

Practice Directive Number 1-1-5 (A)

Spouses of Proprietors as Workers

Effective October 1, 2003

Reference *Workers Compensation Act* (the “Act”) section 96(1), in part:

...the Board has exclusive jurisdiction to inquire into, hear and determine...

(j) whether a person is a worker, a subcontractor, a contractor or an employer within the meaning of this Part...

Reference *Assessment Policy 1-2-2(a)*, in part:

The following exempt individuals may request voluntary coverage:

...the employed spouse of a proprietor (If accepted, the proprietor will be assessed for the spouse on the actual earnings of the spouse, and coverage will remain in effect until cancelled by either the Board or the spouse...

PRACTICE

BACKGROUND

Generally, the Assessment Department does not consider a spouse of a proprietor doing bookkeeping or other clerical work to be a worker for WCB purposes.¹ It is somewhat common for a contractor to commission a spouse to do bookkeeping and other clerical work as a form of income splitting for income tax purposes; however, for WCB purposes, this arrangement on its own does not constitute a real employer/worker relationship between the contractor and spouse.

If, however, a spouse is employed to do production (revenue-generating) work for the contractor, this would be considered an employer/worker relationship and the spouse would be permitted to apply for voluntary spousal coverage.

¹ This was a decision initially made by the department's Management Committee on May 18, 1994.