

Ohio Workers' Compensation Law

Bernard L. Erven – Professor and Extension Specialist

Eric E. Barrett – Extension Associate

Objective

Workers' Compensation is an income maintenance and health care insurance program that covers work related injuries, deaths, and occupational diseases.

Coverage

Ohio law requires that every employer, including farm owners and operators, with one or more employees must carry workers' compensation insurance. Coverage must be obtained for both full-and part-time workers. The employer pays the entire cost of workers' compensation and may not deduct any portion of the premium payment from an employee's wages or salary.

The only exception to the necessity of carrying workers' compensation insurance on employees is for domestic employees. Domestic employees need not be covered unless the employee's wages per quarter exceed \$160.

Employers carrying workers' compensation coverage are not held responsible for the costs of employees' claims and are protected from most lawsuits that might arise from such claims. Without coverage, the employer may be held responsible for all costs of an employee's claim.

Employee/Employer Relationship

An employee/employer relationship exists where there is a contract of hire between parties. The contract may be written or oral. The contract may be express or implied from the circumstances.

Farm Workers Under 18

An employer must carry workers' compensation insurance on all employees, including minors. In Ohio, any employee under the age of 18 is considered a minor. The employee's age makes no difference.

The employer should be aware that it is unlawful for minors under 16 years of age to work in certain jobs. If an under age employee is injured while performing such a job, the employer may be ordered to pay the injured minor an award in addition to the compensation. For a list of occupations that minors may not hold, see the Employment of Minors section of this handbook.

Seasonal Employees

If an employer hires even one employee seasonally or part-time, the employer needs to be covered by workers' compensation insurance.

Exchange or Trade Labor

Two or more farmers exchanging or trading labor raises special coverage questions. In case of an injury or accident, the Ohio Bureau of Workers' Compensation would have to determine whose coverage applied. Exchange labor usually creates an employee/employer relationship.

In order to avoid problems, agree with the other farmer(s) on the fair wage value of services traded (machine value is not applicable) and have both (all) farmers involved report such values to the Ohio Bureau of Workers' Compensation when reporting payroll. Everyone will then be covered.

Independent Contractors

Generally, workers' compensation insurance does not cover workers hired through a contractor. However the farm business could be liable for the cost of injuries to employees of an independent contractor working for the farm business, if that contractor does not provide workers' compensation coverage.

To avoid such problems, any farm manager should request a copy of an independent contractor's Certificate of Premium Payment and check the dates of coverage. The farm manager should keep a copy of the certificate on file to be certain that responsibility for an accident to an independent contractor's employee does not fall upon the farm business.

A contract may be signed between the farm business and the independent contractor reflecting the agreed upon independent contractor relationship. Here is a sample contract:

On this day of , , it is agreed by and between , the employer, and , the independent contractor, that the work to be done and identified below is to be performed under an independent contractor relationship. The independent contractor agrees that any and all of his/her current and future employees are currently and will continue to be covered by workers' compensation. The independent contractor agrees to indemnify the employer for all costs he/she might incur for work-related injuries, deaths, and occupational diseases that result to the independent contractor or his/her employees during the performance of the employment contract.

The work to be done under this contract is: _____

Employer

Independent Contractor

Taxpayer ID Number

Address

A signed contract does not necessarily mean that an independent contractor status exists. See the independent contractor versus employee section of this handbook for rules to determine if an independent contractor relationship exists.

Family Members

Members of the employer's family may be considered employees, and they should be covered by workers' compensation in every instance where there is an employee/employer relationship for business related work.

Children, as well as spouses and related adults, should be covered. Family health insurance policies may not extend to work related injuries, deaths, and diseases.

Family Farm Corporation

Officers of a family farm corporation are not considered employees for purposes of reporting payroll and assessing premiums. These officers will be covered only if the employer (the corporation) makes separate application for coverage by filing a Form U-43 with the Ohio Bureau of Workers' Compensation, identifying by name all officers to be covered.

