

August 11, 2022

New Rules from the Illinois Department of Labor Aim to Protect Domestic Workers



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The Illinois Department of Labor (IDOL) issued new rules last week regarding the statutory change to the Illinois Minimum Wage Law, which extends its protections to domestic workers. In a press release, the IDOL's Acting Director Jane Flanagan was quoted saying, "The General Assembly has established that domestic workers deserve the same core labor protections as workers in other industries. With these rules, we hope to make domestic workers' rights on-the-job clearer and help domestic employers understand their obligations under the law."

Illinoisans who employ domestic workers, such as nannies, caregivers and housekeepers, must now ensure overtime pay, meal times and rest periods under Illinois law. Furthermore, the newly adopted rules clarify that domestic workers must be paid for all compensable hours worked, including time and one-half pay for overtime hours. "Hours worked," as defined in the statute, means all time during which a domestic worker is not completely relieved of all work-related duties, regardless of the location where the domestic work is performed. For example, if a caregiver is making a personal call while watching over a client who is bedridden and requires constant supervision, he is not completely relieved of all work-related duties and must be compensated for this time. On the other hand, a nanny who is taking her lunch break is able to leave the employer's premises and is relieved of her duties of childcare by a parent, is completely relieved of all work-related duties and will not be paid for that time.

The new rules also addresses "sleep periods" for employees that live at the employer's house. A sleep period is defined as a "regularly scheduled, uninterrupted sleeping time of not more than eight hours, during which the employer provides [adequate] sleeping quarters ... and the domestic worker can sleep, uninterrupted by work-related duties." The rules state that "any period of interrupted sleep to perform work-related duties must be compensated." In addition, if a domestic worker cannot get at least five hours of uninterrupted sleep, and be completely relieved of work-related duties during those five hours, then that entire five-hour period must be compensated as working time.

In order to accurately pay domestic employees for their time worked, employers must also maintain pay and time records. A domestic worker must be compensated at the overtime rate for all hours worked in excess of forty in a workweek, regardless of the nature of the services provided.

The rules also address so-called "shared services." Shared services means a domestic worker provides services to more than one employer that are intentionally coordinated by the employers and notes an example of a "nanny share" arrangement. In such circumstances, the hours worked by the domestic worker for each employer must be totaled together when calculating total hours worked in the workweek for overtime purposes.

These rules will ensure that domestic workers are being compensated fairly, and will help domestic employers understand their obligations under the new law, which is effective as of August 1, 2022.

If you would like more information or to discuss these issues further, please contact a member of Gould & Ratner's [Human Resources and Employment Law Practice](#).