

Incidents Out of State

Do you know how your workers compensation policy will respond to work-related injuries that occur in other states? Many employers practice diligence in amending the policy when a major job or contract is awarded across state lines. However, what happens if an employee is injured while performing an incidental function in another state?

For example, consider workers that primarily work in one state but live in another. Is it possible that worker could be asked to visit clients that live across state lines or scout for possible expansion opportunities? What if that person is

injured performing work-related activities while at home?

Do employees travel to other states to attend conferences or training programs? If they are injured performing one of those activities, do you know if your workers compensation policy will respond?

Concerned employers should call our service team today. Lack of proper coverage could result in significant expenses for your business. We can help you amend your workers

compensation policy to address both regular and incidental business activities that occur in other states. ■



Interchange of Labor Rules

Are you familiar with your state's interchange of labor rules? They govern how separate classification codes may be used for an individual employee.

Why are these rules important? Consider an employee in the construction industry. The employee's primary function is frame work, which puts that worker at an elevated risk for serious injury. However, the same worker occasionally repairs drywall, which has a much lower risk of serious injury. Some states will allow employers to use separate classification codes for that worker, thus reducing workers compensation premium.

While rules vary by state, there are some common provisions for interchange of labor to reduce premium. For instance, payroll records can allocate an employee's wages among the different classes worked by actual dollar amount, not percentage. An employer can also adjust classifications for the employee to reflect the job performed.

If utilized properly, interchange of labor rules can provide a tremendous advantage to employers looking to save money on workers compensation insurance. For information on doing it right in your state, give our service team a call. ■

Prepare for Audit



Employers unprepared for a workers compensation audit are poorly positioned to dispute additional charges or catch expensive mistakes. Following are a few tips that will help employers prepare the necessary financial information for that next audit encounter.

- **Payroll records.** Auditors want to see everything. Unemployment reports, description of overtime payments, and ledgers are all fair game.
 - **Employee records.** Prepare detailed descriptions of job duties, employee hire and termination dates, and information of class codes designated to specific job functions.
 - **Certificates of insurance.** Make sure they are current for all contractors and entities performing work with you.
 - **Information on cash disbursements.** Prepare information concerning payment to subcontractors, cost of materials and casual labor.
 - **Wrap-up projects.** Payroll for owner-controlled insurance program projects will be checked.
- For more information on preparing for your next workers compensation audit, call our service team today. ■

Fatalities Down

A total of 5,071 fatal work injuries were recorded in the United States in 2008, down from a total of 5,657 fatal work injuries reported for 2007. While the 2008 results are preliminary, this figure represents the smallest annual preliminary total since the Census of Fatal Occupational Injuries (CFOI) program was first conducted in 1992. Final results for 2008 will be released in April 2010.

Based on these preliminary counts, the rate of fatal injury for U.S. workers in 2008 was 3.6 fatal work injuries per 100,000 full-time equivalent (FTE) workers, down from the final rate of 4.0 in 2007.

Here are key findings of the 2008

Census of Fatal Occupational Injuries:

- Fatal work injuries in the private construction sector in 2008 declined by 20% from the updated 2007 total, twice the all-worker decline of 10%.
- Fatal workplace falls, which had risen to a high in 2007, also declined by 20% in 2008.
- The number and rate of fatal work injuries among 16- to 17-year-old workers were higher in 2008.
- Fatal occupational injuries were 17% lower for Hispanic/Latino workers and 16% lower for Black or African American non-Hispanic workers.
- Transportation incidents fell 13% from the previous series low of 2,351 cases reported in 2007. ■

Understanding Who Is an Employee

Workers compensation premium is based in part on the remuneration designated for employees. Additionally, benefits are applicable only to individuals classified as employees by definition. Understanding which individuals are considered “employees” under the terms of the policy is essential to properly constructing workers compensation coverage.

Employee status depends on several factors. One factor is the type of business seeking coverage. If the entity is a corporation, it is important to note that officers are normally considered employees unless exempt by statute or regulatory process. In contrast, sole proprietors and partners of a partnership generally are not considered employees. Members and managers of a limited liability company (LLC) could be either depending on statute.

