

Ohio Workers Compensation Basics 101

Ohio has a very unique workers compensation system. It is a monopolistic state meaning the Ohio state government provides the workers compensation insurance through a state insurance fund. There are no private workers compensation insurance companies. Ohio does allow employers to self-insure their workers compensation coverage, if the employer has the financial resources to do so and is approved by the state for self-insurance.

Workers Compensation is handled by two state agencies. The Ohio Bureau of Workers Compensation (BWC) administers the insurance program. The BWC pays the medical bills and the indemnity payments. In the case of any dispute with the BWC, the dispute is referred to the Industrial Commission (IC). The IC is responsible for resolving all contested issues. (WCxKit)

In Ohio, every employer, including farm owners and operators, with one or more employees must have workers compensation insurance. It does not matter if the employee is full time or part time. It does not matter if the employee is a seasonal worker. Even family members who work for the small employer must be covered by workers compensation insurance. The only exception is the single domestic employee who makes less than \$160 every 3 months.

In Ohio, independent contractors must carry their own workers compensation insurance. If an employer in Ohio hires an independent contractor, the employer should obtain a copy of the independent contractors Certificate of Premium Payment and verify the dates of coverage.

Claim Reporting:

The employee must file a claim within two years of the occurrence or knowledge of the injury or the occupational disease. Ohio has its own First Report of Injury form that is used to file the claim. The employer must report the claim to the BWC within 7 days of notice of the claim. A unique twist is the claim can also be reported to the BWC by the medical provider.

Medical Benefits:

All medical expenses are covered by Ohio workers compensation. The medical bills are paid directly to the medical provider as long as the medical provider has been certified by the BWC or the self-insured employer. The employee can select the medical provider of their choice, as long as the medical provider is a part of a managed care organization selected by the employer.

Temporary Total Disability (TTD) Benefits:

Another unique characteristic is the way TTD benefits are calculated. During the first 12 weeks of TTD, the employee is paid 72% of his/her gross wages. After 12 weeks, the percentage of TTD drops to two-thirds of the gross wage. The weekly maximum for 2010 is \$775 and for 2011 the weekly maximum is \$783. The weekly minimum TTD benefit is \$258.33 in 2010 and \$261.00 in 2011. TTD benefits are paid until:

1. the employee has returned to work
2. the employee has reached maximum medical improvement
3. employment is made available to the employee within the physical restrictions given by the MCO provider (think modified duty return to work)
4. the employees physician gives a written statement that the employee can return to work performing the same duties as prior to the injury

Wage Loss (WL) Benefits:

In other states this is known as temporary partial disability. If the employee is returned to work in a light duty capacity and is unable to perform the same duties as before, or is returned to work with reduced hours, WL is paid to offset a reduction in earnings as a result of the injury.

Permanent Partial Disability (PPD) Benefits:

The BWC uses a schedule of injuries to determine the amount of PPD benefits that will be paid for specific body parts like fingers, legs, eyes, etc. For non-scheduled injuries, payments are limited to one-third of the average weekly wage for a maximum duration of 200 weeks. There is a 26 week waiting period from the last payment of TTD before PPD benefits can start.

Permanent Total Disability (PTD) Benefits:

If the medical provider determines the employee can never return to work, the employee will be classified as PTD. The PTD rate is the same as the TTD rate, and it is payable to the employee for the rest of the employee's life.

Living Maintenance (LM) Benefits:

Another unique aspect of Ohio workers compensation is the LM benefit. If the employee is unable to return to the prior position at the same employer, and is participating in an approved rehabilitation plan, the BWC will continue to pay the employee for up to six months while they complete their vocational rehabilitation.

Death Benefits:

In the event of a work related death, there is a burial allowance of \$5,500 payable to the estate. If the employee has a surviving spouse or dependents, the spouse and dependents receive two-thirds of the average weekly wage up to the state maximum, with a maximum cap in 2010 of \$775.00 per week and \$783.00 per week in 2011. The minimum is one-half of the maximum, \$387.50 per week in 2010 and \$391.50 in 2011. The Hearing Officer determines how the weekly amount will be split between the spouse and other dependents. The spouse can receive the weekly benefit for life if the spouse does not remarry. If the spouse remarries, the spouse receives a lump sum equal two years of benefits, with the remaining dependents continuing to receive the weekly amount.

Lump Sum Settlements:

If the BWC and the employee agree they can enter into a lump sum settlement for the value of the future medical benefits. When the employee accepts a lump sum settlement, the employee becomes responsible for all future medical care.

Violation of a Specific Safety Requirement (VSSR) Awards:

If an employee believes his/her injury was due to the employers failure to comply with a specific safety requirement set forth in the Ohio Administrative Code, the employee may apply for a VSSR Award - an additional award of compensation over and above what the Ohio Bureau of Workers Compensation will pay in indemnity benefits. If the employee contributes to their own injury by not following the safety guidelines for their job, or if the employee failed to use the safety equipment provided by the employer, the employee is not eligible for a VSSR Award. (WCxKit)

The VSSR award will be no less than 15% and no more than 50% of the maximum weekly compensation rate. It is paid weekly over the life of the claim. [For example, the VSSR award by the IC is 50% of the \$775 weekly temporary total benefit or \$387.50 per week. The employee is off work for 20 weeks, the VSSR Award is \$7,750 (\$387.50 X 20). If the investigation by the IC determines the employer failed to properly provide for the safety of the employee, *the employer must pay the award to the employee*, not the Ohio Bureau of Workers Compensation.

If you are an Ohio employer and have questions about your workers compensation system, Here is a link to the updated laws feed for more information http://reduceyourworkerscomp.com/laws_and_regulations.php

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