

Workers Compensation Guide for Work Experience Participants

Background

Federal law requires workers compensation coverage for individuals participating in Work Experience activities. The Division of Social Services purchases workers compensation coverage to ensure appropriate coverage. Effective September 1, 2009, Key Risk Management Services became the provider of the workers compensation coverage for Work First participants in Work Experience.

Extent of Coverage

The workers compensation policy covers the costs of medical treatment associated with a compensable claim resulting from an accident while engaged in Work Experience. The workers compensation policy does not cover injuries suffered by individuals who are not Work Experience participants, even if the injury is the direct result of the Work First participant's action at the work site. The costs of medication and travel associated with the covered work site injury are also paid. To the extent allowed by the Workers Compensation Act, injured Work Experience participants can receive monetary compensation for the loss of limbs or other severe injuries.

The policy only covers injuries sustained at work sites located in North Carolina. Counties electing to develop work sites outside of the state must ensure that workers compensation coverage is available for Work Experience participants.

Work First participants **are not** State employees. Work Experience participants are not considered employees, do not earn wages, and are; therefore, not entitled to recovery under the North Carolina Workers' Compensation Act. Under ordinary circumstances, neither State nor local department of social services would be subject to any liability beyond the workers compensation coverage. In situations, however, where the employer/work site sponsor operates in flagrant violation of health and safety laws, the courts have allowed individuals to file suit.

Workers compensation is the primary coverage for medical expenses resulting from work site injuries, not Medicaid. Therefore, the workers compensation coverage is required to reimburse Medicaid for any amount of medical expenses Medicaid has paid (at least to the extent of the workers compensation coverage).

Claims and Claims Administration

The insurance carrier is Key Risk Management Services. The policy number is 900-5296 and the name insured is North Carolina Department of Health and Human Services-Division of Social Services. When an injury occurs at a work experience site, call Key Risk's toll free telephone number, 1-888-883-9568, to initiate the claims process. It is mandatory that an accident report be submitted to the NC Industrial Commission, **via the insurance carrier**, within five (5) working days of the "employers" (i.e. work site sponsor) knowledge of the accident. The accident report must include complete information as to the cause and nature of the accident and the nature and extent of the participant's injury. The statute of limitations on filing workers compensation claims is two years after the accident.

Each county department of social services must develop local procedures for administering workers compensation coverage for Work Experience participants. It is strongly recommended that the administration of claims be a joint responsibility shared by the county department of social services,

work site sponsor, and the respective county's workers compensation claims coordinator or designated staff. The support of the county's workers compensation claims coordinator is invaluable because the individual should have considerable working knowledge of workers compensation law and reporting requirements. If the county workers compensation coordinator is not known, please contact the county manager's office to determine who is assigned as the designated coordinator.

For proper claims administration, frequent communication is essential. Work First staff, county workers compensation coordinator and other involved parties may need to meet to discuss the specific issues related to the nature and purpose of Work Experience, the purpose of the coverage, and the claims reporting procedure. Topics of discussion should include but are not limited to:

- Reporting Requirements
- Task assignment and the timeline for such tasks
- Verification of participant's Work Experience status
- Forwarding medical bills and other expenses to the insurance carrier

Roles and Responsibilities

There are variations in the manner in which counties handle these issues; however, it is recommended that counties follow the procedures as outlined below to the greatest extent possible. The recommended procedures include the responsibilities typically carried out by the county department of social services, the work site sponsor as an "employer", and the workers compensation coordinator or designated staff.

A. Department of Social Services

1. Explain to Work Experience participants, work site sponsors, the workers compensation coordinator, and others that workers compensation coverage is available;
2. Immediately notify Work First staff of the flyer outlining the insurance carrier's reporting procedures and display in locations that are accessible to Work First Participants;
3. Provide the Work Experience participant with a copy of the Workers Compensation Fraud Notice (DSS-5321);
4. Ensure all work site sponsors are aware and have a copy of the poster (English and Spanish) showing the healthcare providers contracted through Key Risk;
5. Assist the participant in obtaining appropriate medical care through the designated healthcare provider;
6. Verify the Work First participant is in Work Experience through the appropriate department of social services' records. This information will be conveyed to the worker compensation coordinator, the work site sponsor, and the insurance carrier;
7. Contact the work site sponsor to ensure all procedures and policies have been followed;
8. Maintain copies of any workers compensation forms in the participant's case record;
9. Notify the Economic and Family Services Section by telephone, 919-334-1224, of the injury/claim within five (5) working days of when the county department of social services learns of the accident report; and

10. Ensure that a copy of the Report of Injuries Log (DSS-5322) is sent quarterly to the Economic and Family Services Section. The department of social services will have the responsibility of verifying the accuracy of information on the log prior to submitting the log to Economic and Family Services.

B. Work Site Sponsor

1. A mandatory safety orientation should be performed. The orientation should review with each Work Experience participant the work site safety policy rules and procedures before actually beginning work;
2. Inform Work Experience participants to immediately report an accident;
3. Maintain an onsite copy of the List of Panel Physicians (English and Spanish) showing the Key Risk contracted healthcare providers;
4. Immediately notify county Work First staff by telephone of the accident/injury;
5. Assist the participant in obtaining appropriate medical care through the designated healthcare provider;
6. In the event the work site sponsor must contact Key Risk Management Services directly because of death, paralysis, or serious injury, the work site sponsor must also inform the county's workers compensation coordinator and Work First staff that the report was made; and
7. Forward medical expenses/bills to the workers compensation coordinator.

C. County Workers Compensation Coordinator

1. Forward travel expenses, prescription costs, etc. to the insurance carrier for completion of necessary forms;
2. Serve as liaison between the insurance carrier and the participant;
3. Assume primary responsibility for maintenance of the Report of Injuries Log. The coordinator will forward a copy of the accident log quarterly to the Work First staff person; and
4. When necessary, make arrangements to reimburse Medicaid for any associated medical expenses.

D. Work First Participant

1. Immediately give notice of the accident to the work site sponsor (supervisor) or as soon as possible after the accident occurs. The notification must be occur 30 days of the accident;
2. Report all medical bills/expenses to the county workers compensation coordinator; and
3. Cooperate with the work site sponsor/department of social services/medical personnel in reporting medical expenses in a timely fashion, complying with medical treatment, etc.

