The Daily Dish

Buckle Up, the Labor Market Is Going to Get Bumpy

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To the surprise of exactly nobody, the Biden Administration yesterday issued the Independent Contractor (IC) Rule ("Employee or Independent Contractor Classification Under the Fair Labor Standards Act"), its attempt to turn back the forces of progress and re-establish the Ozzie and Harriet labor market of the 1950s. The full details are in Isabella Hindley's latest, but the short version is that the Department of Labor is dead set against respecting the wishes of American workers to have flexibility and options to control their work lives.

How does this work? It imposes a test to see whether someone who is happy as an independent contractor must accept classification as an employee. Hindley writes: "The test is composed of six factors: the extent to which the work performed is an integral part of the employer's business, the worker's opportunity for profit or loss, the nature and extent of the worker's investment in his/her business, whether the work performed requires special skills, the permanency of the relationship, and the degree of control exercised or retained by the employer. Under the new proposed rule, each of the factors will be considered holistically and equally, deviating from the 2021 IC Rule which prioritized the degree of employer control and worker's opportunity for profit and loss as 'core factors.' The proposed changes are likely to favor classification of workers as employees by more regularly asserting economic dependency between workers and their employers."

The most direct effect will be on the gig economy. There are approximately 57.3 million gig workers in the United States, and it is estimated that over half (52 percent) of U.S. workers will have participated in the gig economy by the end of 2023. They do this because they like it: "84 percent (approximately 48 million) of freelancers report living their preferred lifestyle, compared to 54 percent of traditional employees. For many of these workers, wage protections that could result in higher wages are not a priority, with 51 percent reporting that they 'wouldn't return to the traditional workforce for any amount of money.' In addition, 53 percent of gig workers consider their gig positions a secondary source of income and therefore see it as supplemental. Most freelancers cite the ability to set their own schedules and work for multiple hiring entities as an enticing feature of gig work, with 60 percent reporting that gig work gives them the flexibility they need, compared to just 27 percent of traditional employees."

Some people classified as employees will still be employees. Some classified as independent contractors will be independent contractors. No big deal. The main impact will be to classify some currently working as independent contractors as employees. This, by design, will make their jobs less flexible and tied to a single employer, which is bad for the worker. This, by design, will qualify the employee for a host of benefits and make then individual much more expensive, which is bad for the employers. The combination will lead to some quits, some reduction in employment, and a guarantee of more labor market churn. And you thought the Fed was a threat!

The ultimate irony is that the left is trying to force people into the same large firms that the left is trying to drive out of business. How this makes sense is a theological question above Eakinomics' pay grade.