

# **OFFICE OF THE NASSAU COUNTY COMPTROLLER**



## **Limited Review of All Metro Health Care Compliance with the Nassau County Living Wage Law**

**Years 2014 and 2015**

**December 10, 2018**

**JACK SCHNIRMAN  
COMPTROLLER**

# OFFICE OF THE NASSAU COUNTY COMPTROLLER

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**This audit was initiated by the previous administration but as of January 1, 2018, substantial progress on its completion had not taken place. The current Comptroller is committed to assuring Nassau County's living wage law is properly enforced to protect the employees covered under the statute.**

**This report is also available on our website at: <https://www.nassaucountyny.gov/Audits>**



**OFFICE OF THE NASSAU COUNTY COMPTROLLER  
LIMITED REVIEW OF ALL METRO HEALTH CARE 2014-2015  
COMPLIANCE WITH THE NASSAU LIVING WAGE LAW**

**REPORT SUMMARY**

**WHY WE DID THIS REPORT**

This review was undertaken to determine if an agency which provides services to Nassau County, All Metro Health Care, was in compliance with the Nassau County Living Wage Law, which requires payment of a living wage, and provision of health benefits or a health benefit supplement to certain employees. The Office of the Nassau County Comptroller is committed to undertaking living wage audits that get results.

**WHAT WE FOUND**

**Auditors identified underpaid wages and uncompensated time off in excess of \$220,000 to 147 employees:** Major findings include:

- 117 employees were paid less than the living wage rate resulting in underpayments of \$33,996.
- 89 employees were not granted 7,386 hours of earned compensated time off totaling \$112,249.
- Follow-up on incomplete payroll data provided identified an additional 30 employees who were paid less than the living wage, resulting in underpayments of \$66,171 and not granted earned compensated time off, resulting in amounts due of \$10,824.
- Live-in aides worked more than the 60 hours per week stated in their contract, including almost 100 instances where hours work exceeded 80 hours for the week. Overscheduling caregivers can result in worker fatigue and impact the quality of care given to patients.

**WHAT WE RECOMMEND**

- All Metro should compensate all employees for underpaid wages and properly compensate for time off, and provide proof of payment with supporting documentation to the Comptroller's Office for verification.
- All Metro should adhere to the terms of the contract and not schedule employees for more than 60 hours a week.

**WHAT WAS THE RESPONSE?**

All Metro agreed to calculate and pay owed wages and uncompensated time off to the employees identified in the audit. They also will seek input from their Information Services department on how to better maintain records.

**WHY IS THIS REPORT IMPORTANT?**

We must continue to demand accountability from employers to assure that living wage requirements are strictly enforced. Living wage audits such as this provide an important check on employers and provide real results in the form of back wages paid directly to impacted employees.

## Executive Summary

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### **Purpose:**

The objective of this review was to determine whether, an agency which provides services to Nassau County, All Metro Home Care Services of New York, Inc. DBA All Metro Health Care (“All Metro”), was in compliance with the County’s Living Wage Law and related Rules.

The Living Wage Law requires that All Metro employees who perform work under their contract with Nassau County be paid the applicable wage rate and are provided with the Law’s required compensated time off.

### **Introduction:**

The Nassau County Living Wage Law (“Law”) was enacted by the Nassau County Legislature in 2006,<sup>1</sup> and took effect January, 2007. The Living Wage Law establishes a living wage, including requirements for health benefits or a health benefit supplement. Additionally, full-time employees receive a minimum of 12 paid days off per year. Part-time employees who work at least 20 hours per week receive proportionate compensated days off.

The Summary of Findings and Recommendations as a result of this audit can be found on the next page.

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<sup>1</sup> Nassau County Living Wage Law, Title 57 of the Miscellaneous Laws of Nassau County.

## Executive Summary

Summary of Audit Findings and Recommendations	
Audit Finding	Audit Recommendation (s)
<p><b>1</b> 117 Employees Were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$33,996</p>	<p><u>All Metro should:</u></p> <p>a) compensate the 115 employees that were underpaid in 2014 -2015 the amounts owed and provide proof of payment with supporting calculations to the Comptroller's Office;</p> <p>b) review, recalculate, and pay all wage rate differences for the 43 employees that were not included in the Auditor's sample for 2015;</p> <p>c) compensate the amounts owed to the two PCA employees who were paid between \$10-\$13 per hour in 2014; and</p> <p>d) take the necessary steps to ensure that the increase to the hourly Living Wage rate is done on a timely basis or retroactively pay all Living Wage rate increases, in accordance with the Living Wage Law.</p>
<p><b>2</b> 89 Employees Were Not Granted 7,386 Hours of Earned Compensated Time Off Totaling \$112,249 and All Metro Was Not Maintaining Adequate Vacation Records</p>	<p><u>All Metro should:</u></p> <p>a) pay the 89 employees the amounts for all accrued compensated time owed and provide proof of payment to the Comptroller's Office;</p> <p>b) keep proper records of each employee's Compensated Time Off accruals, usage, and balances, in accordance with the law; and</p> <p>c) update the Employee Manual/ Handbook to include the specific times of the year when All Metro intends to pay employees compensated time off for hours previously worked.</p>
<p><b>3</b> Follow-up on Incomplete Payroll Data Provided by All Metro Identified an Additional 30 Employees Who Were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$ 66,171 and Not Granted Earned Compensated Time Off Resulting in Amounts Due Totaling \$ 10,824</p>	<p><u>All Metro should:</u></p> <p>a) promptly pay the 30 aides the amounts due them and remit proof of payment to the Comptroller's Office;</p> <p>b) update employee payroll data to include the name of the Patient/ID for the patient service dates being paid; and</p> <p>c) take corrective action to ensure that the proper controls are in place to identify and provide complete payroll data for all of their employees who worked on Nassau County DSS cases.</p>
<p><b>4</b> We Found 240 Instances Where Live-in Aides Worked More than the "60 Hours per Week Maximum" Stated in their Contract. This Included 92 Instances Where Hours Worked Exceeded 80 for the Week</p>	<p>All Metro should adhere to the terms of the contract and MOU with regard to the number of hours employees work per week.</p>

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On March 26, 2018 we discussed the matters covered in this report with the officials of All Metro Health Care. On August 10, 2018 we submitted a draft report to All Metro Health Care for their review. Based on their September 28, 2018 response, a revised draft was sent to All Metro on November 16, 2018. All Metro's responses and our follow up to their responses are included as Appendices to this report.

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## Introduction

### **Background**

The Nassau County Living Wage Law (the “Law”) ensures that employees of certain companies that receive County funds are earning a living wage and are receiving health benefits or a health benefit supplement. Additionally, the law provides that full-time employees receive 12 paid days off a year, and part-time employees who work at least 20 hours per week, receive proportionate compensated days off.<sup>2</sup>

Exhibit I below lists the Living Wage rates applicable for the timeframe covered by this review (2014 – 2015), including the health benefit supplement rate.

