

Worker Leasing VS. Temporary Staffing

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Workers' Compensation Division

What is worker leasing?

- Assumes legal and administrative responsibilities for a regular workforce
- Manages client's human resource administrative functions
- Oregon's default arrangement

What is temporary staffing?

Temporary staffing provides workers:

Filling client's need for workers under

- **Client's special situations**
- **Not permanent work force.**
- By law ORS 656.850 “such as”
- By rule OAR 436-050-0420 “including”

Temporary basis (a)
Special situations include:

Absences and leaves

where the permanent worker will return to work or until the position is filled on permanent basis

Temporary basis

(b)

Special situations also include:

Filling a shortage for a professional skill,
where the professional is usually licensed,
for a known duration.

Temporary basis (c)

Special situations also include:

Staffing a seasonal workload:

- Not necessarily a season of the year.
- A temporary increase in demand requiring additional assistance.
- When the demand drops, the additional positions are eliminated.

Temporary basis (c)

Special situations also include:

Staffing a seasonal workload:

Although construction work can be seasonal, operating as a construction contractor does not equate to “seasonal work”.

Temporary basis

(d)

Special situations continued:

Special assignment or project outside of routine activities of the business.

Worker will be terminated or assigned to another temporary project upon completion.

(e)

Temporary basis

A special situation includes:

A student worker provided and paid by a school district or community college through a work experience program.

Temporary basis

(f)

Special situations continued:

Work contract is part of client's overall employment selection program (“temp to hire”).

New workers pass probationary period before becoming permanent employees.

Other considerations:

Providing a “payroll service” may be considered a leasing arrangement.

Other considerations:

Paying workers at the end of each day:

- May be either temporary or leased.
- The short pay period does not in itself establish the client's need is for temporary workers!

Written Documentation

Providing workers on a temporary basis requires written documentation:

- ✓ Duration - Provides the start date and expected end for the assignment.
- ✓ Job assignment – Establishes the client's need for temporary staffing that is not the client's permanent workforce.

Written Documentation

Providing workers on a temporary basis requires written documentation:

- ✓ Readily available - from staffing provider or from the client's written records (contemporaneous).
- ✓ Verifiable – assure the records can be confirmed and supported by other sources.

Written Documentation

Absent the workers being assigned on a temporary basis and written documentation in support of that assignment,

The workers are provided
on a leased basis.

Who is responsible for workers' compensation coverage?

