cc: Ms. Daniels Rivera by Scan
Ms. Mailloux by Scan
Ms. Bordeaux by Scan
Mr. Cohen by Scan
BOA by scan
SAPA File

NEW YORK STATE | Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

April 6, 2026

CERTIFIED MAIL/RETURN RECEIPT

Timothy Osho, Esq.
NYS Office of the Medicaid Inspector General
90 Church Street, 14th floor
New York, New York 10007

Mayoor Transportation, Inc.
498 Main Street #4
New Rochelle, New York 10801

Gheevarghese A. Thankachan, Esq.
175 Main Street Suite 711-14
White Plains, New York 10601

RE: In the Matter of Mayoor Transportation, Inc.

Dear Parties:

Enclosed please find the Decision After Hearing in the above referenced matter.

If the appellant did not win this hearing, the appellant may appeal to the courts pursuant to the provisions of Article 78 of the Civil Practice Law and Rules. If the appellant wishes to appeal this decision, the appellant may wish to seek advice from the legal resources available (e.g. the appellant's attorney, the County Bar Association, Legal Aid, OEO groups, etc.). Such an appeal must be commenced within four (4) months after the determination to be reviewed becomes final and binding.

Sincerely,

Natalie J. Bordeaux

Natalie J. Bordeaux
Chief Administrative Law Judge
Bureau of Adjudication

NJB:nm
Enclosure

STATE OF NEW YORK
DEPARTMENT OF HEALTH

In the Matter of the Appeal of **Mayoor Transportation, Inc.** Medicaid ID #2382552 from a determination by the NYS Office of the Medicaid Inspector General to recover Medicaid Program overpayments.	**Decision After Hearing** #24-6821

Before: John Harris Terepka
Administrative Law Judge

Held: January 28, 2026
By videoconference

Parties: New York State Office of the Medicaid Inspector General
90 Church Street, 14th floor
New York, New York 10007
By: Timothy Osho, Esq.
Timothy.Osho@omig.ny.gov

Mayoor Transportation, Inc.
498 Main Street #4
New Rochelle, New York 10801
By: Gheevarghese A. Thankachan, Esq.
175 Main Street Suite 711-14
White Plains, New York 10601
[redacted]

JURISDICTION

The Department of Health acts as the single state agency to supervise the administration of the Medicaid Program in New York State. 42 USC 1396a; Public Health Law (PHL) 201(1)(v); Social Services Law (SSL) 363-a. The Office of the Medicaid Inspector General (OMIG), an independent office within the Department, has the authority to pursue administrative enforcement actions against any individual or entity to recover improperly expended Medicaid funds. PHL 30, 31 and 32.

The OMIG determined to seek restitution of payments made under the Medicaid Program to Mayoor Transportation, Inc. (the Appellant). The Appellant requested a hearing pursuant to SSL 145-a and New York State regulations at 18 NYCRR 519.4 to review the determination. Regulations most pertinent to this hearing are at 18 NYCRR Parts 517 (provider audits) and 519 (provider hearings).

HEARING RECORD

OMIG witnesses: Damian Myron, OMIG audit manager
OMIG exhibits: 1-11
Appellant witnesses: [redacted], general manager/driver
[redacted], driver
Appellant exhibits: A-C

A transcript of the hearing was made.

SUMMARY OF FACTS

1. Appellant Mayoor Transportation, Inc. is enrolled as a provider in the New York State Medicaid Program. Its employees provide Medicaid reimbursable transportation by wheelchair accessible van for Medicaid recipients from nursing homes and private residences to dialysis centers, medical facilities, doctor's offices, hospitals, rehab centers and chemotherapy centers. (Exhibits 3, 4; Transcript, pages 5, 65.)

2. By notice dated October 17, 2024, the OMIG initiated a review of the Appellant's records supporting its SSL 367-w Health Care and Mental Hygiene Worker Bonus (HWB) claims paid for the period October 1, 2021 through March 31, 2024. (Exhibit 1.)

3. For the period October 1, 2021 through March 31, 2024, the Appellant was paid $33,000 for twenty-six HWB claims it submitted to the Medicaid Program for fourteen employees. The Appellant had submitted fifty-six HWB claims for the period, but thirty of the submissions were rejected without payment because they exceeded the two bonus per employee limit. (Exhibit 5, bates pages 87-88; Transcript, pages 17-18.)

