

Live-in Caregiver Guide for Caregivers

Information for people considering work or working as live-in caregivers for with developmental disabilities



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Using this Guide

This guide was created by The Arc of Northern Virginia, thanks to a generous grant from the Arlington Community Foundation. The information is all true and correct to the best of our knowledge as of Spring 2018 when the guide was originally published. See the cover for updated publishing dates to ensure you have the most recent version.

This guide is meant to help you explore becoming a live-in caregiver, decide whether this is the right choice, and navigate how to work in this type of job. While individuals with developmental disabilities are increasingly relying on live-in caregivers, this is still a relatively new phenomenon. Many people have questions about the work involved and the nature of the relationship between the resident with a disability and the live-in caregiver. It is our goal to help everyone involved understand the issues and make this relationship as smooth as possible.

If you are just learning about live-in caregiver job opportunities, the information in this guide may seem overwhelming at first. Keep in mind that anytime you look at a new way of doing something, it can seem daunting. The guide is broken into small sections, so you may decide to read one section at a time as it applies to you. Skip entire sections if they are not relevant to your situation. This is more of a manual than a story, so you may not read it as a linear start to finish product, and that is okay!

Cover your guide with notes, questions, and thoughts and refer back to it later. You do not have to tackle this all in a day, but the sooner you begin thinking about this idea, the longer you will have to weigh the options and decide if it is a good fit.

When the guide refers to “you,” we mean the live-in caregiver.

There is a companion to this guide, the Live-in Caregiver Guide, directed at people with disabilities and their families. It is a longer, more detailed version of this guide to help them understand their rights and obligations. You can find it at <https://thearcfnova.org/programs/transition/finding-home-adults-disabilities/housing-toolkit/>. We suggest you share a copy with anyone who asks you to be a live-in caregiver.

The Nuts and Bolts of Live-in Caregiver Services

1. What does it mean to be a live-in caregiver?

As a live-in caregiver, you would reside with an adult with a disability and provide daily care and support as needed to enable the adult with a disability to live in his/her own home. The home of the individual with a disability is essentially the live-in caregiver's primary, full-time residence.

Live-in caregivers perform many kinds of tasks for people with disabilities, such as:

- personal care (e.g., assistance with bathing, dressing, grooming, toileting, eating, etc.)
- assistance with independent living activities (e.g., shopping, meal preparation, laundry, housecleaning, making and getting to appointments, reviewing mail, answering callers at the door or on the phone)
- companionship (e.g., keeping a person company, encouraging participation in recreation and social activities, and watching over the person)
- health related services (e.g., diabetes monitoring, medication administration, tube feeding, injections and other medically related activities that nurses or doctors are not required to perform)

In this role, you can be the sole caregiver for someone with a low level of need who simply requires some companionship, or for someone who has a higher level of need and relies on one staff person for the bulk of that support. Alternately, you can be part of a team, with other visiting caregivers and/or nursing staff, therapists or professionals brought in to complement your work.

2. Is a live-in caregiver the same as a live-in aide?

In short, yes. Live-in aide, live-in staff, live-in caregiver and live-in are interchangeable terms that have similar meanings. We will use these terms throughout the guide. "Live-in aide" is the term used by the U.S. Department of Housing & Urban Development's Housing Choice Voucher program for live-in caregivers provided through a reasonable accommodation, or a change to the policies or rules that enable an individual with a disability to access and use the program. When you get to Section "Understanding Reasonable Accommodations and the Rules Surrounding Them", you will read about that in more detail.

3. How do you get paid as a live-in caregiver?

The answer to this question depends on who hired you and what work you are performing. Some live-in caregivers are paid for their work hours using a Medicaid Waiver-funded service such as personal assistance or companion services. Other live-in caregivers are paid privately for their work hours.

Usually a live-in caregiver does not pay rent. The individual with a disability (or family/guardian) may pay the rent, or a rent subsidy may pay a portion or the full amount of the rent. In some cases, the actual cost or value of the housing an individual pays for and provides to a live-in personal assistance caregiver can be deducted from the wages the individual owes that caregiver (see Section “Fair exchange of work for lodging”). In other cases, an individual who needs minimal supports such as monitoring and socializing may be exempt from paying minimum wage and overtime and can negotiate live-in companion care in exchange for providing free lodging (see Section “The Companionship Services Exemption, or 20% Rule”).

4. Who is the landlord? Can I lose my housing if I leave the job?

If the person with a disability and or/their family owns the home in which you would live, they are the landlord. If the person with a disability is living in housing funded by a voucher or other housing subsidy, the landlord is the person from whom they are renting the unit. In either case, the rental agreement should define the live-in as an authorized occupant whose ability to remain in the residence is contingent upon providing supports to a tenant/occupant with a disability. As a result, you will not have the same tenancy protections as a leaseholder (renter). You must leave the home with minimal notice and permanently if you are no longer working as live-in staff.

5. Who is my employer?

If the person with a disability was involved or will be involved in recruiting, hiring, training, managing, paying and/or firing you, they are likely an employer. This guide will go into more detail later about the responsibilities of employers, since they vary widely based upon whether or not they are the sole employer, they share that job with an agency or other group (a “joint” employer), or they are using a live-in caregiver for minimal companionship or a wider range of supports, and what type of assistance you provide.

Is Being a Live-In Caregiver a Good Choice for You?

1. Making a list of pros and cons

Deciding to be a live-in caregiver is a significant life decision. After all, it feels very different to have an apartment all to yourself than it does to share that home with someone else, especially someone you may not know very well. Never make a decision this important because you are in a rush to move. There is a lot of work and commitment involved.

Sit down and list the reasons why being a live-in caregiver would be a good fit for you, and why it may not be ideal. Take time with people who know you best to evaluate your list and determine what the best choice is for you.

2. Benefits of being a live-in caregiver

Many people are doing this job. Here are some of the great things about this decision you may want to consider.

- A. Live-in caregivers almost never pay rent to live in the home, since some of their support hours are usually offered in exchange for free rent and utilities. Living rent free in Northern Virginia can be life changing.
- B. Live-in caregivers can sleep overnight and just be “on call” in the event of an unusual need, in many cases.
- C. Live-in aides can work in tandem with other drop-in staff or natural supports, so you may have a network of other caregivers to help you ensure the person with a disability is well supported.
- D. Live-in caregivers do not have commutes!
- E. As a live-in caregiver, you would have a set schedule of working hours and tasks. However, you’d likely be in the home outside of those hours since you live there, too. It is a great opportunity to form real friendships with the person with a disability.
- F. You will be a role model. You will be buying your groceries, paying bills, and fulfilling other adult obligations in the home which can serve as natural peer mentoring and teaching moments. This is a meaningful way to give supports without even knowing it and to help someone gain even greater independence.
- G. Since live-in caregivers may have very part-time schedules based upon the needs of the person with a disability, this opportunity is sometimes a great fit for college students or young professionals in the field of special education, social work, or other professions looking to gain great experience in the field and save money on rent.
- H. If you accept a live-in position with relatively few hours, you can certainly pursue other full or part-time work opportunities.

3. Challenges to being a Live-in Caregiver

It is just as important to weigh the work and concerns related to being a live-in caregiver as it to see the benefits. Here are some points to evaluate when deciding if this job is the best fit for you.

- A. This is a serious job and a vulnerable adult will be relying on you for their safety and support. It is a serious responsibility you should weigh heavily.
- B. You will likely have set hours you need to be in the home overnight, perhaps 10 PM-7 AM or longer. It may seem like that is no problem, but remember that does not offer much flexibility for late night or early morning activities.
- C. Think about your natural schedule and rhythms. Don't take a job for someone who is a "early bird" if you are a "night owl." This jobs works best if you have naturally similar schedules to the person you will support.
- D. You will need to undergo a background check and complete significant paperwork to be a live-in caregiver, so know that once you are hired, you likely won't be moving in immediately.
- E. You will need to plan in advance for times when you are not able to work you regularly scheduled hours and come up with a backup plan, in conjunction with the person with a disability and their support team.
- F. Your housing is contingent upon employment, so you must leave the apartment/home soon after you quit or are fired and find new housing.
- G. You will be living in someone else's home, sharing personal space, and making it your home, too. If you are very particular about the way you like your home, are very private, or are easily disturbed, you may not want to live with someone else.
- H. Generally, housing subsidy programs make a maximum of one bedroom available for a live-in caregiver. If you have a family, you would need to be up front about their need to live with you, see if that would work for the person with a disability, and share one bedroom with your family member(s) in accordance with the program rules.
- I. You are supporting someone with a disability. They likely have a team around them who cares deeply about them and may be very protective. You will need to be tolerant as they teach you the way they want supports offered, and to be willing to provide the supports as described.
- J. Being a live-in aide is a hard commitment to truly understand if you have not done it before. If you know anyone else who has done this, reach out to them to ask about their experience.