### **Exhibit I**

<b>Nassau County Living Wage Law Rates</b>			
<b>Effective Dates</b>		<b>Hourly Rates</b>	
<b>From</b>	<b>To</b>	<b>With Benefits</b>	<b>Without Benefits</b>
August 1, 2013	July 31, 2014	\$13.35	\$15.21
August 1, 2014	July 31, 2015	\$13.58	\$15.50
August 1, 2015	July 31, 2016	\$13.59	\$15.54
August 1, 2016	July 31, 2017	\$13.73	\$15.78

This review covers the contract between All Metro Home Care Services of New York, Inc. DBA All Metro Health Care (“All Metro”) as the “Provider” and the Nassau County Department of Social Services (“Department”) to provide personal care services<sup>3</sup> to recipients of Medicaid as authorized by the Department. The contract, which became effective on January 1, 2011 is automatically renewed annually, unless terminated.

In addition to this contract, the Department entered into a Memorandum of Understanding (“MOU”) with All Metro to facilitate and monitor the Consumer Directed Personal Assistance Program<sup>4</sup>. This program allows Medicaid eligible recipients or their guardians, the ability to recruit, interview, hire, train, supervise, schedule and terminate a Consumer Directed Personal Assistant (“CDPA” or “Aide”) in accordance with an authorized Plan of Care and the Department of Health regulations. The MOU is effective January 1, 2014 through December 31, 2018.

All Metro is reimbursed for these personal care services at rates set forth by the New York State Department of Health. All Metro’s payments for the years 2014 through 2015 amounted to \$8.3 million (receiving payments of \$4.1 million in 2014 and \$4.2 million in 2015). Approximately

<sup>2</sup> Miscellaneous Laws of Nassau County- Title 57 – Nassau County Living Wage Law.

<sup>3</sup> As defined in New York State 18 NYCRR.

<sup>4</sup> Under New York’s CDPAP program, patients can self-direct their home health care and choose a caregiver that they know and trust.

## **Introduction**

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907 employees worked under the contract and MOU. During the audit period 2014 through 2015, approximately 430 employees worked as live-in aides<sup>5</sup>.

### **Audit Scope, Objectives and Methodology**

The review period was January 1, 2014 to December 31, 2015.

The objective of the review was to determine whether All Metro was in compliance with the Nassau County Living Wage Law and related Rules.

The specific objectives and procedures included:

- Obtain from All Metro the payroll and supporting documentation for All Metro home care employees who worked on Nassau County Department of Social Services cases during the scope period, including but not limited to patient schedules and employee duty sheets. Ensure accuracy and completeness of the documents provided by All Metro.
- Compare the payroll rate of pay for each home care employee with the applicable Living Wage rate.
- Calculate the compensated leave accrued that each home care employee is entitled to, based on 20 or more hours worked in a 40 hour workweek, and compare to All Metro's records for accuracy.

The timeline for completing this review was elongated by the All Metro's inability to provide the required documentation in a timely manner. The engagement letter announcing the review was sent by the Comptroller's Office on May 26, 2016, with an audit scope period of 2014-2015 for the review of home care employees who worked on Nassau County Department of Social Services cases.

**The entrance conference was not held until October, 26, 2016, at which time the Auditee was provided an initial list of required documentation. A few of the requested documents were provided to the Auditors in March of 2017, but the majority of them were not provided until January of 2018 and some as late as August 31, 2018. Significant progress on this review therefore could not be accomplished until 2018.**

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

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<sup>5</sup> Employees assigned to remain in a Patient's home for a full twenty-four (24) hours in a day (Sleep In cases).

## Findings and Recommendations

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### **AUDIT FINDING (1)**

#### **(1) 117 Employees Were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$33,996**

We reviewed All Metro's individual employee payroll records for 2014 through 2015 and found that 117 employees were paid *below* the Nassau County Living Wage rate<sup>6</sup>. The amount owed to these employees totaled \$33,996.

Of the 117 employees:

- 88 were underpaid \$15,423 in 2014; and
- 45 employees were underpaid \$18,573 in 2015, including 16 employees who were underpaid in both years.
- The individual underpayments ranged from \$1 to \$3,641 with an average underpayment of \$291. See Appendix A for a list of the 2014 - 2015 underpayments for these 117 employees.

The 117 employees include Personal Care Aides ("PCA") and Consumer Directed Personal Assistants ("CDPA")<sup>7</sup>. In 2014, only the PCAs were covered by a Collective Bargaining Agreement ("CBA"), requiring All Metro to pay these employees only the base Living Wage Rate. Since the CDPAs were not covered by the CBA, and All Metro did not provide health benefits to them, All Metro was required to pay CDPAs the Living Wage rate in 2014 that included the benefit supplement rate. In 2015, there was no CBA and All Metro did not provide health benefits at all, so both PCAs and CDPAs were required to be paid the Living Wage Rate without Benefits.

A brief description of how the Auditors determined the amounts underpaid for each year is as follows:

#### **2014 – Employees Underpaid a Total of \$15,423**

We found that All Metro did not increase the Living Wage rate per hour for CDPAs in a timely manner in accordance with the Living Wage Law. For example, on August 1, 2014, the Living Wage rate without benefits increased \$.29 per hour from \$15.21 to \$15.50; however, All Metro continued to pay its CDPAs \$15.21 per hour. As a result, 86 employees were underpaid for over 51,000 hours of work totaling \$15,303.

Similarly, we found that All Metro did not increase the Living Wage rate per hour (with benefits) for PCA employees in a timely manner; or retroactively pay the PCA employees the Living Wage rate increase, in accordance with the Living Wage Law. For example, on August 1, 2014, the Living Wage rate with benefits increased by \$.01 per hour from \$13.57 to \$13.58; however, All Metro continued to pay PCAs employees \$13.57 per hour. As a result, 47 PCA employees were

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<sup>6</sup> The Living Wage Rates are shown in Exhibit I of the Introduction Section of this report.

<sup>7</sup> Consumer Directed Personal Assistants provide home care services under the Medicaid Consumer Directed Personal Assistant Program (CDPAP) which allows consumers control over who provides their care.

## **Findings and Recommendations**

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underpaid by small amounts ranging from \$0.12 to \$13.56, including two employees who were paid between \$10 and \$13 per hour and underpaid a total of \$120.

### 2015 – 45 Employees Underpaid a Total of \$18,573

All Metro did not offer health benefits to its any of its employees in 2015. Auditors recalculated the hourly wages for all employees using the Living Wage Rate without benefits and compared the result to the wages paid to each employee in 2015, noting differences for 93 employees. All Metro advised the Auditors that in 2015, they also paid its employees \$65,084 in retroactive wages for pay rates previously paid in 2015 that were below the Living Wage rate.

The Auditors then selected the 50 (of the 93) employees with the highest wage differences and compared the differences to the retroactive amounts paid to employees by All Metro. This comparison revealed that 45 of the 50 employees were paid less retroactive wages than they were required to be paid. The underpayments for these 45 employees totaled \$18,573.

