

Oklahoma Department of Labor

Oklahoma Administrative Code
Title 380 – Department of Labor
Chapter 41 – Workers Compensation
Premium Reduction Program



Mark Costello
Commissioner of Labor

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SUBCHAPTER 1. GENERAL PROVISIONS

380:41-1-1. Purpose

Pursuant to 40 O.S. § 401 et seq. and 36 O.S. § 924.2, this program is designed to provide an incentive for Oklahoma public and private sector employers to reduce workers' compensation claims by the development, implementation, and continuous improvement of an effective workplace safety and health program.

380:41-1-2. Program eligibility

- (a) An employer requesting to pursue the process leading to Workers Compensation Premium Reduction (WCPR) must meet the following criteria:
 - (1) Private sector employers must:
 - (A) Employ not more than 250 employees at a single site and not more than 500 total employees at all sites controlled nationwide.
 - (B) Secure a Workers' Compensation Insurance Policy from a private insurance carrier or the Oklahoma State Insurance Fund, or be self insured. Note: employers who secure their workers' compensation insurance through a group self insurance program are not eligible to participate.
 - (C) Have an experience modifier of greater than 1.0 attached to their current workers' compensation insurance policy.
 - (2) Public sector employers must:
 - (A) Secure a Workers' Compensation Insurance Policy from a private insurance carrier or the Oklahoma State Insurance Fund, or be self insured;
 - (B) Have an experience modifier of greater than 1.0 attached to their current workers' compensation insurance policy.
- (b) All locations covered by the workers' compensation policy must participate in the program.

380:41-1-3. Program requirements

- (a) **Employer responsibilities.** Employers requesting initial pursuit of WCPR Certification must agree to the following requirements for each facility covered by the workers' compensation policy:
 - (1) 60 days prior to the Workers' Compensation Policy Renewal Date, the employer must request a full service survey from the Oklahoma Department of Labor (ODOL) OSHA Division for each facility covered by the workers' compensation policy.

- (2) The employer must work with ODOL program for a period of at least one year (participation year) from the date of the initial visit, during which time the employer must:
 - (A) Correct all identified safety and health hazards and provide the ODOL with written confirmation that all hazards have been corrected.
 - (B) Implement all elements of an effective safety and health program.
 - (C) Involve employees in the development, operation, and improvement of all elements of the workplace safety and health program and in the decisions that affect their safety and health.
 - (D) Experience zero lost workday claims for the participation year or reduce dollar amount or severity of claims by 10% as compared to the claims incurred during the preceding year.
 - (E) Reduce Lost Work Day Injury (LWDI) rate to at or below the National Average for their industry or reduce by 1/3 the amount the national average was exceeded during the comparison year.
- (3) During the Participation year, the employer must consult in advance with the ODOL OSHA Division on any changes in working conditions or work processes which might introduce new hazards into the workplace.
- (4) In the last quarter of the participation year, the employer must request a second full service visit from the OSHA Division.
- (b) **OSHA program responsibilities.**
 - (1) It is the responsibility of the Commissioner of Labor to ensure that all of the requirements for certification have been met by the employer prior to issuing a Workers Compensation Premium Reduction (WCPR) certificate.
 - (2) During the participation period while the employer is working toward WCPR certification, the OSHA Director or his/her designee may schedule additional training and assistance visits to the site to provide assistance in meeting requirements.
 - (A) Where verification of serious hazard correction is not satisfactory or timely, a follow-up visit must be conducted.
 - (B) Follow-up visits will also be conducted when a consultant has reason to question the veracity of the employer's assurance that identified serious hazards have been corrected.
 - (3) Onsite verification that all WCPR requirements have been met will take place in the second full service visit, normally at least one year following the date of the initial visit. At the time of this

visit, all elements of an effective safety and health program must be in place and operating.

- (4) If new hazards identified in the second initial visit reflect significant deficiencies in the safety and health program, the employer cannot be recommended for final WCPR approval until the deficiencies have been corrected and the consultant(s) are confident that the program will operate effectively thereafter.

SUBCHAPTER 3. PROGRAM CERTIFICATION PROCEDURES

380:41-3-1. Initial qualification procedures

- (a) Employers will be informed that in order to pursue WCPR they must undergo a comprehensive safety and health visit and work with the OSHA Division over at least a one year period to meet the program requirements listed in 380:41-1-3.
- (b) All private sector visits related to WCPR will operate in accord with 29 CFR 1908, Consultation Agreements, the Consultation Policies and Procedures Manual and the approved Cooperation Agreement between the U.S. Department of Labor and the State of Oklahoma Department of Labor.
- (c) All public sector visits related to WCPR will operate in accord with OAC 380:40-1-20.
- (d) Establishments pursuing WCPR approval will receive a comprehensive survey covering all conditions and operations at each establishment covered by the workers' compensation policy.

