

# STATE OF NEW YORK

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7806

2023-2024 Regular Sessions

## IN ASSEMBLY

June 15, 2023

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Introduced by M. of A. STERN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to home care worker wage parity

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 5 and 6 of section 3614-c of the public health  
2 law, as amended by section 1 of part 00 of chapter 56 of the laws of  
3 2020, are amended to read as follows:

4 5. No payments by government agencies shall be made to certified home  
5 health agencies, licensed home care services agencies, long term home  
6 health care programs, managed care plans, fiscal intermediaries for any  
7 episode of care without the certified home health agency, licensed home  
8 care services agency, long term home health care program, managed care  
9 plan or the fiscal intermediary, having delivered prior written certifi-  
10 cation to the commissioner annually, at a time prescribed by the  
11 commissioner, on forms prepared by the department in consultation with  
12 the department of labor, that all services provided under each episode  
13 of care during the period covered by the certification are in full  
14 compliance with the terms of this section and any regulations promulgat-  
15 ed pursuant to this section and that no portion of the dollars spent or  
16 to be spent to satisfy the wage or benefit portion under this section  
17 shall be returned to the certified home health agency, licensed home  
18 care services agency, long term home health care program, managed care  
19 plan, or fiscal intermediary, related persons or entities, other than to  
20 a home care aide as defined in this section to whom the wage or benefits  
21 are due, as a refund, dividend, profit, or in any other manner. Such  
22 written certification shall also verify that the certified home health  
23 agency, long term home health care program, or managed care plan has  
24 received from the licensed home care services agency, fiscal interme-  
25 diary, or other third party an annual statement of wage parity hours and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 expenses on a form provided by the department of labor accompanied by an  
2 [~~independently audited financial statement verifying such~~] independent  
3 accountant's report on applying agreed upon procedures on the annual  
4 compliance statement of wage parity, hours and expenses.

5 6. If a certified home health agency, long term home health care  
6 program or managed care plan elects to provide home care aide services  
7 through contracts with licensed home care services agencies, fiscal  
8 intermediaries, or through other third parties, provided that the  
9 episode of care on which the home care aide works is covered under the  
10 terms of this section, the certified home health agency, long term home  
11 health care program, or managed care plan shall include in its  
12 contracts, a requirement that it be provided with a written certifi-  
13 cation, verified by oath, from the licensed home care services agency,  
14 fiscal intermediary, or other third party, on forms prepared by the  
15 department in consultation with the department of labor, which attests  
16 to the licensed home care services agency's, fiscal intermediary's, or  
17 other third party's compliance with the terms of this section. Such  
18 contracts shall also obligate the licensed home care services agency,  
19 fiscal intermediary, or other third party to provide the certified home  
20 health agency, long term home health care program, or managed care plan  
21 all information from the licensed home care services agency, fiscal  
22 intermediary or other third party necessary to verify compliance with  
23 the terms of this section, which shall include an annual compliance  
24 statement of wage parity hours and expenses on a form provided by the  
25 department of labor accompanied by an [~~independently audited financial~~  
26 ~~statement verifying such~~] independent accountant's report on applying  
27 agreed upon procedures on the annual compliance statement of wage pari-  
28 ty, hours and expenses. Such annual statements shall be available no  
29 less than annually for the previous calendar year, at a time as  
30 prescribed by the commissioner. Such certifications, the information  
31 necessary to verify compliance, and the annual compliance statement and  
32 [~~financial statements~~] independent accountant's report on applying  
33 agreed upon procedures on the annual compliance statement of wage pari-  
34 ty, hours and expenses shall be retained by all certified home health  
35 agencies, long term home health care programs, or managed care plans,  
36 and all licensed home care services agencies, fiscal intermediaries, or  
37 other third parties for a period of no less than ten years, and made  
38 available to the department upon request. Any licensed home care  
39 services agency, fiscal intermediary, or other third party who shall  
40 upon oath verify any statement required to be transmitted under this  
41 section and any regulations promulgated pursuant to this section which  
42 is known by such party to be false shall be guilty of perjury and  
43 punishable as provided by the penal law.

44 § 2. This act shall take effect immediately.