



Home Health Care Agencies Can Avoid Insurance Blame Game with **Auto Liability Coverage & Risk Management**

Home health care continues to grow in popularity as more people choose to stay in their homes, and more medical procedures allow for at-home recovery. Services from home health care agencies can range from non-medical assistance with daily living and household activities, to medical care such as injections or wound care provided by licensed professionals.

Because services are delivered at the clients' homes, employees (caregivers) are required to drive to and from various locations throughout the workday, often transporting clients to doctor's appointments or running errands on clients' behalf.

While some larger home health care agencies provide company-owned vehicles for business use, many agencies cannot afford to maintain a fleet of company autos and instead rely on employees to operate their own vehicles while working.

Without a company-owned fleet of autos, many agencies don't think to purchase commercial auto insurance to protect the company in the event an employee is involved in an accident while performing work duties. Worse, some agencies might assume that the employees' own auto insurance will be sufficient to cover any resulting damages.

Unfortunately, many home health care agencies are unaware that they face auto liability exposures from the non-owned vehicles their employees use for work, and they are surprised when the company is named in a lawsuit related to an employee's involvement in an auto accident.

Agencies can manage this risk exposure with a combination of Non-Owned & Hired Auto insurance and a formal risk management strategy including company driving protocols and employment requirements like a clean driving record, proper auto insurance coverage and proactive vehicle maintenance.

CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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Vicarious liability and non-owned & hired auto insurance

Simply put, vicarious liability means that one party (home health care agency) can be held responsible for the actions of another party (caregiver) acting on the first party's behalf. It is not uncommon for employers to be held vicariously liable for injury or property damages that occur when an employee is involved in a car accident while on the job.

It is particularly common when the damage claim exceeds the liability limits of the employee's personal auto insurance or in situations where the personal auto insurance **excludes** liability coverage if a personally owned vehicle is involved in an accident while being driven for business purposes.

Non-Owned & Hired Auto insurance covers damages (bodily injuries or property) caused by employees while driving during the course of their work. This protection applies to the liability for vehicles the employer doesn't own (employees' personal vehicles) or vehicles an employer hires (like rental cars).

In addition to securing Non-Owned & Hired Auto insurance, home health care insureds should take additional steps to mitigate the potential risk of negligent entrustment.



Risk management strategies to protect against negligent entrustment

In the same vein as vicarious liability, courts may find employers guilty of negligent entrustment when it can be proven that the employer knew, or should have known, that the employee was reckless, incompetent, unlicensed or otherwise incapable of safely performing work duties.

So, in the case of caregivers driving their personal vehicles to perform their jobs, home health care agencies should take reasonable steps to ensure caregivers can safely drive on behalf of the company.

To help protect your home health care insureds from risk exposures related to Non-Owned & Hired Auto liability, consider recommending a written risk management policy that outlines the minimum expectations for each employee while operating a vehicle for company business.

Expectations might include the following:



Driver qualifications

Guidelines need to be set to establish what the agency considers a “qualified” driver. At minimum, a driver should:

- Hold a valid driver’s license in the state where the vehicle is operated, and
- Have a clean Motor Vehicle Report (MVR) that shows the driver meets the qualifications for driver eligibility. For example, the record doesn’t include citations for driving under the influence (DUI) and/or careless and negligent operation of a motor vehicle (C&N).

An MVR should be obtained upon hire and pulled and reviewed on an annual basis. Any employees who don’t meet established driving standards should not be allowed to drive for company business.



Risk management strategies to protect against negligent entrustment (continued)



Driving policies

Home health care agencies should determine if employees are permitted to provide client transportation services, what that might entail, and what the risk exposures might be. If caregivers can transport clients, which type of clients are eligible for transportation? How far can caregivers drive them? Does a caregiver's vehicle need to be handicap-equipped? Is the vehicle in safe and proper working condition?

If a client is injured while being transported by an employee, the financial damages can be significant. Drivers must be properly trained and insured.



Insurance

Agencies should require employees who need to drive their own vehicles for business to include a business use endorsement on their personal auto policy that doesn't exclude liability when using a personal vehicle for business. The auto policy should include liability coverage that meets or exceeds the state's required minimums. Agencies may also want to dictate specific limits based on property and injury damage estimates for that geographic region.



Vehicle maintenance

Because caregivers may be transporting clients, it's especially important that home health care agencies ensure caregivers are driving reliable vehicles that are safe and roadworthy. The agency should require employees to maintain their vehicles in accordance with recommended car manufacturer/dealer maintenance guidelines. It may also be necessary to require staff to properly equip vehicles for emergency and inclement weather (e.g., road-side assistance, spare tire, flares, etc.).



Accident reporting

No matter how much anyone aims for prevention, accidents will happen. Agencies should establish a reporting policy for employees to immediately report the details of any accidents. It can help to have a standardized accident report created and provided to all drivers.



Takeaway

The mission of home health care is to provide a safe environment for clients to live and heal comfortably in their own homes—and this aim should extend to any transportation services offered by an agency. Purchasing proper insurance coverages and ensuring that caregivers are qualified to drive on behalf of the agency helps keep everyone safe and protected from auto liability exposures.

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