

***Workers Compensation
Information
for
Kansas Employers
and Employees***


KANSAS
DEPARTMENT OF LABOR
Division of Workers Compensation



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

KANSAS DEPARTMENT OF LABOR
DIVISION OF WORKERS COMPENSATION
800 S.W. Jackson Street, Suite 600
Topeka, Kansas 66612-1227
(785) 296-2996
(800) 332-0353
E-mail: wc@dol.ks.gov
Web site: www.dol.ks.gov

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
Web site: www.ksinsurance.org

Introduction..... 1

Employer Responsibilities 2

Employee Rights and Responsibilities..... 3

Rate Information 4

General Information..... 6

Benefit Information..... 7

Fraud and Abuse 12

Coverage and Compliance 13

Industrial Safety and Health..... 14

Ombudsman Section 15

Mediation Section 16

Medical Services Section..... 17

Rehabilitation..... 17

What is Workers Compensation?



Workers compensation is an insurance plan provided by the employer (by law) to pay employee benefits for job-related injuries, disability or death. 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 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. 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.

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 the employer's receipt of knowledge of a reportable accident or a death. 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 270 are available from the Division of Workers Compensation, insurance carrier or group-funded pool.

All forms are available on our Web site: www.dol.ks.gov.
If you need assistance, call (800) 332-0353 or (785) 296-2996.

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.

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 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.

The commissioner of insurance, after reviewing the rate filing, generally approves an “overall” statewide premium change. This “overall” change is stated as a percentage (for example, a 5 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 manual rate is expressed as an amount per \$100 of payroll. This could change annually based on loss experience of other employers in the same classification.
- **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 premium 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) were 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 Web site 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.



HOW TO OBTAIN INSURANCE

Workers compensation insurance coverage shall 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 additional surcharges which are based on the employer's size of premium and loss experience. Assigned risk for Kansas is operated by NCCI. They can be contacted at (800) 622-4123 or at www.ncci.com.

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

- gives oral or written notice to employer within 10 days of injury
- for occupational disease, gives written notice to employer within 90 days of onset of disability or death
- files written compensation claim with employer within 200 days of date of injury or receipt of last payment of compensation or medical treatment
- files written claim with employer within one year of onset of disability from an occupational disease
- files application for hearing within three years of injury, or two years of last payment of compensation or medical treatment
- in death cases, legal beneficiary files written claim to employer or insurance carrier within one year of employee's death from injury or occupational disease

Division of Workers Compensation

- makes official record of accident reports filed with Division
- mails written claim form to employee after receiving accident report from employer or insurance carrier
- mails information on rights and responsibilities to employee

Employer

- unless self-insured, advises insurance carrier or group-funded pool of employee's injury
- employer/carrier files accident report with the Division within 28 days from the date of employer's knowledge of injury
- delivers 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), form K-WC 27 or K-WC 270.

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 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 \$100,000 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 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.

Loss of Use	Weeks Paid	Loss of Use	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. Compensation is based on the greater of the following: the percentage of functional impairment; or, the employee's reduced ability to perform work tasks and earn wages comparable to what they were earning before 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 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: Weekly wage is \$825 at date of accident (7/10/2007). Employee has collected 25 weeks of temporary total disability and has a 25 percent disability rating.

1. Weekly benefit rate: (use lesser amount)

$\$825 \times .6667 = \550.03

statutory maximum (7/1/07) \$510.00

2. Allowable weeks of compensation:

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

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

3. Maximum benefit amount:

$101.25 \text{ weeks} \times \$510.00 = \$51,637.50$

Our Web site has a Workers Compensation Calculation Program available for your use. 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 http://www.dol.ks.gov/wcboard/calculations_ALL.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 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 \$125,000 per injury.

When an employee's condition improves so that total disability is changed to partial disability, compensation is continued at the partial disability rate.

Survivors' Benefits

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

Weekly benefits are equal to 66.67 percent of the employee's average gross weekly wage before death or 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 \$250,000, 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, unless the \$250,000 cap is reached.

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.

An employee's refusal to submit to a chemical test may not be used as evidence of impairment, unless there is probable cause to believe that the employee used, possessed, or was impaired by drugs or alcohol while working. If there is probable cause and the employee still refuses to submit to a test, then that employee may jeopardize the right to claim compensation. Any test sample to be used as evidence in the claims process must be collected in a timely manner and by or under the supervision of a licensed health care professional, and the test must be conducted according to legal specifications.

