

FLSA-1411

December 14, 1973

This is in reply to your letter of November 15, 1973, concerning the application of sections 7(g)(2) and 7(j) of the Fair Labor Standards Act to hospital employees.

Your client, a hospital, has certain employees who work an 80 hour schedule in a 14-day period. In addition, these employees are on-call for 48 hours during the 14-day period. This on-call time would be defined as work under section 785.17 of Interpretative Bulletin, Part 785. In your example you assume that an employee performs his usual work duties for 10 of the 48 on-call hours. The employee's regular rate of pay is \$4.00 an hour when he performs his usual productive work and \$1.60 an hour when he is on-call. You propose that the employee be paid \$4.00 an hour for 80 hours, \$6.00 an hour for 10 hours, and \$2.40 an hour for 38 hours for a total of \$471.21 for the 14-day period.

Your calculations would be in compliance with sections 7(g)(2) and 7(j) of the Act provided that the 10 hours of overtime were the only instances when the employee worked over 8 hours a day or 80 hours during the 14-day period.

The use of section 7(j) by a hospital does not deny it the right to use section 7(g)(2) in computing the regular rate for overtime purposes. See section 778.601(e) of the enclosed bulletin on overtime compensation.

Sincerely,

Warren D. Landis
Acting Administrator
Wage and Hour Division

Enclosure