

# The Agent's Guide to Workers' Comp



**TexasMutual**<sup>®</sup>  
WORKERS' COMPENSATION INSURANCE  
WORK SAFE, TEXAS<sup>™</sup>

# Table of Contents

## Part I: The Basics

- Why Workers' Comp? | 1
- Industry Classification Groups | 3
- Standard Exception Classifications | 3
- Business Ownership Types | 5
- Policy Endorsements | 7
- Common Abbreviations and Terms | 11

## Part II: The Texas Mutual Advantage

- Policyholder Dividends | 13
- Safety Groups | 14
- Workers' Comp Health Care Network | 15
- Program Options | 16
- Submission Tips | 17
- Internet Quoting and Other Texas Mutual Online Services | 18
- Premium and Premium Audits | 21
- Other States Coverage | 21
- Advisory Councils | 21
- About Texas Mutual Insurance Company | 22
- Contact Us | 23



# Part I: The Basics

## ■ Why Workers' Comp?

Workers' compensation coverage protects employers and workers in the event of an on-the-job injury. While it does provide the best protection against the consequences of a work-related injury, the coverage is optional in Texas.

### Advantages of workers' comp coverage:

- ▶ Offers workers' comp health care networks, which create more savings and quicker average recovery time
- ▶ Protects employers from certain employee lawsuits
- ▶ Pays income and medical benefits for injured workers
- ▶ Provides additional benefits for qualifying injuries
- ▶ Satisfies coverage requirements for government contracts
- ▶ Offers safety services, including on-site visits, online resources and more

Businesses with workers' comp coverage are called subscribers and businesses without coverage are nonsubscribers.

Some nonsubscribers choose to self-insure and others purchase disability, occupational accident or other alternate coverages. What they may not know is that there is no real match for the benefits that come with purchasing a workers' comp policy.

### Disadvantages of being a nonsubscriber:

- ▶ Unlimited liability for negligent injury to employees
- ▶ Unpredictable accident-related expenses
- ▶ More difficult to attract and retain qualified employees
- ▶ Unable to do business with some entities that require statutory workers' comp coverage

### Potential disadvantages of alternate products:

- ▶ Gaps in coverage (depending on policy form and umbrella form)
- ▶ Limits on benefit payments, regardless of ongoing medical needs
- ▶ Unlimited liability for negligent injury to employees
- ▶ Combination of alternative policies may result in multiple deductibles
- ▶ May require an Employee Retirement Income Security Act (ERISA) plan in conjunction with coverage

## ■ Industry Classification Groups

There are five general classification categories for workers' comp coverage:

- ▶ Manufacturing operations
- ▶ Construction/oil and gas operations
- ▶ Processing operations
- ▶ Service industry
- ▶ General/retail and wholesale

Classifications are assigned based on the business' industry rather than the employees' individual functions. Proper classification ensures consistency in premium calculations, which creates a level playing field for business competition.

For a complete listing of workers' comp classifications, go to [ncci.com](http://ncci.com) or contact your underwriter.

## ■ Standard Exception Classifications

Some employee functions are common to so many businesses that special classifications were established for them. Standard exception classifications are not included in the basic or governing classification unless the principal classification (or a footnote to it) specifically requires it. Here are the standard exception classifications:

### **Clerical office employees (Code 8810)**

Applies only to employees engaged exclusively in bookkeeping, recordkeeping, correspondence or other office work where books and other records are kept.

Qualifying employees must perform clerical office work exclusively. Code 8810 is not eligible for division of payroll.

**Salespersons, collectors or messengers - outside (Code 8742)**

Applies to employees engaged in such duties away from the employer's premises. Code 8742 is not eligible for division of payroll, and it does not apply to employees who deliver merchandise.

**Drivers, chauffeurs and their helpers (Code 7380)**

Applies to employees engaged in such duties on or in connection with a vehicle. Code 7380 also includes garage employees, and it is not eligible for division of payroll. This code applies when the primary code does not include "drivers."

