

# Course and scope injuries: What is covered?

Mr. Slipfall is on his lunch break, but is asked by his employer to drop mail off at the post office. On his way back, he decides to drive three miles down the road to pick up his dry cleaning. While traveling to the drycleaner, he is involved in a motor vehicle accident. As a claims professional overseeing more than 2,000 employers, the question always arises...is it covered?

By definition, any injury, illness, or disease that occurs out of and in the course of employment is covered under the workers' compensation statute. The injury, illness, or disease can be one that was caused, contributed to, or aggravated by a specific incident. The cause can also be occupational in nature by the constant repetitive nature of the job over a period of time. The examples below represent circumstances in which injuries are not considered to have occurred out of and in the course of employment, and are not covered by workers' compensation.

## Deviation from employment

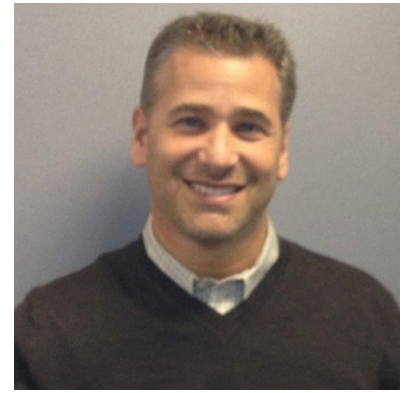
As a general rule, if an employee deviates from performing his/her job duties, for a personal benefit and is not furthering the business of the employer, then any injury that occurs during the period of deviation is not within the course of employment and, therefore, not covered. Once the employee returns to the workplace or returns from the deviation to the course of employment, then any injury that occurs after that point is covered. If the deviation is solely for the employee's benefit, then any injury that occurs during the period of deviation is not covered; if the employer derives some benefit from the deviation, then the injury would be covered.

## Coming and Going Rule

Injuries that occur while coming to work or going home from work are not within the course of employment and, therefore, are not covered. However, there are exceptions to this rule. An injury is covered if it occurs during the period of employment at a place where the employee might reasonably have been expected to be, and while the employee was fulfilling the duties of his/her job conditions under which those duties were to be performed.

For example, if an injured worker is required to park his/her car in a designated parking lot and is injured while walking from the lot to the employer's building, then he/she is entitled to workers' compensation. In this scenario, the injury occurred during the period of employment (the period of employment includes a reasonable time before and after actual workday hours), at a place where he/she is expected to be and while doing something under conditions created by the employer (walking in the company parking lot). Any situations similar to these and with circumstances created by the employer may allow an injured worker to collect workers' compensation benefits under an exception to the Coming and Going Rule.

One situation that I am often asked about is whether or not injuries suffered while going to or leaving the employer premises to receive medical treatment (e.g., physical therapy) are covered. Generally, the answer to this is yes. Without a route deviation, injuries suffered during this period would be covered.



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Robert Schiller is currently the Director of Client Services and TPA Operations at AmeriHealth Casualty Services. Mr. Schiller serves as the lecturer for the Insurance Society of Philadelphia, The Council of Education, The Workers' Compensation Judges' Conference, & The Pennsylvania Workers' Compensation Claims Association. He also sits as a member of The Pennsylvania Chamber of Business & Industry for Workers' Compensation reform.

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## Horseplay

Injuries that occur as a result of horseplay among employees are not within the course of employment and would not be covered. However, if the employer was aware of such activity, and tolerated or participated in it, then any injury that occurs during horseplay would be covered as being within the course of employment.

## Company-sponsored events

Injuries that occur during company sponsored events may not be covered if there was no requirement to attend or there was no benefit beyond goodwill to the employer. However, this can present a gray area. If an employee felt that he/she had an obligation to attend or felt that refusal to attend the event may affect his work relationships, then an injury occurring at such an event may be deemed work-related. A case example that I see regularly would be an injury at a company sponsored event, such as a softball game. The criterion to consider is the number of employees attending, including management; the company sponsor (uniforms); and whether there was an expectation for the employee to attend. I recommend that these be viewed on a case-by-case basis.

## Fighting

An injury that occurs during a fight is only covered if the fight was about some matter related to employment. A fight between coworkers is not related if it ensued over personal relationships rather than a function relative to work.

## Intoxication/Intentional acts

An injury that is intentionally caused by the injured worker or by his/her intoxication is not covered. However, the intoxication has to be the sole cause of the injury. If the injury is caused by the fault of another party such as a motor vehicle accident, then the injury is deemed compensable.

So, let's revisit the case of Mr. Slipfall. In this scenario, is this compensable? The short answer is no. Once he deviated substantially, he was no longer furthering the business in the course and scope. However, if he returned to the route on his way back to work, then yes, it is compensable.

Each scenario should be viewed on a case-by-case basis. In many instances, you can use a denial to leverage a favorable disposition. Consult your insurance professional with questions about accepting or denying these difficult claims.

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