

Employment

Know Your Rights to Fair Pay

A Guide for
Workers in Maryland

Equal Access to Justice: Legal Aid

Equal Justice
for Maryland
Since 1911



MARYLAND
LEGAL AID

Who Prepared this Booklet?

This booklet was prepared by the Maryland Legal Aid Bureau, a non-profit organization. We are dedicated to providing high quality legal advocacy to protect and advance human rights for individuals, families and communities.

We want you to know your rights!

This guide contains general information about your rights at work, but it is not meant to be legal advice. We make every effort to keep this information up to date, however, the law sometimes changes. If you want information about your specific situation or you have a pending legal action, you should contact Legal Aid.

This booklet answers questions such as:

- 4 What are my rights as an employee?
- 8 Am I an employee or an independent contractor?
- 10 What is the minimum wage?
- 11 What is overtime?
- 12 How do I calculate my hours worked?
- 14 What deductions are allowed to be taken from my pay?
- 15 What should I do if my employer doesn't pay me?
- 15 What can I do to make sure I get paid for my work?
- 16 Why is it important to keep written records of my work?
- 22 How do I contact Maryland Legal Aid?



What are my basic rights?

As an employee you have the right:

- To be paid for the work that you've done. Your employer cannot deny you your wages because you don't have a work permit or a Social Security number.
- To be paid the amount of wages you were promised.
- To be paid no less than the minimum wage.
- In many cases, to be paid overtime of 1½ times your regular hourly wage for each hour you work over 40 in a week (for each hour over 60 if you work in agriculture).
- To be paid on time, on your regular pay day.
- To not be discriminated against because of your race, sex, age, national origin, physical handicap, or religion.
- To work in safe conditions.

Basic rights, cont.

- To organize a union to improve your wages or work conditions.*
- To talk to your co-workers about wages or about work conditions that you dislike.*
- To complain in groups of two or more to your employer about pay or work conditions.*

*These last 3 rights probably do not apply if you are working in agriculture.

All workers have the right to be paid for the work they perform, whether or not they have work authorization!



Other rights...

Workers' Compensation

In Maryland the law requires most employers to provide workers' compensation insurance at no cost to the workers. If you are injured at work and the injury is covered by this insurance, it will pay for your medical bills. Depending on how long you are injured, the insurance may also pay a portion of the wages you lose due to the injury.

If you suffer an injury at work you must notify your employer immediately but no later than 10 days after the injury. You may also need to file a claim with the Workers' Compensation Commission no more than 60 days after the injury.

If workers' compensation insurance is not provided, your employer may still be responsible for your medical bills and lost wages.

You have the right to see a doctor of your choice. To protect your rights, you should see a doctor and consult a lawyer who handles workplace accidents. You may contact Legal Aid for referrals to attorneys who may be able to assist you.

Retaliation

Retaliation is when an employer or another person takes revenge against an employee because the employee tries to assert his or her rights.

Generally, it is illegal for an employer or crewleader to take any action against you in retaliation for asserting your rights by, for example, threatening to call immigration or giving you fewer hours of work.

**Don't be afraid to
assert your rights!**



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Am I an employee?

You are probably an employee even if your employer calls you or treats you as an “independent contractor.” It is important that your employer treat you as an employee because you have many more rights as an employee.

- If you are truly an independent contractor, you DO NOT have the right to the minimum wage, overtime, workers’ compensation, unemployment compensation, and most workplace protections. Independent contractors have to pay more taxes too.
- Your employer is treating you like an independent contractor if you get a 1099 instead of a W-2, or if you are paid in cash and your employer is not withholding taxes.
- However, just because your employer says you are an independent contractor does not make it true. Even if you have signed an agreement stating that you are an independent contractor, you are still probably an employee.

Example:

Joe works in construction and he regularly gets work from Sam Perez. Sam provides the materials and most of the tools for Joe and tells him where to show up and when to stop working. Sam decides how much Joe will get paid, pays Joe in cash, and doesn’t withhold taxes. Sam says Joe is an independent contractor, but Joe **is an employee** of Sam.

Don’t let your employer take away your rights and increase what you pay in taxes by calling you an independent contractor!

If you have doubts about whether you should be getting the rights and benefits due to an employee, contact Legal Aid for information.



Minimum Wage

The minimum wage is \$7.25 per hour.

Even if you work by contract or are paid by the piece, by law you may not be paid less than \$7.25 per hour for the hours you work.

Tipped Employees

- If you are a tipped employee, like a waiter, your employer can pay you \$3.63 per hour.
- However, if your tips combined with your hourly wages do not add up to at least the minimum wage (\$7.25 per hour), your employer must pay you the difference so that you earn at least \$7.25 per hour.
- Your employer cannot take any of your tips, even if you sign an agreement saying he or she can.
- Your employer must keep accurate records of the tips that you make.

