



When replying, refer to: Customer Number
 Policy Number
 Policy Period to

Dear Insured:

SUBJECT: WORKERS' COMPENSATION CLAIM INFORMATION

Thank you for choosing NSI, a division of West Bend Mutual Insurance Company, as your insurance carrier for your Workers Compensation Coverage. The associates of NSI look forward to working with you to control the cost and number of work related incidents.

West Bend is pleased to provide you with ...

1. Workers' Compensation reporting tips that are helpful when you must report a work-related injury.
2. Employer's First Report of Injury or Disease form.
3. Supervisor's Incident Report.
4. A description of our cost containment initiatives.

The following forms are also available and are helpful in returning your employee to work ...

1. **Job Analysis.** (WB 501) Use this form when working with the treating physician.
2. **Attending Physicians Return to Work Recommendations Record.** (WB 531) Send this with the injured employee to the initial treating doctor's appointment. You may ask the employee to return the form directly to you after initial medical treatment, or ask the doctor to fax it back to you.
3. **Return to Work Log.** (WB 603) Use this log as an efficient method to monitor and document the specific tasks your employees are performing while on light or modified duty.

We hope you find this information useful.

Sincerely,

NSI
Workers' Compensation Claim Department

NS 0212 B 03 07

WORKERS' COMPENSATION REPORTING TIPS

– ATTENTION – YOU MAY BE FINED IF YOU DO NOT REPORT ON-THE-JOB INJURIES ON TIME

You must complete an Employer's First Report of Injury IMMEDIATELY after an on-the-job injury occurs and forward the report to your claims administrator. **You may be fined if you do not submit the report on time.**

Send, fax, call, or e-mail the initial loss report immediately, even if you do not have all the information about the injury.

- Do not wait for medical bills.
- Do not withhold the loss report because you believe the claim is questionable. Reporting a loss is not an admission of liability.
- Be sure to include the policy number on all correspondence.

Please mail, fax, call, or e-mail the report to:

West Bend Mutual Insurance Company Claims:

All States

Workers' Compensation Claims Department
West Bend Mutual Insurance Company
1900 S. 18th Avenue
West Bend, WI 53095
Phone: 877-922-5246
FAX: 888-926-9299 or 262-334-6378
e-mail: directconnect@wbmi.com

General Questions:

Phone: 800-236-5004 or 334-6430
e-mail: wccentral@wbmi.com

NSI Claims:

Workers' Compensation Claims Department
8401 Greenway Blvd., Ste 1100
Middleton, WI 53562
Phone: 800-760-9250
Fax: 877-434-9585
e-mail: nsiclaims@wbmi.com

Do not withhold the loss report for any reason. Send, fax, call, or e-mail it IMMEDIATELY after the injury occurs. **You may be fined** if the claims administrator cannot make the initial lost time payment because you failed to send the Employer's First Report of Injury on time.

If you fax or e-mail the report, please do not send it. If you need to notify your agent, please send your agent a photocopy of the report. Direct reporting saves time.

If you have any questions, please call your claims administrator.

HOW TO WRITE INJURY DESCRIPTIONS

The following instructions will help you avoid some common errors and save time when describing an injury on the First Report of Injury form.

For most accidents, you can describe what happened in one or two sentences. "He strained his lower back lifting a box." "She bruised her left knee when she fell on a wet floor." However, your descriptions must be specific. "Hurt back working" does not provide enough information.

Answer the following questions when describing an injury:

1. What part of the body was injured?

- Lower back
- Right forearm
- Upper right leg
- Third toe on left foot

2. How did the accident happen?

- Did the person fall?
- Did they twist their body as they got out of a chair?
- Were they moving or stationary when the accident happened?

3. Was the injured person carrying anything?

Even if it probably didn't cause the injury, we need to know if the person was carrying anything. For example, "Carrying broom, stepped wrong and twisted left ankle."

4. What specifically appears to have caused the accident?

If someone hurt their back lifting a box, say that. Don't say:

- Lifting a unit of material
- They hurt their back lifting product
- Lifting equipment

Avoid jargon or trade names for equipment. Explain precisely what they were doing.

- Lifting an air conditioner
- Pushing a cart
- Carrying magazines
- Bending over to pick up a wrench

If a machine caused the injury, tell us what kind.

- A grinder
- A shear
- A hoist

Again, avoid jargon or trade names.

5. What injury appears to have resulted?

- Strain
- Fracture
- Bruise
- Cut

Please be sure to include the injured person's birthdate or age and Social Security number. Also, indicate the geographical location of the accident (city, county and state).

YOUR RETURN-TO-WORK PROGRAM

What Is A Return-To-Work Program?

A return-to-work program is a proactive way to help injured workers return to productive and safe employment as soon as physically possible. It is a partnership involving employers, workers, health care providers, and the insurance company. The partnership has one shared goal: to return injured workers to safe and suitable work.

Why Introduce A Return-To-Work Program?

Workplace injuries are costly to all members of today's workplace partnership. While accident prevention is the best way to reduce overall injury costs, the implementation of an effective return-to-work program helps to guarantee that each injured worker receives prompt health care and early assistance during both the initial stages of recovery and the subsequent return to productive employment.

Key Steps to a Successful Return-To-Work Program

- Involve and communicate with your workforce
- Organize a Joint Return-To-Work Committee
- Select a Return-To-Work Manager
- Evaluate the needs of your workplace
- Develop a Return-To-Work policy and define the program's scope
- Formulate the objectives of your Return-To-Work Program
- Review your worksite accident history
- Create rules and processes
- Conduct a job task analysis
- Develop light duty activities
- Create and utilize an information package
- Facilitate communication, education and promotion
- Evaluate the results of your program

The Claim Process:

1. Injury occurs and employee reports a claim.
2. Employers First Report of Injury is filed with the insurance carrier within 24 hours.
3. Employee incident report is completed by the injured employee.

4. Supervisor incident report is completed by the supervisor.
5. File the Employee and Supervisors Reports, along with any other investigation results to the insurance carrier.
6. Employer explains WC rights and responsibilities to the employee.
7. Employer provides the employee a restricted duty form for the physician to complete. One of the following will occur;
 - A. The employee will return to fulltime, unrestricted work.
 - B. The employee will be authorized off of work by the physician.
 - * The employer should contact the physician regarding the R-T-W policy and procedure.
 - * Follow up with the injured employee weekly to discuss R-T-W options.
 - * Once R-T-W restrictions become available, advise the claimant in writing of order to provide restricted work.
 - C. The employee will return to work within restricted duty.
 - * W/C Coordinator communicates restrictions to supervisor and insurance carrier.
 - * Follow up with employee weekly to monitor progress.
 - D. The employee will return to work without a release or clear restrictions. The employer should do one of the following:
 - * Call the physician to clarify restrictions and request R-T-W forms.
 - * Fax, mail or deliver a letter outlining the availability of restricted work, along with R-T-W form to the physician.
8. Employer continues to monitor and gather information regarding treatment and R-T-W. Provide this information to the insurance carrier to ensure prompt handling of the claim and coordinated R-T-W efforts.
9. Review progress of the claim with the insurance carrier on a quarterly basis or until closure of the claim.

INFORMATION FOR INJURED EMPLOYEES

K-WC 27 (Rev. 3-12)

* THIS NOTICE APPLIES TO ACCIDENTS ON OR AFTER MAY 15, 2011 *

Employers are required to provide this information to each injured worker

WHAT TO DO IF AN INJURY OCCURS ON THE JOB

If you have any questions about workers compensation benefits, contact the Division of Workers Compensation at the phone number at the bottom of the page. **Assistance in Spanish is available.**

(1) NOTIFY YOUR EMPLOYER IMMEDIATELY: Per K.S.A. 44-520, a claim may be denied if an employee fails to notify their employer within the earliest of the following dates: (A) 30 calendar days from the date of accident or the date of injury by repetitive trauma; (B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or (C) if the employee no longer works for the employer against whom benefits are being sought, 20 calendar days after the employee's last day of actual work for the employer.

Notice may be given orally or in writing. Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment.

The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

(2) FOLLOW YOUR EMPLOYER'S INSTRUCTIONS for getting medical aid and follow the doctor's instructions.

(3) MEDICAL BENEFITS: An injured worker is entitled to all medical services reasonably necessary to cure and relieve the worker from the effects of the injury. The employer has the right to select the doctor who will treat the injury. A worker may seek the services of an unauthorized doctor up to a limit of \$500.00. A worker may apply to the Workers Compensation Director to change the authorized treating doctor. Reimbursement for travel to obtain medical treatment is payable at a rate set by law for trips that are five miles or more (round trip).

(4) WEEKLY BENEFITS: Benefits are paid by the employer's insurance carrier or self insurance program. Injured workers are not entitled to compensation for the first week they are off work unless they lose three consecutive weeks. The first compensation payment is normally due at the end of the 14th day of lost time. An injured employee is entitled to a weekly amount of 66 2/3 percent of his/her average weekly wage up to a maximum of 75 percent of the state's average weekly wage. These benefits are subject to legislative changes. If the injury results in permanent disability, the Kansas Workers Compensation Law provides for additional benefits.

RESPONSIBILITIES OF THE EMPLOYER

1. Employers must report all employee injuries to the Division of Workers Compensation within 28 days from the date of injury, or the date the employer learned about the injury, when the employee is wholly or partially incapacitated for more than the remainder of the day, turn or shift.
2. Employers must provide for the payment of workers compensation claims without any charge to employees.
3. Employers must post the Workers Compensation Notice prepared by the Director.
4. Employers must pay compensation benefits, regardless of insurance coverage.
5. Upon receiving notice of an injury, the employer must provide the employee written information to assist the injured worker in understanding his/her rights and responsibilities in obtaining compensation.

EMPLOYERS MUST COMPLETE THE FOLLOWING INFORMATION FOR INJURED WORKERS

YOUR CLAIM WILL BE HANDLED BY:

Company NSI, a division of West Bend Mutual Insurance Company

Address PO Box 620976

Middleton, WI 53562

Contact Person Eric Yoose

Phone (800) 760-9250, ext. 434

Email NSIWCClaims@wbmi.com

DIVISION OF WORKERS COMPENSATION – OMBUDSMAN / CLAIMS ADVISORY UNIT
401 SW Topeka Blvd., Ste. 2, Topeka, KS 66603-3105 • Phone (785) 296-2996, (800) 332-0353 • Fax (785) 296-0025

INFORMACIÓN PARA TRABAJADORES LESIONADOS

K-WC 270 (Revisado 3-12)

* ESTE AVISO APLICA A FECHAS DE ACCIDENTE A PARTIR O DESPUÉS DE MAYO 15, 2011 *

Empleadores son requeridos de proveer ésta información a cada trabajador que se lesiona

¿QUÉ HACER SI LE SUCEDE UN ACCIDENTE EN EL TRABAJO?

Si tiene preguntas acerca de beneficios de compensación del trabajador, contacte la unidad mencionada al final de página. **Asistencia en Español está disponible.**

(1) NOTIFIQUE A SU EMPLEADOR INMEDIATAMENTE: De acuerdo con el artículo de la ley K.S.A. 44-520, un reclamo puede ser negado si el empleado no notifica a su empleador antes de las siguientes fechas: (A) 30 días a partir de la fecha del accidente o la fecha de la lesión debido a trauma por movimientos repetitivos; (B) si el empleado está trabajando con el empleador en contra del cual se están buscando beneficios y dicho empleado busca tratamiento médico por cualquier lesión por accidente o trauma repetitiva, 20 días a partir de la fecha que dicho tratamiento médico ha sido obtenido; o (C) si el empleado ya no trabaja para el empleador en contra del cual se están buscando beneficios, 20 días después del último día de trabajo para dicho empleador.

El aviso puede darse oralmente o por escrito. Donde el aviso se da oralmente, si el empleador ha designado un individuo o departamento a quien el aviso se debe dar y tal designación ha sido comunicada por escrito al empleado, aviso a cualquier otro individuo o departamento deberá ser insuficiente bajo esta sección. Si el empleador no ha designado a un individuo o departamento a quien se debe dar el aviso, el aviso puede darse a un supervisor o gerente.

Donde el aviso se hace por escrito, el aviso debe ser enviado a un supervisor o gerente de la oficina principal de empleo del trabajador.

El aviso, sea que se haga oralmente o por escrito, debe incluir la hora, fecha, lugar, persona lesionada y detalles de tal lesión. Debe ser visible a partir del contenido del aviso, que el empleado está reclamando beneficios bajo la ley de compensación del trabajador o que ha sufrido una lesión relacionada con el trabajo.

(2) SIGA LAS INSTRUCCIONES DE SU EMPLEADOR para conseguir ayuda médica y siga las instrucciones del doctor.

(3) BENEFICIOS MÉDICOS: El trabajador lastimado tiene derecho a todo servicio médico razonablemente necesario para curar y aliviar al trabajador de los efectos de la lesión. El empleador tiene el derecho de seleccionar el doctor quien dará el tratamiento necesario. El trabajador tiene derecho de escoger los servicios de otro doctor no autorizado hasta llegar al límite de 500.00 dólares. El trabajador puede solicitar al Director de Compensación de Trabajadores el cambio del doctor autorizado. Los gastos incurridos en viajes hechos para obtener tratamiento médico serán reembolsados según sean estipulados por ley por viajes que incluyen más de cinco millas, viaje redondo.

(4) BENEFICIOS SEMANALES: Los beneficios son pagados por la compañía aseguradora del empleador o programa de seguro propio. Los trabajadores lesionados no tienen derecho a compensación por la primera semana, a menos que estén sin trabajar tres semanas consecutivas.

El primer pago de compensación normalmente se vence al fin de los 14 días de estar sin trabajar. Un trabajador lesionado tiene derecho a una cantidad semanal de 66 2/3 por ciento de su sueldo promedio semanal hasta un máximo de 75 por ciento del sueldo promedio semanal del estado. Estos beneficios están sujetos a cambios por la legislatura. Si la lesión resulta en incapacidad permanente, la ley del Estado de Kansas para Compensación de Trabajadores provee beneficios adicionales.

RESPONSABILIDADES DEL EMPLEADOR

1. El empleador debe reportar cada accidente de los trabajadores a la División of Compensación de Trabajadores dentro de 28 días de la fecha del accidente, o de la fecha en que el empleador se haya dado cuenta del accidente, cuando el trabajador esté completa o parcialmente incapacitado por lo que resta del día o del turno.
2. Los empleadores deben suministrar el pago de los reclamos sin costo a los empleados.
3. Los empleadores deben exhibir un Aviso de Compensación al trabajador, preparado por el Director.
4. Los empleadores deben pagar beneficios de compensación sin importar la cobertura de seguro.
5. Tan pronto como se reciba el aviso de una lesión, el empleador debe proveer información por escrito para ayudar al trabajador lesionado a entender sus derechos y responsabilidades al obtener compensación.

EMPLEADORES DEBEN COMPLETAR LA SIGUIENTE INFORMACIÓN PARA LOS TRABAJADORES LESIONADOS

SU RECLAMO SERÁ MANEJADO POR:

Compañía NSI, a division of West Bend Mutual Insurance Company

Dirección PO Box 620976

Middleton, WI 53562

Persona de Contacto Eric Yoose

Teléfono (800) 760-9250, ext. 434

Correo electrónico NSIWCClaims@wbmi.com

DIVISION OF WORKERS COMPENSATION – OMBUDSMAN / CLAIMS ADVISORY UNIT
401 SW Topeka Blvd., Ste. 2, Topeka, KS 66603-3105 • Phone (785) 296-2996, (800) 332-0353 • Fax (785) 296-0025



Workers Compensation Information for Kansas Employers and Employees



K-WC 25 (1-12)

Copies of election forms, accident reports, the Posting Notice (K-WC 40) and all other mandated posters are available to download at www.dol.ks.gov.

