

# Client Alert

June 7, 2024

## **PERSONAL CARE AIDE TRAINING PROGRAMS**

As a reminder, the documents for the Department of Health (DOH) Personal Care Aide (PCA) Training Program were modified in June 2022 and include updates to the requirements for agencies applying for a new PCA Training Program, as well as PCA Training Programs already approved by the Department. The documents are available at [https://health.ny.gov/professionals/home\\_care/guide\\_to\\_operate\\_pcatp/](https://health.ny.gov/professionals/home_care/guide_to_operate_pcatp/)

A PCA Training Program can benefit an agency by providing an effective recruitment tool. PCA Training Programs can also perform Alternate Competency Demonstrations for qualified individuals who have not gone through the formal training program curriculum, but who have related experience and related training. Be advised that an agency with a Training Program is prohibited from requiring a trainee to commit to employment, and it is not permitted to hold a PCA certificate once earned.

Contact our office with questions related to the process and application requirements for obtaining approval for a Personal Care Aide Training Program and/or Home Health Aide Training Program.

## **COST REPORT SUBMISSIONS ARE DUE AUGUST 30, 2024**

The Department of Health (DOH) and KPMG LLP (KPMG) announced that the 2023 Medicaid Home Care Cost Report would be available on Friday, May 31, 2024. Providers will have 90 days to complete the cost report.

Certified Home Health Agencies (CHHAs), Licensed Home Care Services Agencies (LHCSAs) and Fiscal Intermediaries (FIs) should have received an email notifying them that the 2023 cost report is available on May 31, 2024.

As part of the Home Care Cost Report Outreach Program, DOH and KPMG will be hosting a live 2023 Medicaid Home Care Cost Report Kickoff Webinar on Thursday, June 13th from 1:00-2:00pm EST. The live webinar will focus on changes and new information specific to the 2023 Medicaid cost report year. KPMG and DOH have previously prepared webinars on the Medicaid Home Care Cost Report background, key information, and Tool functionality. The pre-recorded webinars are available within the "Useful Links" section of the 2023 Tool Instructions tab year-round.

Additional information provided by the Department:

- Similar to previous cost reports, the 2023 cost report will be accessible on the Home Care Tool Dashboard at the following link: [Home Care Dashboard \(certisphere.com\)](https://certisphere.com).

· For users who completed the 2019-2022 Home Care Cost Reports, the log-in credentials for the Web-based Tool will be the same. If you forgot your password, you can click the “Forgot Password?” link on the Web-based Tool log-in page. You will then be sent an email containing the steps to reset your password.

· If your agency needs to add additional users to the Tool, you can send an inquiry to [tous-advrisknyshe@kpmg.com](mailto:tous-advrisknyshe@kpmg.com). In your inquiry, please include the first name, last name, and email address of the individual that needs access.

## **PAID PRENATAL LEAVE - EFFECTIVE IN 2025**

Effective January 1, 2025, New York State employers are required to provide employees with twenty hours of paid prenatal personal leave. Under Section 196-b of the New York Labor Law, prenatal personal leave is defined as “leave taken for the health care services received by an employee during their pregnancy or related to such pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy.” Below are the key requirements under Section 196-b:

- The twenty hours will be *in addition* to the fifty-six or forty hour requirement to provide sick and safe leave.
- An employee can take prenatal leave in hourly increments, at any time during the fifty-two-week calendar period.
- Benefits for paid prenatal personal leave shall be paid in hourly installments.
- Employees shall receive compensation at the employee’s regular rate or the established minimum wage, whichever is greater, for the use of paid prenatal leave.
- Unlike the current requirements for sick leave, the twenty hours of paid prenatal leave is not accrued based on the hours worked by an employee.
- There is no requirement that an employer pay an employee for unused paid prenatal leave upon such employee’s termination, resignation, retirement, or other separation from employment.

Like the requirements for sick leave, employers will not be able to require disclosure of confidential information relating to an employee’s illness, injury or health condition, as a condition of providing paid prenatal leave. Also, similar to sick leave, employers may not discriminate or retaliate against employees that exercised their rights for requesting or using prenatal leave.

Make sure you become familiar with the new requirement and reach out to us for help with your policies to ensure you are compliant with the new requirements.

## **NYC BANS CONTRACTUAL PROVISIONS THAT LIMIT TIME AN EMPLOYEE CAN FILE COMPLAINTS RELATING TO DISCRIMINATION AND HARASSMENT**

On May 11, 2024, the New York City Human Rights Law was amended by an ordinance that prohibits agreements, the intent of which is to shorten an employee’s statutory period for filing a civil action or administrative claim that relates to unlawful discriminatory practices, harassment or violence.

The statutory period for an employee to commence a civil action is three years after the occurrence of the alleged unlawful discriminatory practice, act of discriminatory harassment, or violence. Alternatively, employees can commence an administrative claim with the NYC Commission on Human Rights within one year after the alleged unlawful act. The new ordinance renders contractual provisions that shorten the period in which a civil action or an administrative claim may be commenced by an employee “unenforceable and void as against public policy.”

This ordinance is expected to apply retroactively after the May 11, 2024 effective date. Therefore, even if an agreement was entered into before the effective date of the ordinance, the provisions prohibited by this ordinance would still be unenforceable.

Contact our office with questions or to review employment agreements to ensure they do not contain terms that would violate the Human Rights Law.

## DISCLAIMER

The information contained herein is provided by Glaser & Weiner, P.C. for informational purposes only. These materials should not be considered as, or as a substitute for, legal advice and they are not intended to nor do they create an attorney-client relationship. Because the materials included here are general, they may not apply to your individual legal or factual circumstances.

The information contained herein may be modified or rendered incorrect by future legislative or judicial developments. You should not take (or refrain from taking) any action based on the information you obtain from these materials without first obtaining professional counsel. It is possible that under the laws, rules or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation. © 2024 Glaser & Weiner, P.C. All Rights Reserved.



REPRESENTING HOME HEALTH CARE AGENCIES  
IN NEW YORK STATE

68 South Service Road ♦ Suite 100 ♦  
Melville, NY 11747

P: 516.304.5858 ♦ F: 516.304.5855  
[www.glaserweiner.com](http://www.glaserweiner.com)

---

## ATTORNEY ADVERTISING

Glaser & Weiner, P.C. | 68 South Service Road Suite 100 | Melville, NY 11747 US

[Unsubscribe](#) | [Update Profile](#) | [Constant Contact Data Notice](#)



Try email marketing for free today!