



The Workers' Compensation Handbook For New Mexico

Booklet A3: The Workers' Comp Coverage Guide for Employers and Insurance Agents

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This booklet explains the New Mexico workers' compensation coverage requirement. It is written with special concern for insurance agents, so that agents may be fully informed when they advise their clients. It is also for employers and workers.

This booklet is published by the New Mexico Workers' Compensation Administration (WCA), the state regulatory agency for workers' compensation and the agency that enforces the coverage requirement.

The purpose of workers' compensation insurance

Insurance agents and employers should be aware of the reasons for workers' compensation insurance: what it does for you, and what the absence of a workers' compensation policy might do to harm you. Failure to have workers' compensation insurance can have extremely serious consequences for any business.

The basic purpose of workers' compensation is to provide an orderly, cost-effective and uniform process for the treatment of injured workers following a work-related injury or occupational disease. Workers' compensation provides medical care and, if necessary, indemnity benefit payments quickly and efficiently to the worker while also providing incentives for the worker to stay at work or return to work, minimizing the cost to the employer. Because it is a no-fault system, it avoids the delays and legal costs of disputes about fault, and all parties, employers and workers alike, share in the responsibility for preventing accidents.

Exclusive remedy protection for employers

An underlying principle of the workers' compensation system is the "exclusive remedy" doctrine, which protects employers. The exclusive remedy doctrine is one of the main reasons workers' compensation systems exist.

By law, workers' compensation is separated from the general tort liability system that exposes every person and every business to tort liability lawsuits. If your employee is injured at work in a workers' compensation covered accident, the employee cannot successfully file a claim against you in a district court. The employee's right is limited to recovery under the workers' compensation law, which establishes statutory benefit awards. Even if the accident was allegedly due to your negligence, the worker is limited to workers' compensation. This is an important protection for employers.

Enforcement of the Coverage Requirement

The WCA has the responsibility of enforcing the coverage requirement and making sure that every business that is required by law to have workers' compensation insurance does have an insurance policy.

Compliance officers are stationed in virtually every WCA office throughout New Mexico. Compliance officers contact employers who might be uninsured and obtain information about whether the business comes under the coverage requirement. If necessary, the WCA may send an investigator to observe the business in operation.

When a business is found to be illegally uninsured, and continues to refuse to obtain insurance, the WCA can seek a court order and have the business closed. See the section "Steps in the Employer Compliance Process" for an explanation of the procedures.

Uninsured Employers' Fund

What else can happen if you don't have workers' compensation insurance?

The Uninsured Employers' Fund is a program administered by the WCA that requires uninsured employers to pay the full cost of their employees' workplace injuries - plus a penalty.

The Fund provides benefits for workers injured at work whose employers were illegally uninsured. When a worker makes a claim on the fund, and the claim is found to be valid, the fund will pay the worker's benefits, but the employer must reimburse the full cost of the claim and faces a substantial penalty. The claim cost alone could be as high as \$80,000 under current regulations (Rules of the WCA, NMAC 11.4.12.11)¹. See Booklet A4, "Uninsured Employers' Fund," for full details about this program.

Agents as well as employers should be aware that failure to have workers' compensation insurance when you are required to have it places you at risk for a claim by the fund. In addition, the illegally uninsured employer will be required to obtain coverage to continue in business.

A worker who was injured while working for an uninsured employer also has the option of filing a tort claim against the employer; this claim could include payments for pain and suffering and has no statutory limits. Such a claim would be barred if the employer had workers' compensation insurance.

¹ In this booklet are references to the Rules of the Workers' Compensation Administration. These references are in a standard form based on the numbering system of the New Mexico Administrative Code (NMAC); for example, NMAC 11.4.12.11. This stands for Title 11, Labor and Workers' Compensation; Chapter 4, Workers' Compensation; and then the number of the section and exact paragraph.

Insurance agents please note this critically important information:

If a worker brings a claim against the Uninsured Employers' Fund, the administrative staff of the WCA does not decide whether that claim is legitimate. The worker can pursue the claim through the WCA's court and appeal it to other courts. Even if the uninsured business is found not to be responsible for the cost of the claim, the business would have the expense of a legal defense, most likely including the cost of an attorney.

This can be a critical consideration for very small businesses if there is some question as to whether coverage is required.

Which businesses need workers' compensation insurance coverage?

There are two answers to this question.

First, most employers are required by law to have a workers' compensation insurance policy. The requirement covers the great majority of all employers. This booklet provides the details of that requirement.

Second, some employers (certain very small businesses and three specially exempt categories) are not required by law to have the insurance, but prudence might dictate that they should have the insurance for the liability protection it provides, or because it is required by that business' customers.

Best Practice for Agents:

The WCA suggests: an agent should never advise a client that workers' compensation is not needed for a small business unless that business is not required by law to be covered AND has no significant exposure to potential worker injuries.

Insurance agent:

The workers' compensation system requires more from employers than just buying a policy and putting the paperwork into a drawer. Employers have responsibilities that begin immediately upon purchase of the policy.

The WCA works cooperatively with your profession to help you understand the coverage requirement and how the absence of coverage can harm a small business. The WCA also asks your help in sharing information with your clients, not only about the coverage requirement but also about the employer's additional responsibilities. You are encouraged to keep copies of the WCA publications and share them with your clients - especially the "Employer's Guide" and Booklet A2, "Setting Up a Workers' Compensation Program." See the complete list of publications near the back of this booklet. Call your nearest WCA office for free copies of these publications.

The WCA encourages you especially to be responsive in working with new and very small employers, to ensure that they are able to obtain coverage as soon as they need it. If you have questions about the coverage requirement, call the WCA employer compliance bureau in the Albuquerque state headquarters office, at 841-6000 or 1-800-255-7965.

WCA staff members are available to participate in your seminars and continuing education programs. Call the same telephone numbers or your nearest WCA field office; see the list at the back of this booklet.

The coverage requirement (§52-1-6 NMSA)²

In most industries, all employers who employ three or more workers are required by law to have workers' compensation coverage.

All employers in the construction industry must have coverage (§52-1-6(A) NMSA), regardless of the number of employees. See the section on special requirements for the construction industry in this booklet.

- When a business owner owns more than one business, the count of employees is based on all the businesses owned by the same owner (case law, *Clark v. Electronic City*, 1977³)
- When a business has only one or two employees in New Mexico but has other employees elsewhere, the count is based on the total number of employees of the business, not just the New Mexico employees (case law, *Hammonds v. Freymiller Trucking*, 1993).
- If the number of employees is normally three or more, but it sometimes dips below three, coverage is required for the remaining employees even though there are currently fewer than three (case law, *Garcia v. Watson Tile*, 1990).
- For non-profit, charitable and religious organizations, the coverage requirement is the same as for for-profit businesses.

