

Fact Sheet: DOL Proposed Rulemaking on Overtime Exemptions

Overview

On September 8, 2023, the U.S. Department of Labor (DOL) issued a notice of proposed rulemaking entitled [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#) (Overtime Rule).

The proposed Overtime Rule seeks to:

- Raise the minimum salary threshold for an exemption for executive, administrative, and professional workers from overtime pay requirements under the Fair Labor Standards Act.
- Create a new minimum salary threshold of at least \$55,068/year, a substantial increase from the current salary threshold of \$35,368/year. (DOL projects the threshold to be even higher when the rule is finalized.)
- Increase the percentile of weekly earnings data on which the threshold is based from the 20th percentile to the 35th percentile of full-time salaried workers in the lowest-wage Census Region.
- Put into place an automatic updating mechanism that would allow DOL to increase the salary thresholds every three years to the new 35th percentile.

Community Providers of Disability Services are Uniquely Impacted by this Proposed Rule

Across the country, community-based providers assist people with intellectual and developmental disabilities (I/DD) to live in their homes and communities. While well-intentioned, this rule could have the unintended consequence of limiting access to community-based supports for people with disabilities.

ANCOR has concerns about the proposed rule because:

- There is no commensurate funding to meet the significant financial burden of new overtime expenses. Medicaid-funded providers do not control the reimbursement rates for which their services are funded.
- Reimbursement rates, which are set by the state, are generally insufficient to support competitive wages for staff, and are also not frequently reviewed, allowing rates to stagnate for years.
- States need additional time and funding to allow them to adjust reimbursement rates to meet newly mandated overtime expenses.

ANCOR supports policies to raise wages for I/DD service professionals. However, instituting significant new expenses for providers without providing additional federal funding has the potential to completely collapse the system of services. Moreover, it may put the very workforce DOL is seeking to protect at risk.

This Proposed Rule Compounds Additional Regulatory Requirements

In addition to the stagnant reimbursement rates that limit providers' ability to raise wages, community providers are also grappling with the wind down of critical COVID relief funding and the expiration of regulatory flexibilities meant to help temper the impact of the workforce shortage. Providers are also currently subject to new and pending regulations through the U.S. Health and Human Services (HHS). Taken together, these regulations could have the impact of substantially raising costs for providers without commensurate funding and risk exacerbating existing access issues.

How Can Congress Help?

This proposed rule has the potential to reduce access to critical long-term supports and services for people with disabilities in communities across the country. DOL needs to hear from community stakeholders and policymakers alike about the proposed rule's unique impact on I/DD services.

We ask members to urge DOL to:

- Coordinate with HHS to ensure that policies that will result in appropriate funding for community-based providers are implemented before the rule is finalized.
- Support the Disability Community Act, legislation to provide additional funding to I/DD providers to mitigate the financial impact of new overtime expenses.

Contact

Have questions or thoughts for ANCOR? Email Elise Aguilar, Director of Federal Relations, at aguilar@ancor.org.