For additional information on workers compensation benefits, employer guidelines and other general information, contact:

**Kansas Department of Labor
Division of Workers Compensation**

401 SW Topeka Blvd.
Topeka, Kansas 66603
(785) 296-2996
(800) 332-0353

E-mail: wc@dol.ks.gov

Website: www.dol.ks.gov

Follow us:



www.facebook.com/KansasDOL



www.twitter.com/KansasDOL

For more information on workers compensation insurance rates and insurance carrier conduct, contact:

Kansas Department of Insurance

420 S.W. 9th Street
Topeka, Kansas 66612-1678
(785) 296-3071
(800) 432-2484

E-mail: commissioner@ksinsurance.org

Website: www.ksinsurance.org

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What is Workers Compensation?

Workers compensation is a required insurance plan provided by the employer to pay employee benefit for job-related injuries, disability or death that arise out of and in the course of employment.

Per K.S.A. 44-508, an injury by accident shall be deemed to arise out of employment if:

- There is a casual connection between the conditions under which the work is required to be performed and the resulting accident; and
- The accident is the prevailing factor causing the injury, medical condition and resulting disability or impairment.

The words “arising out of and in the course of employment” as used in the Workers Compensation Act shall not be construed to include:

- Injury which occurred as a result of the natural aging process or by the normal activities of day-to-day living;
- accident or injury which arose out of a neutral risk with no particular employment or personal character;
- accident or injury which arose out of a risk personal to the worker; or
- accident or injury which arose either directly or indirectly from idiopathic causes.

Benefits are paid at the employer’s expense. Coverage begins the first day on the job.

The present law covers all Kansas employers except for those in certain agricultural pursuits or those with a gross annual payroll of \$20,000 or less. All payroll is taken into account, including that paid in Kansas or elsewhere. If the employer is a sole proprietor or a partnership, the wages paid to the owners and any of their family members are not used in the computation of the gross annual payroll.

Employees who are disabled due to a job-related injury or disease are entitled to:

- medical expenses to treat the job-related injury or illness; and
- income benefits to replace part of the wages lost due to disability.

If death results from a job-related injury or disease, benefits may be paid to the surviving spouse, dependents or heirs.

Purpose of the Law

Kansas passed its first workers compensation law in 1911. By regulating litigation and benefits, the law is designed to protect the interests of both employers and employees. Employers benefit by substituting a known expense (premiums) for the risk of large, unbudgeted expenses in the event of serious employee disabilities. Employees benefit because negligence of the employer is not an issue in determining liability. Workers compensation coverage is a no-fault system. The provisions of the Workers Compensation Act shall be applied impartially to both employers and employees. While initially aimed at hazardous jobs, the law now covers most workers.

Elections

Elections in or out of the Workers Compensation Act are options available to employers or employees.

Depending on the circumstances, options may be available for:

- non-covered employers – e.g., those with payrolls of \$20,000 or less or in certain agricultural pursuits;
- corporate employees owning 10 percent or more of stock;

- individuals, proprietors or partnerships;
- employers seeking coverage for volunteers and other non-covered workers; and
- volunteer directors, officers or trustees of a nonprofit organization.

Example: A two-person partnership has two employees – a family member and a non-family member – and an annual payroll of \$15,000. The partnership may elect to purchase coverage under the Act and to extend such coverage to both employees. The partners are not covered because they are considered to be the employer.

Election forms can be found online at www.dol.ks.gov.

Employee Rights and Responsibilities

Kansas law protects an employee's right and ease in obtaining workers compensation. Specifically:

- An employee cannot be fired, demoted or otherwise discriminated against for filing a claim in good faith.
- Employees must be informed of their rights and responsibilities in case of injury. In the event of employee death, such information must be furnished to the employee's beneficiaries.
- Employees must not be charged for the payment of workers compensation claims. Employers cannot deduct from pay or benefits to pay insurance premiums or claims.
- Employees may be entitled to compensation benefits from an employer subject to the Act regardless of insurance coverage.
- Employees may obtain free assistance by contacting the Workers Compensation Ombudsman's office at (800) 332-0353 or (785) 296-2996.
- The law provides specific penalties for employee or employer fraud in workers compensation cases. For assistance or more information, or to report suspected fraud, contact the Workers Compensation Ombudsman's office at (800) 332-0353 or (785) 296-2996, or the Fraud and Abuse office at (785) 296-6392.

Employer Responsibilities

Workers Compensation Insurance

Most employers are required by law to provide for the payment of workers compensation claims, at no expense to the employee. Employers shall satisfy this requirement in one of three ways:

- **Workers compensation insurance:** obtained from a licensed insurance carrier; the employer pays the premiums and the insurance company pays the claims. The insurance carriers are regulated by the Kansas Insurance Department.
- **Self-insurance:** an individual employer must demonstrate to the State the financial ability to pay any claims that might arise. This program is administered by the Division of Workers Compensation.
- **Group-funded pool:** a group of employers meeting certain statutory requirements may form a self-insurance program to jointly insure their ability to pay claims. This program is administered by the Kansas Department of Insurance.

Intentional failure to provide for workers compensation payment in one of the above ways is a **class A misdemeanor** and subjects the employer to a civil penalty in an amount twice the annual premium the employer would have paid for insurance or \$25,000, whichever amount is greater.

Employment categories excluded from the law are:

- certain agricultural pursuits;
- realtors who qualify as independent contractors;
- employers with gross annual payrolls of \$20,000 or less;
- firefighters belonging to a firefighters relief association which has waived coverage under the workers compensation law; and
- certain owner-operator vehicle drivers covered by their own occupational accident insurance policy.

OTHER REQUIREMENTS

- Employers must post written notice ([K-WC 40](#)) advising employees what to do in case of injury.
- Employers must file, or cause to be filed, an accident report with the Division of Workers Compensation within 28 days from the date of reportable injury, death or employer notification of such. Failure to do so may result in legal and financial penalties.
- Immediately upon learning of an employee's injury or death, the employer must furnish written information to the employee or employee's dependents on available benefits, the claims process, an employer or insurance company contact for workers compensation claims, and other matters as required by law. Forms [K-WC 27](#) and [K-WC 270](#) (Spanish) are available from the Division of Workers Compensation website at www.dol.ks.gov.
- An insurer or self-insured employer shall provide the following notice to an insured worker on or with the first check for temporary disability benefits: *Warning: Acceptance of employment with a different employer that requires the performance of activities you have stated you cannot perform because of the injury for which you are receiving temporary disability benefits could constitute fraud and could result in loss of future benefits and restitution of prior workers compensation awards and benefits paid.*

If you need assistance, call (800) 332-0353 or (785) 296-2996.

Categories of Disability Benefits

Temporary Total Disability

Exists when the employee, on account of injury, is unable to engage in any type of substantial and gainful employment. Benefits are paid for the duration of the temporary total disability (TTD). There is a one-week waiting period (seven calendar days) before TTD benefits are paid. If the disability continues for three consecutive weeks, the employee is reimbursed for the waiting period. Employees may collect medical benefits during the first week. Benefits are 66.67 percent of an employee's average gross weekly wage, but not less than \$25 nor more than the statutory maximum. Temporary total compensation may not exceed \$130,000 per injury.

Employees may **not** collect temporary total disability and unemployment benefits for the same weeks.

Temporary Partial Disability

Exists when the worker returns to any employment at a wage less than the time of injury wage. Compensation is calculated on a weekly basis and is paid until the wage loss is no longer present or the benefit maximum is reached, whichever comes first.

Benefits are 66.67 percent of the difference between the employee's average gross weekly wage before the injury and the employee's wage after the injury. Benefits may not exceed the state's statutory maximum.

Permanent Partial Scheduled Disability

Exists when there is complete or partial loss of or loss of use of a body part, such as an arm, due to a job-related injury. Compensation for permanent partial scheduled disability is limited to a percentage of the following schedule. A healing period is available in cases of amputation. Benefits are 66.67 percent of an employee's average gross weekly wage, but not less than \$25 nor more than the statutory maximum cap of \$130,000.

Benefit Information Schedule

Loss of or loss of use of:	Weeks Paid:	Loss of or loss of use of:	Weeks Paid:
Shoulder	225	Thumb.....	60
Arm	210	1st (index) finger	37
Forearm	200	2nd (middle) finger	30
Hand	150	3rd (ring) finger.....	20
Leg.....	200	4th (little) finger.....	15
Lower leg.....	190	Great toe	30
Foot	125	Great toe, end joint.....	15
Eye	120	Each other toe	10
Hearing, both ears.....	110	Each other toe, end joint only.....	5
Hearing, one ear.....	30		

Permanent Partial General Disability

Exists when a worker is disabled in a manner which is partial in character and permanent in quality, and which is not covered by the schedule above. For example, disability involving the back or the loss of use of a shoulder, arm, forearm or hand of one upper extremity, combined with the loss of or loss of use of a shoulder, arm, forearm or hand of the other upper extremity; or the loss of or loss of use of a leg, lower leg or foot of one lower extremity, combined with the loss of or loss of use of a leg, lower leg or foot of the other lower extremity; or the loss of or loss of use of both eyes which is partial in character and permanent in quality are whole body disabilities and are not covered by the above schedule. Compensation for such "non-scheduled" or "whole body" disability is based on the greater of the following: the percentage of functional impairment; or, the employee's reduced ability to perform work tasks and the average weekly wage the employee is capable of earning after the injury. Employees earning 90 percent of pre-injury wage are limited to functional impairment.

Calculating Permanent Partial General Disability Benefits

- 1. Calculate weekly benefit rate by identifying the smaller of these two amounts:** Gross average weekly wage x 66.67 percent; or the statutory maximum.
- 2. Calculate allowable weeks of compensation:** Begin with 415 weeks. Subtract from 415 the number of weeks of temporary total disability paid, excluding the first 15 weeks of such temporary total paid. Multiply the difference by the percentage of disability.

3. **Calculate total benefits:** Multiply weekly benefit rate by allowable weeks of compensation.

Example: Average weekly wage is \$875 at date of accident (7/10/2011). Employee has collected 25 weeks of temporary total disability and has a 25 percent disability rating.

Weekly benefit rate: (use lesser amount)

$\$875 \times .6667 = \583.36

statutory maximum (as of 7/1/11) \$555

Allowable weeks of compensation:

$415 - [25-15] = 415 - 10 = 405$ weeks

$405 \text{ weeks} \times .25 = 101.25$ weeks

Maximum benefit amount:

$101.25 \text{ weeks} \times \$555 = \$56,193.75$

Our website has a Workers Compensation Calculation Program. The date program allows you to calculate time between two dates or to calculate the addition of days to a known date. The scheduled injury and whole body injury programs will allow you to compute the compensation benefits due to the claimant. Step-by-step instructions are provided for each program. The program can be accessed at www.dol.ks.gov/wc/calculations.html.

Permanent Total Disability

Exists when the employee, on account of the injury, has been rendered completely and permanently incapable of engaging in any type of substantial and gainful employment. Loss of both eyes, both hands, both arms, both feet, both legs or any combination thereof, in the absence of proof to the contrary, shall constitute a permanent total disability. Substantially total paralysis, or incurable imbecility or insanity, resulting from injury independent of all other causes, shall also constitute permanent total disability.

Benefits are 66.67 percent of an employee's average gross weekly wage, but not less than \$25 nor more than the statutory maximum. Total compensation may not exceed \$155,000 per injury.

An employee is not allowed to receive more than one award of permanent total disability in a lifetime.

How Rates are Determined

Workers compensation insurance in Kansas is mandated by state law for most but not all employers. The premiums paid by the employers should be sufficient to cover the claims incurred by their insurance companies. Rates are adjusted based on the most recent premiums, investment income and losses reported by the insurance companies. The National Council on Compensation Insurance (NCCI) submits these rates annually to the insurance commissioner for approval.

The NCCI is a ratemaking organization, licensed by the Insurance Department, whose membership is primarily comprised of insurance companies. They develop the annual rate change needed based on the losses and premium reported to them by their member insurance companies.

The Kansas Insurance Department regulates the rates charged in Kansas. Each year, the Insurance Department reviews premiums, claims costs and other relevant data submitted by the NCCI to determine whether a rate change is supported. Currently, about 70 cents of every \$1 collected in premiums is projected to cover the cost of paying workers compensation claims. Approximately 27.5 percent of each dollar is used by insurance carriers

to cover other costs of doing business – e.g., administrative expenses, salaries and overhead. The margin of profit is projected at roughly 2.5 percent plus the earnings on investments.

After reviewing the rate filing, the commissioner of insurance generally approves an “overall” statewide premium change. This “overall” change is stated as a percentage (for example, a five percent overall increase); however, individual classification base rates may increase or decrease more than the “overall” change. Individual classification base rates must continue to reflect the experience (premiums and losses) of employers in each classification.

Premium Components

Workers compensation insurance premiums are calculated based on several factors. The primary factors are:

Base rate: the starting point in calculating premiums. The base rate or loss cost is filed by NCCI and all carriers are required to use it. The base rates can change annually due to statewide loss experience of all employers in the same classification. The companies multiply the base rate by their approved Loss Cost Multiplier (LCM) in order to determine the rate per \$100 of payroll.

Classification: a key factor in determining what rate an employer will pay. Classification denotes the employer’s type of business; hazardous jobs are more likely to result in substantial and costly claims and, therefore, usually have a higher rate. There are about 600 classifications in use in Kansas.

Experience rating: affects premium based on the frequency and severity of compensation claims of employers with sufficient premium size to be “experience rated.” Currently, employers with an annual premium of at least \$4,500 within the past two years, or if more than two years, an average annual premium of \$2,250 or more are experience rated. Fewer and less expensive claims mean a lower experience modification factor, which means a lower premium.

Payroll size: employers with larger payrolls generate more workers compensation annual premiums than those with a smaller payroll in the same classification. However, the expenses incurred in issuing and servicing the policy do not increase in direct proportion to the policy premium. Consequently, a premium discount may be applied to policies with a larger premium to recognize this factor.

Also, some employers are subject to fixed payroll amounts. Partners, sole proprietors and members of a limited liability company who elect to cover themselves under a workers compensation insurance policy pay a premium based on a set payroll which is adjusted annually. The premium for an executive officer of a corporation is based on the actual payroll of the officer, subject to a set per-week minimum and maximum payroll which may be adjusted annually.

Factors Affecting Premiums

Three of the most important factors in reducing premiums are:

- 1. Implementation of an accident prevention program:** these programs were mandated by 1993 legislation and are to be made available to employers by all insurance carriers and group-funded pools operating in Kansas. Because accident prevention programs have been shown to reduce the frequency and severity of injuries, they offer employers the potential to reduce premiums. Premium reduction is, of course, only one benefit of accident prevention that employers should consider.
- 2. Assuring the proper classification(s) was used to calculate the premium:** the classification used on the policy should, as reasonably and accurately as possible, describe the employer’s business and the employee’s duties. The use of an inappropriate classification could result in the payment of an incorrect

premium. If a classification does not seem to accurately describe a particular job, assistance in verifying that the proper classification was used or in obtaining a correction is available by calling the Insurance Department: (800) 432-2484 or (785) 296-3071, or visiting the website at www.ksinsurance.org.

- 3. Use of deductible:** deductibles can be a cost-effective means of reducing premiums and are available in various amounts. Losses paid by the employer under the deductible shall not apply in calculating the employer's experience modification. The insurer shall pay the deductible amount and seek reimbursement from the insured employer for the applicable deductible amount.

General Information

How to Obtain Insurance

Workers compensation insurance coverage can be obtained by:

- contacting a licensed insurance agent;
- contacting the Kansas Insurance Department for information on group-funded pools; or
- contacting the Division of Workers Compensation for information on self-insurance.

Kansas Workers Compensation Insurance Plan (Assigned Risk Plan)

Any employer who is in good faith entitled to but unable to purchase coverage in the voluntary workers compensation insurance market can obtain coverage in the Assigned Risk Plan. This means an employer is assigned to an insurance carrier who is authorized to provide coverage. Assigned Risk Plan premiums are calculated using the same loss costs as if the coverage were purchased in the voluntary market; however, premiums may be higher due to differentials applied to assigned risk rates and individual employer loss experience.

For assistance and questions about the Assigned Risk Plan, contact the Kansas Insurance Department at (800) 432-2484 or (785) 296-3071.