² In this booklet are references to specific paragraphs of the workers' compensation law. These references are in a standard form. §52-1-6 NMSA means Chapter 52, Article 1, Paragraph 6 of the New Mexico Statutes Annotated (NMSA).

³ Some legal issues are determined not just by the statutes, but by the interpretation of New Mexico's higher courts when cases were considered. These case law decisions then become "precedent" and have the effect of law. This booklet provides case law references for some frequently cited issues. For simplicity, the booklet gives only the case name and year rather than the full legal citation. Always look up the actual case for full understanding of the interpretation.

Exempt categories

The law provides the following exempt categories:

- coverage is not required for private domestic servants (§52-1-6(A) NMSA);
- coverage is not required for real estate salespersons (§52-1-16 NMSA) ;
- coverage is not required for farm and ranch laborers (§52-1-6(A) NMSA).

Farm and ranch exemption

Workers' compensation coverage is not required for farm and ranch workers.

The farm and ranch exemption extends to persons providing care for animals in training for competition or competitive exhibition, but not employees of a veterinarian or boarding facility (§52-1-6.1 NMSA).

When non-farm labor is done on a farm (such as packing and processing of farm produce), coverage is required for the non-farm work (case law, *Holguin v. Billy the Kid Produce*, 1990). Farm and ranch employers who use both farm and non-farm labor may wish to seek advice on the effect of this ruling for their enterprises.

The coverage requirement also applies to office and administrative employees of a farm or ranch.

Farm and ranch work can be hazardous. Workers' compensation insurance is a cost-effective way to provide coverage for farm and ranch workers. The WCA encourages farm and ranch employers to consider the benefits of workers' compensation insurance for their employees.

Real estate exemption

The real estate exemption is specific to the salespersons, not the business. Office and administrative staff must be covered if the total number of employees (not counting the salespersons) is three or more.

A qualified real estate salesperson, exempt from the coverage requirement, is defined as follows (§52-1-17 (C) NMSA):

- (1) is a licensed real estate salesperson, associate broker or broker under contract with a real estate firm;
- (2) receives substantially all of his remuneration, whether or not paid in cash, for the services performed as a real estate salesperson, associate broker or broker under contract with a real estate firm in direct relation to sales or other output, including the performance of services, rather than to the number of hours worked; and
- (3) performs services pursuant to a written contract between himself and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to such services.

Domestic servant exemption and home health care workers

“Domestic servant” is not defined in the statute, and New Mexico has no case law interpreting what “domestic servant” means.

Questions sometimes arise when families hire home health care workers to assist a frail or elderly family member. When home health care workers are hired through Medicaid, the Medicaid program requires workers' compensation coverage. If you hire workers through an agency, you should reasonably expect the agency to provide coverage and should verify that an insurance policy is in place.

If you hire health care workers privately, the WCA recommends that you consider the liability issues with your insurance agent, bearing in mind that home health care work has a fairly high risk of injury and the possibility of a claim through the Uninsured Employers' Fund. Workers' compensation may be the most prudent solution.

Federal employees and interstate commerce

The New Mexico workers' compensation system does not cover federal employees, who are covered under a federal system. A special exemption applies to maritime workers and railroad workers employed in “businesses engaged in interstate commerce so as to be not subject to the legislative power of the state,” according to §52-1-14 NMSA.

Businesses located in several states

When workers are working in New Mexico, even for a short period of time, they should be covered under a policy that recognizes New Mexico jurisdiction, no matter where they were hired or where the employer is located. This is because a worker injured in New Mexico generally has the right to file a workers' compensation claim under New Mexico law.

If the employer's insurance coverage from the home state is with a carrier licensed in New Mexico, the employer can get an “endorsement” on the policy to cover New Mexico. If the home state insurer is not licensed in New Mexico, it may be necessary to obtain other coverage.

The insurance carrier should file Proof of Coverage with the New Mexico WCA. For more information, see the “Carriers” page on the WCA web site at www.workerscomp.state.nm.us.

Also see “Interstate Workers” in Booklet B1.

For small businesses: who is a worker?

For very small businesses, knowing who is counted under the coverage requirement can be critically important. In unfortunate circumstances, counting

incorrectly and failing to obtain coverage can result in a claim against the business from the Uninsured Employers' Fund.

Generally, all employees are counted as workers. The law (§52-1-16 (A)) says:

“As used in the Workers' Compensation Act, unless the context otherwise requires, ‘worker’ means any person who has entered into the employment of or works under contract of service or apprenticeship with an employer, except a person whose employment is purely casual and not for the purpose of the employer's trade or business.”

Qualified “executive employees” (explained later in this booklet) may waive coverage for themselves under a policy. However, if the total number of employees including executive employees totals three or more, the business must have a workers' compensation insurance policy. In construction, the business must have coverage if there is even one “executive employee.” (See the section below on the construction industry.) In cases where the only employees are executives, the coverage may be a “minimum premium” policy, which provides no coverage for the executive employees but protects against other exposures.

The spouse of the owner

In some small businesses, the spouse of the owner spends time at the business location and may perform some services for the business on a volunteer basis.

When the business is owned by an individual self-employed owner, the spouse of the owner is not counted as a worker even if the spouse is paid wages or receives other remuneration.

There is a difference between the treatment of a spouse in a self-employed owner situation and a corporation or limited liability company (LLC).

In a self-employed ownership, one individual is the owner of the business and therefore the employer. Married couples in such a situation would share owner / employer status equally.

In a corporation or LLC, the business entity is the employer. Everybody who works in the business is an employee, including the person who owns the assets of the business (if that person works in the business).

So in this situation, if a spouse performs work for the business entity, it is viewed differently from a self-employed ownership.

In a family business situation, when one spouse is an executive employee and the primary operator of the business, the spouse of this individual is counted when:

- The spouse is also an executive employee of the corporation or LLC – that is, the spouse is also an executive officer owning 10 percent or more of the corporation or LLC; **and**
- The spouse does work that substantially contributes to furthering the work of the business, regardless of whether the spouse receives any direct financial compensation.

A “substantial contribution” to furthering the work of the business is any task performed on a regular basis, which is essential to the operation of the business, for which the business relies upon this person’s service.

An example of a substantial contribution might be:

- The spouse does the bookkeeping or administrative tasks of the business on a routine daily or weekly basis.

An example of work that is NOT a substantial contribution might be:

- The spouse performs an essential operation occasionally or irregularly as a temporary substitute for another person who is temporarily unavailable.

Children in the family

Children under 18 who live at home and provide help to their parents in a family business, with no wages paid, are not considered employees. If the children are paid wages, they are employees and should be counted.

Other family members

Other than spouses or children as described above, the law makes no special exception for family members who are employees. Coverage is required for family members just as for any other employees. If family members are executive employees or partners, they may exempt themselves if they qualify as described in the section below on executive employees.

