

WORK COMP INSIGHTS

Risks of Hiring Illegal Immigrants

No matter your personal views on illegal immigration, when it comes to employment, hiring illegal immigrants can greatly increase your liability if they are injured on the job.

A big question in workers' compensations (WC), and still the subject of continuing debate, is whether illegal immigrants are, or should be, covered. Since each state's system operates independently, laws can vary. To avoid liability issues, it is important you verify every employee you hire is legally able to work in the United States.

Potential Liability

Many employers mistakenly believe that having illegal immigrants disqualified from their WC plan will save them money in both premiums and claims dollars. In reality, WC stops injured employees from being able to take legal action against their employers for their injuries. This means that if illegal immigrants are exempt from WC they could file a tort liability suit against their employer for pain and suffering in addition to lost wages and medical costs. Because WC benefits are normally limited or scheduled in some way, a tort liability suit could be significantly more costly for you as the employer.

Whether your state's WC laws include illegal immigrants or not can vary on a case-by-case basis. As concern over the issue grows, more focus has been put on the employers and how they contribute to the employment of illegal immigrants.

Government Crackdown

In 1986, Congress enacted the Immigration Reform and Control Act (IRCA). Its primary goal is not to penalize the illegal immigrants themselves by denying them WC coverage, but to stop the opportunity for such employment by penalizing the employers who knowingly hire them.

The IRCA puts a bulk of the responsibility to verify an employee's legal ability to work in the United States on the employer. Those that fail to perform a proper check or who knowingly hire an illegal immigrant could face fines, loss of business license, criminal penalties and loss of WC coverage. In some cases, this loss of coverage could allow an injured employee to then sue for damages that would far exceed normal WC payments.

Legislation has increasingly focused on punishing employers who hire illegal immigrants and can sometimes result in the loss of workers' compensation coverage.

Know Who You Hire

To avoid loss of coverage and potential legal action, it is important that you establish a system to verify the legal status of potential employees. This includes:

- Ensuring that each new employee fills out an I-9 form, required by the federal government for legal employment.
- Contacting your local Motor Vehicle Department to validate driver's license or state ID numbers.
- Opening a free online account with the Social Security Administration to validate numbers provided to you by job applicants.