

Depending on your business, you may have questions about who is included under your policy or whether your policy may be endorsed to meet your coverage needs. This section helps explain the most common coverage details.



Subcontractors

What employers need to know about their responsibility for workers' comp insurance for subcontractors and contract laborers.



Leased workers

If you use leased workers, you need to determine who is responsible for providing workers' comp coverage for those workers.



Telecommuters

Telecommuters may or may not be covered by your standard SAIF policy. Learn more about telecommuters and payroll reporting requirements.

For more information about coverage details, be sure to look in the menu on the left. And if you don't see the topic you're looking for, we can help. Just contact us at 800.285.8525.

And to learn how to get coverage, how rates are calculated, steps you can take to try to reduce your premium, and more in our Learn about coverage section.



What employers need to know about their responsibility for workers' comp insurance for subcontractors and contract laborers.

Overview

As your insurer, SAIF is liable for all benefits payable under your policy. In some situations, your workers' comp coverage may extend to the contractors you use. This may happen even if you and your contractor agreed in writing that the subcontractor is independent and no employer/employee relationship exists.

That's why you should discuss responsibility for the subcontractor's workers' comp coverage before work begins and injuries occur. This reduces litigation and allows you to accurately assess workers' comp costs when negotiating contracts.

Your responsibilities

Oregon workers' comp law exempts some occupations from coverage, which eliminates your responsibility to provide this coverage.

You are not responsible for covering a contractor who:

- Employs others and carries his or her own workers' comp insurance with coverage in effect before work begins under the contract. If during the contract the contractor's insurance lapses, you still will not be responsible for the coverage. Check a contractor's coverage.
- Contracts to do a job, with or without assistants, that is not a routine part of your normal business operations. (For example: A restaurant owner who contracts with a person to install kitchen equipment is not responsible for insuring the subcontractor or any assistants.)
- Performs construction work, with or without assistants, and has an active Construction Contractors Board (CCB) license. Check a contractor's CCB license.
- Performs landscape construction work, with or without assistants, and has an active Landscape Contractors Board license. Check a contractor's LCB license.

Note: On jobs subject to the U.S. Longshore and Harbor Workers' Compensation Act , you are responsible for both the contractor and employees, unless the contractor provides his or her own policy with coverage specifically endorsed.

Learn more about the longshore and harbor workers' act.

When you contract for labor that is a normal and customary part of your business, you are responsible for covering the contractor's laborers if the contractor does not have his or her own workers' comp policy at the time you enter into the contract. Your responsibility does not end even if the contractor later obtains his or her own workers' comp policy.

For all other contractor relationships, your responsibility for coverage depends on whether or not the contractor is an independent contractor/business.

Direction and control—a critical element

The degree to which the contractor is under your direction and control is the main test used to determine your responsibility. If you can answer "yes" to all the following questions, the contractor is most likely an independent contractor for workers' comp purposes.

- Does the contractor perform the same services for others, and not primarily for you?
- Does the contractor perform the job without you ever offering restrictions as to how to do the job?
- Does the contractor furnish his or her own supplies used in the job?
- Does the contractor determine his or her own work hours and schedule?
- Does the contractor provide and maintain his or her own equipment and tools?
- Does the contractor advertise?
- Is the contractor paid a fixed "bid" or "contract" amount rather than an hourly, daily, or piecework basis?
- Is the full bid or contract amount agreed on before work commences?
- Is the nature of the work separate in location or duties from those operations and tasks done by you, your employees, or other contractors on the job?
- Is the contractor registered as required by various regulatory or taxing authorities?
- Does the contractor perform the job completely without assistance from you, your employees, or other contractors?
- Does the contractor have the right to employ assistants without your permission in order to complete the job?
- Does the contractor have financial bonding or liability insurance for the work performed?
- Does the contractor pay all state and federal withholding taxes, social security, and other taxes?
- Will you incur liability for breach of contract and payment of remuneration if you

terminate the contractor?

- Do you and the contractor have equal rights to terminate the relationship?

Protect yourself

Always obtain a current certificate of insurance from contractors who indicate they have a workers' comp policy. Keep these certificates with your records. To verify proof of coverage, search the Oregon Workers' Compensation Division database, or call the Employer Compliance Unit of WCD at 503.947.7814. The dates of the policy should include the anticipated duration of the job.

For construction work subject to the CCB or LCB, obtain the CCB or LCB registration number or photocopy the contractor's card. You may wish to contact the CCB or LCB to verify that the registration is still current.

Check registration with CCB or LCB.

Make sure the work agreement with your subcontractor is in writing. You must allow the contractor freedom to be an independent business person.

For unusual contractor situations, please contact us and we will assist you in determining the coverage responsibility of a subcontractor.

