



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

December 3, 2008

Re: Request for Opinion
Home Health Aides
RO-08-0126

Dear [REDACTED]

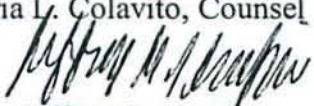
This letter is written in response to your email request for an opinion of October 8, 2008 asking for an opinion as to the "proper classification of employment" of certified home health aides is under Article 11 of the General Business Law.

New York General Business Law §185(4) classifies employment for the purpose of placing a ceiling over the fees charged by employment agencies. Under Section 185(4), Class "A" workers include "domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural; Class "A1" workers include "non-professional trained or skilled industrial workers or mechanics;" Class "C" workers include those employed in a "theatrical engagement;" and Class "D" workers include nurses. Class "B" workers, on the other hand, include all other workers not included in the above-enumerated classes. Please be advised that this Department's long standing policy has been to consider home health aides to be within Class "A-1" workers for purposes of this section of law as they are "non-professional trained workers."

This opinion is based on the information provided in your email of October 8, 2008. A different opinion might result if the circumstances outlined in your letter changed, if the facts provided were not accurate, or if any other relevant fact was not provided. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel


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