



A CONSUMER'S FREE GUIDE TO HOME CARE

What you need to know before hiring a caregiver

Amada Senior Care | 2013



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Home Health vs. Home Care

Knowing the Difference

HOME HEALTH | Highly regulated by state

- Services are medical by nature and almost always reimbursed by Medicare or health insurance
- Services include physical therapy, occupational therapy, wound care, G-tube, etc
- Services performed by physical therapists, occupational therapists, registered nurses (RN), licensed vocational nurses (LVN)
- Average duration of care is short: 1 hour visits 3 times a week for 2-3 weeks

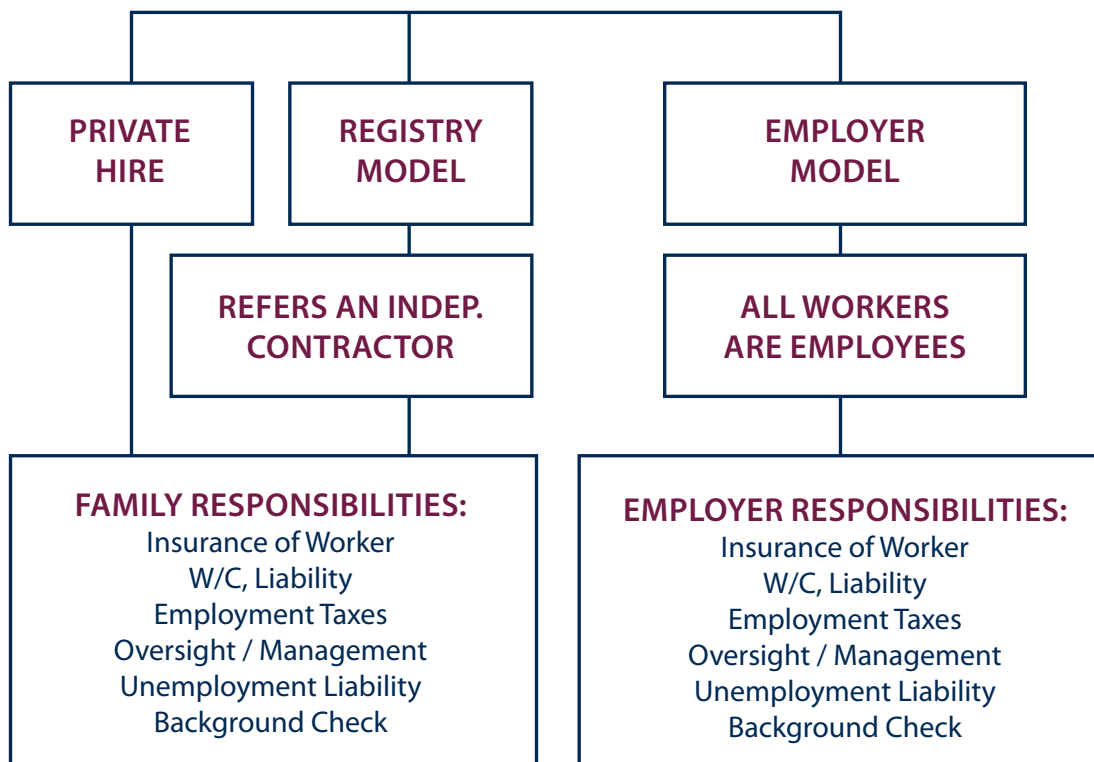
HOME HEALTH | Fewer or no state regulations

- Services are non-medical by nature and paid for out-of-pocket by patient, by long term care insurance, or in some states by Medicaid.
- Services include activities of daily living (ADLs) cooking, cleaning, bathing, dressing, transferring, toileting, transportation, etc
- Services performed by certified nurse aides (CNA) or home health aides (HHA) or personal care attendants (PCA)
- Average duration of care is longer: from 3-4 hours a day, 3 times a week

WHY IS RISK AND LIABILITY SO GREAT WITH HOME CARE?

- Many families who hire caregivers privately don't understand the risk and liability of being an employer. Even if they think they are paying under the table they are still at risk if things go wrong. Anyone the family pays privately has rights as an employee.
- State and federal minimum wage orders, overtime, harassment, and discrimination laws apply to families that hire privately. As relationships with caregivers sour, these issues are frequently brought up, regardless of whether they have validity or not.
- State workers' compensation, disability, and unemployment laws mandate those who hire caregivers pay for any injury, disability, or unemployment claim as well as potentially being liable for unpaid state income taxes.
- All it takes is a fraudulent or legitimate work related injury, unemployment or disability claim and families can be involved in a risk and liability claim they hadn't expected.

