



# An Employer's Guide To Workers' Compensation

April 2006

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in electronic format only.)

[www.WorkforceSafety.com](http://www.WorkforceSafety.com)

## Using This Guide

We hope this guide is helpful to you. Every effort has been made to ensure the accuracy of the information in this guide. However, changes in statutes and policies occur periodically and may render this information inaccurate. If there are conflicts between the information in this guide and the laws governing Workforce Safety & Insurance (WSI), the laws of WSI will prevail. If you have questions, please contact a WSI customer service representative at (701) 328-3800 or 1-800-777-5033. If you are hearing impaired, please call (701) 328-3786.

This publication is updated and reprinted periodically. To make sure you have the current edition, please visit our web site at [www.WorkforceSafety.com](http://www.WorkforceSafety.com) (Library section) or call our office.

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# Protection and Benefits

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## The role of Workforce Safety & Insurance

Workforce Safety & Insurance (WSI) manages and regulates an exclusive employer-financed, no-fault insurance system covering workplace injuries, illnesses, and death. WSI is the sole provider and administrator of the workers' compensation system in North Dakota. In addition to collecting premium payments from employers and processing claims filed by North Dakota workers, WSI promotes workplace safety by assisting employers in providing safe work environments for their workers. WSI pays medical, disability (wage replacement), vocational rehabilitation (if medically and vocationally necessary), impairment, and death benefits.

General liability, health, and accident insurance are not substitutes for workers' compensation insurance. Workforce Safety & Insurance Law, with limited exceptions, requires all employers to insure their full-time, part-time, seasonal, and occasional workers.

## What we provide to you and your workers

- WSI provides you with protection against civil litigation. An employer with an account in good standing cannot be sued by a worker injured while in the course of employment.
- For your workers, WSI provides benefits in relation to work-related injuries to include payments for medical expenses, disabilities, and death; awards for permanent impairment; and vocational rehabilitation services. WSI also has a scholarship fund for spouses and dependent children of workers who lost their lives in work-related accidents.

Since WSI is a monopolistic state, employers' liability part two coverage is not available.

## New Business Registration Forms Packet

For a free packet of information to help you establish your business in North Dakota, please contact our office to receive a copy of the State of North Dakota New Business Registration Forms packet. You may also view this packet online at [www.nd.gov/businessreg/links/doc/greenbook.pdf](http://www.nd.gov/businessreg/links/doc/greenbook.pdf) (State of North Dakota, Secretary of State's web site).

# Who Needs Coverage

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## Employers who are required to obtain coverage

North Dakota Law, with limited exceptions, requires all employers to secure workers' compensation insurance to cover their full-time, part-time, seasonal, or occasional employees prior to hiring. General liability, health, and accident insurance are not substitutes for workers' compensation insurance. To be insured, you must submit an application. An application can be obtained at [www.WorkforceSafety.com](http://www.WorkforceSafety.com).

## Out-of-state employers' coverage requirements

As an out-of-state employer, if you employ workers in the state of North Dakota, you are required to secure workers' compensation insurance coverage in North Dakota.

If your workers' compensation carrier from your home state extends coverage into North Dakota, you must provide proof of that coverage. The exception to this requirement is if your home state is one with which WSI has a reciprocal agreement. However, if your workers' compensation carrier does extend workers' compensation coverage and any one employee earns 25% or more of their gross annual wage within North Dakota, or 25% of the employer's total annual payroll is payable to employees for services rendered in North Dakota coverage is required and you must report all payroll generated in this state.

If the status of your North Dakota operations require coverage, please complete an application for insurance which can be obtained at [www.WorkforceSafety.com](http://www.WorkforceSafety.com).

## Failure to obtain coverage

- ☒ Since you are required, by law, to cover your workers against injuries, you will be required to pay premium for the period you were not insured, and you may also be subject to significant penalties for failure to secure coverage.
- ☒ Additionally, workers may bring suit against you as an uninsured employer for damages caused by an injury during the period in which you were uninsured.

Workers' compensation coverage is mandatory for most employment. There are certain exceptions:

- Licensed real estate brokers and agents with written agreements defining them as independent contractors.
- Farm and ranch labor, certain custom operations, household domestic workers, and employees engaged in the operation and maintenance of a place of worship.
- Independent contractors - to be considered an independent contractor, you may need to complete an Independent Contractor Verification Application provided by the North Dakota Workforce Safety & Insurance. Upon the approval, you would then be exempt under the workers' compensation statutes.
- Federal and railroad employees.
- Children of the employer(s) who are under the age of 22 are not required to be covered. (Children aged 22 and older who are receiving compensation for employment must be reported as an employee.)
- Newspaper delivery personnel with written agreements between the individual and the publisher of the newspaper or shopping news that states the individual is an independent contractor.

## Coverage for volunteers

Any volunteer organization, not otherwise provided for under this title, may contract with WSI for insurance protection for its own members while they are engaged in specific activity provided for in the contract. Volunteer coverage is not guaranteed and rates are subject to the risk or exposure and not necessarily based on the standard volunteer rate.

## Coverage for staffing services

A staffing service, for purposes of Workforce Safety & Insurance Law, includes professional employer organizations (PEO's), employee leasing companies, staffing organizations, and any other business entity, which provides or leases employees or maintains a co-employment relationship with employers in North Dakota for PEO's. North Dakota does not permit master policies, but rather maintains individual employer accounts on all client companies. The reporting requirements for these entities are quite detailed, so please contact Customer Service for more information at 1-800-777-5033.

# All About Coverage

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## Obtaining coverage by using one of the following methods

- Complete our online Application for Insurance which can be obtained at [www.WorkforceSafety.com](http://www.WorkforceSafety.com)
- Download our Application for Insurance which can be obtained at [www.WorkforceSafety.com](http://www.WorkforceSafety.com), complete it, and either fax it (701-328-3750) or mail it to us.

