

WAGE AND HOUR UPDATE — July 2005

The MN legislature passed a law to increase the minimum wage from \$5.15/hour to \$6.15/hour. ***This new wage goes into effect on August 1st***. The new minimum wage will affect how you calculate your respite rates. We would like to explain some wage and hour guidelines that you'll need to take into consideration as you set-up your respite hours/schedule.

Wage and Hour Guidelines:

- If you have an employee who is scheduled to work a period of 24 hours or more, you and the employee can agree to exclude up to 8 hours of sleep time from those hours. Any hours that you and the employee agree to exclude (sleep hours only) will not be paid to the employee.
- If you and the employee agree to exclude up to 8 hours of sleep time, the employee needs to have at minimum, 5 continuous hours of uninterrupted sleep, otherwise you will need to pay that employee for ALL hours of designated sleep time, which cannot exceed 8 hours. This is important to keep in mind as you plan your staffing budgets.
- If an employee's sleep time is interrupted due to needing to attend to client needs, even if there is an agreement to exclude the 8 hours of sleep time, that employee must be paid for the time it takes to attend to those needs.
- Any agreement between you and the employee to exclude sleep hours from their respite hours needs to be documented in writing and placed in their employee file at PICS.
- If an employee is scheduled to work less than 24 hours, but those hours include sleep time, none of the above exclusions can apply. All hours, including sleep time, need to be paid.
- If an employee who provides respite also works additional scheduled hours during the week at a different rate of pay, all differing rates of pay need to be documented in the employee's file.

Calculation Examples:

Keeping the above guidelines in mind, here are some examples that may help to clarify how these guidelines affect your respite rates calculations.

- If you have an employee who is scheduled to work 24 hours, but you are not deducting 8 hours for sleep time from these hours, the minimum respite rate at \$6.15 per hour would be \$147.60 (24 hours x \$6.15).
- However, if the employee works 24 hours and you and the employee agreed in writing to exclude 8 hours of sleep time, and the employee is able to have at least 5 consecutive hours of uninterrupted sleep, the respite rate would be \$98.40 (16 hours x \$6.15).



- If two consecutive days are used for respite and you have the same staff person working both days, you can pay 40 hours at \$6.15, which equals \$246 (40 hours x \$6.15) plus 8 hours at time and a half, which equals \$73.84 (8 hours x \$9.23) for a total of \$319.84 (\$246 + \$73.84).
 - ➔ If the guidelines for sleep time exclusions are met and the employee works 2 consecutive 24-hour days at \$6.15/hour, the employee would earn \$196.80 (32 hours x \$6.15) with 16 hours of sleep time being excluded from this calculation.
- If two consecutive days are used for respite and you have different employees working each day the rate would be \$147.60 (24 hours x \$6.15) per day as long as the employees working respite haven't worked any other hours during that same pay period. If the employees each worked 24 hours straight and they both agreed to and met the sleep time exclusion requirements, the rate would be \$98.40 per day (16hrs x \$6.15).

Additional Information:

- The amount of overtime pay fluctuates and is dependent on the staff you are using for overtime. If you are using a staff person that already worked during that same week, then overtime pay will begin once they employee reaches 40 hours. If this is the case, then a *weighted average formula* could be used rather than the straight time and a half that has been used in previous calculation examples. Also, the employee will need to have documented in their file that their rate of pay is \$6.15/hour for respite services. You may not decrease an employee's hourly wage without the employee approving the change in writing.
- You can try and eliminate overtime for your employees by reducing the number of hours in your respite schedule to keep it at 40 hours. You may also try to ensure that employees who are scheduled to work respite and may have worked other hours in the week will not exceed 40 hours for the workweek when combing the hours of respite and other hours scheduled.
- You may contact the state and federal wage and hour departments for questions concerning the information we have provided you in this packet:
 - Dept. of Labor and Industry: 651-284-5005
 - Federal Wage and Hour: 612-370-3344

As always, you are encouraged to contact your PICS Program Manager for questions regarding the information in this packet. We are happy to assist you in any way we can!