

# Client Alert

## November 19, 2024

### **2025 New York Paid Family Leave Contribution Rate and Maximum Weekly Benefit Changes**

The New York State Department of Financial Services has announced its changes to the employee contribution rate and benefit amounts under the New York Paid Family Leave (PFL) law, which will be effective January 1, 2025. New York PFL provides eligible employees with up to 12 weeks of job protected, paid time off to bond with a new child, care for a family member with a serious health condition, or to assist loved ones when a family member is deployed abroad on active military service. This time can be taken all at once, or in increments of full days.

Employees taking Paid Family Leave receive 67% of their average weekly wage, up to a cap of 67% of the current NY State Average Weekly Wage (NYSAWW). For 2025, the NYSAWW is \$1,757.19, which means the maximum weekly benefit is \$1,177.32. This represents a \$26.16 increase compared to the maximum weekly benefit for 2024, which was set at \$1,151.16 per week.

NY PFL is funded by employees through payroll deductions. The contribution rate for 2025 will increase to 0.388% of an employee's gross wages per pay period, for a maximum annual contribution of \$354.33. This reflects a 0.373% increase from 2024. Employees earning less than the current NYSAWW of \$1,757.19 will contribute less than the annual cap of \$354.53, consistent with their actual wages.

### **Beneficial Ownership Information Reports due by January 1, 2025**

The Federal Corporate Transparency Act ("CTA"), which took effect on January 1, 2024, requires most registered business entities, including limited liability companies (LLCs) and corporations (Corporations) to file a beneficial ownership information (BOI) report with the US Treasury Department Financial Crimes Enforcement Network (FinCEN) by January 1, 2025.

#### **BOI Reporting due dates:**

- **Existing Companies** – Reporting companies created or registered to do business before January 1, 2024 must file their initial BOI report by

January 1, 2025.

- **New Companies Formed in 2024** – Reporting companies created or registered on or after January 1, 2024 and before January 1, 2025, must file their initial BOI report within 90 days of the entity's formation.
- **New Companies Formed in 2025**– Reporting companies created or registered on or after January 1, 2025, must file their initial BOI report within 30 days of the entity's formation.
- **Changes/Inaccuracies**– If there is any change to the required information about your company or its beneficial owners in a BOI report that your company filed, your company must file an updated report no later than 30 days after the date of the change. If a BOI report is inaccurate, your company must correct it no later than 30 days after the date your company became aware of the inaccuracy or had reason to know of it.

A company must submit a BOI report if it meets the FinCEN's beneficial owner reporting rule's definition of a "reporting company" and does not qualify for an exemption.

- **Domestic reporting company** – A corporation, LLC, or any business entity created through filing a registration document with a secretary of state (or similar) office under the law of a state or Indian tribe.
- **Foreign reporting company** – A corporation, LLC, or other entity formed under the law of a foreign country that filed a document with a secretary of state or any similar office to register to do business in any U.S. state or tribal jurisdiction.

Sole Proprietorships and General Partnerships are not required to file a BOI report because they are not registered legal entities. Furthermore, there are 23 types of entities that are [exempt](#) from filing a BOI report. An exempt entity is automatically excused from the reporting requirements.

Beneficial owners are defined as company executives and those that own or control 25% or more of the ownership interests of the reporting company. The entity must disclose the beneficial owner's: full legal name, date of birth, current physical address, and unique identifying number and issuing jurisdiction from, and image of one of the following: US passport, State driver's license, Identification document issued by a state or local government, or if the individual does not have any of the above documents, foreign passport. Penalties for late reporting and/or non-compliance include civil penalties of \$500/day that the violation continues as well as criminal penalties that can include a \$10,000 fine and up to two years of imprisonment.

Of further note, the New York LLC Transparency Act (NY LLCTA), will become effective January 1, 2026, and will require limited liability companies (LLCs) formed, or qualified to do business in the state of New York to report personal information about their beneficial owners and applicants with the New York Department of State. This New York requirement will be in addition to FinCEN's BOI Rule.

You can electronically file your BOI [here](#), or can contact our office for assistance with filing.

**Office of Civil Rights Enforcement Actions Stress  
Need for HIPAA Compliance**

Four recent Office of Civil Rights (OCR) enforcement actions have shown that robust HIPAA compliance programs are essential in eliminating or lessening the damage from a ransomware attack and an associated OCR investigation. Since 2018, large HIPAA breaches, defined by the OCR as impacting 500 or more individuals, have increased 264%. Covered entities must notify the affected individuals of large HIPAA breaches without unreasonable delay and in no case later than 60 calendar days from the discovery of the breach.

Facilities should also be wary of the NY SHIELD Act, which although generally does not apply to protected health information (PHI), protects New York residents against data breaches affecting their private information and applies to any person or business which owns or licenses computerized data including private information. If a covered entity must provide notice of a breach under HIPAA, the SHIELD Act will not require an additional notification, although the covered entity still must notify the applicable state agencies and the consumer reporting agencies as otherwise required under the law. A person or business complies with the data security protections added by the SHIELD Act by being “a compliant regulated entity.” Thus, by complying with HIPAA, an entity will be deemed to satisfy the data security requirements under the SHIELD Act.

