

Workers Compensation and Volunteer Insurance

In the long list of people it takes to keep up the operations and maintenance of a resident-owned community, two of the most vital groups are employees and volunteers. It can be challenging to understand how to protect these important people should they be injured or cause injury while on the job. This handout is designed to help communities protect the people who make up the nuts and bolts of cooperative living.

Workers Compensation

Workers Compensation covers workers injured on the job including medical care and compensation for a portion of the income a worker loses while they are unable to work.

Workers Compensation also protects employers from lawsuits by workers injured while working. Workers receive benefits regardless of who was at fault in the accident.

Most Workers Compensation questions concern who is covered by the policy. To determine whether a person is covered by your community's policy, ask the following:

1) Is the person performing the work a resident of the community or an outside contractor?

- a) If the worker is a resident, the person performing the work may be covered by the community's Workers Compensation policy. **Continue to question 2.**
- b) If the worker is an outside contractor, they should be covered by their own private contractor's insurance. Before performing any work, the contractor should provide proof of insurance listing the community as an additional insured on their policy. If adequate proof of insurance is not obtained, your community could be held liable if any claims arise while the work is performed.

2) Is the resident performing the work being financially compensated for their work?

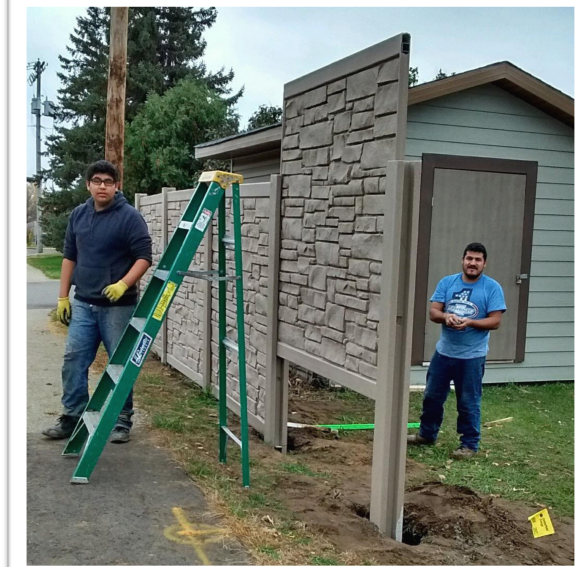
- ❖ Remember: compensation can be defined as cash payment, free or reduced lot rent, and any exchange that has monetary value.
- a) If yes, the resident worker is most likely covered by the community's Workers Compensation policy.
 - i. **Note:** If the resident has their own private contractor's coverage, they should not be covered by the community's Workers Comp. The community should require the same proof of insurance they do with other outside contractors.
- b) If no, the resident performing the work should be called a "volunteer" and not a worker. As a volunteer, they are (most likely) not covered by the community's Workers Compensation policy.
 - i. **Note:** Before performing any work, onsite staff or a board member should inform the volunteer of their coverage options and have the resident sign a volunteer liability waiver.

Volunteer Insurance

When volunteers get hurt, Boards and onsite management tend to think the community's Workers Compensation or General Liability insurance will cover the volunteer's medical expenses. This is not the case.

In most states, (including Minnesota and Wisconsin) volunteers are not covered by Workers Compensation because they are not paid employees. Follow the links below for more information on state-specific rules regarding volunteers and Workers Compensation:

- **Minnesota**
 - ["Volunteers in the workplace – Minnesota,"](#) *SFM Legal Advisory*, 2016.
- **Wisconsin**
 - ["Volunteer Workers and Worker's Compensation in Wisconsin,"](#) *Department of Workforce Development*, 2002.
 - ["Volunteers in the workplace – Wisconsin,"](#) *SFM Legal Advisory*, 2016.



Resident volunteers at Park Plaza Cooperative in Fridley, MN install new fencing in the fall of 2016.

For most communities, General Liability policies do not cover volunteers. In some cases, General Liability policies will cover the volunteer only if the volunteer causes an injury or property damage to a resident or visitor. In this case, the General Liability policy would treat the volunteer as an insured and provide protection for claims *made against them* by those third parties. However, as an insured, the volunteer cannot make a negligence claim against another insured (i.e.: the Community). The volunteer also cannot typically collect benefits under the medical payments coverage available to third parties.

If you work with volunteers, ask these general liability insurance related questions from your broker to get clarity:

- If a negligence claim is brought against them by a third party, are my volunteers protected under my general liability policy?
- How will my volunteers' medical expenses be paid if they are injured while volunteering?
- What are my options for covering my volunteers' medical expenses?

Steps for ensuring your volunteers are covered:

1) Find out if your volunteers have coverage elsewhere. In

many cases, the only coverage available to volunteer workers for accidents or injuries is the coverage their own insurance policies provide. These could be personal homeowners, auto, or health insurance plans. Talk to your volunteers about the situation and encourage them to look into what's covered on their own plans in the event of an injury.

2) Explore your community's coverage options. Talk to your insurance broker about what options your community has for insuring volunteers. Some options include:

- a. **Creating a separate policy.** Creating a volunteer-accident medical insurance policy designed specifically to pay the medical bills (or deductibles and co-pays if otherwise covered under another plan) if injured in their capacity as volunteers.
- b. **Adding a coverage rider to Workers Compensation.** In some states, Workers Compensation insurers will allow the addition of a volunteer coverage rider to an existing Workers Compensation policy. This option does come with a catch. The Community must track volunteer hours and place an honest wage value per hour to the volunteer task. The Workers Compensation insurer will then charge based on the value of the service.
 - i. **Note:** Volunteer riders are generally unpopular because it is too much work to track, the Community does not hold a Workers Compensation policy go begin with, and/or the costs are too high. A community with a large volunteer based could be looking at costs in the several thousands of dollars for a volunteer coverage rider.
- c. **Utilizing General Liability.** There is some very limited coverage for medical bills on some general liability policies, but no coverage for loss of wages. If the Community were to have several claims for volunteers, the general liability company may decide to drop the Community's coverage because it is not designed to handle that level of exposure. The general liability company would see the claims as abusing the policy terms, because most general liability premiums are not enough to adequately cover the exposure risks associated with covering volunteers.

3) Consider having volunteers sign waivers and hold-harmless agreements. Waivers and hold-harmless agreements can help volunteers understand up front that the community is not providing coverage, and agree to assume the risks themselves by obtaining their own or utilizing existing coverage. While this isn't the approach most communities want to take, it may be the most common sense and cost effective.

- a. Communities often decide to go with a release form, because they find that volunteer workers pose too large of a financial risk and relying on Workers Compensation riders or general liability policies is not economical or sustainable. An insurance agent once put it this way, "A homeowner 'volunteers' to work on their own property at their own risk. As a cooperative, ROC residents are owners and therefore should volunteer to work on their jointly owned property at their own risk."

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—Insurance Agent