



Policy Factsheet

Workers' Compensation and Employers' Liability

Overview

Workers' Compensation provides state-mandated benefits for injured workers and protects organizations against legal liability claims brought by someone who has sustained a workplace injury.

Coverage is provided on a "no-fault" basis and typically includes state-prescribed benefits such as medical, income loss, rehabilitation, and death.

Additional coverage called Employers' Liability is triggered by a civil negligence claim for work-related injuries brought by someone who is exempt from Workers' Compensation or to whom such benefits don't apply. It protects the insured party against costs to defend a claim as well as settlements and judgements. Employers' Liability coverage is different from Employment Practices Liability insurance, which covers accusations such as wrongful termination or discrimination.

What's Covered

Employer's Liability typically provides standard policy limits of:

- \$500,000 per employee for bodily injury by accident;
- \$500,000 per employee for bodily injury by disease;
- \$1,000,000 lifetime policy maximum for bodily injury by disease.

Churches should consider Umbrella Insurance to cover additional risks for Employers' Liability coverage.

Workers' Compensation differs from other forms of liability insurance because limits are set by state law.

Workers' Compensation insurance applies only when a claim meets certain eligibility criteria under labor law. The key considerations are:

- Whether the incident happened within the scope and course of the injured person's employment; and
- Whether an injury and associated liability can be attributed to the work-related injury.

The premium for Workers' Compensation coverage is determined by rates for different occupations and the policyholder's total annual remuneration for those groups. Remuneration includes the value of any housing and car allowances, as well as items such as Social Security offsets payable to clergy and other personnel who are considered self-employed by the Internal Revenue Service. Premiums reflect the riskiness of an occupation, for example, an office worker might have a rate of 50 cents per \$100 remuneration, while maintenance personnel might have a rate of \$6 per \$100 remuneration.

Premiums are also impacted by an organization's record compared with others in a group. Known as a "mod," or "experience modification factor," it applies a value based on whether the policyholder has a better record than others in the same general business class, is on a par with them, or has a worse history than the peer group. Applied to the standard premium, the mod determines if the policy cost should rise, fall, or remain the same.

In addition to Workers' Compensation, it is recommended that you consider Short-Term and Long-Term Disability Insurance, which replaces lost income for employees of dioceses, parishes, and other church organizations.

Disability policies also allow churches to hire temporary workers while the disabled employee recovers.

Short-Term Disability replaces lost income if an employee becomes medically disabled for more than 30 days with benefits that can continue for up to 52 weeks. It covers absences for treatment related to pregnancy, childbirth, and postpartum care in the same way as any illness or injury.

Long-Term Disability provides benefits that begin after an employee has been disabled for 12 months and continues until the employee is able to work again or reaches the age of 65.

Disability is its own policy, not covered by Workers' Compensation or Employers' Liability insurance.

FAQs

Q: *Who qualifies for Workers' Compensation?*

A: The definition of employee varies by state and may include full- and part-time workers whose annual earnings are reported by an IRS form W-2; casual or contracted workers whose remuneration is reported by an IRS form 1099; and, at the employer's election, uncompensated volunteers.

It can be difficult to determine if someone should be defined as a church employee or an independent contractor who would not be covered by Workers' Compensation. If you answer any of the following questions "yes," the person is probably an employee. You should consult counsel before making any decisions:

- Will the church control how, when, and where the work is performed?
- Will the church determine the number of hours to be worked?
- Will the church determine the order or sequence of work to be performed?
- Will the church pay hourly, weekly, or monthly?
- Will the church pay business and travel expenses?

You should think carefully about who else might be eligible for Workers' Compensation. For example, if you provide shelter or food to homeless individuals in exchange for work, that is a form of remuneration and they may be covered under Workers' Compensation if they injure themselves while carrying out an allocated task.

Q: *What classifications of workers typically apply to religious institutions?*

A: While the rules in each state vary, the broad categories most commonly applicable to religious institutions include:

- Clerical/Office employees;
- Professional employees such as clergy;
- Other employees (e.g., maintenance).
- Others depending on your church's individual situation, such as cemetery workers or preschool and daycare staff.

Q: What significant exclusions are there to Employers' Liability coverage?

A: Some exclusions include:

- Liability assumed under contract;
- Punitive or exemplary damages because of bodily injury to an individual employed in violation of law, with or without the employer's actual knowledge, or the actual knowledge of its executive officers;
- Obligations imposed by Workers' Compensation, occupational disease, unemployment, or disability benefits law or equivalent. This exclusion shifts coverage to the Workers' Compensation section of the policy or to other types of policy designed to address work-related benefit obligations;
- Bodily injury intentionally caused or aggravated by the employer;
- Bodily injury occurring outside the United States, its territories and possessions, or Canada;
- Damages arising from employment practices, policies, acts or omissions including evaluation, demotion, reassignment, discipline, defamation, harassment, discrimination, and termination. This exclusion shifts coverage to a separate Employment Practices Liability or Directors' and Officers' Liability policy.