When workers are misclassified, everyone loses



What is Worker Misclassification?

Worker misclassification occurs when an employer treats

individuals as independent contractors when they are employees. Under the law, workers are presumed to be employees unless the employer proves that the worker meets the legal criteria to be an independent contractor.

Why is misclassification bad?

Employers who misclassify workers as independent contractors gain an unfair competitive advantage against other employers

EMPLOYERS who intentionally misclassify workers as independent contractors avoid:

- Unemployment insurance taxes
- Withholding state and federal income taxes
- Worker's compensation coverage
- Paying social security taxes and Medicare taxes

Misclassified workers are often denied access to critical benefits and protections they are entitled to by law.

EMPLOYEES who are misclassified as independent contractors:

- May not be eligible for unemployment benefits
- May not be covered under worker's compensation
- May not be protected under wage and hour laws
- May not be protected under civil rights laws
- May not be protected under the Family and Medical Leave Act (FMLA)
- Are paying both the employer and employee share of social security and Medicare taxes

What happens when an employer misclassifies?

DWD vigorously investigates misclassification, and when it's found, employers can face:

- Taxes
- Civil Penalties
- Interest Charges
- Possible Criminal Prosecution when warranted



If you have any questions about misclassification or would like to report a violation, please visit: https://dwd.wisconsin.gov/worker-classification

The Department of Workforce Development is an equal opportunity service provider. If you need assistance to access services or need material in an alternate form, please contact the Division of Equal Rights at (608) 266-6860.