

Home Care Developments

Poricanin
Practical Counsel. Industry Insight.

New York Department of Labor Publishes Wage Parity Reporting Forms

The Department of Labor has published on its website a set of forms that wage parity providers should carefully review. The forms are available [HERE](#) and [HERE](#).

As most wage parity-covered providers recall, as a result of this year's budget bill, wage parity providers will have certain new compliance obligations with respect to wage parity. Specifically, providers will be required to obtain, each year, an independent financial audit of their wage parity expenses, file an annual "written certification" of compliance, and submit an "annual statement of wage parity expenses." The DOL has published forms that will be required to comply with these requirements.

The first form, the "Employer's Annual Compliance Statement of Wage Parity, Hours and Expenses" will be submitted to each CHHA, MCO, & LTHHCP with which the provider contracts. The form requires the provider to report their total "episodes of care, the total number of caregivers providing episodes of care, total wage parity hours of care, total wage parity base wages paid, total wage parity additional wages paid, total wage parity supplemental wages paid and other benefits that are paid. The form must be completed for each calendar year in which the provider provides any wage parity services. However, it is unclear what is the first year for which this form must be filed. A separate form must be completed for each payor to whom the form is being submitted. The form also must be submitted to the independent auditor who will be verifying the employer's reported expenses.

The second form published by the DOL, the "Independent Auditor's Statement Verifying Employer's Wage Parity Hours and Expenses," must be completed for each calendar year in which the provider provides any home care aide services under a contract with a CHHA, MCO, or LTHHCP. The auditor will be required to certify on the form that the whatever is independent of the provider and that the "Compliance Statement of Wage Parity Hours and Expenses for the Employer for the Period" in the order is accurate. Somewhat un-helpfully, the form states that an "Independent Auditing Firm must be independent of the Employer as that term is commonly understood to mean." Thus, it is not yet fully clear how independent an auditing firm needs to be for purposes of this report. The completed Independent Auditor's Statements must be provided to the CHHA, MCO, or LTHHCP to which the home care aide services being reported apply AND must be made available upon request to the New York

State Department of Health or the Department of Labor.

Please let us know if you have any questions about these forms or your wage parity obligations

Upcoming Presentation !!

General Session

Wage and Hour Update with the Department of Labor

Frank King, Chief Labor Standards Investigator with NYS Department of Labor; Emina Poricanin, Poricanin Law; Peter Godfrey and John Godwin, Hodgson Russ

This session will help providers understand the longstanding and new requirements concerning their federal and state wage and hour obligations. Topics covered will include updates to minimum salary requirements for exempt employees, spread of hours calculations, new wage parity record keeping requirements, wage and hour trends and common problem areas in federal and state DOL and Attorney General audits and litigations, and how to best prepare to respond to any audits and litigation claims alleging violations of wage and hour laws.

Join my wage and hour colleagues and I, alongside the New York Department of Labor, for a Wage and Hour Update session at this year's annual New York Health Care Providers' Association conference. We will discuss all the legal updates and changes concerning pay rate forms, minimum wage increase, Department of Labor initiatives and enforcement activity in home care, as well as wage parity matters.



From the Desk of

Emina Poricanin
Emina Poricanin, Esq.

New York City Offices

3 Columbus Circle, 15th Floor
New York City, NY 10019

434 W. 33rd Street, 10th Floor
New York City, NY 10001

Buffalo Office

50 Fountain Plaza, Suite 1400
Buffalo, NY 14202

Albany Office

90 State Street, Suite 700
Albany, NY 12207

Poricanin

Practical Counsel. Industry Insight.

STAY IN TOUCH

emina@poricaninlaw.com

315.269.1125

518.676.0192



Copyright © 2020 Poricanin Law, P.C., all rights reserved

You are receiving this communication because you have elected to participate in Poricanin Law's Industry Insights newsletter. Nothing stated herein should be construed as legal advice, or as creating an attorney-client relationship. If you would like to opt-out of receiving these communications, please email e@poricanin.com.

