

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Procedures- Requesting Payment of Cash for Overtime Exempt Employees

January 26, 1999

Background:

The Fair Labor Standards Act permits FLSA-exempt employees to be paid overtime compensation in the form of either extra cash payments (normally at a straight-time rate) or in compensatory time. While the Act discusses and defines emergency situations, these situations are described within the context that work performed by exempt employees during such circumstances does not change their status to nonexempt.

COMAR 17.04.02.08B provides that cash overtime payments may only be made to FLSA-exempt employees in bona fide emergencies directly affecting public safety as determined by the appointing authority and approved by the Secretary of the Department of Budget and Management or designee. In these emergency circumstances, the Secretary shall specify the time period during which cash overtime payments are authorized, the payment rate and any other limitations or requirements.

Effective April 9, 1998, approval may be requested also for overtime exempt employees working on critical IT systems which will have a direct impact on an agency's ability to provide required services to its customers.

Cash overtime approved under these procedures will be paid at the straight time rate.

Procedures:

A DHMH Unit requesting cash payment to specific FLSA- exempt employees for overtime hours worked must provide the following information to the Director of the Personnel Services Administration:

1. A detailed justification which includes a full description of the emergency situation or IT System, including its mission, and any mitigation circumstances justifying a departure in this instance from normal State overtime compensation rules. The justification is to also include expected consequences if the request is not approved.
2. The name, Social Security Number and rate of pay for each employee to be covered by the approval.
3. The beginning and ending dates of the period for which your request, if approved, is to be in effect, and the total number of overtime hours expected to be worked and to be paid for each employee.

Upon receipt of the above information, the Director or Office of Human Resources (OHR) reviews the request, determines whether additional administrative approvals are necessary, and then forwards the Unit's request to the Department of Budget and Management (DBM).

Upon receipt of DBM's determination, the Director of OHR informs the requesting unit.