4. The OMIG issued a draft audit report dated April 17, 2025, which preliminarily determined to seek restitution of Medicaid Program overpayments in the amount of $30,000 to which the OMIG added 7.65% FICA taxes in the amount of $2,295. (Exhibit 2, bates page 017.) The draft audit report made audit findings in three categories, with twenty-four claims disallowed in the category "bonus incorrectly paid to an ineligible employee."

5. The draft audit report afforded the Appellant the opportunity to submit documents and written arguments in response to the proposed action. The Appellant responded to the draft audit report on June 12, 2025. (Exhibit 3.)

6. On June 26, 2025, the OMIG issued a revised draft audit report which determined to seek restitution in the amount of $33,000, plus 7.65% FICA taxes in the amount of $2,524.50, for a total of $35,524.50. (Exhibit 2, bates page 29.) The revised draft audit report added a fourth audit finding category, "bonus incorrectly paid to an

ineligible employer" and disallowed all twenty-six HWB claims under review. (Transcript, pages 15-16.)

7. The Appellant submitted objections to the revised draft audit report on August 5, 2025. (Exhibit 4.)

8. By final audit report dated September 4, 2025, to which was attached details of its specific findings, the OMIG determined to seek restitution for all twenty-six HWB claims in the total amount of $35,524.50. (Exhibit 5.)

ISSUE

Was the OMIG's determination to recover HWB payments from the Appellant correct? If so, what is the amount of the overpayment?

APPLICABLE LAW

Medicaid providers are required, as a condition of their enrollment in the program, to prepare and to maintain contemporaneous records demonstrating their right to receive payment from the Medicaid Program and to furnish such records, upon request, to the Department. 18 NYCRR 504.3(a)&(h), 504.8, 517.3(b), 540.7(a)(8). When the Department has determined that claims have been submitted for which payment should not have been made, it may require repayment of the amount determined to have been overpaid. 18 NYCRR 518.1(b). Medicaid providers claiming and receiving HWB payments are subject to these requirements. SSL 367-w(3)(d)&(5)(a).

A person is entitled to a hearing to have the Department's determination reviewed if the Department requires repayment of an overpayment. 18 NYCRR 519.4. At the hearing, the Appellant has the burden of showing that the determination of the Department was incorrect and that all claims submitted and denied were due and payable under the Medicaid Program. 18 NYCRR 519.18(d).

Social Services Law 367-w was enacted in 2022 to codify the HWB program, the purpose of which was to recruit, retain, and reward health care workers by awarding financial bonuses for certain essential front line health care and mental hygiene workers. The statute defined "employer" and "employee" for the purposes of eligibility for Medicaid reimbursement for employee bonuses during a series of six-month "vesting periods" between October 1, 2021 and March 31, 2024. SSL 367-w(2)(d).

An employer seeking Medicaid reimbursement for HWB program bonuses was responsible for determining whether employees were eligible for bonuses and for maintaining all records, data and information it relied on in deciding whether employees were eligible. SSL 367-w(3)(c). Qualified employers were required to apply for bonuses for their eligible employees and were subject to Medicaid Program penalties and sanctions up to and including exclusion from the Medicaid Program for failure to do so. SSL 367-w(5).

In order to administer the HWB program, the Department established an HWB website[1] and an online portal providing guidance to providers. (Exhibits A&B.) It also issued "Frequently Asked Questions" (FAQs) explaining program policy. (Exhibit 7.)

DISCUSSION

The OMIG determined that the Appellant was ineligible for all twenty-six HWB bonuses it received and paid to its employees. Audit findings were in four categories:

1. Bonus incorrectly paid to an ineligible employer. Twenty-six claims.

According to the OMIG, the Appellant was not an HWB program "employer" as defined by SSL 367-w and so was not eligible to claim reimbursement for the twenty-six bonuses paid to employees.

