



# WHAT WE HAVE LEARNED FROM IMPLEMENTING OVERTIME IN HOME CARE

Anne-Lise Gere, SPHR – December 2015

Home care providers are now on the hook for overtime pay for caregivers working over 40 hours a week. This change in the Wage & Hour rules had been in the works since 2013. Despite several judicial appeals, it came into effect on October 13, 2015.

Several months into this new world of overtime in home care, let's consider the business perspective for providers as well as what the changes mean for the caregivers.

## HOME CARE PROVIDERS – THE BUSINESS PERSPECTIVE

### **Reality of overtime cost not as bad as feared**

Although the specter of overtime pay was worrisome for most home care providers, the reality is not as bad. First, overtime is not a big part of how the work gets done in homecare. Only 9% of care workers work more than 40 hours a week according to the Bureau of Labor Statics.

Home care providers should understand how much overtime impact their costs. As I work with private duty providers, the projections are consistently showing a 10% to 12% increase in direct labor cost. Although this is not insignificant, it's manageable and providers breathe a sigh of relief. "It's not as bad as I thought," confided the owner of a private duty agency in Virginia. Agencies with good profitability are able to partly absorb the cost, "especially for our long-term clients" explained Carmen in South Carolina.

How home care providers response to this increase in labor cost depends on the financial situation of the business. In most cases, providers have decided to pass the additional cost to their clients. A Rotarian approached me recently and shared how the 24/7 care of her mother has suddenly become a lot more expensive. As a home care client, she decided to stay with the same provider and pay the extra cost for the sake of continuity of care for her mother.

The business outlook is more challenging for homecare providers who work primarily with Medicare clients. The reimbursement rate, although inching up slightly every year, does not account for any overtime. \$13.17 per hour in Virginia cannot cover the cost of overtime and overhead even with a minimum wage at \$7.25. This is particularly problematic when care recipients want to use respite care hours in addition to the regular hours of care. This usually pushes the caregiver to work over 40 hours per week. Whereas this wasn't an issue before last October, it creates an impossible situation now.

Betty, owner of a home care agency in rural Virginia, approached me very recently. She had been paying overtime since October. Although she had reduced the hourly rate of pay, she realized that she couldn't

make ends meet with her current business model. In her case, it didn't take much number crunching to know that her agency couldn't afford to pay overtime. My recommendation was to increase the caregivers' hourly pay to at least the same level as before overtime and rate cut, while limiting hours to 40 across the board. High user care recipients will have to get used to several caregivers coming into their home, unfortunately.

In all cases, providers are reviewing their business model with an eye to keeping caregiver hours within 40 hours a week as much as possible.

### **“Don't waste a good crisis”**

The change in overtime pay is also an **opportunity to consider increasing your rates**. Most private duty agencies have not increased theirs in two or three years. Although this may seem counter-intuitive, now might be time to bite the bullet. By **focusing on the value of high quality care** and the **peace of the mind** it brings to families, home care providers have a strong case to make.

At a minimum, it is time to increase rates for new clients. No one likes to get a rate increase shortly after signing a new contract. Set new client rates with an eye to profitability. As for the existing clients, it's time to inform them that an increase is coming in 2016.

Providers who have sent such letters have not experienced negative comments from their clients. So if you are considering increasing your rates in 2016, know that you are not alone.

*“I was trying to understand recent changes in the Labor Laws concerning overtime and how it would affect my home care agency. I had researched the internet for answers to my questions but the information was conflicting and confusing. I found the website for Gere Consulting. There were all sorts of interesting and helpful information for employers like me. I was impressed with the level of professionalism so I decided to call.*

*Anne-Lise helped me implement overtime pay for my caregivers, paid travel time and training time for our employees. She also revised our Employee Handbook to reflect these changes. She was very responsive to my needs and had answers to my questions. I found her to be knowledgeable about human resources in the home care industry.”*

**Carmen Davis, Owner of Assisting Angels, Greenville area, South Carolina**





## OVERTIME IMPLEMENTATION – THE CAREGIVER’S PERSPECTIVE

### **Sharing the news**

In South Carolina, Carmen Davis reported that the announcement about overtime pay was received as good news by caregivers. Although few do get to work overtime hours, the possibility of additional income is seen as a plus. “We had an emergency night shift to cover that night. Caregivers were in a good mood and many volunteered to help out.”

However, most agencies have decided to adapt their business model and limit their caregivers to 40 hours a week unless a client is willing to pay the additional cost of overtime hours. “It’s actually putting a limitation on the earning potential of caregivers,” commented a representative of a Visiting Angels franchise in Virginia. “Our caregivers work hard and many have tough lives. The new rule makes it more difficult for them to make ends meet.”

### **Tracking work hours**

Another major change brought on by the overtime pay rule is the **need to track the hours worked by caregivers**. The model of a flat fee for service is no longer viable. All hours worked have to be recorded and paid at regular rate of pay until 40 and at time and half beyond 40.

**But what counts as work hours?** Caregivers need to be paid for the time spent with a client; the time spent travelling from one client to another during the workday, the time spent doing in-service training and attending mandatory meetings.

**How to track hours worked?** Most agencies have a phone-in system with GPS already in place. This allows providers to track the attendance of their employees. It now doubles up as a time system. This is particularly helpful when the time and attendance software is linked to the payroll system. If yours isn’t, time to reach out to your IT support and get them to automate this critical business process.

Agencies without technology have to introduce time cards and train caregivers on how to accurately and properly fill in a time card. It might also be time to consider investing in software to eventually replace the paper & pen time cards.

**Paid travel time is new for many caregivers.** But how to discourage abusive claims of long commute times between clients? Trust your scheduling system. Most have a feature that will calculate the travel time from one location to the next client. However, caregivers are not eligible for paid commute time to and from home such as in the case of split shifts.

### **Other changes for Caregivers**

Announcing the change in pay practice is only one of the changes. The **employee handbook** needs to be updated to reflect the changing practices in pay.



A new aspect for many caregivers is the requirement to get **permission to work overtime**. Providers have to be clear on who is able to authorize overtime work and how certain emergency situations creating overtime work need to be handled by their office staff and caregivers.

### **And What About the ACA?**

The next shoe to drop for many home care providers is the implementation of the Affordable Care Act (ACA). The law requires employers with more than 50 full-time workers to offer health insurance or face financial penalties. Many caregivers might not be able to afford the coverage offered by their employers. When the providers have decided to pay the penalty rather than offer insurance, the caregivers will be able to have **access to the Marketplace** and might qualify for subsidies.

## **IN CONCLUSION**

Most private duty providers have been able to adapt their business model by limiting the hours and passing on some of the cost of overtime to their clients. The impact on caregivers is similarly nuanced. Some have seen their work hours curtailed and few have really seen a big increase in their take-home pay.

Although more legal challenges to the overtime rule are making their way to the Supreme Court, the home care providers and caregivers are adjusting to the new world of overtime pay.

**Contact us at 757-303-1635 for your free consultation on how to implement the new pay regulations for your home care agency. We have helped other home care providers like you manage the transition successfully.**