



# Workers Compensation

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**Moylan's Insurance Underwriters (FSM), Inc.**

**"Home of the Good Guys & Gals"**

# Moylan's Insurance Underwriters, Inc.



- Established in 1971 by Kurt and Judith Moylan, the company is now the largest insurance producer in Guam and Micronesia, with more than a hundred employees manning its offices in Hagåtña and Dededo in Guam, and in Palau, Yap, Saipan, Chuuk, Pohnpei, Kosrae, Marshalls, and the Philippines.
- It operates primarily as the managing general agent (MGA) for two property & casualty insurance carriers, and one life & health insurance company.

# P&C Companies Managed by Moylan's Insurance

- **DB Insurance** (formerly known as Dongbu Insurance, and before that as Korea Automobile, Fire, & Marine Insurance Company)
  - rated A (Excellent) by AM Best
  - ranked among the largest insurers in Seoul, Korea



# P&C Companies Managed by Moylan's Insurance

- **First Net Insurance Company**, organized in 1998 and wholly owned by Moylan's
  - Started operations in 2000
  - Rated B++ (Good) by AM Best
  - Certified surety company by the US Treasury Dept., authorized to issue bonds on contracts funded by the US federal government
  - Authorized by the Office of Workers Compensation Programs (OWCP), US Labor Dept. to write Longshoremen & Harbor Workers Compensation Insurance
  - Accredited by the US Small Business Administration to issue bonds without collateral under its Bond Guarantee Program



# Life & Health Company Managed by Moylan's

- **NetCare Life & Health Insurance Company** is the first and still the only domestic life company in Guam. It was organized in 1997 and is wholly owned by Moylan's. NetCare participates in the health insurance program for employees and retirees of the Governments of Guam and the Commonwealth of the Northern Mariana Islands, among others.
- Netcare provides group life insurance programs for the State Governments of Pohnpei and Chuuk, and many other business establishments.



# Role of a Managing General Agent

- As managing general agent, Moylan's performs the following tasks on behalf of the carriers –
  - Marketing
  - Underwriting, risk selection
  - Policy issue
  - Premium collection
  - Renewal solicitation
  - Claims adjusting
  - Recordkeeping
  - Reporting



# Role of the Carriers

- The carriers on the other hand are responsible for:
  - Assumption of risks
  - Risk distribution, reinsurance
  - Claims settlement
  - Investment of funds
  - Product Development



# Why require workers compensation?





# Before Workers Comp Law

- An employer may be held liable under common law for work-related sickness or injury of an employee if negligence can be imputed on him. The extent of such liability is unlimited, and may include payment for death, incapacity, medical treatment, rehabilitation, pain and suffering, moral and other punitive damages, plus legal expenses.
- The award may be so significant it can impact the organization's bottom-line or even imperil its very existence.



# Without Workers Comp Law

- The employee will have to go to court to pursue recovery under common law.
- This can be a long, tedious and expensive process with no guaranteed results.
- The employer can raise these defenses:
  - Contributory negligence. The worker was partly at fault for his own injury
  - The “fellow servant” rule. A fellow employee caused the worker’s injuries.
  - Assumption of risk. The employee accepted the hazards involved when he signed up.



# Origin/History of WC Laws

- The concept was initiated by Bismarck of Prussia (now Germany) in 1871 with the passage of an Employer's Liability Law. In 1884, he introduced Workers Accident Insurance which laid the groundwork for today's worker's compensation insurance.



# Origin/History of WC Laws



- In the US, Wisconsin became the first state to adopt a WC law. Mississippi was last in 1948. All states and territories now have their own versions in place.
- In Micronesia, Palau and FSM remain without a Workers Compensation law. RMI recently implemented its WC law.

# Purpose of WC Law



- **For the Employee.** Workers' compensation laws provide employees with specific benefits for death, disablement and medical/rehabilitation expenses arising from work connected injuries or illnesses, without having to prove negligence, in exchange for relinquishing their right to sue the employer for damages.
- **For the Employer.** Workers compensation laws protect employers from financial ruin by limiting their liability for workplace injuries/sickness to specific benefits.

# Workers Compensation Commission

- The administration of the Program is assigned by law to a Workers Compensation Commission whose members including the administrator are usually appointed by the head of government.
- The administrator is responsible for promulgating the law, the rules and regulations and policies set forth by the Commission, and for adjudicating claims to ensure quick and equitable resolution.

# DO INSURERS LIMIT THE BENEFITS?

- In countries where workers compensation laws are in place, such as Guam, CNMI and RMI, the policy that will be issued by every carrier doing business in such territories must provide benefits and terms equal to what is required under the law, without any deviation.
- In places, such as FSM and Palau, where there is no workers comp law, the insurance carrier is left to decide what benefits and terms it will offer, on a voluntary basis.
- Up until this time for example, insurers in the FSM have been providing employers in the FSM benefits that are identical to the CNMI's workers comp law, but with medical expenses limited to a certain amount if treatment is done outside of FSM.

