

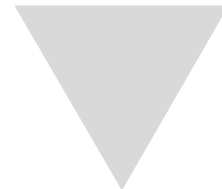
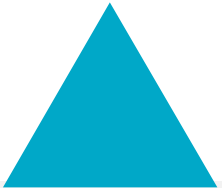
HEALTH WEALTH CAREER

FAIR LABOR STANDARDS ACT SURVEY

STATE OF NEW YORK

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FAIR LABOR STANDARDS ACT SURVEY

Agenda

- Overview
- Who Should Respond
- Purpose of the Survey
- Level of Detail
 - Overtime
 - Live-In
 - Travel
 - Other Expenses
- Summary
- Questions

Fair Labor Standards Act Survey Overview

- Effective October 13, 2015, the final rule of the United States Department of Labor extended the Fair Labor Standard Act's (FLSA) wage and hour protections to personal care and home health aides.
- These changes required the personal care and home health agencies to modify the amount paid to aides. These additional costs are related to three key areas:
 - Payment of Overtime
 - Billable Hours for Live-In Care
 - Compensation for Travel Time

Fair Labor Standards Act Survey

Purpose of the Survey

- The State is conducting the survey to better understand the operational and fiscal impacts to related providers.
- Information gathered may be used for:
 - Fee Schedule adjustments
 - Capitation Rate adjustments
 - Obtaining knowledge on operational issues resulting from FLSA
 - FLSA-related business practice changes

Fair Labor Standards Act Survey

Who Should Respond

- Any of the following provider types providing personal care or home care services to Medicaid members, whether enrolled in fee-for-service or managed care, including acute care or long-term care members:
 - Personal Care Agencies
 - Home Health Care Agencies
 - Licensed Home Care Service Agencies (LHCSAs)
 - Certified Home Health Agencies (CHHAs)
 - Consumer Directed Personal Assistance Program (CDPAP)

Fair Labor Standards Act Survey

Level of Detail

- Survey is requesting high level of detail in order to understand current and prior business practices and fiscal impact
- Fee schedule and capitation rate setting methodologies require information regarding:
 - Multiple data points to include historical and recent experience
 - Changes in unit costs
 - Hourly rates
 - Mileage rates
 - Changes in utilization patterns
 - Additional hours billed
 - Additional services incurred
 - Reimbursement of travel time
 - Policy changes that may impact utilization/unit cost patterns
 - Changes in business practices such as no longer providing live-in care

Fair Labor Standards Act Survey

Level of Detail

- Information segregated by region and by type of service to align with rate setting techniques
- If unable to segregate as requested (Medicaid only, category of services or region, etc.), estimate using logical metric

Fair Labor Standards Act Survey

Level of Detail - Overtime

- Providers must pay overtime at a rate of 1 ½ times the aide's wage versus the prior requirement in New York State to pay at the rate of 1 ½ times the minimum wage.
- Need to understand the following:
 - Total amount of overtime hours
 - Average hourly wage in order to calculate 1½ times the aide's wage per FLSA change
 - Ratio of providers changing policy from 1½ times minimum wage to 1½ times the aide's wage
 - Amount of members receiving services over which to spread additional costs

Fair Labor Standards Act Survey

Level of Detail – Live-In Care

- For cases deemed as live-in status, the average amount of billable hours of care per day was 13 hours, which allowed for 8 hours of sleep and 3 hour-long meal breaks for the aide during each 24 hour period. The new rule expands the amount of billable hours if the aide is not allowed uninterrupted sleep and/or meal breaks. A definition of live-in is provided in the survey.
- Need to understand the following:
 - Total amount of members receiving live-in care to determine ratio of members receiving live-in care to total members
 - Number of live-in and total caregivers to determine ratio of live-in caregivers to total caregivers
 - Amount of caregivers who technically worked more than 13 hours per day which are now reimbursable hours under FLSA
 - Amount of estimated hours >13 per day that are reimbursable under FLSA to determine overall additional costs

Fair Labor Standards Act Survey

Level of Detail – Travel

- Aides must be compensated for time spent traveling between clients or on behalf of a client. The practice of paying for travel time previously varied by provider and region within New York State.
- Need to understand the following before and after the effective date of FLSA:
 - Travel time policies by provider
 - Existence of mileage reimbursement and/or mileage rates used by provider
 - Reimbursement policies by provider for travel expenses other than travel time
 - Amount of travel hours reimbursed and related hourly rate
 - Amount of travel expenses other than travel time

Fair Labor Standards Act Survey

Level of Detail – Other

- In order to evaluate all FLSA related expenses other than those already discussed, an option to list any recurring expenses incurred or anticipated. Include only **recurring** expenses.
- The State also seeks to understand any business practices changed or implemented as a result of FLSA.

Fair Labor Standards Act Survey Summary

- Personal Care and Home Care Service agencies providing services to Medicaid members are requested to submit a survey
- Information should be for Medicaid population only, whether fee-for-service or managed care and regardless of program
- The survey is detailed in order to understand operational and fiscal impacts of FLSA
- Knowledge gained will be utilized in rate setting and policy discussions
- Rate setting needs historical and recent information in format similar to how rate methodology is employed (by region, by category of service, etc.)
- Rate setting needs to understand the change from data used for rate setting (historical) to what is expected to occur (recent/future)
- If unable to submit in requested level of detail, estimate based on a logical metric

Questions?

Submit via email at
NY.FLSA@mercer.com

