

Fact Sheet 72: Employment & Wages Under Federal Law During Natural Disasters & Recovery

The Wage and Hour Division (WHD) of the U.S. Department of Labor enforces a variety of worker protection laws, including the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA) and the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). WHD is furnishing answers to some basic questions to ensure that in this critical time individuals are paid properly for work they perform.

The FLSA is the federal law of most general application concerning wages and hours of work. The FLSA requires employers to pay covered, non-exempt employees no less than the federal minimum wage for each hour actually worked and overtime at one and one-half times an employee's regular rate of pay for all hours actually worked in excess of 40 in a week. These requirements are not subject to waiver during natural disasters and recovery efforts.

1. Many employees worked during the week prior to the disaster situation, but businesses are now closed and many records are destroyed. How do those employees receive their last paycheck and how soon must they be paid?

The FLSA requires payment of at least the full minimum wage and overtime compensation due a covered employee for the hours that the employee worked. If a last paycheck has been delayed because of a disaster situation and an employee has questions about the FLSA, the employee should call the WHD toll-free help line at 1-866-4US-WAGE (1-866-487-9243).

2. How many hours is an employer obligated to pay an hourly-paid employee who works a partial week because the employer's business closed as a result of the Disaster?

The FLSA generally applies to hours actually worked. It does not require employers who are unable to provide work to employees due to a natural disaster to pay non-exempt employees for hours the employees would have otherwise worked.

3. Can workers receive unemployment compensation while they are out of work?

For information about unemployment insurance and disaster unemployment assistance, call the Department of Labor's Employment Training Administration at 1-866-4-USA-DOL (1-866-487-2365).

4. If individuals volunteer to a public agency, are they entitled to compensation?

Individuals who volunteer their services to a public agency (such as a state, parish, city or county government) in an emergency relief capacity are not considered employees due compensation under the FLSA if they:

- Perform such services for civic, charitable or humanitarian reasons without promise, expectation, or receipt of compensation. The volunteer performing such service may, however, be paid expenses, reasonable benefits or a nominal fee to perform such services; and,
- Offer their services freely and without coercion, direct or implied; and,
- Are not otherwise employed by the same public agency to perform the same services as those for which they propose to volunteer.

5. If individuals volunteer to a private not-for-profit organization, are they entitled to compensation?

Individuals who volunteer their services in an emergency relief capacity to private not-for-profit organizations for religious or humanitarian objectives, without contemplation or receipt of compensation, are not considered employees due compensation under the FLSA. However, employees of such organizations may not volunteer to their employers to perform on an uncompensated basis the same services they are employed to perform.

Where employers are requested to furnish their services, including their employees, for disaster relief under Federal, state or local general police powers, the employer's employees will be considered employees of the government while rendering such services. No hours spent on the disaster relief services are counted as hours worked for the employer under the FLSA.

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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