



New California Law Requires Overtime Pay for Personal Attendants

Insights

10.07.13

On September 26, 2013, Governor Jerry Brown signed into law a bill which entitles personal attendants in California to overtime pay.

Previously, Industrial Welfare Commission Wage Order 15 provided a complete overtime exemption for all such workers.

Beginning January 1, 2014, AB 241 mandates that personal attendants be paid one and one-half times their regular rate of pay for all hours worked in excess of nine hours in any workday and 45 hours in a workweek.

Personal attendants include any persons employed by a private householder or by any third-party employer recognized in the healthcare industry to work in a private household, to supervise, feed, or dress a child, or a person who by reason of advanced age, physical disability, or mental deficiency needs supervision.

Approval of this legislation comes only nine days after the U.S. Department of Labor announced that significant changes to the “companionship” exemption under the federal Fair Labor Standards Act would be forthcoming in October.

See our [Legal Alert](#) to read more about the changes to the federal home companionship exemption.

Last year, Governor Brown vetoed AB 889, a broader version of AB 241, which sought to establish overtime pay and meal and rest breaks for domestic workers.

AB 889 also created a private right to sue if these conditions were violated. In his veto message, Governor Brown cited concerns about the “economic and human impact on the disabled or elderly person and their family” of requiring overtime and meal and rest breaks.

Additionally, the Governor cited a need for additional studies by the state Department of Industrial Relations before new regulations for domestic workers were issued.

AB 241 has a sunset clause, which provides that the legislature has three years to make the overtime requirement permanent. The bill also requires the Governor to convene a committee of affected

employees and their employers to study and report to the Governor the effects of the legislation. The findings of this study may lead to the institution of further regulations for personal attendants such as would have applied under AB 889.

In the meantime, employers of the 62,000 personal attendants in California must consider how the increased labor costs imposed by this law will affect them. The increased cost of care may force families to cut back on caregiver services or require those in need of continuous care to employ multiple workers. In any event, the legislation will directly impact the payroll practices of employers of personal attendants.

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