4. Other services may be offered in the home, too

As you think about this job, realize that there may be other caregivers who drop into the home to offer additional supports beyond what you provide. You will want to know these folks, communicate any changes or concerns you have, and work as a team.

The services below with an asterisk (*) following their title could be used in combination with a live-in caregiver, like you, to offer additional supports as needed. For example, you may provide supports overnight and in the mornings, and someone else may come in to offer assistance after the person with a disability arrives home from work, while another person offers skill building on the weekends, and electronic home based monitoring is put in place to allow the person with a disability to have backup for hours they are in the home alone.

The services described here are usually funded through a public funding stream called Medicaid Waivers, but they could also be purchased privately.

- A. **Personal Assistance Services***- The Waiver can pay for care attendants on an hourly basis to come to the home for as many hours a day as needed for some people with what is called a DD Waiver, or with a cap of 56 hours a week of personal care for the CCC+ Waiver. Most individuals use this for before/after work hours and on the weekends.
- B. **In-home Supports***- DD Waivers can fund a service called “in-home supports,” which includes a focus on skill building and reaching certain goals in addition to the direct provision of care.
- C. **Companion Services***- The DD Waivers fund companion services up to 8 hours a day, based on need. The companion’s job is to provide fellowship and oversight for safety. This may be in addition to companionship hours you would provide.
- D. **Respite Services***- All Waiver users have access to 480 annual hours of respite care they can use as needed to augment their regular weekly care hours as needed. This may fund some limited backup support hours if you are not able to be there at your regularly scheduled hours.
- E. **Personal Emergency Response System (PERS) and Medication Monitoring***- All of the Waivers fund the PERS system, which allows the person with a disability to simply push a button if they feel they need to be connected to emergency services. The 911 operator will automatically receive background information on the individual and their needs, and will then dispatch supports. The system can be used in combination with a medication monitoring tool that provides prompts to take daily medications.
- F. **Electronic Home-Based Supports***- The DD Waivers offer this service, which can provide electronic technologies in the home to increase independence and safety. Examples include adjustments to stove tops so they automatically shut off after use, chimes to alert people when windows and doors have been left opened, and bedside switches to allow you to see who is ringing the doorbell and to grant access to the home.

Planning to be a Live-In Caregiver

1. A timeline for becoming a live-in caregiver

Depending upon the housing situation, a person with a disability may begin looking at hiring live-in caregivers at a range of times. Bear in mind, they may not always have control over the speed of the process.

If someone with a disability owns a home that has a spare bedroom, they can start thinking about having a live-in caregiver at any time.

If the person with a disability is using a rent subsidy, they may be looking for a first time caregiver, or a replacement for a live-in caregiver who has moved out. If they are applying for a subsidy, they will need to meet the criteria, ask for a reasonable accommodation for a room for the live-in aide before the subsidy is issued (see the next section), find housing, and set a move in date. This can take several months. If they are replacing a previous live-in staff person, the timeline is likely to be much quicker. In either case, you would need to be ready to produce the needed documents (e.g., proof of citizenship/legal residency, Social Security card, photo identification) and comply with a background check that rules out people with a range of barrier crimes.

If the person is applying for a housing program that has a long waiting list, they may reach out to you to ask about your interest in this job for some point in the future. They are trying to plan and be as proactive as possible. Of course, waiting lists usually mean they will not know when exactly they would get a housing unit or when you could begin work. Take the request as the compliment it is and think about whether this is a good fit for you. Let the person know if you are willing and able to move with relatively short notice (i.e. 30-90 days) should a housing option become available.

Understanding Reasonable Accommodations and the Rules Surrounding Them

1. What is a reasonable accommodation in housing and how does it apply to you as a live-in caregiver?

Individuals with disabilities who live in homes that they own generally can decide what to do with their property and do not have to request permission to make a bedroom available to a live-in caregiver. However, individuals with disabilities who receive rent assistance or who rent housing must follow the rules of the housing program or their landlord. Some rules may present obstacles to having a live-in caregiver, which makes it difficult for a person with a disability to access and use rent assistance and/or rental housing. That is why they may need a reasonable accommodation. A “reasonable accommodation” is a change, exception, or adjustment to a rule or policy that is necessary for a person with a disability to have an equal opportunity to use a particular housing program or to use housing that is for sale or for rent.

The Fair Housing Act Amendments of 1988 require rental housing properties with more than four units to provide reasonable accommodations. Rental housing programs funded with federal financial assistance are required to provide reasonable accommodations under Section 504 of the Rehabilitation Act. This includes the Housing Choice Voucher program, a rent subsidy that participants can use at any rental housing property that will accept it, and Section 8 assisted housing and public housing, which provides rent subsidies attached to units in specific rental properties. These programs are all funded by the U.S. Department of Housing & Urban Development and operated by local public housing agencies or authorities (PHAs). State and locally funded rent assistance programs must provide reasonable accommodations in accordance with Title II of the Americans with Disabilities Act, which covers access to state and local government services.

The federal Department of Housing and Urban Development (HUD) rules state that PHAs are required to approve live-in caregivers if needed as a reasonable accommodation for a household where there is a person with a disability. This is regulation 24 CFR 982.316. If the person with a disability is using the Housing Choice Voucher (HCV) Program, you as the live-in caregiver will be referred to as a “**live-in aide.**” The Department of Behavioral Health Developmental Services (DBHDS) State Rental Assistance Program (SRAP) has adopted the Housing Choice Voucher Program’s guidance on reasonable accommodations for live-in aides.

The HCV Program and SRAP define a live-in aide as:

“A person who resides with one or more elderly persons or near-elderly persons or persons with disabilities and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.”

2. What rules or policies do HUD and DBHDS adjust in these rent assistance programs so PHAs can provide live-in aides as a reasonable accommodation?

First, PHAs must make an exception to their programs’ subsidy standards to provide a **separate bedroom for you**, if needed. Remember, though, while you may have approved family members live with you, PHAs are not required to provide additional bedrooms for these family members.

Second, PHAs must **exclude your income when determining the household’s initial eligibility for the program AND when calculating the household’s share of the rent**. As a result, *a housing choice voucher or SRAP certificate may cover the cost of an additional bedroom for you at no additional cost to the household*, as long as the rent does not exceed the maximum allowed by the program.

Landlords who operate rental housing properties must also consider requests for live-in caregivers as a reasonable accommodation for tenants with disabilities. For example, an applicant for an apartment may request that a live-in caregiver be considered an authorized occupant on the lease. “Authorized occupants” are entitled to occupy a dwelling unit with the landlord’s consent, but they **do not sign the rental agreement, so they do not have a tenant’s financial obligations**. For example, landlords generally do not consider an authorized occupant’s income and credit (e.g., your income and credit) when reviewing whether the household qualifies to rent the unit. However, occupants (e.g., you) also do not have the same tenancy protections. In this case, your ability to occupy the residence is contingent upon your live-in caregiver status and compliance with the landlord’s rules and regulations. If the leaseholder or tenant with a disability no longer needs a live-in caregiver or discontinues services, or if you cause a lease violation, you do not have the same rights of possession to the unit or procedural remedies as a tenant would. For example, occupants are treated as monthly residents and subject to an abbreviated legal process for removal.

3. Determining if you meet the eligibility criteria for live-in aides

Rules for the Housing Choice Voucher Program and SRAP specifically note that live-in aides are reasonable accommodations when the live-in aide is essential to the care and well-being of the person with a disability, not obligated to provide the support, and would not be living in the unit other than to provide this support. You will need to meet all of these stipulations to be considered.

There is no specific definition of “essential care.” Instead, HUD suggests PHAs obtain written certification from a doctor or other professional that an attendant is required to provide care necessary to the individual’s employment or assistance with activities of daily living. The person with a disability and their support network should ensure they have this documentation.

Now, let us look at the provision stating the aide is not obligated to provide support to the person with a disability. Parents and spouses are considered people who would normally be expected to be living with and/or providing support to the person with a disability, so you would not be eligible to be a live-in for your child or spouse.

Finally, the regulations are trying to ensure the live-in aide is only living in the home for the purpose of caregiving. Thus, it is unlikely you could be approved if you were already roommates with the person with a disability.

If you are a relative (other than parent or spouse), you may qualify to be a live-in aide, but a PHA may require the household to certify that the you would not be living with the person except as a live-in aide, you are qualified to provide the needed care, you were not living with the person with a disability immediately prior to the request, and you will maintain separate finances from the Housing Choice Voucher participant.

There is no uniform definition or set of criteria that landlords have for live-in caregivers. Most landlords screen live-in caregivers and apply the same exclusionary criteria for criminal history or poor rental history as they do for any other applicant. However, as mentioned previously, landlords generally will not consider your income and credit when reviewing whether the household qualifies to rent the unit.

