

§105. Independent contractor and construction subcontractor status

1. Independent contractor status. A worker may file with the board, on forms approved by the board, a statement that the worker performs work as an independent contractor.

A. The statement creates a rebuttable presumption, valid for one year from the date the statement is received by the board, that the worker is an independent contractor in any later claim for benefits under this Act. [PL 2023, c. 205, §1 (AMD).]

B. Nothing in this subsection requires a worker to file a statement with the board. [PL 2023, c. 205, §1 (AMD).]

1-A. Construction subcontractor status. A person, as defined in section 105-A, subsection 1, paragraph E, may file with the board, on forms approved by the board, a statement that the person performs construction work in a manner that would not make the person an employee of a hiring agent, as defined in section 105-A, subsection 1, paragraph D.

A. The statement creates a rebuttable presumption, valid for one year from the date the statement is received by the board, that the person is a construction subcontractor in any later claim for benefits under this Act. [PL 2023, c. 205, §1 (AMD).]

B. Nothing in this subsection requires a person, as defined in section 105-A, subsection 1, paragraph E, to file a statement with the board. [PL 2023, c. 205, §1 (AMD).]
[PL 2023, c. 205, §1 (AMD).]

2. Premium adjustment. If a statement filed with the board pursuant to this section does not withstand board or judicial scrutiny when raised in a subsequent workers' compensation claim, then, depending on the final outcome of that subsequent proceeding, either the workers' compensation insurance carrier shall return excess premium collected or the employer shall remit premium subsequently due.
[PL 2023, c. 205, §1 (AMD).]

3. Independent contractor and construction subcontractor information. The board shall post, on its publicly accessible website, information pertaining to independent contractor and construction subcontractor statements filed pursuant to this section.
[PL 2023, c. 205, §1 (AMD).]

4. Hearing.
[PL 2023, c. 205, §1 (RP).]

5. Certificate.
[PL 2023, c. 205, §1 (RP).]

6. Rulemaking. The board is authorized to adopt reasonable rules pursuant to the Maine Administrative Procedure Act to implement the intent of this section, which is to afford speedy and equitable determination of construction subcontractor, as defined in section 105-A, subsection 1, paragraph B, and independent contractor status.
[PL 2023, c. 205, §1 (AMD).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1993, c. 65, §1 (AMD). PL 1993, c. 120, §1 (AMD). PL 1993, c. 120, §6 (AFF). PL 2009, c. 569, §1 (AMD). PL 2013, c. 63, §§4, 5 (AMD). PL 2015, c. 297, §2 (AMD). PL 2023, c. 205, §1 (AMD).

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