If you have any questions when applying for insurance coverage, simply contact Customer Service at 1-800-777-5033 and we'll guide you through the application process. Once your application has been processed, WSI will bill your premium based on the payroll estimate you have provided us.

## The effective date of your coverage

- North Dakota state law requires a business to apply for coverage prior to hiring workers.
- Your coverage is effective once we receive and approve the completed Application for Insurance form at either the Bismarck or field office in your area. The postmark on the envelope verifies the effective date.
- If you fax your application (701-328-3750) to WSI, coverage is effective as of the date and time in which the fax is received by the WSI fax machine.
- If you complete the Online Application for Insurance, your coverage is effective by the date and time the application is submitted online to WSI.

## Your proof of insurance

After either full payment of your premium or your first monthly installment, your proof of insurance or Certificate of Premium Payment, will be issued by WSI.

- You may make copies of this certificate or request a duplicate certificate by calling Customer Service at 1-800-777-5033.
- WSI requires that your Certificate of Premium Payment be posted at your place of business.

## Changing or canceling your coverage

Contact Customer Service if any of the following changes occur to your operation:

- General nature of business.
- The types of work being done.
- Trade name.
- Incorporation of business or change in corporate officer status.
- Subsidiaries or new locations.
- Mailing address.
- You cease having workers or are closing your business.
- Any of your workers will be working outside of North Dakota.

## Optional coverage

Coverage for the owners, partners, or corporate officers of a business corporation is optional. An employer may elect to purchase optional coverage for themselves, their spouse, children under the age of 22, and for any workers otherwise exempt WSI. This coverage is not required by law. If you have any doubt about whether you should be insured, please contact us. Coverage becomes effective upon WSI's approval of a completed and signed optional coverage contract.

- Coverage for an owner, partner, corporate officer, or spouse will be charged an annual premium based upon the maximum taxable payroll cap.
- Coverage for the employer(s) children under the age of 22 is optional and based upon actual wages paid.
- Coverage for the employer(s) children aged 22 and older is mandatory and based upon actual wages paid.

## When your employees work outside North Dakota

Please carefully read the following information if you have workers in your (North Dakota) company who will be working outside the state of North Dakota.

### Reciprocal Agreements

We have entered into reciprocal agreements with seven states across the country. Reciprocal agreements are in place in the event an employee who is working in one of the reciprocal states on a temporary basis sustains a work-related injury. Generally, this agreement allows North Dakota employers whose North Dakota employees are working temporarily in that state to perform work without requiring the employer to obtain additional workers' compensation coverage in that state.

The reciprocal agreements for each state may vary and may include exclusions. Therefore, employers need to contact WSI before assuming they have WSI coverage for their employees working in these states. WSI has jurisdiction over claims arising under a reciprocal agreement with the following states: Idaho, Montana, Oregon, South Dakota, Utah, Washington, and Wyoming.

State of Idaho  
Industrial Commission  
317 Main Street  
Boise ID 83702  
(Employer Compliance Department):  
Phone: (208) 334-6000  
Fax: (208) 334-2321

Montana Department of Labor & Industry  
Employment Relations Division-Workers Compensation Regulation Bureau  
1805 Prospect  
Helena MT 59601  
PO Box 8011  
Helena MT 59604-8011  
Phone: (406) 444-6532  
Fax: (406) 444-3465

Oregon's Workers Compensation Board  
Compliance Division, Registration Section  
L & I Building  
350 Winter St NE  
Salem OR 97309-0405  
PO Box 14480  
Salem OR 97301-3838  
Phone: (503) 947-7815  
Web link for Oregon's ET Map:  
[www.cbs.state.or.us](http://www.cbs.state.or.us)

South Dakota Department of Labor  
Division of Labor & Management  
Kneip Building  
700 Governors Drive  
Pierre SD 57501-2277  
Phone: (605) 773-3681  
Fax: (605) 773-4211

State of Utah  
Labor Commission  
PO Box 146610  
Salt Lake City UT 84114-6610  
Phone: (801) 530-6800  
Fax: (801) 530-6804

State of Washington  
Department of Labor & Industries Employer Services  
PO Box 44000  
Olympia WA 98504-4000  
Phone: (360) 902-4817  
Fax: (360) 902-6787

State of Wyoming  
Employment Tax Division  
CBC Building  
1510 East Pershing Boulevard

## Extraterritorial coverage

As a rule, extraterritorial coverage extends to incidental operations lasting fewer than 30 consecutive days in a state where the employer has no other significant contacts with that state and those operations do not require the employer to purchase workers' compensation insurance under the laws of that state.

The difficulty in determining which state has jurisdiction in these situations intensifies when defining significant contacts. Different states have different definitions of "significant contacts." In determining when to extend extraterritorial coverage to an employer, WSI considers the following:

1. What is the nature of the employer's business? Does the employer or do the employer's employees travel daily to another state to make deliveries or provide services?
2. Do the business operations of the employer make the employer's contact with another state more than incidental or occasional?
3. What is the residency of the employer's employees?
4. In what state was the employment contract entered?
5. Does the employer have a physical place of business in this state and do the employer's employees regularly report to or work from that place of business?
6. Does the employer's work require the employer to spend 30 or more consecutive days in another jurisdiction?

## Complying with other state workers' compensation requirements

It is the duty of every North Dakota employer whose business operations touch another jurisdiction to inquire into the workers' compensation requirements of that jurisdiction. North Dakota employers who do not ensure their compliance with other state workers' compensation requirements run the risk of being uninsured in another state.

Typically, an employer is unaware that they would be considered uninsured in another state until an employee files a claim for benefits in that other state. After the employee files the claim, an inquiry may be made into the status of the employer's workers' compensation coverage in that other state. If a North Dakota employer is deemed uninsured in that other state, the financial repercussions in penalties are potentially serious.

