



How the New Overtime Rule Will Help Women & Families

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About this Report

This report, a collaboration between the Institute for Women’s Policy Research (IWPR) and MomsRising, is an analysis of the U.S. Department of Labor’s proposed change to the overtime threshold and how this change will affect working women. The report focuses on the 5.9 million workers who would be “newly covered” by the proposed increase and explores the differences in the impacts of the higher earnings threshold by sex, and among women by race/ethnicity, household type, and occupation.

About the Sponsoring Organizations

Institute for Women’s Policy Research

The Institute for Women’s Policy Research (IWPR) conducts rigorous research and disseminates its findings to address the needs of women, promote public dialogue, and strengthen families, communities, and societies. The Institute’s research strives to give voice to the needs of women from diverse ethnic and racial backgrounds across the income spectrum and to ensure that their perspectives enter the public debate on ending discrimination and inequality, improving opportunity, and increasing economic security for women and families. The Institute works with policymakers, scholars, and public interest groups to design, execute, and disseminate research and to build a diverse network of individuals and organizations that conduct and use women-oriented policy research. IWPR’s work is supported by foundation grants, government grants and contracts, donations from individuals, and contributions from organizations and corporations. IWPR is a 501(c)(3) tax-exempt organization that also works in affiliation with the women’s studies and public policy and public administration programs at The George Washington University.

MomsRising

MomsRising.org is an online and on-the-ground grassroots organization of more than a million people who are working to achieve economic security for all families in the United States. MomsRising is working for paid family leave, flexible work options, affordable childcare, and for an end to the wage and hiring discrimination which penalizes so many others. MomsRising also advocates for better childhood nutrition, health care for all, toxic-free environments, and breastfeeding rights so that all children can have a healthy start. Established in 2006, MomsRising and its members are organizing and speaking out to improve public policy and to change the national dialogue on issues that are critically important to America’s families. In 2013, Forbes.com named MomsRising’s web site as one of the Top 100 Websites For Women for the fourth year in a row and Working Mother magazine included MomsRising on its “Best of the Net” list. MomsRising also maintains a Spanish language website: MamásConPoder.org.

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Table of Contents

Introduction | 1

Impact of New Overtime Threshold on Women Workers | 2

More Women Gain Coverage than Men | 2

Men May Gain More Income than Women | 3

Single Mothers Will Particularly Benefit from New Overtime
Threshold | 4

Black and Hispanic Women Likely To Experience Largest Gains
in Overtime Pay | 8

Women in Service and Office and Administrative Support
Occupations Gain Most from Increased Coverage | 10

Exemptions Based on the Duties Test Harm Some Women | 12

Indexing Will Keep the Earnings Threshold Stable | 13

A Higher Overtime Threshold Could Have Positive Impacts on the
Economy | 13

Conclusion | 15

Appendix: Methodology | 17

Appendix Tables | 19

References | 21



Introduction

Working overtime and not getting paid is an unfortunate reality for too many working families in the United States. In 2015, millions of employees work overtime without receiving any pay—putting families in a bind and potentially holding the economy back.

For salaried workers to be automatically eligible for overtime pay when they work more than 40 hours per week, workers must earn a salary that is below a certain threshold. In 2015, this threshold is \$455 per week, or \$23,660 per year. But while salaries generally rise over the years to keep up with the rising cost of living, the overtime threshold has not been adjusted in real terms since 1975, failing to keep up with inflation or the cost of living. According to the Economic Policy Institute (EPI), in 1975 more than 60 percent of salaried workers were guaranteed overtime pay when they worked extra hours; in 2014, only 8 percent of salaried workers were guaranteed overtime pay (Eisenbrey 2015a). Today, many workers do not receive overtime pay because they earn more than \$455 a week, or \$23,660 a year. The current threshold level is below the poverty line for a family of four (EPI 2015); in 1975, the threshold was more than four-times the poverty line for a family of four (U.S. Census Bureau 2014). This is a clear indication that the current overtime rules are out of date and do not offer the protection to working families that were originally intended.

Last year, President Obama directed the Department of Labor (DOL) to update and simplify the guidelines for overtime pay (Hanauer 2014). Then in July 2015, the DOL released its new rule on how they plan to strengthen overtime protections. This rule proposes to raise the salary threshold to \$50,440 annually (equivalent to \$970 per week) by 2016. The proposed threshold is equivalent to the 40th percentile of earnings for full time salaried workers, meaning that 40 percent of full-time salaried workers would be covered by this new rule. The threshold will be indexed, allowing it to keep up with the rate of inflation (U.S. Department of Labor, Wage and Hour Division 2015).

Raising the overtime threshold, in addition to benefiting families, is likely to strengthen the economy overall. A higher overtime threshold could lead employers to hire more employees or increase the hours of part-time workers. And to the extent that more workers receive overtime pay, these increased earnings could lead to increased consumer spending and stronger economic growth (EPI 2015).

This report analyzes data from the 2014 Current Population Survey (CPS) Outgoing Rotation Groups to project the number of workers who will gain coverage under the new threshold, and estimates the increased earnings for women workers (CEPR 2015). Differences in the impacts of the proposed higher earnings threshold for workers by sex, and among women by race/ethnicity, household type, and occupation, are presented. Using the DOL proposed threshold of \$50,440, this report finds that increasing the threshold would benefit 5.9 million workers, including 3.2 million women. Of these newly covered women, single mothers, Black and Hispanic women, and women working in service occupations would benefit the most from the new threshold.

Female heads-of-households struggle to care for their families while not getting paid for overtime hours.

“I work sometimes seven days a week as an assistant manager from 8am to 7pm. Most of the time I don’t even take a lunch (sometimes because we’re busy and sometimes because I just can’t afford it). I’m paid an hourly salary. I work over 40 hours a week and they will not pay overtime. My husband is ill and cannot work anymore, and I am raising two special needs children. I can hardly make ends meet but I’m not in a position to do anything else. I am grateful for my job, but if we all could be paid for the overtime it would also make us feel better about ourselves and better about our jobs.”

Brenda, working mother from Houston, TX

Impact of New Overtime Threshold on Women Workers

IWPR’s analysis finds that as of 2014, 21.5 million workers were exempt from automatic eligibility for overtime pay and could potentially benefit from an increase in the threshold.¹ The group of people who will gain coverage from the increased threshold are salaried workers earning between \$23,660 and \$50,440 annually (equivalent to \$455 and \$970 per week), the old and new thresholds. This report focuses on the 5.9 million workers who fall in this category and refers to this group as the “newly covered.” As shown in Figure 1 below, more than half (3.2 million) of these newly covered workers are women and 2.7

million are men. Of the men and women currently exempt from automatic eligibility, 36 percent of women will be newly covered, compared with 21 percent of men.

More than half, 3.2 million of these newly covered workers, are women, and 2.7 million are men.

This report analyzes both the newly covered and those who will remain exempt because their earnings exceed the new threshold. Among the newly covered workers will be those who routinely work more than 40 hours a week and those who currently never or only occasionally work overtime. This report looks at both of these groups of workers who will be newly covered. Currently, 8.1 million workers are exempt from coverage and regularly work more than 40 hours per week. Of these, 1.4 million will gain coverage with DOL’s proposed threshold increase. As can be seen from Figure 1 and Appendix Table 1, 23 percent of currently exempt women who work overtime will be newly covered, compared with 14 percent of men (17 percent of women and men together).²