Workers on
temporary
assignment

Always

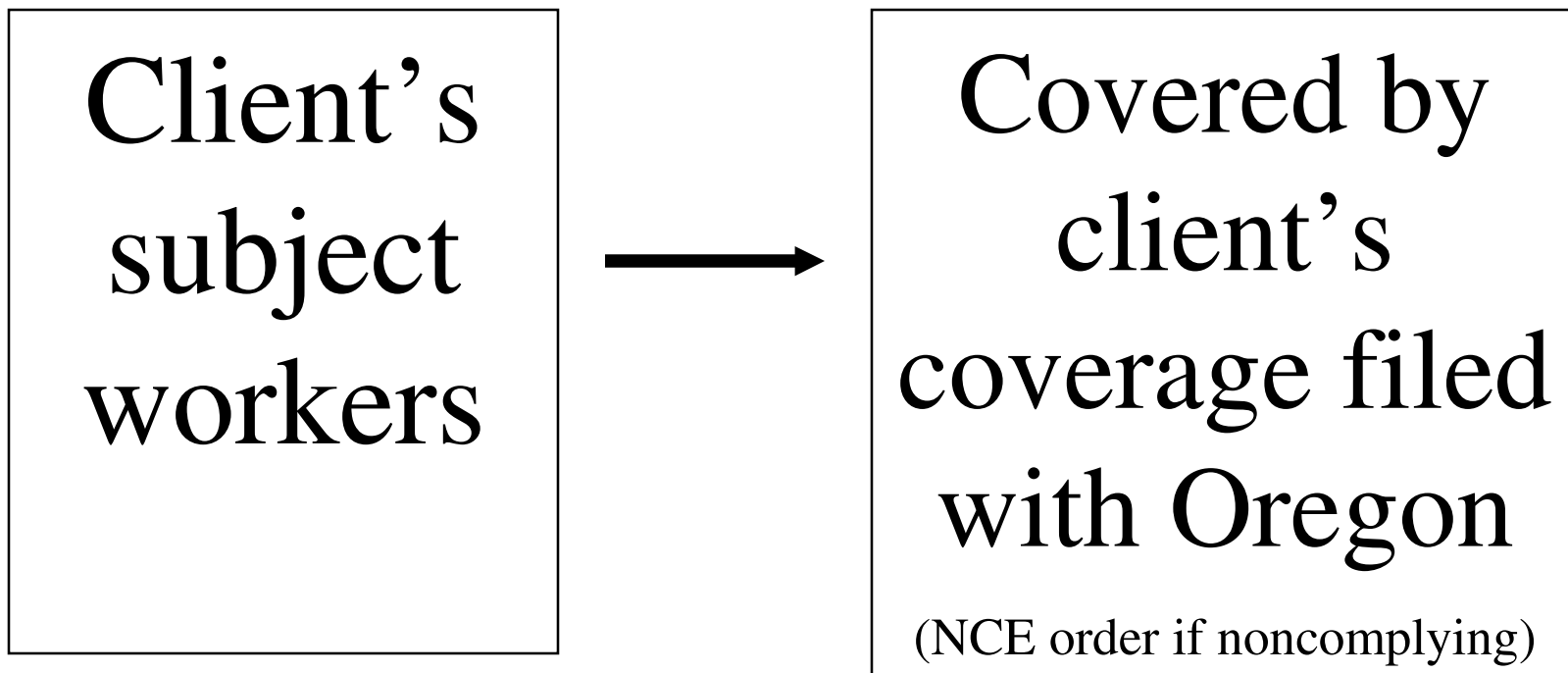


Covered by
Temp
Company's
Insurer

(NCE order if noncomplying)

Who is responsible for workers' compensation coverage?

In a temporary situation:



Who is responsible for workers' compensation coverage?

Worker leasing arrangement
coverage for a client employer
can be maintained:

- By the client, or
- Worker leasing company,
- But not both.

Who is responsible for workers' compensation coverage?

Only one workers' compensation insurer at a time responsible for injury claims.

Client's coverage allows multiple providers because the client's insurer covers claims.

Only one worker leasing company at a time when the client has no insurer.

Who is responsible for workers' compensation coverage?

In a worker leasing situation:

Client has their own coverage and that coverage is filed with Oregon.

any time

under worker leasing

Client's coverage covers their own workers

Client's coverage also covers any leased workers

Remember: Temporary workers always covered by Temp's insurer.

Who is responsible for workers' compensation coverage?

In a worker leasing situation:

When the staffing provider is not licensed as worker leasing company:

And when client has no guaranty contract filing:

•Staffing provider's insurer covers all claims.

•Staffing company cannot file worker leasing notice

so...

•Client is noncomplying employer

Remember: Temporary workers always covered by Temp's insurer.

Consequence:

In a worker leasing situation:

- WCD will issue a cease order to the unlicensed worker leasing company.
- Employer may go to hearing alleging coverage under a worker leasing arrangement
- WCD will investigate for other clients and assess a penalty to the unlicensed provider.

Licensing requirements

Companies providing worker leasing services in Oregon must be licensed before providing any leasing services.

www.wcd.oregon.gov

Click on the Worker Leasing Company link.

Information Resources

Workers' Compensation Division Web site at:

www.wcd.oregon.gov

Click on the Worker Leasing Company link.

Find coverage: Under "Business Tools", click on [Employer Coverage](#)

E-mail: WCD.employerinfo@state.or.us

Phone: (503) 947-7544 or (503) 947-7815

Toll free: (888) 877-5670

Workers' Compensation Division

Worker Leasing Program

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