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# Fair Labor Standards Act Live-In Exemption Form

The United States Department of Labor (US DOL), Fair Labor Standards Act (FLSA), requires household employers to pay employees overtime pay for hours worked over 40 per workweek unless the employee qualifies for an exemption. Use this form to notify PCG Public Partnerships if the employee qualifies for the live-in exemption from overtime pay. You may also use this form to revoke the exemption when the employee no longer qualifies for the exemption.

Participant/Employer Name:	Participant/Employer ID:
PCA/Employee Name:	PCA/Employee ID:

### STEP 1: DETERMINE IF THE EMPLOYEE QUALIFIES FOR THE LIVE-IN EXEMPTION FROM OVERTIME PAY

The live-in exemption is:

- Available only in programs where the participant or their representative is the sole employer under the FLSA;
- Applies only to the employer/employee pair based on the “*Residency Test*” (below); and
- Applies to all services provided by the employee for that employer.

#### Residency Test

A live-in employee is exempt from overtime premium pay if the employee “...*resides on the employer's premises either permanently or for extended periods of time*”. “*Employer's premises*” means the household where employed. “*Permanently*”, or “...*extended periods of time*” means the employee lives, works, and sleeps in the household where employed for at least five (5) days a week (120 hours) or more.

### STEP 2: CERTIFY THE EMPLOYEE’S ELIGIBILITY FOR THE LIVE-IN EXEMPTION FROM OVERTIME PAY

Please check one box below to identify whether or not the employee qualifies for the live-in exemption.

- YES**, the employee qualifies for the live-in exemption.
- NO**, the employee does not qualify for the live-in exemption.

#### **If the employee qualifies for the live-in exemption:**

- All hours, including overtime (over 40 hours per workweek), will be paid at regular rates for all services once Public Partnerships receives this form and enters the information in our payroll system.

### STEP 3: SIGN AND AUTHORIZE

_____	_____	_____	_____
<b>Participant/Employer</b>	<b>Date</b>	<b>Attendant/Employee</b>	<b>Date</b>

By signing, we understand that it is our responsibility to inform PCG Public Partnerships when the employee no longer lives with the employer. Both parties must sign to claim the exemption. Only the employer must sign to revoke the exemption.

**IMPORTANT:** Live-In providers of Medicaid waiver services may be eligible for the IRS Difficulty of Care (DOC) federal income tax exclusion. The DOC income exclusion may also qualify employees for a refund of state income taxes. Employees do not need to request a corrected W-2 to request a tax refund. To learn more, visit: <http://www.irs.gov/Individuals/Certain-Medicaid-Waiver-Payments-May-Be-Excludable-From-Income>

**SUBMIT COMPLETED FORM:** Fax to: 1.844.627.6834 or Scan and E-mail to: [njppp@pcgus.com](mailto:njppp@pcgus.com)