



Minnesota Workers' Compensation  
Insurers Association, Inc.  
7701 France Avenue South ▪ Suite 450  
Minneapolis, MN 55435-3200

July 25, 2013

**ALL ASSOCIATION MEMBERS**

Circular Letter No. 13-1635

**RE: MWCARP – Construction Contractor Registration Program – Warning Notice**

Attached is a notice from the Minnesota Workers Compensation Assigned Risk Plan (MWCARP) regarding the construction contractor registration pilot program.

Please refer to the attached for information regarding this notice.



# NOTICE

## Construction Contractor Registration Program (Minn. Stat. 181.723)

### HOW THIS PROGRAM APPLIES TO YOUR MWCARP INSURANCE POLICY

A law enacted in 2012 replaces the Independent Contractor Exemption Certificate (ICEC) program with a simplified two-year pilot project for registration of construction contractors. The Minnesota Department of Labor and Industry (DOLI) recently introduced this new program for both independent contractors (individuals) and business entities (such as LLC's and corporations) that provide public- or private-sector commercial or residential building construction or improvement services in Minnesota on or after September 15, 2012. You are required by law to register online (at no cost) at <http://www.dli.mn.gov/CCLD/Register.asp>. **Failure to register may result in your being subject to administrative action by DOLI, which may include fines or other penalties.**

While this new law requires registration in addition to adherence to the statutorily mandated nine-factor test, for insurance premium purposes in the Minnesota Workers Compensation Assigned Risk Plan (MWCARP), the nine-factor test will be the sole determinant in evaluating your subcontractor relationships ("independent contractor" OR "employee"). **Any subcontractors must substantially meet all the requirements found in the nine-factor test, as follows:**

1. maintains a separate business with the individual's own office, equipment, materials, and other facilities;
2. holds or has applied for a federal employer identification number or has filed business or self-employment income tax returns with the federal Internal Revenue Service (IRS) if the individual has performed services in the previous year;
3. is operating under contract to perform the specific services for the person for specific amounts of money and under which the individual controls the means of performing the services;
4. is incurring the main expenses related to the services that the individual is performing for the person under contract;
5. is responsible for the satisfactory completion of the services that the individual has contracted to perform for the person and is liable for a failure to complete the services;
6. receives compensation from the person for the services performed under the contract on a commission or per-job or competitive bid basis and not on any other basis;
7. may realize a profit or suffer a loss under the contract to perform services for the person;
8. has continuing or recurring business liabilities or obligations; and
9. the success or failure of the individual's business depends on the relationship of business receipts to expenditures.

**Subcontractors that fail to meet the above nine-factor test will be considered to be EMPLOYEES, and therefore, subject to premium charges, regardless of the following:**

1. proof of workers compensation insurance coverage via a Certificate of Insurance form
2. 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>.