Providing Workers’ Compensation Coverage for Volunteers

Employment is an essential element that must be present before an individual is eligible for workers’ compensation benefits. In most cases, the existence of either an expressed or implied employment contract is readily ascertainable. This occurs whenever an employer agrees to provide some form of remuneration to an employee in exchange for rendering certain services, and the worker freely agrees to be bound by those terms; however, without remuneration, which can be money or anything else of value, no contract of hire can legally exist. Significantly, many volunteers provide important services to AMRRP Members without any form of compensation; thus, it would appear they would be incapable of satisfying this essential element of a contract of hire. Accordingly, Arizona law recognizes this predicament by statutorily addressing the issue of providing workers’ compensation benefits to municipal volunteers.

A.R.S. § 23-901.06 states that volunteer workers of cities and towns “may be deemed to be employees” and entitled to workers’ compensation benefits “upon the passage of a resolution or ordinance by the political subdivision defining the nature and type of volunteer work and workers to be entitled to such benefits.” Since volunteers do not have wages upon which to determine indemnity benefits or an appropriate workers’ compensation insurance premium, the statute also states that these will both be based on a fictitious salary of $400 per month. However, cities and towns are allowed to set this fictitious salary at a higher amount, as long as it is clearly stated in their resolution or ordinance concerning volunteer workers.

Another Arizona statute, A.R.S. § 23-901 (6) (D), addresses volunteer firefighters and police officers. It states that regular members of volunteer fire departments, volunteers serving as members of a fire department of any incorporated city or town, or any “voluntary policemen and volunteer firemen serving in any incorporated city, town, or unincorporated area without pay or without full pay and on a part-time basis, are deemed to be employees.” Thus, these types of volunteers are eligible to receive workers’ compensation benefits. The statute also establishes a fictitious salary for the purposes of setting indemnity benefit and premium rates; however, in recognition of their dangerous duties, it is set at a much higher level than the $400 per month mandated under A.R.S. § 23-901.06. Indeed, the statute provides that their wages “shall be the salary equal to the beginning salary of the same rank or grade in the full-time service with the city, town, volunteer fire department, or private fire protection service organization.” Furthermore, “if there is no full-time equivalent then the salary equivalent shall be determined by resolution of the governing body of the city, town, or volunteer fire department or corporation.”

Clearly, these statutes attempt to provide volunteers who perform vital services for Arizona’s cities and towns with the benefits of workers’ compensation coverage. AMRRP Members seeking coverage should ensure they have passed an appropriate resolution or ordinance, as mandated by A.R.S. § 23-901.06, and forwarded a copy to AMRRP for inclusion in their underwriting file.
Additionally, AMRRP can provide sample resolutions and ordinances along with extensive guidance in meeting the legal requirements necessary to provide workers’ compensation coverage to their volunteer workforce.

For questions regarding volunteer workers’ compensation, contact Leslie Rich at (602) 368-6606 or lrich@berkleyrisk.com.