**Executive officers NOC (Code 8809)**

Refers to executive officers performing clerical or outside sales duties only (not foremen, superintendents or workers). Code 8809 applies only to executive officers, such as president, vice president, secretary, treasurer or any other officer elected or appointed in accordance with the charter or bylaws of the corporation or professional association. You must classify executive officers performing duties other than clerical or outside salespeople in the same manner as other employees. The payroll limitation for executive officers applies whether you classify the executive officers as code 8809 or as another classification.

## ■ Business Ownership Types

Understanding and applying for the correct coverage is important in correctly insuring a risk. Here are the most common business ownership types and their related coverage tips.

### **Sole proprietorship**

Provides coverage for the owner and his or her spouse even if they are not paid by the business (if active in the business or if they regularly visit the business), unless specifically excluded by an endorsement to the policy. The payroll for an owner and his or her spouse is a fixed annual amount based on the state average weekly wage, regardless of their wages. It is subject to change Oct. 1 each year.

### **General partnership**

Provides coverage for all partners and spouses even if they are not paid by the business (if the spouse is active in the business or if they regularly visit the business), unless specifically excluded by an endorsement to the policy. The payroll for partners and their spouses is a fixed annual amount based on the state average weekly wage, regardless of their wages. It is subject to change Oct. 1 each year.

### **Limited partnership**

Limited partners and their spouses have the right to be excluded from coverage if they choose. If they are covered, they will be charged the flat partner/sole proprietor payroll rate, which is subject to change on Oct. 1 each year. The name and ownership of the general partner is required.

### **Limited liability partnership (LLP)**

Each partner and his or her spouse are included for coverage even if they are not paid by the business (if active in the business or if they regularly visit the business), unless specifically excluded in the workers' comp policy coverage. As in a general partnership, the fixed annual amount is subject to change Oct. 1 each year.



**Corporation**

If the executive officer owns 25 percent or more of the business, the executive officer may exclude himself or herself from coverage. A corporate executive officer of the business with less than 25 percent equity ownership may be excluded from coverage at the insurer's option.

**Limited liability company (LLC)**

Members, managing members or executive officers with less than 25 percent equity ownership in the business may be excluded from coverage at the insurer's option. If they are included for coverage, their payroll is subject to corporate officer minimums and maximums.

NOTE: The information above serves as a general guideline. It is not a comprehensive review and it is not legal advice. Consult an attorney if you have questions regarding how to treat executives for workers' comp insurance purposes. Texas Mutual Insurance Company assesses each situation on an individual basis. Decisions about risk exposure may vary from the information in this guide.

## ■ Policy Endorsements

An endorsement is a written change attached to a policy to add or remove specific insurance coverages. In workers' comp insurance, the most common endorsements are notice of material change, waiver of subrogation, longshore and officer/owner exclusions.

### Common endorsements

#### **Notice of material change**

A notice of material change endorsement is a request for the carrier to provide advance notice of material change, such as cancellation or reinstatement of a policy to a third party.

- ▶ **Details:** The name and complete mailing address of the third party are needed. We will provide up to 30 days' notice.
- ▶ **Fee determination and calculation:** No charge

#### **Waiver of subrogation**

A waiver of subrogation endorsement is a request for the carrier to forego its statutory right to recover the cost of claims from third parties who are legally liable. The endorsement can be specific or blanket.

- ▶ **Details:** For specific waivers, the name and complete mailing address of the third party, as well as the payroll and class codes applicable to work done for the third party, are needed. For blanket waivers, no specific information is needed. If requesting a waiver of subrogation, the insured must choose one or the other at policy inception. Once the policy is issued, the type cannot be changed.



Waivers of subrogation do not apply automatically to all third parties. The insured must have a written a contract with the third party requiring a waiver of subrogation, or we preserve the right to recover. You must request any specific waiver for each applicable policy period.

- ▶ Fee determination and calculation: For blanket waivers, a fee of two percent of the policy premium is assessed before any credits/debits. Specific waivers incur a fee of five percent of the premium associated with the payrolls/class codes for the work to be done at that job site.