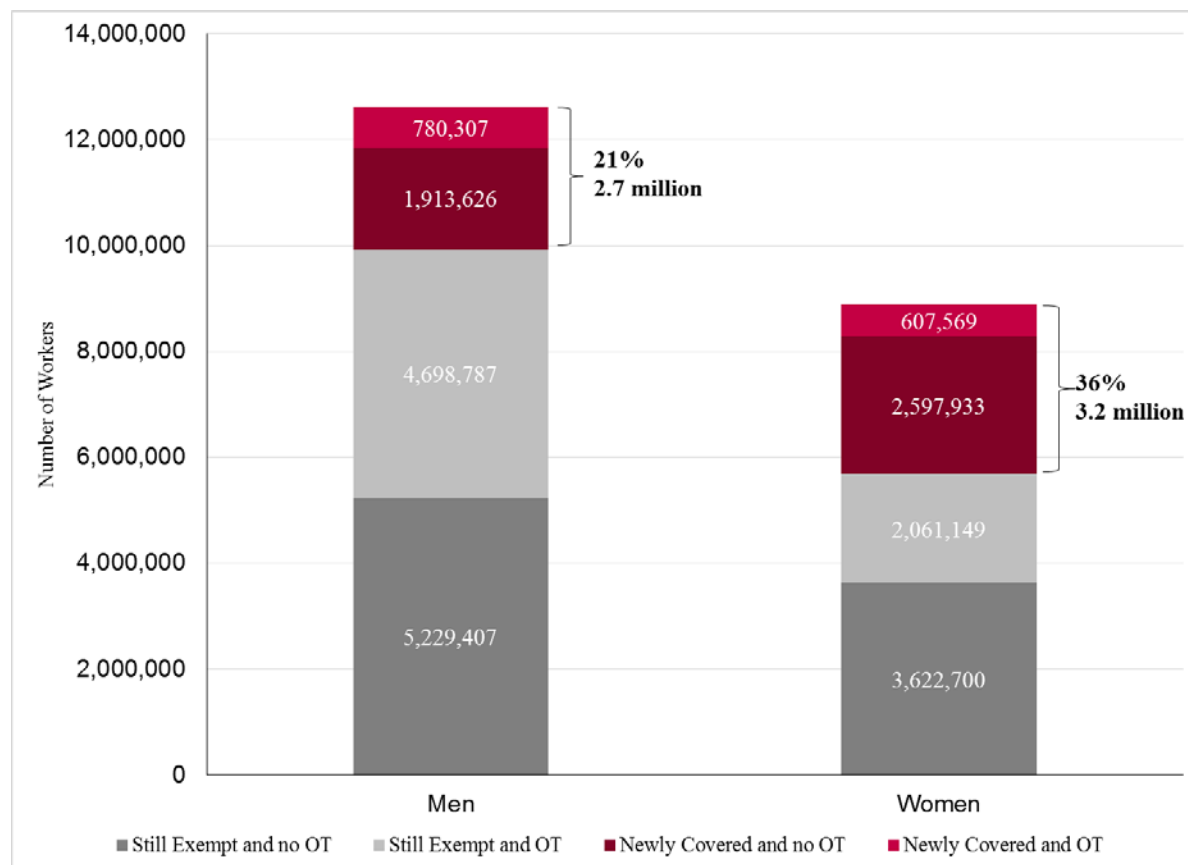
More Women Gain Coverage than Men

The effect of the overtime threshold increase will be felt most by women. As discussed above (see Figure 1), 3.2 million women would be newly covered, as compared with 2.7 million men, in large part because of women’s concentration in lower wage occupations (Hegewisch and Hartmann 2014). The new \$970 weekly threshold will cover 36 percent of formerly exempt female workers, while only 21 percent of formerly exempt male workers will become covered.

¹ These are workers who worked full-time on a salary basis, were 18 years of age or older, and were not excluded by law (teachers, lawyers, clergy, and a few others). The numbers working in mixed occupations including exempt and non-exempt workers were adjusted according to the duties test using coefficients provided by the U.S. Department of Labor (see Appendix).

² All percentages referring to the share of currently exempt overtime who are newly covered are calculated as the share of newly covered workers who currently work more than 40 hours per week out of the total number of workers, exempt and newly covered, who currently work more than 40 hours per week.

Figure 1. Numbers and Share of Newly Covered Workers and Newly Covered Overtime Workers at \$50,440 Threshold among Currently Exempt Workers by Sex, 2014



Note: For definition of currently exempt workers, see the Appendix.

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015).

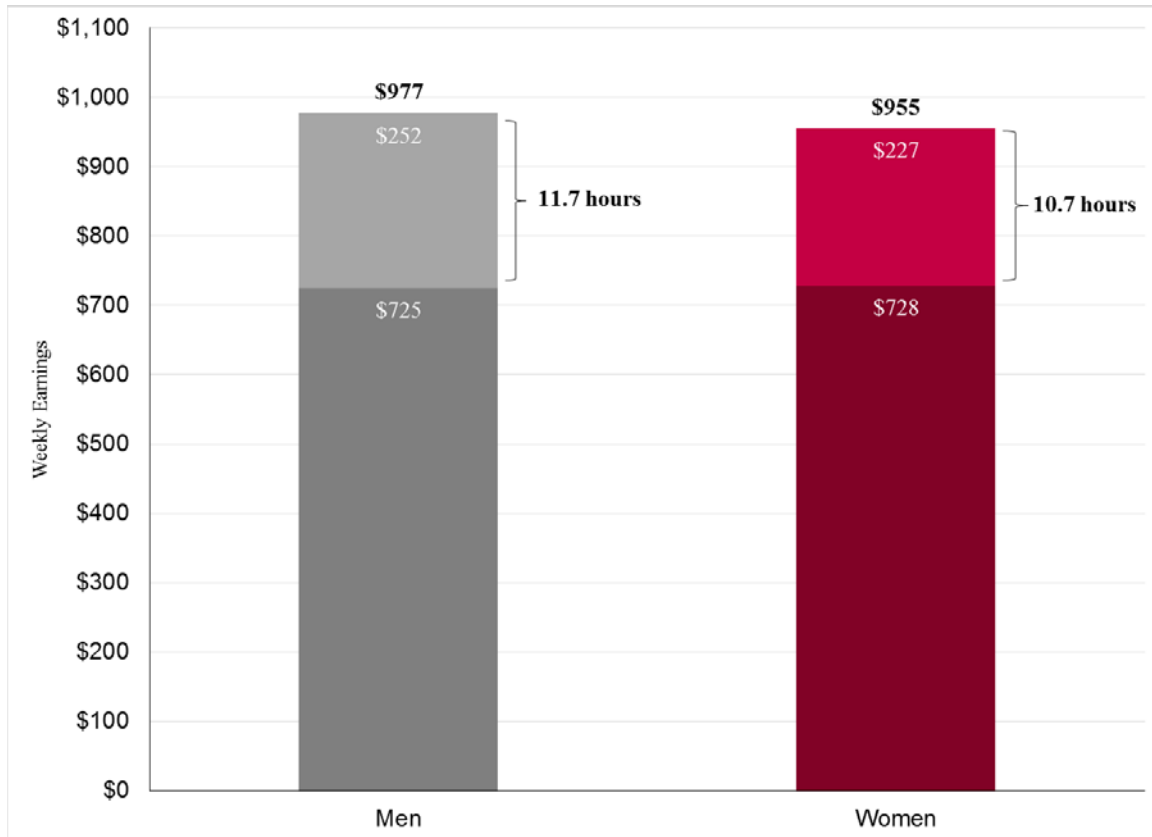
Men May Gain More Income than Women

Although more women will benefit from increased coverage, the subsequent estimated increase to weekly earnings for those who regularly work more than 40 hours per week is larger for men than for women. Figure 2 shows that the average newly covered man earns \$725 per week if he works 40 hours per week at his usual hourly wage (as estimated from his salary; see Appendix for methodology). Under the new rule requiring employers to pay time-and-a-half for additional hours, however, the average newly covered man working 11.7 hours overtime could earn as much as an additional \$252 per week if all overtime hours received premium pay. The average newly covered woman working 40 hours per week is estimated to earn a base pay of \$728 per week. When working overtime, newly covered women average one hour per week less than similar men, at 10.7 hours. Consequently, under the new rule the average newly covered woman working overtime could earn as much as an additional \$227 per week, \$25 less than the average man. This gender difference is significant given that newly covered women and men have similar average weekly earnings for 40-hours worked. This difference is largely because newly covered women who work more than 40 hours per week work fewer overtime hours on average than men, 10.7 hours per week compared with men’s 11.7 hours.

It should be noted, however, that newly covered workers under the higher threshold might choose to work more overtime hours if offered by the employer, for which they would be paid 1.5 times their hourly wage, potentially significantly increasing their family’s income and well-being. Alternatively, some

employers may choose to hire more workers or increase hours for part-time workers rather than having newly covered workers work overtime hours and be paid the 150 percent premium wage.

Figure 2. Base Pay of Newly Covered Workers and Potential Increased Earnings for Overtime Hours at \$50,440 Threshold by Sex, 2014



Note: Base pay is the average simulated weekly earnings for all newly covered workers by sex at 40 hours of work at the current (2014) hourly wage rate (estimated from their salary). The increased earnings are calculated using an average wage of newly covered workers who usually work more than 40 hours per week, assuming they were paid time-and-a-half for their overtime hours. Hours are the average number of overtime hours currently worked by workers working more than 40 hours per week (see Appendix for more information).

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

Single Mothers Will Particularly Benefit from New Overtime Threshold

Among all newly covered female salaried workers, single mothers will benefit most from an increase in access to overtime pay. As shown in Figure 3, comparing different household types, the greatest percentage increase in newly covered workers will be seen among single women with children. Forty-four percent of formerly exempt single mothers will be covered, compared with 39 percent of single women without children, 35 percent of married women without children, and 32 percent of married mothers. These newly covered include those currently working overtime and those not currently working overtime.

44 percent of formerly exempt single mothers will become newly covered, compared with 32 percent of married mothers.

