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WORKERS' COMPENSATION CLAIMS BY UNDOCUMENTED EMPLOYEES

When an injured employee initiates a worker's compensation claim with the words, "*No tengo documentos*", claims professionals are exposed to a Pandora's Box of legal issues and concerns. Many argue that undocumented employees should receive no benefits because they are working in this country illegally. In many border crossing locations, there is a government sign which reads, "*Warning! If you are entering the United States without presenting yourself to an Immigration Officer, you may be arrested and prosecuted for violating United States Immigration and Customs Law.*" Many argue that because of the employee's undocumented immigrant status, there can be no valid, enforceable employment contract between the employee and employer. Some argue that deportation and exclusion from the U.S. is paramount to incarceration, and many states provide for suspension of benefits during periods of incarceration.

On the other hand, some argue that where the employer knows that the employee is an illegal immigrant, there is no valid reason to withhold benefits. They point out that workers' compensation laws were enacted to make sure the expense of injuries created by the industry was placed on the industry, rather than on society or employees. They claim that anyone knowingly employing illegal immigrants should not be able to reap the benefits of doing so but avoid the responsibilities. By denying benefits, the employer shifts the cost of the situation it has knowingly created on the taxpaying public, giving it a superior financial position to those employers who operate within the bounds of the law. No matter which side of the debate you are on, decisions regarding a workers' compensation claim presented by an illegal immigrant must be made. With immigration issues grabbing the headlines around the country, understanding workers' compensation claims involving illegals is vital to claims handling.

It remains illegal for U.S. employers to hire or recruit illegal immigrants or to refer them for work and receive a fee. The U. S. Immigration and Naturalization Services and the Immigration Reform and Control Act (IRCA) still make it illegal for employers to knowingly employ undocumented workers. An "illegal immigrant" is any person who is unlawfully present in this country, which can happen in a number of ways, including:

- Entering the country without a visa or valid entry document;
- Overstaying a valid visa;
- Re-entering the country illegally after being removed from the U.S.;
- Violating travel restrictions while in the U.S. for a temporary visit;
- Using fraudulent immigration documents to enter the U.S.; or
- Impersonating a U.S. citizen in order to gain citizenship or residence.

Obviously, if an illegal immigrant is injured while “on the job”, questions arise regarding paying workers’ compensation benefits. These issues are still in their infancy, but lawmakers across the country are scrambling to plug the legal holes. In 2013 alone, legislatures in 45 states and the District of Columbia enacted 437 immigration-related laws and resolutions, and even more are on the way. Workers’ compensation laws are governed by the states, while immigration law is exclusively federal. No two states have approached the issue of paying workers’ compensation benefits to illegal immigrants in the same way. The following chart is a summary of the law in all 50 states with regard to whether undocumented immigrants are entitled to receive workers’ compensation benefits when they are injured in the course and scope of their employment.

STATE	Y/N/U	STATUTE	CASE LAW	COMMENTS / EXPLANATION / OTHER
ALABAMA	Y	Ala. Code § 25-5-1. The statutory term “employee” includes “aliens,” but is otherwise silent as to their status or rights.	Yes. On October 18, 2005, Jefferson County Circuit Judge G. William Noble signed an order ruling that illegal immigrant, Omar Santos-Cruz, is entitled to workers’ compensation benefits and medical care for life. The case is of questionable legal precedent as it was not appealed.	Rights of deceased worker’s non-resident dependents to death benefits under the Workers’ Compensation Act were separate and distinct from the rights of the deceased worker under the Act and were not derivative of the worker’s rights. Dependents were barred from challenging the constitutionality of the provision of the Act that excluded non-resident alien dependents from recovering death benefits. <i>Duran v. Goff Grp.</i> , 23 So.3d 45 (Ala. App. 2009).
ALASKA	U	Alaska Stat. § 23.30.395(19). The statute is silent on “illegal aliens” as employees.	Undecided	
ARIZONA	Y	Ariz. Rev. Stat. § 23-901(6)(b). The term “employee” includes “aliens.”	State court ruling of limited precedential value. <i>Tiger Transmissions v. Industrial Commission of Arizona</i> , No. 1 CA-IC 02-0100 (May 29, 2003).	The term “employee” includes “aliens and minors legally or illegally permitted to work for hire.”
ARKANSAS	Y	Ark. Code § 11-9-102(9)(A). The term “employee” includes “aliens.”	Undecided	
CALIFORNIA	Y	Cal. Lab. Code § 3351. The term “employee” expressly includes “aliens.”	<i>Farmer Brothers Coffee v. Ruiz</i> , 133 Cal. App. 533 (Cal. App. Ct. 2005).	There is no evidence that the legislature intended “unlawfully employed” to have a complex meaning or to incorporate federal immigration law. Only if you are proved to not be an employee can a person not recover for workers’ compensation.
COLORADO	Y	Colo. Rev. Stat. § 8-40-202(b). The statute expressly includes illegal aliens, but it doesn’t differentiate between legal and illegal.	<i>Champion Auto Body v. Gallegos</i> , 950 P.2d 671 (Colo. App. Ct. 1997).	Illegal aliens may collect work-related injury benefits as long as work is related to the injury.

