

February, 2016

This communication is a follow up to the **Dear Colleague Letter** dated November 9, 2015 on the implementation of the Fair Labor Standards Act (FLSA).

Mainstream Managed Care, Managed Long Term Care Organizations (MCOs) and Home Health Care Agencies (HHCA) operating within and serving the State of New York are required to comply with the enclosed directives. For the purpose of this communication, a provider is identified as the following: Licensed Home Care Services Agencies (LHCSA), Certified Home Health Agencies (CHHA), Long Term Home Health Care Program, and Fiscal Intermediaries for both Managed Care and Fee-for-Service.

To support plans and providers in complying with the FLSA, the Department will advance State share funds for the purpose of increasing the total per hour wage paid to home care workers.

Managed Long Term Care (MLTC) Partial Capitation Plans will receive State share payment in cycle number 2008 which remits to providers on March 2, 2016. The total of the State share payments is \$22,807,251. MLTC Plans will receive State share only payments as lump sum amounts. Phase IV rates (effective October 1, 2015) will include Federal Share with CMS approval.

For fee-for-service providers, the per hour amount will be factored into rate adjustments, retroactive to October 13, 2015.

Both the managed care and fee for service payments are designed to provide funding for home care providers to meet their initial obligations under the Federal Final Rule.

It is the Department's expectation that funds issued to plans will be passed directly to providers in entirety.

Funds paid directly to providers are subject to the same expectation. Providers are responsible for ensuring that funds received are applied to the home care workers total per hour wage.

To assure compliance with the requirements indicated above, the Department requires that both plans and providers sign and submit the attached attestation, appropriate for your line of business. The submitted attestation confirms that funds received will be disbursed in compliance with the above directive.

Plans are directed to distribute and obtain all signed attestations from their contracted providers and retain them for their records.

All Fee-for-Service providers should return signed attestations directly to the Department at the following address: FLSA@health.ny.gov.

Any questions should be directed to FLSA@health.ny.gov.