

## Workers Compensation Insurance Concerns for the Home Owner

A discussion of domestic employees, home health care services and farm labor for those with a few acres in the country and insured on a homeowner's policy.

The links below are intended to provide information on who is an employee and when there is a requirement for there to be a workers' compensation policy in force. This includes an explanation of how the rules and requirements are different for domestic employees and for agricultural employees. Pay attention to the definition of domestic employee.

**Iowa**, Summary – refer paragraph 3 and 4.

<https://www.iowaworkcomp.gov/duties-and-responsibilities-employersinsurance-carriers-and-self-insured-employers>

IOWA, code 85.1 More definitive discussion, including agricultural workers

<https://law.justia.com/codes/iowa/2014/title-iii subtitle-2/chapter-85/section-85.1/>

**Wisconsin**, are there exemptions for domestic employees and what is the definition of one?

<https://dwd.wisconsin.gov/wc/employers/domestics.htm>

Wisconsin's 9-point test to determine Workers Comp eligibility, "for other than exempt status employees as discussed above".

[https://dwd.wisconsin.gov/worker\\_classification/wc/ninepart/](https://dwd.wisconsin.gov/worker_classification/wc/ninepart/)

Wisconsin exemptions available to employers that hire farm laborers.

[https://dwd.wisconsin.gov/dwd/publications/wc/WKC\\_10447\\_P.pdf](https://dwd.wisconsin.gov/dwd/publications/wc/WKC_10447_P.pdf)

Examples for discussion:

**"Small farm – few acres -- someone living in the country"**

A homeowner's policy covers personal liability. If a homeowner has a few acres and hires someone, there are workers compensation exceptions for agricultural employees. If you have some income on your small farm – when is that considered a business? Does the homeowner gain any income from any source – cash or otherwise? Do they take tax deductions as a business? Do they rent out pasture, rent

land to a neighbor to grow crops? Do they sell a few bales of hay, eggs, tomatoes? If there are business activities, then it could be assumed that personal liability doesn't extend to cover any injury to the employee regardless of how little has been paid. Yes, in some instances the definition of business is more clearly explained in a homeowner's policy. Read it and see. You might have to obtain an opinion and carefully document it in the file. **The safest and best way is to either add employer's liability into the home or small farm policy. Or, you can purchase a workers comp policy. Both could be set up at a minimum premium.**

## HOME HEALTH CARE -- often doesn't fit the definition of domestic employee.

A domestic worker might be thought of to be covered by personal liability. This is not workers compensation and workers compensation is available if the homeowner would like to have it. A domestic worker may be covered under personal liability as provided by the homeowner's policy. It would be important to document this carefully and have the insurance company in agreement since there can be confusion about what the definition of a domestic worker is and whether their policy will cover this.

A domestic worker (when you read the definitions as outlined in the links above), is not a care giver for a person that might be staying at home and have limited ability to take care of their personal needs. This kind of care is not that of a domestic employee. If the homeowner is paying someone hourly and the employee doesn't have his own business nor work as an independent contractor nor does he/she carry workers compensation, then it is likely the homeowner needs to have their own policy. It is possible that some homeowner policies may extend coverage for in-home care. Please carefully read the policy or check the company and have this documented. If they do extend personal liability to cover this, it still is not the coverage provided by workers compensation – but at least the homeowner is protected.

Family members are sometimes providing this care and they may or may not be exempt from the workers compensation laws as a care giver. If coverage for injuries is desired, the safe way is to have a workers' compensation policy in place whenever a homeowner is hiring someone, "not a business or independent contractor", to do work on their behalf.

Some ask if workers compensation coverage is needed when family – friends are providing the care. They would never bring a claim against the homeowner if they got hurt... They may even have their own personal health insurance coverage. The problem is that the hospital and doctors will bring a claim whenever an injured person is legally considered an employee. They simply ask, how did you get hurt and were you working at the time and for whom. There may be a family member exclusion that might remove the requirement for workers compensation – research would have to be done. A better option is to have a workers comp policy in place if the decision is not to use a qualified service to provide this care. This can be set up at a minimum premium.