Mayoor Transportation is a commercial transportation provider whose vehicles are certified by the Department of Transportation (DOT). (Transcript, pages 90-91.) It provides nonemergency transportation services that are authorized for Medicaid Program recipients pursuant to 18 NYCRR 505.10. (Transcript, pages 27, 29.) The Appellant's primary business is transportation of Medicaid recipients to and from homes and medical care facilities in vans equipped to carry wheelchair bound persons. (Exhibit 3, 4; Exhibit C.) It is not licensed as an EMS provider pursuant to PHL Article 30 or registered with the Department of Health as an ambulance service (18 NYCRR 505.10(b)(2)), and its drivers are not EMTs or otherwise certified or licensed to provide medical care. It is, however, in compliance with the New York State Medicaid Transportation Policy Manual provisions for ambulette providers:

> Only lawfully authorized ambulette services may receive reimbursement for the provision of ambulette transportation. Ambulettes must comply with all NYS Department of Transportation (NYSDOT) licensure, inspection and operational requirements, including those identified at Title 17 NYCRR §720.3(A). (Transportation Policy Manual, section 3.2.)[2]

SSL 367-w(2)(b) defines "employer" for the purposes of the HWB program. The definition includes providers and facilities licensed or otherwise authorized under the public health, mental hygiene or social services law, pharmacies registered under the education law, and school based health centers. SSL 367-w(2)(b)(i). It also includes programs funded by the offices of mental health, addiction services, and developmental disabilities. SSL 367-w(2)(b)(ii). The Appellant is not an employer under either of these categories. No other applicable provider type has been determined by the commissioner and approved by the director of budget pursuant to SSL 367-w(2)(b)(iii) (Transcript,

[1] https://www.health.ny.gov/health_care/medicaid/providers/hwb_program/

pages 25-26), and it did not qualify under SSL 367-w(2)(c).

Even if a provider met one of the provisions of SSL 367-w(2)(b)(i),(ii) or (iii), it was also required to be either subject to a certificate of need (CON) process as a condition of state licensure, or that at least twenty percent of its persons served be Medicaid eligible. SSL 367-w(2)(b)(iv). Simply being a provider in the Medicaid Program, no matter the percentage of Medicaid recipients served, did not constitute "employer" status under SSL 367-w(2).

Ordinarily the analysis might end here. However, it will not be ignored that the Department issued guidance, as authorized by SSL 367-w(6), that explicitly advised providers that an "employer" for the purposes of the statute included a provider that either fit one of the categories in SSL 367-w(2)(b)(i-iii) or (c) or met the requirements of 367-w(2)(b)(iv):

> **Q. Please clarify the criteria necessary for an employer to be subject to the Healthcare Workforce Bonus (HWB) Program?**
> **A.** The HWB statute provides two separate definitions of qualified employers, both of which are subject to the requirements of the HWB program.
> - See SOS § 367-w(2)(b) and (c).
>
> Under paragraph (2)(b), an employer is subject to the HWB program if they meet all of the four following criteria:
> 1. They are a Medicaid enrolled provider;
> 2. They bill for Medicaid services (either through FFS, managed care, or a 1915(c) waiver);
> **3.** Employ at least one eligible employee;
> 4. **A. Are included in the list of provider and facility types in the statute,** OR **B. Are subject to a certificate of need (CON) process,** OR **C. The provider serves at least 20% Medicaid enrollees.**
>
> The Department of Health is not prescribing a specific methodology to determine the 20% Medicaid threshold criteria. Employers must determine whether their organization complies with this requirement as part of the employer attestation required for HWB claim submission.
>
> ...

[2]https://www.emedny.org/providermanuals/transportation/PDFS/Transportation_Manual_Policy_Section.pdf

> If the provider is subject to a certificate of need (CON) process OR the provider serves at least 20% Medicaid enrollees, they are not limited to this list defined in Paragraph(2)(b).
>
> (Exhibit 7, FAQs pages 4-5, *emphasis in original*; *see also* Department HWB Program Townhall Meeting, 8/26/22, page 6.[3])

The Appellant met all four of these criteria. It was a Medicaid enrolled provider and billed for Medicaid services. The OMIG's own draft and final audit reports accepted the employee in bonus numbers 40 and 42 as an eligible employee. (Exhibit 5, bates pages 87, 101.) The OMIG did not dispute the Appellant's representation that nearly all of its business is providing services to Medicaid enrollees. (Transcript, pages 53, 71.)[4]

Even the OMIG's own April 2025 draft audit report followed the FAQ instructions and made no disallowances based on employer eligibility. (Exhibit 2, bates pages 10, 18-19.) It was not until it revised and reissued its draft audit findings in late June 2025 that the OMIG abandoned the FAQ instructions under which the Appellant was an eligible employer, and for the first time issued employer eligibility disallowances that reflected the statute. (Exhibit 2, bates pages 35, 45.) Its audit manager testified:

> We issued a revised draft audit report based on – it came about after receiving the response to the original draft audit report... we referred back to that statute to verify our findings were correct... There is a section in Social Service Law 367-w that gives a definition for eligible employees. While we were reviewing that, we also saw that there was a definition provided for eligible employers. When we read through that, we determined that the employer, the appellant in this case, did not meet the criteria... (Transcript, pages 15-16.)

