

## **Fact Sheet #79C: Recordkeeping Requirements for Individuals, Families, or Households Who Employ Domestic Service Workers Under the Fair Labor Standards Act (FLSA)**

This fact sheet provides general information regarding recordkeeping requirements for individuals, families or households employing domestic service workers. The Department has recently revised the domestic service regulations. The revised regulations are effective January 1, 2015. This Fact Sheet discusses recordkeeping obligations under the revised domestic service regulations.

### **Domestic Service Workers**

Employers subject to the FLSA must make, keep, and preserve records for each domestic service worker who is entitled to minimum wage and/or overtime pay. The law requires no particular form of records, but does require that the records include certain information about the employee and data about the hours worked and wages earned. (See [79F: Paid Family or Household Members in Certain Medicaid-Funded and Certain Other Publicly Funded Programs Offering Home Care Services Under the Fair Labor Standards Act \(FLSA\)](#) for information on determining whether a domestic service worker employed by an individual, family or household must be paid minimum wage and overtime pay.) The employer may require a domestic service worker to record all hours worked and submit the record to the employer. The obligation to make and keep records, however, is the responsibility of the employer.

Basic records that an employer must maintain include:

- (1) Employee's full name and social security number;
- (2) Home address, including zip code;
- (3) Hours worked each workday and total hours worked each workweek;
- (4) Total cash wages paid each week to the employee by the employer;
- (5) Weekly sums claimed by the employer for board, lodging or other facilities; and
- (6) Extra pay for weekly hours worked in excess of 40 by the employee for the employer.

See [Fact Sheet #21: Recordkeeping Requirements Under the FLSA](#) for more information.

With the exception of live-in domestic service employees, when a domestic service worker works on a fixed schedule, the employer may use a schedule of daily and weekly hours that the employee normally works and either the employer or the employee may: (1) indicate by check marks, statement or other method that such hours were actually worked, and (2) when more or less than the scheduled hours are worked, show the exact number of hours worked. See [29 CFR 552.110](#).

### **Domestic Service Workers Who Perform Companionship Services**

An individual, family, or household, who employs a domestic service worker who qualifies for the companionship services exemption, however, is not required to keep records under the FLSA. Individuals, families, and households employing a worker who qualifies for the companionship services exemption may wish to maintain such records as a matter of good business practice. Further, if there is ever a question whether

the worker is entitled to minimum wage or overtime pay, such records may be useful. (Please see [Fact Sheet #79A Companionship Services Under the Fair Labor Standards Act \(FLSA\)](#) regarding the companionship services exemption).

### **Live-in domestic service workers**

An individual, family, or household who employs a live-in domestic service worker—other than a worker who qualifies for the companionship services exemption—must maintain records of all hours worked and payroll records for that live-in domestic service worker.

In determining the number of hours worked by a live-in worker, the employee and the employer may enter into a voluntary agreement to exclude the amount of time spent during a bona fide meal period, sleep period and off-duty time from hours worked. The employer is required to keep a copy of this agreement as part of its recordkeeping obligations. In order for periods of free time (other than those relating to meals and sleeping) to be excluded from hours worked, the periods must be of sufficient duration to enable the employee to make effective use of the time. If the meal periods, sleep time, or other periods of free time are interrupted by a call to duty, the interruption must be counted as hours worked. In these circumstances, the Department will accept any reasonable agreement of the parties taking into consideration all of the pertinent facts. However, the employer must track and record all hours worked by the nonexempt domestic service worker, including live-in workers, and the worker must be compensated for all hours actually worked notwithstanding the existence of an agreement. *See 29 CFR 552.102(a)*. If the number of hours actually worked consistently differs from the existing agreement, the employer and live-in domestic service worker must enter into a new written agreement that reflects the actual hours worked by the worker. *See 29 CFR 552.102(b)*. The employer must maintain a copy of the agreement.

### **How long does an employer need to keep the records?**

The FLSA requires that records must be kept by an employer for at least three years. Records used to compute pay should be kept for two years. (This includes time cards, work and time schedules, and records of additions to or reductions from wages.) Such records must be made available for inspection by Department of Labor representatives.

### **What form of records is required?**

Employers may use any timekeeping method they choose. A sample timekeeping format is provided below, although no particular format is required.

<b>DAY</b>	<b>DATE</b>	<b>IN</b>	<b>OUT</b>	<b>TOTAL HOURS</b>
Sunday	7/7/13	----	----	----
Monday	7/8/13	8:00 am 1:00 pm	12:01 pm 5:03 pm	8
Tuesday	7/9/13	7:58 am 1:00 pm	11:58 am 5:00 pm	8
Wednesday	7/10/13	8:10 am 1:05 pm	12:10 pm 5:05 pm	8
Thursday	7/11/13	----	----	----
Friday	7/12/13	----	----	----
Saturday	7/13/13	----	----	----

**Total Workweek Hours**

**24**

## Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the Department's regulations.

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