

Howard S. Weitzman
Comptroller

Elizabeth Botwin
Chief Deputy Comptroller

Aline Khatchadourian
Deputy Comptroller
for Audit and Special Projects



OFFICE OF THE COMPTROLLER
240 Old Country Road
Mineola, New York 11501
Tel: (516) 571-2386
Fax: (516) 571-5900

October 30, 2008

Ms. Violet Copelman, President
First Choice Home Care, Inc.
11 Middle Neck Road
Great Neck, NY 11021

Re: Limited Audit of First Choice Home Care, Inc. Compliance with the Nassau County Living Wage Law

Dear Ms. Copelman:

A limited compliance audit was performed of contract #CQSS07000159 between First Choice Home Care, Inc. ("First Choice") and Nassau County. The objective of this audit was to determine whether First Choice was in compliance with the Nassau County Living Wage Law ("the Law") and the related Rules. The period of review was calendar year 2007, the term of the contract. To accomplish our objective, we reviewed First Choice's pertinent books and records and interviewed personnel.

Based on our limited audit, our findings and recommendations are as follows:

Audit Finding (1):

Living Wage Policy

First Choice's compensated days off policy for covered employees did not fully comply with the Living Wage Law. The Law requires employers to provide "no fewer than twelve (12) paid days off per year for sick leave, vacation or personal necessity at the employee's request. Full-time employees shall accrue such leave at a rate of one day per month of full-time employment. Part-time employees who work twenty or more hours per week shall accrue such leave in increments proportional to the rate of accrual for full-time employees. Any employee shall be eligible to begin using such accrued leave six months following his or her start date of employment, or consistent with company policy, whichever is sooner."¹

The Vacation/Sick Policy that First Choice provided to us did not specify that the covered employees could

¹ "Nassau County Living Wage Law," Nassau Co. Misc. Laws, Title 57, § 3 (2007). The Law and the related Rules can be found on the Comptroller's website, at <http://www.nassaucountyny.gov/agencies/Comptroller/LivingWage/index.html>.

utilize the accrued hours at their request. The policy only allows for cash compensation at the end of a calendar year for the accrued hours. As a result, covered employees could not avail the accrued hours during the year but had to wait until the end of the year to receive cash compensation.

Audit Recommendations:

The policy should be revised to conform to the Law and it should be disseminated to the employees so that they are aware of their entitlements.

Response from First Choice Home Care:

Policy will be revised to conform to the law and disseminated to the employees.

Auditor's Follow-up Response:

We concur with the corrective actions to be taken. Appropriate formal records of the corrective actions taken should be maintained and should be made available to us when we perform our compliance audit for the 2008 contract.

Audit Finding (2):

Compensated Days Off

We found that First Choice used an incorrect methodology in computing the number of compensated days off earned by each part time employee. The Law requires that employees are to be provided with accrued leave based on the hours they work each week. First Choice's calculation was not based on the requirements of the Law and it resulted in underpayments to some employees. In addition, while the Law requires that compensated days off be granted monthly, First Choice's practice was not to pay accrued leave to employees who worked for less than six months.

We brought our findings to the attention of First Choice who recalculated their obligation and advised us that it had underpaid 45 employees a total of \$6,289. We will be auditing First Choice's compliance with the Law for 2008. The accuracy of First Choice's calculation of 2007 underpayments as well as a verification that employees were properly paid all their entitlements earned in 2007 will be included in the scope of the 2008 compliance audit.

Audit Recommendations:

First Choice should ensure that:

- a) its methodology for computing accrued leave is in conformity with the Law; and
- b) employees are paid for all the compensatory hours to which they are entitled based upon the hours they worked during 2007.

Response from First Choice Home Care:

Please be advised as follows:

- a. We are in the process of implementing a methodology for computing accrued leave in conformity with the law.*
- b. All employees have been paid in full for all compensatory hours to which they were entitled in 2007.*

Auditor's Follow-up Response:

We concur with the corrective actions taken or planned to be taken by First Choice. Appropriate formal records of the corrective actions taken should be maintained and should be made available to us when we perform our compliance audit for the 2008 contract.

Sincerely,



Aline Khatchadourian
Deputy Comptroller for Audit and Special Projects