

## Domestic Workers Workgroup

### Summary Session Notes

September 28, 2021

#### Work Group Attendees:

- Sylvia Gonzalez
- Joe Kendo
- Dana Barnett
- Kasey Bowen
- Puja Dhawan
- Tina Sigurdson
- Fred DuBon

#### *Benefits and Costs of Workers' Compensation*

##### L&I Presenting

- Workers compensation provides protections to:
  - employers – protection from liability lawsuits
  - injured workers – coverage for treatment and benefits
- How it is paid for:
  - Employers may deduct insurance premiums from employees pay
  - High risk industries have higher rates to cover the costs

#### *How to make it easier to provide coverage*

##### L&I Presenting

- Is a worker a covered employee?
  - 3 ways they are exempt
    - § Don't work in WA
    - § 1 of the 15 exempted employments in RCW 51.12.020
    - § Meets all 6 requirements for an independent contractor
- How is an independent contractor determined?
  - 6 requirements
- How to make it easier to provide coverage for domestic workers.
  - Remove domestic worker exemption from RCW
    - § Could still be disqualified under independent contractor or personal labor test
  - Amend RCW exemption
    - § See other states doc
- If exemption is removed, who is the employer?
  - Household
  - On-line referral (if controlling and directing the work)
  - Referring agency
- What would be required of employers?
  - Register with L&I

- Report hours quarterly
- Pay premiums - May deduct employee portion from paychecks

*Workgroup Questions/Comments*

- When we talk about personal labor what if a day laborer has his own truck.  
Personal vehicles don't count we are just talking about large equipment.
- If a day laborer has his own equipment what would that be considered?  
That is still considered covered.
- How do fees get collected?
- How do you define these two groups? Day laborers and like nanny's? What is the current Washington definition of domestic workers?  
Statute says so we look any person who is employed as a domestic servant in a private home by an employer who has less than two employees regular employed 40 or more hours.  
This conversation is ongoing.
- What is the scope of our future recommendations? What is out of scope?  
Needs to be discussed
- What we want to focus on next are easier ways for employers to cover domestic workers and the first question was who is the employer? Is it the household employer or an online referral, how this works what is the role of the referring agency in this case a nonprofit.
- How would home owners insurance work with this?  
Having it covered through homeowners insurance would require the worker to bring their own private suit for their medical and loss wages paid and a lot of workers are not in a position to do that. Where as workers comp covers those costs they can file a claim with the department the department covers the loss wages and medical wages.
- Who should pay the premium?
- There are other models the law changed and created a consumer directive. It pays workers comp for people who are in-home caretakers.
- Online referral, online platforms or websites can control work in a small way  
We are looking at this issue right now and the issue is the direction and control piece, this can be subtle through these online platforms

Action Items:

- L&I Project team to create a supplemental document as a reference tool for DWW members
  1. Other states – coverage domestic worker and day labor and plus definition of domestic worker/day laborer and info on how they collect premiums and reports, etc.
  2. Case law summary on direction and control
  3. Info on joint employer

- Need to explore/get clarity on what does DDS cover for in home care and how that works.
- Clearly identify what is out of scope for the workgroup