



## Steps for Success

Fuad Ali, Siv Dobrovolny and Dave Skovholt

## Federal

U.S. Department of Labor's Wage and Hour Division

## State

Minnesota Department of Labor and Industry

## City

- Minneapolis
- St. Paul
- Duluth

# What is the role of DLI?

- Why is the Department of Labor and Industry (DLI) included in Steps for Success?
- What do Labor Standards division staff members do?

# Divisions within DLI

- Workers' Compensation Division
- Minnesota Occupational Safety and Health Administration
- Labor Standards

# What law applies?

Minnesota  
Department of  
Human Services  
(DHS) reimburses

- Personal Care Assistance (PCA) agency

PCA agency  
compensates

- PCA worker

# Question one: What do you think?

I see three clients every Monday and drive straight from one client's house to the next. My boss is telling me to only include the time I am in the clients' houses. I spend almost 45 minutes driving between clients. Should I get paid for that time?



## Answer one

Yes, travel time between clients when working for the **same employer** needs to be paid in wages even if DHS will not reimburse the agency for travel time.

When is travel time not considered compensable?

- Commuting from home to first job site
- Travel between clients from different employers
- Travel that is not direct between clients
- Commuting from last job to home

# Question two: What do you think?

In my employee policies, it states, “Overtime must be approved before being worked. Hours worked beyond the authorized limit will not be paid.” Is this OK?





## Answer two

The policy language itself is not a violation; however, putting the policy into action would be. An employee needs to be paid for the hours they work.

However, an employer can discipline the worker up to and including termination for not following the policy that requires approval before overtime is worked.

# Question three: What do you think?

When I hire PCAs, I have them sign a policy saying I can take back any overpayments on their checks. Is that legal?



## Answer three

No, an employer cannot deduct money for an overpayment on an employee's paycheck **unless** after the overpayment is paid, the employee **voluntarily** signs a document giving the employer permission to deduct the overpayment from a future paycheck.

# Deductions for debt or overpayment

Minnesota Statute 181.79, subd. 1

No employer shall make any deduction ... from the wages due or earned by any employee ... to recover any claimed indebtedness

UNLESS

- **Voluntarily** authorized **after** the claimed indebtedness has arisen, or
- Employee is held liable in court, or
- There is a collective bargaining agreement with a contrary provision.

# Reimbursable vs. compensable time

## Reimbursable time

Hours worked by an employee that an agency can bill DHS for reimbursement.

## Compensable time

All hours worked by an employee that an employer must pay wages to the employee.

## Example: Completing a timesheet

- Should the employee be paid for the time it takes to complete their timesheet?
- Is completing a timesheet billable?

## Compensable time

- Report changes in a member's condition
- Maintain daily written records
- Complete training and orientation on needs of the member
- Time sheet completion
- Travel time

How will you track this time?

# Question four: What do you think?

I went to meet a family to see if they wanted me to work for them. The agency sent me there, but that time wasn't paid. Is that OK?