The 2015 underpayments were primarily due to All Metro not paying the Living Wage Rate without benefits as is required when there is no CBA covering health benefits and the company does not provide health benefits. The Living Wage Law states that employers should either provide employees with health benefits or supplement their hourly rate by an amount no less than the Benefits Supplement rate<sup>8</sup>.

### **Audit Recommendations:**

We recommend that All Metro:

- a) compensate the 115 employees that were underpaid in 2014 -2015 the amounts owed and provide proof of payment with supporting calculations to the Comptroller's Office;
- b) review, recalculate, and pay all wage rate differences for the 43 employees that were not included in the Auditor's sample for 2015;
- c) compensate the amounts owed to the two PCA employees who were paid between \$10-\$13 per hour in 2014; and
- d) take the necessary steps to ensure that the increase to the hourly Living Wage rate is done on a timely basis or retroactively pay all Living Wage rate increases, in accordance with the Living Wage Law.

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<sup>8</sup> For our audit period, 2014 to 2015, the Benefits Supplement rate ranged from \$1.86 to \$1.95 per hour.

## Findings and Recommendations

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### **AUDIT FINDING (2)**

#### **(2) 89 Employees Were Not Granted 7,386 Hours of Earned Compensated Time Off Totaling \$112,249 and All Metro Was Not Maintaining Adequate Vacation Records**

The Nassau County Living Wage Law provides that each full-time employee is entitled to 12 paid days off, while part-time employees working at least 20 hours per week receive proportionate compensated days off<sup>9</sup>.

Our analysis of the provider's payroll registers revealed that **89 employees were not granted a total of \$112,249 in accrued compensated time off during the two-year period, 2014 through 2015**. The analysis included all employees who worked at least 30 hours in each year. Of the 89 employees, 66 were not granted a total of \$56,975 in 2014 and 54 were not granted a total of \$55,274 in 2015, including 31 employees who were not granted compensated time off in both years. The individual amounts associated with the compensated time off hours not granted for the two-year period ranged from \$15 to \$2,961, with an average amount of \$1,269. Appendix B lists the 2014 - 2015 amounts for the 89 employees.

#### **Audit Recommendations:**

We recommend that All Metro:

- a) pay the 89 employees the amounts for all accrued compensated time owed and provide proof of payment to the Comptroller's Office;
- b) keep proper records of each employee's Compensated Time Off accruals, usage, and balances, in accordance with the law; and
- c) update the Employee Manual/ Handbook to include the specific times of the year when All Metro intends to pay employees compensated time off for hours previously worked.

### **AUDIT FINDING (3)**

#### **(3) Follow-up on Incomplete Payroll Data Provided by All Metro Identified an Additional 30 Employees Who Were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$ 66,171 and Not Granted Earned Compensated Time Off Resulting in Amounts Due Totaling \$ 10,824**

Our review revealed that the payroll documents provided by All Metro were incomplete because they did not include 30 live-in aides who worked on Nassau County cases during the audit period. Once provided with the payroll records, the Auditors found that All Metro did not pay 20 employees the applicable Living Wage Rate in 2014 totaling \$37,738 and 12 employees in 2015 totaling \$28,433 (two employees were underpaid in both 2014 and 2015). We also noted that the 30 employees were not granted compensated time off totaling \$10,824.

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<sup>9</sup> Miscellaneous Laws of Nassau County - Title 57 – Nassau County Living Wage Law

## Findings and Recommendations

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### Recap of Testing Approach and Results

All Metro does not provide its entire payroll register for the audit period to the Auditors because not all of their employees provide home care services to Nassau County DSS patients. As part of our normal living wage testing of live-in home health care aides, we verify that the provider's (in this case, All Metro) payroll includes payments that correspond to the list of DSS patient names and service dates for which the provider received Medicaid reimbursements.<sup>10</sup> However, since All Metro does not include the patient name/ID in their payroll data, the Auditors had to obtain the patient name from All Metro's patient schedules. It should be noted that other Home Health Care Agencies that we have audited provided us with employee payroll data that reflected the name of the Patient/ID for the service dates being paid

Therefore, using All Metro's Patient Schedules, we selected a sample of live-in aides who were scheduled to work 30 or more days in each of the years 2014 and 2015 and traced the aides' names and scheduled work dates to the respective All Metro Payroll Registers; and the patients' names and service dates to the list of Medicaid reimbursements paid to All Metro in 2014 and 2015.

**As a result of these two comparisons, we found that 30 live-in aides scheduled to work a total of 1,770 days from 2014 to 2015 did not appear on All Metro's payroll yet All Metro received payments totaling \$373,000 from Medicaid for these patient service dates.**

We provided All Metro with our findings on March 26, 2018, and requested an explanation for why employees were on the Patient Schedule but not on the payroll registers they provided and that All Metro had received payments from Medicaid for the corresponding patient service dates. When All Metro did not respond, a second request soliciting their explanations and any supporting documentation was sent on May 4, 2018.

After All Metro failed to respond to Auditor requests, a finding was included in the draft report which stated that over \$373,000 in Medicaid payments were received by All Metro for the years 2014 and 2015, but All Metro had not paid any of its employees to provide the services, making the Medicaid reimbursements questionable. It was not until after we sent the draft report to All Metro on August 10, 2018, that on August 31, 2018 All Metro provided the additional payroll data for the 30 live-in aides.

Our review of the additional payroll data found that it accounted for the 1,770 missing patient service dates for which All Metro received Medicaid reimbursements. However, we also found that the 30 employees were not paid the applicable Living Wage rate nor the applicable compensated time off. Of the 30 employees, seven were paid a wage rate as low as \$9.50 per hour.

When we compared the Living Wage rate in effect at the time the home care work was performed to the actual pay rates, the Auditors determined that All Metro underpaid these 30 employees for 22,896 service hours resulting in monies due them totaling \$66,171. Furthermore, All Metro did not calculate or pay these employees for the corresponding earned compensated time off resulting in an additional underpayment of \$10,824.

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<sup>10</sup> The list is obtained from DSS and their source is the New York Medicaid Payment System, ("eMedNY").

## **Findings and Recommendations**

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Although All Metro apologized for not including the payroll records for these 30 employees when they originally provided their payroll to the Auditors, they did not provide a satisfactory explanation for how this omission could occur and not be detected by them.

A summary of the wage underpayments and the amounts due associated with compensated time off not granted to, or used by, the employee, for each of the 30 live-in aides can be found on the next two pages in Exhibit II and Exhibit III, respectively.

