

Risk Quick Tips

Risk Management Division OMB

From the Desk of Risk Management's Director

The Risk Management Division released its new website on August 31, 2009. The website has been substantially reorganized to provide you with a simpler more effective way to access the information and services you need. Our Website Home Page is designed to reflect our Division's core functions along with improved navigation to help you to locate frequently viewed information quickly and easily. We ask that you frequently browse our **Latest News and Information** feature to keep on top of new events that occur in the Risk Management Division.



We hope you find our new site to be an easy-to-use resource. Please [contact us](#) with any feedback you may have regarding our website.



Tag Anderson, Director
Risk Management Division



RMWCP Premium Billings

The RMWCP premium billings will be mailed the week of September 28th. Congratulations to those of you who saved money on your entity's workers compensation premium by participating in the RMWCP FY' 09 discount program. This year the RMWCP will be awarding a savings of **\$380,180** in discount dollars to qualifying state agencies. In addition, the RMWCP dividend program will be awarding another savings of **\$228,666**.

Since the discount program began in 2004, Risk Management has returned **\$2,505,389** to state agencies who have participated in the discount program. The dividend program was initiated in 2005 and has saved state agencies **\$975,229** in premium dollars.

Hopefully, your agency will be able to use some of those saved dollars to introduce programs to reduce future workplace injuries.

Mission

The mission of the Risk Management Division of the Office of Management and Budget is to protect the assets of the state of North Dakota – its people, property and financial resources – so that the state can continue to meet its obligations to its citizens.

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WSI Ergonomic Initiative Program



Can the RMWCP Participate? Yes we can!

The purpose of the WSI Ergonomic Initiative is to reduce or eliminate cumulative-type injuries at the workplace. Through the Ergonomic Initiative Program, WSI will be offering the employers of North Dakota resources, as well as financial assistance, to address their ergonomic issues.

What the Program Offers

1. Provider Network

WSI has developed a network of experienced healthcare professionals, primarily occupational and physical therapist, knowledgeable in the field of ergonomics, throughout the state.

2. Financial Assistance for Provider Services

The fees charged by the network of providers at this time are paid by WSI. On-site services may include.

- on-site ergonomic assessments
- ergonomic recommendations and interventions
- assistance with the selection of appropriate ergo equipment
- employer and employee ergo training

3. Financial Assistance for Ergonomic Equipment Purchases

If the assessments conducted during the ergo initiative warrant ergonomic equipment purchases, employers may be eligible for assistance with these purchases through the ergonomic grant program. Because all state agencies fall under one employer account (RMWCP), the state is only eligible to receive an award amount of up to \$20,000.

The Process.....

1. State agencies wanting to participate in the Ergonomic Initiative program must submit an [Ergonomic Initiative Employer Application](#) to Risk Management.
2. Risk Management will forward the application to WSI for consideration.
3. WSI will review the application and notify Risk Management of their approval and/or disapproval.
4. If approved, Risk Management and the state agency will select one of the providers listed in the established network to provide the requested on-site service. Risk Management will notify WSI of the provider selection.

NOTE: *The Ergonomic Grant Program is a component of the Ergonomic Initiative. This grant is only available to employers who have already participated in WSI's Ergonomic Initiative Program.*

For more information regarding the Ergonomic/Initiative/Grant:
www.workforcesafety.com/employers/grants/ergooverview.asp

FACILITY USE AGREEMENTS

When Do You Need Them?

There are occasions when members of the public request to use state facilities. In general, the public should be allowed to use state property and facilities, as long as the use does not interfere with the agency's essential operations, applicable policies, or create unnecessary risk of harm to persons or property.

General Facility Use Agreements

In many situations, the use of state property for an event or activity poses little risk of harm to individuals or property damage. In these situations, a facility use agreement may simply involve outlining the time the state facility will be used and the general policies that apply to that location or facility. In some situations, a formal agreement may even be unnecessary, particularly where individuals' use of the property or facility is consistent with its intended purpose.

However, there are situations when the use of state facilities by third parties could reasonably result in personal injury or property damage given the nature of the event or activities to be conducted. In these situations, the responsibilities of the user should be clearly spelled out in a written facility use agreement. Where the State will not be providing direct supervision of the event or activities or equipment brought onto state property, the need for indemnification and insurance provisions should be addressed and incorporated into the facility

use agreement as warranted. A sample [Facility Use Agreement](#) incorporating recommended indemnification and insurance provisions is available on the Risk Management Website.

In order to ensure that any required indemnification and insurance requirements are complied with, a certificate of insurance and an additional insured endorsement should be obtained from the renter at least **10 days** prior to the event or activity. It is also important to remember that the state agency has an ongoing general responsibility to maintain and keep its facilities safe for public use.

Political Subdivisions

Remember that [N.D.C.C. § 32-12.2-13](#) prohibits indemnification provisions in agreements between the State and a political subdivision. This prohibition includes facility use agreements. Therefore, when political subdivisions rent/use State facilities, the state agency must utilize an agreement without indemnification language, such as the sample [Facility Use Agreement – Political Subdivisions](#).

Analysis of Event to Determine Whether Insurance is Needed

Determining which events or activities require indemnification/insurance provisions involves an analysis of the activities and

potential risks involved. Categorizing the differences:

- a) **Insurance:** activities presenting higher risks of injury or property damage to participants/attendees/public/employees might involve such things as organized athletic events, outside equipment being used, some hands-on demonstrations or workshops, any time alcohol is authorized, overnight stays, etc.
- b) **No Insurance:** activities that present a very low potential for risk of injury or property damage to participants/attendees/public/employees would involve such things as holding a meeting, luncheons, speakers, presentations/training, etc.
- c) Many variables exist with these situations, so it is important to consult with Risk Management and legal counsel to assist with the decision on whether to require insurance or not.

Alcohol -High Risk

A special note on alcohol for events in state facilities:

- a) Alcohol that is authorized to be on state property should be supplied, provided and served by the renter (user) or vendor that can provide necessary indemnification and insurance. State employees should not be involved in the serving of alcohol.
- b) Responsibility to ensure proper alcohol distribution rests with the renter or user of the state facility. A Special Event Host Liquor Liability or other insurance is generally required.

Can Waivers Be Used With Facility Use Agreements?

Yes. The use of [Waiver of Liability, Indemnification, and Medical Release](#) for adults and [Parent's or Guardian's Agreement of Waiver of Liability, Indemnification, and Medical Release](#) for minors, may be appropriate in some circumstances. In cases where insurance coverage cannot realistically be provided, but there remains some *not* insignificant risk of harm, the agency should consider securing waivers from each participant releasing the State from liability. Examples where waivers have been used include: use of wellness centers, weight rooms, pools, etc. As always, each situation is unique and should be evaluated with assistance from Risk Management and legal counsel.

