

EMPLOYMENT LAW SUMMARY

Iowa Workers' Compensation – Employer Responsibilities



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

The Iowa Workers' Compensation Act (WCA) requires all employers in the state to maintain workers' compensation coverage for their employees. The [Iowa Division of Workers' Compensation](#) (WC Division) monitors and enforces employer compliance with the WCA.

COVERAGE REQUIREMENTS

Employers may satisfy the WCA's coverage requirement by either:

- Obtaining a workers' compensation policy from an insurance company;
- Becoming self-insured;
- Pooling resources with other employers to organize as a self-insured group; or
- Entering an agreement with employees or other employers to provide an alternative scheme of compensation or insurance.

Employers are **prohibited** from making their employees contribute to the cost of providing workers' compensation coverage.

All employers must provide the WC Division with evidence of compliance with the WCA's coverage requirements upon request.

SELF-INSURANCE

A self-insured employer (or group of employers) uses its own assets, rather than an insurance policy, to insure against its obligations under the WCA.

To become self-insured in Iowa, employers must submit an application to the [Iowa Insurance Division](#) for approval. The insurance commissioner may require proof of financial solvency or a deposit of security before approving a self-insurance plan.

All self-insured employers must designate at least one person who is knowledgeable about workers' compensation to handle the employer's (or group of employers') claims in the state. Employers must provide the WC Division with the designated person's name, address and phone number.

The WCA also grants the WC Division the power to examine or inquire into the affairs of any self-insured employer at any time. Self-insured employers must cooperate and pay any costs associated with the WC Division's inquiries.

ALTERNATIVE SCHEMES OF COVERAGE

An employer that wishes to provide an alternative scheme of insurance to meet the WCA's coverage requirements must first obtain approval from the WC Division. Alternative schemes of insurance must provide benefits that are equal to or greater than the benefits guaranteed under the WCA. Employers **may** require employees to contribute to the cost of providing any benefits that are greater than the benefits guaranteed under the WCA.

The WC Division has the authority to revoke its approval of any alternative scheme of coverage if it finds that the scheme fails to accomplish the purpose of the WCA for any reason.

COVERAGE NONCOMPLIANCE NOTICE

Employers that do not comply with the WCA's coverage requirements must keep a posted sign where employees can easily see it in their workplaces. The sign must read as follows:

NOTICE TO EMPLOYEES

You are hereby notified that the undersigned employer has failed to insure the employer's liability to pay compensation as required by law, and that because of such failure, the employer is liable to the employer's employees in damages for personal injuries sustained by the employer's employees.

Complying with this posting requirement does not, however, relieve an employer from the coverage mandate or any other provision of the WCA. The posting requirement appears to be a vestige of an earlier version of the WCA, which allowed employers and employees to reject the workers' compensation system. That option was repealed in 1970. Under the current WCA, an employer may be charged with a felony for operating a business without coverage. If the employer also fails to post the above notice while operating its business without coverage, the employer may be charged with a misdemeanor as well. Therefore, posting this notice generally only serves to eliminate the lesser of the two criminal charges an employer may face for failing to provide coverage.

COVERED EMPLOYEES

The WCA requires coverage for all employees. For this purpose, the law defines an employee as a person who has entered into the employment of, or works under a contract of service or apprenticeship for, an employer. Employment may be expressed or implied. The WCA lists specific individuals who are covered and others who are excluded from coverage. The following chart provides a general overview of these provisions.

COVERED	NOT COVERED
<ul style="list-style-type: none">• Minors (regardless of whether their employment is legal);• Inmates;• Emergency medical care providers;• Real estate agents who are not independent contractors;• Students participating in school-to-work programs; and• Corporate officers (unless they reject coverage by providing written notice to the Division).	<ul style="list-style-type: none">• Domestic workers who earned less than \$1,500 during the 12 months before an injury;• Casual workers who earned less than \$1,500 during the 12 months before an injury;• Agricultural workers whose employers had cash payrolls of less than \$2,500 in the year before an injury;• Immediate family members of any agricultural employer;• Independent contractors; and• Vehicle owner-operators who meet specific requirements showing that they are independent contractors.

COVERAGE ELECTIONS, NONELECTIONS AND REJECTIONS

Certain individuals must elect coverage before they may be considered covered employees under the WCA. These include:

- Sole proprietors;
- Members of a limited liability company (LLC);
- Partners of an LLC; and •Partners of a partnership.

