

Workers' Compensation List

A

Able to Earn: In state workers' compensation laws, an employee's fair average weekly or monthly wage, or an injured worker's earning capacity. In the event of a temporary partial disability, if the injured worker is able to earn less than his or her pre-injury wages, workers' compensation covers a part of the difference (typically two-thirds, but more in some states).

Additional Medical: An endorsement attached to a workers' compensation policy that provides medical benefits above those described by the workers' compensation law. In a small number of states, medical benefits are still subject to a statutory limit; this endorsement extends that limited coverage.

Aggregate Excess Workers' Compensation Insurance: Insurance coverage for organizations that self-insure their workers' compensation benefits. It indemnifies the insured for claims in excess of a specific annual aggregate retention. The coverage places a cap on the maximum amount the insured will have to pay during a twelve-month period. Coverage (i.e., who is covered, what accidents are covered, etc.) is based on the insurance provided by standard workers' compensation policies.

Agricultural Workers: An employee involved in farming in any of its forms, including orchards, vineyards or nurseries, dairies, bee keeping, poultry and livestock, farm fishing, fur-bearing animals, etc.

All-states Endorsement: An obsolete endorsement used with older workers' compensation policies to extend benefits to the insured's business activities in any state. This coverage is now included in the body of the standard workers' compensation policy and is triggered by indicating "all-states" in the policy declarations.

Arising Out of and In the Course of Employment: The usual statutory phrase describing the injuries and illnesses covered by workers' compensation and typically used in policy forms to describe the coverage. "Arising out of employment" means that there must be a causal relationship between the job and its duties and how the injury or disease occurred. "In the course of employment" refers to the time, place and circumstances of the injury or disease.

Average Weekly Benefits: A percentage of the average weekly wage, calculated or prescribed by state workers' compensation laws. It is subject to minimum and maximum amounts.

B

Basic Premium: A factor used in retrospective premium calculations for casualty, workers' compensation and life insurance. It is a percentage of the standard premium and is used to provide the insurer with up-front money for agents' commissions, engineering service, administrative service, and profit. An insurance charge for a stop loss or a maximum limitation can be included.

Benefit Administration: A division within a state's workers' compensation board or industrial commission that is responsible for administering laws and promulgating regulations concerning the settlement of claims for injured workers' benefits.

Black Lung Disease: A morbid condition of the lungs caused by inhalation of coal dust. A disease in the pneumoconiosis family, black lung afflicts many coal miners and causes total disability or death. It is covered under a federal law (Black Lung Act) that prescribes benefit payments to victims and survivors and dependents.

Broad Form All States Endorsement: An endorsement that became obsolete when all-states coverage was added to the workers compensation policy in 1993. This form was broader than the standard all-states form in use prior to 1993 because it paid benefits on behalf of the insured instead of reimbursing the insured for claims paid.

Brown Lung Disease: A disease of the lungs caused by excessive inhalation of dust. The disease is in the pneumoconiosis family and frequently afflicts textile workers. **See:** [black lung disease](#), [byssinosis](#), [occupational disease](#).

Butterfield vs. Forrester: An 1809 English court decision that first applied the common law defense of contributory negligence, which had applied to personal injury cases outside of employment, to a workers' compensation case. Barring recovery if the employee himself had been negligent in any degree made it difficult for injured workers to win compensation.

Byssinosis: A disease of the lungs caused by excessive inhalation of cotton, flax or hemp dust. It afflicts mill workers and takes several years of exposure before manifestations are noticed. It can progress to chronic bronchitis and emphysema.

C

Claims Deductible Workers' Compensation Plan: A deductible workers' compensation plan where the policy deductible applies to both medical and indemnity or disability benefits.

Claim Management: A process or system of reviewing and handling claims for benefits, designed to control hospital costs, provide the best medical care, and produce early return-to-work dates.

Class Code: **See:** [classification code](#).

Classification Code: A specific industry classification published in a workers' compensation rate manual. Such classifications are used to identify the activities of insured's and place them into underwriting and rating groups. Class codes are tied to premium rates based on underwriting experience for the class. Insured's may be rated using more than one class code if their activities fall into more than one category.

