report profit or income earned for the same type of services provided under the contract if the person's business was not operating in the previous tax year; and
- Meets at least two of the following criteria:
 - Is responsible for the satisfactory completion of services that he or she has contracted to perform and is subject to liability for a failure to complete the contracted work, or maintains liability insurance or other insurance policies necessary to protect the employees, financial interests and customers of his or her business;
 - Maintains a business location or mailing address separate from the location of the employer;
 - Provides contracted services for two or more different customers within a 12-month period or engages in any kind of business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.

FOR-PROFIT CORPORATE OFFICERS AND LLC MEMBERS

Effective Aug. 1, 2019, executive officers of a for-profit corporation are no longer considered employees under the WCA if they own at least 10 percent of the corporation. Members of a limited liability company (LLC) who own at least 10 percent of the LLC are also excluded from the WCA's coverage requirement. Under these law changes, however, a for-profit corporation or LLC employer still have the option of covering these individuals by specifically including them in a workers' compensation insurance contract.

INSURED EMPLOYERS

Coverage under a policy continues until the policy's term expires or until the employer obtains other coverage, either through another policy or by obtaining certification to self-insure.

Insurance carriers must file proof of insurance with the Division for any employer they cover **within 10 days** after an insurance policy becomes effective or is renewed. Insurance carriers must also notify the Division of any insurance policy cancellations **within 10 days**. Within those same 10 days, the employer must file proof that it has obtained coverage as required following the cancellation.

When an employer obtains workers' compensation coverage through an insurance policy, the insurance carrier assumes all of the employer's WCA liabilities and becomes responsible for most of the employer's claim-processing duties under the WCA. Covered employers must assist their insurance carriers in these efforts at all times.

All workers' compensation insurance policies must contain an agreement by the insurer that it will promptly pay all WCA benefits. Insurers must also agree that this obligation continues, even if the employer does not make premium payments after an employee's injury or does not provide required notices.

SELF-INSURED EMPLOYERS

A self-insured employer uses its own assets, rather than an insurance policy, to pay WCA benefits to and for employees who sustain work-related injuries and diseases. A self-insured employer must also administer its employees' workers' compensation claims through either its own staffed, adjusting facilities in Alaska or through independent, licensed adjusters that have power to settle employees' claims against the employer.

If an employer wishes to self-insure, it must [apply](#) for and obtain a self-insurance certificate from the Division. To meet the minimum qualifications to self-insure, an employer must have:

- The financial ability to pay all WCA benefits directly to and for any employees who sustain work-related injuries or diseases;
- Been in operation in Alaska for at least **five years** (though the Division may waive this requirement for certain employers);
- A safety/loss control program;
- At least **100 employees** (counting those of a parent company or subsidiary companies) in Alaska or elsewhere in the United States; and
- A tangible net worth of at least **\$10 million**.

The Division may also require a self-insurance applicant to:

- Submit a security deposit of at least **\$600,000**; and
- Obtain an excess insurance policy.

Once the Division approves an application for self-insurance, it will issue a certificate authorizing the employer to self-insure for **one year**. To renew a self-insurance certificate, an employer must submit a renewal application ([Form 6130](#)) at least **60 days** before its current certificate is scheduled to expire.

NOTICE POSTING REQUIREMENT

An insured employer must notify its employees that it has workers' compensation coverage by completing and posting [Form 07-6120](#) ("Employer's Notice of Insurance") in each workplace where its covered employees work. A self-insured employer must post its certificate of self-insurance in each workplace. These notices must be posted and maintained in at least **three** conspicuous places in every work site.

INJURY REPORTING

Employers must make blank copies of [Form 07-6100](#) ("Employee Report of Occupational Injury or Illness to Employer") available to employees at their workplaces. Employees must use this form to notify the employer of any work-related injuries or diseases (as of Nov. 22, 2018, employees are no longer required to notify the Division).

Employers must complete and submit [Form 07-6101](#) ("Employer Report of Occupational Injury or Illness") to the Division **within 10 days** after learning of an employee's work-related injury or disease. Employers must also keep a record of every work-related injury reported by their employees and must make these records available for inspection at all times.

CLAIM REPORTING

The WCA requires employers to file specific notices with the Division during the process of handling a workers' compensation claim. While insurance carriers are responsible for submitting many of these notices for their insured employers, all employers have a duty to submit certain reports themselves. These reporting requirements are summarized in the table below.

Notice	Time of Notice	Instructions and Procedure
Re-employment, Employer Notice of 45 Consecutive Days of Time Loss for Injuries Form 07-6170	On the 46th day	For employees who have been totally unable to return to employment for 45 consecutive days as a result of a work-related injury. After receiving the notice, the Division will send a notice to the employee regarding his or her rights to receive re-employment benefits under the WCA.
Re-employment, Employer Notice of 90 Consecutive Days of Time Loss for Injuries Form 07-6169	On the 91st day	For employees who have been totally unable to return to employment for 90 consecutive days as a result of a work-related injury.
Controversion (Denial) Notice Form 07-6105	Within 21 days after injury or any time after commencing benefit payments	For employers that wish to deny an employee's worker's compensation claim. Must be filed with the Division (as of Nov. 22, 2018, employers are no longer required to send a copy to the affected employee).

BENEFIT PAYMENTS AND REPORTING

Employers (or their insurance carriers, if applicable) must pay for all medical treatments approved by a physician. Physicians will approve any treatment they deem reasonable or necessary to treat an employee's work-related injury. Medical expenses must be paid directly to a medical provider **within 30 days** of receiving an invoice and medical report.

In addition, employers must reimburse employees for mileage expenses associated with obtaining medical care. These payments are due **within 30 days** after the employer receives a health care provider's completed report and an itemization of the dates, destination and expenses for each date of travel for medical treatment.

Employers or their insurance carriers must also pay workers' compensation benefits to an injured employee within certain time periods. The initial benefit payment must be made **within 14 days** after an employer first obtains knowledge of an employee's work-related condition. Also, **within 28 days** after making an initial payment of WCA benefits to an employee, the employer or insurer must submit a completed [Form 07-6104b](#) ("Compensation Report") to both the Division and the employee. Form 07-6104b submission is also required within 28 days after an employee's WCA benefits are changed, suspended, terminated or resumed.

MORE INFORMATION

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

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