



Wage Parity Changes- Are You Ready?

For home care providers and fiscal intermediaries, New York State's 2020-2021 Budget includes significant amendments to the Wage Parity and Labor Laws that will greatly impact their business. The amendments will go into effect on October 1, 2020, which means that if you are subject to the Wage Parity Law, you should immediately review and analyze your wage parity program with a view towards taking all necessary steps to ensure that your program is and will be in compliance with the amended Wage Parity and Labor Laws.

The [Wage Parity Law](#) was amended to state that no payments by government agencies shall be made to CHHAs, LHCSAs, MLTCs or FIs, without such entities having delivered annual prior written certification to the Commission of Health that all services provided under each episode of care are in full compliance with the Wage Parity Law, and that no portion of the dollars spent or to be spent to satisfy the wage or benefit portion shall be returned to the CHHA, LHCSA, LTHHCP, MCO or FI, related persons or entities, other than to a home care aide to whom wage or benefits are due, as a refund, dividend, profit or in any other manner.

The amended law will also require that MLTCs, CHHAs and LTHHCPs include in their contracts a requirement that the LHCSA, FI or other third party vendor provides a written certification which attests that they are in compliance with the terms of wage parity, and that the LHCSA, FI or third party vendor provide all information necessary to verify compliance with the terms of the law, which shall include an annual compliance statement of wage parity hours and expenses accompanied by an independently-audited financial statement verifying such expenses.

The written confirmation being provided to the State by providers must certify that the CHHA, LTHHCP or MCO has received from the LHCSA, FI or other third party an annual statement of wage parity hours and expenses on a form provided by the Department of Labor, accompanied by an independently-audited statement verifying such expenses.

The [New York Labor Law](#) was amended to require that the Notice of Pay Rate (given under the Wage Theft Prevention Act) must include the benefit portion of the home care aide total compensation. The notice must identify for each type of supplement claimed or each type of home care aide benefits provided:

- the hourly rate being paid;
- the types of home care aide benefits including, but not limited to, pension or healthcare;
- the names and addresses of the person or entity providing such home care aide benefits; and
- the agreement, if any, requiring or providing for such home care aide benefits, together with information on how copies of such agreements or summaries may be obtained by an employee.

Lastly, pay stubs for covered employees will have to provide information about wage parity benefits. This will include the benefit portion of the home care aide total compensation, as well as the type of each home care aide benefit provided.

Providers should be concerned because the amendments impose penalties for any CHHAs, LHCSAs, LTHHCPs, MCPs, FIs or other third parties that violate the Wage Parity Law by willfully paying

their workers less than the "stipulated minimums regarding wages and supplements." The penalties are as follows:

- First offense - Fine of \$500; imprisonment for not more than 30 days; or both
- Second offense - Fine of \$1,000, and the contract on which the violation occurred shall be forfeited, as well as all payments under that contract

The impact of these amendments is significant and a timely review of your program (including applicable benefits provided, third party administrator agreements, documents provided to workers, payroll records) is critical. Keep in mind that we expect that you will have to provide information on your wage parity program and compliance in connection with the pending LHCSA RFO. [Contact](#) our office with any questions you have concerning the amended Wage Parity and Labor Laws.

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