4. When would the person with a disability make the request for a live-in aide as a reasonable accommodation?

A request for a reasonable accommodation can be made at any point in the housing process. However, the sooner it is done, the better. It may take anywhere from a few days to several weeks to get the PHA to approve a request. Be ready to affirm your commitment to the job quickly when asked.

5. How does the person with a disability request a reasonable accommodation for you to be their live-in caregiver?

There is no single way to make a request for a reasonable accommodation for a live-in aide. Some PHAs and landlords have clear policies and procedures for requesting reasonable accommodations and others have more loosely defined processes. Regardless, a request is only considered to have been made when the person with a disability makes it clear that they are

asking for an exception to the rule based upon their disability. The request should explain the type of accommodation needed (e.g., a live-in aide/caregiver). If there is any question about the need for such support, the housing provider can request an explanation of why the requested accommodation will meet a disability-related need.

6. Who can request the reasonable accommodation?

The person with a disability or anyone acting on their behalf can make the request for a reasonable accommodation for a live-in aide.

7. Can a request for a live-in caregiver be denied?

Requests can be denied if they do not meet certain criteria.

- If the request was not made by the person with a disability OR someone acting on their behalf, it can be denied.
- If the request does not meet a disability-related need, it can be denied.
- In the HCV Program or SRAP, if the requested live-in aide is a relative, the relative and person have been living together already (not as a live-in aide), and the relative is not qualified to support the person, the request can be denied.
- PHAs may also disqualify live-in aides if, upon initial eligibility or while in the program, the person committed fraud, bribery or other corrupt or criminal acts in connection with a federal housing program; the person committed drug-related or violent criminal activity; or the person currently owes rent or other amounts to a PHA related to the Housing Choice Voucher Program or public housing assistance.
- Finally, PHAs can establish screening standards for live-in aides, such as conducting criminal background checks, requiring landlord approval of the live-in aide, and verifying the need for and eligibility of a live-in aide at annual recertification.

In general, reasonable accommodations should be granted unless they would pose an undue hardship or burden on the housing provider or agency granting the subsidy, or would fundamentally alter a program.

Finally, there are a few specific situations in which a housing provider is not obligated to follow the Fair Housing Act and could deny a request for a reasonable accommodation. First, a housing provider who owns a building with no more than four units and individually occupies at least one of the units is exempt. Second, individual owners who sell or rent single family housing without using a real estate agent, do not own more than three single family homes, have not sold a home within the prior 24 months and do not use discriminatory advertising are exempt. Essentially, landlords who own very few properties may opt to deny requests for live-in aides, but they may also agree to accept the request. It is always worth asking.

Your Employer

As you consider becoming live-in caregiver, one of the first things you will need to know is who will be responsible for your hiring, training, and management. It may be the person with a disability, the person's family and/or support team, or an agency.

1. Being directly employed

The greatest benefit of being directly hired is that you and the person with a disability will choose each other. They will find, interview, and hire you, and you will have a chance to meet them and ask questions. You may find someone with interests similar to yours, or who has a similar lifestyle and schedule. You would never be obligated to work for anyone else other than the person who hired you.

2. Being employed by an agency

You could also work for a home healthcare or other staffing agency directly, and find a job placement with someone in need of a live-in aide. In this case, the agency is your standard employer, but the person with a disability takes on a dual employer role since they will have a say in your schedule, training, and possible termination. In this case, you are unlikely to get much choice in selecting your living situation and the person you'll support, other than to say "yes" or "no" to the individuals the agency matches to you. In this situation, there are greater mandates for pay minimums in some cases. See section "Fair Labor Standards Act and Department of Labor" in this guide for more details.

3. Can I have another job?

Yes, you can. This may be necessary if you provide only basic companion work (e.g., fellowship and watching over the individual), in which case, your only pay may be the rent/utilities. If you have another job already or know you will need another job in this role, be up front about that with the person who may hire you. They need to understand if you may have other obligations that could conflict with their support needs.

4. Am I eligible to be a live-in caregiver?

If the person with a disability owns their own home, and is privately searching for a live-in caregiver without any public funding (i.e., no Waiver, no housing subsidy), they will set the requirements for the job. Most families would agree having an adult who is able to pass a background check and can fulfill the job tasks is a common sense requirement.

If the person hiring you is using any type of public funding (i.e., a Medicaid Waiver or housing subsidy), you must be 18 years or older, have a Virginia license (if you will be asked to drive the person), and be able to pass the background checks with the PHA and/or the landlord. You must have a Social Security number and be eligible to work in the United States. You must meet

the criteria required for a reasonable accommodation request, if you are using public housing assistance. As discussed earlier in this guide, this means you cannot be a parent or spouse, you cannot have been living with the person with a disability immediately prior to becoming a live-in aide, you can meet the needs of the person with a disability, and you are not financially supporting the individual (e.g., contributing toward the household income).

5. What should you look for in a job posting?

The best ads are clear, personal, and concise. You want to really understand what is needed and if it may be a match for you. Keep in mind, each person with a disability is totally different, so having experience with other people with disabilities is often a benefit, but may not be required.

When looking at job posts and having interviews, find out the following:

- A general description of the hours. What times must you always be in the home (e.g., evenings from 10 PM-7 AM, plus 4-7 PM three days/week and Saturdays 8 AM-11 AM)? Is there flexibility in the hours needed/scheduled, and will there be times when other staff are in the home?
- A rough outline of the duties. Will you mostly be a companion? How much time will you spend directly helping with personal care, and what will that involve? Will you have to cook, clean or go shopping? Will you be expected to manage communication with drop in staff, the family, and the Support Coordinator?
- Compensation. Is the only payment free housing? What about utilities? Are any other benefits funded, such as gas mileage, food, cable/Internet?
- A start date. Are you needed immediately or in the coming weeks? Is the start date negotiable? How long will it be before you could move?
- A job location. The exact address may not be known if the person is still looking for the right home, but get a sense of the areas where they are searching.
- Transportation options. Do you need a home near bus/Metro so you can commute to another job or run errands?
- A match in their needs and your abilities. You'll be provided training on the job, but you want to have a sense that your natural interests and skills match up well with what is required. If you share personal interests with the person with a disability, the odds that you will enjoy each other and work well together increase.
- Statement on the period of time you would work. Some people would ideally like to see a multi-year commitment, while other may be alright with someone who knows they can only do this for a year. Be sensitive to those needs and upfront about what you can promise.

6. Sample live-in agreement

Once you have accepted a job, make sure you have a live-in caregiver agreement that reflects the job as described and expectations of you. See Appendix A for a sample agreement that may be like one you sign. Good agreement should be detailed enough to refer back to for guidance if you have issues regarding your job tasks, the work schedule, pay schedule, grounds for termination, etc.

7. Hiring and training

Stay in communication as the person finds housing or moves through the process to request a reasonable accommodation. Be ready to start work and move when needed. On the first day, be prepared to begin training. Work closely with the person and their support team to learn the job. Ask questions to make sure you understand. If you would be better able to the job with checklists, reminders, or other assistance, be sure to ask for it. Create a daily schedule so you don't forget anything. Ensure you always have a way to contact the appropriate people in the event of an emergency or if they have a question or concern.

8. Lease addendum

If a landlord grants a request for a live-in caregiver, you may see an addendum to the lease. See Appendix B for an example, which should give you a good idea of what will be needed and how to prepare.

Knowing Relevant Laws and Your Rights

Your employer (e.g., the person with a disability and/or or their agency) must follow employment rules. There is an important federal law that includes a lot of information about live-in caregiver obligations called the Fair Labor Standards Act (FLSA).

This law states that, generally, live-in caregivers must earn minimum wage, and if they work more than 40 hours per week, they must be paid time and a half overtime. However, live-in caregivers who are employed by individuals with disabilities (or their family members or guardians) are excluded from FLSA overtime pay requirements.

1. Fair Labor Standards Act and Department of Labor

The Fair Labor Standards Act (FLSA) is the federal law that sets the national minimum wage and overtime requirements. As of 2018, the minimum wage in Virginia is \$7.25/hour. There are frequent proposals to raise the statewide minimum wage, so stay updated on those changes. The FLSA also mandates overtime pay for hours worked above 40 hours/week, at a rate of 1.5 times the normal hourly rate. So, if someone's usual hourly rate is \$7.25/hour, for each hour they work over 40 hours in a week, their pay becomes \$10.88/hour. To see exceptions to this rule, see Section "Live-In Domestic Service Employee Exemption."

As of January 1, 2015, the Department of Labor published what is commonly referred to as the "Home Care Final Rule." That rule determines when home care workers, including live-in caregivers, must be paid minimum wage and overtime. Visit the Department of Labor's website (<https://www.dol.gov/whd/homecare/>) on homecare workers to get basic information about this law. You can watch a webinar on the rule and go through a self-assessment checklist to see if you are required to receive minimum wage and overtime at <https://www.dol.gov/whd/homecare/individuals.htm>.

