

FLSA-1407

January 22, 1980

This is in reply to your letter concerning the definition of "workday" with respect to the special overtime provision for hospitals contained in section 7(j) of the Fair Labor Standards Act.

You state that a hospital is on a fixed 14-day pay period which begins on Sunday and ends 14 days later on Saturday, and that this hospital recognizes the calendar day as its workday. The work schedule is comprised of three 8-hour shifts:

- (1) 7 a.m. - 3 p.m.
- (2) 3 p.m. - 11 p.m. and
- (3) 11 p.m. - 7 a.m.

An employee who works the 7 a.m. to 3 p.m. and 3 p.m. to 11 p.m. shifts the same day is paid straight time for the first 8 hours of duty and one and one-half the straight time earnings for the second 8 hours. However, if an employee were to work the 3 p.m. to 11 p.m. and the 11 p.m. to 7 a.m. shifts, you wish to know if he/she would be paid overtime for the second 8-hour shift, or if the employee should receive the overtime compensation for one hour, 11 p.m. to 12 a.m., and straight time compensation for the remaining 7 hours (12 a.m. to 7 a.m.). You also would like to know if "workday" is defined as the hospital's 24-hour day of midnight to midnight or the employee's 24-hour day which begins when he/she arrives at duty and ends 24 hours later.

As outlined in the enclosed copy of the WH Publication 1262, section 778.601(a), the first workday in the 14-day period begins at the same time as the 14-day period and ends 24 hours later. Each of the 13 consecutive 24-hour periods following constitutes an additional workday of the 14-day period.

Provided the prescribed conditions of section 7(j) of the Act are met, overtime compensation at time and one-half rate is required for all hours worked in excess of 8 in any workday or 80 in the 14-day period. Therefore, in the situation you describe, if the 14-day period begins at 7 a.m., then the hours between 7 a.m. to 7 a.m. constitute a workday and any hours worked in excess of 8 during that period should be compensated at the time and one-half rate. However, if the 14-day period begins at 12 a.m., then the hours between 12 a.m. to 12 a.m. would constitute the workday and overtime compensation should be computed accordingly for hours in excess of 8 in the day.

We hope that we have clarified this matter for you.

Sincerely,

John P. Traczewski, Acting Chief
Branch of Wage and Hour Standards

Enclosure