



PRIVATE HIRES: WHAT ALCA MEMBERS NEED TO KNOW

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PROVIDED BY BREEDLOVE

AGENDA

- Regulatory and legislative changes affecting in-home care decisions
- Implications to your clients and your practice
- Employment Administration Tips & Tools

KEY CHANGES

DOL REPEAL OF COMPANIONSHIP AND LIVE-IN EXEMPTIONS FOR 3RD-PARTY EMPLOYERS



KEY CHANGES

INDEPENDENT CONTRACTOR Vs. EMPLOYEE: NARROWED DEFINITION AND EXPANDED ENFORCEMENT



CARE DECISION

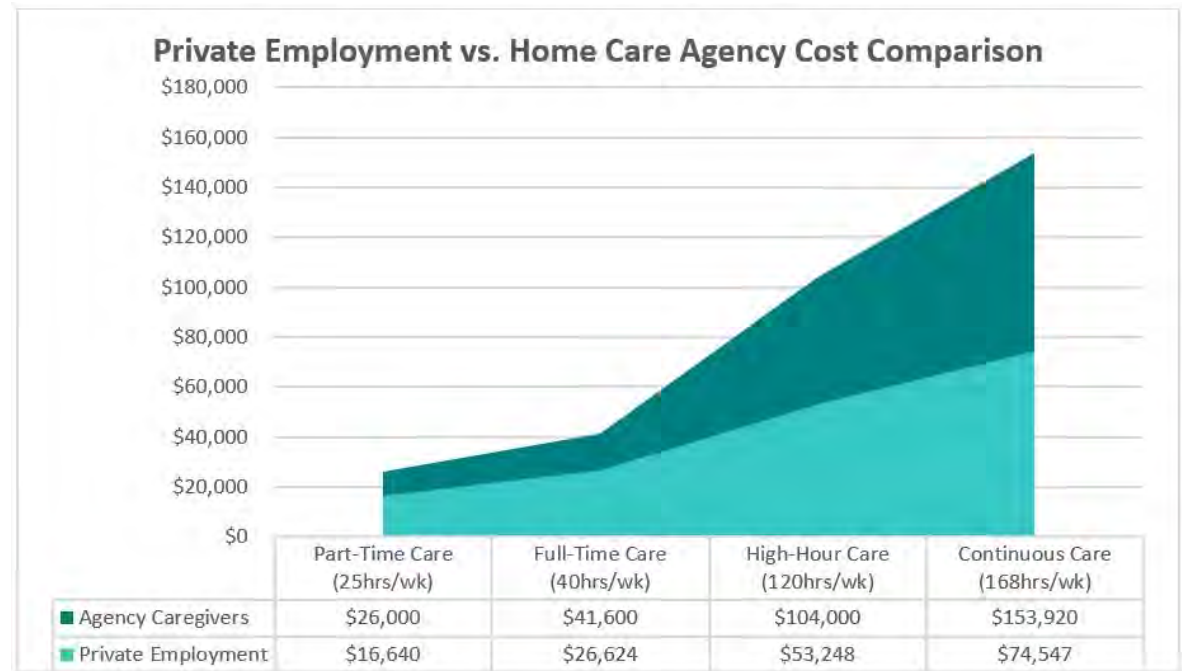
Direct-Hire vs. Middleman

High-hour cases may be able to save tens of thousands of dollars each year via direct-hire care model – and get better caregiver continuity/stability



