

**Nassau County
Office of the Comptroller**



**Limited Review of Armor Correctional Health Services, Inc.'s
2014 and 2015 Compliance
with the Nassau County Living Wage Law**

GEORGE MARAGOS

Comptroller

July 27, 2016

NASSAU COUNTY
OFFICE OF THE COMPTROLLER

George Maragos
Comptroller

James Garner
Chief Deputy Comptroller

Michael A. Scotto, Esq.
*Deputy Comptroller - Audits and
Investigations*

Raymond J. Aversa, Esq.
*Deputy Comptroller - Legal and
Special Projects*

Carla Hall D'Ambra
Director of Communications

Audit Staff

JoAnn Greene
Director of Field Audit

Aurora Scifo
Assistant Director of Field Audit

Janis McDermott
Field Audit Supervisor

William Holtmeyer
Field Auditor II

Executive Summary

Introduction:

Armor Correctional Health Services, Inc. (“Armor”) entered into a contract with Nassau County starting in June 2011 to provide comprehensive medical, dental and mental health services to patients at the Nassau County Correctional Center.¹ The contract was renewed in 2013 and again in 2015, and is in effect through May 31, 2017.

Purpose:

The objective of this review was to determine whether Armor was in compliance with the Living Wage Law (“Law”) and the related rules² for its employees. The review period was January 1, 2014 through December 31, 2015. Armor had 161 employees in 2014 and 166 employees in 2015 at the Nassau County Correctional Center infirmary.

Exhibit I

Summary of Armor Correctional Health Services Employees

<u>Job Description</u>	2014				
	<u>Full Time</u>		<u>Part Time/Per Diem</u>		<u>Total</u>
	<u>Active</u>	<u>Terminated</u>	<u>Active</u>	<u>Terminated</u>	
Nursing	36	17	19	33	105
Assistants, Clerks, Techs, Other	15	4	4	3	26
Doctors/Psychiatry/Dental	5	2	4	4	15
Mental Health/Social Work/Pharmacy	4	1	4	3	12
Senior Administration	2	1	0	0	3
Totals - 2014	62	25	31	43	161
<u>Job Description</u>	2015				
	<u>Full Time</u>		<u>Part Time/Per Diem</u>		<u>Total</u>
	<u>Active</u>	<u>Terminated</u>	<u>Active</u>	<u>Terminated</u>	
Nursing	31	28	22	27	108
Assistants, Clerks, Techs, Other	11	9	6	8	34
Mental Health/Social Work/Pharmacy	5	1	4	1	11
Doctors/Psychiatry/Dental	4	2	3	1	10
Senior Administration	2	1	0	0	3
Totals - 2015	53	41	35	37	166
Terminated Employee Totals		66		80	146

Source: Armor Employee Lists for 2014 & 2015

¹ CQCC11000005, Contractual Agreement between Nassau County and Armor.

² Living Wage Law Rules of the Nassau County Comptroller and Rules of the Nassau County Executive.

Executive Summary

Key Findings:

- Hourly base rates paid to certain employees in both 2014 and 2015 were less than the rates mandated by the Law. A total of \$10,398 is due to 20 employees for the period January 2014 – December 2015.
- Armor does not provide accrued compensated time off for employees working 20-23 hours per week or classified as per diem. Under the Law, part-time employees who work more than 20 hours per week are entitled to leave time compensation. A total of \$889 of compensated time off is due to six employees for the period January 2014 – December 2015.
- Armor’s vacation pay policy upon termination is not in compliance with the Law because employees who are involuntary terminated are not eligible for an accrued vacation payout.

