



**2026 ANNUAL CONFERENCE & EXPO**  
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**California Payroll Compliance Masterclass**

*Wage & Hour Compliance for Home Health & Hospice*

Lauren Winschuh, Viventium Health

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**Agenda**

- General Payroll Compliance in CA
  - Blended Rate Overtime
  - Daily & Weekly Overtime
  - Retro Pay
  - Sick Leave
- AB 1513 Piece Rate Compliance
  - Safe Harbor vs. Estimation Methods
  - Rest Pay

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**Understanding California's Payroll Compliance Landscape**



**NEWS RELEASE**  
 Release Number: 2025-02 Date: March 4, 2025

**California Labor Commissioner's Office Launches Reaching Every Californian Public Awareness Campaign to Prevent Wage Theft**

**Complex California Payroll Rules**  
 California adds complex payroll mandates beyond federal law affecting time tracking and wage calculations.

**Overtime and Premium Pay**  
 Daily overtime and seventh consecutive day premium pay require precise time tracking and wage classification.

**Accurate Wage Statements**  
 California mandates clear wage statement disclosures including pay rates, hours worked, and adjustments.

**Risks of Non-Compliance**  
 Non-compliance risks include wage claims, audits, penalties, and class-action lawsuits under PAGA.

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### Why CA payroll compliance is uniquely high-risk

- More than “just overtime”: CA adds rules on daily OT, 7th day, paystub disclosures, and leave tracking
- Agencies face complexity from variable schedules, multiple worksites/programs, and mixed pay structures
- The biggest exposure comes from: incomplete time capture, improper rate calculations, vague recordkeeping, and paystub gaps



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### Home care categories matter: OT rules vary by worker type California daily overtime

Type of Work	x1.5	x2	Applicable Law
Personal Attendant that is Live-in or Non-Live-in (PA) Home Care	<ul style="list-style-type: none"> <li>• After 9 hours a day</li> <li>• After 40 hours a week (FLSA)</li> </ul>	N/A	<ul style="list-style-type: none"> <li>• Domestic Worker Bill of Rights (DWBRR)</li> <li>• FLSA</li> </ul>
Non-Personal Attendant that is Non-Live-in (NPA-Out) Home Health	<ul style="list-style-type: none"> <li>• After 8 hours a day</li> <li>• After 40 hours a week (FLSA)</li> <li>• First 8 hours of the 7th day</li> </ul>	<ul style="list-style-type: none"> <li>• After 12 hours a day</li> <li>• After 8 hours on the 7th day</li> </ul>	<ul style="list-style-type: none"> <li>• Wage Order No. 15</li> <li>• FLSA</li> </ul>
Non-Personal Attendant that is Live-in (NPA-in)	<ul style="list-style-type: none"> <li>• After 9 hours a day</li> <li>• First 9 hours of the 6th day</li> <li>• First 9 hours of the 7th day</li> <li>• After 40 hours a week (FLSA)</li> </ul>	<ul style="list-style-type: none"> <li>• After 9 hours on the 6th day</li> <li>• After 9 hours on the 7th day</li> </ul>	<ul style="list-style-type: none"> <li>• Wage Order No. 15</li> <li>• FLSA</li> </ul>

**Notes:**  
 • CA requires 7<sup>th</sup> day pay by workweek, like FLSA, which is also tracked by workweek.  
 • The DWBRR states that weekly OT be over **40 hours** per week, which contradicts FLSA. We calculate it based on 40 hours to maintain both federal and state compliance.



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### Blended rate overtime: the #1 multi-rate payroll trap

- Happens when an employee earns multiple rates in the same workweek (shift differentials, role changes, location rates, per-visit + hourly)
- Rule of thumb: compute a blended/weighted regular rate
  - Total straight-time earnings ÷ total hours worked
  - Overtime paid at 1.5× that blended rate
- As we will discuss, blended overtime STILL APPLIES even if you pay per visit!