Workers who perform services by contract could also be considered employees if they breach any of the IRS guidelines for independent contractors



(see www.irs.gov). Workers provided by an employee-leasing firm may also fall under the definition of employee; thus, contractual language designating the party responsible for providing benefits if that worker is injured is essential.

The many factors surrounding employee status cannot be ignored; a properly constructed workers compensation program is essential in preventing penalties from injured workers, violation of statutes and other potential problems.

For a detailed review of your workers compensation program, call our service team today. ■

Establishing WC Remuneration

To adequately determine workers compensation premium, most states subscribe to National Council on Compensation Insurance (NCCI) guidelines on “remuneration.”

Many states that do not subscribe to NCCI use the same or similar standards. Remuneration, according to NCCI, means money or substitutes for money. In addition to ordinary wages or salaries, remuneration includes several other types of compensation including:

- Commissions
- Bonuses
- Extra pay for overtime work (1/3 of gross overtime wages are excludable)

- Pay for holidays, vacations or periods of sickness
- Payment to employees on any basis other than time worked
- Payment or allowance for hand tools
- Value of apartment or housing
- Value of lodging, other than apartment or house
- Value of meals
- Substitutes for money
- Payment for salary reduction, retirement and “cafeteria” (IRC 125) plans
- Davis-Bacon wages paid to employees or placed by an employer into third-party pension trusts
- Annuity plans

- Expense reimbursement to the extent that records do not substantiate the expense as having been incurred as a valid business expense.

NCCI guidelines serve to assist employers in adequately determining workers compensation premium and avoid paying additional funds at the time of audit. However, these are only guidelines; some exceptions may apply. Employers should consult state statutes for exact requirements.

For assistance in determining your state’s workers compensation requirements, call our service team today. ■

Snowplows Are a Friendly Hazard

As business owners send their employees out into the cold for business, the Washington State Department of Transportation offers the following warnings to drivers sharing the road with snowplows.

Snowplows are usually spreading anti-icing materials from the back of the truck and may need to stop or take evasive action to avoid stranded vehicles. If you find yourself behind a snowplow, stay well behind it or use caution when passing. The road behind a snowplow will be safer to drive on.

Don't crowd the plow. Snowplows are wide—sometimes very wide. The front plow extends several feet in front of the truck

and can cross the center line and shoulders during plowing operations.

Plows turn and exit the road frequently. Give them plenty of



room. Stay back at least 15 car lengths (200 feet).

Watch for snowplows operating in the lanes of oncoming traffic. They can represent a hazard to vehicles in cross-traffic as well, so

be alert and give way.

Snowplows can throw up a cloud of snow that can reduce your visibility to zero in less time than you can react. Drive cautiously. Never drive into a snow cloud—it could conceal a snowplow or another road hazard.

A snowplow operator's field of vision is restricted. You may see them, but they may not see you.

Snowplows are a welcome sight when nasty weather affects the roads, but business vehicle accidents are most unwelcome. Encourage your employees to allow themselves enough time to travel safely, and educate them on cautious driving around snowplows. ■

**Thank you for
your referrals.**

If you're pleased with us,
spread the word! We'll be
happy to give the same great
service to all of your friends
and business associates.

Hidden Risks of Undocumented Workers

According to the Center of Immigration Studies, approximately 5% of workers in the U.S. are foreigners working without government approval. In some industries, particularly food service and construction, the percentage is much higher. Many employers are not aware that in most states, if an undocumented immigrant worker is injured on the job, they are entitled to workers compensation benefits.

Unfortunately, many employers do not learn their state law until it's too late. Businesses that hire subcontractors, ready labor or employee leasing companies are at an additional risk of liability. Without proper documentation and risk transfer procedures in place, these firms could become responsible for providing benefits to a leased or contracted worker who is not legally employed.

Our service team can help you determine who has access to your benefits under your state's workers compensation statutes. Call today. ■