2. The Companionship Services Exemption, or 20% Rule

Though you, as a live-in caregiver, are generally expected to be paid minimum wage and overtime, there is a very important exception to the rule called the "Companionship Services Exemption." An individual with disability who arranges for you to live in his home is EXEMPT from paying minimum wage and overtime if your role is mostly to provide fellowship and protection, that is, keeping the person company, but not providing active hands-on assistance. **This exemption does not apply to agency employers, who must always provide minimum wage and overtime.**

The exemption requires all of the following:

- You do not spend more than 20% of their weekly awake working time assisting directly with personal care (e.g., assisting with bathing, dressing, using the restroom, cooking, cleaning)

- You do not ever perform tasks usually only performed by a nurse or nursing assistant (e.g., G-tube feeding)
- You do not provide general household work for anyone living in the home other than you. So, you should not be cooking, cleaning or doing laundry for others in the household.

Some examples the Department of Labor uses to describe fellowship and protection are below. Remember, as long as 80%+ of your time is spent on these activities, the requirement for minimum wage does not apply.

- Engaging in social activities, sports, conversation, reading, games, walks, errands, appointments, and special events together
- Staying present in the home or accompanying someone out of the home for the purpose of monitoring safety

The Department of Labor gives these specific activities as time that can be excluded from counted working hours:

- Time the live-in aide is sleeping
- Breaks for meals (unless their agreement stipulates fellowship for the meal)
- Time when the aide is free to stay in the home for personal reasons, or leave and take a break

So, the companionship services exemption offers a way for individuals who need minimal, yet essential supports, to exchange the cost or value of the lodging they are providing for these basic supports. The actual cost/fair value of the your housing can be determined in the same manner as it is for the section (3)m credit, which is described below. Since the individual is exempt from paying minimum wage and overtime in this circumstance, as long as the value of the lodging and other benefits are sufficiently attractive to you, it may be a viable arrangement. NOTE However: if one of the conditions for exemption above is violated, then the individual employing you could owe you minimum wage for all hours worked in the workweek. Hence, it is important to have a caregiver agreement that carefully outlines the scope of companion duties, the schedule, and requires advance approval of additional work hours.

3. Live-In Domestic Service Employee Exemption

There is another important exception to the FLSA, exclusively for live-in caregivers. Your employer must pay you the minimum wage for hours you work (unless you qualify for the Companion Services Exception explained above), but **is not required to provide overtime pay for hours you work over 40 hours/week. Agencies may not claim this exemption.**

4. Fair exchange of work for lodging

Section 3(m) of the Fair Labor Standards Act allows employers to count either their actual cost for your housing or the fair market rent value of your housing toward wages, **whichever is less.**

However, if the person with a disability is using a rental subsidy that is paying for your rent and utilities, this means the actual cost of your housing to your employer is **zero**, and there is no housing cost to credit toward wages. Any wages you are owed must be paid in full, because there is no housing cost to deduct. See Section “The Companionship Services Exemption, or 20% Rule” for possible exceptions.

An employer can only claim a section 3(m) credit if:

- The lodging is regularly provided by the employer or similar employers (e.g., it would be provided it to all persons employed in your position)
- The employee voluntarily accepts the lodging (there is a written agreement that the employee will live on the premises as a condition of employment)
- The lodging is furnished in compliance with applicable federal, state or local laws (e.g., the housing meets all zoning, occupancy, building safety standards)
- The lodging primarily benefits the employee, rather than the employer (e.g., the housing is presumed to be of primary benefit and convenience of the employee unless there is an indication that it is of little benefit to the employee. This includes looking at factors such as whether the housing is adequate and affords private space for off-duty time, access to a kitchen and private bathroom, furnishings, free cable/Internet, etc.)
- The employer maintains accurate records of the costs incurred in the furnishing of the lodging (e.g., both records of the employer’s cost to provide the housing and records of the wage calculations taking lodging into account)

Here is an example. The 2018 Fair Market Rent rate established by the office of Housing and Urban Development is \$1793/month for a two bedroom unit Arlington County. Assume this rent includes utilities. If you find a unit at that exact price with roughly equivalent bedroom sizes, that means is the employer’s share for the live-in caregiver is \$896.50 in monthly rent. Let’s assume you agree to work as a live-in aide, and you and the person with a disability negotiate the hourly wage for personal assistance services at \$15/hour. At this rate, the value of their rent is \$207 per week, which covers about 13.5 waking hours of support per week (note: live-in caregivers do not get paid for sleeping time, but are expected to sleep in the residence most nights a week, since it is their primary residence).

If the person with a disability needs more support than this rent provides, they may: (1) pay you cash wages for the additional hours, (2) use Medicaid Waiver consumer- or agency-directed services to pay for your hours, (3) hire other support staff to come into the home using other community programs and resources, and/or (4) rely on family and friends for assistance.

For more information on how the section (3)m credit works, see https://www.dol.gov/whd/homecare/credit_wages_faq.htm .

5. Recordkeeping requirements

As an employer, the person with a disability and/or their support team or agency have a responsibility to maintain basic employment records for you. Expect to be asked to provide documents as needed so they can meet this requirement.

At a minimum, ensure you always have:

- Your full name, Social Security number, and all contact information
- A copy of the hours worked each day/week (see next item on timesheets)
- All documentation of additional compensation given to you, including expenses paid, benefits, fees for additional work, etc.
- Proof of overtime payments when overtime pay is mandated (i.e. when you are using an agency to manage the caregiver)
- Copy of the signed live-in caregiver agreement (see Appendix A for an example)
- Copy of the lease and housing voucher
- Copy of any additional rules or policies from the home (e.g., apartment complex rules and regulations)

6. The value of timesheets

When you develop your live-in caregiver agreement, outline a weekly schedule for your work. Ask if you will need to fill out paper timesheets, an electronic timesheet, a calendar, or other tool to show hours worked each day. Make sure you understand the difference between working time (i.e., time you are scheduled to work and have specific tasks) and non-work time (i.e., time you may or may not be in the home or around the person, but when you have the option to leave or sleep if you prefer). If there is a discrepancy about work time in the future, you will have archived timesheets to help you figure out if things have been running well.

One of the challenges of being a live-in caregiver is separating work time from time simply spent in the home. For example, as an aide, perhaps you agree to one weekend outing a week, up to four hours. Perhaps you go together for dinner and a movie. When you come back home after a great evening, if you decide to simply spend time together talking about the day, but they are not scheduled work hours, at first you may not feel sure if that counts as time worked. This should be unpaid time, unless you are scheduled to provide companionship at this point, since it is now your choice about whether or not to spend more casual social time together.

7. Understand any benefits offered

Some employers are able to offer additional benefits to you. These should be clearly laid out in the live-in aide agreement. Benefits can include a range of options with a range of costs. If you need a specific benefit (e.g., a week of vacation each summer), ensure that is offered and in the agreement. Understand your obligation for using benefits. Do you have to give notice a certain amount of time in advance if you will be out of town or using leave? Are you sharing the cost of food in the home or keeping food and toiletries separate?

8. Taxes, Medicare, Workers Compensation, and Liability Insurance

Understanding taxes and insurance is complicated. Always consult a CPA or tax attorney to get your personal, detailed questions answered. This section will provide some very brief general tips, but each situation should be considered by a professional.

- If the sole payment you receive as a live-in aide is lodging, with a value that is equivalent to weekly wages earned, then there are no taxes on the value of that lodging.
- If you are paid cash wages for hours worked, the employer must withhold Social Security or Medicare taxes and must report your wages. They must also report wages if the employer would have withheld taxes if you had not claimed exemptions from withholding on Form W-4.
- Likewise, if you are paid \$600 or more but do not have taxes withheld, you must still report wages earned. When you are hired, complete Form W-2 and keep a copy.
- If you are paid more than \$2,000 in cash wages a year (2017 number), Social Security and Medicare must be withheld. If you are paid \$1,000 or more in cash wages in any calendar quarter, your employer must pay federal and state unemployment taxes.

9. Caring for the Caregiver

Taking care of someone else can be exhausting. Don't forget to care for yourself, too. Focusing on ensuring you're health, happy, and well-supported is key to making sure you're able to do your job. If you're feeling more stressed, exhausted, or irritable than usual, find a moment to stop and think—are you overwhelmed from caregiving? If so, it is time to come up with a plan. Some ideas are below to help you address the problem and find solutions.

Let the person you support and their support team know how you're feeling and be prepared to offer some solutions. See the section below for ideas.