### All States Coverage

WSI offer an optional All States Coverage program that provides North Dakota employers with multi-state workers' compensation coverage for their employees who work temporarily outside the state. This program provides a solution and a sense of security, as employers can now be assured that when their employees travel into \*most states, they, and your business, will be protected in the event a work-related injury occurs. (\*Exceptions are other monopolistic states: Ohio, Washington, West Virginia and Wyoming).

The employer must have an active account in good standing with WSI. The protection provided by our All States Coverage program is "optional" and the coverage is in addition to your mandatory North Dakota coverage. The flat rate annual premium of \$600 is affordable - and it provides the protection and security many North Dakota employers need.

In summary, it is critical to remember that coverage with WSI cannot replace required coverage with another state. It is the employer's responsibility to determine whether coverage needs to be secured in other jurisdictions. North Dakota employers are best served by presenting their employment situations to each state in which their employees may travel or conduct business prior to having employees work in that state.

Issues of extraterritorial coverage must be addressed on a case-by-case basis. Please call Customer Service at 1-800-777-5033 for assistance.



## If you have applied for a contractor's license

If you neither employ nor anticipate employing anyone within the state of North Dakota in the near future, you are not required to make an application for workers' compensation insurance. However, in order to obtain a letter of good standing to provide to the Secretary of State, you must complete an Affidavit of Non-Employment and have it witnessed that you are not required to apply for workers' compensation at the present time. These forms are available for downloading on our web site [www.WorkforceSafety.com](http://www.WorkforceSafety.com) (Library section, Type: Forms) or call 1-800-777-5033. Please fax or mail the notarized form to WSI, and we will then notify the Secretary of State's Office.

If you are a North-Dakota-based business and plan to have employees or if you are an out-of-state employer and plan to have employees working in North Dakota, please refer to our web site [www.WorkforceSafety.com](http://www.WorkforceSafety.com) (Employers section/Insurance Coverage/Who Needs Coverage) for more information.

## Subcontractor arrangements

The principal contractor can be liable for occupational injuries to the uninsured subcontractor's workers. If you are a principal contractor:

- Be sure you have a Certificate of Premium Payment verifying that your subcontractor has workers' compensation insurance for their workers.
- If the subcontractor has provided proper coverage, the subcontractor's payroll is not normally included in your payroll.
- If the subcontractor does not have coverage for their workers, you must include these workers and their wages in your payroll.
- It is the responsibility of the employer to provide a list of subcontractors at the request of WSI.

## Determining independent contractor status

WSI may establish a procedure to determine whether a person is an employer required to obtain workers' compensation coverage under this title and to require a person asserting independent contractor status to file a statement annually with the organization certifying that status. A determination under this section that a person is not required to be insured is effective for no more than one year from the date the person is notified of the determination. WSI retains continuing jurisdiction over determinations made under this section and may reconsider or revoke its decision at any time. (Section §65-09-01)

If any employer or an independent contractor wants to verify independent contractor status, they can contact Customer Service who will provide them with an Independent Contractor Verification Application. This form can also be provided by the North Dakota Department of Labor. For additional information, visit their web site at <http://www.state.nd.us/labor/services/ic-verification>.

# All about premium

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## What is premium?

Your premium is based on the amount of payroll you paid during your policy period.

## What is considered payroll?

- Commissions
- Bonuses.
- Extra pay for overtime.
- Reportable tips.
- Pay for holidays, vacations, or sick leave
- Cafeteria plans, 401K's, annuity plans, Davis-Bacon wages, etc.
- Value of meals, lodging, or other gratuities received by a worker as part of pay.
- Rental value of a house or apartment provided to a worker as part of pay

## Who is liable for payment of workers' compensation premiums?

As a general rule, when a business organizes formally as a corporation, an LLC, or some similar entity, one of the major benefits is the protection of the owners' personal assets against business losses.

North Dakota law, however, permits WSI to pursue individuals personally for the debts of their business. WSI assesses personal liability against officers and directors of a corporation, managers and governors of a limited liability company, and employees who own 20% of the business and have control over the reporting of payroll to WSI. Once liability is assessed and the employer's appeal time has expired, WSI may pursue the debt through a civil lawsuit.

The employees of an independent contractor or subcontractor are deemed employees of the general contractor. WSI can authorize the assessment of unpaid premium against the general contractor for the unpaid workers' compensation premium debt of their subcontractors or independent contractors.

## Premium calculation and payroll reports

Your payroll reports are used by WSI to calculate the premium you pay for workers' compensation insurance. Upon reviewing the payroll report, premium is calculated by applying the rate for a class of employment to the amount of taxable payroll in that classification. If you have several classifications, your premium is the sum total for all classifications. The maximum taxable payroll for each worker is capped at 70% of the state's average annual wage. This amount is commonly referred to as the "wage cap." The average annual wage is established on July 1 of each year.

WSI requires employers to supply payroll information on an annual basis. When a new account is established, estimated payroll is requested for 12 months and employers are billed premium based on that estimate.

After the 12 months have lapsed, employers are mailed an Employer Payroll Report requesting actual wages for the 12-month payroll period. The completed report is due 30 days after your account's renewal. Refer to our web site [www.WorkforceSafety.com](http://www.WorkforceSafety.com) (Employers section/Insurance Coverage/Premium) for details on wages and applicable payroll cap information.

If you estimated more payroll than your actual wages, your billing statement will reflect the appropriate credit, just as an understated estimate will generate additional premium. We use your submitted actual payroll figures to bill an estimated premium for the next 12-month payroll cycle.

If you anticipate a significant increase or decrease in payroll from the submitted amounts, please note this change on your payroll report or contact Customer Service and an appropriate billing will be generated.

You can complete your payroll report by hand and mail or fax it to us or you can complete your payroll report electronically through our Online Payroll Reporting (OPR) system. The online process is efficient, confidential, and paper free. On the 16<sup>th</sup> day of the month of your account's renewal, your account information is available online through our web site at [www.WorkforceSafety.com](http://www.WorkforceSafety.com). Your online access code is printed on your payroll report or you may contact Customer Service to receive your code.