Common Law Defense: Before workers' compensation laws were enacted, employers being sued by employees often defended themselves by claiming that the employee contributed to the accident, that the risk of injury was assumed by the employee when he or she agreed to the employment, or that fellow workers were responsible for the employee's injury. Such common law defenses are not available under workers'

compensation laws, which generally make statutorily prescribed benefits the exclusive remedy for injured workers, except in cases of an employer's gross negligence, criminal behavior, or other aggravating factors.

Contributory Negligence: An injured person's failure to exercise due care, which along with another person's (the defendant's) negligence, contributed to the injury. A common law defense, originating in England, that one who negligently harms another cannot be found liable if the injured person himself was negligent in the slightest degree. This defense was often used by employers in suits brought by injured workers. Workers' compensation laws made the defense inapplicable to claims for compensation; it is available only if an employee waives his compensation claim and instead sues an employer in tort. Many states have adopted a comparative or proportional form of contributory negligence whereby negligence of the injured person is not a complete defense, but reduces the defendant's liability according to the degree of the plaintiff's negligence.

Converted Losses: A loss factor used in retrospective rating and retention plans which is developed by multiplying incurred losses by a loss conversion factor. Formula: incurred losses \times loss conversion factor (LCF). Example: \$100,000 (incurred losses) \times 1.20 (LCF) = \$120,000 (converted losses).

Coverage A: Prior to the 1983 workers' compensation form, this was the section of a workers' compensation policy that provided the statutory workers' compensation benefits.

Coverage B: See: [coverage A](#).

Covered Injury: An injury or disease covered under a workers' compensation policy and therefore eligible for benefits.

D

Deductible Workers' Compensation Plans: A form of workers' compensation insurance introduced in 1990 and approved for use in some states. The employer/policyholder pays a reduced premium but must reimburse the insurer for claims that fall within the deductible amount. There are three types of deductible workers' compensation plans: indemnity deductible, medical deductible, and claims deductible.

Disability: Incapacity, due to a work-related injury or illness, to earn the amount of wages an employee was receiving before the injury or illness.

Dismemberment Benefit: Insurance payable in case of dismemberment.

Domestic:

Double Compensation: A statutory provision that awards an illegally employed minor who is injured in a job-related accident twice the usual compensation benefits.

“D” Ratio: A ratio used in calculating a workers' compensation experience rating plan. It is the ratio of primary expected losses (those losses under \$2,000 that an employer is

expected to control), plus a discounted value of large losses, divided by the total expected losses.

Dual Capacity Doctrine: A legal doctrine that an employer who is normally immune from tort actions by employees because of workers' compensation laws may be held liable for additional damages as a party who has committed a wrongful or negligent act beyond its role as employer. Example: An employee of an aerosol shaving cream manufacturer is injured by an exploding can while handling stock. The manufacturer is liable to the employee under workers' compensation laws, but it may also be held responsible for manufacturing a defective can. The employee then may choose to bring a civil suit, where the potential recovery is greater than the statutory remedy of workers' compensation.

E

Employee: An individual who performs services for another under an expressed or implied contract, for wages or other valuable consideration, and who acts under the direction of that party.

Employee Leasing: An arrangement whereby an employment service company provides full-time employees to other employers for a fee. Some leasing companies will assume or hire the employees of an existing organization, and lease them back to that organization. The employee leasing firm handles payroll and tax reports and obtains workers' compensation and employee benefit coverage's for the leased employees. Such arrangements have been entered into by some employers to avoid application of a high workers' compensation experience modification factor. Rating bureaus have, in turn, adopted rules designed to discourage this practice.

Employer: An individual, firm, partnership, association, corporation, legal representative of a deceased employer, or the receiver or trustee of a person, partnership, association, or corporation who uses or engages the services of another under a contract for hire.

