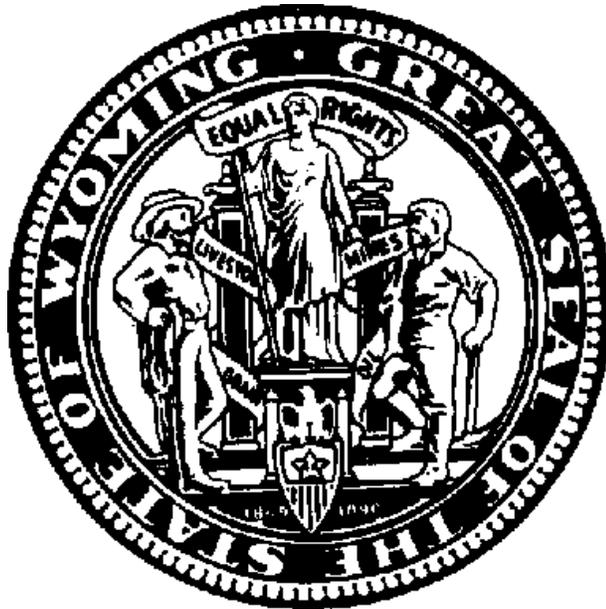


# WYOMING DEPARTMENT OF EMPLOYMENT

Workers' Safety  
and  
Compensation Division



## Employer's Guide to Workers' Safety and Compensation



# **Employer's Guide to Workers' Safety and Compensation**

## **When an Injury Occurs**

The first thing to do is insure the safety of all your employees. If there is a potential for further harm, secure the scene to ensure that no further injuries occur.

Provide for medical treatment, if necessary. It is always important for people in your company to know basic first aid procedures and provide first aid as necessary.

You should then assist your employee in obtaining prompt medical care. If it is an emergency, the employee should seek immediate medical care at the nearest emergency room. If the injury is not emergent, the employee should inform you of the injury before seeking medical care.

Employers should establish procedures to immediately (or at least as soon as notified) get the injured worker to a health care provider of your choosing. If possible, go with the employee to the health care provider's office so you can let them know that it is a potential Workers' Compensation case. Employers should take care to not infringe on the employee's privacy; however, your presence helps the employee know you care, and lets the health care provider know that a Workers' Compensation case is being initiated.

Employers should also consider establishing a policy to have the initial visit include a drug/alcohol screen. According to Mothers Against Drunk Driving (MADD) statistics, up to 40% of industrial fatalities and 47% of industrial injuries can be linked to alcohol consumption and alcoholism. Additionally, according to Wyoming DCI, each day 9 people in Wyoming will go to work having used methamphetamine the night before. Drug and Alcohol abuse is a real problem and it is important for Workers' Compensation to be informed if the employee was affected by drugs or alcohol at the time of injury. Conduct an investigation immediately and take the necessary corrective action to prevent the injury from happening again. Accident investigation worksheets are available from several sources on the Internet, and generic forms are available through Workers' Compensation. You may also wish to create an accident investigation form specific to your industry.

The first and most important thing to do in investigating the injury is to obtain a good history, to develop a timeline to show the circumstances leading up to the incident, and to determine who actually witnessed the accident and exactly what they were a witness to. Those people should

be interviewed to learn what they actually witnessed by asking questions that require a narrative answer, not a yes or no. Did they see the accident or just the aftermath? What did they see, what did they hear, what did they smell just before or during the incident? Remember to rely on physical observation not assumptions. For example a witness is not qualified to say someone is drunk, but they can describe the smell of alcohol, slurred speech, unsteady gait, etc. This should be formalized as a written statement and signed and dated by the witness and you.

It is equally important to check the accident scene as soon as the accident occurs and record any physical evidence such as broken equipment; equipment not in correct location or position; substances on surfaces or wet or smooth surfaces; or scuffs or marks on the ground. All of these things may help clarify what actually occurred.

It is also important to check security cameras, if they are in use, in the area. If the incident was captured on film, retain a copy, especially if it shows something other than what was described by the employee.

Make sure to send a copy of your investigation along with the Wyoming Report of Injury.

### **Reporting an Injury**

An injured worker must report the injury to the employer within 72 hours of the injury, and must file an injury report with Workers' Safety and Compensation within 10 days. Injuries that are reported after more than 72 hours, or injury reports that are received more than 10 days after the injury need to have a written explanation from the injured worker stating why the injury was reported late or the report was filed late.

