



April 12, 2022

Ms. Susan Montgomery
Director, Division of Long Term Care
New York State Department of Health
Office of Health Insurance Programs
One Commerce Plaza Rm 1620
Albany, NY 12210

Via e-mail: Susan.Montgomery@health.ny.gov

Re: Wage Parity Certification, Form LS300 and LS301

Dear Ms. Montgomery:

The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 21,000 CPAs in public practice, business, government, and education, would like to have an opportunity for our Health Care Committee to discuss with you our concerns regarding the wage parity certifications for home care agencies, specifically, Form LS300 and Form LS301.

Effective for the calendar year ending 2021, Licensed Home Care Service Agencies (LHCSAs) and Fiscal Intermediaries (FIs) are required to submit to Managed Care Organizations (MCOs) and Certified Home Health Agencies (CHHAs)/Long Term Home Health Care Programs (LTHHCPs) the new Employer's Annual Compliance Statement of Wage Parity, Hours and Expenses (Form LS300) accompanied by the Independent Auditor's Statement Verifying Employer's Wage Parity Hours and Expenses (Form LS301) by June 1, 2022. We have some concerns that need to be addressed, as stated below, for those forms to be appropriately completed.

The first concern relates to certain language on Form LS301. The responsibility of a public accounting firm when engaged to audit a financial statement is to perform the audit in accordance with Generally Accepted Auditing Standards (GAAS) and to issue an opinion as to whether the financial statements are presented in accordance with Generally Accepted Accounting Principles (GAAP). GAAP requires that financial statements be prepared on the accrual basis of accounting unless specifically stated otherwise. This means that all costs that have been incurred and are legally due and payable would be included in expenses for the audited period. This does not appear to be what NYS Department of Labor (DOL)/NYS Department of Health (DOH) are requiring in the Form LS300. The form uses the word 'paid' on every line that references an expense. Clarity is needed as to whether the amounts on the form are to be presented in accordance with GAAP or some other basis of accounting, such as the cash basis (which would present expenses in the period in which the amounts were dispersed). Additionally, for

CPAs to be able to sign off on this form, at a minimum, the directions would need to be corrected to refer to the appropriate standards that the CPA is expected to comply with in performing the engagement.

The second concern is that Form LS300 seems to imply that the LHCSA's and FI's will submit a separate form to every MCO, CHHA and LTHHCP with which they contract. This would require the CPA to audit the information on each form. This would be a very cumbersome task, in that the testing performed by a CPA firm in providing assurance would not normally include this level of detail. Attesting to the Form LS300 on a reporting entity level (one Form LS 300), would be much more effective and efficient.

The third concern is clarity. There is confusion among both the CPAs and the agencies as to specifics, such as, what qualifies as wage parity pay (e.g., are accruals included?). Assuming accruals are included, when are they required to be paid? How do agencies account for an aide that works on cases for multiple contracts? What attestation procedures might the DOL/DOH be looking for that would give them a level of comfort that the agency is in compliance with the wage parity laws? Also note that in order for agencies to provide CPAs with the necessary documents needed to perform their procedures, the agencies have other specific concerns that need clarification, as well.

The fourth concern is about the requirement to perform a full audit of the agencies' financial statements, given that for the calendar years ended 2019 and after, DOH has removed this audit requirement for agencies and created a new cost report software where KPMG is contracted to perform that audit work. Is it really the intention of DOL/DOH to revert back to an audit of the financial statements, or is there another goal in mind?

The final concern is the due date. If a full audit of the financial statements is required, it would be very challenging to complete all of these for all affected agencies by June 1st of any given year. We would respectfully request that the submission deadline align more closely to the deadline of the Home Care Cost Report. This date would allow the agencies to properly close the books, prepare the required form and prepare the necessary engagement support to allow the CPA to perform the required procedures.

If you are available for additional discussion with us, please contact our Health Care Committee chair Steven Schwartz at (646) 254-7484 (Steven.Schwartz@cohnreznick.com) or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,



Rumbi Bwerinofa-Petrozzello
President