LIGHTHOUSE HR SUPPORT
535 Grand Avenue, Grand Junction, CO 81501
PO Box 1449, Grand Junction, CO 81502
970-243-7789 ⧫ www.lighthousehrs.net

Compliance Connection

July 2026

Federal Compliance Update

Travel Updates to Pay Attention To

DOL Addresses Compensability of Midday Travel Between an Employee's Home and Work

On July 22, 2026, the U.S. Department of Labor (DOL) issued Opinion Letter FLSA2026-9, addressing whether an employer must consider an employee's midday travel time between their home and work office as compensable under the Fair Labor Standards Act (FLSA) where the employee performs work at both locations and the midday travel is offered as a voluntary alternative to unpaid commuter travel that would otherwise occur before or after the employee's workday.

Background

Work time is compensable whenever an employee is suffered or permitted to work, even if the work was not formally requested, approved or scheduled, so long as the employer knows or has reason to believe that the work is being done. Compensable time may occasionally include the employee's travel time for non-exempt employees. Time spent by non-exempt employees in travel as part of their principal activity must be counted as hours worked. However, an employee who travels from home before the regular workday and returns home at the end of the same workday is engaged in ordinary home-to-work travel or commuting, which is not compensable work time.

Key Highlights

The employees at issue were non-exempt administrative support staff, bookkeeping clerks and other similar corporate office-based employees. These employees did not regularly travel as part of their job duties, aside from general commuting between their homes and the employer's offices. The employer allowed many of its employees to telework; however, employees were not permitted to work in more than one location (e.g., home and office) on the same day to avoid having to travel between home and the office in the middle of the workday.

The employer requested guidance from the DOL regarding the following scenarios:

- A non-exempt employee requests to shift their commute later and earlier to avoid rush hour while working the same total hours by working from home in the morning before driving to the office and then working again after returning home from the office;
- A non-exempt employee volunteers to work additional hours for a special project, but only if they can perform the additional work from home before their regular shift at the office, rather than coming into the office early or staying late; and
- A non-exempt employee who commutes by city bus requests permission to bring work home to complete the work upon arriving home in order to catch the last bus home.

For these scenarios, the employees are fully relieved of work-related tasks during their midday travel, the travel time is 20 minutes or longer, and the employer has appropriate timekeeping policies and practices to capture and record all worktime regardless of the work location.

While the reasoning differed slightly in each scenario, the DOL confirmed that the midday home-to-work (or work-to-home) travel in all three scenarios qualifies as normal or ordinary commuter travel and, therefore, does not qualify as hours worked under the FLSA. According to the department, an employee's midday travel qualifies as ordinary commuter travel if the travel primarily benefits the employee. The DOL also noted that while excludable commuter travel typically takes place before or after an employee's regular workday, otherwise-ordinary travel between home and work does not become compensable worktime simply because it occurs during the workday (i.e., at some point in between an employee's first and last "principal activities"). Rather, when a non-exempt employee engages in ordinary commuting, the commute is not compensable work time under the FLSA. The DOL emphasized that some travel may be compensable, such as worksite-to-worksite travel during the workday, work performed while commuting, emergency call travel after the workday or special one-day assignment travel to another city.

Employer Takeaway
Opinion letters provide the DOL's official position on how labor and employment standards apply in specific situations. Employers that rely on opinion letters may be able to establish a "good-faith defense" under the law. Employers should review the scenarios discussed in the opinion letter and determine whether the guidance affects their employment or payroll practices. This opinion letter confirms that midday home-to-work travel, or vice versa, is normal commuter travel if the travel is primarily for the employee's benefit.

DOL Addresses Compensability of Certain Commute Time Activities

On July 22, 2026, the U.S. Department of Labor (DOL) issued Opinion Letter FLSA2026-10, addressing whether time spent by a non-exempt employee receiving pages, calling clients and other workers to schedule appointments, and driving from home to the first client appointment is work time under the Fair Labor Standards Act (FLSA) that employers must track and pay.

