

FLSA-227

August 21, 1977

This is in reply to your letter dated August 1, 1977, asking how the Fair Labor Standards Act applies to two different situations where an employee is receiving medical attention.

Your first question asks if an employer may deduct wages from an employee's pay, when the employee fails to return to work within a prescribed time limit from a required medical examination or treatment because of transportation or traffic problems.

As explained in section 785.43 of 29 CFR Part 785, copy enclosed, time spent by an employee in receiving medical attention during normal working hours on days when the employee is working or is scheduled to work constitutes compensable hours of work. Therefore, where an employee is delayed during working hours in returning to work due to transportation or traffic problems beyond his control such time would be compensable. However, where the employee's lateness may be a result of malingering, the actual facts in each case would be the determining factors as to compensable hours of work.

Your second question asks if an employer sends an employee for a medical examination or treatment, on the employee's day off, or prior to, or after the normal work day, is the time spent in such activities compensable hours of work.

As explained in section 785.43 for the time spent waiting for or receiving medical attention or treatment to be compensable, it must occur during the employee's normal working hours on days when the employee is working. Therefore, the time is not compensable hours of work.

Should you have any more questions concerning the application of this law you may find it more convenient to contact our Area Office located at Federal Building, Room 702, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, telephone: 644-2996. That office will be pleased to assist you in any way possible.

Sincerely,

Paul G. Campbell, Chief
Branch of Wage and Hour Standards

Enclosure