



**North Carolina Association of Free Clinics  
Managing Workers' Compensation and  
Unemployment**

**Presented by:**

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And**

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# Who is required to have workers compensation coverage?

- Any employer who employs three or more employees.
- **Everyone** is included in the headcount, **including corporate officers**.
- As a corporate officer, sole proprietor or partner, you may choose to exempt yourself from coverage under your policy or elect to have yourself covered. In some situations, general contractors may make it a condition of employment for subcontractors to be covered. Subcontractors should discuss this with general contractors upon being hired.

# What makes an injury compensable?

- Under the North Carolina Workers Compensation Act, three conditions must be met for an injury to be deemed compensable:
  - The employee must suffer an injury by accident
  - The injury must have arisen in the course of employment
  - The injury must have arisen out of the employment

# Injury by accident defined

- An accident involves the interruption of the work routine; an unusual condition or circumstance that leads to unexpected consequences.
- An injury that occurs when the employee is performing routine duties in the usual or customary manner is NOT compensable (except in cases of back injuries or hernias).

# Back injury/hernia exception

- In cases where there is a back injury or hernia alleged, there is no need for an unusual circumstance or condition or a departure from the normal work routine.
- The worker must describe a specific traumatic incident.

# Arising out of employment

- Under the North Carolina Workers Compensation Act, there must be a causal relationship between the accident and the employment.

# In the course of employment


- Under the North Carolina Workers Compensation Act, the injury must occur during the time, at the place, or under circumstances related to the employment.

# Occupational Disease

- Under the North Carolina Workers Compensation Act, to qualify as an occupational disease, the following thresholds must be met:
  - There must be a causal relationship between the disease and the employment
  - The disease must not be an ordinary disease of life that the general public is equally exposed
  - The disease must be characteristic to employees engaged in the particular trade or occupation

# What should I do before an accident occurs?

- Stress safety in the work place and have regular safety meetings
- Consider utilizing pre-employment screenings
- Consider a wellness/stretching program
- Consider having an ergonomic assessment.
- Have modified job descriptions in place
- Identify directed medical providers in each site/work location



# What should I do before an accident occurs?

- Establish a reporting procedure including accident investigation forms.
- Document and track “near misses” to identify training opportunities, corrective action, and ergonomic opportunities
- Keep handbook updated with the required safety standards. Have the employee sign an acknowledgement that he/she has received the handbook. Make sure that the handbook and form is in the employee’s native language; if needed and if possible.



# When an accident occurs

- Document, document, document....
- Complete the appropriate forms...Form 19 in North Carolina within 5 days. We suggest that reporting occurs as soon as possible.
- If injury is more than a first aid injury, report the claim to the proper carrier or to your agent
- Send the employee to your designated medical provider
- Require a drug test
- Cooperate and be responsive to the designated adjuster
- Continue to communicate with the employee and the adjuster
- Try to provide modified duty if possible and if necessary



# Helpful facts:

- 2010 maximum compensation rate is \$834. The rate changes annually.
- The minimum compensation rate is \$30.00/week.
- There is a 7 day waiting period in North Carolina. No wages are paid for lost time until after the waiting period and the first 7 days are not payable until after 21 days.
- The compensation rate is 66 2/3% of the employee's average weekly wage.
- \$3500 is the maximum burial benefit and 400 weeks of the average weekly wage is the compensation for death claims.

10% of claims = 80-90% of claim  
cost





# Hot! Topics

- Communicating Compensability Decisions
- Return to work? Modified duty
- Surveillance
- Clinchers



# The Mod...the ultimate cost of workers compensation claims

- The mod, experience modification factor, is complex but it is your company's actual losses compared to its expected losses by industry type. It's formula takes into account the company size, the unusual and unexpected large losses, and the difference between loss frequency and severity.
- A mod factor greater than 1.0 means losses are worse than expected and mod factor less than 1.0 indicates that the losses are better than expected.
- The experience rating period includes data for three policy years, excluding the most recently completed year.





