

WORKERS COMPENSATION BASICS

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Workers Compensation Division



Topics of Discussion

- Insurance Coverage
- Required Postings and Forms
- Personal Injury
- Reporting Requirements
- Temporary Total Benefits
- Medical
- Affidavit (Contractors)
- Roofers Act
- Communication

Workers Compensation Insurance

- Workers Compensation is an insurance plan provided by the employer to pay employee benefits for job-related injuries, disability or death.
- Coverage begins the first day on the job.
- Coverage is regulated by [K.S.A. 44-505](#) (Application of Act) and [K.A.R. 51-11-6](#) (Computing Payroll for Corporations)

Methods of Coverage - K.S.A. 44-532(b)

- Every employer shall secure the payment of compensation to the employer's employees by insuring in one of the following ways:
 - (1) By insuring and keeping insured the payment of such compensation with an insurance carrier authorized to transact the business of workers compensation insurance in the state of Kansas;
 - (2) by showing to the director that the employer carries such employer's own risk and is what is known as a self-insurer and by furnishing proof to the director of the employer's financial ability to pay such compensation for the employer's self;
 - (3) by maintaining a membership in a qualified group-funded workers compensation pool. The cost of carrying such insurance or risk shall be paid by the employer and not the employee.

COVERAGE REQUIREMENTS

- \$20,000 payroll threshold (under \$20,000 are not required to carry work comp insurance)
- Wages to self and family members not counted unless the company is incorporated
- **Corporation: TOTAL amount of payroll paid to all corporate employees even when a corporate employee has elected out of coverage.**

[K.A.R. 51-11-6 \(Computing Payroll\)](#)

Insurance Coverage Exceptions

Some employers may be exempt from obtaining coverage:

- Agricultural pursuits
- Employers with gross annual payroll of \$20,000 or less
- Owner-operator vehicle drivers covered by their own occupational accident insurance policy (Exclusive Driver of the vehicle)

Insurance Coverage Exceptions (continued)

- Partnerships
- Members of a Limited Liability Corporation (LLC members)
- Sub-Contractors/Independent Contractors

Required Postings and Forms

Employers must post written notice (K-WC 40A) advising employees what to do in case of injury

Immediately upon learning of an employee's injury or death, the employer must furnish written information (K-WC 27A/270A) to the employee or employee's dependents

This notice must be posted and maintained by the employer in one or more conspicuous places.

Workers Compensation Rights and Responsibilities

Your employer is subject to the Kansas Workers Compensation Law which provides compensation for job-related injuries.

This notice applies to dates of accidents on or after **April 25, 2013**.

Este aviso aplica a las fechas de los accidentes a partir de **Abril 25, 2013**.

