

EMPLOYMENT LAW SUMMARY

Rhode Island Workers' Compensation – Employer Responsibilities



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 [Rhode Island Workers' Compensation Act](#) (WCA) establishes employer responsibilities relating to workers' compensation in the state. The Rhode Island Department of Labor and Training (RIDLT) administers the workers' compensation system and enforces employer responsibilities under the WCA.

Employers subject to the WCA

In general, an employer is subject to the WCA if it has **one or more employees** working in Rhode Island. Under the WCA, the term "employee" includes any person who has entered into the employment of or works under contract of service or apprenticeship with any employer.

An "employer" includes any person, partnership, corporation or voluntary association that regularly employs another in the same business, or in or about the same establishment under any contract of hire.

Employment contracts may be express or implied. Most governmental entities in the state are also subject to the WCA.

Agricultural Exemption

Agricultural employers in Rhode Island are subject to the WCA only if they employ **25 or more** agricultural employees for **13 consecutive weeks**. An agricultural employer that meets these thresholds may still be exempt from the WCA if it maintains health and disability insurance for all of its agricultural employees.

Other Exemptions

Under the WCA, certain individuals are **not** considered employees for purposes of determining whether their employer is subject to the law in relation to them. Specifically, the following are **excluded** from the WCA's definition of **employee**:

- Domestic servants;
- Sole proprietors;
- Independent contractors;
- Workers whose employment is casual and not in the employer's trade or business;
- Individuals whose services are voluntary or who perform charitable acts; and
- Certain real estate salespeople.

The following individuals are also excluded, but only if they are not otherwise employed to perform services for the specified entities:

- Shareholders and directors of a corporation;
- Partners of a partnership; and
- Members of a limited liability company.

Elective Coverage

An employer that is exempt from the WCA may voluntarily become subject to the law. To make this election, an employer must comply with the WCA's coverage requirements for its otherwise exempt employees and file a written statement with the RIDLT indicating that it accepts the provisions of the WCA.

COVERAGE REQUIREMENTS

An employer's primary responsibility under the WCA is to secure its ability to pay all benefits to or for any employees who sustain work-related conditions. An employer may satisfy the coverage requirement by either:

- Purchasing a workers' compensation insurance policy from an authorized insurance carrier; or
- Obtaining the RIDLT's authorization to self-insure, either individually or as part of a group.
- Employers also have the option to use an alternative scheme of coverage if they meet certain requirements.
- In general, employees may **not** waive their right to receive coverage or benefits under the WCA.

INSURANCE POLICIES

Under a workers' compensation insurance policy, the issuing carrier becomes responsible for administering claims and paying all WCA benefits for the insured employer. This obligation continues throughout the policy period, even if the employer does not make premium payments after an employee's injury. Insured employers must cooperate with their insurance carriers to ensure compliance with the law at all times.

Within **five days** after issuing a policy, an insurance carrier must send notice of the insured employer's coverage to the RIDLT.

Insurance carriers may require insured employers to include a \$250 deductible for medical expenses and a \$250 deductible for weekly WCA benefits in their policies. If either or both deductibles apply, an insurance carrier is still responsible for paying the benefits to or for an injured employee. However, carriers may subsequently charge the deductible amount to the employer. The WCA allows carriers to cancel coverage policies for any employers that fail to reimburse their carriers for a deductible amount.

SELF-INSURANCE

A self-insured employer uses its own assets, rather than an insurance policy, to secure its ability to pay benefits under the WCA. An employer that wishes to self-insure must:

- Submit an [application](#) for self-insurance;
- Provide supporting documentation for self-insurance (as required by the RIDLT);
- Pay an application fee. The amount of the fee ranges between \$300 and \$500 depending on how many employees the employer has in the state;
- Prove it has the financial ability to pay all WCA benefits;
- Deposit security of at least \$500,000;
- Have a specific excess insurance policy with a coverage limit of at least \$10 million; and
- Designate a state-licensed adjuster or a RIDLT-certified individual to administer its WCA claims.

If the RIDLT approves an application for self-insurance, it will issue a certificate that authorizes the employer to self-insure for up to one year. Self-insured employers must submit annual renewal applications at least **60 days** before a current certificate expires.

In addition, all self-insured employers must designate either an adjuster who is licensed in Rhode Island or an individual who is certified by the RIDLT to administer and pay the employer's WCA claims. Self-insured employers must also pay annual assessments to a state fund used to pay the RIDLT's operating costs.

ALTERNATIVE COVERAGE SCHEMES

An employer that wishes to provide workers' compensation coverage under an alternative scheme must first obtain approval from the RIDLT. To be approved, an alternative scheme must, at minimum, 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 only those benefits that are greater than the benefits guaranteed under the WCA.

If the RIDLT approves a scheme, it will issue a certificate that authorizes the employer to contract with any or all of its employees to use the substitute scheme for up to five years.

NOTICE AND POSTING REQUIREMENTS

All employers subject to the WCA must display a WCA [notice](#) in conspicuous locations within their employees' workplaces.

Employers are also required to provide a written WCA notice to prospective employees when they apply for employment. This notice must indicate that the employer is either subject to or exempt from the WCA. If the employer is exempt, the notice must specify reason for the exemption.

