



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division

350 Winter St. NE

P.O. Box 14480

Salem, OR 97309-0405

503-947-7810

Toll free: 800-452-0288

Fax: 503-947-7581

www.wcd.oregon.gov

INDUSTRY NOTICE

May 8, 2019

To: Licensed home health agencies, in-home care agencies, and hospice agencies

Subject: Coverage requirements for home health care workers

The Workers' Compensation Division has received questions about the status of home health care workers under Oregon workers' compensation law.

A person's status under Oregon workers' compensation law depends on whether the person is a *subject worker*. The term *worker* is defined by statute as a person who engages to furnish services for remuneration, subject to the direction and control of an employer. All workers are subject workers, unless they meet a specific exception under ORS chapter 656. Employers of subject workers must provide workers' compensation coverage to ensure these workers receive benefits if injured on the job. Employers are not required to provide coverage for nonsubject workers, but may choose to do so.

Under ORS 656.027(1), a worker engaged in household domestic service by private employment contract, including a home health care worker, is not a subject worker. Under OAR 436-050-0045, this includes workers in the direct employment of the owner of a private home. As defined in OAR 436-050-0045(1), *owner of a private home* includes a relative or guardian of the owner.

Accordingly, **home health care workers who are directly employed by the owner of a private home are not subject workers.** This means that the owner of a private home does not need to provide workers' compensation coverage for these workers. However, the Oregon Home Care Commission is required by law to provide coverage for home care workers who are paid from public funds or whose services are acquired through the commission.

Home health care workers who are not directly employed by the owner of a private home, including workers who are employed by private home health agencies and in-home care agencies, **are subject workers.** This means that an employer must provide workers' compensation coverage for home health care workers who work outside of the employer's private home. Failure to do so may result in civil penalties. Furthermore, by law, a noncomplying employer is financially responsible for the cost of providing benefits if one of its subject workers is injured.

We appreciate your compliance with Oregon workers' compensation law. If you have questions, contact Barbara Belcher at 503-947-7665 or barbara.belcher@oregon.gov.

Louis Savage, Administrator
Workers' Compensation Division