



STATE OF NEW MEXICO

Workers' Compensation Administration

ONE TEAM | ONE GOAL

A Better New Mexico for Workers and Employers

Employer Workshop

Who Are We?

- Agency of New Mexico State Government

MISSION

To assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers.

Questions? Contact Us:

PIO-WCA@state.nm.us

workerscomp.nm.gov



What Do We Do?

- **Administer and regulate the Workers' Compensation law**
- **Enforce the insurance coverage requirements of the law**
- **Educate and provide information**
- **Dispute Resolution – WCA has its own court system**

**New Mexico
Workers'
Compensation
Administration
2021 Annual
Report**



Services We Provide for Employers and Workers

- **Ombudsman Program**
Inform and educate clients about workers' compensation
- **Safety Program**
Provide safety services for employers
- **Early Return to Work initiative**
Educate workers and employers on benefits of returning injured workers back to work ASAP
- **Extensive website**
- **Publications including annual report**
- **Seminars**

What Is Workers' Compensation?

- “No Fault” system
 - Minimizes litigation costs
 - Provides the quick and efficient delivery of indemnity and medical benefits to injured worker at a reasonable cost to employer
- Values the employer-employee relationship
- An effective alternative to liability and a lawsuit



Benefits of Workers' Compensation

- Workers' compensation benefits BOTH the employer and the worker:
 - **Benefits to Worker**
 - Will receive benefits no matter who or what caused the accident
 - Health care costs
 - Possible indemnity pay to substitute for lost wages



Benefits of Workers' Compensation *(continued)*



- **Benefits to Employer**

- Employer costs are predictable
 - Cost of premium only
 - Insurer pays medical benefits and indemnity benefits, if necessary
-
- “Exclusive Remedy” – protection from being sued (tort liability)

Employers Required to Have Workers' Compensation Insurance

- Employers with 3 or more employees
 - coverage is **required**
- Employers with fewer than 3 employees
 - coverage is **voluntary**
- Construction trades – **ALL** employers engaged in CID licensed activities – coverage is **mandatory regardless of the number of employees**
- Exceptions: (coverage is voluntary) -
 - Real estate salespersons
 - Domestic workers

Why Get Coverage?

- For most employers, **IT'S THE LAW!**

(If you fall within the parameters just mentioned, this is why you should get coverage.)

- OTHER REASONS:
 - It's prudent
 - It's good for business
 - It protects you! It protects your workers!





Employee or Independent Contractor?

- If you need help in your business even for one day, you might be an employer.
 - Part time
 - Seasonal
 - Temporary



The Issue Is....

- What is the working relationship between you and the other person?
 - Who controls the time, location and manner of work?
 - Who owns the workstation, equipment, supplies?
 - Do you provide fringe benefits?
 - A 1099 does NOT mean someone ISN'T an employee
- IRS has a checklist ([irs.gov](https://www.irs.gov)) – *only a guide*



**BAD
FAITH
INSURANCE**

Employee or Independent Contractor? *(continued)*

Why is this important?

Your LIABILITY or EXPOSURE to risk.

The other party can sue or take legal action against you.

Naughty Tactics -

Don't Do These!

Occasionally, employers may try to circumvent the workers' compensation system using some or all of these tactics:

- Paying workers in cash “under the table”
- Misclassifying workers as independent contractors when they are truly employees
- Giving workers 1099 tax forms
- Getting workers to sign waivers
- Being dishonest when a compliance officer calls

These actions, if used to get around the coverage requirement, are improper and do not protect you from liability.

LIABILITY IS RISK

Cost of Insurance

Cost is determined by 3 factors:

1. What industry are you in?
 - Dollars per hundred dollars of payroll
2. What is your actual payroll?
 - Will be audited at end of year
 - May include “independent contractors” if the insurance carrier considers them employees
3. Your experience modifier (e-mod) or accident history



**IT PAYS TO BE
SAFE!**

Where To Buy Coverage

Any insurance agency licensed to sell commercial lines.

Three types of coverage:

- Conventional coverage – voluntary market
- Assigned Risk Pool – for higher risk employers, costs more
- Self-insurance – for larger companies, businesses with similar activities, and governmental entities

Watch Out For Scams



When insurance market gets tight:



Companies may try to sell you an “alternative” to workers’ compensation insurance.



