

Department of Labor & Industries Program Compliance Audit

FIRM INTERVIEW WORKSHEET

Firm Name: _____

Firm Number: _____

Name of Facility: _____

1. **PERSONAL SERVICE LABOR CONTRACTS** (RCW 51.08.180):

Do you have any individuals providing services for your firm contracts who are paid outside your normal payroll system? Yes ☐ No ☐

If yes, are their hours included on the quarterly reports?

Examples: _____

Instructions

- Insert title and name of person responsible for reviewing that all independent contractors meet all six points of L&I requirements.
- Insert a list of all independent contractors and copies of their contracts.
Note: the hospital needs to review these contracts for compliance with the six points of the worker's compensation criteria with their attorney. The Workers' Compensation staff does not evaluate the contracts to determine if criteria for the Department of Labor and Industries (L&I) or the IRS are met.
- The auditor will request a copy of all independent contractors contract to review them for the six-part test. Therefore it is beneficial to have contracts reviewed prior to any audit.

The following list includes examples of occupations that may be independent contractors:

- Occupational Therapist
- Speech Therapist
- Registered Dietitian Consultant
- Contract Transcriptions Service
- Licensed Physical Therapist
- C.R.N.A., Anesthesia Service Contract
- Interpreter

Following this page is L&I's "Industrial Insurance Exempt Independent Contractor" information sheet that defines an independent contractor. If these six points are met, then the individual is not an employee and shall be treated as an independent contractor. If these six points aren't met, then the individual is considered to be an employee and their worker hours must be reported to L&I in quarterly reports. The "Guide to Hiring an Independent Contractor in Washington State" also follows this section.

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INDUSTRIAL INSURANCE *Exempt Independent Contractor*

RCW 51.08.180 states that an independent contractor who provides essentially personal labor is covered by industrial insurance. If the individual has their own employees, or provides equipment (beyond ordinary hand tools) in performing the work, they are considered to be providing more than personal labor and are exempt from coverage provided they are not directed and controlled like an employee (see page two for more information on direction and control of an individual who is performing the work with more than their personal labor). If exempt under RCW 51.08.180, there is no need to apply the six-part test.

If an individual does not supply equipment or the labor of others, then the alternative test (six-part test shown below and described in RCW 51.08.195) is applied. The individual must meet ALL six parts of the tests to be exempt.

Contact the local Labor & Industries office for more information.

RCW 51.08.195 – The Six-Part Test

1. **Free from direction and control, both by contract and in fact.** Contracted individual has the responsibility to deliver a finished product or service without the contracting firm having any supervision over the work hours or methods and details of performance except the deliverance of an agreed upon product by a certain date.
2. **Service is outside usual course of business of employer.** Services performed are different in nature than the services usually performed by the employer.

- OR -

Service is performed outside all places of business of the employer. Place of business usually means physical location of employer's business but can also mean a job site when referring to a sub-contractor

- OR -

The individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed.

The individual pays the business expenses, e.g., rental, purchase, or leasing of a location in which, or from which, services are performed.

(Meeting any one of the above three circumstances will indicate compliance with Test #2).
3. The individual is customarily engaged in an independently established trade or business. Evidence of the independently established business may include:
 - The business was functioning prior to the contract and will continue to operate following the completion of said contract
 - The possibility that the individual may suffer a loss in the business.
 - Possession of a valid business license
 - Advertisement to the public
 - Other customers or clients
 - An established office or place of business

- OR -

The individual has a principal place of business eligible for an IRS business deduction.

(Meeting either of the above two circumstances will indicate compliance with Test #3).
4. On the effective date of the contract, **the individual is responsible for filing a schedule of expenses with the IRS** on the next applicable filing date for the type of business under contract.
5. On the effective date of the contract, or within a reasonable period after, **the individual has established an account with the Department of Revenue and any other state agency that collects taxes for the business operated.**

"Within a reasonable period" means prior to the performance of any service under the contract, or dates required by law.
6. On the effective date of the contract, **the individual is maintaining a separate set of books and records reflecting items of income and expense for his/her business.**

This card is intended as a Quick Reference Guide. We make every effort to ensure that it is correct. When using this card, please understand it is not intended to replace Department of Labor and Industries or insured's policies, procedures, RCW's or WAC's in their entirety. If you have any questions, please contact your local Labor & Industries service location.