- Take the time off you're given with your job, give notice when you'll be gone, and truly look forward to and enjoy the time away.
- Find time every day to do something just for you. Watch a show you love, read a book, exercise, or do something that brings you joy.
- If you're feeling like you're never really off the clock, take a hard look at the calendar or wherever your hours of work are scheduled. Remember that when you're not scheduled to work, you can leave the house for a walk, take some time alone in your room, make a personal call, or otherwise unwind.
- Find a support group for caregivers. Fairfax County offers a virtual/phone-based group. You can find more about them here. <https://www.fairfaxcounty.gov/familyservices/>
- Visit the National Center on Caregiving at www.caregiver.org
- Journal or write down how you feel. Sometimes seeing our feelings on paper helps us understand them better, and be better equipped to communicate them.
- Spend time with your own friends and family. Having a social network is key to feeling supported and connected.

- Take time each week to plan healthy meals and buy healthy foods. Eating well has a tremendous impact on your energy and outlook.
- If you're feeling like the job as a whole is more than you can manage, broach it with the individual you're supporting and their support team. Is there a particular task or activity that is too much? Is it time to look at other jobs, a change in hours, or having more supplementary caregivers coming into the home?

Communication and Troubleshooting

As a live-in caregiver, lots of frank conversations will be needed. You will have to explicitly talk about pay, expectations for your work, how your housing is tied to the job, and disciplinary actions if needed. Having these conversations up front will likely help you determine if you have found the right match and ensure you're prepared for what this job will involve. This section will provide some ideas on expectations, communication protocols, and resolving disputes.

1. Warding off problems

Put your key expectations in writing. The live-in aide agreement should be your "go to" document for details, but there are other ways to remind people about the job requirements.

- Ask for checklists, posters in parts of the house, or other visual tools to help remind you what must be done each day and how people would like it done.
- Discuss using a weekly calendar on the fridge with notes about when you are expected to be in the house, and what jobs you are expected to do during that time. Update as needed with schedule changes and time off requests/plans.
- Ask if there will be an annual performance review. These annual reviews provide a set timeline for reviewing what you are doing well and where improvement is needed. This is a challenging job, so try to take criticism constructively and be open to talking about how to do things better.
- Ask, ask, ask questions! If you're ever unclear on what is expected, it is so much better to ask and clarify than assume and make a mistake.
- If something isn't going well, ask to talk about it. Offer some solutions.
- Consider having a routine household meeting (weekly or monthly) so issues do not build up, and you get in the habit of talking to each other about needs and concerns, as well as sharing praise.

2. Handling criticism or one time issues

As obvious as it sounds, people with disabilities and families are people like everyone else. Everyone has bad days, gets a short temper sometimes, is occasionally late, or makes a mistake. Be understanding and reasonable. For example, if your employer pays you one day late one time, that is a reasonable error. If there are patterns of issues, though, it is time to call a meeting to talk. Write out your concerns and think of reasonable solutions. Try really hard not to be defensive as families tend to be very protective, and no one wants to feel criticized.

If your employer approaches you about issues, listen carefully. Take time to think and imagine what it would be like to be them before you respond. If there is a task that is hard for you, ask if there is another way it could be done or if you could have some support in learning it better. Try to see this as an opportunity for growth.

3. If you are asked to leave

If you repeatedly make the same errors or do something dangerous, you are likely going to be fired. Remember that your housing is tied to your job. Be prepared to pack up and leave shortly. Have a backup plan for where you could stay for a brief time (e.g., local short term stay hotel, Air BnB rental, home of family or friends) until you find a new place to live.

4. Leaving the job on a good note

If you are ready to move on to a new housing and job situation, look to your live-in aide agreement to see how much notice you must give in advance. If you learned things about how to make this relationship best work, share them, so the person with a disability can look for future aides who can do those tasks or meet those needs. Thank the person for their time and stay in touch. Perhaps you could offer to stop by monthly to say hello, or be a respite/on call relief staff person.

Appendix A: Sample Live-In Caregiver Agreement

This sample agreement was drafted to reflect a very specific live-in caregiver arrangement. All of the following conditions must be met:

- an individual with a disability, his or her parents, guardian or another household member employ the caregiver (e.g., hire, train, supervise, set schedule, evaluate performance, etc.)
- the caregiver will live, work and sleep in the home of the individual with a disability seven days per week on an ongoing basis
- there is no third party employer involved, such as another private agency or government entity
- the caregiver primarily provides companion services, in the form of fellowship and protection, to the individual with a disability
- the caregiver does not perform medically related tasks
- the caregiver does not provide general household tasks for persons in the household
- the caregiver does not spend over 20% of work time providing “care” (assisting with activities of daily living such as bathing, dressing, grooming, feeding, ambulating, toileting, transferring, etc. and instrumental activities of daily living such as laundry, housekeeping, maintenance/repairs, bill paying/money management, meal preparation, shopping, transportation, making appointments, etc.).

Sections of this agreement that are in *italics* can be customized based on the needs of the parties to the agreement. While this agreement is structured to comply with Fair Labor Standards Act requirements for the live-in companion arrangement described in this guide, it has not been reviewed by an attorney. It is highly recommended that users have an attorney familiar with federal, state and local labor laws review this agreement before utilizing it.

LIVE IN CAREGIVER AGREEMENT

This agreement (the “Agreement”) is made by and between _____, a _____ (the Employer of Record), and _____, an individual residing at _____ [address] _____ (the “Caregiver”), for the delivery of Companion Services to _____ (the “Service Recipient”).

1. **Parties.**

- a. **Service Recipient** is an individual with a disability who requires assistance to live independently, including Companion Services, delivered in accordance with the Individual’s Service Plan (Attachment A).
- b. **Caregiver** is an individual qualified to provide Companion services to the Service Recipient in the Service Recipient’s owned or leased home. Caregiver is an employee of the Employer of Record for the purpose of providing support services.
- c. **Employer of Record** is the Service Recipient or the Service Recipient’s family or household, which is responsible for recruiting, hiring, directing, and supervising the Caregiver, establishing performance evaluation criteria for the Caregiver and monitoring performance; establishing work schedules and tasks to be completed by the Caregiver; keeping track of the services the Caregiver provides; establishing a system for signing and submitting timesheets; paying the Caregiver and processing the Caregiver’s taxes; and approving Caregiver’s leave requests.

2. **Contractual intent.** In consideration of the terms and conditions set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows with the intent to be legally bound.

3. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions upon which Caregiver agrees to provide Companion Services as described herein in exchange for the payments and quality oversight services provided by Employer of Record as described herein.

4. **Conditions to Agreement.** The obligations of Employer of Record are subject to the following conditions:

5. **Employee/Independent Contractor Status.** In the performance of this Agreement, the Caregiver is in all respects an employee and is not an independent contractor. Caregiver is not an agent of the Employer of Record and neither the Caregiver nor any of his/her officers, employees, agents or family members, shall have the authority to bind the Employer of Record.

- a. The employee is a domestic service worker residing in the employer’s home and is not entitled to federal, state and/or local minimum wage or overtime payments. *Identify any employee benefits that will be paid by the Employer of Record on the Service Recipient’s behalf (e.g., disability benefits, life insurance, workers compensation, retirement, health insurance, unemployment insurance). Explain how federal and state taxes will be paid. Employer of Record is not required to withhold federal and state income taxes from wages paid to household employees. If annual cash wages of \$2,000 or more are paid to Caregiver,*

then social security and Medicare taxes must be withheld. The taxes are 15.3% of total wages, and the Employer of Record will withhold half, or 7.65% from wages. The remaining 7.65% is the Caregiver's share of these taxes. No social security and Medicare taxes are assessed on room and board provided in lieu of wages) Employer of Record must also pay federal and state unemployment taxes, depending on total cash wages¹].

- b. *[If an employee, identify any restrictions on outside employment (e.g., Caregiver may not engage in other paid employment, including self-employment, during hours and days of the week he/she is scheduled to provide services to the individual under this Agreement).]*

5. Caregiver Obligations

- a. Companion Services: Caregiver shall provide Companion Services in accordance with Service Recipient's service plan (Attachment A), training provided by Service Recipient and Employer of Record, and all applicable laws, regulations and policies.
- b. Insurance: Caregiver shall maintain automobile liability insurance with minimum limits of \$_____ for any vehicle used to transport Service Recipient.

Caregiver may elect to procure renter's insurance to protect personal belongings located in the Service Recipient's home and Workers' Compensation coverage for him/herself.