## Findings and Recommendations

### Exhibit II

<b>Amount Due to Employees Paid Less Than the Living Wage Rate January 1, 2014 through December 31, 2015</b>						
<b>Employee Assigned No.</b>	<b>2014 Hours Underpaid</b>	<b>2014 Under Payment</b>	<b>2015 Hours Underpaid</b>	<b>2015 Under Payment</b>	<b>Total 2014- 2015 Hours Underpaid</b>	<b>Total 2014- 2015 Under Payments</b>
1	2,688	\$ 7,298.59	0	\$ -	2,688	\$ 7,298.59
2	397	\$ 990.44	697	\$ 2,972.96	1,093	\$ 3,963.40
3	0	\$ -	876	\$ 3,527.70	876	\$ 3,527.70
4	0	\$ -	754	\$ 3,237.32	754	\$ 3,237.32
5	378	\$ 1,321.74	411	\$ 1,669.68	789	\$ 2,991.42
6	0	\$ -	585	\$ 2,737.11	585	\$ 2,737.11
7	983	\$ 2,626.84	0	\$ -	983	\$ 2,626.84
8	0	\$ -	564	\$ 2,481.61	564	\$ 2,481.61
9	825	\$ 2,431.83	0	\$ -	825	\$ 2,431.83
10	1,023	\$ 2,335.80	0	\$ -	1,023	\$ 2,335.80
11	0	\$ -	530	\$ 2,268.94	530	\$ 2,268.94
12	984	\$ 2,232.24	0	\$ -	984	\$ 2,232.24
13	0	\$ -	485	\$ 2,114.64	485	\$ 2,114.64
14	1,132	\$ 2,050.30	0	\$ -	1,132	\$ 2,050.30
15	936	\$ 2,000.28	0	\$ -	936	\$ 2,000.28
16	0	\$ -	528	\$ 1,973.61	528	\$ 1,973.61
17	0	\$ -	456	\$ 1,952.26	456	\$ 1,952.26
18	887	\$ 1,912.48	0	\$ -	887	\$ 1,912.48
19	0	\$ -	588	\$ 1,909.41	588	\$ 1,909.41
20	480	\$ 1,603.74	0	\$ -	480	\$ 1,603.74
21	780	\$ 1,593.82	0	\$ -	780	\$ 1,593.82
22	0	\$ -	1,128	\$ 1,587.36	1,128	\$ 1,587.36
23	405	\$ 1,487.98	0	\$ -	405	\$ 1,487.98
24	541	\$ 1,400.58	0	\$ -	541	\$ 1,400.58
25	625	\$ 1,398.95	0	\$ -	625	\$ 1,398.95
26	553	\$ 1,268.49	0	\$ -	553	\$ 1,268.49
27	504	\$ 1,067.36	0	\$ -	504	\$ 1,067.36
28	396	\$ 1,066.78	0	\$ -	396	\$ 1,066.78
29	384	\$ 877.36	0	\$ -	384	\$ 877.36
30	396	\$ 772.32	0	\$ -	396	\$ 772.32
	<b>15,295</b>	<b>\$ 37,737.92</b>	<b>7,601</b>	<b>\$ 28,432.60</b>	<b>22,896</b>	<b>\$ 66,170.52</b>

## Findings and Recommendations

### Exhibit III

Amount Due to Employees Not Paid Compensated Time Off January 1, 2014 through December 31, 2015						
Employee Assigned No.	2014 Hours Not Granted	2014 Amount Due	2015 Hours Not Granted	2015 Amount Due	Total 2014- 2015 Hours Not Granted	Total 2014- 2015 Amount Due
1	60.91	\$ 822.11	0	\$ -	60.91	\$ 822.11
22	0	\$ -	51.50	\$ 799.44	51.50	\$ 799.44
14	42.82	\$ 660.67	0	\$ -	42.82	\$ 660.67
2	14.04	\$ 190.66	23.07	\$ 357.64	37.11	\$ 548.30
7	38.39	\$ 517.61	0	\$ -	38.39	\$ 517.61
10	34.84	\$ 471.52	0	\$ -	34.84	\$ 471.52
3	0	\$ -	30.27	\$ 469.29	30.27	\$ 469.29
4	0	\$ -	28.61	\$ 443.47	28.61	\$ 443.47
12	31.20	\$ 420.23	0	\$ -	31.20	\$ 420.23
15	29.16	\$ 389.35	0	\$ -	29.16	\$ 389.35
5	12.55	\$ 170.46	13.66	\$ 211.72	26.21	\$ 382.18
18	27.13	\$ 364.71	0	\$ -	27.13	\$ 364.71
8	0	\$ -	23.26	\$ 361.43	23.26	\$ 361.43
26	22.73	\$ 303.47	0	\$ -	22.73	\$ 303.47
13	0	\$ -	19.42	\$ 300.99	19.42	\$ 300.99
24	21.79	\$ 295.94	0	\$ -	21.79	\$ 295.94
21	21.41	\$ 285.85	0	\$ -	21.41	\$ 285.85
25	21.26	\$ 283.83	0	\$ -	21.26	\$ 283.83
9	20.30	\$ 275.74	0	\$ -	20.30	\$ 275.74
20	19.75	\$ 268.22	0	\$ -	19.75	\$ 268.22
17	0	\$ -	17.17	\$ 266.77	17.17	\$ 266.77
19	0.00	\$ -	16.24	\$ 252.43	16.24	\$ 252.43
6	0.00	\$ -	15.87	\$ 246.05	15.87	\$ 246.05
28	17.17	\$ 233.12	0	\$ -	17.17	\$ 233.12
16	0	\$ -	14.77	\$ 229.29	14.77	\$ 229.29
11	0	\$ -	14.77	\$ 228.89	14.77	\$ 228.89
23	15.87	\$ 215.15	0	\$ -	15.87	\$ 215.15
27	14.77	\$ 197.14	0	\$ -	14.77	\$ 197.14
30	11.08	\$ 147.85	0	\$ -	11.08	\$ 147.85
29	10.71	142.93	0	\$ -	10.71	\$ 142.93
	<b>487.90</b>	<b>\$ 6,656.56</b>	<b>268.61</b>	<b>\$ 4,167.41</b>	<b>757</b>	<b>\$ 10,824</b>

## Findings and Recommendations

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### **Audit Recommendations:**

We recommend that All Metro:

- a) promptly pay the 30 aides the amounts due them and remit proof of payment to the Comptroller's Office;
- b) update employee payroll data to include the name of the Patient/ID for the patient service dates being paid; and
- c) take corrective action to ensure that the proper controls are in place to identify and provide complete payroll data for all of their employees who worked on Nassau County DSS cases.

### **ADDITIONAL FINDING - CONTRACT ISSUE**

#### **AUDIT FINDING (4)**

#### **(4) We Found 240 Instances Where Live-in Aides Worked More than the "60 Hours per Week Maximum" Stated in their Contract. This Included 92 Instances Where Hours Worked Exceeded 80 for the Week**

The contract between All Metro and Nassau County states, "*The Provider shall ensure that no aide is assigned to work in excess of twelve (12) hours per day or in excess of sixty (60) hours per week on average. Live-in aides will be expected to work no more than thirteen (13) hours within the twenty-four (24) hours per day they are on call and no more than five (5) days per week on average.*"<sup>11</sup>

Our analysis of the payroll for the period 2014-2015, noted 240 instances (weeks of work) where 26 employees worked more than the 60 hours per week maximum stated in the contract. Of the 240 weeks, there were 92 weeks where employees worked seven days per week totaling more than 80 hours per week, and as much as 84 hours in a work week (12 hours<sup>12</sup> per day times 7 days/week). For example, one live-in aide worked a total of 132 days between January 1 and June 1, 2014, working for the most part 12 consecutive days, and worked as many as 19 consecutive days between January 9 and January 27, 2014.