STATE	Y/N/U	STATUTE	CASE LAW	COMMENTS / EXPLANATION / OTHER
CONNECTICUT	Y	Conn. Gen. Stat. § 31-275(9)(A)(i). The term “employee” includes every person in service under any contract of hire or other employment avenue. It is silent on “aliens” as employees.	<i>Dowling v. Slotnik</i> , 712 A.2d 396, 403 (Conn. App. Ct. 1998).	“Examination of legislative history revealed that the legislature did not intend to exclude illegal aliens from coverage under the state’s workers’ compensation laws.”
DELAWARE	U*	19 Del. Code § 2301(10). The term “employee” includes every person in service under any contract of hire or other employment avenue. It is silent on “aliens” as employees. 19 Del. Code § 2333(a) says non-resident alien dependents are entitled to ½ the compensation for residents.	<i>Campos v. Daisy Constr. Co.</i> , 107 A.3d 570 (Del. Ct. 2014).	*Under 19 Del. Code § 2325, illegal aliens are allowed to collect partial disability or diminished earning capacity. <i>Campos</i> held this application ensures fairness to undocumented workers under the law.
DISTRICT OF COLUMBIA	Y*	D.C. Code § 15:32-1501(9). The term “employee” includes every person but is silent on “aliens” or “illegally employed.”	<i>Asylum Co. v. D.C. Dep’t of Empl. Servs.</i> , 10 A.3d 619 (D.C. 2010). <i>Marboah v. Ackerman</i> , 877 A.2d 1052 (D.C. Ct. App. 2005).	<i>Asylum Co.</i> held that the claimant was entitled to an award of temporary total disability benefits, and the IRCA did not preclude an order requiring the employer to pay wage-loss benefits. The definition of “employee” encompasses illegal aliens. * <i>Marboah</i> held that the illegal alien who overstayed his visa and used a friend’s social security number had committed a fraud, thus making him ineligible for benefits.
FLORIDA	Y*	Fla. Stat. § 440.02(15)(a). The statute expressly includes legally or illegally employed employees. It does not expressly mention “aliens.”	<i>Gene’s Harvesting v. Rodriguez</i> , 421 So.2d 701 (Fla. App. Ct. 1982). <i>Safeharbor Employer Services v. Velazquez</i> , 860 So.2d 984 (Fla. App. Ct. 2003).	*Florida prohibits workers’ compensation if the employment was done under false information/pretenses. <i>Gene’s</i> reasoned that if the legislature had wanted to exclude illegal immigrants, they would have.
GEORGIA	Y* N**	Ga. Code Ann. § 34-9-1. The statute states that employee means every person in the service of another and is silent on “aliens” - both “legal” and “illegal.”	<i>Dynasty Sample Co. v. Beltrain</i> , 479 S.E.2d 773 (Ga. App. Ct. 1996). <i>Continental Pet Technologies, Inc. v. Palacias</i> , 604 S.E.2d 627 (Ga. App. Ct. 2004). <i>Earth First Grading v. Gutierrez</i> , 606 S.E.2d 332 (Ga. App. Ct. 2004). <i>Martines v. Worley & Sons Constr.</i> , 628 S.E.2d 113 (Ga. App. Ct. 2006).	<i>Continental</i> held because the statute included “every person” under a contract of hire makes them an employee, this includes illegal aliens. * <i>Earth</i> held that disability benefits were payable if the illegal alien was unable to work or return to work as a result of the injury. ** <i>Martines</i> held that disability benefits are not payable if an illegal alien cannot return to work because of their illegal status and not the injury.

