



**U.S. Department of Labor**  
**Wage and Hour Division**



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**MEMORANDUM FOR:** Regional Administrators  
District Directors

**FROM:** Donald M. Harrison, III  
Acting Administrator

**SUBJECT:** Home Care Enforcement Guidance

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This Field Assistance Bulletin (FAB) provides enforcement guidance to Wage and Hour Division (WHD) field staff regarding enforcement in the home care industry. The Department's current, relevant regulations were issued in the Final Rule entitled, *Application of the Fair Labor Standards Act to Domestic Service*, 78 FR 60454, published on Oct. 1, 2013 (2013 final rule). The enforcement guidance regarding home care investigations provided in this FAB is effective as of the FAB's publication date and remains in effect until the effective date of any final rule the Department issues regarding the 2013 final rule.

### **Background**

In 1974, Congress amended the Fair Labor Standards Act (FLSA or Act) to extend coverage to all "domestic service" employees, including those employed by private households or small companies previously not covered by the Act. At the same time, Congress created FLSA exemptions for certain categories of domestic service employees, including:

1. An exemption from the Act's minimum wage and overtime pay requirements for employees who provide "companionship services for individuals who ... are unable to care for themselves." 29 U.S.C. 213(a)(15); and
2. An exemption from the overtime pay requirement (but not the minimum wage requirement) for "any employee who is employed in domestic service in a household and who resides in such household." 29 U.S.C. 213(b)(21).

In 1975, pursuant to its authority under the 1974 FLSA amendments, the Department promulgated regulations regarding the application of the FLSA to domestic service employment, including provisions addressing the companionship services and live-in domestic service employee exemptions. These regulations remained substantially unchanged for almost 40 years until 2013 when the Department issued a final rule significantly narrowing the scope of the FLSA's exemptions for companions and live-in domestic service workers. Specifically, the 2013

final rule precluded third party employers (like home care agencies) from claiming either exemption, amending 29 CFR 552.109(a) and (c), and narrowed the definition of “companionship services” that exempt companion workers could perform, amending 29 CFR 552.6.

The Department has reviewed the 2013 final rule and published a Notice of Proposed Rulemaking (NPRM) on July 2, 2025, proposing to rescind those regulations. Now, to more efficiently direct WHD resources to align with agency priorities, WHD issues this FAB to its field staff to provide enforcement guidance until the effective date of any final rule the Department issues regarding the 2013 final rule.

### **Enforcement Guidance**

While this FAB is in effect, WHD will not apply the 2013 final rule when determining whether a home care worker is subject to the FLSA’s wage requirements. This enforcement policy is intended to provide clarity and consistency for WHD staff while the Department re-evaluates the 2013 final rule through the notice-and-comment rulemaking process.

Effective immediately, WHD will suspend enforcement of all provisions introduced in the 2013 final rule. For purposes of ongoing and future WHD enforcement during the time in which this FAB is in effect:

- WHD investigators must immediately discontinue enforcement of the 2013 final rule, including open cases that predate this FAB.
- WHD investigators must not investigate or take enforcement action against third party employers, including home care agencies, that claim the exemption for workers engaged in companionship services under section 13(a)(15) or live-in domestic services under section 13(b)(21) of the FLSA, as applicable.
- For purposes of WHD investigations, exempt “companionship services” include the provision of fellowship, protection, and care.
- WHD investigators are not to consider any limits on the time home care workers spend providing “care” when determining whether a home care worker is providing companionship services. Such care may include duties related to activities of daily living, such as dressing, grooming, feeding, bathing, toileting, and transferring; and instrumental activities of daily living, such as meal preparation, light housework, managing finances, assistance with taking medications, and arranging medical care.
- This FAB is neither intended to nor should it be interpreted to affect any investigations or other actions into possible violations of other provisions of the FLSA not implicated by the 2013 final rule, including section 215(a)(3).
- Home care services provided by trained personnel, such as registered nurses or licensed practical nurses, are not affected by this FAB and, as such, are not to be considered exempt, even when providing “companionship services.”

This enforcement position is in effect until the effective date of any final rule resulting from the July 2 Notice of Proposed Rulemaking. Please refer any questions regarding this FAB to the National Office for guidance.

Nothing in this FAB limits WHD's authority to enforce the FLSA, nor does it affect the Department's enforcement discretion under other applicable statutes or regulations.

WHD reserves its right to exercise its enforcement authority in specific matters explicitly deemed appropriate by the Administrator, or designee, as an appropriate allocation of resources.

The guidance in this FAB supersedes any contrary or conflicting guidance to field staff or the public addressing this topic.

This FAB is intended solely as internal guidance for Department personnel and as a notice to the public of WHD's enforcement position. It does not create any legally enforceable rights or obligations and does not alter any statutory or regulatory requirements.