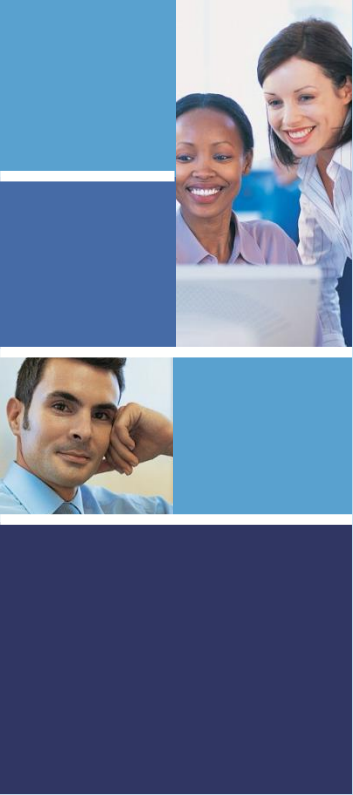




CIRMA **Human**Resources
Lunch and Learn Series
**WORKERS COMPENSATION
MANAGEMENT**

November 17, 2016
Northfield Inn
Springfield, Illinois





About Me

Donna Rogers Skowronski, MEd., SPHR, SHRM-SCP

UNIVERSITY OF
ILLINOIS
SPRINGFIELD



Career HR Pro
since 1991

Full-
Time

Volunteer

Department of Management Faculty
UIS-SHRM Faculty Advisor



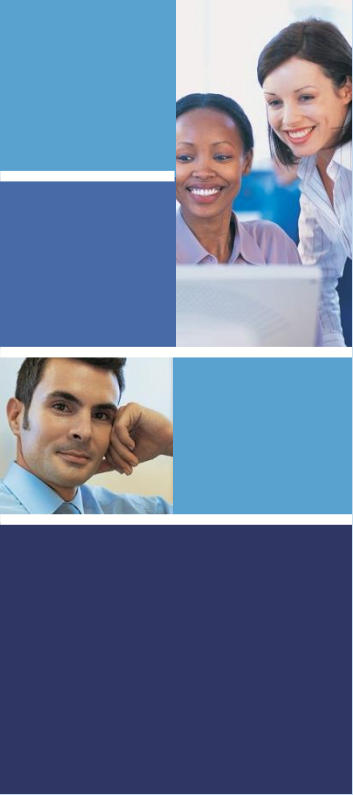
Student Chapter
Advisory Council



HR Consultant

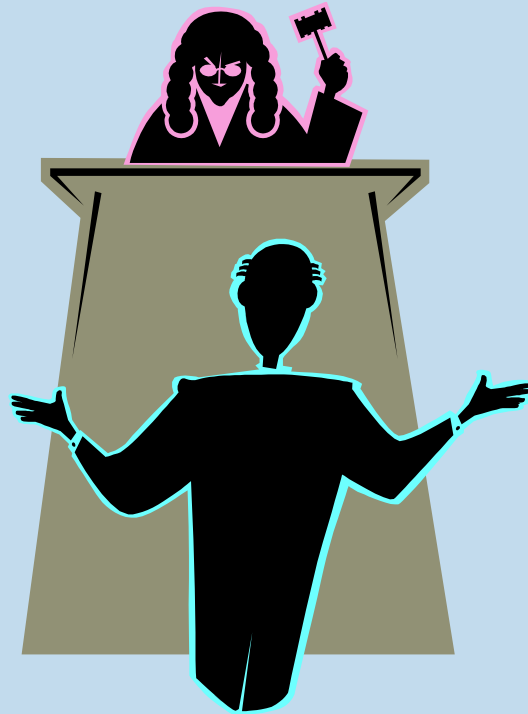
Part-
Time





REMINDER



Compliance Issues



First!

I am not an
attorney!

Nothing I provide/say
today is intended to be
legal advice.










Share Using Hashtag #HRCirma



REMINDER



-  Donna Rogers MEd-HRD @HRWarrior · 2m
4.2 Million More Workers Eligible for Overtime Under New Federal Rule [In.is/mdcounties.org](https://www.in.is/mdcounties.org)... via @MDCounties #HRCIRMA
-  Donna Rogers MEd-HRD @HRWarrior · 6m
Counties Speak Out Against Federal Overtime Rule
[In.is/mdcounties.org](https://www.in.is/mdcounties.org)... via @MDCounties #HRCIRMA
-  Counties Speak Out Against Federal Overtime Rule
County government officials testified in Washington last week on the ways that a new Department of Labor regulation will hurt their ability to provide services. A... [conduitstreet.mdcounties.org](https://www.conduitstreet.mdcounties.org)
-  Donna Rogers MEd-HRD @HRWarrior · 10m
Just around the corner: Overtime pay rules that will affect the government workforce [In.is/americancityan...](https://www.in.is/americancityan...) via @amercitycounty #HRCIRMA
-  Just around the corner: Overtime pay rules that will ...
Dena Sokolow, an employment attorney with the law firm of Baker Donelson, outlines some strategies that public sector employers can follow as the U.S. Dep... [americancityandcounty.com](https://www.americancityandcounty.com)
-  Donna Rogers MEd-HRD @HRWarrior · 13m
Employees Exempt from Overtime Pay? Think Again. - Journal of Emergency Medical Services
[In.is/www.jems.com/e...](https://www.in.is/www.jems.com/e...) #HRCIRMA
-  Donna Rogers MEd-HRD @HRWarrior · 14m
The Impact of New Overtime Rules on Government
[In.is/www.governing....](https://www.in.is/www.governing....) #HRCIRMA



Agenda

WC

Processes & Procedures

Manage Employees Back to Work

Workers' Compensation Management

November 17, 2016 • 10:00 a.m. - 1:30 p.m.

Worker's compensation is a benefit mandated by law in all 50 states. Regardless of how safe an employer may try to make its workplace, on-the-job accidents and job-related illnesses occur. Workers' compensation has become increasingly complicated and costly over the years. It is essential for all supervisors, in addition to the HR staff, to understand how to comply with workers' compensation laws. Employers need to train new and retrain current supervisors on the law and the employer's workplace safety rules so that employees receive the full and correct benefit of the law and the employer keeps its on-the-job injuries and costs as low as possible.



Register online at www.ilcounty.org. All seminars will be held at the Northfield Inn & Conference Center, 3280 Northfield Drive, Springfield, Illinois 62702.

Objectives –

At the close of this seminar, attendees will be able to:

- State what workers' compensation is
- Describe the purpose of workers' compensation laws
- Describe the three methods of securing workers' compensation liability insurance
- Understand what injuries "arising out of and in the course of employment" means
- Cite the benefits and disadvantages for employers and employees
- Understand how there may be interaction of workers' compensation with the Americans with Disabilities Act and/or Family and Medical Leave Act
- Describe what to do when on-the-job accidents happen
- Cite ways to reduce workers' compensation injuries





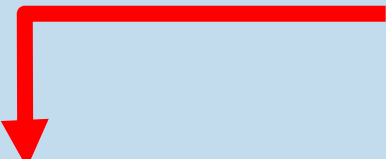
Program Description

Worker's compensation is a benefit mandated by law in all 50 states. Regardless of how safe an employer may try to make its workplace, on-the-job accidents and job related illnesses occur. Workers' compensation has become increasingly complicated and costly over the years. It is essential for all supervisors, in addition to the HR staff, to **understand how to comply with workers' compensation laws**. Employers need to train new and retrain current supervisors on the law and the employer's workplace safety rules so that employees receive the full and correct benefit of the law and the **employer keeps its on-the-job injuries and costs as low as possible.**

**Compliance
&
Cost
Containment**

Objectives

1. What is workers' compensation?
2. The purpose of workers' compensation laws
3. Three methods of securing workers' compensation liability insurance
4. Injuries "arising out of and in the course of employment"
5. The benefits and disadvantages for employers and employees
6. The interplay of workers' compensation with the Americans with Disabilities Act (ADA) and the Family and Medical Leave Act (FMLA)
7. What to do when on-the-job accidents happen
8. Ways to reduce workers' compensation injuries



The Bermuda
Triangle of HR





My #1 Resource

- Society for Human Resources Management: www.shrm.org/

Others

- ***IL Workers Comp Act 820 ILCS 305***
- ***IWCC – Handbook on Workers’ Compensation and Occupational Diseases***

Detailed Handbook on WC Available

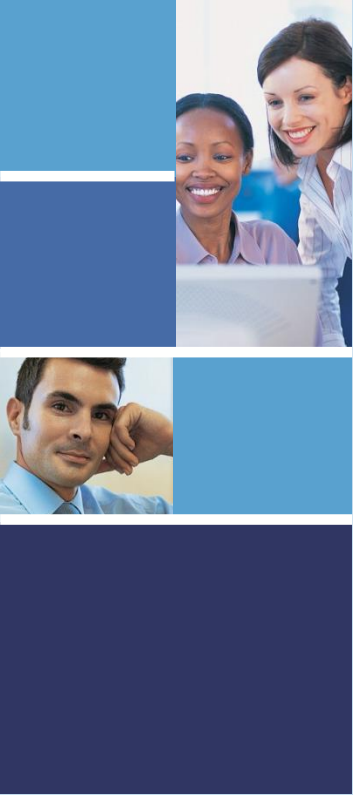
ON ILLINOIS WORKERS' COMPENSATION COMMISSION PAGE

ILLINOIS WORKERS' COMPENSATION COMMISSION

HANDBOOK ON WORKERS' COMPENSATION AND OCCUPATIONAL DISEASES



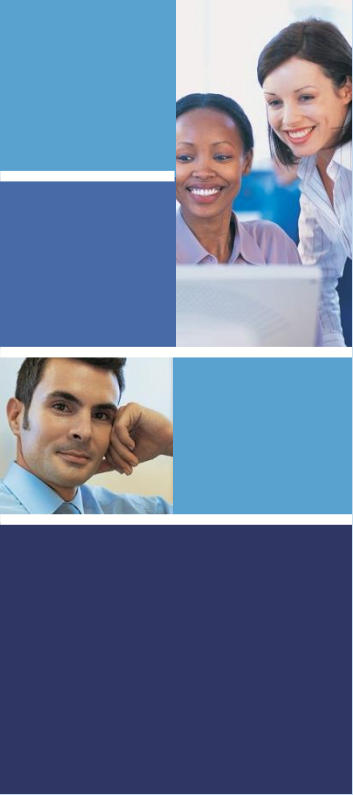
<http://www.iwcc.il.gov/handbook020106.pdf>



What is Workers Compensation?

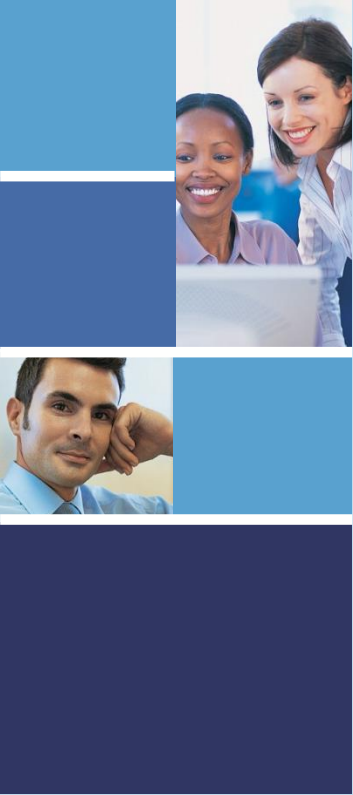
STATE ADMINISTERED

- Workers' compensation is a system of state laws that originated in 1911.
- These laws provide medical care and compensation to injured workers on a no-fault basis.
- Workers' compensation laws operate in all 50 states, in the District of Columbia, Puerto Rico and the Virgin Islands.
- There are also workers' compensation programs that cover federal employees, longshoremen, merchant seamen, railroad employees and coal miners.



The Purpose of Workers' Compensation Laws

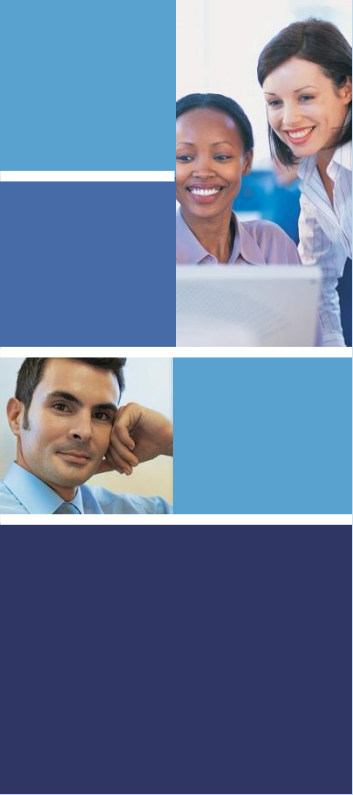
- **The purpose of workers' compensation laws is to provide:**
 - Coverage of medical expenses for treatment of injuries or occupational illness
 - Income protection for those who must be absent from work because of occupational illness or injury; and
 - Limited compensation for serious permanent injury such as loss of limb or loss of life
- **These laws also contain anti-retaliation provisions, which prohibit employers from retaliating against any employee because he/she has filed a claim or received benefits under the law.**



For employees

THE WEBSITE MAKES IT EASY TO GET INFORMATION

- My injury occurred a long time ago. How come the Commission hasn't sent me any money?
- Will the IWCC give me an interpreter?
- How come I haven't had a trial yet?
- How do I find a lawyer?
- My lawyer isn't treating me right. Can the Commission help me?
- The Commission resolved my case, but the insurance company won't pay me. What should I do?