STATE	Y/N/U	STATUTE	CASE LAW	COMMENTS / EXPLANATION / OTHER
HAWAII	Y	Haw. Rev. Stat. § 386-1. The statute states “any individual in the employment of another person.” The statute is silent on “aliens” as well as “legal” and “illegal aliens.”	Undecided	
IDAHO	Y	Idaho Code Ann § 72-1366(19)(a). “Illegal alien” must be lawfully admitted for permanent residence and permanently resides in the U.S.	Undecided	
ILLINOIS	Y	820 Ill. Comp. Stat. § 305/1(4)(b)(2). Expressly includes “aliens” as employees.	<i>Econ. Packing Co. v. Ill. Workers’ Comp. Comm’n v. Ill. Workers’ Comp. Comm’n</i> , 901 N.E.2d 915 (1 st Dist. 2008).	<i>Econ. Packing Co.</i> held that the Illinois Workers’ Compensation Act allows benefits including PTD benefits to be awarded to undocumented aliens, and it is not preempted by federal immigration law.
INDIANA	U*	Ind. Code Ann. § 22-3-6-1(b). The statute states “any person in the service of another under any contract of hire”. The statute is silent on “aliens” as well as “legal” and “illegal” aliens.	Undecided	*A recent Indiana appellate decision denied a petition for rehearing in <i>Escamilla v. Shiel Sexton Co.</i> , 62 N.E.3d 401 (Ind. Ct. App. 2016). <i>Escamilla</i> asked the Indiana Supreme Court for a transfer of the case and it was granted. The lower court held that illegal aliens cannot seek lost future earnings in a tort action, because they have no legal right to work in the U.S.
IOWA	Y	Iowa Code § 85.61. The statute is silent on illegal aliens as workers or employees.	<i>Staff Mgmt. v. Jimenez</i> , 839 N.W.2d 640 (Iowa 2013)	<i>Jimenez</i> held undocumented worker met the definition of employee. The legislature could have excluded them but chose not to. Enforcement of the employment contract did not undermine the IRCA.
KANSAS	Y	Kan. Stat. Ann. § 5-44-508(b). The statute is silent on “aliens” and bears no mention of legal or illegal aliens.	<i>Doe v. State Dep’t of Human Res.</i> , 90 P.2d 940 (2004). <i>Fernandez v. McDonald’s</i> , 2013 Kan. LEXIS 14 (Jan. 25, 2013).	The statute broadly covers employee as any person who has entered into the employment of or works under any contract of service with an employer. <i>Doe</i> held an illegal alien may collect workers’ compensation benefits, but because the claimant in this case used fraudulent means and information to secure employment, the claimant could not receive benefits. <i>Fernandez</i> held that Kan. Stat. Ann. § 50-44-510(e) did not contain an exception based on immigration status. Thus, the claimant was able to receive benefits.

