

# Employer Rights

## Information for Employers from the Division Workers' Compensation Commission

### What is Workers' Compensation Insurance Coverage?

Texas employers, except for public entities, can choose whether or not to provide workers' compensation insurance coverage for their employees. Workers' compensation provides covered employees with income and medical benefits if they are injured on the job or have a work-related injury or illness. Workers' compensation is regulated by the Texas Department of Insurance; Division of Workers' Compensation (the Division).

Participation in the workers' compensation system in Texas is voluntary for most employers. Employers who choose to have workers' compensation insurance may:

- purchase a workers' compensation insurance policy from a private insurance company;
- self-insure, if the employer can meet the requirements to self-insure under the Texas Workers' Compensation Act (the Act) and is certified through the Division;
- self-insure through the Texas Department of Insurance with a group of same or similar private employers; or
- if a governmental entity, purchase a workers' compensation policy from a private insurance company, or self-insure either individually or as a group

With few exceptions, workers' compensation insurance limits the employer's liability for the work-related injury or death sustained by the worker.

For additional information, visit the Division's website for:

- Information regarding benefits that employees are eligible for [www.tdi.state.tx.us/wc/information/benefits.html](http://www.tdi.state.tx.us/wc/information/benefits.html).
- Information regarding Employer Rights and Responsibilities [www.tdi.state.tx.us/wc/information/employers.html](http://www.tdi.state.tx.us/wc/information/employers.html).
- Information about how to become self-insured through the Division [www.tdi.state.tx.us/wc/dwc/division/selfins.html](http://www.tdi.state.tx.us/wc/dwc/division/selfins.html).

This publication is a summary and is presented for informational purposes only. It is not a substitute for the statute and Division rules. For questions about Division rules, please call Customer Assistance at 1-800-252-7031. CS05-016D(11-06)

### Covered Employer Rights

The Texas Workers' Compensation Act provides a covered employer the following rights:

- the right to contest the compensability of a workers' compensation claim (claim) if the employer's insurance carrier accepts liability. Contesting the compensability of a claim means the employer can present evidence in dispute resolution proceedings held at the Division and in court that indicates the employee's injury, illness, or death did not occur on the job or is not work-related.
- the right to receive notice, after making a written request to the insurance carrier, about any dispute resolution proceeding or court proceeding related to an employee's claim, or any proposal to settle the claim by an agreement.
- the right to attend all dispute resolution proceedings related to an employee's claim.
- the right to present relevant evidence about disputed issues at dispute resolution proceedings.
- the right to report suspected workers' compensation fraud to the Division or to the insurance carrier.
- the right to contest the failure of the insurance carrier to provide accident prevention services required by the Act.

For additional information regarding dispute resolution and a list of the Division's local offices in your area, visit the Division's website at [www.tdi.state.tx.us/wc/information/dispute.html](http://www.tdi.state.tx.us/wc/information/dispute.html) or <http://www.tdi.state.tx.us/wc/dwcontacts.html#offices>.

To obtain the forms to dispute a claim (DWC Form-4 and DWC Form-45), visit the Division's website at [www.tdi.state.tx.us/wc/forms/index.html](http://www.tdi.state.tx.us/wc/forms/index.html).

For further assistance, call  
1-800-252-7031  
or visit  
[www.tdi.state.tx.us](http://www.tdi.state.tx.us)

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## Reimbursement of Voluntary Payments Made by an Employer

[Section 408.003, Rules 126.13, 129.7]

Whether an employer may be reimbursed for voluntary payment of benefits paid to an injured worker depends on the type of payments made and when the payments were issued.

An employer is eligible for reimbursement of voluntary payment of benefits the employer has paid to an injured worker when:

- the carrier has denied liability for the injury, the employer does not agree, and the injury is determined compensable; or
- the carrier has not completed its initial investigation. **(Please Note: an employer is only allowed to pay benefits in this situation for the first two weeks after the injury).**

In the situations above, the employer must file the *Employer's Report for Reimbursement of Voluntary Payment* (DWC Form-2) detailing the total amount of voluntary payments made up to the point when the carrier notified the employer that they have accepted liability for the injury and have begun benefit payments. The carrier must reimburse the employer for the amount of benefits the carrier would have paid. If the employer made payments in excess of what the carrier would have paid in benefits, the excess amount is not reimbursable unless there is a written agreement between the injured worker and the employer that the excess amount can be recouped from future impairment income benefits paid by the carrier, if any.

An employer is not eligible for reimbursement of wages paid to continue the employee's full salary after an injury if the carrier has initiated benefits. An employer must ensure the carrier is aware the employer is paying full salary to the employee to prevent the carrier from paying Temporary Income Benefits (lost wage benefits) for the same time period. An employer who pays salary to supplement the difference between the 70 percent or 75 percent of the employee's average weekly wage that is being paid by the carrier is not entitled to and may not seek reimbursement from the employee or the carrier.

## For more information on workers' compensation for employers see the following fact sheets:

- Employer Responsibilities
- Employer Administrative and Criminal Violations
- Non-covered Employers