For employers

THE WEBSITE MAKES IT EASY TO GET INFORMATION

- What does the Workers' Comp Act require of employers?
- How do I test an injured worker for drugs or alcohol?



Employer Information

ILLINOIS WORKERS COMPENSATION COMMISSION

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

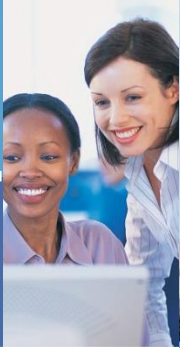
TITLE 50: INSURANCE

CHAPTER VI: ILLINOIS WORKERS' COMPENSATION COMMISSION

PART 9140 ALCOHOL AND DRUG SAMPLE COLLECTION AND TESTING

The General Assembly's Illinois Administrative Code database includes only those rulemakings that have been permanently adopted. This menu will point out the Sections on which an emergency rule (valid for a maximum of 150 days, usually until replaced by a permanent rulemaking) exists. The emergency rulemaking is linked through the notation that follows the Section heading in the menu.

- [Section 9140.5 Definitions](#)
- [Section 9140.10 Chain of Custody Form](#)
- [Section 9140.20 Collection of Blood](#)
- [Section 9140.30 Collection of Urine](#)
- [Section 9140.40 Review of Test Results of Blood and Urine Specimens](#)
- [Section 9140.50 Split Testing of Urine and Blood Specimens](#)
- [Section 9140.60 Collection and Testing of Breath and Saliva for Alcohol Testing](#)
- [Section 9140.70 Preservation of Specimens and Records](#)
- [Section 9140.80 Materials Incorporated by Reference](#)



The Basics of WC in IL

Illinois
Workers' Compensation
Commission

www.iwcc.il.gov

Bruce Rauner, Governor

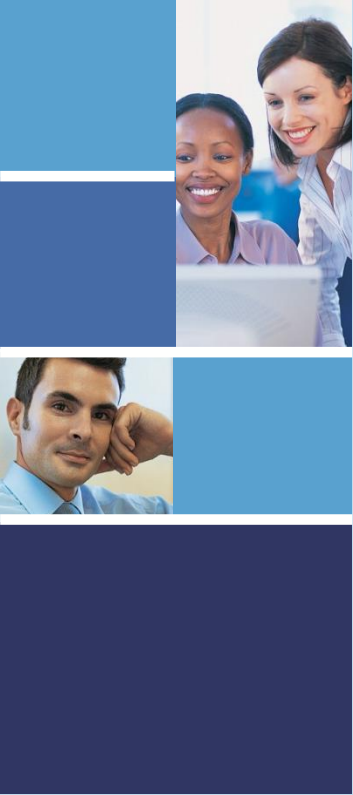


Five Requirements

What does the Illinois Workers' Compensation Act require of employers?

Employers must:

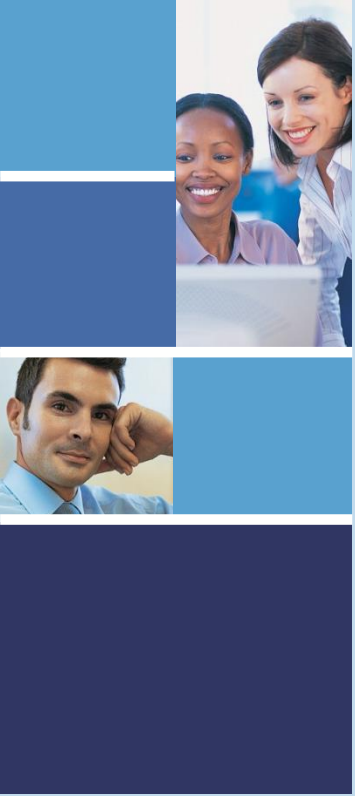
1. Obtain workers' compensation [insurance](#) or [get permission to self-insure](#);
2. Post a [notice](#) in each workplace that lists the insurance carrier and explains workers' rights;
3. Keep records of work-related injuries and [report](#) to the Commission those accidents involving more than three lost workdays;
4. NOT harass, discharge, refuse to rehire, or in any way [discriminate](#) against an employee for exercising his or her rights under the law;
5. NOT charge the employee in any way for workers' compensation insurance premiums or benefits that the employer is required to pay.



Workers' Compensation Insurance

IT'S THE LAW

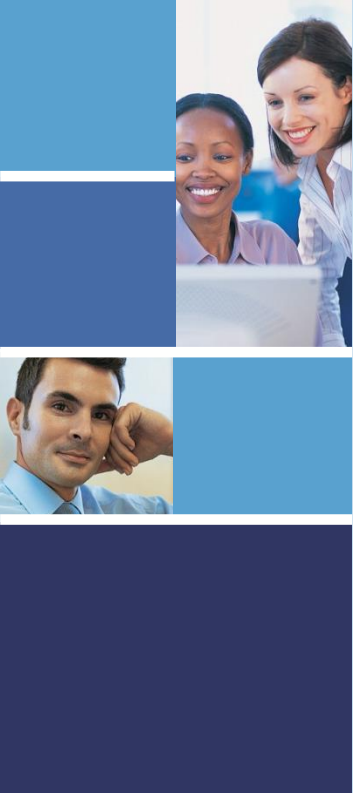
- Illinois law requires employers to provide workers' compensation insurance for almost everyone who is hired, injured, or whose employment is localized in Illinois. Sole proprietors, business partners, corporate officers, and members of limited liability companies may exempt themselves. Overall, it is estimated that **91% of Illinois employees are covered** under the Act.
- An employer that knowingly and willfully fails to obtain insurance may be **fined up to \$500 for every day of noncompliance, with a minimum fine of \$10,000.** Corporate **officers can be held personally liable** if the company fails to pay the penalty. Since 2006, the Commission has collected over \$7 million in fines. This provides workers the proper legal protection and other employers a more fair competitive arena. Fines are deposited into the [Injured Workers' Benefit Fund](#).



Securing Workers' Compensation Liability

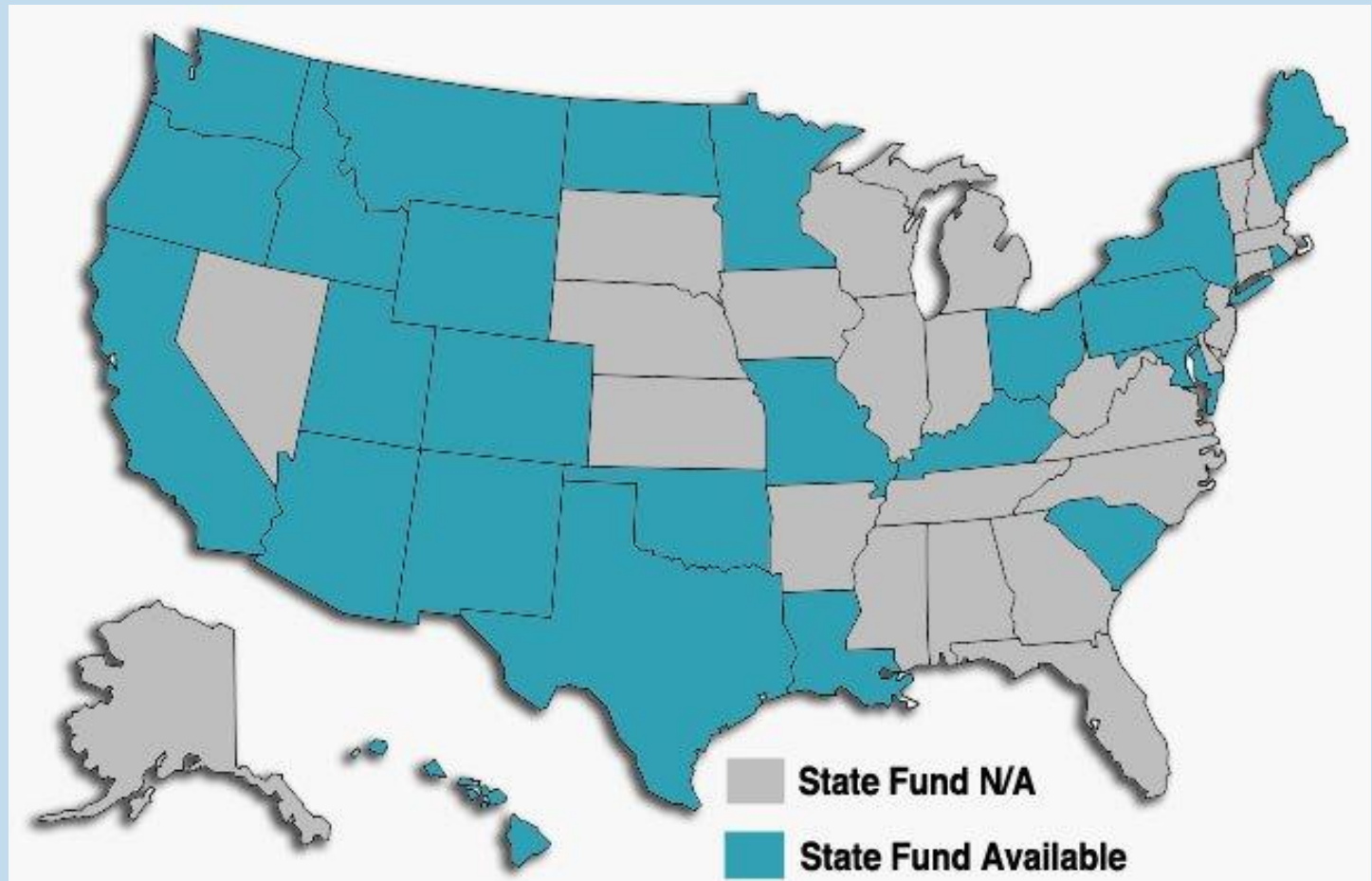
THREE (3) METHODS

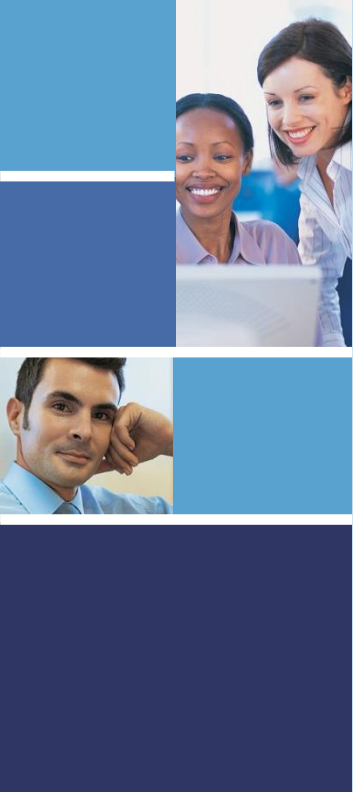
1. Through an approved private compensation insurance carrier.
2. Through self-insurance. This is only an option for large employers who have financial resources to provide workers' compensation benefits in good times and bad. There must be a guarantee that the injured employee will not lose his/her benefits in the event of bankruptcy of the employer.
3. Through state-funded insurance. This is provided in about one third of the states.



Illinois

NOT AVAILABLE



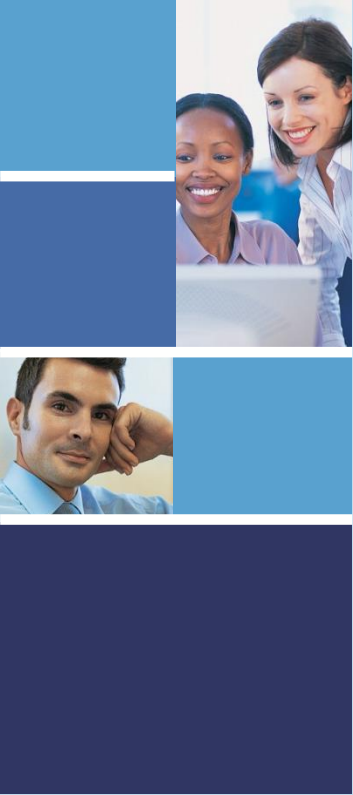


Self Insured Permission

ILLINOIS DEPARTMENT OF INSURANCE

Employers may obtain permission to insure themselves for their workers' compensation liabilities. Private employers may insure themselves individually or join a pool with other employers. The Commission oversees individual self-insurers, while the [Illinois Department of Insurance](#) evaluates group self-insurers. [Public employers may self-insure without obtaining approval.](#)

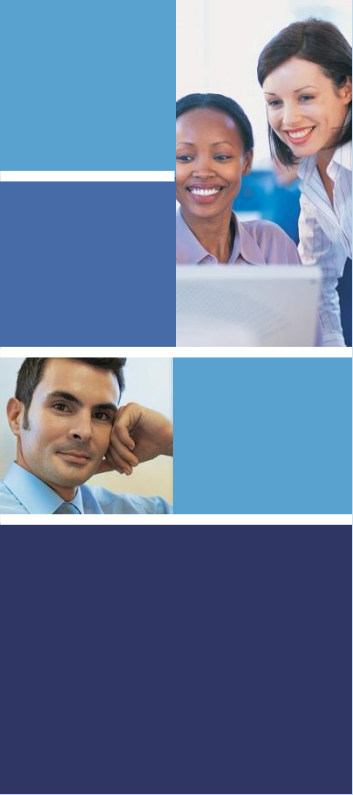
After reaching a peak of 496 parent companies in the Commission's self-insurance program in FY95, the number fell to 236 in FY14.



