



There are some FLSA provisions which are specific to EMTs and paramedics, and especially those who work for public-sector (government) employers.

Most "rank and file" EMTs and paramedics are nonexempt, and entitled to overtime pay for overtime hours worked under the FLSA. Whether an EMS employee is exempt or nonexempt depends on the "salary basis tests" and "duties tests" rules. (see, "Coverage under the FLSA.")

Some government employers compensate their EMS employees under the special "§7(k)" work period rules which apply to employees in fire protection and law enforcement. Employees who work under 7(k) systems are not entitled to FLSA overtime until they meet an overtime "threshold" larger than the normal 40 hour work week. This is sometimes permissible for EMS employees, and sometimes not.

7(k) systems are permitted only for government employees. They are not permitted in private sector employment.

For government employees, the 7(k) pay rules can apply to "employees engaged in fire protection activities" and "employees engaged in law enforcement activities." It is (at least theoretically) possible that EMS employees may qualify under either standard, but usually government EMS employees are classified under the 7(k) rules as employees in fire protection.

Employees in fire protection activities is defined in the FLSA (§203[y]) as follows:

'Employee in fire protection activities' means an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who

is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State,

and is engaged in the prevention, control, and extinguishment of fires or response to emergency medical situations where life, property, or the environment is at risk.

Thus, to qualify for § 7(k) pay as a fire protection employee, an EMS employee must (a) work for a (government) fire department, (b) be trained in fire suppression, (c) have the legal authority to fight fires, (d) have the responsibility to fight fires, (e) and either actually engage in fire suppression work or non-fire emergency responses.

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Sometimes "real" firefighters also do EMS work, as well as fighting fires as needed. These employees are typically eligible for 7(k) pay systems. However, sometimes EMS employees work at a fire department but are not "real" firefighters (e.g., are not trained in fire suppression) and do only medical work. These employees are typically not eligible for 7(k) pay systems and must be paid based on 40 hour work weeks.

There are some "grey(er)" areas under this statute. For example, the statute does not specify what "trained in fire suppression" means. Nor does the statute specify what is meant by "responsibility to engage in fire suppression." Nor is the statute entirely clear about whether and when ¶ 7(k) could apply to employees who do not work for fire departments. At least theoretically, such employees could still be 7(k) eligible if they are "engaged in law enforcement activities."

See, also, Firefighters