

New Hampshire & Your Massachusetts Workers Compensation Coverage
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The Workers Compensation (WC) policy may be the most basic of all the policies you purchase. That said, it is not simple. What makes WC so challenging is the fact that every state has its own laws concerning WC coverage and your WC policy ties into the state laws. Sort of.

This article focuses on an issue that is a great example of how your WC policy can go off course quickly and how expensive the consequences can be. This article discusses making sure you have the proper coverage if your employees do ANY work in New Hampshire (NH). First a review of how your MA WC policy is structured.

- Item 1: Who is the Insured and What is the Address
- Item 2: What is the Policy Period?
- Item 3A: Workers Compensation Insurance for the States of: _____
- Item 3B: Employers Liability
- Item 3C: Workers Compensation for Other States of: _____
- Item 4: Premium Calculation

Most Massachusetts policy holders will have a WC policy that looks like the following:

- Item 1: ABC123 Plumbing, Inc., 1234 Smith Street, Ayer, MA 01234
- Item 2: January 1, 20XX to January 1, 20XY
- Item 3A: Workers Compensation Insurance for the States of: **MA**
- Item 3B: Employers Liability
- Item 3C: Workers Compensation for Other States of: **All other states except those with monopolistic funds.**
- Item 4: Premium Calculation

Description	Rate	Payroll
Plumbing NOC	3.88	\$
Clerical	.12	\$
Sales Persons	.20	\$

Until recently those with employees traveling into NH, working and then returning were all set with the above coverage structure. When I say all set, I speak from 2 points of view:

- 1) If an employee were to be injured in NH, **the law will dictate** which states (MA or NH) benefits will apply and what will be paid to the injured employee. Once this is determined, it is then up to the carrier to pay the claim based on the benefits of that state. For those of you who have ALL STATES EXCEPT THOSE WITH MONOPOLISTIC FUNDS(North Dakota, Washington, Puerto Rico, West Virginia, Wyoming and Ohio) the policy would pay either the Massachusetts or

the New Hampshire benefits. (They are different.) If your policy is not set up correctly and you have only Massachusetts and the law dictates New Hampshire benefits, your carrier can choose to either pay no benefits at all or pay up to the Massachusetts limits leaving you to pay the balance.

- 2) The state regulators. If a state finds you working in their jurisdiction with no coverage they can fine you. Here is where things got interesting.

In the past New Hampshire accepted Massachusetts employers sending in Massachusetts employees and protecting the employees under Coverage C. This has stopped.

Proper coverage for Massachusetts employers with employees doing ANY work in New Hampshire will now show NH under Coverage A along with MA as well as a separate class code under Item 4 showing NH rates for the payroll in New Hampshire. Failure to do so will result in a \$2,500 fine plus \$100 per day per employee going back to day one of work in New Hampshire from the time New Hampshire discovers the situation.

The reason New Hampshire has taken this approach is due to:

- Coverage listed under section A assures New Hampshire that the state will be notified of injuries, where as 3C does not and
- By carrying coverage in the same manner as New Hampshire employers, out of state employers do not gain an advantage through the use of lower workers compensation rates.
- By having NH listed, NH collects taxes on the premium for NH payroll.

What to do? In short, if you have **any** work being done in NH then you need to get NH listed on Coverage A and show the payroll under Item 4. Other wise you risk getting a very disturbing letter and bill from the NH Department of Labor.

Some businesses are insured with WC carriers that are not able to provide this such as those with the Assigned Risk Pool, MA SIGS or smaller carriers that are MA only. In this case you will need to either get a separate NH WC policy or change to a carrier that can provide the New Hampshire coverage.

Some in the insurance brokerage community would argue that this is not needed. It is. Both the New Hampshire Department of Labor and the New Hampshire Workers Compensation Bureau (Coverage Section) will take your call and confirm this for you. Ask for Lorrette Gendron (603) 271-2261. If you need help in confirming this information I can be reached at 781-914-1038 for further assistance. I hope the above is helpful to you.

Chris Hawthorne represents Thomas Gregory Associates Insurance Agency, Inc. located in Wakefield, MA and can be reached at 781-914-1038. If you have questions or have issues you would like addressed in future articles or wish to find prior articles, please contact Chris at 781-914-1038 or chawthorne@thomasgregory.com.