INSURANCE COVERAGE IS VERY SPECIFIC

ARISE OUT OF AND IN THE COURSE OF EMPLOYMENT

- “Arising out of employment” refers to the cause and origin of the injury
- “In the course of employment” refers to the time, place, and circumstances of the injury.
- Going to and from work: The general rule is that an employee is not covered. However, an exception exists, when an employee is going to and from work and on the employer’s premises (*such as in the employer’s parking lot*).



Red Flags for Overpayment

IT'S COSTLY SO WHY PAY MORE!

- HR professionals should closely review their workers' compensation insurance policies and classification codes if any of the following indicators are present:
- Your business expanded into other states.
- Your business merged with another company or experienced a change in ownership.
- Your workers' compensation job classifications have been changed by the insurance company.
- Your policy was rewritten with a different effective date.
- Your insurance company had a rate change during your policy period.
- You have been charged for uninsured subcontractors.
- You did not receive copies of the auditor's worksheets.
- The auditor did not complete your audit while onsite.

Source: Workers Compensation Consultants Founder and Principal Consultant Randy Sieberg.

POST THE NOTICE

DON'T FORGET TO COMPLETE IT!

WORKERS' COMPENSATION



is a system of benefits provided by law to most workers who have job-related injuries or illnesses. Benefits are paid for injuries that are caused, in whole or in part, by an employee's work. This may include the aggravation of a pre-existing condition, injuries brought on by the repetitive use of a part of the body, heart attacks, or any other physical problem caused by work. Benefits are paid regardless of fault.

IF YOU HAVE A WORK-RELATED INJURY OR ILLNESS, TAKE THE FOLLOWING STEPS:

- 1. GET MEDICAL ASSISTANCE.** By law, your employer must pay for all necessary medical services required to cure or relieve the effects of the injury or illness. Where necessary, the employer must also pay for physical, mental, or vocational rehabilitation, within prescribed limits. The employee may choose two physicians, surgeons, or hospitals. If the employer notifies you that it has an approved Preferred Provider Program for workers' compensation, the PPP counts as one of your two choices of providers.
- 2. NOTIFY YOUR EMPLOYER.** You must notify your employer of the accidental injury or illness within 45 days, either orally or in writing. To avoid possible delays, it is recommended the notice also include your name, address, telephone number, Social Security number, and a brief description of the injury or illness.
- 3. LEARN YOUR RIGHTS.** Your employer is required by law to report accidents that result in more than three lost work days to the Workers' Compensation Commission. Once the accident is reported, you should receive a handbook that explains the law, benefits, and procedures. If you need a handbook, please call the Commission or go to the Web site. If you must lose time from work to recover from the injury or illness, you may be entitled to receive weekly payments and necessary medical care until you are able to return to work that is reasonably available to you. It is against the law for an employer to harass, discharge, refuse to rehire or in any way discriminate against an employee for exercising his or her rights under the Workers' Compensation or Occupational Diseases Acts. If you file a fraudulent claim, you may be penalized under the law.

- 4. KEEP WITHIN THE TIME LIMITS.** Generally, claims must be filed within three years of the injury or disablement from an occupational disease, or within two years of the last workers' compensation payment, whichever is later. Claims for pneumoconiosis, radiological exposure, asbestosis, or similar diseases have special requirements.

Injured workers have the right to reopen their case within 30 months after an award is made if the disability increases, but cases that are resolved by a lump-sum settlement contract approved by the Commission cannot be reopened. Only settlements approved by the Commission are binding.

For more information, go to the Illinois Workers' Compensation Commission's Web site or call any office:

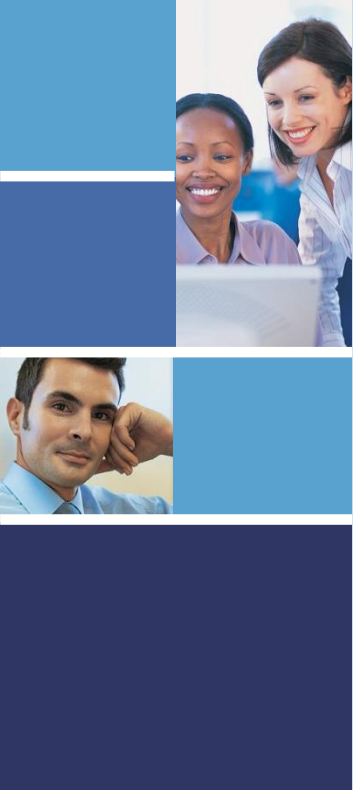
Toll-free: 866/352-3033 Chicago: 312/814-6611 Peoria: 309/671-3019 Springfield: 217/785-7087
Web site: www.iwcc.il.gov Collinsville: 618/346-3450 Rockford: 815/987-7292 TDD (Deaf): 312/814-2959

BY LAW, EMPLOYERS MUST DISPLAY THIS NOTICE IN A PROMINENT PLACE IN EACH WORKPLACE AND COMPLETE THE INFORMATION BELOW.

Party handling workers' compensation claims			
Business address			
Business phone			
Effective date		Termination date	
Policy number		Employer's FEIN	

ICPN 10011 Printed by the authority of the State of Illinois.

2



Keep Records

ALL BEYOND 1ST AID & ALL WITH LOST WORK DAYS

3

Injury & Illness Recordkeeping Forms - 300, 300A, 301



NOTE: When accessing the PDF files below, "RIGHT CLICK" on the links and save these files directly to your computer. Attempting to view or print PDF files through your browser with a plug-in viewer, can result in various technical difficulties.

[Instructions for Forms 300, 300A, 301 \(Instructions ONLY\)](#) - PDF Fillable Format

[Forms 300, 300A, 301 \(Forms ONLY\)](#) - PDF Fillable Format

[Forms 300, 300A, 301 and Instructions](#)

[Forms 300, 300A, 301 \(Forms ONLY\)](#)

[Forms 300, 300A, 301 Excel format \(Forms ONLY\)](#)

Requires Microsoft Excel, Excel equivalent, free [MS Excel Viewer](#) or other file viewers

No Discrimination

FOR REPORTING AN INJURY AS WC

- <http://www.iwcc.il.gov/OSHAmemo.pdf>
- No Discipline
- No Incentives for Not reporting

4

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



Reply to the attention of:

MAR 12 2012

MEMORANDUM
FOR:

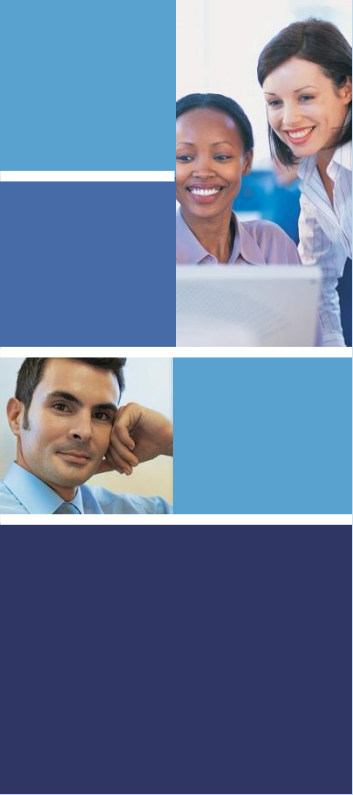
REGIONAL ADMINISTRATORS, WHISTLEBLOWER PROGRAM MANAGERS

FROM:

RICHARD E. FAIRFAX
Deputy Assistant Secretary

SUBJECT:

Employer Safety Incentive and Disincentive Policies and Practices

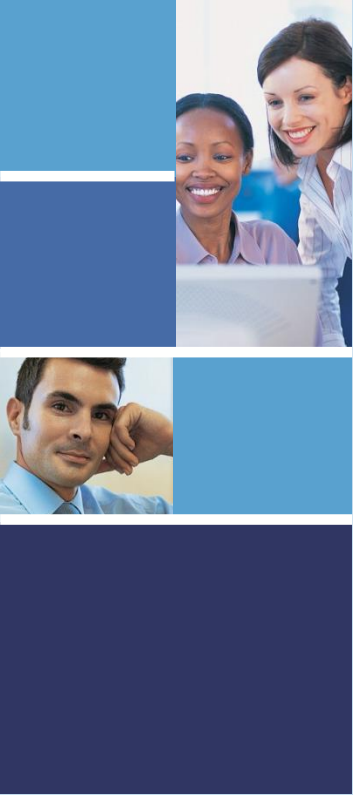


No Charge

EMPLOYER PAYS NOT THE EMPLOYEE!



5

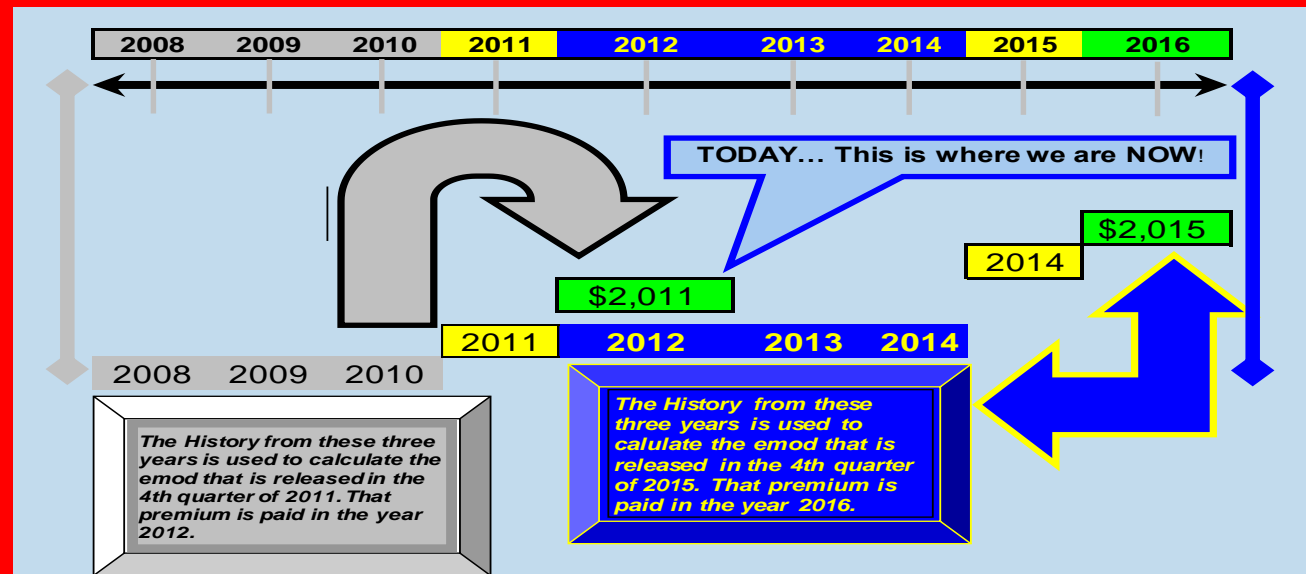


Worst Case Scenario

AN EMPLOYEE DIES ON-THE-JOB

- Handling a WC Death in IL
<https://www.workcompcentral.com/columns/show/id/79820b4ee1c3701dc047ee9cf374ba29j>
- EMOD Rate will Skyrocket

This graphic demonstrates the Nine Year S-T-R-E-T-C-H of a workmen's compensation insurance.



**Deaths
are not
the only
reason**

OSH- Occupational Safety & Health Employer Responsibilities

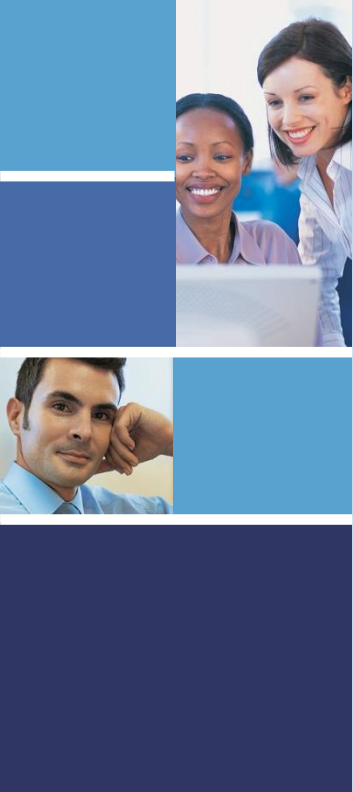
Enforced by OSHA – Office
of Safety & Health
Administration



Employer Responsibilities

UNDER THE OSH LAW

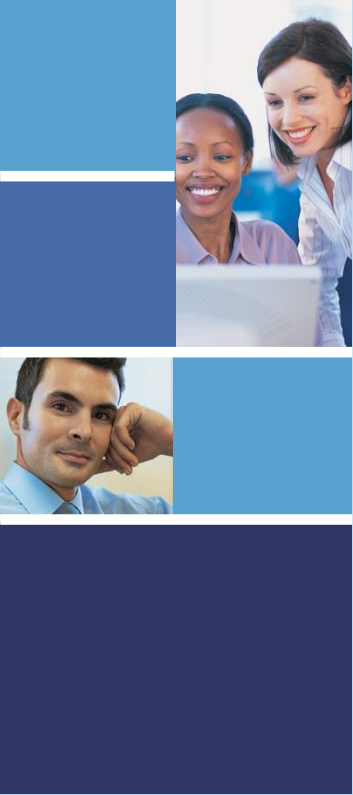
- Provide a workplace free from serious recognized hazards and comply with standards, rules and regulations issued under the OSH Act.
- Examine workplace conditions to make sure they conform to applicable [OSHA standards](#).
- Make sure employees have and use safe tools and equipment and properly maintain this equipment.
- Use color codes, posters, labels or signs to warn employees of potential hazards.



