



Application of PA Minimum Wage Act to Home Care Workers

Home care workers employed by an agency or other third-party to perform work in a private home are covered by Pennsylvania's Minimum Wage Act.

The Minimum Wage Act (MWA) establishes minimum wage, overtime, and recordkeeping requirements, as well as retaliation protection for covered employees.¹ Home health aides, personal care aides, direct care workers, and other employees providing similar services in private homes are covered by the MWA when they are employed by a home care agency, staffing agency, registry, or other third-party.²

While the MWA exempts employees in “domestic services in or about the private home of the employer,”³ the Pennsylvania Supreme Court has clarified that a third-party employer such as a home care agency may not claim the domestic services exemption.⁴

MINIMUM WAGE AND OVERTIME REQUIREMENTS FOR HOME CARE WORKERS

- Employers must pay at least the minimum wage for all hours worked, regardless of whether wages are paid on an hourly, salary, day rate, or weekly rate basis.⁵
- Employees must be paid overtime compensation of not less than one-and-one-half times the employee's regular rate of pay for every hour over 40 worked in each workweek.⁶

¹ 43 P.S. §§ 333.101–.115; 34 Pa. Code §§ 231.1–231.114.

² Bayada Nurses, Inc. v. Com., Dep't of Labor & Indus., 8 A. 3d 866 (Pa. 2010).

³ 43 P.S. § 333.105(a)(2).

⁴ Bayada Nurses, Inc. v. Com., Dep't of Labor & Indus., 8 A. 3d 866, 882 (Pa. 2010).

⁵ 43 P.S. §§ 333.104(a); 34 Pa. Code § 231.21.

⁶ 43 P.S. § 333.104(c); 34 Pa. Code § 231.41.

Payment for All Hours Worked

- All “hours worked” must be paid, including time during which the employee must be at a particular location and is not completely relieved of duty.⁷
- If an employee is assigned to multiple clients, all hours worked must be aggregated for the purposes of determining overtime compensation.⁸
- Time spent traveling between clients during the workday must be compensated. (Ordinary home-to-work and work-to-home commuting is not compensable.)⁹
- For shifts of less than 24 hours, no sleep time may be deducted, even if an employee is permitted to sleep or engage in personal pursuits.¹⁰

Proper Classification of Workers

Employee status under the MWA is determined by the economic realities of the working relationship, not by labels, tax forms, or employment contracts.¹¹

Retaliation is Prohibited

An employer may not fire, or in any other manner discriminate against, an employee because the employee has exercised their rights under the MWA (including the filing of a complaint).¹² Prohibited conduct may include firing, threats, demotions, or adverse schedule changes.¹³

For More Information / File a Complaint

For questions or to file a complaint with the Bureau of Labor Law Compliance, e-mail LaborLaw@pa.gov or call 1-800-932-0665. Free interpretation services are available.

Disclaimer: This fact sheet does not have the force and effect of law and is intended only to provide additional clarity to the public regarding existing requirements under the law or L&I policies.

⁷ 43 P.S. § 333.104(a); 34 Pa. Code § 231.1 (defining “hours worked”); *In re Amazon.com, Inc.*, 255 A.3d 191 (Pa. 2021).

⁸ 43 P.S. § 333.104(c); 34 Pa. Code § 231.41.

⁹ 43 P.S. § 333.104(a); 34 Pa. Code § 231.1 (defining “hours worked”); *In re Amazon.com, Inc.*, 255 A.3d 191 (Pa. 2021).

¹⁰ 43 P.S. § 333.104(a); 34 Pa. Code §§ 231.1, 231.41.

¹¹ *Com., Dep’t of Lab. & Indus., Bureau of Lab. L. Compliance v. Stuber*, 822 A.2d 870 (Pa. Commw. Ct. 2003), *aff’d sub nom. Com. v. Stuber*, 859 A.2d 1253 (Pa. 2004).

¹² 43 P.S. § 333.112.

¹³ *Id.*