LAW IS SPECIFIC – If you are an employer subject to the Act, you need workers’ compensation insurance.

How Can You Save Money on Premiums?

WCA provides free safety assistance and return-to-work help to employers.

Safety:

- Stop accidents *before* they happen
 - Provide safety training
 - Provide safety equipment
 - Show safety training videos
- Do whatever it takes to have a safe workplace.

Return-to-Work:

- Have a Return-to-Work program
- Make every reasonable effort to accommodate light duty restrictions





Employer Responsibilities

- Purchase a workers' compensation policy
- Post WCA Poster and Notice of Accident forms in a conspicuous place
- Decide on health care provider selection and inform employees of decision
- Conduct annual safety inspections *(if more than \$15,000 annual premium)*
- Pay quarterly Workers' Compensation Fee
- Enforce a drug/alcohol free workplace and notify employees of the policy

WORKERS' COMPENSATION ACT

If You Are Injured At Work Si Se Lastima En El Trabajo

- 1) Notice --** In most cases you must tell your employer about the accident within 15 days, using the Notice of Accident Form.
 - 2) You have the right to information and assistance from an information specialist known as an "Ombudsman" at the Workers' Compensation Administration.**
 - 3) Claims information --** Contact your employer's Claims Representative.
- 1) Aviso. --** En la mayoría de los casos usted debe de avisarle a su empleador del accidente dentro de los primeros 15 días usando las formas de Aviso de Accidente.
 - 2) Usted tiene el derecho a información y ayuda contactándose con un especialista en información conocido como "Ombudsman" en la Administración para la Compensación a los Trabajadores.**
 - 3) Información acerca de Reclamaciones. --** Contáctese con el representante de reclamaciones de su compañía.

Employer's Insurer / Claims Representative:

Name: _____
Phone #: _____
Address: _____

Note: Employer must fill in this insurer / claims representative information.

YOUR RIGHTS

If you are injured in a work-related accident:

Your employer / insurer must pay all reasonable and necessary medical costs.

You may or may not have the right to choose your health care provider. If your employer / insurer has not given you written instructions about who chooses first, call an ombudsman. In an emergency, get emergency medical care first.

If you are off work for more than seven days, your employer / insurer must pay wage benefits to partially offset your lost wages.

If you suffer "permanent impairment," you may have the right to receive partial wage benefits for a longer period of time.

Ombudsmen are located at the following offices:

Albuquerque: 1-866-967-5667 1-505-841-6000	Farmington: 1-800-568-7310 1-505-599-9746	Helix: 1-800-934-2450 1-375-397-3425	Las Cruces: 1-800-870-8826 1-375-524-6246	Las Vegas: 1-800-281-7889 1-505-454-9251	Roswell: 1-866-311-8587 1-575-623-3997	Santa Fe: 1-505-476-7381
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SUS DERECHOS

Si se lastima en el trabajo:

Su empleador / asegurador debe de pagar por los gastos médicos necesarios y razonables.

Es posible que usted tenga, o no tenga, el derecho de escoger el proveedor de servicios para la salud. Si su empleador / asegurador no le ha dado instrucciones por escrito de quien es el que selecciona primero, pregúntele o llame a un ombudsman. En una emergencia, obtenga asistencia médica de emergencia primero.

Si usted está fuera del trabajo por más de siete días, su empleador / asegurador debe de hacerle un pago compensatorio de prestaciones para compensar parcialmente la pérdida de su salario.

Si usted sufre "daño permanente," usted puede tener el derecho a recibir prestaciones parciales de salario por un periodo de tiempo más largo.

If You Need HELP Call:

Ask for an Ombudsman

Si Usted Necesita Ayuda Llame Al:

Pregunte por un Ombudsman

1-866-WORKOMP (1-866-967-5667)

Visit our website at: <https://workerscomp.nm.gov>

For FREE copies of this poster and Notice of Accident Forms call: 1-866-967-5667

USE A NOTICE OF ACCIDENT FORM TO REPORT YOUR ACCIDENT TO YOUR SUPERVISOR

EMPLOYER: You are required by law to post this poster where your employees can read it and to post Notice of Accident forms with it. This poster without Notice of Accident forms does not comply with law. You have other rights and duties under the law.

