

Wage & Hour

Health Services Contractor Allegedly Short-Changes Drivers

BNA Snapshot

- Drivers who serve Medicaid recipients under private firm's contract allege they are paid much less than minimum wage
- Lawsuit seeks class relief under federal and District of Columbia wage and hour laws
- Company says subcontractors are responsible for pay decisions



By [Kevin McGowan](#)

Drivers for a health services contractor in Washington say the company is paying them as little as \$3.61 an hour, far less than required under federal and local laws, according to a lawsuit filed in federal court ([Harris v. Med. Transp. Mgmt., Inc.](#) , D.D.C., No. 17-1371, complaint filed 7/13/17).

Medical Transportation Management Inc., a private company that provides non-emergency medical transportation for Medicaid participants, systematically violates the Fair Labor Standards Act, the District of Columbia's minimum wage law, and a D.C. living wage law, the lawsuit alleges.

Three drivers who filed the complaint July 13 in the U.S. District Court for the District of Columbia will ask the court to certify an FLSA collective action and a class action on their local law claims.

MTM uses subcontractors to fulfill its \$85 million contract with the District government to provide transportation for Medicaid participants who need rides to and from their doctors' offices.

But the company "controls much of what the drivers can and cannot do" and must be considered their employer under the FLSA and District laws, said Joseph Sellers, a partner with Cohen Milstein Sellers & Toll PLLC in Washington, which represents the drivers.

This isn't a case in which an employer is "just shaving off" a few dollars a week from required pay, Sellers told Bloomberg BNA July 13. Some drivers are "being paid less than half" the minimum wage, he said.

The "cruel irony" is that drivers who help low-income District residents access health care "are themselves left in dire circumstances" because they are paid "for only a fraction of the time they work," Sellers said.

Subcontractors Make the Call, Company Says

Meanwhile, an MTM executive said it doesn't decide how much its subcontractors pay their drivers.

"We don't hire or pay the drivers" that fulfill the company's contracts with local governments, said Michelle Lucas, chief marketing officer for MTM in Lake St. Louis, Mo.

The MTM subcontractors are "responsible" for any decisions about how to compensate their drivers, Lucas told Bloomberg BNA July 13.

The company can't comment further because it hasn't yet seen a copy of the lawsuit, Lucas said.

Class Could Include Thousands

Drivers who work for subcontractors fulfilling MTM's District contract receive flat rates ranging from \$325 to \$475 per week, according to the complaint. They sometimes must work 60 to 70 hours a week with no overtime pay for time in excess of 40 hours, they allege.

The drivers earn much less than the D.C. minimum wage, currently \$12.50 an hour, or the local "living wage," which is required under MTM's contract with the District government, the complaint says. The living wage currently is \$13.95 an hour.

The plaintiffs lack a precise estimate of how many drivers might be covered if the court certifies class treatment of their claims.

MTM uses 40 to 50 subcontractors to provide its services in the District and they probably average five or six drivers apiece, said Patrick Llewellyn, a lawyer with Public Citizen Litigation Group, which also represents the drivers.

It's a "high turnover" position, so perhaps thousands of drivers could end up being part of a class defined as anyone who drove for the subcontractors over the past three years, Llewellyn told Bloomberg BNA July 13.

No attorney has yet entered an appearance for MTM.

To contact the reporter on this story: Kevin McGowan in Washington at kmcgowan@bna.com

To contact the editors responsible for this story: Peggy Aulino at maulino@bna.com; Terence Hyland at thyland@bna.com; Chris Opfer at copfer@bna.com

For More Information

Text of the complaint is available at http://www.bloomberglaw.com/public/document/Harris_et_al_v_MEDICAL_TRANSPORTATION_MANAGEMENT_INC_Docket_No_11?doc_id=X1Q6NSNN2TO2&imagename=1-1.pdf.