Firm Interview Worksheet

INDUSTRIAL INSURANCE Exempt Independent Contractor

Direction and Control of an Individual who is Performing the Work with more than their Personal Labor

If you are hiring someone who is bringing his/her own employees to perform the work, and you are not supervising (directing and controlling) this work then that person is not your employee.

Note: Your subcontractor is responsible for his/her own employees. Make sure he/she is registered as an employer with L&I and is current with premiums. If not, you will be held responsible for unpaid workers' compensation.

Or... are they bringing heavy equipment?

If you are hiring someone who brings more than "ordinary hand tools" to the job (heavy equipment) and you are not supervising the work then he/she is not your employee. Examples of heavy equipment include earth-moving equipment, such as a backhoe or bulldozer, or an on-site rain gutter manufacturing machine.

Examples of Supervision (Direction and Control):

- o The employer tells the individual how to perform the work, (directs the manner or means by which the work is done, not merely the end results).
- o The employer sets the hours the individual works.
- o The individual can quit without incurring liability for breach of contract.
- o The employer can fire the individual.
- o The individual is paid by the hour (instead of by the day or by job).
- o The employer furnishes necessary equipment.
- o The individual is required to notify the employer when they will be late or absent.
- o The employer provides training to the individual .

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2. **KOS OR OTHER BENEFIT POLICY** (WAC 296-15-221 (1b):

Do you have a policy of maintaining injured workers on salary, sick leave, or any other benefits in lieu of, or in conjunction with, time loss compensation? Yes ☐ No ☐

If yes describe policy: _____

FOR AUDITOR:

Was policy in compliance? Yes ☐ No ☐

Was policy on file with department? Yes ☐ No ☐

Was a copy of the policy obtained during the audit? Yes ☐ No ☐

Instructions

- Insert policy
- Insert title and name of person responsible for maintaining policy
- If there is no policy, the hospital needs to clarify if the injured employees are allowed to use sick leave or paid time off (PTO) in conjunction with workers' compensation disability benefits. If they are allowed to do so, the employee must request this benefit; it cannot automatically be given. Attach a copy of the request sheet or instructions that the employee is to use to obtain this benefit, if allowed.

Note: date the policy was sent to the Worker's Compensation Program*

*The Department of Labor and Industries is kept current through the Workers' Compensation Program on these policies. Hospital members are asked annually to send us a copy of their sick leave policy; we forward these policies to L&I when all policies are collected. The intent is to assess if the hospital has a policy that allows employees to request sick leave to supplement time loss and how it is applied. See WAC 296-15-221 – SELF INSURERS' REPORTING REQUIREMENTS on the next page:

WAC 296-15-221 – SELF INSURERS' REPORTING REQUIREMENTS

(1) **What information must self insurers report to the department?** Each self insurer must provide the department:

- (a) The name, title, address and phone number of the single contact person who is the liaison with the department in all self insurance matters. This contact will be sent all department correspondence and is responsible for forwarding information to appropriate parties for timely action.
- (b) A copy of its current policy of applying sick leave, health and welfare benefits or any other compensation in conjunction with, or as a substitute for, time loss benefits.

We are required by L&I to report any changes in locations of our membership, including new or departing membership and any other locations that are added or changed. This includes clinics that must be reported when added to the hospital or hospital district. Please report these changes immediately as per the below.