Key Recommendations:

We recommend that Armor take steps to:

- pay the amounts due the 20 employees who were not paid the Living Wage rate in 2014 and/or 2015 as shown in the audit. Proof of payment should be provided to the Comptroller’s Office with supporting calculations. Armor should also review their payroll records for 2016 and make any necessary base rate corrections to ensure that all employees’ base rates reflect the correct Living Wage rate in effect at the time the earnings were paid.
- review the 2014, 2015 and 2016 hours worked by per diem employees covered by the Nassau County Living Wage Law and provide them with the pro-rated compensated days off that the Law provides for;
- update its Personnel policies to provide for the awarding of pro-rated compensated days off for its per diem employees covered under the Living Wage Law; and revise the Employee Handbook to state that leave time will be accrued for employees working 20-23 hours or more, as mandated by the Law; and
- revise their Employee Handbook to state that all compensated time off will be paid upon separation, whether it is voluntary or involuntary, including vacation time. Armor should calculate the amount owed to any employees involuntarily terminated, who should have been eligible for an accrued vacation payout and provide them with the amount owed in accordance with the Law. Proof of payment should be provided to the Comptroller’s Office with supporting calculations.

Executive Summary

The matters covered in this report have been discussed with the officials of Armor Correctional Health Services, Inc. On June 7, 2016 we submitted a draft report to Armor for their review. Armor provided their response on July 12, 2016. Their response and our follow up to their response are included as an appendix to this report.

Table of Contents

	<u>Page</u>
INTRODUCTION.....	1
Background.....	1
Audit Scope, Objectives and Methodology	1
FINDINGS AND RECOMMENDATIONS	2
(1) Armor Paid 20 Employees Less than the Living Wage Rate in 2014 and 2015 Resulting in Underpayments Totaling \$10,398.....	2
(2) Armor Owes Six Part-Time/Per Diem Employees an Estimated Total of \$889 for Accrued Prorated Leave Time Required by the Living Wage Law	4
(3) Employees Terminated Involuntarily Are Not Eligible for an Accrued Vacation Payout as Required by the Living Wage Law	5
APPENDIX.....	7

Introduction

Background

In addition to providing medical, mental health, dental and ancillary services to inmates at the Nassau County Correctional Center, Armor operates an on-site infirmary and specialty clinics, and makes referrals for hospital admissions, emergency room services and off-site services not available at the Correctional Center.

The Living Wage Law (“Law”) was enacted by the Nassau County Legislature to ensure that all employees that do business with Nassau County earn the living wage and receive health benefits or a health benefits supplement. Under the Law, full-time employees are to receive no less than 12 paid days off a year, while part-time employees working at least 20 hours per week receive proportionate compensated days off.³ The contract between Armor and Nassau County for medical services at the Nassau County Correctional Center provides that Armor will comply with the requirements of the Law.⁴ While Armor’s professional staff, such as senior administrators, doctors and nurses are not covered by the Law, non-professional staff, including medical records clerks, are covered.

Audit Scope, Objectives and Methodology

We reviewed Armor’s individual Employee Payroll History Reports for all 26 pay periods in both 2014 and 2015 to verify that the hourly rates paid to their employees working at the Nassau County Correctional Center Infirmary were in compliance with the Law.

We also reviewed Armor’s Employee Handbook to ensure compliance with the Living Wage Law regarding granting of compensated days off and personal and leave time accruals to full time, part time and per diem employees.

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

³ Title 57 Nassau County Living Wage Law (2010).

⁴ Contractual Agreement between Nassau County and Armor, §9.(b) and Appendix L.

Findings and Recommendations

Audit Finding:

(1) Armor Paid 20 Employees Less than the Living Wage Rate in 2014 and 2015 Resulting in Underpayments Totaling \$10,398

We reviewed Armor's individual Employee Payroll History Reports for all 26 pay periods in both 2014 and 2015 to verify that the hourly rates paid to their employees working at the Nassau County Correctional Center Infirmary were in compliance with the Law. Exhibit II below shows the Living Wage rates for 2014-2015.

Exhibit II

Nassau County Living Wage Law Rates			
Effective Dates		Hourly Rates	
From	To	With Benefits	Without Benefits*
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

* Includes an hourly health benefit supplement of \$1.86, \$1.92 and \$1.95 for the periods ending July 31, 2014, 2015 and 2016 respectively.

We found that 20 employees (13 full-time and 7 per diem) earned less than the Living Wage required for employees who did not receive health benefits in 2014 and 2015. This can be broken down as follows: 16 out of the 161 employees (or 9.9%), earned less than the Living Wage in 2014 and 14 out of 166 employees (or 8.4%) earned less than the Living Wage in 2015. This resulted in a total of \$10,398 being due to these employees. Exhibit III lists the amount owed to each of the 20 employees.

