

## The U.S. Department of Labor Releases Final Rule on “Regular Rate” of Pay Calculations

By Ashley Dillingham, J.D.  
Compliance & HR Manager

The U.S. Department of Labor (DOL) recently issued a [final ruling](#) regarding “regular rate” of pay calculations that will be effective starting January 15, 2020. Rate of pay calculations are used in determining whether or not an employee will be exempt from collecting over-time pay.

This final ruling updates the “regular rate” of pay regulations that are found in the [Fair Labor Standards Act \(FLSA\)](#). The purpose of this rule is to clarify which types of benefits may be excluded from an employee’s “regular rate” of pay. Ultimately, the clarification will allow employers to offer additional benefits to employees without having to worry about whether or not the benefits will be impacting employees’ rate of pay and potentially causing over-time pay issues.

### The following benefits must be included in an employee’s “regular rate” of pay:

- Bonuses (except for certain sign-on and longevity bonuses & discretionary bonuses);
- On-call pay and/or commissions; and
- Shift differentials.

### Some examples of benefits that may be excluded from an employee’s “regular rate” of pay are:

- Health insurance;
- Holiday bonuses;
- Parking benefits;
- Gym memberships and fitness classes;
- Wellness programs; and
- Unused paid leave (including paid time off or paid sick leave).

(Access the final ruling [HERE](#) for a [complete list](#) of benefits that may be excluded from an employee’s “regular rate” of pay.)

If you have any questions or concerns, please contact me at: [adillingham@benefitreview.com](mailto:adillingham@benefitreview.com)

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#### Benefit Review Services, Inc.

43370 Mound Road  
Sterling Heights, MI 48314  
586.997.1700  
www.brsibenefits.com

816 9th Street SW  
Vero Beach, FL 32962  
772.257.5439



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