

Does Workers' Comp Protect Your Volunteers?

How can you be sure your volunteers – and your organization – are protected from financial risk in the case of illness or injury?

Q I know that workers' compensation law protects our organization and our employees if they sustain job-related illnesses or injuries. But what about our volunteers? Are they also protected if they become sick or hurt during their service? What can we do to assure that our organization isn't liable?

A The answer depends on the state where the injury or illness occurs. State law varies widely on these matters. So, the first thing you must do is check your state law to see how its statutes address this issue. For example, California allows employers to "opt in" for workers' compensation coverage for their volunteers. However, the states of Washington and Georgia don't cover volunteers unless they receive something of monetary value in exchange for their work.

Meanwhile, Wisconsin's official website states: "Volunteers cannot be covered under a workers' compensation policy and cannot collect workers' compensation benefits if they incur an injury or illness during the course of their voluntary service. The workers' compensation law has no jurisdiction over any other form of relief that may be available to a volunteer."

The litmus test in many states is if the volunteers receive any benefit for their service. This benefit can be almost anything. For a volunteer working in the hospital gift shop, it could be a discount; a volunteer starter at a golf course might receive a free round of golf for a certain number of hours volunteered. If volunteers receive any benefit in exchange for their service, they could qualify for coverage under the organization's workers' compensation policy.

Exceptions and special situations

Most states have some exceptions to the statutes for volunteers. A common exception is the volunteer firefighter. For example, Florida stipulates that volunteer firefighters

injured in the line of duty are considered employees of the municipality; however, Georgia law says that volunteer firefighters are eligible for coverage only if the local municipality elects to provide coverage for them.

Workers' compensation benefits for voluntary workers

Workers' compensation policies typically have three elements: (1) They cover medical costs of workers who become injured or ill on the job. (2) They offer indemnity for lost wages when an employee cannot work. (3) They provide a death benefit for workers losing their lives during the course of their employment.

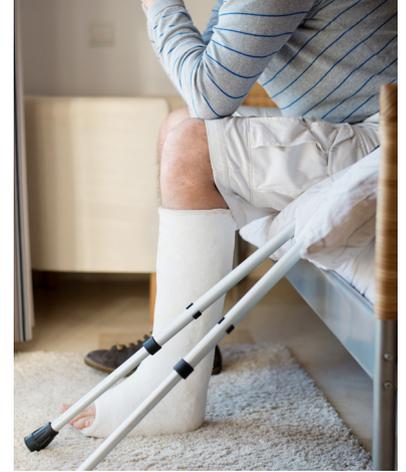
When states allow volunteers to be covered under a workers' compensation insurance policy, they usually provide the same medical benefits afforded to employees. However, states vary on the indemnity for lost wages. Some states provide no indemnity benefits; others require the calculation of a benefit based on an average per hour wage rate; and still others require payment of the state's minimum weekly indemnity benefit.

Beware confusion over the "voluntary coverage" policy endorsement

Some nonprofits mistakenly believe that the so-called "voluntary coverage endorsement" can be added to a workers' compensation policy to provide coverage for volunteers. That's typically not the case.

The voluntary coverage endorsement enables an organization to extend benefits provided by the Workers' Compensation Act to its employees who may not otherwise be entitled to benefits under the terms of the Act. These include: executive officers, partners, sole proprietors, farm workers, or employees traveling overseas. If such employees are injured in the course of employment, they may elect to accept the scale of benefits provided by the workers' compensation law or pursue common law remedies.

The key point is that volunteers are permitted to be covered under a workers' compensation policy only when allowed by state law. So, in Georgia, for example, adding this endorsement doesn't supersede Georgia Law, which excludes volunteers. However, if your state does allow inclusion of



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volunteers, then you can choose to purchase the voluntary coverage endorsement to protect your volunteers.

A possible alternative: volunteer accident insurance

In situations where the voluntary coverage endorsement cannot be used to provide insurance for voluntary workers, there is another alternative. Some insurance companies offer volunteer accident insurance. Most of these policies provide medical benefits only and no indemnity benefits. For the medical costs, the typical per-claim limit is \$25,000 per person.

In brief

To sum up, you can extend workers' compensation benefits to your volunteers if (1) it is permitted in your state and (2) you qualify by providing volunteers some form of benefit. In other circumstances, the best option might be to purchase a volunteer accident policy.

You must be vigilant about reviewing your state laws and checking with your insurance advisers and insurance company to see whether you can cover volunteers under your workers' compensation policy. An experienced insurance advisor can help you navigate these issues and develop an approach that protects your organization and your volunteers.

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Don't Let Volunteers Put Your Organization at Risk

For more on the topics of volunteers and risk, see articles such as these at NonprofitWorld.org:

Volunteer Protection Act: What Does It Mean for You? (Vol. 16, No. 2)

Foreseeable Harm (Vol. 20, No. 3)

Volunteers: Resource or Risk? (Vol. 15, No. 5)

Setting the Stage for an Abuse-Free Organization (Vol. 30, No. 6)

What Is the Board's Role in Managing Risk? (Vol. 15, No. 5)

Volunteer Screening: Changing Trends in Changing Times (Vol. 34, No. 2)



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