Injury reports need to be filled out completely and signed by both the injured worker and the employer representative. Employer representatives may assist the injured worker as necessary. The health care providers written report accompanying the injury report greatly assists Workers' Safety and Compensation in determining the case.

Review the completed injury report and correct employment information, as necessary, paying special attention to the wage information. If the employee works varying hours or has periods of overtime, make sure that the wages reported accurately reflect the last three months paid, if available.

Certain areas on the injury report have special importance when the analyst evaluates a case. Particular consideration should be given to these areas:

- Date hired
- Time of injury
- Time shift began
- Time shift ended
- More than one job?
- Lost time from work?
- Witnesses?
- Injured body part previously injured?

Complete the employer certification by answering the questions “do you believe this injury or condition is work-related?” and “do you approve payment of TTD?” If the yes/no section is not marked the Division assumes you agree that the injury **is** work related.

If you disagree with the statements of the injured worker, mark “no” on the employer certification. Attach your written objections as a separate letter to the injury report. Please include a detailed reason for your objection.

If you are unsure about the nature of the incident, check the “Unsure” box.

Sign the report and submit it by mail to the address provided on the form, or take the form in person to one of the 8 local offices located in Cheyenne, Casper, Laramie, Sheridan, Gillette, Rock Springs, Lander, or Cody.

Workers’ Compensation will assign a case number to all injury reports received and will contact the employee and the employer to notify them of that number. Receiving a case number does not mean that the case has been opened and approved. That decision will be made in writing as a Final Determination and a copy of that letter will be sent to the employee and the employer.

By providing information to your employee you can help them maintain a positive outlook as they recover from their injury and expedite the recovery process. Stay in contact with your employee, at least weekly, to check on their progress.

## **Benefits Available to the Employee**

### **Medical Benefits Wyoming Statute 27-14-102(a)(xii)**

Generally the Division will pay for reasonable and necessary medical treatment, if it is directly related to the injury or condition caused by work activities. Effective July 1, 2005, the Division began pre-authorizing certain medical treatments, including non-emergent surgeries.

Information on pre-authorization is posted on the Division's Internet site at: <http://doe.wyo.gov/Employers/>

### **Temporary Total Disability Benefits Wyoming Statute 27-14-404**

Temporary Total Disability (TTD) payments are not allowed for the first three (3) days of disability unless the incapacity extends beyond eight (8) days. Except under extraordinary circumstances TTD will not be paid for more than 24 months.

TTD is paid bi-monthly at the rate of  $\frac{2}{3}$  (.6667) of the injured workers' actual monthly earnings and cannot exceed the state's average monthly wage for the quarter of injury. All income earned must be considered in determining monthly earnings. This includes tips or other employment the injured worker may have. If a worker is paid other than hourly, weekly or monthly, the worker shall verify income by documenting at least three months of wage history with the workers' employer(s) at the time of the injury. If the worker cannot obtain three months of information, the Division shall obtain verification of average monthly wages from the employer(s). Overtime will be considered if verification is received from the employer that the employee worked the overtime for six months prior to the injury or it was guaranteed by written agreement.

If medical care is received ENTIRELY in the State of Wyoming, an incentive amount of approximately 3% will be added to the TTD monthly rate. Once the injured worker leaves Wyoming for medical care, the additional incentive will cease without notification.

Employees cannot receive Unemployment benefits and Temporary Total Disability benefits at the same time. Compensation benefits are *not taxable*.

## Temporary Partial Disability Benefits Wyoming Statute 27-14-404(j)

Employers are encouraged to provide light or modified duty for injured workers within their medical limits to reduce benefit costs.

When an employer makes a **bona fide** written offer of light duty or part time work, and the employee accepts the offer, the employer's Workers' Compensation account will **not** be charged for the compensation benefits paid to the employee. The employee's income should increase due to the fact he/she would earn wages in addition to receiving the light duty benefits from the Division.

The employer may pay an employee whatever wages are deemed appropriate for the light duty work to be performed. Light duty will be paid at the rate of 80% of the difference between the employee's light duty wage and the employee's actual monthly earning at the time of injury.

The Temporary Light Duty (TLD) work must be on the agreement form supplied by the Division, completed by the employer, certified by the treating physician and signed by the injured worker.

TLD cannot exceed one (1) year cumulatively for any one injury. If light duty lasts longer than 90 days, an independent medical evaluation may be appropriate to determine if the claimant has reached ascertainable loss. The award shall cease if the employee's actual monthly earnings from all sources exceed 95% of the employee's actual monthly earnings at the time of injury.

