



Q&A with Marie Gaudette

Key Considerations for Home Health Care Agencies

Marie Gaudette, program manager of [Amwins Program Underwriters' Home Health Care program](#), discusses crucial coverage considerations and their impact on home health care agencies. Use the following questions as a guide to discuss potential liability gaps and the significance of additional insureds with your home health care clients.



Hired and Non-Owned Auto (HNOA) Liability

Q: What exposures can a home health care agency face without HNOA coverage?

A: Home health care agencies can experience vicarious liability and costly lawsuits when their employees cause damages (bodily injuries or property) when driving non-owned or hired vehicles while on the job. Employees (caregivers) use non-owned or hired vehicles to drive to and from various locations throughout the workday to provide care.

Q: How can an agency mitigate risk and ensure patient safety?

A: Agencies can manage risk exposure with a Hired and Non-Owned Auto insurance policy 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.

Q: How can agencies properly review a Motor Vehicle Record (MVR)?

A: An MVR should be obtained for each new hire and reviewed annually. MVRs should be compared to company policy to determine if drivers meet the qualifications for driver eligibility, including factors such as driving under the influence (DUI) and careless or negligent operation of a motor vehicle (C&N).



Additional Insureds (A/I)

Q: An agency receives a request to add another entity to its insurance policy as an A/I. What does this mean, and how does it impact the policy?

A: When an additional insured (A/I) person or organization is added to a liability insurance policy, they are considered an insured under that policy and can, therefore, enjoy its benefits. The additional insured status often includes a clause stating that the agency's insurance will be primary and noncontributory. This means the agency's policy will pay out first before the additional insured's insurance is activated. Additionally, coverage for the additional insured is typically limited to specific agency operations and does not cover their own independent actions.

Q: How does an agency determine if they need to add an A/I to their policy?

A: Home health care agencies commonly enter into business contracts like lease agreements or service provider contracts. As part of a contractual agreement, persons or organizations usually request to be added to the agency's insurance policy as additional insureds.

Q: Is there a cost to add an A/I to an insurance policy?

A: Agencies may be subject to an additional premium for adding an A/I to their policy. Charges vary depending on the contractual agreement and the number of policies that need to be endorsed.

Q: What does it mean to name an additional insured and submit a waiver of subrogation?

A: Typically, insurance policies require the policyholder to subrogate or transfer rights of recovery to the insurance company. If a home health care agency and its insurance company waive their rights of recovery against an additional insured, the insurance company cannot recover funds from the additional insured. If the additional insured is found at fault after a claim payment to a third party, the agency's insurance cannot recover any funds from them, and the claim will remain in the agency's loss history.

 **Abuse and Molestation Coverage**

Q: What should a home health care agency look for when purchasing abuse and molestation coverage?

A: Abuse and molestation coverage protects a home health care agency from claims of abuse and misconduct, including sexual harassment, by clients and employees. When purchasing this coverage, the agency should ensure there are no gaps and that it covers a broad range of risks.

Q: How can an agency employ risk management to reduce the likelihood of abuse claims?

A: To ensure a robust approach to risk management, agencies must follow frequent and consistent practices to ensure patient safety, such as thorough screenings, training, orientation, competency evaluation, supervision and claims investigations. It is also essential to check in with patients about how satisfied they are with their care provider.

Q: What types of background checks should an agency conduct on their staff?

A: Agencies should conduct criminal background checks (at a minimum, state-based) during the screening and hiring process. Additionally, agencies should verify employment references and work history. If the role involves handling financial transactions, checking credit reports is recommended to assess financial responsibility. For roles involving vehicle use, employees should have a clean driving record, proper auto insurance coverage and perform proactive vehicle maintenance.

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To learn more about our **Home Health Care** program, contact:

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