

## **Guidelines for Rehabilitation Programs**

The following Minimum Wage Orders promulgated by the Commissioner of Labor; Minimum Wage Order for the Restaurant Industry, Part 137 of Title 12, Section 137-2.8; Minimum Wage Order for the Hotel Industry, Part 138 of Title 12, Section 138-3.10; Minimum Wage Order for the Building Service Industry, Part 141 of Title 12, Section 141-2.13; Minimum Wage Order for Miscellaneous Industries and Occupations, Part 142 of Title 12, Section 142-2.13 and Minimum Wage Order for Farm Workers, Part 190 of Title 12, Section 190-4.1(a) contain the following provision:

For an individual employed as part of a rehabilitation program approved by the Commissioner, the payment of compensation under such a program shall be deemed to meet the requirements of this order.

To ensure that people with disabilities being placed in employment situations outside of religious, educational or charitable institutions are properly protected, the Department applies the following guidelines in determining whether a rehabilitation program may be considered as approved by the Commissioner:

- The Department of Labor recognizes rehabilitation programs approved or previously approved or previously approved by a state agency authorized to approve such programs (e.g., Office of Vocational and Educational Services for Individuals with Disabilities, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and the Commission for the Blind and Visually Handicapped).
- The Department of Labor will accept from employer evidence that it is participating in a bona fide rehabilitation program approved by one of these state agencies.
- The Department of Labor is to be provided by each agency approving such programs with an initial listing of all existing programs, updated every January 1, which would include program specifics, placement location, names of individuals placed, and individual wage rates and rehabilitation plans.
- The Department of Labor retains the right to investigate the employment of any disabled individual placed in a rehabilitation program and will work closely with the agency that has approved the rehabilitation program.
- LS 442 (03-16) The Department of Labor retains the right after review to disapprove any rehabilitation program prospectively, in order to protect the wage rights of those working through such programs. Among the factors to be considered by the Department will be the individual's work performance, the wage being paid, the wage prevailing in the locality for the type of work being performed and the plan for advancing the individual toward an increased wage rate.
- The Department of Labor will periodically review these guidelines and will determine if any modifications are appropriate.

For additional information or assistance, contact any of the Division of Labor Standards' offices listed below:

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**Buffalo District**

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**New York City District**

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