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KENTUCKY	Y	Ky. Rev. Stat. Ann. § 342.640-1. The statute states an employee is every person regardless if they are lawfully or unlawfully employed. Silent on “aliens.”	<i>Abel Verdon Const. v. Rivera</i> , 348 S.W.3d 749 (Ky. 2011).	<u>Also see</u> , Ky. Rev. Stat. Ann. § 342-0011-21. The statute defines “alien” but does not make mention of “alien” in conjunction with “employee.” <i>Rivera</i> held that an unauthorized alien is an employee under Ky. Rev. Stat. Ann. § 342.640-1. They also noted that the IRCA did not preempt the workers’ compensation law that covers unauthorized aliens.
LOUISIANA	Y	La. Rev. Stat. Ann. § 23:1015-1. The statute is silent on “alien” or “illegal immigrant” but is broad by using the phrase natural person who is paid for services.	<i>Artiga v. M.A. Patout & Son</i> , 671 So.2d 1138 (La. Ct. App. 1996).	<i>Artiga</i> held that illegal aliens are included in the definition of employed under the Workers’ Compensation Act.
MAINE	U*	Me. Rev. Stat. Ann. Tit. 39-A, § 102-11(B). The statute is silent on “illegal” or “legal” aliens, but it states broadly “every person” under any contract of hire.	Undecided	*Allows for reduction in benefits because of an inability of an illegal alien to accept modified employment equates to refusal of the offer. Me. Rev. Stat. Ann. tit. 39-A, § 218-8.
MARYLAND	Y	Md. Code, Lab. & Emp. Law § 9-202(a). The statute covers all individuals, and mentions unlawful employment, but in the context of minors. It is silent on “illegal alien” and their legal status.	<i>Design Kitchen and Baths v. Lagos</i> , 882 A.2d 817 (Md. Ct. Spec. App. 2005).	<i>Lagos</i> held that undocumented aliens who are injured in the course and scope of employment are a “covered employee” for workers’ compensation purposes, and the IRCA does not preempt the state’s workers’ compensation laws.
MASSACHUSETTS	Y	Mass. Gen. Laws Ch. 152, § 1-4. The statute is silent on “alien” or “illegal alien”, but the statute uses the phrase “every person.”	<i>Brambila v. Chase-Walton Elastomers, Inc.</i> , 11 Mass. Workers’ Comp. Rep. 410 (1997). <i>Medellin v. Chasman KPA</i> , 17 Mass Workers’ Comp. Rep. 592 (2003).	<i>Brambila</i> held that status as an illegal alien is not a bar on receiving workers’ compensation, and even if the worker misrepresented his status to gain employment, is still entitled to benefits. The <i>Medellin</i> court upheld <i>Brambila</i> .
MICHIGAN	Y*	Mich. Comp. Laws § 418.161(1)(l). The statute expressly includes “aliens.”	<i>Sanchez v. Eagle Alloy</i> , 254 Mich. App. 651 (Mich. Ct. App. 2003).	* <i>Sanchez</i> held that illegal aliens are entitled to medical benefits, but are not entitled to disability benefits, because they committed a crime in violating the IRCA.

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MINNESOTA	Y	Minn. Stat. § 176.011-9. The statute includes “aliens” but is silent on “legal” status.	<i>Correa v. Waymouth Farms, Inc.</i> , 664 N.W.2d 324 (Minn. 2003).	<i>Correa</i> held that if the legislature meant to exclude illegal aliens, they would have placed it in the statute.
MISSISSIPPI	Y	Miss. Code Ann. § 71-3-3(e). The statute is silent on “illegal aliens” and “unlawfully employed aliens.” It broadly uses the phrase of “any person” employed either “lawfully or unlawfully.”	Undecided	
MISSOURI	U	Mo. Ann. Stat. § 287.020-1. The statute includes every person in the service of an employer. It is silent on “illegal aliens” and their legal status.	Undecided	
MONTANA	Y	Mont. Code Ann. § 39-71-118(1)(a). The statute encompasses all workers, and expressly includes “aliens” both “legal” and “illegal” and gives their legal status.	Undecided	
NEBRASKA	Y N*	Neb. Rev. Stat. § 48-115(2). The statute expressly includes “aliens” and includes them under “every person” in the statute.	<i>Ortiz v. Cement Prod., Inc.</i> , 708 N.W.2d 610 (Neb. 2005).	* <i>Ortiz</i> ruled that vocational rehabilitation benefits to illegal aliens are denied because the illegal alien is unable to return to some form of employment in the U.S., contrary to the purpose of such services.
NEVADA	Y*	Nev. Rev. Stat. Ann. § 616A.105. The statute expressly includes “aliens” and includes their status as “legal” and “illegal.”	<i>Tarango v. State industrial Ins. Sys.</i> , 25 P.3d 175 (Nev. 2001).	* <i>Tarango</i> held that vocational benefits were covered due to the fact that the employee could get employment outside of the U.S.
NEW HAMPSHIRE	Y*	N.H. Rev. Stat. Ann. § 281-A:2. The statute is silent on “aliens” and their legal status.	<i>Rosa v. Partners in Progress, Inc.</i> , 868 A.2d 994 (N.H. 2005).	* <i>Rosa</i> held that disability payments are recoverable at U.S. wages instead of wages of the worker’s home country if the employer was aware or should have been aware of the employee’s illegal status.