Nearly eight percent of all single mothers currently work more than 40 hours per week on a regular basis and will gain coverage and automatic eligibility for premium pay for overtime work. This is a larger coverage gain

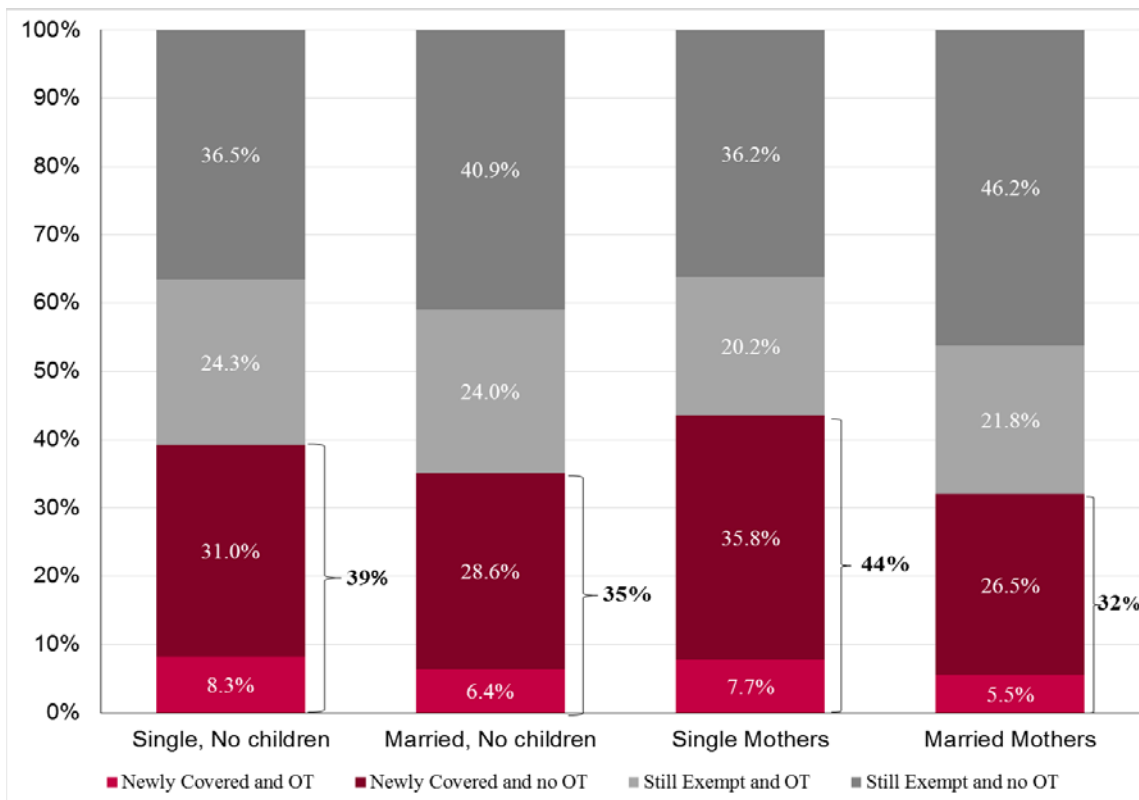
than among married women who usually work more than 40 hours per week, with and without children, who will see coverage increases of around six percent. Among all single mothers who currently work more than 40 hours per week (7.7 percent plus 20.2 percent, as illustrated in Figure 3), 28 percent will gain coverage (7.7 percent divided by 27.9 percent).

Overtime pay has far-reaching positive effects on working women and their children, especially single mothers.

“I work at least one double a week, sometimes more. I have to. I have a 14 year old son. I am the sole supporter of him and my home. We have a much better life with the extra money I can make and put away. We are not wealthy by any means but, I never want to have him see me worry about money. I have always wanted him to focus on the future. I consider myself lucky to have a job and to have one that allows me to work overtime.”

Cynthia, working mother from West Springfield, MA

Figure 3. Share of Newly Covered Women Workers and Newly Covered Overtime Workers at \$50,440 Threshold among Currently Exempt Workers by Household Type, 2014



Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

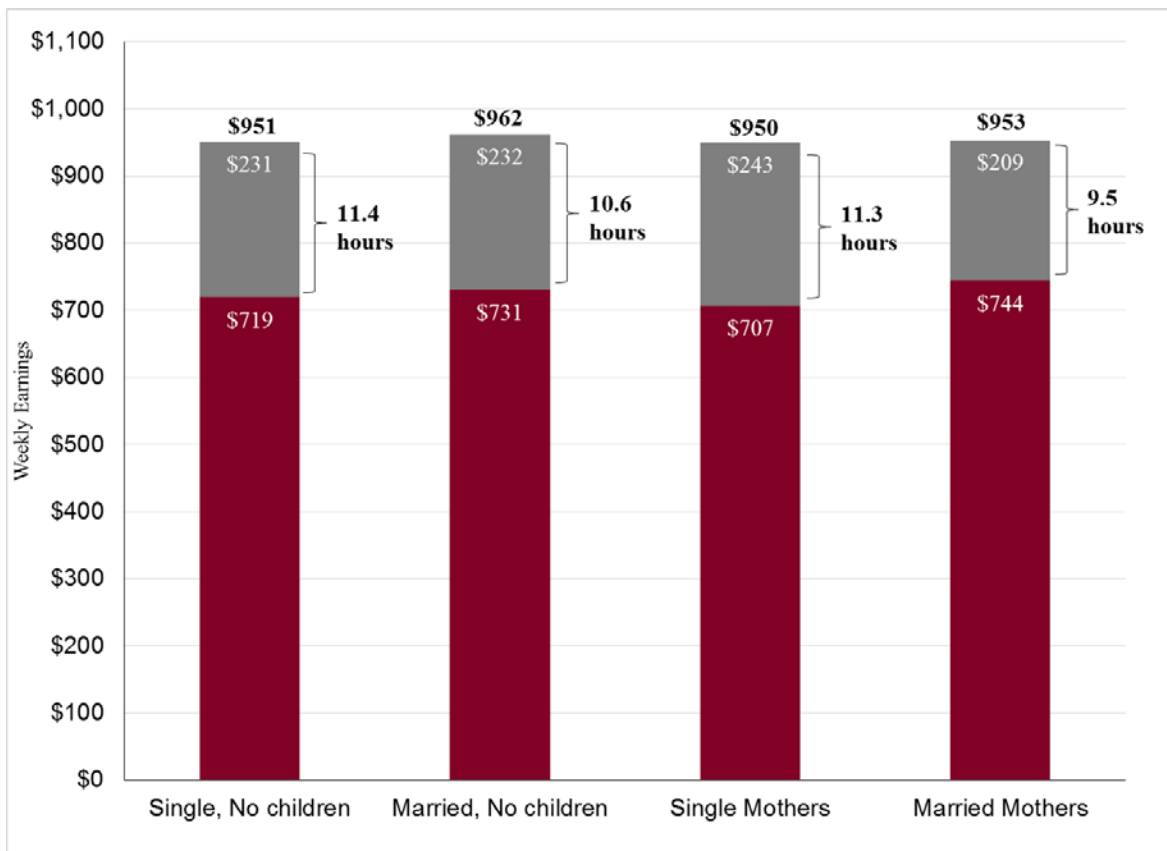
Single mothers are also likely to disproportionately benefit from the new rule in terms of potential weekly earnings increases. Overtime pay could help narrow the wage gap between single mothers and other women. Figure 4 shows that newly covered single mothers currently have the lowest base pay, earning

With the new threshold, newly covered single mothers who usually work overtime could earn an additional \$243 per week, helping to narrow the wage gap between single mothers and other women.

only \$707 per week on average, compared with \$719 among single women without children and \$744 for married mothers. Following the proposed threshold increase, newly covered single mothers who currently work more than 40 hours per week could earn as much as an additional \$243 per week, the

most of any group. This is largely due to the fact that among women who usually work overtime, newly covered single women, with and without children, work the most overtime hours. While single women without children work the most overtime, on average, at 11.4 hours per week, single mothers are not far behind them, working 11.3 overtime hours per week. This compares with the 10.6 and 9.5 overtime hours per week worked by newly covered married women without children and married women with children (respectively) who usually work overtime.

Figure 4: Base Pay of Newly Covered Women Workers and Potential Increased Earnings for Overtime Hours at \$50,440 Threshold by Household Type, 2014



Note: Base pay is the average simulated weekly earnings for all newly covered women workers by sex at 40 hours of work at the current (2014) hourly wage rate (estimated from their salary). The increased earnings are calculated using the average wage of newly covered workers who usually work more than 40 hours per week, assuming they were paid time-and-a-half for their overtime hours. Hours are the average number of overtime hours currently worked by workers working more than 40 hours per week (see Appendix for more information).

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

Single mothers rely on overtime hours and the additional income it brings to provide for their families.

“Over the years, I have really depended on my overtime pay. Firstly, as a single mother who couldn't rely on the FOC [child support] system or my children's father to pay child support, I relied heavily on my overtime pay to be able to give my children most everything they needed growing up. Then when the economy tanked, and my new husband lost his job and could only find sporadic work, my overtime is how my family survived, and are still surviving this day. Although I am one of the lucky and have always had my overtime pay protected contractually, I feel all Americans should be able to count on their overtime to take care of their families, especially since for most of us the economy hasn't fully recovered. I've worked 58+ hours a week for many years, and am very thankful I can rely on my [overtime] pay. All Americans need to feel they can rely on [overtime] to take care of their families, since many of our straight-time paychecks don't make the cut, sadly.”

