

PENNSYLVANIA

EMPLOYMENT LAW

Workers' Compensation – Employee Eligibility



COVID-19 UPDATE: On March 16, 2020, Pennsylvania issued guidance regarding eligibility for workers' compensation benefits during the COVID-19 outbreak. That guidance is available [here](#).

Workers' compensation is a system of no-fault insurance that provides monetary compensation and medical benefits to employees (or their survivors) for work-related injuries, diseases and deaths. Workers' compensation is governed by state law.

The Workers' Compensation Act (WCA) governs employee eligibility and responsibilities in Pennsylvania's workers' compensation system. The [Pennsylvania Department of Labor and Industry](#) (PDLI) enforces WCA provisions throughout the state.

To be eligible to receive workers' compensation benefits in Pennsylvania, an individual must:

- Meet the WCA definition of a **covered employee**; and
- Sustain a **compensable condition**.

COVERED EMPLOYEES

Most workers in Pennsylvania are covered under the WCA. In general, an individual is a covered employee if he or she performs service for another in exchange for any sort of compensation. The WCA specifically includes minors (even if their employment is not legal) and various law enforcement and emergency response personnel (including volunteers) under its definition of a covered employee.

Executive officers, whether elected or appointed, are also covered under the WCA. However, executive officers may opt out of WCA coverage if they serve voluntarily and without pay.

EXCLUSIONS

The following are **not** covered employees under the WCA:

- Workers who are covered under federal workers' compensation laws;
- Workers whose employment is casual in character and not in the regular course of the business of the employer;
- Workers to whom materials are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in the worker's own home, or on other premises that is not under the control or management of the employer;

STATE RESOURCES

Pennsylvania Department of Labor and Industry (PDLI) [website](#)

FAQs

The PDLI answers frequently asked questions about workers' compensation [here](#).

Required Forms

The PDLI provides links to employer reports and other forms [here](#).

Services and Information

The PDLI provides services and information for employers [here](#).

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- Agricultural laborers earning less than \$1200 per person per calendar year *and* working no more than 30 days per calendar year;
- Domestic workers who have not elected to be covered;
- Sole proprietors or general partners;
- Persons granted exemption by the PDLI; and
- Licensed real estate brokers affiliated with a licensed real estate agency working on a commission-only basis and qualifying as independent contractors for tax purposes.

COMPENSABLE CONDITIONS

Compensable conditions include both injuries and occupational diseases. In general, a condition is compensable if it arises out of and in the course of employment. This includes all injuries sustained by an employee:

- While actively engaged in the furtherance of the business or affairs of the employer, whether on the employer's premises or elsewhere; or
- Caused by the condition of or by the operation of the employer's business or affairs carried out on any premises that is occupied by or under the control of the employer, as long as the employer required the employee to be present there.

To be compensable, an employee's:

- Occupational disease (or death resulting from an occupational disease) must occur within **300 weeks** of the last date of employment in an occupation or industry in which the employee was exposed to the hazards of the disease; and
- Death by accidental injury must occur within **300 weeks** of the injury.

EXCLUSIONS

A condition is **not** compensable if it is:

- Sustained while an employee is operating an employer's motor vehicle but is not otherwise in the course of employment;
- Caused by an act of a third person intended to injure the employee because of reasons personal to him, and not directed against him as an employee or because of his employment;
- Intentionally self-inflicted; or
- Caused by the employee's violation of law, including, but not limited to, the illegal use of drugs.

EMPLOYEE RESPONSIBILITIES

The WCA imposes additional responsibilities on employees who claim benefits for work-related conditions. Failure to meet these and other requirements may cause the employee to lose his or her right to receive benefits, in whole or in part. Among these duties, employees are required to:

- Notify the employer within **21 days** after an injury (unless notice is given within **120 days** after the occurrence of the injury, no compensation will be allowed at all);
- Submit to reasonable and necessary medical treatment for the work-related condition;
- Submit to independent medical exams upon the employer's requests;
- File a claim petition with the PDLI within **three years** after an injury or knowledge of an occupational disease; and
- Cooperate with the employer in its investigation of the employment, wages and physical condition.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice.

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MORE INFORMATION

For more information on workers' compensation requirements in Pennsylvania, contact Howell Benefit Services, Inc. or visit the PDLI [website](#).