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August 31, 2009

Ms. Andrea Brown, Vice President
P.H.C. Services, Ltd.
250 Fulton Avenue
Hempstead, NY 11550

Re: Limited Audit of PHC Services, Ltd. Compliance with the Nassau
County Living Wage Law

Dear Ms. Brown:

A limited compliance audit was performed of contract #CQSS08000114 between P.H.C. Services, Ltd. ("PHC") and Nassau County. The objective of this audit was to determine whether PHC was in compliance with the Nassau County Living Wage Law ("the Law") and related Rules. The review period was calendar year 2007. Certain tests were also performed to review PHC's subsequent transactions. To accomplish our objective, we reviewed PHC's pertinent books and records and interviewed key personnel.

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

Audit Finding (1):

Living Wage Rate:

PHC did not pay the hourly wage rate required by the Law. The Law requires that "Employers shall pay their employees no less than the living wage for each hour they perform County work and either provide them benefits or supplement their hourly wage rate by an amount no less than the benefits supplement rate."¹ During the audit period, the living wage was \$9.50 per hour and

¹ "Nassau County Living Wage Law," Nassau Co. Misc. Laws, Title 57, § 3(a) (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>.

the benefits supplement rate was \$1.50 per hour, aggregating to \$11.00 per hour. As PHC did not provide any benefits, it was required to pay the combined hourly rate of \$11.00 per hour. We scanned a payroll register edit by patient (listing approximately 140 employees) and noted that in cases where more than one employee provided service to a patient during a week, both covered employees were not always paid at the mandated rate of \$ 11.00 per hour. After noting this in five instances, we brought the discrepancy to PHC's attention and requested that PHC determine the amount owed to covered employees for underpayments made for the contract year 2007. According to their calculation, PHC owed \$ 37,923 to 44 covered employees.

We reviewed PHC's calculation of underpayments and tested a sample of 13 covered employees which showed that one employee was not included in the calculation of wages owed. We informed PHC of the discrepancy and they advised that the reason for the exclusion was that this employee worked predominantly on non-Nassau County assigned cases. According to PHC, the employee was underpaid by \$76.50.

During our entrance conference on August 27, 2008, PHC advised us that it also paid wages below the mandated rate during 2008. PHC calculated that \$20,042 was owed to 30 covered employees for work performed from January through July 2008. We did not perform any audit procedures to verify the accuracy of PHC's assertion at this time. Compliance with the Law for 2008 will be covered in the scope of our 2008 audit.

Audit Recommendations:

PHC should:

- a) recalculate wages due and ensure that the calculation includes all employees covered under the law, including those employees that were assigned to Nassau County cases only on a limited basis.
- b) make disbursements of underpayments immediately and provide us with documentation evidencing the verification process and corrective payments for both 2007 and 2008.

Additionally, PHC should inform covered employees of their entitlement to the required rate of pay.

Audit Finding (2):

Compensated Days Off:

PHC did not provide its covered employees with compensated days off in accordance with the Law. The Law requires employers to provide "no fewer than twelve 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."²

² "Nassau County Living Wage Law," Nassau Co. Misc. Laws, Title 57, § 3b (2007)

Instead of providing full-time employees with 12 compensated days off per year, PHC's policy provided only 40 hours (five days) of vacation to "permanent part-time employees who work at least twenty hours per week for 52 weeks of consecutive employment." Employees who did not meet these criteria were not allowed any vacation.

During the course of our audit, PHC provided us with a proposed compensated time off policy, which meets the Law's requirements.

In response to our audit request, PHC provided us with a schedule of accrued time-off which was earned by, and should have been made available to, covered employees under the Law. According to PHC's computation, 19 covered employees were due a total of \$6,051 for 2007. Compensated time off was not made available to these employees, nor were the employees made aware of the availability of time off.

PHC advised us that they were also non-compliant during 2008. PHC calculated that 17 employees earned a total of \$3,518 in compensated time off through July 31, 2008. Compensated time off was not made available to these covered employees.

Audit Recommendations:

PHC's policy for providing compensated days off to its employees should be amended so that it complies with the Law. This revised policy should be communicated to all covered employees in accordance with the Comptroller's Rules so that they are aware of their rights and entitlements under the Law.

For both 2007 and 2008, PHC should immediately make available the accrued leave time owed and notify each of the affected employees of their entitlements. In instances where days off cannot be provided (i.e. employee has left PHC), cash compensation should be paid to the employee at the mandated rate.

The matters covered in this report have been discussed with the officials of PHC during the course of this audit, as well as at an exit conference held on July 8, 2009. On May 14, 2009, our Office submitted a report in draft for PHC's comments. PHC provided its comments on June 30, 2009.

PHC's Response and Auditor's Follow-up

Overall PHC Response to Audit Results

PHC Management does not dispute the audit findings as stated below. We accept the audit recommendations and have made significant efforts to implement them. PHC's commitment to full compliance with the Nassau County Living Wage Law is demonstrated in the corrective measures, policy amendments and procedural changes implemented by management since the audit. Compliance with all aspects of the Nassau County Living Wage Law is now a formal corporate policy of PHC Services, Ltd. As indicated below, in the Audit Findings, PHC instituted a compensated time off policy that has been accepted by the Auditor as in compliance with the Law. An official notification poster of the Nassau County Living Wage Law is prominently displayed at our Nassau County (Hempstead, NY) office. The mandated wage level is reviewed in detail during employee orientation and in-service meetings with updates as needed, as are the Rules relating to accrual and compensation for paid days off. Wage rates for County work are reviewed during weekly payroll processing to insure compliance with the mandated level. Retroactive payments have been made as necessary to achieve compliance and monitoring procedures by PHC management are in place to maintain compliance.

Response to Audit Finding 1 – Living Wage Rate

PHC Response: Agreed. The necessary retroactive payments for wage rate adjustments to the \$11.00 per hour level mandated for January 1, 2007 through July 31, 2008 were issued in 2008. Upon audit notification, the \$12.05 wage rate required effective August 1, 2008 was retroactively implemented. The PHC Comptroller's monitoring procedures for payroll have been updated to include on-going verification of weekly compliance with the mandated wage rate. Notification of employee entitlements under Nassau County Living Wage Law will be assured by PHC's procedures of prominently displaying an official poster of the Law at our Nassau County (Hempstead, NY) office and reviewing the Law's provisions in detail at employee orientation and in-service meetings.

Auditor's Follow-up Response

We concur with the corrective actions being taken by PHC. PHC's review of its 2007 wage payments and evidence of the corrective actions taken should be formally documented and should be made available to us when we perform our compliance audit for the 2008 contract.

Response to Audit Finding 2 – Compensated Days Off

PHC Response: Agreed. The policy has been amended by PHC and accepted by the Auditor as in compliance with the Law. During 2008, present and previous covered employees owed compensated time off were contacted by mail. Payments owed to previous employees for the year 2007 and the period January 2008 through July 31, 2008 were issued. Present employees were reimbursed by check for their 2007 entitlements and advised that entitlements for 2008 and

thereafter would be earned and available on a 12-days per year pro-rata basis as mandated by the Law. Availability of compensated time off under the Law is verified as part of PHC's procedure when employees request the days off.

Auditor's Follow-up Response

We concur with the corrective actions being taken by PHC. PHC's review of its 2007 leave accrual computations and evidence of the corrective actions taken should be formally documented and should be made available to us when we perform our compliance audit for the 2008 contract.

Sincerely,

/Aline Khatchadourian/

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