<p>WHAT TO DO IF AN INJURY OCCURS ON THE JOB</p> <p>NOTIFY YOUR EMPLOYER IMMEDIATELY. Per K.S.A. 44-520, a claim may be denied if an employee fails to notify their employer within the earliest of the following dates: (A) 20 calendar days from the date of accident or the date of injury by repetitive trauma; (B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or (C) if the employee no longer works for the employer against whom benefits are being sought, 10 calendar days after the employee's last day of actual work for the employer.</p> <p>Notice may be given orally or in writing. Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.</p> <p>Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment.</p> <p>The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.</p> <p>BENEFITS. Benefits are paid by the employer's insurance carrier or self insurance program. Benefits include medical treatment, partial wage replacement for lost time and additional benefits if the injury results in permanent disability. An employer is required to furnish all necessary medical treatment and has the right to designate the treating physician. If the employee seeks treatment from a doctor not authorized by the employer, the employer or its insurance carrier is only liable up to \$500.00 dollars for the unauthorized medical treatment.</p>	<p>QUE HACER SI UNA LESIÓN OCURRE EN EL TRABAJO</p> <p>NOTIFIQUE A SU EMPLEADOR INMEDIATAMENTE. De acuerdo con el artículo de ley K.S.A. 44-520, un reclamo puede ser negado si el empleado no notifica a su empleador dentro de antes de las siguientes fechas: (A) 20 días a partir de la fecha del accidente o la fecha de la lesión debido a trauma por movimientos repetitivos; (B) si el empleado está trabajando con el empleador en contra del cual se están buscando beneficios y dicho empleado busca tratamiento médico por cualquier lesión por accidente o trauma repetitiva, 20 días a partir de la fecha que dicho tratamiento médico ha sido obtenido; o (C) si el empleado ya no trabaja para el empleador en contra del cual se están buscando beneficios, 10 días después del último día de trabajo para dicho empleador.</p> <p>El aviso puede darse oralmente o por escrito. Donde el aviso se da oralmente, si el empleador ha designado un individuo o departamento a quien el aviso se debe dar y tal designación ha sido comunicada por escrito al empleado, aviso a cualquier otro individuo o departamento deberá ser insuficiente bajo esta sección. Si el empleador no ha designado a un individuo o departamento a quien se debe dar el aviso, el aviso puede darse a un supervisor o gerente.</p> <p>Donde el aviso se hace por escrito, el aviso debe ser enviado a un supervisor o gerente de la oficina principal de empleo del trabajador.</p> <p>El aviso, sea que se haga oralmente o por escrito, debe incluir la hora, fecha, lugar, persona lesionada y detalles de tal lesión. Debe ser visible a partir del contenido del aviso, que el empleado está reclamando beneficios bajo la ley de compensación del trabajador o que ha sufrido una lesión relacionada con el trabajo.</p> <p>BENEFICIOS. Los beneficios son pagados por la compañía aseguradora del empleador o programa de seguro propio. Los beneficios incluyen tratamiento médico, reemplazo de sueldo parcial por tiempo perdido y beneficios adicionales si la lesión resulta en incapacidad permanente. El empleador debe proporcionar todo el tratamiento médico necesario y tiene el derecho de designar al doctor para dicho tratamiento. Si el empleado busca tratamiento con un doctor que no ha sido autorizado por el empleador, el empleador o su compañía aseguradora serán responsables de pagar solamente los primeros \$500.00 dólares para tratamiento médico no autorizado.</p>
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Posting Notice K-WC 40-A Revised April 2013

WHERE TO GET HELP WITH YOUR CLAIM (DÓNDE CONSEGUIR AYUDA CON SU RECLAMO):

Employee's Insurance Carrier (Compañía Aseguradora del Empleador)

Telephone (Teléfono de la Aseguradora)

Address (Dirección de la Aseguradora)

For questions about Workers Compensation Law, contact (Para preguntas acerca de la Ley de Compensación del Trabajador):

KANSAS DEPARTMENT OF LABOR
Division of Workers Compensation/Ombudsman
401 SW Topeka Blvd., Suite 2, Topeka, KS 66603-3105

Website: www.dol.ks.gov/workcomp/default.aspx
Email: wc@dol.ks.gov
Phone: (800) 332-0353 or (785) 296-4000

Persons with impaired hearing or speech utilizing a telecommunications device may access the above number(s) by using the Kansas Relay Center at (800) 766-3777.

www.dol.ks.gov

KANSAS DEPARTMENT OF LABOR

K-WC 40-A (4-13)

KDOL serves Kansas workers and businesses by providing fair and efficient administration of state labor laws.



INFORMATION FOR INJURED EMPLOYEES

K-WC 27-A (Rev. 2-14)

* THIS NOTICE APPLIES TO ACCIDENTS ON OR AFTER APRIL 25, 2013 *

Employers are required to provide this information to each injured worker

WHAT TO DO IF AN INJURY OCCURS ON THE JOB

If you have any questions about workers compensation benefits, contact the Division of Workers Compensation at the phone number at the bottom of the page. Assistance in Spanish is available.

(1) **NOTIFY YOUR EMPLOYER IMMEDIATELY:** Per K.S.A. 44-520, a claim may be denied if an employee fails to notify their employer within the earliest of the following dates: (A) 20 calendar days from the date of accident or the date of injury by repetitive trauma; (B) if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or (C) if the employee no longer works for the employer against whom benefits are being sought, 10 calendar days after the employee's last day of actual work for the employer.

Notice may be given orally or in writing. Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment.

The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

(2) **FOLLOW YOUR EMPLOYER'S INSTRUCTIONS** for getting medical aid and follow the doctor's instructions.

