

JAN 11 1983

Ms. Joni Fritz  
Executive Director  
National Association of Private  
Residential Facilities for the  
Mentally Retarded  
6269 Leesburg Pike, Suite B-5  
Falls Church, Virginia 22044

Dear Ms. Fritz:

This is in reply to your letter of November 23, 1982, in which you seek clarification on our position regarding deductions for sleep time from hours worked.

In the situation you describe, an employee begins work in the residential care facility at 3:00 p.m. and remains on duty until 11:00 p.m. The employee sleeps between 11:00 p.m. and 7:00 a.m. The employee's duties resume at 7:00 a.m. and end at 10:00 a.m., during which time, the residents are assisted in their morning dressing, hygiene, breakfasting, and general preparation for their departure to attend their day program. We understand the employee is free to go home for the remainder of the day, unless a resident remains at the facility due to illness. In this event, the employee must remain on the premises until 3:00 p.m., when relieved by the next shift.

Your letter indicates that the employee is paid for eleven hours of work (3:00 p.m. - 11:00 p.m. and 7:00 a.m. - 10:00 a.m.). The employee is not paid for the eight hours of sleep time (11:00 p.m. - 7:00 a.m.) nor the five hours of free time (10:00 a.m. - 3:00 p.m.).

As a general rule, sleep time may not be deducted from an employee's hours of work if such employee does not reside on the employer's premises on a permanent basis or for extended periods of time, unless such employee is on duty for 24 hours or more.

In a subsequent letter dated December 16, 1982, you indicate that the employees do not reside on the premises. Therefore, we must consider this situation under the "24-hour duty" principle.

In our letter to you dated February 3, 1981, an exception to the "24-hour duty" principle was made for employees in community residences who had off-duty periods during their shifts. This exception was made because of the "home-like environment" afforded to the employees of group homes. However, this determination was predicated upon our presumption that the off-duty periods occurred within the 24-hour tour of duty as opposed to periods that occurred at either the beginning or end of the shift.

Therefore, it is our opinion that sleep time may not be deducted for employees who work the tour of duty described in your letter. This is so, since the five-hour free period which occurs at the end of the shift implies that the tour of duty ends at 10:00 a.m. and is actually 19 rather than 24 hours. However, it is permissible to deduct sleep time from hours worked for those employees who must remain at the facility until 3:00 p.m. to care for the resident(s).

This opinion is based on our understanding of the facts as presented in your letters. If you have further questions or if you wish to submit additional information, which you feel would alter the circumstances in this situation, please feel free to contact us.

Sincerely,

William M. Otter  
Administrator

James L. Valin  
Assistant Administrator  
Wage and Hour Division