The OMIG itself had apparently relied on the FAQs' misrepresentation of the statute in conducting this audit and issuing its draft audit report. It was only after actually looking at the statute that it disqualified the Appellant as an "employer."

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[3] https://health.ny.gov/health_care/medicaid/providers/hwb_program/docs/2022-08-26_townhall.pdf

The statute and the Department-issued guidance both explicitly advised providers that submitting HWB claims for eligible employees was mandatory for qualified employers and that failure to do so was subject to penalties and sanctions:

> If a qualified employer fails to identify, claim, or pay a bonus to an eligible employee they are subject to sanction, up to and including exclusion from the Medicaid program, and may be subject to penalty. See SOS 367-w(5). (Exhibit 7, FAQs page 29.)

The Appellant was conscious of this "troubling thing" a provider uncertain about what "qualified employer" or "eligible employee" meant was faced with: The dilemma, in unclear cases, was whether to apply and risk having to pay back bonuses that SSL 367-w(5)(d) prohibited it from recovering from the recipient employee, or not to apply and risk penalties and sanctions including exclusion from the Medicaid Program. (Transcript, page 104.)

It is true that in general estoppel will not lie against the government. However, in this case, the Department directly misled providers and, apparently, even the OMIG when it made its first draft audit findings, by issuing instructions that misrepresented the statute.[5] The statute had placed responsibility on providers to correctly apply it at their peril, and the Department then issued FAQs with explicit and incorrect instructions about how to apply it. This placed providers in a no-win position.

The Department issued FAQs and guidance clearly gave incorrect and misleading information about the meaning of SSL 367-w(2)(b). The Appellant was reasonably entitled to rely on Department instructions that explicitly stated it was a qualified

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[4] The OMIG's assertion in its closing statement that "At this hearing, nowhere has the provider or the appellant established that they are an agency that submit certificate of needs and also have twenty percent Medicaid recipient" (Transcript, page 109), misrepresents both the statute and the evidence.

[5] It is noted that at this hearing the OMIG also misrepresented SSL 367-w(2)(b) in yet another way: "The Social Services Law, Section 367-W in Section 2 lists the criteria for a provider to be eligible, they must

employer subject to the HWB program if it served at least twenty percent Medicaid enrollees, and so was required at risk of penalties and sanctions to submit HWB claims for eligible employees. It accordingly applied for and received bonuses that it distributed to employees. Pursuant to SSL 367-w(5)(d), it cannot now recover those funds but is now expected to reimburse the Medicaid Program. Recovery of funds on the grounds that it was not a qualified employer is not appropriate under these circumstances. Bender v. NYC Health & Hospitals, 38 NY2d 662, 382 NYS2d 18 (1976) ("[W]here a governmental subdivision acts or comports itself wrongfully or negligently, inducing reliance by a party who is entitled to rely and who changes his position to his detriment or prejudice, that subdivision should be estopped from asserting a right or defense which it otherwise could have raised."); Rudey v. Landmarks Preservation Commission of NYC, 182 AD2d 61, 587 NYS2d 623 (1st Dept 1992), *affirmed*, 82 NY2d 832, 606 NYS 2d 588 (1993); Wustrau v. Accord Fire District, 200 AD3d 1395, 160 NYS2d 418 (3rd Dept 2021).

The audit findings in this category are reversed.

2. Bonus incorrectly paid to an ineligible employee. Twenty-four claims.

Employers were responsible for determining employee eligibility for the HWB. SSL 367-w(3)(c). The OMIG determined that the Appellant claimed twenty-four bonuses for employees who were ineligible for them because they did not qualify as "employees" within the definition of SSL 367-w(2)(a). The OMIG witness testified:

> The type of requirement that we're looking for in this regard, is whether or not they are included in the full list of titles eligible to receive the bonus. We're talking about job title list eligible to receive the bonus. That was laid out in Social Service Law 367-W(2). (Transcript, page 60.)

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meet the first three sections. And if they do, they don't need to meet the fourth category, which include having a certificate of need and also serving twenty percent Medicaid recipient." (Transcript, page 108.)