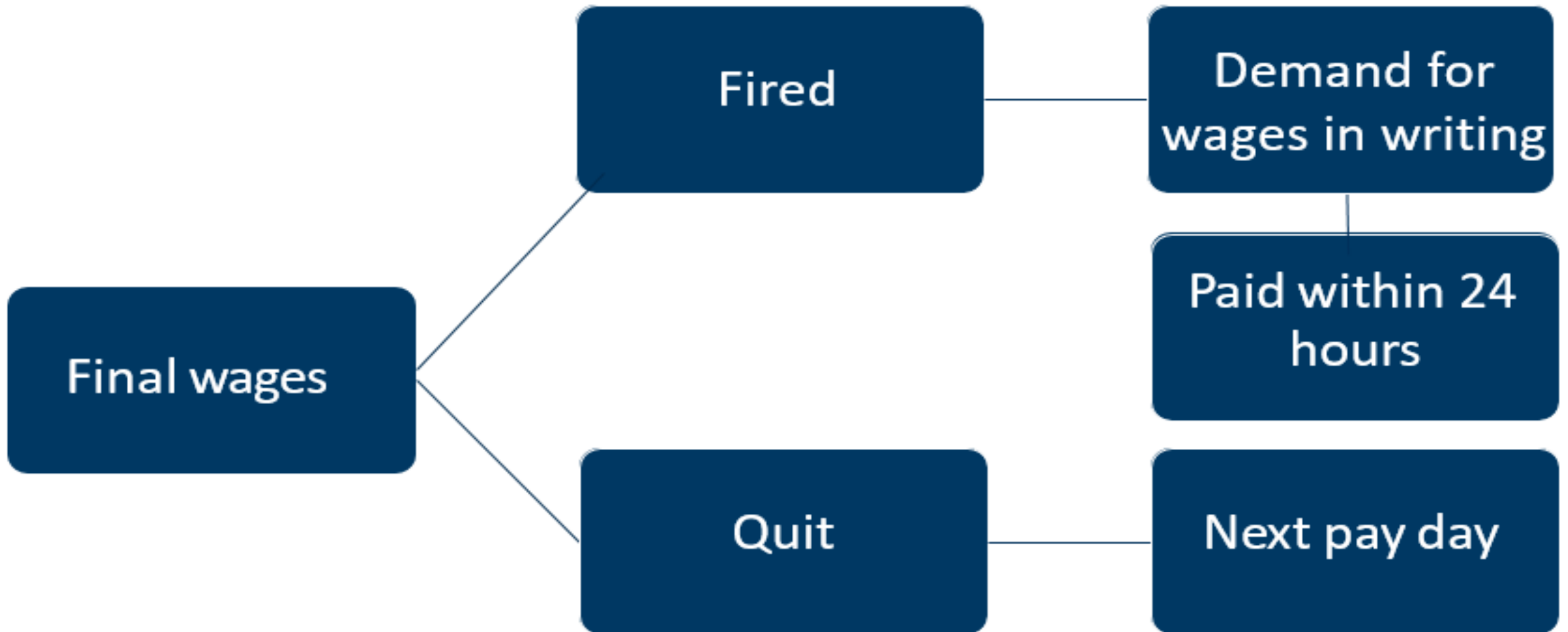


## Answer four

Since the agency sent this worker to meet this family in connection with the performance of duties regarding employment, this is compensable time and should be paid.



# Final wages



# Question five: What do you think?

I fired an employee and then they gave me a letter asking to get paid. Do I need to pay them within 24 hours of getting their letter? I haven't been reimbursed by DHS for the employee's time yet.

Earnings Information		Current	Year to Date
Normal Gross		4,389.30	
Deductions		0.00	
Adjustments		0.00	
Overtime		0.00	
<b>EARNINGS TOTAL</b>		<b>4,389.30</b>	<b>5,277.30</b>
Non-Taxable Gross		351.14	418.18
Taxable Gross		3,971.12	4,859.12

Statutory & Other Deductions	Current	Year to Date
Federal Withholding	311.17	311.17
Additional Federal Withholding	0.00	*****
State Withholding	135.96	135.96
Additional State Withholding	0.00	*****
SDI	0.00	55.06
Medicare	0.00	75.55
Medicare Buyout	0.00	0.00
State Disability Insurance	0.00	0.00
RS	351.14	351.14
RS	0.00	0.00
Corporate Retirement	0.00	0.00
	67.04	0.00

## Answer five

Yes. If the employee was fired, an employer is in default if they don't pay wages within 24 hours after receiving a written demand.

# Question six: What do you think?

I usually wait until I get paid by DHS and then I do my payroll with that money. Sometimes there is a delay in issuing paychecks of about 60 days. Is that an issue?



## Answer six

Yes, employers must pay workers all wages earned at least once every 31 days, even if they have not received reimbursement. So this employer is breaking the law.

## A DLI investigator gets a call from an employee

- Employee: I quit and gave my boss a letter asking that I be paid all the money they owe me. They didn't pay me; can I file a complaint?
- Investigator: (Explanation of the wage claim process.)

# DLI responses to calls

- Assist individual employees and employers in wage disputes
- Inform and educate employers and workers about labor laws
- Investigate noncompliance of labor laws
- Refer callers to appropriate resources

# Question seven: What do you think?

Should I give a 30-minute lunch break to my employees?





# Answer seven

Employers must provide breaks.

- Every four hours worked: Adequate time to use the nearest restroom.
- Every eight hours worked: Sufficient time to eat a meal.
- Any rest periods of less than 20 minutes should be paid.

# Collective bargaining agreements

- State labor laws set minimum labor requirements.
- Collective bargaining agreements can result in workers being guaranteed a higher rate of pay than minimum wage and other benefits.

# Question eight: What do you think?

Have any of you heard of an employee notice?

## Employee notice

1. Employee:	Address:
Phone number:	Email address:
Date employment began:	
2. Legal name of employer:	Main office/principal place of business address:
Phone number:	Email address:
Operating name of employer (if different):	
Mailing address (if different):	
3. Employment status (exempt or non-exempt):	
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177	
Legal basis for exemption:	
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)	
4. Rate or rates of pay	
Paid by: Hour <input type="checkbox"/> Shift <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Salary <input type="checkbox"/> Piece <input type="checkbox"/> Commission <input type="checkbox"/> Other method <input type="checkbox"/>	

## Answer eight

Employers are required to provide employee notices to their workers when they are hired. Some items the notice should include are:

- how much the worker will be paid
- how frequently the worker will be paid
- the date first paycheck will be received
- a list of deductions that may be made from the employee's pay

- Employers are required to keep a copy of the notice signed by each employee.
- Employers are also required to provide employees notice of any changes to the information in the notice in writing before the date the changes take effect.