In addition to gathering annual payroll information, the payroll report provides a means for adding optional coverage for owners, spouses, and/or family members. Refer to our web site [www.WorkforceSafety.com](http://www.WorkforceSafety.com) (Employers/Insurance Coverage/Optional Coverage) for more details.

If any of the following changes occur to your business, please notify our office immediately:

- General nature of business.
- The types of work being done.
- Trade name.
- Incorporation of business or change in corporate officer status.
- Subsidiaries or new locations.
- Mailing address.
- You cease having workers or are closing your business.
- Any of your workers will be working outside of North Dakota.

## Determining classifications and rates

Some classes of employment are inherently more hazardous than others, and our rate class system reflects that risk. Based on the risk, each class of employment is assigned a classification. In turn, each classification is assigned a rate. These rates reflect factors such as occupational risk, medical costs, and benefit levels.

## How often must I submit a payroll report?

- You must report payroll to WSI on an annual basis.
- The annual reporting period is determined by the effective date of your account.
- WSI will send you a report to complete, and you must return it by the due date listed on the report.
- If you fail to submit your payroll report by the due date, you will be penalized \$50. Continued failure to report payroll may lead to an additional \$1,950 penalty and result in an "uninsured" status.

## Premium payment options

You may either pay your premium in a single payment by the due date or in monthly installments. If you choose to make installment payments, interest is charged on the outstanding balance. The interest rate equals the base rate posted by the Bank of North Dakota plus 2.5%.

- Minimum premium accounts (\$125) are eligible for installment payments.
- Installment payments are limited to prepaid premiums only.
- Premiums in default are assessed penalty interest at 2% per month, 24% annually.

## Do workers pay a share of the premium?

No. The law prohibits employers from deducting wages or otherwise billing workers for any part of the premium.

## Experience Rating

Experience rating is a projection of future losses using the employer's past claims history. Your individual experience rate directly impacts the amount of premium you will be charged.

While the rate classification system provides for the distribution of premium to various industries and exposures, WSI offers an experience rating program to further focus premium load within a given industry. Generally, employers with a good loss history are rewarded with premium discounts. Employers with a poor loss history are charged premium above the manual rates.

### -Qualifying for Experience Rating:

Beginning with an employer's fifth year of North Dakota operations, accounts are experience rated. To qualify for experience rating, an account must have a minimum aggregate premium of \$25,000 over the five-year period. The experience rate will range from a 75% discount to a 75% surcharge.

## - How to Improve Your Experience Rating:

Safety! Accidents happen, but fewer accidents happen in safe workplaces. Taking necessary safety steps reduces injuries and means reduced business losses, reasonable insurance rates, and safer workers. Our Employer Services staff provides safety services to include evaluation, inspection, and education and training – all at no cost to you. Contact Customer Service to set up a consultation with one of our safety professionals at 1-800-777-5033.

### Deductible Program

- An employer is able to reduce premiums in exchange for agreeing to reimburse WSI for all losses up to a specified deductible amount.
- Eligibility for participation in the Deductible Program is based on the financial stability and resources of the employer.
- Since employers retain losses below the deductible, the total cost of such a plan is highly sensitive to losses.

### Retrospective Rating Plan

- This is a cost-plus rating plan, resulting in a premium that is highly reflective of an insured's own loss experience.
- The ultimate premium is subject to minimum and maximum premium amounts.

### Premium audits

WSI audits records periodically to ensure that your workers are properly classified and that you are paying the correct premium. You may request an audit if you feel there should be changes in the classifications assigned to your employees.

We will inform you, in writing, when your account is due for an audit. The premium auditor will then contact you for a time and date that is convenient. A follow-up letter will be mailed to you verifying the appointment and specifying what documentation you need to have ready for the audit. Should you find it necessary to cancel the appointment, please call for a rescheduled appointment. Visit our web site at [www.WorkforceSafety.com](http://www.WorkforceSafety.com) (Employers/Insurance Coverage/Premium Audits) for a listing of premium auditors and the regions they cover across the state.

## Before an injury occurs

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### Make safety a part of the workplace

As an employer, you are responsible for providing a safe and healthy work environment for your workers. You can control what happens before a work injury occurs. A potential injury caught early may avoid a workers' compensation claim altogether. You can lower the chance of a work injury occurring if you make safety a part of your work culture, and many tools are available for you to help bring this about. Conduct regular walk-throughs to look at workplace conditions. Visit with workers for their ideas on how to make the job safer. Look out for potential hazards at your workplace. Some examples of hazards are:

- Toxic substances - solvents, metals, dusts.
- Physical - walkways, temperature, noise, tools, motor vehicle accidents.
- Ergonomic - poor job design increases the risk of musculoskeletal diseases.
- Biological - bloodborne pathogens.

### Communicate safety to your workers

Make sure new workers are thoroughly oriented to the workplace and shown how to do their jobs safely. This includes seasonal or temporary workers or those leased from an employment agency. Be sure to train your managers and supervisors on recognizing and controlling hazards and monitoring safety procedures and work habits. Review safety procedures with all workers at least annually.

## Contact us about safety

Our Employer Services staff are available to assist you with safety education and training. We have safety professionals located across North Dakota who can provide free assistance to help you provide the safest workplace possible for your workers (see page 20 for field office locations). They can assist you in the following areas:

- Promoting safety.
- Developing safety courses, plans, and programs.
- Responding to safety complaints.
- Responding to requests for technical assistance.
- Conducting courtesy walk-through inspections.
- Providing general safety consultations.
- Providing general safety consultations.
- Conducting accident and hazard investigations.
- Providing internal risk management services.

## Risk Management Program Plus (RMP+)

Workforce Safety & Insurance (WSI) created a performance-based incentive program that gives employers the opportunity to receive a premium discount if they meet specific claim frequency and severity rate reductions or remain loss free during the reporting period. The goal of the program is to spend less time completing paperwork and more time developing proactive and productive safety programs. There is no paperwork or audit process involved!