Three Ways to Hire a Caregiver



WHEN HIRING A CAREGIVER YOU HAVE THREE OPTIONS

- Hire a caregiver **privately** through a friend's recommendation or through a newspaper advertisement.
- Hire a caregiver through a **referral agency** that does not actually employ caregivers but gives you the name of an independent contractor who can be legally employed by you.
- Hire a caregiver through an **employer model** company that takes all legal responsibility for that caregiver in your home.

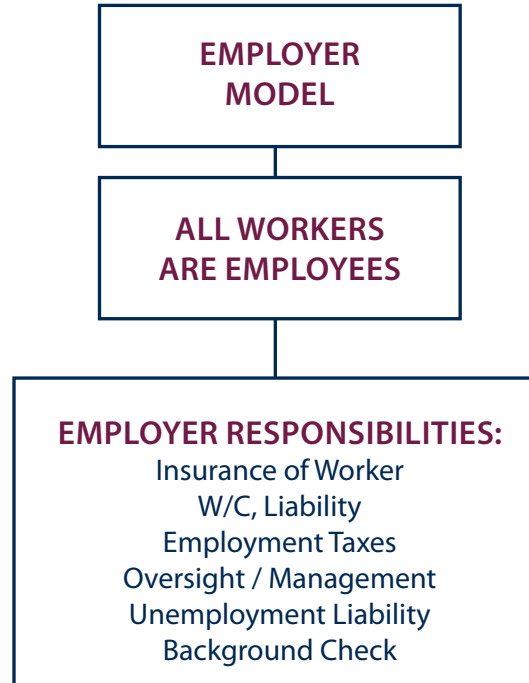
Each option has certain pros and cons, which we will discuss in depth. One option may make sense for you but not for another person. The intent of this guide is to educate you so you can make an informed decision on care when the time arises.

“Those Who Fail to Plan, Plan to Fail”

Please take the time to plan which option is best for you and your family in order to avoid the burden of assuming unnecessary risks associated with selecting the private hire or registry model.

Employer Model

Cost \$18-\$24 an hour | Low Risk



In an “Employer Model” the company sends you a worker that is their employee. This means that the company who is sending the caregiver withholds and pays any taxes, unemployment, or workers’ compensation insurance. They do not expect you to pay for all those costs or shoulder any risk that may arise. They file what is called a W4 form to the government which implies they take responsibility for that worker.

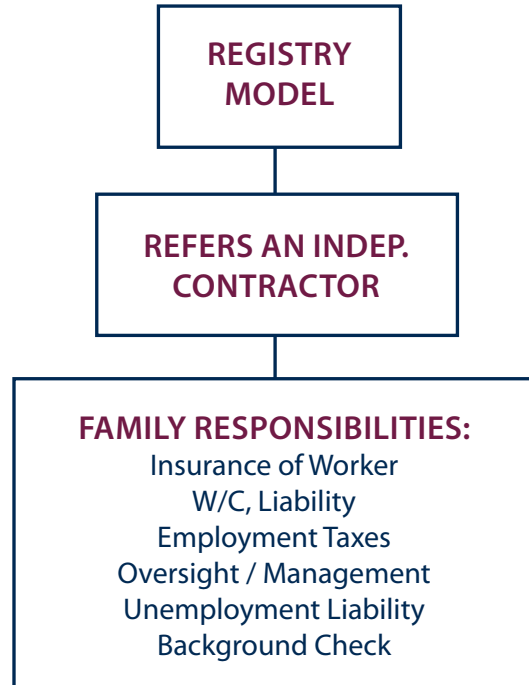
Although this is usually a little more expensive than hiring a caregiver through a registry model or a private hire, the company is assuming responsibility if the caregiver is injured or files for unemployment.

4 THINGS YOU ARE PROTECTED FROM

1. If a caregiver is injured and files a workers’ compensation claim, the company pays for any medical bills and disability payments.
2. The company withholds and pays all payroll taxes.
3. If the caregiver files for unemployment benefit, the company pays for all unemployment claims and because they have previously paid for all payroll taxes, there is no back tax payment liability as there would be in a private hire or registry model.
4. The company is responsible for any lawsuit related to discrimination or harassment.

