Elective Coverage

Policy Background

- Policy Number: EP-05-03
- The legal references for this policy are Ohio Revised Code (ORC) 4123.01 and Ohio Administrative Code (OAC) 4123-17-07, 4123-17-30, and 4123-17-14.
- Effective Date: September 4, 2025
- Approved By: Rex Blateri, Chief of Employer Services
- Origin: Employer Policy
- Supersedes: Elective Coverage policy effective July 1, 2023
- History: Revised September 4, 2025; June 12, 2024; April 1, 2023; December 14, 2021; January 13, 2020; November 27, 2018; March 24, 2016; October 22, 2007. New policy September 12, 2007.
- Review Date: September 4, 2030

Policy Purpose

The Ohio Bureau of Workers' Compensation (BWC) administers elective coverage in accordance with all applicable laws and rules.

Applicability

This policy applies to private employers, authorized representatives, and the following BWC departments: Customer Assistance, Collections, Regional Employer Management Services, and Policy Processing.

Definitions

Church: An established and legally recognized church, congregation, denomination, society, corporation, fellowship, convention, or association that is formed primarily or exclusively for religious purposes.

Elective coverage person: A sole proprietor, a member of a partnership, a member of a limited partnership, an individual incorporated as a corporation (ICORP) with no employees, an officer of a family farm corporation, or an individual member of a limited liability company (LLC) filing a federal tax form as a sole proprietorship or partnership.

Elective coverage entity: A sole proprietorship, partnership, limited partnership, ICORP, a family farm corporation, or an LLC filing a federal tax form as a sole proprietorship or partnership.

Family farm corporation: A corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by, and the majority of the stockholders are, persons or the spouse of persons related to each other. For a complete definition see ORC 4123.01(E).

Individual incorporated as a corporation (ICORP): A single or sole owner of a corporation with no employees is excluded as an employee under Ohio workers' compensation laws.

Minister: A duly ordained, commissioned, accredited, or licensed minister, member of the clergy, rabbi, priest, or Christian Science practitioner. This definition also includes assistant ministers and associate ministers.

Policy

BWC policy on elective coverage entities, elective coverage persons, and ministers.

1. An employer that elects to cover an elective coverage person or minister must notify BWC, by using the online Application for Ohio Workers' Compensation Coverage (U-3) or the online Application for or Request to Cancel Elective Coverage (U-3S). An employer may also notify BWC by submitting a U-3 or a U-3S in writing.
   A. The U-3 may only be used by an employer that is initially applying for workers' compensation coverage.
   B. The U-3S is used by an employer with an active BWC policy.
2. Coverage for elective coverage persons and ministers is not effective until a U-3 and non-refundable application fee, or a U-3S, has been filed with BWC. See number 1 above.
   A. On the U-3 on which the employer elects coverage, elective coverage will take effect at the same time as the new employer's workers' compensation coverage. See the *Application for Coverage (U-3)* policy for additional information.
   B. Employers with an active BWC policy.
      i. Mail-in applications: Elective coverage will take effect at 12:01 a.m. on the date BWC receives the completed U-3S.
      ii. Walk-in applications: Elective coverage will take effect when BWC time and date stamps the U-3S.
      iii. Online applications: Elective coverage will take effect upon submission of the completed U-3S as indicated by the BWC website time and date indicator.
3. After proper election and notice, elective coverage persons and ministers are entitled to receive compensation and benefits as provided in ORC Chapter 4123.
4. Coverage for elective coverage persons and ministers is not effective until notice has been filed and the mandatory payment made with BWC. Additional premium for elective coverage must be paid by the due date indicated on the invoice.

5. Payroll will be assigned to the National Council on Compensation Insurance (NCCI) classification code and description applicable to the duties performed.
    A. If the elective coverage person has multiple duties, payroll will be assigned to the highest rated classification code applicable to the duties performed.
    B. BWC will adjust the employer's estimated annual premium and installment payments if an elective coverage person or minister is added during the policy year.
6. Elective coverage remains in effect, and the employer is responsible for the payment of estimated premium, until BWC receives notice from the employer requesting termination of coverage for any elective coverage person or minister.
7. BWC may accept an email from a BWC staff member to cancel an employer's elective coverage, if the BWC staff member made new employer outreach and confirmed the employer's intent to cancel elective coverage. This request must be received within forty-five (45) days of the policy issued date.
8. BWC will lapse the elective coverage and policy coverage if the employer fails to pay an installment timely. See the *Prospective Billing Installment Payments* policy for additional information regarding installment payment plans, due dates, grace periods, and a default in installment payment.
    A. The lapse effective date is the first day of the month after the due date for the installment.
    B. For a new employer who fails to pay its initial installment payment, BWC lapses elective coverage and policy coverage retroactive to the policy effective date.
9. When BWC receives payment from the employer for all installments due, elective coverage and policy coverage reinstates.
10. An elective coverage entity is not required to report the payroll of an elective coverage person unless the entity elects to cover such person for workers' compensation.
    A. If election is made, the elective coverage entity must report the payroll of the elective coverage person.
    B. The payroll of an elective coverage person is subject to the weekly minimum and maximum reporting requirements. See the *Minimum and Maximum Private State Fund Payroll Limitations* policy.
11. A church employer that elects to cover a minister must report the actual payroll for the minister. A church electing coverage for its minister is not subject to minimum and maximum payroll reporting requirements.
12. A minister may elect coverage as a sole proprietor. If such election is made, the minister is subject to the minimum and maximum payroll reporting requirements.
13. An ICORP is not considered an employee and can elect workers' compensation coverage. ORC 4123.01(A)(2)(c).
    A. BWC may identify and confirm ICORP status with an employer during the new business application process or during the review of an entity type change on the Notification of Policy Update (U-117). When an ICORP hires an employee, the