### THE SAVINGS

The premium discounts are achieved by:

- 1) 5% for reducing the claim frequency rate by 10%
- 2) 5% for reducing the claim severity rate by 10% and;
- 3) An additional "bonus" of 5% for reducing both rates.

If you have experienced zero claims in the past and continue to do so in the future as well as incur zero lost time days during the year, you may automatically receive the maximum 15% discount.

## Develop a policy for injury reporting and make sure injuries are reported

We recommend that all employers develop a policy for injury reporting and review it with all workers on a regular basis. Inform your workers what to report, who to report it to, when to report it, how to report it, and the importance of prompt reporting. As an employer, you should not make it difficult for a worker to report an injury to you. Make sure injuries are reported within your company and then file a claim promptly with WSI. By law, you cannot deny your workers the right to file a claim with WSI.

### Early Claim Reporting Incentive

A new early reporting incentive allows employers to put the first \$250 on WSI's tab. WSI will pay the first \$250 if the injury or incident is filed with WSI by midnight (Central Time) of the business day following the date of injury or incident. (NOTE: This new incentive applies to all injuries or incidents that occurred on or after July 1, 2005.)

### When to File an Incident Report

If a worker reports an incident but does not seek immediate medical attention, the Employer should file an "Incident Report" online at [www.WorkforceSafety.com](http://www.WorkforceSafety.com).

## Develop a policy for monitoring your company's workers' compensation claims

We recommend that all employers develop a policy for monitoring workers' compensation claims and review it with all workers on a regular basis. The policy should emphasize ongoing communication between the worker, employer, medical provider, and WSI through the entire claim process.

The policy should also include developing a transitional work (return-to-work) plan. Having a transitional work plan in place is important in case you have a worker who cannot return to their regular (pre-injury) job. This plan allows workers who are temporarily or partially disabled to remain in the workplace in a transitional (modified or alternate) work capacity until they have recovered sufficiently to return to their regular job. Transitional work allows the worker to remain safely on the job, in a modified or alternate position and allows the worker to "transition" into the work environment after sustaining a work-related injury. The transitional work plan encourages a safe and early return to work taking into account the worker's work abilities and their injury.

- Modified work: the worker's regular job that is modified to accommodate restrictions imposed by the doctor.
- Alternate work: a temporary work assignment when the worker is unable to perform their regular job.

When developing a transitional work plan, a detailed review of each job description should be done to determine the essential and nonessential job functions and the physical requirements associated with performing each function. It is beneficial to provide the doctor with a job description outlining the worker's job duties to assist the doctor in making decisions on return-to-work issues. Your active involvement in the medical care given to your worker is strongly encouraged as this promotes a safe and early return to work for your worker.

By having a transitional work plan in place before an injury occurs, you will be better prepared in the event that you need to place a worker in tasks consistent with any medical restrictions imposed by the doctor after an injury has occurred.

## Post notices, giving medical care instructions

Employers should post - in a conspicuous place - the "Important Notice to Employees" poster from WSI giving workers information on what to do if they are injured on the job and the types of benefits available. Additional copies of this poster are available online at [www.WorkforceSafety.com](http://www.WorkforceSafety.com).

You have the option of selecting a Designated Medical Provider(s) (DMP) to care for your workers if they become injured on the job. If you choose a DMP, it is recommended that you display notice of the DMP in a conspicuous place (to further inform your workers of the identity of the DMP). You must inform your workers of their right to add their own provider selections to your DMP selections.

Workers injured on the job are required to see your company's DMP for medical care UNLESS they have previously informed you, in writing, of a different medical provider selection before any injury occurred. If a worker sees your company's DMP, the worker can request a change in providers after being treated for 60 days by the DMP. This request must be approved by WSI prior to treatment. Please note that if a worker chooses their own doctor (and informs you appropriately), the worker will always have the option of seeing your company's DMP.

At the time of hire, and again when an injury occurs, you should provide the worker with basic information on workers' compensation coverage and benefits.

## Develop guidelines for investigating workplace injuries

A person who is in a responsible position in your company should be in charge of investigating the incident that led to your worker's injury. Use each injury case as an opportunity to take a closer look at your workplace. Conduct an investigation immediately while the information is fresh in people's minds - then take the necessary corrective action to prevent the injury from happening again.

If your company does not have a policy for injury reporting or guidelines for investigating workplace injuries, call Customer Service. *Turn to page 13 for specific elements to include in your investigation.*

## Review your company's past injuries

You may request a loss run from our office that lists all claims and medical costs paid on your account. Simply email us at [employerservices@state.nd.us](mailto:employerservices@state.nd.us) and we'll be happy to mail this to you. This information will help you recognize those areas that may be in need of improvement and avoid future losses.

# What to do when an injury occurs

## Five important steps

1. Assist your worker in obtaining prompt medical care.

In an emergency – the worker should seek immediate medical care at the nearest emergency room and notify you as soon as possible thereafter.

In all other instances – the worker should inform you of the injury before seeking medical care. You should provide first aid on site, if necessary.

- At the initial medical treatment and during ongoing medical treatment, WSI encourages you to go with your worker when they seek medical care. While you do not necessarily have the right to be present in the examining room during the worker's exam, your attendance will help you better understand any work restrictions imposed by the doctor and provide a safe return to work for your employee.
  - Workers are required to see your company's designated medical provider (DMP) for medical care UNLESS they have previously informed you, in writing, of a different medical provider selection before any injury occurred. If a worker sees your company's DMP, the worker can request to change providers after being treated for 60 days by the DMP.
  - Require that the worker provide you with a Doctor's Report of Injury (C3 form) after the initial medical treatment and after all ongoing medical treatment. The Doctor's Report of Injury should include the nature and extent of the injury, estimated course of recovery, and a return-to-work plan with identified restrictions, if any.
2. File a claim with WSI immediately after a work-related injury occurs (within 24 hours of occurrence) using one of the following three methods:
- Online - Visit our web site at [www.WorkforceSafety.com](http://www.WorkforceSafety.com) for instructions.
  - Mail or fax - Complete / sign / date the First Report of Injury (FROI) with the worker. Fax (701-328-3820) or mail the form to WSI at 1600 E Century Ave Ste 1, PO Box 5585 - Bismarck ND 58506-5585.
  - Telephonically - Call 1-800-777-5033 24 hours a day / weekends / holidays. The claim form used to telephonically record the claim will be sent to the worker for signature – they must return the form to WSI as soon as possible.

