



**Workers'  
Compensation  
Board**

# Protecting Yourself and Your Team: Coverage Essentials for Businesses

**NYS Workers' Compensation,  
Disability, & Paid Family Leave**

**Office of the Advocate for Business**

**WCB.NY.GOV**

# What is the Workers' Compensation Board?

- Created in 1914 after **Triangle Shirtwaist Factory** fire of 1911
- Oversees workers' compensation, disability benefits, & Paid Family Leave
- Receives reports of injuries and payments, authorizes medical providers
- Approximately 950 employees with offices and hearing points statewide
- Holds hearings to adjudicate disputes



# The Advocate for Business

- Assists individual businesses with coverage and compliance problems
- Educates business owners and government personnel on the workers' compensation system
- Meets with business associations and employer groups to hear their concerns regarding the system
- Reports directly to the Chair of the New York State Workers' Compensation Board (Board)

# Workers' compensation

## ■ Workers' compensation Insurance

- Covers on-the-job accidents, injuries and illnesses
- Provides medical and wage replacement
- Protects both employers and their employees

# Disability benefits insurance

## ■ Disability benefits insurance

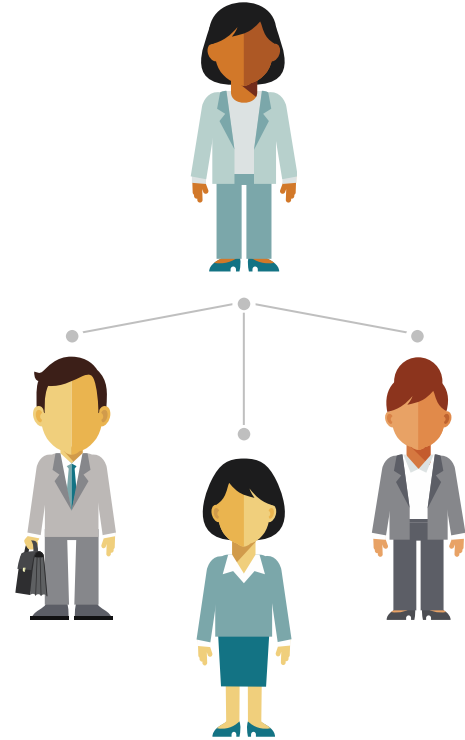
- Covers off-the-job accidents, injuries and illnesses
- Provides only limited wage replacement, no medical benefits
- Employees can receive a wage replacement of up to \$170.00 a week for up to 26 weeks



# Who Needs Coverage?

Businesses with employees need coverage

- **Workers' compensation**
  - Day 1
- **Disability and Paid Family Leave**
  - 4 weeks after the 30<sup>th</sup> day of employment



# Employee definition

- Anyone providing any services to a for-profit business can be determined to be an employee of that business
- Any compensated individual providing services to a nonprofit can also be determined to be an employee of that nonprofit with limited exceptions, such as clergy or teachers in a 501(c)(3)

# Who is not required to carry workers' compensation insurance?

- Sole proprietors with no employees
- Partners in partnerships with no employees
- One- or two-person owned corporations with no employees
- LLCs, if the only people compensated are the members of the LLC



# Workers' compensation estimated premium

## ■ Premium determined by:

- Classification code – how hazardous is business
- Rates are per \$100 of payroll
- Size of payroll
- How safely you operate business
- Audit
- Administrative expenses

# 2024 assessment rate

- Effective January 1, 2024, the rate shall be 9.2% of the standard premium or premium equivalent
- 0.6% decrease from 2023's assessment rate of 9.8%
- Presents a potential savings of more than \$53 million for businesses across New York

# Specific coverage issues

- Sole proprietors, partnerships including LLCs, LLPs and corporate officers
- Independent contractors and subcontractors
- Family members
- Domestic employees
- And more...



# Scenario: Jen's tutoring services

- Jen would like to start her own SAT tutoring business
- She will hire independent contractors for all tutoring services
- Parents will contact her to match their child with a tutor
- The parents will pay her and she will pay the tutors
- Is Jen required to provide workers' compensation insurance for her independent contractors?

