Fact Sheet #17L: Insurance Claims Adjusters and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)

The FLSA requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 in a workweek. However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempts certain computer employees. To qualify for exemption, employees must meet certain tests regarding their job duties and be paid on a salary basis at not less than $455* per week.

Insurance Claims Adjusters
To qualify for the administrative employee exemption, all of the following tests must be met:

• The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than $455* per week;
• The employee’s primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers; and
• The employee’s primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Whether they work for an insurance company or other type of company, insurance claims adjusters generally meet the duties requirements for the administrative exemption and are not entitled to overtime pay if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

The status of an insurance claims adjuster, however, does not rely on the “claims adjuster” job title alone. There must be a case-by-case assessment to determine whether the employee’s duties meet the requirements for exemption.

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 regulations.

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Note (added January 2018):

*The Department of Labor is undertaking rulemaking to revise the regulations located at 29 C.F.R. part 541, which govern the exemption of executive administrative, and professional employees from the Fair Labor Standards Act's minimum wage and overtime pay requirements. Until the Department issues its final rule, it will enforce the part 541 regulations in effect on November 30, 2016, including the $455 per week standard salary level. These regulations are available at: https://www.dol.gov/whd/overtime/regulations.pdf