Findings and Recommendations

Exhibit III

Summary of Amounts Underpaid to Employees for 2014 - 2015

(Amounts rounded to the nearest dollar)

Employee	Employee Title	Type	January - December 2014 Earnings			January - December 2015 Earnings			2014-2015
			Calculated	Actual	Underpaid	Calculated	Actual	Underpaid	Total
			Using	Paid to	Due to	Using	Paid to	Due to	Due to
			LW Rate	Employee	Employee	LW Rate	Employee	Employee	Employee
Employee A	Medical Records Clerk	Full-Time	\$ 30,226	\$ 29,564	\$ 662	\$ 31,748	\$ 31,040	\$ 708	\$ 1,370
Employee B	Medical Records Clerk	Full-Time	28,554	27,935	619	30,661	30,041	620	1,239
Employee C	Unit Clerk	Full-Time	28,252	27,620	632	31,334	30,751	583	1,215
Employee D	Mental Health Clerk	Full-Time	1,828	1,769	59	32,597	31,511	1,086	1,145
Employee E	Medical Records Clerk	Full-Time	29,722	29,057	665	15,186	14,770	416	1,081
Employee F	Medical Records Clerk	Full-Time	28,888	28,296	592	12,887	12,596	291	883
Employee G	Medical Records Clerk	Full-Time	938	908	30	20,854	20,174	680	710
Employee H	Medical Records Clerk	Full-Time	814	788	26	20,364	19,699	665	691
Employee I	Medical Records Clerk	Full-Time	-	-	-	12,626	12,187	439	439
Employee J	Medical Records Clerk	Full-Time	21,007	20,581	426	-	-	-	426
Employee K	Medical Records Clerk	Per Diem	3,969	3,856	113	8,033	7,774	259	372
Employee L	Medical Records Clerk	Full-Time	11,372	11,131	241	-	---	-	241
Employee M	Medical Records Clerk	Per Diem	-	-	-	5,394	5,207	187	187
Employee N	Medical Records Clerk	Per Diem	-	-	-	4,830	4,662	168	168
Employee O	Medical Records Clerk	Per Diem	1,144	1,121	23	1,359	1,314	45	68
Employee P	Medical Records Clerk	Full-Time	4,790	4,724	66	-	-	-	66
Employee Q	Medical Records Clerk	Per Diem	-	-	-	1,888	1,823	65	65
Employee R	Medical Records Clerk	Per Diem	1,338	1,320	18	-	-	-	18
Employee S	Medical Records Clerk	Per Diem	605	596	9	-	-	-	9
Employee T	Medical Records Clerk	Full-Time	365	360	5	-	-	-	5
			\$193,812	\$189,626	\$ 4,186	\$229,761	\$223,549	\$ 6,212	\$ 10,398

Audit Recommendations:

We recommend that Armor:

- a) pay the monies due the 20 employees who were not paid the Living Wage rate in 2014 and/or 2015 as shown in the audit. Proof of payment should be provided to the Comptroller's Office with supporting calculations; and
- b) review their payroll records for 2016 and make the necessary base rate corrections to ensure that all employees' base rates reflect the correct Living Wage rate in effect at the time the earnings were paid. Any amounts owed should be calculated and paid to the employees. Proof of payment should be provided to the Comptroller's Office with supporting calculations.

Findings and Recommendations

Audit Finding:

(2) Armor Owes Six Part-Time/Per Diem Employees an Estimated Total of \$889 for Accrued Prorated Leave Time Required by the Living Wage Law

A review of Armor’s Employee Handbook revealed that Armor does not provide for vacation and personal leave time accruals for part-time and per diem employees working between 20-23 hours per week. The Law requires that part-time employees who work twenty or more hours per week shall accrue leave in increments proportional to the rate of accrual for full-time employees⁵. Furthermore, the Law does not distinguish between part-time and per diem employees. Exhibit IV summarizes the eligibility and basis that Armor uses for calculating leave accruals by employee classification in 2014 and 2015.