For more information, refer to the following online publications and resources.

[All About OSHA*](#)
[OSHA Inspections*](#)
[Top Ten OSHA Standards Cited](#)

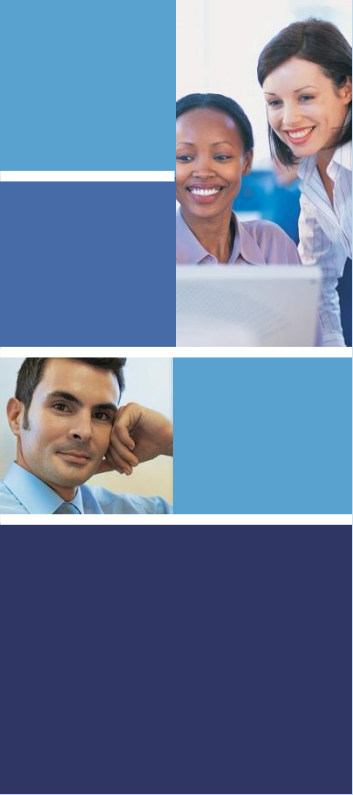
For more information, see [OSHA's enforcement page](#)



More Employer Responsibilities

UNDER OSH LAW

- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Employers must provide safety training in a language and vocabulary workers can understand.
- Employers with hazardous chemicals in the workplace must develop and implement a written hazard communication program and train employees on the hazards they are exposed to and proper precautions (*and a copy of safety data sheets must be readily available*). See the OSHA page on [Hazard Communication](#).



Still More Employer Responsibilities

UNDER OSH LAW

- Provide medical examinations and training when required by [OSHA standards](#).
- Post, at a prominent location within the workplace, the [OSHA poster](#) (or the state-plan equivalent) informing employees of their rights and responsibilities.
- Report to the nearest [OSHA office](#) all work-related fatalities within 8 hours, and all work-related inpatient hospitalizations, all amputations and all losses of an eye within 24 hours. Call our toll-free number: 1-800-321-OSHA (6742); TTY 1-877-889-5627.

[Employers under federal OSHA's jurisdiction were required to begin reporting by Jan. 1, 2015. Establishments in a state with a state-run OSHA program should contact their state plan for the implementation date].



8-24 Hours to Report

1-800-321-OSHA (6742)

OSHA Recordkeeping Changes for 2015

The new OSHA Reporting requirements expands the list of severe work-related injuries and illnesses to be reported to OSHA within **24 hours** while shortening the amount of time for entities to report work-related fatalities.

The new list of severe injuries and illnesses includes:

- Injuries or illnesses requiring an in-patient hospitalization of at least one day
- Amputations
- Loss of an eye

Catastrophic incidents requiring hospitalization of at least three or more employees must also be reported within **24 hours** as was the case previously.

Work-related fatalities must now be reported within **8 hours** as opposed to 24 hours as was previously the case.

All companies under OSHA's jurisdiction must be in compliance by January 1, 2015.

Entities can call in the above notices to any of the below telephone numbers:

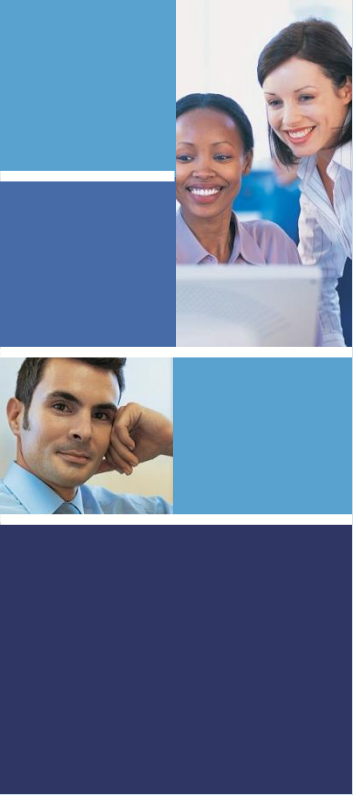
- 1-800-321-OSHA (6742)
- Closest area office (website: osha.gov)
- An online form available soon according to OSHA

Fatalities occurring within 30 days of the incident giving rise to the injury or illness are to be reported. In-patient hospitalization of at least one day, amputations and loss of an eye cases occurring with 24 hours of the incident giving rise to the injury and illness are to be reported.

Please note that entities with ten or fewer employees are exempt from recordkeeping requirements regardless of the nature of the operations. **However they are not exempt from the reporting requirements as discussed above.**

OSHA also has expanded the list of the type of operations based on North American Industry Classification System (NAICS) codes. This list is attached.

An additional list of those types of operations still exempt from recordkeeping requirements is enclosed. Please note that even if an entity is exempt from recordkeeping it must comply with the above reporting requirements or must keep records if requested in writing by OSHA.



Not Done Yet - Employer Responsibilities

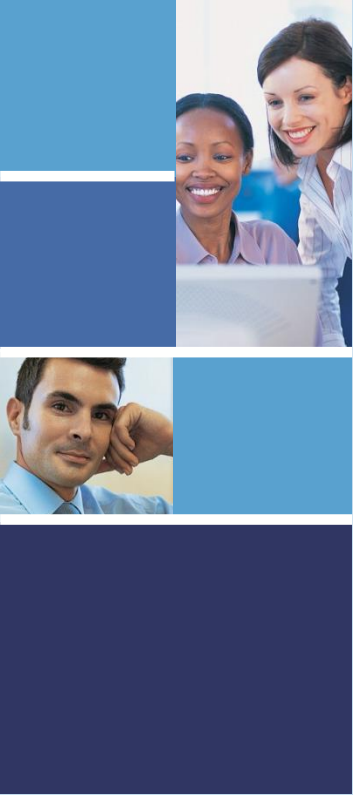
UNDER THE OSH LAW

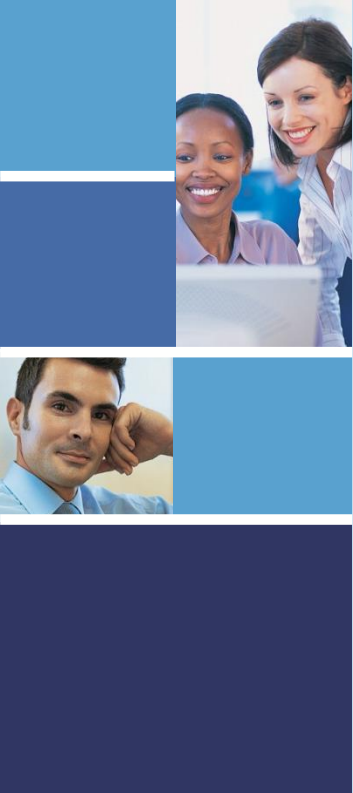
- Keep records of work-related injuries and illnesses. (Note: Employers with 10 or fewer employees and employers in certain low-hazard industries are exempt from this requirement.
- Provide employees, former employees and their representatives access to the Log of Work-Related Injuries and Illnesses (OSHA Form 300). On February 1, and for three months, covered employers must post the summary of the OSHA log of injuries and illnesses (OSHA Form 300A).
- Provide access to employee medical records and exposure records to employees or their authorized representatives.
- Provide to the OSHA compliance officer the names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection.
- Not discriminate against employees who exercise their rights under the Act. See our "Whistleblower Protection" webpage.

Finally! See There Are A lot of Rules

UNDER OSH LAW

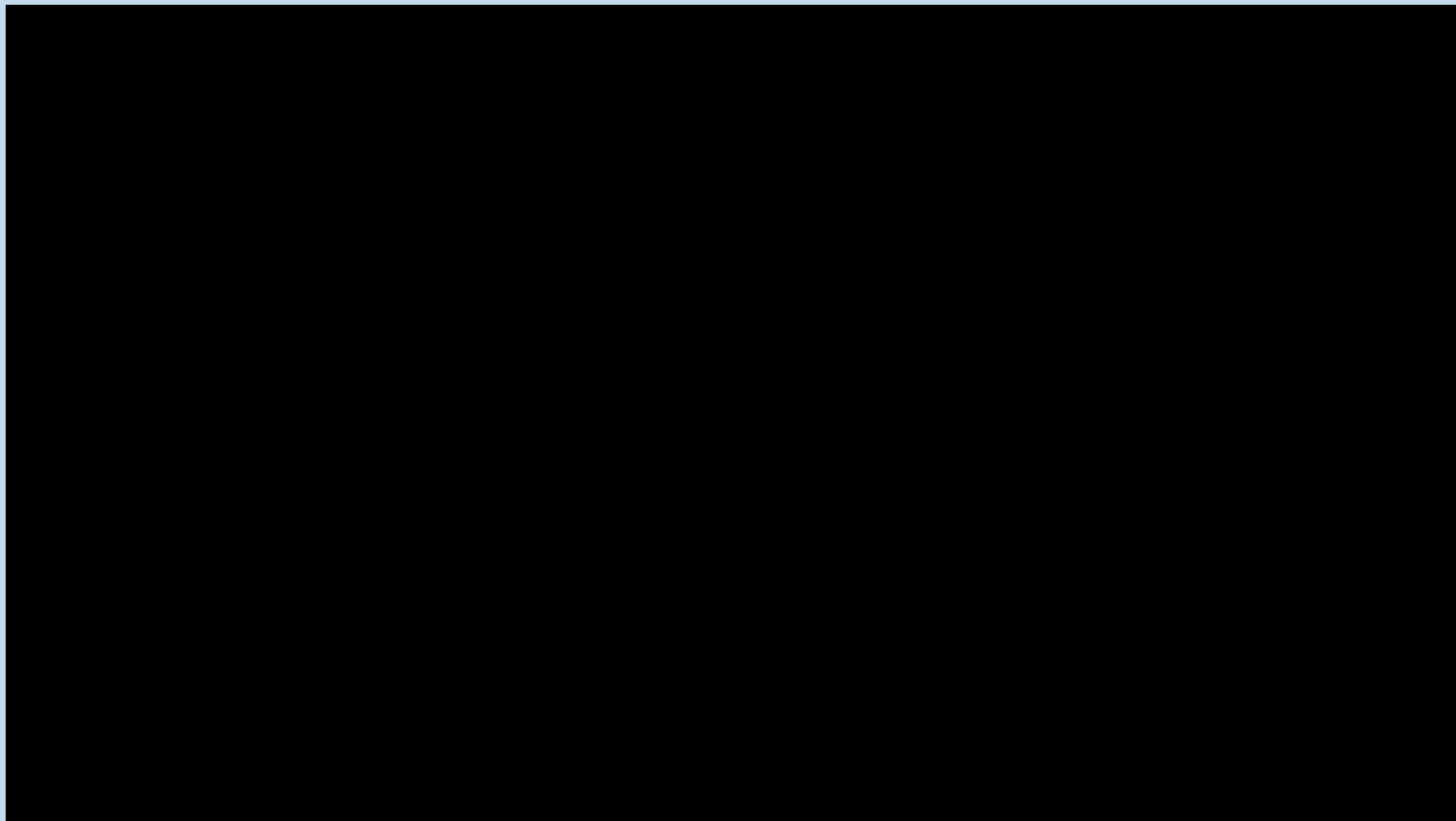
- Post OSHA citations at or near the work area involved. Each citation must remain posted until the violation has been corrected, or for three working days, whichever is longer. Post abatement verification documents or tags.
- Correct cited violations by the deadline set in the OSHA citation and submit required abatement verification documentation.
- OSHA encourages all employers to adopt an Injury and Illness Prevention Program. Injury and Illness Prevention Programs, known by a variety of names, are universal interventions that can substantially reduce the number and severity of workplace injuries and alleviate the associated financial burdens on U.S. workplaces. Many states have requirements or voluntary guidelines for workplace Injury and Illness Prevention Programs. Also, numerous employers in the United States already manage safety using Injury and Illness Prevention Programs, and we believe that all employers can and should do the same. Most successful Injury and Illness Prevention Programs are based on a common set of key elements. These include: management leadership, worker participation, hazard identification, hazard prevention and control, education and training, and program evaluation and improvement. OSHA's Injury and Illness Prevention Programs topics page contains more information including examples of programs and systems that have reduced workplace injuries and illnesses.



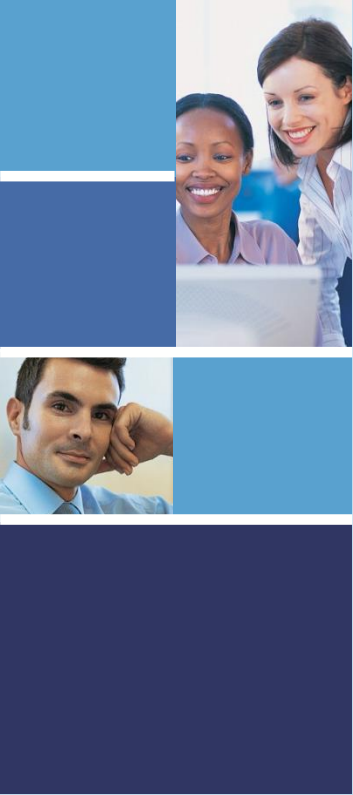


Fraud Happens

DON'T BE THE FOOL – KEEP YOUR COOL – TELL INSURANCE CO!

