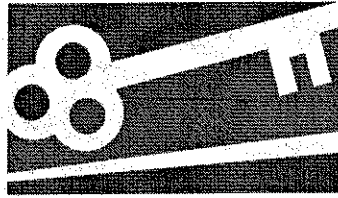


WISCONSIN
QUALITY
HOME
CARE
COMMISSION

EMPLOYER HANDBOOK AND RESOURCE GUIDE

2010



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What WQHCC does for you and your workers?

Many people decide to employ or contract with individual service providers as a way to obtain in-home services, such as personal care, home chore, supportive home care services, respite, child care, therapy and other in home supports necessary to support someone in living in their own home in the community. It is important for both employers and providers to be clear about the employment relationship. They need to agree on how wages and employment taxes will be paid and reported.

This packet describes some of the employer-related requirements and resources that apply to in-home service providers affiliated with WQHCC.

What is the role of WQHCC?

WQHCC provides a registry matching service for in home care providers and employers. You have access to a 24/7 web based search tool, as well our support staff to obtain and sustain your workforce.

When you employ someone to provide services in your home, you make the decision to hire this person and you specify the work to be done. It is your right to hire fire or set conditions of work. We are here to support you in your role as employer. The care providers are always your employees.

If you are utilizing Federal, State or County funds, WQHCC will provide you access to a fiscal agent that will assist you in your legal obligation as an employer. Fees for the Fiscal Agent service are provided by Dane County.

If you are using private funds, WQHCC has a legal obligation to inform you that wages paid to in home workers are taxable income. Any liability you incur will be your responsibility.

What background checks are completed by WQHCC?

WQHCC completes a background, criminal history and employment reference check for anyone included in our registry. These background check policies meet and exceed the requirements of the government funded programs for in home care. The entire policy is provided in this manual.

Accessing Your Online Care Registry Profile

If you have internet access, you can use the directions below to access and update your information whenever you would like. If you do not have internet access, the WQHCC has paper forms available or take your information by phone. If you need assistance with this process, please contact us at 608/630-8402.

For consumers interested in making additional connections to employees/providers, keeping your profile updated can be especially helpful in finding potential workers.

Online update directions:

1. Go to www.wqhcc.org
2. On the left side of the page, click on **Care Registry**
3. Toward the bottom of the page, click on **I have an account – login now.**
4. Enter your login email address: **mwampole@wqhcc.org**. This is a temporary email address we have set up for you. Once you're logged in, you can update this information by putting in your real email address.
5. Enter the password: **changeme**. This is a temporary password we have set for you. Once you're logged in, you can choose a new password for yourself.
6. Click on **Register / Login**
7. You will now be in your Care Registry Profile. Update and change information as you wish, at any time.
8. When you are finished updating, go to the bottom of the page and click on **Update Account**.
9. An email will be sent to you confirming your registration.

What is a Fiscal Agent/Employer Agent and Why Would I Use One?

If you are using funds from a government program to pay your in home care provider wages, you will have access to an employer agent provider at no cost to you. They will pay all necessary taxes and process all required paperwork for you to establish yourself as an employer.

Fiscal agent or Employer Agent services relieve you from most of the required paperwork and insure that wages are reported and employment taxes are paid to the appropriate entities. Employer agent services may charge a fee for these services.

Information about employment taxes, fees and expenses can be provided directly by the Fiscal Agent.

WQHCC currently contracts with Fiscal Assistance of Dane County for employment agent services.

The Fiscal Assistance Employer Agent program offers an option for people with disabilities to employ the caregivers they prefer without the worries of processing the related paperwork. The F.A. Employer Agent program will provide payroll services including preparing and disbursing payroll checks, processing employment related documents, withholding and filing employment taxes, bill payments, obtaining workers compensation insurance and administration, and record keeping services for consumers who wish to hire individuals to provide supports or services in their homes or in the community.

If it is determined by the employer that there is indeed an employer/employee relationship then those payments to the worker will be considered employee wages and will be subject to all applicable taxes and regulations. The F.A. Employer Agent program can assume many of the employer obligations for you.

If there is any question regarding a worker's employment status, Fiscal Assistance of Dane County will require that the consumer file an IRS Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding* and submit the IRS determination to us before the worker is processed as an independent contractor .



Finding and Screening Workers

1. Help I Need A Worker
2. Independent Contractor vs. Employee Screening Tool
3. Criminal History and Background Screening Guidelines
4. Job Description Development Tool
5. Interview Tips

Are home care providers Independent Contractors or my employees?

In most situations, in-home care providers do not meet the criteria of Independent Contractors and would be considered your employees by most government agencies.

Independent Contractors are responsible for their own employment taxes and benefits. Examples of Independent Contractors you may have used in the past are plumbers, landscapers, or consultants. They set their own hours, direct the quality of their work and charge a fee set by them.

WQHCC care registry does not typically have individuals who qualify as Independent Contractors.

This next page contains a screening tool you can use to help determine if the individual(s) who provides your care is an Independent Contractor. Additional copies of this are available at www.wqhcc.org/resources.

