

Federal Judge Rules against Crozer Chester Medical Center in Overtime Pay Dispute

Press Release

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Ruling May Impact Hospitals, Physician Practices

Philadelphia, PA

A federal judge in Philadelphia has ruled against Crozer-Chester Medical Center, finding it in violation of the Fair Labor Standards Act for not paying a physician assistant overtime pay. The medical center could face double damages retroactively for the period the employee was denied overtime pay, for up to three years, plus the employee's attorney fees and costs.

According to labor and employment law attorney Michael D. Homans, this is a significant decision that could affect other health systems and physician practices. Crozer-Chester, like many healthcare entities, mistakenly applied the same rules used for paying physicians (rules allowing them to pay physicians on an hourly or other basis, without overtime), to other employees, including the physician assistant. Crozer-Chester could have categorized the physician assistant as "exempt" from overtime pay because he is a "professional," by virtue of his education and duties, under federal and state wage payment laws. Crozer-Chester, however, lost the exemption because it did not pay the physician assistant on a salary or fee basis, as required by the law.

"This case may be an eye-opener for a lot of healthcare employers," Homans said. "It's a lesson that professional employees other than physicians must be paid on a 'salary or fee basis' to avoid the duty to pay overtime for hours above 40 per week. If they are paid at an hourly rate, then they must be paid overtime."

Background:

In *Cuttic v. Crozer-Chester Medical Center*, decided January 5th, the hospital employed a physician assistant (referred to by the court as a "PA"), Charles Cuttic, whose education and job duties likely qualified him to be "exempt" from overtime pay as a "professional" under state and federal wage and hour laws. However, under the federal Fair Labor Standards Act, to be exempt from overtime pay, an employee must meet two tests: a "job duties test" and a "salary or fee basis" test. In other words, not only must an employee's job duties qualify for a specific exemption from overtime, but the employee must be paid on either a salary basis (fixed amount every week) or a fee basis (a fixed amount for each service rendered). Only three types of professionals – physicians, lawyers and teachers – can be paid hourly or in some way other than a "salary or fee basis," without forfeiting the exemption from overtime pay.

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Crozer-Chester argued that the special rule that applies to physicians – and allows them to be paid on an hourly basis or otherwise without losing the overtime exemption – should also cover physician assistants. Federal Judge Eduardo C. Robreno rejected this argument, citing prior court decisions and federal regulations that make clear that the special rule applies only to the “traditional” practice of medicine and not to “other professions which service the medical profession.”

So why is this important? Under the Fair Labor Standards Act, the physician assistant – and, by implication, other similarly situated physician extenders -- can now recover two times his unearned overtime pay going back two, and possibly three years, plus his attorneys’ fees and costs. If the physician assistant here, who earned \$50 per hour, worked an average of 10 hours of overtime per week, Crozer-Chester could owe him more than \$100,000 in unpaid overtime and liquidated damages, plus the employee’s attorneys’ fees and costs, not to mention the fees Crozer-Chester has had to pay its own attorneys.