Should the employee refuse the TLD, payments will be reduced to 1/3 of temporary wage rate (This will also be non-chargeable to the employer's account). An employee may refuse a light duty offer, without consequence, if written proof of enrollment in any of the following has been submitted:

- College
- Vocational Re-training
- GED
- WSCD approved re-training other than pre-injury occupation

### **Travel Reimbursement Wyoming Statute 27-14-401(d)**

**Travel reimbursement is paid only to the nearest available medical or hospital care needed by the employee.**

Reimbursement requests must be filed with the Division within one year of the travel. Claims that are submitted after one year will not be paid. All verification must be attached to the Reimbursement Voucher Form.

If the injured worker must travel to obtain medical services, the injured worker will be reimbursed at authorized rates published in the current Wyoming Workers' Compensation Rules, Regulations and Fee Schedules.

Reimbursement for travel is based on map mileage for distances greater than 10 miles one way. Travel, if other than by motor vehicle, must be approved by the claims analyst. The original receipt is required for all requests for reimbursement of meals, motel, or other travel expenses. Trips of more than one day may be reimbursed on a per diem basis.

Only the injured worker may be reimbursed for his/her personal travel and meals. Any persons accompanying the injured worker are responsible for their own expenses, unless medical necessity is established by the treating health care provider. A letter of necessity must be attached to the reimbursement voucher.

The Reimbursement Voucher Form may be obtained at local distribution sites or by calling the Division.

### **Permanent Partial Impairment Benefits (PPI) W.S. 27-14-403**

When a workers' condition has stabilized and they have reached Ascertainable Loss (AL) status, they may qualify for a Permanent Partial Impairment (PPI) award.

An Impairment Rating is an evaluation like an Independent Medical Evaluation that determines what percentage of impairment the injured worker has suffered. The result of the Impairment Rating is expressed in a percentage and results in a cash award to the injured worker if the percentage is greater than zero.

The percentage of impairment must be assigned by a physician licensed to practice medicine or surgery. The rating may come from the treating physician or from another health care provider through a referral by the Division. All impairment ratings must conform to the most current edition of the AMA Guides to the Evaluation of Physical Impairment so the rating physicians are consistent in their method and determinations.

The award shall be calculated at the rate of two-thirds (2/3) of the statewide average monthly wage for the twelve (12) month period immediately preceding the quarterly period in which the injury occurred. The award shall be paid as provided by W.S. 27-14-403 for the number of months determined by multiplying the percentage of impairment by forty-four (44) months.

The permanent partial impairment award does not affect the injured workers' eligibility for continued medical benefits related solely to the original injury.

### **Permanent Partial Disability Benefits (PPD) W.S. 27-14-405**

This award is different from the permanent physical impairment (PPI) benefit that workers receive because of their injury. This is a monetary award that compensates claimants for not being able to return to any occupation for which they have previous training or experience. Claimants selecting this award, must meet all of the following guidelines:

Claimants must be unable to return to employment at a wage that is at least 95% of the monthly gross earnings they were earning at the time of the injury, **and**

Claimants must be actively seeking suitable work, considering their health, education, training and experience.

To meet benefit eligibility, claimants must provide written verification that they are making a continuous sustained effort to seek suitable employment. This may include but not be limited to:

- Verification that you have engaged in a continuous effort to obtain work. Include company names, addresses, phone numbers and the name of the contact person. The work search must consist of a minimum of 5 searches per week over a 6 week period; **and**

- Verification that they have registered for work and continue to report to an Employment Resources (Job Service) office in an effort to obtain suitable employment.

The Division may need to obtain a vocational evaluation to determine the claimants eligibility for the award.

The injured worker must file an application for permanent partial disability. The Application can only be filed during the following time frames:

- If the physical impairment payments are six months or less:  
At anytime starting three months after ascertainable loss, up to 12 months later
- If the physical impairment payments are seven months or greater:  
At anytime starting three months prior to the last physical impairment payment, up to nine months from the last payment.

The award shall be calculated using the statutory formula which adds months to the award for each of five labor market factors: remaining work-life, experience in other occupations, education, career plans and age over 40. The application for the award shall contain such information as the Division deems necessary to apply the formula. Workers older than 65 at the time of ascertainable loss will be deemed to be 65 years old for purposes of the formula.