corporation is no longer an ICORP, and the owner becomes a corporate officer of that corporation and can no longer elect coverage.
    i. As a corporate officer, the owner of the corporation with an employee is subject to the minimum and maximum payroll reporting requirements.
    ii. BWC will not permit an employer to revert to ICORP status, even if the employer no longer has employees. The owner shall remain a corporate officer subject to minimum and maximum payroll reporting requirements.
B. An employer that hires periodic or seasonal employees does not qualify for ICORP status.
C. If coverage was elected, the ICORP must notify BWC to cancel elective coverage upon the hiring of an employee. BWC will update the employer's entity type to the appropriate corporation status, and the minimum and maximum payroll reporting requirements for corporate officers will be applicable.

Determining legal entity type. If a question arises regarding the proper legal entity type of an employer for workers' compensation purposes, BWC will use the federal tax form filed by the employer to define legal entity type, as follows.

1. Sole proprietor or LLC acting as a sole proprietor: Internal Revenue Service (IRS) Form 1040 with Schedule C.
2. Partnership or LLC acting as a partnership: IRS Form 1065 with Schedule K-1.
3. Corporations including family farm corporate officers, and ICORPs: IRS Form 1120 or 1120S.
4. Ministers: IRS Form 990.

Payroll true-up reporting guidelines.

1. After the conclusion of each policy year, every private employer must report actual payroll to BWC for the full policy year, from July 1 through June 30. BWC may waive this requirement for certain employers. See the *Payroll True-Up* policy for additional information.
2. Specific payroll reporting requirements associated with elective coverage.
    A. Sole proprietors and partners, including LLC acting as sole proprietorship or partnership. Individuals who earn between the minimum and maximum will report payroll based on their actual net incomes as follows.
        i. Sole proprietors: Net income is based on Form 1040, Schedule C, E, or F.
        ii. Partnerships: Net income is based on Form 1065, Schedule K-1 ordinary income minus section 179 depreciation, plus guaranteed payments.
    B. Officers of family farm corporations who earn between the minimum and maximum will report payroll based on their actual W-2 wages.
    C. ICORPs who earn between the minimum and maximum must report payroll based on their actual W-2 wages.

Employer and elective coverage person requests to cancel elective coverage.

1. To cancel elective coverage the employer or the elective coverage person must notify BWC by:
   A. Completing and submitting a U-3S;
   B. Notifying online via bwc.ohio.gov for the individual(s) listed on the U-3S service offering;
   C. Formal letter or email identifying the individual that no longer elects to be covered;
   D. Informing a BWC staff member making new employer outreach to the employer within forty-five (45) days of the policy issued date; or
   E. Telephoning BWC.
2. A cancellation by phone requires verification and documentation by BWC staff.
   A. For cancellation by phone the following information must be verified:
      i. The caller is an authorized representative or employer contact on the policy;
      ii. The Federal Employer Identification Number (FEIN), Social Security number (SSN), or other identifier associated with the policy; and
      iii. The mailing address.
   B. The following details must be saved in a CoreSuite note on the policy:
      i. Name and title of caller; and
      ii. Name of individual whose elective coverage is being cancelled.
3. BWC will adjust the employer's estimated annual premium and installment payments.
4. BWC will cancel elective coverage effective:
   A. The date BWC receives the request from the employer or elective coverage person;
   B. The future effective date of cancellation provided by the employer on the U-3S; or
   C. The date the employer last operated the business. See the *Cancellation of Workers' Compensation Coverage* policy. The employer may be required to provide documentation of the date the employer last operated the business.

Resolution of complaints.

1. Employer complaints are processed under the *General Employer Complaint Policy*.
2. BWC has identified a specific extenuating circumstance regarding retroactive elective coverage. This extenuating circumstance is outlined immediately below.

Specific extenuating circumstance regarding retroactive elective coverage. Elective coverage person or church believes there is elective coverage for a claim.