Insurance Rating Appeals Process

If an employer suspects the wrong classification or other incorrect factor is being used in calculating a premium, the rating may be appealed in writing to the insurance carrier from which the coverage was purchased. The employer may also appeal in writing to the Kansas Commissioner of Insurance by outlining the nature of the complaint or appeal.

For additional information, or for assistance in appealing or correcting a classification error or other rate problem, contact the Kansas Insurance Department at (800) 432-2484 or (785) 296-3071.

Division of Responsibilities

Employee:

- Notify your employer immediately. Per K.S.A. 44-520, a claim may be denied if an employee fails to notify their employer within the earliest of the following dates:
 - 30 calendar days from the date of accident or the date of injury by repetitive trauma;
 - 20 calendar days from the date such medical treatment is sought if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma; or

- 20 calendar days after the employee's last day of actual work for the employer if the employee no longer works for the employer against whom benefits are being sought.
- Notice may be given orally or in writing. Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.
- Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment.
- The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the Workers Compensation Act or has suffered a work-related injury.

Employer:

- Unless self-insured, the employer must advise its insurance carrier or group-funded pool of employee's injury.
- The employer/carrier must file accident report with the division within 28 days from the date of employer's knowledge of injury.
- **The employer is required** by K.S.A. 44-5, 102(a) to deliver information immediately to employee or legal beneficiary to assist in the claims process (material is available from the employer's carrier or the Division of Workers Compensation), including form K-WC 27 or K-WC 270 (Spanish).

Division of Workers Compensation:

- Makes official record of accident reports filed with the division.

Survivors' Benefits

The workers compensation law provides for survivors' benefits in the event of an employee's job related death. Survivors do not need to be U.S. citizens or reside in the United States to receive compensation.

The weekly benefits are based on 66.67 percent of the employee's average weekly wage at the time of the accident or injury, but cannot exceed the statutory **maximum**. The **minimum** death benefit is 50 percent of the state's average weekly wage in effect on the date of accident. Total compensation benefits may not exceed \$300,000, unless benefits are being paid to a dependent child under the age of 18. Funeral expenses up to \$5,000 and all medical and hospital expenses related to the fatal injury are also covered.

An initial payment of \$40,000 must be made to the surviving legal spouse or wholly dependent child(ren) or divided among them, 50 percent to the surviving legal spouse and 50 percent to the dependent children. This \$40,000 payment is not subject to the eight percent discount normally allowed for lump sum payments. The initial payment shall be paid immediately.

Spouse and Children

If an employee is survived by a spouse but no dependent children, the spouse receives the entire weekly benefit. If an employee is survived by a spouse and children, the weekly benefit is paid half to the spouse and half to the children. If an employee is survived only by children, the weekly benefit is divided equally among the children.

Dependent children receive benefits until age 18, or until age 23 if they are full-time students or mentally or physically disabled, even if the benefits exceed the statutory limit at the time of the accident. Where required, the employer shall pay the costs of a court appointed conservator not to exceed \$1,000.

Other Dependents

If survivors' benefits are paid to the spouse and/or children, they may not be paid to any other beneficiaries. In the case of unmarried employees leaving no dependent children, any other dependents who were wholly or partially dependent upon the employee may receive compensation.

Dependents other than spouse or children may collect weekly benefits subject to the maximum of \$18,500, until they die, remarry or receive more than 50 percent of their support from another source.

Legal Heirs

If the employee leaves no spouse, dependent children or other dependents either wholly or partially dependent upon the employee, a lump sum payment of \$25,000 shall be made to the legal heirs of the employee.

Conditions Affecting Benefits

Drugs and Alcohol

An employer is not liable for workers compensation benefits if an employee is impaired due to the use of alcohol* or drugs** and the impairment contributed to injury or death. This includes the use of prescription or non-prescription medications; benefits may be allowed, however, if:

- the drugs or medications were taken in therapeutic doses; and
- the employee had not been impaired on the job from such medications within the past 24 months.

If it is shown that the employee was impaired at the time of the injury, there shall be a rebuttable presumption that the accident, injury, disability or death was contributed to by such impairment.

An employee's refusal to submit to a chemical test at the request of the employer shall result in the forfeiture of benefits under the Workers Compensation Act if the employer had sufficient cause to suspect the use of alcohol or drugs by the claimant, or if the employer's policy clearly authorizes post-injury testing.

The results of a chemical test shall be admissible evidence to prove impairment if the employer establishes that the testing was done under any of the following circumstances:

1. as a result of an employer-mandated drug testing policy, in place in writing prior to the date of accident or injury, requiring any worker to submit to testing for drugs or alcohol;
2. during an autopsy or in the normal course of medical treatment for reasons related to the health and welfare of the injured worker and not at the direction of the employer;

3. the worker, prior to the date and time of the accident or injury, gave written consent to the employer that the worker would voluntarily submit to a chemical test for drugs or alcohol following any accident or injury;
4. the worker voluntarily agrees to submit to a chemical test for drugs or alcohol following any accident or injury; or
5. as a result of federal or state law, or a federal or state rule or regulation having the force and effect of law, requiring a post-injury testing program and such required program was properly implemented at the time of testing.

*An employee is considered to be impaired from alcohol if the blood alcohol concentration at the time of injury is .04 or more.

** Confirmatory test cutoff levels (ng/ml)

Marijuana metabolite	15	Opiates:	
Cocaine metabolite.....	150	Morphine.....	2000
Amphetamines:		Codeine	2000
Amphetamine.....	500	6-Acetylmorphine.....	10ng/ml
Methamphetamine	500	Phencyclidine	25

Safety Violations: K.S.A. 44-501(a)(1)

Compensation for an injury shall be disallowed if such injury to the employee results from:

1. the employee's deliberate intention to cause such injury;
2. the employee's willful failure to use a guard or protection against accident or injury which is required pursuant to any statutes and provided for the employee;
3. the employee's willful failure to use a reasonable and proper guard and protection voluntarily furnished the employee by the employer;
4. the employee's reckless violation of their employer's workplace safety rules or regulations; or
5. the employee's voluntary participation in fighting or horseplay with a co-worker for any reason, work related or otherwise.

The preceding shall not apply when it was reasonable under the totality of the circumstances to not use such equipment, or if the employer approved the work engaged in at the time of an accident or injury to be performed without such equipment.

Coronary Disease and Stroke

The law does not provide compensation for coronary or coronary artery disease or cerebrovascular injury (e.g., stroke), unless it is shown that the exertion of the work that caused the injury was beyond that required by the employee's usual job duties. Another exception is vascular injury caused by extreme heat.

Prior Disability Ratings/Pre-existing Condition

Compensation for any permanent disability may be reduced by the existence of a rating on any applicable pre-existing disability.

K.S.A. 44-501(e): An award of compensation for permanent partial impairment, work disability or permanent total disability shall be reduced by the amount of functional impairment determined to be pre-existing. Any such reduction shall not apply to temporary total disability, nor shall it apply to compensation for medical treatment.

K.S.A. 44-501(e)(1): Where workers compensation benefits have previously been awarded through settlement or judicial administrative determination in Kansas, the percentage basis of the prior settlement or award shall conclusively establish the amount of functional impairment determined to be pre-existing. Where workers compensation benefits have not previously been awarded through settlement or judicial or administrative determination in Kansas, the amount of pre-existing functional impairment shall be established by competent evidence.

Guidelines for Obtaining Medical Treatment

Who Pays?

Employers are responsible for all medical treatment necessitated by a job-related injury or disease. This includes:

- services of a licensed health care provider;
- surgical, hospital and other medical treatment;
- medications, medical and surgical supplies;
- nursing services;
- crutches and other medical apparatus;
- ambulance services; and
- transportation between the employee's home and the place of medical treatment, subject to a minimum of five miles round trip.

If an employer has workers compensation insurance, the insurance carrier is required to pay for applicable medical expenses. Uninsured employers subject to workers compensation laws are still responsible for the medical bills of covered employees.

Employers are legally entitled to choose the treating physician. If an employee self-selects a physician who is not authorized or agreed upon by the employer, the employer is responsible for only the first \$500 in medical bills from such self-selected physicians.

Employer-Ordered Examinations

After obtaining whatever emergency medical care is necessary, an employee shall submit to any reasonable physical examination ordered by the employer. The employer can also require the employee to submit to ongoing examinations – up to twice monthly, or more often if specifically ordered by the Division of Workers Compensation. Employees may forfeit the benefits that are available if they refuse to submit to such examinations. Employees are entitled to know the results of any physical examination ordered by the employer. At the employee's request, the doctor conducting the examination must furnish the employee, within a reasonable time after the examination, a report identical to that sent to the employer or the employer's carrier. Employees are entitled to have their own doctor present at, and participate in, any medical examination ordered by the employer. If this is not allowed, or if employees are not furnished a copy of the medical report, then the examination ordered by the employer will not be allowed as evidence related to the claim.

Fraud and Abuse

Both the Division of Workers Compensation and the Kansas Insurance Department have units dedicated to the investigation of fraudulent or abusive acts and practices that occur with regard to the Workers Compensation Act. Acts or conduct that are considered to be fraudulent or abusive can generally be described as situations in which claimants, employers or companies fail or refuse to follow directives of the Workers Compensation Act. The Workers Compensation Act applies to the following:

- persons claiming benefits under the Workers Compensation Act;
- employers subject to the requirements of the Workers Compensation Act;
- insurance carriers and group-funded self-insurance plans providing coverage for work-related injuries;
- any person, corporation, business or health care facility providing treatment for work-related injuries;
- attorneys and other representatives of employers, employees, insurers or other entities involved in the administration of the Workers Compensation Act.

If the director, or the assistant attorney general assigned to the Division of Workers Compensation, has probable cause to believe a fraudulent or abusive act or practice that violates the Workers Compensation Act has occurred, a copy of any order and all investigative reports and any evidence in the possession of the Division of Workers Compensation which relates to such act shall be forwarded to the prosecuting attorney of the county in which the act occurred.

Any person who believes a violation of the Workers Compensation Act has occurred may notify the Division of Workers Compensation immediately and should send the information relating to the alleged violation to the division. The director shall evaluate the facts surrounding the alleged violation to determine the extent, if any, to which violations of the Workers Compensation Act exist. For more information, call (785) 296-6392 or (800) 332-0353; or send e-mail to wcfraud@dol.ks.gov.

Any person who has a complaint against an insurance company, or other person/entity regulated by the Kansas Insurance Department, regarding the handling of a workers compensation claim, should contact the Anti-Fraud Division at the Kansas Insurance Department. Complaints may be made by calling (800) 432-2484 or (785) 296-3071, in writing by sending information to the Anti-Fraud Division at 420 SW 9th, Topeka, KS 66612 or online at www.ksinsurance.org.

Coverage and Compliance

The Compliance section monitors and assists employers to ensure that they fulfill two requirements under the Workers Compensation Act:

1. to secure workers compensation benefits for employees and
2. to file written reports of alleged work accidents.

Failure to secure workers compensation benefits or report accidents can result in monetary penalties against the employer. Failure to secure workers compensation benefits can also result in closure of the business.

All employers are required to report any accident alleged to have occurred in the course of employment, that wholly or partially incapacitates the worker from labor or service for more than the day, shift or turn on which the alleged accident occurred. The accident report must be filed with the Division of Workers Compensation within 28 days after the employer receives knowledge of the accident.

The accident report must be made on the division's K-WC 1101-A accident report form. To download the form (interactive or PDF version), go to Forms and Publications on the Workers Compensation site and choose Accident Reports and Benefits

When the director has reason to believe an employer has engaged in the knowing and intentional failure to secure the payment of workers compensation to its employees, the director shall issue and serve upon such employer a statement of the charges and shall conduct a hearing in accordance with the Kansas Administrative Procedure Act. The employer may be liable to the state for a civil penalty in an amount equal to twice the annual premium or \$25,000, whichever amount is greater.

The director shall order employers to come under the Workers Compensation Act by:

1. insuring and keeping insured the payment of such compensation with an insurance carrier authorized to transact the business of workers compensation insurance in the state of Kansas;
2. showing to the director that the employer carries such employer's own risk and is what is known as a self-insurer and by furnishing proof to the director of the employer's financial ability to pay such compensation for the employer's self; or
3. maintaining a membership in a qualified group-funded workers compensation pool. The cost of carrying such insurance or risk shall be paid by the employer and not the employee.

For more information, call (785) 296-6767 or (800) 332-0353; or send e-mail to wccompliance@dol.ks.gov or go to www.dol.ks.gov.

Verify Coverage

You can check whether a business has workers compensation coverage online. The website provides public access to portions of the information reported by private workers compensation insurance carriers for use by the Kansas Department of Labor (KDOL). The accuracy of data from any third party cannot be guaranteed by the agency and KDOL is not responsible for the coverage information available through this link.

For additional help with verifying workers compensation coverage in Kansas, call Workers Compensation Coverage and Compliance at (785) 296-6767.

Safety and Health Services

Workplace safety and accident prevention is a key element of the law. This requirement was designed to reduce claims/losses which would hold down premiums for employers. Because rates are based on losses, the prevention of employee accidents through enhanced safety measures is one of the best ways employers can help keep rates down.

By law, insurance carriers and group-funded plans must provide accident prevention programs upon request to their insureds. Notice of such accident prevention programs must appear on the front page of every policy issued after July 1993.

Programs Offered by the Kansas Department of Labor

Consultation: offers assistance to private sector employers in safety and health program evaluations.

Consultants offer advice in the recognition, evaluation and control of hazards in the workplace. Assistance with program initiation and development is available. Training, both formal and informal, is performed in all areas of safety and health. All services are at no cost to the client.

Public Sector Compliance: monitors the public sector – cities, counties, state agencies and school districts – by performing compliance audits under K.S.A. 44-636 and/or K.S.A. 44-575(f). Occupational hazards are identified and program elements are assessed. Hazards must be abated within 60 days. Investigations of employee complaints, near misses and fatalities are also conducted.

Accident Prevention: evaluates insurance companies and group-funded self-insurance plans to ensure that they are offering and providing safety and health services at no charge to their insureds as required by law. The quality and quantity of these services are evaluated by trained consultants by directly reviewing insurance company records and contacting those insured who have requested and been provided services.

Boiler Safety Inspections: performs periodic state-certified regular and special inspections of all boilers – private and public – as required by law. Boiler safety has a high priority as indicated under K.S.A. 44-913 et seq. Boiler and pressure vessel manufacturers and repair firms are monitored. All new installations of boilers and pressure vessels in the state are inspected. The boiler program is fee funded.

Safety and Health Conference: the annual Kansas Safety and Health Conference brings industrial, academic, vendor and government safety representatives together. The conference is self-supporting and seeks to address the relevant safety issues in a variety of workshops and presentations.

Workplace safety and health assistance is available by calling (785) 296-4386 or by e-mailing indsafetyhealth@dol.ks.gov. You can also find information online under Workplace Safety at www.dol.ks.gov.

Ombudsman Services

The Kansas Division of Workers Compensation established a Claimant Advisory Section in 1978. In 1993 the Legislature followed a national trend and, by statute, created the ombudsman program. The workers compensation reform legislation of 1993 mandated an expanded role for the Claims Advisory Section to enable a more proactive approach to assisting all parties in understanding their rights and responsibilities under the Workers Compensation Act.

The division employs full-time personnel who specialize in aiding injured workers, employers and insurance professionals with claims information and problems arising from job-related injuries and illnesses. The ombudsman acts in an impartial manner and is available to provide the parties with information about the current issues within the workers compensation system. For example, the ombudsman has current information on legislative changes or changes due to decisions made by the Workers Compensation Board or the courts. The ombudsman section also can assist with specific issues on current workers compensation claims.

Assisting Injured Workers with:

- Providing general information
- Obtaining medical treatment
- Benefits not being paid or not being paid on a timely basis
- Unpaid medical benefits
- Calculations of benefits
- Timely notification of employer
- Procedures for filing for a hearing
- Obtaining survivors' benefits
- Informal dispute resolution
- Mediation assistance
- Interpretation for Spanish-speaking workers

Assisting Employers/Insurance Companies with:

- Providing general information
- Posting Workers Compensation Notice ([K-WC 40](#))
- Providing required information to injured workers ([K-WC 27/270](#))
- Timely submission of accident reports
- Timely and appropriate payment of medical services
- Election information
- Assistance with death benefit requirements
- Informal dispute resolution
- Assistance with Spanish-speaking workers
- Employer staff training on workers compensation issues
- Site visits for hands-on assistance

Ombudsman assistance is available either in person or by calling (785) 296-2996 or (800) 332-0353. You also may send an e-mail to wc@dol.ks.gov. Additionally, forms are available for download a www.dol.ks.gov.