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NEW JERSEY	Y	N.J. Stat. Ann. § 34:15-36. The statute is silent on “aliens” and their legal status.	<i>Mendoza v. Monmouth Recycling Corp.</i> , 672 A.2d 221 (N.J. Super. App. Div. 1996). <i>Fernandez-Lopez v. Cervino</i> , 671 A.2d 1051 (N.J. Super. Ct. App. Div. 1996).	<i>Mendoza</i> concluded that because illegal aliens can file civil actions in court, they should be entitled to statutorily-mandated substitute of workers’ compensation. <i>Cervino</i> held that undocumented aliens could recover workers’ compensation benefits because the statutory definition did not exclude illegal aliens.
NEW MEXICO	Y	N.M. Stat. Ann. § 52-3-3. The statute expressly includes “aliens” and their legal status “legal” and “illegal”.	<i>Gonzalez v. Performance Painting, Inc.</i> , 259 P.3d 1098 (N.M. Ct. App. 2011).	<i>Gonzalez</i> held that undocumented workers are not entitled to modifier benefits, even though illegal aliens are not precluded from getting temporary or permanent disability benefits and medical expenses.
NEW YORK	Y	N.Y. Work Comp Law § 17. The statute includes “aliens” but is silent on legal status.	<i>Testa v. Sorrento Restaurant</i> , 10 A.D.2d 133 (N.Y. App. Div. 1960). <i>Matter of Hernandez v. Excel Recycling Corp.</i> , 31 A.D.2d 1091 (N.Y. App. Div. 2003). <i>Balbuena v. IDR Realty</i> , 845 N.E.2d 1246 (N.Y. App. Div. 2006). <i>Majlinger v. Cassino Constr. Corp.</i> , 25 A.D.3d 14 (N.Y. App. Div. 2006).	<i>Testa</i> held that if the legislature meant to exclude illegal aliens, they would have done so in the legislation. <i>Hernandez</i> upheld ruling by workers’ compensation law judge which held an undocumented alien was able to collect benefits even with false papers. <i>Balbuena</i> held that the IRCA does not bar maintenance of a claim for lost wages by an undocumented alien. They hinted that if there had been false documentation tendered by the plaintiffs the result may have been different. <i>Majlinger</i> held that not allowing an undocumented alien to collect benefits would only incentivize employers to hire illegal aliens.
NORTH CAROLINA	Y*	N.C. Gen. Stat. § 97-2-2. The statute expressly includes illegal aliens.	<i>Rivera v. Trapp</i> , 519 S.E.2d 777 (N.C. Ct. App. 1999). <i>Ruiz v. Belk Masonry Co.</i> , 559 S.E.2d 249 (N.C. Ct. App. 2002). <i>Gayton v. Gage Carolina Metals, Inc.</i> , 560 S.E.2d 870 (N.C. Ct. App. 2002).	<i>Rivera</i> held the statute included illegal aliens and the claimant is entitled to benefits. <i>Ruiz</i> held that the workers’ compensation statute did not exclude illegal aliens, so he was entitled to benefits and that federal law does not prevent an illegal alien from falling under the workers’ compensation law. *According to <i>Gayton</i> disability benefits are payable if the illegal alien cannot work due to his or her injuries. But, if the status of the illegal alien keeps them from working, then disability benefits are not payable.