# Question nine: What do you think?

I decided to increase my employees' pay by 50 cents per hour. What do I need to provide to let them know about this change?



## Answer nine

A change notice should be given to the employee.

When?

Before the change takes place.

How?

In writing; but change notices do not need to be signed according to state law.

# Question ten: What do you think?

I own two PCA agencies. The same employee works 30 hours for me through one company I own and 30 hours for me through the other company, so I don't have to pay overtime. Is that OK?





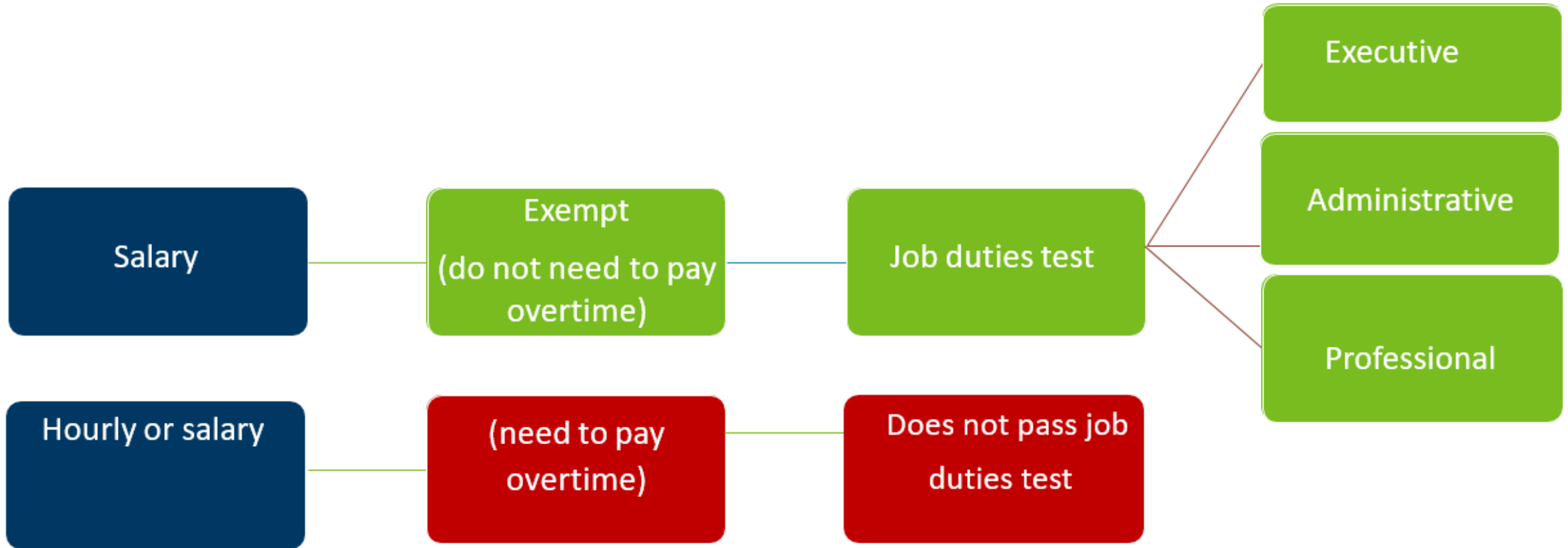
## Answer ten

No, you cannot spread the hours worked across two agencies that you own in order to avoid paying overtime.

# Question 11: What do you think?

I switched my employee from being a non-exempt, hourly employee to being an exempt, salaried employee because he is working so many hours. I can't afford to pay him overtime. Is that OK?

# Answer 11



# Exemption tests

For more information about federal exemption tests, visit [U.S. Department of Labor Fact Sheet #17A](#).

For more information about state exemption tests, visit [Minnesota Fair Labor Standards Act Worker Exemptions](#).

\* Consult with an attorney if you need help applying these tests. If an employer incorrectly classifies an employee as exempt, the penalty may include unpaid overtime for that employee and other similarly classified employees for at least the past two years.

# Question 12: What do you think?

I have an employee who recently had a baby and she is asking me for time to express milk. I am OK with that, but she'll need to make up the time, right?



