

Employee misclassification is a growing problem in the U.S.

A college professor who focuses on labor studies says that sweeping changes in the U.S. workforce are leading to widening inequality and job insecurity. The changes, called contingent employment, involve increasing numbers of workers who are not on the payroll in standard jobs. Instead, they are temps, part-timers or contract workers. An estimated 42.6 million workers have contingent employment.

The professor, David Bensman of Rutgers University, says that one of the problems at the heart of contingent employment is employee misclassification – the same problem that many injured Pennsylvania workers face when trying to obtain workers' compensation.

Employee misclassification happens when regular workers are considered independent contractors. Independent contractors are not given the same benefits as regular employees, including workers' compensation and the rights to form unions.

Some contractors are independent, highly paid professionals, but many are low-paid workers who are illegally deprived of their benefits. A study by the U.S. Department of Labor in 2000 found that up to 30 percent of employers had misclassified some of their employees.

According to the professor, some of the industries in which worker classification at issue include:

- Package delivery. One major package delivery service considers workers to be employees; another treats thousands of delivery drivers as independent truckers.
- Construction. In one state, 14.8 percent of construction workers were misclassified as independent contractors.

Other areas frequently involving misclassification include day labor, home health care, janitorial work and agriculture.

Workers who are misclassified as independent contractors may still be eligible for workers' compensation benefits, but they must show that they are actually an employee. Pennsylvania courts will examine the relationships between the parties and other factors to determine whether a worker is an employee. An experienced workers' compensation attorney can advise you on this issue.

Source: Billmoyers.com, "[Gray Market Work: How Businesses Hurt Workers and Cheat Uncle Sam](#)," David Bensman, April 9, 2104