



# CareMinders®

## HOME CARE

# HomeFront

By Catherine Prochaska, CSA

## The Price of Hiring a Private Caregiver

May is my favorite month of the year. Spring truly shows its colors and showcases one of the biggest days of the year--Mother's Day. We show our love and honor them in so many ways. We spend time with our loved one reminiscing and building new memories. Gifts of service are from the heart but the following inquiry reminds us that we should give careful thought as well...

**Fred H. writes in: "Why do I need an agency? My neighbor hired a private aide and the care is just as good and cheaper."**

Many families seeking to hire in-home staff turn to private individuals rather than working through an agency. Initially it can appear to be a perfect solution--and a bargain. Is it really? There is a significant financial, legal, and regulatory responsibility in hiring and managing a home health aide. Some food for thought follows...

### Tax Issues

As the private employer, the individual or family is required to pay Social Security, payroll and unemployment taxes. Home health aides will represent themselves as independent contractors, relieving the hiring individual of these tax obligations. It is the responsibility of the hiring party to be sure that the aide truly is an independent contractor and is therefore paying their own taxes.

Often, the aide does not meet the legal criteria as an independent contractor. If the aide does not meet his or her tax obligations, the responsibility falls to the employer. The repercussions for noncompliance of this obligation are serious because it may involve interest on back taxes, civil fines and possible criminal penalties. Potential private employers should seek the advice of a labor lawyer to assure appropriate hiring practices with respect to federal and state tax laws.

**Example:** A home health aide was hired by a family on the basis of a recommendation from a neighbor who also employed this individual. As time passed, the health of the client declined and the amount of care increased to a point where total care was needed and the aide was converted to a full-time live in status. This status lasted until the death of the client.

The aide filed for unemployment benefits. At that point, that the IRS became aware of the employer and filed a lawsuit for back unemployment taxes, penalties and fines. The family did not understand their responsibilities as an employer and found themselves in a legal action that took many months and many thousands of dollars to resolve.

### Workers' Compensation and Liability Issues

As the employer, the individual or family paying for the private aide can be held liable for any work-related injury that occurs on the job. This can include the cost of all medical expenses and any disability payments that may be applicable.

This is a huge risk, especially if the care services include lifting, transferring or bathing. There are also risks related to communicable diseases if the aide does not comply with universal precautions that are required by all licensed agency personnel. Additionally, any injury to the person being cared for or any other person on the premises places the employer in a position of liability. In the event a home health aide were to cause an accident in which others suffered harm or loss, the employer would bear the full responsibility for all costs and compensation.

**Example:** A home health aide, suffers a back injury while caring for a client. The injury is severe and the aide is no longer able to work in his or her profession and subsequently applies for worker's compensation and disability benefits.

As the government became aware of the employment situation where the injury occurred, the family was pursued for medical expenses and for disability coverage. This cost the family many times more than it would have if they had the appropriate insurances or if they had worked through a licensed home health agency.

## **Abuse and Exploitation**

Most individuals who become home health aides do so out of a desire to help others and demonstrate remarkable patience and care for those in their charge. They have brought untold relief for many families and without these workers many individuals would never be able to remain in their home.

Unfortunately, there will always be those who see this type of work as an opportunity to take advantage of someone. This becomes especially easy when the aide and the recipient of care who may be frail, functionally limited and cognitively impaired are secluded in a private home setting with little or no supervision.

Families do not fail to provide supervision out of malice or neglect. Supervision may be difficult because of geographic distance, lack of expertise, or close emotional bonds that may form between the aide and the person receiving the care. Furthermore, families often have neither time nor the resources to perform criminal background checks, or contact references, if they even think to ask for references. Families are so grateful for the care provided by an aide that they may place themselves in a position where they are vulnerable to manipulation and exploitation.

## **Agency Supervision**

A licensed home care agency is responsible for providing ongoing supervision for their employees. This includes helping the aides to understand the changing needs of clients, assuring the proper limits of care according to the plan of care for the various levels of professionals, and mediating difficult relationship issues.

Providing supervision is as important for the aide as it is for the family. Home health aides can experience very challenging situations within the private home environment. Agency supervisors clarify the roles of the home health aide, and the expectations of both worker and care recipient. Furthermore, the agency directs the aide in setting appropriate limits on the types of care that can be provided. For example, an aide may not provide high tech care that is legally the responsibility of a licensed nurse.

In situations where there are personality issues because of cognitive changes or a history of difficult relationships, agency supervisors are available to provide guidance and support to both staff and care recipient. The support of a supervisor can help the aide understand that this is part of the disease process and cope with the behaviors so that the aide and the client can have a successful relationship. Supportive supervision is a key element in making a challenging situation work.

Families need to make a basic decision about the source of the assistance when considering home health services. The decision needs to take into account the type of help needed, financial and tax implications, how care is supervised and the relative vulnerability of the care recipient. If choosing a private arrangement, consultation with an attorney and an accountant is recommended to assure all arrangements meet required obligations. If the family is unwilling or unable to assume the full scope of responsibilities, they would be best served working through a licensed agency.

Warmest Regards and a Happy Mother's Day at Home,

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