Registry Model

Cost \$14-\$18 an hour | High Risk



In a “Registry Model” the company sends you a worker that is not their employee but instead is labeled an independent contractor. This means that the company who sends the caregiver does not withhold or pay any taxes, unemployment, or workers’ compensation insurance. They expect you to pay for all those costs and shoulder any risk that may arise. They file what is called a 1099 form to the government which implies they take no responsibility for that worker.

Although this is usually slightly more economical than hiring a caregiver through an employer model company, it also carries similar risk and liability to a private hire which can put the family at considerable risk.

WHAT CAN HAPPEN?

- If you have been paying a company for a caregiver that is an independent contractor and they have not been withholding and paying taxes or unemployment, you can be contacted by the Employment Development Department to pay for back taxes (with penalties) and unemployment benefits for that caregiver (see Wall Street Journal article on nurses registries on page 8)
- If your caregiver claims to be injured while working in your home, you will be responsible for any medical treatments and disability associated with that claim.
- If you have a live-in caregiver, room and board is considered part of their pay. If you are not pleased with their work you will not only have to fire them, but may also have to evict them from your home.

Private Hire Model

Cost \$10-\$15 an hour | High Risk



Many people meet caregivers through friends or through the community and ask them to come and work for them privately.

Although this is usually the cheapest way to find a caregiver, the family is very vulnerable and has to carry full risk and liability. Families may not even realize this until something goes wrong. Cases of fraud and abuse are most common with privately hired caregivers.

WHAT CAN HAPPEN? (See Wall Street Journal article next page)

If your caregiver claims to be injured while working in your home you will be responsible for any medical treatments and disability associated with that claim. If you have a live-in caregiver, room and board is considered part of their pay. If you are not pleased with their work you will not only have to fire them, but may also have to evict them from your home. You may also be liable for overtime pay.

HOW TO PROTECT YOURSELF IF YOU HIRE PRIVATELY

- Do a full background check and obtain at least three references from past care recipients before you hire anyone.
- Talk to your accountant or make arrangements to pay the following for every caregiver hired:
 - Medicare and Social Security taxes
 - State and federal unemployment taxes
- Talk to your insurance carrier about taking out a workers' compensation rider on your homeowner's insurance policy to protect yourself in case a workers' compensation claim is made by caregiver.

What to Know if You Are the Boss of a Caregiver

WALL STREET JOURNAL | MARCH 19, 2009

By Victoria E. Knight

It's not just about the "nanny tax." When using a home health caregiver, it's crucial to know whether you are the caregiver's employer or someone else to avoid tax and legal snags.

With more baby boomers seeking help for aging parents, the in home care industry is booming with a wide range of service providers, from geriatric care managers to home care agencies. Contractual arrangements and employment policies vary just as widely. So it's wise for consumers to ask questions up front about tax obligations and insurance coverage.

"Families need to be aware of all the ramifications," says Bernard A. Krooks, a certified elder law attorney and founding partner of Littman Krooks LLP, a New York law firm.

Some families elect to privately hire a caregiver because they want to choose the person they think will be the best to provide the care. Others go to an outside party, such as a home healthcare agency, to find the help they need. But that doesn't always mean they are off the legal hook.

Many nurse registries and employment agencies don't actually employ or supervise workers; they simply find them and place them in a home setting. Under such arrangements, the family may end up being the official employer, responsible for pay, taxes and other obligations. Employing a relative or friend can put a family in the same situation.

"Household help is anyone who does help in or around your home," says Jill Senso, education coordinator with the National Association of Tax Professionals, or NATP. "The worker becomes your employee if you control what work is done and how it is done."

If you dictate when the caregiver is on duty and supply the equipment to provide care, you're building an employer-employee relationship. Even a part-time caregiver can be considered an employee, especially if the caregiver doesn't provide the same type of service to others, according to Mr. Krooks.

If you pay a household caregiver who is your employee more than \$1,700 in 2009, the tax code requires you to withhold and pay Social Security and Medicare taxes.

(Continued on next page)

What to Know if You Are the Boss of a Caregiver (Cont.)

WALL STREET JOURNAL | MARCH 19, 2009

By Victoria E. Knight

(The Internal Revenue Service makes some exceptions, but they typically don't apply to situations in which adult children hire caregivers for aging parents.)

If you pay the caregiver wages of more than \$1,000 in any quarter, federal unemployment taxes must also be paid. State and unemployment taxes must be withheld and paid as well. If the taxes are unpaid, the taxpayer must pay what's owed, and will face late filing penalties of between 5% and 25% of the underpayment plus interest, according to the NATP.