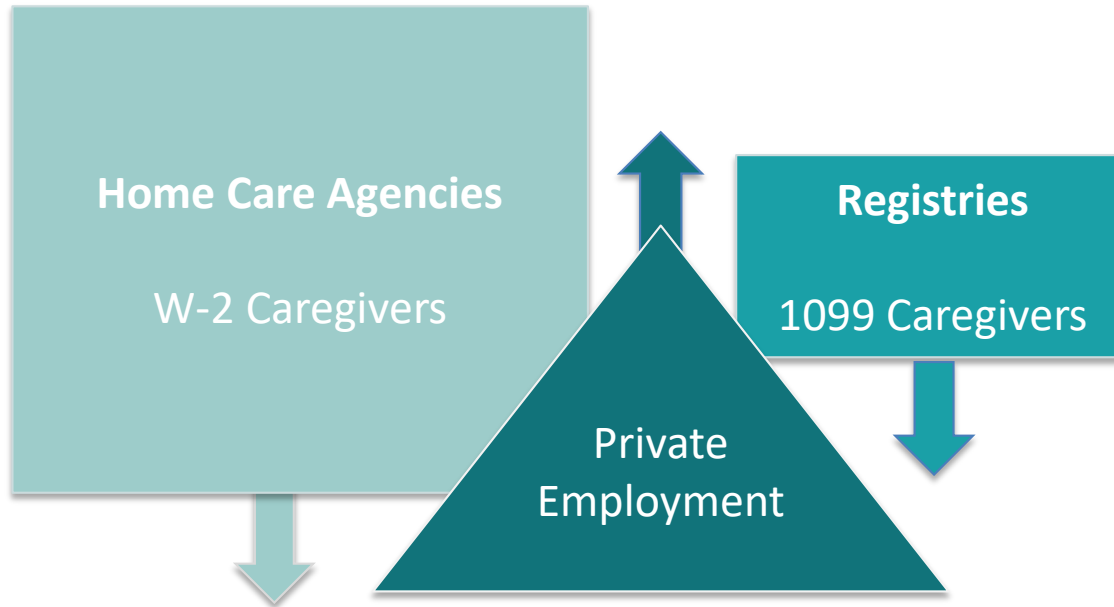
COST OF CARE

Direct Hire vs. Middleman



SENIOR CARE DELIVERY

Cost and care continuity are pushing many high-hour, cognitive cases toward direct hires



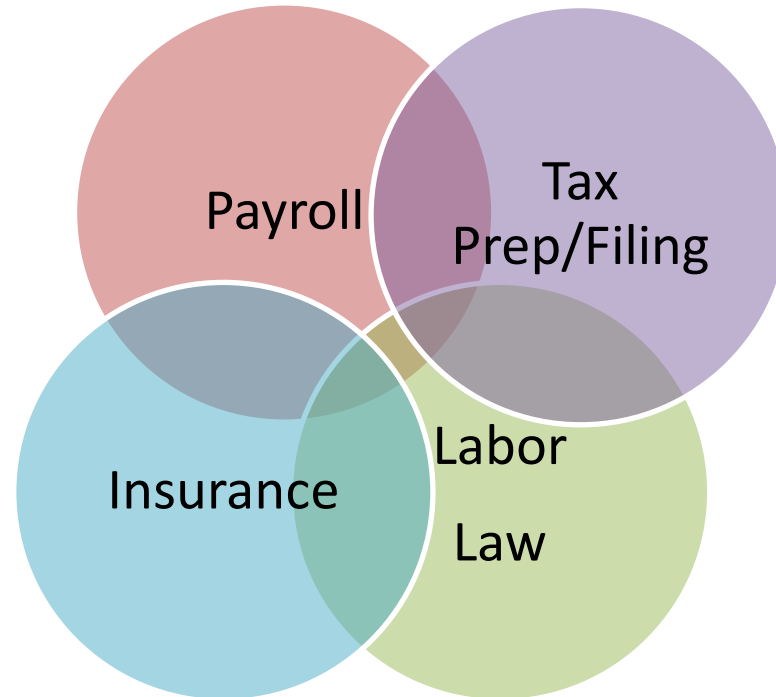
EMPLOYMENT ADMINISTRATION

OVERVIEW OF OBLIGATIONS



PRIVATE EMPLOYMENT

Employment Administration



HOUSEHOLD EMPLOYMENT BASICS

The Payroll & Tax Obligations*

(IRS Publication 926 and State Law)



1. Withhold payroll taxes (FICA and all applicable state taxes) from the employee's pay
 - State and Federal Income Taxes are optional
2. Pay employer taxes (FICA, FUTA, SUTA and all applicable state taxes)
3. File state and federal tax returns and remit employer and employee taxes throughout the year (1040-ES/Schedule H process, NOT 940/941 process)
4. At year end, provide employee with Form W-2, file Form W-2 Copy A/Form W-3 with the Social Security Administration and file Schedule H with their federal personal income tax return

Note: *If household employer pays any individual **\$2,100** or more in a calendar year

HOUSEHOLD EMPLOYMENT BASICS

The Labor Law Obligations

(Fair Labor Standards Act & State Law)

Household employers may have several major employment law responsibilities:

- Written Wage Notice or Employment Agreement
- Detailed pay stubs
- Minimum Wage
- Overtime
- Mileage/Expense reimbursement
- Workers' Compensation insurance
- Disability Insurance
- Paid Time Off/Paid Sick Leave
- Family/Medical Leave

Note: State-by-State requirements can be found at www.myHomePay.com



EMPLOYMENT ADMINISTRATION TIPS & TOOLS

HELPING CLIENTS AVOID TAX & LEGAL RISK



HELPING CLIENTS AVOID TAX & LEGAL RISK

Worker Misclassification



- IRS has consistently ruled that domestic workers should be classified as “employees” rather than independent contractors
- New DOL factors narrow IC status
 - “Permanence” and “Economic Dependence”
- DOL and IRS have teamed up to increase enforcement; household employment industry cited as key target
- Significant issue in senior care because most senior care “registries” have classified their caregivers as independent contractors for decades

HELPING CLIENTS AVOID TAX & LEGAL RISK

Procrastination



- Families think this is “tax stuff” so it can be handled at “tax time”
 - Failed to withhold taxes properly
 - Failed to file employment tax returns timely
 - Failed to handle Overtime properly
- Much less costly and easier to handle correctly at time of hire

