A Guide to Workers’ Compensation in New Mexico

NEW MEXICO WORKERS’ COMPENSATION ADMINISTRATION
STATE HEADQUARTERS
Mailing Address: Workers’ Compensation Administration
PO Box 27198
Albuquerque NM 87125-7198
Location: 2410 Centre Avenue SE
(near Yale-Gibson intersection)
In-state toll-free phone: 1-800-255-7965
Local phone 841-6000

REGIONAL OFFICES
Call the nearest regional office to reach the Ombudsman and Safety programs, and for forms and publications.
Southeastern regional office at Lovington:
100 West Central, Lovington, NM 88260
Telephone: 575-396-3437
In-state toll-free phone: 1-800-934-2450

Southwestern regional office at Las Cruces:
1120 Commerce Dr, Suite B-1,
Las Cruces, NM 88011
Telephone: 575-524-6246
In-state toll-free phone: 1-800-870-6826

Northwestern regional office at Farmington:
3535 East 30th Street, Farmington, NM 87401
Telephone: 505-599-9746
In-state toll-free phone: 1-800-568-7310

Northeastern regional office at Las Vegas:
32 NM 65, Las Vegas, NM 87701
Telephone: 505-454-9251
In-state toll-free phone: 1-800-281-7889

Roswell Office:
Penn Plaza Building,
400 N. Pennsylvannia Ave, Ste. 425
Roswell, NM 88201
Telephone: 575-623-3997
In-state toll-free phone: 1-866-311-8587

Santa Fe Office:
810 West San Mateo, Suite A-2,
Santa Fe, NM  87505
Telephone: 505-476-7381

Internet web site address:
http://www.workerscomp.state.nm.us
HELP & HOTLINE:
1-866-WORKOMP / 1-866-967-5667
the losses caused by on-the-job accidents and job-related illnesses.

A key objective of the WCA is to educate employers and their workers on best practices for on-the-job safety and accident prevention in order to promote work place safety. Accident prevention is the key to protecting employees. But accidents do happen and should a disabling injury occur the workers’ compensation system is designed to address the injured worker’s immediate needs for medical care and benefits promptly.

At the WCA, our mission is: To assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers.

What is Workers’ Compensation?

The workers’ compensation system provides a standardized solution to a common problem: what to do when a worker is injured at work.

Under workers’ compensation law, when a worker is injured on the job or becomes ill as a result of conditions at work, the employer through insurance pays the medical bills and provides partial wage support to that worker.

Workers’ compensation law eliminates uncertainty by providing that the worker receives necessary care quickly in almost all cases where the law applies. In return, the employer is protected against tort liability.

The worker accepts limits on the amount of money he can recover from any injury - no matter how serious or who was at fault - in return for the guarantee of prompt necessary care. Through the “exclusive remedy” doctrine, the worker’s recovery is limited to workers’ compensation. The worker is barred from suing the employer in tort for an accidental work-related injury.

The employer takes on many responsibilities under the workers’ compensation system. The employer is financially responsible in almost every work-related accident covered by the law, under the “no fault” doctrine. The employer also accepts responsibility for providing a safe workplace to prevent accidents.

Employers are encouraged to provide safe workplaces to protect workers and save money through reduced insurance premiums. Workers are encouraged to work safely and avoid injuries.
the mediation process. Filed with the WCA are settled through the parties involved. Most complaints save time, money and emotional stress for all compensation law. Mediation can save professionally trained in workers' law judge can be scheduled. Dispute Resolution / Adjudication

Workers’ Compensation

The WCA has its own administrative court with administrative law judges to hear disputed claims.

In a complaint concerning benefits, the parties are required by law to have a mediation conference first. If the mediation does not settle the dispute, a formal trial before a WCA administrative law judge can be scheduled.

Mediators are licensed attorneys professionally trained in workers’ compensation law. Mediation can save time, money and emotional stress for all the parties involved. Most complaints filed with the WCA are settled through the mediation process.

If the parties come to an agreement the mediator writes up their agreement and both parties formally accept the agreement. If the parties do not reach an agreement at the conference, the mediator writes a recommended resolution consisting of the mediator’s proposal of how the parties could resolve the case, based on the facts and the workers’ compensation law.

In either case, the mediator will present a recommended resolution. Each party can decide to accept or reject the recommended resolution. If both parties accept it, it becomes a binding legal order. If it is not accepted the claim is scheduled for a hearing before a workers’ compensation judge.

The WCA maintains balance in the workers’ compensation system to assure the timely delivery of benefits to injured workers at a reasonable cost to employers.

Most employers are required by law to have workers’ compensation coverage through a New Mexico insurance policy or a New Mexico certified self-insurance program.

New Mexico is a private insurance state. Coverage is purchased from private insurance carriers or authorized self-insurance groups through insurance agents. A business may self insure with the approval of the WCA.

Employers’ Responsibilities
You are required to post the Workers’ Compensation Act poster where employees will have access to it.

The posters and Notice of Accident forms are provided free by the WCA and are available online at the WCA website.

You must:

♦ fill in the blank information on the poster, giving the name of the in-state insurance carrier contact for workers’ compensation claims and an in-state telephone number.

♦ provide a supply of Notice of Accident forms or on adjacent to the poster.

Employers are required to accept Notice of Accident forms as the preferred method for a worker to notify you that an accident has occurred. You or a designated person (supervisor or human resources officer) should:

♦ sign and date the form.

