



North Dakota Workforce
Safety & Insurance

EMPLOYER INFORMATION

Please visit our website at www.WorkforceSafety.com for all of our online services or call 1-800-777-5033 or (701) 328-3800 for assistance.

Employers who are required to obtain coverage

North Dakota Law, with limited exceptions, requires all employers to secure workers' compensation insurance to cover their full-time, part-time, seasonal, or occasional employees *prior* to hiring. Under the North Dakota Century Code, workers' compensation provides workers with wage loss and medical benefits for injuries sustained in the course of employment. General liability, health, and accident insurance are not substitutes for workers' compensation insurance. To be insured, you must submit an application.

Online Application for Insurance- www.WorkforceSafety.com/online-services

Use step-by-step instructions or download and complete our Application for Insurance. Fax it (701-328-3750) or mail it to WSI at PO Box 5585, Bismarck ND 58506-5585. If you have any questions when applying for insurance coverage simply contact Employer Services and we'll guide you through the application process making sure that your account reflects the appropriate job classifications and rates. Once your application has been processed, WSI will bill your premium based on the payroll estimate you provided.

What is considered payroll?

- Commissions, bonuses, overtime wages or reportable tips
- Holiday, vacation or sick leave wages
- Cafeteria or annuity plans, 401k or Davis-Bacon wages
- Value of meals, lodging, or other gratuities received by a worker as part of wages
- Rental value of a house or apartment provided to a worker as part of wages

How often must I submit a payroll report?

- A payroll report must be completed annually, even if you have no employees during the year or wish to close your account.
- The annual reporting period is determined by the effective date of your account and is separate from quarterly Job Service reports. If you submit your report to Job Service in error you will still need to complete the WSI report.
- Failure to submit a payroll report by the due date will result in a \$50 penalty. Continued failure to report payroll may lead to an additional \$1,950 penalty and result in an "uninsured" status. Continued delinquency will result in the forfeiture of the dividend credit.
- Payroll reports can be completed online. New access codes are issued each year when your account renews.

Premium payment options

You may pay your premium by check or credit card in a single payment or in monthly installments. If you choose to make installment payments, interest is charged on the outstanding balance. The interest rate equals the base rate posted by the Bank of North

Dakota plus 2.5%. Installment payments are limited to prepaid premiums only. Premiums in default are assessed penalty interest at 2% per month or 24% annually. The minimum charge for an account is \$250.00 per year, even if you have no employees. This rate is subject to change on an annual basis.

Proof of insurance

After either full payment of your premium or your first monthly installment, your proof of insurance is a Certificate of Premium Payment issued by WSI.

- ND law requires the Certificate of Premium Payment be posted at your place of business. WSI's toll-free number is listed on the certificate and can be used to report unsafe working conditions or suspected workers' compensation fraud.
- You may make copies of the certificate or request a duplicate certificate by calling 1-800-777-5033.

Optional coverage

Coverage for the owners, partners, or corporate officers of a business corporation is optional. Coverage is required for all employees of a non-profit corporation. An employer may elect to purchase optional coverage for themselves, their spouse, children under the age of 22, and for any workers otherwise exempt under Title 65. This coverage is not required by law. If you have any doubt about whether you should be insured or to obtain a contract for optional coverage; contact WSI's Employer Services Department. Coverage becomes effective upon WSI's approval of a completed and signed optional coverage contract.

- Coverage for an owner, partner, corporate officer, or spouse will be charged an annual premium based upon the maximum taxable payroll cap.
- Coverage for the employer(s) children **under** the age of 22 is **optional** and based on actual wages paid. Coverage for children aged 22 and older is **mandatory** and also based on actual wages paid.

Experience Rating

Beginning with an employer's fifth year of North Dakota operations, accounts may be experience rated. To qualify for experience rating, an account must have a minimum aggregate premium of \$15,000 over the 3 year experience rating period. Maximum discounts and surcharges will vary depending upon the size of the individual policy.

Experience rating uses each individual employer's own loss experience to recognize differences between the employer and the average risk in the assigned manual classes. Experience rating applies to policies with more than \$15,000 in aggregate premiums over 3 years. In order to be closer aligned with the worker's compensation industry, as of July 1, 2010, the calculation contains 3 years of claims history instead of 5 years of claims history.

Small Account Credit/Debit Program

WSI's Small Account Credit/Debit Program is applicable to all policyholders that do not qualify for experience rating. The goal of the program is to create incentives for small businesses to manage their claims and implement safety programs. An account must be in their fifth year of operation in order to qualify for this program and cannot have a total premium of \$15,000 or more during the 3 year look back period. If an account has total premium of \$15,000 or more they would qualify for experience rating.

- Annually, WSI will automatically identify qualifying policyholders based on established premium and policy periods.
- Any claim under \$250 will not have an effect on the premium.

- If there are no claims over \$250, the account will receive a 10% discount (credit).
- If there is one claim over \$250, no discount or surcharge will be applied.
- All additional claims over \$250 will result in a debit (surcharge) of 5% per claim up to a maximum of 25%.
- Discounts may not reduce the premium below the statutory minimum premium of \$250.