Employer Services Unit

For technical assistance, and presentations and training for employers, call (785) 296-2996 or (800) 332-0353, or e-mail wcemployerservices@dol.ks.gov.

Mediation

Mediation was legislatively created in 1996 (K.S.A. 44-5,117) and can be utilized at any point during the workers compensation process. The statute was amended in 1998 to allow mediation by video conferencing. Mediation is not mandatory or a prerequisite to a hearing and it may be utilized at any time during the worker compensation process. The issues that can be mediated are not restricted to medical or temporary total disability benefits.

What Is Mediation?

Mediation is a means of resolving disputes in an informal and non-adversarial atmosphere. The parties to a dispute use a neutral third party to facilitate the discussion. The mediator has no decision making authority or interest in the outcome to the dispute. The mediator's job is to assist the parties in identifying the issues in dispute and establishing common goals. The key to mediation is allowing the parties to work through their dispute and create their own agreements (self-determination).

Who Are the Mediators?

The mediators are employees of the Division of Workers Compensation who have received special training in the process of mediation. The mediators used by the Division of Workers Compensation meet or exceed the requirements established by K.S.A. 5-501 and amendments thereto, and any relevant rules of the Kansas Supreme Court as authorized pursuant to K.S.A. 5-510, and amendments thereto. Mediators receive training in conflict resolution techniques, neutrality, agreement writing, ethics, role playing, communication skills, evaluation of cases and the laws governing mediation.

Representation and Assistance

Any party may be represented by an attorney at this mediation conference or may request assistance from the Ombudsman/Claims Advisory section. The absence of an attorney during the process does not mean legal representation cannot be obtained later if the dispute is not settled in this informal setting.

For additional information or to schedule a mediation conference, please call (785) 296-0848 or (800) 332-0353. Write to Mediation Section, Kansas Department of Labor, Division of Workers Compensation, 401 SW Topeka Blvd., Topeka, KS 66603-3182. You may send e-mail to wcmmediation@dol.ks.gov.

Medical Services

The primary function of the Medical Services section is the administration of the Schedule of Medical Fees. The fee schedule is updated and revised on an annual basis to promote health care cost containment, yet insure the availability of necessary treatment and care for injured employees.

The Medical Services section is available to act as a liaison between health care providers, employers, employees, insurance carriers, group-funded pools or self-insured businesses. Additionally, the section conducts informal hearings to assist in the resolution of disputed medical claims and related payments involving health care providers.

For assistance in resolving issues related to fee schedule interpretation, payment disputes, etc., contact the Medical Services section at (785) 296-0846 or fax (785) 296-0025.

Vocational Rehabilitation

Vocational rehabilitation may be provided at the option of the employer or the employer's insurance carrier. General experience has shown that the longer the length of time away from work recovering from an injury, the greater the likelihood that an employee will need vocational rehabilitation to resume suitable work at comparable pay.

If the employer or insurance carrier does not choose to provide for vocational rehabilitation, the employee can ask the rehabilitation administrator for a referral to a provider of such services, at the employee's expense. The employee can also request a referral to the Division of Rehabilitation Services in the Kansas Department of Social and Rehabilitation Services.

For assistance with vocational rehabilitation, contact the rehabilitation administrator's office in the Division of Workers Compensation at (800) 332-0353 or (785) 296-2996 or send e-mail to wcrehab@dol.ks.gov.

**Kansas Department of Labor
Division of Workers Compensation**

Kansas Department of Insurance



Información de Compensación De Trabajadores para Empleadores y Empleados del Estado de Kansas



K-WC 250 (2-12)

Copias de las formas de elección, reportes de accidente, exhibición de aviso (40 K-WC) y todos los demás carteles obligatorios están disponibles para descargarse en www.dol.ks.gov.

Para obtener información adicional sobre los beneficios de compensación de trabajadores, directrices para empleadores y otra información general, contacte:

Departamento de Laboral de Kansas
División de Compensación de Trabajadores

401 SW Topeka Blvd.

Topeka, Kansas 66603

(785) 296-2996

(800) 332-0353

Correo electrónico: wc@dol.ks.gov

Sitio en internet: www.dol.ks.gov



www.facebook.com/KansasDOL



www.twitter.com/KansasDOL

Para más información en tarifas de seguro para compensación de trabajadores y conducta de compañías aseguradoras, contacte:

Departamento de Seguros de Kansas

420 S.W. 9th St.

Topeka, Kansas 66612-1678

(785) 296-3071

(800) 432-2484

Correo electrónico: commissioner@ksinsurance.org

Sitio en internet: www.ksinsurance.org

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¿Qué es Compensación de Trabajadores?

Compensación de trabajadores es un plan de seguro requerido del empleador para pagar beneficio al empleado por lesiones relacionadas con el trabajo, incapacidad o muerte que surgen de y en el curso del empleo.

De acuerdo al artículo de ley K.S.A. 44-508, se considerará que una lesión por accidente surge del empleo si:

- Hay una conexión casual entre las condiciones bajo las cuales el trabajo es requerido a ser realizado y el accidente resultante; y
- El accidente es el factor predominante causando la lesión, condición médica y la resultante discapacidad o impedimento físico.

Las palabras "surgen de y en el curso del empleo" como se usan en la ley de compensación de trabajadores no se interpretarán para incluir:

- Lesión que se produjo como resultado del proceso de envejecimiento natural o por las actividades normales del vivir diario;
- Accidente o lesión que surgió de un riesgo neutral sin empleo particular o de carácter personal;
- Accidente o lesión que surgió de un riesgo personal para el trabajador; o
- Accidente o lesión que surgió directa o indirectamente por causas desconocidas.

Los beneficios son pagados a expensas del empleador. La cobertura empieza el primer día de trabajo.

La presente ley abarca todos los empleadores de Kansas excepto aquellos en ciertas actividades agrícolas o aquellos con una nómina anual bruta de 20,000 dólares o menos. Toda nómina es tomada en cuenta, incluyendo la que es pagada en Kansas o en otras partes. Si el empleador es un único propietario o una miembro de una asociación, los salarios pagados a los propietarios y a cualquiera de sus familiares no se utilizan en el cálculo de la nómina anual bruta.

Los empleados discapacitados debido a una enfermedad o lesión relacionada con el trabajo tienen derecho a:

- gastos médicos para tratar la lesión relacionada con el trabajo o la enfermedad; y
- beneficios de ingresos para sustituir parte del salario perdido debido a la discapacidad.

Si muerte resulta de una enfermedad o lesión relacionada con el trabajo, podrán pagarse beneficios al cónyuge sobreviviente, dependientes o herederos.

Propósito de la ley

Kansas pasó su primera ley de compensación trabajadores en el año de 1911. Mediante la regulación de los litigios y los beneficios, la ley está diseñada para proteger los intereses de los empleadores y empleados. Los empleadores se benefician mediante sustituir un gasto conocido (primas) por el riesgo a largo plazo de gastos no presupuestados, en caso de discapacidad grave del empleado. Los empleados se benefician debido a que la negligencia del empleador no es una cuestión en la determinación de responsabilidad. Cobertura de compensación de trabajadores es un sistema sin culpa. Las disposiciones de la Ley de Compensación de Trabajadores se aplicarán imparcialmente a los empleadores y empleados. Aunque inicialmente la ley estaba destinada a trabajos peligrosos, ahora cubre a la mayoría de los trabajadores.

Elecciones

Elecciones dentro o fuera de la Ley de Compensación de Trabajadores son opciones disponibles para los empleadores o empleados. Dependiendo de las circunstancias, las opciones pueden estar disponibles para:

- empleadores no cubiertos: por ejemplo, aquellos con nóminas de 20,000 dólares o menos o en ciertas actividades agrícolas;
- empleados de una corporación dueños de 10 por ciento o más de las acciones;
- individuos, propietarios o asociaciones;
- empleadores buscando cobertura para voluntarios y otros trabajadores no cubiertos; y
- directores voluntarios, funcionarios o administradores de una organización sin fines de lucro.

Ejemplo: Una asociación de dos personas tiene dos empleados: un miembro de la familia y uno que no es miembro de la familia: y una nómina anual de 15,000 dólares. La asociación puede optar por adquirir la cobertura bajo la ley y extender dicha cobertura a ambos empleados. Los socios no están cubiertos porque son considerados como el empleador.

Formas de elección pueden encontrarse en el Internet en www.dol.ks.gov.

Derechos y Responsabilidades de los Empleados

La Ley del estado de Kansas protege el derecho del empleado y facilita la obtención de compensación del trabajador. Específicamente:

- Un empleado no puede ser despedido, degradado o discriminado de cualquier otra manera por la presentación de un reclamo en buena fe.
- Los empleados deben ser informados de sus derechos y responsabilidades en caso de lesión. En el caso de muerte del empleado, dicha información deberá aportarse a los beneficiarios del empleado.
- No se debe imponer un pago a los empleados para reclamos de compensación de trabajadores. Los empleadores no puede deducir del sueldo o de los beneficios para pagar las primas de seguros o reclamos.
- Empleados pueden tener derecho a beneficios de compensación de un empleador sujeto a la Ley independientemente de la cobertura del seguro.
- Empleados pueden obtener asistencia gratuita mediante ponerse en contacto con la oficina Ombudsman de Compensación de Trabajadores a los teléfonos (800) 332-0353 o (785) 296-2996.
- La ley estipula sanciones específicas por fraude tanto a empleados como empleadores en casos de compensación de trabajadores. Para más información o asistencia, o para reportar sospecha de fraude, póngase en contacto con la Oficina Ombudsman de Compensación de Trabajadores a los teléfonos (800) 332-0353 o (785) 296-2996, o la Oficina de Fraude y Abuso al teléfono (785) 296-6392.

Responsabilidades del Empleador

Seguro de Compensación de Trabajadores

La mayoría de los empleadores están obligados por ley a proveer el pago de reclamos de compensación de trabajadores, sin ningún costo para el empleado. Los empleadores deberán cumplir con este requisito de tres maneras:

- Seguro de compensación de trabajadores: obtenida de una compañía de seguros con licencia; el empleador paga las primas y la compañía de seguros paga los reclamos. Las compañías de seguros

son reguladas por el Departamento de Seguros del estado de Kansas.

- Auto-seguro: un empresario individual debe demostrar al Estado de Kansas la capacidad financiera para pagar cualquier reclamo que pudiera surgir. Este programa es administrado por la División de Compensación de Trabajadores.
- Grupo financiero de fondo común: un grupo de empresarios que cumplen ciertos requisitos legales pueden formar un programa de auto-seguro para asegurar conjuntamente su capacidad para pagar los reclamos. Este programa es administrado por el Departamento de Seguros del estado de Kansas.
- Falta deliberada de proveer el pago de compensación de trabajadores en una de las formas anteriores es un delito menor, clase A y somete al empleador a una pena civil en una cantidad dos veces la prima anual que el empleador hubiera pagado por seguro o 25,000 dólares, cualquiera de las cantidades que sea mayor.

Categorías de empleo excluidos de la ley son:

- ciertas actividades agrícolas;
- agentes inmobiliarios que califican como contratistas independientes;
- empleadores con nóminas anuales brutas de 20,000 dólares o menos;
- bomberos pertenecientes a una asociación de socorro de bomberos que ha renunciado la cobertura bajo la Ley de Compensación de los Trabajadores; y
- ciertos conductores de vehículos que son propietarios y que están cubiertos por su propia póliza de seguro de accidente laboral.

Otros Requisitos

- Los empleadores deben exponer el aviso escrito (K-WC 40), comunicando a los empleados qué hacer en caso de un accidente.
- Los empleadores deben presentar o causar que se presente un reporte de accidente con la División de Compensación de Trabajadores dentro de 28 días a partir de la fecha de la lesión reportable, muerte o notificación al empleador de lo mismo. No hacerlo puede resultar en sanciones legales y financieras.
- Inmediatamente al enterarse de la lesión o la muerte de un empleado, el empleador deberá suministrar información por escrito al empleado o a los dependientes del empleado sobre los beneficios disponibles, el proceso de reclamo, el empleador o compañía de seguros de contacto para reclamos de compensación de trabajadores y otros asuntos como es requerido por la ley. Las formas K-WC 27 y 270 K-WC (en español) está disponibles en internet, en el sitio de la División de Compensación de Trabajadores en: www.dol.ks.gov.
- Un empleador con seguro o auto-asegurado deberá suministrar el siguiente aviso a un trabajador asegurado o con el primer cheque de beneficios de incapacidad temporal: Advertencia: aceptación de empleo con un empleador diferente que requiere la realización de actividades que usted ha declarado que no puede realizar debido a la lesión por la que está recibiendo beneficios de incapacidad temporal puede constituir fraude y podría resultar en pérdida de beneficios en el futuro y la restitución de previas indemnizaciones y beneficios pagados.

Si necesita ayuda, llame a (800) 332-0353 o (785) 296-2996.

Categorías de Beneficios por Incapacidad

Incapacidad Total Temporal

Existe cuando el empleado, a causa de una lastimadura, no ha podido participar en cualquier tipo de empleo sustancial y remunerativo. Beneficios son pagados por la duración de la incapacidad temporal total (TTD por sus siglas en inglés). Existe un período de espera de una semana (siete días consecutivos)

antes de que los beneficios temporales (TTD) sean pagados. Si la discapacidad continua por tres semanas consecutivas, el empleado es reembolsado por el período de espera. Empleados pueden obtener beneficios médicos durante la primera semana. Los beneficios temporales son 66.67 por ciento del promedio del sueldo semanal bruto del empleado, pero no menos de 25 dólares ni más que el máximo legal vigente. La compensación total no debe exceder de 130,000 dólares por lesión.

Los empleados no podrán cobrar beneficios de incapacidad total temporal y beneficios de desempleo por las mismas semanas.

Incapacidad Parcial Temporal

Existe cuando el trabajador regresa a cualquier clase de empleo ganando un sueldo inferior a aquel que tenía al tiempo de lesionarse. La compensación es calculada sobre una base semanal y se paga hasta que no hay más pérdida del sueldo o hasta que el máximo beneficio es alcanzado, lo que ocurra primero.

Los beneficios son 66.67 por ciento de la diferencia entre el salario promedio bruto semanal del empleado antes de la lesión y el salario del empleado después de la lesión pero no pueden exceder el máximo legal vigente en el estado.

Incapacidad Parcial Permanente

Existe cuando hay pérdida total o parcial del uso de una parte del cuerpo, como un brazo, debido a una lesión relacionada con el trabajo. Compensación para una incapacidad parcial permanente se limita a un porcentaje de la tabla siguiente. Un período de curación está disponible en los casos de amputación. Los beneficios son 66.67 por ciento de un salario promedio bruto semanal del empleado, pero no menos de 25 dólares ni más que el máximo legal de 130,000 dólares.