For purposes of workers' compensation, a family farm corporation has the following criteria:

1. It must be founded for the purpose of farming, for the production of animal or plant products intended for consumption by human beings or animals (excluding nurseries and flower-production enterprises);
2. A family farm corporation must consist of a majority of "shareholders" who are related within the fourth degree of kinship, or spouses of such persons (fourth degree of kinship includes sibling, parent, child, grandparent, great grandparent, great-great grandparent, aunt, uncle, great aunt, great uncle or first cousin);

3. No shareholder of the family farm corporation may be a corporation;
4. At least one of the related persons within the corporation must reside upon or actively operate the farm.

When requesting coverage for the officers of a family farm corporation, the employer must provide a detailed description of the officers' duties. The Bureau will assign appropriate job classifications to the officers on the basis of the duties described. For 1999, officers must report their salaries and other remuneration to a maximum of \$800 per week, \$20,800 per six-month payroll-reporting period, and not less than a minimum of \$100 per week, or \$2,600 per six month payroll period.

Sole Proprietorships and Partnerships

Farmers organized as a sole proprietorship or partnership may elect to be covered by workers' compensation. This election is made by completing Form C-116. The election includes identifying the level of pay, which may range between \$100 per week and \$800 per week. The level of pay includes all remuneration. This election does not apply to family members of a sole proprietor or partner. Family members who are employees must be covered.

Employer Provisions

Signing Up for Coverage

To apply for workers' compensation coverage, the employer should complete an application, Form U-3, and forward it to the Underwriting Section, Ohio Bureau of Workers' Compensation, P.O. Box 15698, Columbus, OH 43215-0698. The employer should describe the nature of the farming operation in detail, since there are several farming classifications. The Bureau will assign specific job classifications, i.e., not all employees necessarily have the same job classification.

If an employer thinks the farming operation has been improperly classified for the types of work done on the farm, then he or she may request a reevaluation from the Bureau's Underwriting Section. If employees perform different kinds of farm work, the employer can "segregate" the payroll so that some of the employees can be covered at lower premium rates than others. The same employee cannot be segregated into more than one job classification.

An employer's workers' compensation insurance coverage becomes effective as soon as the Bureau receives the U-3 application, along with a check for \$10. This is the initial payment of the employer's premium security deposit. The total amount of the premium security deposit is 30 percent of the employer's eight-month payroll multiplied by the employer's premium rate. The minimum deposit is \$10 and the maximum deposit is \$1,000. All checks should be made payable to the Ohio Bureau of Workers' Compensation.

The premium security deposit does not apply toward any payroll premium due. The deposit is returned when coverage is no longer needed.

Calculating Premiums

The premium is based on the size of the employer's payroll and the risk to which employees are exposed. To estimate the premium for any six-month period, the employer should: 1) find the current rates for the job classifications applicable to the farming operation (these are prepared by the Ohio Bureau of Workers' Compensation), 2) estimate payroll for the six-month period; and 3) multiply the appropriate rate by each \$100 of payroll.

The payroll for a six-month period includes the entire remuneration given to an employee. Wages, bonuses, commissions, and the fair market value of board, lodging, housing, food supplies or other goods and merchandise provided must be included in the total value of the payroll.

The rate for each farming classification is based on records of frequency and severity of accidents experienced by all farm workers in Ohio doing similar work. Premium rates are revised each July 1 according to any changes in accident statistics.

The Ohio Bureau of Workers' Compensation has established numerous job classifications. Each job classification has its own premium rate. Rates are reviewed and adjusted annually. The classifications for farm-related work include, but are not limited to:

| <u>Description</u> | <u>Classification Code</u> | <u>Base Rate (7/1/98 - 6/30/99) per \$100 of payroll</u> |
|---|----------------------------|--|
| Farm: Nursery Employees and Drivers | 0005 | \$6.47 |
| Farm: Gardening-Market or Truck and Drivers | 0008 | \$4.40 |
| Farm: Orchard and Drivers | 0016 | \$11.07 |
| Farm: Poultry or Egg Producer and Drivers | 0034 | \$6.14 |
| Farm: Florist and Drivers | 0035 | \$5.43 |
| Farm: Dairy and Drivers | 0036 | \$12.10 |
| Farm: Field Crops and Drivers | 0037 | \$8.86 |
| Farm: Landscape Gardening and Drivers | 0042 | \$8.32 |

