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ELIOT SPITZER  
Attorney General

April 7, 2000


Robert L. Adams  
Adams, Dayter & Sheehan, LLP  
39 North Pearl Street  
Albany, NY 12207

Re: HMI Mechanical Systems v. NYS Dept. of Labor et al  
99-CV-376 (US Dist. Ct. NDNY) and  
4365-99 (NYS Sup. Ct. Albany Co.)

Dear Mr. Adams:

We are writing to confirm that the Department of Labor has not changed its position that annualization applies across the board to all supplements other than those that are paid in cash with the regular weekly wages, as provided for by the Department's regulations at 12 NYCRR § 220.2(a), (b) & (d). Section 220.2(d) of the regulation expressly requires annualization of all supplements provided through contributions or costs, as specified at § 220.2(a), to determine their hourly cash equivalent averaged over all public and private hours. Such annualized supplements would include pension benefits, vacation pay and apprentice training, among others.

Very truly yours,

  
Eric Paul Ben-Amotz  
Assistant Attorney General