

# Florida Workers' Compensation Law

The Florida workers' compensation system protects employees who are injured on the job by replacing lost wages while they recover. The system works as a no-fault guarantee. The law entitles employees who can show they were hurt while working to a portion of their earnings and paid medical care for their injuries. They needn't prove that their employer was negligent. In exchange for the no-fault guarantee, the law doesn't permit workers to sue for negligence and collect far more than just lost wages and medical payments.

The Florida Department of Financial Services administers the law through its Division of Workers' Compensation ([www.fldfs.com/wc/](http://www.fldfs.com/wc/)).

In 2005, Florida's legislature modified the workers' compensation system. Under the new system, workers' compensation carriers must pay compensation or benefits only when the workplace injury is more than 50 percent responsible for the worker's condition. This determination is made based on medical evidence.

## Ineligible claims

Some employees aren't eligible for workers' comp payments. For example, employees can't collect benefits if they:

- Are injured while under the influence of alcohol or illegal drugs, or refuse to submit to a drug test following the accident.
- Are injured while attempting to harm themselves or unlawfully injure another person.
- Commit fraud with the intent to collect benefits.

In some circumstances, a worker won't receive full benefits:

- If the injured worker had knowingly refused to wear proper employer-supplied safety equipment (benefits reduced by 25 percent).
- If the injured worker is a professional athlete (benefits reduced by 50 percent).

In the construction industry, contractors are responsible for making sure their subcontractors carry workers' comp insurance. Contractors who shave dollars off their bid by skipping workers' comp coverage to win a bid may be held liable to losing bidders who played by the rules.

In addition, Florida's law severely restricts claims for mental or nervous conditions. Workers' comp won't pay unless "an accompanying physical injury" requires medical treatment.

The state law works in concert with other laws, such as the Americans with Disabilities Act (ADA). Employers with at least 15 employees must make reasonable accommodations for workers who can't perform their jobs' essential functions.

Virtually all Florida businesses must carry workers' comp insurance. Even sole proprietors who employ another person must provide coverage or be approved for self-insurance.

### **Tips for reducing workers' comp costs**

One way to reduce your workers' comp costs is to encourage employees to return to work as soon as they're able. You can, for example, make available light-duty positions for injured employees who may not be ready to return to more demanding jobs.

Work with your insurance carrier to develop a light-duty program.

### **ADA, FMLA and workers' compensation**

Employees injured at work may also be disabled under the ADA or the Florida Civil Rights Act and have a serious medical condition under the FMLA. So, HR professionals should make sure to coordinate any unpaid leave and reasonable accommodations, such as light-duty work or intermittent leave, with the insurance carrier.

It's important to coordinate those claims: Nothing will sink a case faster than evidence that an employer acquiesced to a workers' comp claim but refused to allow an FMLA claim for the same condition.

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*Excerpted from Florida's 9 Most Critical Employment Laws, a special bonus report available to subscribers of HR Specialist: **Florida Employment Law**.*