

MAR 16 1995

This is in response to your letter requesting an opinion concerning the application of section 13(a)(15) of the Fair Labor Standards Act (FLSA) to your client's business of providing companionship services for individuals in their homes.

You state that your client's employees, while working as sitters or companions, in compliance with 29 CFR §552.6, do perform household work related to the personal care of the home-bound individual such as preparing meals, making beds, washing clothes or other similar services. You raise several questions/examples as to what other activities would be classified as non-routine care related to the patient's physical and psychological personal care.

As you know, section 552.6 of 29 CFR Part 552 defines "companionship services" as those services which provide fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Such services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. Section 552.6 also includes the performance of "general household work" provided that such work is incidental, i.e., does not exceed 20 percent of the total weekly hours worked.

Based on the information provided, it is our opinion that such activities as cleaning the patient's bedroom, bathroom or kitchen, picking up groceries, medicine, and dry cleaning would be related to personal care of the patient and would be the type of household work that would be exempt work for purpose of section 13(a)(15) of the FLSA. However, activities involving heavy cleaning such as cleaning refrigerators, ovens, trash or garbage removal and cleaning the rest of a "trashy" house would be general household work or nonexempt work that is subject to the 20 percent time limitation.

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein. You have also represented that this opinion is not sought on behalf of a client or firm which is under investigation by the Wage and Hour Division, or which is in litigation with respect to, or subject to the terms of any agreement or order applying, or requiring compliance with, the provisions of the FLSA.

We trust that the above is responsive to your inquiry.

Sincerely,

Daniel F. Sweeney
Deputy Assistant Administrator