Denise, single mother from Hastings, MI

For single mothers, overtime hours are a vital source of income. One single mother from Michigan commented that “I relied heavily on my overtime pay to be able to give my children most everything they needed growing up...I've worked 58 plus hours a week for many years, and am very thankful I can rely on my [overtime] pay.” For those who aren't paid overtime but are expected to work more than 40 hours per week, the choice between working and providing care for their children becomes pressing. One single mother from Washington described how she was forced to stop working after her job stopped paying overtime and increased her work hours to 60 per week. Another single mother who gave up working to care for her children wrote, about her previous job, that “heavy overtime was expected all the time with zero compensation. Holding a Masters level education, I was making enough to hold me just above poverty level.” Increasing coverage of overtime requirements is likely to have far reaching benefits for single mothers and their children.

Not having access to overtime compensation, yet being expected to work more than 40 hours a week, can push single mothers out of the labor force.

“I am a single mom and my job changed. It used to be that I could always get off before the daycare closed and never had to work major holidays when the daycare was closed, standard hours for a state worker. Then they started laying off my peers and not hiring for open positions. Supposedly they had to save money. Then they stopped paying overtime, or offering comp time and said that the industry standard was to work 60 hours per week. Then they wanted me to stay late, past daycare hours, and to work major holidays to make up for time off when I had a baby. My pay went down and my work hours increased. Meanwhile, my boss's salary went up. I had to hire a nanny which ate up even more of my pay. I was coming home too exhausted to take my son to cub scouts or do anything else for that matter. It doesn't make sense for the workplace to rob children of their mother. So I stopped working. It was way too much.”

Sherri, single mother from Olympia, WA

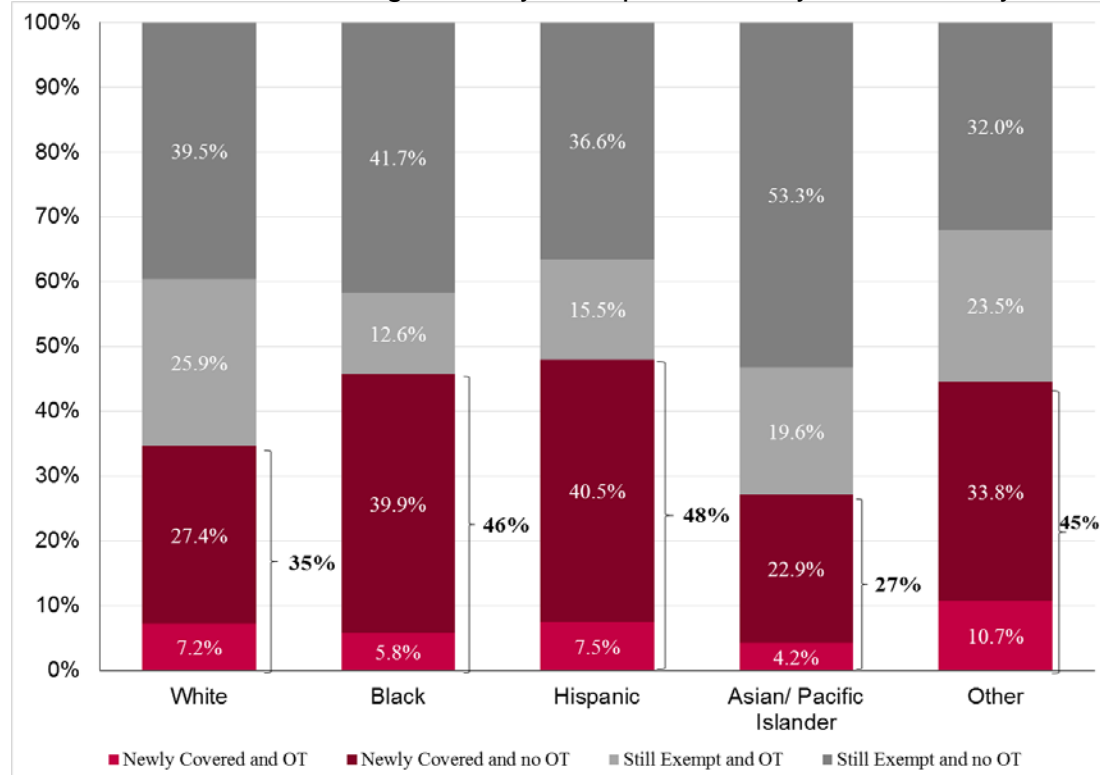
Black and Hispanic Women Likely To Experience Largest Gains in Overtime Pay

Black and Hispanic women are projected to experience greater increases in coverage through the new overtime rule, compared with white and Asian/Pacific Islander women, and women from other or multiple racial/ethnic backgrounds. Figure 5 shows that nearly half of currently exempt Black and Hispanic women workers would be newly covered under the \$970 per week threshold, increases of 46 and 48 percent, respectively. This is indicative of the concentration of Black and Hispanic women workers in lower-wage jobs (Hegewisch and Ellis 2015). Asian/Pacific Islander women are least affected, with 27 percent of currently exempt workers gaining coverage.

Nearly half of currently exempt Black and Hispanic women workers would be newly covered under the new threshold, increases of 46 and 48 percent, respectively.

Among those currently earning more than the current threshold (see Figure 5), Hispanic women and women of other/more than one race are most likely to gain coverage and premium pay for their overtime work (7.5 percent and 10.7 percent respectively). Among currently exempt workers who currently work more than 40 hours per week, Black and Hispanic women gain the largest increases in coverage from the new earnings threshold compared with women of other racial/ethnic backgrounds. Thirty-three percent of Hispanic women and 31 percent of Black women who work overtime will become covered. While Asian/Pacific Islander women are least likely to work overtime and gain coverage under the new threshold (only 4.2 percent) due to their relatively high earnings, they work more overtime hours (14.0 hours per week) than women in the other racial and ethnic groups. Newly covered Black and Hispanic women who usually work overtime work an average of 12.1 and 12.4 hours above 40 hours per week (see Figure 6 for number of overtime hours worked).

Figure 5. Share of Newly Covered Women Workers and Newly Covered Overtime Workers at \$50,440 Threshold among Currently Exempt Workers by Race/Ethnicity, 2014



Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

A lack of protection for a limited work week means that working women are prevented from spending time with their families.

"I work as a salaried employee and always work more than my regular 40 hours a week. My usual weekly hours can amount to 50 or 60 hours a week and I do not get paid for the extra time. Sometimes I work 12 hour days without compensation due to being salaried. This has got to stop for the people that work more than the 40 hour weeks or 8 hour days so that we can make ends meet and we can spend time with our families."

