



**FLORIDA DEVELOPMENTAL DISABILITIES COUNCIL, INC.**

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**Continue funding for Florida's iBudget services to meet the new  
Department of Labor wage requirements**

**The Council believes it is critical to include funding to meet the federal Department of Labor minimum wage requirement in the regular base budget of the Agency for Persons with Disabilities on a recurring basis.**

Last year the Florida legislature approved funding for rates for Florida's iBudget services to meet the new Department of Labor (DOL) minimum wage requirement that became effective on October 13, 2015. The reimbursement rates affected by the DOL changes include the following services: Live-In Residential Habilitation daily rate, Personal Supports daily rate, and Companion services. This funding was provided to adjust these rates so that individuals with intellectual and developmental disabilities would continue to have choices and options for residential living services.

Unfortunately this allocation was only provided for one year as nonrecurring funding and the Florida Developmental Disabilities Council believes it is critical for this funding to be included in the regular base budget of the Agency for Persons with Disabilities on a recurring basis.

To fully understand this issue, one has to go back to 1974, when the Fair Labor Standards Act (FLSA) was amended to add a companionship exemption, and many community agencies used this provision to serve individuals with intellectual disabilities in their own homes. In practice, the amendment created specific exemptions for "domestic service workers who provide companionship services" and "live-in domestic service workers." The referenced exemption was applicable if employees were providing services to an individual in his or her private home. A provider did not have to pay hour-for-hour for services provided, did not have to pay overtime, and could also exempt all sleep time.

On September 17, 2013, DOL issued a Rule, which altered application of the FLSA for domestic service. The rule was to go into effect on January 1, 2015, but was delayed until October 13, 2015, because of legal challenges. Per the new rule, the "companionship exemption" that previously exempted individuals who provided home care and companionship services from wage and overtime laws that applied to other workers was discontinued for agencies that employed home care and companion staff. Providers now have to pay employees hour-for-hour for all hours worked and, unless certain limited conditions are met, have to pay sleep time.

The rate structure is being evaluated again this year and, hopefully, the increased reimbursement that is needed will be allocated on an ongoing and recurring basis. Without these rates, the likelihood of the continuation of the Live-In model for individuals who require overnight staffing is in great jeopardy. If these rates are not adjusted, individuals with intellectual and developmental disabilities will have fewer options for residential living and many will likely require placement in more costly residential placements, including nursing homes.