Exhibit IV below shows the number of employees who worked more than the maximum allowed of 60 hours per week in 2014 and 2015 and of these employees, the number who worked 80 or more hours per week.

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<sup>11</sup> Personal Care Services Contract between Nassau County and All Metro, effective 01/01/11-12/31/11, which automatically renews at the end of each year for the subsequent year (Appendix B, page 29); and the Memorandum of Understanding between the same parties for the Consumer Directed Personal Assistance Program ("CDPAP"), effective 01/01/14 - 12/31/18, page 1.

<sup>12</sup> As per the Collective Bargaining Agreement between All Metro and New York's Health and Human Services Union 1199SEIU, All Metro pays for 12 hours per shift to employees ("Sleep In cases") who are assigned to remain in a Patient's home for a full 24 hours in a day.

## Findings and Recommendations

### Exhibit IV

<b>Employees Who Worked More Than the Maximum Allowed of 60 Hours Per Week January 1, 2014 through December 31, 2015</b>			
<b>Year</b>	<b># of Employees</b>	<b># of Weeks Worked &gt; 60 Hrs</b>	<b># of Weeks Worked ≥ 80 Hrs</b>
2014	20	214	90
2015	6	26	2
<i>Total</i>	<b>26</b>	<b>240</b>	<b>92</b>

Over scheduling caregivers, (working long hours each day, seven days per week), may result in worker fatigue, and may impact the quality of care given to the patients. A copy of this report will therefore be provided to the Nassau County Department of Social Services which is responsible for monitoring this vendor.

#### **Audit Recommendation:**

We recommend that All Metro adhere to the terms of the contract and MOU with regard to the number of hours employees work per week.

**Appendix A – Amount Due to Employees Paid Less Than the Living Wage Rate**

<b>Amount Due to Employees Paid Less Than the Living Wage Rate January 1, 2014 through December 31, 2015</b>			
<b>Employee Assigned No.</b>	<b>2014 Underpayment</b>	<b>2015 Underpayment</b>	<b>Total 2014- 2015 Underpayments*</b>
1	\$ -	\$ 3,641.34	\$ 3,641
2	-	2,886.56	2,887
3	-	2,180.64	2,181
4	-	1,321.40	1,321
5	-	1,118.62	1,119
6	-	902.51	903
7	426.30	263.61	690
8	340.89	329.83	671
9	436.74	228.06	665
10	285.36	370.95	656
11	400.20	186.56	587
12	-	533.33	533
13	342.19	191.13	533
14	370.33	156.93	527
15	302.61	197.22	500
16	372.50	127.04	500
17	382.35	104.81	487
18	348.00	129.32	477
19	385.99	45.37	431
20	264.41	164.35	429
21	-	414.99	415
22	224.75	135.54	360
23	349.09	-	349
24	-	348.86	349
25	309.89	-	310
26	-	308.98	309
27	298.62	-	299
28	287.75	-	288
29	-	280.32	280
30	269.67	-	270
31	-	268.55	269
32	266.94	-	267
33	-	261.46	261
34	256.78	-	257
35	250.42	-	250

**Appendix A – Amount Due to Employees Paid Less Than the Living Wage Rate**

<b>Amount Due to Employees Paid Less Than the Living Wage Rate January 1, 2014 through December 31, 2015</b>			
<b>Employee Assigned No.</b>	<b>2014 Underpayment</b>	<b>2015 Underpayment</b>	<b>Total 2014- 2015 Underpayments*</b>
36	225.06	-	225
37	224.67	-	225
38	137.11	87.47	225
39	223.43	-	223
40	133.40	89.29	223
41	-	220.84	221
42	220.25	-	220
43	219.85	-	220
44	-	218.06	218
45	216.34	-	216
46	211.12	-	211
47	210.23	-	210
48	209.67	-	210
49	205.32	-	205
50	203.28	-	203
51	202.42	-	202
52	200.68	-	201
53	199.37	-	199
54	198.84	-	199
55	194.49	-	194
56	184.65	-	185
57	183.86	-	184
58	181.83	-	182
59	-	180.94	181
60	176.90	-	177
61	170.52	-	171
62	166.43	-	166
63	162.50	-	163
64	160.08	-	160
65	159.57	-	160
66	158.91	-	159
67	158.12	-	158
68	145.34	-	145
69	145.23	-	145
70	143.84	-	144

**Appendix A – Amount Due to Employees Paid Less Than the Living Wage Rate**

<b>Amount Due to Employees Paid Less Than the Living Wage Rate January 1, 2014 through December 31, 2015</b>			
<b>Employee Assigned No.</b>	<b>2014 Underpayment</b>	<b>2015 Underpayment</b>	<b>Total 2014- 2015 Underpayments*</b>
71	128.18	-	128
72	122.67	-	123
73	122.59	-	123
74	114.84	-	115
75	-	106.01	106
76	102.18	-	102
77	99.76	-	100
78	-	97.30	97
79	96.86	-	97
80	96.77	-	97
81	85.24	-	85
82	83.83	-	84
83	80.04	-	80
84	-	80.02	80
85	77.36	-	77
86	77.32	-	77
87	76.56	-	77
88	75.19	-	75
89	73.60	-	74
90	73.60	-	74
91	72.34	-	72
92	60.07	-	60
93	58.87	-	59
94	-	58.26	58
95	-	58.26	58
96	-	58.16	58
97	-	57.28	57
98	54.25	-	54
99	52.84	-	53
100	52.26	-	52
101	-	51.84	52
102	51.62	-	52
103	46.61	-	47

**Appendix A – Amount Due to Employees Paid Less Than the Living Wage Rate**

<b>Amount Due to Employees Paid Less Than the Living Wage Rate January 1, 2014 through December 31, 2015</b>			
<b>Employee Assigned No.</b>	<b>2014 Underpayment</b>	<b>2015 Underpayment</b>	<b>Total 2014- 2015 Underpayments*</b>
104	46.40	-	46
105	-	46.17	46
106	41.76	-	42
107	39.44	-	39
108	38.28	-	38
109	37.93	-	38
110	36.52	-	37
111	-	29.15	29
112	-	20.94	21
113	18.29	-	18
114	17.40	-	17
115	-	13.31	13
116	6.96	-	7
117	-	1.12	1
	<u>15,423.53</u>	<u>\$ 18,572.70</u>	<u>\$ 33,996</u>

