



dial an angel®

Australia's Leading Agency in Home & Family Care

EDGECLIFF ADMINISTRATION CENTRE

DNB:wc&ohs ProdComm Compl.0846

12 August 2003

The Commissioners
National Workers Compensation & OHS
Productivity Commission
P O Box 80
BELCONNEN ACT 2616

FAX to 6240 3399

Dear Sirs/Mesdames

RE: WORKERS COMPENSATION in the A.C.T

The writer read through 112 pages of the legislation passed on 6th September 2001 and which became effective from 1 July 2002. The writer has been corresponding with, e-mailing and telephoning to various people regarding the anomalies in the legislation and its proposed amendments since August 1997 when Ms Kate Carnell was the incumbent Minister in the A.C.T. We received acknowledgement of each letter and email with the "mirror" response – "we are certainly looking into it"! We hold two lever arch files about WC in the ACT!

This Company - established in all mainland States and the A.C.T - is neither an employment agency nor a "labour-hire" organisation. It is unique in its operation and has been seeking a special ruling so that we can continue to provide top quality service in the A.C.T at affordable rates.

In every other State of Australia, the "end-user" (the client receiving the service) is regarded as the entity responsible for Workers Compensation Insurance except where a Government based Compensation Scheme covers ALL domestic WORKERS. The A.C.T. is the ONLY AREA where a referral Agency is DEEMED responsible for covering workers it DOES NOT EMPLOY. No "consideration" exists between the worker and the Company. Workers do NOT pay a commission. The Company relies solely upon the clients' payment of Service Fees for its income.

The Workers Compensation Act of 1951 in its original form was half a century out of date and the Amendment specifically targeted childcare and baby-sitting agencies on Page 10 Section 4C.

Today we had an executive "round table" discussion about Workers Compensation in the A.C.T and the 300% increase in costs for workers we do NOT employ but are FORCED to cover. We are about to embark upon a media campaign to enlighten Canberrans that they are CURRENTLY paying 50% more in fees than clients in NSW. We cannot continue to cover the independent workers without increasing the rates yet again. We believe that this iniquitous "deeming" will oblige us to close our doors in Canberra (throwing 500+ workers on to the unemployment lists and leaving our clients exposed to the risk of not having access to prior-screened childcarers, carers for the frail aged and housekeepers). Naturally this will disadvantage all Canberra householders who want the security of having carers for their homes and families referred through a reputable agency rather than placing them at risk by the haphazard and hazardous approach of employing unscreened workers and/or carers for the vulnerable through newspaper advertisements or local noticeboards.

DIAL-AN-ANGEL® was established on 15 March 1967. This company enjoys the enviable reputation for being Australia's leading Agency in Home and Family Care with 11 offices Australia-wide. Over our more than 36 years in business we have developed a Corporate Policy Document and Procedures Manual to ensure that quality control and client service is consistent in all our offices. (We have been obliged to set up a totally separate section just for the A.C.T and Canberra). In no other State or Territory is the referral Agency deemed to be the employer of workers in the home help industry.

Commendation was received from Scotland Yard for our stringent methods of screening applicants. Louise Sullivan (the Nanny who was later convicted of the death of the "shaken baby") was employed from a notice on a local bulletin board in England. During the investigation of the Louise Sullivan case, DIAL-AN-ANGEL® was the only Australian agency which refused her application for registration.

All DIAL-AN-ANGEL® offices are required to operate within 3 distinct categories:

➤ PERMANENT PLACEMENTS:

Employed by the client on a LONG-TERM or PERMANENT BASIS:

A placement fee is charged by DIAL-AN-ANGEL® (a "once only" INTRODUCTORY fee for finding and referral). Wages/salary and conditions of employment, accommodation, free time are negotiated between the client and the applicant. Once a placement is confirmed an account is sent and we may have no further contact with either the client or worker for many years. The client in Canberra is required to take out WC cover at a MINIMUM cost of \$1500.00 per annum.

➤ CASUAL REFERRALS to PRIVATE CLIENTS:

- 3+ hours baby-sitting/ childcare assignments
- Occasional Companion-care assignments for the frail aged
- Respite care for those caring for the disable from overnight or weekend care up to 30 days short-term LIVE-IN assignments
- Supervised Contact assignments (usually under Court Orders)
- In-home Nursing assignments for the frail, the aged and the disabled
- Housekeeping assistance for the frail aged and business/professional couples
- Handyman assistance for the aged, frail and the disabled

In both Permanent Placements and casual referrals, DIAL-AN-ANGEL®

- ◆ has no control over the worker's pay or conditions of employment;
- ◆ does not control or supervise the work undertaken or the conditions of their work environment.
- ◆ provides neither products nor equipment;
- ◆ does not define the hours of work nor start or finish times (nor have we any way of knowing how many hours they have worked)
- ◆ does not allocate meal breaks or entitlements of Leave and
- ◆ does not remunerate the worker, deduct tax or pay Superannuation.

Independent workers may have many clients and short hours.