Employer's Liability Coverage: Insurance that covers an employer's liability for bodily injury to employees occurring within the scope of their employment when that liability is not covered by workers' compensation. Primary coverage is provided by Part II (before 1986, Section B) of a workers' compensation policy, usually for a limit of \$1 million. Self-insured employers are normally covered by an endorsement to their general liability policy. Excess coverage can be provided under most umbrella and excess liability policies. Employers' liability coverage can be added to a workers' compensation policy issued for specific states to provide coverage in additional states, including monopolistic states, by endorsement.

Estimated Annual Premium: The amount of premium that an employer pays at the beginning of a policy period. EAP is determined by multiplying estimated payrolls by the rates that correspond to their classifications, and by the experience rating modification factor. At the end of the policy period, additional or return premiums will be calculated using the final payrolls.

Excess Loss Premium Factor: A retrospective rating factor used when a specific loss limitation is included in the plan. A rate or flat charge is included in the plan, to limit the amount of any one loss that is to be included in the rating formula. Example: A plan with

a \$250,000 loss limitation would include only the first \$250,000 of each occurrence in the plan's losses when the final premium is calculated.

Exclusive Remedy: State workers' compensation statutes gave employees a definite remedy for injuries and diseases arising out of or suffered in the course of their employment. In exchange for a definite recovery, the workers' compensation remedy is exclusive, that is, with just a few exceptions, a worker's right of recovery against the employer is limited to the benefits provided by the workers' compensation law. The employee may not sue in tort. Exceptions include cases in which the employer acts with fraud or gross negligence, assaults the employee, or where the injury is caused through the employer's activities in a capacity other than as employer (e.g., as the manufacturer of machinery sold to others, but which is also used in the employer's business operation).

Ex Mod: A factor (expressed as a percentage) that is developed by a rating bureau for workers' compensation insurance. The calculation relates an employer's losses, payroll, and premiums, segregated according to classifications of operations, as reported to the bureau by the employer's insurance company. **See:** [experience rating modification factor](#).

Experience Modification:

Experience Rating Form: A document produced on an annual basis that indicates an employer's premium, loss experience and experience modification factor.

Experience Rating Plan: A premium rating plan that considers the past loss experience of the insured to develop current policy rates. Usually, the past three to five years of loss experience are used to develop an experience credit or debit that is applied to the manual rates for the specific risk being rated.

Extraterritoriality: A workers' compensation policy provision that extends coverage to pay the benefit level of a state other than where an employee is hired in the event an injury occurs in that state.

F

Federal Employees' Compensation Act:

Federal Employees' Liability Act (FELA): A federal statute that provides to injured employees of interstate railroads the right to sue their employer for employment-related injuries. Interstate railroads are exempt from state workers' compensation laws, which normally limit an injured employee's remedies to scheduled benefits.

Fee Schedule: Most states publish a schedule of maximum fees that medical providers may receive for procedures covered by workers' compensation insurance.

Fellow Servant Rule: Prior to enactment of workers' compensation laws, this was a common law defense used by employers in tort suits brought by injured employees. The theory was that if the employee's injury resulted from a negligent act or omission of a fellow employee, that person was responsible, not the employer. The fellow servant rule, assumption of risk, and contributory negligence were the "unholy trinity" of defenses that

left many workers uncompensated for their injuries. Statutory reforms made these defenses inapplicable to workers' compensation claims.

Fund States Coverage: In certain states and the Canadian provinces, workers' compensation insurance must be purchased as a separate policy through state-owned insurance funds. The monopolistic states are Nevada, North Dakota, Ohio, Washington, West Virginia, and Wyoming. The Commonwealth of Puerto Rico also operates a monopolistic fund. Fund states coverage provides this coverage, and can be added as part of an all-states endorsement.

G

Governing Classification: The workers' compensation rating classification that applies to the majority of an employer's payroll and that generally describes the insured employer's business. Excluding employees that qualify for one of the standard exceptions, the payroll is rated using the governing classification.