Lista de información de beneficios

Pérdida o pérdida del uso de:	semanas pagadas:	Pérdida o pérdida del uso de:	semanas pagadas:
Hombro.....	225	Dedo Pulgar.....	60
Brazo	210	Dedo índice	37
Antebrazo	200	Dedo medio	30
Mano.....	150	Dedo anular	20
Pierna	200	Dedo meñique	15
Pierna inferior	190	Dedo gordo del pie	30
Pie	125	Dedo gordo del pie (articulación de la	
Ojo	120	punta)	15
Oído (ambos)	110	Cada dedo del pie	10
Oído (uno solo).....	30	Cada dedo del pie (articulación de la	
		punta)	5

Incapacidad General Parcial Permanente

Existe cuando un empleado se ha incapacitado de tal manera que es de carácter parcial y de calidad permanente y que no está cubierto por lo enlistado anterior. Por ejemplo, discapacidad envolviendo la espalda o la pérdida del uso de un hombro, brazo, antebrazo o mano, de una extremidad superior, combinada con la pérdida o pérdida uso de un hombro, brazo, antebrazo o mano, de la otra extremidad superior; o la pérdida o pérdida de uso de una pierna, pierna baja o pie, de una extremidad inferior, combinado con la pérdida de o pérdida del uso de una pierna, pierna baja o pie, de la otra extremidad inferior; o la pérdida de o pérdida del uso de ambos ojos que es parcial en carácter y permanente en calidad son discapacidades de todo el cuerpo y no están cubiertos por la lista anterior. Compensación por tales discapacidades "no programadas" o "cuerpo

entero" se basa en el mayor de lo siguiente: el porcentaje de impedimento funcional; o la capacidad reducida del empleado para realizar tareas de trabajo y el sueldo semanal promedio que empleado es capaz de ganar después de la lesión. Empleados ganando 90 por ciento del sueldo que tenían antes de la lesión están limitados a impedimento funcional.

Calculando beneficios de incapacidad general parcial permanente

1. Cálculo el porcentaje de beneficio semanal mediante la identificación de la menor de estas dos cantidades: Sueldo promedio semanal bruto x 66.67 por ciento; o el máximo legal vigente.
2. Cálculo de las semanas de compensación permitidas: se empieza con 415 semanas. De las 415, se restan las semanas en que se pagó incapacidad total temporal, excluyendo las primeras 15 semanas de TTD. Se multiplica la diferencia por el porcentaje de incapacidad.
3. Cálculo del total de los beneficios: Se multiplican los beneficios semanales por el número de semanas de compensación permitidas.

Ejemplo: El sueldo promedio semanal es 875 dólares en la fecha del accidente (10/07/2011). El empleado ha cobrado 25 semanas de incapacidad total temporal (TTD) y tiene una un porcentaje de incapacidad del 25 por ciento.

Beneficio semanal: (utilice la cantidad menor)

$$\$875 \times .6667 = \$583.36$$

Máximo legal (a partir del 07/01/11) \$555

Semanas de compensación permitidas:

$$415 - [25-15] = 415 - 10 = 405 \text{ semanas}$$

$$405 \text{ semanas} \times .25 = 101.25 \text{ semanas}$$

Cantidad de beneficio máximo:

$$101.25 \text{ semanas} \times \$555 = \$56,193.75$$

Nuestro sitio en Internet tiene un programa de cálculo de beneficios de compensación de trabajadores. El programa de fechas le permite calcular el tiempo entre dos fechas o para calcular la suma de días a una fecha conocida. Los programas de la lista de lesiones y lesiones del cuerpo entero le permitirán calcular los beneficios de compensación a la que tiene derecho el reclamante. Se proporcionan instrucciones paso a paso para cada programa. El programa puede consultarse en www.dol.ks.gov/wc/calculations.html.

Incapacidad Total Permanente

Existe cuando el empleado, a causa de la lesión, ha quedado completa y permanentemente incapaz de participar en cualquier tipo de empleo remunerado y sustancial. Pérdida de ambos ojos, ambas manos, ambos brazos, ambos pies, ambas piernas o cualquier combinación de éstas, en ausencia de prueba de lo contrario, deberán constituir una incapacidad permanente total. Parálisis total considerable o imbecilidad incurable o locura, resultantes de lesiones independientes de todas las otras causas, también constituirán incapacidad total permanente.

Los beneficios son 66.67 por ciento del salario promedio bruto semanal del empleado, pero no menos de 25 dólares ni más que el máximo legal. La compensación total no debe exceder 155,000 dólares por lesión.

Un empleado no puede recibir más de una indemnización de incapacidad total permanente en la vida.

Cómo se Determinan las Tasas de interés

El seguro de compensación de trabajadores en Kansas es obligatorio por la ley estatal para la mayoría, pero no para todos los empleadores.

Las primas pagadas por los empleadores deberían ser suficientes para cubrir los reclamos incurridos por sus compañías de seguros. Las tasas de interés se ajustan en función de las primas más recientes, los ingresos de inversión y pérdidas reportadas por las compañías de seguros. El Consejo Nacional de Seguros Compensatorios (NCCI por sus siglas en inglés) presenta estas tasas de interés anualmente al Comisionado de Seguros para su aprobación.

El Consejo Nacional de Seguros Compensatorios (NCCI) es una organización clasificadora, autorizada por el departamento de seguros, cuya composición, primordialmente consta de compañías de seguros. Ellos desarrollan el cambio necesario de la tasa de interés anual basándose en las pérdidas y primas reportadas a ellos por las compañías de seguros miembros de dicha organización.

El Departamento de Seguros de Kansas regula las tarifas que se cobran en el estado. Cada año, éste Departamento revisa las primas, los costos de los reclamos y otros datos pertinentes presentados por el NCCI para determinar si se recomienda un cambio en la tasa de interés o no. Actualmente, alrededor de 70 centavos de cada dólar recogidos en el cobro de las primas, se proyecta para cubrir el costo de pagar reclamos de compensación de trabajadores. Aproximadamente 27.5 por ciento de cada dólar es utilizado por las compañías de seguros para cubrir otros costos de hacer negocios: por ejemplo, gastos administrativos, salarios y gastos generales. El margen de beneficio se proyecta en aproximadamente un 2.5 por ciento Además de las ganancias de las inversiones.

Después de revisar la presentación de la tasa de interés, el Comisionado de seguros generalmente aprueba un cambio "global" en la prima estatal. Este cambio "global" se expresa como un porcentaje (por ejemplo, un cinco por ciento de aumento global); Sin embargo, los tipos básicos de clasificación individual pueden aumentar o disminuir más del cambio "global." Los tipos básicos de clasificación individual deben continuar reflejando la experiencia (las primas y pérdidas) de los empleadores en cada clasificación.

Componentes de la Prima

Las primas de seguro de compensación de trabajadores se calculan basándose en varios factores. Los principales son:

Tasa de interés básica: el punto de partida para el cálculo de las primas. La tasa de interés o costo de pérdida es presentado por NCCI y todas las aseguradoras requeridas de usarla. Esta podría cambiar anualmente basada en la experiencia de la pérdida de otros empleadores en todo el estado en la misma clasificación. Las compañías multiplican la tasa de interés por su Multiplicador de Costo de pérdida aprobado para determinar la tasa de interés por cada 100 dólares de nómina.

Clasificación: un factor clave para determinar la tasa de interés que un empleador pagará. La clasificación denota la tipo de negocios; trabajos peligrosos tienen más probabilidades de provocar reclamos importantes y costosos y, por tanto, tienen una tasa de interés más alta. Hay unas 600 clasificaciones en uso en Kansas.

Clasificación basada en la experiencia: afecta la prima basada en la frecuencia y gravedad de los reclamos de compensación de los empleadores con tamaño de prima suficiente para ser "clasificados por experiencia." Actualmente, los empleadores con una prima anual de por lo menos 4,500 dólares en los últimos dos años, o si más de dos años, una prima promedio anual de 2,250 dólares o más son

calificados de experiencia. Más pocos y menos costosos reclamos significan un factor modificación por experiencia más bajo, lo que significa una prima menos costosa.

Tamaño de la nómina: los empleadores con grandes nóminas generan primas anuales de compensación de trabajadores mayores que aquellos con una nómina más pequeña en la misma clasificación. Sin embargo, los gastos de distribución y abastecimiento de la póliza no incrementa en proporción directa a la prima de la póliza. En consecuencia, un descuento en la prima puede aplicarse a las pólizas con una prima más grande para reconocer este factor.

También, algunos empleadores están sujetos a cantidades de nómina fija. Socios, propietarios y miembros de una compañía de responsabilidad limitada que eligen cubrirse bajo una póliza de seguro de compensación de trabajadores pagan una prima basada en una nómina fija la cual se ajusta anualmente. La prima para un funcionario ejecutivo de una empresa se basa en la nómina actual del oficial, sujeta a una nómina mínima y un máxima establecida por semana, la cual que puede ser ajustada anualmente.

Factores que Afectan a las Primas

Tres de los factores más importantes en la reducción de las primas son:

1. **Implementación de un programa de prevención de accidentes:** estos programas fueron ordenados por la legislatura de 1993 y están disponibles a los empleadores por todas las compañías de seguros y grupo financiado por un fondo común operando en Kansas. Porque los programas de prevención de accidentes han demostrado reducir la frecuencia y la gravedad de las lesiones, que ofrecen a los empleadores la posibilidad de reducir las primas. La reducción de la prima es, por supuesto, sólo uno de los beneficios de la prevención de accidentes que los empleadores deben tener en cuenta.
2. **Asegurándose que la(s) clasificación(es) adecuada(s) ha(n) sido usada(s) para calcular la prima:** la clasificación utilizada en la póliza debe describir, tan razonable y preciso como sea posible, el negocio del empleador y los deberes del empleado. El uso de una clasificación inadecuada puede resultar en pago de una prima incorrecta. Si la clasificación no parece describir con precisión un trabajo en particular, ayuda para verificar que se utilizó la clasificación adecuada o para obtener una corrección, está disponible llamando al Departamento de Seguros al teléfono: (800) 432-2484 o (785) 296-3071 o visitando el sitio en internet www.ksinsurance.org.
3. **Uso de deducible:** los deducibles pueden ser una manera efectiva de reducir las primas y están disponibles en diversas cantidades. No se aplicarán las pérdidas pagadas por el empleador bajo el deducible para calcular la modificación de la experiencia del empleador. El asegurador deberá pagar el importe de deducible y solicitar el reembolso del empleador asegurado por la cantidad del deducible aplicable.

Información General

Cómo Obtener un Seguro

Cobertura de seguro de compensación de trabajadores puede obtenerse por:

- ponerse en contacto con un agente de seguros con licencia;
- ponerse en contacto con el departamento de seguros de Kansas para obtener información sobre grupos financiados por el grupo; o
- ponerse en contacto con la División de compensación de trabajadores para obtener información sobre auto-seguro.

Plan de Seguro de Compensación para Trabajadores de Kansas (Plan de Riesgo Asignado)

Cualquier empresario que tenga derecho pero que no pueda adquirir cobertura en el mercado de seguros de indemnización de trabajadores voluntario, puede obtener cobertura en el Plan de riesgo Asignado. Esto significa que un empleador es asignado a una compañía de seguros que está autorizada para proporcionar cobertura. Las primas para el Plan de Riesgo Asignado se calculan utilizando los mismos costos de pérdida como si la cobertura hubiese sido comprada en el mercado voluntario; sin embargo, las primas pueden ser mayores debido a recargos adicionales que se basan en el tamaño del empleador de prima y pérdida de experiencia.

Para asistencia y preguntas relacionadas al Plan de Riesgo Asignado llame al Departamento de Seguros del estado de Kansas a los teléfonos (800) 432-2484 o (785) 296-3071.

Proceso de Apelación de Clasificación de Seguro

Si un empleador sospecha de una clasificación errónea u que otro factor incorrecto ha sido utilizado para calcular una prima, la clasificación puede ser apelada por escrito a la compañía de seguros de la que se obtuvo la cobertura. El empleador también puede apelar por escrito al Comisionado de Seguros del estado de Kansas resumiendo la naturaleza de la queja o apelación.

Para información adicional o asistencia para apelar o corregir un error de clasificación u otro problema de clasificación, comuníquese con el Departamento de Seguros de Kansas al (800) 432-2484 o (785) 296-3071.

División de Responsabilidades

Empleado:

Notificar al empleador inmediatamente. De acuerdo al artículo de Ley K.S.A. 44-520, un reclamo puede ser negado si el empleado no notifica a su empleador dentro de las siguientes fechas:

- 30 días consecutivos a partir de la fecha del accidente o la fecha de lesión por trauma repetitivo;
- 20 días consecutivos a partir de la fecha que recibió tratamiento médico si el empleado está trabajando para el empleador en contra del que se buscan beneficios y tal empleado busca tratamiento médico de cualquier lesión por accidente o trauma repetitivo; o
- 20 días consecutivos después del último día de trabajo del empleado para el empleador si el empleado ya no trabaja para el empleador contra quien se buscan beneficios.
- El aviso podrá darse verbalmente o por escrito. Donde el aviso se proporciona oralmente, si el empleador tiene designado a un individuo o departamento a quien debe darse el aviso y tal designación ha se ha comunicada por escrito al empleado, aviso a cualquier otra persona o departamento será insuficiente en esta sección. Si el empleador no ha designado a un individuo o departamento a quien debe darse aviso, el aviso debe proporcionarse a un administrador o supervisor.
- Donde el aviso es provisto por escrito, aviso debe enviarse a un supervisor o gerente en la ubicación principal de trabajo del empleado.
- El aviso, ya sea que se suministre oralmente o por escrito, deberá incluir la hora, fecha, lugar, persona lesionada y detalles de tal lesión. Debe ser evidente a partir del contenido del aviso de que el empleado está cobrando beneficios bajo la Ley de Compensación de Trabajadores o ha sufrido una lesión relacionada con el trabajo.

Empleador:

- A menos que esté auto-asegurado, el empleador debe informar a su compañía de seguros o grupo financiero con fondos en común de la lesión del empleado.
- El empleador/compañía aseguradora debe presentar un informe de accidente con la división dentro

de 28 días a partir de la fecha de conocimiento del empleador acerca de la lesión.

- El empleador es requerido por el artículo de ley, K.S.A. 44-5, 102 (a) para entregar información al empleado o beneficiario legal inmediatamente para ayudar en el proceso de reclamos (material está disponible con la compañía aseguradora del empleador o en la División de Compensación de Trabajadores), incluyendo el formulario K-WC 27 o K-WC 270 (español).

División de compensación de trabajadores:

- Hace el registro oficial de informes de accidentes presentados ante la División.

Beneficios para los Sobrevivientes

La ley de compensación de los trabajadores provee beneficios para sobrevivientes en caso de fallecimiento relacionado con el trabajo. Los sobrevivientes no necesitan ser ciudadanos estadounidenses o residir en los Estados Unidos para recibir compensación.

Los beneficios semanales se basan en el 66.67 por ciento del salario semanal promedio del empleado en el momento del accidente o lesión, pero no pueden exceder el **máximo** legal. El beneficio de fallecimiento mínimo es de 50 por ciento del salario semanal promedio del Estado en vigor en la fecha del accidente. Los beneficios de compensación total no puede exceder la cantidad de 300,000 dólares, a menos que se les esté pagando beneficios a dependientes menores de 18 años. Los gastos de funeral hasta 5,000 dólares, así como todos los gastos médicos y de hospital relacionados con la lesión fatal también son cubiertos.

Un pago inicial de 40,000 dólares debe ser hecho al cónyuge legal sobreviviente o niño(s) completamente dependientes o dividido entre ellos, un 50 por ciento para el cónyuge legal y 50 por ciento al (los) niño(s) dependiente(s). Este pago de 40,000 dólares no está sujeto al ocho por ciento de descuento que normalmente es permitido en los pagos globales. El pago inicial deberá ser pagado inmediatamente.

Cónyuge e Hijos

Si un empleado es sobrevivido por un cónyuge pero sin hijos dependientes, el cónyuge recibe todo el beneficio semanal. Si un empleado es sobrevivido por un cónyuge e hijos dependientes, el beneficio semanal es pagado la mitad al cónyuge, y la otra mitad a los hijos dependientes. Si un empleado es sobrevivido solo por los hijos dependientes, el beneficio semanal es dividido en partes iguales entre los hijos.

Los hijos dependientes reciben beneficios hasta la edad de 18 años, o hasta la edad de 23 años si son estudiantes de tiempo completo o están mental o físicamente discapacitados, incluso si los beneficios superan el límite legal en el momento de la accidente. Donde es requerido, el empleador deberá pagar los costos de un conservador nombrado por un tribunal sin exceder la cantidad de 1,000 dólares.

Otros Dependientes

Si los beneficios de sobrevivientes son pagados al cónyuge y/o a los hijos dependientes, no pueden ser pagados a cualquier otro beneficiario. En el caso de un empleado soltero sin hijos dependientes, otro beneficiario, dependiente total o parcialmente del empleado puede recibir la compensación.