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(2) **When must self insurers notify the department of business status changes?** Self insurers must notify the department in writing:

- (a) Immediately, of any plans to:
 - (i) Cease business entirely or cease business in Washington; or
 - (ii) Dispose of controlling financial interest of the original self insurer. The self insurer must surrender its certificate for cancellation if requested by the department.
- (b) Within thirty days, of any:
 - (i) Amendment(s) or modification(s) to the self insurer's articles, charter or agreement of incorporation, association, co-partnership or sole proprietorship which will materially change the business identity or structure originally certified.
- (A) The department may require additional documentation.
- (B) If the self insurer becomes a subsidiary to another firm, the parent must provide the department with its written guarantee on L&I form F207-040-001 to assume responsibility for all workers' compensation liabilities of the subsidiary if the subsidiary defaults on its liabilities. See WAC 296-15-021 for additional information.
 - (ii) Separation (for example, divestiture or spinoff) of any part of the original self insurer.
- (A) The original self insurer remains responsible for claims liability of the separated part up to the date of separation unless the department approves an alternative.
- (B) If the separating part wishes to continue self insurance, it must submit an application to the department at least thirty days before separation and requested certification.
- (C) If certification cannot be granted before separation, industrial insurance coverage must be purchased from the state fund from the date of separation.
 - (iii) Relocating, adding or closing physical locations.

[Statutory Authority: RCW 51.14.077, 51.14.120(7), 51.14.150(4), 51.14.160, 51.44.040(3), 51.44.070 and 51.44.150. 99-23-107, § 296-15-221, filed 11/17/99, effective 12/27/99.]

3. **RIGHTS AND OBLIGATIONS** (WAC 296-15-400):

Do you provide the "Workers' Compensation Filing Information" form to all newly hired employees? (L&I form No. F207-155-000) Yes ☐ No ☐

What information do you provide to injured employees at the time they file a claim?

- (a) The current L&I pamphlet (F207-085-000) 11/2008 Yes ☐ No ☐
- (b) Not using the L&I pamphlet, but using a form that has the same information in substantially similar format auditor must verify that the information is the same and in similar format). Yes ☐ No ☐
- (c) The name, address and phone number of the person or organization the workers' claim? Yes ☐ No ☐

Instructions

- Insert title and name of hospital personnel responsible for explaining to new employees their worker's compensation rights and obligations and giving the L&I form F207-155-000 to new employees.
- For rights and obligations at the time a claim is filed:

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The L&I pamphlet Employees of Self Insured Businesses, A Guide to Industrial Insurance Benefits for Employees of Self-Insured Businesses, F207-085-000 (11/2008) (www.lni.wa.gov/IPUB/207-085-000.pdf) with the special insert will be sent by the WC Program when a claim is received in our office.

WAC 296-15-400 SELF-INSURED WORKERS' RIGHTS AND OBLIGATIONS

How must a self-insurer notify its workers of their rights and obligations under the industrial insurance laws?

Self-insurers must notify workers of their industrial insurance rights and obligations at the following times:

- (1) Within thirty days of hire, provide a form substantially similar to the one page Workers' Compensation Filing Information L&I form F207-155-000.
- (2) When a worker files a claim, provide the following information in writing:
 - (a) The current edition of the department's pamphlet Employees of Self-Insured Businesses Guide to Industrial Insurance Benefits L&I pamphlet F207-085-000 or this same information in substantially similar format; (a copy of this brochure follows this section) and
 - (b) The name, address, and phone number of the person or organization handling the worker's claim.

[Statutory Authority: RCW 51.32.190(6), 51.32.055 (8)(a) and (9)(a). 98-24-121, § 296-15-400, filed 12/2/98, effective 1/2/99.]

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Workers' Compensation Filing Information

IF A JOB INJURY OR DISEASE OCCURS:

_____ (Hospital Name) _____ is subject to Washington industrial insurance laws and has been approved by the state to cover its own workers' compensation benefits. Self insured employers must provide all benefits required by the laws. The Department of Labor and Industries regulates your employer's compliance with these laws. If you become injured on the job or develop an occupational disease, you will be entitled to industrial insurance benefits. Your claim will be handled and your benefits paid by your employer.

IN CASE OF INJURY OR DISEASE:

REPORT YOUR INJURY OR DISEASE to your supervisor (listed below).

Your employer will provide you with a "Self Insured Accident Report" (SIF-2). You must complete this form with your employer if you seek medical treatment.

GET MEDICAL CARE. You have the right to go to the doctor of your choice.

