

Homecare Worker Compliance Deadline NOT Extended: Risk of Private Suits Remain

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On October 6, 2014, the US Department of Labor issued a Notice announcing a “Time-Limited Non-Enforcement Policy” related to the new Fair Labor Standards Act (FLSA) regulations affecting domestic service employees. Those new rules (78 FR 60454) become effective January 1, 2015, and revoke the minimum wage and overtime exemptions previously applicable to certain home care workers. The Notice announces that the Department will not itself bring enforcement actions applying the new rules before July 1, 2015.

The Notice does not delay the effective date of the rule. Under the FLSA, either the Department of Labor or individual employees may bring a suit for unpaid minimum wage and overtime pay (plus liquidated damages and attorneys’ fees). The notice issued on October 6, 2014 only informs the public that Department of Labor will itself not choose to enforce the new rule until July 1, 2015 at the earliest. It does not deprive private employees of the right to bring enforcement actions. The notice should therefore not be read as suspending the effective date of the new rule.

For those employers who provide such workers and who are liable for minimum wage and overtime pay under the new rules, the Notice should not be read as providing a grace period for compliance. Liability under the new rules is still effective January 1, 2015.

PEOPLE

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