(3) **MEDICAL BENEFITS:** An injured worker is entitled to all medical services reasonably necessary to cure and relieve the worker from the effects of the injury. The employer has the right to select the doctor who will treat the injury. A worker may seek the services of an unauthorized doctor up to a limit of \$500.00. A worker may apply to the Workers Compensation Director to change the authorized treating doctor. Reimbursement for travel to obtain medical treatment is payable at a rate set by law for trips that are five miles or more (round trip).

(4) **WEEKLY BENEFITS:** Benefits are paid by the employer's insurance carrier or self insurance program. Injured workers are not entitled to compensation for the first week they are off work unless they lose three consecutive weeks. The first compensation payment is normally due at the end of the 14th day of lost time. An injured employee is entitled to a weekly amount of 66 2/3 percent of his/her average weekly wage up to a maximum of 75 percent of the state's average weekly wage. These benefits are subject to legislative changes. If the injury results in permanent disability, the Kansas Workers Compensation law provides for additional benefits.

RESPONSIBILITIES OF THE EMPLOYER

1. Unless self-insured, the employer must advise its insurance carrier or group-funded pool of employee's injury.

Per K.S.A. 44-557, it is the duty of every employer to make or cause to be made a report to the director of any accident, or claimed or alleged accident, to any employee which occurs in the course of the employee's employment and of which the employer or the employer's supervisor has knowledge, which report shall be made upon a form to be prepared by the director, within 28 days, after the receipt of such knowledge, if the personal injuries which are sustained by such accidents, are sufficient wholly or partially to incapacitate the person injured from labor or service for more than the remainder of the day, shift or turn on which such injuries were sustained.

As outlined in K.A.R. 51-9-17, all insurance carriers, group pools and self-insurers are required to use Electronic Data Interchange (EDI) to file First Reports of Injury (FROI) and Subsequent Reports of Injury (SROI) using the Release 3 Standards. For details contact the Technology and Statistics section of the Division of Workers Compensation at (785) 296-4000 or (800) 332-0353. You may access our website at <http://www.dol.ks.gov/WorkComp/edineews.aspx>.

2. Employers must provide for the payment of workers compensation claims without any charge to employees.
3. Employers must post the Workers Compensation Notice prepared by the Director.
4. Employers must pay compensation benefits, regardless of insurance coverage.
5. Upon receiving notice of an injury, the employer must provide the employee written information to assist the injured worker in understanding his/her rights and responsibilities in obtaining compensation.

EMPLOYERS MUST COMPLETE THE FOLLOWING INFORMATION FOR INJURED WORKERS

YOUR CLAIM WILL BE HANDLED BY:

Company _____

Address _____

Contact Person _____

Phone (____) _____

Email _____

DIVISION OF WORKERS COMPENSATION – OMBUDSMAN / CLAIMS ADVISORY UNIT
401 SW Topeka Blvd., Ste. 2, Topeka, KS 66603-3105 • Phone (785) 296-4000, (800) 332-0353 • Fax (785) 296-0025

K-WC 27-A (English Version); K-WC 270-A (Spanish Version)





JURISDICTION FOR KANSAS CLAIMS

- The injury occurred in Kansas
- The employer is located in Kansas
- The contract of employment was made in Kansas

[K.S.A. 44-506](#)

Prevailing Factor For Compensability of Claim

- The primary factor in relation to any other factor.
- In determining what constitutes the **prevailing factor** in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.
- **Note of Interest:** Having creditable medical records and information is a must. This also helps determine if there are preexisting conditions.

Personal Injury

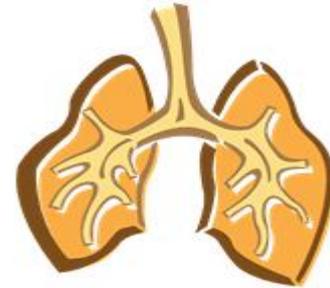
Any lesion or change in the physical structure of the body, causing damage or harm thereto. May occur by accident, repetitive trauma, or occupational disease (K.S.A. 44-508(f)).



Accident



Repetitive



Occupational
(Lung Disease)

Accident

- Occurs during a single work shift
- Produces symptoms of injury
- Injury by accident deemed to arise out of employment if:
 - Accident is **prevailing factor** in causing injury, medical condition, and resulting disability/impairment; and
 - Causal connection between work and accident.

