

Consumer Directed Home Care

For consumers who wish to manage their own home care, registries provide just-in-time access to pre-background-screened, pre-credential-verified caregivers. Registries also can provide administrative support for home-care relationships.

But, this is all that a registry does, because registries are designed to accommodate consumers who want to manage their own home care, which the academic literature calls the “consumer-directed” option.

The consumer-directed option is to be distinguished from the other home-care option, called the “agency directed” option, which involves an agency that manages and controls the home-care services that it provides to a consumer.

Recently, agencies that offer “agency directed” home care (“Agencies”) have been trying to enter the consumer-directed market for home care. But, these Agencies are not designed for the consumer-directed market; they are designed to be the *providers* of home care and to manage all aspects of the home-care experience. The entry of Agencies into the consumer-directed market has created a great deal of confusion.

Agencies are ill-fitted for the consumer-directed market. Consumers who wish to manage their own home care have no interest in paying the higher fees that Agencies charge:

- **For a lower-paid caregiver**
 - An issue that Agencies commonly try to avoid discussing is the portion of a consumer’s payment that ultimately is received by a caregiver. In the case of registries, a caregiver will receive up to 90% of the amount a consumer pays for home care, while in the case of Agencies, a caregiver can receive as little as 40% of the amount a consumer pays.
 - Thus, per dollar a consumer spends, the consumer will receive a higher compensated, and generally more desirable, caregiver by obtaining the caregiver through a registry.
- **For caregiver supervision, which a consumer does not want, and an Agency will not provide in any event**
 - The next time an Agency claims that it supervises its caregivers, a consumer should ask the question: during a 4-hour shift, 8-hour shift or 12-hour shift, how many hours during the shift will a supervisor be on site to supervise the caregiver? A consumer might be surprised that the honest answer likely will be “zero.”

- Consistent with the consumer-directed option for home care, registries do not provide any caregiver supervision.
- **For workers' compensation coverage, which protects the Agency, but does not necessarily protect the consumer**
 - The next time an Agency asserts that it maintains workers' compensation coverage, a consumer should ask how that will protect the consumer. The honest answer is that it *might* protect the consumer, but it also *might not*.
 - The only *certain* protection a consumer can obtain against the potential liabilities associated with a caregiver performing services at the consumer's residence is by the consumer purchasing such coverage, *e.g.*, through a rider on a homeowner's insurance policy.
 - If an Agency *assures* a consumer that its workers' compensation coverage *will* protect the consumer, the Agency should be willing to confirm that representation in writing, *i.e.*, that the Agency will indemnify and hold harmless the consumer from and against any and all liability, including attorneys' fees and costs, arising out of or attributable to a caregiver suffering an injury while performing services for the consumer or while on the consumer's premises.
- **For in-house caregiver training of unknown quality**
 - Agencies commonly train their staff of caregivers. Registries never train caregivers, but instead verify the verifiable training a caregiver has received from industry recognized sources. Unlike Agencies that train caregivers to provide home care in the manner that the Agency prefers (but not necessarily how a consumer might prefer), registries rely on independent professionals to train caregivers in accordance with industry standards.
 - Since the rigor of in-house training can vary widely from Agency to Agency, and some Agencies try to train caregivers even though they lack the expertise, registries believe the most reliable training is the verifiable training provided by an independent firm whose business is to train caregivers.
- **For an Agency to have the right to transfer a caregiver to a different client – against the client's preference**
 - A fundamental distinction between Agencies and registries is that an Agency controls the caregiver and retains the right to move caregivers

from one client to another,¹ whereas a registry has no such right. After a registry refers a caregiver to a consumer, and the consumer and caregiver elect to work together, the registry has no right to interfere in that relationship; it cannot move a caregiver to a different client.

- A common complaint among consumers who obtain home care through an Agency is that the Agency assigns multiple caregivers to the consumer and/or that the Agency re-assigns a caregiver whom the consumer likes to the Agency's other clients.
- **For an Agency, rather than the consumer, to determine whether to replace a caregiver**
 - Correspondingly, under the agency directed option, the Agency decides whether to replace a caregiver that a consumer dislikes.² The most a consumer can do is *request* a replacement and *try to convince* the Agency that a replacement is needed. Under the registry model, by contrast, the consumer decides whether to replace a caregiver; a consumer does not have to provide a reason for the decision; the consumer just decides.

Registries support consumer choice; registries believe that each consumer deserves the right to be informed about the options available, and to make the choice that best meets his or her needs.

For years, registries and Agencies have coexisted in harmony. Only within the past several years have some Agencies embarked on an apparent campaign to attack registries. While we do not know why some Agencies have pursued this strategy, there appears to be a correlation between an increased intensity of the Agencies' negative campaign against registries and an increase in the number of Agency franchisees. It might be that the franchisees were not aware of the

¹ Professors at UCLA conducted a study that compared the two models for home-care delivery. They found:

On average, [*agency directed* model] recipients have relatively little say about who their providers are, since the agency makes worker assignments. More [*agency directed* model] users experience worker turnover and schedule changes, because agencies rotate workers to create scheduling efficiencies....

In the [*consumer directed* model], the match between recipient and worker is done as the recipient makes hiring decisions. On average, recipients have more choice in naming their provider... [*Consumer directed* model] workers have longer tenures in the job... [and] may be better trained to work with a given recipient and may acquire skills better tailored to the needs of that client.

Benjamin, Mathias and Franke, *Comparing Consumer-directed and Agency Models for Providing Supportive Services at Home*, Vol. 35 Part II, *Health Services Research No. 1 Selected Papers From the Association for Health Services Research Annual Meeting* (April 2000) at 351, et seq.

² *Id.*

existence of registries when they purchased their Agency franchise, because many such franchisees appear to be pursuing the consumer-directed market, when their business model is designed for a different, agency directed, market.

Their frustration is understandable, because the same aspects of the agency directed model that add value in the agency directed market, and which also make their option more expensive, are precisely what the consumer-directed option is intended to avoid. Thus, many Agency franchisees who are pursuing the consumer-directed market find themselves trying to sell a less desirable option at a higher price. Some Agencies have reacted to these vexing circumstances by engaging in “registry bashing” and/or by seeking legislation that would require registries to operate as though they were an Agency – which would effectively deny consumers access to the consumer-directed option.

We urge consumers – and policymakers – to carefully read an independent study conducted by the Florida legislature – in response to an Agency led effort to eliminate registries by seeking legislation that would put registries out of business. To their chagrin, the report ended up endorsing registries. A copy of the report is available at www.privatecare.org

Similarly, In the UCLA study mentioned above, the professors found:

The least debatable finding ... is that, from a recipient perspective, both models are associated with positive outcomes and absolute differences between them on various outcome dimensions are not large.... From the recipient viewpoint, however, the outcomes of consumer direction are at least as positive as those for the agency model.

In fact, when recipient characteristics and conditions are taken into account, users of the [*consumer directed* model] report more positive outcomes than [*agency directed* model] users on several dimensions of safety, unmet needs, and service satisfaction....

How do we make sense of these findings?... [The *consumer directed* model] promotes consumer choice and thus enhances the likelihood of compatibility between recipients and providers.³

Imagine that!

³ *Id.*