

FLSA-552

July 5, 1974

This is in reply to your letter of April 19, 1974, with which you enclosed a copy of a letter from ***. *** is concerned about whether the recently amended Fair Labor Standards Act applies to the child care service she provides in her home. She states she takes care of children in her home and has a lady helping her during the busiest hours.

A preschool or day care facility which provides child care for infants or preschool children outside their own homes is covered by the minimum wage and overtime pay provisions of the Act if such facility has two or more employees whose duties regularly include work related to ordering or receiving materials or employees handling, selling, or otherwise working on such goods which have originated outside the State.

Inasmuch as *** has only one employee, the monetary provisions of the Act would not apply to that employee as long as she is employed solely to assist in the care of the children and not engaged as a domestic performing work of a household nature.

We hope this information will be helpful in your reply to ***.

Sincerely,

Warren D. Landis
Acting Administrator
Wage and Hour Division