The SSL 367-W(2)(a) definition of "employee" does not require that they work for an SSL 367-W(2)(b) employer, and the OMIG did not disallow in this category the two bonuses (claims 40, 42) paid to a "unit clerk." (Exhibit 5, bates pages 87, 101.)

SSL 367-w(2)(a) does include a list of job titles at (2)(a)(ii) but also, at (2)(a)(i), includes a list of more general health care service functions, including "all other health care support workers." The OMIG limited eligibility to specific titles listed at SSL 367-w(2)(a)(ii) and in the Department's guidance without considering the more general categories listed at SSL 367-w(2)(a)(i) and in that same guidance.

The "all other health care support workers" category listed at SSL 367-w(2)(a)(i) was acknowledged and discussed in the FAQs. According to that guidance:

> "All Other Health Care Support Workers" refers to workers that support the provision of health care services to patients in front-line settings for these titles. Such workers must provide patient facing care provided within a patient care unit of a hospital or other institutional medical setting in support of treating and caring for patients. (Exhibit 7, FAQs page 15.)

The FAQs then went on to provide a list of job titles that included, as approved "titles" for "all other health care support workers," the titles "service worker" and "support services worker." (Exhibit 7, FAQs pages 16-17.)

The Appellant concluded that its drivers, by delivering wheelchair bound persons into and out of health care facilities, qualified under this statutory category because they met both the statutory and the FAQ descriptions, and because the FAQs included both "service worker" and "support services worker" as approved among the "Eligible Worker Titles" included under "All Other Health Care Support Workers." (Exhibit 7, FAQs pages 15, 17; Exhibit A, HWB program website; Transcript, pages 79-81, 87.)

The Appellant's drivers transport Medicaid recipients into and out of health care facilities. The passengers are wheelchair bound, and a van with a lift, equipped to strap a wheelchair in place, is used. The drivers are not certified for ambulance or EMT service and are not certified or trained to provide medical care to the persons they transport. (Transcript, pages 65-67, 71, 74, 76, 92.) However, as the Appellant pointed out, many of the eligible employee job titles listed in the FAQs (Exhibit 7), such as building service worker, custodian, floor maintenance worker, sanitation worker, security guard or peace officer, hardly appear to require certification or training in medical care. (Transcript, pages 110-111.)

Just what the statute and FAQs consider to be "front-line," "patient facing care" is not obvious from the job titles specifically listed as eligible. SSL 367-w(2)(a) defines "employee" to mean "certain front line health care and mental hygiene practitioners, technicians, assistants and aides that provide hands on health care services." The statute, the Department's FAQs, and the HWB website then go on to list approximately one hundred eligible worker titles, many of which have even less to do with hands on patient facing care than the work of ambulette drivers in transporting wheelchair bound persons into and out of medical facilities. (Exhibit 7, FAQs page 15; Exhibit A.) The OMIG's audit manager conceded that the Appellant's employees "are doing patient facing care" but claimed that they did not have an eligible "job title." (Transcript, page 55.)

The difficulty is that the statute lists nearly fifty functional categories including "all other health care support workers" at SSL 367-w(2)(a)(i), and then separately lists nearly fifty more specific job titles including "other direct care staff" at SSL 367-w(2)(a)(ii), without explaining the distinction. The FAQs then go on to add another

forty-five very specific job titles included in the category "all other health care support workers," such as admitting clerk (listed twice), front desk clerk, ward clerk (listed three times), food prep/service worker (listed twice), unit secretary, building attendant, building service worker, custodian, floor maintenance worker (listed twice), maintenance/physical plant worker (listed twice), sanitation worker, security guard, and peace officer, but then also include "service worker" and "support services worker" among these "titles." (Exhibit 7, FAQs pages 15-17.)

The FAQs, then, are hardly more reliable or intelligible on the issue of "eligible employee" than they are on "eligible employer": It is noted, for example, that the Department FAQs provide: "These titles are included... Security Guards," and then go on to provide: "Employees in titles such as... Security are not eligible." (Exhibit 7, FAQs, pages 16-18.)