Consumers can avoid tax snags if they pay an agency directly, and if the agency is the caregiver's official employer. For instance, the National Private Duty Association requires its members to assume all responsibility for payroll and all related taxes, according to Executive Director Kim Stoneking. Another option is to hire a geriatric care manager who screens, arranges, monitors and pays the caregiver on your behalf.

Employers are also responsible for verifying that workers are legally entitled to work in the U.S. An Employment Eligibility Verification form -- I-9 Form -- must be completed and kept on file by the employer.

Employee injuries pose one of the biggest financial risks. Federal and state laws require employers to take out workers' compensation insurance. If there is none, and a caregiver is hurt on the job, the family is responsible for medical expenses and disability payments. Consumers shouldn't assume homeowner's insurance will cover this, as policies may exclude household help. They may need to buy general liability insurance.

Discrimination or harassment suits from caregivers pose another risk. An umbrella policy with a discrimination rider can provide protection, but it's expensive, says Mr. Krooks.

VIEW ORIGINAL ARTICLE

<http://online.wsj.com/article/SB123742280124379005.html#articleTabs%3Darticle>

Is it Worth it?

INDEPENDENT CONTRACTOR

\$14-18 an hour

- Family becomes employer and must pay for and report:
 - FICA = 6.2%
 - Medicare = 1.45%
 - FUTA = 0.8%
 - SUTA = 5.3%
 - Workers' comp = 10%
- Family pays additional \$3.45 per hour

Total Cost to Family = \$17.45 - \$21.45 an hour

EMPLOYEE OF AMERICAN BOARD OF HOME CARE APPROVED COMPANY

\$18-22 an hour

- Company is employer and must pay for and report:
 - FICA = 6.2%
 - Medicare = 1.45%
 - FUTA = 0.8%
 - SUTA = 5.3%
 - Workers' comp = 10%
- Company takes risk and liability of employing the caregiver

Total Cost to Family = \$18-22 an hour

Household Workers



DOMESTIC WORKERS

Cleaning persons, bookkeepers, shoppers etc. who work less than 20 hours a week and are not engaged in caring for an invalid or senior, are included under the homeowner's personal liability coverage.

CAREGIVERS

Household workers who work more than 20 hours a week and caregivers, regardless of the number of hours worked, need to be covered by workers' compensation, which can be added to the homeowner's insurance policy for an additional charge.

HANDY PERSONS OR CONTRACTORS

Handy persons or contractors are not covered as household workers but need to carry general liability and workers' compensation insurance. Consumers should request proof of coverage and ideally obtain a hold harmless agreement from the contractor.

What Can Caregivers Do?

NON-MEDICAL SERVICES

Caregivers normally provide assistance with the following activities of daily living (ADLs):

Dressing – dressing, undressing

Bathing – bathing/showering/bed bath etc.

Transferring – transfers, ambulation, range of motion exercises.

Use of special equipment for transferring: hoist lifts, gait belts, slide boards

Toileting – incontinence care (bladder/bowel)

Feeding – meal preparation/planning, grocery shopping, meal cleanup

Other – many non-medical activities like transportation and light housekeeping

LIGHT HOUSEKEEPING DOES INCLUDE:

Client's bathroom – clean sink, empty trash, wipe down mirror, counters, and toilet seat

Client's bedroom – dust, vacuum, change linens, empty trash

Client's laundry – wash, dry, fold and put away

Client's family room – vacuum and dust

LIGHT HOUSEKEEPING DOES NOT INCLUDE:

Heavy cleaning – windows or blinds, closets or cupboards, dusting china or curio cabinets, excessive clutter, defrosting refrigerator, yard work, garage cleanup.

Heavy lifting – no heavy lifting or moving furniture or any task that requires the caregiver to get down on their hands and knees.

Who Pays for Caregiving Services?

IS IT COVERED BY MEDICARE OR HEALTH INSURANCE?

Medicare and health insurance do not pay for caregiving services.

Caregiving services are usually paid for in three ways:

1. Your responsibility (out of pocket)

- Check with your financial advisor

2. Long term care (LTC) insurance

- Most LTC policies cover caregiving services, assisted living, and skilled nursing facilities

3. Veterans Aid and Attendance Benefit

- Some veterans who served during a time of war qualify for benefits that pay for caregiving services

Who can answer questions about long term care insurance and the veterans benefits?

