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What is Workers' Compensation?

- “The Grand Bargain”
- Provides medical benefits and wage replacement to employees of WC policyholders injured or killed on the job.
 - Employer is the policyholder, the employee is the claimant
- Texas WC system is governed by:
 - Texas Workers' Compensation Act, Tex. Lab. Code §§401.001 *et seq.*
 - TDI-DWC Rules, 28 Tex. Admin Code chs. 1 - 180

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Why have Workers' Compensation Insurance?

Subscriber vs. Non-Subscriber Exposures

- › Subscriber - Maintains WC insurance for employees
- › Non-Subscriber - Does not maintain WC insurance

Subscribers to Workers' Compensation

- › No-fault system
 - › WC benefits without proving negligence of employer, regardless of negligence of the employee
 - › If a compensable injury, the employee is entitled to lifetime medical benefits for the injury
- › Exclusive Remedy Defense available
 - › Except in instances of death caused by employer's intentional act or gross negligence, an injured employee may not recover damages for the negligence or fault of the employer

Non-Subscribers to Workers' Compensation

- › Do not provide medical and indemnity benefits through WC
- › “Go Bare” - *Exposed* to civil liability for employee's injury in the course and scope of employment
 - › Employee may bring a PI suit AND Employer is prohibited from raising certain common law defenses, including
 - › Contributory negligence
 - › Assumption of risk
 - › Injury was caused by the negligence of a fellow employee

How does workers' compensation work?

WC triggered when an employee is injured in the course and scope of employment, but liability for and the timing of benefits are deadline driven.

- › EE must report injury w/in 30 days, file claim within 1 year
- › ER must report injury to Carrier w/in 8 days of the date: (1) employee loses more than 1 day of work, (2) employer receives notice of an occupational disease
- › Carrier must file with TDI-DWC, First Report of Injury, w/in 7 days of notice from ER
- › Investigation by Carrier begins on receipt of notice of injury

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