



STATE OF DELAWARE
Call-Back Pay
Guidelines and Recommended Procedure
Issued and Effective May 13, 2007

Merit Rule 4.16, Call-Back Pay states:

FLSA-covered employees who have left the work site at the end of their scheduled shift and are called back for overtime service shall be paid for such service in accordance with the provisions for overtime pay, provided that minimum total payment is equivalent to four times their regular straight time hourly rate. Employees shall be paid according to this call-back provision or the overtime provision, whichever is greater, not both.

Social workers providing direct child or adult protective services and the State Emergency Response Team approved by the Director, Office of Management and Budget shall be eligible for call-back pay.

Guidelines for Merit Rule 4.16

Whether an employee is being paid in accordance with the call-back provision OR the overtime provision, premium pays (i.e., stand-by pay, shift differential and hazardous duty pay) must be included in the overtime rate.

- If after being called back, the employee works 2.5 hours or less, the employee is compensated for 4 hours at their regular straight time rate including premium pays (shift differential, hazardous duty, and/or stand-by) for which the employee is eligible.
- If after being called back, the employee works 2.75 hours or more, the employee is compensated for actual hours worked at the overtime rate including premium pays (shift differential, hazardous duty, and/or stand-by) for which the employee is eligible.

An employee qualifies for call-back pay once the employee has left the work site and has been notified to return to work (at whichever worksite is designated by his/her supervisor or manager). Call-back pay is paid to the employee from the time the employee arrives at the designated worksite and begins work until the time the employee has completed all call-back requests and has left the worksite.

To qualify as a call-back the employee must have left the worksite and not be currently on a call-back at another location.

EXAMPLE:

Called-back 5:00 p.m. to 5:30 p.m. to Building A	4.0 hours
While at Building A receive a 2 nd call at 5:15 from Building B upon completion of work at Building A reports to Building B until 6:00 p.m.	

If an employee is “called-back” multiple times during the same 4 hour period, each qualified call-back is to be considered independently.

If an employee is “called-back” multiple times during the same 24 hour period, each qualified call-back is to be considered independently. If the sum total of paid hours inclusive of scheduled work shift, overtime equaling 1.5 hours for every hour paid and/or straight time call-back pay, exceeds 24 hours on any given day written approval must be obtained from the Director, Office of Management and Budget or designee prior to payment.

EXAMPLE requiring approval of the Director, Office of Management and Budget:

	Employee scheduled 8 a.m. to 4:30 p.m.	7.5 hours
	Called-back 5:00 p.m. to 6:00 p.m.	4.0 hours
	Called-back 6:15 p.m. to 7:15p.m.	4.0 hours
	Called-back 7:30 p.m. to 10:30 p.m.	4.5 hours
	Called-back 10:45 p.m. to 11:45 p.m.	4.0 hours
	Called-back 12:00 a.m. to 1:00 a.m.	4.0 hours
	Total call-back hours plus worked hours =	28.0 hours

Supervisors shall not unnecessarily create call-back situations by purposely waiting until after the employee has “clocked out” or left the worksite to tell the employee that his/her services are needed when they had previous knowledge of the need for the employee’s services. Supervisors shall be held accountable for their conduct if caught creating unnecessary call-back situations. Disciplinary measures up to and including dismissal shall be taken for just cause.

When an employee who is not at work is contacted for assistance, and can provide the assistance by phone, the employee may be compensated in accordance with the overtime provisions, not the call-back provisions. De minimis time, considered less than seven minutes, is not compensable. It is appropriate to apply the rounding standards in Merit Rules 5.2.2 and 5.3.2 to determine how to apply de minimis time as the state's pay and leave system is handled in quarter hour segments. If the time spent resolving the issue over the phone is between seven and fifteen minutes, the employee is compensated for one quarter hour (15 minutes) of overtime work. If the time spent resolving the issue is less than seven minutes, the time is not compensable.

In all cases, the agency must maintain a record of the time the supervisor made the call, the time the employee reported to work, the reason for the call-back, and the time the employee completed the work and departed as supporting documents for pay and must be able to produce the documents upon request.

If the State Emergency Response Team (SERT) is activated when team members are already working their regular work schedule, they do not receive call-back pay since they were already at the worksite. However, if the SERT is activated after an employee has left the worksite, and the employee is required to report back to work, then the employee is eligible for call-back pay regardless of their FLSA status.

If social workers providing direct child or adult protective services are called back to work after having left the work site, then these employees are eligible for call-back pay regardless of their FLSA status.

In a call-back situation, if the called-back employee is required to report to a site further from the employee's home than his/her regular worksite, the travel time in excess of the employee's normal commute time to the employee's regular worksite is included in the calculation for hours worked.

(Time & Labor procedures are being reviewed, once standardized input into the PHRST system will be addressed in this guideline.)