



## Workers Compensation Insurance for Loggers

Mathew F. Smidt

Most of the following information is taken from the *Workers Compensation Guidebook* which was published by the Kentucky Labor Cabinet in 1997. Single copies of that document are available from their website (<http://www.state.ky.us/agencies/labor/guide.htm>) or free of charge by calling 800 544-8601.

### What is Workers Compensation Insurance?

Workers compensation insurance (WCI) is designed to provide benefits for employees (and their families) who are injured or killed on the job. In return for paying for this coverage, employers are protected from civil liability through no-fault insurance protection. Workers compensation insurance may be obtained by employers through commercial insurance providers (voluntary market) or through the Kentucky Employers Mutual Insurance (KEMI). In addition to providing WCI to the voluntary market, KEMI has the responsibility of insuring those companies or industries that cannot secure WCI from the voluntary market.

In addition to paying for medical care, WCI may also provide a portion of wages to the employee during recovery, rehabilitation in order to return to work, or retraining in cases where the injury limits the employee's ability to return to their old job. Disability payments are available if an employee's ability to earn wages is impaired, and survivorship benefits are paid to the families of employees killed on the job. *No other types of insurance coverage will provide the same comprehensive benefits to employees or fulfill employer's requirement to carry workers compensation insurance.*

### Who is covered?

Virtually every employer who has one or more part-time or full-time employees is required to carry workers compensation insurance. Only a few types of employers are exempt from coverage. Business owners and true partners are exempt from coverage, but documentation of these relationships must be adequate. Partners must have a partnership agreement on file with the Department of Workers Claims (DWC). Corporate officers may exempt themselves from coverage by filing a waiver with the DWC. While individuals are not responsible for paying WCI for independent contractors, those relationships also have to pass specific tests to verify their independent contractor status. Primarily, independent contractors should have control over the details of their work. Those employing independent contractors should confirm that they have WCI coverage if they are required to have it. Because of liability concerns, it is safest to employ contractors or subcontractors who have proof of current WCI coverage. Employers are responsible for ensuring that their subcontractors have WCI coverage. If they do not have WCI coverage, the responsibility for coverage of the subcontractor and their employees may fall to the primary contractor.

*Waivers of workers compensation benefits signed by employees are not valid if it is made a requirement for hiring or job retention.*

### How are rates determined?

Rates for WCI are heavily dependent on the state laws that govern the program. Commonly, WCI is paid as a percentage of payroll. The rates are developed for each industry based on overall injury and claims

rate for the industry. In Kentucky there is only one logging classification.

An employer's operation and history of claims significantly affect the WCI premiums. Operations or equipment that reduce employee exposure to workplace hazards are also likely to reduce WCI rates. For example, mechanical feller-bunchers or knuckleboom loaders with slashers reduce hazards by placing the employee in a protective cab and removing them from situations where the risk of injury is high. Improvements in a company's safety record also result in reduced rates over time.

It is difficult to generalize about WCI premium rates because so many individual factors are involved. A logger's claims history and equipment combination can result in substantial deviation from average WCI rates. A survey by the American Pulpwood Association in 1997 reported that Kentucky had an average assigned risk rate of 59.77% of payroll and a voluntary rate of 35.50% (1). Those rates include both mechanical and manual harvesting operations.

Premiums for subcontractors are only paid on the portion of the fee that is labor. To determine premiums, employers may either provide records of the portion of the contract fee which was labor cost or use a standard percentage of the contract fee for certain types of activities.

### **How does the system work?**

Employees are responsible for reporting workplace injuries to the employer as soon as possible. It is the employer's responsibility to take each report seriously. If medical attention is thought to be necessary, employees may choose their own physician or may be required to choose from physicians in the employer's managed care program. Reasonable expenses generated from examination and treatment are the responsibility of the employer and the insurance carrier. Questions about coverage or claims may be addressed to the workers claims specialists or the Department of Workers Claims, Ombudsman Branch (800 554-8601). Both employers and employees have the opportunity to file claims with the Department of Workers Claims and file further appeals.

