Report: Americans Work Longer Hours But Don’t Get Overtime Pay

Federal Overtime Reforms Expected in Early 2015

New York, NY—America’s middle-class workers are spending longer hours at work doing the kinds of tasks that should qualify them for overtime pay, but outdated federal rules are shutting out these workers from the wages they deserve, according to a new report issued today by the National Employment Law Project.

“Reform of the nation’s overtime rules is much needed and long overdue,” said Judy Conti, federal advocacy coordinator with the National Employment Law Project and the report’s author. “America’s workers are putting in longer hours, working harder and harder, but they’re not getting ahead. Updating the nation’s overtime rules, so that more middle-class workers can be fairly compensated for their long days and nights at work, is one important way we can begin to reverse the deterioration of middle-class wages and living standards that threatens our nation’s prosperity,” said Conti.

The Obama administration is expected to issue updated overtime rules in early 2015, following a Presidential Memorandum issued last March directing the U.S. Department of Labor to update its regulations for so-called “white collar” workers.

Under federal law, most workers are entitled to be paid time-and-a-half for hours worked in excess of 40 hours in a workweek. Far fewer Americans today are covered by overtime protections than in the past, however. One major reason is because the overtime salary threshold has eroded over time, failing to keep up with inflation. Today, most salaried workers who earn less than $455 per week are eligible for overtime pay. In the past, this overtime salary threshold was set much higher (in relative terms, accounting for inflation), so that a far larger share of workers were eligible for overtime back then. In 1975, 65 percent of salaried workers fell within the salaried overtime protections; today, it’s only 11 percent.

Another reason why fewer workers are eligible for overtime pay is because the white-collar rules are too vague and allow room for abuse. Under federal law, workers who earn above the $455-per-week overtime salary threshold are still eligible for overtime pay, unless their employer can show that they fit into one of the exemptions. The white-collar exemptions for “executive,” “professional,” and “administrative” employees are one of the most commonly used—and abused—exemptions to overtime pay, according to the NELP report.

The report documents stories of five middle-class workers who were unfairly excluded from overtime pay based on white-collar exemptions. Wanda Womack, a store manager for Dollar General, worked 50 to 70 hours a week, but despite her managerial title, the vast majority of her time was spent performing non-managerial tasks like working the register, doing inventory, and unloading heavy freight. After she developed an injury from all the heavy lifting, she was forced to leave her job. Even though most of her job involved
manual and non-managerial tasks, Wanda never received overtime pay for her long hours because her employer claimed she was an exempt manager.

The current overtime rules make it too easy for employers to abuse the white-collar exemptions, for example, by giving workers a manager or supervisor title that is essentially meaningless. In many recent cases, employers have “promoted” employees to a titled position without giving them any real authority while still requiring them to perform all their previous duties. The newly-exempt employees not only lose their overtime pay but often find their hours have dramatically increased.

“Our report makes clear that today’s federal overtime rules are not working for America’s workers,” said Conti. “We need to raise the ridiculously low $455-per-week overtime salary threshold, and we need reforms that prevent employers from misclassifying workers as exempt in order to get away with not paying overtime. It’s a matter of simple fairness, but it’s also a move that will strengthen America’s middle class and help begin to reverse decades of wage declines and economic inequality. We’re hopeful that the administration will propose strong reforms that really address these problems head on.”

DOWNLOAD THE REPORT:
The Case for Reforming Federal Overtime Rules: Stories from America’s Middle Class

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The National Employment Law Project is a non-partisan, not-for-profit organization that conducts research and advocates on issues affecting low-wage and unemployed workers. For more about NELP, visit www.nelp.org.