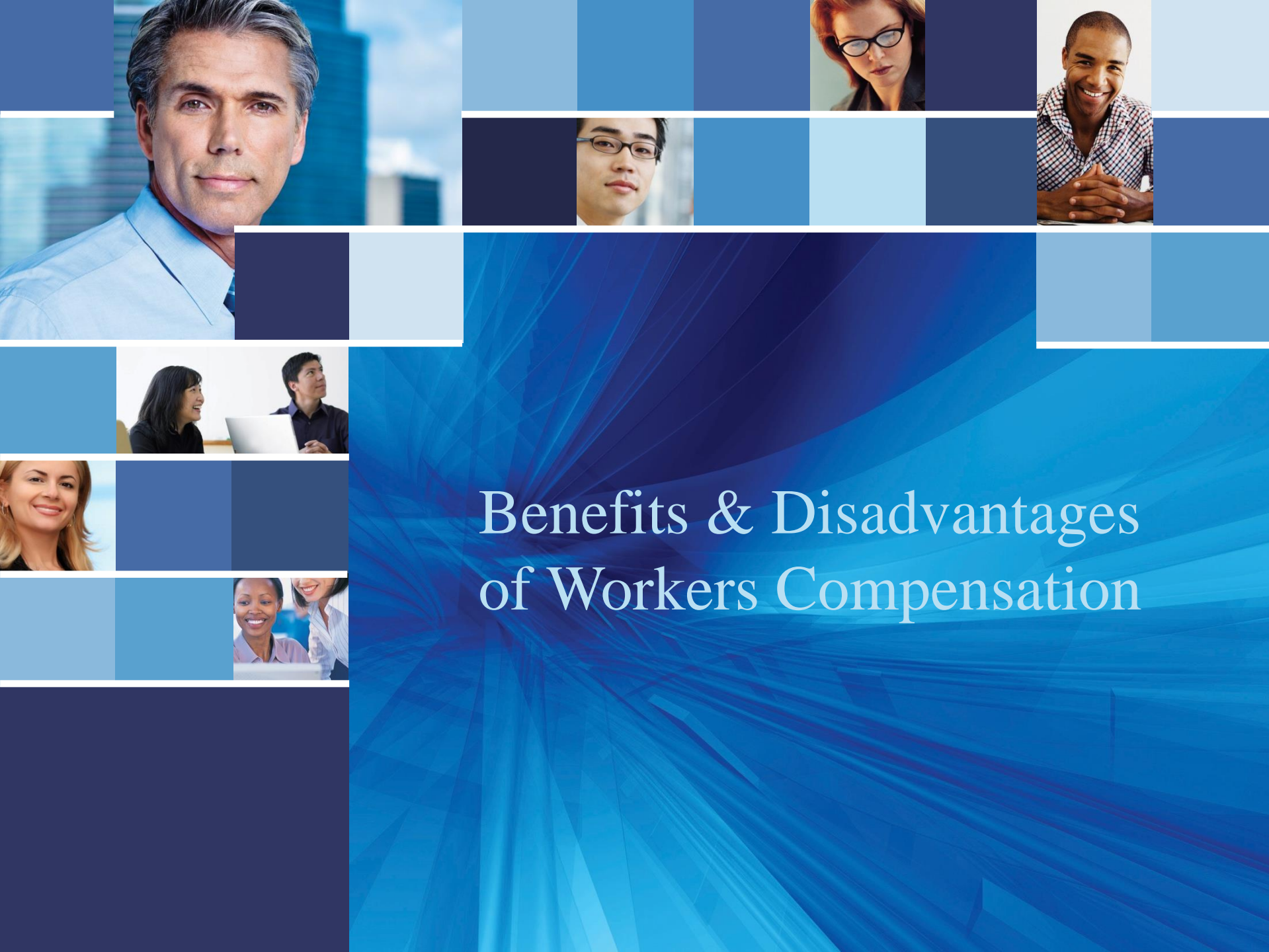


Play beginning of fraud then skip to 1:16



Protect Yourself from WC Fraud

- Here are a few steps employers can take to avoid premium fraud and the associated penalties:
- ***Be certain you can justify the classifications of each of your employees.*** Are they classified as machine operators or millwrights? In determining such distinctions, consider not only job descriptions but also industry standards, such as union or trade association membership. These factors may be used as circumstantial evidence down the road.
- ***Be diligent in reporting to your insurer instances of reclassification,*** such as when an employee is promoted from a clerical position to a role that requires fieldwork that could expose him or her to additional risk of injury.
- ***Cooperate with the insurance company if it requests an audit.*** If the auditor finds what he or she perceives to be irregularities, the employer's cooperation will typically result in a simple reassessment and correction of the premium actually owed.



Benefits & Disadvantages of Workers Compensation



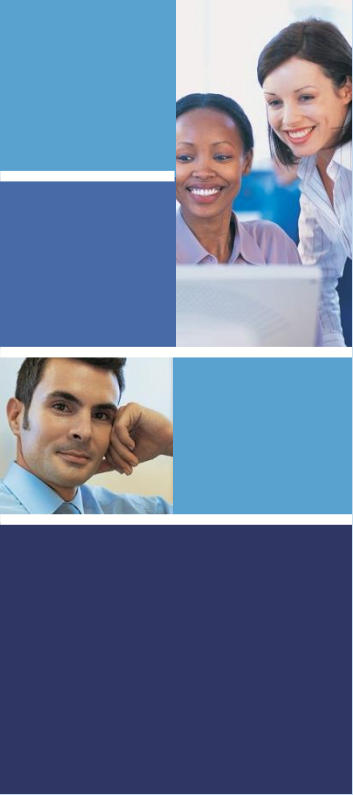
Benefits for the Employer

- Employees cannot seek damages through a separate tort suit against the employer because workers' compensation is the exclusive remedy for on-the-job injuries.
- Employees are limited as to the amount of benefits they may recover

PERMANENT PARTIAL DISABILITY BENEFITS SCHEDULE OF BODY PARTS

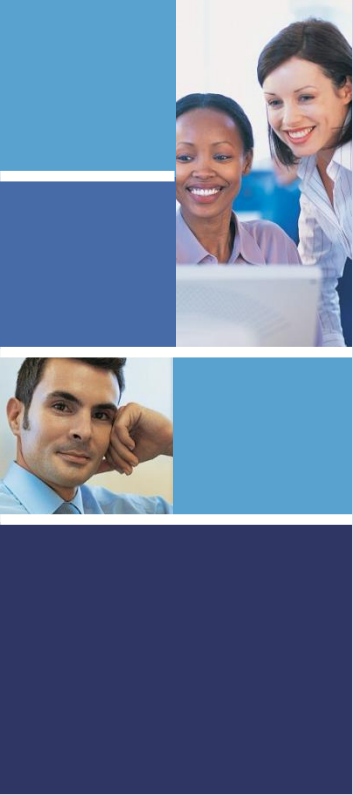
	<i>For injuries occurring</i>				
	<u>Before 7/20/2005</u>	<u>7/20/2005 - 11/15/2005</u>	<u>11/16/2005 - 1/31/2006</u>	<u>2/1/2006 - 6/27/2011</u>	<u>On or after 6/28/2011</u>
Disfigurement	150	162	150	162	162
Thumb	70	76	70	76	76
First (index) finger	40	43	40	43	43
Second (middle) finger	35	38	35	38	38
Third (ring) finger	25	27	25	27	27
Fourth (little) finger	20	22	20	22	22
Great toe	35	38	35	38	38
Each other toe	12	13	12	13	13
Hand	190	205	190	205	205
--Carpal tunnel due to repetitive trauma					28.5 - 57
Arm	235	253	235	253	253
--Amputation above elbow	250	270	250	270	270
--Amputation at shoulder joint	300	323	300	323	323
Foot	155	167	155	167	167
Leg	200	215	200	215	215
--Amputation above knee	225	242	225	242	242
--Amputation at hip joint	275	296	275	296	296
Eye	150	162	150	162	162
--Enucleation of eye	160	173	160	173	173
Hearing loss of one ear (under WC Act)	50	54	50	54	54
Hearing loss of both ears (under WC Act)	200	215	200	215	215
Testicle--1	50	54	50	54	54
Testicle--2	150	162	150	162	162

The law places a value on certain body parts, expressed as a number of weeks of compensation for each part.



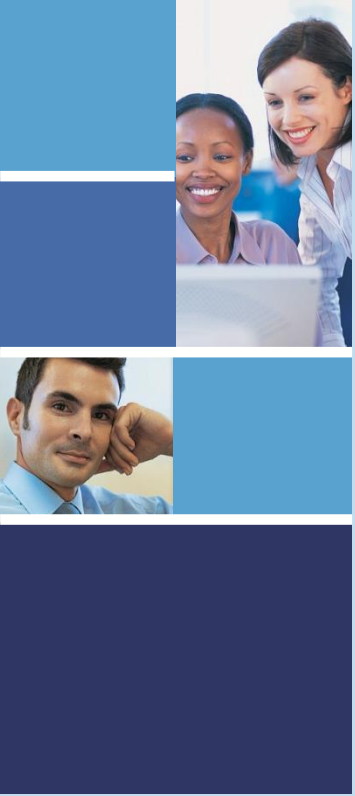
Benefits for the Employee

- Coverage is provided without direct cost to the employee
- Prompt payment of claims following an injury
- Medical expenses are compensated
- Payments are based on the employee's current earnings and are generally excluded from gross income for tax purposes
- Payments are made to an employee's spouse or dependent children in the event of death



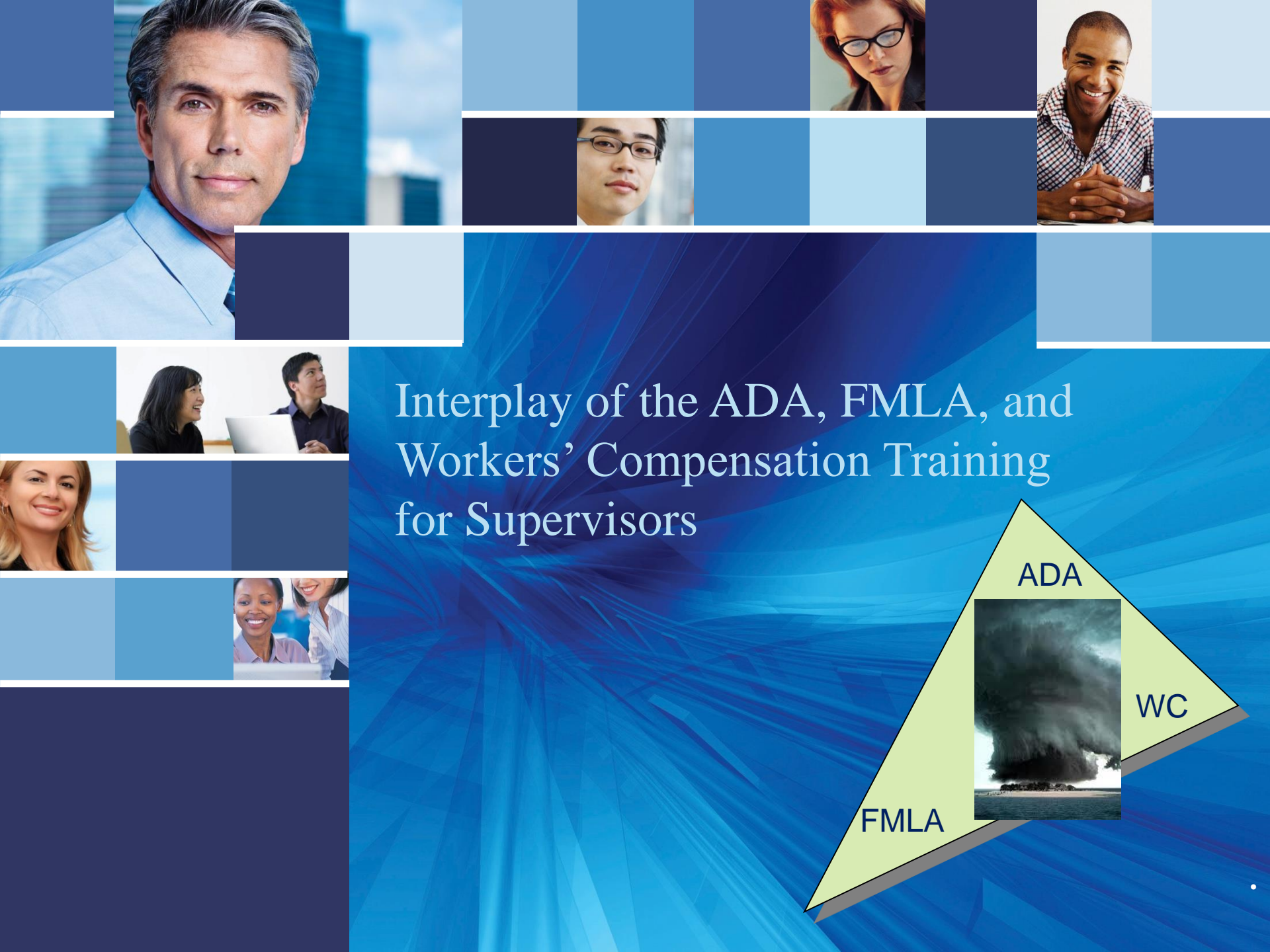
Disadvantages for the **Employer**

- Premiums may be high because of the nature of the employer's business as the costs are based on the employer's accident record
- The employer's paperwork burden is increased because of requirements to file accidents with state authorities
- Time may be spent defending fraudulent or spurious claims

