

Worker's Compensation Insurance

Stephen F. Matthews

Department of Agricultural Economics, College of Agriculture

Missouri in 1978 changed its worker's compensation statutes to exempt farm labor employers from mandatory participation. Whether or not it is required, worker's compensation offers both employers and employees certain benefits. Personal liability insurance is more a complement than a substitute for worker's compensation insurance.

Accidents can cause serious injuries, sometimes death, to farm employees. As employers of farm labor, farmers may be liable for injuries to employees arising from farm accidents. This guide describes general aspects of the Missouri worker's compensation law as it affects farmers' liability to employees injured or killed in work-related accidents. Consult your lawyer for competent advice for specific situations.

What is Worker's Compensation?

Worker's compensation is insurance to cover injuries or death of employees resulting from work-related accidents. Its purpose is to compensate the employee for the loss of earning power during the disability. Compensation depends on the seriousness of the injury and the employee's previous wage level.

When worker's compensation is carried, it is the only remedy the employee or his or her spouse and dependents have against the employer in the case of job-related injury or death of the employee. The employer's liability is generally defined under the standardized worker's compensation policy. The employee benefits in that compensation under the insurance plan is almost guaranteed, although there may be certain instances when the employee's compensation will be limited or denied for even a job-related accident.

Who is Required to Carry Worker's Compensation?

Missouri amended its worker's compensation laws as they affect farm labor in 1978. Before this amendment, employers of farm labor were required to carry the insurance if they had more than five employees and a total annual payroll in excess of \$2,500. *The 1978 law exempts employers of farm labor from carrying worker's compensation insurance.* Employers of non-farm labor are required to carry worker's compensation

insurance if they have five or more employees. If laborers work more than 5½ consecutive work days per year, then each counts as an employee. Family labor, including minors, may be counted.

Are Farm Partnerships and Corporations Exempt?

The broad exemption from mandatory coverage under worker's compensation insurance is for "farm labor." This would apply to any employer of farm labor whether the employer be an individual, partnership, or corporation. Family members of family farm corporations are specifically referred to in the Missouri statutes as being exempt from mandatory worker's compensation insurance coverage. Presumably, family farm partnerships have the same exemption for employed family members.

What are the Pros and Cons of Coverage?

The Farmer-Employer. By voluntarily choosing to carry worker's compensation insurance, farmers are offering their employees the fringe benefit of assured compensation for farm accidents.

In times when good hired labor is difficult to find, worker's compensation coverage is another attraction to offer laborers. At the same time, farmers are limiting their liability for farm accidents to the coverage under the insurance policies—no further action can be taken against the farmer-employer. However, if the employee's injury or death is caused by the employer's failure to comply with any safety statute, then the compensation or death benefits may be increased by 15 percent.

Although cost to the employer is a negative aspect of worker's compensation insurance, the cost for such insurance is an income tax deduction.

The Employee. Under worker's compensation insurance, the primary disadvantage to the employee is that compensation is limited to the maximum set out by the policy. But this is offset by the advantage to the employee of usually assured compensation for job injury. However, if the employee *willfully* inflicts injury or commits suicide, compensation will be *denied*. Also, if the employee's injury is caused by his or her willful failure to use safety devices provided by the employer or by his or her failure to obey work rules that the employer has posted conspicuously, the compensation or death benefits will be reduced by 15 percent.

The premiums for the insurance must be paid by the employer. The statute forbids the employer from charging employees for any part of the insurance premiums. The premiums are approximately 4 to 6 percent of the total payroll.

For example, consider the employer with one full-time employee and four part-time helpers who qualify as employees (work more than 5½ consecutive work days per year). If the premium rate were \$5.33 per \$100 annual payroll, a total payroll of \$15,000 would cost the employer about \$800 in premiums. In light of the liability protection for the employer, this cost may be reasonable. Thus, employers may want to consider voluntary coverage by worker's compensation insurance.

How Much Compensation Can the Injured Employee Receive?

Worker's compensation insurance is intended to protect the employee against loss of earning power and the expenses of medical care. Compensation will vary depending on whether the injury causes temporary or permanent and total or partial disability. It generally is based on a percentage of the employee's average weekly wage plus hospital and medical expenses. In cases of death, benefits for dependents are set out by statute.

In Missouri, if the injury causes temporary total disability, the employee shall receive not less than \$16 per week nor more than \$115 per week as compensation for more than 400 weeks during the time of the disability. Similar schedules are set out in the statutes for temporary partial and permanent partial disabilities. (See Chapter 287, Revised Statutes of Missouri, as amended.)

The employee's death benefits are burial expenses not to exceed \$2,000 and weekly benefits to survivors in the amount of 66⅔ percent of the employee's average weekly earnings during the year immediately preceding the injury. In any event, compensation will not be less than \$16 per week nor more than \$115 per week. These death benefits are available to the surviving spouse and/or dependent minor children. In general, death benefits will cease upon remarriage of a surviving spouse or upon the 18th birthday of the employee's children. However, there are exceptions. For example, if the child is a full-time student at an accredited institution, benefits continue until he or she reaches age 22.

Just because an employee dies at the job site does not

mean the spouse or dependents will recover benefits. The employee's survivors may be denied compensation for any *natural cause* death not due to a job-related accident. For example, suppose a farm employee oversees the work of other employees and generally does errands for the employer. The employee has a history of heart disorder. While checking inventory at the job one day, the employee has a heart attack and dies. Here the spouse and dependents would *not* be eligible to collect death benefits under worker's compensation insurance for death by such a natural cause, even though the employee died while at work.

Should You Elect to Carry Worker's Compensation Insurance?

The election may be mandatory or voluntary. Employers of farm labor are not required to carry this insurance under the 1978 amendments. If you do elect to cover your employees, the insurance will relieve you of all personal liability for injuries or death to employees arising from work-related accidents. However, you will have the expense of premiums.

If a non-farm employer fails to carry worker's compensation insurance when it is required, he or she may be liable for the full extent of worker injuries, with no limit by any policy maximum. Furthermore, the non-complying employer loses the traditional legal defenses of the employee's assumption of risk and contributory negligence. Hence, in situations where the employer was required to but did not have coverage, the employee must only prove that the employer's negligence was the cause of the accident. An employee's own negligence would not bar his or her recovery in this situation.

The exempt farmer-employer may buy other types of insurance for protection, such as the comprehensive farm and ranch policy. However, remember that the farm and ranch policy gives the farmer protection only up to the stated limits of the policy. Farm accidents and injuries can easily exceed standard policy limits. Worker's compensation, on the other hand, limits the potential liability of the employer to the statutorily prescribed amounts.

Worker's Compensation Insurance vs. Ordinary Personal Liability Insurance

Worker's compensation is only for injuries to your employees and not for injuries involving farm visitors, such as sales people and neighbors. Furthermore, under worker's compensation, payment is allowed only for injuries from *accidents* "arising out of and in the course of such employment." While this language would seem to cover employees in most circumstances, interpretation by the courts has not been so liberal.

Because worker's compensation insurance is directed specifically towards work-related accidents involving employees, it is complementary to ordinary liability insurance. By carrying ordinary liability insurance, farmers help protect themselves against liability from injuries to sales people, neighbors, hunters, and other farm visitors.