**Appendix B – Compensated Time Off Pay Due Employees**

<b>Compensated Time Off Pay Due Employees January 1, 2014 - December 31, 2015</b>						
<b>Employee Assigned No.</b>	<b>Year 2014</b>		<b>Year 2015</b>		<b>Total Years 2014- 2015</b>	
	<b>Accrued Hours</b>	<b>Amount Due</b>	<b>Accrued Hours</b>	<b>Amount Due</b>	<b>Total Accrued Hours</b>	<b>Total Amount Due*</b>
8	96.00	\$ 1,471.56	96.00	\$ 1,489.34	192	\$ 2,961
19	95.25	\$ 1,459.73	94.99	\$ 1,473.99	190	\$ 2,934
30	95.64	\$ 1,466.16	94.32	\$ 1,463.56	190	\$ 2,930
14	94.14	\$ 1,442.57	95.80	\$ 1,486.50	190	\$ 2,929
32	88.29	\$ 1,354.36	96.00	\$ 1,489.37	184	\$ 2,844
11	87.86	\$ 1,348.34	96.00	\$ 1,489.36	184	\$ 2,838
13	94.45	\$ 1,448.28	88.20	\$ 1,368.51	183	\$ 2,817
15	82.42	\$ 1,265.14	91.56	\$ 1,420.63	174	\$ 2,686
25	93.47	\$ 1,433.12	80.32	\$ 1,246.31	174	\$ 2,679
45	83.16	\$ 1,274.79	83.85	\$ 1,301.06	167	\$ 2,576
49	82.51	\$ 1,264.30	82.51	\$ 1,280.23	165	\$ 2,545
29	79.74	\$ 1,224.49	83.39	\$ 1,293.88	163	\$ 2,518
41	87.34	\$ 1,173.36	85.45	\$ 1,325.83	173	\$ 2,499
17	95.66	\$ 1,466.80	63.87	\$ 990.24	160	\$ 2,457
47	80.19	\$ 1,229.11	74.64	\$ 1,158.06	155	\$ 2,387
46	69.22	\$ 1,061.67	83.02	\$ 1,288.29	152	\$ 2,350
42	73.81	\$ 1,132.09	77.13	\$ 1,197.13	151	\$ 2,329
53	73.27	\$ 1,123.63	75.96	\$ 1,178.60	149	\$ 2,302
28	59.94	\$ 922.55	84.63	\$ 1,313.07	145	\$ 2,236
18	47.25	\$ 730.41	96.00	\$ 1,489.34	143	\$ 2,220
37	83.41	\$ 1,277.79	59.55	\$ 923.21	143	\$ 2,201
58	64.88	\$ 994.80	71.48	\$ 1,109.53	136	\$ 2,104
54	60.68	\$ 932.01	72.66	\$ 1,127.43	133	\$ 2,059
60	60.42	\$ 813.00	72.06	\$ 1,118.04	132	\$ 1,931
21	32.12	\$ 436.16	91.74	\$ 1,423.50	124	\$ 1,860
7	54.36	\$ 838.42	65.16	\$ 1,010.46	120	\$ 1,849
70	48.55	\$ 744.76	65.90	\$ 1,022.51	114	\$ 1,767
23	77.76	\$ 1,194.60	34.89	\$ 540.75	113	\$ 1,735
57	36.38	\$ 561.78	69.46	\$ 1,078.04	106	\$ 1,640
35	52.70	\$ 811.09	53.02	\$ 822.42	106	\$ 1,634
2	-	\$ -	96.00	\$ 1,489.31	96	\$ 1,489
20	-	\$ -	92.66	\$ 1,437.79	93	\$ 1,438
3	-	\$ -	91.60	\$ 1,421.42	92	\$ 1,421
118	-	\$ -	89.71	\$ 1,392.04	90	\$ 1,392
10	88.42	\$ 1,356.44	-	\$ -	88	\$ 1,356

**Appendix B – Compensated Time Off Pay Due Employees**

Compensated Time Off Pay Due Employees January 1, 2014 - December 31, 2015						
Employee Assigned No.	Year 2014		Year 2015		Total Years 2014- 2015	
	Accrued Hours	Amount Due	Accrued Hours	Amount Due	Total Accrued Hours	Total Amount Due*
107	-	\$ -	87.15	\$ 1,352.40	87	\$ 1,352
40	-	\$ -	84.17	\$ 1,306.27	84	\$ 1,306
5	93.43	\$ 1,256.18	-	\$ -	93	\$ 1,256
50	81.73	\$ 1,251.76	-	\$ -	82	\$ 1,252
43	80.78	\$ 1,238.16	-	\$ -	81	\$ 1,238
119	-	\$ -	74.67	\$ 1,158.69	75	\$ 1,159
62	71.46	\$ 1,094.42	-	\$ -	71	\$ 1,094
48	70.14	\$ 1,075.33	-	\$ -	70	\$ 1,075
56	67.37	\$ 1,031.03	-	\$ -	67	\$ 1,031
64	76.70	\$ 1,030.41	-	\$ -	77	\$ 1,030
6	-	\$ -	65.53	\$ 1,017.24	66	\$ 1,017
115	-	\$ -	63.87	\$ 991.56	64	\$ 992
26	71.34	\$ 959.28	-	\$ -	71	\$ 959
36	62.30	\$ 957.80	-	\$ -	62	\$ 958
61	62.39	\$ 956.61	-	\$ -	62	\$ 957
9	-	\$ -	58.88	\$ 912.91	59	\$ 913
38	58.38	\$ 893.39	-	\$ -	58	\$ 893
120	-	\$ -	53.84	\$ 835.14	54	\$ 835
121	53.43	\$ 818.33	-	\$ -	53	\$ 818
68	50.92	\$ 781.10	-	\$ -	51	\$ 781
67	-	\$ -	49.28	\$ 765.57	49	\$ 766
122	-	\$ -	49.15	\$ 763.22	49	\$ 763
123	-	\$ -	48.12	\$ 746.84	48	\$ 747
84	55.38	\$ 739.27	-	\$ -	55	\$ 739
73	-	\$ -	43.93	\$ 681.72	44	\$ 682
16	43.38	\$ 671.39	-	\$ -	43	\$ 671
124	-	\$ -	41.66	\$ 647.00	42	\$ 647
125	47.34	\$ 638.93	-	\$ -	47	\$ 639
59	-	\$ -	39.69	\$ 615.14	40	\$ 615
126	39.46	\$ 609.26	-	\$ -	39	\$ 609
24	43.93	\$ 595.74	-	\$ -	44	\$ 596
22	38.13	\$ 579.94	-	\$ -	38	\$ 580
127	43.38	\$ 579.10	-	\$ -	43	\$ 579
27	40.61	\$ 542.13	-	\$ -	41	\$ 542
128	39.50	\$ 527.35	-	\$ -	40	\$ 527