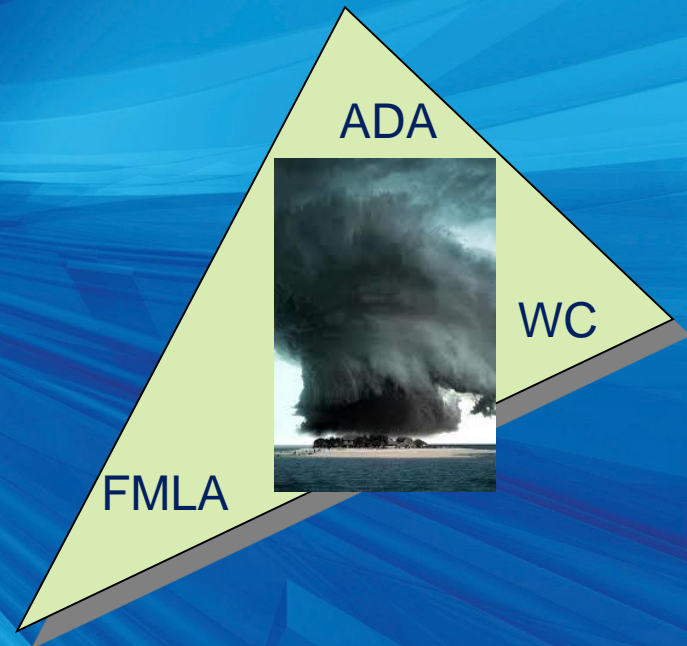


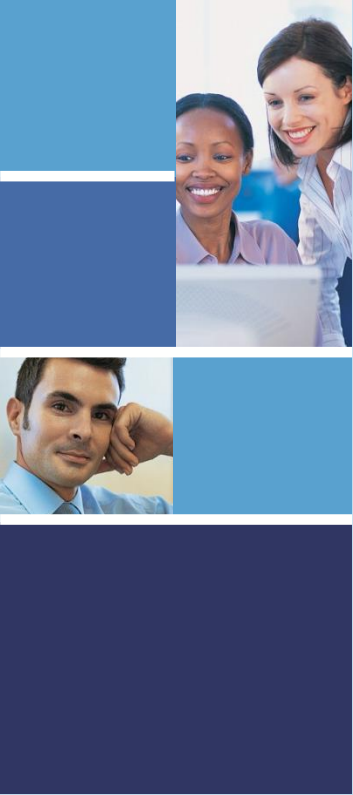
Disadvantages for the Employee

- The employee is denied an opportunity to seek damages beyond workers' compensation such as for pain and suffering or punitive damages through a tort action against the employer
- In some states workers' compensation benefits may be offset by Social Security disability benefits



Interplay of the ADA, FMLA, and Workers' Compensation Training for Supervisors





8 Elements to Consider...when managing employee absenteeism

1. Employer Coverage
2. Employee Eligibility
3. Length of Leave
4. Medical Documentation
5. Restricted or Light Duty
6. Fitness to Work Certification
7. Benefits While on Leave
8. Reinstatement

NOTE: State laws may provide broader protections than federal requirements.



An example of a workers' compensation injury with ADA and FMLA interaction:

WHAT HAPPENED TO CHARLES SMITH?

Charles Smith was seriously injured on the job when the forklift he was operating overturned. He had multiple open fractures on his left leg and serious injury to his left eye. He was hospitalized immediately but will need to walk with a cane the rest of his life and will have very limited vision in his left eye.

Charles Smith Example – Pg 2

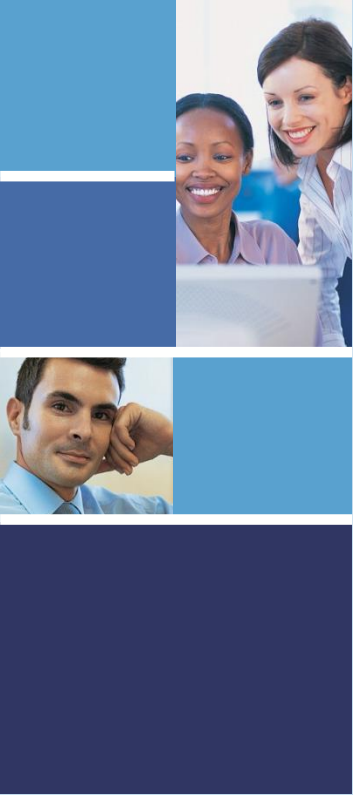
THE COMPANY

- The company Charles works for employs over 200 people at the site where Charles works. It must comply with both the ADA and the FMLA.
- Charles has been with the company for three years and has worked full-time with very few absences. He is eligible for 12 weeks of FMLA leave.
- The injury Charles suffered qualifies as a disability under the ADA and as a serious health condition under the FMLA.
- Charles needs to be absent from work for at least four months. His first three months are designated as workers' compensation leave and run concurrently as FMLA leave. The fourth month is covered as workers' compensation leave.

Charles Smith Example – Pg 3

POST INJURY

- Charles's employer was able to obtain medical documentation of his injury under workers' compensation, the ADA and the FMLA.
- His company required a fitness to return to work clearance under workers' compensation.
- At the end of his fourth month of absence, when Charles was cleared to return to work but with permanent restrictions on the work he could perform, his company provided light duty and a job accommodation. His job was changed from forklift operator to warehouse dispatcher.



Charles Smith Example – Pg 4

HIS BENEFITS

- All of Charles's benefits were continued at the same level under FMLA for his first three months of absence and for the fourth month under the company's workers compensation policy.
- As Charles exhausted his FMLA leave prior to when he was able to return to work in his previous job, the employer was not required to provide FMLA reinstatement in the same or equivalent job he had prior to the injury. The fact that Charles was unable to perform the functions of his previous job also removed the employer's obligation to reinstate in the same or an equivalent position.



What do you think?

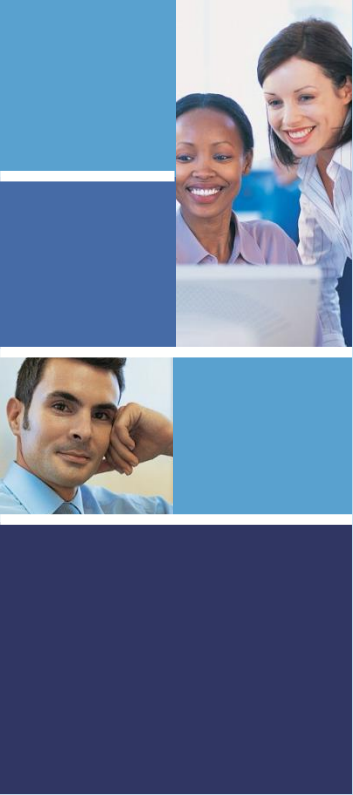
Answer in Groups

1. Applicability of each law-ER Coverage
2. Eligibility of employee
3. Length of Leave
4. Medical Documentation
5. Restriction or Light Duty
6. Fitness for Work
7. Benefits
8. Reinstatement
9. Additional comments



Questions or Comments?

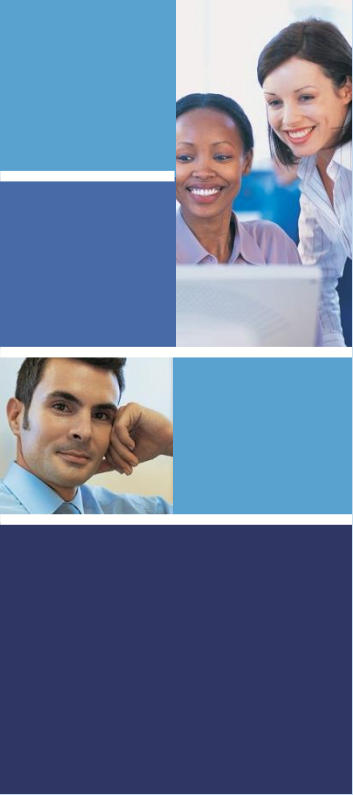




Areas of Interplay between ADA, FMLA, and Workers' Compensation...

1. Employer Coverage

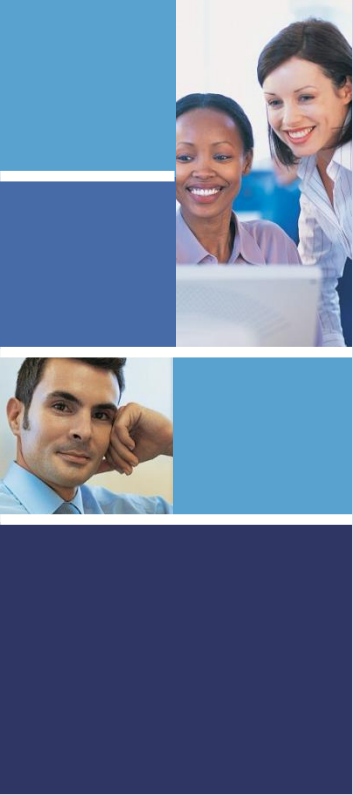
- ADA – **15 or more employees** for 20 weeks during current or preceding calendar year
- FMLA – **50 or more employees** within a 75-mile radius for at least 20 weeks during current or preceding calendar year
- **Workers' Compensation –**
Applies to most, even small employers. State laws govern. Generally **after first 30 days of employment.**



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

2. Employee Eligibility

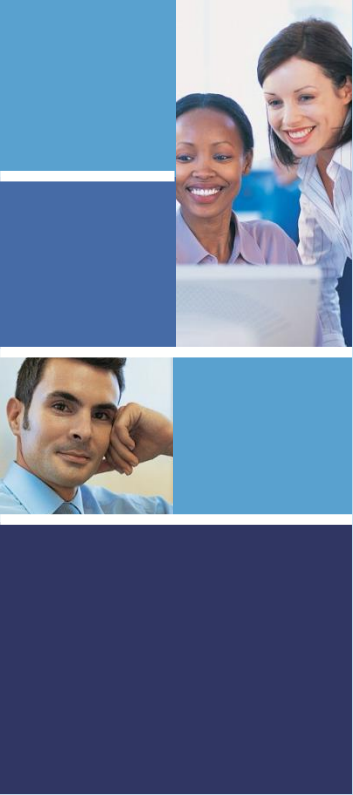
- **ADA** – an employee (or applicant) who is disabled as defined by the ADA, is qualified for the position and can perform the essential functions of the position with or without a reasonable accommodation.
- **FMLA** – an employee who has worked at least 12 months and 1250 hours prior to the start of the leave and who works at a worksite where there are 50 or more employees within a 75-mile radius.
- **Workers Compensation** – an employee who has an injury arising out of or in the course of employment with state law exceptions possible for willful misconduct or intentional self-inflicted injuries, willful disregard of safety rules, or intoxication from alcohol or illegal drugs.



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

3. Length of Leave

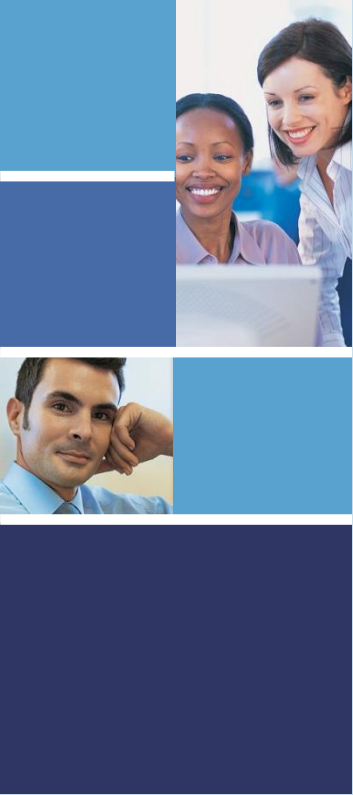
- *ADA* – No specific limit for the amount of leave that would be provided as a reasonable accommodation that does not create an undue hardship on the employer.
- *FMLA* – 12 weeks in the 12 month period as defined by the employer
- ***Workers' Compensation*** – No specific limit for the amount of leave an injured worker may have.



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

4. Medical Documentation

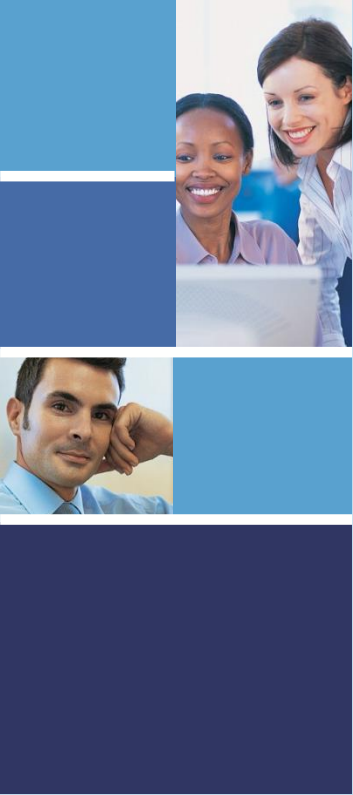
- **ADA** – Only medical examinations or inquiries regarding an employee's disability that are job-related and limited to determining ability to perform the job and whether an accommodation is needed and would be effective.
- **FMLA** – Medical certification of the need for the leave not to exceed what is requested in the Department of Labor (DOL) Medical Certification Form.
- ***Workers' Compensation*** – Medical information that pertains to the employee's on-the-job injury.