Contact an Amada Senior Care consultant to learn more about LTC insurance claims or the Veterans Aid and Attendance Benefit.

877 442 6232

Caregiver Charged with Stealing \$250,000

from 92 year old in Laguna Woods | OC Register 2010



Private caregiver allegedly causes fire in Laguna Woods and flees scene

Live-in caretaker charged with financial elder abuse, fraud and forgery

LA Times, March 2009

"The live-in caretaker of an 84-year-old Huntington Beach woman allegedly took out fraudulent loans in her name, bilking the older woman out of about \$200,000 and putting the woman's home in danger of foreclosure."

Caretaker charged with elder abuse after leaving senior unattended in car

Santa Monica Mirror, May 2012

"The suspect admitted that she had been wrong to leave the lady alone, but said that she had some important things to take care of."

Victorville woman befriends 72-year-old, steals checkbook

Inland Empire News KABC, Feb 2012

"Johnson-Seright convinced the victim to hire her as a personal trainer and then as a housekeeper. She is accused of stealing the victim's checkbook and writing out 15 checks totaling about \$6,000."

All these stories have happened locally. **Don't be a victim!**

Learn what precautions you can take to protect yourself and others from unnecessary risk and liability. This booklet can help empower you to make the best choice when hiring a caregiver.

Very Few Regulations for Home Care

Hospitals, nursing homes, assisted living communities and home health services all have regulations to protect seniors. Unfortunately there are very few regulations to cover caregivers and home care companies.

Consumers can protect themselves and reduce possible risk by learning what different caregiving options are available to them. The intent of this guide is to educate you so you will know how to hire a caregiver should the need ever arise and will understand the implications of hiring through either an employer model, a registry model, or a private hire model. If you are well informed, you will be able to protect yourself from unnecessary risk.

Don't wait until you need a caregiver to find out the facts.

- 90% of people surveyed said they would like to stay at home in the latter stages of life.
- 75% of people who stay at home will need assistance as they age in place.
- Only 15% of people have a plan in place to ensure they will be able to stay at home if an accident occurs or extra help is needed.
- What would you do if you were admitted to the hospital today with a serious condition and then told you would be discharged tomorrow but needed help at home?

Employer Model or Registry Model

HOW WILL I KNOW?

Here are important questions you can ask to determine whether the company you want to work with operates an Employer Model or a Registry Model:

Do the caregivers you send to my home receive a 1099 or a W2

paystub? 1099: Registry | W-2: Employer

- If caregivers receive a 1099 they are independent contractors and YOU will be responsible for all tax, unemployment, and workers' compensation risk.
- If caregivers receive a W-2 paystub then the company is responsible for all tax, unemployment, and workers' compensation risk.

Are all your caregivers covered by workers' compensation insurance?

- If the answer is no, this is a Registry Model company.
- If the answer is yes, this is an Employer Model company.

Who pays for these taxes for each caregiver?

- Medicare and Social Security taxes
- State and federal unemployment taxes
- Workers' compensation

Who is responsible for your protection?

- Who does a full background check and checks the references of each caregiver they are referring?
- Who is responsible in case of fraud, theft, damage, or abuse?
- Who will be responsible if a caregiver gets hurt in my home?

Talk to the Professionals

- Talk to your accountant about paying the taxes owed from hiring privately or tax deductions for paying an agency for a caregiver.
- Talk to your insurance carrier about taking out a workers' compensation rider on your homeowner's insurance policy. This way you can protect yourself in case a workers' compensation claim is made by a privately hired caregiver.

Home Care Company Checklist

Here is an easy checklist you can use when interviewing prospective home care companies:

QUESTION

PAGE | RESPONSE

Do you do background checks? What kind? Yes No

Where is your office located? Local?

Are you available 24/7 to handle emergencies? Yes No

Do you cover workers' compensation for all caregivers? Yes No

How do you ensure patient confidentiality?

How long have you been in business?

Do you offer a detailed agreement/contract with all associated fees, prior to start of service? Yes No

Are you bonded and insured? Yes No

Do you withhold federal and state payroll taxes for your caregivers? Yes No

Do you pay unemployment insurance for your caregivers? Yes No

Do you conduct supervisory home visits? Yes No

Are your caregivers trained? Yes No

Do you keep track of what caregivers are doing? Yes No

Do you have skilled staff available (RN, LVN, LCSW, CCM)? Yes No

Who do I contact if I have a problem?



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