Early claim reporting incentive

WSI assesses the employer up to \$350 per claim. WSI will waive the assessment if the injury or incident is filed with WSI by midnight (Central Time) of the business day following the date of injury or incident. If a worker reports an incident but does not seek immediate medical attention, the employer should file an "Incident Report" online at www.WorkforceSafety.com in order to qualify. Should that worker seek medical attention and the claim is filed within 14 calendar days of the incident, the employer would have the \$250 assessment paid by WSI.

Workers' compensation fraud

WSI has a responsibility to the employers and workers of North Dakota to investigate allegations of fraud. Fraud occurs when someone knowingly lies to obtain a benefit or advantage. We cannot stop fraud alone. If you suspect fraudulent behavior is occurring, please contact us. Anyone may leave a confidential and anonymous tip by calling the Fraud Hotline at 1-800-243-3331.

Reciprocal agreements

WSI has entered into reciprocal agreements with Idaho, Montana, Oregon, South Dakota, Utah, Washington, and Wyoming. Generally this agreement allows North Dakota employers whose North Dakota workers are working temporarily in that state to perform work without requiring the employer to obtain additional workers' compensation coverage in that state. The reciprocal agreements for each state may vary and may include exclusions. Employers need to contact WSI before assuming they have WSI coverage for their employees working in these states. Reciprocal agreements are available upon request.

Complying with other states' workers' compensation requirements

It is the duty of every North Dakota employer whose business operations touch another jurisdiction to inquire into the workers' compensation requirements of that jurisdiction. North Dakota employers who do not ensure their compliance with other states' workers' compensation requirements run the risk of being uninsured while working in that state.

Extraterritorial coverage

As a rule, extraterritorial coverage extends to incidental operations lasting fewer than 30 consecutive days in a state where the employer has no other significant contacts with that state and those operations do not require the employer to purchase workers' compensation insurance under the laws of that state. The difficulty in determining which state has jurisdiction in these situations intensifies when defining significant contacts. Different states have different definitions of "significant contacts". In determining when to extend extraterritorial coverage to an employer, WSI considers the following:

- What is the nature of the employer's business? Does the employer or do the employer's employees travel daily to another state to make deliveries or provide services?
- Do the business operations of the employer make the employer's contact with another state more than incidental or occasional?
- What is the residency of the employer's employees?
- In what state was the employment contract entered?

- Does the employer have a physical place of business in this state and do the employer's employees regularly report to or work from that place of business?
- Does the employer's work require the employer to spend 30 or more consecutive days in another jurisdiction?

Temporary and Incidental All States Coverage

In partnership with the Accident Fund of America, WSI has extended its temporary and incidental coverage product to all North Dakota policyholders. This product provides coverage for North Dakota policyholders with employees working outside the state for 30 consecutive days or less or where there are no other significant contacts which would require securing coverage in another state. It is the policyholder's responsibility to verify coverage requirements with other states before conducting business operations in that state. (Exceptions are monopolistic states: Ohio, Washington, and Wyoming). The employer must have an active account in good standing with WSI.

If you have applied for a contractor's license

If you neither employ nor anticipate employing anyone within the state of North Dakota in the near future, you are **not** required to make an application for workers' compensation insurance. However, in order to obtain a letter of good standing to provide to the Secretary of State, you must complete a Verification of Non-Employment which indicates you are not required to apply for workers' compensation at the present time. These forms are available on our web site (Library section, Type: Forms) or call WSI and request that one be mailed to you. Please fax or mail the form to WSI and we will notify the Secretary of State's Office.

If you are a principal contractor you can be liable for occupational injuries to the uninsured subcontractor's workers. The following should be in place:

- Be sure you obtain a Certificate of Premium Payment verifying that your subcontractor has workers' compensation insurance for their workers.
- If the subcontractor has provided proof of proper coverage, their payroll is not normally included in the general contractor's payroll. However, if the subcontractor does not have coverage for their workers, WSI may require the general contractor to include those additional wages with their payroll.
- It is the responsibility of the employer to provide a list of subcontractors at the request of WSI.

Determining independent contractor status

Each person who performs services for another for remuneration is presumed to be an employee of the person for whom the services are performed; unless it is proven that the person is an independent contractor under the "common law" test. The person who asserts that they are an independent contractor under this test rather than an employee has the burden of proving that fact. (N.D.C.C. §65-01-03).

WSI may establish a procedure to determine whether a person is an employer required to obtain workers' compensation coverage and to require a person asserting independent contractor status to file a statement annually with the organization certifying that status. A determination under this section that a person is not required to be insured is effective for no more than one year from the date the person is notified of the determination. The organization retains continuing jurisdiction over determinations and may reconsider or revoke its decision at any time (N.D.C.C. §65-09-01). If any employer or an independent

contractor wants to verify independent contractor status, they can contact WSI and an Independent Contractor Verification Application will be provided.

Safety Incentive Programs

Several safety initiatives are offered to North Dakota employers, which have the potential to reduce a qualifying employer's premium by up to 25%. For more information on WSI's safety initiatives, go to www.workforcesafety.com/safety/losscontrol.asp

The Purpose of the Decision Review Office (DRO)

The Decision Review Office (DRO) provides no-cost assistance to workers attempting to resolve disputed issues on a claim. Advocates help avoid costly and lengthy litigation. The program opens the lines of communication between parties and offers an independent review of the claim. Advocates act on behalf of the worker and communicate with WSI staff. To dispute a decision, a worker must either send a written statement or email (wsidro@nd.gov) the disagreement to OIR within 30 days from the mailing date of the decision.

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