Traditionally, the WC Division assumed that corporate officers who file a notice of coverage rejection and proprietors, partners, and LLC members or partners who are not included in an employer's policy were not subject to the state's workers' compensation laws for the entire policy period. However, changes in Iowa's workers' compensation laws that went into effect in 2015 require proprietors, partners, and LLC members or partners to file a notice of nonelection with the WC Division. The 2015 changes also clarified the status of corporate officers who terminate prior rejections.

PROPRIETORS, PARTNERS, LLC MEMBERS AND LLC PARTNERS

Proprietors, partners, LLC members and LLC partners are **not** considered employees for purposes of workers' compensation coverage unless they **elect coverage** under an employer's policy. They may only do so if they are substantially and actively engaged in the employer's business on a full-time basis. These individuals may elect coverage by:

- Purchasing a valid workers' compensation insurance policy that specifically includes them; and
- Filing the policy with the DWC.

Effective July 1, 2015, proprietors, partners and LLC members who do **not** elect to be covered must also file a [nonelection notice](#) with the DWC. If the employer has a workers' compensation policy, the nonelection notice may be attached to the policy that the employer files. If the employer does **not** have a workers' compensation policy, the nonelection notice must be signed by **two disinterested witnesses** who are not affiliated with the employer. The following additional rules also apply:

- A nonelection may be terminated by filing a notice of termination;
- A one-week waiting period applies for any coverage elected after a termination of nonelection; and
- A nonelection is not enforceable if it is required as a condition of employment.

Proprietors, partners, LLC members and LLC partners who have filed a nonelection notice may **terminate the nonelection** by filing a written termination of nonelection at any time. Once they do so, they are restored to the same status as if they had never rejected coverage (that is, they may elect coverage by purchasing and filing a policy that specifically includes them). However, policies are not effective for injuries or diseases that occur **within a week** after the termination was filed.

Corporate officers were already required to file rejection notices if they did not want coverage and to file termination notices to gain coverage after previously rejecting it. However, under the changes that became effective in 2015, corporate officers now have a one-week waiting period for coverage after they file a rejection termination.

CORPORATE OFFICERS

Corporate officers are generally considered employees for purposes of workers' compensation coverage. **Up to four** officers per corporation (except family farms) may **reject** coverage, as long as the rejection is done knowingly and voluntarily. Only corporate presidents, vice presidents, secretaries and treasurers may reject coverage.

Coverage rejection is accomplished by attaching a signed, written rejection to the proof of workers' compensation coverage that the corporation files with the DWC. The rejection must be signed by **two disinterested witnesses** who are not affiliated with the corporation.

Corporate officers who have rejected coverage may **terminate the rejection** by filing a written notice of termination with the DWC at any time. Once a written notice of termination is filed, corporate officers are restored to the same status as if they had never rejected coverage (that is, they are covered under the employer's workers' compensation policy), except that the employer's policy will not cover any injuries or diseases that occur **within a week** of the rejection termination being filed.

INJURY REPORTING REQUIREMENTS

For more serious injury claims, employers must file a First Report of Injury or Illness (FROI) form with the Division. The WCA requires this report regardless of whether the employer questions the compensability of a claim. This form must be filed electronically.

Employers must file an FROI whenever an employee alleges a work-related injury or disease that results in:

- Disability from work for more than three days;
- Permanent disability; or
- Death.

The FROI must be filed **within four days** after:

- The employee's third day of incapacity or
- The date the employer obtained notice or knowledge of the claimed injury and the extent of disability.

RECORDKEEPING REQUIREMENTS

The WCA grants the Division the authority to inspect employers' books, records and payrolls at any time. The Division conducts inspections to determine the employer's wage expenditures, number of employees and any other information that may be necessary for administering the WCA. Employers are required to keep these records open and available for the Division's inspection at all times.

Employers must also keep a record of all injuries that any employee claims are work-related and resulted in the employee's incapacity from work for more than one day. This record must be available for inspection upon the Division's request.

PROVIDING MEDICAL CARE

Employers must provide prompt medical care that is reasonably suited to treat employees' work-related conditions. The WCA grants employers the right to choose the medical provider and direct the care for an injured employee.

However, injured employees may request an alternative provider if they are dissatisfied with the medical care provided by their employers. These requests must be submitted in writing to the Division for approval. In addition, an employee may choose his or her own provider for an emergency if the employer cannot be immediately reached. Employers must pay medical expenses directly to medical care providers.

