



U.S. Department of Labor Home Care Rules: Key Considerations for Developing an Exceptions Process for Overtime Caps

April 26, 2016 - The Bazelon Center - together with worker advocacy organizations - today issued [U.S. Department of Labor Home Care Rules: Key Considerations for Developing an Exceptions Process for Overtime Caps](#). This brief is intended to provide people with disabilities, seniors, and home care workers information needed to advocate for a robust exceptions process if their state has or is considering placing caps or limits on worker overtime as they implement the new home care rules.

New home care rules requiring most home care workers to be paid overtime have recently gone into effect. In implementing these new rules, some states have, or are considering, policies that place limits or caps on home care worker overtime. The Departments of Justice and Health and Human Services have made clear that states could violate the Americans with Disabilities Act and the Supreme Court's decision in *Olmstead v. L.C.* if they their overtime caps or limits could lead to cuts in services that force people with disabilities into institutions or cause a decline in their health and safety that places them at serious risk of institutionalization. To comply with the ADA and *Olmstead*, states with policies limiting or capping overtime must have an exceptions process for people at serious risk of institutionalization. (For more information see [Guidance from DOJ and HHS](#).)

"Advocates should fight hard against limits or caps on worker overtime," said Alison Barkoff, Director of Advocacy at the Bazelon Center. "But if a state ultimately decides to implement such a policy, advocates should demand that their state complies with federal law by adopting a robust exceptions process available to people who could be seriously harmed by such policies." To assist with advocacy efforts, in addition to today's brief, the Bazelon Center has previously issued [Action Steps for Consumers and Advocates Regarding the Home Care Rule](#).

For more information about the new home care rule and implementation, see:

Bazelon Center home care webpage: <http://www.bazelon.org/Where-We-Stand/Access-to-Services/Home-Care-Rule.aspx>

Department of Labor home care webpage: <http://www.dol.gov/whd/homecare/>

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