STATE OF NEW YORK

7806

2023-2024 Regular Sessions

IN ASSEMBLY

June 15, 2023

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:

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

5. No payments by government agencies shall be made to certified home health agencies, licensed home care services agencies, long term home health care programs, managed care plans, fiscal intermediaries for any episode of care without the certified home health agency, licensed home care services agency, long term home health care program, managed care plan or the fiscal intermediary, having delivered prior written certification to the commissioner annually, at a time prescribed by the commissioner, on forms prepared by the department in consultation with the department of labor, that all services provided under each episode of care during the period covered by the certification are in full compliance with the terms of this section and any regulations promulgated pursuant to this section and that no portion of the dollars spent or to be spent to satisfy the wage or benefit portion under this section shall be returned to the certified home health agency, licensed home care services agency, long term home health care program, managed care plan, or fiscal intermediary, related persons or entities, other than to a home care aide as defined in this section to whom the wage or benefits are due, as a refund, dividend, profit, or in any other manner. Such written certification shall also verify that the certified home health agency, long term home health care program, or managed care plan has received from the licensed home care services agency, fiscal intermediary, 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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expenses on a form provided by the department of labor accompanied by an [~~independently-audited financial statement verifying such~~] **independent accountant's report on applying agreed upon procedures on the annual compliance statement of wage parity, hours and** expenses.

6. If a certified home health agency, long term home health care program or managed care plan elects to provide home care aide services through contracts with licensed home care services agencies, fiscal intermediaries, or through other third parties, provided that the episode of care on which the home care aide works is covered under the terms of this section, the certified home health agency, long term home health care program, or managed care plan shall include in its contracts, a requirement that it be provided with a written certification, verified by oath, from the licensed home care services agency, fiscal intermediary, or other third party, on forms prepared by the department in consultation with the department of labor, which attests to the licensed home care services agency's, fiscal intermediary's, or other third party's compliance with the terms of this section. Such contracts shall also obligate the licensed home care services agency, fiscal intermediary, or other third party to provide the certified home health agency, long term home health care program, or managed care plan all information from the licensed home care services agency, fiscal intermediary or other third party necessary to verify compliance with the terms of this section, which shall include an annual compliance statement of wage parity hours and expenses on a form provided by the department of labor accompanied by an [~~independently-audited financial statement verifying such~~] **independent accountant's report on applying agreed upon procedures on the annual compliance statement of wage parity, hours and** expenses. Such annual statements shall be available no less than annually for the previous calendar year, at a time as prescribed by the commissioner. Such certifications, the information necessary to verify compliance, and the annual compliance statement and [~~financial statements~~] **independent accountant's report on applying agreed upon procedures on the annual compliance statement of wage parity, hours and expenses** shall be retained by all certified home health agencies, long term home health care programs, or managed care plans, and all licensed home care services agencies, fiscal intermediaries, or other third parties for a period of no less than ten years, and made available to the department upon request. Any licensed home care services agency, fiscal intermediary, or other third party who shall upon oath verify any statement required to be transmitted under this section and any regulations promulgated pursuant to this section which is known by such party to be false shall be guilty of perjury and punishable as provided by the penal law.

§ 2. This act shall take effect immediately.