Workers' Compensation Basics

by Sue C. Quimby, CPCU, AU, CIC, CPIW, DAE

A safe workplace is a basic right of every employee. Protecting employees against injury, and ensuring that they have proper medical coverage in the event of an accident, is a primary responsibility of every business owner, from the small contractor to the multinational conglomerate. Most states allow insurance agents to purchase Workers' Compensation and Employer's Liability for their clients from a competitive marketplace. A handful, however - North Dakota, Ohio, Washington and Wyoming -are monopolistic states. This means that coverage must be purchased from a compulsory state fund, or the business is qualified as a self-insurer. Helping clients understand how Workers' Compensation differs among states is another value-added service of the professional insurance agent.

In the vast majority of states, a Workers' Compensation policy is available from a choice of insurers to offer protection to employers for their most important employee-related exposures. The National Council on Compensation Insurance (NCCI) regulates coverage, collects data, reviews industry trends, and publishes loss costs (www.ncci.com). Monopolistic state funds do not operate under the regulations of NCCI.

In a standard Workers' Compensation policy, Part I of the policy addresses statutory liability exposures, such as medical coverage and lost wages due to on the job injuries, while Part II, Employer's Liability Coverage, applies to work-related diseases or injuries to employees that are outside the statutes. Examples of Part II scenarios include an injured employee who sues their employer because the employer failed to properly maintain the equipment. The injuries would be covered by Part I, while the liability lawsuit falls under Part II.

Employer's Liability coverage addresses a number of events: intentional acts/torts by employer, diseases or injuries that are excluded from state workers compensation statutes, and loss of consortium and other loss of services to family members. Third party over action claims can occur when an employee is injured by a machine and sues the manufacturer, who may then sue the employer based on the employer's perceived negligence. In a dual capacity claim, the employer and employee have more than one relationship. This could be if the employee is injured by a product that the employer manufactured. Employer's Liability coverage can pay for attorney's fees, court costs, and settlements or judgements (www.insureon.com).

Each monopolistic state has its own regulations, and their own way to obtain coverage. Although being self-insured is an option, the requirements to do so are extremely restrictive. Therefore, only the largest well-funded employers will qualify to self-insure (www.workcompconsultant.com). Employers must contact the state directly to purchase the coverage, as insurance agents are prohibited from doing so.

A key difference is that monopolistic state coverage does not include Employer's Liability coverage. This is why Stop Gap coverage is needed. Stop Gap coverage provides the employer's liability coverage Employers with operations in monopolistic and non-monopolistic states can add the Stop Gap endorsement to their worker's compensation policy covering the non-monopolistic state operations. For employers operating solely in monopolistic states, the endorsement would be added to the general liability policy.

A safe workplace is the goal for all employers. Accidents happen, even to the most careful employees. Helping clients understand Workers' Compensation coverage and how to obtain it is another sign of the true insurance professional.

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