

Comparison of Coverage based on LMCIT Unique Features referenced on their WC Coverage Guide -- from North Risk

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| 1. Exposure Testing | <p>According to Federal and State Occupational Safety and Health Administration (OSHA) requirements, as well as Minnesota statutes, employers must pay for exposure testing for certain employees if they are exposed to some bloodborne pathogens or infectious diseases. An employee who is exposed to an infectious disease but hasn't actually contracted the disease may not have an "injury" for purposes of workers' compensation. Because there is no injury or occupational disease, a standard workers' compensation insurance policy won't pay for diagnostic testing if an individual has been exposed, even though OSHA requires the city to provide that testing. LMCIT automatically covers this employer responsibility at no additional premium charge for the following infectious diseases:</p> <ul style="list-style-type: none"> • Hepatitis • Human immunodeficiency virus (HIV) • Acquired immunodeficiency syndrome (AIDS) • Tuberculosis (TB) • Meningitis • Bacillus anthracis (anthrax) <p>Coverage for exposure testing is broader than OSHA or statutory mandates. It covers up to \$5,000 per employee to test any city employee who is exposed in the course of their employment, not just public safety workers as required by law. When an employee has been exposed to an infectious disease, LMCIT also covers the diagnostic testing of the person or persons who were the source of the disease.</p> | BITCO does not provide this. | As noted BITCO doesn't provide this but we may be able to source a vendor to do this if or when needed. I have reached out to KPA (Our Health & Safety partners) to see if this is a service they could provide. Once I hear back I will let you know. |
| 2. Employers Liability | <p>The workers' compensation statute precludes most tort claims (an injury which arises out of a violation of a duty owed to an injured or damaged plaintiff) against an employer for injuries to an employee, but there are a few ways such claims can occur. For example, if an employee is injured while operating a piece of equipment, the employee may collect workers' compensation benefits from the city and decide to sue the equipment manufacturer for injuries that may have been caused by poor product design. The manufacturer in turn sues the employee's supervisor for negligent supervision. LMCIT covers the city's potential tort liability for injuries to an employee. City officers, employees, fellow employees and volunteers are named as covered parties, and the limit is \$1,500,000 per occurrence regardless of the number of claimants. There's also a \$1,500,000 agreement limit for damages arising out of disease.</p> | Employers Liability Coverage is provided as part of the Workers Compensation policy. BITCO does not provide coverage for the city's potential tort liability injuries to an employee. | BITCO is providing the following Employers Liability Limits: \$2,000,000 each accident and \$2,000,000 by disease for each employee with a \$2,000,000 by disease policy limit. As discussed previously, BITCO's limit is \$500k lower in coverage when you factor in the excess coverage LMCIT is providing to this coverage. |
| 3. Federal Laws | <p>LMCIT automatically provides coverage for any liability the city may have under the Longshoremen's and Harborworkers' Act, the Jones Act, or the Federal Employers' Liability Act. These are federal laws governing an employer's liability for injuries to certain employees. Under some circumstances, a city employee might be entitled to benefits under one of these laws instead of, or in addition to, Minnesota's workers' compensation statute.</p> | <p>Longshoremen's & Harbors workers Act – can be added to the policy. It needs to be underwritten.</p> <p>The Jones Act or the Federal Employers Liability Act – Does the insured really have this exposure? It would need to be underwritten. The Jones Act – allows maritime workers to pursue compensation for on the job injuries. The Federal Employers Liability Act – governs the right of railroad employees injured, sickened or killed in the course of their employment through an employer's negligence to sue the employer for damages.</p> | I don't believe you really have any of these exposures. |
| 4. Obstructing an Employee from Seeking Benefits | <p>State law allows an injured employee to sue the city and/or a city officer or employee for damages for coercing or obstructing the employee from seeking workers' compensation benefits. A city with 16 or more employees can also be sued for failing to offer continued "light duty" employment to an injured employee if such employment is available. LMCIT does not provide coverage for actual damages, but it does pay for defending the city or a city officer or employee on a claim seeking damages under this statute.</p> | BITCO does not pay for defending the city or a city officer or employee on a claim seeking damages under this statute. | I don't think that the City or MMU would try and coerce an employee from seeking benefits or not provide light duty work if available but if this would be a concern, it could be a potential gap. |