When you need help

Contractor coverage can be a very complex subject. Never hesitate to contact your agent or nearest SAIF office whenever you need assistance or have questions.



What are leased workers?

Workers provided to an employer by a worker leasing company through a contractual agreement and for a fee are considered leased workers.

Who covers leased workers

Workers' comp insurance coverage for leased workers must be provided either by the worker leasing company or the client.

- If the worker leasing company provides coverage for the client's workers, then the coverage includes all the client's workers, whether they are leased or employed directly by the client.
- If the client retains its own workers' comp policy, the policy must cover all the client's workers, whether leased or employed directly by the client.

This means that leasing clients who maintain workers' comp coverage will be directly liable for premium based on the payroll of their leased workers.

If both have coverage

In the event both a worker leasing company and client company have workers' comp coverage, the client company must either cancel its policy or retain coverage and report payroll to its insurer for both leased and directly-employed workers.

The worker leasing company and its client should determine who will provide workers' comp insurance at the time they enter into a leasing agreement.

Before you start

Before you contract with a worker leasing company, make sure that the company is licensed by the Oregon Workers' Compensation Division by checking their "Active Worker Leasing Company" list.



Your SAIF policy covers many situations where you send an Oregon worker to another state to work. It also provides coverage for some workers you bring into Oregon.

Overview

If you have workers in other states—or bring workers to Oregon from other states—you'll need to determine if your Oregon workers' comp policy covers these workers or if you must obtain workers' comp insurance in the other states, and how to report payroll and claims for these workers.

SAIF can only advise on what payroll to report to us; if you have workers in other states, you need to contact the appropriate regulatory agencies for reporting requirements.

Workers in another state not covered by your policy:

- Workers you hire to work continuously outside Oregon are not covered by your Oregon policy.
- Workers you hire in Oregon specifically for a one-time, out-of-state job are not covered by your Oregon policy.

Oregon workers temporarily leaving Oregon to work

Your Oregon workers' comp policy covers Oregon employees whose jobs may require them to work temporarily in another state. You should report the worker's payroll and claims to SAIF.

If you have coverage in the other state and that state requires you to report the workers to that state, you do not need to report payroll or claims to SAIF. Be sure to keep evidence in your records that coverage is necessary in that state. If SAIF is later required to accept a claim, we will retroactively charge premium for the injured worker and other similar workers.

For maximum protection, employers should consider obtaining a policy in each state where work is performed.

Workers from another state temporarily working in Oregon

If a worker you employ in another state comes to Oregon temporarily to perform work incidental to the employment in the other state, do not report payroll or claims for those workers to SAIF.

Reporting tips

Reporting is determined for each worker individually. Common payroll reporting mistakes include reporting based solely on the state where the job takes place or the state of residence of the worker.

Compliance in other states

Even if you have SAIF coverage in Oregon, other states may require you to secure coverage in their state. If you do not, you may be considered a noncomplying employer in that state. If the state where you secure a contract does not recognize Oregon coverage, you could be responsible for claim costs, premiums, and penalties.

Since each state law varies, we strongly recommend that before starting work, you contact the regulatory agency in the other state to determine their requirements. Visit Oregon's Workers' Compensation Division website for a full listing of regulatory agencies in other states.

Changes of a worker's status

A worker employed in another state can become an Oregon worker, and a worker employed in Oregon can become a worker of another state. Payroll and claims before the worker's status changes should be reported to the original state. Payroll and claims thereafter should be reported to the new state. A worker's status can change in two ways:

Break in employment | A break of employment occurs when the current employment ends and the worker is later rehired.

If a worker was employed to work in another state, and the employment ends and the worker is rehired for work in Oregon, the worker's payroll and claims from the rehire date forward should be reported to SAIF.

If there is just a lull while the worker and employer wait for a new job to start, there may be no real break in employment and no change in the worker's status.

Transfer of employment | A transfer of employment is when a worker employed in one state is permanently assigned to work in another state. If a worker from another state has been permanently transferred to Oregon employment, the worker's payroll and claims should be reported to SAIF for the work in Oregon and subsequent temporary work in the original state.

Special circumstances

Determining the correct state for jurisdiction is not always easy or clear. If you have workers in the following situations who may work in other states, contact your agent or SAIF for advice on payroll reporting and filing of claims.

- Union hall workers
- Ongoing employment of worker in two or more states
- Interstate truckers
- Telecommuters
- Longshore and harbor workers
- Maritime / Jones Act workers

How to protect yourself

- Contact each state to find out about coverage requirements in that state before you send workers to that state
- Ask your current insurer(s) if they expect payroll and claims for the worker in the states where the worker may work
- Ask your insurer in the state where the worker is employed to file a certificate of extraterritorial coverage in each state where you work
- Make sure claims for your Oregon workers working temporarily outside Oregon are filed with SAIF unless coverage is required in the other state
- Obtain an "if-any" policy in other states where you may have workers

Remember: The ultimate responsibility for compliance with insurance coverage requirements rests with you. For assistance contact your agent or SAIF representative.



