

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:

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.