Los dependientes que no sean el cónyuge o hijos dependientes pueden percibir los beneficios semanales hasta un máximo de 18,500 dólares, o hasta que fallezcan, se casen o reciban más del 50 de su sustento de otra fuente.

Herederos Legales

Si el empleado no deja cónyuge, hijos dependientes u otros beneficiarios ya sea total o parcialmente dependientes del empleado, un pago único de 25,000 dólares deberá ser hecho a los herederos legales del empleado.

Condiciones que Afectan los Beneficios

Alcohol y Estupefacientes

Un empleador no es responsable de beneficios de compensación de trabajadores si un empleado está incapacitado debido al uso de alcohol* o estupefacientes** y la incapacidad contribuyó a la lesión o fallecimiento. Esto incluye el uso de medicamentos con o sin receta médica; sin embargo, los beneficios pueden ser permitidos, si:

- los fármacos o medicamentos fueron tomados en dosis terapéuticas; y
- el empleado no estado incapacitado en el trabajo por dichos medicamentos en los últimos 24 meses.

Si se demuestra que el empleado estaba incapacitado en el momento de la lesión, deberá haber una presunción refutable de que el accidente, lesiones, discapacidad o fallecimiento fueron contribuidos por dicha deficiencia.

Si el empleado rehúsa someterse a un examen químico a petición del empleador resultará en pérdida del derecho de beneficios bajo la ley de compensación de trabajadores, si el empleador tuviera suficientes motivos para sospechar el uso de alcohol o estupefacientes por el reclamante, o si la póliza del empleador autoriza claramente las pruebas después de una lesión.

Los resultados del examen químico deberán ser evidencia admisible para demostrar la incapacidad si el empleador establece que el examen se realizó bajo cualquiera de las siguientes circunstancias:

1. como resultado de una póliza del empleador por escrito, donde es obligatorio el examen para uso de estupefacientes, establecida antes de la fecha del accidente o lesión, requiriendo a cualquier trabajador que se someta a exámenes de estupefacientes o alcohol;
2. durante una autopsia o en el curso normal de tratamiento médico por motivos relacionados con la salud y el bienestar del trabajador lesionado y no a dirección del empleador;
3. el trabajador, antes de la fecha y hora del accidente o lesión, dio el consentimiento por escrito al empleador de que el trabajador se sometería voluntariamente a un examen químico de estupefacientes o alcohol seguido de cualquier accidente o lesión;
4. el trabajador acepta voluntariamente someterse a un examen químico de estupefacientes o alcohol después de cualquier accidente o lesión; o
5. como resultado de la ley federal o estatal, o norma federal o estatal o una regulación teniendo la fuerza y efecto de la ley, requiriendo un programa de pruebas después de la lesión y dicho programa requerido fue correctamente implementado en el momento de la prueba.

*Un empleado es considerado de estar incapacitado por uso de alcohol si la concentración de alcohol en la sangre es de 0.04 o más en el momento de la lesión.

** Niveles límite de prueba confirmatoria (ng/ml)

Marihuana metabólica 15

Cocaína metabólica 150

Anfetaminas:

Anfetamina 500

Metanfetamina 500

Opiáceos:

Morfina 2000

Codeína 2000

6-Acetylmorphine 10ng/ml

Phencyclidine 25

Violaciones de Seguridad: K.S.A. 44-501(a) (1)

Compensación por una lesión deberá ser desaprobada si dicha lesión al empleado es el resultado de:

1. la intención deliberada del empleado de causar dichas lesiones;
2. falta intencionada del empleado de no utilizar una guarnición o protección contra accidentes o lesiones que es requerida en conformidad con cualquier estatuto y proporcionadas para el empleado;
3. falta intencionada del empleado para utilizar una razonable y adecuada guarnición y protección voluntariamente provista al empleado por el empleador;
4. violación de descuido del empleado de las normas o reglamentos de seguridad de su empleador o;
5. la participación voluntaria del empleado en peleas o bromas con un compañero de trabajo por cualquier motivo, relacionado con el trabajo o de otro tipo.

Lo anterior no deberá aplicar cuando era razonable bajo la totalidad de las circunstancias para no utilizar dicho equipo, o si el empleador aprobó en el trabajo comprometido en el momento de un accidente o lesión para ser realizado sin dicho equipo.

Enfermedad coronaria y derrame cerebral

La ley no provee compensación por coronaria o enfermedad de la arteria coronaria o lesión cerebro-vascular (por ejemplo, derrame cerebral), a menos que se demuestre que el esfuerzo del trabajo que causó la lesión fue más allá de lo requerido por el trabajo habitual del empleado. Otra excepción es la lesión vascular causada por temperaturas extremas.

Previa clasificación de Incapacidad/Condición pre-existente

Compensación por cualquier incapacidad permanente puede ser reducida por la existencia de una clasificación en cualquier incapacidad pre-existente aplicable.

K.S.A. 44-501(e): una adjudicación de compensación por incapacidad parcial permanente, incapacidad de trabajo o incapacidad total permanente deberá ser reducida por la cantidad de incapacidad funcional determinada a ser preexistente. Cualquier mencionada reducción no deberá aplicar a incapacidad total temporal, ni deberá aplicar a compensación por tratamiento médico.

K.S.A. 44-501(e)(1): donde beneficios de compensación de trabajadores han sido adjudicados previamente a través de un acuerdo o una determinación judicial administrativa en Kansas, las bases del porcentaje de previo acuerdo o adjudicación deberá establecer conclusivamente la cantidad de incapacidad funcional determinada a ser preexistente. Donde beneficios de compensación de los trabajadores no han sido previamente adjudicados a través de un acuerdo o determinación judicial o administrativa en Kansas, la cantidad de incapacidad funcional preexistente deberá ser establecida por evidencia competente.

Directrices para Obtener Tratamiento Médico

¿Quién paga?

Los empleadores son responsables de todo tratamiento médico necesitado para una lesión o enfermedad relacionada con el trabajo. Esto incluye:

- servicios de un médico profesional con licencia;
- cirugías, hospital y otros tratamientos médicos;
- medicamentos, médicos y quirúrgicos suministrados;
- servicios de enfermería;
- muletas y otros aparatos médicos;

- servicios de ambulancia; y
- transporte entre el domicilio del empleado y el lugar de tratamiento médico, sujeto a un mínimo de cinco millas de viaje redondo.

Si un empleador tiene seguro de compensación de trabajadores, la compañía de seguros es requerida a pagar por gastos médicos aplicables. Los empleadores no asegurados sujetos a las leyes de compensación de trabajadores siguen siendo responsables de las facturas médicas de los trabajadores cubiertos.

Los empleadores tienen el derecho legal de elegir al médico del tratamiento. Si un empleado selecciona por sí mismo a un médico no autorizado o que no ha sido acordado con el empleador, el empleador es responsable solamente por los primeros 500 dólares en facturas médicas de dichos médicos seleccionados por el empleado.

Exámenes Ordenados por el Empleador

Después de obtener cualquier atención médica de emergencia necesaria, el empleado deberá someterse a cualquier examen físico razonable ordenado por el empleador. El empleador también puede requerir que el empleado se someta a exámenes de continuo – hasta dos veces al mes, o más seguido si es específicamente ordenado por la División de Compensación de Trabajadores. Los empleados pueden perder su derecho a beneficios que están disponibles si se niegan a someterse a dichos exámenes.

Los empleados tienen derecho a conocer los resultados de cualquier examen físico ordenado por el empleador. A petición del empleado, el doctor conduciendo el examen, debe proporcionar al empleado, dentro de un plazo razonable después del examen, un informe idéntico al que envió al empleador o compañía de seguros del empleador. Los empleados tienen derecho a tener su propio médico presente, y participar en cualquier examen médico ordenado por el empleador. Si esto no se permite, o si no se proporciona una copia del reporte médico a los empleados, entonces el examen ordenado por el empleador no será admitido como evidencia relacionada con el reclamo.

Fraude y Abuso

La División de Compensación de Trabajadores y el Departamento de Seguros de Kansas tienen unidades dedicadas a la investigación de actos fraudulentos o abusivos y prácticas que ocurren con respecto a la Ley de compensación de trabajadores. Generalmente pueden ser actos o conductas que se consideran fraudulentos o abusivos descritos como situaciones en que los reclamantes, empleadores o empresas fallan o se niegan a seguir las directrices de la ley de compensación de trabajadores. La ley de compensación de trabajadores aplica a lo siguiente:

- personas reclamando beneficios bajo la Ley de Compensación de Trabajadores;
- los empleadores sujetos a los requisitos de la Ley de Compensación de Trabajadores;
- planes de aseguradoras y grupos mancomunados auto-asegurados, proporcionando cobertura para lesiones relacionadas con el trabajo.
- cualquier persona, empresa, negocio o clínica de salud proporcionando tratamiento para lesiones relacionadas con el trabajo;
- abogados y otros representantes de los empleadores, empleados, aseguradores o de otras entidades involucradas en la administración de la Ley de Compensación de Trabajadores.

Si el director o el fiscal adjunto asignado a la División de Compensación de Trabajadores, tiene causa probable para creer que un acto fraudulento o abusivo o práctica que viola la Ley de Compensación de Trabajadores ha ocurrido, una copia de cualquier orden y todos los informes de investigación y cualquier evidencia en la posesión de la División de Compensación de Trabajadores que se relaciona a dicha ley deberá remitirse al fiscal del condado en el que ocurrió el acto.

Cualquier persona que cree que se ha ocurrido una violación a la ley de Compensación de Trabajadores puede notificar a la División de Compensación de Trabajadores inmediatamente y debe enviar la información relativa a la presunta violación a la División. El director deberá evaluar los hechos en torno a la supuesta violación para determinar en qué medida, si los hubiere, cuales violaciones de la Ley de Compensación de Trabajadores existe. Para obtener más información, llame a los teléfonos (785) 296-6392 o (800) 332-0353; o envíe un correo electrónico a **wcfraud@dol.ks.gov**.

Cualquier persona que tenga una queja contra una compañía de seguros, o de otra persona/entidad regulada por Departamento de Seguros de Kansas, en relación con la tramitación de un reclamo de compensación de trabajadores, debe comunicarse con la División de lucha contra fraude en el Departamento de Seguros de Kansas. Las quejas pueden hacerse llamando a los teléfonos (800) 432-2484 o (785) 296-3071, por escrito enviando información a la División de lucha contra fraude a 420 SW 9th St., Topeka, KS 66612 o en el internet en **www.ksinsurance.org**.

Cobertura y Cumplimiento de Normas

La sección de Cumplimiento supervisa y asiste a los empleadores para asegurar que cumplan con dos requisitos bajo la Ley de Compensación de trabajadores:

1. para proteger los beneficios de compensación de trabajadores para empleados y
2. para presentar informes por escrito de supuestos accidentes de trabajo.

Falta de asegurar beneficios de compensación de trabajadores o de reportar accidentes puede resultar en penas monetarias contra el empleador. Falta de asegurar beneficios de compensación a los trabajadores también puede resultar en la clausura del negocio.

Todos los empleadores están obligados por ley a reportar cualquier supuesto accidente que haya ocurrido en el curso del empleo, que total o parcialmente incapacite al trabajador de trabajo o servicio por más del día, cambio de trabajo o de turno en el que ocurrió el presunto accidente. El reporte del accidente deberá presentarse con la División de Compensación de Trabajadores dentro de 28 días después de que el empleador recibe conocimiento del accidente.

El informe de accidente debe hacerse en el formulario de reporte de accidente K-WC 1101-A de la División. Para descargar el formulario (interactivo o versión PDF), ir a formularios y publicaciones en el sitio de la Compensación de Trabajadores y seleccione reportes de accidente y beneficios.

Cuando el director tiene motivos para creer que un empleador ha incurrido en el conocimiento y falta intencional de asegurar el pago de compensación de Trabajadores a sus empleados, el director deberá emitir y entregar a tal empleador una declaración de los cargos y deberá conducir una audiencia de conformidad con la Ley de Procedimientos Administrativos del estado de Kansas. El empleador puede ser responsable ante el Estado por una pena civil en una cantidad igual a dos veces la prima anual o 25,000 dólares, cualquier cantidad que sea mayor.

El director deberá ordenar a los empleadores de entrar bajo la ley de Compensación de Trabajadores mediante:

1. asegurar y mantener asegurado el pago de dicha compensación con una compañía de seguros autorizada para tramitar las actividades de seguro de compensación de trabajadores en el estado de Kansas;
2. mostrando al director que el empleador porta ese riesgo propio y que es conocido por estar auto-asegurado y mediante proveer prueba al director de la capacidad financiera del empleador de pagar dicha compensación por sí mismo; o
3. manteniendo una membrecía en un grupo financiero de fondo común que sea cualificado. El costo para proveer dicho seguro o riesgo deberá ser pagado por el empleador y no el empleado.

Para mas información llame a los teléfonos (785) 296-6767 o (800) 332-0353; o envíe su correo electrónico a: wccompliance@dol.ks.gov o visite el sitio en internet www.dol.ks.gov.

Compruebe Cobertura

Usted puede comprobar si una empresa tiene cobertura de compensación de trabajadores en el internet. El sitio proporciona acceso al público a porciones de la información reportada por compañías aseguradoras privadas de compensación de trabajadores para uso del Departamento Laboral de Kansas (KDOL). La exactitud de los datos de cualquier tercer partido no puede ser garantizado por la agencia y KDOL no es responsable de la información de cobertura disponible a través de este enlace.

Para obtener ayuda adicional para verificar la cobertura de compensación de trabajadores en Kansas, llamar a Cobertura y cumplimiento de normas de la División de Compensación de Trabajadores al (785) 296-6767.

Servicios de Salud y Seguridad

La prevención de accidentes y seguridad en el lugar de trabajo es un elemento clave de la ley. Este requisito fue diseñado para reducir reclamos/pérdidas, lo que mantendría bajas las primas para los empleadores. Debido a que las tarifas se basan en las pérdidas, la prevención de accidentes de los empleados, a través de medidas elevadas de seguridad, es una de las mejores maneras en que los empleadores pueden ayudar a mantener bajas las tasas de interés.

De acuerdo con la ley, las compañías de seguros y planes de grupos financieros deben proporcionar programas de prevención de accidente cuando sea solicitado por sus asegurados. Aviso de tales programas de prevención de accidentes debe aparecer en la portada de todas las pólizas emitidas después de julio de 1993.

Programas Ofrecidos por el Departamento Laboral de Kansas

Consulta: ofrece asistencia a los empleadores del sector privado en las evaluaciones del programa de salud y seguridad. Los consultores ofrecen asesoría en el reconocimiento, evaluación y control de riesgos laborales. Asistencia con la iniciación y el desarrollo del programa está disponible. Entrenamiento, formal e informal, es realizado en todas las áreas de salud y seguridad. Todos los servicios son sin costo al cliente.

Cumplimiento del Sector Público: supervisa al sector público – ciudades, condados, agencias estatales y distritos escolares – mediante la realización de auditorías de cumplimiento bajo el artículo K.S.A. 44-636 o K.S.A. 44-575(f). Se identifican los riesgos laborales y se evalúan los elementos del programa. Los riesgos deben ser disminuidos dentro de 60 días. También se realizan investigaciones de quejas de empleados, accidentes leves y fatalidades.

Prevención de Accidentes: evalúa las compañías de seguros y planes de auto-seguro de grupo financiero para garantizar que están ofreciendo y proporcionando servicios de seguridad y salud sin costo para sus asegurados, como es requerido por la ley. La calidad y cantidad de estos servicios son evaluadas por consultores capacitados mediante revisar directamente los registros de la compañía de seguros y ponerse en contacto con aquellos que han solicitado y han recibido los servicios.

Inspecciones de Seguridad de Caldera: realiza periódicamente inspecciones regulares y especiales, certificadas por el estado, de todas las calderas - privadas y públicas, como es requerido por ley. La seguridad de la caldera tiene una alta prioridad, como se indica en el artículo K.S.A.44- 913 y los siguientes. La caldera y fabricantes de las válvulas de presión y las empresas de reparación son monitoreados. Todas las instalaciones nuevas de calderas y válvulas de presión en el Estado son inspeccionadas. El programa de caldera es financiado mediante honorarios.

