

Congratulations on starting a new business in Colorado! We understand that there are many rules and regulations involved in starting a business. Our goal is to provide information regarding workers' compensation in a clear and straightforward manner.

Workers' compensation laws provide for medical benefits and financial compensation to employees who are injured in the course and scope of their employment, without regard to fault. Workers' compensation is distinct from any other insurance program, including unemployment insurance.

The important message is that employers with one or more employees are required by law to have workers' compensation insurance. This requirement applies even if the employees work part-time or are family members. An employer without the required insurance is subject to a monetary fine and could even have their business shut down. These sanctions apply even if no employee has been injured. In addition, if an employee is injured and the employer does not have the required workers' compensation insurance the employer is required to pay for the medical and compensation benefits, plus a 50% penalty on all compensation benefits.

When you registered your business with the Secretary of State you decided how to structure your business. If your business is a corporation or a limited liability company (LLC) the officers of a corporation or members of an LLC are considered employees. While workers' compensation insurance is required when you have employees, in this situation the law allows officers of a corporation or members of an LLC to reject workers' compensation coverage. Therefore, you must either elect to reject coverage or you must obtain a workers' compensation policy. The Rejection of Coverage by Corporate Officer or Members of a Limited Liability Company (form WC43) is available on our website under *Official Forms*. It is important to remember that a rejection does not affect the requirement to provide workers' compensation insurance if there are other employees.

A Colorado employer is not required to obtain workers' compensation insurance coverage for independent contractors. The determination of whether someone is an independent contractor is fact specific and can be complex. The law presumes that a person hired to perform services for pay is an employee. Calling someone an independent

contractor and issuing a federal form 1099 does not make that person an independent contractor. There are criteria set out in the law that must be met for the person to actually be an independent contractor. You may want to consider entering into a written contract when hiring an independent contractor, but it is the actual facts of the work relationship that control the determination of the person's status. It is not always clear-cut, but unless the person is essentially in business for him/herself and is hired to perform a job for which s/he owns tools and can decide how to complete the job, the person is probably an employee.

The laws regarding workers' compensation insurance are somewhat different when work is being performed on a construction site. The general rule is that all persons working on a construction site must have workers' compensation coverage, but also allows individuals to be exempted if they follow certain procedures. If you have questions on this topic please contact the Division of Workers' Compensation at the number below.

Workers' compensation insurance can be a significant cost, but costs can be reduced through prevention of accidents and loss control. The Division of Workers' Compensation facilitates the Premium Cost Containment program. This is a voluntary safety program that encourages the adoption and implementation of an effective workplace safety program involving risk management and medical cost containment procedures. Certification in the program provides the eligibility of a premium discount of up to 10%.

Should you have questions or need additional assistance, please contact our Customer Service Unit at (303) 318-8700 or toll free at (888) 390-7936.

Please remember that we cannot provide any type of legal advice. If you have substantive questions on a legal, business or tax issue you are encouraged to seek professional advice.