380:41-3-2. Onsite visits

- (a) **Opening Conference.** In the opening conference, the consultant will review the employer's request for participation in the WCPR program. The consultant will review the program requirements with the employer to ensure that the employer understands the commitment necessary to pursue WCPR.
- (b) **Full service visit.** A full service visit will include a survey of each facility covered by the workers' compensation policy covering all operations, including a complete safety and health program review. The consultant will discuss with the employer the elements of an effective program.
- (c) **Closing requirements.** In the closing conference, the consultant will:
 - (1) Describe the hazards identified during the survey;
 - (2) Discuss possible methods of correction;
 - (3) Describe the adequacies and deficiencies of the employer's workplace safety and health program;

- (4) Discuss with the employer the extent to which additional onsite visits may be needed during the participation period prior to the comprehensive review to provide additional assistance;
 - (5) Develop a schedule for one or more such visits, as needed;
 - (6) The employer will also be reminded that, at the end of the participation year (or longer) period, the employer is responsible for requesting a second full service visit for final, onsite evaluation of WCPR approval.
- (d) The consultant will work with the employer to develop an action plan that addresses the employer's progress in meeting the requirements for WCPR.
 - (e) **Written report.** After the consultant conducts the comprehensive survey, the employer will be advised that a written report explaining the findings of the visit and confirming and agreed on correction periods will be provided at a later date. The written report will reflect the consultant's findings and recommendations for hazard correction and safety and health program improvements and the action plan to which the employer agreed to meet WCPR requirements.
 - (f) During the participation year, the employer shall notify the Oklahoma Department of Labor of any changes regarding their workers' compensation insurance coverage (i.e. change in carriers or change to self-insured status). In the event the company changes insurance carriers, upon receipt of notification, the Oklahoma Department of Labor will notify the new carrier of the company's WCPR participation.

380:41-3-3. Administrative and documentation procedures

- (a) Upon review of the initial application, a letter confirming participation will be sent to the employer. A letter is sent notifying the carrier and a case file and record is established.
- (b) Once all cases are closed (all hazards are corrected and all program indicators are in place), a letter is sent notifying the company of the completion of the consultation phase and the waiting period preceding the performance review.
- (c) Claims and injury/illness data are requested from the employer approximately 6 months after the close of the participation year.
- (d) Unit statistical data are requested for the comparison and participation years from National Council on Compensation Insurance (NCCI). This information is generally not available until 9 months after the close of the participation year.
- (e) Performance review is conducted and certificate or letter of ineligibility is sent to the employer and the carrier.

380:41-3-4. Submission of WCPR requests for approval and certificate issuance

- (a) When the employer has met all requirements for final approval, the OSHA Division will submit the employer's request to the Commissioner of Labor.
- (b) On receipt of written verification that the employer has met all of the requirements for WCPR approval, the Commissioner of Labor will issue a signed WCPR certificate to the employer, which will reflect the company's successful participation year.

380:41-3-5. Workers' compensation insurance premium reduction

- (a) The Oklahoma Department of Labor will mail a copy of the certificate to the employer's insurance carrier so that the appropriate premium reduction is applied to their next policy year.
- (b) The premium reduction schedule shall be as follows:
 - (1) \$1 to \$5000 premium rate: 15% reduction
 - (2) \$5001 to \$29,000 premium rate: 14% reduction
 - (3) \$29,001 to \$53,000 premium rate: 13% reduction
 - (4) \$53,001 to \$77,000 premium rate: 12% reduction
 - (5) \$77,001 to \$101,000 premium rate: 11% reduction
 - (6) \$101,001 and up premium rate: 10% reduction

SUBCHAPTER 5. FOLLOW-UP PROCEDURES

380:41-5-1. Renewal of program certification

Employers granted initial WCPR approval may apply for renewal during the last quarter of the one year approval period. At the time that the renewal comes up, consultants must conduct a complete onsite safety and health survey to ensure that the employer meets all the requirements for WCPR approval.

380:41-5-2. Failure to meet or maintain requirements

- (a) An employer's WCPR certification may be terminated if the ODOL determines that the employer's failure to meet or maintain requirements represents a lack of good faith in relation to those requirements and/or a significant reduction in worker protection. Except in egregious cases, the employer should be given the opportunity to withdraw from the program, rather than be terminated.
- (b) The following are some specific situations in which an employer may be terminated from the WCPR program:
 - (1) The employer fails to maintain the elements of the safety and health program in a way that significantly reduces worker

protection and/or reflects an inadequate commitment to the program.

- (2) A work-related fatality or catastrophe investigation results in the issuance of a citation for a violation that directly contributed to the cause of the fatality/catastrophe.
- (3) The employer does not provide complete and timely written verification of serious hazard correction, or an onsite visit verifies that a serious hazards continue to go uncorrected.

380:41-5-3. Automatic termination from WCPR program

- (a) At unionized work-sites, if the union representatives object to the site's involvement in WCPR, the employer will be advised that WCPR certification cannot be pursued or must be terminated until such time as a labor-management agreement is reached on the matter.
- (b) Establishments that are physically relocated will be automatically dropped from the program. Employers must return the WCPR Certificate and reapply at their new location.

380:41-5-4. Termination Procedures

- (a) The employer will be notified in writing of the agency's final decision to terminate WCPR certification, the reason(s) for the decision, and the requirements for re-certification.
- (b) If the reason for termination is the employer's failure to correct serious hazards or standards violations, appropriate referral to the authority having jurisdiction may be made.