Whichever claim filing method is used, complete the claim form with your worker, if possible. Explain workers' compensation procedures to the worker and assist in relieving any anxieties they may have relating to the injury and their position.

### Time frames for reporting an injury:

WSI encourages workers and employers to immediately (within 24 hours of occurrence) file a claim with WSI after a work-related injury occurs. Immediate notification allows for more effective management of the claim.

The law requires that your worker notify you within 7 days after an accident or when the general nature of the injury becomes apparent. Within 7 days of receiving notice of an injury from your worker, you are required to file a First Report of Injury (FROI) form with WSI. If you do not, WSI may consider that to be an admission that the alleged injury may be compensable.

3. Conduct an investigation immediately while the information is fresh in people's minds and take the necessary corrective action to prevent the injury from happening again.

Your written accident investigation report should include the following elements:

- Inspection of the accident site.
- Reasons why the incident happened.
- The circumstances surrounding the incident.
- Securing evidence / take photographs.
- Interviewing all witnesses and others in the accident area and writing down their statements. Interviews should be conducted in a sensitive manner at a comfortable location.
- An outline of the necessary corrective action that will be taken to prevent the injury from happening again.

If your company does not have a policy for injury reporting or guidelines for investigating workplace injuries, call Customer Service for assistance at 1-800-777-5033.

If the investigation suggests your worker's injury is not your responsibility or seems questionable in nature, include a written statement explaining this when you send the employer's portion of the First Report of Injury (FROI). If you have already submitted the form to our office, please call with your concerns.

4. Stay in contact with the worker, the medical provider, and WSI. Help the worker continue to feel that they are an important asset to you and your company. Be involved in the medical care given to the worker and make contact with the medical provider
5. If the doctor places restrictions on your worker, the employer should provide transitional, modified, or alternate work duties that outlines the proposed job, work hours and effective date. Transitional work should be duties that the worker can perform with an acceptable degree of efficiency without endangering their own health and safety or that of others.

## Claim investigation and processing

1. On potential wage loss claims, a claims adjuster will contact your company to obtain information regarding wage replacement benefits and verification of the worker's current gross wages.
2. Provide the claims adjuster with your accident investigation report and any other information you want WSI to consider. Please remember you have firsthand information regarding the injury as this is your worker and your place of business.
3. If your worker has not returned to work, you may be contacted by a return-to-work services provider who is trained to help you return your worker to work as safely and as soon as possible, making work a part of the recovery process.
4. When a decision is made regarding claim acceptance or denial, you will receive written notification. Along with this notice, instructions will be provided for you to follow if you disagree with the decision.
5. The employer has the right to request information on the status of the claim and copies of documents from the claim file at any time.

## Different kinds of claims

### Wage loss claim

If a worker will be off work for five or more consecutive calendar days or have a reduction in earnings, the claim is a wage loss claim. The claims adjuster contacts the worker, the employer, and the medical provider to establish a working relationship and obtain additional information to help with the processing of the claim.



### Medical only claim

If the worker will not be off work for five or more consecutive calendar days, the claim is a medical only claim. The processing of medical bills will begin immediately once the claim has been accepted.

### Keeping a claim and medical treatment on track

Keep in touch with the worker as this will help them maintain a positive outlook and assist in the recovery process. Contact the worker weekly to answer any questions.

Keeping in touch with the medical provider will also allow better understanding of the worker's condition and abilities. When the doctor says the worker is ready to return to work with medical restrictions imposed, help by making transitional work (modified or alternate job duties) available to the worker.

Please also promptly respond to any information requests you receive from us as this helps us with the processing of the claim.

### Workers' compensation fraud

WSI has a responsibility to the employers and workers of North Dakota to investigate allegations of fraud. A worker, employer, or medical provider can commit fraud. Fraud occurs when someone knowingly lies to obtain a benefit or advantage.

We cannot stop fraud alone. If you suspect fraudulent behavior is occurring, please contact us. Anyone may leave a confidential and anonymous tip by calling the Fraud Hotline at 1-800-243-3331.

## Helping your employee return to work after an injury

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One of the most important things you can do to help your worker recover and minimize your workers' compensation costs is to help your employee return to work after experiencing a work-related injury. The worker benefits by being productive again and receiving a salary. You benefit by having an experienced and productive worker back on the job.

### Working with the Claims Management Team

Planning for a worker's recovery and return to work is very important. You are a member of the Claims Management Team whose coordinated efforts help assure the worker receives appropriate medical care and a safe return to work. Below are the members of the Claims Management Team and their responsibilities:

**The worker** - Report all injuries promptly; stay in contact with the employer, doctor, and WSI claims adjuster; attend all medical appointments and cooperate with medical care; follow medical restrictions (if imposed) both on and off the job; accept transitional (modified or alternate) work as provided by the employer if the worker is unable to return to their preinjury job.

**The employer** - Investigate the accident promptly; develop a transitional work plan for returning the worker safely to work; maintain positive communication with the worker to let them know that they are important to the company. If the worker experiences lost work time, continued medical treatment, or work restrictions, visit with the doctor to obtain the worker's work abilities and assess the worker's medical status. Stay in contact with WSI and the return-to-work services provider so the worker's work abilities can be monitored and the work duties adjusted accordingly.