Part-time workers

Part-time workers are counted for the coverage requirement. A non-construction employer who has three part-time workers is required to have coverage.

Seasonal or temporary workers

Count the number of employees employed by the business at any time. If you employ workers only for a short time during a particular season, you will only be paying premium for the time they are actually employed by you. See the section on “The Cost of Your Insurance.”

If the number of employees temporarily falls below three, don’t drop your coverage. You are required to maintain it. If you reduce the number of employees below three permanently, you may drop your coverage. If you are in construction, you are required to maintain coverage regardless of the number of employees.

Workers hired illegally

Some employers hire workers on terms that violate other laws besides the New Mexico workers' compensation law. For example, some employers may hire workers on a cash-only basis, may hire minors contrary to labor law, or may hire undocumented workers who do not have a legal right to work in the United States.

Sometimes these illegal practices do not come to light until a worker is injured.

When a worker is hired illegally and that worker is injured, the worker has access to workers' compensation. Employers should not assume that these workers will not be covered. The existence of the Uninsured Employers' Fund may further complicate this area.

Insurance agent:

If you think a business might be hiring workers illegally and avoiding workers' compensation coverage, you may be able to explain the liability exposure the business owner is creating. Under workers' compensation law, a worker who gets injured while employed illegally has the same right as any other worker to file a workers' compensation claim. This could result in a claim against the employer through the Uninsured Employers' Fund, plus the discovery of the employer's illegal actions in violation of other state and federal laws.

Workers' compensation coverage requirement for small businesses (chart)

For all types of business except construction

Type of business organization	Who must be counted	Who is not counted	Who may be excluded from coverage
Self-employed ownership	All employees; the owner and the owner's spouse are not included	The business owner and spouse	The business owner And spouse
Partnership other than LLC	All employees and all partners who work in the business	Any partner who does not work in the business	The partners
Limited liability company	Every person who is employed by the business, including executive employees if they work in the business	Any "member" of the company, including an officer, who is not employed by the business; The spouse of any executive, UNLESS the spouse is working and receiving a wage	Any executive officer who has 10 percent or more of the ownership interest
Corporation	Every person who is employed by the business, including executive employees if they work in the business	Any stockholder of the corporation, including an officer, who is not employed by the business; The spouse of any executive, UNLESS the spouse is working and receiving a wage	Any executive officer who owns 10 percent or more of the stock of the corporation
All types listed above			Domestic servants Real estate salespersons Farm or ranch workers

If your business is not required to be covered: Choosing coverage voluntarily

Employers who are exempt from the requirement may choose to come under the protection of the Workers' Compensation Act and acquire coverage. This is to protect their workers in case of injury, and because of the "exclusive remedy" doctrine of workers' compensation.

Employers without workers' compensation coverage do not enjoy any special protection in case of a workplace injury. An injured employee is free to file a tort liability lawsuit, with no limits on the damage award, against an uninsured employer. Some business liability policies exclude coverage for employee injury, based on the assumption that these risks are covered by workers' compensation coverage. An employer who goes without coverage is exposed to all the business risk that workers' compensation is intended to prevent.

A notarized Election to Accept form must be filed with the WCA to document that the business has chosen to be covered (§52-1-6(B) NMSA). The filing should be done by the insurance agent. This and other special coverage forms are available to insurance agents from the Employer Compliance Bureau of the WCA; call 841-6000 or 1-800-255-7965 and ask for the Employer Compliance Bureau.

QUESTION:

Q. Why would someone choose to have workers' compensation coverage when not required to have it?

A: The law allows certain very small businesses and specific categories to choose whether or not to acquire workers' compensation coverage, as this booklet explains. But employers in these classes who choose to go without coverage do not enjoy any special protection in case of a workplace accident or injury. An injured employee is not prevented from filing a workers' compensation claim or a tort liability lawsuit.

If you are not required to have workers' compensation coverage and you choose to go without this insurance, you are exposed to all the risk that workers' compensation coverage is intended to prevent, and your employees are exposed to the possibility of injury without coverage. This is why many exempt businesses choose to have coverage even though they are not required to be covered according to the law.

Best Practice:

The WCA recommends that a business with even one employee in a high risk occupation should have workers' compensation insurance as soon as possible, as a matter of prudent business practice.

The question to be considered, by the insurance agent as well as the employer, is what the consequences might be if that one employee were seriously injured.

An important factor to keep in mind: statistically, the most injury-prone worker is a new employee. This is something to be considered when weighing the risks and benefits of workers' compensation for new business owners.

Executive employees (§52-1-7(A and B) NMSA).

Employees of a corporation who are also officers or executives of the corporation may choose to waive coverage for themselves. This choice is limited to:

- the chairman of the board, president, vice president, secretary, treasurer or other executive officer; and
- only if that employee owns 10 percent or more of the stock of the corporation.

Executive employees of a limited liability company (LLC) may waive coverage for themselves under the same provision. The choice is available to those individuals who have a 10 percent or greater ownership in the limited liability company.

The choice of the qualified executives to be covered or to waive coverage must be clearly documented and filed by the insurance agent with the carrier. The carrier should file this information with the WCA.

The WCA has forms to be used for this purpose. Insurance agents are invited to request these forms by contacting the Employer Compliance Bureau at 841-6000 or 1-800-255-7965.

These forms have no validity unless they are filed by an agent with a carrier. To prevent unintended misunderstandings about these forms, the WCA no longer publishes these forms on the web site. They will be given directly to insurance agents on request.

In counting the number of employees of the corporation or limited liability company, to determine whether the business must have coverage, officers or executives who have waived coverage still must be counted. For example, if a company has three employees including one exempted executive employee, the company must acquire coverage for the other two employees.

An officer or shareholder who does not work in the business does not have to be counted.

When the waiver is taken, the executive's salary is not counted for determining the insurance premium. The executive would not be able to make a claim for benefits if

he or she were injured at work. The executive employee waiver does not exempt the company from the coverage requirement.

If a corporation or LLC has only three employees, and they all qualify as executive employees, the business must buy a workers' compensation insurance policy, which can be a "null" or minimum premium policy. See the section on "Minimum premium or null policies."

For owners and executives: opt in or opt out

The workers' compensation law requires you to provide workers' compensation insurance coverage for your employees, but not for yourself. As a business sole owner, partner or qualified executive employee, you have a choice about whether to be covered by your company's policy.

Whichever option you choose, you and your insurance agent should make sure it is documented with the insurance carrier providing your coverage. If you want to be covered, the documentation will ensure that you have the right to make a claim. If you want to opt out, the documentation will ensure that you are not billed for your own coverage.

In addition, your agent should use the appropriate WCA Affirmative Election form to file your option with the WCA.

