

**3315.0555 DETERMINING WORKER STATUS.**

Subpart 1. **Factors.** When determining whether an individual is an employee or an independent contractor, five factors must be considered and weighed within a particular set of circumstances. The five factors to be considered are:

- A. the right or the lack of the right to control the means and manner of performance;
- B. the right to discharge the worker without incurring liability;
- C. the mode of payment;
- D. furnishing of materials and tools; and
- E. control over the premises where the services are performed.

The two most important factors are items A and B.

Other factors, not specifically identified in this part, may be considered if the outcome is inconclusive when applying the factors in items A to E. The degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation.

Subp. 2. [Repealed, L 2012 c 201 art 3 s 16]

Subp. 3. [Repealed, L 2012 c 201 art 3 s 16]

Subp. 4. [Repealed, L 2012 c 201 art 3 s 16]

Subp. 5. [Repealed, L 2004 c 206 s 53]

**Statutory Authority:** *MS s 14.386; 14.388; 116J.035; 268.021; 268.105*

**History:** *13 SR 1057; 17 SR 1279; L 2004 c 206 s 53; 31 SR 285; L 2012 c 201 art 3 s 16; 39 SR 151*

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