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U. S. DEPARTMENT OF LABOR
Employment Standards Administration
Washington, D. C. 20210

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NOV 30 1973

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This is in reply to your inquiry of October 22, 1973, as to whether patient service dieticians employed in the ██████████ General Hospital are exempt under section 13(a)(1) of the Fair Labor Standards Act from its minimum wage and overtime pay requirements.

We have carefully studied the job description you submitted and have concluded that the patient service dieticians at your hospital do not qualify as bona fide executive, administrative or professional employees, as these terms are defined in the enclosed Regulations, Part 541.

The patient service dietician is not an executive as defined in section 541.1 of Regulations, Part 541, since the dietician, among other things, does not have the authority to hire or fire and only supervises one employee; nor an administrative employee, as defined in section 541.2 because of the nature of the duties. With regard to the professional capacity explained in section 541.3, the work performed by these dieticians does not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study. Additionally, it does not require the consistent exercise of discretion and judgment in its performance nor does it seem to be predominantly intellectual and varied in character.

Consequently, these patient service dieticians, unless otherwise exempt, must be paid at least a minimum wage of \$1.60 per hour and not less than one and one-half times their regular rates of pay for all hours worked in excess of 40 in a workweek.

Sincerely,
Warren D. Landis

Warren D. Landis
Acting Administrator
Wage and Hour Division

Enclosures
WH-249