Overview

Telecommuters may or may not be covered by your SAIF policy. This section describes the circumstances for inclusion in your policy and payroll reporting requirements for workers who telecommute.

Telecommuters in Oregon

Your Oregon telecommuter is a covered worker on your SAIF policy if:

- You are an Oregon employer
- A worker was hired by you to do work for your Oregon operation
- The worker is allowed to do the work by electronic connection at a location provided by the worker within Oregon

Telecommuters in other states

In order to be covered under the policy and receive Oregon workers' comp benefits for an injury sustained in another jurisdiction, a worker must be employed in Oregon and become injured while temporarily out of the state incidental to Oregon employment.

Since telecommuting workers are often permanent residents of other states with no intention of returning to work in Oregon, they may not qualify for benefits under Oregon law. Each case must be evaluated individually. If you hire someone to work for you by electronic connection from a location provided by the worker in another state, the worker's payroll may be reportable in some cases.

We may extend Oregon coverage under your SAIF policy to telecommuting workers by endorsement if requested in writing.

Requirements of other states

Some states may not recognize SAIF coverage for workers living and working outside of Oregon. You should contact the regulatory agency in each state where telecommuting workers are living to determine the state's requirements.

Find out more about out-of-state workers

Need assistance?

Please contact your agent or SAIF representative for assistance in determining the reportability of a worker who telecommutes.



Volunteers of political subdivisions—public entities such as cities or school districts—are not automatically covered by the workers' comp policy.

Volunteers of political subdivisions—public entities such as cities or school districts—are not automatically covered by the workers' comp policy. SAIF does not provide workers' comp coverage for volunteers of for profit businesses. For Assigned Risk Plan policies, please contact your agent or SAIF representative for additional information.

Overview

A volunteer is someone who provides service for no remuneration and is not a regular full-time or part-time paid employee.

Volunteer coverage is considered optional and at the discretion of both the political subdivision and SAIF, except when the volunteer is a qualified county search and rescue volunteer who is automatically covered under the county's workers' comp insurance policy (effective January 1, 2010).

How to provide coverage for volunteers

A political subdivision using volunteer personnel may elect to cover them under its workers' comp policy by submitting a written request to SAIF. Coverage begins only after SAIF accepts the request and issues the policy endorsement.

A political subdivision electing volunteer coverage must obtain a formal resolution of the governing body declaring its intent to cover volunteers. A copy of the resolution must be kept on file and provided to SAIF upon request.

A written request to SAIF must include the following:

- A description of the work to be performed
- The estimated total number of volunteer personnel for each separate job category

Benefits for injured volunteers

If a policy is endorsed to include volunteers, they are entitled to the same benefits as

the entity's paid workers. Benefits are paid in accordance with the law (Chapter 656 of Oregon Revised Statutes).

Assumed wages and record-keeping requirements

For public safety volunteer personnel (includes volunteer firefighters, police officers, ambulance drivers, rescue boat operators, and deputy sheriffs):

- The assumed wage for each volunteer is \$800 monthly for premium calculations and benefit payments. Higher monthly assumed wages are optional and available in \$100 increments.
- An official roster of volunteer names by category must be kept and maintained, and furnished to SAIF upon request.
- Payroll is reported in classification 8411 based on the number of volunteers on the roster, multiplied by the assumed wage for the reporting period.

All other volunteer personnel (For example: at schools, libraries, parks, or camps)

- Report the hourly assumed wage (established by the National Council on Compensation Insurance) in the job classification that best describes the type of work the volunteer performs.
- Maintain a written record of volunteer names, dates worked, and number of hours worked.
- Track each instance of volunteer work, including the date, time in, time out, and category of work.

Changes in volunteer personnel

SAIF must be notified when changes occur to your volunteer personnel. In some instances, there may be other record-keeping requirements to assure accuracy of assumed wage payroll and to assist with claim clearance. If so, SAIF will advise you as to what will be needed.



Overview

Longshore and harbor workers are not automatically covered under your standard workers' comp policy. SAIF only provides coverage under the U. S. Longshore and Harbor Workers' Compensation Act (LHWCA) if we receive and accept a written request for the coverage and provide an endorsement for your policy.

Longshore and Harbor Workers' Act

The U.S. Longshore and Harbor Workers' Compensation Act (LHWCA) provides workers' comp benefits to workers (other than crew members of a vessel) injured on or upon the navigable waters of the United States or on "any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel."

Workers covered under the Act meet two guidelines that have been established through various court decisions: status and situs. Both status and situs must be met for the worker to have coverage under the Act.

