

FLSA-548

June 4, 1974

This is in reply to your communication of April 10, 1974, transmitting a copy of a letter from *** concerning the application of the Fair Labor Standards Amendments of 1974 to companions for persons helpless in wheel chairs.

The 1974 amendments to the Fair Labor Standards Act (effective May 1, 1974) require that covered domestic service employees must be paid not less than \$1.90 an hour and overtime compensation at a rate of not less than one and one-half times their regular rates of pay for the time worked in excess of 40 hours in a workweek. The minimum rate increases to \$2.00 an hour beginning January 1, 1975, to \$2.20 an hour on January 1, 1976, and to \$2.30 an hour on January 1, 1977.

Section 13(a)(15) provides a complete exemption from both the minimum wage and overtime pay provisions of the Act for "any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and delimited by regulations of the Secretary)."

If the person your constituent has in mind is employed as a companion to an invalid in a wheelchair and her work consists only of the care of this individual which could include cooking, laundry, and housecleaning for herself and the invalid but for no other members of the family, the monetary requirements of the law would not apply, as it was the intent of the Congress that the performance of some incidental household work in connection with the employee's duties as a companion to an invalid would not destroy the exemption. It should be pointed out, however, that trained personnel, such as nurses, whether registered or practical, are not included in the exemption and must be paid the statutory minimum wage and/or premium overtime compensation, unless exempt under another provision of the law.

Sincerely,

Bernard E. DeLury
Assistant Secretary

Minimum wage has been increased by later amendments to the Act.

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