



September 3, 2015

**Via electronic submission at <http://www.regulations.gov>**

Director Mary Ziegler  
Division of Regulations, Legislation, and Interpretation  
Wage and Hour Division  
U.S. Department of Labor  
Room S-3502  
200 Constitution Avenue NW.  
Washington, DC 20210

**Re: DOL Proposed Rule Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees published in the Federal Register on July 6, 2015 (RIN 1235-AA11)**

Dear Director Ziegler:

On behalf of the Rehabilitation and Community Providers Association (RCPA) and the more than 325 health and human service members serving over 1 million people with disabilities in Pennsylvania, I am writing to thank you for the opportunity to comment on the proposed DOL rule entitled, "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees" that was published in the Federal Register on July 6, 2015 (RIN 1235-AA11).

RCPA represents the full spectrum of health and human service provider community organizations, including mental health, drug and alcohol, intellectual and developmental disabilities, medical rehabilitation, and brain injury services for children and adults, in all settings including vocational and residential. As a result of the diversity of the disability service providers in our membership, we have heard significant concerns about the proposed regulations, the impact they will have on employees working with individuals with addictions, physical, intellectual and developmental disabilities, and the direct impact it will have on the individuals living and working with a disability.

It is vital that the Department balances the equally important priorities of ensuring adequate compensation for all workers and ensuring that services and supports that individuals with disabilities rely on remain intact. This rule has the potential to seriously harm the very workers it seeks to protect, as well as a significant number of workers beyond its scope including non-profit health and human service providers.

RCPA is 100% supportive of an increase to wages, because an economic investment in staffing improves recruitment and retention efforts; however, RCPA has serious concerns about the proposed rule because of its fiscal impact it will have on member organizations.

RCPA members are not private organizations like Walmart or McDonald's. In fact, many are funded largely or solely through public funds; therefore, RCPA members cannot increase their prices to consumers or to the government to cover the additional costs that this proposed rule would bring. An increase in the overtime rules will in effect be an unfunded mandate;

Health and human service providers offering services under Medicaid and other public funding struggle as is to keep positions filled with qualified employees. They are unable to pay higher wages to hourly workers, or salaries to mid-level workers, which worsens turnover. Since rates cannot be unilaterally increased or costs passed on to consumers of service, non-profits have no choice but to scale back wherever possible. This often means not being able to offer health insurance or other employee benefits comparable to companies in other industries. Ultimately if costs cannot be covered, services must also be scaled back with a direct effect on consumers. Our member organizations do everything within their means to avoid such an impact, but ultimately costs have to be covered.

Any significant increase in operational costs for publicly-funded programs requires action on behalf of state legislatures to appropriate more funding. If the Department enacts this rule, as proposed, community and publicly funded agencies will not be able to adjust quickly enough to absorb the extra operating costs because of the time it takes a state to appropriate funds through its budget process. It is imperative that states be given sufficient time to allocate and appropriate funding especially in Pennsylvania because providers have not been paid in the last two months due to a budget impasse between the Governor and the General Assembly.

Therefore, the only way in which this can work is to ensure that the agencies get the funds necessary to pass on to employees. If the Department imposes this rule, RCPA recommends the Department then work with the applicable federal and state agencies to ensure policies will be in place that result in appropriate funding to meet the requirements of the rule.

In sum, RCPA is extremely concerned that this proposed rule would have negative unintended consequences for many health and human service providers, their employees, and the consumers they serve. While our association supports an increase in wages, RCPA wants to make sure that the aforementioned issues are addressed prior to the implementation of the rule. We strongly urge the Department to consider our comments to avoid unintended consequences to health and human service providers in Pennsylvania and nationwide and the consumers with disabilities they support.

Thank you for the opportunity to comment on the proposed rule. If you have any questions regarding our comments, please contact me at (717) 364-3280 or [redley@paproviders.org](mailto:redley@paproviders.org) or Jack Phillips, Director of Government Affairs, at (717) 364-3280 or [jphillips@paproviders.org](mailto:jphillips@paproviders.org).

Sincerely,



Richard S. Edley, PhD  
President and CEO