Conferencia de Salud y Seguridad: la Conferencia anual de Salud y Seguridad de Kansas reúne a los representantes del sector industrial, académico, proveedor y del Gobierno. La Conferencia se lleva a cabo sin la ayuda de otros y trata de abordar las cuestiones relevantes de seguridad en una variedad de talleres y presentaciones.

Asistencia para salud y seguridad en el lugar de empleo está disponible llamando al (785) 296-4386 o envío de correo electrónico a indsafetyhealth@dol.ks.gov. Usted también puede encontrar información en el internet bajo Seguridad Laboral visitando www.dol.ks.gov.

Servicios de la Sección Ombudsman

La División de Compensación de trabajadores de Kansas estableció una Sección de Asesoramiento al Reclamante en el año de 1978. En 1993 la Legislatura siguió una tendencia nacional y, por ley, crearon el programa Ombudsman. La legislación de reforma de la compensación de los trabajadores en 1993 se ordenó una definición más amplia para la Sección de Consejeros para Reclamantes, facilitando el llevar un papel más activo para ayudar a todos los participantes a entender sus derechos y sus responsabilidades bajo la ley de Compensación para Trabajadores.

La División emplea personal de tiempo completo que se especializan en ayudar a los trabajadores lesionados, los empleadores y profesionales en seguros con información de reclamos y problemas derivados de accidentes de trabajo y enfermedades. El ombudsman actúa de manera imparcial y está disponible para proporcionar a los participantes información acerca de asuntos actualizados dentro del sistema de compensación de trabajadores. Por ejemplo, el ombudsman tiene información actualizada sobre cambios legislativos o modificaciones debido a decisiones tomadas por la Junta de compensación de trabajadores o del sistema legal. La sección de ombudsman también puede ayudar con temas específicos o reclamos actuales de compensación de trabajadores.

Ayudando a los trabajadores lesionados con:

- Proporcionando información general
- Obteniendo tratamiento médico
- Beneficios no pagados o no pagados oportunamente
- Beneficios médicos no pagados
- Cálculos de beneficios
- Notificación oportuna del empleador
- Procedimientos para la solicitud de una audiencia
- Obtención de beneficios de los sobrevivientes
- Resolución informal de disputas
- Asistencia de mediación
- Interpretación para los trabajadores de habla hispana

Ayudar a los empleadores/compañías de seguros:

- Proporcionando información general
- Exhibir el aviso de Compensación de Trabajadores (K-WC 40)
- Proporcionando información requerida a los trabajadores lesionados (K-WC 27/270)
- Presentación oportuna de los reportes de accidentes
- Pago oportuno y adecuado de los servicios médicos
- Información de elecciones
- Asistencia con requisitos del beneficio por fallecimiento
- Resolución de disputa informal
- Asistencia con los trabajadores de habla hispana
- Capacitación del personal de empleador en cuestiones de compensación de trabajadores
- Visitas de asistencia práctica a los sitios de trabajo

Asistencia de un Ombudsman está disponible ya sea en persona o llamando al (785) 296-2996 o al (800) 332-0353. Usted también puede enviar un correo electrónico a wc@dol.ks.gov. Además, los formularios están disponibles para su descarga en www.dol.ks.gov.

Unidad de servicios al empleador

Para asistencia técnica y presentaciones y capacitación para empleadores, llame al (785) 296-2996 o (800) 332-0353, o escriba al correo electrónico wcemployerservices@dol.ks.gov.

Mediación

La mediación fue legislativamente creada en 1996 (K.S.A. 44- 5,117) y puede ser utilizada en cualquier momento durante el proceso de compensación de trabajadores. El estatuto fue enmendado en 1998 para permitir la mediación por video conferencias. La mediación no es obligatoria o un requisito previo para una audiencia y puede ser utilizado en cualquier tiempo durante el proceso de compensación del trabajador. Los asuntos que se pueden mediar no se limitan a cuestiones de tratamiento médico o beneficios de incapacidad total temporal.

¿Qué es la mediación?

La mediación es un medio de resolver los conflictos en un informal y no contencioso ambiente. El las partes en una controversia utilizan un tercer partido neutral para facilitar la discusión. El mediador no tiene ninguna autoridad haciendo decisiones o interés en el resultado del conflicto. El trabajo del mediador es ayudar a las partes involucradas para identificar las cuestiones en disputa y el establecimiento de objetivos comunes. La clave de la mediación es que permite las partes involucradas a trabajar a través de su disputa y crear sus propios acuerdos.

¿Quiénes son los mediadores?

Los mediadores son empleados de la División de Compensación de Trabajadores que han recibido especial capacitación en el proceso de mediación. Los mediadores utilizados por la División de compensación para trabajadores cumplen o superan los requisitos establecidos por K.S.A. 5-501 y enmiendas al mismo y cualquier regla pertinente de la Corte Suprema de Kansas en conformidad con el artículo K.S.A. 5-510 y enmiendas. Los mediadores reciben capacitación en técnicas de resolución de conflictos, neutralidad, preparación de acuerdos, ética, desempeño como mediador, habilidades de comunicación, evaluación de casos y las leyes que rigen la mediación.

Representación y asistencia

Cualquiera de los participantes podrá estar representado por un abogado en esta conferencia de mediación o podrá solicitar asistencia de la Sección Ombudsman/Consejeros de Reclamos. La ausencia de un abogado durante el proceso no significa que representación legal no puede obtenerse posteriormente si la disputa no se resuelve en este contexto informal.

Para obtener información adicional o para programar una conferencia de mediación, llame al (785) 296-0848 o (800) 332-0353. Escribir a la Sección de Mediación, Departamento Laboral de Kansas, División de Compensación de Trabajadores, 401 SW Topeka Boulevard, Topeka, KS 66603-3182. Puede enviar correo electrónico a wcmediation@dol.ks.gov.

Servicios médicos

La función principal de la sección de Servicios Médicos es la administración de la programación de honorarios médicos. El programa de honorarios es actualizado y revisado anualmente para promover la contención del costo de salud, y todavía asegurar la disponibilidad de tratamiento necesario y cuidado para los empleados lesionados.

La sección de Servicios Médicos está disponible para actuar como un enlace entre los proveedores de atención médica, empleadores, empleados, aseguradoras, grupos financieros con fondo común o empresas auto-aseguradas. Además, la sección conduce audiencias informales para ayudar en la resolución de reclamos médicos en disputa y pagos relacionados que envuelven a proveedores de atención médica.

Para obtener ayuda para resolver los problemas relacionados con interpretación de programación de tarifa, disputas de pago, etc., contacte la sección de servicios médicos al (785) 296-0846 o fax (785) 296-0025.

Rehabilitación profesional

Rehabilitación profesional podrá facilitarse a opción del empleador o de la aseguradora del empleador. La experiencia general ha demostrado que cuanto mayor sea el lapso de tiempo que el empleado esté fuera del trabajo en recuperación de una lesión, mayor será la probabilidad de que un empleado necesitará rehabilitación vocacional para reanudar trabajo adecuado a una remuneración comparable.

Si el empleador o la compañía de seguros no eligen proporcionar rehabilitación profesional, el empleado puede pedir al administrador de rehabilitación una referencia con un proveedor de dichos servicios a expensas del empleado. El empleado también puede solicitar una referencia a la División de Servicios de Rehabilitación en el Departamento de Servicios de Rehabilitación Social de Kansas.

Para obtener ayuda con la rehabilitación profesional, póngase en contacto con la oficina del administrador de rehabilitación en la División de Compensación de Trabajadores (800) 332-0353, (785) 296-2996 o envíe un correo electrónico a wcrehab@dol.ks.gov.

**Departamento Laboral de Kansas
División de Compensación de Trabajadores**

Departamento de Seguros de Kansas

COMPLETING THE EMPLOYERS FIRST REPORT OF INJURY

1. Each time an employee alleges a work-related condition, a First Report of Injury should be completed by Management not Employees.
2. The report should be filled out as completely as possible without holding up or delaying the reporting. If there is something you don't know – leave it blank – do not hold up the report.
3. If there are any questions on filling out the report do not hesitate to call our office.
4. The most important areas which need to be completed are:
 - a. Employee's Information: address, social security number, phone number, date of birth, and occupation.
 - b. Employer's Information: name, address, phone number of contact person, etc.
 - c. The date of injury
 - d. The date the injury was reported to the employer
 - e. The last day worked (applies to time loss claims)
 - f. Area of body injured
 - g. Name and number of contact
 - h. Location and Department codes (if applicable)

FOLLOW ATTACHED EXAMPLES . . .

"NOTICE ONLY"

No medical treatment
No time loss from work

"MEDICAL ONLY"

Medical treatment
No time loss from work

"TIME LOSS"

Medical treatment
Loss time from work

Sample - Notice Only

KANSAS DEPARTMENT OF LABOR

www.dol.ks.gov

ACCIDENT REPORT

K-WC 1101-A (Rev. 1-12)

- SEE INSTRUCTIONS ON PAGE 2 -

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Mail or fax ORIGINAL report to:
Division of Workers Compensation
401 SW Topeka Blvd., Suite 2
Topeka, KS 66603-3105
Fax: (785) 296-4216

Direct questions or comments to:
Toll-free (800) 332-0353

OSHA Case or File Number _____

1. Federal Employer's Identification Number X _____ Date of hire X _____
2. Name of employer X _____ Phone X _____
3. Mailing address X _____
Street City State ZIP Code
4. Location, if different from mailing address X _____
Street City State ZIP Code
5. Nature of business _____ NAICS or S.I.C. Code _____ Dept. or division _____
6. Name of employee X _____ Age _____ Sex _____
First Middle Last
7. Home address X _____
Street City State ZIP Code
8. SSN X _____ Birth date X _____ Employee's occupation X _____ Home phone _____
9. Date of injury or occupational disease X _____ Time of injury _____ a.m. p.m.
Date reported to employer X _____ Date disability began _____ Gross average weekly wage \$ _____
10. Place of accident or last exposure _____
City County State
11. Was accident or last exposure on employer's premises? X YES NO
12. How did accident occur? X _____
13. What was employee doing when injured? X _____
14. Name substance or object that directly caused injury* _____
15. Describe in detail nature and extent of injury, indicate part of body involved * X _____
16. Was worker admitted to hospital? YES NO Date _____ Treated by emergency room only? YES NO
Hospital name and address _____
17. Name and address of attending physician or clinic _____
18. Has employee returned to regular duty? X YES NO Light duty? YES NO Date _____
19. Is compensation now being paid? YES NO Date first/initial payment _____
20. Weekly compensation rate \$ _____ Is further medical aid needed? YES NO UNKNOWN
21. Did employee die? YES NO If YES, give date of death _____ (File amended report within 28 days if death subsequently occurs.)
22. Name(s) and address(es) of dependents (death cases only) _____
23. Insurance carrier and third party administrator NSI, A Division of West Bend Mutual Insurance Company
Address 8401 Greenway Blvd. Suite 1100 Middleton WI 53562 Phone Fax: 877-434-9585
Street City State ZIP Code
Policy number _____ Name of agent _____
Claim number _____ Name of claim representative _____
24. Date of report X _____ Completed by _____ Title _____

Table with 7 rows: FOR OFFICE USE, COUNTY, CAUSE, NATURE, SEVERITY (0-NO TIME LOST, 1-TIME LOST, 2-MEDICAL, 3-FATAL), SOURCE, MEMBER

Instructions

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Mail or fax the **original** report only. If not completed using the fillable PDF form, the report must be printed neatly in black ink or typewritten. If not legible, the report will be returned which will delay timely processing.

The employer must send this accident report to its insurance carrier, third party administrator or pool association as indicated in the employer's insurance contract. **The employer is responsible for submitting the original report to the Division of Workers Compensation within 28 days of the date the employer is informed of the accident.**

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14: Name the object or substance which directly injured the employee. Example: machine or object employee struck or struck employee; vapor or poison employee inhaled or swallowed; chemicals or radiation which irritated employee's skin; if hernia, the object employee was lifting or pulling; etc.

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Accident reports are not required for every work-related injury. The statute requires a report to be filed when the worker's whole or partial incapacity continues beyond the "day, turn, or shift which such injuries are sustained" as the result of accident. "Incapacity" is not specifically defined within the law, but the division believes that the Legislature's intent was to reference a worker's whole or partial loss of the ability to perform his or her ordinary job tasks. When in doubt, keep in mind the law contains no penalty for filing a report that ultimately proves to be unnecessary. **There are penalties, however, for failing to file a report when one was required.** The penalties include fines and limitations on the defenses the employer may assert if a claim is filed.

OSHA Recordkeeping

The employer must complete an Injury and Illness Incident Report, OSHA Form 301, within seven (7) days of learning that a work-related injury or illness has occurred. According to OSHA's recordkeeping rule, you must keep Form 301, or an equivalent substitute on file for five (5) years.

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Sample - Medical Only

KANSAS DEPARTMENT OF LABOR
www.dol.ks.gov

ACCIDENT REPORT

K-WC 1101-A (Rev. 1-12)

- SEE INSTRUCTIONS ON PAGE 2 -

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5. Nature of business _____ NAICS or S.I.C. Code _____ Dept. or division _____
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First Middle Last
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Street City State ZIP Code
8. SSN X _____ Birth date X _____ Employee's occupation X _____ Home phone X _____
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Date reported to employer X _____ Date disability began X _____ Gross average weekly wage \$ _____
10. Place of accident or last exposure X _____
City County State
11. Was accident or last exposure on employer's premises? X [] YES [] NO
12. How did accident occur? X _____
13. What was employee doing when injured? X _____
14. Name substance or object that directly caused injury* X _____
15. Describe in detail nature and extent of injury, indicate part of body involved * X _____
16. Was worker admitted to hospital? X [] YES [] NO Date _____ Treated by emergency room only? [] YES [] NO
Hospital name and address _____
17. Name and address of attending physician or clinic X _____
18. Has employee returned to regular duty? X [] YES [] NO Light duty? [] YES [] NO Date _____
19. Is compensation now being paid? [] YES [] NO Date first/initial payment _____
20. Weekly compensation rate \$ _____ Is further medical aid needed? [] YES [] NO [] UNKNOWN
21. Did employee die? X [] YES [] NO If YES, give date of death _____ (File amended report within 28 days if death subsequently occurs.)
22. Name(s) and address(es) of dependents (death cases only) _____
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Table with 6 rows: FOR OFFICE USE, COUNTY, CAUSE, NATURE, SEVERITY (0 - NO TIME LOST, 1 - TIME LOST, 2 - MEDICAL, 3 - FATAL), SOURCE, MEMBER

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14: Name the object or substance which directly injured the employee. Example: machine or object employee struck or struck employee; vapor or poison employee inhaled or swallowed; chemicals or radiation which irritated employee's skin; if hernia, the object employee was lifting or pulling; etc.

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Definition of an Incapacitating Injury

The Workers' Compensation Act sets forth a strict time frame for filing accident reports with the division. The controlling statute is K.S.A. 44-557(a), which reads as follows:

(a) it is hereby made the duty of every employer to make or cause to be made a report to the director of any accident, or claimed or alleged accident, to any employee which occurs in the course of the employee's employment and of which the employer or the employer's supervisor has knowledge, which report shall be made upon a form to be prepared by the director, within 28 days, after the receipt of such knowledge, if the personal injuries which are sustained by such accidents are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn on which such injuries were sustained.