Complete a "Physician's Initial Report" form at your doctor's office. Have your doctor mail this form to your employer's claims administration address listed below. The claims administrator will evaluate your claim for benefits. All medical bills that result from an allowable on the job injury or occupational disease will be paid by your employer. You may be entitled to wage replacement or other benefits. Your employer will explain this to you.

IMPORTANT:

Your employer cannot deny you the right to file a claim, and your employer cannot penalize you or discriminate against you for filing a claim. Every worker is entitled to workers' compensation benefits for any injury or illness which results from his/her job.

Any false claim filed by a worker may be prosecuted to the full extent of the law.

If you have any questions or concerns, contact your employer's representative (at the claims administration address or phone number below), or call the Department of Labor and Industries, Self Insurance Section (360) 902-6901.

EMPLOYER MUST COMPLETE THE FOLLOWING:

Report your injury to:

_____ (Hospital Representative's Name)
_____ (Human Resources Director/Department)
_____ (Hospital Name)
_____ (Phone Number)

Claims administration address:

**Washington Hospital Workers' Compensation
Program
PO Box 19557
Seattle, WA 98109
206-285-3955**

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4. INJURY PROCEDURE:

Describe your procedures for filing a claim, including the paperwork. _____

Instructions

- Insert name and title of person currently designated for questions. Verify that this is the same name as is on the Pink Poster (Question #7) informing employees of self-insured status. If not, update these to reflect the same name.
- Insert how you communicate this information to employees. For example:
 - This is also documented on the "Workers Compensation Filing Information" memo (F207-155-000) mentioned in Question 3.
 - Self-Insured Poster in both English and Spanish: L&I prefers a specific name, like the claim contact, although you may add "supervisor in charge" for times other than the day shift. "Supervisor" alone is not advised by L&I. This poster needs to be updated if the contact person changes. (Check our website at whwcp.com/ for more information on obtaining more copies.)
 - What is done if the employee reports to the Emergency Department of the hospital? How is that communicated to Personnel?
 - Are employees who are treated in the Emergency Department kept on a ED log? If so, do these employees always file claims and if not, what mechanism is in place to verify that they were advised of their right to file a claim?

Describe your procedures for filing a claim including the paperwork. **How is the wage and hours information determined on the SIF-2? Are hours averaged and etc.?** _____

Instructions

- Insert title and name of individual responsible for these procedures:
- Explain how you report wages and hours.
- Review the recommended procedures in the *Worker's Compensation Program Training Manual*: Information requested on the SIF-2 in the employer section on wages, such as hourly rates of pay, hours per day, days per week and monthly salary, should be reported along with any shift differential, shift hours, weekend differential, date of hire, and regular days off. Bonuses and tips should also be reported.

Additional explanation is contained in your *Worker's Compensation Program Training Manual*. Tab 3 - Claims Management, Section b(1), Hospital Designated Contact Duties – Instructions for completing forms, SIF - 2 Timely Completion. It states, in part:

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"If the employee does not work a set schedule every week, then send payment records for the six months immediately preceding the date of injury. These records need to show hours worked and the rate of pay for those hours. If any bonuses were paid in the 12 months immediately preceding the injury, the amount of the bonus paid should be included in the payment records."

5. **MODIFIED WORK PROGRAM:**

Do you have a modified work or light duty program?

Yes ☐ No ☐

Instructions

- Insert name and title of the person responsible for coordinating return to work efforts. Insert your return-to-work program policy.
- Do you have documentation for each case that modified work is approved by the attending physician prior to the employee returning to a modified job?
- Is a copy of the modified job description given to the employee at same time as the physician?
- Do employee and supervisor sign the Job Assignment Agreement or equivalent for modified work?

Per: RCW 51.32.090, an exception to giving the modified job description to the employee can occur when the physician indicates modified duty with specific restrictions and the supervisor agrees to this. This occurs in treatment-only claims usually and generally lasts just a few days. This exception also applies to the Job Assignment Agreement.