- ◆ They are not entitled to Annual or Sick Leave (ATO ruling)
- ◆ There are no income tax deductions (ATO ruling) as they are NOT PAID by DAA
- ◆ They are not entitled to Superannuation
- ◆ They are not given direction by DIAL-AN-ANGEL® on the performance of their tasks (instructions on what needs to be done and how it is to be done come from the client).

The Company acts as specialist recruiters for private clients in their own homes.

➤ CORPORATE BOOKINGS:

When DIAL-AN-ANGEL® is contracted by a third party - the CUSTOMER who is invoiced for payment - to manage the CLIENT'S (the recipient of the service) care - STAFF ANGELS® only - are employed - (the customer may be an Insurance Company, Office of the Protective Commissioner, a legal entity or a Trustee Company).

STAFF ANGELS® are employed and paid directly by DIAL-AN-ANGEL® and are always FULLY COVERED for Workers Compensation, Professional Indemnity and Public Liability Insurances (the two latter for \$10,000,000) and Superannuation is paid. Management and administration costs are included. Income Tax deductions are made by the Agency and forwarded monthly to the Australian Tax Office. Each permanent employee is covered for Annual and Sick Leave entitlements.

➤ ADDITIONAL COMMENTS:

Private families hiring the services of unREFERRED, unSCREENED workers are legally obliged to cover their employee for Workers Compensation. The facility is there for them at a huge cost in the A.C.T. However, if they utilise the referral services of a private Agency which assumes the responsibility of screening applicants before referral, the Agency is automatically "deemed" to be the employer! This is a ridiculous restriction on trade. In most instances an Agency does not know how many hours the worker is employed. Clients will often find additional things they want done, perhaps return later than they originally anticipated or the worker completes the 3 hour assignment within 2 hours.

O.H & S ISSUES

DIAL-AN-ANGEL® has no control over the safety of the workplace. We are unable to ensure that there is no exposed wiring, no slippery tiles, no defective electrical appliances or that the worker will not be required to undertake hazardous work which entails the use of a ladder. We cannot oblige the clients to cover electrical sockets, to close gates, to ensure that stairs have safety treads. All instructions to the Angel are given by the client-employer - the end-user of the service.

DIAL-AN-ANGEL® is the instrument by which almost 1000 Canberrans acquire casual and/or part-time employment. It provides the most reliable form of home-support services for many thousands of Canberrans.

The Company has already invested in excess of \$500,000 in the A.C.T since 1996. The cost of Workers Compensation for people whom we do NOT EMPLOY is sufficient to make us seriously reconsider the worth of the drain on the parent Company to provide our essential services to families in the ACT and surrounding areas. If an Angel lives and works in Queanbeyan he/she is covered by NSW legislation – why should the families of Canberra have to “wear” the loading when the families of Queanbeyan do not?

Since opening in Canberra DIAL-AN-ANGEL® has only been advised of two claims made on Workcover - one a motor vehicle accident on the worker's way to her client. The INSURERS ACCEPTED LIABILITY and paid the compensation directly to the workers - we did not process either claim as the workers were NOT EMPLOYED by us.

Some of the smaller home support and nursing agencies have “given up” and are referring household workers who are not covered for Workers Compensation at all - hoping that they will not be caught out. DIAL-AN-ANGEL® has preserved its integrity and reputation for quality home help by operating strictly within the "letter of the law" as well as within the "spirit of the law" and is being penalised for its adherence.

Apart from seeking a uniform definition of workers to be covered we also seek to know the definition of "employer". We have spoke to David Russell of the AiGroup and to his knowledge the legal approach is that "where there is no control, there is no liability".

Workcover in the ACT is "double-dipping". They require private employers to take out WC insurance at a minimum of \$1500.00 per annum - but also deem the agency liable to cover the same workers. No other State or Territory has this arrangement. Even the ATO accepts that the fully-screened workers referred to private clients are independent workers.

This is now a matter of extreme urgency as we find we are unable to meet the costs of covering all workers registered at the rates quoted to us without passing the loading onto our Canberra clientele. We recently received a statement for the estimate of Workers Compensation Insurance. For some very strange reason we have been rated by various underwriters at 20% of estimated remuneration to independent workers – about which we can only hazard an educated “guestimate”. This is an extortionate rating for childcarers, carers of the frail and aged and housekeepers who work in private households! They do not use explosives or climb Mt Everest! Some insurers have stated without apology that they are simply not interested in providing Domestic Workers Compensation Insurance!

We trust that this abbreviated coverage of the huge problem currently being faced in the ACT will assist you to understand the nature of our submission and thank you for the opportunity to put our case before the Commission.

Your acknowledgement of receipt of this correspondence is requested. If deemed necessary the writer is prepared to travel to Canberra to meet with the Commission. A similar situation was resolved amicably and mutually satisfactorily when the GST was introduced by attendance at a round table conference with the heads of six relevant departments.

You are invited to visit our website www.dialanangel.com The writer's direct telephone number is (02) 9362 4069 and direct fax line (02) 9362 4719.

Yours faithfully
DIAL-AN-ANGEL® Pty Limited

DENA N. BLACKMAN
Chairman of Directors; Senior Consultant to the DIAL-AN-ANGEL® Group of
Companies