

To: MNA/UMPNC Members and Managers in Ambulatory Care and Michigan Visiting Nurses (MVN)

From: Candia Laughlin Director of Nursing Ambulatory Services
Kathy Jordan-Sedgeman Director of Labor Relations
Katie Oppenheim UMPNC Chair

Subject: Paragraph 163K and Overtime Pay Requirements

Date: April 16, 2015

This memo is being issued to provide you with necessary information to assure that scheduling practices will be consistent with the Fair Labor Standards Act (FLSA) and/or the MNA contract. Paragraph 163K provided for alternate schedule changes, and has been used to allow staff to work varying shift lengths “at the employee’s request and manager’s discretion” within an 80 hour two week pay period.

163K. Ambulatory Care and Michigan Visiting Nurses Alternate Schedule: A schedule may be altered at the employee's request and at the manager's discretion, within FLSA regulations, to meet patient care requirements. The total number of hours scheduled shall not exceed eighty (80) hours in a two (2) week pay period for employees who normally work eight (8) hour shifts, and forty (40) hours in one (1) calendar week for employees who normally work shifts greater than eight (8) hours⁵². Alternate schedule changes within the pay period or workweek may be made with manager approval. Weekly/bi-weekly timesheets must accurately reflect the hours worked.

The definition of overtime and overtime pay for Professional Development Framework nurses is stated in Paragraphs 143 – 145. The language “In excess of forty (40) hours in one (1) calendar week work schedule or in excess of an employee’s regular daily schedule of work of not less than eight (8) hours in a day;” will need to be followed for all Professional Development Framework nurses, including those in Ambulatory Care and MVN. The 8/80 rule from paragraph 163K can only be used if the employee is working only 8 hour shifts as part of their normal and regular schedule; and allows that they work an extra eight hour shift in one week and one less eight hour shift in the other week of the pay period. **Any time worked over 8 hours in a day must be paid at overtime when using the 8/80 overtime rule.** If the employee is scheduled in shift lengths other than 8 hours, overtime pay is due when they work in excess of 40 hours in a week and on any day that they work in excess of their normal scheduled shift of 8 hours or more. This means the overtime rule applied to a particular nurse does not change from pay period to pay period.

The definitions of overtime and overtime pay in paragraphs 143-145 also apply to staff that are in Role Specific Advancement Model (RSAM) positions. In addition to being eligible for overtime payments, staff in these positions should have their time off documented in half day increments rather than smaller numbers of hours. RSAM staff are also eligible for shifts over three weeks as described in paragraph 146.

The previous interpretation was an unintentional error, but now that we have discovered it, we must change practices to comply with the law and with the contract language. We regret any confusion and

disruption in scheduling practices that may result. If you have questions, please consult your UMPNC representative or Human Resources consultant.

Scenario 1 using the 8/80 overtime rule for either Professional Development Framework or RSAM nurses:

Employee A is scheduled and works 8 hours per day M-F and on Thursday the employee works an additional 2 hours to tend to patient care needs. The employee volunteers to work 2 hours less on Friday. Because of low patient care demands on Friday, the manager grants the 2 hours off under the assigned time off language (paragraph 164A) and the employee chooses to take 2 hours of approved no pay. The employee would be paid 38 hours REG and 2 hours OTP.

The employee cannot be paid for 10 hrs REG on Thursday and work 6 hours on Friday for a total of 40 hours of REG pay for that week.

RSAM- An employee would be paid for 8 hrs on Friday because they are considered exempt and his/her PTO is submitted in ½ day increments. He/She would also be eligible for 2 hrs OTP for Thursday since they qualify for paragraph 144.

Scenario 2 using the over 40 in a week plus over scheduled shift overtime rule:

Employee B is scheduled to work four 10-hour shifts per week. He/She worked 12 hours on Tuesday. He/She will be paid 2 hours OTP for Tuesday regardless of total hours worked in the week.

RSAM- An employee would be paid for 10 hrs on Tuesday because they are considered exempt and their PTO is submitted in ½ day increments. He/She would also be eligible for 2 hrs OTP for Thursday since they qualify for paragraph 144.

Scenario 3 using the over 40 in a week plus over scheduled shift overtime rule:

Employee C works 40 hours per week with a schedule of four 9 hour shifts and one 4 hour shift. On Tuesday, he/she is scheduled for 4 hour, but works 6. If total hours worked in the week are 42, two hours would receive OTP. However, if there is low census on another day of that same week, and the employee is the volunteer or the person assigned under the assigned time off language, OTP will only be paid for the hours worked in excess of 40.

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