Background
Work time is compensable whenever an employee is suffered or permitted to work, even if the work was not formally requested, approved or scheduled, so long as the employer knows or has reason to believe that the work is being done. Compensable time may occasionally include the non-exempt employee's travel time. Time spent by non-exempt employees in travel as part of their principal activity must be counted as hours worked. However, under the Employee Commuting Flexibility Act (ECFA), the use of an employer-provided vehicle for travel before or after the workday, and activities incidental to that use for commuting, are not considered principal activities under the FLSA.

Key Highlights
The non-exempt employee at issue was a field service engineer responsible for installing and servicing magnetic resonance imaging systems. The employee performed these services at client locations (hospitals or imaging sites) instead of reporting to an office. Every day, the employee drove from home to their first client appointment, from jobsite to jobsite and then home after their last appointment.

The employee's paid shift began at 8 a.m. and ended at 5 p.m. The employee received client service requests remotely from their employer via the employer's internal messaging system between 7 a.m. and 8 a.m. On average, the employee received three to five pages each morning, and it took about 15 seconds to accept a page. The employee generally called each client within 15 minutes of accepting each page to schedule an appointment. The employee would also schedule other field service engineers if the employee was unable to cover the service request or needed assistance with it. The employer provided the employee with a vehicle and paid for its fuel, parking, and maintenance.

The employee requested guidance from the DOL for the following scenarios:

- The non-exempt employee receives all pages and contacts all clients to schedule appointments between 7 a.m. and 8 a.m. before leaving home to drive to the first client location; and
- The non-exempt employee leaves home before the 8 a.m. start of their shift and receives pages and makes some or all of the calls while driving to the first appointment.

Receiving Pages and Making Calls
The DOL confirmed that the time the non-exempt employee spent receiving pages, whether performed at home or during the commute, before performing any other work-related activities, was incidental to the use of an employer-provided vehicle for commuting under the ECFA and therefore likely not compensable. However, the DOL advised that the time the non-exempt employee spent calling clients to schedule appointments (or other engineers to cover service requests) was integral and indispensable to the employee's principal job of installing and servicing equipment and therefore compensable regardless of whether the employee conducted the calls at home or in the employer-provided vehicle.

Drive Time
The DOL concluded that the non-exempt employee's drive time was compensable when the employee completed pre-shift work before leaving home to drive to the first appointment because it occurred during the workday and was not an ordinary commute. The department reasoned that the non-exempt employee's travel was not an ordinary commute because the time and manner of the travel were based primarily on the employer's needs rather than the employee's choice. In addition, the employer required the non-exempt employee to engage in substantial work both immediately before the travel, when the employee spent most of an hour engaged in phone calls, and immediately after the travel, when the employee worked at the day's first worksite.

Whether the non-exempt employee's drive time was compensable when the employee left home before their shift started and did some or all pre-shift work while driving depended on when the employee started making work calls. The drive time before the employee made the first work call was ordinary home-to-work travel and, therefore, not compensable. However, once the employee started calling clients, their workday had begun, and the rest of the travel time from the first client call to the first appointment was compensable because calling clients was the employee's first principal activity of the day and the employee was required to perform that activity throughout the travel. The DOL did not consider whether, or at what point, a less extensive amount of time spent on calls while traveling to the non-exempt employee's first worksite might affect whether the entire travel time after the first call would constitute hours worked.

Employer Takeaway
Opinion letters provide the DOL's official position on how labor and employment standards apply in specific situations. Employers that rely on opinion letters may be able to establish a "good-faith defense" under the law. Employers should review the scenarios discussed in the opinion letter and determine whether the guidance affects their employment or payroll practices. This opinion letter confirms that work that is incidental to an employee's use of an employer-provided vehicle is likely not compensable hours worked. The letter also clarifies that drive time that would otherwise be ordinary commute time can become compensable when the employee is required to perform, immediately before or during the drive, activities integral and indispensable to their principal job duties.

