



Workers Compensation & Disability Coverage for Domestic Workers in New York State

New York Department of Financial Services oversees The New York State Workers Compensation Board

Who is a Domestic Worker?

Domestic Workers are employees of a household or legal entity charged with handling household affairs and can include nannies, au pairs, baby-sitters, nurses, home health aides, companions, housekeepers, chefs, butlers, gardeners, caretakers and chauffeurs.

What Insurance Responsibilities Do I Have?

Domestic workers, regardless of legal status, employed **forty or more hours in any given week (in a 52 week period)** by the same employer (including ANY live-in employees regardless of hours worked) are required to be covered by a New York State Workers Compensation insurance policy. This requirement is often triggered for otherwise exempt employees when one accompanies you on vacation or house-sits for you while you travel, as that entire period is counted towards the weekly total.

Domestic employees working forty or more hours in any given week of the year or living on the premises for thirty or more days in a calendar year are also required to be covered by a disability policy.

What are the Benefits to the Employer for Carrying a Workers Compensation Policy?

In addition to the potential benefit to the employee there is also a benefit to you as the employer for carrying a properly written workers compensation policy. Namely, the benefit is the legal bar it provides against lawsuit for all but three specific circumstances:

- The injury to the employee is intentional
- The employee sustains "grave injury"; and
- Scaffold Law claims

Therefore, we still encourage someone who employs domestic workers to obtain a workers compensation policy even if they do not meet the forty hour threshold where it becomes a requirement.

Please note that a NY homeowners policy's workers compensation insurance rider does not cover ANY domestic employees for workers compensation benefits.

What Could Happen if I Don't Carry Required Insurance and an Employee is Injured or Disabled?

Regardless of whether or not insurance was required you are exposed to legal suit for damages. If insurance was required then you are also subject to criminal prosecution as either a class E felony (>4 employees) or a misdemeanor (4 or fewer employees) and legally liable for the benefits that otherwise would've been paid under the required policy, plus any additional penalties that the court sees fit to apply.

Similarly, failure to obtain a required disability benefits policy constitutes a misdemeanor. If a non-work related disability occurs while you do not have coverage you will also be liable for the cost of the claim and penalties.

In addition, the Workers Compensation Board is required by law to impose fixed penalties against employers who fail to maintain required policies.

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Approximate Cost of Coverages (as of 1/2017)

	Workers Comp.*	DBL**	EPLI***
Full-time inside employee	\$741/year	\$125/year	\$550
Part-time inside employee	\$250/year	\$125/year	\$550
Full-time outside employee	\$1,760/year	\$125/year	\$550
Part-time outside employee	\$444/year	\$125/year	\$550

* **REQUIRED:** Workers Compensation provided by NY State Insurance Fund
 ** **REQUIRED:** Short-term Disability provided by Shelter Pond
 *** Employment Practices Liability provided by Umbrella carrier. While not required, we do recommend you carry the coverage.

*****Employment Practices Liability Insurance** expands your protection against claims by prospective, current or former employees to include wrongful employment allegations & acts such as:

- Disparate treatment allegations such as discrimination by race, sex, disability, etc.
- Sexual harassment
- Wrongful termination

Our Most Common Problem Claim involves a nanny or au pair who is injured while driving or riding as a passenger in a client's vehicle. These injuries are subject to workers compensation and not covered by any automobile policy limit. In these cases, frequently enough, clients who refused to purchase the required insurance are subject to the aforementioned costs and penalties. Regardless how careful a driver you or your domestic employee may be, there is no accounting for the other drivers around you.

LBC, is an independent insurance agency founded in 1921 with offices in New York City and Bedford Hills, NY. The firm specializes in providing comprehensive insurance coverages and personal, customer service for affluent individuals and families. We employ our unique Coverage Assessment Process and Renewal Solutions Review to identify and eliminate potentials risks, exposures and gaps in coverage. LBC works closely with your other trusted advisors like financial planners, accountants and attorneys to ensure that your financial assets and personal property are properly protected.



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