



# Workers' Compensation 101:

## A guide for employers

### WHAT IS WORKERS' COMPENSATION?

Workers' compensation insurance offers benefits, including wage replacement and medical care payments, to workers with injuries or illnesses related to their jobs. It also provides benefits to family members if employees die due to their injury or illness. Workers' compensation also helps employers—who pay for workers' compensation insurance—by providing some protection against lawsuits.

Workers' compensation is an important tool for both employers and employees because:

- It ensures an injured or ill worker may receive benefits **without** litigation.
- It helps protect a company from a lawsuit that could damage it financially.
- It's a "no-fault" system; neither the employee nor employer must be found legally "at fault" for the insurance to pay out benefits.

Most employees are covered by their employers' workers' compensation insurance, and most businesses purchase that workers' compensation through private insurance companies.

Before workers' compensation insurance existed, any injury or illness on the job could be disastrous for the employee and the company. The presence of workers' compensation benefits employees, employers, and society.

In the U.S., workers' compensation is driven by a patchwork of state and national legislation, each developed over time. New state and federal laws continue to make small changes to the workers' compensation environment.



### WORKERS' COMPENSATION CONSIDERATIONS

While the general concept of workers' compensation is simple, it's challenging to describe how the specifics apply to any given case because situations differ.

#### Every workers' compensation case is different

The unique nature of each injury or illness and the circumstances of the worker and their position can affect workers' compensation amounts and outcomes. Individual cases will often be more different than similar. Factors include:

- Bodily injury location
- Injury severity
- Recovery duration
- Potential work return

Other factors can include policy type and even a worker's job qualifications at the time of the incident. For example, workers' compensation benefits for medical treatment and wage replacement after a back injury could be extensive for a worker whose job requires frequent heavy lifting. An office worker with the same injury might not need as much medical treatment and could likely return to work more quickly.



## Where a workers' compensation injury or illness occurs matters

Jurisdiction is a major factor. In the U.S., while some industries are governed at the federal level, each state regulates how workers' compensation insurance operates for most companies and workers. This makes the workers' compensation environment complex on the basis of location alone.

### IS WORKERS' COMPENSATION REQUIRED?

Generally, yes. All states except Texas and Wyoming mandate that businesses with employees have workers' compensation insurance. Companies operating in these states may still need workers' compensation insurance if they have employees working in other states.

### Exceptions

#### Workers' compensation insurance may be required for reasons other than state law

Even in states that don't require workers' compensation insurance, some companies may need workers' compensation because they operate in industries that fall under federal workers' compensation requirements.

Additionally, companies may need workers' compensation insurance to meet stipulations in a business contract.

#### Workers' compensation insurance may not be required when a self-funded plan replaces it

The self-funded option is an available exception when, subject to certain requirements, a business can cover the cost of workplace incidents without using insurance.

- This is known as a [self-insured workers' compensation plan](#), which is subject to the same jurisdictional requirements as insurance and isn't the same as being uninsured.
- Businesses that choose to cover incident costs on their own through a self-insured plan retain risks that otherwise would've been transferred to their insurance carrier.

## Workers' compensation requirements by state

Because workers' compensation is primarily regulated at the state level in the U.S., we operate in a system where specific information about workers' compensation laws, benefits, requirements, and penalties for not purchasing workers' compensation insurance differ—often significantly—by state.

In most states, companies can purchase workers' compensation insurance from any private insurer, subject to state requirements.

### State-run workers' compensation funds

Some states have their own state-run workers' compensation funds:

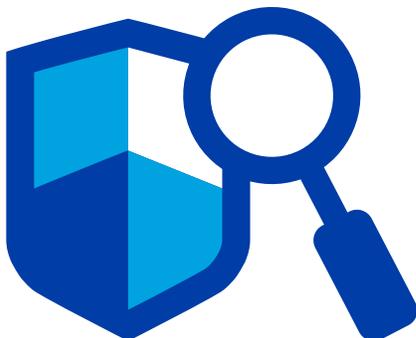
- Several states—North Dakota, Ohio, Wyoming, and Washington—have monopolistic workers' compensation programs, in which case businesses must use the state workers' compensation program.
- In states with non-monopolistic programs, businesses may purchase coverage through the state program or through a private insurance company.
- Puerto Rico, a U.S. territory, also uses a state insurance fund.

