

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

Occupation 05CSI Companion Sitters	Determination: <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Contractor
UILC	Third Party Communication: <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes

I have read Notice 441 and am requesting:

- Additional redactions based on categories listed in section entitled "Deletions We May Have Made to Your Original Determination Letter"
- Delay based on an on-going transaction
- 90 day delay

**For IRS Use Only:**

**Facts of Case**

The worker initiated the request for a determination of her work status as a caregiver in 2016, for which she received Form 1099-MISC. In a telephone contact, the worker stated the recipient/payer's husband had contacted an agency. The worker, although registered with the agency, did not pay a fee to be on the firm's roster. The worker performed services in the home where the recipient and another woman resided. There were other caregivers because 24/7 care was needed. She initially worked five days and then changed to three days. If she had any questions she contacted the Power of Attorney.

The firm/recipient was contacted and the Power of Attorney responded. The recipient's husband had contacted a placement agency and had engaged a caregiver. After the husband's death, the Power of Attorney tried to keep the recipient's life as routine and as familiar as possible; therefore the arrangement continued through 2016 until the worker quit.

The worker was a Certified Nurse Assistant (CNA); she stated no specific training and instructions were provided. The worker obtained the job assignment via an email from the placement agency. The agency determined the methods by which the worker's services were performed; any problems or complaints encountered by the worker were directed to the agency or the recipient's POA for resolution. The worker was to submit a time sheet to agency. The worker's services were rendered in the recipient's home; she did cooking, laundry, helped bathing and personal grooming, shopping, and provided rides to church services and shopping, and she did the shopping. The worker was required to perform the services personally; any additional personnel were hired through the agency.

The recipient provided personal care items. The worker furnished supplies when they were depleted and she was reimbursed. The recipient paid the worker an hourly wage. The worker was not at risk for a financial loss in this work relationship. The placement agency established the level of payment for services provided.

There were no benefits extended to the worker. Either party could terminate the work relationship without incurring a liability or penalty. The worker was not performing same or similar services for others during the same time frame. The worker quit due to a scheduling conflict.

---

**Analysis**

---

In general, domestic services include services of a household nature in or about a private home performed by cooks, waiters, butlers, housekeepers, maids, valets, babysitters, janitors, laundresses, caretakers, handymen, gardeners, grooms, chauffeurs of family-use vehicles, and companions for convalescents, the elderly, or the disabled. A private home is a fixed place of abode of an individual or family.

Nurses' aides and other unlicensed individuals normally perform services that are expected of maids and servants. Such services include bathing the individual, combing his/her hair, reading to the individual, arranging bedding and clothing, and preparing meals. These services are also considered domestic services.

**CONCLUSION**

We have considered the information provided by both parties to this work relationship. The worker was not operating a separate and distinct business; the worker did not invest capital or assume business risks, and therefore, did not have the opportunity to realize a profit or incur a loss as a result of the services provided. In this case, the worker was not engaged in an independent enterprise, but rather the services performed by the worker were a necessary and integral part of the recipient's daily routine. We conclude that the worker was a domestic employee, and not an independent contractor operating a trade or business. For further clarification of household employee issues, please see Publication 926, Household Employer's Tax Guide.