

Domestic Workers Work Group

September 28, 2021



Agenda

- Welcome and update – Maggie Leland
- Benefits and costs of workers' comp – Bryan Jewell & Keith Bingham
- How to make it easier for employers to provide workers' comp coverage
- Questions and next steps

Legislative direction

10-member work group, appointed by governor

Worker Representatives	Employer Representatives
Directly affected domestic workers (2) <ul style="list-style-type: none">• Silvia Gonzalez• Kasey Bowen	Employers of domestic workers (2) <ul style="list-style-type: none">• Puja Dhawan, Care for All with Respect & Equity• TBD
Directly affected day laborers (2) <ul style="list-style-type: none">• Fred DuBon• TBD	Employer of domestic day laborers (1) <ul style="list-style-type: none">• TBD
Unions/worker centers (2) <ul style="list-style-type: none">• Joe Kendo, WA State Labor Council• Tina Sigurdson, SEIU 775	Nonprofit that works with employers (1) <ul style="list-style-type: none">• Dana Barnett, Hand in Hand

Report & recommendations by November 4, 2022

About workers' compensation

Protection for workers *and* employers

- Workers assured of treatment and benefits if injured at work.
- Employers protected from liability lawsuits.

Workers' comp benefits

- Coverage for approved medical, hospital and related services due to workplace injuries or occupational illnesses.
- Partial wage replacement for those unable to work because of work-related injury or illness.
- Full or partial pension or disability payments.

Workers' compensation (WC) premiums

- Washington is only state where most employees pay a significant share of WC insurance premiums – about 25%.
 - Employers may deduct employees' share from their pay.
 - Some employers do not take the deduction: Either too complex for their payroll system, or prefer to cover the cost themselves.
- L&I sets hourly premium rate for each employer based on:
 - Type of industry, and
 - The employer's prior experience with workplace injuries and illnesses.
- Like car insurance, rates go up based on the type of car insured and history of accidents.

Legislative direction

2021-23 biennial budget created work group to:

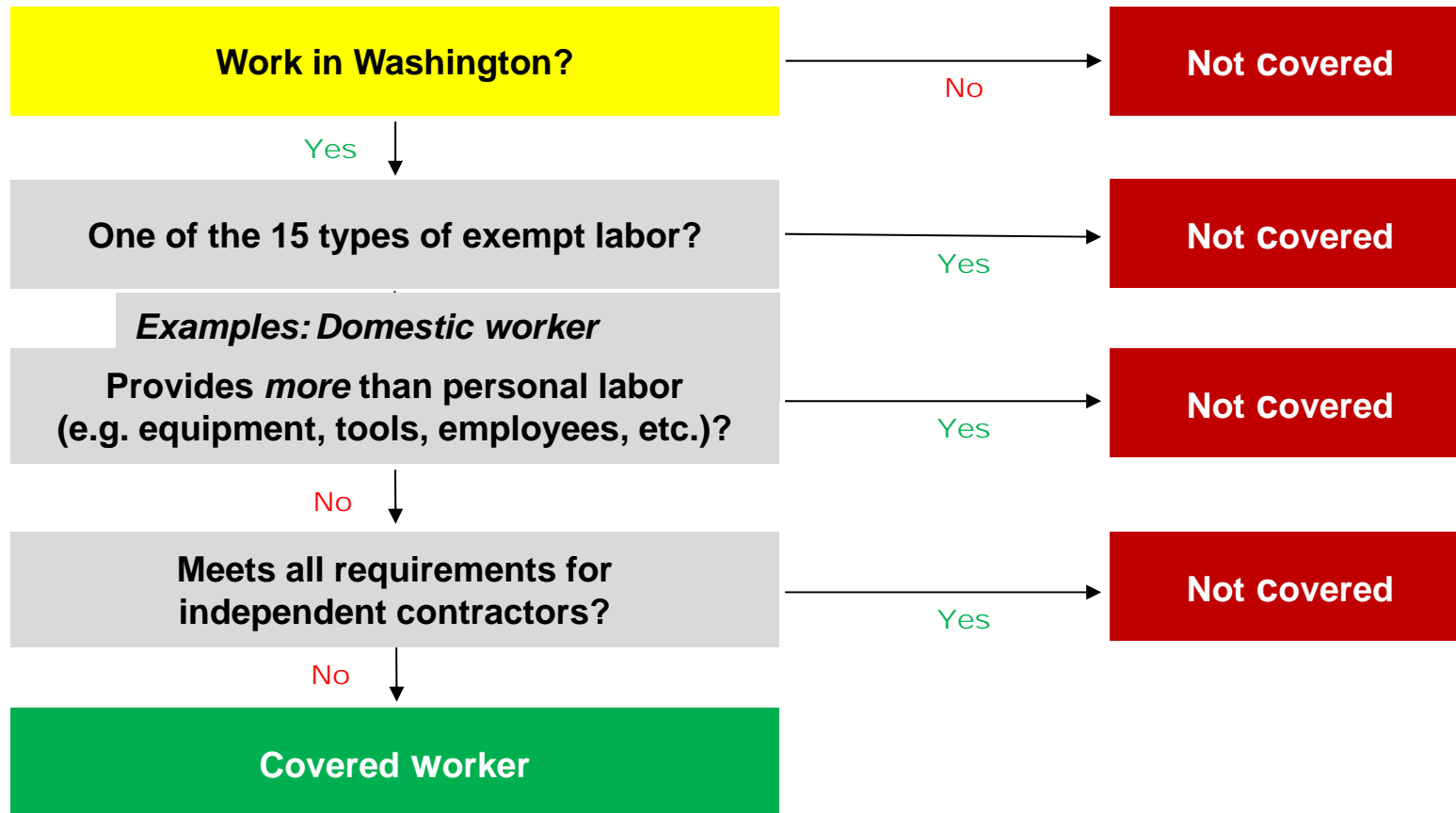
- Investigate how to make it easier for employers to provide workers' comp coverage for domestic workers.
- Recommend legislative, regulatory or other changes.
- Explore possible role of nonprofit organizations that assist and refer domestic workers and day laborers.