IRS Updates Standard Mileage Rate Mid-Year
The IRS has announced a mid-year increase to the standard mileage reimbursement rate for business travel, raising the rate from **72.5 cents to 76 cents per mile** effective **July 1, 2026**. Unlike the annual mileage rate adjustments typically announced at the beginning of the year, this change was made in response to rising fuel prices and increased vehicle operating costs.

The standard mileage rate is intended to help offset the costs associated with using a personal vehicle for business purposes, including fuel, maintenance, insurance, depreciation, and other operating expenses.

Employees who are reimbursed using the IRS standard mileage rate should use:

- **72.5 cents per mile** for eligible business travel completed **January 1 through June 30, 2026**
- **76 cents per mile** for eligible business travel completed **on or after July 1, 2026**

This adjustment helps ensure mileage reimbursements more accurately reflect current driving costs. As always, employees should continue to maintain accurate mileage records and submit reimbursement requests in accordance with company policy.

Important Take Aways
While many employers choose to reimburse employees using the IRS standard mileage rate, federal law generally does not require employers to provide mileage reimbursement. Some states have their own reimbursement requirements, so employees should be familiar with the laws applicable in their state.

It's also important to know that most W-2 employees **cannot** claim a federal tax deduction for unreimbursed business mileage. Although the IRS publishes a standard mileage rate each year, and occasionally adjusts it mid-year in response to changing economic conditions, that rate primarily serves as a reimbursement guideline for employers and as a deduction method for self-employed individuals and other taxpayers who qualify under IRS rules.

State Compliance Update

Regulations in Review… If you need assistance with implementing these or other laws, please contact us!

In our recent conversations with employers, we often found that many businesses are surprised to learn they are not fully aware of the requirements under the Healthy Families and Workplaces Act (HFWA) and the Equal Pay for Equal Work Act (EPEWA), both Colorado specific employment laws. These laws impact nearly every employer in the state, and understanding your responsibilities is essential to maintaining compliance.

In this issue, we're taking a closer look at both laws, outlining the key employer obligations and offering practical guidance to help you avoid common compliance pitfalls. **If there are others you wish to have covered in future editions, please shoot me an email!**

Equal Pay Law: What Every Employer Should Know

Transparency Is More Than Posting a Salary Range

The Equal Pay for Equal Work Act (EPEWA) prohibits pay discrimination based on gender (and gender combined with another protected status) and requires employers to be transparent about compensation and job opportunities. Employers with even one Colorado employee should ensure hiring and promotion practices comply with the law.

Job Posting Requirements

Job postings must include (for both internal and external advertising):

- Salary or hourly pay range
- A general description of benefits, bonuses, commissions, or other compensation
- Instructions for applying

Internal Opportunities

Employers must make reasonable efforts to notify all employees of job opportunities on the same calendar day and before making a selection decision and prior to advertising for the position externally. The law is intended to promote transparency and provide employees with fair access to advancement opportunities within the organization.

Exceptions to the Job Opportunity Notice Requirement

Confidential Replacement

Employers are not required to post a position when confidentially seeking a replacement for an employee who is expected to separate from employment but has not yet been notified of the employer's intent to replace the position.

Career Development

A job posting is not required when an employer updates an employee's title, compensation, duties, or status to recognize work the employee is already performing. Because there is no vacant position or competitive selection process, this type of change is considered career development, not a job opportunity.

Example: An HR Generalist has assumed management responsibilities over the past year. The employer changes the employee's title to HR Manager and adjusts the salary to reflect those existing duties.

Career Progression

A job posting is not required when an employee advances through a pre-established career ladder based on objective criteria, such as years of service, certifications, or performance standards. This type of advancement is considered career progression rather than a job opportunity.

Employers must still communicate the career progression requirements and provide employees with information about the position, including compensation, benefits, job duties, and future advancement opportunities.

Example: A Maintenance Technician I automatically advances to Maintenance Technician II after completing one year of service and earning a required certification.

Did You Know?

Employers generally have 30 calendar days after the selected candidate starts work to notify the employees who will regularly work with that individual about who was selected and how employees can express interest in future opportunities. It's a requirement many employers don't realize exists.