Workers' Compensation Poster

Here's where you fill in your insurance carrier information

**NOTICE OF ACCIDENT OR OCCUPATIONAL DISEASE DISABLEMENT
NOTIFICACIÓN DE ACCIDENTE O ENFERMEDAD DE OFICIO**

In accordance with New Mexico law, Section 52-1-29, Section 52-3-19 and Section 52-1-49, NMSA 1978, NMAC 11.4.4.11
Conforme a la Ley de la Compensación de los Trabajadores, Sección 52-1-29, Sección 52-3-19 y Sección 52-1-49, NMSA 1978, NMAC 11.4.

Name of employee/nombre del empleado _____
I am/ocupational disease at approximately _____ on _____ 20____
or enfermedad de oficina aproximadamente (time in la(s) hora(s)) el (date/fecha) del 20____
employee's social security number _____ Where did the accident occur?
Número de seguro social del empleado: ¿Dónde ocurrió el accidente?
What happened?
Qué ocurrió?

To be completed by Employer: _____ Worker will choose health care provider. Yes No
Completado por el empleador: _____ Trabajador elegirá proveedor de atención médica.
If Yes, Employer has right to change health care provider after 60 days. If No, Worker has the right to change health care provider after 60 days.
En caso afirmativo, el empleador tiene derecho a cambiar de proveedor de atención médica después de 60 días. En caso que no elige, el trabajador tiene derecho a cambiar de proveedor de atención médica después de 60 días.
WORKER'S INITIALS _____ INICIALES DEL TRABAJADOR

Signed: _____ Signed/Notice Received: _____
Firma (employee/empleado) Firma/Notificación recibida (employer or representative/empleador o representante)
Date/Fecha _____ Date/Fecha _____

ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OF BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.
PREVIOUS NTA FORMS ARE STILL VALID FOR USE.

Form NOA-1 Employer/employee: Each keep one copy. ---SEE BACK OF THIS FORM---
Empleado/empleado: Retener una copia. ---VER AL REVERSO DE ESTA FORMA---

Worker --
For emergency medical care, go to any emergency medical facility

Workers and Employers with questions about workers' compensation may contact an Ombudsman at any New Mexico Workers' Compensation Administration office for information and assistance. The offices are open Monday through Friday (a.m. to 5 p.m., except holidays).

Trabajador
Para emergencias médicas vaya a cualquier clínica / hospital.

Trabajadores y empleadores con preguntas acerca de la compensación de los trabajadores pueden comunicarse con un asesor ("ombudsman") a cualquier oficina de la Administración de la Compensación de los Trabajadores para información y asistencia. Las oficinas están abiertas desde las ocho de la mañana hasta las cinco de la tarde de lunes a viernes, con excepción de días festivos.

Statewide Helpline -- Línea de Asistencia
1-866-WORKOMP / 1-866-967-5667
toll free -- llamada sin costo de larga distancia
New Mexico Workers' Compensation Administration
PO Box 27198, Albuquerque, NM 87125

Albuquerque: (505) 841-8000 • T (800) 255-7885
Albuquerque: (505) 599-9748 • T (800) 568-7310
Albuquerque: (505) 397-3425 • T (800) 934-2450

Las Cruces: (575) 524-6246 • T (800) 870-6826
Las Vegas: (505) 454-9251 • T (800) 281-7889
Roswell: (575) 623-3987 • T (866) 311-8587

Santa Fe: (505) 478-7381

Notice of Accident Form

- Double sided
- Downloadable from WCA website as one piece or two
- One copy for employer
- One copy for employee

Posters Are Free!

All government-mandated posters are free

Poster companies will try to persuade you to buy all-in-one posters

DO NOT FALL FOR IT!

Posters and Notice of Accident forms are **DOWNLOADABLE** from WCA website

• (<https://workerscomp.nm.gov>)

Health Care Provider Selection

There is a process for selecting a health care provider for injured workers.

Discuss with your insurer how health care will be provided after emergency care.

