

Customer Workers Compensation Jurisdictional Resource - Alabama

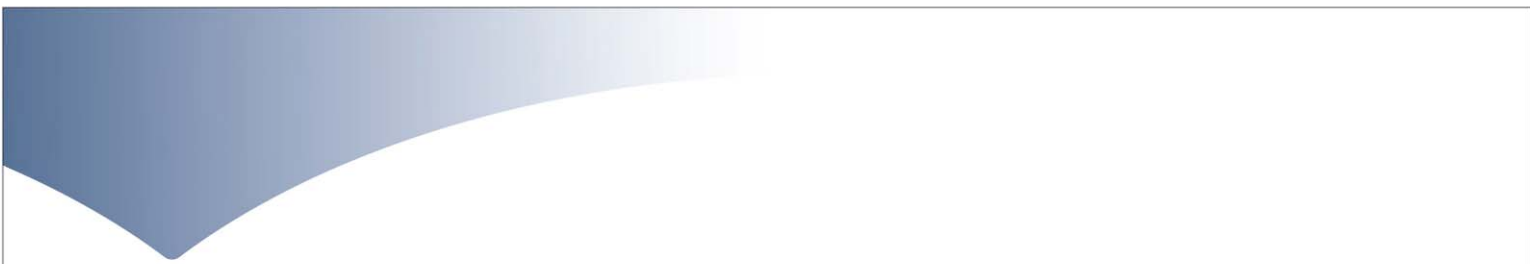
Issue	Mandatory	What & How	Impact	State Forms
Timely Reporting of Claims	<p>Yes</p> <p>An employer must keep a record of all injuries by his or her employees and must file a report of such injuries to the Alabama Department of Industrial Relations (DIR) within 15 days after the injury occurs. Section 25-5-4 of the Alabama Code</p>	<p>Telephonically: Commercial Accounts: 800.238.6225 National Accounts: 800.832.7839 Construction Accounts: 877.828.4132 Online: www.travelers.com</p>	<p>Timely reporting is essential to good claim handling and helps with the development of the proper strategy for each alleged accident. The Alabama WC Act requires that an employee report the injury to the employer within 5 days after the accident. Section 25-5-78 of the Alabama Code</p>	<p>Alabama Form - First Report Of Injury (FROI)</p>
Drug Free Workplace	<p>No</p> <p>But the Drug-Free Workplace Program sets out the requirements for an employer to create such a program. Sections 25-5-330 through 25-5-340 of the Alabama Code</p>	<p>Section 25-5-333 of the Alabama Code lists the elements of a Drug Free Workplace Program, which include a written drug policy, drug testing in accordance with DIR rules, an employee assistance program, employee education and supervisor training.</p>	<p>Any employer who implements a drug free workplace program substantially in accordance with the program described in the statute qualifies for certification for a five percent (5%) discount on its workers compensation insurance policy.</p>	<p>Alabama Application - Drug Free Workplace Certification</p>

Managed Care Law	<p>No</p> <p>Alabama law does not require the use of Managed Care. However, the DIR is charged with promulgating regulations governing the use of Medical Case Management and has done so.</p>	<p>Medical case management is the responsibility of the employer or its insurer and must comply with the standards adopted by the National Association of Rehabilitation Professionals in the Private Sector (NARPPS). Section 480-5-5-.29 of the Alabama Code</p>	<p>The medical case manager cannot “interfere” with the employee’s medical treatment, but can directly contact any and all medical providers about the treatment. The goal of medical case management as set out in the regulation is to provide care in “the most cost effective manner without compromising the quality of care in order to promote optimal outcomes for all parties involved”.</p>	N/A
Directing Medical Treatment	<p>Yes</p> <p>The employer and/or its insurance carrier must designate a physician to treat the employee for any work related injury.</p>	<p>Section 25-5-77 of the Alabama Code requires the employer to designate an Authorized Treating Physician (ATP) and to pay for all “reasonable and necessary” medical treatment related to the injury.</p>	<p>The employer can effectively take control of the medical treatment by proper selection of the ATP. The statute does allow the injured worker to ask for a <u>one-time</u> change in the ATP. Section 25-5-77 (a) of the Alabama Code</p>	N/A
Timely Reporting of Employee Returning to Work	<p>No</p>	<p>Employer should notify insurer as soon as possible so that temporary-total benefits may be terminated at the appropriate time and so that an offer of modified or alternate work can be timely extended.</p>	<p>Timely reporting prevents overpayment of benefits, and timely offer of modified or alternate work results in a 15% reduction of each remaining payment of permanent disability.</p>	N/A