**Appendix B – Compensated Time Off Pay Due Employees**

<b>Compensated Time Off Pay Due Employees</b>						
<b>January 1, 2014 - December 31, 2015</b>						
<b>Employee Assigned No.</b>	<b>Year 2014</b>		<b>Year 2015</b>		<b>Total Years 2014- 2015</b>	
	<b>Accrued Hours</b>	<b>Amount Due</b>	<b>Accrued Hours</b>	<b>Amount Due</b>	<b>Total Accrued Hours</b>	<b>Total Amount Due*</b>
129	38.66	\$ 516.09	-	\$ -	39	\$ 516
130	35.81	\$ 478.06	-	\$ -	36	\$ 478
131	33.23	\$ 443.56	-	\$ -	33	\$ 444
72	22.50	\$ 344.95	-	\$ -	22	\$ 345
132	-	\$ -	17.17	\$ 266.77	17	\$ 267
133	16.61	\$ 221.78	-	\$ -	17	\$ 222
134	15.22	\$ 203.15	-	\$ -	15	\$ 203
135	14.77	\$ 197.14	-	\$ -	15	\$ 197
136	-	\$ -	10.98	\$ 170.60	11	\$ 171
137	-	\$ -	10.61	\$ 164.86	11	\$ 165
138	11.58	\$ 154.63	-	\$ -	12	\$ 155
1	7.94	\$ 107.79	-	\$ -	8	\$ 108
139	3.69	\$ 49.28	3.32	\$ 51.63	7	\$ 101
140	7.34	\$ 99.39	-	\$ -	7	\$ 99
141	4.85	\$ 64.69	-	\$ -	5	\$ 65
142	-	\$ -	3.69	\$ 57.37	4	\$ 57
143	-	\$ -	3.69	\$ 57.37	4	\$ 57
144	-	\$ -	3.32	\$ 51.63	3	\$ 52
145	1.11	\$ 14.79	-	\$ -	1	\$ 15
	<b>3,824.06</b>	<b>\$ 56,975.50</b>	<b>3,562.25</b>	<b>\$ 55,273.68</b>	<b>7,386</b>	<b>\$ 112,249</b>

*\* Rounded to the Nearest Whole Number*

**AUDIT FINDING (1)**

**(1) 117 Employees Were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$33,996**

**Audit Recommendations:**

We recommend that All Metro:

- a) compensate the 115 employees that were underpaid in 2014 -2015 the amounts owed and provide proof of payment with supporting calculations to the Comptroller's Office;
- b) review, recalculate, and pay all wage rate differences for the 43 employees that were not included in the Auditor’s sample for 2015;
- c) compensate the amounts owed to the two PCA employees who were paid between \$10-\$13 per hour in 2014; and
- d) take the necessary steps to ensure that the increase to the hourly Living Wage rate is done on a timely basis or retroactively pay all Living Wage rate increases, in accordance with the Living Wage Law.

**All Metro Health Care’s Response to Recommendation 1**

*“We appreciate that this finding was updated to omit reference to PCAs who in 2014 were covered by a collective bargaining agreement that waived the requirement to pay health benefits, and that your finding was reduced accordingly. However, you noted that in 2014 the company miscalculated payroll by \$.29 per hour for CDPAs who were not covered by the CBA and by \$.01 per hour for other employees. The average of \$291 you calculated per employee will be confirmed, and any shortfall will be paid to each listed employee. In addition, per your recommendation, we will calculate and pay the health benefits supplement for the 43 employees that were not sampled in your audit.”*

**Auditor’s Follow Up Response to Recommendation 1**

We concur with All Metro’s response to confirm our calculations and pay all wage underpayments to the 117 employees. In addition, we are pleased that All Metro will review, calculate and, if required, pay the wage supplement to the 43 employees not sampled in 2015.

We reiterate the need for All Metro to take the necessary steps to ensure that the increase to the hourly Living Wage rate is done on a timely basis or retroactively pay all Living Wage rate increases, in accordance with the Living Wage Law.

We restate that All Metro provide the Comptroller’s Office proof of the calculations and resulting payments made to employees.

**AUDIT FINDING (2)**

**(2) 89 Employees Were Not Granted 7,386 Hours of Earned Compensated Time Off Totaling \$112,249 and All Metro Was Not Maintaining Adequate Vacation Records**

**Audit Recommendations:**

We recommend that All Metro:

- a) pay the 89 employees the amounts for all accrued compensated time owed and provide proof of payment to the Comptroller’s Office;
- b) keep proper records of each employee’s Compensated Time Off accruals, usage, and balances, in accordance with the law; and
- c) update the Employee Manual/Handbook to include the specific times of the year when All Metro intends to pay employees compensated time off for hours previously worked.

**All Metro Health Care’s Response to Recommendation 2**

*“Your report acknowledges that we sent copies of checks remitted to employees, but states that we did not provide support for the accrued hours and period of time covered by the payments we made. We believe the payments were for the time periods immediately preceding payment (i.e. 2014-2015), and therefore all employees were properly compensated; but given your concerns, we have agreed to make additional payments to the employees identified as having accrued and untaken compensated time off. Further, we will seek input from our Information Services department as to the most efficient approach to maintaining records in the manner you recommend. We will also update our employee handbook to include our policy to pay employees for earned compensated time off when not taken in the semi-annual period.”*

**Auditor’s Follow Up Response to Recommendation 2**

We concur with All Metro’s response and are pleased that they will make the additional payments to the employees specified in Appendix B of the report. We reiterate that All Metro provide proof of payments to the Comptroller’s Office.

We are also pleased with All Metro’s plan to work with their Information Services department to keep proper employee compensated time records and update the employee handbook accordingly.

**AUDIT FINDING (3)**

**(3) Follow-up on Incomplete Payroll Data Provided by All Metro Identified an Additional 30 Employees Who Were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$ 66,171 and Not Granted Earned Compensated Time Off Resulting in Amounts Due Totaling \$ 10,824**

**Audit Recommendations:**

We recommend that All Metro:

- a) promptly pay the 30 aides the amounts due them and remit proof of payment to the Comptroller’s Office;
- b) update employee payroll data to include the name of the Patient/ID for the patient service dates being paid; and
- c) take corrective action to ensure that the proper controls are in place to identify and provide complete payroll data for all of their employees who worked on Nassau County DSS cases.

**All Metro Health Care’s Response to Recommendation 3**

*“You indicated that we did not provide a satisfactory explanation for not including the payroll records for the 30 subject employees. However, we did explain that these individuals had been paid as non-Living Wage eligible employees because they worked at a time when the patient was not eligible for Medicaid or was serviced through a managed care contract, either of which would have meant the employee was not subject to Living Wage requirements; and that the case was retroactively transitioned to Nassau DSS only significantly after the employee had already been paid. Therefore, those payroll records would not automatically have been matched to Living Wage-eligible Medicaid billings and would not have been provided as part of the Living Wage payroll you requested. As you note, they have now been provided and all Medicaid billings were substantiated.”*

*“Although the 30 employees were properly paid as non-Living Wage employees at the time they provided the services, the company will retroactively change their status for those dates to Living Wage eligible status and recalculate and pay the additional amounts they would have been paid had they been Living Wage eligible at the time they worked.”*

**Auditor’s Follow Up Response to Recommendation 3**

This finding was originally Finding #4 and was moved to Finding 3 **after All Metro Health Care provided their response**. The move was done to segregate the living wage findings (now Findings 1-3) from the contract issue found during the audit (now Finding 4).