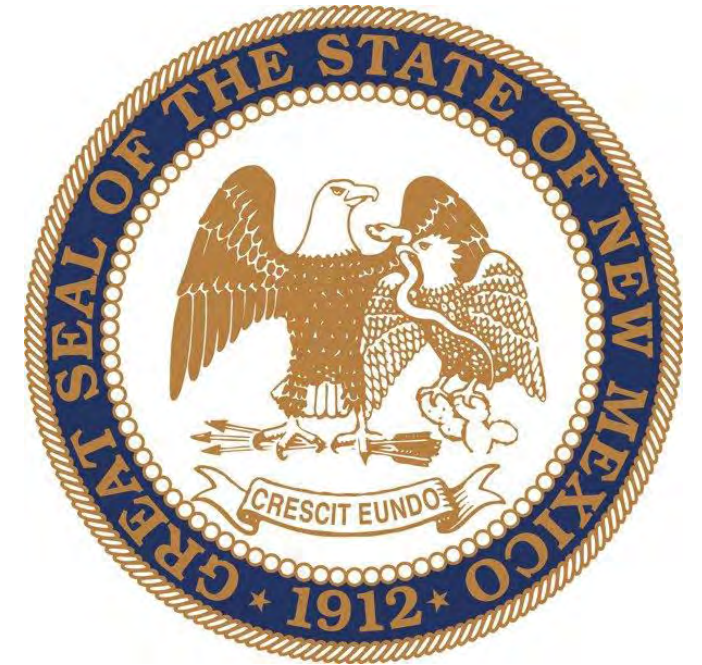
Employers should notify their workers in writing of the decision prior to any accident occurring, or as soon as possible following injury.

Look in your insurance policy packet, or consult with your carrier for insurer recommendation.



Workers' Compensation Fee

- Fee paid to the NM Taxation and Revenue Department using a WC-1 form.
- Paid by all employers who fall under the Workers' Compensation law.
 - Any employer **required** to carry workers' compensation insurance; or
 - Any employer who **voluntarily** carries workers' compensation insurance.





Workers' Compensation Fee

(Continued)

Fee is paid by employer.

\$4.30 per employee per quarter, based on the number of employees on last working day of the quarter.

Example: 10 employees on Dec. 31 = \$43 due

\$2.00 of the \$43.3 quarterly is deducted from employee payroll.

Example: 10 employees on Dec. 31 = \$20 from employees, \$23 from employer.

This is NOT the same as your insurance premium.

Fee funds WCA operations and allows WCA to provide free services.

What to Do After an Accident



- **Get immediate emergency care!**
- **Notify your insurer within 72 hours**
They will explain process
- **Help the injured worker through process**
- **Have worker return under employer's return-to-work policy and following the RTW notice from the HCP**
- **Contact a WCA ombudsman with any questions**

Workers' Comp and Intoxication

NM law §52-1-12.1 provides for a reduction in WC indemnity benefits proportional (10%-90%) to the degree the worker's intoxication contributed to the incident causing injury or death.

Employers cannot claim a reduction if:

- Employer knew of impairment but allowed worker to remain on the job
- Employer does not have and follow a written drug and alcohol-free workplace policy
- Worker was not informed of and signed on to the policy

Does not affect medical benefits.

Does not affect death benefits for survivors.

Uninsured Employers' Fund

This should **NEVER** happen to you!

If a worker is injured at work and the employer is not legally insured, the **UEF** will pay the workers' benefits and then go back to the employer for the full cost paid in benefits to the worker, plus penalty and interest.

Penalty required by law: 15% to 50% of benefits paid to worker.



Contact Information

- Albuquerque: 505-841-6000 *or toll free* at 1-800-255-7965
- Ombudsman: 1-866-967-5667 (*service available in all of our field offices*)

Six Field Offices:

Hobbs: (575) 397-3425

Farmington: (505) 599-9746

Las Cruces: (575) 524-6246

Las Vegas: (505) 454-9251

Roswell: (575) 623-3997

Santa Fe: (505) 476-7381

Helpful Websites

- N.M. State Government Home Page:

<http://www.newmexico.gov>

- N.M. Workers' Compensation Administration:

<https://workerscomp.nm.gov>

- N.M. Taxation and Revenue

<https://www.tax.newmexico.gov>

- N.M. Department of Workforce Solutions:

<https://www.dws.state.nm.us>

- N.M. Environment Department – OSHA:

https://www.env.nm.gov/occupational_health_safety/

- U.S. Department of Labor:

<https://www.dol.gov>

- New Mexico Business Portal:

<http://businessportal.nm.gov>

- Small Business Development Centers:

<http://www.nmsbdc.org>

QUESTIONS?

Email: WCA-PIO@wca.nm.gov

THANK YOU FOR COMING/VIEWING!

Please let us know how we did. Turn in your evaluation forms (or complete the poll).



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