### Other workers' compensation differences by state

Because the workers' compensation environment depends on what state you're in, companies must account for numerous differences.

Take Texas, which as previously mentioned doesn't mandate workers' compensation insurance for all private companies. When a company operating in Texas must have workers' compensation insurance for other reasons—such as contract stipulations or having employees working out of state—Texas **does** require that the company's insurance carrier [must be licensed by the Texas Department of Insurance](#).

This is just one example. It's essential to understand that there may be additional fine print when a company needs to buy workers' compensation in any given state. Visit the U.S. Department of Labor's website for [state workers' compensation contact information](#).



## HOW DOES WORKERS' COMPENSATION WORK?

Workers' compensation provides wage replacement and medical benefits if an employee becomes injured, ill, or disabled due to an incident that happened in the course and scope of employment. Benefits are paid after filing a claim, paid out by the workers' compensation plan. In exchange for payments made by the employer to the insurance provider, workers' compensation helps simplify the process and limit legal battles. Key parts of workers' compensation are the benefits the worker receives, the types of policies available to the employer, and how the coverage is paid for.

## What does the workers' compensation process look like?

While the broad outline of what happens after an incident is generally the same in most workers' compensation environments, remember that state-by-state and other differences can come into play. Here's a typical sequence of events:

1. A construction worker accidentally drops a brick on a co-worker's foot. While their company employs and encourages safety measures—like requiring steel-toe shoes—the worker was injured and decides to start the workers' compensation process.
2. Because the worker chooses to accept workers' compensation—and is now on the path toward receiving medical benefits and/or wage replacement without litigation—this employee gives up the right to sue the employer for the injury in most cases.
3. In return, the construction company can now work with its workers' compensation insurance carrier and other third-party professionals, such as healthcare workers, to help the worker receive the care needed to return to work in due time.
4. Depending upon coverages and case details, the worker could receive benefits, including wage replacement and payments for medical care and rehabilitation. These are paid by the insurance plan, not the company.

## Additional workers' compensation incident examples

What's covered by workers' compensation insurance isn't always obvious because workplaces and work duties vary. Some incidents that may be covered by workers' compensation include:

- An employee is injured while driving a company car for work.
- A remote worker sustains a job-related injury away from company property.
- A worker catches an illness while handling hazardous job-related materials offsite.

Again, many variables apply. What is covered in one state jurisdiction may not be covered in another.

## Workers' compensation benefits for employees

Generally, workers' compensation plans will pay benefit expenses related to the covered accident, injury, or illness. Workers' compensation benefits include payments for:

- **Medical treatment:** If an employee becomes hurt on the job, workers' compensation will provide that employee with the costs needed to cover the medical fees associated with that injury.
- **Rehabilitation:** If an employee requires care while recovering from an injury sustained on the job, workers' compensation will help pay for ongoing medical treatment such as physical therapy.
- **Wage replacement:** If an employee can't earn an income by returning immediately to work after an injury sustained on the job, workers' compensation will help pay lost wages during that time.
- **Disability benefits:** If an employee has a full or partial disability directly resulting from their employment, workers' compensation will help pay disability benefits.
- **Death and funeral services:** In the unfortunate event an employee dies due to a work-related incident, workers' compensation will help pay death benefits to the named beneficiary, including funeral costs.

## Workers' compensation policy types

If asked about types of workers' compensation, many people would describe the types of **benefits** injured workers may receive, such as wage replacement, disability benefits, or payments for medical treatment costs, as outlined above.

However, these **benefits and coverages** are generally included in any workers' compensation plan, regardless of the type of plan. It's important to understand the distinction between **types of benefits** or coverages versus **types of plans**.

The confusion often arises from the fact that plan types vary and are often described by aspects and features that can be complex, overlapping, and broken down into subtypes that, from the workers' perspective, don't affect benefits much.

From the employers' perspective, however, understanding what types of plans are available—or required—can be important for complying with state law and controlling costs, among other reasons. Most differences in type are **source based** or **structurally based**.



