



KNOW YOUR RIGHTS:

Home Health Aides

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

► YOUR RIGHT to minimum wage and overtime

As of January 1, 2015, most of the approximately 2 million home health workers will finally have the right to be paid the minimum wage and overtime after the US Department of Labor updated "companionship regulations" to close a loophole that has excluded them from these basic protections for decades.

Do I qualify for minimum wage and overtime?

You should be paid minimum wage and overtime for hours worked over 40 in a workweek if you:

- Are paid by an agency, company other "third party provider," or by a state intermediary agency
- Spend at least 20 percent of your time assisting with "activities of daily living" or "instrumental activities of daily living," like dressing, grooming, feeding, bathing or toileting, meal preparation, driving, light housework, managing finances, assistance with taking medications and arranging medical care.
- Provide any medically-related services that are usually done by someone with training, even if you aren't trained.

- Provide any housekeeping that primarily benefits household members other than the person you are caring for.

Live-in homecare workers who are paid by an individual still do not have to be paid minimum wage or overtime under the new regulations.

How much is the minimum wage and how is overtime calculated?

Minimum Wage – The minimum wage in North Carolina and nationally is \$7.25 per hour. If your company or boss promises you more than the minimum wage, by law they have to pay you what they promised.

Overtime Pay – Your employer must pay you 1½ times your normal pay rate for all hours worked over 40 hours in a workweek. For example, if you make \$7.25 per hour, and you

DID YOU KNOW?

Before starting work ask for the name, address, and phone number of your employer as well as for the amount of money you will be paid.

Make sure you receive the correct pay:

- Keep all your paystubs.
- Keep track of the hours you worked.
- Compare your record of the hours you worked with your stub.

work 45 hours in a week, you should be paid \$10.88 per hour for 5 hours and \$7.25 for 40 hours.

Overtime pay is based on the hours worked each week, not the hours worked each day or the number of days worked.



What time should I be paid for?

Starting in 2015, home health care workers should be paid for:

- Time spent waiting after you have reported in for work.
- Time spent in required trainings and meetings.
- Time spent driving between clients' homes, when accompanying a client, or when doing an errand for a client.

What if part of my shift includes sleeping?

If you are paid by an agency and you work shifts of 24 hours or more you do not have to be paid for up to eight hours of sleep time as long as you agree to the arrangement, you are given an appropriate place to sleep and you are usually able to sleep without interruption.

Your employer does not have to pay you for any time when you are free to use the time for your own purposes.

Ordinary home-to-work transportation is unpaid.

TAKE ACTION!

Caregivers

All workers deserve more than our current minimum wage. Caregivers need to be able to afford basic necessities, to be paid for earned sick days and to be given the same respect and dignity that they provide to their clients.

Your story can help us make the case for stronger worker protections. If you have ever not been paid what you were owed by your employer, or if you would have benefitted from paid leave, please contact us to tell your story.

RESOURCES

- For help finding a lawyer, call:
- North Carolina Advocates for Justice 1-(800) 688-1413
 - North Carolina Bar Association Lawyer Referral Service 1-(800) 662-7660
 - Legal Aid of North Carolina 1-(866) 219-5262

To file a claim with a government agency or to seek information on the following issues, contact:

DISCRIMINATION	<ul style="list-style-type: none"> ▪ US Equal Employment Opportunity Commission ▪ Office of Special Counsel for Unfair Immigration-Related Employment Practices 	1-800-669-4000 - or - www.eeoc.gov 1-800-255-7688 - or - www.justice.gov/crt/about/osc/
E-VERIFY	<ul style="list-style-type: none"> ▪ Department of Homeland Security / E-Verify 	1-888-897-7781 - or - www.dhs.gov/e-verify
FAMILY AND MEDICAL LEAVE	<ul style="list-style-type: none"> ▪ US Department of Labor 	1-866-487-9243 - or - www.dol.gov/whd
HEALTH & SAFETY	<ul style="list-style-type: none"> ▪ NC Department of Labor 	1-800-NC-LABOR (625-2267) - or - www.nclabor.com/osha/osh.htm
MISCLASSIFICATION	<ul style="list-style-type: none"> ▪ Internal Revenue Service ▪ NC Industrial Commission, Employee Classification Section 	http://www.irs.gov/pub/irs-pdf/fss8.pdf (919) 807-2582 - or - www.ic.nc.gov/EmployeeClassificationSection.html
RETALIATION	<ul style="list-style-type: none"> ▪ NC Department of Labor, Employment Discrimination Bureau 	1-800- 625-2267 - or - www.nclabor.com/edb/edb.htm
UNEMPLOYMENT INSURANCE	<ul style="list-style-type: none"> ▪ NC Department of Commerce, Division of Employment Security 	1-877-841-9617 - or - https://www.ncesc.com/
UNIONS & COLLECTIVE ACTION	<ul style="list-style-type: none"> ▪ National Labor Relations Board 	1-866-667-6572 - or - www.nlrb.gov
WAGE THEFT	<ul style="list-style-type: none"> ▪ NC Department of Labor, Wage and Hour Bureau ▪ US Department of Labor 	1-800-625-2267 - or - www.nclabor.com/wh/wh.htm 1-866-487-9243 - or - http://www.dol.gov/whd/
WORKERS' COMPENSATION	<ul style="list-style-type: none"> ▪ NC Industrial Commission 	1-800- 688-8349 - or - http://www.ic.nc.gov/

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.