

EMPLOYMENT LAW SUMMARY

Kansas 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 Kansas Workers' Compensation Act (WCA) prescribes employer responsibilities relating to workers' compensation in the state. The [Kansas Workers' Compensation Division](#) (Division) enforces these responsibilities.

EMPLOYERS SUBJECT TO THE WCA

In general, an employer is subject to the WCA if it has at least **one employee** working in Kansas.

However, certain types of employment are exempt from the law. Specifically, the WCA does **not** apply to private employers in the agricultural industry or employers that:

- Had either no payroll or a total gross annual payroll of **\$20,000 or less** for all employees (excluding employees who are immediate family members of an employer that is a sole proprietor or partnership) during the prior calendar year; and
- Can reasonably estimate that their payroll will not exceed \$20,000 in the current year.

In addition, an employer may be exempt from the WCA if it has no employees other than:

- The individual employer or self-employed person;
- Members of a limited liability company (LLC); or
- Partners of a partnership.

If an employer is exempt from the WCA for any of these reasons, it may elect to become subject to the law by providing workers' compensation coverage and filing a written statement of the election with the Division.

COVERAGE REQUIREMENTS

Employers subject to the WCA must secure their ability to pay workers' compensation benefits to and for any employee who is injured on the job.

To meet this requirement, an employer may either:

- Purchase an insurance policy from an insurance carrier that is authorized to provide workers' compensation insurance in Kansas;
- Obtain the WC Division's approval to self-insure its workers' compensation liabilities; or
- Form or become a member of a qualified group-funded workers' compensation pool.

Regardless of the coverage method used, employers must pay the full cost of providing workers' compensation coverage. The WCA prohibits employers from requiring or allowing their employees to pay any portion of their coverage costs.

INSURANCE POLICIES

When an employer covers its workers' compensation liabilities through an insurance policy, the issuing insurance carrier becomes responsible for paying benefits to and for employees who sustain work-related injuries or diseases. The insurance carrier is also responsible for filing most reports required under the WCA. For example, insurance carriers must report an employer's coverage to the WC Division within 10 days after it issues a policy.

Optional Deductibles

The WCA allows insurance carriers to offer employers the option of including deductibles in their workers' compensation insurance policies. This provides employers with an opportunity to control their workers' compensation premium rates in exchange for paying a portion of each work-related injury claim out of pocket.

When an employer's policy includes a deductible and an employee has a workers' compensation claim, the insurance carrier must pay the full amount of any benefits payable to or for the injured employee and then seek reimbursement of the deductible amount from the employer. To ensure this reimbursement, insurance carriers may require an employer to provide adequate security before offering a policy with a deductible option.

SELF-INSURANCE

A self-insured employer uses its assets, rather than an insurance policy, to insure against its obligations under the WCA. A self-insured employer is responsible for paying benefits to and for their injured employees, as well as for administering its employees' claims and filing all required reports with the WC Division.

Employers that wish to self-insure must apply for and obtain a permit from the WC Division. To be eligible for a self-insurance permit, an employer must, at minimum:

- Have been in continuous operation for at least five years before submitting its application; and
- Prove that it has the financial ability to pay any workers' compensation claims.

Once granted, an employer's self-insurance permit remains in effect for one year. To renew a self-insurance permit, an employer must submit an application for renewal, along with a report verifying its continuing ability to pay workers' compensation benefits. Renewal applications must be submitted within the 45 days prior to the anniversary date of the employer's original permit. If an employer obtains an insurance policy instead of renewing its self-insurance permit, the employer must file notice of the coverage with the WC Division within 10 days after the change becomes effective.

Self-insured employers must also pay annual assessments to Kansas' Workers' Compensation Fund. This fund exists to pay workers' compensation benefits to eligible employees when self-insured employers become insolvent. The Kansas Commissioner of Insurance sends notice of these assessments annually on June 1. Self-insured employers must pay their annual assessment by July 1 each year.

GROUP-FUNDED WORKERS' COMPENSATION POOLS

The WCA allows certain groups of employers to pool their resources and liabilities to self-insure as a group. These groups must apply for, and obtain, a certificate of authority to operate a group-funded workers' compensation pool from the [Kansas Department of Insurance](#) (KDOI).

To qualify for a certificate, a group must consist of at least five employers that are:

- Members of the same bona fide trade, merchant or professional association which has been in existence for at least five years; and
- Engaged in the same, similar or closely related type of business.

Groups of employers that are engaged in dissimilar types of businesses may also qualify if the KDOI determines that it can make an accurate prediction of the group's losses.

Along with other requirements, a group as a whole must also have:

- A combined net worth of at least \$1,000,000;
- An address where the books and records of the pool will be maintained at all times; and
- Procedures to provide claims adjusting and reporting of loss data.

Once a pool has been established, employers that wish to join the pool must submit an application to the pool's administrator or board of trustees. The administrator or board of trustees may approve the employer for membership pursuant to the pool's bylaws. Although both the application for membership and the pool's approval must be filed with the KDOI, a new employer's membership in a pool becomes effective as soon as the pool's administrator or board of trustees grants approval.

NOTICE POSTING REQUIREMENT

All employers that are subject to the WCA must post a [notice](#) regarding the WCA in one or more locations where employees can see it in their workplaces. The required notice provides information regarding how employees must report any injuries and the benefits available to injured employees under the WCA.

INJURY REPORTING REQUIREMENTS

As soon as an employer learns of an employee's injury, the employer must give the employee a copy of Form K-WC 27-A. This form explains the claims process under the WCA and provides information about the employer's workers' compensation coverage.

In addition, an employer must ensure that each work-related injury is reported to the WC Division within 28 days after the employer first obtained knowledge of it. This requirement applies any time an injury causes an employee to miss work for more than the remainder of the day on which he or she sustained the injury. Workers' compensation insurance carriers, group-funded pools and self-insured employers must use the Kansas [Electronic Data Interchange](#) to file this and other reports required under the WCA.

CLAIM PAYMENT AND REPORTING REQUIREMENTS

When an employer is subject to the WCA, it is obligated to pay workers' compensation benefits to and for any employees who sustain work-related injuries, even if the employer does not provide workers' compensation coverage as required under the law. Employers must also ensure that certain reports are filed with the WC Division during the process of administering their employees' claims.

For employers that comply with the WCA's coverage requirements through an insurance policy or membership in a group-funded workers' compensation pool, the insurance carrier or group-funded pool takes responsibility for these tasks, and covered employers must cooperate in these efforts. Self-insured employers must pay benefits and administer claims themselves, though they may use a third party administrator to perform these obligations.

MORE INFORMATION

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

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