Repetitive Trauma

- Injury occurs by repetitive use, cumulative traumas, or micro traumas
- Repetitive nature demonstrated by diagnostic or clinical tests
- Date of injury for repetitive trauma is **earliest** of:
 - Date employee taken off work by physician
 - Date employee placed on modified/restricted duty by physician
 - Date employee advised by physician that condition is work-related
 - Last day worked if employee no longer employed

Repetitive Trauma (cont'd)

- **Injury by Repetitive Trauma deemed to arise out of employment if:**
 - Employment exposed worker to increased risk or hazard that worker would not have been otherwise exposed to; and
 - Increased risk or hazard is prevailing factor in causing repetitive trauma; and
 - Repetitive trauma is **prevailing factor** in causing both the medical condition and resulting disability or impairment.

New Legislation 2014

- Sub for HB 2023 which addresses coronary related instances involving firefighters and law enforcement officers was passed and will be effective July 1, 2014
 - For events occurring on or after July 1, 2014, in the case of a firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto, or a law enforcement officer as defined by K.S.A. 74-5602, and amendments thereto, coronary or coronary artery disease or cerebrovascular injury shall be compensable if:

Sub for HB 2023 (Continued)

- (1) The injury can be identified as caused by a specific event occurring in the course and scope of employment;
- (2) the coronary or cerebrovascular injury occurred within 24 hours of the specific event; and
- (3) the specific event was the prevailing factor in causing the coronary or coronary artery disease or cerebrovascular injury.

Reporting Requirements

EDI (Electronic Data Interchange)—Mandatory Effective April 2013

All insurance carriers, group pools, and self-insurers will be required to use EDI to file both First Reports of Injury (FROI) and Subsequent Reports of Injury (SROI) using the Release 3 Standards

Reporting Requirements— Notice of Injury

Notice requirements for employee to report injury changed effective April 25, 2013

- A) Twenty calendar days from the date of accident **or** the date of injury by repetitive trauma;
- B) If employee is working for employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from date medical treatment if sought; or
- C) If the employee no longer works for the employer against whom benefits are being sought, 10 calendar days after the employee's last day of actual work for the employer.

Reporting Requirements— Oral or Written Required

- **Oral Notice**
 - If employer has designated department/individual and communicated such designation to employee in writing, notice to other individual/department insufficient
 - If no designation, notice must be given to supervisor or manager
- **Written Notice**
 - Employee must prove notice was sent to supervisor or manager at employee's principal location of employment and received by employer

Reporting Requirements— Oral or Written Required (cont'd)

- **Written Notice or Oral Notice** must include time, date, place, and particulars of injury, and it must be apparent employee is claiming benefits or suffered a work-related injury

Calculation of Average Weekly Wage

K.S.A.44-511

- **“Wages” = Money + Additional Compensation**
- **“Money”**
 - Include bonuses and gratuities
- **“Additional Compensation”**
 - Include only if employer discontinues (Board/lodging and employer-paid fringes only)
- **Average Weekly Wage:**
 - Calculate using add and divide method
 - Use up to 26 weeks preceding injury, if worked

Temporary Total Disability (TTD) Benefits

K.S.A. 44-510c(b)(2)

- Opinion of authorized treating physician presumed determinative as to work status**
- Employee entitled to TTD if employer cannot accommodate temporary restrictions of authorized treating physician**
- No TTD if employee is terminated for cause or voluntarily resigns and employer could have accommodated temporary restrictions**

Temporary Total Disability (TTD) Benefits (cont'd)

- No TTD for weeks during which employee receives unemployment benefits (44-510c(b)(4))
- 7-day waiting period (44-501c(b)(1))
- Temporary Total Disability is two-thirds of the average weekly wage, not to exceed the state maximum in effect at the time of injury

Ways to Settle/Close a Claim

- Filing a final receipt and release of liability (K.S.A.44-527) (Form K-WC D)
- Hearing and written award (K.S.A. 44-525)
- Joint petition and stipulation (K.A.R. 51-3-16)
- Settlement hearing before an administrative law judge
- Voluntary dismissal by the parties (K.S.A. 44-573)

Medical Benefits

- Employer has right to select treating physician
- No medical after Maximum Medical Improvement unless proven necessary
- Right to future medical treatment not absolute
- Claimant must prove need for future medical treatment as a result of work injury
- \$500 unauthorized medical

Medical Mileage

- The insurance carrier or self-insured employer shall reimburse the worker for an amount comparable to the mileage expenses provided in for [K.S.A. 44-515](#) approved medical services that exceeds five miles round trip.

