

**SS-8 Determination—Determination for Public Inspection**

## Occupation

05CCP.52 Childcare Provider

## Determination:

☐ Employee☒ Contractor

## UILC

## Third Party Communication:

☒ None☐ Yes**Facts of Case**

The firm stated the worker provided day care services for his two sons in her own home. She provided her own food, used her own money for parking fees, gas, etc. He stated the worker is running a daycare out of her home. There was a verbal agreement, she was an independent contractor for 2014 and 2015. The firm stated most of the time they would drop the kids off at her house. She controlled the day from there. Maybe thirty percent of the time she watched them at their house. If she watched them at their house, she used their food, toys etc. Most of the time they were at her house, she provided all the food, equipment, crafts etc. She was paid by the hour. Either could terminate without incurring a penalty or liability. She advertised her services on care.com. She provided care for other children, other clients, the same time she took care of ours. If she took them on field trips, she paid for admissions, provided snacks, meals, gas and was not reimbursed by us. She had a significant investment in toys and crafts at her house.

The worker stated the firm instructed her as to the days and hours and rate pay. They provided the schedule of required appointments for the boys. She determined how she performed the services. She worked most Saturdays and Sundays twelve-thirty pm to eight-thirty pm., as well as three days a week during the summer months for approximately eight hours a day. She agreed she watched them at their home, her home and in the car during transport 30/50/20 respectively. The firm provided cleaning supplies, drugs/medication, food, house key, booster seat. She provided the car, gas, entry fees, misc. outing charges, her house and food. She agreed nothing was reimbursed. She agreed she was paid by the hour. Either could terminate the work relationship without incurring a penalty or liability. She stated she did perform similar services for others. She stated she put on personal ads for childcare services on [REDACTED] and [REDACTED]. She stated she was no longer needed on the weekends, and moved to an as needed basis in 2015.

-The worker provided a copy of her advertisement on [REDACTED] which states – she is a professional nanny, who is looking to assist you with the care of your little ones.

-she provided a copy of the 2014 and 2015 accounting of the week worked, days per week rate of pay and total income. It also listed the expense breakdown to include, repairs/maintenance, tickets/entry fees and food.

-a message from [REDACTED] on her [REDACTED] site, stated asking if she would be interested in watching the boys at their house.

-she provided copies of testimony from other parents-both posted during the time frame she watched the firm's children.

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**Analysis**

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Factors that illustrate whether there is a right to control how a worker performs a task include training and instructions. In this case, you did not retain the right to change the worker's methods and to direct the worker. As in all work relationships there is some degree of direction and control, especially when it concerns the care of ones children. In the instant case, the worker retained the right to determine what activities, and where she cared for the children.

Factors that illustrate whether there is a right to direct and control the financial aspects of the worker's activities include significant investment, unreimbursed expenses, the methods of payment, and the opportunity for profit or loss. In this case, the worker invested capital or assumed business risks, and therefore, did have the opportunity to realize a profit or incur a loss as a result of the services provided. The worker did in fact advertise herself as a professional nanny on a number of care websites. The worker provided testimony from other clients of her services provided during the same time frame as she provided services to the firm. She provided her financial accounts which showed the income earned and the expenses she incurred, which she (and the firm) both testified were not reimbursed.

Factors that illustrate how the parties perceive their relationship include the intent of the parties as expressed in written contracts; the provision of, or lack of employee benefits; the right of the parties to terminate the relationship; the permanency of the relationship; and whether the services performed are part of the service recipient's regular business activities. In this case, the worker was engaged in an independent enterprise.

**Conclusion:**

Based on the above analysis, I find the worker to have been an independent contractor, operating and advertising her services as a professional nanny. The worker provided the evidence referenced by the firm that she did advertise her services, as a professional nanny, with references from other clients, stating she also cared for their children, the dates posted were during the same time frame as the firm. The worker also provided an accounting of her business expenses. Both parties stated those expenses were not reimbursed.