

To Our Clients and Friends:

In this issue we highlight a topic that is an increasing concern in home care and has been receiving more and more governmental attention of late: the problem of worker misclassification as independent contractors. You would be forgiven for wondering why such an arcane subject could be important in our industry. Consumers and senior-serving professionals alike are often unaware of this problem. We

invite you to learn about it by reading the article below and the box on page two.

We are pleased that Ready Hands continues to expand. Our Alexandria office staff has outgrown its current space and will be relocating to new quarters later this year. For all our good fortune we deeply thank our clients, families and referring professionals!

The Ready Hands Home Care Team

**Worker Misclassification in Home Care:
A Widespread Problem with Risks for Consumers**

Most people are unaware that companies offering non-medical home care come in two very different “flavors”: those like Ready Hands that use bona fide employees to whom they issue W-2’s at the end of each year and those that use independent contractors. Because agencies of this latter type issue IRS 1099-MISC non-employee compensation forms to the workers, they are often referred to as “1099 companies” or “registries.”

The problem is that what 1099 companies are doing is to deliberately *misclassify* their workers as independent contractors in order to evade employment taxes and avoid licensure requirements. The result is that the states and federal government are deprived of needed tax revenues and both consumers and workers are denied important protections.

The Government Accountability Office estimates that 7.4% of the workforce is misclassified as independent contractors. Although the problem involves many industries, it is an especially hot topic in home care. In Northern Virginia, numerous home care companies have regrettably adopted this tactic. Now, in the face of strained budgets and outcry from legitimate employers, the IRS and state tax authorities are starting to crack down.

The IRS uses a number of criteria to determine the relationship between businesses and workers, but a key consideration is whether the business has the right to direct or control how work is done—in other words, provide supervision. If the answer is yes, then almost certainly the worker must be considered a true



Home care companies should be licensed, use true employees and meet all employer obligations.

employee. Yet many home care companies that purport to provide training, direction and supervision (which consumers surely expect), still claim that their workers are 1099’s.

Despite risking financial penalties if caught, 1099 companies have a lot to gain from gaming the system as they do. First, they escape submitting taxes and paying costs that true employers must pay, like federal and state income taxes, Social Security and Medicare taxes (both employer-paid and employee withholding), federal and state unemployment taxes and workers compensation insurance. Congress’s Joint Committee on Taxation estimated that over ten years \$6.9 billion in taxes could be recovered by eliminating misclassification, but the actual figure is probably much higher..

Misclassification, continued on page 2

News for Clients and Friends

Evelyn Nkansah and Caroline Mensah Bekoe Receive Recognition Award



Ready Hands is blessed with many wonderful employees and as always, it is difficult to single out individuals for special recognition. However, our two most recent quarterly award recipients make the job easier.



Evelyn Nkansah first joined Ready Hands in 2004, then was rehired in 2007 after about a one-year hiatus. She is one of the warmest, most quietly competent aides we have ever been privileged to employ. Evelyn is dedicated, kind and reliable. Her clients have always held the

greatest affection for her.

Caroline Mensah Bekoe is more of a newcomer, having been hired in July of 2009 to staff the overnight shift for a client with whom she continues to work to this day. Caroline is a cheerful, positive individual whose dedication, integrity and skill are obvious to all.

Our deepest appreciation go to both of these exemplary employees. Thank you for doing such a great job for Ready Hands and our valued clients!

Survey Compares Long-term Care Costs Throughout U.S.

The hourly cost of a home care aide varies widely throughout the U.S. but Northern Virginia is slightly below the national average. Here the hourly cost ranges from \$18 to \$24 per hour with an average of \$20, compared with \$21 for the nation as a whole. This data comes from Metlife's 2010 annual market survey of long-term care costs, which also reports on nursing home, assisted living and adult day care costs.

The lowest home care aide costs tend to be in areas of the southern U.S., like Alabama (\$17), Arkansas (\$16), Mississippi (\$16) and Louisiana (\$16). At the high end, with average hourly rates in the \$26—\$28 range, are Connecticut, Iowa and Minnesota.

According to the survey, the assisted living base rate in Northern Virginia averages \$3743 per month, compared to \$3293 for the country overall. The rates include a private room or one-bedroom apartment, at least two meals and some personal care. Additional fees apply for higher levels of need.

A nursing home day in Northern Virginia for a private room averages \$292 compared with \$229 nationally.

(Download the full report at www.metlife.com/mmi)

Misclassification, continued

Second, a 1099 company can claim that it is not actually the provider of care, but instead simply an intermediary between an independent worker and consumer. As a result, it can avoid the need to become licensed by the Virginia Department of Health. Attaining licensure is a laborious process that necessitates compliance with numerous regulations that are all designed to protect consumers—like minimum levels of bonding and liability coverage, hiring and credentialing standards, client rights protections, record-keeping requirements and more.

Finally, home care workers themselves experience a number of disadvantages when wrongly treated as independent contractors. For example, they lack the right to the protections of state and federal wage and hour laws that would apply in an employer-employee relationships. They are not covered by workers compensation insurance if injured. They cannot apply for unemployment benefits if they lose work through no fault of their own. And they have less recourse if their pay is improperly withheld, which has been a significant problem among some area 1099 companies.

According to the National Private Duty Association, “Consumers who receive home care, and caregivers who work in the industry, face increasing risk because of the growing use of companies who refer, but do not hire, workers.” Given the perils of using 1099 agencies, families and senior-serving professionals should be aware of the worker misclassification problem when arranging home care.

Home Care Employers vs. 1099 Companies: Telling the Difference

- ◆ Go to the Office of Licensure and Certification webpage at www.vdh.state.va.us/olc/, click on “Find a Provider” and retrieve the latest Home Care and Hospice Directory, which lists licensed and properly certified companies. Don't use a company that is not listed. (Or, ask the company to provide a copy of their current license.)
- ◆ Ask a home care worker if their company “takes taxes” from their paychecks. If not, the company is likely misclassifying their workers as 1099's.
- ◆ Find out if the company expects clients to pay their home care workers directly, with the workers then responsible for giving a portion to the company. Companies that employ their caregivers never do this.
- ◆ Verify if the company is a member of the National Private Duty Association, the trade association for non-medical home care. The organization only admits companies that assume all obligations of legitimate employment. (www.private-duty-homecare.org.)
- ◆ Ask a representative of the company itself. Any licensed company that uses true W-2 employees will readily offer substantiation. An evasive answer should be cause for concern.
- ◆ Verify whether a skilled health professional performs an initial assessment prior to starting care. This is a requirement of licensed home care employers.