[K.A.R. 51-9-11](#)

Workers Compensation is Exempt from HIPAA

A health care provider may disclose health information related to a workers compensation claim to the parties involved in the claim, or to the division of workers compensation, without the patient's authorization, and such disclosure will not violate the HIPAA regulations.

(45 CFR § 164.512).

Release of Medical Records

- The patient privilege preventing the furnishing of medical information by doctors and hospitals is waived by a worker seeking workers compensation benefits
- All reports, records, and data concerning exams/treatment shall be furnished to employer or insurance carrier without the necessity of a release by the worker

Release of Medical Records (cont'd)

- **Unreasonable refusal by a worker to cooperate may result in compensation being denied or terminated**

K.A.R. 51-9-10 (b)(4)

FUTURE MEDICAL

- No longer automatically awarded
- Prevailing factor standard will be applied to determining entitlement to future medical benefits.
- If left open, employer and/or insurance carrier can seek to permanently terminate future medical benefits if worker not received medical care within two years of award.

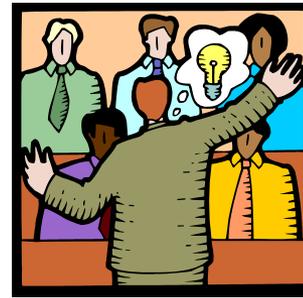
Affidavit of Exempt Status

- Permits “any person” who is not required to be covered under workers compensation to execute affidavit of exempt status.
- Form available on the Kansas Department of Insurance web site www.ksinsurance.org
- Not a Workers Compensation Division affidavit.
- **Need to comply with Workers Compensation laws as to whether coverage is required.**

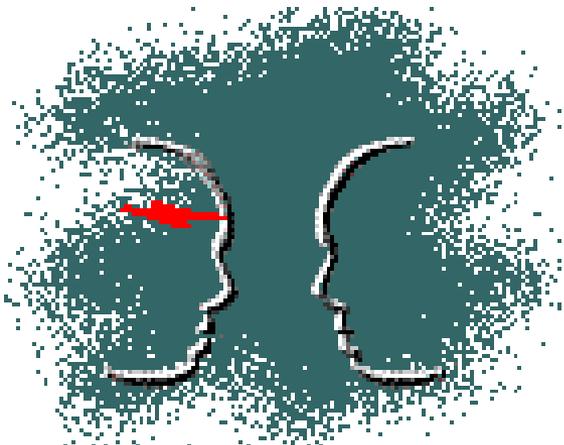
ROOFER'S ACT SUBSTITUTE FOR HOUSE BILL 2024

- Not a Workers Compensation Bill
- Belongs to Attorney General – Kansas Consumer Protection Unit
- Requires all roofing contractors to register with the Attorney General's Office
- How does it affect Workers Compensation?
 - Need to comply with Workers Compensation laws as to whether they need coverage.
 - Affidavit not part of Workers Compensation law

Tips for Employers



- **Focus on obviousness of risk of harm actually suffered;**
- **Have safety measures in place;**
- **Educate employees about proper safety procedures;**
- **Enforce safety procedures consistently.**
- **Contact your insurance carrier immediately after an injury has occurred.**



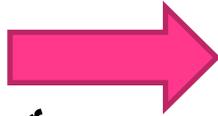
COMMUNICATIONS

- Communicate with the employer to determine who the authorized treating doctor or facility will be.
- Keep employer informed as to medical care
- Return to Work program
- Communication with injured workers in timely manner.

COMMUNICATION



Insured Worker



Employer



Insurance



Healthcare



Attorney



KDOL serves Kansas workers and businesses by providing fair and efficient administration of state labor laws.



CONTACT

(800) 332-0353 (Option 3)

or

(785) 296-4000 (Option 3)

Email:
wcemployerservices@dol.ks.gov

Questions



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