



## ***Is Your Independent Contractor Actually an Employee Under Workers' Comp Law?***

*Save the Headaches (and Added Cost) Now by Reviewing the Working Relationship*

By hiring an independent contractor, you may save money on payroll taxes and employee benefits, but you could still be on the hook for workers' compensation coverage. If that worker is not properly insured, you could incur additional premium charges when your policy is audited and renewed. In addition, if that person is hurt while working for you, you could find yourself in a lawsuit for medical costs.

**Make sure you clearly define the working relationship.** For workers' compensation insurance, you must consider whether your independent contractors are truly "independent" — and therefore not required to be covered under your policy.

The Colorado Workers' Compensation Act states that any individual who performs work for a business or organization is an employee unless the individual:

- is free from control and direction in performing a service, and
- is customarily engaged in an independent trade, occupation, profession, or business related to the service being provided, and
- has no workers.

The facts of the business relationship will help employers determine whether the individual is an employee or an independent contractor. Ask yourself these questions:

### **Is the individual "free from control or direction?"**

- Do you tell the individual when or how to do the job?
- Do you provide tools or equipment?
- Do you supervise the individual?
- Is the individual part of your crew?

If the answer is "no" to these questions, the facts indicate the individual may be free of control.

### ***Is the individual "engaged in an independent trade, occupation, profession, or business?"***

- Does the individual have a business name?
- Does he or she carry business insurance?
- Does the individual offer his or her services to any other business?
- Does he or she submit invoices?
- Does he or she supply needed tools and a vehicle?



- Does the individual work alone? (If not, he or she may need to carry workers' compensation insurance.)
- Are payments made to the business name?
- Is the individual paid by a fixed rate?

If the answer is "yes" to all the above questions, the facts indicate the individual may be independent.

To make sure of an individual's status, you should discuss the facts with your agent, underwriter or auditor. Give them any contracts you have with individuals to help them confirm the independent contractor status.

### **Independent Contractor Form**

Pinnacol Assurance has a "Declaration of Independent Contractor Status" form, which provides documentation of an independent contractor business relationship as defined in the Workers' Compensation Act. By submitting the form (which is available in both English and Spanish), you're telling Pinnacol that you consider the individual an independent contractor. At audit time, Pinnacol will review all the facts to determine if the individual is in fact an independent contractor.

To obtain independent contractor forms, contact Pinnacol at 303.361.4000 or 1.800.873.7242 or visit [pinnacol.com](http://pinnacol.com), click on the "Resources" tab at the top," then choose the "Download Forms" link.

The goal of workers' compensation insurance is to protect your business and employees, helping you avoid unexpected costs in the long run. If you have any questions, contact your agent, underwriter, auditor or marketing representative for more details.

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