



COLORADO WORKERS' COMPENSATION

By Louis Pino

Colorado's workers' compensation law provides various benefits to employees who suffer work-related injuries and illnesses. This *issue brief* provides an overview of the employer obligations to the program, workers' compensation benefits, and how the program is administered.

Background

The Workers' Compensation Act provides wage replacement and medical benefits to employees injured in the course of employment in exchange for mandatory relinquishment of the employee's right to sue his or her employer.¹ The system is administered by state law. Colorado's Workers' Compensation Act was enacted in 1915.

The Division of Workers' Compensation in the Colorado Department of Labor and Employment administers the workers' compensation system. The division does not pay benefits on a claim. Instead, the employer's workers' compensation insurance company or the self-insured employer pays the benefits. Federal and railroad employees are covered under the Federal Employees Compensation Act.

Who is covered under the workers' compensation law? In general, all private and public employers in Colorado must provide each full-or-part-time worker with workers' compensation insurance coverage. Workers in certain occupations, such as real estate agents and independent contractors, are exempt from coverage. Injuries caused by intoxication of alcohol or drugs, off-the-job incidents, or self-inflicted injuries are not covered by the law.

Employer Obligations

All Colorado employers are required to purchase workers' compensation insurance coverage through a private insurance company or self-insure. The cost of workers' compensation insurance is paid entirely by the employer and may not be deducted from an employee's wages. Insurance premiums are based on the employer's claims experience or losses. For example, premiums for logging businesses may be higher than premiums for an accounting firm. In Colorado, there are three ways an employer may obtain workers' compensation coverage as described below.

Commercial Insurance and Pinnacol Assurance. Companies may purchase coverage from a commercial private insurance company, including Pinnacol Assurance.

Pinnacol Assurance was established as a political subdivision of the state under the provisions of the Workers' Compensation Act. Pinnacol is required to write insurance policies for all businesses, regardless of their industry risk and claims experience. Pinnacol is controlled by a nine-member board of directors, who are appointed by the Governor with the consent of the Senate.

Self-funding (individual). Colorado statute allows qualified businesses to self-insure for workers' compensation coverage. Employers applying for self-insurance must regularly employ 300 or more employees and have a minimum of \$100 million in assets.

¹Section 8-40-102, *et seq.*, C.R.S.

Self-funding (groups). Colorado law allows group pooling by public sector employers and trade or professional associations.

Employers who fail to provide workers' compensation insurance coverage may face fines of up to \$250 per day for the first violation and up to \$500 per day for any subsequent violations. A cease-and-desist order may also be issued until insurance coverage is obtained.

Workers' Compensation Benefits

Workers' compensation benefits are based on the date of the injury, the severity of the injury, the length of time it takes to recover from the injury, and whether the injury is temporary or causes permanent impairment.

Medical benefits. Under Colorado law, workers' compensation insurance covers all reasonable and necessary medical expenses connected with an on-the-job injury. The employee is required to receive care from an authorized doctor.

Temporary disability. Employees who miss more than three shifts or three days of work as the result of an injury or illness may be eligible to receive a form of wage replacement called temporary disability benefits. There are two types of temporary disability benefits:

- **Temporary total disability:** An injured worker who is temporarily disabled and completely unable to work may receive temporary total disability benefits. Qualified employees are paid two-thirds of their average weekly wage (AWW) up to 91 percent of their AWW.
- **Temporary partial disability:** Injured employees who can still work, but in a limited role, can receive temporary partial disability benefits. The benefit amount is two-thirds of the difference between their pre-injury wage and what they are receiving from the part-time or modified employment.

Workers can receive temporary disability benefits until an authorized doctor determines that the injury or disease causing the disability has become stable and does not require further medical treatment.

Permanent partial disability. Workers who incur a permanent loss of function to a body part or body system may qualify for permanent partial disability benefits. In general, recipients of permanent partial disability benefits have some lasting condition (e.g., loss of function affecting toes, fingers, vision, or hearing), but are still able to work. The amount of benefits awarded is determined by an authorized physician.

Permanent total disability. Permanent total disability is granted to an employee who is unable to work at all. Benefits are based on two-thirds of the worker's AWW at the time of the injury or illness and are paid for the lifetime of the injured worker.

Death benefits. The workers' compensation system also provides benefits to surviving dependents if someone is fatally injured on the job, and up to \$7,000 for funeral expenses. Benefits vary based on the dependent's relationship to the deceased.

Workers' compensation income benefits received are not subject to federal or state taxes.

Administration and Surcharge

The Division of Worker's Compensation is a state agency that ensures that claims are properly handled and provides information about the workers' compensation system. The division resolves any disputes between the employee and the insurance company or employer.

Insurers and self-insured employers are required to pay a surcharge on a percentage of premiums to offset the cost of administering the workers' compensation system. The surcharge rate is set by the division and collected semiannually.