Soledad, Latina woman from Paramount, CA

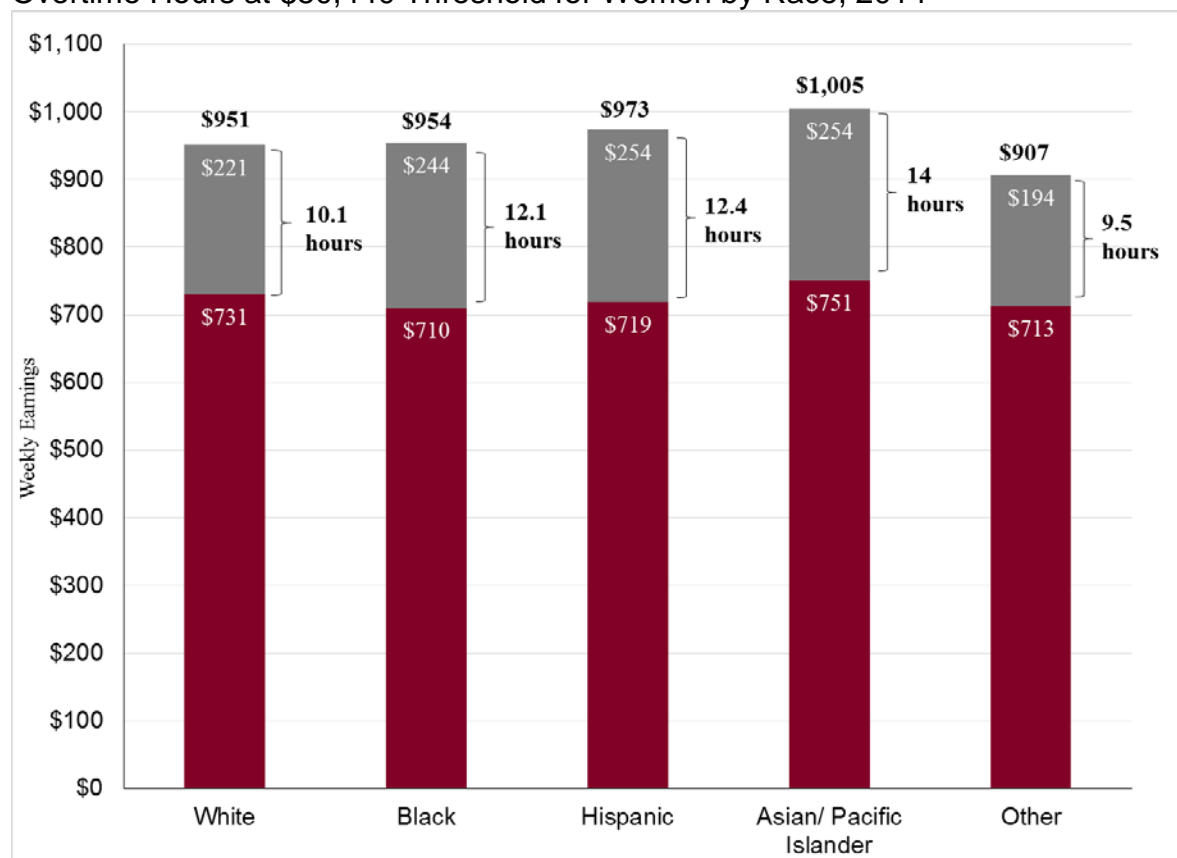
The large gains for Hispanic and Black women are also reflected in the possible increases in weekly earnings, as shown in Figure 6. Among the newly covered women workers, White and Asian/Pacific Islander women would have the highest base pay for 40 hours of work at their usual earnings. On average, newly covered Black women working more than 40 hours per week could earn as much as an additional \$244 per week and similar Hispanic women an additional \$254 per week if all current overtime hours received premium pay. Newly covered Asian/Pacific Islander women who usually work more than 40 hours per week could also experience large increases (\$254) in their weekly earnings due to their relatively high number of hours of overtime worked. Notably, increased access to overtime pay would help close the earnings gap for Black and Hispanic women, enabling their average weekly earnings to rise above that of White women, compared with their current below-average base pay.

Overtime pay is one way to keep women and their families from falling below the poverty line, but more needs to be done to secure real economic stability.

"...the cost of having a regular phone, paying for electricity, and gas to get to and from work means that I must pick and choose what I will purchase next. Heaven forbid one of my children rips their pants or we run out of toilet paper. Overtime pay is our only way of trying to catch up. Forget about getting ahead. I figured out the drawbacks of becoming a salaried employee and swore that I would never do that. It is just not worth it."

Allyson, Black mother from Albuquerque, NM

Figure 6. Base Pay of Newly Covered Workers and Potential Increased Earnings for Overtime Hours at \$50,440 Threshold for Women by Race, 2014



Note: Base pay is the average simulated weekly earnings for all newly covered women workers by sex at 40 hours of work at the current (2014) hourly wage rate (estimated from their salary). The increased earnings are calculated using the average wage of newly covered workers who usually work more than 40 hours per week, assuming they were paid time-and-a-half for their overtime hours. Hours are the average number of overtime hours currently worked by workers working more than 40 hours per week (see Appendix for more information).

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

Increasing access to overtime compensation appears to be one tool for reducing earnings inequality across racial and ethnic groups of women. MomsRising member Allyson’s story highlights the benefits of an increased overtime threshold for Black women, but also shows that relying on overtime pay is not the ultimate solution to women’s economic security. As Allyson explains, even with overtime pay, she still struggles to purchase necessities for her family and that “Overtime pay is our only way of trying to catch up. Forget about getting ahead.”

Women in Service and Office and Administrative Support Occupations Most Likely to Gain from Increased Coverage

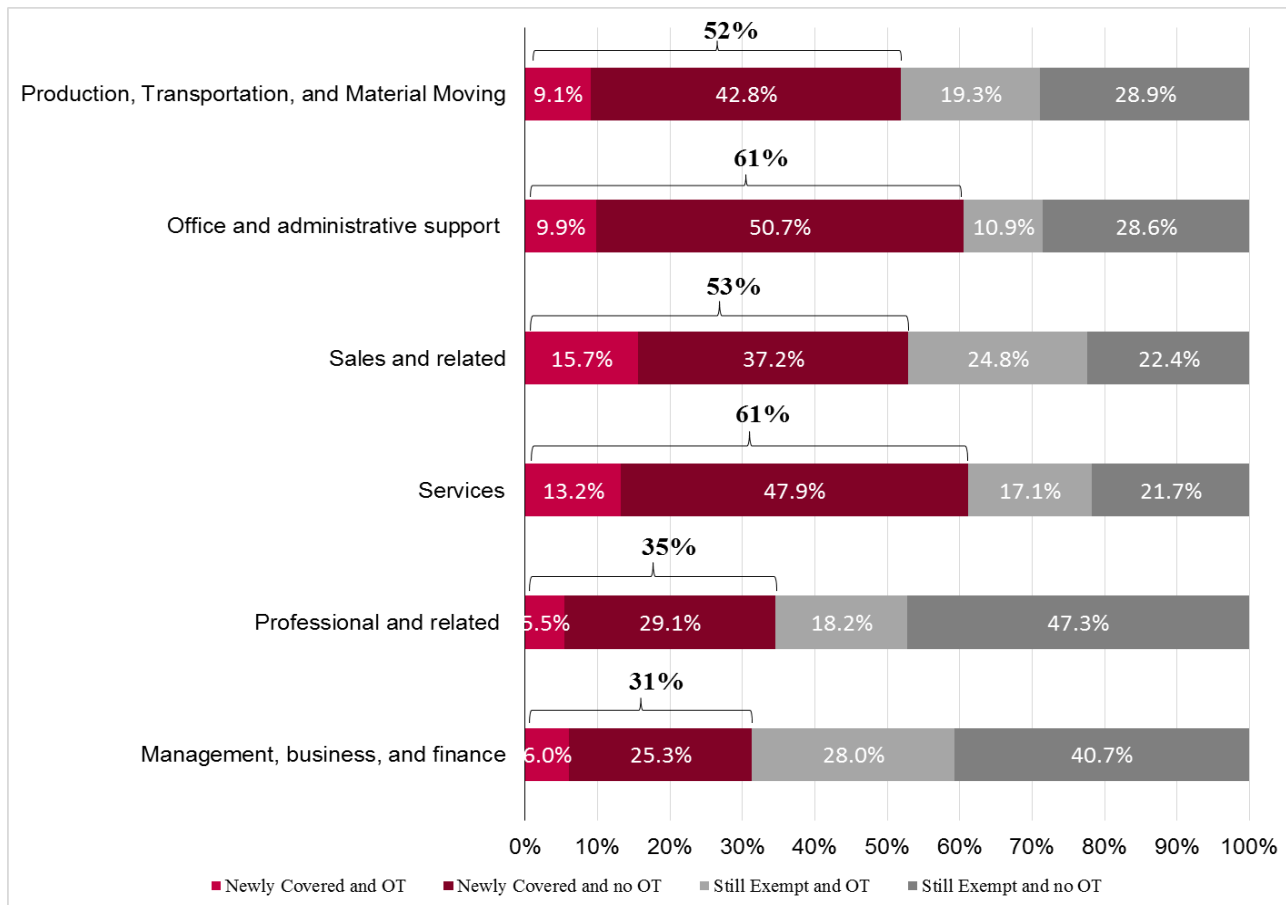
Women working within ‘Services’ and ‘Office and Administrative Support’ occupations will see the largest increase in the percent of workers newly covered under the proposed threshold, at 61 percent in both occupational groups (Figure 7). This means that more than three out of five workers in these two occupations who are currently exempt will now have the chance to earn overtime pay because of increased automatic eligibility. More than half of currently exempt women working in ‘Sales’ and

More than three out of five workers within ‘Services’ and ‘Office and Administrative Support’ occupations will have a greater chance to earn overtime pay because of increased automatic eligibility with the new threshold.

‘Production, Transportation, and Material Moving’ occupations will become covered (53 percent and 52 percent respectively) compared with only 31 percent of currently exempt workers in ‘Management, Business, and Financial’ occupations and 35 percent in ‘Professional’ occupations.

As illustrated in Figure 7, nearly half (48 percent) of the currently exempt women usually working more than 40 hours per week in ‘Office and Administrative Support’ occupations would be newly covered. Many currently exempt women in ‘Service’ occupations (43 percent) would also become newly covered and automatically eligible to receive overtime pay. These percentages are calculated as the number of newly covered workers who currently work more than 40 hours per week over the total number of workers (both newly covered and still exempt) who currently work more than 40 hours per week.

