



MARYLAND STATE & D.C. AFL-CIO

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**HB 39 - Residential Service Agencies - Reimbursement - Personal Assistance Services
(Homecare Worker Rights Act of 2024)
House Health and Government Operations
January 22, 2024**

SUPPORT

**Donna S. Edwards
President
Maryland State and DC AFL-CIO**

Madame Chair and members of the Committee, thank you for the opportunity to provide testimony in support of HB 39. My name is Donna S. Edwards, and I am the President of the Maryland State and DC AFL-CIO. On behalf of the 300,000 union members in the state of Maryland, I offer the following comments.

HB 39 prohibits the Maryland Department of Health from reimbursing a residential service agency for home health care services unless the care was provided by workers classified as employees and not independent contractors. The home health care industry is rampant with mistreatment and misclassification. HB 39 helps discourage bad behavior by limiting the potential fraudulent business opportunities for bad actors that cost the state thousands of dollars.

On January 9, Governor Wes Moore issued Executive Order 01.01.2024.04 which re-established the Joint Enforcement Task Force on Workplace Fraud. The Order recognizes that misclassification and workplace fraud are ongoing problems in Maryland. The order further reads, "Combating these practices effectively requires a whole of government approach, involving multiple different agencies and authorities within State government." We fully agree and encourage Maryland's medical assistance program to do its part by banning the reimbursement of residential service agencies that contribute to this problem.

In November 2022, the U.S. Department of Labor (DOL) announced it had reached a settlement against A Plus Personal Home Care, based in Pikesville, Maryland. The DOL announced that the residential service agency had stolen overtime wages from over 193 home healthcare workers by illegally categorizing them as independent contractors. DOL was able to recover over \$1.13 million in stolen wages, but is having difficulty locating all of the impacted workers that may be entitled to backpay. The Economic Policy Institute published a report that found some consulting firms, like Contractor Management Services, specialize in advising residential service agencies on how to reclassify their workers as independent contractors. Stories like this are far too common in the industry and only state intervention can help root out these bad actors

The Internal Revenue Service is very clear on the differences between an employee and independent contractor, stating, "The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done." This does not apply to the home health care industry where residential service agencies still maintain a large degree of control over when and how their employees carry out their tasks. Employers are committing payroll fraud by misclassifying their workers as independent contractors, denying the state its share of unemployment insurance, state and local taxes, and workers compensation.

The State of Maryland must stop rewarding companies that are misclassifying their workers and defrauding the public. We urge the committee to issue a favorable report for HB 39.