

Protecting your agency from hidden liability in travel staffing

As the landscape of EMS staffing continues to evolve, we've noticed a concerning trend in the travel paramedic industry regarding employee classification that could put agencies in significant legal and financial risk.

Some staffing vendors are classifying travelers as 1099 Independent Contractors. Lowering their overhead and creating a hidden liability.

The Risk: Joint Employment Liability

The IRS and Department of Labor (DOL) use strict tests to determine if a worker is truly an independent contractor. Because travel paramedics follow agency protocols, use agency equipment, and are scheduled by the agency, they rarely meet the 1099 criteria.

If a vendor misclassifies a traveler, agencies could be considered a Joint Employer — exposing liability :

- **Unpaid Federal/State Taxes:** Including FICA, FUTA, and SUTA.
- **Wage & Hour Violations:** Back-pay for overtime if the 1099 vendor paid a flat rate for all hours worked.
- **Workers' Comp Exposure:** 1099 contractors are often not covered. If an injury occurs, the agency could face a direct lawsuit without the protection of a traditional claim.

Questions Leaders should ask vendors

To ensure an agency is protected, we recommend asking vendors:

1. *Are your travelers W-2 employees of your firm, or 1099 contractors?*
2. *Do you provide Workers' Compensation and professional liability coverage for every hour worked at our site?*
3. *How do you ensure FLSA-compliant overtime pay for hours exceeding 40 in a week?*
4. *Are you compliant with the ACA requirements for health insurance coverage?*

The Bottom Line

If a vendor's hourly rate seems "too good to be true," they are likely skipping the employment burden (taxes and insurance). In the eyes of the IRS, that missing 30% is a debt that stays with the vendor **and the agency that used the labor.**

EMS Leader's Checklist: Evaluating Travel Staff Classification

As an EMS leader, using travel staffing is a tool for service continuity. However, if your vendor misclassifies a traveler as a 1099 Independent Contractor, your agency may be legally recognized as a Joint Employer, leaving you liable for their taxes, overtime, and workplace injuries.

1. Tax & Classification Compliance

Worker Status: Does the vendor classify travelers as W-2 employees?

*If 1099, your risk level is **High**.*

Tax Withholding: Does the vendor provide proof of payment for the employer's share of FICA, FUTA, and SUTA?

Employer of Record: Does the vendor act as the primary employer, or are they merely a referral service shifting the tax burden to the traveller (and potentially you)?

2. Wage & Hour Protections (FLSA)

Overtime Pay: Does the vendor pay \$1.5 \times\$ the base rate for all hours over 40?

1099 vendors often pay "straight time" for all hours, which is a major FLSA violation.

Travel/Stipend Logic: Are housing and per-diem stipends paid in accordance with GSA guidelines to avoid "wage recharacterization" audits?

3. Insurance & Risk Mitigation

Workers' Compensation: Does the vendor carry a policy that specifically covers the traveler in your state?

Most 1099 contractors are excluded from standard policies, meaning an on-the-job injury could result in a direct lawsuit against your agency.

Professional Liability: Is the traveler covered by a Medical Malpractice policy that names your agency as "Additionally Insured"?

Tail Coverage: Does their insurance cover claims made after the traveler's contract has ended?

4. Clinical Oversight

Credentialing: Does the vendor provide primary-source verification for NREMT and state licensure?

Background Checks: Are OIG/SAM exclusion lists checked monthly to ensure the traveler is eligible to work on federally funded (Medicare/Medicaid) units?