



## Workers Compensation Coverage for Domestic Workers in New York State

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

### Definition of a Domestic Worker

Domestic workers include chauffeurs, nannies, home health aides, au pairs, nurses, baby-sitters, maids, cooks, housekeepers, laundry workers, butlers, companions, and gardeners working in a private household.

Domestic workers employed **forty or more hours in any given week (in a 52 week period)** by the same employer (including full-time sitters or companions, and live-in maids) are required to be covered by a New York State workers' compensation insurance policy.

Workers' compensation insurance is **not** required if the only people who work for the household are domestic workers in a private household who individually work less than 40 hours per week for that household and do not live on premises. However a person who employs household help for less than 40 hours per week are encouraged to obtain a voluntary workers' compensation insurance policy to protect both the employer and the employee.

**Please note that a homeowner's insurance policy's workers' compensation insurance rider does not cover any domestic employees for workers' compensation benefits.**

### NYS Department of Labor – Domestic Workers – Facts for Employers

- If your employee works at least 40 hours per week, you must provide Workers' Compensation Insurance. This covers them in case they are hurt on the job. You can buy Workers' Compensation Insurance through the [New York State Insurance Fund \(NYSIF\)](#).
- Domestic workers who work over 40 hours a week are also entitled to statutory disability benefits. When an employee cannot work because they are injured or sick (defined to include pregnancy) as a result of something that does not occur in the course of their work, the employer must have an insurance policy that pays the worker up to \$170 per week for up to 26 weeks, if the worker cannot return to work during that period and is not receiving other compensation from the employer.
- If You Hire an Immigrant Domestic Worker. The Domestic Workers' Bill of Rights and all New York State Labor Laws protect all workers, whether they are:
  - A citizen of the United States
  - A legal permanent resident
  - An immigrant with other lawful status (such as temporary protected status)
  - An undocumented worker

These laws cover ALL workers. Their immigration status does not matter. The only exception is au pairs hired through the federal au pair program and admitted into the United States under a J-1 visa, which are subject to special federal rules. Labor and tax laws, including the Domestic Workers Bill of Rights, apply to all workers regardless of their immigration status. Although workers must be legally authorized to work in the United States in order to receive unemployment insurance, an employer must still pay unemployment insurance and other taxes for employees who are undocumented.

### Approximate Cost of Coverages

	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 First Rehabilitation  
 \*\*\* Employment Practices Liability provided by Umbrella carrier. While not required, we do recommend you carry the coverage.

### Important Information For Employers Operating in NY State

#### Domestics and Home Health Aides

Employers of domestic workers and home health aides must provide workers' compensation if their employee(s) work(s) forty or more hours a week or live on premises. A workers' compensation rider to a homeowner's policy does not provide workers' compensation coverage for these employees. Rather, a separate workers' compensation policy must be obtained.

Disability benefits coverage is required for domestics and home health aides working forty or more hours in any given week of the year or living on premises for 30 or more days in a calendar year.

#### Failure to Obtain a Workers' Compensation and Disability Benefits Policy when It is Required

Failure to obtain a workers' compensation policy when it is required constitutes a class E felony if you have more than five employees. If you have fewer than five employees, such failure shall constitute a misdemeanor. However, subsequent criminal violations constitute a felony. If a work-related injury occurs while you do not have workers' compensation coverage, you will also be liable for the entire cost of the claim (compensation payments and medical costs), and penalties, if a law judge so rules.

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

In addition, the Board is required to impose penalties in an amount fixed by Law (see page 4) against employers who fail to maintain a workers' compensation policy and disability benefits policy when required by law.

- (1) Failure to carry Workers' Compensation Insurance for 5 or less employees within a twelve month period is a misdemeanor punishable by a fine not less than \$1,000 nor more than \$5,000 [Section 52(1) (a)].
- (5) A penalty in the sum of \$2,000 for each ten-day period of non-compliance or a sum not in excess of two times the cost of compensation for the period of such failure may be imposed [Section 52 (5)].
- (6) Where the employer fails to carry the required insurance and an employee is disabled due to a work-related injury, an award will be made against the non-insured employer for all medical and wage benefits awarded [Section 26-a(1)(a)]. An assessment of \$1,000 for every ten days they are found to have failed to secure compensation for their employees or two times the cost of compensation shall also be imposed [Section 26- (2)(b)]

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