

**OFFICE OF THE EXECUTIVE DIRECTOR  
MISSISSIPPI DEPARTMENT OF HUMAN SERVICES**

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<b>MDHS-ADMINISTRATIVE POLICY</b>	
<b>Revision Date August 1, 2010</b>	<b>AP - 10</b>

**POLICIES**

**SUBJECT: Fair Labor Standards Act (FLSA) Policy**

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**PURPOSE:** To define and state requirements of the Fair Labor Standards Act (FLSA).

**ACTION:** Division Directors shall ensure that a copy of this cover and attached policy are distributed to appropriate staff.

**APPLICATION:** This policy is applicable to all divisions of the Mississippi Department of Human Services.

**CONTACT:** Director, Division of Human Resources.

**EXCEPTIONS:** None

**EFFECT ON OTHER DIRECTIVES:** Policies and procedures previously administered within divisions of MDHS with respect to administration of the FLSA are hereby superceded.

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**Distribution:** Deputy Executive Director  
Deputy Administrators  
Division Directors  
SAAG Section Head

**Date: August 1, 2010**

  
Executive Director

### REQUIREMENTS OF THE FLSA

The Fair Labor Standards Act (FLSA) defines the way that overtime is worked and overtime compensation is awarded to employees both public and private. In very basic terms, the FLSA provides that:

- 1) all covered employees be paid at least minimum wage; and
- 2) all covered employees be paid at the rate of one and one half (1½) times their regular hourly rate of pay for each hour over forty (40) hours worked in a single workweek or be reimbursed in compensatory time off at the rate of one and one half (1½) hours for each hour over forty (40) hours worked in a single workweek.

#### Definitions

For purposes of the Fair Labor Standards Act, there are two classifications of employees.

1. Exempt Employees:

Employees working in a bona fide executive, administrative, professional, or outside sales capacity are classified as exempt (FLSA section 13(a)(1)). Exempt employees working for MDHS are awarded compensatory time on an hour-for-hour basis. MDHS employees classified as exempt are not covered by the provisions of the FLSA.

2. Non-Exempt Employees:

All employees who do not meet the test to be exempt as briefly summarized above are classified as non-exempt. The FLSA requires that non-exempt employees are covered by the provisions of the FLSA.

For the purposes of complying with the provisions of the FLSA, MDHS utilizes two different types of compensatory time:

1. FLSA compensatory time:

Is earned and accrued by non-exempt employees for work time in excess of the statutory hours (forty (40) hours worked in a workweek) for which overtime compensation is required. FLSA compensatory time is calculated at the rate of 1½ hours for each hour over forty (40) hours worked in a workweek.

2. Non-FLSA compensatory time:

Non-FLSA compensatory time is overtime not required by the statutory provisions of the FLSA. This may take the form of overtime not in excess of forty (40) hours worked in a work week such as working more than your assigned daily schedule. Non-FLSA compensatory time is calculated at the rate of hour-for-hour.

**Work week**

The work week for all employees of the Mississippi Department of Human Services begins at 12:00 a.m. on Monday of each week and ends at 11:59 p.m. on the following Sunday of each week. Each employee works a fixed schedule during each workweek. Prior approval by the employee's supervisor is required for any overtime worked or any change in work schedule.

**Exceptions**

There are no exceptions to this policy. If there are any questions about the application of this policy within any division of MDHS, the questions should be directed to the Division of Human Resources for interpretation.

**Limitations**

Non-exempt employees may accrue up to two hundred forty (240) hours of FLSA compensatory time. Since FLSA compensatory time is accumulated at one and one half (1½) hours for each hour worked, this is only one hundred sixty (160) hours of actual overtime worked. Any FLSA compensatory time accrued over two hundred forty (240) hours will be paid as wages at the rate of one and one half (1½) times the hourly rate of pay for that employee.

**BASIC RULES ON TRAVEL TIME**

**Travel To and From the Worksite**

An employee who travels from home before his/her regular work day and returns to his/her home at the end of the work day is engaged in ordinary home to work travel which is normal incident of employment. This is true whether he/she works at a fixed location or at different job sites. Normal travel from home to work is not work time.

**Special One Day Assignment in Another City**

A problem arises when an employee who works at a fixed location in one city is given a special one-day assignment in another city. For example, an employee who works in Jackson with regular working hours from 8:00 A.M. to 5:00 P.M. may be given a special assignment in Gulfport, with instructions to leave Jackson at 5:00 A.M. in order to arrive in Gulfport by 8:00 A.M. Since the travel time is for the employer's benefit and is required, it is compensable beginning at 5:00 A.M.

**Travel That is All in a Day's Work**

Time spent by an employee in travel as part of his/her principal activity, such as travel from job site to job site during the work day, must be counted as hours worked. When an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and to carry tools, the travel from the designated place to the work place is part of the

day's work, and must be counted as hours worked regardless of contract, custom, or practice. If an employee finishes his/her work on the premises at 5:00 P.M. and is sent to another location and finishes at 8:00 P.M. and subsequently is required to return to the employer's premises, all of the time is working time. However, if the employee goes home instead of returning to the employer's premises, the travel after 8:00 P.M. is not counted.

#### Travel Away From the Home Community

Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's work day. The employer is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours but also during the corresponding hours on non-working days. As an enforcement policy, the Mississippi Department of Human Services will consider as work time that time spent in official travel away from home outside of regular working hours.