

Definition of Employee Under Wisconsin Unemployment Insurance Law

This is a summary of 108.02(12) Wis. Stats. This definition first applies with respect to services performed **after December 31, 2010**.

(12) EMPLOYEE. (a) "Employee" means any individual who is or has been performing services for pay for an employing unit, whether or not the individual is paid directly by the employing unit, except as provided in par. (bm), (c), (d), (dm) or (dn).

(bm) Paragraph (a) does not apply to an individual performing services for an employing unit other than a government unit or nonprofit organization in a capacity other than as a logger or trucker, if the employing unit satisfies the department that the individual meets the conditions specified in sub ds. 1. and 2., by contract and in fact:

1. The services of the individual are performed free from control or direction by the employing unit over the performance of his or her services. In determining whether services of an individual are performed free from control or direction, the department may consider the following nonexclusive factors:
 - a. Whether the individual is required to comply with instructions concerning how to perform the services.
 - b. Whether the individual receives training from the employing unit with respect to the services performed.
 - c. Whether the individual is required to personally perform the services.
 - d. Whether the services of the individual are required to be performed at times or in a particular order or sequence established by the employing unit.
 - e. Whether the individual is required to make oral or written reports to the employing unit on a regular basis.
2. The individual meets 6 or more of the following conditions:
 - a. The individual advertises or otherwise affirmatively holds himself or herself out as being in business.
 - b. The individual maintains his or her own office or performs most of the services in a facility or location chosen by the individual and uses his or her own equipment or materials in performing the services.
 - c. The individual operates under multiple contracts with one or more employing units to perform specific services.
 - d. The individual incurs the main expenses related to the services that he or she performs under contract.
 - e. The individual is obligated to redo unsatisfactory work for no additional compensation or is subject to a monetary penalty for unsatisfactory work.
 - f. The services performed by the individual do not directly relate to the employing unit retaining the services.
 - g. The individual may realize a profit or suffer a loss under contracts to perform such services.
 - h. The individual has recurring business liabilities or obligations.
 - i. The individual is not economically dependent upon a particular employing unit with respect to the services being performed.