



### Fair Labor Standards Act Live-In Exemption Form

<b>Participant Name:</b>	<b>Participant ID:</b>
<b>Direct Care Worker Name:</b>	<b>Direct Care Worker ID:</b>

**Fair Labor Standards Act Live-In Exemption**

The United States Department of Labor (US DOL) and Fair Labor Standards Act (FLSA) requires household employers to pay employees overtime pay for hours worked over 40 hours per work week unless the employee qualifies for an exemption. Complete this form to notify F/EA if employee qualifies for the live-in exemption from overtime pay. You may also use this form to revoke the exemption when the employee no longer qualifies for the exemption. **When there is any change in live-in status, it is the employee’s responsibility to notify the F/EA.**

**1. Determine if Direct Care Worker (DCW) Qualifies for the Live-In Exemption from Overtime Pay**

The live-in exemption:

- Available only in programs where the Participant or their representative is the sole employer under the FLSA;
- Applies only to the employer/DCW pair based on the “Residency Test” (below); and
- Applies to all services provided by the DCW for that Participant.

Residency Test

A live-in DCW is exempt from overtime premium pay if the DCW “...resides on the employer's premises either permanently or for extended periods of time”. “Employer’s premises” means the household where employed. “Permanently”, or “...extended periods of time” means the DCW lives, works, and sleeps in the household where employed for at least five (5) days a week (120 hours) or more.

**2. Certify the DCW’s Eligibility for the Live-In Exemption from Overtime Pay**

**Please check one box below to identify whether the DCW qualifies for the live-in exemption.**

- Yes, the DCW qualifies for the live-in exemption.
- No, the DCW does NOT qualify for the live-in exemption.

If the DCW qualifies for the live-in exemption:

- All hours, including overtime (over 40 hours per work week), will be paid at regular rates for all services provided

**Direct Care Worker Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Common Law Employer Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_