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# Workers' Compensation – Employee Eligibility

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

The Louisiana Workers' Compensation Law (WCL) establishes the eligibility requirements for workers' compensation benefits in the state. The Louisiana Office of Workers' Compensation Administration ([OWCA](#)), part of the Louisiana Workforce Commission (Commission), administers the workers' compensation system and resolves disputed claims in the state.

## **ELIGIBILITY OVERVIEW**

In general, an individual is eligible to receive workers' compensation benefits in Louisiana if he or she:

- Is a **covered employee**; and
- Sustains a work-related, **compensable condition**.

## **COVERED EMPLOYEES**

Most workers in Louisiana are covered under the WCL. The law's definition of a covered employee includes every person rendering service for another in any trade, business or occupation in the state.

Business owners are generally included under this definition as well. However, certain individuals may reject coverage for themselves through a written agreement with their workers' compensation insurance carriers or group self-insurance funds. This option is available only to:

- Corporate officers who own at least 10 percent of a for-profit corporation's stock;
- Partners of a partnership;
- Members of a limited liability company (LLC) who own at least a 10 percent of the LLC, and
- Sole proprietors.

## **Exclusions**

The WCL specifically excludes certain individuals from coverage. Although exceptions may apply in some cases, the following are *not* covered employees under the WCL:

- Domestic workers exclusively performing household services for a private homeowner;
- Farm workers who earn \$1,000 or less per year for work on a private, unincorporated farm;
- Musicians and performers providing services under a performance contract;
- Workers who are covered under any federal workers' compensation law;
- Railroad workers engaged in interstate or foreign commerce;

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. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

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- Officers and crew members of any vessel used in interstate or foreign commerce;
- Uncompensated corporate officers and directors of a nonprofit organization;
- Licensed real estate brokers and salespeople working in the real estate business;
- Certain mineral rights brokers; and
- Independent contractors.

## COMPENSABLE CONDITIONS

Under the WCL, compensable conditions include **accidental injuries** and **occupational diseases** that arise out of and in the course of employment.

An accidental injury is defined as damage to the physical structure of the body caused by an unexpected or unforeseen actual, identifiable, precipitous, work-related event that happens suddenly or violently. By contrast, an occupational disease is a condition that results from gradual deterioration or progressive degeneration. Carpal tunnel syndrome, for example, is specifically included in the WCL as a compensable occupational disease.

In general, an employee must have been employed with the same employer for at least **12 months** in order to prove that he or she contracted a compensable occupational disease. An employee must also show that the causes of a claimed disease were characteristic of and peculiar to the employment and could not have been due to outside hazards.

The WCL specifically excludes certain conditions from its definition of an occupational disease. However, this does not mean that these conditions can never be compensable. Instead, the following conditions may be compensable only if they result from an accident (rather than gradual deterioration), and only if certain other requirements are met as well:

- Degenerative disc disease;
- Spinal stenosis;
- Heart-related or perivascular diseases;
- Mental illness;
- Arthritis of any type ; and
- Inguinal hernia.

## Exclusions

A condition is *not* compensable if it results from the employee's:

- Willful intention to injure him- or herself, or another;
- Intoxication (unless the intoxication resulted from activities in pursuit of the employer's interests or the employer provided the intoxicating substance and encouraged the employee to use it during work hours);
- Physical aggression in an unprovoked physical altercation (unless excessive force was used in retaliation against the employee);
- Horseplay; or
- Dispute with another person over matters unrelated to the employment.

In addition, an employee will lose the right to receive any workers' compensation benefits for an otherwise compensable occupational disease if he or she previously suffered from the same disease but willfully and falsely indicated otherwise to the employer when first hired.

## EMPLOYEE RESPONSIBILITIES

The WCL sets specific expectations and responsibilities for employees who make workers' compensation claims. Failing to satisfy these may cause an employee to lose the right, in whole or in part, to receive benefits. Along with other duties, an employee must:

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- Provide the employer with written notice of any injury within **30 days** after the injury occurs (this may be extended to 12 months if the employer has not posted a workplace notice regarding workers' compensation rights and responsibilities, as required under the WCL);
- Submit to a drug and alcohol test immediately after any workplace accident (if the employer requests it);
- Submit to medical examinations upon any reasonable request made by the employer or the OWCA;
- Report any earnings to the employer within **14 days** of the employer's request; and
- File a claim for benefits with the OWCA within **one year** after the later of either the date of injury or the date the employer last paid benefits to the employee for the condition (this may be extended to three years under certain circumstances).

## **MORE INFORMATION**

Contact Touchstone Consulting Group or visit the OWCA [website](#) for more information on workers' compensation laws in Louisiana.