WEEKLY BENEFIT PAYMENTS

Employers must perform reasonable investigations into whether benefits are owed to employees who report work-related conditions. If an employer was required to file a FROI and does not have a reasonable basis to deny a claim, the employer must begin paying weekly benefits to the employee and file a **Subsequent Report of Injury (SROI)** form with the Division.

If an employer does not deny a claim, it must:	<ul style="list-style-type: none">• Make an initial payment of weekly compensation benefits to the employee within 11 days after the first day the employee was disabled from work due to the injury; and• Notify the Division of the initial payment by filing an SROI within 30 days after making the payment.
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After the employer commences weekly benefit payments, it must either:

- Continue the weekly payments until the employee returns to the pre-injury work; or
- Provide the employee with **30 days' notice** of its intent to terminate or change the payments. This notice must state the reason for the termination or change and advise the employee of his or her right to file a claim with the Division. The employer must also file a SROI with the Division to notify it of any termination or change of benefit payments.

SUITABLE WORK OFFERS FOR TEMPORARY DISABILITY

An employer can avoid or reduce its liability for temporary disability or healing period benefits by offering suitable work to employees who are temporarily disabled due to work injuries. If an injured employee refuses his or her employer's offer of suitable work, he or she forfeits the right to receive any temporary disability or healing period benefits during the period of refusal.

Previously, the WCA did not indicate exactly how a suitable offer must be made in order for this provision to apply. However, effective July 1, 2017, the law specifies that employers must make offers of suitable work **in writing**. A written offer of suitable work must include details of any lodging, meals and transportation associated with the work offered. It must also communicate to the employee that:

- If the employee refuses the offer of temporary work, the employee must make the refusal in writing and provide the reason for the refusal in writing as well; and
- Unless the work refused is not suitable, the employee will not receive any temporary partial, temporary total or healing period benefits during the period of the refusal.

In addition, the DWC will presume that an offer of work is geographically suitable even when the employee's duties involve travel away from the employer's principal place of business or established place of operation for more than 50 percent of the time if the employee has previously worked at the principal place of business or established place of operation.

FULL WAGES FOR MEDICAL CARE OR EXAMS

Under certain circumstances, the WCA requires employers to pay an employee's full wages (after making any applicable deductions) for time the employee spends away from work for medical care or examinations. This is required for employees that:

- Have missed at least three days of work or sustained a permanent partial disability due to a work-related injury or disease;
- Have returned to the pre-injury work; and
- Are not receiving any weekly workers' compensation benefits.

These payments are considered wages rather than workers' compensation benefits. Therefore, the employer (rather than its insurance carrier, if any) is solely responsible for the payments, and the amounts paid may not be used as a credit against any workers' compensation benefits.

CLAIM DENIALS

Employers may not delay or deny benefits payments without a "reasonable or probable cause or excuse." The Division may assess penalties if an employer cannot show that it had a reasonable excuse that was known before, and that actually constituted the basis for, any delayed benefits payments or claim denials.

<p>To deny a claim, an employer must:</p>	<ul style="list-style-type: none"> • Send a letter to the employee stating the reasons for the denial; and • Notify the Division of the denial by filing a SROI form.
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In addition, the employer must provide the Division and the employee with **medical records**, along with a [Medical Report Transmittal form](#), to support a denial when:

- The claimed temporary disability benefits exceed 13 weeks; or
- The claim involves permanent disability.

ADDITIONAL RESPONSIBILITIES

The WCA establishes various additional requirements. Among these, employers must:

- Use the [Electronic Data Interchange](#) system for filing all FROIs and SROIs with the Division.
- File an annual report (using the SROI) with the Division for any claim that is open on June 30 each year. This report must show all benefits paid since the claim was initiated through June 30 of the year the report is filed.
- File a final report (using the SROI) with the Division anytime a claim is closed. The final report indicates that no further benefits are contemplated. The employer must also send a copy of the final report to the employee's last known address.
- Release all medical information that is accessible to the employer relative to an employee's claim, if the employee requests it.
- Provide a statement of an employee's earnings for the year before the employee's claimed injury, if the employee requests it.
- Pay interest (10 percent per year) on any weekly benefits that are delayed without reasonable cause. This is payable directly to the employee along with the amount of the delayed benefits.
- Act in good faith in claims processing and all workers' compensation proceedings.
- Notify employees if they are being subjected to noise levels that are capable of producing occupational hearing loss. This notice must be given immediately after the employer becomes aware of the exposure. The WCA does not specify the method for providing this notice.

MORE INFORMATION

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

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