For additional information, please refer to Tab 3 - Claims Management, Section e. - Return to Work Programs, in your Worker's Compensation Program Training Manual. A sample Job Assignment Agreement and other resources are included in the manual.

6. **DATE STAMP ON PIR:**

Do you ever receive the physician's initial report or other medical reports directly from the physician?

Yes ☐ No ☐

If so, do you date stamp them when they are received?

Yes ☐ No ☐

Instructions

- Insert name and title of the person responsible for ensuring the date stamping of claims related documents is done.
- Explain what the hospital does to ensure that if they get any type of claim document that they date stamp it and send it on to Washington Hospitals Workers' Compensation Program. Remember that the hospital member and the Washington Hospitals Workers' Compensation Program are considered one entity by the Department of Labor & Industries. Once the hospital, whether Personnel or a Supervisor, is notified of status, we are also considered notified of the status.

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7. CLAIMS LOG (WAC 296-15-200):

Do you maintain a self-insurance claims log? *(If yes, auditor must verify)*

Yes ☐ No ☐

Does the log contain:

- Injured worker's name
- Date of injury
- State claim number
- Date claim closed
- Whether compensable (timeloss) or medical only

Instructions

- Maintained by WC Program. No action required by the hospital member.

The AUDITOR will check your OSHA LOG 300 against both our and your self-insurer log/claims list to verify all claims have been filed.

8. Self-Insured POSTER (RCW 51.14.100):

Do you have industrial insurance posters posted stating that you are self-insured? These are available in both English and Spanish. *(If yes, auditor must verify)*

Yes ☐ No ☐

Each separate location needs its own poster:

- List location of poster(s) in facility
- List of off-site locations, if any, and verify if posters on-site and where located

Instructions

- Specify the location of your Self-Insured Notice Poster, "Notice to Employees" (F207-037-000(02-2009))
- Does the self-insured poster specify a name, such as the workers' compensation claims contact?
- You may supplement this name with "supervisor in charge" for times other than the day shift. However, "your supervisor" alone is not acceptable to L&I.
- How do you ensure that this poster is updated if the designated person changes?
- If you need additional posters, check our Workers' Compensation website.
- There are requirements for other federal and state posters. Please make sure you are up-to-date on them. These are:
 - Job Safety & Health Law
 - Your Rights as a Worker in Washington State

Attachment: Self-Insured Poster

Notice to Employees, F207-037-909 [02/2009]



Notice to Employees



Employer: You are required by law to post this notice
(Revised Code of Washington 51.14.100).

Your employer is self-insured. You are entitled to all of the benefits required by the State of Washington's industrial insurance laws. These benefits include medical treatment and partial wage replacement if your work-related injury or illness requires you to miss work. Compliance with these laws is regulated by the Department of Labor & Industries.

To report an injury...

If you should become injured on the job or develop an occupational disease, immediately report your injury or condition to the person designated below:

Name: _____

Phone: _____

For additional information or help with a workers' compensation issue you can contact the Ombudsman for Self-Insured Injured Workers at 1-888-317-0493.

Other formats for persons with disabilities are available on request. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.

PUBLICATION F207-037-909 [02-2009]

Other L&I workplace posters:
Job Safety and Health Law (required)
Your Rights as a Worker (required)
Washington Minimum Wage (recommended)

On the Web: www.Lni.wa.gov

Self-Insurance Section
Department of Labor & Industries
PO Box 44890
Olympia, WA 98504-4890



Aviso a los empleados



Empleador: Se requiere por ley que ponga este aviso en un lugar visible (Código Revisado de Washington 51.14.100).

Su empleador está autoasegurado (utiliza su propio seguro industrial). Usted tiene derecho a todos los beneficios requeridos por las leyes del seguro industrial del estado de Washington. Estos beneficios incluyen tratamiento médico y reemplazo parcial de su salario si no puede trabajar como resultado de su lesión de trabajo o enfermedad ocupacional. El cumplimiento de estas leyes está regulado por el Departamento de Labor & Industrias.

Para reportar una lesión...

