



Consumer Directed Personal Assistance Association of New York State

New Wage Parity Requirements

On May 11, 2021 DOH released updated wage parity and certification guidance to outline important changes about how FIs and other organizations must comply with wage parity requirements. The new guidelines require annual wage parity certifications be submitted by FIs to DOH electronically, two new forms that must be sent to the Department of Labor (DOL) and increased penalties for compliance failures.

As a reminder, the wage parity law only impacts FIs that serve cases in New York City, Nassau, Suffolk, and Westchester counties.

The following is a summary of the DOH guidance that applies strictly to FIs and LHCSAs. If you have a CHHA or LTHHCP, there are additional rules and requirements. [Click here](#) to view the guidance in its entirety. The new forms must be submitted on or before **May 31*** this year. Please reach out to us directly if you have any questions about the updated requirements.

* - The DOH guidance document gives two dates, June 1 and May 31 2021. The requirement is that these forms be submitted on or before May 31. Do NOT wait until June 1 to submit or you may be found to be out of compliance.

Wage Parity Certification

As mentioned above, wage parity is a law that applies only to services provided in New York City and Nassau, Suffolk, and Westchester counties. Last year, CDPAANYS provided a summary of new requirements included in the FY 2020-21 budget. As a brief refresher, the following changes were made:

- FIs cannot have a benefit plan that returns any unused wage, benefit or other item of value to the FI, or anyone associated with the FI except the worker.
- FIs must have an independent audit that certifies their wage parity compliance.
- Changes to the labor law that requires FIs to provide notice to PAs about how they meet the benefits portion of the law. A breakdown of hourly costs and benefits must be included on PA paychecks.

Beginning on May 31st of this year, FIs must **electronically** submit a certification of compliance with the updated wage parity requirements to the [eMedNY provider portal](#). The annual certifications require FIs to attest that they are in compliance with the wage parity law and any related regulations, that any unused dollars used to meet the wage and benefit requirements may only be disbursed to PAs. It further requires that FIs retain records verifying their wage parity compliance for ten years. These records must be available for DOH to audit, with possible retroactive cost collection if an FI is found to be out of compliance.

Department of Labor Audit and Certification Requirements

The guidance also laid out new reporting requirements in relation to the Department of Labor. Beginning **May 31, 2022**, new [DOL wage parity](#) documents will be required in order to account for the year prior. These forms must be submitted annually thereafter.

The new forms include a statement on the certification that your FI has provided each MMCO, MLTC, CHHA, and LTHHCP that you contract with an annual statement of wage parity hours and expenses on [DOL Form LS-300](#), as well as an independently audited financial statement verifying wage parity and expenses on [DOL Form LS-301](#).

Penalties for Wage Parity Non-Compliance

Penalties have been increased for organizations that are not in compliance with the wage parity law. It is now a misdemeanor for an FI to willingly compensate employees less than the required minimum wage and benefit mix established by the law. Those found guilty of a first offense face a fine of \$500, up to thirty days imprisonment, or both. For a second offense, an FI will be fined \$1,000 and the contract on which the violation occurred shall be forfeit. An FI convicted of a second violation will lose their right to provide Medicaid services, meaning that any affiliated LHCSA or other entity will also no longer be able to bill Medicaid, even if it was in compliance.

For more information on this guidance, please reach out to Julia Battista, CDPAANYS Policy Associate, at julia@cdpaanys.org, or at 518-813-9537.