Recordkeeping Matters
Colorado also requires employers to **maintain job descriptions** and wage records for employees. Good documentation such as personnel action forms helps demonstrate that compensation decisions are based on legitimate business factors rather than protected characteristics.

Practical Compliance Tips
Employers should:

- Audit all job postings before publication.
- Review compensation practices for employees performing substantially similar work.
- Ensure HR and hiring managers understand Colorado's posting requirements.
- Maintain current job descriptions and compensation documentation **for every position**.
- Establish a consistent process for announcing job opportunities.

Why It Matters
Violations of EPEWA can result in civil penalties, investigations, and potential liability for wage discrimination claims. Beyond legal compliance, transparent pay practices can strengthen recruiting efforts, improve employee trust, and support equitable workplace practices.

Are Your Paid Sick Leave Policies Compliant?

What Employers Need to Know
The Healthy Families and Workplaces Act (HFWA) requires virtually all Colorado employers, regardless of size, to provide paid sick leave to employees regardless of their employment status (exempt, non-exempt, full-time, part-time, seasonal, temporary, on-call, etc.). Employers should periodically review their policies including employee handbooks and onboarding packets to ensure they remain compliant with current regulations and recent rule changes. **This law has had several revisions.**

Key Requirements
Employees accrue one hour of paid sick leave for every 30 hours worked, up to 48 hours per year unless an employer chooses to provide a more generous benefit. Employers may also frontload the full annual leave amount instead of using an accrual system.

Employees may use accrued HFWA leave for much more than illness or doctor's appointments. Qualifying reasons include but may not be limited to:

- Their own mental or physical illness, injury, or preventive medical care.
- Caring for a family member with a physical or mental health condition.
- Mental health needs.
- Domestic abuse, sexual assault, or criminal harassment ("safe leave").
- When a public health emergency closes the employee's workplace or a child's school or place of care.
- Grieving the death of a family member, attending a funeral or memorial service, or addressing financial or legal matters following the death of a family member.
- Evacuating their residence due to severe weather, loss of utilities, or another unexpected event.
- Caring for a family member whose school or place of care closes because of severe weather, power outages, water loss, or another unexpected event.

Did You Know?

Under HFWA, employers may not require an employee using paid sick leave to search for or find a replacement worker as a condition of taking leave.

Documentation and Recordkeeping

Employers generally may not require medical documentation for absences lasting fewer than four **consecutive** workdays. In addition, employers must maintain accurate records of leave accrued, used, and available. Current regulations also require employers to provide leave balance information upon employee request, subject to regulatory limits.

Public Health Emergency Leave (not just COVID leave)

When a qualifying public health emergency is declared, employers may be required to provide supplemental paid leave under HFWA. Employers should monitor announcements from the Colorado Department of Labor and Employment (CDLE) whenever public health emergencies are declared.

Best Practices

Employers should:

- Review employee handbooks and paid leave policies annually.
- Verify payroll systems accurately calculate leave accruals.
- Train supervisors on employees' rights to use paid sick leave.
- Ensure managers understand the law's anti-retaliation protections.
- Maintain required leave records and provide balances when requested.

Why It Matters

Violations of the Healthy Families and Workplaces Act (HFWA) can result in investigations by the Colorado Department of Labor and Employment (CDLE), administrative penalties, back pay awards, and other legal remedies. Employers may also face employee complaints or lawsuits for failing to provide paid sick leave, interfering with employees' rights under the law, or retaliating against employees for using protected leave. Maintaining compliant policies, training supervisors, and consistently administering paid sick leave can help employers reduce risk while supporting a healthy and productive workplace.

Compliance Calendar

August

8/1 – VETS – 4212 Filing Open (federal contractors)

September

9/30 – Summary Annual Report (SAR) Deadline for Calendar Year Plans

October

10/3 – QSEHRA Notice Deadline (Calendar Year Plans)
10/15 – Medicare Part D Creditable/Non-creditable Coverage Notice