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USDL – New Guidance and Proposed Rule for Home Care Providers

On July 25, 2025, the Wage and Hour Division (WHD) released [Field Assistance Bulletin \(FAB\) 2025-4](#), offering updated enforcement guidance for employers in the home care sector. This comes as the DOL proposes major regulatory changes for domestic service employers. The bulletin clarifies that, effective immediately and until any further final rule is issued, certain enforcement actions begun under the 2013 FLSA final rule will be suspended.

Review of Enforcement Pause (FAB 2025-4)

During this interim period, WHD field staff have been directed to discontinue enforcement of the 2013 final rule, including closing open cases. They will not take enforcement action against third-party employers, such as home care agencies, who claim FLSA exemptions for “companionship services” under Section 13(a)(15), which applies to those who provide fellowship, protection, and care for individuals unable to care for themselves, as well as for live-in domestic service employees under Section 13(b)(21).

The Wage and Hour Division (WHD) will not enforce limitations from the 2013 rule regarding the amount of time workers spend providing “care.” As a result, qualified “companionship services” now encompass both activities of daily living, such as dressing, grooming, bathing, feeding, toileting, and transferring, as well as instrumental activities like meal preparation, light housekeeping, financial management, medication assistance, and arranging medical care.

The pause in enforcement applies to all ongoing and future WHD investigations related to these exemptions. However, it does not affect enforcement of Fair Labor Standards Act (FLSA) provisions that are unrelated to the 2013 rule, such as retaliation or wage theft matters that fall outside the exemptions. Additionally, this suspension does not apply to services performed by registered nurses, licensed practical nurses, or other trained medical personnel, even in cases where these services might otherwise be described as companionship. This enforcement approach will remain in effect until a new final rule is issued following the [July 2, 2025 Notice of Proposed Rulemaking](#), which seeks to rescind the 2013 regulations.

What’s Changing and Why?

Under the pre-2013 rules (now temporarily back in place), third-party employers could claim broader exemptions, and the definition of “companionship services” was less restrictive. The 2013 rule narrowed these exemptions and prevented home care agencies from using them, increasing wage and overtime requirements. The current proposed rule would formally revert to the pre-2013 standard, with the intention of making home care more affordable and

clarifying employer obligations. The public comment period for this proposal is open through September 2, 2025.

What's Important for Employers

Exemptions in Effect: Third-party home care agencies may once again claim FLSA exemptions for companionship services and live-in domestic service employees, without the more restrictive standards and time limitations introduced in 2013.

Open Cases Paused: WHD field staff are directed to close open investigations and not pursue enforcement actions under the 2013 standard for these exemptions.

WHD may still pursue investigations involving other parts of the FLSA not implicated by the 2013 final rule, including protections against retaliation (section 215(a)(3)) and unrelated wage and hour issues.

State Law May Differ: These changes apply to federal law. Many states have their own wage and hour laws, some of which may continue to require minimum wage and overtime for home care workers regardless of federal policy.

Recordkeeping: Even while federal enforcement is paused, agencies should diligently track hours worked by all employees. Any potential change in rules may be applied retroactively, and proper records will be essential for compliance.

Public Feedback Opportunity: Industry stakeholders should consider submitting comments to the DOL by September 2, 2025, especially if the proposed changes present operational, economic, or compliance challenges.

Enrichment Resumption Risk: The current “safe harbor” is temporary. Final rules issued later this year could quickly change employer obligations. Agencies should be prepared for a return to the 2013 standards if the proposal is not adopted.

Next Steps

Review: Review internal pay practices and exemption status for home care employees under both federal and state law.

Document: Document ongoing compliance efforts and be cautious about implementing abrupt changes in payroll practices.

Monitor: Monitor DOL and WHD updates for any announcement of a final rule or change to exemption standards.

Participate: Consider participating in the public comment process to have your organization's viewpoint heard. Comments must be identified by Regulatory Information Number (RIN) 1235-AA51, by either of the following methods:

1. Electronic Comments: Submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for submitting comments.

2. Mail: Address written submissions to: Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210.

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