The doctor - Provide prompt and appropriate care to the worker; provide prompt medical reports; communicate with the worker, employer, and WSI; develop a treatment plan that includes using work as part of the recovery process.

Claims adjuster - Investigate and manage the claim; determine wage replacement benefits and issue payments; participate in coordinating medical treatment; assist in coordinating transitional work.

Return-to-work services - Depending upon the needs of the worker, there are four different types of return-to-work services to assist a worker in returning to work. The goal of return-to-work services is to return the worker to substantial gainful employment with a minimum of retraining as soon as possible after an injury occurs. The emphasis is placed on substantial employment with the preinjury employer in the worker's preinjury capacity by utilizing transitional (modified or alternate) work. Return-to-work services are provided by the following individuals:

#### The Return-to-Work Case Manager.

WSI teamed up with six of the larger medical facilities across North Dakota to have registered nurses in place to assist workers who have experienced time loss from work (5 consecutive days or more) and seek medical attention at their facilities and designated satellite clinics. The return to work case managers evaluate care and restrictions for medical necessity and appropriateness. They provide recommendations (they do not make decisions regarding claim compensability); act as a liaison between the worker, employer, medical provider, and claims adjuster at WSI; and coordinate transitional work.

#### The Medical Case Manager.

WSI has registered nurses on staff who are medical case managers. These case managers are assigned to claims that involve potentially catastrophic or medically complex injuries. These individuals work with the claims adjuster, worker, and medical providers to assess, plan, coordinate, and implement the options and services needed to support the worker in the recovery process and return to work.

#### Vocational Rehabilitation.

If early intervention is not successful in returning the worker to work with the preinjury employer, vocational rehabilitation will be assigned. Vocational rehabilitation is a service provided through a contracted company. Vocational rehabilitation utilizes a worker's functional capabilities, education, employment history, work experience, and transferable skills to develop a return-to-work plan.

#### The Preferred Worker Program.

The Preferred Worker Program is designed to encourage re-employment of North Dakota's workers. The program offers cost-saving incentives to North Dakota employers who hire preferred workers while, at the same time, assisting workers in obtaining gainful employment after a work-related injury.

#### How Workers Can Benefit From Participating:

- Return to substantial gainful employment - This program provides a valuable tool for preferred workers to assist in finding employment, taking into consideration their work abilities, education, experience, and transferable skills.

#### Program Eligibility For Workers:

To be eligible to participate in the Preferred Worker Program, a worker must have:

- Sustained a compensable work injury in North Dakota, resulting in an obstacle in their ability to return to work.
- Not been released for, nor have returned to, regular work.
- Not refused an offer of appropriate employment with the employer of injury.

#### Incentives for Employers to Participate:

- Premium exemption - The employer will not be charged any premium expenses on the Preferred Worker's salary for up to three years from the return-to-work start date.
- Wage reimbursement - WSI will reimburse a portion of wages to employers who hire preferred workers. The employer will be reimbursed 50 percent of wages paid (not to exceed 50 percent of the state's current average weekly wage) for the first six months of employment.
- Claim costs exemption - If the preferred worker sustains an on-the-job injury during the three year exemption period, WSI will not charge the claim costs to the employer.
- Reimbursement for worksite modifications - Upon WSI approval, participating employers will be reimbursed for worksite modifications.
- On-site job analysis - Upon employer request, WSI will conduct an on-site job analysis.
- Experienced workers - When you hire a preferred worker, you benefit by having an experienced worker on the job.

#### Program Eligibility For Employers:

To be eligible to participate in the Preferred Worker Program, employers must:

- Have and maintain an account providing WSI coverage.
- Be in good standing with WSI.

Note: The employer of injury is not eligible for program participation for purposes of re-employing its own employees after a compensable work injury.

Some of the features of this program that you will find listed on our web site include:

- Preferred worker list
- Registration forms
- Employment links
- Job seeking workshops

Registration is available on our web site at [www.WorkforceSafety.com](http://www.WorkforceSafety.com).

For more information on this program, please contact:

Randy Wegge  
Preferred Worker Coordinator  
Workforce Safety & Insurance  
1600 E Century Ave, Ste 1  
PO Box 5585  
Bismarck ND 58506-5585

(701) 328-3876 or 1-800-777-5033

## An employer's responsibilities

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- Make safety a part of the workplace (call us for free assistance).
- Communicate safety to your workers.
- Develop a policy for injury reporting and review it with all workers on a regular basis. Make sure injuries are reported within your company and that a claim is filed promptly with WSI.
- Develop a policy for monitoring your company's workers' compensation claims and review it with all workers on a regular basis.
- Post notices giving medical care instructions.
- Develop guidelines for investigating workplace injuries. Take the necessary corrective action to prevent the injury from happening again.
- Review your company's past injuries.
- Report any type of suspected fraudulent behavior.
- Per WSI, post your Certificate of Premium Payment at your place of business. Failure to do so may result in a \$250 fine.
- Post the "Important Notice to Employees" poster from WSI that outlines important information for your employees.
- Maintain and submit annual payroll reports when required. The payroll report is the tool WSI uses to classify your workers and assess your premium. Yearly submission of a payroll report is required by all employers on the anniversary date of their account. We'll send you the report to fill out and return to us, or you can submit your payroll online.
- Pay your premium and medical expense assessments by the due date.

- Contact Customer Service if any of the following changes occur to your operation:
  - General nature of business.
  - The types of work being done.
  - Trade name.
  - Incorporation of business or change in corporate officer status.
  - Subsidiaries or new locations.
  - Mailing address.
  - You cease having workers or are closing your business.
  - Any of your workers will be working outside of North Dakota.

## Avoiding unnecessary disputes

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### The purpose of the Office of Independent Review (OIR)

The Office of Independent Review (OIR) provides assistance to workers questioning decisions made on a claim. Enacted by the North Dakota Legislature, the office seeks to assist workers with claim issues in a fast, fair, and independent manner. OIR is independent of the Claims Department of Workforce Safety & Insurance (WSI) and services are provided at no cost.