Figure 7. Share of Newly Covered Women Workers and Newly Covered Overtime Workers at \$50,440 Threshold among Currently Exempt Workers by Occupation, 2014



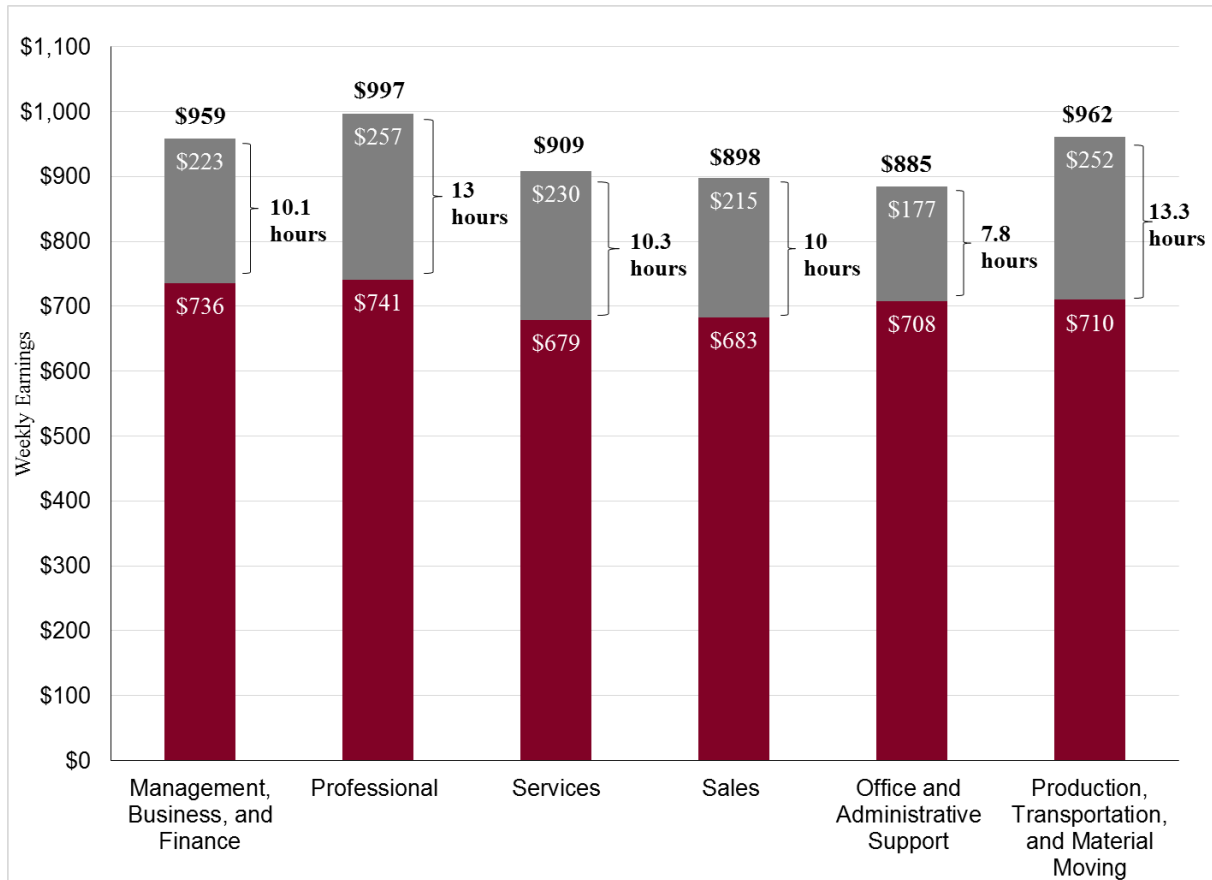
Note: Due to sample size limitations in the CPS, Natural Resources, Construction, and Maintenance occupations are not shown due to the small number of female respondents in the study’s target group.

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

As shown in Figure 8, despite the large increase in coverage, women in ‘Office and Administrative Support’ will experience the smallest increase in weekly earnings, \$177 per week, when working overtime. This may be due to their relatively low average hours over 40 hours per week, at 7.8 hours per

week. It may also be due in part to the low earnings of women in this occupation (Census Bureau 2015). Still, that is equivalent to nearly one additional work day per week that is likely to be completely uncompensated without the proposed update to the overtime threshold. While fewer currently exempt women working in ‘Production, Transportation and Material Moving’ occupations and ‘Professional’ occupations will gain coverage and are expected to be automatically eligible when working more than 40 hours per week, they may experience the largest increases in weekly earnings when working overtime, \$252 and \$257 per week, respectively.

Figure 8: Base Pay of Newly Covered Workers and Potential Increased Earnings for Overtime Hours at \$50,440 Threshold for Women by Occupation, 2014



Note: Base pay is the average simulated weekly earnings for all newly covered women workers by sex at 40 hours of work at the current (2014) hourly wage rate (estimated from their salary). The increased earnings are calculated using the average wage of newly covered workers who usually work more than 40 hours per week, assuming they were paid time-and-a-half for their overtime hours. Hours are the average number of overtime hours currently worked by workers working more than 40 hours per week (see Appendix for more information).

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015).

Exemptions Based on the Duties Test Harm Some Women

Earning a salary above the proposed \$50,440 annual earnings means workers are not automatically eligible for overtime pay. It is assumed that those above this threshold have enough bargaining power to secure protections from their employer. It is also assumed that those working in managerial and supervisory roles have substantial power over their schedule and pay. The current law therefore exempts certain workers from coverage depending on their duties at work (Shierholz 2014b). The Department of Labor has not specified any changes to the duties test, which determines who is eligible to be covered

depending on their job title. However, they have encouraged comments on the topic, indicating potential changes to the rules (DOL 2015). The purpose of the duties test is to exclude from overtime pay those workers who have enough bargaining power to ensure they get fair compensation without additional protections (Shierholz 2014a).

Many workers currently classified as exempt have little or no real managerial responsibility or power.

Many workers currently classified as exempt, however, have little or no bargaining power. This is why raising the threshold to \$50,440 will protect many of these workers. In the stories submitted to

MomsRising, women indicated that they were often classified as managers despite having no real managerial responsibility or power. Their classification as managers simply means that employers do not have to compensate the women for working more than 40 hours per week. One woman stated that “my company defines my job as ‘exempt’ even though I have no considerable decision-making authority.” It is clear that some employers take advantage of the duties test in order to avoid paying overtime to workers. Re-assessing and simplifying the duties test could lead to increased coverage for both male and female workers.

Complicated duties tests means that employers can classify women exempt from overtime pay without giving them any substantial managerial responsibilities.

“The boss will give me a title that will not need to comply with overtime, since they know they will have you work above and beyond 40 hours. Especially if you are a white collar worker. There is this unspoken entitlement that you have to work over 40 hours no matter what. What have we become in the USA...indentured slaves? The laws do not matter any longer.”

Deborah, Latina woman

Indexing Will Keep the Earnings Threshold Stable

The proposed rule put forward by the Department of Labor indexes the salary threshold to prevent it from falling below a meaningful level. Two alternative methods of adjusting the earnings threshold for inflation have been proposed to prevent the value of overtime protections from eroding in the future. The first is to peg the salary threshold to the 40th percentile of earnings for full-time salaried workers. The second is to index the threshold to inflation, as measured by the CPI (DOL 2015). Wages have historically risen at a faster rate than prices and are predicted to do so for the next ten years (SSA 2014). This implies that pegging the proposed threshold to the 40th percentile of earnings would be more beneficial to workers as it will raise the threshold salary faster than indexing it to inflation. A higher-threshold means increased coverage for workers, especially women as they represent a larger share of lower earners.

A Higher Overtime Threshold Could Have Positive Impacts on the Economy

While it is not possible to know precisely how either employers or workers will react to changes in the overtime threshold proposed by the Department of Labor, it is possible to suggest some likely outcomes based on past research and recent studies. For example, both those who are pro- and anti-regulation seem to agree that earnings will likely increase overall (see for a comparison, Oxford Economics 2015 and Eisenbrey 2015a). Either employers are expected to pay those who have been working extra hours without any pay or without premium pay some portion of the overtime premiums to which they will now be entitled (including up to 100 percent of that premium pay) or they are expected to hire additional workers at regular rates to minimize or avoid paying any overtime premiums (other alternatives are discussed briefly in the Appendix).

To the extent that additional earnings are paid for the work that is currently being done, with some adjustments by employers due to the changed cost of labor, these earnings represent the use of no new net resources, but rather are transfers in income from business owners to workers (U.S. Department of Labor, Wage and Hour Division 2015). In a slack economy with a loose labor market, as many would argue the United States continues to experience in the aftermath of the Great Recession (since employment to population ratios are still depressed relative to pre-recession highs, by more than can be accounted for by current population aging; Farley 2015), transferring income to those more likely to spend that income can have a stimulative effect on aggregate demand and can contribute to overall economic growth. While the DOL rulemaking discussion includes this stimulative effect as one potential positive outcome of the new rule, DOL does not attempt to measure the size of this potential effect.