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

5. Restricted or Light Duty

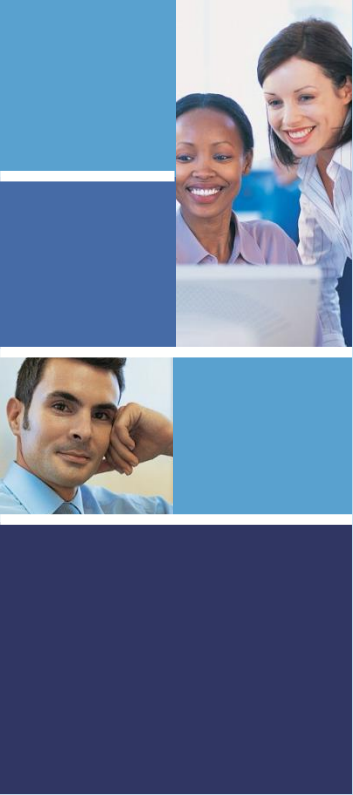
- *ADA* – Required to be offered if it is a reasonable accommodation that does not create an undue hardship on the employer.
- *FMLA* – Cannot be required.
- *Workers' Compensation* – Ought to be offered if available as it may eliminate the employee's entitlement to the wage replacement benefit.



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

6. Fitness-to-Return-to-Work Certification

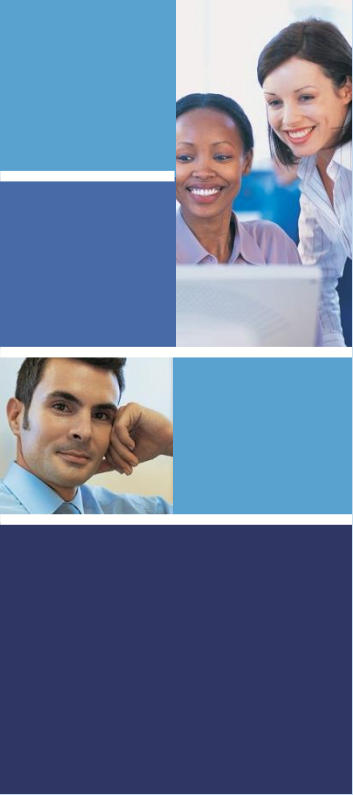
- *ADA* – Permitted as long as the medical examination and inquiry is job-related and necessary to determine whether the employee can perform the essential functions of the job.
- *FMLA* – Can only be required under a policy or practice that requires employees who have been on a similar type of leave of absence
- ***Workers' Compensation*** – May be and is typically required.



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

7. Benefits While on Leave

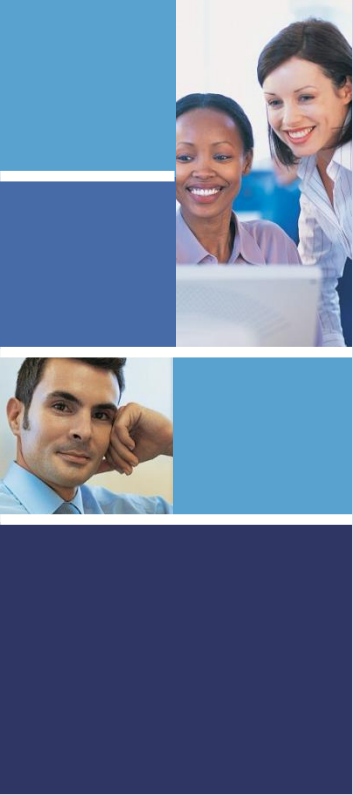
- **ADA** –No specific requirements but cannot discriminate and must provide same benefits as those provided to employees on non-ADA leave of absence.
- **FMLA** – Health coverage must be continued at same level as prior to the leave. Benefits other than health benefits are determined by the employer's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate).
- ***Workers' Compensation*** – Not required to be continued unless run concurrently with FMLA leave.



Areas of Interplay between ADA, FMLA, and Workers' Compensation (cont'd)

8. Reinstatement

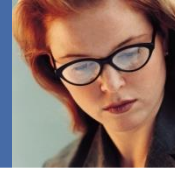
- *ADA* – Required reinstatement to previous job unless doing so would create an undue hardship on the employer.
- *FMLA* – Required reinstatement to the same or an equivalent job. NO undue hardship exception.
- ***Workers' Compensation – No reinstatement rights under most state laws, except for retaliatory discharges.***



8 Elements to Consider...when managing employee absenteeism

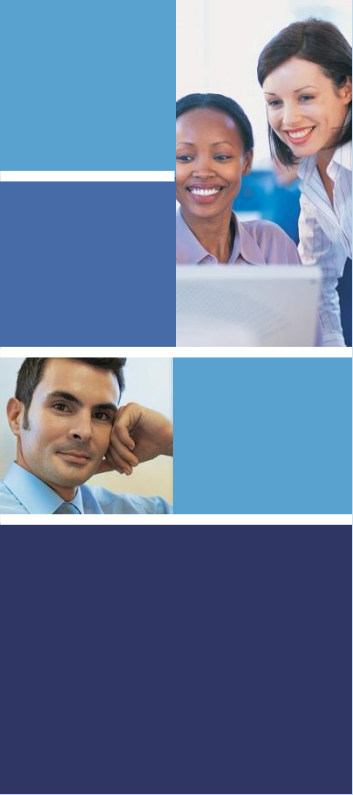
1. Employer Coverage
2. Employee Eligibility
3. Length of Leave
4. Medical Documentation
5. Restricted or Light Duty
6. Fitness to Work Certification
7. Benefits While on Leave
8. Reinstatement

NOTE: State laws may provide broader protections than federal requirements.



What to Do When On-the-Job Accidents Happen

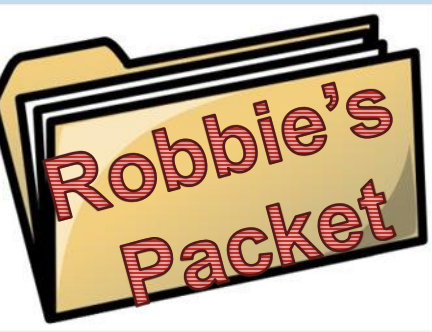
**IMPORTANT ACTIONS
TO TAKE WHEN A JOB-
RELATED INJURY
OCCURS:**

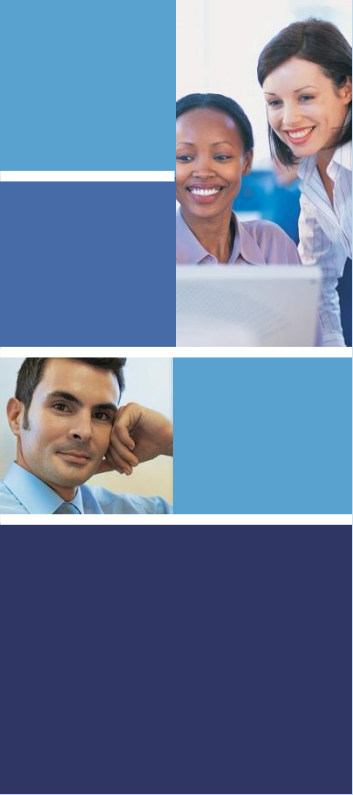


Report

DO NOT LET EMPLOYEE FILL OUT IL FORM 47 UNDER ANY CIRCUMSTANCES!

File a workers' compensation claim according to the procedures required by your workers' compensation insurance carrier. This may include filing the report with your state agency if your insurance company does not fulfill this requirement.



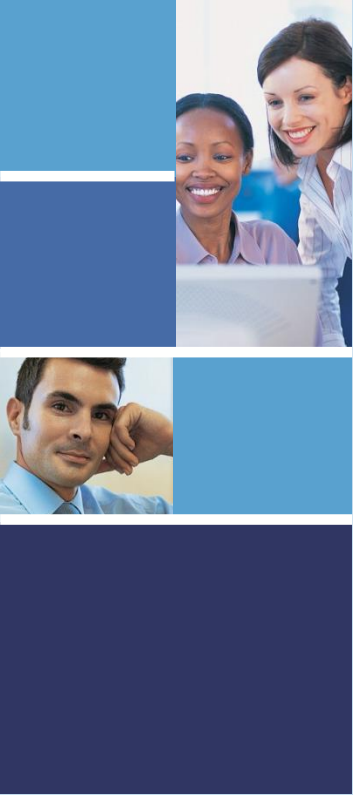


Do We Have to Report?

WORRIED ABOUT WC INSURANCE RATES

We have an employee who suffered a minor injury at work and missed a few days. Could we just pay the person for time missed instead of filing a workers' Compensation?

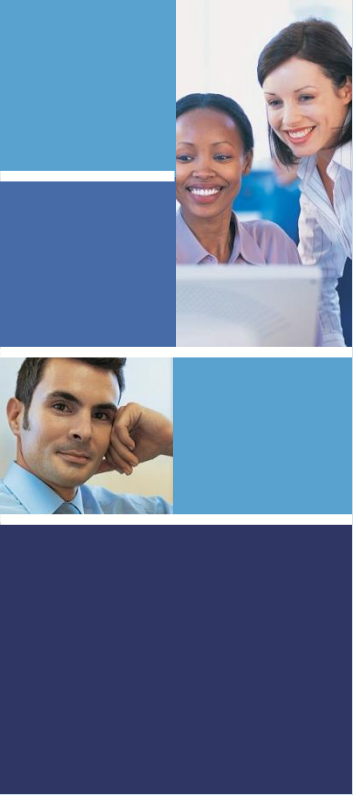




Accident Report Forms

VIA IL WORKERS COMPENSATION RULES

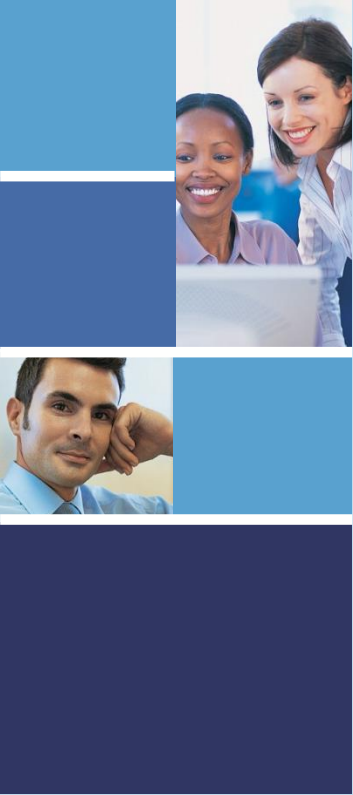
- Section 6(b) of the [Workers' Compensation Act](#) requires employers (or insurers acting on their behalf) to send reports to the Commission on all accidents involving more than three lost work days. First reports on fatal accidents are due within two work days after the death; reports on nonfatal cases shall be reported within the month. A supplementary or subsequent report should be made if it is determined that a permanent disability is involved.
- There are two versions of each report below. We will accept either version. The IC45 and IC85 forms were created by the Commission; the IA1 and IA2 forms were created by the International Association of Industrial Accident Boards and Commissions (IAIABC), used in many states.
- OSHA will accept the IC45 or the IA-1 form in lieu of the [OSHA Form 301](#); however, we cannot accept the OSHA form as an accident report because the OSHA form does not contain all the information required by state law.
- If possible, please send the reports electronically. It reduces our data-entry work considerably, and will save you paper and postage. [For an information packet on electronic transmission, click here.](#) Send trading partner agreements and technical questions to wcc.edi@illinois.gov
- Effective November 2011, in response to Supreme Court Order M.R. 138, the Commission no longer collects Social Security numbers. The field was eliminated from the accident report. Please update your forms. To learn how to modify the Word forms, [click here](#).
- Please mail the hard-copy accident reports to 4500 S. Sixth St. Frontage Road, Springfield, IL 62703-5118.



Treat every on-the-job accident as legitimate and do the following:

THIS IS NOT THE TIME TO SECOND GUESS

- Promptly provide first aid or direct the employee to seek emergency medical treatment. This includes having the employee accompanied to a health care provider for emergency treatment
- Obtain facts from the employee about the accident
- Inform the employee of his/her workers' compensation coverage for job-related injuries
- Investigate and document the accident as soon as possible and steps to follow to prevent similar accidents, as relevant, and direct the immediate supervisor to stay in touch with the employee and/or a family member of the employee

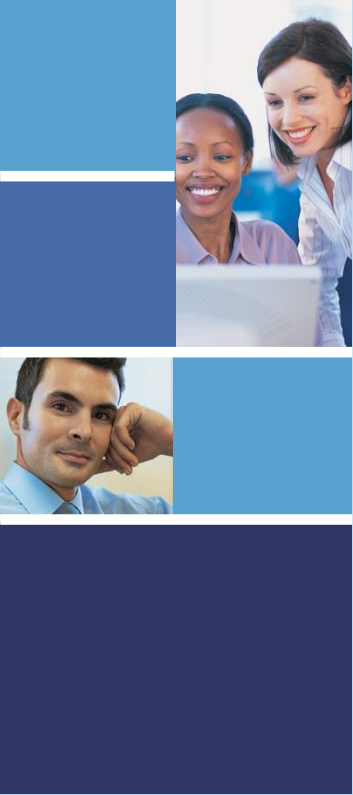


Biggest Misconception

WC INSURANCE COMPANY DOES EVERYTHING FOR US!