- c. Schedule: Caregiver shall work according to the schedule in Attachment B. Caregiver will not revise this schedule without consent of Service Recipient and Employer of Record.
- d. Household Expenses. If "Caregiver" is provided with funds for household expenses, "Caregiver" will keep detailed records on forms provided by "Employer". Caregiver will only make purchases that are approved by "Employer".
- e. Safety: *[address issues regarding weapons, smoking, alcohol use, illegal drugs, pets, preapproval of guests/overnight guests, maintaining current vehicle registration and driver's license, vehicle upkeep, maintenance of home in accordance with safety codes and regulations (or list the terms and conditions in an attachment)].*
- f. Incident Reports: *[detail obligations to submit reports of incidents related to abuse, neglect, exploitation, rights violations, accidents, injuries, etc. in accordance with applicable regulations and policies or list the terms and conditions in an attachment].*

¹ For information on how to determine whether and how much Virginia income tax and unemployment tax will be owed, see <http://www.tax.virginia.gov/content/household-employer>, <http://www.vec.virginia.gov/employers/faqs/Employer-UI-Tax-Questions#a73> and <http://www.vec.virginia.gov/forms-publications>

- g. Record Maintenance: *[outline obligations to maintain records in accordance with applicable laws, regulations and policies or identify the terms and conditions in an attachment].*
- h. Confidentiality: *[detail obligations to maintain confidentiality and HIPAA compliance in accordance with applicable laws, regulations and policies or list the terms and conditions in an attachment].*
- i. Prevention of fraud and financial abuse: *[detail obligations to prevent fraud and financial abuse in accordance with applicable laws, regulations and policies or list the terms and conditions in an attachment].*
- j. Restrictions: Smoking is prohibited during work hours and inside the house. Personal phone calls are prohibited during work hours. Visitors are not permitted during work hours or overnight. Parties (gatherings of five or more individuals) must be approved by the Employer of Record in advance. The exchanging of gifts, money or other items between the Caregiver and care recipient are not permitted. Other restrictions include:

- k. Non-discrimination: the employee agrees to comply, to the extent applicable, with the requirements of Section 504 of the Federal Rehabilitation Act of 1973, as amended, relating to discrimination against people with disabilities; Title 21 V.S.A. Chapter 5, Subchapter 5, relating to fair employment practices; the Civil Rights Act of 1964; the Americans with Disabilities Act of 1990; and agrees further to make compliance with these provisions part of any subcontracts.
- l. Indemnification: The Caregiver agrees to indemnify and hold harmless the Employer of Record, its officers, directors, employees, attorneys, agents, successors and assigns against any claims, costs, obligations or liabilities whatsoever arising from or otherwise relating to the Caregiver's acts, omissions, obligations or performance under this Agreement, including, but not limited to: (a) any lawsuit, settlement and/or judgment, (b) any assessment resulting from any administrative proceeding, such as a claim for unemployment benefits or workers' compensation benefits, (c) any attorney's fees or other costs relating to the defense of any lawsuit and/or administrative proceeding; and (d) any claims or damages relating to Caregiver's unauthorized use or disclosure of Service Recipient's protected health information.
- m. Training Requirements: *[detail obligations to participate in training and to maintain qualifications/certifications or list the terms and conditions in an attachment. Consider first aid/CPR training, seizure management, positive behavior supports, building relationships in the community, communication techniques to use with people who have disabilities, etc.].*

n. Cooperation with Employer of Record.

- i. Communication. Caregiver shall maintain regular communication with Employer of Record regarding Service Recipient's physical and mental condition. Caregiver must immediately notify Employer of Record whenever Service Recipient is out of the care or supervision of Caregiver, including but not limited to: visits to family, temporary care, caregiver vacations, illnesses, incarceration, or other situations that cause the individual to be cared for by anyone other than the Caregiver. Caregiver must submit copies of all incident reports to Employer of Record within [X] hours of an incident and must immediately contact Employer of Record in the event of a serious incident (e.g., life threatening injury or illness, arrest/incarceration, elopement/missing person).
- ii. Access. Caregiver shall provide Employer of Record full access to his/her room in individual's home and to his/her records, at reasonable times with or without advance notice, for the purpose of monitoring the quality of the living environment and the services provided by the caregiver.
- iii. Periodic Announced and Unannounced Inspections. The Employer of Record has the right to conduct periodic announced and unannounced inspections of the Caregiver's service provision throughout the term of this Agreement for the purpose of monitoring the quality of the living environment and the services provided by the caregiver. Periodic is defined as no more than once every four months. No more than one unannounced inspection is permitted per year. The Employer of Record must give the Caregiver at least 24 hours advance written notice of an announced inspection. Prior to the first inspection, the Employer of Record shall submit a checklist of inspection items to the Caregiver so he/she is aware of what the Employer of Record will be reviewing.
- iv. Special Inspections. The Employer of Record has the right to conduct a special inspection upon the Service Recipient's request or if the Employer of Record suspects the Service Recipient is in a dangerous, unsafe, or unhealthy situation; or if abuse or neglect is suspected. The Employer of Record must give the Caregiver at least 24 hours advance written notice of a special inspection.

6. Obligations of Employer of Record

a. Payment for services

- i. Standard number of hours Caregiver will work per week (see schedule in Attachment B): _____
- ii. Payment in lodging and food: the estimated monthly fair value of rent, utilities, Internet, cable and food is \$_____ (See Attachment C). Based on the _____ hour workweek identified in 6(a)(i) above, the hourly value of lodging and food is \$_____/hour. This is the primary payment the Caregiver will receive.

Caregiver is permitted to occupy the Service Recipient's residence at _____ [address] by virtue of his/her employment status. At any time should the Service Recipient no longer need the services of

the Caregiver, or should the Caregiver's services be terminated, the Caregiver shall immediately move from the Service Recipient's unit.

The Caregiver qualifies for occupancy only as long as the Service Recipient needs companion services and lives at this residence. The Caregiver shall abide by all of the Service Recipient's lease terms and with rules and regulations for the property (Attachment C). If the Service Recipient or Employer of Record learns of violations by Caregiver, Caregiver's employment will immediately be terminated and removed from the premises.

Because Caregiver occupies the unit only to provide services to the Service Recipient, if the Service Recipient is absent from the unit for more than one week (7 days and/or nights), Caregiver will vacate the Service Recipient's unit and shall not occupy the unit until the Service Recipient returns.

- iii. Non-work time: Time the Caregiver spends engaging in typical private pursuits, such as eating, sleeping, entertaining, and other periods of complete freedom from all duties is not eligible for payment under this Agreement. Any calls to duty during these otherwise unpaid periods must be paid. There are a certain number of flexible hours built into the work schedule to accommodate such unanticipated calls to duty. If Caregiver consistently bills for these flexible hours over several weeks, Caregiver, Service Recipient and Employer of Record will review the Service Plan and make needed adjustments.
 - iv. Payment of additional wages: Caregiver must request approval **in advance** from the Employer of Record to exceed the approved number of work hours on the schedule. The Caregiver will be paid a wage equivalent to the hourly value of lodging and food, or \$_____/hour.
 - v. Pay period: Payment of any additional wages will be issued on the _____ of the month.
- b. Reimbursement of work-related expenses. The Employer of Record will reimburse the following work-related expenses upon Caregiver's submission appropriate documentation: *[choose what you will pay for and explain how much you will reimburse, what must be submitted]*
- i. Premium differential for automobile liability insurance (Caregiver shall submit documentation showing previous insurance premium and a receipt for payment of premium with increased liability coverage).
 - ii. Gas mileage for trips to take individual to activities. Any miles driven while on the job using the Caregiver's car will be reimbursed at the IRS Mileage Reimbursement Rate, which covers the cost of gasoline as well as general wear and tear on the vehicle. Caregiver will maintain a mileage log and submit to Employer of Record for reimbursement at the end of the pay period.
 - iii. Other work-related expenses. All other work-related expenses must be pre-approved by the Employer of Record and shall be reimbursed at cost. Caregiver shall keep all receipts and submit to employer for reimbursement at the end of the pay period.

c. Leave.

- i. **Regular Leave:** The Caregiver is entitled to ____ hours of regular leave for the twelve month period beginning on the Commencement Date of this Agreement, and each twelve month period thereafter. Leave may be taken for any reason, but it must be requested in writing to the Employer of Record at least ten days in advance and must be approved in writing by the Employer of Record before it may be taken. Unused regular leave cannot be carried over from year to year.
- ii. **Sick Leave:** The Caregiver is entitled to _____ hours of sick leave for the twelve month period beginning on the Commencement Date of this Agreement, and each twelve month period thereafter. Sick leave may be taken if the Caregiver or his/her children are ill or injured. It must be requested to the Employer of Record as soon as the need is known, preferably by phone or email and must be approved by the Employer of Record verbally or by email before it may be taken. Unused sick leave cannot be carried over from year to year.
- iii. **Holiday Leave:** The Caregiver is entitled to the following paid holidays:

<input type="checkbox"/> New Year's Day	<input type="checkbox"/> Martin Luther King, Jr.'s Birthday
<input type="checkbox"/> President's Day	<input type="checkbox"/> Memorial Day
<input type="checkbox"/> July 4 th	<input type="checkbox"/> Labor Day
<input type="checkbox"/> Thanksgiving Day	<input type="checkbox"/> Christmas Day
<input type="checkbox"/> _____	<input type="checkbox"/> _____

- iv. **Unentitled Leave:** If the Caregiver requests additional regular, sick or holiday leave beyond what he/she is entitled to in any twelve month period as outlined above ("Unentitled Leave"), it is at the Employer of Record's discretion to approve. However, any Unentitled Leave granted will result in the Employer of Record assessing the Caregiver a room and board fee equivalent to the hourly wage multiplied by the number of hours of leave taken.

