

SS-8 Determination—Determination for Public Inspection

Occupation

06MPX Medical Practitioners

Determination:

☒ Employee

☐ Contractor

UILC

Third Party Communication:

☒ None

☐ 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

Information provided indicated the firm is a dental practice. In 2018 the worker performed services for the as a dental hygienist on a temporary basis, to cover for full time employees, or when there was an overflow of patients. The firm reported the income paid on Form 1099-MISC. The worker performed services under the normal standard of care procedures. Patients are scheduled by appointed by the firm. The work assignments were discussed during morning meetings. The worker is required to report concerns, care and hygiene services provided on each patient chart. The firm indicated the worker performed services from seven-thirty to five-five. All work was performed on the firm premises. The firm provided all equipment and supplies. The worker was paid by the hour. The patients paid the firm for services received. Either party could terminate the work relationship without incurring a penalty or liability. The firm indicated the worker moved.

Analysis

We have applied the above law to the information submitted. As is the case in almost all worker classification cases, some facts point to an employment relationship while other facts indicate independent contractor status. The determination of the worker's status, then, rests on the weight given to the factors, keeping in mind that no one factor rules. The degree of importance of each factor varies depending on the occupation and the circumstances.

Evidence of control generally falls into three categories: behavioral control, financial control, and relationship of the parties, which are collectively referred to as the categories of evidence. In weighing the evidence, careful consideration has been given to the factors outlined below.

Factors that illustrate whether there is a right to control how a worker performs a task include training and instructions. In this case, you retained the right to change the worker's methods and to direct the worker to the extent necessary to protect your financial investment.

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 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.

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 not engaged in an independent enterprise, but rather the services performed by the worker were a necessary and integral part of your business. Both parties retained the right to terminate the work relationship at any time without incurring a liability.

CONCLUSION

Based on the above analysis, we conclude that the firm had the right to exercise direction and control over the worker to the degree necessary to establish that the worker was a common law employee, and not an independent contractor operating a trade or business. By law a dental hygienist is required to provide services under the supervision of a licensed dentist and can not be an independent contractor (one who owns and operates their business to provide services to the general public.) It does not matter if the position is part time or temporary. All income paid must be reports as wages, on Form W-2 with applicable tax withholdings.