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**AB 1513 (Labor Code 226.2): the piece-rate compliance rulebook**

- Pay separately for rest and recovery periods and other nonproductive time
- Use compliant calculation methods (not “bundled into visit pay”)
- Provide pay stubs that break out hours, rates, and wages by category
- Why it matters: noncompliance can drive wage claims and high-stakes exposure (noted in session overview)



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**Rest pay: how it must be calculated and shown**

- Rest & recovery periods must be paid separately from piece-rate earnings
- Rest pay rate must be no less than the higher of:
  - the employee’s average hourly rate for the workweek (per the statute’s method), or
  - the applicable minimum wage
- “Other nonproductive time” must be paid at at least applicable minimum wage
- Paystub must separately state: hours, rate, and gross wages for rest periods (and for other nonproductive time unless using certain approaches)



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**Safe harbor vs estimation: two operational paths**

Safe Harbor (operationally simpler):

- Track total hours worked (clock in/out or timesheet) and pay at least minimum wage for all on-duty time
- Still must ensure rest periods are paid appropriately and shown separately

Estimation (allowed, but riskier):

- “Other nonproductive time” may be determined by actual records or reasonable estimates
- Employer must be able to defend that the method is reasonable and consistently applied (risk framing already in deck notes)



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### What a compliant AB1513 paystub needs to show

A compliant wage statement should clearly show:

- Rest & recovery: total hours, rate, gross wages
- Other nonproductive time: total hours, rate, gross wages (unless handled under special provisions)
- Piece-rate earnings still appear — but cannot “hide” rest/nonproductive time inside visit pay

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### Piece Rate – CA Per Visit Pay (AB1513)

**PAY TYPES**

Pay per visit, hourly, salary, or a combination – even on the same paystub! “Pay type” will dictate how that line item is calculated.

**VISITS VS. HOURS**

Track visits and hours as separate variables. PVP rates have true hours associated for OT, ACA eligibility, and accruals.

**PAY RATES**

Store unlimited rates in the system, which can be unique per clinician, and date-effective and rule-based when applicable.

**REST BREAKS & SICK LEAVE**

Auto-calculate and pay rest breaks and sick leave at the proper blended rate – including PVP in the calculation.

**NON-PRODUCTIVE TIME**

Track and pay “other non-productive time” (documentation, travel, etc.) determined either by auto-calcs or employee-tracked time.

**BLENDED RATE**

Also known as FLSA OT – our system properly blends multiple pay rates – applicable even for PVP types.

**RETRO PAY**

Automatically determine if prior week(s) trigger overtime due to late visit entries or late documentation.

**CUSTOM PAYSUBS**

Allow employees to see pertinent information upfront, easily audit for unpaid visits/hours, and reduce questions to payroll/HR.

**EMR IMPORTS**

Import detailed per-visit/hourly data from, WellSky/Kinnsler, HCHB, MatrixCare, and other EMR systems.

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### Pay Per Visit vs. Hourly

**Pay Per Visit**

**Pros:**

- Clinicians are more in control of what they earn, which can lead to greater productivity.
- Most Medicaid reimbursements are on a per visit basis, making this more straightforward to ensure adequate profit margins.

**Cons:**

- More difficult to keep track of compliantly, particularly if you do the Safe Harbor Method.

**Pay Per Hour**

**Pros:**

- Fewer rules to follow and more straightforward come a compliance standpoint.
- Labor Law attorneys do not like per visit pay.

**Cons:**

- Many agencies find clinician productivity declines when switching to an hourly pay model.

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### AB1513 FAQs

#### [Piece-Rate Compensation - Labor Code §226.2 \(AB 1513\)](#)

Supports Below, click link for more detail

Subdivision (a)(5), however, provides that "[t]he amount of other nonproductive time may be determined either through actual records or the employer's reasonable estimates, whether for a group of employees or for a particular employee, of other nonproductive time worked during the pay period." (Labor Code §226.2(a)(5)) This allows employers the option of determining the amount of other nonproductive time worked based on a reasonable estimate, rather than actual tracking of time.

Q. Does Labor Code section 226.2 mean that employers will need to track the number of minutes that employees actually take for their rest and recovery periods?

A. No. Section 226.2, subdivision (a)(2) requires that an employer's itemized wage statement state "[t]he total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period." (Goes deeper in link.)



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### Best practices to stay audit-ready

- Capture time reliably: visits + hours + nonproductive time approach (safe harbor or estimation)
- Automate multi-rate math: blended OT + retro recalcs reduce error risk
- Design paystubs for transparency: fewer disputes, faster payroll resolution



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### Q&A + Key takeaways

- Know your worker type/category → drives OT rules
- Multi-rate weeks → blended rate OT
- Late data → retro pay + correct disclosures
- AB1513 → separate pay + clear paystub breakout



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**Thank You!**  
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