## Workers' compensation policy types by provider

Plan types can vary by **source**. Based on where a business is located and certain industries, state workers' compensation laws and federal workers' compensation laws can define what provider-based type of policy a company can choose:

- **State programs:** [State workers' compensation programs](#), which can be privatized and can also be monopolistic or competitive
- **Federal programs:** [Federal workers' compensation programs](#), which mostly apply to federal workers or workers in specific industries
- **Commercial programs:** Commercially available workers' compensation programs, in great variety, from business insurance companies like Sentry

## Workers' compensation policy types by payment and administration structure

Plan types can also vary by how they're **structured**. In order of complexity, guaranteed cost, loss-sensitive, and self-funded plans provide a spectrum of options.

- **Guaranteed cost plans:** [Guaranteed cost workers' compensation plans](#) resemble most other kinds of insurance, offering:
  - Predictable premiums
  - Simple claims processes
- **Loss-sensitive plans:** Loss-sensitive workers' compensation plans come in many varieties:
  - [Retrospective rating insurance](#)
  - [Small deductible plans](#)
  - [Large deductible plans](#)
    - Traditional monthly paid loss programs
    - Monthly incurred loss programs
    - Pre-funded plans
  - [Self-insured retention](#)
- **Self-funded plans:** Self-funded workers' compensation plans, also known as self-insurance plans, are a sophisticated option for companies with substantial resources and complex insurance risks:
  - The type of plan prioritizes cash flow but doesn't transfer risk to an insurance carrier.
  - While self-funded plans aren't insurance policies in the traditional sense, insurance companies like Sentry can provide valuable [claims administration](#), [safety services](#), and excess coverage for large companies with a self-insurance plan.

## Choosing a workers' compensation plan type

Most businesses have choices for picking a workers' compensation plan type that meets state requirements and works for them and their employees.

- **Small businesses** often choose guaranteed cost workers' compensation plans.
- **Mid-sized businesses** may opt for a hybrid workers' compensation plan with loss-sensitive components.
- **Large businesses** generally prefer sophisticated self-funded plans.

At Sentry, we can help as you explore your options and determine which type of plan is right for you and your employees. We offer different types of [workers' compensation plans](#) that can fit companies from very small to very large. We also provide safety and loss prevention assistance—crucial to helping protect employees from injuries—and an integral part of many loss-sensitive and self-funded plans.

## Cost of workers' compensation

The cost of workers' compensation varies, though it begins with a calculation.

Generally, insurance providers start with a base rate (for example, \$.30 per \$100 in payroll). If a business pays an employee \$40,000 in payroll, the starting premium for that employee would be \$120. Base rates vary. Workers whose job tasks make them less likely to become injured or ill on the job have lower rates per \$100 in payroll. Each state uses a specific source for these ratings.

The insurance provider then applies carefully researched rate factors, modifying the base rate. A factor greater than 1 raises the rate. A factor lower than 1 lowers the rate. The net rate is a result of all factors multiplied together. Other costs may come into play. Workers' compensation rate factors and other costs are based on information such as:

- **Worker classification:** Workers such as electricians, telecommunication repair workers, and lumberjacks typically have higher base rates and rate modifiers because of the increased likelihood and/or scale of incidents.
- **Industry risks:** Premiums for companies in high-risk industries are higher. Some states use the National Council on Compensation Insurance (NCCI) to create a pool of funds that shares liability between the state and the employer for high-risk professions.
- **Claims history:** Companies with a history of more workers' compensation costs generally pay more to cover their greater risks.



- **State requirements:** Each state's requirements affect the premiums for workers' compensation within it. Additionally, state requirements can influence competition (or remove it, in the case of state-run monopolistic plans), which can also affect premiums.
- **Policy types:** How policies are paid for and administered can affect premiums. For example, self-funded plans can lower plan costs but raise the potential cost of risk.

Accuracy is vital during the underwriting process. If an insurance company is uncertain about the level of risk involved at your company, it may factor that uncertainty into your risk of claims, leading to potentially higher premiums.

At Sentry, we believe in the power of conversation and getting to know our customers to explore possible solutions. The better we understand your goals and risks, the more we can offer options to protect your goals and mitigate your risks. This can lower the claims history factor.

