



Maryland-National Capital Homecare Association

House Bill 1415: *Health Facilities – Residential Service Agencies – Compliance with State Labor Laws*
House Economic Matters Committee
March 10, 2020

Position: Oppose

On behalf of the Maryland-National Capital Homecare Association (MNCHA), whose members include Medicare-certified home health agencies, private duty companies and durable medical equipment suppliers across the State, we oppose House Bill 1415. House Bill 1415 imposes both duplicative and burdensome requirements on residential service agencies (RSAs). House Bill 1415 requires the Maryland Department of Health (MDH) to produce a guidance document concerning the application of employee protection laws to the employment of “personal care aides” by RSAs, which must be provided to each RSA. The Maryland Department of Labor currently has information on its website concerning worker classification and an additional guidance document is not necessary.

However, and more importantly, MNCHA is concerned that House Bill 1415 places an undue administrative burden by requiring that certain information be reported to MDH. Under House Bill 1415, the bill states that, as a condition of obtaining a license to operate, an RSA must certify to MDH that an individual with authority over the RSA’s pay practices (1) has read and understood the guidance document and (2) will comply with the relevant requirements of the Labor and Employment Article. To maintain licensure, an RSA must annually recertify through the signature of an individual with authority over the RSA’s pay practices that (1) the individual has read and understood the most current version of the guidance document and (2) to the best of that individual’s knowledge, the RSA’s pay practices comply with the provisions of the Labor and Employment Article. The bill, however, goes further to require those RSAs that provide services to Medicaid clients to report to MDH (1) whether the RSA has classified each worker as an employee or as an independent contractor; (2) the average regular hourly pay rate of each employee calculated on a weekly basis; and (3) whether the RSA paid each employee an overtime rate of 1.5 times the employee’s regular hourly pay rate per hour for each hour the employee worked more than 40 hours in any given week. Therefore, this requirement goes beyond the classification of employee or independent contractor. Other Medicaid providers or other businesses in general are not required to report to State agencies the wages that they pay to employees. If RSAs are required to report, should all businesses be required to report this information? Moreover, RSAs are continuing to grapple with the increased minimum wage requirements and the paperwork requirements associated with paid sick leave. House Bill 1415 will simply add to these requirements and to an already overburdened industry.

For More Information:

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