EMPLOYEE OR INDEPENDENT CONTRACTOR?

In order to determine if an individual is an employee or an independent contractor, check all that apply. If seven or more items are checked; the individual is an independent contractor and, therefore, monies paid are generally not subject to any taxes.

If an Independent Contractor is paid greater than 600.00 in a calendar year, you will need to issue a 1099 to them for tax purposes.

- The individual must either have or have applied for a Federal Employer Identification number (FEIN).
- The individual must have filed federal self-employment or business tax returns in the previous year based on the type of service they're providing to the employing unit or, in the case of a new business, in the year in which such services were first performed.
- The individual must maintain a separate business with his/her own office, equipment, materials and other facilities. Does the worker have what is needed or essential to do their job or are essentials provided by the employing unit? Consider the type of business when determining what business assets are reasonable to expect the individual to have. For instance, it would be reasonable to expect that a machinist would have tools and equipment and a facility other than his/her home from which to work. It would not be as likely that a computer consultant would have a facility other than an office in his/her home but a computer, modem, and fax would be essential.
- The individual must operate under contracts to perform specific services for specific amounts of money and under which the individual controls the means and method of performing the services. An agreement between the worker and the employing unit is a contract, whether that agreement is oral, written, or limited to the practices followed. An employing unit may direct what should be done by an independent contractor, but the individual should determine how to accomplish the job.
- The individual should incur the main expenses related to the services being performed. If expenses are reimbursed by the employing unit, it is unlikely that the individual will meet this criterion.
- The individual is responsible for the satisfactory completion of the services and is liable for failure to satisfactorily complete the services. If re-work is necessary, will the worker be required to perform the work at no additional cost to the employing unit? If the work is not completed according to contract, can the employing unit sue for breach of contract? An independent contractor is most likely responsible for completing the job to the satisfaction of the employing unit.
- The individual receives compensation for services performed on a commission or per job or competitive bid basis and not on any other basis. An individual paid strictly by the

hour would not meet this requirement unless the hourly rate is part of a bid or per job agreement.

- The individual must be able to realize a profit or suffer a loss under contracts to perform services. If the worker has expenses that may exceed income, this criterion would be met. This would be true, for example, if an individual underbid and material costs exceeded money received for the job.
- The individual has recurring business liabilities or obligations. If the worker has liabilities that continue whether or not he/she has customers, this item would be met. Some examples of liabilities are lease payments, insurance, advertising, professional fees, rent, and interest.
- The success or failure of the individual's business depends on the relationship of business receipts to expenditures. If success or failure of the worker's business depends on something else, such as a single source supplier or a single employing unit's sales license, this requirement is not met.



Criminal History and Background Screening Guidelines **Wisconsin Quality Home Care Commission**

WQHCC will conduct Criminal background checks on all applicants considered for hire and annually for current registrants. Consumers may request subsequent criminal records checks at their discretion. In accordance with state and federal law, the following criminal convictions automatically disqualify an applicant from hire or if already employed, from continued employment:

- 1st degree intentional homicide
- 1st degree reckless homicide
- Felony murder
- 2nd degree intentional homicide
- Assisting suicide
- Battery (felony)
- Sexual exploitation by therapist; duty to report
- 1st, 2nd or 3rd degree sexual assault
- Abuse of vulnerable adults (misdemeanor or felony)
- Abuse of residents of a penal facility
- Abuse or neglect of patients and residents (misdemeanor or felony)
- 1st degree sexual assault of a child
- Physical abuse of a child – intentional – cause great bodily harm
- Theft
- Robbery
- Financial card transactions crimes
- Identity Theft
- Certain Drug Crimes
- Other Offense:
 - Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property
 - Finding by a governmental agency of child abuse or neglect

The full text and citations related to the crimes for which conviction equates to automatic disqualification can be found at Wis. Admin. Code Table HFS 12.115.

Guidelines for Substantially Related Crimes

Other convictions will disqualify the applicant or current employee if the circumstances of the conviction substantially relate to the circumstances of the position. The law does not specifically define what is considered substantially related. The "substantially related" test looks at the circumstances of an offense, where it happened, when, etc. - compared to the circumstances of a job - where is this job typically done, when, etc. The more similar the circumstances, the more likely it is that a substantial relationship will be found. The legislature has determined that certain convictions are substantially related to employment in child and adult caregiving programs regulated by the Department of Health and Family Services. See Wis. Admin. Code § HFS 12.06; Wis. Stat. §48.685

To determine whether a crime is substantially related to the care of a client, some of the factors that will be considered are those in relation to the job, in relation to the offense, and in relation to the person and provided by state law. Wis. Admin. Code § HFS 12.06.

WQHCC may consider the following:

(1) In relation to the job:

- (a) The nature and scope of the job's client contact.
- (b) The nature and scope of the job's discretionary authority and degree of independence in judgment relating to decisions or actions that affect the care of clients.
- (c) The opportunity the job presents for committing similar offenses.
- (d) The extent to which acceptable job performance requires the trust and confidence of clients or a client's parent or guardian.
- (e) The amount and type of supervision received in the job.