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NORTH DAKOTA	Y	N.D. Cent. Code § 65-01-02-16(a)(2). The statute expressly mentions “aliens” under the definition of employee. The statute does not touch on “legal” or “illegal” aliens.	Undecided	
OHIO	Y	Ohio Rev. Code § 4123.01 (A)(1)(b). The statute includes aliens but does not speak on their legal status.	<i>Rajeh v. Steel City Corp.</i> , 813 N.E.2d 697 (Ohio Ct. App. 2004).	<i>Rajeh</i> ruled that if illegal aliens were meant to be excluded from the legislation, the legislature would have done so.
OKLAHOMA	Y	Okla. Stat. Ann. tit. 85A § 2-18. The statute is silent on “aliens” and does not mention “illegal” or “legal” status. But, the statute is broad with the phrase “any person in service to an employer.”	<i>Lang v. Landeros</i> , 918 P.2d 404 (Okla. Civ. App. 2004).	<i>Lang</i> held that there is no wording or exception in the Workers’ Compensation Act that precludes compensation for an illegal alien.
OREGON	Y	Or. Rev. Stat. § 656.027. All workers are covered under workers’ compensation with a few exceptions. The statute is silent on “aliens” as well as “legal” or “illegal.”	<i>Alanis v. Barrett Bus. Servs. (In re Alanis)</i> , 39 P.3d 880 (Or. Ct. App. 2002). <i>Hernandez v. SAIF Corp.</i> , 35 P.3d 1099 (Or. Ct. App. 2001).	<i>Alanis</i> held that employees are not entitled to benefits for TTPD based on the full TTD rate just because they cannot work due to their undocumented status. TPD benefits are to be based on the difference between pre-injury wage and the wage of the physician-approved modified jobs. <i>Hernandez</i> held that undocumented workers who can perform modified work for an employer are to have their benefits reduced to reflect the income that they would have received but for their undocumented status.
PENNSYLVANIA	Y	77 Pa. Cons. Stat. § 22. The statute is silent on whether “aliens” are employees and does not touch on “illegal” or “legal” status.	<i>Reinforced Earth Co. v. Workers’ Comp. App. Bd.</i> , 810 A.2d 99 (Pa. 2002). <i>Mora v. W.C.A.B. (DDP Contracting Co. Inc.)</i> , 845 A.2d 950 (Pa. Commw. Ct. 2004).	<i>Reinforced Earth Company</i> held that the claimant, who was an illegal alien, met all the requirements of the statute and was rightly entitled to benefits. <i>Mora</i> held that an undocumented worker is not eligible for partial disability benefits, but they are eligible for compensation for medical treatment and total disability benefits.

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RHODE ISLAND	U*	R.I. Gen. Laws § 28-29-4. The statute does not mention or make note of “aliens” as well as “legal” or “illegal” status.	<i>Villa v. Eastern Wire Prods. Co.</i> , 554 A.2d 644 (R.I. 1989).	* <i>Villa</i> overturned a decision denying benefits to an undocumented worker who fraudulently obtained work with false papers and identification. The court reasoned a bias against how someone entered the country cannot be used against whether they receive benefits or not.
SOUTH CAROLINA	Y	S.C. Code Ann. § 42-1-130. The statute expressly includes alien, no matter if they are legally or illegally employed.	<i>Curiel v. Envtl. Mgmt. Servs.</i> , 655 S.E.2d 482 (S.C. 2007).	<i>Curiel</i> held that the IRCA did not preempt state law and an illegal alien is not precluded from benefits under the state’s workers’ compensation laws.
SOUTH DAKOTA	U	S.D. Codified Laws § 62-1-3. The statute is silent on “aliens” and does not mention “illegal” or “legal” in terms of employment.	Undecided	
TENNESSEE	Y	Tenn. Code Ann. § 50-6-102(10)(A). The statute expressly includes illegal workers.	Undecided	<i>Fed. Copper & Aluminum Co. v. Dickey</i> , 493 S.W.2d 463 (Tenn. 1973). Although <i>Dickey</i> did not deal with an illegal alien, it did deal with the issue of “ <i>employment which has been obtained by the making of false statements...is still employment...illegality will not ...destroy compensation coverage.</i> ”
TEXAS	Y	Tex. Lab. Code Ann. § 401.011 and §406.092 The statute expressly includes illegal aliens.	<i>Commercial Standard Fire and Marine Co. v. Galindo</i> , 484 S.W.2d 635 (Tex. App. 1972).	<i>Galindo</i> held that an illegal alien was entitled to benefits under the workmen’s compensation statute, and his illegal status did not bar a collection of benefits.
UTAH	Y	Utah Code Ann. § 34A-2-104(1)(b). The statute expressly includes illegal aliens regardless if their employment is legal or illegal.	Undecided	
VERMONT	U	Vt. Stat. Ann. tit. 21, § 601(14). The statute is silent on illegal aliens being included as workers/ employees.	Undecided	