Employers must include this information on every written employment application or provide it to each applicant in a written document.

INJURY REPORTING

Employers must report all work-related injuries directly to their insurance carriers or claims administrators. Carriers and administrators then become responsible for filing a First Report of Injury with the RIDLT through the [electronic filing system](#). The RIDLT requires a First Report of Injury to be filed for any work-related injury that:

- Requires medical treatment;
- Results in the employee's incapacity from earning full wages for at least **three days**; or
- Results in the employee's death.

If an injury is fatal, the report must be filed with the RIDLT within **48 hours** after the death or the employer's first knowledge of the death. If an injury is **not** fatal, the report must be filed within **10 days** after the injury or within **10 days** after the employer first obtained knowledge of the employee's incapacity.

MEDICAL CARE

Employers must promptly provide all reasonable medical care necessary to cure, rehabilitate or relieve an employee from the effects of a work-related injury.

An injured employee has the right to choose any qualified physician to administer the treatment. An employee makes this selection by obtaining the initial treatment for an injury. However, treatment rendered on an emergency basis or by a physician that contracts with the employer to provide priority care does not constitute an employee's selection.

After an employee obtains the initial treatment, the physician is required to provide:

- A [Notification of Compensable Injury](#) form to the employer (physicians may charge an employer \$20 for this as long as they provide it within three days); and
- A written notice to the employer or its insurance carrier indicating that the employee has selected him or her as the treating physician (within 15 days).

Employers must pay medical expenses within **21 days** after they receive a bill and any documentation they may require to determine compensability from a medical provider.

PAYING BENEFITS

If an employee has been incapacitated from work for **more than three days** as the result of a work-related condition, the employer must accept the claim, reserve the right to dispute the claim or deny the claim. The table below explains the process employers must use to select one of these options.

Accept the claim	<ul style="list-style-type: none">• Start paying weekly benefit payments to the employee;• File a Memorandum of Agreement with the RIDLT; and
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	<ul style="list-style-type: none"> • Provide a copy to the employee by certified mail within 10 days after making the first payment.
Reserve the right to dispute the claim	<ul style="list-style-type: none"> • Start paying weekly benefit payments to the employee; • File a Non-prejudicial Memorandum of Agreement (created by specifically designating on a Memorandum of Agreement form that the agreement is "non-prejudicial" or "without prejudice") with the RIDLT; and • Provide a copy to the employee by certified mail within 10 days after making the first payment.
Deny the claim	<ul style="list-style-type: none"> • Provide written notice to the employee (no specific form required); and • File a denial through the RIDLT's electronic filing system.

A Memorandum of Agreement filed with the RIDLT becomes binding on the employer that files it.

An employer may be allowed to terminate weekly benefits for an employee if it files a Non-prejudicial Memorandum of Agreement with the RIDLT. The right to dispute the claim is good for **up to 13 weeks**. To terminate benefits for an employee in these circumstances, an employer must notify the employee of the termination and of his or her rights to file a petition with the RIDLT against the employer.

If an employer that begins paying weekly WCA benefits to an employee does **not** file either a Memorandum of Agreement or a Non-prejudicial Memorandum of Agreement with the RIDLT, the payments constitute a conclusive admission of liability for the claim. In addition, the employer is not entitled to any credit for the payments in the event that the RIDLT formally awards WCA benefits to the employee.

REINSTATEMENT

An employee who has a compensable injury is entitled to be reinstated his or her former position with the employer. Employees must make this request from their employers in writing. An employer's obligation to reinstate an employee applies if:

1. The position exists and is available; and
2. The employee is not disabled from performing the job duties with reasonable accommodation.

For this purpose, an employee's former position is "available" even if it has been filled by a replacement while the employee was absent because of a compensable injury. If an employee's former position is not available, the employer must reinstate the employee in any other existing position that is vacant and suitable.

The right to reinstatement does **not** apply if the employer had **nine or fewer employees** at the time of the employee's injury. In addition, the reinstatement right does **not** apply for any employee that:

1. Was hired on a temporary basis;
2. Was employed in a seasonal occupation;
3. Worked out of a hiring hall operated under a collective bargaining agreement; or
4. Is on a probationary period of less than 91 days.

HEALTH INSURANCE CONTINUATION

Under certain circumstances, the WCA may require an employer to continue an injured employee's health care coverage under its group health plan. This obligation applies for any employee who receives weekly WCA benefits pursuant to:

1. An RIDLT preliminary determination;
2. A WC Court decision; or
3. A Memorandum of Agreement.

However, the health-coverage continuation requirement does **not** apply if an employee:

1. Has accepted suitable alternative employment;
2. Fails to pay any contribution toward the health coverage that he or she was required to pay prior to the injury;
3. Becomes entitled to WCA payments under a commutation or a structured settlement; or
4. Is a beneficiary of an equivalent health insurance policy of his or her spouse.

Certain employers in the construction industry may be exempt from the health coverage continuation requirement as well.

If an employer is required, but fails, to continue an employee's health coverage, the RIDLT may order the employer to pay any medical costs incurred by the employee that would have otherwise been paid by the health plan.

MORE INFORMATION

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

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