### **Why should you carry Workers Compensation Insurance?**

Most employers are legally obligated to carry WCI. However, in the logging industry the high workers compensation rates make many logging firms seek ways around WCI through various business arrangements, especially partnerships and contractor arrangements. Everyone understands that the most important purpose of a business is producing a profit so bills and wages can be paid. The cost item that is often excluded when business arrangements are made to avoid WCI coverage is the cost of an injury or death to the business.

Even for relatively minor injuries, medical expenses are often thousands of dollars. In a southwide study of voluntary WCI providers the average cost of a reported injury was \$10,920 (2). If a logging firm loses one of its partners to injury in a crew of 3 to 5 for even as little as a week that may have a significant affect on production. If the injured crew member happens to be the feller or buckler, it may be difficult to replace those skills within the operation. Production, product quality, and eventually revenue suffer because the operation is without a vital member, money for temporary replacements may not be available, and the injured crew member may be dependent on the other crew members, who are commonly family and friends, for support during recovery and rehabilitation.

Having WCI doesn't solve all the problems created by temporary or permanent loss of a crew member, but may ease the financial burdens for the firm and their families. Even if you or your firm are exempt from WCI requirements, in the financial analysis for WCI coverage please consider the following items:

How the lost time wage benefits from WCI might be used to hire part time help or ease financial pressure on the firm in the event of an injury to you or a coworker;

Whether the limits on coverage might be exceeded by a serious injury on your alternative insurance coverage;

Whether your coverage pays regardless of whether safety violations or negligence led to the injury; and

How could that coworker's family cope financially with a serious injury or death.

### Who to contact for more information?

Workers compensation requirements are governed by the rules of the state where the work is done. In other words Tennessee loggers working in Kentucky must follow Kentucky's Worker Compensation rules. These rules differ among states. The Kentucky Department of Workers Claims (<http://www.state.ky.us/agencies/labor/wrkclaim.htm>) is in the Kentucky Labor Cabinet and has responsibility for administering the Workers Claims Act which contains the provisions for workers compensation insurance. DWC specialists' offices are located regionally throughout Kentucky. Their numbers follow:

Location	Toll free	Local	Fax
Frankfort (Franklin County)	(800) 554-8601	(502) 564-5550	(502) 564-9533
Lexington (Fayette County)		(606) 246-2535	(606) 246-2159
Louisville (Jefferson County)		(502) 595-4850	(502) 595-4146
Madisonville (Hopkins County)		(502) 824-7023	(502) 824-7026
Paducah (McCracken County)	(800) 554-8603	(502) 575-7251 (502) 574-7048 (502) 575-7026	(502) 575-7025
Pikeville (Pike County)	(800) 554-8602	(606) 433-7661	(606) 433-7798

Information about workers compensation insurance requirements from bordering states can be found at the following numbers and World Wide Web sites:

State	Department / Division	Phone	WWW address
Illinois	Illinois Industrial Commission	(312) 814-6611	<a href="http://www.state.il.us/agency/iic/">http://www.state.il.us/agency/iic/</a>
Indiana	Worker's Compensation Board of Indiana	(317) 232-3808	<a href="http://www.state.in.us/wkcomp/">http://www.state.in.us/wkcomp/</a>
Missouri	Department of Labor and Industrial Relations /Division of Workers' Compensation	(800) 775-2667	<a href="http://www.dolir.state.mo.us/wc/index.htm">http://www.dolir.state.mo.us/wc/index.htm</a>
Ohio	Bureau of Workers' Compensation	(800) 644-6292	<a href="http://www.bwc.state.oh.us/home/home.htm">http://www.bwc.state.oh.us/home/home.htm</a>
Tennessee	Department of Labor / Workers' Compensation Division	(800) 332-2667 (615) 532-4812	<a href="http://www.state.tn.us/labor/wcomp.html">http://www.state.tn.us/labor/wcomp.html</a>
West Virginia	Bureau of Employment Programs	(304) 926-2074	<a href="http://www.state.wv.us/bep/wc/default.HTM">http://www.state.wv.us/bep/wc/default.HTM</a>
Virginia	Worker's Compensation Commission	(804) 367-8600	No web site as of 10/13/98

#### References

- (1) Meyer, R. 1997. American Pulpwood Association Technical Release 98-R-1
- (2) Schaffer, R. and J. Milburn. 1998. Proceedings, Council on Forest Engineering

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