



For Immediate Release: March 23, 2016

Contact: Gabby Brown, 914-261-4626

New Analysis Highlights Impact of Proposed DOL Overtime Exemption Rule

Data compiled by Avalere shows serious threat to providers of community-based disability services, need for additional Medicaid funding

This spring, the Department of Labor is expected to release a finalized new regulation, known as the Overtime Exemption Rule, which would dramatically increase the threshold at which salaried workers are exempt from overtime pay, qualifying at least five million additional workers for overtime. The rule has now officially been [sent to the Office of Management and Budget](#), which means the final rule should be released within the next 90 days.

Though an update to this regulation is long overdue, making such a dramatic increase so quickly without additional Medicaid funding [threatens the ability of providers of services for people with disabilities](#) – who are funded almost entirely by Medicaid and would receive no additional funding to cover these added costs – to continue operating and providing critical services in the community.

This morning, the American Network of Community Options and Resources (ANCOR) unveiled a new analysis, compiled by leading healthcare research firm Avalere Health, which quantifies the enormous cost this rule will create for providers and the impact it will have for the people they serve.

Key findings from Avalere's analysis, available [HERE](#), include:

- If providers choose to cover overtime for the employees who will no longer be exempt, the estimated cost is over \$1.05 billion, or \$266,000 per provider. Those costs are higher as the estimate of weekly overtime hours increases. If providers instead increase annual salaries in order to meet the new exemption level, the cost would be \$1.86 billion, or nearly \$474,000 per provider. This estimate does not include additional costs associated with payroll taxes and employer contributions to retirement accounts, which will likely increase due to higher salaries. In either case, the rule would result in a large financial burden for many community providers who do not have margins to absorb cost increases associated with the rule implementation.
- Over 75% of providers said they might be forced to turn currently salaried workers into hourly workers with lower or no benefits. 37% of providers said they might have to lay off higher-paid employees who will be non-exempt under the proposed rule. Others said they might need to reduce wages or eliminate future wage increases for their non-exempt staff.
- 21% of Home and Community Based providers of intellectual and developmental disabilities services believed they would be forced to reduce services.

- If individuals with intellectual/developmental disabilities lose access to services in the community setting as a result of cutbacks forced by the rule, it will cost an estimated \$400-\$850 million in potential increases in Medicaid spending.

On the call, speakers discussed Avalere's findings and why it is critical that Congress act to provide adequate funding for publicly funded providers to comply with this rule if it is to be implemented as written. Until adequate funding can be provided, they also urged the Department of Labor to implement a more manageable threshold, at the 15th percentile of the workforce rather than the 40th, and a rule that increases the salary threshold more gradually.

"As Avalere's analysis makes clear, if the Overtime Exemption Rule is implemented as written, it threatens to put an unreasonable strain on already overstrained providers of community-based supports for people with disabilities, which could have a serious impact on their ability to provide quality support to those who need it," said **Gabrielle Sedor, COO of ANCOR**. "That is why we are calling on Congress to pass legislation to provide states with temporary assistance to increase Medicaid funding support for providers accordingly so that they can afford to comply with this rule and other unfunded mandates like it."

"This rule will leave providers between a rock and a hard place," said **Mark Davis, President of Ohio Provider Resource Association**. "Our members want to pay their employees more but already struggle to do so, and this new rule would only compound the challenges they already face. Our members and employees have dedicated their lives to supporting people with disabilities, but every year they are being asked to do more and more with less, and their ability to continue to operate is being threatened."

"To be plain—the change in the overtime threshold would require us to pay staff more, and we are wildly in favor of paying staff to do this important work. Our dilemma is this: the change would increase our staff cost significantly with no corresponding change in our Medicaid rates and right now, there is no process to increase our revenue to meet this need," said **Chris Sparks, Executive Director of Exceptional Persons, Inc.** "We are profoundly dedicated to providing services to our population and will continue to work diligently at the federal and state levels to find out a solution to this thorny problem."

Marla Goodman, the mother of a young man on the autism spectrum who is also bipolar, who depends on the support of community-based providers, said, "My son Josh lived with us for 19 years, but he was extremely violent and sent me to the hospital multiple times. Luckily we found a group home where he can receive the adult help skills and daily living skills he needs. The staff at Josh's group home is wonderful. They help him with any of his needs. The house manager is exceptional - she's available 24/7, but if this rule goes through she won't be able to be there 24/7, and that will be a real challenge for our family."

Resources:

- **For a recording of today's press call, click [HERE](#).**
- **To view Avalere's complete report, click [HERE](#).**

###

The [American Network of Community Options and Resources](#) is a national trade association representing more than 1,000 private providers of community living and employment supports and services to more than 600,000 individuals with disabilities. Our mission is to advance the ability of our members in supporting people with intellectual and developmental disabilities to fully participate in their communities. For more information, visit www.disabilitysos.org.