Other possible sources of beneficial economic effects are also mentioned in the Department of Labor's discussion of the proposed rule's impacts (and are similarly unmeasured). These include improved health from a slight reduction in work time (as employers substitute away from overtime due to its higher cost or as workers take some of their increased income in the form of increased leisure), which benefits the worker, her/his family, and society (since fewer resources will be spent on health care); productivity could increase not only because of increased health but also because of reduced turnover due to improved compensation. A potential beneficial effect for the taxpayer is reduced use of social welfare programs by workers, because with overtime premium pay they would now earn above the poverty level and no longer require food stamps, the EITC, and other social assistance programs. For example, following the proposed threshold increase, this study has found that newly covered single mothers who currently work more than 40 hours per week could earn as much as an additional \$243 per week if they were to receive premium pay for all their overtime hours.

On average, newly covered Black women working more than 40 hours per week could earn as much as an additional \$244 per week and similar Hispanic women an additional \$254 per week if paid the overtime premium for all their overtime hours. With nearly half of currently exempt Black and Hispanic women workers gaining coverage under the new threshold, this additional pay could lead to increased consumer spending, which, as noted above, could lead in turn to greater economic growth. In the second quarter of 2015, consumer spending accounted for more than two-thirds of GDP (Baker 2015); consumer spending has generally been considered the weak link in the economic recovery since wages and therefore disposable income have been growing only slowly for the vast majority of workers.

To the extent the current number of overtime hours is spread around by employers seeking to avoid paying the premium wage to workers with salaries under the new threshold, employers could hire more employees or increase the hours of part-time workers. One analysis that looked at the potential impact of a lower overtime threshold (at \$42,000 per year) on the retail industry estimated that 76,000 new jobs would be created in just that one industry averaging 30 hours per week (Eisenbrey 2015b). With 8.3

million workers unemployed and looking for work as of July 2015, the creation of even part-time jobs could benefit these workers still looking for work—more than a quarter (2.2 million) of whom are long-term unemployed, having been unemployed for 27 weeks or longer (IWPR 2015). Moreover, 6.3 million workers are involuntarily working part-time and are looking for more hours of work (IWPR 2015). To the extent that the new overtime threshold reduces the slack in the labor market by redistributing work, wages could begin to rise as employers are forced to compete for labor.

The groups of women workers who stand to gain the most increased eligibility under the new overtime threshold as shown in this report—single mothers and Black and Hispanic women—are also the groups of women in the workforce that are dealing with persistently higher unemployment rates, compared with women and men overall. Among workers aged 20 and older, unemployment is higher among Black women (8.0 percent) and Hispanic women (6.8 percent), compared with white women (4.3 percent). At 8.0 percent, the unemployment rate for single mothers—despite being substantially lower than its peak four years ago, 13.4 percent in July and August 2010—is still much higher than for women overall at 5.3 percent (IWPR 2015). These women would benefit substantially from a tighter labor market.

Finally, the new overtime threshold may contribute one small step toward narrowing the wage gap between women and men. Although men’s real earnings have remained higher than women’s, men’s real earnings have not grown since about 1975. Women’s wage growth, however, increased rapidly in the 70s and 80s, as more women increased their educational attainment and entered new, higher paying fields. As the pace of women’s real wage growth eclipsed the pace of men’s during this time, the wage gap between women and men narrowed accordingly. But both women’s real wage growth and the gender wage gap have stagnated in the last decade (Hartmann 2014). Jumpstarting women’s real wage growth is essential to narrowing the wage gap between women and men. Ensuring that women get paid fairly for working longer hours—and women are the majority of those affected by the proposed new threshold—is one way to get that wage gap narrowing again.

For the women who shared their stories with MomsRising, and the millions more women like them who will be affected, the proposed new overtime salary threshold will make a meaningful difference in their lives and their family’s financial security. More women may now earn more each week if they are able to work additional hours, like Cynthia in Massachusetts; many may use this extra pay to cover that new pair of pants for their child or extra toilet paper that would otherwise have stressed their weekly budget, like Allyson from New Mexico; and many may no longer have to work long, unpaid hours over 40 per week, allowing them, like Soledad from California or Brenda from Texas, to spend more time with their family.

Conclusion

Increasing the overtime earnings threshold is likely to have substantial benefits for workers throughout the United States, in particular for working women. More than a third of currently exempt women will gain coverage and automatic eligibility for premium pay when they work more than 40 hours per week. On average, women who work overtime could earn up to an additional \$227 per week. The importance of these financial gains should not be understated. The stories from MomsRising highlight the difficulties faced by many working women, who care for their families while working long hours, often with no financial compensation for the hours above 40 per week. Increasing coverage for these women is critical if they are to achieve economic security and increase prosperity for themselves and their families. The effect of potential increases in weekly earnings is particularly beneficial for certain subsets of women. Additional earnings from overtime work will contribute to closing the earnings gap that exists between Black and Hispanic women, and White women. Likewise, single mothers will especially benefit from the potential additional weekly earnings for overtime work, since 44 percent of currently exempt single mothers would be newly covered. It is these women and their families, quantified in the data and

exemplified in the stories, who stand to gain most from raising the overtime earnings threshold to \$50,440.

And, as noted, while it is difficult to predict how employers and workers will react to a policy change such as this, most sources agree that employment will expand and that income will be shifted from business owners to workers. Furthermore, these changes can increase aggregate demand and stimulate economic growth since the United States is still experiencing a slack labor market six years after the end of the Great Recession.

Appendix: Methodology

The analyses in this brief were done by IWPR researchers using the 2014 Current Population Survey (CPS) Outgoing Rotation Groups (CEPR 2015). The CPS, however, does not provide a direct indicator of whether a worker is exempt or nonexempt (Federal Register 2004). In analyzing these data to estimate the number of workers who will be affected by the updated salary threshold rule and their characteristics, we follow the methodology developed by the Economic Policy Institute (Shierholz 2014b) and generously shared with IWPR. To do this, the sample is limited to those workers who are full-time workers (usually work 35 hours or more at their primary job), paid a salary rather than an hourly wage, and aged 18 years or older; certain occupations that are automatically exempt by statute from overtime protections were removed (e.g., medical professionals, lawyers, judges, teachers of all levels, and religious workers). For workers in occupations that may include both exempt and non-exempt workers, the estimated numbers of potentially affected workers were adjusted according to the probability of being exempt based on the duties test applied at the detailed occupational level (Federal Register 2004), mapped to the detailed occupations in the 2014 CPS using a crosswalk developed by the Economic Policy Institute (EPI).

The overtime rule was last revised in 2004, when the salary threshold level was increased to \$455, and, at that time, the Department of Labor (DOL) adopted a “standard” duties test for whether an employee primarily performs executive, administrative, or professional tasks in their position. The standard duties test does not strictly limit the amount of nonexempt work that could be performed as had been specified under the previous long duties test that it replaced.

With this definition of the exempt workforce, those currently exempt from automatic eligibility for overtime compensation are defined as all those earning \$455 per week or more (\$455 per week annualized across 52 weeks equals \$23,660). The newly covered are the workers who report earning \$455 or more, but less than the proposed threshold of \$970 per week, 5.9 million workers who are 54 percent female. Those reporting earnings of \$970 per week or more are considered as remaining exempt under the proposed rule.

It should be noted that the final rule may not set the threshold at exactly \$970 per week. The proposed rule specifies that the threshold should be set at the 40th percentile of the wage distribution and DOL expects that to be around \$970 in 2016 when the new rule would become effective. EPI estimates that in 2014 the worker at the 40th percentile earned \$933 per week (Mishel and Eisenbrey 2015).

Since developing their methodology in 2014, EPI has generated new estimates of workers who will benefit from the proposed rule change using a substantially different methodology (Kimball and Mishel 2015). Their new methodology includes 8.1 million part- and full-time workers who will benefit from improved overtime protections in the proposed rule in addition to the 5.3 million workers newly covered under the higher salary threshold, for a total of more than 13 million salaried workers benefitting from the proposed rule change (Kimball and Mishel 2015). This larger group of workers is still predominantly female (51.3 percent) and includes 2.4 million mothers. The estimate in this report of the number benefitting strictly from the increased salary threshold, 5.9 million, is higher than the Kimball and Mishel estimate, due to IWPR’s applying the nominal threshold in the proposed rule, \$970 per week, in analyzing the 2014 CPS, rather than the calculated 40th percentile used by EPI.

The simulated base pay provided in this report is calculated as the current average weekly earnings of all of the newly covered workers, assuming they are paid for 40 hours of work per week at their usual hourly wage rate (estimated using their current salary and hours of work). For salaried workers the usual wage rate may include income received from commissions, tips, or overtime compensation; but these data do not permit these three additional sources of income to be distinguished from each other or from a worker’s regular weekly earnings. Our estimate for increased weekly earnings is the potential earning

increases that newly covered workers who usually work more than 40 hours per week would earn assuming they are paid time-and-a-half for their current number of overtime hours (in 2014).