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Sample - Time Loss Only

KANSAS DEPARTMENT OF LABOR

www.dol.ks.gov

ACCIDENT REPORT

K-WC 1101-A (Rev. 1-12)

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OSHA Case or File Number _____

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FOR OFFICE USE
COUNTY
CAUSE
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**FOR
OFFICE
USE**

COUNTY

CAUSE

NATURE

SEVERITY

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SOURCE

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SUPERVISOR'S INCIDENT REPORT

Injury (work related)
 Illness (work related)
 Property Damage
 Incident

Employee Name (First, Middle, Last)			Social Security Number			Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Employee Home Telephone Number		
Employee's Street Address						City		State		Zip
Age	Birthdate Mo. Day Yr.		Job Title			Department				
Employee's Scheduled Work Week When Injured		Start Time AM PM	End Time AM PM	Hrs. Per Day	Hrs. Per Wk.	Days Per Wk.	Normal Full-Time Schedule for Injured's Work	Start Time AM PM		End Time AM PM
Injury Date Mo. Day Yr.		Hour of Day AM PM		Last Day Worked Mo. Day Yr.		Start Date Mo. Day Yr.		<input type="checkbox"/> No Lost Time <input type="checkbox"/> Date Returned to Work Mo. Day Yr. <input type="checkbox"/> Estimated Date of Return		

Did employee seek medical attention? Yes No If yes, name of treating physician: _____

Name of clinic or hospital: _____

Will the employee complete a drug screening? Yes No

Names of Witnesses (Attach witness statements.)

1. _____ 2. _____

Injured Employee's statement of what happened. (Identify circumstances and equipment involved.)

How could this incident have been prevented?

What corrective action has been taken?

What is the injury/illness? (Be specific.)

Part of Body Affected

- Eye
- Head
- Neck
- Back
- Arm
- Shoulder
- Fingers
- Leg
- Knee
- Hip
- Foot
- Wrist
- Hand
- Toes
- Ankle
- Elbow
- Trunk (Other than back)
- Other

Type of Injury

- Cut/Abrasion
- Bruise/Contusion
- Foreign Object
- Burn
- Break
- Sprain/Strain
- Exposure
- Repetitive Motion
- Other

I believe that the answers to the above questions are true to the best of my knowledge.

Employee's Signature _____ Date _____

Supervisor's Signature _____ Date _____

Notified

WORKERS COMPENSATION COST CONTAINMENT INITIATIVES

West Bend Mutual Insurance Company participates in several medical cost containment initiative programs. The use of these programs helps reduce your workers' compensation expenses. A brief summary of each program is outlined below.

If you have any questions about any of the programs we offer, please call our Workers' Compensation Claim Department at 1-800-236-5004.

PHARMACY PROGRAM

This program is designed to provide discounts on workers' compensation prescriptions submitted by your injured employees. This service is provided by a national pharmaceutical management company using a network of retail pharmacies.

How the program works:

1. The injured employee files a workers' compensation claim with employer, seeks medical treatment, and receives a prescription from a physician.
2. The injured employee presents the prescription along with the temporary ID form to a participating pharmacy where the claim is electronically submitted by the pharmacy to our vendor.
3. Once West Bend receives notification of the claim from the employer, an employee-specific ID drug card is issued, along with a list of participating pharmacies and instructions on the use of the program.
4. The injured employee presents the ID drug card to a participating pharmacy for any future workers' compensation prescriptions.
5. High-cost/long-term-use medications are conveniently supplied through our vendor's mail service pharmacy.

DIAGNOSTIC TESTING PROGRAM

Using the services of a diagnostic management vendor, we can save money on any diagnostic test (i.e., CT scans, MRIs, EMGs, etc...) the treating doctor orders for injuries an employee sustains in a work-related injury. Our vendor will schedule the test, then notify the injured employee of the date and time. Once the test is performed, the films/x-rays will be forwarded to the referring physician.

To make this program successful, we ask that you encourage your employees to contact their West Bend claim representative as soon as they know a test will be ordered. We will handle it from there.

MEDICAL COST CONTAINMENT

Strong medical management brings about the early and safe return to work of your employees and reduces claim costs. To accomplish this, we contract with a medical bill review service. All of our medical provider charges (hospital, physician, physical therapist, chiropractor, and pharmaceutical) are verified for the appropriateness of the charge, and to determine if they adhere to state mandated fee schedules or local usual and customary (U&C) reimbursement levels. This process often reduces our medical expenses by 10-30%.

Another way we are containing costs is through the use of a PPO Network. The Preferred Providers have agreed to discount their billings for the treatment of your industrially injured employees. This in turn keeps your premium costs down.

Your support in encouraging your injured workers to use a PPO provider is important. It sends an important message to the medical care providers that we support them in their effort to offer quality, cost effective care to patients.

For a list of PPO's in your area, please visit our website, www.thesilverlining.com for a link to the PPO list. Click on "Claims" and then on "How to Report A Claim" for the link to our vendor.

QUALITY MEDICAL CARE (Applicable in Indiana and Iowa only)

As your workers' compensation insurer, we share your goal of providing quality medical care to your injured workers so that they may return to the work force as soon as possible. In Indiana and Iowa, the employer and its insurance carrier have the responsibility for providing reasonable and necessary medical care when there is an injury and the ability to choose which physician or other medical practitioner that will provide the service. **In other words, it is the employer and insurance carrier who select the physician to treat an injury, not the injured employee.** If the employee refuses to accept medical services as instructed by the carrier, the right to receive compensation may be suspended during the period of refusal.

It has been our experience that one of the most effective ways to carry out our mutual responsibilities under the Indiana and Iowa Workers' Compensation Laws for an injured worker is for you, as an employer, to designate a company physician who is authorized to treat work-related injuries. This designation should be part of our internal procedure for reporting on-the-job injuries. Each employee should be instructed, particularly when first hired, on how to report an on-the-job injury and what physician is authorized for treatment. It should be made clear that except in cases of an emergency, no other medical or chiropractic care is authorized and charges incurred for those services will not be honored. Many of our employers put this policy in writing and have the employee sign and date this document.

There are many benefits to this policy. First, injured employees know exactly where to go for medical care when needed. Second, a good working relationship is established between the physician, you as an employer, and us as an insurance company. We find we get prompt answers to our questions and are able to better manage both medical costs and claims for weekly benefits. Referrals, particularly when an independent medical exam is needed, are greatly simplified. Where rehabilitation is needed, company physicians can assist our rehabilitation nurses and our vocational counselors.

We will be happy to work with you in designating a company physician and helping you implement this program. Please feel free to call the Workers' Compensation Claim Department with any questions or comments.



**WEST BEND MUTUAL INSURANCE COMPANY
WORKERS' COMPENSATION PRESCRIPTION INFORMATION**

Employer:

Please fill out employee information below and provide employee with this document to take to any pharmacy with prescriptions.

Employee Name:	
Group #:	10602270
Member ID (SSN):	
Date of Injury:	
Claim Number:	
Processor:	myMatrixx
Bin #:	014211
Day supply is limited to 3 days for a new injury	
myMatrixx Help Desk: (877) 804-4900	

Employer Signature:	Phone:	Date:
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Injured Worker:

West Bend has partnered with **myMatrixx** to make filling workers' compensation prescriptions easy.

This document serves as a temporary prescription card. A permanent prescription card specific to your injury will be forwarded directly to you within the next 3 to 5 business days.

Please take this letter and your prescription(s) to a pharmacy near you. **myMatrixx** has a network of over 60,000 pharmacies nationwide. If you need assistance locating a network pharmacy near you, please call **myMatrixx** toll free at (877) 804-4900.

IF YOU ARE DENIED MEDICATION(S) AT THE PHARMACY PLEASE CALL (877) 804-4900

Pharmacist: Please obtain above information from the injured employee if not already filled in by employer to process prescriptions for the workers' compensation injury only. Document only valid if signed and dated by employer above.

For questions or rejections please call (877) 804-4900. Please do not send patient home or have patient pay for medication(s) before calling **myMatrixx** for assistance.

NOTE: Certain medications are pre-approved for this patient; these medications will process without an authorization. All other will require prior approval.

FOR ALL REJECTIONS OR QUESTIONS CALL: (877) 804-4900

AUTHORIZATION TO DISCLOSE NON-PUBLIC PERSONAL HEALTH INFORMATION AND WAIVER OF PRIVILEGE

TO: Patient Name:
Claim Number:
Birth Date:
Social Security No.:

I, _____, hereby authorize the above named health care provider to give to, release, and permit copies to be made of all health care records that are in your possession.

The health care records should be disclosed to any authorized representative of West Bend Mutual Insurance Company. West Bend Mutual Insurance Company is the insurer for the employer and acts as its agent for insurance purposes.

The purpose of the disclosure of these records is to aid West Bend Mutual Insurance Company's evaluation of my claim.

West Bend Mutual Insurance Company may re-disclose my records to others retained by West Bend Mutual Insurance Company to assist in the evaluation of my claim. Re disclosure of this protected health information will no longer be protected under the federal privacy rule.

The type of information to be disclosed may include, but is not limited to, x-rays, x-ray reports, summaries, reports, narratives, test results, notes and any other health care records from all in-patient and out-patient visits at your institution or facility.

This authorization also permits release of all information relating to treatment for:

- (a) drug and/or alcohol abuse;
- (b) any mental disease, defect, or psychological/psychiatric condition;
- (c) any communicable disease, AIDS, or AIDS-related disease.

I understand that executing this authorization is a waiver of my privilege of physician-patient confidentiality, and I freely and voluntarily waive that privilege.

The above-named health care provider may not condition treatment, payment, enrollment or eligibility of benefits on obtaining your authorization.

A photocopy or facsimile of this authorization shall be valid and effective just as the original.

I understand that I may revoke this authorization in writing to the records department of the above named health care provider at any time, except where information has already been released as a result of this authorization.

Unless revoked, this authorization shall remain in effect for the period of one year beyond the date of patient's signature, or until my claim is closed, whichever is later. Records may be disclosed whether dated before or after the date of this authorization.

I understand that I or my authorized representative is entitled to receive a copy of the completed authorization form.

Signature of Patient/Claimant

Date

Signature of Parent/Guardian/Representative

Date

JOB ANALYSIS

Name			Claim Number				
Employer			Address				
Date of Hire	Date of Injury	Job Title			Check One <input type="checkbox"/> Skilled <input type="checkbox"/> Unskilled		
Training Required to Learn Job							
Was Employee Working as a Supervisor? <input type="checkbox"/> Yes <input type="checkbox"/> No		If Yes, Number of People Supervised		Employee Worked: <input type="checkbox"/> Alone <input type="checkbox"/> Small Group (3-5) <input type="checkbox"/> Large Group			
Days Worked Per Week (Circle) M Tu W Th F Sat Sun		Hours Worked During Week From To Shift					
Work Breaks (Daily Rest Periods and Lunch)							
Morning — Minutes		Lunch — Minutes		Afternoon — Minutes			
Overtime Per Week Number of Hours		How Often		Was Employee Hired With Any Restrictions? (Check) <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, Specify							
Body Movements – Amount Spent Each Day							
Sitting		Standing		Walking			
%		%		%			
Check Appropriate Column				None	Occasion-ally (1/3 or Less)	Frequently (1/3 – 2/3)	Continuously (2/3 or more)
Reaching above shoulder length							
Working with body bent over at waist							
Working in kneeling position							
Crawling							
Bending, stooping, squatting							
Repetitive foot movements as in foot controls – L/R or both							
Climbing stairs							
Climbing Ladders							
Working with arms extended at shoulder level							
Working with arms above shoulder height							
Height from floor of object to be reached and/or worked on (use space for drawing, if needed):							
Object		Height					
Weights Handled	Item	Alone or Assisted	Push, Pull Or Lift	Times Per Hour	Times Per Day	Times Per Week	Times Per Month
1 – 10 lbs.							
15 – 20 lbs.							
25 – 35 lbs.							
45 – 60 lbs.							
65 – 80 lbs.							
85 – 100 lbs.							
<input type="checkbox"/> No lifting required for this job.							

Hand Coordination Activities (Check Appropriate Column)					
Movement Required	Tool/Machine		Right	Left	Both
Major hand					
Fine Manipulation					
Gross Manipulation					
Simple Grasping					
Power Grip					
Hand Twisting					
Pushing					
Pulling					
Tools Used By Worker			Weight	No. of Hands Needed To Move	
Objects Worker Must Move During Day			Weight	Distance	No. of Workers Needed To Move
Physical Surroundings Does Employee Work <input type="checkbox"/> Inside ___% <input type="checkbox"/> Outside ___%			Does Employee Walk On Uneven Ground? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Does Employee Work Around Moving Machinery? <input type="checkbox"/> Yes <input type="checkbox"/> No			Does Employee Drive Automotive Equipment? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, describe:					
Does the Employee Come In Contact With The Following? (Indicate Type)		Yes	No	Type	
Fumes					
Dust					
Mist					
Steam					
Strong Odors					
Poor Ventilation					
Air Conditioning					
Characteristics Of Job That Cannot Be Modified By Employer For This Employee					
Comments And/Or Observations					
<input type="checkbox"/> Job Site Evaluation Done			<input type="checkbox"/> Narrative Discussion Only		
Name(s) of Person(s) Interviewed			Title		
Person Completing Analysis		Title		Date	

ATTENDING PHYSICIAN'S RETURN TO WORK RECOMMENDATIONS RECORD

Claim No. _____

Patient's Name (First)

(Middle Initial)

(Last)

Date of Injury/Illness

TO BE COMPLETED BY ATTENDING PHYSICIAN – PLEASE CHECK

Diagnosis/Condition (Brief Explanation)

I saw and treated this patient on _____ and based on the above description of the patient's current medical problem:
(date)

1. Recommend his/her return to work with no limitations on _____
(date)

2. He/She may return to work on _____ capable of performing the degree of work checked below with the following limitations: (date)

- Sedentary Work.** Lifting 10 pounds maximum and occasionally lifting and/or carrying such articles as dockets, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required only occasionally and other sedentary criteria are met.
- Light Work.** Lifting 20 pounds maximum with frequent lifting and/or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree or when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls.
- Light Medium Work.** Lifting 30 pounds maximum with frequent lifting and/or carrying of objects weighing up to 20 pounds.
- Medium Work.** Lifting 50 pounds maximum with frequent lifting and/or carrying of objects weighing up to 25 pounds.
- Medium Heavy Work.** Lifting 75-80 pounds maximum with frequent lifting and/or carrying of objects weighing up to 40 pounds.
- Heavy Work.** Lifting 100 pounds maximum with frequent lifting and/or carrying of objects weighing up to 50 pounds.

1. In an 8 hour work day patient may:
 - a. Stand/Walk
 None 1-4 hours 4-6 hours 6-8 hours
 - b. Sit
 1-3 hours 3-5 hours 5-8 hours
 - c. Drive
 1-3 hours 3-5 hours 5-8 hours
2. Patient may use hand(s) for repetitive:
 - Single Grasping
 - Pushing & Pulling
 - Fine Manipulation
3. Patient may use foot/feet for repetitive movement as in operating foot controls:
 - Yes No
4. Patient is able to:

	Frequently	Occasionally	Not At All
a. Bend	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Squat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Climb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Twist	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Reach	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other Instructions and/or Limitations Including Prescribed Medications:

These restrictions are in effect until _____ or until patient is re-evaluated on _____
(date) (date)

3. He/She is totally incapacitated at this time. Patient will be re-evaluated on _____
(date)

Physician's Signature

Date

RETURN TO WORK LOG

EMPLOYEE NAME _____ SUPERVISOR _____

Date	Hours Worked		Tasks Performed	Comments Regarding Employee's Tolerance of Modified Duty Tasks	Employee Initials	Supervisor's Initials
	In	Out				
Sunday / /						
Monday / /						
Tuesday / /						
Wednesday / /						
Thursday / /						
Friday / /						
Saturday / /						

I clearly understand, take responsibility for, and acknowledge the limitations my physician, Dr. _____ has placed on me while participating in this temporary transitional work program.

Employee Signature

Date

RETURN TO WORK LOG INFORMATION

The Return To Work Log is an efficient method used to monitor and document the specific tasks your employees are performing while on modified duty. It helps eliminate potential conflicts should the question arise regarding the employee performing work in excess of their restrictions.

- A supply of forms should be centrally located and provided to each department supervisor/manager.
- Attach a copy of the employee's restrictions to the log.
- Have employee write name on top of log and the Supervisor write their name.
- Remind employee it is their responsibility to follow the restrictions.
- Remind employee that the restrictions apply to occupational AND non-occupational activities.
- Employee and supervisor review all tasks completed each day, indicate any concerns and everyone signs the form.