#### **Limited reimbursement for Texas employees injured in other jurisdictions**

This endorsement provides some reimbursement to employers for Texas employees injured while working temporarily in other states. This endorsement does not require a supplemental application.

- ▶ Details: This endorsement does not apply to ongoing operations in other states or people hired in other states. It is not available in monopolistic states. If the employee is injured in another state and the employee elects in writing to pursue another jurisdiction's benefits, the endorsement provides for reimbursement to the policyholder for any benefits they are required to pay under the other jurisdiction's workers' comp laws.

Texas Mutual Insurance Company does not administer the benefits of other jurisdictions. If the employee is eligible to receive benefits in another jurisdiction, we will reimburse the employer the amount they are required to pay in that jurisdiction. The reimbursement provided by this endorsement is very limited. Reimbursement applies only to Texas employees who meet the eligibility requirements for extraterritorial coverage under the Texas Labor Code, Section 406.071.

- ▶ Fee determination and calculation: No charge

## Longshore

A longshore endorsement provides federal statutory coverage under the Longshore & Harbor Workers' Comp Act (L&HW).

- ▶ Details: You must request the L&HW-2001 endorsement on the policy and list all applicable class codes with the L&HW coverage indicated.
- ▶ Fee determination and calculation: The fee for coverage is based on the amount of payroll, subject to the federal act. There is a minimum fee of \$100.

## Outer Continental Shelf

This endorsement extends Longshore coverage for employee injuries occurring as a result of operations conducted on the Outer Continental Shelf (OCS) for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the OCS.

- ▶ Details: You must request the OCS-2011 endorsement on the policy and list all applicable class codes with the OCS coverage indicated.
- ▶ Fee determination and calculation: Based on the amount of payroll, subject to the federal act

## Jones Act/maritime

The insurance provided by the Jones Act (maritime) endorsement is limited. This coverage applies only to Texas employees as defined in the Texas Labor Code, Section 401.012, whose principal location of employment is in Texas or has significant contacts with Texas, as set forth in Sections 406.071 and 406.072 of the Texas Labor Code. Federal law, which includes Jones Act coverage, is subject to court interpretations and statutory revisions. This endorsement amends Employer Liability Coverage, Item 3.B, to include maritime employments (masters or members of the crews of vessels) with bodily injury by accident or disease with a maximum limit of \$25,000.

- ▶ Details: You must request the WC 990201 endorsement on the policy.
- ▶ Fee determination and calculation: Based on the amount of payroll subject to the act. There is a minimum fee of \$50.

**Owner, partner and officer exclusions**

This endorsement allows named individuals who are qualifying sole proprietors, owners, partners or officers to choose to be excluded from workers' comp coverage. Sole proprietors and partners can choose to be excluded from workers' compensation coverage as long as they have employees.

- ▶ Details: Insureds should provide the names and titles of those wishing to be excluded. If they choose to be included, their payroll must be listed at the flat rate based on the state average weekly wage calculation. This rate is updated effective each October 1. Because Texas is a community property state, we also need to know if the spouse of a partner works in the business. If so, the spouse may choose to be excluded or included.

Corporate officers must have at least a 25 percent ownership interest in the insured entity and be named as an officer in the company's bylaws to qualify to be excluded. A corporate executive officer of the named insured with less than 25 percent equity ownership in the named insured may be excluded from coverage at the insurer's option.

Texas Mutual needs the name, title and ownership percentage of each officer. If officers of a corporation choose to be included, you should supply their total payroll. We will determine the amount to be used based on minimum/maximum rules set by the state.

Federal law specifies that there are no owner, partner or officer exclusions available for longshore and Jones Act/maritime endorsements.

- ▶ Fee determination and calculation: No charge. Payroll for any excluded, named individuals will not be included in premium calculations.

