Hiring an In-Home Care Company

Important Considerations

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• What constitutes In-Home Care?
• When is a caregiver an Employee?
• Who is the Employer?
• Who is really an Independent Contractor?
• What are the Legal or Financial Ramifications?
What Home Care is Not

- Care Management services
- Fiduciary services
- Deep house cleaning
- Skilled service of licensed nurses
  - Medication administration
  - Wound care
  - G-tube feeding
- Unpaid services of family, friends
Home Care is..
Assistance with everyday tasks

- Companionship, supervision
- Bathing, dressing
- Toileting, continence
- Meal preparation, eating
- Laundry, housekeeping
- Shopping, socialization
- Quality of life activities
What Defines a Caregiver?

In California, in-home caregivers are typically personal attendants, defined as:

“employed by a private householder or by any third party employer recognized in the health care industry to work in a private household, to supervise, feed, or dress a child or person who by reason of advanced age, physical disability or mental deficiency needs supervision.”

--IWC Wage Order 15-2001
Caregivers should not be treated as independent contractors. A caregiver working in a private home who is required to do what the employer asks, the way the employer wants it done, and with the tools the employer provides, is not a self-employed worker — he/she is an employee.

- A caregiver may be hired as an employee by an “employer company.”
- A caregiver hired by a “non-employer company” is considered an employee of the person even if this is not acknowledged by the person.
Independent Contractor

- Makes their own scheduling decisions
- Has a business license
- Has more than one client
- Has expenses, profits, and possibly losses
Employer Payroll Responsibilities

- Withholding and paying the employee share of FICA, Federal and California taxes and disability
- Paying the employer’s taxes: Social Security, Medicare, Federal and California Unemployment Taxes
- Providing annual W-2
- Having and paying Workers Comp Insurance
- Following all laws or paying fines when Federal or State Labor laws are broken
- Bonding and insurance for negligence (if desired)
- Ensuring accurate submission of timesheets 2 times monthly
- Reimbursement for out-of-pocket mileage and expenses.
Caregiver Labor Laws

A caregiver gets paid for:

• Traveling time at the employers’ request
• Time for training

Cannot work over 9 hours without incurring overtime. Labor laws changed as of January 2014.
Live-In Caregivers

- 8 Hours of uninterrupted sleep
- A personal room – private from client’s
- Paid a minimum of $8 per hour. This increases to $9 per hour July 1, 2014
- On-duty break periods
  - 30 minute lunch
  - Three 10 minute rest breaks
Follow the Rules or Else!

- Robert De Niro faced a $40K lawsuit by a former caregiver, who alleged he failed to pay 750 hours of overtime and 10 vacation days.
- Walter and Mary Miller are sentenced jail time in Alaska for not filing and paying employment taxes for their privately-hired caregiver.
- A caregiver sent by a non-employer company in Rhode Island stole $22K from the client. The company refused to reimburse the client and stated, “Caregivers are independent contractors,” and the company is “not responsible for their actions.”
Who Ensures Quality Care?

In-home care companies, as such, are not licensed in California on the municipal, state or federal level.

- Anyone can open an in-home care company.
- Each in-home care company sets its own policies, rules, standards, and procedures …or not.
- Certification – Available through California Association for Health Services at Home (CAHSAH), or the American Board of Home Care. No set standards.
17 workdays annually
82% are affected by being late for work
55% modify their work schedule or pass on a promotion

Protective Steps
For a non-agency employer

• Add endorsement to homeowner’s insurance policy regarding a caregiver on premise
• Request homeowners insurance to provide a complete background check (LiveScan)
• Workman’s compensation insurance must be paid
• Are your caregivers employees?
• Do you use LiveScan?
• Test for TB?
• What is your selection criteria for workers?
• Do you require and confirm references?
• Are caregivers trained in CPR?
• How do you supervise your workers?
• How will you administer and audit cash for expenses?
• What training do you provide?
• What is your plan for the inevitable last-minute absences due to childcare, illness and transportation issues?
Care Management Difference

- Recruit and train quality caregivers
- Compliance with applicable laws and regulations
- Ongoing close supervision and monitoring
- Pool of qualified caregivers for last-minute, short-term, and long-term absences
Your Diligence Matters

• Investigate. Ask prospective in-home care companies the tough questions. Don’t be shy or worry about offending them.

• Contact Lifeline Healthcare for more information or assistance:

  858.581.6400

  www.lifelinecares.com
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• Consultation
• Assessment
• Care Management
• In-Home Care
• Training

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