## Answer 12

Effective Jan. 1, 2022, an employer cannot reduce an employee's compensation for taking time to express milk so the worker would not have to make up the time.

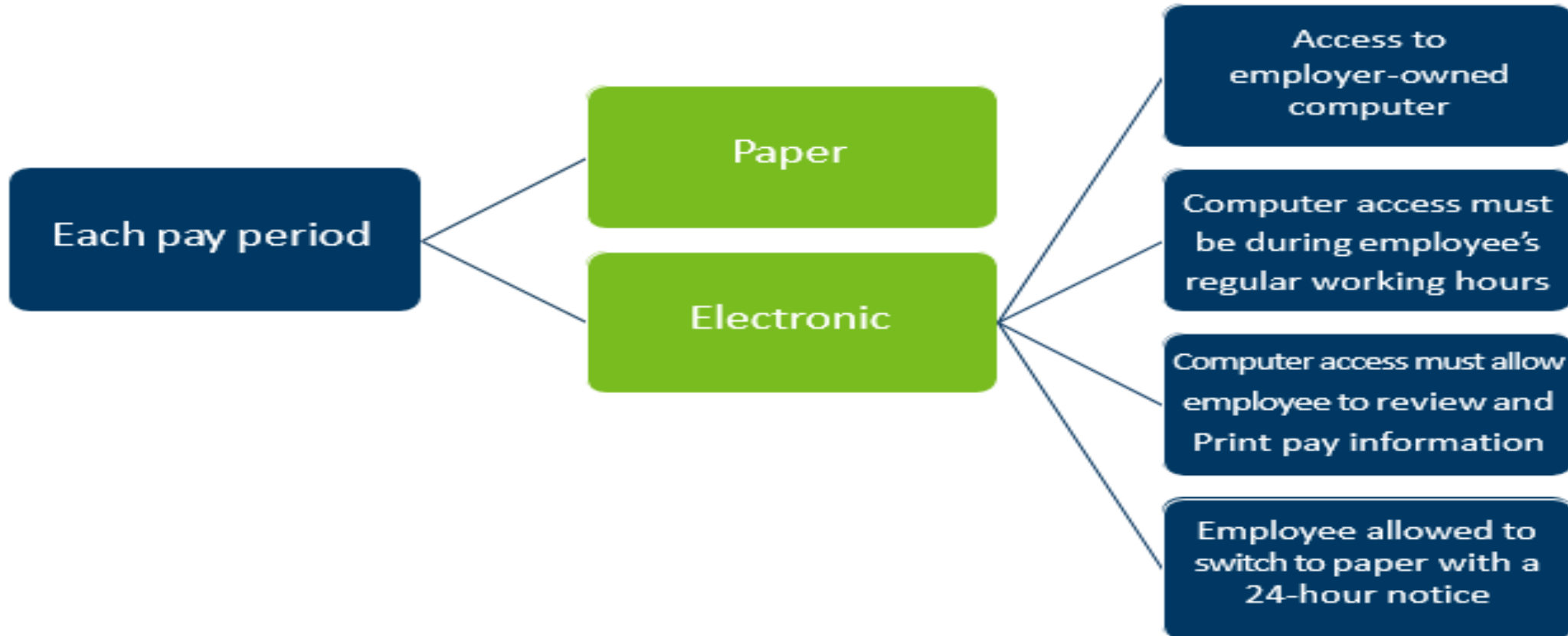
# Recordkeeping

View a fact sheet about [Minnesota's labor standards recordkeeping laws](#).

Watch a video about [Recordkeeping requirements in Minnesota](#).



# Earning statements





# Earnings statement example

Company Code    Loc/Dept    Number  
 [REDACTED]    01/    [REDACTED]

## Earnings Statement



Period Starting: 01/03/2021  
 Period Ending: 01/16/2021  
 Pay Date: 01/25/2021

Business Phone:

Taxable Filing Status: Single  
 Exemptions/Allowances:  
 Federal: Std W/H Table    Tax Override:  
 State: 0    Federal:  
 Local: 0    State:  
 Social Security Number: XXX-XX-XXXX    Local:

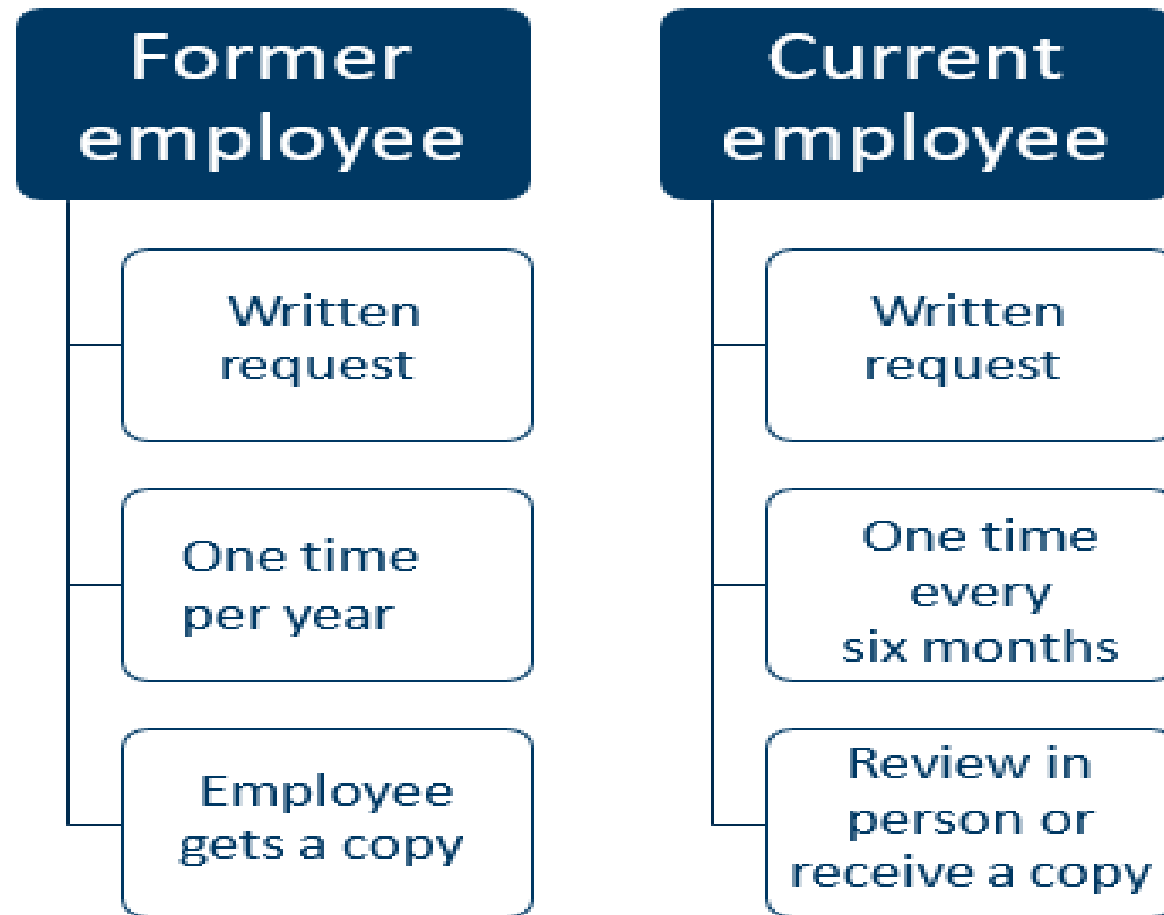
[REDACTED] MN 55429

rate	hours/units	this period	year to date
13.2500	63.00	834.75	1563.50
<b>Gross Pay</b>		<b>\$834.75</b>	<b>\$1,563.50</b>

Other Benefits and Information	this period	year to date
Total Hours Worked	63.00	118.00

Statutory Deductions	this period	year to date
Federal Income	-35.21	59.82
Social Security	-51.76	96.94
Medicare	-12.10	22.67
Minnesota State Income	-36.79	67.91
<b>Net Pay</b>	<b>\$698.89</b>	

# Access to personnel records



# Question 13: What do you think?

My employer sent me a text that said, “We will not be accepting paper time sheets anymore, so use the app when you clock in and out. Make sure to have your client sign every time you work, or you will not get paid for those hours.” Is that true that I won’t get paid if I forget to have the client sign?

## Answer 13

No, Electronic Visit Verification (EVV) is a new system to document PCA reimbursable time so that employers can be reimbursed by DHS. Under labor law, employers are required to pay employees for all hours worked, it is the employer's responsibility to keep accurate records of hours worked.

# Referrals and resources

Find more information refer to [PCA and Community First Services and Supports \(CFSS\) workers and employers](#).

Watch a video on [Labor standards related to home health care workers and personal care attendants](#) for those in this industry.



# Stay connected with DLI

Sign up for our monthly newsletter, at [The Wage and Hour Bulletin](#) webpage.

Contact the Labor Standards division at 651-284-5075 or  
[DLI.laborstandards@state.mn.us](mailto:DLI.laborstandards@state.mn.us)

Visit the DLI website at [www.dli.mn.gov](http://www.dli.mn.gov).

# Thank you!

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