Posting Notice	<p>Yes</p> <p>Each employer subject to the WC Act must post a Notice notifying its employees of the availability of the DIR's Ombudsman Program to assist with the filing of WC claims.</p>	<p><u>Section 25-5-290 (d) of the Alabama Code</u> requires that the employees get notice of the existence of the Ombudsman Program to resolve WC disputes and that the notice provide a toll free phone number at which an Ombudsman can be reached.</p>	<p>The notice must be provided to the employees in "one or more conspicuous places" at the workplace.</p>	<p><u>Alabama - Notice of Workers Compensation (Ombudsman Program)</u></p>
Fraud	<p>Yes</p> <p>Reporting of WC fraud is encouraged by the statute and by the DIR.</p>	<p><u>Section 13A-11-124 of the Alabama Code</u> makes Workers Comp fraud a "Class C felony" punishable by up to a \$5,000 fine and 10 years in prison.</p>	<p>The DIR provides a WC fraud poster which can be posted alongside the form required by <u>Section 25-5-290 (d) of the Alabama Code</u>. The poster sets out the possible ways that WC fraud can be committed.</p>	<p><u>Alabama - Fraud Poster</u></p>
Forms	<p>Yes</p> <p>There are several mandatory forms required by the Alabama WC Act. In addition to the First Report of Injury set out above, the employer/insurer must file a form when benefits are commenced and when there are any changes in the payment of benefits.</p>	<p><u>Section 25-5-7 of the Alabama Code</u> requires the employer to report to the DIR within 10 days of making the first payment of compensation benefits, and again within 10 days of the cessation of the payment of compensation.</p>	<p>Alabama is not a "form intensive" state and the so-called "Claim Summary Form" has many different applications, including notification of the denial of the claim. The Combination Supplementary & Claim Summary Form is used for modifications of the initial Claim Summary Form.</p>	<p><u>Alabama Form WC-4 - Claim Summary</u></p> <p><u>Alabama Form - Combination Supplementary & Claim Summary</u></p> <p><u>Alabama - Other Links of Forms and Regulations Can Be Found Here</u></p>
May Not Discharge Employee Based on WC	<p>Yes</p> <p>An injured worker may make a claim</p>	<p><u>Section 25-5-11.1 of the Alabama Code</u> prohibits the termination of an employee "solely because</p>	<p>A Wrongful Termination Count is included in about 10%</p>	<p>N/A</p>

Claim	for Wrongful Termination (a/k/a wrongful discharge or retaliatory discharge)	the employee has instituted or maintained any action against the employer to recover workers' compensation benefits".	of all Alabama WC complaints. Many Wrongful Termination claims are won on summary judgment because of the "solely" language in Section 25-5-11.1 of the Alabama Code .	
Timely Reporting of Out of Work Status	No While the Alabama WC Act does not require reporting of an out of work status, it does require that the employer report the commencement of the payment of compensation benefits within 10 days after such a payment if made.	Section 25-5-7 of the Alabama Code	Typically, the first payment of "compensation" occurs when the employee misses his or her 4 th consecutive day of work. There is a three day waiting period for payment of compensation, as set out in Section 25-5-59(a) of the Alabama Code , but the 3 days are paid if the employee misses 21 days.	Alabama Form - Claim Summary (WC-4)
Timely Reporting of Employee Returning to Work	No As with reporting of an out of work status, Alabama does not require that the employer report a return to work. However, any change in the payment of compensation benefits must be reported within 10 days after the change occurs.	Section 25-5-7 of the Alabama Code requires a report to DIR within 10 days after the "termination or cessation of payment of compensation".	As above, the event that typically triggers the cessation of the payment of benefits is a return to work. Thus, prompt reporting of such a return is essential to proper reporting and proper claim handling.	Alabama Combination Supplementary & Claim Summary Form

<p>Utilization Review</p>	<p>Yes</p> <p>Alabama does allow Utilization Review for the resolution of medical issues.</p> <p>Travelers is an approved UR Agent in AL</p>	<p><u>Section 25-5-293 (k) of the Alabama Code</u> authorized the DIR to create a Utilization Review Program for the resolution of disputed medical issues in WC cases. The DIR regulations governing such reviews (<u>Section 480-5-5-.01 et seq. of the Alabama Code</u>) are complex and controversial. If a company does UR, their program must comply with the law. State requirements are similar to Travelers standards</p>	<p>Attorneys for injured workers will often challenge the use of Utilization Review and/or Bill Screening by arguing that only a circuit judge has the power to decide any aspect of an Alabama WC case.</p> <p><u>Alabama - Scope of Utilization Review and Bill Screening Program</u></p>	<p>N/A</p>
<p>Wage Statements</p>	<p>No</p> <p>The Alabama WC Act does not require the filing of Wage Statements with the DIR. However, such statements are always necessary to properly calculate the Average Weekly Wage (AWW).</p>	<p>The employer should receive a 52 week wage statement from Travelers on any lost time claim. <u>Section 25-5-57 (b) of the Alabama Code</u> sets out the method of calculating the AWW and the primary method is the 52 week wage statement.</p>	<p>The Circuit Court ultimately makes the decision as to the correct AWW, but the 52 week wage statement is the primary method used in making the decision.</p> <p><u>Section 25-5-1(6) of the Alabama Code</u> requires that the employer's portion of any "health, life and disability insurance premiums" be included in the AWW.</p>	<p>N/A</p>



Mileage	Yes The Alabama WC Act requires that the employer pay mileage costs "to and from medical and rehabilitation providers".	<u>Section 25-5-77 (f) of the Alabama Code</u> provides that such payments be made at the rate provided by law for official state travel.	The Alabama official travel rate recently (July 1, 2008) underwent an unusual mid-year adjustment due to rising fuel costs, and stands at 58.5 cents per mile as of that date. Travel rates are based on the date of the travel, not the date of the original injury.	Mileage Rates for Alabama WC Travel
---------	----------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------