- d. **Quality Oversight and Assistance.** The Employer of Record shall provide administrative and support services to monitor the quality and effectiveness of the [support services] provided to the Service Recipient and to provide assistance as needed to the Caregiver. Such administrative and support services shall include the following:

[describe scope of Employer of Record's services, e.g., site inspections, trainings, emergency assistance, etc.]

7. Agreement Term and Termination

- a. **Agreement Term.** The term of the Agreement shall be _____, commencing on _____ ("Commencement Date") and terminating on _____ ("Termination Date"), unless sooner terminated in accordance with the terms provided in this Agreement. This Agreement may be renewed upon agreement of the parties if the Caregiver has met all conditions and obligations of this Agreement. In the event the parties continue their relationship after the Termination Date, the provisions of this

Agreement shall govern until such time as a revised Agreement has been signed by both parties.

- b. Termination without cause. Except as otherwise provided in this Agreement, either party may terminate this Agreement without cause upon ___ days written notice to the other party. The Caregiver is responsible for producing all required documentation and personal property of the Individual within ___ business days of the termination or as otherwise negotiated with the Employer of Record. The parties may agree in writing to waive, shorten or lengthen notice period to the extent permitted under applicable law and regulation.
- c. Termination with cause or upon occurrence of a specified condition. The Employer of Record shall have the right to terminate this Agreement with or without advance notice upon the occurrence of any of the following circumstances:
 - i. The Individual choose to move or dies.
 - ii. The Individual is incarcerated in a correctional facility or transferred to a nursing home, group home or other living arrangement.
 - iii. After the thirty-first (31st) consecutive day of hospitalization of the Individual by providing five (5) business days written notice to the Caregiver.
 - iv. Caregiver has been charged with a criminal offense.
 - v. Caregiver has breached an obligation under the Agreement or failed to satisfy required conditions of the Agreement.
 - vi. Caregiver has had X unexcused absences from work or Y unexcused late arrivals to work.
 - vii. Caregiver has engaged in any of the following activities:
 - 1. Alcohol or drug use on the job
 - 2. Reporting to work intoxicated
 - 3. Verbal, physical or sexual abuse of the Service Recipient
 - 4. Dishonesty
 - 5. Stealing
 - 6. Misuse of household funds
 - 7. Breach of Service Recipient's confidentiality
 - 8. Unapproved visitors
 - 9. Smoking while on duty or inside the unit while off duty
 - 10. Overuse of cellphone or computer while on duty
 - 11. Failing to report any money or gifts given to Caregiver by Service Recipient
 - 12. Use of pornographic written or electronic material
 - viii. The Employer of Record determines, in its sole discretion, that the Individual is in a dangerous, unsafe, or unhealthy situation; or if abuse or neglect is suspected; or if, in the sole discretion of the Agency, the best interests of the Individual require that the Caregiver placement with the Individual terminate.
 - ix. The funding that the Service Recipient or Employer of Record receives from public or private sources, including State and federal sources, for the purpose of supporting the Service Recipient is eliminated or reduced below the level in existence on the commencement date of this Agreement.

- x. Upon the occurrence of an event described under subsections iv – vi above, the Employer of Record shall have the option to suspend the Agreement with or without advance notice by removing the Individual until Caregiver comes into compliance, in which case Caregiver will not be paid for the period of suspension.
 - d. Final payment. Upon termination of this Agreement, payment to the Caregiver will be limited to amounts invoiced for service rendered prior to the termination of the Agreement. The Agency reserves the right to withhold final payment to the Caregiver until all required documentation and personal property of the Individual is returned.
8. Attorney's Fees. In the event of any breach of this agreement, the party responsible for the breach agrees to pay reasonable attorneys' fees and costs incurred by the other party in the enforcement of this agreement or suit for recovery of damages. The prevailing party in any suit instituted arising out of this agreement will be entitled to receive reasonable attorneys' fees and costs incurred in such suit.
 9. Amendment. This Agreement supersedes all prior oral and written agreements between the parties and constitutes the entire agreement between the parties. This Agreement may be supplemented, amended or revised only in writing and signed and dated by the parties.
 10. Assignment. This Agreement shall not be transferred or assigned by either party without the prior written permission of the other party, but nothing in this section is intended to prevent the Caregiver from employing or contracting with and using a substitute caregiver to provide assistance with some of the Caregiver's duties under this Agreement while on Employer of Record-approved leave. Such substitute caregivers are not assignees. Nothing in this Agreement is intended to permit the transfer of this Agreement to the spouse or other family member of the Caregiver without the express written permission of the Agency.
 11. Binding Effect. This Agreement is for the benefit of and is binding upon the parties, any agency or any assignees of either party for whom permission has been given by the other party under Section 9 (Assignment) of this Agreement.
 12. Waiver. No waiver of any default under this Agreement shall constitute or operate as a waiver of any subsequent default of this Agreement, and the failure by either party to exercise any right under this Agreement shall not constitute a waiver of that right.
 13. Third Party Beneficiaries. Except as provided in Section 10 (Binding Effect), nothing in this Agreement, express or implied, is intended or shall be construed to confer any rights or benefits upon any person, corporation or entity other than the parties to this Agreement, and all of the terms, covenants and conditions of this Agreement shall be for the sole and exclusive benefit of the parties to this Agreement, their successors and when agreed to, their assigns.
 14. References to Caregiver. The "Caregiver" is the person or persons listed at the beginning of this Agreement for Services. The Caregiver is referred to in the singular throughout this Agreement as a matter of convenience. If there is more than one Caregiver listed at the beginning of this

Agreement, each Caregiver must execute this Agreement and this Agreement shall be binding upon each such Caregiver.

15. Attachments incorporated. All terms and conditions set out in Attachments (*list attachments*) are hereby incorporated into the Agreement and shall be considered as part of the Agreement.

16. Dispute Resolution. [*insert preferred dispute resolution terms*]

WE THE UNDERSIGNED PARTIES ACKNOWLEDGE THAT WE HAVE READ AND UNDERSTOOD THE TERMS OF THIS AGREEMENT.

(Include Signature and Date)

Caregiver:

Caregiver

Date

Employer of Record:

Name

Date

ATTACHMENT A

Companion Service Plan for _____

Section A: General Information about the Service Recipient

1. Describe this person's general disposition from day to day. _____

2. What is this person like around people he/she knows? _____

3. What is this person like around people he/she doesn't know or has only met a few times? _____

4. What kinds of environments and situations does this person enjoy? How do you know? _____

5. What kinds of environments and situations are unpleasant for the individual? How do you know? _____

6. What does the person like to do for fun? _____

7. What activities does this individual not like to do? What happens when he/she participates in them? _____

8. Who does this person enjoy being around? _____

9. Who does this person avoid being around? What happens if he/she has to be around them? _____

10. What kinds of foods does this person like? _____

11. What kinds of foods does this person not like? What happens if he/she eats them? _____

12. What are this person's major talents, strengths and abilities? What do people compliment this person for? _____

Section B: Basic Support Needs

13. Basic information about the individual needing services:

a. Date of Birth _____

b. Diagnosis _____

14. What type of support does this individual need with activities of daily living? (place an "X" next to the type of support needed for each task)

Task	Total Physical Assistance	Assistive Technology/ Adaptive Device	Hand Over Hand Assistance	Physical Prompts	Verbal Cues	Picture or Photo Cues	No Support	Other (describe)
Bathing								
Toileting								
Grooming								
Dressing								
Eating								
Walking								

15. What type of support does this individual need with independent living skills? (place an "X" next to the type of support needed for each task)

Task	Total Physical Assist.	Assistive Tech/ Adaptive Device	Hand Over Hand Assist.	Physical Prompts	Verbal Cues	Picture or Photo Cues	No Support	Other (describe)
Shopping								
Meal Preparation								
Paying Bills								
Reading Mail								
Taking Medication								
Doing Laundry								
Housecleaning								
Doing Dishes								
Taking Out Trash								
Using Telephone								
Calling 911								
Exiting Home Safely in Emergency								
Locking Door & Windows/ Answering Door Safely								
Reporting Repairs								