# Workers Comp Insurance Policy

- To guarantee that benefits will be paid accordingly, the workers compensation laws require employers to obtain insurance policies that will pay for their obligations. In lieu of a policy, employers may present proof of their financial capacity, or submit bonds that guarantee payment, subject to approval by the WC Commission.
- In addition to penalties for failure to buy insurance or show proof of financial capacity, an employer may be sued in court under common law for compensation beyond what is fixed by the WC law.





# Benefits under Guam WC Law

- Signed into law on August 1, 1952
- Disablement – pension equivalent to 2/3 of the employee’s average weekly wage, max of \$1,011 for the duration of the disability
- Death – percent of above pension to be paid to surviving family members for the continuance of their dependency, maximum of \$206,570, plus funeral expenses, max of \$7,435.
- Reasonable and Necessary Medical Expenses, without limit
- Maximum Liability of Employer for death and disablement – \$100,000 excluding medical expenses



# Benefits under CNMI WC Law

- Effective October 25, 1989
- Disablement – 66 & 2/3% of Average Weekly Wage, maximum pension of \$140 per week
- Death – percent of above pension to be paid to surviving family members for the continuance of dependency, plus funeral expenses, max of \$1,200.
- Reasonable and Necessary Medical Expenses
- Maximum Liability of Employer for death and disablement – \$40,000 excluding medical expenses



# Benefits under RMI WC Law

- Passed September 20, 2019 and implemented October 1, 2023.
- Patterned similarly with the CNMI WC law with a unique structure involving RMI Health Fund
- Disablement – 66 & 2/3% of Average Weekly Wage, maximum pension of \$140 per week
- Death – percent of above pension to be paid to surviving family members for the continuance of dependency, plus funeral expenses, max of \$1,200.
- Reasonable and Necessary Medical Expenses
- Maximum Liability of Employer for death and disablement – \$40,000 excluding medical expenses



# Voluntary WC Insurance

- Without a WC law requiring him to buy workers comp insurance , an employer can choose to –
  - Do nothing. In the event of an injury, he can offer financial assistance out of his own pocket, or leave the employee to deal with his misfortune on his own. If the worker sues for damages , the employer can hire a lawyer to defend the case. Whatever is the outcome, woe to the loser.
  - Buy a voluntary WC policy with specific benefits, which the employee can accept in exchange for his rights under common law. If the worker declines and instead sues for damages under common law, the policy will pay for the employer's defense, and pay for his legal obligation if found liable.

# Voluntary WC Insurance

- **Coverage A** – pays specific benefits for work-related injury or sickness resulting in death, disablement and medical expenses, as shown in the schedule attached to the policy. By accepting such compensation, the employee gives up his right to sue the employer for negligence.
- **Coverage B** – if settlement under Coverage A is declined and compensation under common law is pursued, Coverage B will pay all sums which the employer shall become legally obligated to pay for bodily injury arising out of and in the course of employment, up to the policy limit.
- **Supplementary Coverage** – Defense costs

# Coverage A Benefits under First Net

- **Medical Expenses** – all reasonable and necessary expenses including treatment abroad up to \$10,000
- **Death/Disablement** – weekly benefit equal to 66 & 2/3% of average weekly wage, up to \$140 per week, up to a maximum number of weeks per schedule depending on the nature and extent of the disability, but in no case exceeding \$40,000
- **Funeral Expenses** – up to \$1,200



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# Example

- Employee's Average Weekly Wage - \$150
- He dies due to a work related injury, leaving a spouse, age 35 and a child, age 2
- Funeral expenses will be paid up to \$1,200
- Spouse gets 35% of his AWW or \$52.50 per week until she dies or remarries
- Child gets 15% or \$22.50 until he reaches age 18. If the mother dies or remarries before then, his weekly benefit will increase to \$52.50 per week until he gets to be 18.
- For other situations, please refer to the Schedule of Benefits.

# **WORKER'S COMPENSATION INSURANCE PROTECTION**

**Lost  
Wages**

**Disability  
Payments**

**Death  
Benefits**

**Medical  
Costs**

**Employer  
Lawsuits**



# Can workers seek treatment abroad?

- Under the voluntary WC policy, the insurer will pay for all reasonable and necessary medical expenses incurred within FSM without limit. Expenses incurred anywhere else may not exceed \$10,000.