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| 5. Elected and Appointed Officials | <p>LMCIT makes workers' compensation coverage for elected and appointed officials the default coverage option for members of the workers' compensation program. In other words, elected and appointed officials of covered entities are covered parties for workers' compensation unless the member specifically elects otherwise. Covered individuals include:</p> <ul style="list-style-type: none"> • Mayors • Councilmembers • Elected clerks • Elected treasurers <p>Members of other administrative boards and committees who have independent authority under law, either alone or with others of equal authority, to determine policy or make a final decision not subject to supervisory approval or disapproval are also covered. Some common examples include:</p> <ul style="list-style-type: none"> • Planning commissions • Utilities commissions • Park boards • Hospital or nursing home boards <p>Workers' compensation benefits are paid only when the individual's injury is the result of their city-related activity. There can be many borderline situations in which it is debatable whether elected or appointed officers are conducting official business on behalf of and at the request of the city. For example, a mayor might be asked to attend a meeting of the Chamber of Commerce to discuss and explain city policies. Cities might want to consider adopting an ordinance or resolution that specifies whether the city considers such activities to be within the scope of duties.</p> <p>If an injury is the result of a city-related activity, elected and appointed officials will receive medical and indemnity benefits. Indemnity benefits are based on the individual's total earnings from regular employment plus the salary (if any) they receive from the city. Workers' compensation coverage is generally not available for purely advisory boards or members of committees that are not created by state law, such as volunteer members of a Fourth of July planning committee.</p> <p>However, limited medical, disability, impairment and death benefits are covered under LMCIT's volunteer accident coverage.</p> | <p>Elected Officials are covered unless they opt to be excluded. BITCO does not provide Volunteer Accident coverage.</p> | <p>BITCO can and would provide an endorsement WC000311A, Voluntary Compensation and Employers Liability Coverage Endt to provide coverage for needed individuals volunteering that would not be considered an employee of the City or MMU. We would need to list those boards, commissions or individuals if needing coverage and not being accounted for. At time of loss BITCO would require proof of the volunteering through some sort of record keeping. I could provide the coverage form if needed.</p> |
| 6. Separate Boards and Commissions | <p>Agencies that are legally separate from the city are not automatically covered by the city's workers' compensation coverage. Examples include: • Housing and redevelopment authorities • Economic development authorities • Port authorities • Utilities commissions • Hospital or nursing home boards • Joint powers boards</p> <p>Cities should consider whether these agencies will have their own workers' compensation coverage or whether they'll be part of the city's workers' compensation coverage. If the latter is preferred, contact LMCIT to extend coverage to the agency (if coverage extension involves a joint powers board, at least one party of the board must be a Trust member).</p> <p>Cities may prefer that agencies managed by a separate administrative board or commission have their own workers' compensation coverage separate from the city for a couple reasons. First, it may be easier to allocate costs between the two entities' budgets. Second, for purposes of LMCIT's experience modification calculation (a tool used to calculate premiums), each entity would stand on its own. For example, with separate coverage, losses experienced by employees of the utilities commission won't affect the city's experience modification, and vice versa. Every city must weigh whether separate coverage is preferable. One downside is the city may lose some benefit of the volume discount on premiums. A premium discount applies when the total standard premium equals \$5,000 or more. Once it's decided how the board or commission will be covered for workers' compensation, officers of that board or commission will be covered parties unless the member specifically elects otherwise. Workers' compensation benefits are applicable only when the individual's injury is the result of his or her activities as an officer of the board or commission.</p> | <p>Cities should consider whether these agencies will have their own workers' compensation coverage or whether they'll be part of the city's workers' compensation coverage.</p> | <p>We would need to know if we need to add any of these entities regardless of who the work comp is placed with.</p> |