| | | |
|--|------|---------|
| Farm Machinery Operation - By Contractor - And Drivers | 0050 | \$9.54 |
| Farm: Berry or Vineyard and Drivers | 0079 | \$8.57 |
| Farm: Cattle or Livestock Raising NOC (Not Otherwise Classified) and Drivers | 0083 | \$10.26 |
| Tree Pruning, Spraying, Repairing and Drivers | 0106 | \$31.01 |
| Farm: Fish Hatchery and Drivers | 0113 | \$9.06 |
| Farm: Animal Raising and Drivers (applies to fur bearing animals) | 0170 | \$6.60 |
| Clerical office employee, NOC | 8810 | \$0.40 |

Note: Farm managers must be classified under the manual classification in which the manager works.

In addition to premium base rates, every employer who carries workers' compensation is assessed a few cents per \$100 of payroll for administrative costs: for the Disabled Workers' Relief Fund, a special program for certain permanently and total disabled workers; for the Disabled Workers' Relief Fund II, a supplemental fund. The current assessment rates for private employers are 15.98 per cent of premium paid for administrative cost assessments effective 7/1/98, with a minimum of \$10.00 every six months; ten cents per \$100.00 unit of payroll for the Disable Workers' Relief Fund; and one-tenth of one per cent of premium for the Disabled Workers' Relief Fund II.

Premiums are due every six months, and the employer may report "Zero Payroll" for any reporting period during which the employer has no employees. The employer pays only a minimum administrative assessment of ten dollars, and the employer can keep active coverage for those periods when the employer again has employees.

Payments are due each January 31 and July 31, but can be paid as late as February 28 and August 31. Payments received after these dates will result in a lapse of coverage. The payments are mailed with a completed payroll reporting form to the Ohio Bureau of Workers' Compensation. Payroll report forms are mailed automatically to employers at the employer's address. Payroll report forms are sent in January and July of each year.

Group Experience Rating

The group rating plan allows employers that are substantially similar to group together to potentially achieve lower premium rates than they can acquire as individual employers. In order to be eligible for group rating, both the group and the individual employers must meet certain criteria. The criteria for group experience rating are:

1. all of the employers within the group are members of an organization that has been in existence for at least two years prior to the date of application for group coverage
2. the organization was formed for purposes other than that of obtaining group coverage
3. the employers' business in the organization is substantially similar such that the risks that are grouped are substantially homogeneous
4. the group of employers must consist of at least one hundred members OR the aggregate workers' compensation premiums of the members are expected to exceed \$150,000 during the coverage period
5. the formation and operation of the group program in the organization must substantially improve accident prevention and claims handling for the employers in the group
6. each employer seeking to enroll in a group for workers' compensation coverage has an industrial insurance account in good standing with the Bureau of Workers' Compensation with no outstanding premiums, penalties or assessments due at the time of application.

Signing-up for Group Experience Rating

The group rating plan is an annual plan for rating of a policy year. Groups must re-apply to the Bureau of Workers' Compensation, Actuarial Section each year by January 31. Sponsoring trade and business associations form groups. The Bureau does not form groups. Employers interested in joining a group for group rating should contact a business or trade association in which he or she holds membership.

There were nine Ohio agricultural groups that obtained the group experience rating for 1998. These groups had 3048 members who achieved lower premium rates.

Employee Provisions

Workers' compensation pays for all necessary medical care that directly pertains to work-related injuries or occupational diseases. It also provides compensation to a worker whose job-related disability lasts longer than seven days. If someone is killed on the job or dies from a work-related injury, workers' compensation provides a moderate funeral expense allowance and compensation to qualifying dependents.

The maximum disability compensation allowed by law is an amount equal to the statewide average weekly wage for the year in which the worker is injured. In 1999, this amount is \$567.00 per week.

A completed workers' compensation claim application must be filed with the Bureau before any benefits can be paid. It is technically the responsibility of the employee to file any claim.

Employers are required to keep a supply of workers' compensation claim application forms for use by employees. Forms may be obtained from any Bureau of Workers' Compensation district office.

