

## Minimum Wage Opinion Letter 11-19-01– Overtime at Alcohol/Drug Treatment Center

November 19, 2001

I am writing in response to your request for this Office's written opinion regarding the applicability of M.G.L. c. 151, the Minimum Fair Wage Law ("the Law"), to case managers employed in an alcohol/drug treatment center. Specifically, you have asked if these employees are "professionals" under the Law, and therefore exempt from its requirements. In the event that these employees are covered by the Law, you have asked if M.G.L. c. 151, §1A(16), would provide an exemption from the requirement for overtime payment.

As I understand it, these case managers work with emotionally disturbed teenagers and court-referred adults with substance abuse problems. Their duties include: coordinating with state agencies, interfacing with community groups, after-care placement for clients, and the coordination of treatment groups. The case manager position does not require a college or other advanced degree. These employees are paid on a salaried basis but are docked pay when they do not work.

The Minimum Fair Wage Law applies to all "occupations" as defined by M.G.L. c. 151, §2. Section 2 defines occupations to exclude "professional service." In addition, M.G.L. c. 151, §1A(3) specifically exempts "professional person[s]" from the overtime requirements. Neither term is defined in the statute or by case law. However, this Office has taken the position that, at a minimum, the term professional means an employee whose work requires "advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from general academic education." See 29 C.F.R. §541.3(a)(1).<sup>[1]</sup> If the case manager position does not require advanced knowledge customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from general academic education, it would probably not be considered a "professional service," nor would case managers be considered "professional persons" under the Law.

As you have pointed out, M.G.L. c. 151, §1A also includes an exemption from overtime for employees "in a hospital, sanatorium, convalescent or nursing home, infirmary, rest home or charitable home for the aged." M.G.L. c. 151, §1A(16). You have asked if an alcohol/drug treatment center is a sanatorium under the Law.<sup>[2]</sup> The term "sanatorium" is not defined within the statute. Webster's Third New International Dictionary 2008 (1986) defines "sanatorium" as "1: an establishment that provides therapy by physical agents (as hydrotherapy, light therapy) combined with diet, exercise, and other measures for treatment or rehabilitation; 2a: an institution for rest and recuperation esp. for invalids and convalescents, b: an establishment for the treatment of the sick esp. if suffering from chronic disease (as alcoholism, tuberculosis, nervous or mental disease) requiring protracted care." This agency, and its predecessor, the Department of Labor and Industries, have narrowly construed this exemption. However, if the alcohol/drug treatment center in question meets this definition, it may be exempt from the requirement to pay overtime. As always, the employer has the burden of establishing its entitlement to the exemption.

This opinion is based exclusively on the facts and circumstances provided to this Office. I hope this information has been helpful. If I can be of any further assistance, please feel free to contact me.

Sincerely,  
Lisa C. Price  
Legal Counsel

<sup>[1]</sup> In the absence of a statutory definition, we may look to interpretations of analogous Federal statutes for guidance. See Goodrow v. Lane Bryant, Inc., 423 Mass. 165, 169-170 (2000).

<sup>[2]</sup> I am assuming that the center at issue is not operating within a hospital, staffed by hospital employees.