## ■ Common Abbreviations & Terms

"the Act" or "the Statute"      Texas Workers' Comp Act or Texas Labor Code

AWW      Average weekly wage

BRC      Benefit review conference

BRO      Benefit review officer

Carrier      Insurance carrier

CCH      Contested case hearing  
(also benefit contested case hearing)

CCHO      Contested case hearing officer  
(also benefit contested case hearing officer)

DBs      Death benefits

DWC      Texas Department of Insurance,  
Division of Workers' Comp or the division  
(Replaced TWCC)

Employee      Injured employee

HCN      Workers' comp health care network

HCP      Health care provider

IIBs      Impairment income benefits

IR      Impairment rating

LIBs      Lifetime income benefits

MMI      Maximum medical improvement

NCCI	National Council on Compensation Insurance
OIEC	Office of Injured Employee Counsel
PIE	Post-injury earnings (also weekly earnings after the injury)
REG	Workers' Comp Research and Evaluation Group
RME	Required medical examination
RTW	Return-to-work
SIBs	Supplemental income benefits
TIBs	Temporary income benefits
TDI	Texas Department of Insurance

# Part II: The Texas Mutual Advantage

## ■ Policyholder Dividends

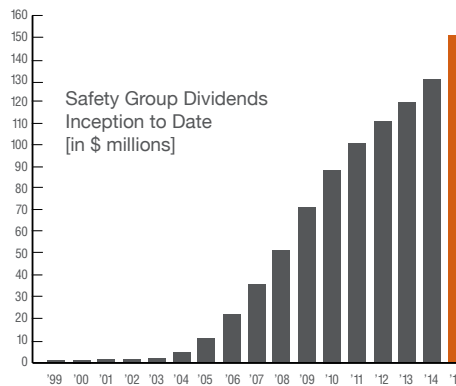
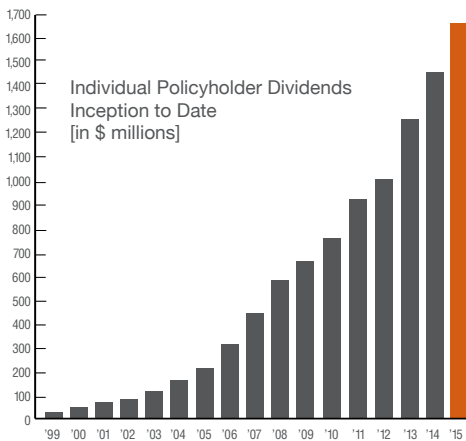
Dividends reward loyal policyholders who share our commitment to preventing workplace accidents and managing claims.\* We offer two dividend programs: individual policyholder dividends and safety group dividends.

### Individual dividends

These dividends are based largely on each policyholder's personal loss ratio. Your clients' dividend earning potential increases for up to five consecutive years with us. They continue to be rewarded for the most recent five years' experience thereafter. If a client leaves Texas Mutual before their fifth consecutive year, they start from square one if they return.

### Early-qualifier dividends

Newer Texas Mutual policyholders have the opportunity to earn early-qualifier dividends. These dividends reward policyholders for safe workplaces before they are eligible to receive a regular dividend.





### **Safety group dividends**

These dividends are based largely on each group's overall loss ratio and premium volume. Policyholders who earn group dividends may also earn individual dividends.

*\* Dividends are based on performance and therefore are not guaranteed.*

### **■ Safety Groups**

State law allows employers in similar industries to purchase their workers' comp coverage as a group. Insurance agents play a key role in forming groups. You can combine your expertise and customer base to create a package that makes sense to Texas Mutual and is beneficial to you and your clients.

Safety group benefits for agents:

- ▶ Generate higher premium volumes
- ▶ Maintain renewal stability
- ▶ Increase your market share

Safety group benefits for your clients:

- ▶ Take advantage of free workplace safety resources designed specifically for their industries
- ▶ Receive a premium discount
- ▶ Participate in our group and individual dividend programs\*

Texas Mutual Insurance Company is a leading writer of safety groups. For a complete, up-to-date list of open groups, as well as details about each group, visit [texasmutual.com](http://texasmutual.com).

