

**Nassau County
Office of the Comptroller**



**Limited Review of Allen Health Care Services, Inc.'s
Compliance with the Nassau County Living Wage Law**

2014 through 2015

GEORGE MARAGOS

Comptroller

December 28, 2017

NASSAU COUNTY
OFFICE OF THE COMPTROLLER

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Executive Summary

Introduction:

There are two contracts between Allen Health Care Services, Inc. (“Allen”) as the “Provider” and Nassau County (“County”) for personal care services¹. One of the contracts is for services to recipients of Medicaid², and the other is for services provided under the Expanded In-home Services for the Elderly Program (“EISEP”). Approximately 125 employees worked under the Medicaid contract and 140 under the EISEP contract. For the years 2014 through 2015, reimbursements to Allen amounted to \$964,910.

Purpose:

The objective of this review was to determine whether Allen Healthcare Services was in compliance with the County’s Living Wage Law (“Law”) and the related Rules³ for its employees who perform work under its contract with Nassau County by paying them at least the Living Wage rate and providing the Law’s required compensated time off.

Key Findings:

- One live-in aide was not paid for 5 hours of work within a 24-hour shift which resulted in an underpayment of \$74.
- Seven employees were not compensated for 16 hours of earned compensated time off totaling \$256.

Key Recommendations:

- Allen should pay the amount owed to the employee and provide proof of payment to the Comptroller’s Office.
- Allen should pay the amounts owed to the seven employees and provide proof of payment to the Comptroller’s Office.

The matters covered in this report have been discussed with the officials of Allen Health Care Services, Inc. On December 21, 2017, we submitted a draft report to Allen for their review. Allen provided their response on December 27, 2017. Their response and our follow up to their response are included as Appendix A and Appendix B to this report.

¹ As defined in New York State 18 NYCRR

² As defined in Title 11, Article 5 of the New York State Social Services Law and/or Title XIX of the Federal Social Security Act

³ Living Wage Law Rules of the Nassau County Comptroller and Rules of the Nassau County Executive.

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Introduction

Background

The Living Wage Law was enacted by the Nassau County Legislature to ensure that all employees of contractors that do business with Nassau County earn the living wage rate and receive health benefits or a health benefit supplement. Under the Law, full-time employees who work 40 hours per week are entitled to receive no less than 12 paid days off per year, while part-time employees who work at least 20 hours per week receive proportionate compensated days off⁴.

There are two contracts between Allen Health Care Services, Inc. (“Allen”) as the “Provider” and Nassau County for personal care services⁵. One of the contracts is for services to recipients of Medicaid⁶, and the other is for services provided under the Expanded In-home Services for the Elderly Program (“EISEP”). EISEP assists people aged 60 and older who need help with everyday activities and are not eligible for Medicaid. The EISEP clients are required to cost share according to a sliding scale reflecting their income and the cost of the services they receive.

The Medicaid contract, which became effective on January 1, 2011 is automatically renewed annually, unless terminated; and the EISEP contract has a one-year term period from April 1 to March 31.

Allen is reimbursed for these personal care services at rates set forth by the New York State Department of Health. For the years 2014 through 2015, reimbursements to Allen amounted to \$964,910. Approximately 125 employees worked under the Medicaid contracts and 140 under the EISEP contracts. During the audit period, approximately 39 employees worked as live-in aides. Live-in aides may work no more than 13 hours within the 24 hour-day that they are on call and no more than five days per week on average.

Audit Scope, Objectives and Methodology

The objective of the review was to determine whether Allen was in compliance with the Nassau County Living Wage Law and related Rules. The review period was January 1, 2014 to December 31, 2015.

The specific objectives included:

- Review Medicaid and EISEP reimbursements, patient schedules, and employee duty sheets to ensure completeness of the payroll.
- Compare the payroll rate of pay with the applicable Living Wage rate.
- Calculate the compensated leave accrued based on 20 or more hours worked in a 40 hour workweek.

⁴ Miscellaneous Laws of Nassau County- Title 57 – Nassau County Living Wage Law

⁵ As defined in New York State 18 NYCRR

⁶ As defined in Title 11, Article 5 of the New York State Social Services Law and/or Title XIX of the Federal Social Security Act

Introduction

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

Findings and Recommendations

Audit Finding:

(1) One Live-in Aide Was Not Paid For 5 Hours of Work within a 24-Hour Shift Resulted in Underpayment of \$74

We compared Allen's ADP⁷ Payroll Registers with the Patient/Caregiver *Duty Sheet by Visit Date*⁸ reports and found that one live-in aide was underpaid 4.75 hours totaling \$74. The employee was scheduled to work a 24 hour-shift, but was paid for fewer than 13 hours.

New York State Department of Labor's interpretation of the law⁹ states that a personal home care aide employed to work a 24-hour shift must be paid *at least* for 13 hours of work¹⁰.

Audit Recommendation(s):

We recommend that Allen pay the amount owed to the employee and provide proof of payment to the Comptroller's Office.

Audit Finding:

(2) Seven Employees Were Not Compensated for 16 Hours of Earned Compensated Time Off Totaling \$256

Our analysis of the payroll registers revealed that seven employees were underpaid a total of \$256 in accrued compensated time off during the audit period. The Nassau County Living Wage Law provides that each full-time¹¹ employee is entitled to 12 paid days off, while part-time employees working at least 20 hours per week receive proportionate compensated days off¹². Exhibit I is a summary by employee of the number of unpaid hours and the associated dollar amounts due for each year.