Si sufre una lesión en el trabajo o se le presenta una enfermedad ocupacional, repórtelo inmediatamente a la persona indicada abajo:

Nombre: _____

Teléfono: _____

Para información adicional o ayuda con un asunto relacionado con la compensación a los trabajadores se puede comunicar con el Ombudsman (defensor) de la sección de trabajadores lesionados autoasegurados al 1-888-317-0493.

Hay otros formatos disponibles para personas con discapacidades. Llame al 1-800-547-8367. Usuarios de TDD llamen al 360-902-5797. L&I es un empleador con igualdad de oportunidad.

PUBLICATION F207-037-909 [02-2009]

Otros carteles de L&I para el lugar de trabajo:

Ley de seguridad y salud en el trabajo (requerido)

Sus derechos como trabajador (requerido)

Salario mínimo de Washington (recomendado)

Self-Insurance Section
Department of Labor & Industries
PO Box 44890
Olympia, WA 98504-4890

En Internet: www.Lni.wa.gov

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6. IN-HOUSE MEDICAL FACILITY:

Do you have an in-house medical facility? Yes ☐ No ☐

If yes:

a. Do you have a staff physician? Yes ☐ No ☐

b. Do you have any personnel providing treatment under the direction of a physician? (e.g., an R.N. administering prescription drugs, X-rays, etc.) Yes ☐ No ☐

If yes for a. or b. then,

Are all claims listed on the claims log for all injuries initially treated in the in-house medical facility? Yes ☐ No ☐

(Auditor will check medical records/employee emergency log to verify.)

Instructions

- Insert your policy or documentation on how you track in-house treatment and incorporate it into the claims process.
- L&I may ask if those employees who may be seen by a RN under standing orders, are filing claims. Insert documentation that you use if they chose not to file a claim.
- If there are standing orders, clarify which doctor and indicate the location to obtain a copy of the orders documentation if requested by the auditor.
- In some cases, the facility has chosen to use the Alternate Form for Employee Exposure. The instructions for these are on the form and will be carefully monitored by the WC Program staff to see that they are used only for the specific purpose for which they were intended.
- If claims are not filed for these employee injuries, remember these are claims that remain open (and the hospital is liable for the claim) until a claim form is filed and it is closed by our office with a claim closing notice.

NOTE: Check for attachment log for medical only incidents that SIF-2s have not been filed. The department will accept an attachment log; however, it should be noted in the audit report that the incidents will be considered open claims until such time an order issued.

Firm Interview Worksheet

Washington
Hospitals
Self-Insured
Workers'
Compensation
Program



ALTERNATE FORM FOR EMPLOYEE EXPOSURE

Filing a claim for benefits is either completing a claim form (SIF-2) or signing the employee signature section of the Physician Initial Report (PIR) per the Department of Labor & Industries. In an attempt to deal with some situations where employee exposures occur to certain conditions, **the following statement form may be used in lieu of a claim form when all of the conditions below are met:**

- 1) when an employee is exposed to an illness such as whooping cough, meningitis, etc (**not to be used** for any other type of condition such as needlestick, exposure to blood or blood products, etc.)
- 2) the form is completed following the incubation period and the employee does not contract the condition
- 3) the employee receives medical treatment from a nurse under standing orders only (treatment from any other provider results in claim filing) and any treatment costs are absorbed by the hospital
- 4) the employee elects not to file a claim for benefits
- 5) the form is filed with the Washington Hospitals Workers' Compensation Program (form is kept with hospital incident reports) and a log is kept on site at the facility to track use of the alternate claim filing form

Workers' Compensation Claim Filing Statement:

I, _____, have been advised that I have the right to file a workers' compensation claim (SIF-2) for my exposure of ____/____/____, but I am choosing not to do so at this time even though I have received medical treatment for _____. (name of condition).

Since I have received medical treatment, I understand that my incident is considered a claim and it will remain open indefinitely. I also understand that I can file a claim for benefits at any time.

Employee Signature

Date Signed

Signature of Hospital WC Contact

Date Signed

Received in WC Program: _____

Date Received

PO Box 19557
Seattle, WA 98109
Phone 206-285-3955
Fax 206-283-6122