(2) In relation to the offense:

- (a) Whether intent is an element of the offense.
- (b) Whether the elements or circumstances of the offense are substantially related to the job duties.
- (c) Any pattern of offenses.
- (d) The extent to which the offense relates to vulnerable clients.
- (e) Whether the offense involves violence or a threat of harm.
- (f) Whether the offense is of a sexual nature.

(3) In relation to the person:

- (a) The number and type of offenses the person committed or for which the person has been convicted.
- (b) The length of time between convictions or offenses, and the employment decision.
- (c) The person's employment history, including references, if available.
- (d) The person's participation in or completion of pertinent programs of a rehabilitative nature.
- (e) The person's probation or parole status.

(f) The person's ability to perform or to continue to perform the job consistent with the safe and efficient operation of the program and the confidence of the clients served including, as applicable, their parents or guardians.

(g) The age of the person on the date of conviction or dates of conviction.

These convictions may include but are not limited to:*

- Battery (misdemeanor)
- Domestic abuse related (misdemeanor)
- Disorderly conduct (misdemeanor)
- Criminal damage to property
- Resisting or obstructing an officer
- Endangering safety
- Reckless endangerment
- Invasion of privacy
- Harassment

*If a person being considered for employment or is currently employed has an offense, WQHCC will make every attempt to obtain a copy of the criminal complaint and judgment relating to these convictions before an employment decision is made in order to better ascertain whether the conviction is substantially related to the position.

WQHCC will also consider as grounds for disqualification any conduct, regardless of whether or not it resulted in a conviction, which evidences a substantial disregard for the health, welfare, safety or property of others, which demonstrates a pattern of unacceptable behavior or which indicates a disregard for authority or proper standards of conduct. Such determinations shall be based upon the results of WQHCC's own investigation, not the individual's criminal record, if any.

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of a young nation that grew from a small group of colonies to a powerful world superpower. It is a story of the struggles for freedom, the search for identity, and the pursuit of the American dream.

The story begins with the first European settlers who came to North America in search of a better life. They found a land of opportunity, but also a land of conflict with the Native Americans.

The American Revolution was a turning point in the nation's history. It was a struggle for independence from British rule, and it resulted in the birth of a new nation.

The 19th century was a time of great change and growth. The United States expanded its territory, and the economy began to flourish.

The 20th century was a time of great challenges and achievements. The United States emerged as a world superpower, and it played a leading role in the world.

Job Descriptions – How do we do that?

WQHCC will refer workers to you. But, employers should have a job description prepared to make sure that their employee is capable of reaching those expectations. What follows are tips and suggestions for creating this job description.

10 Tips for a Job Description

1. Think of a job description as a “snapshot” of a job.
2. The job description needs to communicate clearly and concisely what responsibilities and tasks the job entails and to indicate, as well, the key qualifications of the job – the basic requirements (specific credentials or skills) – and, if possible, the attributes that underlie superior performance.
3. Warning! A job description is generally regarded as a legal document. Any references to race, color, religion, age, sex, national origin or nationality, or physical or mental disability is illegal
4. Don't rely solely on a job's history as you're putting together a job description for today. Focus instead on what the job needs to be in light of current needs and long-term objectives.
5. Tasks are the tasks the person in the job will actually do.
6. Qualifications are the skills, attributes, or credentials a person needs to perform each task.
7. Clarify the actual tasks and responsibilities before you start thinking about what special attributes will be needed by the person who will be fulfilling those responsibilities.
8. A well-written job description consists of more than a laundry list of the tasks and responsibilities that the job entails. It reflects a sense of priorities.
9. Credentials (such as degrees and licenses) are absolute necessities in some jobs. The thing you want to make sure of, however, is that whatever credentials you establish have a direct bearing on the candidate's ability to become a top performer.
10. The job you describe must be truly doable. When you're lumping several tasks into the same job description, make sure that you're not creating a job that very few people could fill.

Job Description

Job Title:			
Location:		Car Required:	
Level/Salary Range:		Position Type:	
Contact:		Date posted:	
Will Train Applicant(s):		Posting Expires:	
Applications Accepted By:			
Fax or E-mail: (
Subject Line:			
Attention			
Job Description			
<p>Role and Responsibilities</p> <p>[Type a description of the essential roles, responsibilities and activities a candidate can expect to assume in this position, using the Details style. For bullets, use the Bulleted List style:</p>			
<p>Qualifications and Education Requirements</p> <p>[Type a description of the work experience and educational background that a candidate should have when applying for position. Use the Details, Bulleted List, and/or Numbered List styles as needed.]</p>			
<p>Preferred Skills</p> <p>[Type a description of any additional skills or experience that would be considered favorable for a candidate who is applying for this position. Use the Details, Bulleted List, and/or Numbered List styles as needed.]</p>			
Last Updated By:		Date/Time:	