HELPING CLIENTS AVOID TAX & LEGAL RISK

Putting a Domestic Worker on the Company Payroll



- The IRS does not allow a personal, domestic employee to be paid through business payroll
- Tax deductions on business payroll require all employees to be “direct contributors to the success of the business.”
 - The IRS has ruled that domestic employees do not qualify as direct contributors
 - Therefore, including them on business filings is considered an illegal tax deduction
- Legally, it’s wise to keep separate for asset protection reasons

HELPING CLIENTS AVOID TAX & LEGAL RISK

Overtime

- Federal law says all “Non-Exempt” workers (protected class) must be paid time-and-a-half for all hours over 40 in a 7-day work week.
 - “Fixed Salaries” are illegal
- **Exception 1: Live-in workers**
 - Have to be paid for every hour worked, but hours over 40 do not have to be paid at 1.5x
 - *However*, some states have their own OT requirements for live-in employees
- **Exception 2: Companions**
 - “Fellowship and Protection”
 - Less than 20% of time spent on Activities of Daily Living (ADLs): bathing, dressing, meal prep, cleaning, etc.

Note: Some states require OT for ALL workers so these exemptions do not apply everywhere

HELPING CLIENTS AVOID TAX & LEGAL RISK

Workers' Compensation Insurance



- Not part of the tax system; it's a private insurance policy covering work-related injuries or illnesses
- Helps with *medical expenses* and *lost wages*
- Required for business employers in virtually every state, but household employers are exempt in about 20 states
- However, even if not required, families can be held liable
- We can help with a stand-alone policy and wage audits

EMPLOYMENT ADMINISTRATION TIPS & TOOLS

HELPING CLIENTS SAVE MONEY



HELPING CLIENTS SAVE MONEY

Consider private employment

(1st-Party Employer Exemptions)



- High-hour cases that require continuity of care (i.e. Alzheimer's/Dementia) are finding it significantly less expensive to hire privately vs. the traditional agency-directed model
- We have teamed up with CareFamily to create a comprehensive senior care employment management solution that handles all employment-related tasks
 - Legally sound
 - Administratively simple

HELPING CLIENTS AVOID TAX & LEGAL RISK

Sleep Time Exemption



- Federal 24-Hour Shift Law
 - Up to 8 hours of sleep time may be treated as non-compensable hours if:
 - Adequate sleeping facilities are provided
 - Continuous sleep for 5+ hours is possible, and
 - The Employee agrees to it in writing

HELPING CLIENTS SAVE MONEY

Medical Expense Tax Deductions (IRS Publication 502)



- Medical expenses in excess of 10% of AGI
- Non-Medical in-home care counts if prescribed by a licensed healthcare practitioner

HELPING CLIENTS SAVE MONEY

Dependent Care Tax Breaks

(IRS Publication 503)



- Flexible Spending Account
 - \$5,000 cap per family per year
 - Saves average family \$2,000-\$2,300 per year, depending upon marginal tax rate
- Child or Dependent Care Tax Credit (Form 2441)
 - Itemize up to \$3,000 per dependent per year (\$6,000 maximum)
 - Most families will see 20% tax credit
 - Saves \$600 or \$1,200

Note: May be able to take advantage of both tax breaks.

HELPING CLIENTS SAVE MONEY

Non-Taxable Compensation

- Health Insurance (if 1 employee or QSEHRA/ICHRA)
- College Tuition (up to \$5,250 per year)
- Public Transportation (up to \$265 per month)
- Parking (up to \$265 per month)
- Cell phone service (personal attendants only)



SUMMARY

Many families prefer private employment due to affordability and continuity advantages

If the family decides to hire direct, help them eliminate risk and headaches by creating a structured, compliant employment model

Feel free to leverage us for assistance in the decision process and/or the employment administration

EMPLOYING CAREGIVERS

Resources

Free Calculators at myHomePay.com

- Employer Budget Calculator
- Employee Paycheck Calculator

Free “SmartStart” program for CSAs

Online library at myHomePay.com

- State-Specific Requirements
- Helpful Tips and FAQs

Household Employer Tax & HR Experts

EMPLOYING CAREGIVERS

About Care.com HomePaySM

A No-Work, No-Worry Solution
to Household Employment Since 1992

- Total Employment Management specializing in domestic employment
- Guaranteed accuracy and satisfaction in all 50 states
- Online visibility and control



NEW SENIOR CARE FEATURES



Assisted Search & Vetting



Employee Onboarding (including Professional Liability and Bonding)



Time & Attendance Tracking with GPS Verification (including Task/Care Notes)



LTCi Claims Support



Consolidated billing with tax impounding (and collections for Workers' Comp)



Co-branded portal with SuperUser for single-login management of all accounts

EMPLOYING CAREGIVERS

THANK YOU

Should you have any additional questions, please reach out. We're here to help.



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