Overtime

You have the right to be paid one and a half times your normal hourly wage for each hour that you work over 40 hours in a work week.

Example:

If you work 50 hours in a work week and you normally receive \$10 per hour, you should calculate your overtime and total pay like this:

$$40 \text{ hours regular time} \times \$10/\text{hour} = \$400$$

$$10 \text{ hours of overtime} \times \$15/\text{hour} = \$150$$

[overtime hourly rate = \$10 x 1.5, or \$15]

$$\text{TOTAL} = \$550$$

Some workers are NOT entitled to overtime.

Some workers, like agricultural field workers, only have the right to overtime pay after working 60 hours in a work week. Other types of workers, like some managers, do not have the right to overtime at all.



Calculating Your Hours

(For minimum wage and overtime)

You should be paid for all of the hours that you are doing something for the benefit of your employer.

Travel Time

If your employer requires you to travel after arriving at work, you should be paid for the time that you spend traveling.

Example:

Ana cleans homes for “Super Clean,” a cleaning service company. Ana is required to report to the “Super Clean” office at 7 AM to receive her assignments for the day. She then starts cleaning her first house at 8 AM and finishes at 10 AM. At 10 AM she has to drive to her second house and arrives and starts cleaning at 10:30 AM. Ana is entitled to payment from the time she reported to the office at 7 AM, including the time she spent traveling to the first house and from the first house to the second.

Waiting Time

If your boss requires you to stay at the worksite, you have the right to be paid for the time that you spend there, even if you aren’t working.

Example:

Richard is a painter for “J & J Painting.” His employer asks Richard to arrive at the worksite at 9 AM, but his employer doesn’t arrive with the brushes and paint until 9:45. Richard **is** entitled to payment for the 45 minutes that he spent waiting.

Your employer generally **does not** have to pay you for:

- Time spent traveling to and from your home to work.
- Time spent on your lunch break, if the break is at least 30 minutes and you don’t have to work during that time.



Deductions

Your employer cannot withhold part of your wages (make deductions) unless the employer:

- Is ordered to do so by a court (for child support, for example);
- Is authorized to do so by law (for Social Security or other taxes, for example); or
- Has your written authorization to do so for a lawful purpose.

What should I do if my employer does not pay me what I'm owed?

- **Make a complaint to:**
Maryland Department of Labor, Licensing and Regulation ("DLLR") at 410-767-2357;
or
U.S. Department of Labor at 1-866-4US-WAGE.
- **File a lawsuit in state or federal court.**
- **Contact Maryland Legal Aid to get information and assistance.**

You have the right to demand that your employer respect your rights. It is illegal for your employer to retaliate against you for asserting your rights.



Do your part to make sure that you get paid correctly

Keep your own record of the dates and hours that you work.

Keep all of your pay stubs. If your employer pays you in cash, make a note of the date and the amount of each payment.

Always **write down**:

- The complete name of your employer, including the company name, and your supervisor.
- The phone number and address of your employer.
- The names and phone numbers of your co-workers.
- The address where you worked.
- If you are a day laborer or work in construction, write down the employer's license plate number.

If you think you haven't been paid correctly, try talking to your employer to clarify why he or she hasn't paid you. If you can't reach an agreement or the employer still doesn't pay you, **take action**.

Make a record of the hours you work

The following pages in this booklet are for you to use to record the dates and hours you work and the pay you receive.

Why is it important to write down this information?

This may be the only way you will remember and can prove how much work you've done!

It is **very important** to have this basic information available to protect yourself in case your employer does not pay you or otherwise abuses your employment rights.



Maryland Legal Aid services are free for low income individuals.

Call Legal Aid toll-free:

Annapolis area (Anne Arundel Co.) 1-800-666-8330

Baltimore City 1-866-635-2948

Baltimore County 1-877-878-5920

Lower Eastern Shore (Dorchester, Somerset, Wicomico, Worcester Cos.) 1-800-444-4099

Maryland suburbs of DC (Montgomery, Prince George's, Howard Cos.) 1-888-215-5316

Midwestern Maryland (Carroll, Frederick, Washington Cos.) 1-888-679-8813

Northeastern Maryland (Cecil, Harford Cos.) 1-800-444-9529

Southern Maryland (Calvert, Charles, St. Mary's Cos.) 1-877-310-1810

Upper Eastern Shore (Caroline, Kent, Queen Anne's, Talbot Cos.) 1-800-477-2543

Western Maryland (Allegany, Garrett Cos.) 1-866-389-5243

Agricultural workers in MD or DE 1-800-444-4099

TTY Users:

Call Maryland Relay Dial 7-1-1

Visit www.peoples-law.org

for self-help legal information and community resources.