



## MY VOICE, MY CHOICE AND FAMILY DIRECTED SERVICES

### Notice to Employer and Employee 40 Hours a Week Rule

In the My Voice, My Choice and Family Directed Services programs, Idaho Medicaid prohibits employees from working more than 40 hours per week unless they are specifically exempted from Fair Labor Standards Act (FLSA) regulations (see page two of your Participant-CSW Employment Agreement).

Due to this restriction, Acumen will not be able to pay an employee for any hours worked over 40 in a work week unless they qualify for an exemption. Acumen must have an exemption form, signed by both employer and employee on file before paying any hours over 40 in a work week:

- **If Acumen HAS a signed exemption form on file...** Employee is eligible to work more than 40 hours in a work week - Hours worked beyond 40 are paid at the regular hourly rate.
- **If Acumen DOES NOT have a signed exemption form on file...** Employee is not eligible to work more than 40 hours in a work week - Hours worked beyond 40 will not be paid by Acumen. Remember that even if program funds cannot be used to pay for hours worked due to program restrictions, it is still the employer's responsibility to pay an employee for hours worked.

#### The two FLSA exemptions for domestic service employees are:

**Companionship Services Exemption** - Congress exempted minimum wage and overtime provisions to domestic service employees who provide "companionship services" to the elderly or to people with illness, injuries, or disabilities who require assistance in caring for themselves.

**Criteria:** Employee must perform at least 80% of their work on one or both of the following:

- Fellowship – engages participant in social, physical, and mental activities, such as conversation, reading, games and crafts; and /or accompanying participant on walks, errands, appointments and social events.
- Protection – be present with participant in home or accompany participant when outside of home, and monitor participant's safety and well-being.

**Live-in Exemption** - Congress exempted overtime provisions to domestic service employees who have a “live-in relationship” with their employer. That is, they reside in the household in which they provide services.

**Criteria:** The employee resides in the participant’s home permanently OR resides in participant’s home for extended periods of time (120 hours or more per week). No family relationship needs to exist.

Guidance on these exemptions is available from the Department of Labor’s website at [https://www.dol.gov/whd/homecare/homecare\\_guide.htm](https://www.dol.gov/whd/homecare/homecare_guide.htm)

Exemption forms are available on the Acumen website or can be obtained by calling Acumen Toll-Free (866) 496-9139.



## Declaration of Companionship Services Exempt from Minimum Wage and Overtime

### *Title 29, Subtitle B, Chapter V, Subchapter A, Part 552* United States Department of Labor Fair Labor Standard Act

#### EMPLOYEE

Per the above rules, the undersigned hereby declares:

Under penalties of perjury, I declare that I am a worker who provides domestic service in or about a private home. Eighty percent (80%) or more of my paid time is solely dedicated to providing fellowship and protection for an individual who requires assistance for their care.

**Fellowship** means to engage the person in social, physical, and mental activities, such as conversation, reading, games, crafts, accompanying the person on walks, on errands, to appointments, or to social events.

**Protection** means to be present with the person in their home, or to accompany the person when outside of the home, and to monitor the person's safety and well-being.

As a result, I declare that I am not subject to the minimum wage and overtime requirements of the Fair Labor Standards Act. If the circumstances of my employment change causing me to be subject to these rules, I will notify Acumen Fiscal Agent prior to the effective date of the change in my employment status.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee ID#: \_\_\_\_\_ Social Security #: \_\_\_\_\_

#### EMPLOYER

As the employer of \_\_\_\_\_ I am familiar with the laws supporting this Notice. I agree with the employee's statement and signature above. I also agree that this is an accurate representation of the facts regarding services performed on my behalf.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Participant Name: \_\_\_\_\_ FEIN#: \_\_\_\_\_

5416 E. Baseline Rd., Suite 200  
Mesa, AZ 85206  
Phone: (866) 496-9139  
Fax: (855) 264-3290  
[Enrollment@acumen2.net](mailto:Enrollment@acumen2.net)



## Declaration of Live-In Exempt from Overtime

### *Title 29, Subtitle B, Chapter V, Subchapter A, Part 552* United States Department of Labor Fair Labor Standard Act

#### **EMPLOYEE**

Per the above rules, the undersigned hereby declares:

Under penalties of perjury, I declare that I am a worker who provides domestic service for an individual who requires assistance for their care in or about their private home where I also reside. I reside in the home either permanently or for extended periods of time. I am familiar with the FLSA rules that define my status as a Live-In Domestic Care Worker.

As a result, I declare that I am not subject to overtime requirements of the Fair Labor Standards Act for Live-In Domestic Care Workers. If the circumstances of my employment change causing me to be subject to overtime rules, I will notify Acumen Fiscal Agent prior to the effective date of the change of my employment status.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Employee ID#: \_\_\_\_\_ Social Security #: \_\_\_\_\_

#### **EMPLOYER**

As the employer of \_\_\_\_\_ I am familiar with the laws supporting this Notice. I agree with the employee's statement and signature above. I also agree that this is an accurate representation of the facts regarding services performed on my behalf.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Participant Name: \_\_\_\_\_ FEIN#: \_\_\_\_\_