WRONG! The Role of the HR Professional in WC -- The role of the HR professional in relation to WC depends greatly on the size of the employer, the number of claims being filed, and the education and specialization of the HR professional. An HR generalist in a small company is occupied mostly with:

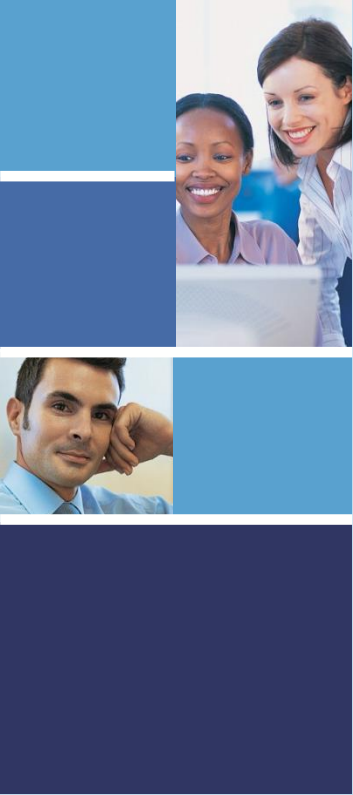
- Developing and implementing WC policies and procedures in coordination with FMLA and ADA policies and procedures.
- Developing and implementing a workplace safety program.
- Communicating with employees having WC claims.
- Communicating with carrier representatives and legal counsel.
- Conducting workplace investigations. See [How to Conduct an Accident Investigation](#).
- Supplying information to upper management to resolve WC litigation or to address systemic issues beyond the HR generalist's scope of authority.



Summary

TRAIN MANAGEMENT

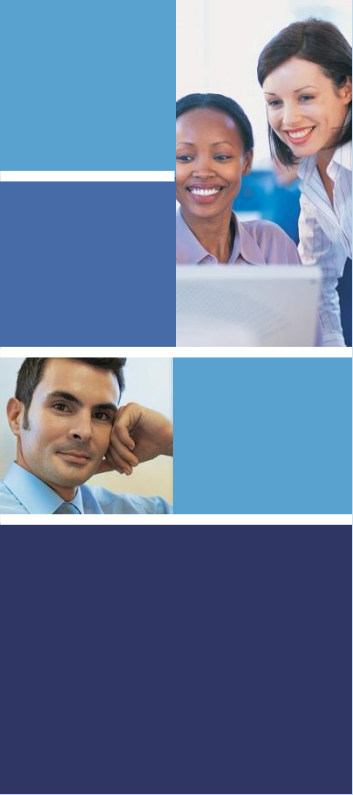
- **Workers' compensation is a system of laws in all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands**
- **Workers' compensation laws provide coverage for medical expenses and income protection for those injured on the job or suffering from occupational illnesses. The laws prohibit employers from retaliating against employees who have filed claims or received benefits.**



Summary (cont'd)

NO STATE FUND IN ILLINOIS

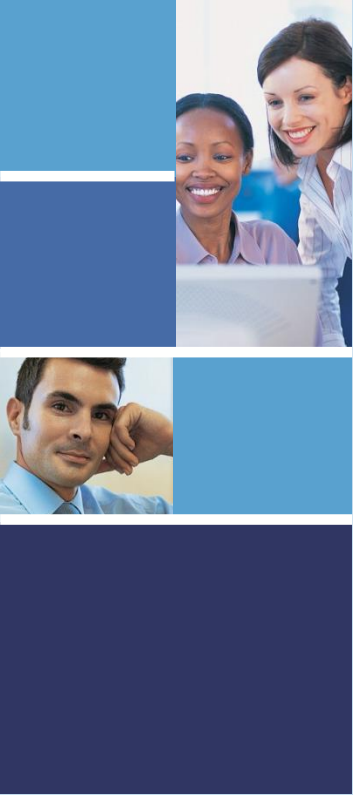
- The three methods of securing workers' compensation insurance are through an approved carrier, through self-insurance, or through a state fund.
- Workers' compensation laws state that in order to be compensable, an injury must “arise out of and in the course of employment”.



Summary (cont'd)

NO OTHER MEANS OF CLAIMS AGAINST EMPLOYER

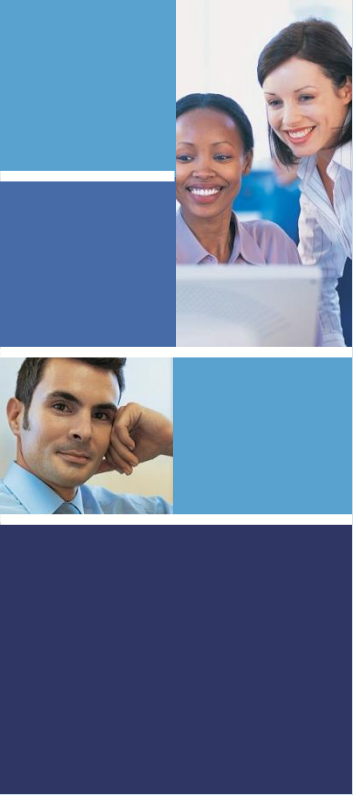
- **Benefits to the employer are that workers' compensation is the exclusive remedy for on-the-job injuries and employees are limited to the amount of benefits they may receive.**
- **Benefits to the employee are that there is no cost to the employee, medical expenses are paid, payments are based on current earnings and are generally excluded from income for taxation, and payments are made to a spouse or dependent children in the event of death.**



Summary (cont'd)

HIGH PREMIUMS POSSIBLE

- Disadvantages to the employer are the possibility of high premiums based on its accident record, a heavy paperwork burden and spending time defending fraudulent or spurious claims.
- Disadvantages to the employee are that there is no opportunity beyond workers' compensation to recover for damages and that in some states the benefits may be offset by Social Security disability pay.



Summary (cont'd)

FILE THE CLAIM PROMPTLY

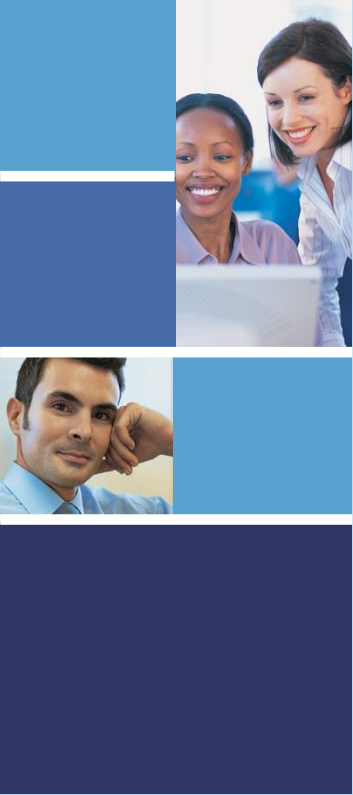
- There may be interaction of workers' compensation with the ADA and the FMLA depending on the severity of an employee's on-the-job injury or illness and the size of the employer.
- Important actions to take when an on-the-job injury occurs include filing the workers' compensation claim, treating every accident as legitimate and providing first aid or directing the employee to emergency treatment, obtaining facts about the accident, informing the employee about workers' compensation coverage, investigating and documenting the accident, and taking steps to prevent similar accidents.



To reduce workers' compensation injuries:

BE PROACTIVE

- Develop and implement an employee safety culture.
- Establish and empower a safety management committee that is in charge of your accident prevention program.
- Educate managers about the cost and impact of workers' compensation and hold them accountable for prevention of injuries.
- Report workers' compensation injuries as soon as possible and decide on appropriate steps to take to prevent similar injuries.
- Have a light duty/return to work program.
- Maintain frequent contact with the injured employee and the workers' compensation case manager.

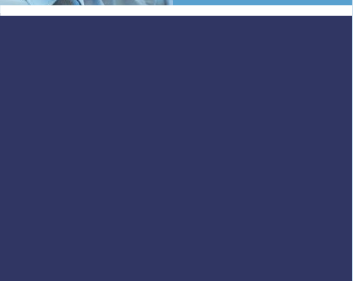
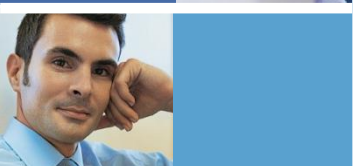


Appoint a
return-to-
work
coordinator
(RTWC)

Light-Duty Bank of Assignments

EXAMPLES

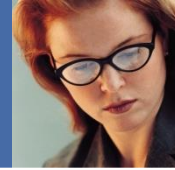
- Administrative work (e.g., filing, handling mail, answering phones, data entry, shredding).
- Safety-related tasks (e.g., safety inspection such as checking fire extinguishers, updating material safety data sheets).
- Ordering and stocking supplies (e.g., first aid, office supplies).
- Shipping and packaging duties.
- Providing training to others.
- Completing any needed training for professional development.



Comply with OSH Training Req

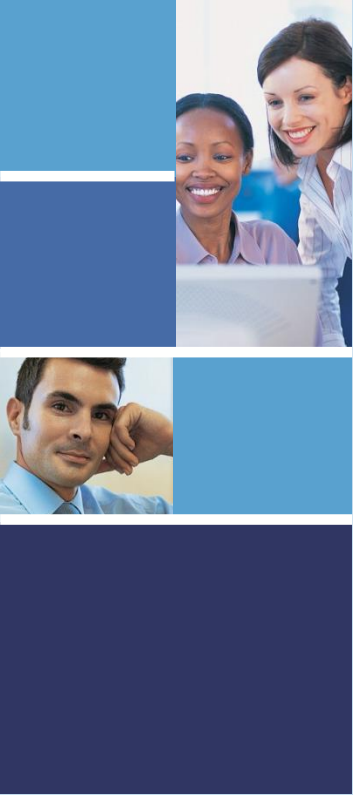
INITIAL, RETRAINING – ANNUALLY & OTHER REASONS

OSHA Training Requirements - General Industry & Construction			
Subject Matter	Standard	Timing	Retraining
Ladders	1910.25 - .27	Initial assignment	Employer's discretion
Emergency Plans & Fire Prevention	1910.38	Initial development	When plan is changed &/or When EE's duties change
Fire Hazards assoc'd w/ products	1910.38	Initial assignment	Employer's discretion
Powered Work Platforms (aerial lifts, scissors, boom)	1910.66	Initial assignment to equipt	Employer's discretion
Respiratory Protection	1910.94	Initial assignment	Employer's discretion
Hearing Protection	1910.95	Initial assignment	Annually
Personal Protective Equipment (eye, face, hand, head, foot)	1910.132	Initial assignment	Employer's discretion
Permit-Required Confined Spaces	1910.146	Initial assignment	Yearly recommended, Change in ee' s duties &/or When change to program
Control of Hazardous Energy (Lockout/TagOut)	1910.147	Initial assignment	Yearly for Authorized EE's, Change in EE's Duties, Whenever change to program
First Aid trained personnel	1910.151	Initial assignment	Employer's discretion
Fire Protection	1910.157	Initial assignment	Annually
Powered Industrial Trucks (forklifts, order pickers, pallet movers)	1910.178	Initial assignment to equipt	Every 3 years thereafter, When assigned to a new truck, New Equipt in Use, Incident w/truck, Unsafe behaviors seen, Lack of proficiency
Mechanical Power Presses	1910.217	Initial assignment	Employer's discretion
Welding, cutting, brazing	1910.252-255	Initial assignment	Employer's discretion
Hazard Communication	1910.1200	Initial assignment	Change in process, New product introduced, EE Transferred, GHS Requirements by 12/13
Blood Borne Pathogens	1910.103	Initial assignment	Annually
Fall Protection	1926.503 (Construction)	Initial Assignment	Annually, Lack of Proficiency, Changes in the Fall Protection Equipt or Workplace
Arc Flash/ Arc Blast	NFPA 70E	Initial Assignment	Annually for Qualified Persons , Discretion of Employer or Others
Trenching and Excavating	Subpart P	No Requirements Recommended Yearly	Discretion of Employer



Special Circumstances

NO SURPRISE



Employer Liability Extended

THE OBVIOUS AND NOT SO OBVIOUS

- “Temporary” Employee Injured – YES – Joint Employer Relationship
- “Independent Contractor” – Maybe – Misclassification of Worker
- Employer Liability Insurance (ELI)
Protection Against WC via Sexual Assault
Under Sexual Harassment Claims



Special Thanks to Our
Lunch Sponsors:

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&

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November 17, 2016
Northfield Inn
Springfield, Illinois



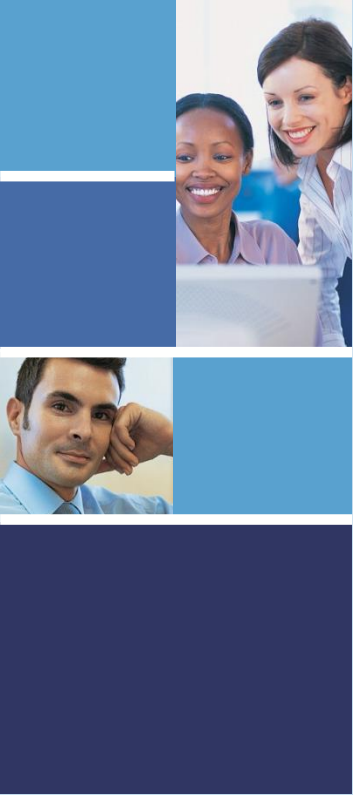
What Final Questions Do you Have?



Contact:

Donna Rogers, SPHR
(217) 414-1297
HR.CIRMA@gmail.com

Donna Rogers, Med., SPHR, SHRM-SCP
HR.CIRMA@Gmail.com



Additional Questions

ASK THE ENFORCERS

- **ILLINOIS**

Illinois Workers' Compensation
Commission

100 West Randolph Street
Suite 8-200

Chicago, IL 60601

(312) 814-6611 or 1-866-352-3033 (Toll-
Free in Illinois)

And Just So You Know

Illinois Legislators Have
Been Busy!

New Laws Forum
coming in Spring
2017

Amends Data Breach Law (1/1/17)

Child Bereavement Leave (7/29/16)

Employee Sick Leave Act (1/1/17)

**Expands Victim Leave Coverage to All
Employers (1/1/17)**

Freedom to Work Act (1/1/17)

Chicago Paid Sick Leave (7/1/17)