

Ohio's Extraterritorial Coverage Frequently Asked Questions

**What does your BWC insurance cover when your employees perform work outside the boundaries of Ohio?
What risks do Ohio employers face when their employees perform such work?**

Quick facts

1. Any time an employee leaves Ohio, there is a risk that coverage through BWC is not sufficient.
2. BWC does not and cannot respond to a claim filed in another jurisdiction.
3. In March 2016, BWC launched an optional policy offering to provide coverage to eligible Ohio employers for out-of-state exposures.

What does Ohio coverage provide when an employee's work requires him or her to work outside of Ohio?

Ohio's workers' compensation law covers Ohio employees who temporarily work out of state through Ohio's existing extraterritorial coverage provisions. Extraterritorial coverage refers to the extension of **Ohio law** for workplace injuries occurring outside Ohio.

What are the parameters for extraterritorial coverage? Is there a set time limit?

There is no set limit on the length of time Ohio coverage applies to employees temporarily working out of state as long as the out-of-state work remains incidental to the Ohio employment. However, for BWC to cover the claim, your employee must file the claim in Ohio under the provisions of Ohio law.

It is not the intent of Ohio's extraterritorial coverage to cover employees who regularly perform work outside of Ohio.

What if the employee is only outside of Ohio for one day? What is the risk?

Each time an employee leaves Ohio, even for a short period, there is a risk that a work-related injury could occur. This means the injured employee could file a claim in a jurisdiction other than Ohio. While we would expect that the injured worker would seek benefits under Ohio law, there can be no guarantee that the employee would not file a claim in another jurisdiction.

In such cases, the state where the employee filed a claim may find the Ohio employer to be uninsured. The Ohio employer could be subject to fines and or other penalties, including the actual cost of the claim.

Is there still a risk to employers if there are no accidents or injuries?

Yes. It is possible that the other state may require the employer of these workers to also obtain an insurance policy that provides coverage under the workers' compensation laws of the state where they have employees working. Each state has its own coverage requirements. Some states require Ohio employers to obtain workers' compensation coverage (other than BWC's coverage) for any work performed there by their employees, regardless of how brief. If they find an employee is working without coverage, there could be penalties, fines and even stop-work orders.

When should an employer consider the purchase of insurance protection to cover such risks?

BWC recommends an employer secure a policy that would respond to a claim pursued in another state if:

- a) An employee is hired to do work in another state;
- b) An employer has Ohio-based employees working in another jurisdiction for an extended period;
- c) An employee is working in a state where the law requires specific coverage **for temporary exposures** (other than BWC's coverage).

Coverage for such exposures is available. Your insurance agent can secure this coverage from a private insurer or from a state fund, if one exists.

Does BWC offer coverage for out-of-state exposures beyond the extraterritorial coverage?

Historically, Ohio's workers' compensation law did not have any provisions for providing coverage for employers with workers in other states. In 2014, the Ohio General Assembly passed legislation granting BWC the authority to contract with an insurer licensed in other states to provide coverage to eligible Ohio employers for out-of-state exposures.

To meet this legislated authority, BWC has chosen United States Insurance Services (USIS) and Zurich to provide an insurance solution in all U.S. states except those that do not permit private workers' compensation insurance (North Dakota, Washington and Wyoming).

This optional coverage offering became available to eligible Ohio employers in March 2016.

Who will be eligible for an Other States Coverage Policy?

An employer must have the majority of its business in Ohio for BWC to consider it for this coverage option. In addition, an employer must:

- Have active coverage with BWC;
- Have coverage lapses that do not exceed 40 cumulative days in the last 12 months;
- Have no past-due balances.

BWC also will review an employer's experience modifier, loss history, safety record and other pertinent information to determine eligibility.

Self-insuring employers, temporary employment agencies, staffing entities and professional employer organizations (PEOs) are not eligible for an Other States Coverage Policy.

At a very high level, how would the coverage work?

An Ohio employer will apply directly to BWC for this optional coverage. BWC will determine eligibility and the premium cost for this coverage.

BWC will work with USIS and Zurich to secure a quote and, if coverage is secured, issue a policy to cover out-of-state exposures. Zurich will handle all claims filed for benefits under the laws of jurisdictions outside Ohio under this program.

What if an employer already had coverage through a carrier or the residual market in a few states? Can they keep that coverage and get the other states insured through BWC's Other States Coverage program?

The goal of BWC's Other States Coverage program is to broaden workers' comp coverage for Ohio employers by minimizing the potential for jurisdictional coverage issues outside of the state of Ohio. In order to accomplish this, we require that all states with known or potential exposure be covered through the BWC issued Other States Coverage policy. We will not provide Other States Coverage concurrently with another carrier, eliminating the potential for unnecessary coverage disputes.

The reason for this is to prevent claims disputes that could arise between carriers due to the complexity associated with establishing claim jurisdiction. The fact that jurisdiction often can be established in several states (the state of primary work, the state of injury, etc.) has the potential to create conflict over which carrier is responsible for a claim. Covering all exposures under one policy eliminates that conflict.

BWC will only provide a quote for all states of known exposure*. If the employer has current coverage with another carrier, notice of cancellation or expiration is required prior to issuing an Other States Coverage Policy.

*Exception applies for the state of Minnesota

Additional questions about BWC's Other States Coverage Policy offering?

Send questions via email to BWCotherstatescoverage@bwc.state.oh.us or call 614-728-0535.