### Mitigating workers' compensation costs

Underwriters look at claims histories and how companies manage their risk of on-the-job injuries or illness—and their severity—when determining the cost of a workers' compensation insurance policy. Thus, employers do have some ways to control costs:

- **Build a safety program:** A successful safety program—incorporating training, monitoring, and reporting—can help reduce workers' compensation costs for employers.
- **Build a culture of safety:** Organizations committed to safety, making it a priority at all levels without exception, can often reduce risk.
- **Hire smart:** Qualified employees generally have less risk of being involved in an on-the-job incident.
- **Train effectively:** Workers who know how to perform tasks and use equipment correctly can lower their risk of injury or illness.
- **Establish a return-to-work program:** In our experience, the longer a worker is off the job, the less likely they'll return to their prior level of performance and job satisfaction. Alternative work can be an option in some situations.

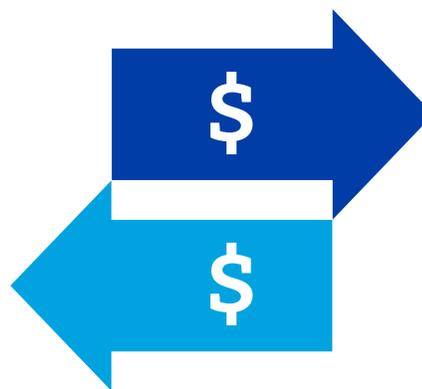
### HOW DO WORKERS' COMPENSATION CLAIMS WORK?

Filing a [claim](#) for workers' compensation is often dissimilar to filing a claim for other types of insurance, such as insurance that covers property damage. Because workers' compensation insurance is carried by the employer and covers injuries and illnesses affecting the employee, the process for filing and managing a workers' compensation claim involves multiple parties.

- 1. Before a claim:** Typically, an employer will train a supervisor to report injuries or illnesses that may fall under workers' compensation to the plan provider. We offer you [resources](#) to help you conduct this training.
- 2. Reporting a claim:** In the event of an accident or illness, once safety and proper medical attention are underway, the supervisor should help determine the appropriate course of action, complete an injury or illness report, and communicate with the employee about workers' compensation procedures. The company will then file this report with its workers' compensation carrier. Prompt reporting can help speed results.
- 3. Managing a claim, recovery, and return to work:** Communication between the supervisor, employee, carrier, and medical professionals will occur to ensure appropriate benefits and the affected employee's possible return-to-work timeline.

### DO EMPLOYEES GET FULL PAY WHILE ON WORKERS' COMPENSATION?

Workers' compensation does not pay a full salary. However, employees are entitled to a certain percentage of what would have been their regular gross wage. Amounts may differ with minimums and maximums varying by state. Tax implications and company benefits may also affect benefit amounts.



## CAN EMPLOYEES WORK WHILE ON WORKERS' COMPENSATION?

Yes, employees can still work—and receive pay or salary—while receiving workers' compensation benefits for medical treatment, rehab, or disability. These benefits are independent of the employee's ability to work, meaning that even if an employee is able to quickly return to their position, the costs for an initial hospital visit and ensuing medical treatment are still covered.

This question usually arises when people think of being “on workers' compensation” as receiving ongoing payments as a wage replacement benefit. It would be more accurate to ask if a worker could receive wage replacement through workers' compensation, even if they continue to work.

While it's much more common for an employee to receive wage replacement only to compensate for lost hours or work, it is possible—in some states and under certain circumstances—for a worker to receive wage replacement through workers' compensation while continuing to work.

## CAN EMPLOYEES LOSE THEIR JOB DUE TO AN INJURY?

Any serious accident or illness can leave an employee physically unable to perform their job. Workers' compensation cases shouldn't be treated any differently than situations where the injury or illness wasn't job-related.

Cases where an injury or illness could lead to job loss include:

- An audio engineer experiencing permanent hearing loss
- A driver unable to perform their job due to vision impairment
- A salesperson unable to travel due to chronic illness

Additionally, it may not always be possible for workers to phase back into their original jobs over time, depending on the level of therapy or healing necessary. These scenarios may also lead to a loss of employment:

- **No alternative role available:** Depending on the size and scope of the business, a position may not be open that meets both the worker's restrictions and qualifications. Therefore, this person may not have an opportunity to continue working at the company.
- **Performance in a new role:** After reassignment to a position, an employer could still terminate an employee for job performance. There are no workers' compensation factors in this situation, so the employee should be treated the same as any other.
- **Wider circumstances:** Corporate downsizing, sudden facility closure, or other random events could trigger a job loss at any business. Again, workers' compensation is a non-factor in these situations.

