

DOL Home Care Rule Effective November 2015

Currently in the CDC+ Program, directly hired employees (DHE) who provide Companion Services are exempt from both minimum wage and overtime requirements. The US Department of Labor (DOL) Home Care Final Rule was upheld on August 21, 2015, by the Court of Appeals. The court issued a unanimous opinion affirming the validity of the Final Rule and all employers are required to comply with the Home Care rule.

Effective November 1, 2015, the only allowable exemption from overtime will be for DHEs classified as “Live-In” workers by CDC+ Consumers.

In November 2014 and January 2015, we communicated with you about CDC+ program changes due to the DOL’s new Home Care rule. The rule regulates directly hired employees (DHE) who provide Companion Services and new minimum wage and overtime requirements. The rule eliminates exemptions from minimum wage and overtime, in most cases. The Home Care rule was to take effect on January 1, 2015. In June 2014, associations of home care companies filed a lawsuit in federal court challenging the Final Rule. In December 2014 and January 2015, U.S. District Judge Richard Leon issued opinions and orders vacating the Final Rule’s revised third party regulation and revised definition of companionship services, respectively.

The Department of Labor filed an appeal of the district court’s orders to the U.S. Court of Appeals for the District of Columbia Circuit. The case is Home Care Association of America v. Weil, No. 15-5018 (D.C. Cir.). On August 21, 2015, the Court of Appeals issued a unanimous opinion affirming the validity of the Final Rule and reversing the district court’s orders.

More information is available on the Department of Labor’s website:
dol.gov/whd/homecare/.

DOL has issued a series of fact sheets to provide guidance on the related issues and can be found at: dol.gov/whd/regs/compliance/whdfsFinalRule.htm.

The most pertinent fact sheets to CDC+ Consumers and their Directly Hired Employees are:

Fact Sheet 79B: Live-In Domestic Service Employment Under the Fair Labor Standards Act (FLSA)

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Fact Sheet 79C: Recordkeeping Requirements for Individuals, Families, or Households Who Employ Domestic Service Workers Under the Fair Labor Standards Act (FLSA)