⁷ Automatic Data Processing

⁸ "Duty Sheet By Visit Date" includes the following: Patient Name, Caregiver Name, Visit Date, Scheduled Time, Visit Time, Billed Hours and Tasks

⁹ 12 N.Y.C.R.R. §142.2.1

¹⁰ NYS Department of Labor Opinion, RO-09-00169 - The minimum 13 hours of compensation is premised on the following: the aide is allowed 8 hours of sleep, actually receives at least 5 uninterrupted hours of sleep and gets three long meal breaks on the 24 hour shift

¹¹ Full-time is defined as 40 hours per week

¹² Miscellaneous Laws of Nassau County - Title 57 – Nassau County Living Wage Law

Findings and Recommendations

Exhibit I

Summary of Unpaid Compensated Time Off January 1, 2014 - December 31, 2015

Employee	2014		2015		Total	
	Unpaid Hours	Amount Due	Unpaid Hours	Amount Due	Unpaid Hours	Amount Due
Employee 1	1.85	\$ 28.82	0.92	\$ 14.27	2.77	\$ 43.09
Employee 2	-	-	1.57	24.39	1.57	24.39
Employee 3	0.90	13.94	-	-	0.90	13.94
Employee 4	-	-	5.79	89.93	5.79	89.93
Employee 5	-	-	1.66	25.71	1.66	25.71
Employee 6	-	-	1.98	30.70	1.98	30.70
Employee 7	-	-	1.80	27.97	1.80	27.97
	<u>2.75</u>	<u>\$ 42.76</u>	<u>13.72</u>	<u>\$ 212.97</u>	<u>16.47</u>	<u>\$ 255.73</u>

In addition, we compared the rate of pay for employees with the applicable living wage rate and found that Allen paid all eligible employees the living wage rate.

Audit Recommendation(s):

We recommend that Allen pay the amounts owed to the seven employees and provide proof of payment to the Comptroller's Office.



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December 27, 2017

Hon. George Maragos
Office of the Comptroller
240 Old Country Road
Mineola, New York 11501

NASSAU DSS MEDICAID
RESPONSE TO RECOMMENDATIONS
PERSONAL CARE AGENCY
FOR THE YEAR ENDED DECEMBER 31, 2014 & 2015

AGENCY RESPONSE TO THE AUDITORS' FINDINGS & RECOMMENDATIONS

AUDITORS' FINDINGS AND RECOMMENDATIONS

(1) One Live-in Aide Was Not Paid For 5 Hours of Work within a 24-Hour Shift Resulted in Underpayment of \$74:

Finding: We compared Allen's ADS Payroll Registers with the Patient/Caregiver Duty Sheet by Visit Date reports and found that one live-in aide was underpaid 4.75 hours totaling \$74. The employee was scheduled to work a 24-hour shift, but was paid for fewer than 13 hours. New York State Department of Labor's interpretation of the law states that a personal home care aide employed to work a 24-hour shift must be paid at least for 13 hours of work..

Recommendation: We recommend that Allen pay the amount owed to the employee and provide proof of payment to the Comptroller's office.

Agency Response & Plan of Correction:

The Agency will pay the amount of \$74.00 owed to the employee and provide proof of payment to the Comptroller's office.

The agency will also educate our payroll staff to make sure to pay live-ins who are scheduled to work a 24-hour shift no less than 13 hours.

Appendix A - Allen Health Care Services Response

(2) Seven Employees Were Not Compensated for 16 Hours of Earned Compensated Time Off Totaling \$256:

Finding: Our analysis of the payroll registers revealed that seven employees were underpaid a total of \$256.

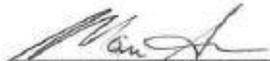
Recommendation: We recommend that Allen pay the amounts owed to the seven employees and provide proof of payment to the Comptroller's Office.

Agency Response & Plan of Correction: The Agency concurs with the Auditors' recommendation above and the Agency will pay the amount of \$256.00 owed to the employees and provide proof of payment to the Comptroller's office.

The agency will also take steps to tighten our controls on the calculation of Living Wage vacation so that these errors will not take place in the future.

Respectfully submitted,

HEALTH ACQUISITION CORP.



Marie Andreacchio, President

Appendix B - Auditor's Follow-Up Responses to Allen Health Care Services Response

Audit Finding:

(1) One Live-in Aide Was Not Paid For 5 Hours of Work within a 24-Hour Shift Resulted in Underpayment of \$74

Audit Recommendation(s):

We recommend that Allen pay the amount owed to the employee and provide proof of payment to the Comptroller's Office.

Allen Healthcare Response:

The Agency will pay the amount of \$74.00 owed to the employee and provide proof of payment to the Comptroller's office.

The Agency will also educate our payroll staff to make sure to pay live-ins who are scheduled to work a 24-hour shift no less than 13 hours.

Auditor's Follow Up:

We concur with Allen's plan to: compensate the employee for the underpayment; provide proof of payment to the Comptroller's Office: and train its payroll staff on the required pay for live-ins.

Audit Finding:

(2) Seven Employees Were Not Compensated for 16 Hours of Earned Compensated Time Off Totaling \$256

Audit Recommendation(s):

We recommend that Allen pay the amounts owed to the seven employees and provide proof of payment to the Comptroller's Office.

Allen Healthcare Response:

The Agency concurs with the Auditors' recommendation above and the Agency will pay the amount of \$256.00 owed to the employees and provide proof of payment to the Comptroller's office.

The Agency will also take steps to tighten our controls on the calculation of Living Wage vacation so that these errors will not take place in the future.

Appendix B - Auditor's Follow-Up Responses to Allen Health Care Services Response

Auditor's Follow Up:

We concur with Allen's plan to compensate the seven employees for the underpayment of compensated time off and tighten its controls over the Compensated Time Off calculation.