16. Does this individual have any other specialized care or support? (circle one)
- a. Yes, medical care including skilled nursing
 - b. Yes, medical care but not skilled nursing
 - c. Yes, assistance taking medications only
 - d. Yes, behavioral supports that require frequent intervention
 - e. Yes, behavioral supports that require occasional intervention
 - f. Other (describe) _____
 - g. No, no specific other supports are needed
17. Does the individual need assistance with mobility? (circle one)
- a. Yes, total assistance
 - b. Yes, some assistance
 - c. No, the individual can independently operate an assistive device (e.g., wheelchair)
 - d. No, the individual needs no assistance with mobility
 - e. The individual does not need assistance now but likely will need supports in the future
18. How does this individual communicate? (circle one)
- a. Verbally – clear with functional vocabulary
 - b. Verbally – functional vocabulary but difficult to understand
 - c. Verbally – clear but limited vocabulary
 - d. Uses vocalizations (e.g., grunts, squeals, hums, clicks, cries)
 - e. Sign language – clear with functional vocabulary
 - f. Sign language – functional vocabulary but difficult to understand
 - g. Sign language – clear but limited vocabulary
 - h. Pictures or photographs
 - i. Typing
 - j. Blinking
 - k. Other (describe): _____
19. Does this individual require any specialized adaptive equipment (e.g., a communication device or medical equipment)?
- a. Yes, multiple items or items with which the individual needs assistance
 - b. Yes, but the individual can operate and maintain these items with some independence
 - c. Yes, but the individual can operate and maintain these items with total independence
 - d. No, no specialized equipment is used
20. Describe any adaptive equipment or assistive technology the individual uses: _____
- _____
- _____

errands, to appointments, or to social events. The provision of “protection” means to be present with the person in their home, or to accompany the person when outside of the home, and to monitor the person’s safety and well-being. Companionship services also include the provision of care, when the care is provided attendant to and in conjunction with the provision of fellowship and protection, and does not exceed 20 percent of the total hours worked per individual and per workweek. The provision of “care” means assisting the person with:

- Activities of Daily Living (ADLs) such as dressing, grooming, feeding, bathing, toileting and transferring;
and
- Instrumental Activities of Daily Living (IADLs) which are tasks that enable a person to live independently at home, such as meal preparation, driving, light housework, managing finances, assistance with the physical taking of medications, and arranging medical care.

Caregiver is expected to perform the following types Companionship activities, in accordance with the schedule in Attachment B:

General Activity	Specific Description (include days of week, times of day, type of assistance needed)
Fellowship	
Conversation	
Reading	
Games	
Crafts	
Walks	
Errands	
Appointments	
Social events	
The following activities shall not exceed 20% of the total hours per workweek	
ADLs	
Dressing	

Grooming	
Eating/Feeding	
Bathing	
Toileting	
Transferring	
Ambulation	
IADLs	
Meal Preparation	
Driving	
Light Housework	
Laundry	
Shopping	
Budgeting	
Bill Paying	
Reading Mail	
Assistance with Self Administration of Medications	
Arranging Medical Care	
Transportation	
Using Phone	
Home Maintenance	

ATTACHMENT B

CAREGIVER WORK SCHEDULE

<input type="checkbox"/> Sat	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____
<input type="checkbox"/> Sun	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____
<input type="checkbox"/> Mon	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____
<input type="checkbox"/> Tue	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____
<input type="checkbox"/> Wed	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____
<input type="checkbox"/> Thurs	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____
<input type="checkbox"/> Fri	Begin: _____ am/pm	End: _____ am/pm	
	Begin: _____ am/pm	End: _____ am/pm	Daily Hours ____

Weekly Flex Hours (e.g., for nighttime wake up calls) _____

Total Weekly Hours _____

ATTACHMENT C
 Lodging and Board Calculation
 Service Recipient Lease
 Property Rules and Regulations

Name	Relationship	Number of Bedrooms Occupied
	Service Recipient	
	Caregiver	

Total Bedrooms Occupied: _____

Pro-rata Share of Bedrooms Occupied by Caregiver: _____ % (Caregiver Bedrooms / Total Bedrooms)

The lodging and board calculation is based on an estimated monthly fair value of the total rent, utilities, Internet, cable and food:

Full Monthly Rent for the Unit	\$
Utilities	\$
Average Electric/Month	\$
Average Gas/Month	\$
Average Water/Month	\$
Average Trash/Month	\$
Average Oil/Month	\$
Average Internet/Month	\$
Average Cable/Month	\$
Average Food for Two/Month	\$
TOTAL	\$
x Caregiver's Pro-rata Share	%
Caregiver's Monthly Lodging and Board Calculation	

Appendix B: Live-In Aide Lease Addendum

This Live-in Aide Addendum dated _____, is attached to and made a part of the Lease dated _____ by and between _____ (Landlord) and _____ (Tenant(s)) for apartment number _____ in _____ Apartments is hereby amended with the addition of this Addendum. Unless terminated or modified as provided herein, this Addendum shall remain in force throughout the term of the Lease.

DEFINITION OF LIVE-IN AIDE

A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the person(s);
- (2) Is not obligated for the support of the person(s); and
- (3) Would not be living in the unit except to provide the necessary supportive services.

PURPOSE OF A LIVE-IN AIDE

A live-in aide is permitted by the Landlord to occupy the Tenant's unit as a reasonable accommodation to the Tenant's disability only as long as the Tenant requires the services of a live-in aide to be able to successfully live in these premises, perform daily living activities, and meet the lease terms. At any time should the Tenant no longer need the services of the live-in aide, the Tenant shall insure that the aide immediately move from the Tenant's unit.

1. **SCREENING:** Tenant and the proposed Live-in aide agree to provide the Landlord with all information necessary for the Landlord to screen the live-in aide to determine whether the aide meets Landlord's reasonable occupancy criteria for Live-in Aides.
2. **LIVE-IN AIDE HAS NO RIGHTS OF OCCUPANCY:** The live-in aide qualifies for occupancy only as long as the Tenant needs supportive services and remains a Tenant. The live-in aide has no rights to occupancy, even if the Live-in Aide is a family member of the Tenant, and may not qualify for continued occupancy as a remaining family member. To be permitted to occupy the unit, the Live-in Aide must complete and sign the Live-in Aide Agreement.

SIGNATURES

TENANT(S)

1. _____

DATE SIGNED

2. _____

DATE SIGNED

LANDLORD

BY: _____

DATE SIGNED

THIS PROPERTY OPERATES IN ACCORDANCE WITH FAIR HOUSING LAWS. WE DO NOT DISCRIMINATE AGAINST ANY PERSON IN THE TERMS, CONDITIONS OR PRIVILEGES OF SALE OR RENTAL OF A DWELLING OR IN THE PROVISIONS OF SERVICES OF FACILITIES IN CONNECTION THEREWITH, BECAUSE OF RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN.

LIVE-IN AIDE QUESTIONNAIRE

Name of Tenant who will receive my services: _____

Name of Live-in Aide: _____

Current Address: _____

Telephone: HOME _____ CELL _____

Birthday _____ Social Security No _____ Sex _____

1. Are you currently employed? YES NO

If yes, please provide following:

Name of current employer:

Address: _____

Telephone No.

Length of Employment:

2. For all previous addresses during past 5 years, please list:

(attach additional pages if needed)

1. Dates of tenancy:

Address:

Landlord's name:

Landlord's telephone number:

2. Dates of tenancy:

Address:

Landlord's name:

Landlord's telephone number:

3. Have you been evicted from an apartment community

during the past 5 years for committing lease violations?

YES

NO

If yes, please explain:

4. Have you been involved in any legal actions, including arrests,

adjudications, criminal or civil actions during the past 10 years?

YES

NO

If yes, please explain:

5. Are you listed on any state's sex offender registration? YES
NO
6. Do you illegally use, purchase or sell controlled substances? YES
NO
7. Do you abuse alcohol? YES
NO
8. Do you agree to abide by all Lease terms YES
NO
and the Landlord's community rules and regulations?
9. Do you understand that your occupancy will be YES
NO
terminated should you fail to comply with the
Landlord's community rules and regulations?
10. Do you agree to vacate the unit during any time period YES
NO
during which the Tenant is absent from the unit for longer
than one week (7 days and/or nights)?
11. Do you understand that you are occupying this property YES
NO
only to provide personal care services to the Tenant
listed above, and therefore, you have no rights to continued
occupancy of the Tenant's unit should the Tenant vacate
the unit for any reason?

I hereby certify that I have carefully read the Live-in Aide Questionnaire, understand all of its content, and have provided true and correct answers to all questions.

Live-in Aide

Date

I hereby certify that I have carefully reviewed all information provided by the Live-in Aide in response to the Live-in Aide Questionnaire, and to my knowledge the Live-in Aide has provided true and correct information and answers.

Tenant