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ANCOR Meets With OMB to Discuss Overtime Rule Impact on Disability Service Providers

ANCOR members support rule's intent, hopeful that Obama Administration will consider preemptive actions to help them comply

Washington, DC – As the Obama Administration prepares to release a final regulation that would update the Fair Labor Standards Act (FLSA) to qualify at least five million additional workers for overtime pay, nonprofit and publicly funded employers are bracing themselves for a dramatic increase in labor costs. The rule, known as the Overtime Exemption Rule, would more than double the salary threshold at which workers are exempt from overtime requirements, with the salary level increasing automatically over time. The rule was [sent to the Office of Management and Budget for review on March 14](#), and so is expected to be released in its final form no later than June, and will likely give a period of just 60 days for employers to comply.

This morning, the American Network of Community Options and Resources (ANCOR), a national trade association for providers of community services for people with intellectual and developmental disabilities, met with OMB staff to make their final case as to why the rule must take their services into account. ANCOR members provide services that are almost fully funded by the Medicaid Home and Community-Based Services program at rates set by the federal and state governments, leaving them little room to adjust to cost increases, particularly with such a short implementation window. A [recent analysis](#) by respected health research firm Avalere Health quantified the impact the rule would have on this sector if implemented as written without the provision of additional funding, estimating an additional cost of over \$1.05 billion for providers to comply.

There has been some confusion among the public about whether or not nonprofits like those ANCOR represents are subject to the FLSA and to these changes to overtime requirements, but there is no blanket exemption for nonprofits under FLSA, and the overwhelming majority of ANCOR's members are subject to the law and will be affected by this update. In addition to the FLSA explicitly covering the residential services that ANCOR members provide, both their day and residential services are based on the provision of direct care staff, managed by frontline supervisors who qualify as "executives" under the rule. These frontline managers often find themselves providing direct support when direct care staff are not available due to high rates of turnover and vacancies, a problem that will likely be exacerbated if providers are forced to cut staff or wages in order to come up with the funds to comply with this rule.

ANCOR has been working to introduce legislation on the Hill that would provide the necessary funding for increased labor costs once the rule is implemented. ANCOR is also requesting that OMB, the Department of Labor, and the Centers for Medicare and Medicaid Services consider preemptive action and create solutions to the funding issue before the final rule is released.

"We are fully in support of an update to the overtime regulation, but making such a dramatic increase so quickly without additional Medicaid funding threatens the ability of providers to continue operating," said **Barbara Merrill, Chief Executive Officer of ANCOR**. "ANCOR members provide invaluable services to ensure that people with disabilities can live in their

communities, an aim we know the Obama Administration supports. We applaud OMB for taking this meeting with us today to discuss possible preemptive actions to allow our members to comply with this rule without making sacrifices to the quality of services they provide. We are confident that the Administration will take action to ensure that this rule does not threaten our most vulnerable citizens and the services they depend on.”

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