

STATE OF NEVADA

BRIAN SANDOVAL
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DIRECTOR

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Department of Business & Industry
OFFICE OF THE LABOR COMMISSIONER
www.LaborCommissioner.com

April 7, 2014

Bradley S. Schrager
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
3556 E. Russell Road, 2nd Floor
Las Vegas NV 89120

RE: Public Records Request - Payment of Reduced Rate Minimum Wage

Mr. Schrager:

The Office of the Labor Commissioner is in receipt of your public records request dated April 3, 2014. Please accept this letter and any accompanying documentation as response to your request.

Pursuant to NRS 239, you requested documents reflecting our office's regulation of employers and employees affected by the portions of Article 15, Section 16 of the Nevada Constitution and associated regulations that permit the payment of a minimum wage at a reduced rate under certain conditions pertaining to the provision of health benefits to workers.

Specifically, you requested the following categories of documents, if they exist:

- a) Any databases or lists of employers who purport to have paid any employees the reduced hourly minimum wage rate because the employer claims to provide or offer, or to have provided or offered, qualifying health benefits as described in NAC 608.102.

After a review of our records, our office has found no records responsive to this request.

- b) Any databases or collection of health plans your office has required employers that claim to provide or offer, or to have provided or offered, qualifying health benefits as described in NAC 608.102, to submit for purposes of verifying compliance constitutional or regulatory provisions permitting payment of employees at the reduced minimum wage rate.

After a review of our records, our office has found no records responsive to this request.

- c) Any databases or lists of employees who have been or are currently paid at the reduced hourly minimum rate because the employer claims to provide or offer, or to have provided or offered, qualifying health benefits per NAC 608.102.

After a review of our records, our office has found no records responsive to this request.

- d) All documents representing and/or reflecting the systemic manner, if any, in which your office enforces and verified compliance by Nevada employers regarding those employers' eligibility to pay employees at the reduced hourly minimum rate because the employer claims to provide or offer, or to have provided or offered, qualifying health benefits as described in NAC 608.102.

Please see the document(s) accompanying this letter.

- e) All documents reflecting and/or describing actual changes, or contemplated changes, as a result of the enactment of the Patient Protection and Affordable Care Act, in the enforcement of the provisions of Nevada Constitution Article 15, Section 16, and associated regulations promulgated by your office at NAC 608.102 - 608.108, regarding the payment of a minimum wage rate by employers offering qualifying health benefits.

After a review of our records, our office has found no records responsive to this request.

- f) Requests for opinions to your office, and subsequent opinions by your office, regarding whether specific health benefits qualify a particular employer to pay employees at the reduced minimum wage rate per NAC 608.102.

After a review of our records, our office has found no records responsive to this request.

- g) Documents reflecting enforcement actions undertaken by your office since January 1, 2007 against an employer in Nevada for violation of either Nevada Constitution Article 15, Section 16, and associated regulations promulgated by your office at NAC 608.102 - 608.108, regarding the payment of a minimum wage rate by employers offering qualifying health benefits.

After a review of our records, our office has found no records responsive to this request.

- h) Copies of all written public comments received by your office regarding Adopted Regulation R055-07 or Temporary Regulation T004-07 during 2007.

Please see the document(s) accompanying this letter.

NRS 239.052 allows our office to charge a fee for providing copies of public records. Except for extraordinary requests, the fee cannot exceed the actual cost to the government entity in compiling and providing the copies. The actual cost to our office in providing copies of public records is \$0.10 per page. The cost of extraordinary requests is \$0.50 per page. Our office has chosen to waive the actual cost in compiling this request.

Sincerely,



Audra L. Parton
Chief Assistant to the Labor Commissioner

RPII000002

What is "Qualified Health Insurance" for Nevada's Two-Tier Minimum Wage System?

Since the 2006 Nevada Constitutional Amendment established a two-tier minimum wage system, the question of whether an employer-sponsored health plan is "qualified" for purposes of paying the reduced minimum wage remains unanswered.

Many insurance brokers began marketing "mini-med" or "discount" health plans claiming that the plans meet the definition of a "qualified health plan" under Nevada law. However, in many cases, that might not be the case.

The Office of the Labor Commissioner has always placed an emphasis on whether the cost of the insurance plan to the employee and his/her dependents exceeds 10% of the employee's gross annual income and whether the waiting period exceeds six months¹. However, before this criteria can be analyzed, it must be determined whether the plan is an actual health insurance plan. The Office of the Labor Commissioner relies on the Nevada Division of Insurance to make that determination. Once that determination has been made, the Office of the Labor Commissioner can determine whether the plan meets the other requirements.

Remember, only if the plan meets all of the requirements can the lower-tier minimum wage rate be used.

¹ The other criteria includes: 1) does the plan cover categories of health care expenses that are generally deductible on federal income tax returns; 2) does the plan provide health benefits pursuant to a Taft-Hartley trust and the Employee Retirement Income Security Act (ERISA), etc.

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STATE OF NEVADA
MINIMUM WAGE
2014 ANNUAL BULLETIN
POSTED APRIL 1, 2014

PURSUANT TO ARTICLE 15, SECTION 16(A) OF THE CONSTITUTION OF THE STATE OF NEVADA, THE GOVERNOR HEREBY ANNOUNCES THAT THE FOLLOWING MINIMUM WAGE RATES SHALL APPLY TO ALL EMPLOYEES IN THE STATE OF NEVADA UNLESS OTHERWISE EXEMPTED. THESE RATES ARE EFFECTIVE AS OF JULY 1, 2014.

FOR EMPLOYEES TO WHOM QUALIFYING HEALTH BENEFITS HAVE BEEN MADE AVAILABLE
BY THE EMPLOYER:

NO LESS THAN \$7.25 PER HOUR

FOR ALL OTHER EMPLOYEES:

NO LESS THAN \$8.25 PER HOUR

Copies may also be obtained from the Labor Commissioner's Offices at:

675 Fairview Drive, Suite 226
Carson City, Nevada 89701
(775) 687-4850

or

555 East Washington, Suite 4100
Las Vegas, Nevada 89101
(702) 486-2650

RPII000004

IN THE SUPREME COURT OF THE STATE OF NEVADA

MDC RESTAURANTS, LLC, a
Nevada limited liability company;
LAGUNA RESTAURANTS LLC, a
Nevada limited liability company; and
INKA LLC, a Nevada limited liability
company,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA in and for the County of
Clark and THE HONORABLE
TIMOTHY WILLIAMS, District Judge,

Respondents,

and

PAULETTE DIAZ, an individual;
LAWANDA GAIL WILBANKS, an
individual; SHANNON OLSZYNSKI,
an individual; and CHARITY
FITZLAFF, an individual, all on behalf
of themselves and all similarly-situated
individuals

Real Parties in Interest.

Electronically Filed
Dec 30 2016 01:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No.: 71289

Eighth Judicial District Court
Case No.: A-14-701633-C

REAL PARTIES IN INTEREST'S APPENDIX

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of December, 2016, a true and correct copy of the **REAL PARTIES IN INTEREST'S APPENDIX** was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court's electronic filing system.

By: /s/ Danielle Fresquez

Danielle Fresquez, an Employee of
WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN. LLP