Exhibit IV

Breakdown of Number of Employees by Classifications and Leave Accruals

Employee Class	Regularly Scheduled Weekly Hours	Employee Breakdown by Class		Type of Position	Vacation Accrual Prorated Based on	Personal Time Accrual Prorated Based on
		2014	2015			
Full time	37-40	87	94	Authorized Full Time Position	Years of Service ¹ and Regularly Scheduled Weekly Hours	Regularly Scheduled Weekly Hours
Full time	32-36	3	2	Authorized Full Time Position		
Part time	24-31	6	2	Authorized Part Time Position		
Part-Time/ Per Diem	Not Stated	65	68	Available for Relief Duty As Needed	Not Eligible	Not Eligible
Temporary	Not Stated	0	0	Work Full or Part Time Hours for a Short Duration	Not Eligible	Not Eligible
Totals		161	166			

Source: Armor Employee Handbook, page 13 and Armor Payroll Records.

¹ Years of continuous service are grouped into 3 ranges for purposes of determining the biweekly vacation accrual: 0-5 years, between 5 and 10 years and after 10 years.

Our review of the payroll reports for 2014 and 2015 identified certain bi-weekly pay-periods where six part-time and/or per diem employees worked 40 or more hours and did not accrue vacation and personal leave time. Exhibit V lists the estimated amounts owed to each of the six employees by year, for a total of \$889 due for the audit period.

⁵ Title 57 Nassau County Living Wage Law, §1.3b.

Findings and Recommendations

Exhibit V

Estimated Amounts Due Employees for Leave Time for 2014 - 2015

(Amounts rounded to the nearest dollar)

<u>Employee</u>	<u>Employee Title</u>	<u>Employee Status *</u>	<u>Number of Payperiods > 40 Hours</u>	<u>Estimated Amount Due for Leave Time</u>		
				<u>2014</u>	<u>2015</u>	<u>Total **</u>
Employee K	Medical Records Clerk	Inactive	9 ***	\$ 98	\$ 234	\$ 332
Employee N	Medical Records Clerk	Active	4	-	200	200
Employee M	Medical Records Clerk	Active	5	-	174	174
Employee X	Housekeeper	Inactive	2	-	74	74
Employee V	Housekeeper	Inactive	2	-	70	70
Employee W	Pharmacy Tech	Active	1	-	39	39
				<u>\$ 98</u>	<u>\$ 791</u>	<u>\$ 889</u>

* *Employee Status is listed as per latest earnings information provided by Armor on 3/18/16.*

** *The dollarized amounts were estimated using the Living Wage Law rates in effect during the audit period.*

*** *9 total pay periods over 40 hours: 3 pay periods in 2014, 6 pay periods in 2015.*

Audit Recommendations:

We recommend that Armor:

- a) review the 2014, 2015 and 2016 (to date) hours worked by per diem employees covered by the Nassau County Living Wage Law and provide them with the pro-rated compensated days off that Section 3.b. of the Law provides for;
- b) update its Personnel policies to provide for the awarding of pro-rated compensated days off for its per diem employees covered under the Living Wage Law and working at the Nassau County Correctional Center Infirmary; and
- c) revise the Employee Handbook to state that leave time will be accrued for employees working 20-23 hours or more, as mandated by the Law.

Audit Finding:

(3) Employees Terminated Involuntarily Are Not Eligible for an Accrued Vacation Payout as Required by the Living Wage Law

According to page 62 of Armor's Employee Handbook, "Employees involuntarily terminated are not eligible for accrued vacation payout". This practice is not in compliance with Section 3.b. of

Findings and Recommendations

the Law⁶ which states, “Compensated days off shall not be forfeited upon separation from service; such days shall be paid out to the employee upon such separation at the living wage rate at the time of separation”. Our review noted that 146 employees were shown to be inactive for the two year period. However, we could not determine whether these employees were voluntarily or involuntarily terminated. As a result, we were not able to quantify the impact of Armor’s noncompliance with this aspect of Section 3.b. of the Law during the audit period.

