

Workers' compensation insurance: May an employer directly pay medical bills?

This document contains general information. It is not legal advice. Every situation is different and other laws might apply to your situation. If you have questions, contact an attorney, visit the Department of Labor and Industry website at www.dli.mn.gov/WorkComp.asp or call the Workers' Compensation Hotline at 1-800-342-5354 and press 3.

Many employers have asked the Department of Labor and Industry (DLI) whether it is permissible for an employer that is insured for workers' compensation to pay medical bills directly. Employers are concerned about their high workers' compensation costs and sometimes believe that direct payment of minor expenses is a way to minimize their workers' compensation losses and premiums. The following information describes why injured employers should not pay any medical bills for their injured workers, even if the bills are small.

1. It is illegal for an employer that has workers' compensation insurance to directly pay medical bills on a workers' compensation claim. Medical bills are required to be paid by the employer's workers' compensation insurer. An insured employer that pays bills directly is partially self-insuring the claim. This is not allowed by the workers' compensation law unless the Minnesota Department of Commerce has issued a certificate approving the employer for self-insurance (Minnesota Statutes § 176.181).
- i. The workers' compensation law and insurance policies require employers to report work-related injuries.¹ It is then the insurer's responsibility to investigate the claim and pay the medical bills and other workers' compensation benefits owed. An employer that does not timely report injuries may be liable for: underpayment of workers' compensation premiums to the insurer; an improper experience rating; penalties for failure to timely report an injury or pay benefits; and even cancellation of the insurance policy.
2. If an employer does not report an injury to its insurance company, it could become a more expensive workers' compensation claim. The workers' compensation law is complicated. It has many requirements, such as deadlines for payment, forms that must be filed, determining what medical treatment is reasonable and paying bills according to medical fee schedules. Workers' compensation insurers are required to know how to comply with these requirements. Penalties may be imposed if the claim is handled inappropriately. If the error leading to a penalty was the fault of the employer, the insurer may pass that cost on to the employer. The employer may jeopardize the ability to adequately defend the claim or opportunities to minimize losses if the insurer does not have immediate knowledge of the injury.

Other options to control costs

Instead of paying medical bills directly in violation of their insurance policies and the workers' compensation law, employers may consider one or more of the following options.

1. Purchase a deductible policy in which claims are reported to and paid by the insurer, but the insurer charges back a deductible amount to the employer in exchange for a rate reduction. Employers may wish to discuss this option with an insurance agent or the Department of Commerce.

2. Obtain approval to self-insure from the Department of Commerce to directly manage and pay for the employer's workers' compensation claims. Small businesses can join together as a group to self-insure their workers' compensation liability. This self-insurance approach eliminates the insurer's profit margin, but requires the employer to have substantial financial resources to cover actual and potential claims.
3. Control losses and costs through a strong safety and disability management program. Workers' compensation insurers often offer these programs to their policyholders. Information about creating a safe workplace is available from the Minnesota Occupational Safety and Health Administration (MNOSHA) or a workers' compensation insurer. MNOSHA Workplace Safety Consultation can provide seminars, speakers, written information and on-site visits to assist the employer. Contact MNOSHA Workplace Safety Consultation at (651) 284-5060, 1-800-657-3776 or osha.consultation@state.mn.us. View available services online at www.dli.mn.gov/Wsc/Assistance.asp or www.dli.mn.gov/Wsc.asp.

¹More information about the workers' compensation insurance and reporting requirements can be found at:

- Reporting a work injury – www.dli.mn.gov/WC/Pdf/infosheet_reporting_work_injuries.pdf;
- Workers' compensation insurance coverage: General information – www.dli.mn.gov/WC/Pdf/infosheet_coverage_general.pdf; and
- Failure to provide workers compensation insurance – www.dli.mn.gov/WC/Pdf/infosheet_failure_2_provide.pdf.

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