### **Vocational Rehabilitation Benefits Wyoming Statute 27-14-408**

Vocational Rehabilitation is one of two benefits available to an injured worker. The claimant must choose either vocational rehabilitation or Permanent Partial Disability but is not entitled to both awards because of the same physical injury.

In order to qualify for this benefit the claimant must meet all the following guidelines:

- The claimant has received a permanent impairment award or it is expected that the claimant will receive a permanent impairment award; **and**
- The claimant is unable to return to any occupation for which he or she has previous training or experience or was gainfully employed at any time during the three (3) year period before the injury; **and**

- The claimant has not previously received a Vocational Disability award for this injury.

The Division will review the claimant's application and make a determination on eligibility. The Division will then issue a determination letter, which the claimant takes to the local Vocational Rehabilitation office to schedule an appointment with a counselor. The counselor will then work with the claimant to develop an individualized rehabilitation plan.

The Division may modify, suspend or terminate benefits if Vocational Rehabilitation notifies the Division that the individual is not cooperating or maintaining satisfactory progress toward rehabilitation goals.

### **Permanent Total Disability Benefits Wyoming Statute 27-14-406(a)**

This award is a monetary benefit that compensates the claimant for the permanent effects of an injury that incapacitates the worker from returning to any form of gainful employment.

A claimant qualifies for Permanent Disability if:

- They meet the definition of Permanent Total Disability under W.S. 27-14-102(a)(xvi);
- A physician licensed to practice surgery or medicine certifies that the injury has resulted in permanent total disability. W.S. 27-14-406(a);
- The claimant's vocational abilities and age place them in the category of the Odd Lot Doctrine.

In order to determine the validity of the claim, the analyst may obtain a:

- Functional Capacity Evaluation; (Unless the claimant's physical conditions indicate otherwise)
- Independent Medical Evaluation;
- a Vocational Evaluation;
- Private investigation (as necessary).

### **Extended Benefits Wyoming Statute 27-14-403(g)**

When the Permanent Total Disability award is exhausted (80 months), the injured worker may qualify for an extension of benefits only if they are still unable to work at any gainful employment. **Extended benefits must be applied for annually.**

The Extended Benefit amount is determined based on the law in effect on the date the claimant was rendered Permanent Total. The claimant must prove they have made a reasonable effort to return to part-time or full-time employment including re-training and education. This information should be included on the application where the date of total disability is after June 30, 1987. There is no such requirement on permanent disabilities that occurred prior to July 1, 1987.

The employee's necessary and reasonable monthly expenses must be considered in the determination of the Extended Benefits award. Necessary expenses include costs for housing, utilities, food, transportation, and insurance.

### **Death Benefits Wyoming Statute 27-14-403(d)**

In all cases of injury resulting in death, an Application for Death Benefits must be filed with the Division within one year from the date of death. The date of death, regardless of the date of injury, will be used to determine benefits.

Dependent children's benefits are calculated to the age of 18 or the age of 21 if mentally or physically handicapped, or enrolled in an institute of higher education.

The burial expenses of the deceased employee shall be paid in an amount not to exceed five thousand dollars (\$5,000.00) together with an additional amount of five thousand dollars (\$5,000.00) to cover other related expenses, unless other arrangements exist between the employer and employee under agreement.

A spouse receives benefits for 54 months. If there is no spouse, the child or each child will receive a portion of the spouse benefit for 54 months in addition to their monthly benefit.

If there is no spouse and no dependents and the case is compensable the case will be opened for payment of funeral and medical expenses only.

The application for death benefits will be reviewed to determine if all appropriate documents were submitted to substantiate entitlement to surviving spouse and/or dependent children. Appropriate documents would include:

1. Death Certificate
2. Marriage Certificate
3. Birth Certificate of surviving spouse
4. Birth Certificate of each dependent child
5. Adoption order if applicable
6. If stepchildren are claimed as dependents, proof of spouse custody agreement must be received.

### **Dependent Benefits Wyoming Statute 27-14-403(b)**

In the case of permanent total disability or death, each dependent child of an employee shall be paid one hundred fifty dollars (\$150.00) per month for payments made after July 1, 2001, until the child dies or reaches the age of eighteen (18) years, whichever first occurs, or if the child is physically or mentally incapacitated until the child dies or attains the age of twenty-one (21) years, whichever first occurs.

If the dependent child is enrolled or pre-registered in an educational institution including a post-secondary education institution, the child shall receive an extension of the monthly benefit until the child attains the age of twenty-one (21) years or until they complete the schooling they are enrolled in, whichever comes first. The amount awarded under this subsection shall be adjusted for inflation annually by the division, using the consumer price index or its successor index of the United States Department of Labor, Bureau of Labor Statistics.

