



Know Your Caregiver at Home Options

THERE MAY COME A TIME when you or someone you care about needs help at home. One choice is to hire a private caregiver and agree on hours and a price. But this choice may present health or safety risks to the senior and unexpected tax risks to the employer. To comply with labor laws and alleviate financial and safety risks, it is best to weigh the benefits of hiring a licensed home care agency over hiring an independent caregiver.

The need for private duty home care services continues to grow. Fears associated with the Coronavirus pandemic have caused concern with facility or institutional care. Individuals are turning to home care for their long-term care needs. Many cite the desire for a higher quality of life and independence as the reasons for the choice of care at home.

Seniors need trained, professional caregivers. Most consumers pay for this care out-of-pocket and many are turning to companies that offer the cheapest price for care, without understanding the implications. Many consumers are hiring workers from registries and companies that do not employ, train, or supervise their workers, but merely “place” them in home care settings, which may result in unfortunate situations.

IMPLIED EMPLOYER RAMIFICATIONS

There is an employer-employee relationship created in most care situations—it is between the worker and the consumer. Most consumers are not aware of this. Referring registries and independent contractor agencies often do not communicate to the worker and consumer that this arrangement could result in an employee-employer relationship and both can suffer significant financial liabilities.

Consumers and the families of those receiving care are confronted by a confusing array of federal and state laws. The simple rule is that anyone who gets a paycheck must pay the government any taxes due. This includes Social Security, Medicare, federal and state unemployment, and state and federal payroll taxes. When the consumer is the employer and responsible

for compliance, and none of these taxes are being paid, the government may sue the consumer or their estate for back taxes, interest, and penalties, and over a long period of time, this tax responsibility can be substantial.

If no workers’ compensation protection is provided (as mandated by law for employees for nearly every state), and the worker sustains an on-the-job accident, medical costs and disability payments for workers could cause financial hardship for even a wealthy client. Many consumers assume that homeowner’s insurance will cover this type of loss, when, in fact, homeowner’s insurance usually excludes employees in the home.

SUPERVISION AND REGULATIONS

Most workers in the home care industry are caring, giving people. Unfortunately, there are those who know how to take advantage of frail, functionally limited, often cognitively impaired clients. Registries or independent contractor agencies may provide inadequate or no background investigations on their caregivers.

Because of IRS regulations, registries and independent contractor agencies cannot provide any substantive work supervision, scheduling, or training to workers in home care without becoming employers. If they do, the company, by law, becomes the employer of the worker. Supervision, scheduling, and worker training are important benefits to consumers and workers and are provided only by agencies that hire their workers. Hiring a legitimate home care agency provides assurance that someone with experience and responsibility is reviewing the changing care needs of the client. Home care agencies provide ongoing assessments of the limits of care that individual workers are allowed to provide.

If you intend to pay the caregiver more than \$1,800 per year, they are considered a domestic employee and as the employer, you are responsible for their Social Security and Medicare taxes. Employers and domestic employees who fail to pay legally mandated taxes are defrauding the government.

Pros of using a home care agency:

- Responsible for payment and benefits including regular and overtime pay.
- Manages claims for worker’s compensation.
- Handles all tax matters.
- Conducts background and criminal checks and checks references.
- Provides a substitute or replacement caregiver if the regular worker fails to show.

Cons of hiring an independent caregiver. *You, the employer:*

- Takes full responsibility for following tax laws.
- Accepts responsibility for job-related illnesses and injuries.
- Pays minimum wage and overtime.
- Finds substitute care when needed.

Clients and their families should be able to hire the workers or companies that best meet their care needs, with full disclosure from companies that are providing care workers for the home.

For more information, visit: rightathome.net/northwest-suburban-chicago, or call 847-396-9000. 

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