Audit Recommendations:

We recommend that Armor:

- a) revise the Employee Handbook to be in accordance with Section 3.b. of the Law. The Handbook should clearly state that all compensated time off will be paid upon separation, whether it is voluntary or involuntary, including vacation time; and
- b) calculate the amount owed to employees involuntarily terminated, who should have been eligible for an accrued vacation payout and provide them with the amount owed in accordance with section 3.b of the Law. Proof of payment should be provided to the Comptroller’s Office with supporting calculations.

⁶ Title 57 Nassau County Living Wage Law, §3.b.



Armor Correctional Health
Medical Services Of New York, Inc.
4960 SW 72nd Ave, Suite 400
Miami, Florida 33155

July 12, 2016

JoAnn F. Greene
Director of Field Audit
Office of the Comptroller
240 Old Country Road
Mineola, New York 11501
Via e-mail-jgreene1@nassaucountyny.gov

**RE: Armor Correctional Health Services, Inc.’s Response to June 7, 2016 Draft
Limited Review of Armor Correctional Health Services, Inc.’s 2014 and 2015
Compliance with the Nassau County Living Wage Law**

Dear Ms. Greene:

Please accept this letter as Armor’s response to the Office of the Comptroller’s Draft Limited Review of Armor Correctional Health Services, Inc.’s 2014 and 2015 Compliance with the Nassau County Living Wage Law dated June 7, 2016 (“draft”). As emphasized in the past, Armor intends to comply with all applicable Federal, State and Local government statutes and regulations; this response should emphasize that intent. Armor neither concedes, nor disputes the auditor’s interpretation of the Living Wage Law. However, Armor respects the fact that the Comptroller has been designated as the authority to enforce the law and interpret its legislative intent. Therefore, Armor will not dispute the auditor’s findings and will undertake the following actions.

Audit Finding #1

The draft recommends that Armor pay additional wages to twenty (20) employees identified in Exhibit III in the amounts calculated by the auditors. Armor will comply with this recommendation and as a demonstration of compliance, attaches a file named Exhibit A. The audit also recommends that Armor review its 2016 payroll records and make necessary base rate corrections to ensure compliance with the Living Wage rates. Armor will comply with this recommendation and as a demonstration of compliance, attaches file named Exhibit A showing all

Appendix

current employees increased above the current Living Wage of \$15.54 retroactive to January 01, 2016.

Audit Finding #2

The audit recommends Armor review the hours worked by per diem employees for calendar years 2014 through 2016 (to date) and provide the employees with prorated compensated days off in compliance with the law. Armor will comply with this recommendation and as a demonstration of compliance, forward you an exhibit documenting employees and payout amounts within 30 days of the date of this letter. The audit also recommends that Armor update its personnel policies to provide for an award of prorated compensated days off for its per diem employees who are covered by the Living Wage Law. Armor will comply with this recommendation and is in the process of drafting a personnel policy effectuating this recommendation which will be provided under separate cover.

Finally, the audit recommends that Armor revise its Employee Handbook to state that leave time will be accrued for employees working 20 to 23 hours or more as mandated by the law. Armor will comply with this recommendation and is in the process of drafting a personnel policy effectuating this recommendation which will be provided under separate cover within 30 days of the date of this letter.

Audit Finding #3

The audit recommends that Armor revise its involuntary separation policy within its Employee Handbook regarding the payment of accrued, unused vacation time of employees who are involuntarily terminated from its Nassau facility. The audit further recommends that Armor make payment to past employees who have been involuntarily separated and from whom such payments have been withheld. Armor will comply with this recommendation and is in the process of drafting an addendum to its Employee Handbook effectuating this recommendation which will be provided under separate cover. Further, Armor is in the process of auditing its payroll information to identify applicable past employees to whom such payments will be made. Again, the results of Armor's audit and payments, if applicable, will be provided under separate cover.

We trust this response satisfactorily addresses the concerns raised in the draft and complies with the recommendations suggested. If you require any further information please do not hesitate to contact me.

Very truly yours,

Karen Davies

Karen P. Davies, RN, BSN, CCHP
Senior Vice President

Appendix

Auditor's Follow-up Response:

We concur with the actions taken by Armor and look forward to receiving confirmation that all employees have received the compensation owed to them within 30 days.