*\* Dividends are based on performance and therefore are not guaranteed.*

## ■ Workers' Comp Health Care Network

The Texas Star Network is the state's largest by claim volume and premium volume, making Texas Mutual the leader in certified workers' compensation health care networks.

Policyholders who choose the Texas Star Network receive a discount of up to 12 percent annually, as well as improved return-to-work results. The network may not be the right option for all policyholders, but most will benefit from choosing it.

### Texas Star Network return-to-work results

- ▶ On average, network patients return to work eight days sooner than non-network patients, a 9 percent reduction.
- ▶ Average indemnity benefits are 14 percent lower for network policies compared to non-network policies.
- ▶ Network results are significantly better in metropolitan areas than in rural areas.

### Texas Star Network medical management results (TDI network report card)

- ▶ Average overall medical costs are significantly lower than non-network claims and claims in other networks for medical-only and lost-time claims.
- ▶ The average pharmaceutical costs are significantly lower than non-network claims and claims in other networks in all cost measures.

## ■ Program Options

Texas Mutual Insurance Company offers four basic workers' compensation insurance programs:

- ▶ Small Business Injury Protection Plan (SBIPP) for accounts of \$5,000 or less
- ▶ Cornerstone® program for accounts of more than \$5,000
- ▶ Texas Mutual Premier for accounts of \$400,000 or more
- ▶ Start program for companies that do not qualify for our voluntary programs due to poor loss histories, inadequate safety programs or uncontrolled catastrophic exposures.

We recommend using our Internet Submission and Quoting system at [texasmutual.com](http://texasmutual.com) for all accounts. Many businesses qualify for a safety group (see page 14). We also facilitate coverage outside of Texas for qualifying policyholders (see page 21).

## ■ Submission Tips

To ensure a timely quoting process, make sure your submission is complete and include the following:

- ▶ Online submission at [texasmutual.com](http://texasmutual.com) or ACORD® 130 application fully completed, including:
  - ▶ Federal Employee Identification Number or Social Security Number
  - ▶ Years in business
  - ▶ Physical address and ZIP code of each location
  - ▶ Four years of premiums, payroll and loss information
- ▶ Loss runs (currently valued) or statement of loss history if previously uninsured
- ▶ E-mod worksheet if applicable
- ▶ Cover letter with any pertinent special information about the account
- ▶ Supplemental application if needed (available in the Agent Forms section at [texasmutual.com](http://texasmutual.com))

Send submissions using one of these methods:

- ▶ Internet Quoting at [texasmutual.com](http://texasmutual.com)
- ▶ Email to [apps@texasmutual.com](mailto:apps@texasmutual.com)
- ▶ Fax to (800) 359-0650
- ▶ Mail to Texas Mutual Insurance Company at P.O. Box 12058; Austin, Texas 78711-2058

## ■ Internet Quoting and Other Texas Mutual Online services

Many submissions qualify for automatic quotes from our Internet Quoting system. If the submission does not qualify, it is automatically submitted to an underwriter for review. Using our Internet Quoting system is the fastest way to get your submission to us.

Other Texas Mutual online services include:

### **Marketing and underwriting**

- ▶ Installment invoices
- ▶ Instant policy numbers and policies
- ▶ Additional coverages
- ▶ Dividend history
- ▶ Agency information management
- ▶ Policy inquiry, claim summary inquiry and new business submissions for TAMS agency management system users through IVANS
- ▶ Downloadable forms
- ▶ Workers' comp industry news
- ▶ Interim payroll reporting and payment for policyholders
- ▶ Direct draft payment set up
- ▶ Policy endorsement requests
- ▶ Automatic requotes
- ▶ Policy issuance
- ▶ Downloadable and printable PDF quotes and policy documents
- ▶ Safety group information

**Claims**

- ▶ Custom loss run reports
- ▶ Customized claim alerts
- ▶ Claim details
- ▶ Injury reporting
- ▶ Directory of workers' comp health care network providers
- ▶ DWC-3 Employer's Wage Statement reporting

**Online safety resources****Free webinars**

Policyholders can attend free safety webinars each month to learn about workplace safety issues, OSHA compliance, safe driving and more. To register, visit the Workshops and Training Section under the Employers tab at [texasmutual.com](http://texasmutual.com).

