

# SECTION 3614-F

## Home care minimum wage increase

Public Health (PBH) CHAPTER 45, ARTICLE 36

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§ 3614-f. Home care minimum wage increase. 1. Definitions. For the purpose of this section:

(a) "Home care aide" shall have the same meaning as defined in section thirty-six hundred fourteen-c of this article.

(b) "Home care worker wage adjustment" shall mean a supplemental amount of wages equal to the rate of change in the average of the three most recent consecutive twelve month periods between the first of August and the thirty-first of July, each over their preceding twelve month periods published by the United States department of labor non-seasonally adjusted consumer price index for northeast region urban wage earners and clerical workers (CPI-W) or any successor index as calculated by the United States department of labor.

(c) "Downstate" shall mean all counties within New York city and the counties of Nassau, Suffolk and Westchester.

(d) "Remainder of state" shall mean all counties in the state of New York other than the counties in downstate.

2. (a) Beginning October first, two thousand twenty-two, in addition to the otherwise applicable minimum wage under section six hundred fifty-two of the labor law, or any otherwise applicable wage rule or order under article nineteen of the labor law, the minimum wage for a home care aide shall be increased by an amount of two dollars and zero cents.

(b) for the period January first, two thousand twenty-four through December thirty-first, two thousand twenty-four, the minimum wage for a home care aide shall be as follows:

(i) for each hour worked in downstate, eighteen dollars and fifty-five

cents; and

(ii) for each hour worked in remainder of state, seventeen dollars and fifty-five cents;

(c) for the period January first, two thousand twenty-five through December thirty-first, two thousand twenty-five, the minimum wage for a home care aide shall be as follows:

(i) for each hour worked in downstate, nineteen dollars and ten cents; and

(ii) for each hour worked in remainder of state, eighteen dollars and ten cents;

(d) for the period January first, two thousand twenty-six through December thirty-first, two thousand twenty-six, the minimum wage for a home care aide shall be as follows:

(i) for each hour worked in downstate, nineteen dollars and sixty-five cents; and

(ii) for each hour worked in remainder of state, eighteen dollars and sixty-five cents;

(e) beginning January first, two thousand twenty-seven, and each January first thereafter, the minimum wage for a home care aide shall be the sum of the minimum wage for a home care aide from the prior calendar year and the home care worker wage adjustment.

(f) (i) Notwithstanding any provision of law to the contrary, in no event shall the minimum wage for a home care aide in downstate exceed the sum of the wage set by the commissioner of labor pursuant to paragraph (a) of subdivision one-b of section six hundred fifty-two of the labor law plus three dollars and zero cents.

(ii) Notwithstanding any provision of law to the contrary, in no event shall the minimum wage for a home care aide in remainder of state exceed the sum of the wage set by the commissioner of labor pursuant to paragraph (b) of subdivision one-b of section six hundred fifty-two of the labor law plus three dollars and zero cents.

3. Where any home care aide is paid less than required by subdivision two of this section, the home care aide, or the commissioner of labor acting on behalf of the home care aide, may bring a civil action under article six or nineteen of the labor law; provided that this shall not preclude the commissioner of labor from taking direct administrative enforcement action under article six of the labor law.

4. (a) The department is authorized to address, to any provider of medical assistance program items and services that is an employer of home care aides, or officers thereof, any inquiry in relation to its contracts, employment or other relationship, and wages, compensation and other benefits paid to home care aides, including individually identifiable data and payroll reports. Every entity or person so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the department, signed by such individual, or by such officer or officers of a corporation, as the department shall designate, and affirmed by them as true under penalty of perjury. In the event any entity or person does not provide a good faith response to an inquiry from the department pursuant to this section within a time period specified by the department of not less than fifteen business days, such entity or person shall be subject to civil penalties under section twelve of this chapter. Each day after the deadline established by the department for reply until such time that the provider submits a good faith response shall be considered a separate and subsequent violation. In accordance with the process outlined in this paragraph, employers shall provide any documents or materials in the employer's possession, custody, or control that are requested by the department as needed to support or verify the employer's reply.

(b) Any reports or other information furnished to the department under this subdivision shall be deemed a confidential communication and shall not be subject to inspection or disclosure in any manner, including article six of the public officers law or department regulations in conformance therewith, except as provided in this section, pursuant to a judicial subpoena issued in a pending action or proceeding, or upon formal written request by the department of labor, the office of attorney general, or a duly authorized public agency.

(c) The department shall no less than annually provide a report to the governor, temporary president of the senate, and speaker of the assembly summarizing the information obtained by the department under this

subdivision. Such report shall not contain individually identifiable data.