# Independent contractor?

- **Factors considered when determining whether an individual is an independent contractor**
- **Examples:**
  1. Does the hiring business control the time and manner in which the work is to be done?
  2. Federal Employer Identification Number from the Internal Revenue Services (IRS) or filed business tax returns
  3. Maintain a separate business establishment from the hiring business
- **Visit the Employer section at [wcb.ny.gov](https://wcb.ny.gov)**

# Construction workers: under the law

- Construction Industry Fair Play Act
- Workers are presumed to be an employee unless they can prove they have their own business
- [labor.ny.gov](https://labor.ny.gov) – search ‘Construction Industry Fair Play Act’



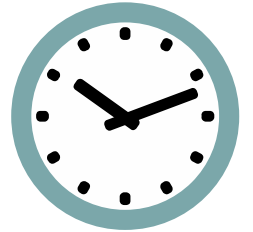
# General contractors: under the law

- General contractors are liable for the workers' compensation claims of all uninsured subcontractors



# General contractors

- It is recommended that you have subcontractors add you as a certificate holder on their NYS Workers' Compensation insurance policy





# Noncompliance penalties

- Up to **\$2,000** for every 10 days out of compliance, or **\$72,000** a year
- Up to five employees is a **misdemeanor**, subject to a maximum **\$5,000** penalty
- More than five employees is a **Class E Felony**, subject to a maximum **\$50,000** penalty and a maximum of one and one third to four years in prison
- Misclassification is the same as being uninsured

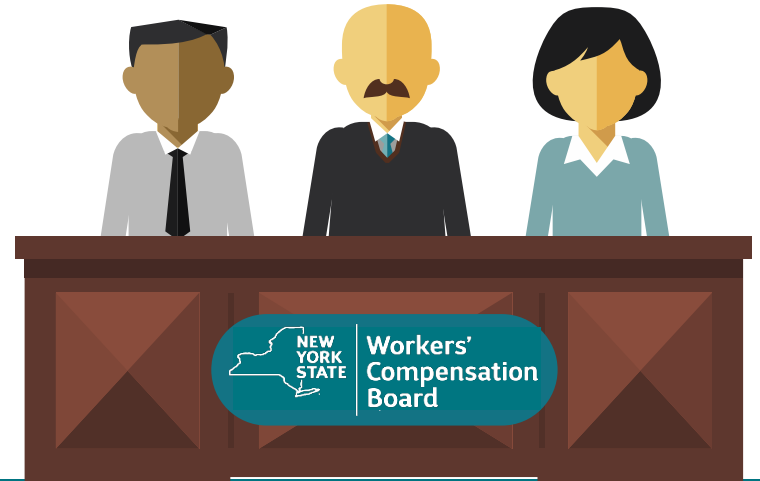
# Debarment

- Under section 141-b of the Workers' Compensation Law, any person (or entity substantially owned by that person) is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each WCB violation
- The ban is for five years for each felony conviction



# Appeal process

- If you're penalized, don't stick your head in the sand
- Contact the Board and/or appeal the penalty



# Premium cost control

- Be sure the correct classification code is being applied
- Follow your claims – STAY INFORMED
- Operate safely

# The Labor/Management Safety Committee: avoiding incidents

- Equal number of members from labor and management
- Regularly rotate Chair of committee
- Regular meeting schedule with an agenda

# The Labor/Management Safety Committee: tasks

- Visit the workplace
- Review equipment, sites and procedures
- Establish safe procedures and train for safety

# Workplace Safety Prevention Incentive Program (Code Rule 60)

- Voluntary establishment of a safety, drug and alcohol prevention, or return to work program
- Save up to 10% on workers' comp insurance in first year, up to 6% in second and third years

	Year 1	Year 2	Year 3
Safety	4%	2%	2%
Return to Work	4%	2%	2%
Drug & Alcohol Prevention	2%	2%	2%

- For more information, visit [labor.ny.gov/WSLPIP.html](https://labor.ny.gov/WSLPIP.html)

# NYS Dept. of Labor on-site consultation program

- The NYS Dept. of Labor will visit the workplace and help mitigate safety risks at no cost
- For the NYS Dept. of Labor on-site consultation program, call **(518) 457-2238**



# Employer responsibilities

- Obtain required insurance
- Display required insurance poster
- Report claims timely
- Section 120 of NYS Workers' Compensation Law states that an employee cannot be discriminated against for filing a claim
- Employees can only be terminated for a valid business reason including misconduct, insubordination, lack of work/economic reasons, lengthy absence from work, inability to perform the job, or poor job performance
- Employees are eligible regardless of their citizenship and/or immigration status



# **Paid Family Leave**

# New York State Paid Family Leave

Provides job-protected, **paid time off** to



**Bond with a child**



**Care for sick family members**



**Assist loved ones when a family member is deployed abroad**

# Bonding with a child

Provides time for both parents to bond with a child within the first 12 months of:



**Birth**



**Adoption**



**Foster Care**

# Caring for a family member with a serious health condition

Qualifying family members include:

- Spouse
- Domestic partner
- Child/stepchild
- Sibling
- Parent/stepparent
- Parent-in-law
- Grandparent
- Grandchild

These family members can live outside of New York State and even outside the U.S.