I

Illegal Employment: The hiring of people to perform tasks that is inherently dangerous or injurious to their health or morals or in violation of child labor or other laws governing employment. Example: Hiring minors as bartenders. Health insurance policies frequently provide that the insurer is not liable for any injury sustained as a result of the insured's commission of a felony or being engaged in an illegal occupation. Illegally employed minors who are injured on the job are usually entitled to workers' compensation benefits greater than those for adults, and in some states they have the right to waive coverage under workers' compensation and pursue common law remedies.

Indemnity Deductible Workers' Compensation Plan: A deductible workers' compensation plan under which the deductible applies only to workers' compensation indemnity (disability income) benefits, not to medical benefits.

Independent Contractor: An individual or entity that agrees to perform specific work for another but is not subject to direction or management by, nor is an employee of, the person who contracted for the services. Independent contractors are not covered under an employer's workers' compensation policy.

Inspection: A workers' compensation insurer's verification of a payroll record. Workers' compensation premiums are based on the business's gross payroll, so inspection is the basis for the premium to be charged.

Inspection Report: See: [inspection](#).

Intermediate Disability: See: [temporary partial disability](#).

J

Jones Act: A federal law (U.S. Code Title 46, Chapter 18) that provides ships' crews with the same remedy available to railroad workers, that is, seamen may sue the employer/ship owner for injuries sustained through their fault or negligence. The Act applies to navigable waters used for international or interstate commerce.

L

Leased Employee: An employee who is sent by his or her employer to work for another organization and is under the exclusive control and direction of the management of the lessee organization. Example: A word processor sent by a temporary employment agency to work in a bank.

Liability over Suit: See: [third-party over suit](#).

Longshoremen's and Harbor Workers' Act Coverage Endorsement: An endorsement (NCCI form WC 00 01 06A) that extends coverage under a workers' compensation policy to include benefits to employees designated by the Long shore and Harbor Workers' Compensation Act.

Longshoremen's and Harbor Workers' Compensation Act: A federal law (U.S. Code Title 33, Chapter 18) passed in 1927 that specifies the liability of employers for maritime employees other than ships' officers and crew members. The law applies to long shore workers when loading and unloading cargo and others "employed in maritime employment in whole or in part, upon the navigable waters of the United States." Amendments to the Act have extended this coverage to include seaside areas. (In 1984, the Act name was changed from "Longshoremen's and Harbor Workers' Compensation Act.")

Loss Conversion Factor (LCF): A factor (e.g., 1.10, 1.15, 1.20) that is multiplied by incurred losses to cover claim adjusting expenses and the insurer's claim service. The resulting figure represents converted losses, a value often used in the calculation of retrospective rating and retention (dividend) plans.

Loss Limitation: A factor or amount that limits the losses used to calculate the final premium in a retrospective rating plan or retention plan. This factor is designed to limit the adverse effect of a catastrophic loss on a plan's final premium calculation.

M

Malingering: Pretending to be ill or disabled in order to avoid work and collect insurance benefits or receive such benefits longer than necessary.

Maximum Retrospective Premium: The maximum premium that a policyholder would be required to pay under a retrospective rating plan, regardless of the amount of incurred losses. Usually, the maximum is expressed as a percentage of premiums (e.g., 110%, 125%).

Medical Deductible Workers' Compensation Plan: A deductible workers' compensation plan where the deductible applies only to workers' compensation medical benefits, not to indemnity (disability income) payments.

Mill Fever: See: [byssinosis](#).

Minimum Retrospective Premium: The minimum premium charged to a policyholder under a retrospective rating plan, even if there were no incurred losses. Usually, the

minimum is expressed as a percentage of premiums (e.g., 18%, 22%, or 30% of premium).

Monopolistic State Fund: A state-operated insurance fund where businesses are required to buy workers' compensation insurance from the state. Private insurers cannot operate in these monopolistic fund states: Nevada, North Dakota, Ohio, Puerto Rico, Washington, West Virginia and Wyoming.

N

National Commission on State Workers' Compensation Laws: A commission appointed by President Richard Nixon in 1971 to study the state workers' compensation systems. It recommended higher benefits, mandatory coverage, and unlimited medical care and rehabilitation benefits. After most states adopted the recommendations, premiums for the new benefits increased.