# Managing Workers' Compensation Wrap Up

- Safety and prevention is paramount in controlling your workers compensation costs.
- Have a plan in place including an updated handbook, reporting forms, and accident investigation process
- Educate supervisors and employees on the process
- File the appropriate forms immediately
- Document and communicate
- Cooperate with the insurance adjuster and ask questions if you do not understand



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...to

NC Unemployment Insurance

[www.ncesc.com](http://www.ncesc.com)



# NC Unemployment Compensation

Pays benefits to eligible workers who

- 1) lost their jobs through no fault of their own,
- 2) worked during a specified time period and received a minimum amount of wages during that time period,
- 3) are able and available for work, and
- 4) are actively seeking new employment



## 2 Types of Unemployment

### Separated

- occurs when an individual is out of work for an indefinite period and no longer has any attachment to the payroll or work force of any employing unit
- Employer may file claim for employee
- No separation notice required



## 2 Types of Unemployment

### Attached

- occurs when an individual retains an attachment to the payroll and work force of an employer, but works less than three customarily scheduled workdays (or less than 60% of the customarily scheduled work hours) during a payroll week because the employer could not provide full-time work; “temporary lay-off”
- Employer required to file claim



# Who Pays for Unemployment?

## The Employer – who has employees

- A 501(c)(3) non-profit organization with at least four workers in 20 different calendar weeks during a calendar year
- Through SUTA
  - Experience rated – 0% - 5.4%
  - Wage base \$19,700
- Through FUTA
  - 6.2%: 5.4% credit – net .8%
  - Wage base \$7,000



# How does this work?

## The Last Employer

- presumed to be the last employer for whom a separated claimant *last worked for more than 30 days*

## Base Period Wages

- The base period in North Carolina is the first four of the last five completed calendar quarters prior to the quarter in which a claim for benefits is filed.
- Wages earned during the base period determine both the amount and duration of an individual's unemployment insurance benefits.



# How does this work?

## Benefit Year

- 52 week period which begins with the effective date of a valid claim

## Weekly Benefit Amount

- computed by dividing the sum of the wages earned during the highest quarter of the base period by 26, rounded down to the next lower whole dollar.
- cannot exceed the maximum weekly benefit amount allowed by law



# How does this work?

## Duration of Benefits

- Minimum 13 weeks
- Maximum 26 weeks
  - Emergency Unemployment Compensation
  - Extended Benefits
- Federal Additional Compensation (\$25)



# Claims Process

Attached Claim – use Form NCUI 501

NCUI 500AB, *Notice of Claim and Request for Separation Information* – to last employer; 10 day deadline

NCUI 551, *Notice of Initial Claim and Potential Charges to Your Account* – to all base period employers, except last employer; request for non-charging

Form NCUI 551L, *Notice to Last Employer*, is sent to an employer who is both the last employer and a base period employer



# Who Decides?

NC ESC Based on information provided by  
Employer

Unwilling vs Unable

# Request for Non-Charging

- The leaving of work without good cause attributable to the employer
- The separation of an employee for misconduct in connection with the work
- The separation of an employee for cause not rising to the level of misconduct but resulting from substantial fault on the part of an employee
- The discharge of a claimant for bona fide inability to do the work for which he/she was hired - if discharged within the first 100 days of employment
- Separation due to leaving for disability or health condition
- Providing employment on substantially the same basis as when base period wages were reported
- Benefits paid due to a major natural disaster that has been declared by the President
- Separation due to being an aggrieved party to domestic violence as set forth by Chapter 50B of the General Statutes
- Separation solely due to an inability to accept work during a particular shift as a result of undue family hardship



# Process

Receive notice of initial claim from ESC

Employer responds within deadline

Determination made – notice mailed to both parties

Either party may appeal

Telephone or physical appeal – if don't show goes in other party's favor

Appeal to NC ESC

File claim in Superior Court w/i 30 days of ESC decision



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Questions?





# Presented by

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