

LIVE-IN UPDATE

Home Care Alert
July 19, 2018

The New York State Department of Labor (NYDOL) held a hearing on July 11, 2018 to receive testimony on the emergency regulations governing compensation of live-in aides. The regulations authorize agencies to exclude meal periods and sleep time from “hours worked” for employees who work shifts of 24 hours or more. Hodgson Russ attorneys were in attendance at the hearing, in support of the home care industry and the Emergency Regulations.

As readers of our client alerts recall, the NYDOL issued the Emergency Regulations on October 6, 2017, to codify the NYDOL guidelines permitting agencies to pay live-in aides for 13 hours of work, assuming the aides receive 8 hours of sleep (5 of which are uninterrupted) and 3 hours for meals. The Emergency Regulations were issued in response to court decisions that have held live-in aides have to be paid for 24 hours of work.

Since their promulgation, the Emergency Regulations have been challenged in court by worker advocacy groups. At the July 11 hearing, worker advocacy groups also urged the NYDOL to abrogate the Emergency Regulations, claiming that live-in aides should be paid for all 24 hours of work on a live-in shift.

The NYDOL is expected to decide the fate of the Emergency Regulations (which, as stated, currently allow live-in aides to be paid for 13 hours of work) later this year.

Please contact any one of our Home Care Group attorneys if you have any questions about this alert.

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