For purposes of satisfying the probable cause requirement the employer shall be deemed to have met their burden of proof on this issue by establishing any of the following circumstances:

1. The testing was done as a result of an employer mandated drug testing policy, in place in writing prior to the date of accident;
2. The testing was done in the normal course of medical treatment for reasons related to the health and welfare of the injured worker;
3. The worker, prior to the date and time of the accident, gave written consent to the employer to be tested and if after suffering an accident requiring medical treatment the worker refuses to submit testing, this refusal shall be considered evidence of impairment;
4. The testing was done as a result of federal or state law or a federal or state rule or regulation requiring post accident testing programs;
5. However, there must be evidence that the presumed impairment contributed to the accident.

*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)

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

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

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

However, compensation is *only* reduced if:

- the disability affects the same body part to which the rating was assigned;
- the employee has collected or is collecting compensation for the prior disability; and
- compensation for the prior disability extends into the weeks claimed for the current disability.

Any reduction is limited to those weeks in which benefits for the old disability overlap benefits for the new disability. Such reduction stops when the overlapping benefit period ends.

PRE-EXISTING CONDITION

The employee shall not be entitled to recover for the aggravation of a pre-existing condition, except to the extent that the work-related injury causes increased disability.

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 15 days of 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.

Both the Division of Workers Compensation and the Kansas Insurance Department have units dedicated to the investigation of fraudulent or abusive acts or 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 (or any other violation of 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 by electronic mail by accessing the Kansas Insurance Department Web site 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. The requirement to secure workers compensation benefits for employees, and
2. The requirement to file written reports of alleged work accidents.

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

Generally, an employer in a non-agricultural business, with more than \$20,000 in non-family payroll, must secure workers compensation benefits for its employees. An employer can secure workers compensation benefits in one of three ways:

- By purchasing a workers compensation insurance policy
- By joining a group-funded workers compensation pool
- By qualifying as a self-insurer

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 K-WC 1101-A, interactive or PDF versions, go to Accident Reports, Benefits, and Claims Records on the Forms and Publications page at www.dol.ks.gov/wc/html/wcfrmpub_all.html.

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 who come under the Workers Compensation Act and who have not filed a statement of insurance, to qualify as self-insurers or members of a group-funded pool, or to file a statement of insurance, or to cease doing business in the State of Kansas. 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/wc/html/wc_all.html.

WORKERS COMPENSATION – VERIFY COVERAGE

Go to www.dol.ks.gov/wc/html/wccoververifi_all.html to verify coverage. The Coverage Verification link will open an external Web site. If you experience any technical problems with this Web site, you can contact the Kansas Department of Labor at 785-296-6767. The Web site 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 KDOL, and KDOL is not responsible for the coverage information available through this link.

For additional help with verifying workers compensation coverage in Kansas, call the Kansas Department of Labor, Division of Workers Compensation, Coverage and Compliance, at 785-296-6767.



Workplace safety and accident prevention is a key element of the law. This requirement was designed with the idea of reducing 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 shall 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

- *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. 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 to ensure that they are offering safety and health services 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.
- *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 pressure vessels in the state are inspected. Boiler safety has a high priority. The boiler program is fee funded.
- *SAFETY AND HEALTH CONFERENCE COMMITTEE*: **plans** and organizes the annual Kansas Safety and Health Conference to bring 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 at www.dol.ks.gov.

Ombudsman Services within the Division of Workers Compensation



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 of Workers Compensation 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 can also 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
- Timely submission of written claims
- 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 toll free at (800) 332-0353. You may send e-mail to wc@dol.ks.gov. Also forms are available for download at www.dol.ks.gov.

EMPLOYER SERVICES UNIT

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

Mediation Within the Workers Compensation System

Mediation was legislatively created in 1996 (K.S.A. 44-5,117) and can be utilized at any point during the workers compensation process. Initially, the mediation process required that all parties participate in person. Due to the burden created by this requirement, K.S.A. 44-5,117 was amended in 1998 to allow mediation by video conferencing. Mediation is not mandatory or a prerequisite to a hearing. In fact, mediation can be utilized at any point during the workers compensation process. Furthermore, 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, 800 SW Jackson St., Suite 600, Topeka, KS 66612-1227. You may send e-mail to wcmmediation@dol.ks.gov

Medical Services Section Within the Division of Workers Compensation

The primary function of the Medical Services Section is the administration of the Division of Workers Compensation Schedule of Medical Fees. The fee schedule is updated and revised on a biannual 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 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) 296-4215.

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.

