



**LSA**

Lutheran Services in America®

*Together we can*

**COMING  
TOGETHER**  
*building the path, shining the light*

PLANNING FOR CHANGE: DOL'S PROPOSED OVERTIME PAY RULE

## Panelists



- Jewelie A. Grape, Partner, Conner & Winters, LLP
- Linda Timmons, President & CEO, Mosaic
- Jessica Thomasson, President/CEO, Lutheran Social Services of North Dakota



## Our Mission

Embracing God's call to serve in the world, Mosaic advocates for people with intellectual disabilities and provides opportunities for them to enjoy a full life.

## Our Vision

Mosaic is the recognized leader in making a positive difference in people's lives. We are passionate about services and partnerships that create meaningful lives in caring communities. Inspired by faith, we give voice to issues that affect people's lives.

## At a Glance

People Mosaic supports: More than 3,700

Employees: More than 5,000

Locations: 36 agencies in 10 states



Lutheran Social Services  
of North Dakota

COMING  
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## **Our Mission**

Guided by God's love and grace, Lutheran Social Services of North Dakota brings healing, help and hope.

## **Areas of Service**

Behavioral Health	In-home, Outpatient, Group, and Residential
Children's Services	Adoption, Pregnancy counseling, Healthy Families, Juvenile justice diversion, Restorative Justice, Child Care Aware
Senior Services	Senior Companions, Volunteer Companions, Volunteer Connections
Affordable Housing	New Construction, Preservation/rehab, Property Management
Humanitarian	Refugee Resettlement, Unaccompanied refugee minors, Disaster Response

## **At a Glance**

LSSND serves: More than 5,000 people each year

Employees: 340

Locations: 5 full service offices and 17 housing properties across ND



## FLSA provisions cover

- Minimum wage
- Overtime pay\*
- Recordkeeping
- Youth employment standards

## Overtime pay provisions of the FLSA

- Cover employees in the private sector, and in Federal, State and local governments
- Covered nonexempt employees must receive overtime pay for hours worked over 40 per workweek at a rate not less than 1½ times their regular rate of pay

## Exemption from overtime pay provisions

- Employees employed as bona fide executive, administrative, professional and outside sales employees and certain computer employees
- Employees must generally meet certain tests regarding their job duties, and be paid on a salary basis at not less than \$455 week (\$23,660/year)
- Often referred to as “white collar” exemption

## FLSA covers businesses and individual workers

### Enterprise Coverage: employers with at least 2 employees that:

- have an annual dollar volume of sales or business done of at least \$500,000, or
- hospitals, businesses providing medical or nursing care for residents, schools and preschools, government agencies

### Individual Coverage – employees engaged in interstate commerce



## Penalties for violating FLSA

- Amount of unpaid overtime for past 2-3 years
- Fines, interest, possible criminal sanctions
- Attorneys fees for employees winning their wage and hour claims

## Timeline

- March 13, 2014 – President Obama directed DOL to update FLSA regulations related to overtime
- July 6, 2015 – DOL issued proposed regulations that include:
  1. Increasing weekly earnings for white collar exception to \$970 (\$50,440/year) and changing the salary threshold from a flat dollar amount to the 40<sup>th</sup> percentile of earnings for full-time salaried workers
  2. Increasing highly compensated employee annual compensation level to the 90<sup>th</sup> percentile of earnings for full-time salaried workers (currently \$122,148)

## Timeline (continued)

- September 4, 2015 - 60 day comment period closed
- March 15, 2016 - DOL sent final rule to Office of Management and Budget for review.
- July, 2016 - expect the final rule to be issued before the 4<sup>th</sup> of July
- September, 2016 - expect the final rule to go into effect by Labor Day

## Impact on employers

More staff will be covered by FLSA overtime rule

## Options for employers

1. Increase employee's salary to at least \$50,440/year
- 2a. Limit or forbid overtime for employees making less than \$50,440/year, and
- 2b. Hire additional part or full-time staff to cover the extra hours that used to be covered by formerly exempt workers
3. Increase payroll budget to cover nonexempt employees' overtime costs

## Think about...

1. Use of electronic devices by overtime-eligible, nonexempt employees outside of scheduled work hours
2. Are your benefits tied to exempt/nonexempt employee status?
3. Do you have adequate timekeeping systems in place to track nonexempt employee hours?

## Checklist

1. Determine if your organization has employees covered by the FLSA overtime requirements (if you believe the answer to this question is no, please double check with a labor attorney)
2. Decide if you're going to increase any employees' salaries to at least \$50,440/year to keep them exempt from overtime requirements
3. Reclassify workers being paid under \$50,440 as nonexempt

## Checklist (continued)

4. Train employees and supervisors – those that were exempt but will be nonexempt may still want to act as if they're exempt
5. Ensure you have appropriate timekeeping systems in place – you will need to track nonexempt employee hours to comply with FLSA recordkeeping requirements
6. Ensure your benefits are structured to cover the employees you want to cover



## MODERATED Q & A SESSION

## PANELIST CONTACT INFORMATION



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