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January 28, 2010

Mr. Joseph Bavaro, CFO  
Premier Home Health Care Services, Inc.  
360 Hamilton Avenue, Suite 120  
White Plains, NY 10601

Re: Limited Audit of Premier Health Care Services, Inc.'s Compliance with the Nassau County Living Wage Law

Dear Mr. Bavaro:

A limited compliance audit was performed on contract CQSS07000135 between Premier Home Health Care Services ("Premier") and Nassau County. The objective of this audit was to determine whether Premier was in compliance with the Nassau County Living Wage Law ("the Law") and the related Rules. The review period was calendar year 2008. The audit also included a follow-up review to ensure that corrective actions were taken as a result of our audit of compliance covering calendar year 2007 ("prior audit"<sup>1</sup>). Certain tests were also performed to review subsequent transactions. To accomplish our objective, we reviewed Premier'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 Rate**

Premier did not always pay the proper wage/benefit rate required by the Law. The Law requires that "Employers shall pay their employees no less than the living wage for each hour they

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<sup>1</sup><http://www.nassaucountyny.gov/agencies/Comptroller/NewsRelease/2008/documents/PremierHealthFinalReport103008.pdf>

perform County work and either provide them benefits or supplement their hourly wage rate by an amount no less than the benefits supplement rate.”<sup>2</sup> During the audit period, the living wage rate from January 1, 2007 to July 31, 2008 was \$9.50 per hour and the benefits supplement rate was \$1.50 per hour, aggregating to \$11.00 per hour. From August 1, 2008 to December 31, 2008 the living wage rate was \$10.50 per hour and the benefits rate was \$1.55 per hour, aggregating to \$12.05 per hour. As Premier did not provide any benefits, it was required to pay a combined rate of \$11.00 per hour through July 31, 2008, and \$12.05 per hour beginning August 1, 2008.

Our examination found three instances where employees were paid less than the living wage rate. We tested 23 employees for the pay period ending March 28, 2008 and 25 employees from the pay period ending August 29, 2008. For the pay period ending August 29, 2008, we found that three employees were underpaid by a total of \$156. We notified Premier of these underpayments and verified that it reimbursed the three employees for these underpayments.

Our prior audit found that an additional \$15,683 was due employees for underpayments of wages. We verified, on a test basis, that the monies due were paid to the employees.

### **Audit Recommendation:**

We acknowledge that the current audit finding represents a vast improvement over the prior audit results; however, based on an error rate of three errors in 48 payments for 2008, we recommend that Premier review its 2008 payments to employees to ensure no other employees were underpaid. Premier should advise us in writing of its findings when the self-audit is completed.

### **Audit Finding (2):**

#### **Compensated Days Off**

Our prior audit found that Premier’s compensated days off policy did not comply with the Law and we recommended that a compliant policy be issued. While Premier did revise its policy, we found that the current policy still does not comply with the 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

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<sup>2</sup> “Nassau County Living Wage Law,” Nassau Co. Misc. Laws, Title 57 (2007) § 3a The Law and Rules can be found on the Comptroller’s website at: <http://www.nassaucountyny.gov/agencies/Comptroller/NewsRelease/2008/documents/PremierHealthFinalReport103008.pdf> Issued October 30, 2008.

company policy, whichever is sooner.”<sup>3</sup>

The current policy does not include any specific provisions that differentiate the entitlements of covered employees from those of non-covered employees. That given, we found the following deficiencies:

- The policy includes preconditions for earning compensated time off. These include:
  - the employee must work 1500 hours for Premier within the 52 weeks prior to his/her anniversary date;
  - the employee must still be actively employed by Premier as of his/her anniversary date and the date requesting vacation pay; and
  - the employee must have worked at least one of the following holidays, Christmas, Thanksgiving or New Year’s Day<sup>4</sup>, in the previous year.

The Law does not provide for these conditions to preclude the earning of compensated time off.

- The policy states that vacation pay is calculated based on the average rate of pay for the employee for the year. The Law does not allow for the use of average wage rates.
- The policy states that vacation pay cannot be carried over from one anniversary to the next and if not used it is deemed to be waived, however, this is in violation of the Law. Accrued hours earned under the Law cannot be waived or terminated.

**Audit Recommendation:**

Premier should issue a Living Wage policy for compensated days off that conforms to the covered employees’ entitlements under the Law and the Comptroller’s Rules.

**Audit Finding (3):**

**Follow-Up Review to the 2007 Audit -Payment for Compensated Time Off**

Our prior audit found that Premier’s methodology for calculating accrued time off for part-time employees was not in compliance with the Law. Each quarter, Premier calculated each employee’s monthly average number of weekly hours worked and used the result to grant a prorated share of the compensated time off the employee would have earned if the employee had worked full-time. The Law requires that part-time employees who work twenty or more hours per week are entitled to accrue proportional leave. The averaging resulted in Premier under accruing leave hours due employees and the related pay.

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

<sup>4</sup> If a client declines services on those days, or if Premier does not require the employee to work on any of those days, this provision shall not apply for that year.

The prior audit recommended that Premier review its leave calculations for 2007 and take corrective action where there were underpayments. Premier provided us its revised 2007 calculations which showed that 51 employees were underpaid and were due a total of \$5,056. On a test basis we verified Premier's calculations of the accrued hours due employees. Premier reimbursed its employees for these underpayments in two payments, one in December 2008, totaling \$1,905 and one in September 2009, totaling \$3,151. We tested the reimbursement payments to employees and found that the employees were properly paid.

Premier has implemented the prior audit's recommendation and we make no further recommendations regarding 2007 compliance.

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The matters covered in this report have been discussed with the officials of Premier during the course of this audit. On December 11, 2009, our Office submitted a report in draft for Premier's comments. Premier provided its comments on January 6, 2010. Premier's comments, and our responses to those comments, have been included as Appendix A in this final report.

Sincerely,

/Aline Khatchadourian/

Aline Khatchadourian  
Deputy Comptroller for Audit and Special Projects



January 6, 2010

Ms. Aline Khatchadourian  
Deputy Comptroller for Audits and Special Projects  
Nassau County  
Office Comptroller  
240 Old Country Road  
Mineola, NY 11501

Re: Limited Audit of Premier Health Care Services, Inc.'s Compliance with the Nassau County Living Wage Law – Contract CQSS07000135

Dear Ms. Khatchadourian:

We are in receipt of your draft limited compliance audit report dated December 10, 2009. Below please find Premier's response to the recommendations made as a result of the audit.

Audit Finding (1) – Living Wage Rate

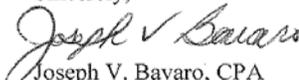
Based on your recommendation, Premier will conduct a self audit to review the 2008 payments to the employees and will advise you in writing when the self audit is complete.

Audit Finding (2) – Compensated Days Off

Premier fully intends to comply with the Living Wage policy for compensated days off and will communicate the policy to the all employees.

We look forward to receiving the final audit report.

Sincerely,

  
Joseph V. Bavaro, CPA  
Chief Financial Officer

360 Hamilton Avenue, Suite 120, White Plains, New York 10601 Phone 914-428-7722 Fax 914-428-2404

**Auditor's Follow-up Response:**

*We concur with the corrective actions taken by Premier. Premier should provide to us, within 30 days of the date of this report:*

- *documentation of Premier's self-audit of wage payments for 2008, and support for any additional wage payments made as a result of that audit for our follow-up review; and*
- *a copy of its revised compensated days off policy that is compliant with the Law and the Comptroller's Rules.*