

## **WORKERS COMPENSATION PROGRAMS**

Workers compensation programs benefit workers who are injured on the job by providing them with medical expenses and a portion of their wages. Thus, for example, a poultry worker who cuts his hand while trimming the skin and fat from a chicken, the hotel housekeeper who dislocates a disc in her back while changing linens, the landscaper who cuts his finger while pruning bushes would all be eligible for workers' compensation benefits.

Workers hurt while employed by private companies or by state and local government agencies can apply for benefits from their state workers' compensation program. Workers hurt while employed by the federal government must contact DOL's Office of Workers' Compensation.

Employers exclusively bear the cost of workers' compensation insurance. Deductions cannot be taken from an employee's paycheck. If a worker's claim is found to be compensable, his or her employer or employer's insurers would pay his or her weekly benefits and medical bills.

The information set forth below applies to most states. However each state runs its own workers' compensation program and has its own rules. Individuals who need to find out information about the workers' compensation program in their state can call their local workers' compensation office or go to <http://www.Business.gov> for a list of your state's workers compensation office.

### **COVERED WORKERS**

Workers' compensation laws cover "employees." Each State defines "employee" differently. In some states, the term "employee" is defined broadly to include every person in the "service of an employer under any appointment or contract or hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully." California includes "aliens" in its definition of "employee."

In general, workers' compensation programs provide benefits to citizens as well as legal immigrants. However, immigrants who are not eligible to work in the U.S. may or may not be entitled to benefits. You will need to check with a local immigrant advocate group to ascertain how the courts have ruled in your state.

### **COVERED INJURIES**

In general, a worker is eligible for workers' compensation if his work has caused his or her injury or illness. The injury does not have to be someone else's fault; an employee can receive workers' compensation even if his or her own mistake caused the injury. Also, a worker can obtain benefits whether the injury or sickness is temporary or permanent.

In many states for the injury to be covered by workers' compensation it must "arise out of the employment" and must be "in the course of employment." An injury

“arises out of employment” if the conditions under which the work is required to be performed causes the worker’s injury. For instance, if a car wash worker slips and falls on the wet pavement, his injury would “arise out of the employment” because wet pavement is a condition under which the employee performs his job.

An injury is “in the course of employment” when it occurs during the period of time when an employee is at work and performing his job. Thus, in the above example, if the car wash worker’s injury occurred during work hours while he was washing a car, his injury would be “in the course of employment.”

## **BENEFITS**

Each state determines the type and amount of benefits which are payable under workers’ compensation insurance. In addition, each state determines what types of injuries are compensable and which are not.

In general, there are five types of workers’ compensation benefits available depending upon the nature and severity of the worker’s injury; i.e., medical care, temporary disability benefits, permanent disability benefits, vocational rehabilitation services and death and funeral benefits

## **NOTICE TO EMPLOYERS AND FILING PROCEDURES**

Workers should report any accident to their employers immediately. A delay in reporting the injury may affect an injured person’s claim. Once the employer receives notice of the injury he or she assumes responsibility for filling out an injury form and providing it to his or her insurance carrier.

A worker who believes that he or she has suffered a compensable injury should also contact his or her state workers’ compensation program and file the appropriate forms. Each state sets its own time limits for filing claim forms.

After filing a claim, if the worker does not receive any benefits from his or her employer, he or she may request a hearing before the appropriate workers’ compensation commission/board in his state. The commission/board will determine what benefits, if any, the worker should receive. Parties can appeal any unfavorable decisions.

## **PAYMENTS OF BENEFITS**

State workers’ compensation programs do not provide benefit payments to injured workers. Instead, the programs process and adjudicate workers’ claims. Once the adjudication process ends and appropriate determinations have been made in specific cases, the insurance carriers and self-insured employers are responsible for making timely benefit payments to injured workers.

*The information contained in this article is for general informational purposes only. It is not intended to serve as legal advice and it does not substitute for legal counsel.*

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