

CLIENT ALERT

Maryland Department of Labor Provides Guidance to Employers on How to Comply With The Amendments To The Pay Transparency Laws

By: Marc R. Engel, Esq.

Last fall Maryland Governor Wes Moore signed a new law which increased the scope of the pay transparency laws currently in effect in Maryland. A link to an article which I wrote about this new law can be found here [wage transparency law](#). In general, the new law requires that all Maryland employers include in their job postings (internal, external, and through third parties) wage rates; a benefit description; and “any other compensation offered.”

In order to assist employers with their compliance efforts with the new amendments, the Maryland Department of Labor (MDOL) issued a set of frequently asked questions (FAQs) as well as a template of a model compensation disclosure. A link to the FAQs issued by the MDOL can be found here: <https://labor.maryland.gov/labor/wages/esswagerangefaq.shtml>.

Among other things, the FAQs address what is required to be listed in the wage range for the job position; the benefits which are required to be listed; what “any other compensation offered” means insofar as job postings are concerned; and what employers should do if they are offering a fixed rate of pay (rather than a range). Below are questions and answers included in the FAQs which addressed these issues.

1. What is required to be listed in the wage range for the position?

Answer: The wage range must include the minimum and maximum salary or hourly rate of compensation for the job, promotion, or transfer opportunity that the employer in good faith believes to be accurate at the time posting. This may include reference to any applicable pay scale, any previously determined range of wages for the position, the actual range of pay for current employees holding comparable positions or the amount budgeted by the employer for the positions. The wage range does not include other forms of compensation or benefits such as potential tips, employer provided insurance, paid leave including vacation time or retirement savings.

2. What benefits are required to be listed?

Answer: The law requires that the posting include a general description of benefits and any other compensation elements offered for the position. Examples include:

- Employer provided insurance such as health or life or other employer-provided insurance,
- Paid or unpaid time off work such as paid sick or vacation days, or leaves of absence,
- Retirement or savings funds such as 401(k) plans or employer-funded pension plans, or
- Other forms of compensation such as the value of employer-provided meals or lodging.

3. What does “any other compensation offered” mean and is it required to be included in the posting?

Answer: In addition to the wage range and benefits, the law requires that the job posting include “any other compensation offered.” This requirement is intended to broadly cover “any” other earnings or monetary compensation that an employee may receive as payment in return for work performed, including, by way of example only:

- Overtime,
- Compensatory time,
- Differentials,
- Premium pay,
- Tips,
- Commissions,
- Bonuses,
- Stock or stock options, and
- Any portion of service charges.

If you have a question about whether something is considered “any other compensation,” please contact the Division of Labor and Industry Wage and Labor Standards Enforcement Unit at workrights@maryland.gov or call 410-767-2357 (410-767-2370 for Spanish).

4. What if the employer does not plan to offer a range but a fixed rate?

Answer: If the employer is offering a single fixed rate, the posting must include the fixed rate. For example, an employer could list the pay as \$30 an hour. However, an employer would not be permitted to list \$30+ an hour.

In order to assist employers further to provide greater clarity, the MDOL created a template that employers may, but are not required, to utilize. The use of the template is completely voluntary. However, use of a properly completed template, according to the MDOL, will satisfy the employer’s legal obligation to provide the required disclosures. A link to the template can be found here esscompensationdisclosureform.

NEXT STEPS

The next steps which employers should consider taking in light of the new law include the following:

- A. Train managers on the new law, and specifically the requirements regarding wage ranges, and the restrictions about asking about wage history;
- B. Review all internal and external job postings and advertisements to ensure that they contain the required wage range and benefit information;
- C. Review hiring processes, and specifically interview procedures, to ensure that the prohibitions about wage history are followed in job posts and job advertisements;
- D. Centralize decisions made with respect to the creation of salary range requirements;
- E. Ensure that there is a “good faith” basis for the wage ranges established;
- F. Employers who are subject to pay transparency laws in more than one jurisdiction should ensure that their policies and procedures satisfy all applicable laws; and
- G. Explore whether there is insurance for violations of the new law.

Marc R. Engel is a shareholder at Lerch, Early & Brewer, Chartered where he is a member of the firm’s Employment and Labor Group and Litigation Group. He advises employers of all types of employment issues, performs human resource audits, and conducts training on a variety of employment issues, including strategies for improving hiring, performance management, retention and avoiding discrimination and harassment claims. He also litigates and mediates employment and business disputes and counsels clients on litigation avoidance strategies. For more information about human resource audits or the employment practice, please contact Mr. Engel at (301) 657-0184 or by email at mengel@lerchearly.com. For more information about the firm, please visit our website at www.lerchearly.com. **This article is not intended to provide legal advice, including legal advice as to any specific matter.**