### Making contact with OIR

An injured worker typically contacts OIR to:

- Request assistance with an administrative order
- Ask questions regarding a Notice of Decision
- Ask general questions regarding a claim

A worker may also contact OIR when:

- A vocational consultant's report (return to work plan) has been completed
- A decision to accept or deny a claim has not been made in a timely manner

### Services provided by OIR

- General information regarding workers' compensation processes
- An explanation of the basis of WSI's decision
- A review of the claim to identify factors that may justify reconsideration of the claim
- Possible resolution (with the worker's input) of the dispute
- A letter outlining OIR's findings

To dispute a decision, a worker must either send a written statement or e-mail the disagreement to OIR within 30 days from the mailing date of the decision.

At the end of the process the worker will receive a letter from OIR explaining the results of the review and a certificate of completion explaining how to further appeal the order if the worker remains unsatisfied. A hearing request must be made within 30 days from the mailing date of the certificate of completion.

If the worker prevails in further proceedings, WSI will pay the worker's attorney fees up to the limits established because they first requested assistance from the program.

## How to reach OIR

- In person: 2525 East Rosser Avenue, Suite 4 in Bismarck, ND. No appointment is necessary, but you may wish to call ahead to ensure an advocate is available to meet with you upon arrival.
- By phone: (701) 328-9900 or 1-800-701-4932
- By e-mail: [wsioir@state.nd.us](mailto:wsioir@state.nd.us)
- By fax: (701) 328-9911
- In writing: 2525 East Rosser Avenue, Suite 4, Bismarck, ND, 58501-5077

OIR web site: [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

# Commonly asked questions

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## May I pay for the worker's injury myself and not have the worker file a claim?

No. You cannot deny your workers the right to file a claim with WSI. If you pay the claim "out of pocket," you may be assuming liability for that claim and exposing your company to future medical costs and expensive litigation. Once a claim is determined to be compensable, WSI will pay benefits.

## What is a medical expense assessment?

By law, you are required to reimburse WSI for the first \$250 of medical expenses paid on each claim. Similar to a deductible, the initial costs of claims are transferred directly to the employers incurring the losses. A new early reporting incentive will allow employers to put the first \$250 on WSI's tab if the injury or incident is filed with WSI by midnight (Central Time) of the business day following the date of injury or incident. (Note: this new incentive applies to all injuries or incidents that occurred on or after July 1, 2005). If medical treatment is sought or a claim is received more than 14 days from the date the employer is notified, the employer pays \$350 of medical expenses on the claim.

## When are assessment payments due?

Once billed, employers have 30 days to pay the medical expense assessment. The employer may not bill the worker for any part of the assessment.

## What is the penalty for late payment of assessments?

Penalties for late payments are severe. If WSI does not receive payment from the employer within 30 days of the first billing, penalties amounting to 125% of the assessment may be added.

## How are disability (wage replacement) benefits paid?

Disability benefits are paid at a rate of 2/3 of the worker's gross weekly wages at the time of disability, not to exceed the state's statutory maximum benefit. There is also a statutory minimum benefit. Benefit payments are mailed to the worker or deposited electronically.

## How do workers' claims affect my workers' compensation account and premium?

It depends on the severity of the injury and the number of claims recently experienced by your company. It also depends on the length of time the worker is off work. If you have questions regarding the impact on your premium, please contact Customer Service. You may request a loss run report from us that lists all claims and medical costs paid on your account.

May I contact the worker's doctor?

Yes. Your active involvement is strongly encouraged to promote a safe and early return to work for the worker. Providing the doctor with essential job functions to include physical demands that outlines the worker's job duties is also beneficial as it will assist the doctor in making decisions on return-to-work issues.

What happens if new information has been obtained regarding an already-accepted claim?

Please notify WSI immediately for further investigation.

What is defined as seasonal work?

It is those occupations that are not permanent or that do not customarily operate throughout the entire year. Seasonal employment is determined by what is customary with respect to the employer at the time of injury.

# WSI field office locations

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## Devils Lake

Employer Services: 662-9340

Fax: 662-9310

## Fargo Service Center

2601 12th Ave SW

Fargo ND 58103-2354

Employer Services: 298-4981 (South Fargo/Wahpeton), 298-4982 (North Fargo), 298-4985 (West Fargo), 298-4980, 298-4983, 298-4994

Medical Case Management: 298-4989, 298-4992, 298-4993

Fax: 298-4999

## Grand Forks

Employer Services: 795-3926 or 795-3925

Medical Case Management: 795-3927 795-3928

Fax: 795-3929

**Jamestown** (this office also provides loss prevention services for Valley City)

Employer Services: 253-6240

Fax: 253-6222

## Minot

Employer Services: 857-7744 or 857-7745

Medical Case Management: 857-7746

Fax: 857-7747

**Williston** (this office also provides loss prevention services for Dickinson)

Employer Services: 774-4303

Fax: 774-4304

## Main Office - Bismarck

See next page.

## Workforce Safety & Insurance

1600 E Century Ave Ste 1, PO Box 5585 - Bismarck ND 58506-5585

(701) 328-3800 1-800-777-5033

Hearing impaired: (701) 328-3786

Fraud & Safety Hotline: 1-800-243-3331

Office of Independent Review: (701) 328-9900 1-800-701-4932

Questions on safety? E-mail us at [mapage@state.nd.us](mailto:mapage@state.nd.us)

### Filing a claim (3 methods):

Online: [www.WorkforceSafety.com](http://www.WorkforceSafety.com)

Mail or Fax: Complete the Claim Form Packet

Telephonically: 1-800-777-5033 (24 hours / weekends / holidays)

### Fax numbers:

Claims: (701) 328-3820

Employer Services: (701) 328-6028 or (701) 328-3750