# Caring for a family member with a serious health condition

A serious health condition is defined as an illness, injury, impairment or physical or mental health condition requiring either:

- Inpatient care; or
- Continuing treatment or supervision by a health care provider

A COVID-19 diagnosis may be considered a serious health condition

# Assisting during a military deployment

For assistance when a spouse, child, domestic partner or parent is deployed abroad on active military service, including:

- Short notice military deployment
- Military events; related activities
- Service member's rest and recuperation
- Counseling
- Post-deployment activities
- Making financial/legal arrangements
- Childcare arrangements for military member's child

# Coverage

Most private employers with one or more employees in New York State are required to have Paid Family Leave insurance in place





# Sole proprietors and other self-employed individuals

- Voluntarily opt-in for coverage
- Opt in within first 26 weeks of starting business: no waiting period
- Opt in after 26 weeks of starting business: two year waiting period

# Time off and wage benefits

- Eligible employees may take up to 12 weeks of Paid Family Leave at 67% of their average weekly wage, capped at 67% of the New York Average Weekly wage
- An employees' average weekly wage is based on their last eight weeks of pay prior to taking Paid Family Leave
- For 2024, the New York State Average Weekly Wage is \$1,718.15
- Employees can take this paid time off all at once, or intermittently, but it must always be in full-day increments

# Who pays for coverage?

- Fully paid for by employee payroll contributions unless employer chooses to pay
- Department of Financial Services sets employee contribution rate to match cost of coverage
- Current cost information and a deduction calculator is available at [paidfamilyleave.ny.gov/cost](https://paidfamilyleave.ny.gov/cost)

# Who is eligible for Paid Family Leave?

- **Covered employees are eligible to take Paid Family Leave for a qualifying event once they have met the minimum requirements:**
  - **Full-time:** employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment with their employer
  - **Part-time:** employees who work a regular schedule of less than 20 hours per week are eligible after working for their employer for 175 days, which do not need to be consecutive
- **Citizenship and/or immigration status is not a factor in employee eligibility**

# Can employees waive coverage?

- Paid Family leave coverage is not optional for most employees
- Some part-time or seasonal employees may qualify
- Employees can only waive coverage if they:
  - Regularly work fewer than 20 hours per week and won't work 175 days in a year
  - Regularly work 20 or more hours per week but won't be in employment with that employer for 26 consecutive weeks

# Can waivers be revoked?

- If an employee's schedule changes such that they no longer qualify for a waiver, their waiver will be automatically revoked within eight weeks of the schedule change
- Employee will begin making Paid Family Leave contributions along with any retroactive amounts due

# Key employer responsibilities

- Obtain Paid Family Leave coverage and pay the premium with funds collected from employee payroll deductions
- Provide information about Paid Family Leave to employees
- Provide wage information to the insurer when an employee requests Paid Family Leave
- Visit the Employer section at [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov) for full details



**COVID-19**



# If there's an illness

- If a worker notifies you they have tested positive for COVID-19, you must report it to your insurance carrier who will file a claim with the Board



# COVID-19 quarantine leave

- Provides workers with job protection and financial compensation when they or their minor dependent child are subject to a mandatory or precautionary order of quarantine or isolation
- Eligible workers may apply for a combination of Paid Family Leave and disability benefits to receive their full pay (up to a cap)
- 67% of pay, up to a maximum of \$840.70 weekly
- Disability benefits make up the difference, up to a maximum of \$2,043.92 weekly
- Total combined benefits of \$2,884.62 weekly
- No waiting period

# COVID-19 quarantine leave

- Your role in implementing the COVID-19 quarantine leave, whether you're self-insured or providing these benefits through an insurance carrier, is largely the same as it has been for NY Paid Family Leave overall
- There are new forms for COVID-19 Quarantine Leave, available at [paidfamilyleave.ny.gov/forms](https://paidfamilyleave.ny.gov/forms)
- Visit [paidfamilyleave.ny.gov/COVID19](https://paidfamilyleave.ny.gov/COVID19) for full details, including guidance for employers

# More information - Paid Family Leave

Website: [paidfamilyleave.ny.gov](https://paidfamilyleave.ny.gov)

Helpline: (844) 337-6303



# Building a new business information system



- Access to real-time claim status and online self-service features and eForms
- Stay informed: [wcb.ny.gov/onboard](https://wcb.ny.gov/onboard)

# Follow the Board



@NYSWorkersComp



@NYSWCB



@NYSWorkersCompBoard



youtube.com/@nyswcb



wcb.ny.gov (“Get WCB Notifications”)

# More information

## Office of the Advocate for Business

**HELPLINE:** (518) 486-3331

**EMAIL:** [Advocatebusiness@wcb.ny.gov](mailto:Advocatebusiness@wcb.ny.gov)

**WEBSITE:** [wcb.ny.gov/afb](http://wcb.ny.gov/afb)



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**Thank you**

**Questions?**