

Independent Contractors

Client or their representatives act as employer and obtains the services of home health care from a private citizen.

It is likely that the relationship client establishes with the employee is that of an employer, and all risks and duties associated with being an employer are the responsibility of the employer. These include worker's compensation insurance, the employer portion of FICA (just over 7%), Federal Withholding taxes and unemployment taxes.

Additionally, client should ascertain if the private citizen has the right to work in the United States, is free of communicable diseases, has the requisite training to perform services required, and has a background free of criminal offenses.

Clients are responsible for supervising their employees.

Nurse Registries

Nurse Registries procure the service of home care workers, on an independent contractor basis. These workers are directed to care for clients on an independent contractor basis.

This means the registry is not responsible for worker's compensation insurance, the employer portion of FICA (just over 7%), Federal Withholding taxes and unemployment taxes. In most cases it is construed that the **worker** is responsible for these items. There are no legal requirements for workers to maintain their own employment benefits/taxes.

There is much ambiguity about the true status of registry workers. Clients, their representatives or their estates can be construed as an employer in this arrangement and can be held liable for providing the above employment benefits/taxes. **Clients still have exposure to risk when they employ individuals from a Nurse Registry.**

Registries should ascertain if the worker has the right to work in the United States, is free of communicable diseases, has the requisite training to perform services required and has a background free of criminal offenses.

Registries are now required to provide a Registered Nurse visit monthly to assess the client's condition and quality of care being provided by the certified nursing assistant or home health aide. Any condition which, in the professional judgment of the nurse, requires further medical attention shall be reported to the attending physician and the nurse registry. The assessment shall become a part of the patient's file with the nurse registry and may be reviewed by the agency during their survey procedure.

Home Health Care Agencies

Agencies hire home health care employees. These employees are scheduled to care for clients. Their activities are managed and supervised by agency staff, including registered nurses and physicians.

The agency is responsible for worker's compensation insurance, the employer portion of FICA (just over 7%), Federal Withholding taxes and unemployment taxes. In most cases, agencies also carry general liability insurance and a dishonesty bond, which afford additional coverage for employees and clients. It is rare, but no entirely unheard of, for agencies to also provide health insurance and paid vacation for their employees. **The employer (agency) is responsible for all risks associated with work performed by the employee.**

Agencies must assure that the employee has the right to work in the United States, is free of communicable diseases, has the requisite training to perform services required and has a background free of criminal offenses. It is also common for agencies to test their employees for competency and to provide continuing education (depending on the type of the agency).

I acknowledge that I have read and understand the differences between Independent Contractors, Nurse Registries and Home Health Care Agencies.

Signature

Date