

# What Home-Based Care Providers Need To Do To Comply With DOL's Overtime Rule

By [Joyce Famakinwa](#) | May 14, 2024

Last month, the U.S. Department of Labor (DOL) unveiled its final overtime rule, which is set to go into effect this summer. The rule increases a minimum salary threshold for millions of workers across the country, and could impact home health and home care providers.

Broadly, the DOL has increased the salary threshold for the minimum compensation necessary for an individual to be exempt from overtime under the Fair Labor Standards Act.

“For federal purposes, that minimum salary threshold will increase as of July 1 of this year, and then increase again at the beginning of 2025, and then continue to increase every three years, so that the salary threshold doesn’t become out of date with actual compensation,” Angelo Spinola, the home health, home care and hospice chair at the law firm Polsinelli, told Home Health Care News.

Specifically, the salary threshold will rise to the equivalent of an annual salary of \$43,888, and will increase to \$58,656 on Jan. 1.

Currently, the annual salary threshold is \$35,568.

“This rule will restore the promise to workers that if you work more than 40 hours in a week, you should be paid more for that time,” Julie Su, acting secretary of labor, said in a press statement. “Too often, lower-paid salaried workers are doing the same job as their hourly counterparts, but are spending more time away from their families for no additional pay. That is unacceptable.”

Once it begins, the rule could impact both home care and home health providers in a variety of ways.

“For office staff that typically are not compensated all that highly, the new salary level may result in a requirement to increase their salaries, or to move them to non-exempt status and pay them overtime,” Spinola said. “I am expecting to see a lot of reclassification.”

For home health providers, the rule also means that clinicians who are paid per visit may need their rates adjusted to align with the new minimum salary equivalent. Providers that aren’t paying high enough visit rates run the risk of clinicians’ being found to be misclassified as exempt.

On the flip side, the rule’s impact is very dependent on what is going on at each individual company. Some providers might see any effect at all, according to William A. Dombi, president of the National Association for Home Care & Hospice (NAHC).

“That could mean at some health care companies, they have everybody above the minimum salary level to begin with and will continue to be above that on January 1 of 2025, and nothing then occurs as an impact,” he told HHCN.

Though there’s a possibility that some companies will see no impact at all, Dombi doubts that this will be the case for the majority of providers.

“We do believe — based more on anecdote rather than on any kind of deep comprehensive data — there are home health agencies that have salaried individuals who are below what will be the minimum levels, and those providers will have to make a choice,” Dombi said. “Do they want to manage the employee as an hourly employee, within the risk of overtime, or do they want to manage the employee on a salary basis, exempt from it, by increasing the individual salary?”

So far, home-based care leaders' reaction to the DOL's final overtime rule has been minimal, according to Dombi.

He believes that one of the reasons for this is because there hasn't been as much attention paid to this topic in an educational context.

“Some law firms have certainly done a number of educational programs around this, and we've brought it up in some of our webinars and put it in our newsletter, but when I look at our online communities, we're not seeing much [reaction],” Dombi said.

Dombi suspects that most of the industry is taking time to process what the rule will mean for their individual company before reacting.

However, those who have determined that this will impact their company have not reacted positively, according to Spinola.

“There have been questions about whether there will be a challenge to the rule,” he said. “I think that the concern is more about the impact over time. That's what people's eyes are turned towards — the numbers in January and this continual increase that may price them out every time the labor costs go up.”

Spinola noted that, on the home care side, providers are already operating in environments where the [80-20 rule](#) has been finalized, and where rates aren't keeping pace. He noted that the overtime rule could put additional pressure on margins for certain companies.

In order to prepare for the rule, providers should take a close analysis of their exempt positions.

“Who do they have as exempt?” Spinola said. “Who is close to that threshold? How many hours do they actually work? Consider reclassification of some of these positions, and I think that should be done with January in mind. Providers should ask, ‘Are we able to pay

our exempt staff close to \$60,000 annually, and will we be better off converting their existing salary into an hourly rate, so that we're not paying more than we can afford?"