

EMPLOYEE OR INDEPENDENT CONTRACTOR?

Whether someone who works for you is an employee or an independent contractor is an important question. The answer determines if he or she is covered on your workers' compensation policy.

Employee or Independent Contractor?

The Workers' Compensation Act states that any individual who performs work for you is an employee unless the individual:

- Is free from control and direction in the performance of the 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 will determine the status of employee or independent contractor.

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?

If the answer is **NO** to these questions, the facts indicate the individual is free of control.

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

Does the individual:

- Have a business name?
- Carry business insurance?
- Offer this service to any other business?
- Submit invoices?
- Supply the tools and vehicle?
- Work alone? (If not, he or she may need to carry workers' compensation.)

Are the 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 is independent.

To make sure, discuss the facts with your agent, underwriter, or auditor. Contracts between you and the individual should be submitted to the agent, underwriter, or auditor to confirm the independent contractor status.

Pinnacle Assurance has an independent contractor form in English and Spanish, which provides the documentation of business relationship as defined in the Colorado Workers' Compensation Act.

To obtain independent contractor forms, please contact Pinnacle Assurance at 303-361-4000 or 1-800-873-7242 or visit www.pinnacle.com, click on "Employers," then "Resources."

DOCUMENTATION REQUIRED FOR SUBCONTRACTORS

Protect your business when you use subcontractors by ensuring that they are in compliance with the Colorado Workers' Compensation Act.

Subcontractors with Workers

Ensure that your subcontractor is in compliance by obtaining:

- Certificates of workers' compensation insurance valid during your policy period

Ensure that the certificates of insurance are valid. Refer to the sample certificate and look for the following:

- 1 Certificate comes from the producer – either the agent or the insurance company – not the subcontractor.
- 2 Name of the insured is the subcontractor you are paying. If a Professional Employers Organization (PEO) or leasing company is listed as the insured, the subcontractor's name should appear at the bottom of the certificate (2A) in the description of operation box.
- 3 Certificate shows a policy number for a workers' compensation policy and not a notation of applied for, pending, or to be determined.
- 4 Dates of policy cover the time the subcontractor works for you.
- 5 You are listed as the certificate holder.
- 6 Certificate was issued within a few days of your request.

Independent Contractors (IC)

To be considered an independent contractor, per the Colorado Workers' Compensation Act, the individual must be engaged in an independent trade, occupation, or service; must be free from control; and have no workers. Each situation is unique, and IC status can vary.

The following documentation can be used to support independent contractor status:

- General liability certificates of insurance
- Pinnacol independent contractor forms
- Signed contracts

Documentation and Audits

Documentation will be examined when your policy is audited. The audit will verify the status of each subcontractor and independent contractor. To conduct the audit of subcontractors, the auditor will need to examine records to show the names of and amounts paid to each subcontractor, including independent contractors. Records that provide this information are the profit and loss statement, general ledger, 1099 and 1096 forms, income tax returns, and/or vendor reports.

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ACORD		CERTIFICATE OF LIABILITY INSURANCE			DATE (MM/DD/YYYY) 12/24/2007
PRODUCER PINNACOL ASSURANCE 7501 E Lowry Blvd Denver, CO 80220-7006		1			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED ABC Subcontractor Company 1234 Main Street Denver, CO 80022		2			INSURERS AFFORDING COVERAGE PINNACOL ASSURANCE NAIC# 41100
COVERAGE THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CLASS	ACORD	CLASS OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)
A	2000	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> AUTO - APPROPRIATE LIMIT APPLIES PER POLICY <input type="checkbox"/> PRODUCT <input type="checkbox"/> LTD	123456789	04/01/2007	04/01/2008
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OTHER AUTO <input type="checkbox"/> NON-OWNED AUTO <input type="checkbox"/> HIBID AUTO <input type="checkbox"/> NON-OWNED AUTO			
		DAMAGE LIABILITY <input type="checkbox"/> ANY AUTO			
		PROFESSIONAL LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/>			
		WORKERS COMPENSATION AND EMPLOYERS LIABILITY <input type="checkbox"/> ANY PROFESSIONAL EMPLOYERS ORGANIZATION OFFERED BY THE INSURED If you obtain coverage under SPECIAL PROVISIONS (40)	123456789	04/01/2007	04/01/2008
DESCRIPTION OF OPERATION/LOCATION/VEHICLE/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS If a Professional Employers Organization is listed as the insured, the subcontractor's name will appear here.					
CERTIFICATE HOLDER Your name Your company Address City, State, Zip				5	
CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.				AUTHORIZED REPRESENTATIVE Christina Noakes Underwriter	
ACORD 25(2001/08)				ACORD CORPORATION 1988	

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