

**STATE OF CONNECTICUT**WILLIAM E. CURRY JR.
COMPTROLLEROFFICE OF THE STATE COMPTROLLER
55 ELM STREET
HARTFORD, CONNECTICUT 06106-1775EDWARD J. FORAND JR.
DEPUTY COMPTROLLER**MEMORANDUM NO. 94-9a****December 2, 1994****TO THE HEADS OF ALL STATE AGENCIES****Attention:** Chief Administrative and Fiscal Officers, Business Managers, and Payroll and Personnel Officers**Subject: Patient Income Reportability**

On January 26 and 27, 1994 the Office of the State Comptroller and the Internal Revenue Service (IRS) co-sponsored a seminar on determining the difference between an employee and an independent contractor. The seminar was held to aid State agencies in making the proper determination when classifying individuals as outlined by the IRS.

In a continuing effort to identify specific areas that require clarification we are presenting this memorandum with regard to patient workers.

Patient Workers

Within the State there are several agencies that operate not-for-profit rehabilitation centers which provide assistance to mentally retarded and developmentally disabled individuals. A center may operate a variety of programs, including a sheltered workshop, day treatment center, or community residences for the workers, the purpose of which is to provide the individuals with the opportunity to live as useful and productive lives as possible. The purpose of the sheltered workshop in particular is to provide the workers with the opportunity to perform services in a work-life setting for therapeutic and rehabilitative purposes.

Most of the workers are referred to the sheltered workshop from the agency. Other workers may be referred from the local community or the residential treatment program. Others may participate in the sheltered workshop on a voluntary basis. Due to the nature of the workers' behaviors or disabilities, they are not able to compete in regular industry.

The workers do not depend upon the remuneration they receive for support. The workers do not receive any benefits.

An employer-employee relationship does **not** exist if the following prerequisites are evident:

- The service not be performed as a means of earning a living;
- The individual is not performing services which would otherwise be performed by a regular

- employee;
- That the physician, rehabilitative or therapeutic center or workshop retain final control over the individual;
 - And that such control be protective control and not the control of an employer over an employee.

To summarize, if the primary intent of the services being performed by the workers in the sheltered workshop is therapeutic or rehabilitative and the workers' services are not performed as a means of earning a living and the services they perform do not displace regular employees, the workers are **not** employees. The wages they earn are not reportable.

Workers in the above-qualified category are **not** employees of the agency and/or the State and are not subject to the taxes imposed under the Federal Insurance Contributions Act (FICA) or to Federal or State Income Tax Withholding.

In addition, the individuals are **not** self-employed and are not subject to the taxes imposed under the Self-Employment Contributions Act.

Assistance in Determining a Worker's Status

If any agency has a specific worker that does not meet the above criteria, the IRS can assist the State to determine whether a worker is an employee by completing "Form SS-8 Determination of Employee Work Stated for Purposes of Federal Employment Taxes and Income Tax Withholding". **However, prior to submitting the form to the IRS, it must be submitted to the Accounting Systems Division of the Comptroller's Office.** Our Office will forward it to the IRS after a preliminary review.

In addition, the Accounting Systems Division is available to review and discuss the status of a worker. Please contact **Brenda Halpin, Accounting Manager, at 702-3440.**

General Information

This memorandum is the second in a series of memoranda my Office will be issuing regarding the employer-employee relationship. Each calendar year we will identify other areas that require clarification. If you have any specific areas that you would like to have addressed, please contact the Accounting Systems Division in my Office.

Questions

Questions may be directed to the Accounting Systems Division regarding the interpretation of this memorandum or determining a worker's status.

Accounting Systems Division 702-3440

**WILLIAM E. CURRY JR.
STATE COMPTROLLER**

WEC:bh

[Back to Index of 1993-1994 Comptroller's Memoranda](#)
[Back to Comptroller's Home Page](#)