Insurance agent:

It is essential that the choices of owners and executives for their own coverage be documented and filed with the carrier, and subsequently with the WCA. As of this publication date, current forms are available only from the Employer Compliance Bureau at 841-6000 or 1-800-255-7965. They are no longer posted on the web site.

Reasons to opt in:

What will you do if you get injured? Can you pay for your medical care? Can you afford the loss of income? If workers' compensation insurance coverage is the best choice available to you, that's a good reason to be covered by your company's policy.

Group health insurance policies often exclude coverage for work-related accidents. (See more about this in Booklet B4, "Medical Care in Workers' Compensation.") If you think your health insurance, or your spouse's health insurance, will cover your medical care, double check by contacting your health plan or reading your policy. Your health plan might exclude coverage for a work-related injury.

Reasons to opt out:

If you opt out, you will save the cost of premium for your own coverage. That might be a prudent decision if you have a better choice in covering yourself in case you are injured at work. You might have the choice of buying a more comprehensive form of insurance for yourself.

The workers' compensation law system is designed to cover employees. Some of the features of the system, such as incentives for employers to return recovering employees back to work, are not as well adapted to the situation of the business owner.

Special requirements for the construction industry

(§52-1-6(A) NMSA)

All businesses engaged in the construction trades are required to have coverage without exception. This includes self-employed owners. The workers' compensation law says that coverage is required for "all employers engaged in activities required to be licensed under the provisions of the Construction Industries Licensing Act, regardless of the number of employees."

All construction businesses must have a workers' compensation insurance policy. If there are no covered employees, this may be a minimum premium policy.

Employers affected by this requirement are all those engaged in activities that are required by law to be licensed under the New Mexico Construction Industries Licensing Act. This includes all types of work for which construction licenses are required. It covers companies that perform both new construction and remodeling, in the areas of general, electrical, mechanical, LP gas, boilers and pressure vessels and other construction work as defined in that Act. This provision applies to out-of-state contractors working in New Mexico as well as domestic contractors.

Under the Construction Industries Licensing Act, the Construction Industries Commission is authorized to revoke or suspend a license for failure to maintain coverage as required by law (§60-13-23(I) NMSA).

Coverage for subcontractors in construction

If you work as a subcontractor in the construction industry, the general contractor will probably require you to produce proof of your workers' compensation insurance coverage.

It is standard practice for general contractors to require coverage for all subcontractors on their jobs. This is based on the liability concerns of the general contractor and the general contractor's insurance carrier, and is a private contractual matter. It is separate from the enforcement of the coverage requirement by the WCA.

The insurance carrier wants to make sure that premium is paid for all individuals who could potentially file claims. If the general contractor's insurance carrier performs an audit, and finds that a subcontractor was not covered, the general contractor's insurance carrier may charge premium for that subcontractor, as if the subcontractor was an employee of the general contractor. This can result in disagreements about payment. See "Premium Audit Disputes" in this booklet.

Best practice:

If you are a general contractor, the WCA recommends that you verify proof of coverage from every subcontractor on your job before the job starts. If your job is going to last for several months, recheck the proof of coverage periodically to make sure your subs have not allowed their coverage to lapse. You can do this through the Proof of Coverage data base on the WCA web site (look under Carriers) or by calling the WCA.

Some contractors make a standard practice of requiring certificates showing proof of coverage from their subs. Unfortunately, the WCA is aware that some subs provide fraudulent certificates. This could cause serious problems at an audit, and even worse problems if someone is injured. The WCA recommends you check its online data base as one method of double checking your subs' coverage.

(Please note that the data base is maintained by filings from the insurance carriers, and occasional errors or delays are possible. If you have reason to be concerned about coverage, you might want to seek additional verification through the carriers.)

If you are a subcontractor, protect yourself by working on jobs where the general contractor is being diligent in checking coverage. Your liability exposure is reduced when all the other subs working around you have coverage.

Minimum premium or "Null" policies

The owner of a business is permitted to waive coverage for himself under the business' workers' compensation insurance policy.

If the owner is the only person working in the business, the owner may buy a "minimum premium" or "null" policy that excludes the owner from coverage.

When you have a minimum premium policy, it automatically provides coverage for anyone you hire. So the policy protects you in case you hire anyone, even for a short time. In the construction business, it is sometimes necessary for the owner to hire short-term helpers. With a minimum premium policy, those helpers are covered in case of injury, and you are protected by that coverage.

If you do hire workers during the policy year, you may or may not owe additional money to the insurer, depending on the type of work the workers were doing and how much they were paid in total. See the section on insurance costs in this booklet.

It is also possible, depending on the policy, if you don't hire anyone during the policy year, that you may be eligible for a refund of part of the premium you paid.

Non-construction businesses may also be required to buy minimum premium policies if they have three or more employees in total, and all the employees are executive employees who have chosen to waive coverage for themselves.

QUESTIONS:

Q. Why do some businesses require other businesses to have minimum premium workers' compensation insurance if it's not required by law?

A. Businesses often want to protect themselves in case someone who is not their employee gets injured on their premises, and to avoid a demand for premium from their own insurer or self-insurance program.

Here is an example:

Your business is a janitorial service composed of two partners, with no other employees. You provide janitorial service for an office building. The manager of the office building requires you to have a workers' compensation insurance policy in order to get the cleaning contract.

By having your own workers' compensation insurance policy, you are, in effect, proving that you are not an employee of your client. You cannot make a claim on your client's workers' compensation policy.

Buying a workers' compensation insurance policy

Best practice for employers: get documentation immediately

Employer:

When you go to an agent to buy your policy, it is important to have written confirmation immediately. Make sure you get a copy of your application, plus a receipt for your check and a copy of your check. If a binder is issued, get a copy of the binder. That way, in case your application gets lost or another problem arises, you have proof that you applied for coverage.

When does coverage take effect?

In many - but not all -- cases, when you fill out the application and make your payment, coverage takes effect immediately.

If the agent has "binding authority," the agent can issue you a "binder," which means that the agent has committed the carrier to cover you, effective immediately. This means if one of your employees has an accident later the same day, the injury is covered. However, the coverage can be nullified:

- if you submit false information on your application, or
- if you have a problem of unpaid premium with a previous carrier, or
- if you have not complied with a previous carrier's audit request.

If the agent does not have binding authority, you will have to wait until the carrier's underwriting staff has reviewed your application before knowing whether you are covered. In this case, coverage will probably be made retroactive to the day you submitted the application and payment, but you have less certainty about whether an accident that happens during your waiting period is covered.

If the application is being submitted to the Assigned Risk Pool (explained below), the agent does not have power to issue a binder, but coverage will be automatically granted unless you have submitted false information on your application or if you have a problem of unpaid premium or have not complied with an audit request. In this case, unless one of these problems arises, the coverage will be made effective the date of the application with payment, and an accident occurring while you are waiting will be covered.

