

EMPLOYEE OR INDEPENDENT CONTRACTOR

Why is it important to know whether the person who works for you is an employee or an independent contractor? Because the answer determines if he or she is must be covered by your workers' compensation policy.

So how can you tell?

According to the Workers Compensation Act, anyone who performs work for you is an employee, unless he or she:

- Is free from control and direction in the performance of the service
- Is customarily engaged in an independent trade, occupation, profession or business related to the service being provided
- Has no workers

Questions to ask

- 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 you answered NO, then this person is "free from control," meaning he or she is not your employee. If you answered YES, please continue and ask yourself the following:

- 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 as their worker may be an employee.)
- Are the payments made to the business name?
- Is the individual paid by a fixed rate?

If you answer YES to all the above questions, the facts indicate the individual is independent, meaning you are not required to cover him or her under your workers' compensation policy.



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Still unsure?

It's a good idea to be certain. Discuss the facts with your agent, underwriter or auditor. You can submit the contracts held between you and the individual to your agent, underwriter or auditor to confirm independent contractor status.

Pinnacol's independent contractor form, available in English and Spanish, provides documentation regarding a business relationship as defined in the Colorado Workers' Compensation Act. You can download forms from our website at pinnacol.com (click "employers," then "resources"). Or call **303.361.4000** or **800.873.7242** to request copies.