The New York State Medicaid Transportation Provider Policy Manual describes the service provided by the Appellant's drivers (Transcript, pages 65-67) in transporting wheelchair bound persons in its vans:

> Ambulette or paratransit vehicle means a special-purpose vehicle, designed and equipped to provide nonemergency transport, that has wheelchair-carrying capacity, stretcher-carrying capacity, or the ability to carry disabled individuals. (Section 1, page 4 of 52.)
>
> ...
>
> Personal assistance by the staff of the transportation company is required by the Medicaid program and consists of the rendering of physical assistance to the ambulatory and non-ambulatory (wheelchair-bound) Medicaid enrollees. (Section 3.2, page 45 of 52.)
>
> ...
>
> Personal Assistance means the provision of physical assistance by a provider of transportation services to a Medicaid enrollee for the purpose of assuring safe access to and from the enrollee's place of residence, the transportation provider's vehicle, and the Medicaid-covered health service provider's place of business. Personal assistance is the rendering of physical assistance to the enrollee to enable walking, climbing or descending stairs, ramps, curbs, or other obstacles; opening

> or closing doors; accessing a vehicle; and the moving of wheelchairs or other items of medical equipment and the removal of obstacles as necessary to assure the safe movement of the enrollee. In providing personal assistance, the provider or the provider's employee will physically assist the enrollee which shall include touching, or, if the enrollee prefers not to be touched, guiding the enrollee in such close proximity that the provider of services will be able to prevent any potential injury due to a sudden loss of steadiness or balance. An enrollee who can walk to and from a vehicle to their home and place of medical services without such assistance is deemed not to require personal assistance. (Transportation Provider Policy Manual Section 1, page 7 of 52.)

"All Other Health Care Support Workers" is how the Appellant listed its drivers in its HWB claim submissions. (Transcript, pages 31, 85, 87.) This statutorily recognized category is entirely consistent with "service worker," "support services worker" and "other direct care staff," all of which are also listed as "job titles" in the statute and FAQs, and with the description in the Medicaid Provider Policy Manual.

The statute and the FAQs both explicitly state that their lists "include," not that they "are limited to" the listed items. It is difficult to understand how a reasonable application of the statutory term "all other health care support workers" can lead the Department to specify in its FAQs that this category includes front desk clerks, unit secretaries, building attendants, building service workers, custodians, floor maintenance, physical plant and sanitation workers, security guards and peace officers as "other health care support workers" providing "front-line," "hands-on" "patient-facing" care, yet excludes ambulette drivers who transport wheelchair bound patients into and out of medical facilities, giving significant personal assistance involving direct physical contact.

The audit findings in this category are reversed.

3. Incorrect amount of worker bonus paid to employee. One claim.

Bonuses for each six-month vesting period varied in amount ($500, $1,000 or $1,500) depending upon the average hours per week worked by the employee during the

period. SSL 367-w(4). Employers were required to track the number of hours employees worked during each vesting period. SSL 367-w(3)(b)(i)&(ii).

The employee's reported hours in the vesting period for bonus number 54 did not average at least the 35 hours required for a $1,500 bonus pursuant to SSL 367-w(4)(iii). The applicable bonus for the employee's documented hours was $1,000 pursuant to SSL 367-w(4)(ii). (Exhibit 10; Transcript, page 37.) The Appellant conceded "maybe that's a clerical error." (Transcript, pages 104, 105.)

A disallowance in the amount of $500 for bonus number 54 is affirmed in this category.

4. Employee not on payroll voluntarily when bonus was received by the employer. One claim.

Appellant personnel records documented that the employee in bonus number 1 did not work for the Appellant after February 2022 yet received a bonus for the vesting period October 2021 through March 2022. (Exhibit 9.) The OMIG disallowed this employee bonus pursuant to SSL 367-w(4)(d) because the employee was terminated prior to the completion of the vesting period, and because they did not work enough hours in the vesting period to qualify for any bonus. (Exhibit 9; Transcript, pages 46-47.)

A disallowance in the amount of $500 for bonus number 1 is affirmed in this category.

At the hearing the Appellant attempted to object to the addition of 7.65% in FICA taxes to the disallowed bonus claims. (Transcript, pages 111-112.) This objection was not raised in response to either of the draft audit reports for the Department to consider

and so constitutes new matter that may not be considered in this hearing. 18 NYCRR 519.18(a).

DECISION: Audit disallowances for bonus number 1 in the amount of $500, and bonus number 54 in the amount of $500, plus 7.65% FICA tax in the amount of $76.50, for a total of $1,076.50 are affirmed. All other disallowances are reversed.

This decision is made by John Harris Terepka, who has been designated to make such decisions.

DATED: Rochester, New York
April 6, 2026

John Harris Terepka
Bureau of Adjudication