

## Who to Hire: Home Care Agency, Referral Agency or Private Caregiver?

The questions and answers below may help you assess what level of responsibility and risk you may be undertaking if you hire a caregiver. Home Care Companies generally act as the caregiver's employer. If you (or your family) hire a caregiver through a referral agency or on your own, depending on the arrangement you have with the worker providing home care services, you may have employer responsibilities and may be responsible for employment taxes and insurance. If you have questions regarding potential employer responsibilities, contact the California Employment Development Department at (916) 657-0529. CAHSAH recommends that consumers seeking to obtain home care services make specific inquiries of the companies or agencies involved and consult a Certified Public Health Accountant and/or an attorney regarding their risks, rights, and responsibilities.

Questions	Home Care Agency	Referral Agency	Privately Hired Worker
Who is the employer?	Workers are employed by the Home Care Agency and are paid by the Agency.	The Referral Agency is generally not the employer of the worker it refers to you. Depending on the arrangement you have with the worker providing home care services, you may have employer responsibilities. If you have questions regarding potential employer responsibilities, contact the California Employment Development Department at (916) 657-0529.	Workers are usually employed by the Consumer, or the Consumer's family, and are paid in cash or by personal check weekly or daily.
Who screens worker's references and performs criminal background checks?	Home Care Agency usually does this.	The Consumer can ask the Referral Agency whether the Agency has done this.	Consumer must screen or else assume the risk of not screening the worker for prior criminal history.
How is payment for services made?	Home Care Agency typically submits an itemized statement to client, based on the hours authorized at agreed upon rates.	Consumer usually pays a combined Referral Agency fee and workers' wages into a trust account of the Referral Agency or separately pays the referral fee to the Agency and wages to the worker. Consumer and worker negotiate rates and raises.	Consumer usually pays worker directly on a daily basis or weekly basis. Consumer and worker negotiate rates and raises.
Who is responsible for withholding and paying the following taxes? <ul style="list-style-type: none"> <li>■ Federal &amp; State Income Tax</li> <li>■ Social Security and Medicare Tax</li> </ul>	<ul style="list-style-type: none"> <li>■ The Home Care Agency prepares and files quarterly and annual employer payroll tax returns.</li> <li>■ The Agency pays the cost of the employer's share of Social Security and Medicare taxes.</li> </ul>	<p>The referral agency is generally not responsible for any withholding or taxes. Depending on the Consumer's arrangement with the worker, the Consumer may be responsible for state, federal or social security taxes. The Referral Agency is not permitted to specify if the worker is self-employed or an independent contractor.</p> <ul style="list-style-type: none"> <li>■ The employer is responsible for preparing and filing quarterly and annual employer payroll tax returns.</li> <li>■ The employer pays the cost of the employer's share of Social Security and Medicare taxes.</li> </ul>	
Who is responsible for paying Workers' Compensation and other insurance?	Home Care Agency usually provides and pays for all insurance including Workers' Compensation, professional insurance, and employee dishonest "bond".	<p>The Consumer, or homeowner where the Consumer resides, may be responsible. Insurance for the home care worker is typically not provided by the Referral Agency, including Worker's Compensation or employee dishonesty "bond".</p> <ul style="list-style-type: none"> <li>■ Homeowner's policies that include Comprehensive Personal Liability provide coverage for workers' compensation. Contact your homeowner's insurance carrier for details regarding your coverage.</li> </ul>	
Who coordinates services including replacements when workers are sick and cannot work?	Home Care Agency usually does this.	Day-to-day coordination of services is worked out between the worker and the Consumer. A substitute worker may be available from the Agency. The consumer will need to inquire with the Agency.	Consumer and worker usually coordinate services and arrange for replacements if the worker is out sick or unable to work.
Who resolves problems?	Home Care Agency's supervisors or managers usually do this.	The Referral Agency may call the Consumer to determine if the referred worker is an appropriate match. The Consumer and worker will generally need to resolve day-to-day problems themselves.	

Adapted from CAHSAH