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Women and Equal Pay in 2022—How Do We Get to Pay Equity?

By Angela Reddock-Wright (Reddock Law Group)

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Employment and labor law attorney Angela Reddock-Wright, founder of the Reddock Law Group in Los Angeles, commemorates Equal Pay Day with a discussion of how data show women's compensation still lags behind men's in the workplace. She suggests some solutions for employers to arrive at pay equity, starting with the hiring process and including using third-party independent audits.

As we honor the achievements of women during Women's History Month, it's a good time to assess where women are in terms of equal pay in the workplace. On March 15, Equal Pay Day, we marked the number of extra days women, on average, must work to earn what men, on average, earned the prior year. For mothers and women of color, this date falls later in the year.

This year, we must also recognize the effects of a pandemic that, according to the Department of Labor, may have set women's participation in the labor force back by more than 30 years and may also have stalled many of the pay equity gains of the last few decades.

Covid-19 forced many women out of the workforce: The February 2021 participation rate—55.8 %—was the same rate as in April 1987. The impact of these developments was especially hard for women of color and low-wage earners.

It's no secret that women earn less than men, despite the federal Equal Pay Act of 1963 and state laws requiring equal pay for equal work.

California's Fair Pay Act, perhaps the strongest, requires equal pay for "substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions." This act requires that any factor underlying a disparity must be "applied reasonably" and "account for the entire wage differential." Eighteen states have less stringent laws and one state—Mississippi—has no equal pay laws.

Despite legal and legislative developments, statistics show that women across the country are paid on average 82% of what men are paid. Black and Latina women with a bachelor's degree have the largest gap at 65%, and Black women with advanced degrees earn 70% of what White men with advanced degrees earn. These gender and racial wage gaps can amount to hundreds of thousands of dollars denied over the course of workers' lifetimes.

The problem isn't a new one. Systemic issues underlying the wage gap include a historic devaluation of traditional "women's" work, as well as an absence of supports for essential family care. These issues predate Covid-19, but the pandemic exposed the need for better solutions that support working women. It's time to reexamine how women workers are valued, supported, and paid.

What Can Companies Do?

How do workers and companies achieve pay equity? It starts with the hiring process and ensuring that women are hired at salaries commensurate with their male counterparts.

When the jobs, titles, and qualifications are the same for both men and women, this should be simple and straightforward. Unless there are other compelling nongender-related factors, such as experience, education, or responsibilities, the law requires that men and women in the same positions be paid the same amount.

For positions that are predominantly performed by women, such as caregiving, it may be a little more challenging. Companies should look beyond what female workers historically have been paid for these jobs.

Instead, the jobs should be analyzed by independent workplace job analysis experts to identify all their requisite components. Those components—such as lifting, moving, cleaning, documenting—can then be compared to similar work performed by men in different jobs to arrive at a commensurate pay model.

A third-party independent auditor can help companies perform a true apples-to-apples comparison and arrive at an objectively verifiable rate of pay for comparable work. Having such documentation in their files will help companies support their pay structures, while also providing assurance to women employees that they are, in fact, receiving equal pay.

When companies make an investment in bridging the pay gap, their workers will have greater confidence that they are being treated fairly and respectfully. Transparency is important on both sides. Employers benefit when workers see and understand the steps being taken to implement pay equity, and companies benefit from workers' resulting trust and loyalty.

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