

Section 7: Workers' Compensation

Program Purpose

Workers Compensation programs grew because of the need to protect workers who were injured on the job, or developed job related illness. All states require that most employers provide Workers Compensation insurance coverage.

Workers Compensation is an insurance plan provided by the employer to pay for an employee's medical expenses and/or lost wages in the event of a job-related injury.

Benefits under Workers Compensation fall into three categories, and are paid according to the nature and extent of the injury:

- **Income Benefits** to replace part of the wages lost due to the disability.
- **Medical Benefits** to treat the job-related injury or illness.
- **Survivor's Benefits** if the accident results in the death of the employee.

Vocational Rehabilitation Services

- Vocational rehabilitation may be offered at the discretion of the employer or the employer's insurance carrier.
- If these services are not provided, the employee may request a referral from the rehabilitation administrator to a qualified provider, at the employee's own expense.
- Employees may also request a referral to Kansas Rehabilitation Services or the Division of Services for the Blind for additional vocational support.

Eligibility

Under current Kansas law, all employers are required to provide workers' compensation coverage, except those specifically exempted by the legislature.

Exemptions include:

- Employers engaged in agricultural pursuits
- Owner-operators who are the exclusive operators of commercial motor vehicles
- Non-compensated officers of nonprofit organizations
- Licensed real estate agents working as independent contractors
- Firefighters who are members of a Firemen's Relief Association and have elected not to participate
- Employers with a gross annual payroll of less than \$20,000

In general, most employees in Kansas are covered and eligible to receive workers' compensation benefits for work-related injuries or illnesses.

Services Provided

Employers are responsible for all medical care needed because of a work-related injury or illness. This includes:

- Care from licensed health providers (such as doctors, chiropractors, or podiatrists)
- Medical, surgical, and hospital treatment
- Medicines and medical supplies
- Nursing services
- Crutches, braces, or other medical equipment
- Ambulance services and transportation between the employee's home and medical appointments

The employer or their insurance carrier selects the authorized treating physician.

If an employee believes their medical treatment is inadequate, they may request a hearing to ask for a change in the authorized physician.

Assistive Technology Covered

Any medical equipment or assistive technology that is reasonably necessary to treat or accommodate a work-related injury or illness is generally covered under Kansas Workers' Compensation.

A licensed physician or other authorized healthcare provider must verify that the equipment is medically necessary. Coverage is based on:

- The nature and extent of the injury or illness, and
- The recommendations of medical professionals involved in the worker's treatment and rehabilitation.

Examples of covered equipment may include:

- Wheelchairs or mobility devices
- Prosthetic limbs or orthotic supports
- Home or vehicle modifications related to the injury
- Adaptive equipment such as specialized computer or communication tools
- Vision-related items such as eyeglasses (if damaged or medically required due to the injury)

Problems Obtaining Assistive Technology

- An insurance carrier may dispute a request for equipment or services. This can cause delays in receiving the equipment and may lead to a long appeal process.
- If the case goes to a hearing, the administrative law judge may decide to approve a different device than the one requested, especially if the alternative meets the worker's needs and is less costly.

Application Process

1. **Employee Notification:** If an employee is injured at work, they must notify their employer within 20 days of the accident or the date they first sought medical treatment (whichever is later).
 - a. If the injury developed over time (such as repetitive motion), the employee must report it within 20 days of when they became aware it was work-related.
2. **Employer Notification and Reporting:**
 - a. The employer must promptly notify their insurance carrier of the injury. The employer or insurance carrier must then file an Employer's Report of Accident with the Kansas Division of Workers Compensation within 28 days of learning about the injury.
 - b. If the employer fails to file, the worker may have more time to file a claim, and the employer may face penalties.
3. **Information to Employee:** The employer provides the employee with written information about workers' compensation benefits, medical treatment options, and employee rights.
4. **Filing a Claim:**
 - a. To formally pursue benefits, the employee must submit a written claim to the employer.
 - b. This must be done within 200 days of the accident, or within 200 days of the last payment of compensation or authorized medical treatment (whichever is later).
5. **Benefits and Payments:** Once the claim is accepted, the insurance carrier pays for approved medical expenses and disability benefits as required by Kansas law.

There is an Ombudsman Program, established by Workers Compensation Reform legislation of 1993, to assist injured workers and survivors to obtain benefits. To contact the Ombudsman's Office, call 1-800-332-0353 or (785) 296-2996.

Appeals Process

1. **Prehearing Conference:** The employee (or their representative) may request a prehearing settlement conference.
 - a. This meeting is usually informal and aims to clarify the issues and explore possible agreements before a formal hearing.
 - b. A Prehearing Administrative Law Judge (ALJ) conducts the conference.
2. **Mediation:** If the disagreement is not resolved, the case may go to mediation.
 - a. A neutral mediator helps both sides discuss the dispute and attempt to reach a voluntary agreement.
 - b. The goal of mediation is to obtain voluntary agreement between the disputing parties.
3. **Preliminary Hearing:** If no agreement is reached, the case proceeds to a preliminary hearing before an Administrative Law Judge (ALJ).
 - a. Both sides may present evidence and testimony.
 - b. The ALJ issues a preliminary order, which can provide temporary benefits such as medical treatment or partial wage replacement while the case continues.
4. **Appeal of ALJ's Decision:** If either party disagrees with the ALJ's decision, they may request a review by the Workers Compensation Appeals Board.
 - a. Further appeals may then be made to the Kansas Court of Appeals and, in some cases, the Kansas Supreme Court.
5. **Penalties for Late or Improper Benefits:** If benefits are delayed or denied without proper cause, an employer or insurance carrier may face penalties or sanctions under Kansas workers' compensation law.

For additional information contact:

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