

FLSA-555

August 27, 1974

We regret the delay in answering your letter of May 6, 1974, concerning the application of the Fair Labor Standards Act to your employment in a private nursing or family care home. You state you work there 20 hours a week and ask if you are subject to the minimum wage law, as the other employee only works a total of 6 hours a week.

The enterprise coverage provisions of the Fair Labor Standards Act pertain to the operation of an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institutions if the enterprise has some employees engaged in commerce, or in the production of goods for commerce, or has employees handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce by any person. Inasmuch as you state there are two employees employed on a regular and recurring basis and assuming that you handle goods that have moved in interstate commerce, it is our opinion that both employees would be covered under the law and would have to be paid the statutory minimum wage of \$1.90 an hour as of May 1, 1974 (\$1.60 an hour prior to that time).

You would not be considered a "domestic service worker" within the meaning of the 1974 amendments to the law as "domestic service" means service of a household nature performed by an employee in or about a private home of the person by whom she is employed. The service must be performed in a private home which is a fixed abode of an individual or family. A nursing home is a business enterprise and not a private home.

Your letter does not indicate how much you were paid for working at the nursing home. Therefore, if you have not been paid the statutory minimum wage, we suggest that you get in touch with our Area Office in Room 374 Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone: (919)-755-4190. Officials there are in a better position to ascertain the necessary facts and they will be pleased to be of assistance to you. We also have a Field Station at 402 S. Memorial Drive, Greenville, North Carolina 27834, Telephone: (919)-758-5385. That office is staffed by investigative personnel whose duties frequently require them to be away from the office and it would be advisable to make arrangements by telephone before visiting the office.

Sincerely,

Betty Southard Murphy
Administrator
Wage and Hour Division