

HOW TO MAKE SURE THAT YOUR **INDEPENDENT SUBCONTRACTORS OR “SUBS”** DON'T GET COVERAGE ON YOUR POLICY

For insurance premium purposes charged in the Minnesota Workers Compensation Assigned Risk Plan (MWCARP), the Nine-Factor Test mandated in Minnesota state law will be the sole determinant in evaluating your subcontractor relationships (“independent contractor” OR “employee”). **All subcontractors must substantially meet all the requirements found in the Nine-Factor Test – see <http://www.doli.state.mn.us/WC/IndpCont.asp>.**

The following are ways for you to help verify to your insurance company that your subcontractors meet the Nine-Factor Test, and therefore, should not be considered your “employees” for premium purposes:

- Request and keep copies of Certificates of Insurance for **both** workers compensation **and** general liability policies from **all** of your subcontractors.
- Contact the insurance carrier listed on the Certificate of Insurance to verify that the Certificate(s) of Insurance are valid. Also, ask the insurance carrier to notify you if the subcontractor’s policy is cancelled. If the policy is cancelled, the subcontractor’s employees are subject to being covered under your workers compensation insurance policy and you will be required to pay premium for that coverage.
- If you have proof from your subcontractors that the individual owner(s) are included on their own policy, the MWCARP will not include them on your policy for premium purposes.
- Request and keep invoices from your subcontractors that are in the name of the business entity. This will help to prove that they are independent contractors and not your employees.
- Verify that the subcontractor has an active business filing with the Secretary of State (if required for their type of business – see <http://mbportal.sos.state.mn.us>).
- Have written contracts with all subcontractors that are consistent with the Nine-Factor Test and retain copies of all contracts in your files.
- Be aware that a general contractor or intermediate contractor is liable for all of the workers compensation benefits due to the injured employee of a subcontractor if the subcontractor does not have workers compensation insurance.
- There is an **online searchable database of workers compensation insurance coverage** available at <http://www.inslookup.doli.state.mn.us/>. This tool is useful in helping to determine if a subcontractor is insured, however, it is not a substitute for getting a Certificate of Insurance to show proof of coverage for the payroll audit process used to determine your final workers compensation insurance premium.

Subcontractors that fail to meet the Nine-Factor Test will be considered to be **EMPLOYEES, and therefore, subject to premium charges, regardless of; proof of workers compensation insurance coverage via a Certificate of Insurance form (**unless the owner(s) have elected to be included on their own policy**) or registration with the DOLI Construction Contractor Registration Program.**

If you have any questions regarding the application of the Nine-Factor Test, please contact your Servicing Carrier or the Plan Administrator via the MWCARP website – <http://www.mwcarp.org/contactus.htm>.