♦ keep a copy and give a signed and dated copy back to the worker.

♦ You may not impose other methods of notification as mandatory except with the approval of the Director of the WCA.

♦ You may also be considered to have actual notice of an accident in other ways (for example, if you witness the accident).

Workers’ Compensation Fee
You must pay the quarterly workers’ compensation assessment fee. This quarterly fee supports the operations of the WCA, which provides a number of services that help reduce your insurance costs.

The fee is paid to the state, and is not your insurance payment.

Enforcement
If you don’t have coverage, and you are required by law to have it, the WCA will take steps to enforce coverage or have your business closed. If your employee is injured while you are illegally without coverage, you can be held financially responsible, through the Uninsured Employer’s Fund, for the entire cost of the claim plus a substantial penalty.

Information and Assistance
Ombudsman Program – information and guidance provided by agency specialists to workers and others
Website: www.workerscomp.state.nm.us

HELPLINE / HOTLINE: 1-866-WORKOMP / 1-866-967-5667

Publications:
Guidebooks for Workers, Employers and Healthcare providers
Stay at Work / Return to Work Pamphlet
WCA Poster
Notice of Accident Forms
Seminars, presentations to groups, Safety Assistance to employers
Statistics and Annual Report

Workers’ Compensation is a compromise between workers and employers, is a system of insurance that protects workers and employers from some of the losses caused by on-the-job accidents and job-related illnesses.

The ombudsman program at the WCA is a way of providing a neutral source of information for workers, employers and any other party. This service is free of charge.

The ombudsmen are specialists in the area of workers’ compensation claims and can explain how the system works. The ombudsmen can also help to resolve many kinds of disputes.

Usually you can speak to an ombudsman on the telephone. You don’t have to come in person. Ombudsmen are on staff at all WCA offices. You can call the office most convenient to you. Some ombudsmen are bilingual in English and Spanish. If help is needed in Spanish, you will be connected to a Spanish speaking ombudsman.

Ombudsmen can explain your rights, responsibilities and options, or they may contact the other party and attempt to resolve your problem. The ombudsmen find that some disputes are really communication problems and can be resolved with a few phone calls.

Ombudsmen are neutral advisors to employers and workers and are not advocates for any party. Occasionally an ombudsman may have to refuse to give you certain advice or opinions. The ombudsman cannot assist any party who is represented by an attorney nor on any claim that is in dispute at the trial level.

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Employers must have Workers’ Compensation Insurance if:

1. You employ 3 or more workers. Only farm and ranch laborers, real estate salespersons and private domestic servants are exempt.

2. You are engaged in activities required to be licensed under the provisions of the Construction Industries Licensing Act, regardless of the number of employees.

Employers who fall under the New Mexico Workers’ Compensation Act are also required to pay a Workers’ Compensation Fee to the Taxation and Revenue Department for each employer/employee at the end of each quarter.

Uninsured Employer Fund
The Uninsured Employer Fund is a program started by law in 2003. This program exists to increase penalties against uninsured employers and provide a temporary source of medical and indemnity benefits for injured workers whose employers were illegally uninsured. Penalties against uninsured employers are designed to be substantial. If you are uninsured and your employee is injured, your employee may apply to the Fund for benefits. If benefits are paid, the WCA will file a civil action against your business to recover all the money paid by the Fund, plus a significant penalty.

Any business that is illegally uninsured will be required to obtain insurance coverage or it may be closed.

Requirements for an annual safety inspection
The workers’ compensation law requires every employer to receive an approved annual safety inspection if the employer has an annual insurance premium with a commercial carrier or group fund of $5,000.00 or more, or is self-insured or a member of a pool.

The safety inspection can be performed by:
- any qualified safety consultant;
- a WCA safety consultant;
- you, through a self-inspection;
- your insurer or self-insurance program.

Your insurer is required by law to provide the safety inspection if you request it.

Safety
The people who work for you are the most valuable assets you have. Whatever you can do to prevent accidents is worth doing. Safety pays on the bottom line.

When accidents happen, you lose the productivity of the injured worker and perhaps that of other employees who are diverted from their work. You incur administrative costs and your insurance premiums can rise. If you have to train replacement employees, you lose the value of all you have invested in the injured worker. Employee morale may suffer.

When accidents are prevented, all these costs are avoided and your organization will improve.

Workers’ compensation helps workers because...
Your employer through insurance pays for your medical care if you are injured at work. Under New Mexico workers’ compensation law, you are entitled to medical care for your work-related injury for the rest of your life if it is found reasonable and necessary.

Depending on your injury, you may temporarily receive money paid directly to you if you lose wages because of the injury.

Workers’ compensation is a “no fault” system. It is designed to provide benefits quickly without any dispute over who or what caused the accident. Workers’ compensation also protects an employee if that employee accidentally contributes to causing an injury to a fellow employee.

Under the workers’ compensation system, both you and your employer have many reasons to work safely and avoid injuries. Your employer will save money by providing a safe workplace. You earn more money working for wages than from workers’ compensation payments.

What workers’ compensation provides:
- Medical care resulting from a work-related injury is paid for at no expense to the worker.
- Temporary indemnity payments if the worker is unable to work and earn a paycheck for more than seven days. These payments will keep the injured worker and the worker’s family minimally financially secure while the worker is unable to work, until the worker’s medical condition becomes stable.
- Payments of money directly to the worker for an extended time or for life if the worker is permanently injured with specific, serious injuries.

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