

Biden to DOL: Workers Have 'Guaranteed Right to Refuse Employment' if They Feel Unsafe

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In President Joe Biden's first few days of office, he has signed a slew of executive orders, some of which may have an immediate effect on home health and home care agencies.

One executive order, for example, laid the groundwork for a \$15 minimum wage. The "Fight for \$15" has long been a complicated issue for America's home-based

care operators, many of whom want to pay their workers more but struggle with stagnating reimbursement rates.

In addition to that, Biden also plans to increase the unemployment benefits add-on by \$100 to \$400 per week once the current spending package expires in March.

Anecdotally, providers haven't been too concerned about the additional benefits. But there's another aspect of Biden's plan that could make it into a larger issue.

A fact sheet released by the Biden administration on Jan. 22 says that "workers have a federally guaranteed right to refuse employment that will jeopardize their health, and if they do so, they will still qualify for unemployment insurance."

That is a part of the "new executive actions" to "deliver economic relief for American families and businesses amid the COVID-19 crises," according to the fact sheet.

Specifically, Biden is asking the U.S. Department of Labor (DOL) to consider clarifying that workers do have the right to opt out of work if they fear it is unsafe for them or their families.

Further guidance on which types of workers would apply has not yet been provided.

"The Biden package could certainly create some incremental headwinds for home-based care staffing, as we saw in the summer months last year after the first iteration of the CARES Act implemented the \$600-per-week unemployment assistance," Scott Fidel, an analyst for the

financial services firm Stephens Inc., told Home Health Care News in an email last week. "However, we would not expect the staffing challenges to not be as significant as what we saw last year following the CARES Act."

But with that potential DOL provision, things could get tricky for both home health and home care providers.

Theoretically, if the DOL did clarify that workers can stay home and collect unemployment if they feel unsafe, that could put thousands of home-based care workers in the position to opt out of their jobs for the time being.

Home care agencies have used hazard pay from Paycheck Protection Program (PPP) loans in an attempt to mitigate some of these issues.

Likewise, hazard pay from the government was supposed to fill holes on the home health side.

Particularly when it comes to Medicaid reimbursement, however, hazard pay has come late and been subject to high taxes. That's at least the case in Virginia, where checks came in up to three months late and with a 35% chunk taken out for taxes, according to the Richmond Times-Dispatch.

Hazard pay can encourage workers to stay on the job and risk their own well-being, but it's often not enough to overcome concerns about potentially exposing high-risk family members back home.

In 2019, 43% of American households reported having at least one member with pre-existing conditions.

"President Biden believes that workers should have the right to safe work environments and that no one should have to choose between their livelihoods and their own or their families' health," the fact sheet states.