

Ohio Workers' Compensation Act

Ohio's workers' compensation system protects employees who are injured on the job by replacing lost wages while they recover. The Ohio Bureau of Workers' Compensation (www.ohiobwc.com/) administers the law.

The system works as a no-fault guarantee. Employees who can show they were hurt while working can receive 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, workers can't sue for negligence to collect far more than just lost wages and medical payments.

In some situations, employees aren't eligible for workers' compensation payments. For example, they can't collect benefits if they're injured:

- While intoxicated.
- As a result of willful failure to use any reasonable and proper personal protective device furnished by the employer.
- While attempting to injure themselves or unlawfully injuring another person.
- By someone other than a co-worker for personal reasons.
- While participating in a voluntary, off-duty recreational, social or athletic activity unrelated to their job duties.
- By an act of God.
- By horseplay or skylarking.

However, if employers haven't paid their workers' comp premiums on time or in some other way aren't in compliance, they lose the protections afforded by the law. For instance, a worker injured at work through some fault of his own may collect damages from the employer. If the employer has no workers' comp policy in place at the time, the damages come out of the employer's pocket, not the insurer's.

Additionally, the state's workers' comp law holds employers to a particularly rigorous standard. Unlike other states, where employers aren't liable when an employee intentionally harms another employee, Ohio employers are responsible for compensating all workers injured in the workplace.

The state's workers' comp statute works in concert with other laws, such as child labor laws and the ADA. For example, an employer that illegally employs minors must pay double the normal workers' comp payout, with the excess coming out of its own pocket, not from the insurance company. In addition, you may be liable through your workers' comp coverage to remodel a disabled worker's home to accommodate his mobility limitations.

Virtually all Ohio businesses must carry workers' comp insurance. Certain large employers (500 or more employees) may apply to the Workers' Compensation Commissioner for permission to self-insure.

Tips for reducing workers' comp costs

One way you can reduce your workers' compensation 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 Ohio Fair Employment Practices Act (OFEPA) and have a serious medical condition under the FMLA.

So, make sure you coordinate any unpaid leave and reasonable accommodations, such as light-duty work or intermittent leave, when handling OFEPA, ADA and FMLA claims with the insurance carrier. 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.

Excerpted from Ohio's 10 Most Critical Employment Laws, a special bonus report available to subscribers of HR Specialist: [Ohio Employment Law](#).