# HOW MUCH WILL INSURANCE COST?

- **Deposit Premium.** At the start of the policy year, a deposit premium will be required. This is determined by taking the annual wage of the employee (hourly rate times 40 hours per week times 52 weeks), and multiplying that by a percentage or rate based on his job classification. The total for all employees will then be the deposit premium due on the policy.
- **Earned Premium.** At the end of the policy year, the actual premium earned will be computed based on the actual payroll paid for all employees during the policy year, and the difference between this and the deposit premium will either be charged or refunded to the insured.

# PREMIUM RATING

- Currently, the premium rating table we are using in the Micronesia region is the same as those introduced in 1971 in Hawaii, which is the same rating table being used today in CNMI.
- Guam rates are higher.
- In RMI, An actuarial study is now being conducted by Deloitte Actuarial Services out of Sydney, to develop rates specifically for RMI.

# APPLICATION

- The employer will be asked to submit a short application form and provide a list of his employees, their job titles/descriptions and hourly wage rates (or their equivalent), based upon which a premium quote will be provided. If agreement is reached, a policy and an invoice will be prepared.
- Upon payment of the premium, an official receipt will be issued together with a workers compensation insurance certificate for presentation to the workers compensation commission as evidence of the employer's compliance, but only required in those regions with a workers compensation law.

# CLAIMS

- **FORMS.** Just as soon as the policy is issued, forms and claims procedures will be provided to the employer and posters describing the claims process will be placed at conspicuous places around the premises instructing workers what to do in case of a potential covered event.



# Claim Forms and Procedures

- Employee must inform his employer about any work related injury or sickness using form WC 202 ASAP but no later than 30 days
- Employer must report this to the insurer using form WC 203A/B within 10 days from receipt of form WC 202, describing the incident and identifying the injured/sick worker, his job title, hourly/daily wage rate, etc.
- If the employer believes the incident is not work-related, he must inform the insurer using form WC 206. If he is right, the insurer will inform the employee in writing that his claim is being denied and the reason thereof.

# Medical Expenses

- If he believes the incident is work related, the employer may authorize medical treatment using form WC 200A
- The employee or his representative must secure the attending physician's report on form WC 200 within 20 days of initial treatment, and form 201 for subsequent treatment/s. He must also submit all receipts and other supporting documents through his employer.
- Shortly after the claim is validated based on the reports submitted, the insurer will arrange for payment of the medical expenses incurred. If found invalid, the insurer will only pay all expenses already incurred by then.

# Disablement Benefits

- If the covered injury or sickness results in temporary or permanent disablement, the insurer will inform the employee in writing through his employer as to how much is the weekly benefit he will be entitled to, and how long it will be paid. If the disablement is permanent in nature, he will also be given the option to receive the weekly benefit in one lump sum instead.
- He will be told that since there is no WC law in the FSM, the benefit is being paid out of a voluntary program bought by the employer as a substitute to provide immediate relief for work related injuries or sickness. If he accepts this offer, he will be asked to sign a waiver of his right to pursue any claim against his employer for the same event, prior to any payment.



# Death Benefits

- In case of death, the insurer will inform his beneficiaries in writing through his employer how much is the weekly benefit each will be entitled to, and how long it will be paid. Each will also be given the option to receive the weekly benefit in one lump sum instead. This is in addition to the \$1,200 funeral expense benefit.
- Each will be told that since there is no WC law in FSM, the benefit is being paid out of a voluntary program bought by the employer as a substitute to provide immediate relief for work related injuries or sickness. To avail of this benefit, all will be asked to sign a joint waiver of the right to pursue any claim against the employer for the same event.

# Rejection of Offer under Coverage A

- The employee or his representative (or his beneficiary in case of death) can refuse to accept the benefits under Coverage A as full and final settlement of the claim, and pursue his claim in court, instead. In that case, the insurer will take no further action, until summons is actually received. In the meantime, any existing authority for medical treatment will be withdrawn.
- When summons is received, Coverage B will then kick in.



# Settlement under Coverage B

- In lieu of Coverage A, the insurer will pay all sums which the Insured shall become legally obligated to pay under common law to any employee (or his dependents) who declines to accept settlement under Coverage A.
- The Company will also indemnify the Insured for those sums which the Insured shall pay as claims expenses and defense costs. The Limit of Insurance available for damages shall be reduced by any amount that the Company pays to indemnify the Insured for claims expenses and defense costs or that the Company incurs on behalf of the Insured as claims expenses or defense costs.

# Reference Materials

- Policy Contract wordings – Declaration Page, Policy Jacket, Schedule of Benefits
- Claim Forms
  - WC 202 – Employee’s Notice of Claim
  - WC 203A/B – Employer’s Notice of Claim
  - WC 206 – Employer’s Controversion of Claim
  - WC 200A – Employer’s Authorization of Treatment
  - WC 200 – Attending Physician’s Report
  - WC 201 – Supplementary Physician’s Report
- Waiver Form





Thank  
you!