The four enforcement actions involved providers that suffered ransomware attacks and related breaches that impacted thousands of patients. Findings included failure to complete compliant security risk analyses, failure to sufficiently monitor health information system activity, failure to separate private networks from public and untrusted networks, failure to configure firewalls to monitor and track access or network changes, and failure to implement policies and procedures to regularly review information system activity. The fines varied with the greatest set at \$500,000. Additionally, all providers must now comply with corrective action plans for up to three years. OCR investigations can take years to complete and may result in severe Civil Monetary Penalties. Entities should conduct an accurate and thorough assessment of the potential risks and vulnerabilities of patients’ electronic PHI. Contact our office for assistance.

### **Dear Administrator Letter Enforces LGBTQ+ Rights**

The Department of Health (DOH) has released a new [Dear Administrator Letter](#) which reaffirms the rights afforded to residents of Nursing Homes and Adult Care Facilities not to be discriminated against on the basis of the residents’ actual or perceived sex, sexual orientation, gender identity or expression, or human immunodeficiency virus (HIV) status.

Additionally, New York State Public Health Law 2803-c-2(7), and Laws of 2022, Chapter 737, as amended by [Laws of 2023, Chapter 81](#), require that at least once every two years, the facility ensure that every facility staff member who works directly with residents receives cultural competency training developed by the DOH that focuses on residents who identify as lesbian, gay, bisexual, or transgender, and residents living with HIV. Facility staff is required to receive this training within six months of their hire date unless they provide proof of having received comparable training within the prior two years that the facility determines to be compliant with the requirements of this law.

The cultural competency training course (#OALTC-603) is available on the New York Learns Public Health Learning Management System at <https://www.nylearnsph.com/Public/Default.aspx>. After the course is

completed, the registered user will receive a confirmation certificate that should be retained.

The DOH has indicated that they will begin to audit this requirement in 2025 for LHCSAs as well. In-Service training should begin to include LGBTQ+ rights. For assistance updating your cultural competency training policy, contact our office.

### **Client Alert: 24 Fiscal Intermediary Partners Announced by State**

Last week, Governor Hochul announced 24 community-based home care providers that will partner with Public Partnerships LLC (PPL) in serving New York's Consumer Directed Personal Assistance Program (CDPAP) consumers and caregivers once the statewide partnership takes effect on April 1, 2025.

The 24 partners have been selected to ensure the delivery of multilingual, culturally comprehensive care to consumers and a smooth transition to the Single Fiscal Intermediary system. They offer services in 21 languages, operate nearly 100 offices, and serve all 62 counties in New York. Reportedly, PPL is in the process of selecting additional partners who will be subject to review and approval by the State and are expected to be announced in the coming weeks.

The Department of Health has conditionally approved the following partners pending the successful resolution of any potential conflicts of interest. The definition of conflict, however, has not been established by the Department.

- Access Supports for Living, Inc.
- AccessCNY, Inc.
- All Metro Health Care
- BestCare Inc.
- Burd Home Health, LLC
- Community Care Home Health Services
- Committed Home Care, Inc.
- Community Home Care Inc.
- Companion Care of Rochester
- Eagle Eye FV Inc
- ElderCare/At-Home Solutions/Health Care for All
- Hamaspik Homecare
- Heritage Christian Services, Inc.
- Horizon Home Care Services, Inc.
- Ideal Home Health, Inc.
- Independent Health Care Services, Inc
- Jawonio, Inc.
- NY Foundation for Senior Citizens
- People, Inc.
- Personal Touch Home Care of NY Inc
- Quality Family Care LLC
- Quality Touch Inc.
- Special Touch Home Care Services, Inc.
- Technology Professional Group Inc.

This announcement comes as opponents of the transition continue to fight the Single Statewide Fiscal Intermediary. Our office will continue to keep you updated as additional information is made available.

## Critical Survey Points from the Department of Health

Millie Ferriter, Director of the Division of Home & Community Based Services Surveillance at the New York State Department of Health (DOH) recently reported that LHCSA complaints and deficiencies have increased, leading to an increased level of oversight from the DOH, who remain focused on patient safety and quality of care. Millie provided enlightening information including the most common deficiencies LHCSA's face including the following:

- LHCSAs that neglect to follow Criminal History Record Check (CHRC) rules and regulations put their patients at risk and are in jeopardy of facing a DOH cited deficiency. Additionally, when the DOH finds such violations, they often refer the matter to the Office of the Medicaid Inspector General for investigation and potential funds recovery.
- DOH has begun surveying and credentialing Personal Care Aide Training Programs (PCATP). Make sure your PCATP is compliant in all respects and that your PCATP policies and procedures are current and have been reviewed. For those agencies that have PCATPs, be mindful that changes were instituted in 2022. Your policies and procedures should be updated to reflect such changes.
- Statistical reports are the method whereby an Agency completes registration. An Agency that has failed to register for two years will be faced with enforcement actions that can lead to license suspension.
- Health Commerce System (HCS) accounts must be kept up to date. Ensure that contacts with valid phone numbers are properly reflected in your HCS account.

Contact our office with assistance preparing for surveys, responding to statement of deficiencies, and updating your policies and procedures.

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