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Subject: Policy Alert: Delayed Enforcement of Home Care Rule

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DELAYED ENFORCEMENT OF HOME CARE RULE

Yesterday at 4:15PM, the Department of Labor (DOL) issued an announcement of a Time-Limited Non-Enforcement Policy of the Home Care Rule. The Home Care Rule effective date of January 1, 2015 will not change. The announcement states that:

"For six months, from January 1, 2015 to June 30, 2015, the Department will not bring enforcement actions against any employer as to violations of Fair Labor Standards Act (FLSA) obligations resulting from the amended regulations."

"For the following six months, from July 1, 2015 to December 31, 2015, the Department will exercise prosecutorial discretion in determining whether to bring enforcement actions, with particular consideration given to the extent to which States and other entities have made good faith efforts to bring their home care programs into compliance with the FLSA since promulgation of the Final Rule."

The announcement has been filed for public inspection in the Federal Register and can be found at: [Non-Enforcement Announcement](#)

In our initial conversations with DOL, we have learned that when enforcement begins, except for in egregious circumstances, "back wage" liability is likely to extend back to the effective date of enforcement, rather than January 1, 2015, the effective date of the rule. DOL has also said that while private lawsuits could still occur even during non-enforcement, historically when DOL has had a policy of non-enforcement, they have said private lawsuits have been limited. We are working now to understand the implications of this non-enforcement period on stakeholders, which could be as much as 12 months.

Please contact us with any questions at info@participantdirection.org

FLSA HOME CARE RULE TOOLKIT

Last month, the NRCPPDS released the Fair Labor Standards Act Home Care Rule Tool Kit. This tool kit is a resource for participant direction program stakeholders in response to new rules promulgated by the US Department of Labor (DOL) that will take effect January 1, 2015, though will now be on a time-limited non-enforcement policy. This is the first iteration of the tool kit.

You can view the toolkit and other resources about the FLSA Home Care Rule on our webpage at: [FLSA Home Care Rule Toolkit](#)

DEPARTMENT OF LABOR WEBINAR RECORDINGS

Additionally, our Center has archived several webinar recordings. You can access those recordings by following the links listed below:

- [Webinar 1: Department of Labor Guidance Webinar 1 - June 30, 2014](#)
- [Webinar 2: Department of Labor Guidance Webinar 2 - July 7, 2014](#)
- [Webinar 3: Department of Labor Guidance Webinar 3 - July 29, 2014](#)
- [Webinar 4: Department of Labor Guidance Webinar 4 - September 8, 2014](#)

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