

Turn to Us

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Are independent contractors covered by the Pennsylvania Workers' Compensation Act?

According to Pennsylvania law, independent contractors are not eligible for workers' compensation coverage. State law does not require employers to purchase workers' compensation insurance coverage for independent contractors.

This seems like a simple yes/no answer, right? Well, it turns out not to be such a simple issue after all.

A worker is considered to be an employee unless proven otherwise. To be an independent contractor both of the following must be shown:

- 1. The individual has been and will continue to be free from control or direction over the performance of the services involved, under the contract of service.**
- 2. As to such services, the individual is customarily engaged in an independently established trade, occupation, profession or business.**

One of the key phrases here is "control or direction over the performance of the services involved".

When an employer hires an employee, the employer tells them what they are going to do and how they are going to do it. But when an employer hires an independent contractor, the employer just tells them what job they want to be done. The employer doesn't stand over the worker telling them how to paint, or how to fix a sink, or the order of things that need to be done.

Other aspects to consider are whether the worker provides their own tools or vehicle or are they provided by the employer; is the worker free to set their work schedule or are they bound to the employer's business hours; is the worker free to work for other employers or bound to only work for the specific employer at issue; is the worker performing a one time job for the employer or is the worker performing work for the employer on a more regular basis.

These are all factors that may make a workers' compensation judge look at the worker as either an employee or independent contractor, and in turn whether they are eligible for workers' compensation wage loss and medical benefits or not.