**Texasmutual.com**

Texas Mutual policyholders have exclusive access to thousands of free safety materials in the Safety Resource Center at [texasmutual.com](http://texasmutual.com). Policyholders can visit the resource center to:

- ▶ Watch online safety videos
- ▶ Identify and correct the root causes of workplace accidents
- ▶ Get DVDs, videos, brochures and other safety training materials. Many of the materials are also available in Spanish
- ▶ Find out how much money accidents cost their business

**TexasMutual.WordPress.com**

The Texas Mutual blog is a valuable resource for information about workplace accident trends, practical ideas for creating safe work environments, industry news and much more.

**WorkSafeTexas.com**

Anyone can visit [worksafetexas.com](http://worksafetexas.com) for free workplace safety materials on topics such as ergonomics, distracted driving, teen workers, aging workers and return-to-work programs.

**SafeHandTexas.org**

Traffic incidents are the leading causes of work-related fatalities. Texas Mutual developed this free site to teach employers and their workers how to stay safe behind the wheel.

**TexasOilAndGasSafety.com**

This website is dedicated to keeping oil and gas workers safe. The website features safety information and educational resources that oil and gas workers and employers can use to stay safe on the job.

## ■ Premium and Premium Audits

Texas Mutual Insurance Company works with your clients to assure the proper premium is calculated for the exposure. We use a number of techniques, including pre-audit surveys and interim audits, that reduce the need to bill for additional premiums at final audit.

We offer monthly reporting on many classes of business. These reports can be submitted and paid online. Our online interim reporting option calculates the premium due.

## ■ Other States Coverage

We are licensed to provide workers' comp coverage in Texas only but can also assist Texas businesses with operations in other states through our partnership with Argo Group. Argo Group offers workers' compensation coverage for Texas businesses that have operations in other states.

Argo Group does not offer coverage to policyholders enrolled in our Start program as we serve these policyholders as the insurer of last resort.

For information on coverage for Texas-based employers who send employees to work temporarily in other states, see page 8.

## ■ Advisory Councils

Our Agent Advisory Council is made up of key agents from around the state. They participate in regional meetings to assist and advise us on matters of interest to the agent community. Council members encourage input from other agents in their areas.

Account executives and customer service representatives comprise our Account Executive Council. The group meets periodically to discuss how we can better serve the agent community through improved online services, workflow, company relationships and communication.

Read more about these advisory councils at [texasmutual.com/agents/aac.shtm](https://texasmutual.com/agents/aac.shtm).



## ■ About Texas Mutual Insurance Company

Texas Mutual Insurance Company is a policyholder-owned company. We provide coverage to 40 percent of the market, representing over 64,000 companies, many of which are small businesses. Since 1991, the company has provided a stable, competitively priced source of workers' comp insurance for Texas employers. Helping employers prevent workplace accidents is an important part of Texas Mutual's mission. We also serve as the state's insurer of last resort for businesses that cannot obtain coverage elsewhere.

We contract with independent auditors to review our progress each year. Texas Mutual Insurance Company is also a member of the Texas Property and Casualty Insurance Guaranty Association.

We have made a long-term commitment to Texas. We will be here for agents, employers and injured workers regardless of market conditions. Workers' comp is all we do and we do it better than anyone else.

## ■ Contact Us

Call us toll-free at (800) 859-5995 from 8 a.m. to 5:30 p.m. Central to speak with a representative, or contact us by email at [information@texasmutual.com](mailto:information@texasmutual.com). For questions about a quote or coverage, email us at [underwriting@texasmutual.com](mailto:underwriting@texasmutual.com).

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Visit us at

[texasmutual.com](http://texasmutual.com)

[WorkSafeTexas.com](http://WorkSafeTexas.com)

[SafeHandTexas.com](http://SafeHandTexas.com)

[TexasOilandGasSafety.com](http://TexasOilandGasSafety.com)

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