Types of coverage

Following are the different ways to obtain coverage.

Voluntary insurance market

This is provided by private insurance companies. The insurance carrier must be licensed to issue workers' compensation insurance by the New Mexico Insurance Division (a division of the Public Regulation Commission), and its rates must be approved by that department.

Self-insurance (§52-1-4(A))

Some large businesses and government entities are permitted to provide their own coverage. The rules for qualifying as a self-insured employer are set by the Director of the WCA (Rules of the WCA, 11.4 NMAC Part 8). Every company that wishes to self-insure must apply to the WCA and receive written approval from the Director before it can self-insure. Self-insured employers are subject to audit by WCA staff auditors.

Self-insurance without approval does not fulfill the employer's responsibility under law. A business that is self-insured in other states and wishes to be self-insured in New Mexico must apply for self-insurance here.

Group Self-Insurance (Chapter 52, Article 6 NMSA)

A group of employers in the same or similar business may join for group self-insurance coverage. This must be done through an industry association. Approval of the Director of the WCA is required, based on standards set by law and regulation (Rules of the WCA, 11.4 NMAC Part 9).

Many businesses consider group self-insurance to be to their advantage because group members may enjoy cost savings or other benefits. However, group members take on a major responsibility, because they are subject to the doctrine of "joint and several liability," which means that all members of the group are responsible for losses within the group. If you are qualified to be admitted to a group, it is up to you whether you choose to have coverage through the group or through a conventional insurer.

Assigned Risk Pool

Employers with poor safety records or in high-risk industries, who cannot get coverage on the voluntary market, may acquire coverage from the state assigned risk pool. The pool also provides coverage for many small businesses, until they can acquire coverage on the voluntary market.

The pool is regulated by the Insurance Division of the New Mexico Public Regulation Commission. Insurance coverage in the pool is provided by several insurance companies that contract with the Superintendent of Insurance to be "servicing carriers." Policies in the pool are acquired through New Mexico insurance agents, just like policies in the voluntary market. Any employer who cannot find insurance coverage on the voluntary market should contact an insurance agent about coverage in the pool.

Insurance in the assigned risk pool costs more than insurance in the voluntary market. In addition, there are extra costs for businesses that have high accident rates. See the section, "Rates in the Assigned Risk Pool."

High Deductible Policies

Some employers in the voluntary market may be eligible for "large deductible" or "high deductible" policies. Under such policies, the employer has a deductible that has been agreed to between the employer and insurer.

With such a policy, the insurance carrier is responsible for managing claims and paying all benefits, just as if the policy had no deductible. The insurer pays the bills and the employer reimburses the insurer for the agreed deductible. A high deductible allows the employer to save money on premiums in return for assuming a greater degree of the risk. It does not give the employer control of claims. Employers must report claims just as if there were no deductible, and must not attempt to manage claims or pay bills or benefits themselves.

QUESTION:

Q. Doesn't New Mexico have a "state fund?"

A. Some states provide workers' compensation through a division of the state government. This is the most common meaning of the term "state fund." New Mexico does not have a state fund.

In 1991, the state, through legislation, started an insurance company called New Mexico Mutual Casualty Company (Chapter 52, Article 9 NMSA).

The creation of this company was part of a major change in the New Mexico workers' compensation law. Some of its board members are appointed by the Governor of New Mexico rather than being selected privately. However, for an employer seeking insurance coverage, New Mexico Mutual is no different from a commercial insurance company. Its rates are not subsidized, and it comes under the same regulatory standards as other insurance carriers.

Tribal sovereignty and workers' compensation coverage

If you are operating on an Indian reservation, does Indian sovereignty make you immune from the New Mexico workers' compensation law?

The general guideline is that tribal sovereignty primarily applies to authorized tribal enterprises on tribal land.

Some tribes have chosen to have New Mexico workers' compensation coverage for their tribal enterprises. Other tribes have chosen to require private businesses located on their land to provide New Mexico workers' compensation coverage. This coverage protects the workers and reduces risks for the employer.

The New Mexico WCA does not have authority to require coverage on tribal land. However, the tribal government may choose to enforce the requirement.

The New Mexico WCA cannot force enterprises on tribal land to use its dispute resolution services to resolve claims disputes. Some tribes have accepted WCA jurisdiction to resolve claims brought by their employees. If New Mexico coverage is in place, whether for a tribal enterprise or for private business operating on tribal land, the WCA may be used and will accept jurisdiction for resolving claims disputes.

If a tribal enterprise is located on non-tribal land in New Mexico, it must have New Mexico coverage for all its employees. Employees who are tribal members are not exempt.

Temporary employment agencies: an alternative for short-term employment

You may decide to hire employees through a temporary employment agency that provides workers' compensation coverage as well as other services. You can check with the WCA to make sure this agency legitimately has coverage in place. If the only employees you hire are hired through a temp agency, and the agency pays their wages, you will not have to have your own workers' compensation insurance policy, except if your business is construction (see the section on construction above).

Temp agencies charge a fee for their services. Paying the fee rather than buying a policy may be cost-effective for some businesses, especially if you hire only on a short-term basis.

Professional Employer Organizations and Employee Leasing

Employee leasing is an arrangement under which a business contracts with an employee leasing company to handle the administrative obligations of being an employer. Under such an arrangement, the workers are nominally employed by the leasing company, even though they work full-time for the client business. Recent New Mexico court cases have classified them as employed by both the leasing company and the client business.

Under employee leasing arrangements, the leasing company may help to acquire a workers' compensation insurance policy for its client businesses. However, the client is responsible and should make sure that proper coverage is in force with the client business as the named insured. Under the rules of the Insurance Division, the insurance premium for the leased employees is based on the experience modifier (safety and claims history) of the client business. Employee leasing is not to be used as a method for a business with a poor safety record to reduce its premiums.

Employee leasing is regulated by Employee Leasing Bureau of the Construction Industries Division (a division of the Regulation and Licensing Department of the State of New Mexico), under a law enacted in 1993. Leasing contractors must be registered with that Department and must have workers' compensation policies in accordance with law. The employee leasing law is Chapter 60, Article 13A NMSA.

Prospective leasing contractors, and employers who wish to check whether their leasing contractor is properly registered, may contact the Employee Leasing Bureau at 841-8020 or check the web site at www.rld.state.nm.us.

Owner Controlled Insurance Plans (Wrap-up Policies or OCIPs) (§52-1-4.2 NMSA)

A "wrap-up policy" or OCIP (owner-controlled insurance plan) is a method for insuring a large-scale business undertaking or construction project. In an OCIP, all the workers' compensation insurance coverage for the project is provided through the project owner or general contractor. When working on the OCIP project, workers employed by subcontractors are covered through the OCIP instead of their own employer's insurance policy.

