

Workers' compensation election for sole proprietors, partners and LLC members

How does the workers' compensation law treat sole proprietors, partners and LLC members?

Sole proprietors and partners have always been considered employers, not employees; and, prior to April 13, 2000, did not have the option to obtain workers' compensation coverage. However, prior to April 13, 2000, members were treated as employees of a limited liability company and workers' compensation coverage was mandatory for them. This was because the New Jersey Compensation Rating and Inspection Bureau viewed LLC members as analogous to executive officers of a corporation.

Chapter 383, P.L. of 1999, not only gave sole proprietors and partners the option to purchase workers' compensation coverage for themselves effective April 13, 2000, it also placed LLC members in the same category. LLC members are now no longer subject to mandatory coverage, but may elect coverage the same as sole proprietors and partners.

When can I elect coverage?
An election can be made upon application for coverage or upon the renewal of your current workers' compensation policy. You may elect to be covered

How do I elect coverage?

You will need to complete a Notice Of Election form that simply requires the names of the persons electing coverage, their estimated annual wage and a statement of their duties. We will be happy to assist you in completing this form.

Can only some partners or members elect coverage?

No. In order to elect coverage, all partners or members must elect the coverage.

Can I rescind my election of coverage at any time?

Your election cannot be rescinded during the policy period. Therefore, if you wish to discontinue your election, you would have to do so upon renewal or upon application for a new policy.

How much will it cost if I elect coverage?

You will be required to pay a premium based on the remuneration of the sole proprietor, or all partners or members (subject to a minimum and maximum amount per person).

If I don't elect coverage, will this affect my eligibility for workers' compensation benefits?

If coverage has not been elected, benefits payable under any accident or health policy will not be affected (according to the law).

Does this election affect my obligation as an employer to provide workers' compensation insurance to my employees?

No. This election does not alter your insurance obligations for employees. You must continue to insure your employees under a workers' compensation policy, regardless of your choice of election.

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