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VIRGINIA	Y	Va. Code Ann. § 65.2-101-1(a). The statute expressly mentions and includes aliens.	<i>Jose Granados v. Windson Development Corp.</i> , 509 S.E.2d 290 (Va. 1999). <i>Rios v. Ryan Inc. Cen.</i> , 542 S.E.2d 790 (Va. 2001).	At the time of <i>Granados</i> , the workers' compensation statute excluded illegal aliens, and thus denied his benefits, but in 2000; the legislature amended the statute to include them. <i>Rios</i> held that because the claimant was an illegal alien at the time he attempted to contract for hire, he presented false papers, thus the employment contracts were void.
WASHINGTON	U	Wash. Rev. Code § 51-08-185. The statute is silent on illegal aliens as employees.	Undecided	The statute broadly defines worker/employee. It is any person in the state who is engaged in the employment of an employer. Wash. Rev. Code. §§ 51-04-030-2 and 51-32-110 state that a non-resident alien is covered for medical benefits and exams under these statutes.
WEST VIRGINIA	U	W. Va. Code § 23-2-1a. The statute is silent in regard to "aliens" and doesn't mention "legal" or "illegally" employed. It broadly uses "all persons" in service of employers.	Undecided	
WISCONSIN	Y	Wis. Stat. § 102.07(1). The statute is silent on illegal aliens as employees, but it does not exclude them.	<i>Arista-Rea Kenosha Beef</i> , 1999 WL 370027 (Wis. L.I.R.C. 1999). <i>Zaldivar v. Hallmark Drywall</i> , 2014 WL 1647891 (Wis. L.I.R.C. 2014). <i>Amalga Composites, Inc. v. Labor Indus. Review Comm'n</i> , 902 N.W.2d 809 (Wis. App. 2017).	<i>Arista-Rea</i> held that you cannot terminate disability benefits when an illegal immigrant is terminated, so long as the employee is still temporarily disabled. Even though undocumented aliens have no legal right to employment, they are entitled to benefits. <i>Zaldivar</i> held an undocumented worker does have a Loss of Earning Capacity and that one factor in determining that loss would be his illegal status. <i>Amalga Composites, Inc.</i> firmly places on the employer the burden of proof with respect to immigration status.

STATE	Y/N/U	STATUTE	CASE LAW	COMMENTS / EXPLANATION / OTHER
WYOMING	N	<p>Wyo. Stat. Ann. § 27-14-102(a)(vii).</p> <p>The statute states that employee includes legally employed aliens.</p>	<p><i>L&L Enters v. Arellano (In re Arellano)</i>, 344 P.3d 249 (Wyo. 2015).</p> <p><i>Felix v. State ex rel. Workers' Safety & Comp. Div.</i>, 986 P.2d 161 (Wyo. 1999).</p>	<p>Under the new 2015 Wyoming Supreme Court ruling in <i>Arellano</i>, an employer must only reasonably believe, based upon documentation in its possession at the date of hire and of the injury, that the employee is authorized to work in the U.S. and the illegal alien will be entitled to benefits.</p> <p><i>Felix</i> ruled that the employee was not authorized to work by the Immigration and Naturalization Service (INS) and, therefore, is not an employee entitled to workers' compensation benefits.</p>

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