



Office of the State Comptroller

PAYROLL BULLETIN

Subject Revisions to Overtime Eligibility and Calculation Retroactive to April 15, 1986	Bulletin No. P-491
	Date September 11, 1986

The Director of the Budget has revised the guidelines for payment of overtime to comply with the requirements of the Federal Fair Labor Standards Act (FLSA). The guidelines have been issued to Agencies via Budget Bulletin G-1024, dated July 27, 1986, and are retroactive for overtime payment(s) due for such service rendered since April 15, 1986.

Overtime continues to be compensation calculated at one and one-half times the hourly rate of pay for services performed in excess of 40 hours during the workweek. In addition to the previously allowable differentials for location, geographic, inconvenience and shift, Performance Award Payments, standby for recall pay and hospital duty pay must now be included in an employee's salary when calculating the overtime rate.

Overtime Eligible Positions

Certain positions which previously were deemed ineligible for overtime now qualify within the criteria of FLSA. The Division of the Budget has revised their list of ineligible positions within individual Agencies; refer to Budget Bulletin G-1024 for the listing of currently ineligible titles.

Calculation Including Performance Awards, Standby Pay & Hospital Duty Pay

A. Performance Awards:

Lump sum Performance Awards paid after April 15, 1986 are added to the annual salary (plus differentials, if any) and included in the overtime computation for a period of one year from

- (1) the authorized payment date (e.g. PS&T employees whose payment date for Longevity Performance Awards was April 22, 1986 or CSEA employees who are due the \$500 payment on a specified date in December 1986)

or

- (2) where actual payment may fluctuate, the qualifying effective date (e.g. M/C employees must qualify on July 1 but payment varies depending on agency submission or SUNY Professionals who receive Awards when they attain permanent status).

Where an employee does not qualify for an Award until demoted at a later date, the one year period is still determined from the original authorized payment date or qualifying effective date (e.g. July 1 for grades M/C 17 and below) applicable to the lower grade position, payable from the date of demotion. Where an employee has received a lump sum Performance Award and is subsequently promoted to a position in which she or he would not qualify for a Performance Award, then the Award amount ceases to be included in the overtime calculation.

Where the payment date is fixed, but payment does not occur until a later date due to an error, the authorized payment date remains as the originating date for determining the one year payment.

B. Standby On-Call Pay and Hospital Duty Pay:

If an employee is entitled to standby on-call pay and/or hospital duty pay during a payroll period on or after April 15, 1986 when he or she is also entitled to overtime pay, the amount of total standby and/or hospital duty pay due for that period must be factored into the calculation of the overtime rate as shown in the following example:

An employee's basic annual salary is \$15347 plus \$406 location differential or \$604.22 biweekly. During the period August 7-20, the employee was on standby for 5 shifts and worked 16 hours of overtime.

- | | | |
|-----|-----------------|---|
| (1) | \$60.42 | daily rate |
| | <u>X.15%</u> | current negotiated standby rate |
| | 9.06 | standby pay for one shift |
| | <u>X5</u> | number of shifts in this example |
| | \$45.30 | total standby due this period |
| (2) | \$45.30 | total standby |
| | .01955 | new factor to compute one & one-half |
| | | times standby for one hour |
| | <u>.8856150</u> | amount to be added to regular overtime rate (drop mils) |
| (3) | \$11.81 | regular overtime rate (\$15753 annual salary |
| | | X .00075 O.T. factor) |
| | <u>.88</u> | one hour of standby overtime (from step 2) |
| | \$12.69 | adjusted overtime rate including standby |
| (4) | \$12.69 | overtime rate (from step 3) |
| | <u>X16</u> | number of overtime hours in this example |
| | \$203.04 | total overtime compensation due this period |

NOTE: Since standby on-call and hospital duty pay must now be included when calculating overtime, these payments must be reported on the same payroll submission cycle as overtime to avoid retroactive adjustments at a later date.

Other revisionsA. Eligibility for Overtime - Part-Time Employees

(1) Part-time employees in overtime eligible positions who render additional service beyond 40 hours during one workweek in the biweekly payroll period are entitled to overtime compensation. Agencies submitting overtime for part-time employees must explain the payment in the "Remarks" block of the PR-75.

(2) Employees in eligible positions who continuously work a percentage of full-time in two or more similar positions in several agencies and who work more than 40 hours in a workweek in both positions combined are eligible for overtime compensation.

NOTE: Where a part-time employee in a dual-employment situation (i.e. employment in more than one agency/facility) renders services in one of their agencies in excess of their usual part-time schedule, that agency must communicate with the employee's other agencies to determine if an overtime condition has occurred. If overtime compensation is due, the agency must explain the payment in the "Remarks" block of the PR-75.

B. Lump Sum Payments

Management/Confidential employees who choose to earn time and one-half compensatory time off for hours worked in excess of 40 hours per week after April 15, 1986 are, upon transfer to another agency/department or permanent separation from State employment, entitled to payment at (1) their last annual salary rate or (2) an average annual salary rate based on the employee's annual salaries paid during their last three years of employment, whichever results in the highest compensatory time payment.

There is no change in the rules for payment of compensatory time earned for hours worked between 37½ and 40 hours per workweek.

Retroactive Payments & Adjustments

Agencies with full or part-time employees in positions who have become overtime eligible or who have received Performance Awards, standby on-call or hospital duty pay since April 15, 1986, may submit PR-75's to process any payments or retroactive overtime adjustments due.

Questions should be directed to the Audit Section on (518) 474-2368 or 474-5446.

