

Withholding or Collecting Money From Employees or Any Other Person for Payment of Worker's Compensation Insurance Premiums is Illegal in Wisconsin

An employer subject to the Wisconsin Worker's Compensation Act (Act) may not withhold or collect any money from employees or *any other person* to pay for worker's compensation insurance. To do so is illegal and involves monetary penalties (ss. 102.16(3), 102.16(4) and 102.85(1), Wis. Stats.).

Whether workers are employees, independent contractors or subcontractors, they should not be paying for an employer's worker's compensation insurance premium. It is illegal to make any deductions or withhold any money from them for payment of worker's compensation insurance premiums. If any money is withheld from an employee or any other person for this purpose, it must be refunded promptly. If an employer fails to refund the money, an employee, independent contractor or subcontractor may request a hearing with the State of Wisconsin Worker's Compensation Division. Under section 102.16(4), of the Act, the Department has the authority to order reimbursement of sums illegally deducted.

Section 102.16 (3), Wis. Stats.

No employer subject to this chapter may solicit, receive or collect any money from an employee or any other person or make any deduction from their wages, either directly or indirectly, for the purpose of discharging any liability under this chapter or recovering premiums paid on a contract described under s. 102.31(1)(a); nor may any such employer sell to an employee or other person, or solicit or require the employee or other person to purchase, medical, chiropractic, podiatric, psychological, dental or hospital tickets or contracts for medical, surgical, hospital or other health care treatment which is required to be furnished by that employer.

Section 102.16 (4), Wis. Stats.

The department has jurisdiction to pass on any question arising out of sub. (3) and has jurisdiction to order the employer to reimburse an employee or other person for any sum deducted from wages or paid by him or her in violation of that subsection.¹ In addition to the penalty provided in s. 102.85(1), any employer violating sub. (3) shall be liable to an injured employee for the reasonable value of the necessary services rendered to that employee pursuant to any arrangement made in violation of sub. (3) without regard to that employee's actual disbursements for the same.

Section 102.85 (1) (a), Wis. Stats.

An employer who fails to comply with s. 102.16(3) or 102.28(2) for less than 11 days shall forfeit not less than \$100 nor more than \$1,000.

Section 102.85 (1) (b), Wis. Stats.

An employer who fails to comply with s. 102.16(3) or 102.28(2) for more than 10 days shall forfeit not less than \$10 nor more than \$100 for each day on which the employer fails to comply with s. 102.16(3) or 102.28(2).

¹ The department has the authority to order reimbursement of sums illegally deducted.