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| 7. Emergency Response Employees and Volunteers | <p>Emergency response volunteers, including paid on-call emergency volunteers, are defined by statute as "employees" for purposes of workers' compensation. They are entitled to workers' compensation benefits just like any other regular emergency response employee, as long as they're registered with and work under the direction and control of the city. If these volunteers are organized independently of the city and aren't employees for purposes of workers' compensation, they would not be entitled to benefits. LMCIT automatically includes these volunteers under the city's workers' compensation coverage:</p> <ul style="list-style-type: none"> • Volunteer firefighters (including fire relief associations) • Volunteer ambulance attendants • Volunteer first responders • Law enforcement assistance volunteers • Emergency management volunteers • Disaster assistance volunteers • Civil defense volunteers <p>Injuries sustained while an emergency employee or volunteer is engaged in response activities is covered by workers' compensation. They are also covered from the time they respond to an emergency (e.g., a fire alarm, a pager, or other device) until the time they return home. Travel from home to the scene and directly home again is covered in an emergency. If they do not go straight home after responding to an emergency, the scope of employment ends at the emergency location. Also, travel from home to a meeting, drill, or other type of training is not covered. Minnesota statute also excludes workers' compensation coverage for injuries sustained while any employee (not just emergency response employees) is participating in voluntary recreational programs sponsored by an employer, such as athletic events or picnics. The exception to this rule is if an employer requires its employees to attend these activities. In that case, a compensable injury would be covered. Regarding emergency response volunteers, if they're unable to work in their normal occupation because they're injured while volunteering for the city, indemnity benefits are calculated as follows: If the volunteer only receives an expense reimbursement from the city, indemnity</p> | <p>Emergency response volunteers, including paid on-call emergency volunteers, are defined by statute as "employees" for purposes of workers' compensation.</p> | <p>We are also accounting for these employees in the payrolls reported to the appropriate codes.</p> |
| 8. All Other Volunteers | <p>Emergency response volunteers are covered by workers' compensation, while other types of volunteers, such as the following, are afforded alternative protections under LMCIT's volunteer accident coverage.</p> <ul style="list-style-type: none"> • Coaches and instructors in recreation programs. • Volunteers working on a city sponsored festival or celebration. • Volunteers working on city construction and demolition projects. • "Clean-up day" volunteers. • Volunteer members of advisory boards or committees that do not exercise independent decision-making authority. <p>The volunteer accident coverage is a standard coverage feature to all members of the workers' compensation program. While benefits are more limited than workers' compensation, there is some protection for volunteers on a no-fault basis, as long as those volunteers are working under the city's direction and control. Benefits include: Disability benefit \$900 per week is provided for up to 26 weeks if the volunteer is unable to work in his or her normal occupation. Death benefit \$200,000 is provided if the volunteer dies because of an injury. Impairment benefit Up to \$200,000 is provided if the volunteer is permanently disabled, either fully or partly, by an injury. Medical benefit \$2,500 is provided to help cover medical costs that the individual might otherwise be responsible for under the deductible on his or her health coverage. The per accident limit for the volunteer accident coverage is \$500,000, which applies regardless of the number of volunteers who are injured in a single accident.</p> | <p>Emergency response volunteers are covered by workers' compensation, while other types of volunteers are not covered. BITCO does not provide Volunteer Accident Coverage. Are the city boards like planning commission, EDA, etc actually volunteers? If they are volunteers they could be included Under the WC000311A. They would need to keep a roster of individuals names, dates, times, etc.</p> | <p>Refer to comments for # 5. Above. A volunteer endorsement can be added to BITCO if needed.</p> |

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| <p>9. Statutory Presumptions for Certain Diseases</p> | <p>a. Heart and lung diseases Minn. Stat. § 176.011, subd. 15(b). Minn. Stat. § 176.021, subd. 1. The workers' compensation statute establishes for firefighters and police officers a statutory presumption for heart and lung diseases, such as myocarditis and coronary sclerosis. If a firefighter or police officer contracts a heart or lung disease, it is presumed job-related unless the employer can prove the disease was not work-related. For a heart or lung disease to be presumed job-related, the employee must have had a physical examination at the time they were first employed, and a written report of that examination showing the employee was free of the disease. This report must have been filed with the fire or police department. A fire or police department with very few smokers represents a smaller risk of a workers' compensation claim for heart disease, lung disease, or cancer. Any city that can certify that no more than 10 percent of its fire or police department are smokers qualifies for a rate that is 10 percent lower than LMCIT's standard rate for firefighters and police. :</p> <p>To qualify for the credit, the city must obtain written statements from at least 90 percent of each department's employees. The statement must be signed and dated and must state the individual does not smoke and has not smoked within the previous six months. These statements, along with a roster of current department members, must be submitted to LMCIT to qualify for the credit.</p> <p>b. Cancer Minn. Stat. § 176.011, subd. 15(c). The workers' compensation statute establishes for firefighters a statutory presumption for many types of cancer. For firefighters who entered service before Aug. 1, 1988, a prior examination is not required to be entitled to the cancer presumption. However, if the firefighter entered service after Aug.1, 1988, was examined prior to employment, and the exam showed evidence of cancer, that cancer is not presumed job-related.</p> <p>c. Infectious diseases Minn. Stat. § 176.011,</p> | <p>Heart and lung diseases BITCO would follow the Minn statutes. BITCO does not offer a 10 percent lower rate for a fire dept where 10% or less are smokers. Cancer – BITCO would follow the Minn statutes. Infectious Diseases – BITCO would follow the Minn statutes.</p> | |