If an employee is injured while on the job, the injury should be reported immediately to the employer. The employee should see a doctor and inform the doctor that the injury is the result of a job-related accident. A claim form should be secured from the employer, completed and filed with the Bureau of Workers' Compensation for payment. Generally, an employee should file a claim to establish eligibility and rights under the workers' compensation statutes. An injured worker has two years to file a claim.

Claims should be filed as soon as possible so important facts and/or witnesses can be easily remembered. All claims must be filed within two years of the work-related injury or death.

Compensation disability benefits cannot be paid if the injured employee is drawing sick-leave pay. The employee may choose to take sick leave or workers' compensation pay, but not both. However, with employer approval, the injured employee may take workers' compensation payments as well as vacation pay.

Detailed compensation, benefits and claim information for employees is available from any of the Workers' Compensation offices listed in this section of the handbook. The Ohio Bureau of Workers' Compensation also has a toll-free, statewide telephone number that can be accessed by either employers or employees with specific questions about workers' compensation or the status of a claim. The number is 1-800-644-6292.

Responsible Agency

This is an Ohio law administered by the Ohio Bureau of Workers' Compensation. For further information contact the district office of the Bureau of Workers' Compensation in your area. Offices and counties served are:

| | |
|--|---|
| Akron 161 S. High Street Akron, OH 44308-1617 330-379-3111 Fax 330-643-3601 -Medina, Portage, Summit | Mansfield The Tappan Bldg. 240 Tappan Drive N. Mansfield, OH 44906-8051 419-747-4090 Fax 419-747-4090 |
|--|---|

| | | |
|--|--|---|
| | | -Ashland, Crawford, Erie, Huron, Knox, Marion, Morrow, Richland, Seneca, Wyandot |
| <p>Bridgeport</p> <p>56104 National Road</p> <p>Bridgeport, OH 43912-0389</p> <p>740-635-1163</p> <p>Fax 740-635-4808</p> <p>-Belmont, Guernsey, Harrison, Jefferson, Monroe, Noble</p> | | <p>Portsmouth</p> <p>P.O. Box 1307</p> <p>Portsmouth, OH 45662-1307</p> <p>740-353-2187</p> <p>740-353-3772</p> <p>-Adams, Gallia, Highland, Jackson, Lawrence, Pike, Ross, Scioto</p> |
| <p>Canton</p> <p>400 Third Street SE P.O. Box 24801</p> <p>Canton, OH 44701-4801</p> <p>330-438-0638</p> <p>Fax 330-471-0924</p> <p>-Carroll, Holmes, Stark, Tuscarawas, Wayne</p> | | <p>Richmond Heights</p> <p>26301 Curtiss Wright Parkway</p> <p>Richmond Heights, OH 44143-1433</p> <p>216-289-4290</p> <p>Fax 216-289-7120</p> <p>-Lake, Geauga, East Cuyahoga</p> |
| <p>Cincinnati</p> <p>125 E. Court Street</p> <p>Cincinnati, OH 45202-2196</p> <p>513-852-3341</p> <p>Fax 513-361-8392</p> <p>-Brown, Butler, Clermont, Clinton, parts of Hamilton, Warren</p> | | <p>Springfield</p> <p>1 S. Limestone Street</p> <p>P.O. Box 1467</p> <p>Springfield, OH 45501-1467</p> <p>937-327-1425</p> <p>Fax 937-327-1485</p> <p>-Champaign, Clark, parts of Green, Logan</p> |
| <p>Cleveland</p> <p>615 W. Superior Ave.</p> <p>Cleveland, OH 44113-1889</p> <p>216-787-3050</p> | | <p>Toledo</p> <p>One Government Center</p> <p>Toledo, OH 43695-0794</p> <p>419-245-2700</p> |

