

Minimum wage opinion letter 07-21-08 - Definition of Workweek

July 21, 2008

I am writing in response to your request for this Office's written opinion regarding the applicability of the Massachusetts Minimum Fair Wage Law, M.G.L. c. 151. Specifically, you have asked for a definition of workweek, for purposes of determining overtime compensation. [\[1\]](#)

In your letter of June 18, 2008, you stated that your company's workweek begins at 12:01 a.m. on Mondays and ends at 12:00 midnight on Sundays. Some of your non-exempt caregivers work overnight shifts that span the end of the workweek, and you would like clarification on how that affects overtime calculation.

The Massachusetts Minimum Fair Wage Law, M.G.L. c. 151, §1A, provides for the payment of overtime compensation (time and one-half the employee's regular rate of pay) for work in excess of 40 hours in a given workweek in an "occupation" as defined by G.L. c. 151, '2. See also 455 C.M.R. §2.02(3). The term "workweek" is not specifically defined in either the statute or regulation. Therefore, this Office will give a reasonable interpretation of the law, and as we have done in other cases, we will look to the federal Fair Labor Standards Act (FLSA) for guidance. See Goodrow v. Lane Bryant, Inc., 432 Mass. 165, 170 (2000).

Under the FLSA, an employee's workweek is defined as "a fixed and regularly recurring period of 168 hours - seven consecutive 24-hour periods." 29 C.F.R. §778.105. We see no reason for the state to adopt a different standard and, for many years, we have informally utilized this definition when interpreting state law. Please note that overtime is calculated on a single workweek basis, regardless of pay period.

I hope this information has been helpful. If you have any further questions, please feel free to contact me.

Sincerely,

Lisa C. Price
Deputy General Counsel

[\[1\]](#)As you know, most employers are also subject to the federal minimum wage and hour law, found in the Fair Labor Standards Act (FLSA), and regulations promulgated thereunder. For information about applicable federal wage and hour laws, you should contact the U.S. Department of Labor.

***= Names have been Omitted< /p>