In New Mexico, OCIPs are limited by law and are regulated by the WCA (Rules of the WCA, Part 13, NMAC 11.4.13). An OCIP is permitted only for a construction project, a plant expansion or real property improvement with a total aggregate construction value greater than \$150,000,000. The OCIP must be approved by the WCA and meet standards for safety programs, return to work programs and other matters.

When an OCIP is proposed, the owner of the project must inform contractors in advance so they can make the necessary adjustments to their bids or proposals. In order to ensure that they are not overpaying on insurance premium, contractors working under an OCIP must keep payroll records that separate worker time under the OCIP from worker time under their own insurance coverage.

Illegal insurance alternatives

In earlier periods, when high insurance premiums were a problem in New Mexico, a number of illegal schemes were offered to New Mexico employers as alternatives to workers' compensation insurance. These schemes promised lower premiums and, in some cases, better benefits.

Though this type of illegal activity has not occurred in more than a decade, the WCA still cautions employers: make sure you know what you are buying.

Employers should be very cautious when any alternative is offered that seems "too good to be true," or at a much lower price than genuine workers' compensation insurance. Sellers of alternative plans may say that these plans are authorized under federal laws that supersede New Mexico law, or under sovereign Indian jurisdiction, and therefore satisfy the coverage requirements for employers.

An Indian tribal plan may only provide valid coverage for legitimate enterprises of a tribe, pueblo or Indian nation.

Alternative plans are in fact not a legal substitute for workers' compensation coverage under New Mexico law. To be legal in New Mexico, a workers' compensation insurance policy:

- must be with an insurance carrier certified by the New Mexico Insurance Division, or must be a self-insurance or group self-insurance plan approved in advance by the Director of the WCA; AND
- must be a policy approved by the Insurance Division and provide benefits to injured workers exactly in accordance with the New Mexico workers' compensation law, as administered by the WCA.

Any other policies are unacceptable. Both New Mexico and federal courts have upheld that other plans are not an acceptable substitute for New Mexico workers' compensation coverage.

An insurance policy or benefit plan that does not meet the requirements of law is far more than just a technical violation. It may place the employer (or the client business, in employee leasing arrangements) seriously at risk, and leave injured workers

unprotected. The employer might also be vulnerable to a claim by an injured worker through the Uninsured Employer Fund.

The workers' compensation law of New Mexico provides specific protection for employers who come under its jurisdiction – the protection from tort liability lawsuits under the “exclusive remedy” doctrine. No such protection exists under alternate coverage.

Every insurance company selling a workers' compensation policy is regulated by the Insurance Division to make sure the company is financially sound and will be able to meet its obligations in the future. A self-insured or group self-insured is regulated and audited by the WCA for the same purpose.

Both insurance companies and approved self-insured programs participate in Guarantee Funds so that if a company goes bankrupt or out of business, the Guarantee Fund will pay benefits that are due to injured workers. These back-up systems protect the employer from being left with responsibility for unpaid claims. The Guarantee Funds also protect injured workers by providing a backup source of payment for their claims if their employers or employers' insurance carriers go out of business.

Illegal alternatives offer no such protections. If you are ever approached by someone selling a product that is “better than workers' compensation,” contact the WCA.

The cost of your insurance premium

The premium for a workers' compensation insurance policy is set to match the risk of claims against that policy and the likely cost of those claims, based upon state and national averages.

The premium is determined by several factors:

- the type of work done and how hazardous that work is, according to national averages (job classifications);
- the number of employees and how much the employees are paid, as expressed by actual payroll; and
- the claims history of the company, expressed as an “experience modifier.”

Classification

An application for insurance is evaluated by an agent and then an underwriter, who assigns a classification code to the business. This is called a “standard industry classification” or SIC code. The classification is based on your description of the business and what you do. In some cases, your business could have more than one classification.

Each classification is assigned a premium rate, called a "manual premium." This rate is based on the relative risk of your work, as determined by statistics gathered by the insurance industry. The riskier your work, the higher your manual premium will be.

The manual premium is stated by the formula "dollars per hundred," meaning so many dollars of premium for every \$100 of payroll.

If you are misclassified

The classification of your business is one of the important factors in determining your premium.

Occasionally an insurer might assign a classification that you believe is not the right fit for your business. This can be serious for you if it will result in an excessively high premium.

If you believe you have been misclassified, first discuss it with your agent. If you cannot get the matter resolved, contact the workers' compensation bureau of the New Mexico Insurance Division (a division of the Public Regulations Commission).

Actual payroll

The amount of premium billed at the beginning of a policy year is an estimate, which may be changed if circumstances change during the policy year. The insurance company can be expected to audit the payroll at the end of a policy year and to adjust the final bill for the amount of premium owed, based upon actual total payroll and actual type of work performed.

It is also possible for the insurer to decide that coverage is required for workers who, in your opinion, are independent contractors, not employees. The insurer can demand payment retroactively for these workers. If you have any doubt at all about this, stay in touch with your agent and make sure before you proceed, or you can have an unpleasant surprise – a big extra bill – at the end of the policy year.

See the section "Premium Audit Disputes" below for more information about this.

Best Practice for the employer:

Every time you hire an additional worker, remember to count the workers' compensation insurance premium along with payroll and other costs. Your premium will be adjusted based on your actual total payroll. Consider this in your business planning so you avoid an unpleasant "premium shock" at the end of the year.

Best Practice for the insurance agent:

You can provide a real service to your small business clients by working actively with them on keeping up to date on premium adjustments.

Experience modifier

The experience modifier is a number that expresses how good or bad a risk each employer is, compared to the average of other employers in the same industry. The modifier is based on the frequency and severity of claims. A modifier of "1.0" means the employer is exactly average for the industry. New businesses start with a modifier of 1.0. The modifier is used as a multiplier on the total premium.

A business with a better-than-average safety and claims record will have a modifier below 1 (.80 or .70, for example). That is a direct discount on the cost of premium. A high-risk business will have its modifier increased (to 1.20 or 1.30, for example) – a surcharge for a business with a poor record.

Premium cost and safety

The experience modifier shows that safety pays on the bottom line. An employer with a good safety record may enjoy a much lower premium than an unsafe employer in the same industry, which becomes a competitive advantage for the safety-conscious employer.

Safety also pays in other measurable ways, such as lower employee turnover and training costs and less time lost responding to accidents and injuries. Safety awareness is part of a productive, quality-oriented workplace and helps make business more profitable.