1. An elective coverage person or minister has been injured and files a workers' compensation claim. However, no elective coverage exists. In this situation, the elective coverage person or church believes there is elective coverage due to payroll being reported with employee payroll for past policy years prior to the date of injury. If BWC was not provided notice for elective coverage by the filing of a U-3 or a U-3S, BWC will not

grant retroactive elective coverage. Any requests for covered claims would need to follow the appeal process.

2. If retroactive elective coverage is granted to the individual by a claim allowance, BWC will add elective coverage and assign payroll for the policy year the claim was in. The employer would need to file a U-3S to continue elective coverage for future policy years.

Scenarios

1. Sole proprietorship or partnership not electing coverage.
   A sole proprietorship or partnership that does not elect workers' compensation coverage is not required to pay estimated premium and report actual net income as payroll to BWC. The sole proprietor or partners would not be eligible for workers' compensation benefits in the event of an injury or illness while on the job.
2. Sole proprietorship or partnership electing coverage.
   A sole proprietorship or partnership elects coverage when submitting a U-3, or elects coverage when submitting a U-3S after coverage has been established. Sole proprietors and partners are required to pay estimated premium and report actual net income as payroll according to minimum and maximum payroll reporting requirements. If a sole proprietor or partner who elected coverage was injured on the job, the claim would be a covered claim if elective coverage was active on the date of injury.
3. LLC as a sole proprietor.
   A. An LLC is formed by an individual who operates the LLC as a sole proprietorship for tax purposes. The individual who owns the business applies for coverage for their employees as required, but the individual does not elect coverage as the sole proprietor. The policy is kept in force with timely estimated premium payments. In this case, if an employee is injured, the claim would be a covered claim.
   B. If the sole proprietor is injured, BWC does not provide benefits because coverage was not elected for the individual.
4. LLC as a partnership.
   A. An LLC is formed by individuals who operate the LLC as a partnership for tax purposes. The partners who own the business apply for coverage for their employees as required, but the partners do not elect coverage for themselves. The policy is kept in force with timely estimated premium payments. In this case, if an employee is injured, the claim would be a covered claim.
   B. If a partner is injured, BWC does not provide benefits because coverage was not elected for the partners.
5. Family farm officers are required to update policy information.
   A family farm corporation properly applies for and maintains elective coverage on the family members that are officers of the corporation. If a spouse is subsequently made an officer of the corporation, BWC must be notified by the completion of a U-3S and payment of adjusted estimated premium reflecting the addition of the elective coverage. Without

completion of the U-3S and payment of estimated premium, the spouse does not have elective coverage and would not be covered if an injury occurred.

6. Church electing to cover its ordained minister as an employee under the church's workers' compensation policy.
   A church opts to provide elective coverage for a minister under its workers' compensation policy. When a new minister arrives to replace the minister covered previously, the church must complete and submit a U-3S to add coverage for the new minister and cancel coverage for the prior minister. The minister's actual earnings must be reported under this option.
7. Ordained minister as a sole proprietor with elective coverage.
   A church decides not to cover its minister as an employee under its workers' compensation policy. In this situation, the minister may elect to establish elective coverage as a sole proprietor by filing a U-3. Ordained ministers who elect coverage as sole proprietors are subject to the minimum and maximum payroll reporting requirements.
8. ICORP with no employees other than the owner, including S-Corp, LLC, C-Corp.
   A. A recently incorporated dentist plans to work alone until such time that his practice requires the services of an assistant. The dentist desires coverage for workers' compensation. He completes and submits a U-3 to establish coverage in preparation for the practice to open. The dentist selects elective coverage on the U-3 application. Elective coverage is actively maintained with timely estimated premium payments. Estimated premium is based on minimum and maximum payroll reporting requirements.
   B. When the assistant is hired, the status of the employer changes from an ICORP to a corporation. As a corporation, the dentist is still an officer of the corporation. The dentist is now required to report his earnings, subject to the minimum and maximum payroll reporting requirements, as well as the earnings of the assistant to BWC. Because of this status change, the dentist must notify BWC and cancel elective coverage.
9. ICORP expects to have seasonal employees.
   A recently incorporated landscaper contacts BWC regarding workers' compensation coverage. The employer plans to work alone initially and hire employees based upon seasonal fluctuations in business. As an employer with a periodic need for employees, the landscaper does not meet the conditions to qualify as an ICORP with no employees. The landscaper must complete and submit a U-3 to establish a policy and coverage as a corporation. Wages should be reported following the requirements for a corporation.
10. A company has two shareholders, in which one works for the company, and the other does not.
    The company believes it should be considered an ICORP. Pursuant to ORC section 4123.01(A)(2)(c) an employee is not "an individual incorporated as a corporation,"

therefore the company would not apply to this situation. Shareholders are owners, and if there is more than one owner, the company is not an ICORP.