

Client Alert

May 11, 2021

The Department of Health Publishes Updated Guidance on Wage Parity Compliance and Certification

On May 11, 2021, the Department of Health Office of Health Insurance Programs Division of Long Term Care, published updated Wage Parity Compliance and Certification Guidance. This guidance, which can be accessed in full [here](#), informs the implementation of changes to Public Health Law 3614-c related to updated wage parity compliance and certification. Details are included below.

Electronic Submission and DOL Issued Forms

By June 1, 2021, and annually thereafter, all MMCO and MLTC plans, as well as CHHAs, LTHHCPs, LHCSAs and FIs must submit their certification of compliance with wage parity to the Department of Health electronically, through the eMedNY Provider Portal. The certification process must be completed on or before May 31 each year, and certifications must be completed for each entity that is enrolled in Medicaid and providing Medicaid-reimbursed services. FIs that are not enrolled in Medicaid however must continue to use a paper submission process. FIs can email hcworkerparity@health.ny.gov for a copy of this paper submission.

In addition to the 2021 updates, beginning June 1, 2022, and annually thereafter, LHCSAs and FIs must certify that they have provided to each MMCO, MLTC, CHHA, and LTHHCP an annual statement of wage parity hours and expenses on DOL Form LS-300, accompanied by an independently-audited financial statement verifying such expenses and DOL Form LS-301.

Beginning June 1, 2022 and annually thereafter, MMCOs, MLTCs, CHHAs, and LTHHCPs must certify that they received, reviewed and assessed these annual compliance statements and independently-audited financial statement verifying such expenses on DOL Form LS-300 and DOL Form LS-301.

MMCOs, MLTCs, CHHAs, LHCSAs, and LTHHCPs are also required to certify that they will make a written referral to the Department of Labor, using [the Department's electronic referral form](#), for any reasonably suspected failure of a LHCSA or FI to conform to the wage parity requirements of PHL 3614-c.

Lastly, while PHL 3614-c does not expressly require LHCSAs and FIs to submit a quarterly certification to MMCOs, MLTCs, CHHAs and LTHHCPs, these entities may

continue to require LHCSAs and FIs to submit quarterly certifications through contractual arrangements. If contractually required, these quarterly certifications would continue to be submitted directly to the MMCO, MLTC, CHHA or LTHHCP, and not the Department of Health.

Penalties

Any MMCO, MLTC, CHHA, LHCSA, LTHHCP, or FI that willfully pays less than the minimums regarding wages and supplements established in PHL 3614-c is, upon conviction, guilty of a misdemeanor.

A first offense is punishable by a fine of \$500 or term of imprisonment for up to thirty days, or by imposing both a fine and term of imprisonment. For a second offense, the organization will be punished by a fine of \$1,000 and the contract on which the violation occurred shall be forfeited. Any entity convicted of a second violation will also no longer be able to receive Medicaid funding or provide Medicaid services for which the State would authorize payments to the entity.

Please contact our office with any questions regarding wage parity certification and compliance.

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