## Employer Services

Employer Services is responsible for employer registrations, reporting, premium collections and rate setting for Workers' Compensation.

Workers' Safety & Compensation  
Employer Services  
1510 East Pershing Blvd.  
Cheyenne, WY 82002  
Phone: (307) 777-6763  
Fax: (307) 777-5298

### How to Obtain Worker's Compensation Coverage

Applications are available by phoning the Division, (307) 235-3217 or (307) 777-6763, or by downloading the application from the Division Web Site at <http://159.238.91.226/etd/registration.dot>.

Once you receive the application, you must complete it, and return it with **ORIGINAL SIGNATURES** to:

Department of Employment  
Unemployment Tax Division  
Registration Unit  
P O Box 2760  
Casper, WY 82601

The processing of applications takes **AT LEAST** two weeks, so register early to avoid penalties and interest from delinquent reporting.

## **Wyoming Workers' Compensation Deductible Program**

The Workers' Compensation Deductible program is designed to provide a cost saving option for Wyoming businesses. With the Deductible Program, an employer could reduce premiums in exchange for an agreement to reimburse the Division for all losses up to a specified deductible amount. The Division would periodically bill the employer for reimbursement of payments until the per-injury deductible is met.

### **Program Highlights**

- Deductible amounts per claim ranging from \$1,000 to \$100,000.
- Deductible limits apply separately to each reported injury.
- The Division assumes responsibility for all losses in excess of the deductible level.
- The Division continues to adjudicate all claims and continues to pay all compensable claims.
- The employer reimburses the Division for all costs up to the selected deductible for the life of each case.

### **What are the risks of participating in the program?**

- The employer assumes more risk by paying an increased portion of claims costs.
- There is potential for substantial fluctuations in the costs of the program.
- Numerous or large losses could be detrimental.

### **What are the advantages of participating in the program?**

- Potential to reduce worker's compensation costs.
- Provides employers a loss-sensitive program, rewarding those employers who successfully manage their losses.
- Employer retains most of the advantages and services of the Division's standard program.

### **Program Requirements**

- Participation in the Deductible Program is based on the financial stability and resources of the employer who must be in good standing with the Division. The employer's financial capacity to absorb costs associated with claims will be considered.
- The Division will require an employer to provide a Letter of Credit or a cash deposit guaranteeing payment of losses.

- Both parties must sign an irrevocable deductible contract.
- Work related injuries must be reported to the Division in a timely fashion.
- The employer must be enrolled in the WC Safety Program.

The Division will analyze each deductible application based on risk analysis and sound business practices. The Division may refuse any Deductible Program applicant if it is determined that the request does not represent a sound business practice or decision. For additional information on this program, please visit our Web site <http://doe.wyo.gov/> or write to us at:

Workers' Safety & Compensation  
Employer Services - WC Deductible Program  
1510 East Pershing Blvd. – 2<sup>nd</sup> Floor  
Cheyenne, WY 82002

## Risk Management Services

Risk Management Services is offered through Wyoming Workers' Safety and Compensation Division.

One purpose of the program is to provide Wyoming Workers' Safety and Compensation policyholders company specific **Risk Management Analysis (RMA)**. The RMA is a Risk Management Study that evaluates each individual company and quantifies their past, current, and projected financial losses using company specific Workers' Compensation data. Utilizing this data, Wyoming Risk Management is able to advise employers on benefits, methods, costs, and potential savings. Risk Management may also coordinate the use of other Workers' Safety and Compensation resources and Risk Management techniques to assist a client as needed.

Specifically, a RMA will focus on where a company is experiencing injuries and how those injuries will impact the company financially. The Risk Management Specialist will visit your facility and present the RMA findings to management and employees. The consultant will conduct a multi-media presentation outlining problem areas.

A Risk Management Study will address management concepts in conjunction with employee motivational techniques, assist in the promotion, implementation, and the evaluation of industrial safety programs and procedures. In addition, the consultant will review the problem areas with management and consult on a plan of action.

Furthermore, the consultant will field any questions that may arise during the course of a presentation or at any time thereafter. Training and information is available to the employer, their employees, and to the general public when requested.

Risk Management Services are **free of charge** to all Wyoming Workers' Safety and Compensation policyholders.

If you have any questions about Wyoming Risk Management, call (307) 777-3452 or 777-5961.