Your insurance premium (chart)

A. Standard industrial classification / manual premium	"dollars per hundred"	X dollars for every \$100 of payroll
B. Dollars of payroll for the entire policy year	All covered employees, for the time they were covered by you (if someone was employed for 6 months, you will pay only for the 6 months that they were employed)	Multiply actual payroll by X
C. Experience modifier	Rating based on your claims history compared to others in your industry	Multiply the modifier by the result of B
D. ARAP (assigned risk adjustment program) FOR THE ASSIGNED RISK POOL ONLY	Another modifier if you have a claims history	Multiply this modifier by the result of C
Other variations: Some carriers allow employers to choose a high deductible and enjoy a discount on premium. This means that you are assuming some of the risk of accidents. Other discounts may be applied according to the policy of the carrier.		

Rates in the assigned risk pool

Insurance costs more in the assigned risk pool than it does in the voluntary market.

All employers insured in the pool must pay a 10 percent surcharge on the base premium rate (the base rate is called the manual premium).

Another surcharge may be added to businesses in the pool. This is called the Assigned Risk Program Adjustment or ARAP. It is an extra modifier, based upon severity of losses as measured by the total claim cost. The ARAP may be applied when an employer has an experience modifier greater than 1.0.

It is recognized that these extra costs create a competitive disadvantage for businesses in the pool, especially small businesses.

Employers in the pool can reduce their rates by reducing both the frequency and severity of their claims. Workplace safety to reduce all accidents to a minimum is the first step. The second step, if a workplace injury has occurred, is to reduce the cost of the claim by cooperating with the insurer to help the injured worker return to work quickly.

Other booklets in this series provide a detailed guide for employers and workers to the process of claims, recovery and return to work.

For free safety assistance from the WCA, see booklets D1 and D2 of this series, "Annual Safety Inspections" and "How to Develop a Safety Program," or contact the WCA. Safety consultants are available throughout the state, and all services are free.

Failure to pay premium

If an employer fails to pay premium, coverage can be cancelled, and it is likely that no other carrier will insure that employer. Even the Assigned Risk Pool will refuse to provide coverage for an employer who has failed to keep up with premium payments.

In this circumstance, the WCA will be notified that the policy has been cancelled and will be required to take action against that employer, possibly forcing the business to close. This is one reason why it is very important for employers to budget for premium cost, keep up with payments, and anticipate the additional premium cost of hiring additional employees.

Premium Audit Disputes

It is possible for an insurance carrier to disagree with an insured employer about the correct amount of premium the employer owes. Insurance companies routinely audit the payroll of their insured employers to check whether the reported payroll was complete and accurate. The audit is typically done after the end of the policy period. Carriers may find audit exceptions if the employer hired more people after the policy was established and did not notify the carrier, or if the employer was deliberately trying to conceal the number of employees to reduce the premium (which could possibly be a crime).

Disagreements may sometimes arise, especially over the question of whether some individuals were employees or independent contractors. If they were employees, the employer owes premium for them, but if they were independent contractors, no premium is owed.

To make a legal determination about the disputed individuals, a review of the facts may be necessary. In such disputes, the parties may submit the issue to the WCA for a fact-finding hearing. This might clear the matter up.

For more information, contact the general counsel of the WCA.

How the coverage requirement is enforced

The employer compliance bureau of the WCA enforces the coverage requirement. Businesses that are illegally without coverage, and that refuse to obtain coverage after notice and due process, can be closed by a court order obtained by the WCA.

Steps in the employer compliance process

1. An employer who is illegally without coverage will be given a reasonable amount of time to obtain coverage and provide proof of coverage.
2. If the employer does not provide proof of coverage, the case will be referred to the WCA general counsel's office, and a Director's Hearing before a hearing officer will be scheduled.
3. If the hearing officer agrees with WCA staff that the employer is required to have coverage, and the employer has still not obtained coverage, the hearing officer may assess a substantial penalty against the business, order it to provide proof of coverage by a specific date, or grant the WCA permission to proceed to state district court.
4. The district court judge has the power to issue a temporary restraining order to close the business. If the judge agrees with the WCA, such an order will be issued.
5. If an order is issued, the WCA will present the order to the local county sheriff, and the business will be padlocked shut until the employer obtains coverage.

Insurance agent:

When an employer has become involved in the compliance process, you can help minimize the difficulty of that process by helping that employer obtain coverage as quickly as possible.

The WCA occasionally receives reports of small employers getting lost in the shuffle of agents who fail to return phone calls, fail to forward paperwork to carriers, or otherwise make it more difficult for employers to obtain coverage.

The WCA can advise employers to report improper activities of agents to the Insurance Division, and to seek compensation for any costs or penalties they incur. If a pattern or practice is observed that appears to be a violation of law, the WCA has the power to investigate and work with the Insurance Division to correct the violation.

Checking coverage online: The Proof of Coverage data base

Workers' compensation insurance coverage information is available to the public. You can find out whether an employer is covered through the Proof of Coverage data base on the WCA web site at www.workerscomp.state.nm.us. Look under "Insurance Carriers." Just enter the employer's business name or Federal Employer ID number.

What if the data base doesn't show any coverage? That does not necessarily mean the business is not covered. Many businesses have their coverage under a name different from the name you know.

If you can't find the information in the data base, or if you do not have access to an online computer, you can call the WCA and ask about coverage for any business. Call the main office at 841-6000 or 1-800-255-7965 and ask for Employer Compliance.

Forms and Filing

Proof of coverage requirement

Filing of proof of coverage is done by the insurance carrier or group self-insurance program through electronic batch filing. The employer does not have to file anything with the WCA (except individually self-insured employers). If any of the special election forms is required (affirmative election, sole proprietor election, etc.) they should be filed with the WCA by the carrier.

The WCA issues forms for certifying coverage, as described earlier in this booklet. The forms include:

Proof of Workers' Compensation Coverage:

Insurer's certification that employer has obtained coverage. This information is no longer filed on paper forms. It is transmitted by the insurance carriers to an approved vendor, which then transfers it electronically to the WCA.

Election forms:

Special filings are required when employers exercise certain options. These filings must be filed by the agent with the carrier, who should then file them with the WCA. Consult with the Employer Compliance Bureau for the forms and filing instructions. These filings are necessary when:

- A business that is not required by law to be covered has obtained coverage by choice (such as very small non-construction businesses with fewer than three employees). This election applies to the business as a whole, not to individuals.
- A qualified executive employee of a corporation or limited liability company has opted to waive coverage.

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- The self-employed owner of a business has opted to be covered or to waive coverage for himself under a policy.
 - New forms must be filed when one of these conditions is changed.

Current forms may be obtained from the Employer Compliance section of the WCA, from regional offices. These forms have been removed from the WCA Internet web site.

Termination of \$5 filing fee

A number of years ago, a \$5 filing fee was required with each filing. This filing fee requirement was terminated by law effective in 1999.

Revision of forms

The forms have been standardized as part of the process of converting to filing by electronic data transmission. The WCA uses Electronic Data Interchange (EDI) to enable insurers to file many of their forms by direct transmission from computer to computer. Electronic filing reduces costs, saves time and prevents errors.

