

Do employers need to pay for worker commutes?

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David Barron was quoted in *HR Dive* discussing how the Office of Personnel Management issued guidance regarding whether the Fair Labor Standards requires that federal workers be compensated for their commute to work. Determining if someone is eligible for compensation for their commute would depend on whether the employee is categorized as a remote or teleworker and when the commute happens. “The default under federal law has long been and remains today that ‘commute time’ is not compensable under the FLSA,” said David. “The rules set forth in the memorandum are largely applicable in the private sector as well. The most important principle in deciding whether time spent traveling is ‘commute time’ is whether the work day has already started. This is where things get gray if an employee is working from home or in a hybrid arrangement. But, what if the employee opens up a laptop and spends an hour responding to early morning emails before driving to work? Under federal law, the drive to work may now be compensable time because the travel occurs in the middle of the workday,” he said.

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