

EMPLOYMENT LAW SUMMARY

New Jersey: Workers' Compensation – Employee Eligibility



Because You're Different

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

In New Jersey, the Workers' Compensation Act (WCA) establishes eligibility requirements for employees in the state. The New Jersey [Division of Workers' Compensation](#) (DWC), part of the New Jersey Department of Labor, enforces compliance with these requirements.

To meet the basic eligibility requirements for workers' compensation benefits, an employee must be covered under the WCA and sustain a compensable condition.

COVERED EMPLOYEES

Most employees are covered under New Jersey's workers' compensation laws. In general, covered employees include all individuals, including minors, who perform service for an employer for pay.

The law's definition of an employer includes individuals, partnerships, corporations and any other entity that has **at least one employee**.

EXCEPTIONS

Despite the broad definitions of "employee" and "employer," certain individuals are **not** covered employees unless the employer elects to include them under its policy when it purchases or renews workers' compensation coverage. These include:

- Self-employed individuals;
- Corporate officers;
- Partners of a limited liability partnership; and
- Members of a limited liability company.
- In addition, the law specifically excludes the following from coverage:
 - Employees who are covered under the federal Longshore and Harbor Workers' Compensation Act; and
 - Casual employees, defined as those whose employment either arises by chance or is not regular, periodic or recurring (depending on whether the employment is in connection with the employer's business).

COMPENSABLE CONDITIONS

Compensable conditions include traumatic injuries and occupational diseases that arise out of and in the course of employment.

An **injury** is compensable if it is the result of an accident that occurs at the workplace or elsewhere while the employee is engaged in the direct performance of duties assigned or directed by the employer.

Under an amendment ([SB 771](#)) that went into effect on **Jan. 10, 2022**, this includes an injury sustained when an employee is traveling in a ridesharing arrangement between the employee's place of residence or nearby terminal and the workplace, if either:

- The vehicle used in the ridesharing arrangement is owned, leased or contracted for by the employer; or
- The employer requires the employee to travel in a ridesharing arrangement as a condition of employment.

An **occupational disease** is compensable if work conditions that are characteristic of or peculiar to the employee's particular trade, occupation, process or place of employment were a material cause. Occupational diseases include deterioration of tissue, organs or body parts, unless the deterioration or condition is due to the natural aging process.

Special rules apply for determining compensability of cardiovascular or cerebrovascular conditions and hearing loss.

DISQUALIFICATION FROM BENEFITS

A covered employee who has a compensable condition may be disqualified from receiving workers' compensation benefits for various reasons. In particular, disqualification may occur if a condition results from an employee's:

- Intentional self-infliction;
- Horseplay or skylarking; or
- Intoxication or unlawful use of controlled substances.

An employee may also be disqualified if his or her condition results from a willful failure to use personal protective equipment provided by the employer. For this to apply, the employer must show that it required the equipment use and enforced the requirement uniformly and consistently. However, an employee will not be disqualified if the failure to use protective equipment was because of imminent danger or the need for immediate action.

ADDITIONAL EMPLOYEE RESPONSIBILITIES

The WCA sets additional expectations and responsibilities for employees. Failing to satisfy these may cause an individual to lose (in whole or in part) any benefits he or she may otherwise be entitled to receive. Among these duties, employees are expected to:

- Inform a supervisor or manager of any injury or other work-related condition as soon as possible (generally **within 14 days**, although this may be extended to 30 or 90 days under certain circumstances);
- Report for treatment at a health care provider approved by the employer (exceptions apply if the employee requires urgent care or if the employer refuses or neglects to provide medical care);
- Follow any employer instructions on how and when to contact the employer's insurance carrier; and
- Follow all instructions received by a qualified and authorized health care provider (including treatment and work restrictions) and
- File a claim petition with the DWC **within two years** after an injury or first becoming aware of an occupational disease.

MORE INFORMATION

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

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