Non-disability Injury: An injury that does not prevent a person from performing normal job duties and does not substantially interfere with daily living activities. Such an injury is not compensable under workers' compensation, but some disability policies provide benefits of 25% to 50% of one month's disability payment even though no income is lost.

Non-occupational Disability: A disability that did not occur as a result of an individual's employment, but is nevertheless covered in a few states by workers' compensation.

Non-participating Policy: An insurance policy that does not pay policy dividends.

O

Occupational Accident: An accident that arises out of and in the course of employment, which is covered by workers' compensation laws.

Occupational Disease (OD): An illness caused by exposure to adverse conditions inherent in an individual's occupation, frequently over a long period. Workers' compensation provides coverage for occupational diseases.

Occupational Hazard: A condition or circumstance inherent in a particular occupation that increases the chance of an accident or disease.

P

Payroll Audit: An examination and verification of an insured's records of employee compensation used in determining the final premium for certain lines of insurance, such as workers' compensation.

Priestly vs. Fowler: A landmark case in the development of workers' compensation. This 1837 British court decision stated that an employer was not responsible for an employee's injury if it was caused by another employee. Priestly also laid the groundwork for the assumption of risk defense. This ruling changed the prior English common law that employers were responsible for injuries to their employees.

R

Rehabilitation: The attempt to restore the physical or mental capabilities of a disabled employee with an emphasis toward restoring or increasing their ability to earn. This is accomplished through physical therapy, counseling and education.

Remuneration: The salary or other earnings of employees, which make up the payroll of an organization. It is often used as a rating base and includes regular earnings, piece work payments, and overtime.

Reporting Form: A form that must be completed by a policyholder on a periodic basis (monthly, quarterly) to report that period's exposure basis (receipts, payroll, units produced), which is used to determine the premium to be charged. A reporting form property policy requires the insured to report property values that frequently vary during the policy period. This arrangement usually results in lower premiums, since coverage does not have to be purchased for the maximum exposure during the year; instead the premium is based on the actual or average exposure. Often policies written on this basis have a penalty provision for late reporting.

Residence Employee: A person hired by the owner of a private residence to do domestic work. In some states, workers' compensation coverage for such an employee must be included in a homeowner's or renter's policy.

Retrospective Penalty Insurance: A separate insurance policy, written in conjunction with a retrospective rating plan policy, that protects the policyholder against having to pay a penalty or extra premium in excess of the standard retrospective premium in the event of an adverse loss ratio. This is sometimes called a Chinese retro and is illegal in some states.

Risk Classification: The placing of employees into various job classifications to determine the rate that should be used to develop a workers' compensation policy premium.

S

Second Injury Fund: A state fund (known in New York as the special disability fund) established to pay additional benefits (for example, beyond a limited number of weeks) for aggravation of an injured employee's prior condition. The employer of a permanently impaired worker is responsible only for compensating the most recent injury. The policy goals are to fairly apportion liability for compensation benefits and to overcome reluctance to hire handicapped or disabled workers.

Self-inflicted Injury: An intentional injury a person causes to him- or herself. Generally, such an injury is not covered by a health plan or a workers' compensation policy, since it is not an accident; but suicide is often covered by a life insurance policy after a specified time period.

Servant: A person whose conduct is under the control of another (the master or principal).

Silicosis: A disease of the lungs caused by the inhalation of silica dust. Silicosis is a common condition among coal miners.

Specific Excess Workers' Compensation Insurance: Insurance coverage for organizations that self-insure their workers' compensation benefits. It indemnifies the insured for claims on a per-occurrence basis in excess of a specific retention (\$50,000, \$100,000, \$250,000), subject to a maximum that can range from \$1 million to statutory benefits. Coverage is based on those provided by a standard worker's compensation policy.

Standard Premium: A factor used in a retrospectively rated workers' compensation program. The standard premium is generally derived by multiplying the workers' compensation rates by the applicable payroll amounts, to which the insured's experience modification factor is then applied.

