

[Bulletin 14-05](#)

To: Workers Compensation Insurers
From: Merle Scheiber, Director
Date: September 5, 2014
Re: Independent Contractors, Premium Collection

It has come to the Division's attention that workers compensation insurers have been charging premium for bona fide independent contractors in South Dakota. Pursuant to SDCL §§ 62-1-2 and 62-1-3, independent contractors are not required to carry workers compensation insurance. Companies writing workers compensation insurance business in South Dakota must:

- 1) Have an adequate process in place at policy inception and at audit time to determine whether individuals are independent contractors; and
- 2) Provide written notice to insureds that costs of independent contractors may be included in premium charges should those individuals fail to show they are an independent contractor under the insurer's process.

The Division will review insurers' processes and notices to determine their adequacy. Examining payroll and noting the existence or absence of workers compensation policy certificates alone do not constitute an adequate process to charge premium for independent contractors.