## Appendix C – Auditor’s Comments on the Auditees’ Responses

We concur with All Metro’s plan to recalculate and pay the additional amounts due to employees as shown in Exhibits II and III We also reiterate the need to provide the Comptroller’s Office with proof of payment.

We reiterate the need for All Metro to update its employee payroll data to include the name of the Patient/ID for the patient service dates being paid.

### **AUDIT FINDING (4)**

**(4) We Found 240 Instances Where Live-in Aides Worked More than the “60 Hours per Week Maximum” Stated in their Contract. This Included 92 Instances Where Hours Worked Exceeded 80 for the Week**

### **Audit Recommendation:**

We recommend that All Metro adhere to the terms of the contract and MOU with regard to the number of hours employees work per week.

### **All Metro Health Care’s Response to Recommendation 4**

*“Your Executive Summary states that the purpose of this review is: “to determine whether an agency ... was in compliance with the County's Living Wage Law and related Rules”. Compliance with contract requirements other than those related to the Living Wage Law and Rules is outside the scope of this review and should be removed from this report. We note that there is no fiscal impact associated with this finding.”*

### **Auditor’s Follow Up Response to Recommendation 4**

This finding was originally Finding #3 and was moved to Finding 4 **after All Metro Health Care provided their response**. The move was done to segregate the living wage findings (now Findings 1-3) from this finding which addresses the contract issue noted during the audit (now Finding 4).

We disagree with All Metro’s assertion that a review of All Metro’s compliance with the Contract, MOU, and the Department of Health regulations, is outside the scope of our review. Section 5(d) *Minimum Service Standards* of the Contract and 2(A) of the MOU *Responsibilities of the Parties* clearly state that, the Provider shall ensure that no aide is assigned to work in excess of twelve (12) hours per day or in excess of sixty (60) hours per week on average.

While we agree that there is no fiscal impact to the County, we believe that the scheduling of live-in aides to work numerous consecutive days, and in some cases up to 19 consecutive days at a time, may undermine the quality of care for Consumers.

We also consider that the contract terms and the MOU were intended to ensure that Consumers are provided with proper services.

## Appendix C – Auditor’s Comments on the Auditees’ Responses

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We reiterate that All Metro adhere to the terms of the contract and MOU with regard to the number of hours employees work per week.

We recommend that the Nassau County Department of Social Services review this issue.

## Appendix D – All Metro Health Care’s Response

### APPENDIX D - All Metro Health Care’s Response



70 East Sunrise Highway, Suite 520  
Valley Stream, New York 11581  
Telephone: (516) 821-4400  
Facsimile: (516) 887-6212

November 30, 2018

**BY EMAIL (kbrandeau@nassaucountyny.gov) and FIRST CLASS MAIL**

Ms. Kim G. Brandeau  
Deputy Comptroller for Administration & Operations  
Office of the Nassau County Comptroller  
240 Old Country Road  
Mineola, New York 11501

Re: Revised Draft Living Wage Limited Review – 2014-2015

Dear Ms. Brandeau,

As requested in your November 16, 2018 letter, enclosed are the company’s responses to the revised draft Limited Review of All Metro Health Care Compliance with the Nassau County Living Wage Law – Years 2014 and 2015.

All Metro Health Care has had a long and productive relationship with Nassau County as a contractor to the Department of Social Services providing exemplary personal care and fiscal intermediary services to Medicaid beneficiaries. We have always strived to be in substantial compliance with all contractual requirements – including the Living Wage Law – while providing caring and quality services to our patients. We take your report and recommendations seriously, and are committed to addressing the issues identified in it. With that said, the following are our specific comments in response thereto.

Audit Finding (1): We appreciate that this finding was updated to omit reference to PCAs who in 2014 were covered by a collective bargaining agreement that waived the requirement to pay health benefits, and that your finding was reduced accordingly. However, you noted that in 2014 the company miscalculated payroll by \$.29 per hour for CDPAs who were not covered by the CBA and by \$.01 per hour for other employees. The average of \$291 you calculated per employee will be confirmed, and any shortfall will be paid to each listed employee. In addition, per your recommendation, we will calculate and pay the health benefits supplement for the 43 employees that were not sampled in your audit.

Audit Finding (2): Your report acknowledges that we sent copies of checks remitted to employees, but states that we did not provide support for the accrued hours and period of time covered by the payments we made. We believe the payments were for the time periods immediately preceding payment (i.e. 2014-2015), and therefore all employees were properly compensated; but given your concerns, we have agreed to make additional payments to the employees identified as having accrued and untaken compensated time off. Further, we will seek input from our Information

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## Appendix D – All Metro Health Care’s Response

Ms. Kim G. Brandeau  
Deputy Comptroller for Administration  
& Operations  
November 28, 2018  
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Services department as to the most efficient approach to maintaining records in the manner you recommend. We will also update our employee handbook to include our policy to pay employees for earned compensated time off when not taken in the semi-annual period.

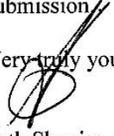
Audit Finding (3): Your Executive Summary states that the purpose of this review is: “to determine whether an agency ... was in compliance with the County’s Living Wage Law and related Rules”. Compliance with contract requirements other than those related to the Living Wage Law and Rules is outside the scope of this review and should be removed from this report. We note that there is no fiscal impact associated with this finding.

Audit Finding (4): You indicated that we did not provide a satisfactory explanation for not including the payroll records for the 30 subject employees. However, we did explain that these individuals had been paid as non-Living Wage eligible employees because they worked at a time when the patient was not eligible for Medicaid or was serviced through a managed care contract, either of which would have meant the employee was not subject to Living Wage requirements; and that the case was retroactively transitioned to Nassau DSS only significantly after the employee had already been paid. Therefore, those payroll records would not automatically have been matched to Living Wage-eligible Medicaid billings and would not have been provided as part of the Living Wage payroll you requested. As you note, they have now been provided and all Medicaid billings were substantiated.

Although the 30 employees were properly paid as non-Living Wage employees at the time they provided the services, the company will retroactively change their status for those dates to Living Wage eligible status and recalculate and pay the additional amounts they would have been paid had they been Living Wage eligible at the time they worked.

If you require any additional information or clarification of the subjects addressed in your report or in our reply, please feel free to contact me. As we have stated, it is our firm desire to continue to work collaboratively with Nassau County to ensure appropriate delivery of services, proper payment of our workers and integrity in claims submission.

Very truly yours,

  
Seth Shapiro  
Vice President and Chief Administrative  
Officer

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