New York Worker's Compensation Laws

Many times we hear from our insureds, "I don't have enough employees to have to comply with WC laws," or "All of the truckers I work with have signed a waiver or are not required to carry WC because they are an owner operator." That may be true until it is determined that these individuals are **Uninsured Subcontractors** who are working for you. By the time this happens, it may be too late. Even if your company is not located in New York, but your shippers or carriers are, you could be affected by New York Worker's Compensation laws.

What can happen?

Below are examples of the consequences of non-compliance with Workers Compensation requirements:

- Fines against your company as an employer:

  The New York Workers Compensation Board website indicates that an employer is liable for a penalty of $2,000 per 10-day period of non-compliance, plus the actual award (including both compensation and medical costs), plus any other penalties the Board issues for non-compliance. In cases involving severely injured employees, the medical costs alone could be in the hundreds of thousands of dollars per injury.

- Unexpected additional premium charges on your own WC policy audit:

  Auditors look at the payables ledger to find vendors; then they require a Certificate of Insurance be produced to prove the company you've paid has WC coverage. If the Certificate is not produced, then 1/3 of the invoice total can be considered payroll.

- Unexpected liability for work-related injuries:

  You can be held responsible for injuries to uninsured subcontractors. If your company does not have a WC policy, you may lose valuable protections since Workers Compensation coverage is supposed to be an injured employee's sole remedy.

- Personal Accountability:

  The sole proprietor, partners or the president, secretary and treasurer of a corporation are personally liable for a business' failure to secure workers' compensation insurance.

What can I do to protect my company?

- Buy a WC policy, even if you are the sole employee and your state excludes coverage for you personally.

- Ensure that there is Other States Coverage for all states (except OH, ND, WA and WY). The four above mentioned excluded states are "monopolistic" meaning the State controls the WC coverage and coverage must be provided for employees by the state fund.

- Obtain Certificates of Insurance for **EACH** transportation company with whom you do business or otherwise pay. (Note Occupational/Accident policies may NOT satisfy the WC Law; be wary.)

The bottom line: The State of NY very strictly enforces WC rules

It is imperative to remember that even companies having no operations or employees in NY can still be required to add the State of NY for "3A Status" (primary states in which Part 1, WC Law, applies) if it is determined that they have "subcontractors" that have contact with or operations in the State of NY.

An example of this might be having a shipper or carrier contract with a party domiciled in NY. We have seen several instances where our customers have received letters from the NY Workers Compensation Inspection and Rating Bureau requiring that NY be added as a "3A" state on their WC policy due to drivers traveling through NY.

Imagine the audit consequences! For instance, an insured was assessed additional payroll at audit of over $2,000,000 for uninsured subcontractors providing trucking services. Given the high rate per $100 for this category of employment, the estimated additional premium bill was over $225,000. In the absence of payroll, one-third of the total contract price is considered WC payroll for uninsured drivers and helpers with their own vehicles.

If you have any questions regarding Workers Compensation coverage, please contact your local Avalon representative.

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