

WSC ADVISORY #2015-001
US DEPARTMENT OF LABOR HOME CARE RULE

ACTION REQUIRED

EFFECTIVE DATE: OCTOBER 23, 2015

1. The Department of Labor adopted the Home Care Rule extending minimum wage and overtime protections to most home care workers. This rule is applicable to both waiver providers and providers who render services through Individual and Family Support Services.
2. Providers must comply by ensuring that their employees are paid wages commensurate with this law. Providers should link to the DOL website at: <http://www.dol.gov/whd/homecare/> for the details.
3. The Consumer Directed Care Plus program is a self-directed program and therefore the client is the employer and should consult the DOL website to determine the obligations under the new rule.
4. The state is responsible for having an individualized process available to any person whose service hours would be reduced as a result of the final rule to examine if the service reduction would place the person at serious risk of institutionalization, and if so, what additional or alternative services would allow the individual to remain in the community.
5. The legislature will determine if rates will change for the types of services affected by the DOL rule.
6. Waiver Support Coordinators must notify APD immediately if they encounter a client whose service needs are not being met by their provider as a result of this rule. In these instances, the APD Region office will contact the provider directly. The Region will work with the client, WSC, and provider to address the client's service needs. This may include, but is not limited to the following activities:
 - Review of personal supports, companion, and respite service logs for the past 3 months to verify hours of service provision
 - Review of the client's weekly schedules for services
 - Review of client's support plan and QSI information
 - Assist the client in choosing alternate service options or alternate providers based upon needs, if necessary
 - The Waiver Support Coordinator must also notify APD of any **other service** not listed above if they encounter a client whose service needs are not being met by their provider as a result of this rule.
7. The following services may potentially be impacted by the rule:
 - All Solo Life Skills Development Level 1 – Companion 1:1 quarter hour rates
 - All Personal Supports Day rates at the 1:1 ratio, including those that get both day rate and quarter hour
 - All Residential Habilitation Live-in Day Rates at 1:1 ratio
 - Respite Day 1:1 Ratio

PLEASE NOTE: The list above is not an all-inclusive list of services that may need to be reviewed by the Agency. The Waiver Support Coordinator must notify APD of any client service needs not being met as a result of the Home Care Rule.