

EMPLOYMENT LAW SUMMARY

Arizona Workers' Compensation - Employee Eligibility



Because You're Different

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 or deaths. Workers' compensation is governed by state law.

The Arizona Workers' Compensation Act (WCA) establishes the criteria for determining whether an employee is entitled to benefits in the state. The [Industrial Commission of Arizona](#) (Commission) administers the workers' compensation system and resolves any disputes regarding an employee's eligibility.

COVERED EMPLOYEES

Most workers are covered under the WCA. For coverage purposes, the WCA defines an employee as every person in the service of an employer that is subject to the WCA. An employer is subject to the WCA if it regularly employs **at least one worker** in the same business or establishment under a contract of hire.

Along with these general definitions, the WCA specifies certain individuals who are considered covered employees, as well as other individuals who are not. The WCA also allows certain individuals to become covered employees if an insurance carrier includes them in a special endorsement to a policy.

The table below provides examples from each of these categories under the WCA. Please note that these lists are not exhaustive.

Covered Employees	Not Covered Employees
<ul style="list-style-type: none">• Aliens (regardless of whether their employment is legal)• Minors (regardless of whether their employment is legal)• Lessees of mining property and their employees and contractors• Certified ambulance drivers and attendants who serve without pay or on a part-time basis• Anyone employed pursuant to a professional employer agreement	<ul style="list-style-type: none">• People whose employment is both casual and not in the usual course of the trade, business or occupation of the employer• Domestic servants• Independent contractors• Real estate salespeople• Employees of motion picture companies that only temporarily conduct business in the state

CORPORATE SHAREHOLDERS AND LLC MEMBERS

The following are considered covered employees under any workers' compensation policy that is issued or renewed on or after July 1, 2019:

- A working member of a limited liability company (LLC) who owns **less than 50 percent** of the membership interest in the LLC; and
- A working shareholder of a corporation who owns **less than 50 percent** of the beneficial interest in the corporation.

Also under any workers' compensation policy that is issued or renewed on or after July 1, 2019, working members of an LLC who own **50 percent or more** of the membership interest in the LLC and working shareholders of a corporation who own **50 percent or more** of the beneficial interest in the corporation may become covered employees by obtaining written acceptance, by endorsement, of an application for coverage from the insurance carrier for the LLC or corporation. The basis for computing wages for premium payments and benefits for these working members or shareholders is an assumed average monthly wage of between \$600 and a maximum limit that is adjusted annually, subject to the insurance carrier's discretionary approval. Any compensation for permanent partial or permanent total disability payable to these covered individuals is computed on the lesser of the assumed monthly wage agreed to by the insurance carrier when it accepted the application for coverage or the actual average monthly wage received by the working member or shareholder at the time of injury.

COMPENSABLE CONDITIONS

To be compensable, an injury or disease must arise out of and in the course of employment. More specific requirements for determining compensability depend on the type of condition. The table below provides a brief overview of the requirements for compensable injuries and occupational diseases.

Injuries	
Compensable if caused by:	Not compensable if caused by:
<ul style="list-style-type: none"> •A work-related accident •Willful acts of a third person directed at an employee because of his or her employment 	<ul style="list-style-type: none"> •Purposeful self-infliction •Willful misconduct •Willful self-exposure to hazards •Willful disobedience to reasonable rules and regulations that the employer has brought to the employee's attention through postings or any other means

Occupational Diseases
<p>Compensable only if all of the following are true:</p> <ul style="list-style-type: none"> •There is a direct causal connection between the work conditions and the occupational disease; •The disease followed as a natural incident of the work as a result of the work exposure; •The disease can be fairly traced to the employment as the proximate cause; •The disease does not come from a hazard to which workers would have been equally exposed outside of the employment; •The disease is incidental to the character of the business and not independent of the relation of employer and employee; •After its contraction, the disease appears to have originated in a risk connected with the employment and to have flowed from that source as a natural consequence; and •The disease resulted from the conditions of employment rather than from any hazards to which an employee may have been exposed outside of work.

Finally, the WCA includes special rules for establishing compensability for certain conditions, including:

- Hernias
- Heart-related or perivascular conditions
- Mental conditions
- Human immunodeficiency virus (HIV)
- Acquired immunodeficiency syndrome (AIDS)
- Hepatitis C
- Methicillin-resistant Staphylococcus Aureus (MRSA) infection
- Spinal meningitis
- Tuberculosis

EMPLOYEE RESPONSIBILITIES

The WCA establishes various expectations and responsibilities for employees who make workers' compensation claims. An employee who has a compensable condition may be disqualified from receiving workers' compensation benefits, in whole or in part, if he or she fails to satisfy some of these responsibilities.

The following table provides an overview of the WCA provisions that expressly indicate that an employee's right to receive benefits may be terminated or suspended for noncompliance.

To Avoid Losing Benefits	
Employees Must:	Employees May Not:

To Avoid Losing Benefits

- Immediately report any work-related injury or condition to the employer
- File a claim for benefits with the Commission within one year of injury
- Submit to medical treatment and follow medical advice
- Submit to a medical examination upon reasonable request by the Commission, employer or the employer's insurance carrier
- Submit monthly or annual income status reports upon reasonable request by the Commission, employer or insurance carrier

- Engage in unsanitary or injurious practices that tend to imperil or impede recovery
- Make any false statement or misrepresentation in order to receive benefits
- Omit or fail to provide truthful information about previous employment, disabilities, claims or exposures
- Leave the state for more than two weeks, without first obtaining written permission from the Commission, during periods in which they are receiving:
 - Active medical treatment; or
 - Temporary disability benefits

Other obligations do not necessarily affect an employee's right to receive benefits under the WCA. Nevertheless, the Commission may use its discretion to impose consequences, such as allowing an employer to delay or deny payments, if an employee does not:

- Provide authorization for release of medical information relating to a claim;
- Obtain written approval from the insurance carrier, Commission or the attending physician before changing doctors;
- Notify the employer or insurance carrier of any settlement or judgment the employee obtained against a third party for a claimed condition; and
- Personally appear at any Commission hearing on a claim, even if represented by an attorney.

MORE INFORMATION

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

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