

Disciplinary Action & Termination

You're Now an Employer of
Personal Care Assistants

DISCIPLINARY ACTION

Connecticut Community Care, Inc. Self-Directed Support Services

The preparation of this document was financed under an agreement with the Connecticut Council on Developmental Disabilities.



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Connecticut Council on
Developmental Disabilities



Money Follows the Person Demonstration
by the Centers for Medicare and Medicaid Services

Getting Started

There may be times when disciplinary action is needed. When someone is hired, the hope is that there will not be problems that occur with your personal care assistant. But the reality is that no one is perfect, and problems can occur. Some disciplinary issues that can occur may include the following:

- ☑ **Attendance** – this may include coming to work late, calling out of work often, or leaving work without permission.
- ☑ **Poor Performance** – not completing the work assigned or not meeting the requirements of the job. This may include leaving things messy or not doing something, but saying it was completed.
- ☑ **Misconduct** – stealing, lying, falsifying documents, or putting your health or safety at risk.
- ☑ **Behavior Problems** – disrespecting or yelling, possession of drugs or alcohol and intoxication, carelessness or falling asleep at work.

Responding to Disciplinary Issues

When disciplinary issues occur, it is necessary to address the issue right after it happens. Do not wait because the issue may continue and could get worse. If your health or safety is at risk **immediate action** must occur. Take the following steps to avoid further problems:

- ☑ **Verify the information to be sure it's correct** – be sure you are clear about the issue before talking to your personal care assistant.
- ☑ **Write everything down** – it is important you write down what occurred during the meeting, especially regarding any decisions made.
- ☑ **Discuss in detail what steps are needed to correct the problem** – both you and your personal care assistant should be clear on the steps. Depending on the issue, it could be termination.

Taking Formal Action

If formal disciplinary action needs to occur, document the steps needed to correct the problem. Documentation of the process taken to correct the problem will be required, especially if termination occurs. The steps you should take for formal action of a disciplinary issue are as follows:

- ☑ **Talk to your personal care assistant** – discuss what the issue is, and what they must do to resolve the issue. For example, if your personal care assistant has been late to work often, the issue will be resolved by coming to work on time.
- ☑ **Written Warning** – should occur if you discussed the issue and what needs to occur, and the problem is still occurring. State that further disciplinary action will occur if the problem is not corrected. This should go into their employee file, and shows proof you tried to work out the problem. This is helpful if termination occurs.

Tip

As an employer, you are responsible for resolving any disciplinary issues. Be sure to document the steps you took in trying to resolve the issue.

- ☑ **Ask your personal care assistant to discuss what will help to resolve the issue** – this shows you are willing to listen to him/her and help to resolve the issue. If he/she does not want to discuss it, put this in their file as well.
- ☑ **Take final disciplinary action** – once you have completed all the steps needed, and the issue continues. Take action on what you said you would do in the written warning. Often times it call for termination. Make sure you follow the same process for all your personal care assistants.

Keep in mind that if the issue is severe enough that it affects your health and safety, you may **immediately** terminate your personal care assistant and also contact the police if required. Just be sure you document in detail what occurred and why immediate action was needed.



TERMINATION

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You will face termination of employment with each of your personal care assistants at some point in time. Usually it is voluntary because changes have occurred, and working for you is no longer possible. It is also possible, that you may need to terminate employment for one of your personal care assistants involuntarily. Either way, it can be emotional, but when it's involuntary you also need to focus on doing specific things to avoid problems down the road. This is especially important if unemployment compensation is involved. This tip sheet will provide you with information you need to think about during the termination process.



Involuntary Termination of Employment

While every employer hopes they will never have a situation where they need to terminate employment involuntarily for one of their personal care assistants, it can happen. There are three common reasons why this may occur: poor job performance, change in need of your personal care assistant, or your health or safety is at risk. Unless you are at risk or a criminal action has occurred, do not act immediately. Make sure you have the documentation you need before proceeding, and keep it confidential. It is also helpful to keep the following other tips in mind:

- ☑ Explain in detail why your personal care assistant can no longer work with you;
- ☑ Give an end date (usually two weeks) and state it's final;
- ☑ Offer to help locate another job by giving a reference or suggesting possible jobs; and
- ☑ Do not argue, and make sure you are in a safe situation.

Unemployment Issues

There may be situations where you are contacted by the Department of Labor regarding unemployment benefits for your personal care assistant. This will most likely occur if termination of employment was involuntary. If you are contacted, it is important you have as much documentation as possible. Termination as it applies to unemployment benefits is broken down into three categories:

- ☑ **Voluntary Quit** – is when your personal care assistant leaves on their own and not because of anything you did. You do not have to pay unemployment.
- ☑ **Discharge** – You do not have to pay unemployment if the reason for discharge was “willful misconduct”. Willful misconduct includes disregard of your best interest, or a single violation of “a reasonable and uniformly enforced rule” made by you and your personal care assistant. It is extremely important you have good documentation. This includes written warnings.

Documentation is critical to prove why you terminated employment of your personal care assistant, especially when it is involuntary.

- ☑ **Additional Reasons** – This is when a final determination is made by the Department of Labor about whether unemployment benefits are granted. This is where documentation will be requested. It is likely that without documentation, you will be required to pay unemployment benefits.

When you are required to pay benefits, this may affect the hourly rate you can pay your personal care assistants since your unemployment rate will most likely go up. This will impact on the Medicaid rate assigned for each Waiver program, requiring you to pay a lower hourly rate. It is important you are aware this does occur, so you can explain this to your other employees.