The EDI project is a national effort to simplify and standardize the forms used from state to state in workers' compensation filings. Since most insurance carriers are national, standardization of forms and filing procedures saves time and reduces administrative costs.

Future revision of forms is possible as electronic filing continues to be updated and improved.

Identifiers used in filing

The current versions of the forms require the use of three employer identifiers and the Standard Industrial Classification or SIC code. The identifiers include:

FEIN: The federal employer identification number, issued by the Internal Revenue Service. This ID number is the primary required identification number.

UI or EAN: The Unemployment Insurance or Employer Account Number is the number assigned to the employer by the New Mexico Department of Workforce Solutions (DWS, formerly the Department of Labor) and used by employers to file quarterly reports with that department. This identifier is also used by insurance carriers as the identifier for the employer.

A new employer getting ready to buy its first insurance policy should contact the New Mexico DWS to obtain this ID number. However, it takes DWS a period of time to issue the number. An employer who needs insurance before receiving this ID number should provide the insurance agent with a copy of the application that was submitted to DWS.

Some very small businesses are not subject to Unemployment Insurance coverage with DWS and therefore will be told by DWS that they will not receive a UI number. Those businesses or their insurance agents may contact the WCA for assistance

with filing requirements. They will receive a special ID number that is to be used only for workers' compensation purposes.

CRS I.D.: The number assigned to the employer by the New Mexico Taxation and Revenue Department, often called the New Mexico tax I.D. CRS stands for Combined Reporting System.

SIC: The Standard Industrial Classification codes are identifiers for the type of businesses. These identifiers are issued by the federal Office of Management and Budget.

Use of the SIC code is requested whenever you know the number, but it is optional. If you do not know your number, leave the space blank. In this case, you must fill in the "type of business" on the form.

Help from the Workers' Compensation Administration

(See the list of offices and telephone numbers on the back page of this booklet)

For questions or information about Insurance Coverage and Self-Insurance

Personal contact

The Employer Compliance Bureau can assist you with detailed information on the coverage requirement. Call the main number at the State Headquarters in Albuquerque, 841-6000, or 1-800-255-7965. You can contact this bureau to report a business that is illegally uninsured.

The Self-Insurance Bureau can provide information on the option of self-insurance. This is available only to large businesses who can demonstrate that they are financially sound and stable, according to standards established by law and rule. You can also find out about the option of group self-insurance, which is a way for a group of businesses in the same industry to organize a mutual workers' compensation program.

The General Counsel's Office can provide information on the procedures for resolving premium audit disputes.

WCA web site www.workerscomp.state.nm.us

Coverage information look-up:

You can look up coverage information for any business on the Proof of Coverage data base. Verify whether a business is insured, and find the name of the insurer. NOTE that you might fail to find coverage for an insured business if the coverage is under a different business name. In this case, you can call the Employer Compliance Bureau for assistance.

Self-insurance:

See the Self-Insurance section of the web site for access to rules and forms.

Look under **News and Announcements** for any new changes that might affect you.

Workers' Compensation Handbook List of Booklets

This list shows new titles and numbering system that will be in effect when the 2007 revision is completed. Some booklets are eliminated and others are renumbered. There are some changes from the pre-2007 editions of the booklets.

To get the information you need:

Contact any office of the Workers' Compensation Administration for printed copies OR

All booklets can be downloaded from the Workers' Compensation Administration web site at www.workerscomp.state.nm.us

Booklet A1(E) Workers' Compensation Quick Facts- English
Booklet A1(S) Compensación A Los Trabajadores Informes Básicos (Spanish)
Booklet A2 Setting Up a Workers' Compensation Program
Booklet A3 The Workers' Compensation Coverage Guide for Employers and Insurance Agents
Booklet A4 Uninsured Employers' Fund
Booklet A5 Workers' Compensation Personnel Assessment Fee (WC-1)

Booklet B1 What to Do after an Accident
Booklet B2 Benefits for Workers While They Cannot Work
Booklet B3 Going Back to Work
Booklet B4 Medical Care in Workers' Compensation
(B5 and B6 are discontinued)
Booklet B7 Información del sistema compensativo para los empleados (Spanish)
Booklet B8 Quick Facts for Health Care Providers

Booklet C1 When you need help with a workers' compensation claim
Booklet C2 What to Do In Response to "Bad Acts"
(C3 through 5 are discontinued)

Booklet D1 Annual Safety Inspections
Booklet D2 How to Develop a Safety Program
(published by the Advisory Council on Workers' Compensation and Occupational Disease Disablement)

(On the web site, look under Employers)

E3 Guide to Completing and Filing Paper Copy for Employers' First Report of Injury or Illness (Form E1.2) and Notice of Benefit Payment (Form E6.2)
E4 EDI Guide to Completing the Employers' First Report of Injury or Illness (Form E1.2) and Notice of Benefit Payment (Form E6.2) — limited to certified electronic filers

Other publications

Health Care Provider Guide to New Mexico Workers' Compensation
Guidebook for Employers in New Mexico (English and Spanish)
Workbook for Injured Workers (English and Spanish)
The Stay at Work/Return to Work Program Guide

NEW MEXICO
WORKERS' COMPENSATION ADMINISTRATION
(new 575 area code effective October, 2007)

STATE HEADQUARTERS

Mailing Address: Workers' Compensation Administration
PO Box 27198, Albuquerque NM 87125
Location: 2410 Centre Avenue SE (near Yale-Gibson intersection)
In-state toll-free phone: 1-800-255-7965
Local phone 841-6000

REGIONAL OFFICES:

Southeastern regional office at Lovington:

100 West Central, Lovington, NM 88260
Telephone: 575-396-3437
In-state toll-free phone: 1-800-934-2450

Southwestern regional office at Las Cruces:

1120 Commerce Drive, Suite B-1, **Las Cruces**, NM 88011
Telephone: 575-524-6246
In-state toll-free phone: 1-800-870-6826

Northwestern regional office at Farmington:

3535 East 30th Street, Farmington, NM 87401
Telephone: 505-599-9746
In-state toll-free phone: 1-800-568-7310

Northeastern regional office at Las Vegas:

2515-2 Ridge Runner Road, Las Vegas NM 87701
Telephone: 505-454-9251
In-state toll-free phone: 1-800-281-7889

Roswell Office:

Penn Plaza Bldg., 400N. Pennsylvania Ave., Ste. 425, Roswell NM 88201
Telephone: 575-623-3781
In-state toll-free phone: 1-866-311-8587

Santa Fe Office:

810 West San Mateo, Suite A-2, Santa Fe, NM 87505
Telephone: 505-476-7381

Internet web site address: <http://www.workerscomp.state.nm.us/>
HELP & HOTLINE: 1-866-WORKOMP / 1-866-967-5667

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