

To: All PCA Employees & Clients

Date: 10/27/2015

2015 PCA Overtime Policy Change Official Notice

As you may recall we had issued a notice last year regarding a PCA overtime policy change that was implemented and later reversed through the legal system. Recently the **Fair Labor Standards Act (FLSA)** rule changes were upheld in appeals court and the subsequent appeal to the U.S. Supreme Court was denied. So we are writing once again to officially notify our Clients and PCAs of the upcoming **Fair Labor Standards Act (FLSA)** rule changes regarding PCA overtime. For decades the Minnesota Labor Laws required overtime pay for PCAs who work more than 48 hours per week. The Federal law has always been 40 hours but exemptions allowed state law to override the federal rules. **Effective the week of Nov. 12, 2015 the U.S. Department of Labor will enact the "[Fair Labor Standards Act \(FLSA\) Final Rule](#)" which will require overtime pay for employees who work more than 40 hours in a 7-day period.**

This new ruling will directly affect our company overtime policy and will affect many of our Clients and PCAs. **We will be restricting all PCAs to work no more than 40 hours per 7-day period (Sun.-Sat.) starting Sunday Nov. 8th.** Unfortunately the Medicaid re-imbursement rates do not issue additional compensation to agencies to pay overtime wages for the dedicated PCAs who work more than 40 hours a week. We encourage you to contact your local state legislature representatives to ask that they work towards a bill to fund overtime wages for PCA services.

In the past we had authorized written overtime agreements with Clients and PCAs on a case by case basis, we will be reviewing and contacting Clients and PCAs about any changes to those existing agreements. **If you have a PCA who currently works with an overtime authorization, please contact us before Friday Nov. 6th to discuss the agreement.**

Official Policy Update – Effective November 8, 2015 12:00 am

10.1 - Working Hours & Overtime - PCAs may work up to **40-hours per week** (12:00am Sunday through 11:59pm Saturday). Any hours worked over 40 in a week is considered overtime by law. ACP does NOT permit overtime for PCAs (unless otherwise expressed in writing from ACP Administration). No consumer (or RP) has the authority to expand the PCA's hours beyond the 40-hour per week limit. ACP and the consumer do not legally guarantee any schedule or amount of hours. ACP is not required to reassign employees to other consumers once they have stopped working for a particular consumer. The employee is required to communicate with the consumer (or RP) for scheduling.

What this means for Clients

If you currently have PCAs who work over 40 hours per week, you will need to immediately prepare by hiring additional staff or balancing hours amongst current staff. Please be proactive and start hiring additional staff now so that all of your needs are met. If you need some basic assistance with hiring, we will be running some paid job postings on Craigslist, please send us a write-up of the hours you want to fill and we can list them in our posting.

What this means for PCAs

If you currently work over 40 hours per week, please contact us regarding a possible **overtime authorization agreement** (decided on a case-by-case basis). Unfortunately you may see a reduction in hours and income. We apologize for the difficulties this may bring upon you and we hope you understand that this law and the reimbursement rates from the state restrict our ability to pay a fair hourly wage plus time-and-a-half for overtime.

Respectfully,

Joshua Holler, Owner Ability Care Partners, Inc.