State Fund: A state government-operated insurance facility used to insure workers' compensation benefits. Some states have monopolistic funds that require employers to purchase coverage from them, while other state funds compete with private insurers.

Statewide Average Weekly Wage (SAWW): A periodically prepared report, indicating the average state-wide weekly wages paid over a specific period of time. This report is used to determine the adequacy of workers' compensation benefit levels.

Stevedore: An individual or firm who works at or is responsible for loading or unloading a ship in port.

I

Tabular Plan: A retrospective rating plan in which the factors (i.e. basic, minimum, maximum) used in the rating formula are indicated in a table. The factors vary, depending on the risk's premium size and prior loss experience.

Tax Factor: See: [tax multiplier](#).

Tax Multiplier: A factor applied in retrospective rating plans to cover the insurer's costs for licenses, fees, assessments and taxes that the insurer must pay on collected premiums. The factor varies by state, and sometimes is a composite of several state factors.

Temporary Partial Disability: An injury to an employee that impairs his or her ability to work for a limited period of time. The impairment is such that the individual is able to perform limited employment duties and is expected to fully recover.

Temporary Total Disability:

Third-party Over Suit: A lawsuit in which an injured worker has sued a third party (a person other than the employer or a fellow employee), and the third party in turn sues the employer. For example, a worker may claim that an injury resulted from defective equipment, but the equipment manufacturer (the third party) claims the injury resulted from the employer's misuse of the equipment or negligent disregard of safety instructions. The manufacturer's suit against the employer is a third-party over suit and is covered by employer's liability insurance.

Total Disability: A disability that prevents a worker from continuously performing any part of his or her occupation and that does not allow them to perform any other employment.

U

United States Longshoremen's and Harbor Workers' Act of 1927 (USL&H):

V

Voluntary Compensation Endorsement: An endorsement (NCCI form WC 00 03 11A) to a workers' compensation policy that provides statutory coverage for employees who do not fall under a state's workers' compensation act, such as farm workers. It provides that the insurer will pay statutory benefits to the insured in exchange for the injured worker releasing the employer and the insurer from further liability. If the employee does not sign a release, any further compensation under the endorsement ceases.

W

Wage Loss: A workers' compensation concept, initiated by Florida in 1979, which ties employee recoveries from disability to actual economic loss, rather than to projections of the loss.

Weekly Compensation: See: [average weekly benefits](#).

Workers' Compensation Excess Insurance: See: [aggregate excess workers' compensation insurance](#), [specific excess workers' compensation insurance](#).

Workers' Compensation Insurance (WC): Insurance that covers an employer's responsibility to compensate injuries, illnesses, disabilities or death of employees, as prescribed by state workers' compensation laws; coverage provided by Part I (prior to 1986, section A) of the standard workers' compensation policy (NCCI form WC 00 00 00A). The insurance ordinarily covers legally imposed employers' liability for medical and surgical treatment, disability benefits, rehabilitation therapy, and survivors' death benefits.

Workers' Compensation Laws: All states require employers to pay benefits to employees with injuries or illnesses arising out of and in the course of employment (except for designated categories of employees). Benefits are scheduled in the laws, which also generally prohibit an employee from suing the employer for common law damages. Workers' compensation laws ensure that employees receive adequate medical treatment and at least some compensation for injuries suffered on the job; at the same time, the liability of employers is limited. The basic categories of benefits are medical care, partial reimbursement for income lost due to disability, rehabilitation therapy if required, and survivors' benefits in case of an employee's death.

Wrap-up: Insurance on large construction projects arranged by the owner or general contractor in such a way that all interests involved (those of the owner, general contractor, subcontractors, architect, engineer, and surveyors) are combined and insured under one policy with a single insurer. Generally, it includes workers' compensation, general liability, umbrella liability, and builders' risk insurance;

occasionally, it is only workers' compensation. It is designed to reduce the project's overall insurance costs and provide a coordinated project safety program.