The Act is administered by the U.S. Office of Workers' Compensation Programs, part of the U.S. Department of Labor, and does not apply to employees of the federal government or any state government or their political subdivisions.

What are status and situs?

Status requires employment related to shipbuilding, repair, breaking, loading, or unloading, or other employment that is integral to the completion of these activities.

Situs requires an injury on navigable waters, a pier, wharf, dry dock, terminal, building way, marine railway, or an adjoining area customarily used by the employer in loading, unloading, repairing, or building a vessel.

Status and situs are determined on a case-by-case basis.

An employee who interchanges between status and nonstatus duties remains uniformly subject to the Act while working at a particular situs location.

Special circumstances

On jobs subject to the LHWCA, the prime contractor is responsible for both the subcontractor and the subcontractor's employees, unless the subcontractor provides his or her own policy with an LHWCA endorsement.

Special rules may apply to coverage of business owners. Please contact your agent or SAIF representative for information specific to your business.

Who is not included under the Act

Under amendments made in 1984, the Act exempts the following workers if covered by state workers' comp laws:

- Office clerical, secretarial, security, or data processing workers
- Club, camp, recreational operation, museum, and retail outlet employees
- Marina employees not engaged in marine construction, replacement, or expansion
- Employees of vendors, transporters, and suppliers temporarily on a covered site and not engaged in work normally done by the covered employer
- Aquaculture employees
- Individuals building any recreational vessel under 65 feet, or individuals repairing any recreational vessel or dismantling it in connection with its repair
- Employees at a specially-certified facility who are building, repairing, or dismantling certain small commercial vessels, under certain conditions
- Master or member of a crew of any vessel
- Any person engaged by a master to load or unload or repair any small vessel under 18 tons net

Contact your agent or SAIF if you have any questions about reporting payroll or filing a claim for a worker covered under the Act.



Overview

Employers' liability insurance—with limits of \$500,000 per accident and occupational disease—is part of the standard workers' comp insurance policy. An aggregate limit of \$500,000 applies to all occupational disease damages.

This coverage is designed to protect you from lawsuits brought by workers for damages resulting from work-related injuries where the 'Exclusive Remedy' provisions of the standard policy may not apply. This coverage is subject to the conditions and exclusions set forth in the policy.

Increasing your limit

Higher limits may be available for an additional charge. Contact your agent or SAIF for information about these charges and how to increase your limits of liability.



What is a waiver of subrogation?

Under a waiver of subrogation, the insurer (that's SAIF) gives up the right to seek recovery from a third party who may have caused the injury to your worker. It is not included in a standard workers' comp policy, but may be added by request.

The five types of waivers

SAIF has five waiver of subrogation options available to meet your needs:

Partial Waivers are used when you request that we waive subrogation rights against one third party for one contract or project. The waiver will name the contract or project to show that it (the waiver) is limited to a specific contract or project. (Note: Subrogation is not waived against everyone on that project—only for the third party named in the Partial Waiver.) The Partial Waiver charge is .25 percent of manual premium.

Contract Waivers are used when you request that we waive subrogation rights for a single third party for multiple contracts. A Contract Waiver may be used in combination with Partial Waivers if needed. The Contract Waiver charge is one percent of manual premium.

All Written Contract Waivers are used when you request we waive subrogation rights for multiple contracts that each require the waiver. The contracts may be with many different business partners at different locations.

The distinguishing feature for written contract waivers is that the contract itself requires a waiver. If you enter into some contracts that do not require a waiver, then we do not waive our rights in those situations. The maximum waiver charge in any one policy year is one percent of manual premium, regardless of the number of contract or partial waivers that are applied to the policy.

Twenty-Day Notice Waivers are used when we will pursue subrogation in every eligible case except on claims identified by you when you notify us in writing within 20 calendar days of the date of injury. The Twenty-Day Notice Waiver charge is one percent of manual premium.

Full Waivers are used when you request that we waive our subrogation rights to recover against everyone. This includes waiving subrogation rights against other drivers in a motor vehicle accident unrelated to a specific project or specific contract. "Full" means all

third party recoveries of any type.

Since a Full Waiver is all-encompassing, you do not need any other type of waiver if you select a Full Waiver endorsement for your policy. The Full Waiver charge is one percent of manual premium.

Wrap-up projects

If you are working on a wrap-up project, contact your agent or SAIF. Waivers for specific wrap-up projects must be filed with the Oregon Department of Consumer and Business Services as part of the wrap-up filing.

Assigned Risk Plan policyholders

If your coverage is provided through the Assigned Risk Plan (ARP), only the Partial Waiver option is available to you. The charge for the ARP partial waiver is five percent of the manual premium developed from work done in connection with the waiver, subject to a minimum of \$250 for each full or partial policy period the waiver is in effect.