



New York Employers Must Comply With Updated Wage Notice Requirements

Insights

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New York businesses who employ home healthcare workers or employees covered by the state prevailing wage laws must prepare to comply with changes to the state's wage notice law. As part of the state budget, lawmakers amended the Wage Theft Prevention Act (WTPA) to impose new requirements regarding the wage notices and paystubs that these employers must provide to their employees. Impacted businesses must be aware of the changes and take steps to comply with new obligations.

What's Required Under The WTPA?

The WTPA provides strict requirements for employers to provide both wage notices and paystubs to their New York employees. Currently, the law requires you to provide a written wage notice to an employee in English and in the employee's primary language, signed and dated by the employee, and maintained for a period of six years. You must provide the notice both at time of hire and upon certain changes to the data, and must contain the following information:

- Rates of pay;
- How the employee is paid (e.g., hourly, salary, commission, etc.);
- Any allowances claimed as part of the minimum wage (e.g., tip, meal, or lodging allowances);
- Regular pay day;
- Official name of the employer and any other "doing business as" names used; and
- Address and phone number of the employer's main office.

In addition to the written wage notice, the WTPA also requires you to provide wage statements or paystubs each payday that includes the following data:

- Employee's name;
- Employer's name, address, and phone number;
- Dates covered by the payment;
- Hours worked (both regular and overtime);
- Rates of pay;

- How the employee is paid (e.g., hourly, salary, commission, etc.);
- Gross and net wages;
- Itemized deductions; and
- Itemized allowances and credits claimed by the employer.

What's Changing?

The amendments create new obligations for home healthcare employers and those employers covered by prevailing wage laws.

Home Healthcare Employers

The amendments require home healthcare employers to include on the wage notice provided to home care workers the benefits the employee is receiving under New York's Wage Parity Law, including each type of benefit provided. The home care agency must also produce the names and addresses of the person or entity providing the home care aide benefits as well as the agreement, if any, requiring or providing for the home care aide benefits, together with information on how copies of such agreements or summaries may be obtained.

Additionally, home healthcare employers must include on the employees' paystub the benefit portion of the minimum rate of home care aid total compensation and each type of home care aide benefits provided. Finally, the amendments require home care agencies to keep records for at least six years of the benefit portion of the minimum rate of home care aid total compensation. These amendments take effect on October 1, 2020.

Employers Covered By Prevailing Wage Laws

Employers covered by the prevailing wage law will now be required to specify on an employee's new hire notice and paystub the "prevailing wage supplements, if any, claimed as part of any prevailing wage or similar requirement." Where such prevailing wage supplements are claimed, the new hire notice must identify the hourly rate claimed, the type of supplement, the names and addresses of the person or entity providing such supplement, and the agreement, if any, requiring or providing for such supplement, together with information on how copies of such agreements or summaries may be obtained.

The employee's paystub must also specify the type of each supplement claimed and the hourly rate for each, or be accompanied by a copy of the applicable new hire notice, as amended. The amendments requiring this additional information take effect on June 23, 2020.

What Should You Do?

If you are an employer in the home healthcare industry or covered by prevailing wage laws, you must revise your new hire notices and paystubs to ensure they reflect these latest amendments to the WTPA. Stay tuned for a revised template new hire notice from the state. Failure to comply with the WTPA can subject businesses to substantial penalties, so you will want to make sure your wage notices and paystubs comply with these changes.

We will continue to monitor further developments and provide updates on this issue and other labor and employment issues affecting New York employers, so make sure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, or any attorney in our [New York City office](#).

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