| | | |
|--|--|---|
| <p>Fax 216-787-3580 -Parts of Cuyahoga</p> | | <p>Fax 419-245-2666 -Fulton, Lucas, Ottawa, Sandusky, Wood</p> |
| <p>Columbus North 30 W. Spring Street, L-11 Columbus, OH 43215 614-728-5416 Fax 614-728-5546 -parts of Franklin</p> | | <p>Warren 258 E. Market Street P.O. Box 1190 Warren, OH 44482 330-306-4000 Fax 330-306-4136 -Ashtabula, Trumbull, lower Portage</p> |
| <p>Columbus South 30 W. Spring Street, L-12 Columbus, OH 43215 614-466-6446 Fax 614-752-2347 -Delaware, Fairfield, Fayette, parts of Franklin, west Licking, Madison, Pickaway, Union</p> | | <p>Youngstown 100 Westchester Drive P.O. Box 4294 Youngstown, OH 44515-0294 330-797-5500 Fax 330-797-6351 - Columbiana, Mahoning</p> |
| <p>Dayton P.O. Box 13910 Dayton, OH 45413-0910 937-264-5000 Fax 937-264-5088 -Darke, Miami, Montgomery, Preble, Shelby, part of Greene</p> | | <p>Zanesville 905 Zane Street P.O. Box 37 Zanesville, OH 43702-0037 740-450-5151 Fax 740-450-5150 -Coshocton, east Licking, Morgan, Muskingum, Perry, Washington</p> |
| <p>Fairfield 100 Commercial Drive Fairfield, OH 45014 513-881-2000</p> | | <p>Special Claims Services 30 W. Spring Street, L-10 Columbus, OH 43215 614-644-1335</p> |

| | | |
|---|--|--|
| <p>Fax 513-881-2986</p> <p>-Butler, parts of Hamilton</p> | | <p>Fax 614-728-6999</p> <p>-All of Ohio</p> |
| <p>Governor's Hill</p> <p>8500 Governor's Hill Drive, L-4</p> <p>Cincinnati, OH 45249</p> <p>513-583-4400</p> <p>Fax 513-583-4827</p> <p>-Brown, Clermont, Clinton, parts of Hamilton, Warren</p> | | <p>Policy Development Unit</p> <p>30 W. Spring Street, L-20</p> <p>Columbus, OH 43215</p> <p>614-728-2804</p> <p>Fax 614-752-4946</p> <p>-All of Ohio</p> |
| <p>Independence</p> <p>5990 W. Creek Road</p> <p>Independence, OH 44131-2126</p> <p>216-573-7700</p> <p>Fax 216-573-7785</p> <p>-Parts of Cuyahoga, Lorain</p> | | <p>Medical Claims</p> <p>30 W. Spring Street, L-4</p> <p>Columbus, OH 43215</p> <p>614-752-6504</p> <p>Fax 614-466-5014</p> <p>-All of Ohio</p> |
| <p>Lima</p> <p>2025 E. Fourth Street</p> <p>Lima, OH 45804-0780</p> <p>419-227-3127</p> <p>Fax 419-225-5399</p> <p>Allen, Auglaize, Defiance, Hancock, Hardin, Henry, Mercer, Paulding, Putnam, Van Wert, Williams</p> | | <p>Camera Center</p> <p>2050 Kenny Road</p> <p>Columbus, OH 43221-3500</p> <p>614-421-4003</p> <p>Fax 614-421-4001</p> <p>-All of Ohio</p> |
| <p>Logan</p> <p>1225 W. Hunter Street</p> <p>Logan, OH 43138-0630</p> <p>740-385-5607</p> | | |

| | | |
|---|--|--|
| Fax 740-385-9048 | | |
| Athens, Fairfield, Hocking, Meigs, Vinton | | |

Internet Resource

Ohio Bureau of Workers' Compensation Web Site: <http://www.bwc.state.oh.us/>

References

Workers' Compensation on the Farm, Publication PA340, Ohio Bureau of Workers' Compensation, 1986.

Your Workers' Compensation Claim, Publication PA010, Ohio Bureau of Workers' Compensation, 1986.

Ohio State Workers' Compensation Insurance Fund Manual Rating Rules, Premium Rates and Index of Classifications, Ohio Bureau of Workers' Compensation, 1998.

The State Fund Guide to Workers' Compensation, Publication PA 200, Ohio Bureau of Workers' Compensation, 1991.

Ohio Industrial Commission and Bureau of Workers' Compensation 1997 Laws, Ohio Bureau of Workers' Compensation, 1997.

Ohio Industrial Commission and Bureau of Workers' Compensation Rules, Ohio Bureau of Workers' Compensation, 1997.