It's important to note an employer can't fire an employee for filing workers' compensation—filing a workers' compensation claim is legal and protected—but companies in at-will employment states can fire employees **while** they receive workers' compensation benefits. Typically, being fired or let go will **not** prevent a worker from receiving workers' compensation benefits.

Based on jurisdiction, a fired employee may receive workers' compensation wage loss benefits if their injury or illness led to job restrictions which were not accommodated by the employer.

## LEARN MORE ABOUT WORKERS' COMPENSATION

Understanding how worker's compensation works—and what type of benefits are available or who pays for them—is a nuanced conversation. Each case requires individualized attention and investigation, as many factors depend on which state's rules apply, among other variables.

That's why we're here to help employers and their teams fully understand what they need to know about workers' compensation and how to get a plan that meets their individual situation.

You can prepare for a personalized conversation about your workers' compensation goals, budget, and requirements by exploring the wide variety of [workers' compensation plan types we offer](#).

## WORKERS' COMPENSATION FAQS

### What isn't covered by workers' compensation?

Workers' compensation benefits won't cover the cost of medical treatment for injuries or accidents that occurred outside of work or for pain and suffering. State and federal laws and policies define work-related injuries.

Incidents that may not be covered by workers' compensation include:

- **Accidents or injuries that occur outside of the workplace or in non-work capacities**
  - Example: If a food worker accidentally cuts their hand while in their own kitchen
- **Accidents or injuries that occur while an employee is intoxicated**
  - Example: If an employee reports to work under the influence—and an injury happens—this worker may have forfeited their right to workers' compensation



- **Accidents or injuries that are proven to have been caused by an intentional, risky, non-work activity at the workplace**

- Examples: Horseplay, accidents or illnesses stemming from practical jokes

Some accidents may appear connected to a worker's position, but they may not be compensable if they were not sustained while performing job requirements. For example, workers' compensation may not provide benefits if:

- **The accident or injury didn't occur at work**

- Example: A worker is injured while driving to work, as the commute isn't part of the job's specific requirements, even though they drive for work once they're on the job. If they're driving a company car, the injury may be covered, depending upon the specific facts and the state jurisdiction.

- **The accident or injury occurred at the workplace, but not in the scope of work**

- Example: An employee accidentally hurts their leg while in the office gym. Unless they're hired as a fitness instructor, required to use the gym, or attending a mandatory event, this injury may not qualify for workers' compensation, depending on specific facts and state jurisdiction.

**When in doubt, report.** Regardless of whether you think an injury is covered by workers' compensation, you should still report it and let the process sort it out. Generally, if it's determined that a worker is injured while on the clock performing their job duty, workers' compensation can likely provide benefits, from medical coverage to wage replacement or something else.

## **How does COVID-19 affect workers' compensation?**

Workers' compensation typically doesn't cover infectious diseases because they're difficult to attribute to the workplace. However, coverage may be extended to first responders or those in the healthcare field or other industries where the hazard of being infected at work is greater.

Additionally, because they're considered uninsurable risks, pandemics are often explicitly excluded from insurance policies.

Whether or not a policy covers pandemics, evolving legislative reactions to COVID-19 have created a fluid environment for whether and how workers' compensation covers COVID-19 that could have been contracted at work.

In certain states, new laws require employers to report work-related and non-work-related infection data to their claims administrator, regardless of coverage.

## **Can an employee sue their employer if they're injured at work?**

One core benefit of workers' compensation is that it provides employees with exclusive remedies and helps prevent lawsuits by providing up-front and other benefits without the need to establish fault.

Often, workers forego the right to take legal action when they accept workers' compensation.

However, a worker may still have the right to sue their employer in any of the following scenarios:

- The employer doesn't let its staff know their right to reject workers' compensation.
- A worker refused workers' compensation before their injury or illness occurred.
- The worker or incident has a cause of action as interpreted by a court of law.

**At Sentry, our safety team and available resources can help you reduce your risk of workers' compensation claims. Contact us for more information.**