Focus of today's meeting

Consider ways
to make it easier
for employers
to provide workers' comp coverage
for domestic workers

Break

Which workers covered by workers' comp?



How to make it easier to provide coverage

- Remove domestic-worker exemption from state law.
 - May still be disqualified under personal-labor or independent-contractor tests.
- How various jurisdictions mandate WC coverage
 - Ohio (if paid at least \$160 per quarter)
 - California (if working over 52 hours or paid over \$100 within a 90-day period)
 - New York (for full-time workers)
 - South Dakota (if working at least 20 hours per week or at least 6 full-time weeks per quarter)
 - Washington (if employer has equivalent of 2 or more full-time domestic employees)

If exemption is removed from state law

Who is the employer?

- Household employer
- On-line referral
 - Considered an employer if controlling and directing work
- Referring agency
 - Could be a non-profit

Workers' comp requirements for Washington employers

- ✓ Register with L&I
- ✓ Report hours quarterly
Employer required to track and record hours worked.
- ✓ Pay premiums
May deduct employee portion from paychecks.

If exemption is removed from state law

- How would L&I determine worker's status for coverage?
 - Continue applying personal-labor and independent-contractor tests?

Questions?

Future agenda items?

Next steps

Additional resources

L&I legislative website

- <https://lni.wa.gov/agency/legislature>
- Domestic Workers Workgroup - new section
 - DWW schedule (2021/2022) (pending)
 - Meeting materials
 - Agendas with log-on information

L&I point of contact

- Email questions/comments to Cheryl Mills at cheryl.mills@lni.wa.gov

thank you!

Proposed schedule & meeting details

2021	
July 27	10 AM – Noon
September 28	10 AM – Noon
November 30	10 AM – Noon
2022	
January 25	10 AM – Noon
March 29	10 AM – Noon
May 24	10 AM – Noon
July 26	10 AM – Noon
September 27	10 AM – Noon

- For now, workgroup sessions held via Zoom.
- Log-on information will be posted on the L&I legislative website.

Personal Labor Test – RCW 51.08.180

"Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment, or as an exception to the definition of worker, a person is not a worker if he or she meets the tests set forth in subsections (1) through (6) of RCW 51.08.195 or the separate tests set forth in RCW 51.08.181 for work performed that requires registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW: PROVIDED, That a person is not a worker for the purpose of this title, with respect to his or her activities attendant to operating a truck which he or she owns, and which is leased to a common or contract carrier.

Independent-contractor tests

Must meet all 6 (or 7) provisions:

1. Free from control or direction by the hiring entity.
2. Contractor's business must be separate and different from the hiring entity's.
3. Independent business that was previously established OR has a place of business that qualifies for IRS deductions.
4. Responsible for filing schedule of expenses with IRS tax returns.
5. Properly registered/licensed with state agencies (e.g., DOR).
6. Maintains separate income/expense records for the business.
7. ***For construction contractors only:*** Possesses valid contractor registration or electrical contractor license.