As such, IWPR's estimate represents an upper bound. Economists acknowledge that adjustments by employers mean that some hours worked as overtime hours before the rule change are likely to be shifted to other workers or, especially across time, wages are likely to be shifted downward to compensate for the increased premium. Yet, IWPR's estimate of increased earnings includes only those who usually work more than 40 hours per week. The DOL estimates include earnings increases for those who sometimes work overtime hours, adding about 18.2 percent to their estimate of affected workers (U.S. Department of Labor, Wage and Hour Division 2015).

It is important to note that the response by workers and employers to the new threshold is unknown. With the new salary threshold in place, workers who are not currently working overtime might increase their hours to more than 40, if offered by their employers, when the additional time is compensated at the overtime premium level. Alternatively, if adopted, employers may adjust to the rule change in any or all of several ways to avoid paying the overtime premium. For these workers earning close to the new threshold, employers may increase the base salary for a newly covered worker that regularly works more than 40 hours per week to just above the new threshold. They may also spread the pool of necessary overtime hours across employees working fewer than 40 hours per week; this could include requesting more hours from existing part-time or full-time workers usually employed for less than 40 hours per week and bringing them up to the 40 hour limit. They could also hire additional employees to minimize paying any overtime at all. Finally, if the increased cost of production raised the prices of the product or service, employers may face decreased demand and may decrease production or hours worked.

On the whole, though, if the rule increases employment, as a wide range of sources suggests, then the increased earnings by workers should increase consumption and aggregate demand and contribute to stronger economic growth.

Appendix: Tables

Table A1. Number of Workers Affected by Proposed \$50,440 Threshold by Sex, and Among Women by Household Type, Race and Occupation, 2014

	CURRENTLY EXEMPT WORKERS					Percent of Currently Exempt and Worked More Than 40 Hours Who Gain Coverage F (= D/B)
	Total A (= C + E)	Gain Coverage at Proposed Earnings Threshold			Remain Exempt at Proposed Earnings Threshold Number of Workers E	
		Worked More Than 40 Hours B	Number of Workers C	Worked More Than 40 Hours D		
Men	12,622,127	5,479,094	2,693,933	780,307	9,928,193	14.2%
Women	8,889,351	2,668,718	3,205,502	607,569	5,683,849	22.8%
Overall	21,511,478	8,147,812	5,899,436	1,387,876	15,612,042	17.0%
AMONG WOMEN ONLY FOR THESE BREAKDOWNS						
By Household Type						
Single, No children	2,867,173	932,688	1,124,576	236,871	1,742,597	25.4%
Married, No children	2,813,468	856,647	986,502	181,212	1,826,966	21.2%
Single Moms	576,742	161,141	251,247	44,590	325,495	27.7%
Married Moms	2,631,968	718,242	843,178	144,896	1,788,791	20.2%
By Race						
White	6,444,872	2,129,788	2,230,853	463,754	4,214,019	21.8%
Black	823,417	151,002	376,276	47,394	447,141	31.4%
Hispanic	697,721	160,370	334,670	52,409	363,050	32.7%
Asian	849,413	202,298	230,771	36,097	618,642	17.8%
Other	73,929	25,260	32,931	7,915	40,997	31.3%
By Occupation						
Management, business, and financial occupation	4,512,735	1,534,274	1,413,447	272,529	3,099,289	17.8%
Professional and related	3,096,951	732,087	1,069,761	168,821	2,027,190	23.1%
Services	62,094	18,833	37,956	8,191	24,138	43.5%
Sales and related	656,226	265,359	346,890	102,755	309,336	38.7%
Office and administrative support	537,564	111,533	325,436	53,040	212,127	47.6%
Natural resources, construction, and maintenance	3,575	902	1,537	398	2,038	44.2%
Production, transportation, and material moving	20,207	5,731	10,475	1,835	9,731	32.0%

Note: See methodology for how the number of “currently exempt workers” is estimated.

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

Table A2. Potential Increase in Earnings of Workers from Proposed Earnings \$50,440 Threshold by Sex, and Among Women by Household Type, Race and Occupation, 2014

	Average number of hours worked over 40 by workers covered by threshold at \$970 weekly and working overtime	Average base pay for workers that would gain coverage at a \$970 weekly threshold for 40 hours per week	Average additional amount earned at time-and-a-half by workers covered by threshold at \$970 weekly and working overtime
Men	11.7	\$725	\$252
Women	10.7	\$728	\$227
Overall	11.3	\$727	\$241
AMONG WOMEN ONLY FOR THESE BREAKDOWNS			
By Household Type			
Single, No children	11.4	\$719	\$231
Married, No children	10.6	\$731	\$232
Single Moms	11.3	\$707	\$243
Married Moms	9.5	\$744	\$209
By Race			
White	10.1	\$731	\$221
Black	12.1	\$710	\$244
Hispanic	12.4	\$719	\$254
Asian	14.0	\$751	\$254
Other	9.5	\$713	\$194
By Occupation			
Management, business, and financial occupations	10.1	\$736	\$223
Professional and related	13.0	\$741	\$257
Services	10.3	\$679	\$230
Sales and related	10.0	\$683	\$215
Office and administrative support	7.8	\$708	\$177
Production, transportation, and material moving	13.3	\$710	\$252

Note: Due to sample size limitations in the CPS, Natural Resources, Construction, and Maintenance occupations are not shown due to the small number of female respondents in the study's target group.

Source: IWPR calculations using 2014 Current Population Survey Outgoing Rotation Groups (CEPR 2015)

References

- Baker, Dean. 2015. "Consumption Spending and Net Exports Spur Higher-Than-Expected Second Quarter Growth." Center for Economic Policy Research. <<http://www.cepr.net/data-bytes/gdp-bytes/gdp-2015-07>> (accessed August 8, 2015).
- Center for Economic and Policy Research (CEPR). 2015. CPS ORG Uniform Extracts, Version 2.0.1. Washington, DC.
- Economic Policy Institute (EPI). 2015. "Why It's Time to Update Overtime Pay Rules: Frequently Asked Questions." <<http://www.epi.org/publication/time-update-overtime-pay-rules-answers-frequently/>> (accessed July 7, 2015).
- Eisenbrey, Ross. 2015a. "What the New Proposed Overtime Rules Mean for Workers." Economic Policy Institute. <<http://www.epi.org/blog/what-the-new-proposed-overtime-rules-mean-for-workers/>> (accessed July 8, 2015).
- Eisenbrey, Ross. 2015b. "National Retail Federation Report Suggests Huge Positive Impact for Labor Department Overtime Rules." Economic Policy Institute. <http://www.epi.org/blog/national-retail-federation-report-suggests-huge-positive-impact-for-labor-department-overtime-rules/> (accessed August 6, 2015).
- Eisenbrey, Ross and Lawrence Mishel. 2015. *The New Overtime Salary Threshold Would Directly Benefit 13.5 Million Workers: How EPI's Estimates Differ from the Department of Labor's*. EPI Issue Brief #401. Washington, DC: Economic Policy Institute.
- Farley, Robert. 2015. "Declining Labor Force Participation Rates." Factcheck.org. Posted March 11. <http://www.factcheck.org/2015/03/declining-labor-participation-rates/> (accessed August 9, 2015).
- Hanauer, Nick. "Whatever Happened to Overtime?" *Politico Magazine*. November 17, 2014. <http://www.politico.com/magazine/story/2014/11/overtime-pay-obama-congress-112954_full.html#.VaALFPnF-q2> (accessed July 10, 2015).
- Hartmann, Heidi. 2014. "The Lost Decade of Wage Growth for Women." Institute for Women's Policy Research. <<http://www.iwpr.org/blog/2014/03/26/the-lost-decade-of-wage-growth-for-women/>> (accessed August 6, 2015).
- Hegewisch, Ariane, and Heidi Hartmann. 2014. "Occupational Segregation and the Gender Wage Gap: A Job Half Done." Report, IWPR #C419. <<http://www.iwpr.org/publications/pubs/occupational-segregation-and-the-gender-wage-gap-a-job-half-done>> (accessed July 7, 2015).
- Hegewisch, Ariane, and Emily Ellis. "The Gender Wage Gap by Occupation 2014 and by Race and Ethnicity." Fact Sheet, IWPR #C431. <<http://www.iwpr.org/publications/pubs/the-gender-wage-gap-by-occupation-2014-and-by-race-and-ethnicity>> (accessed July 29, 2015).
- Institute for Women's Policy Research (IWPR). 2015. "Women Gain 115,000 Jobs in July and Men Gain 100,000 Jobs." Quick Figures, IWPR #Q036. <http://www.iwpr.org/publications/pubs/women-gain-115-000-jobs-in-july-men-gain-100-000-jobs> (accessed August 9, 2015).

Kimball, Will and Lawrence Mishel. 2015. *Estimating the Number of Workers Directly Benefiting from the Proposed Increase in the Overtime Salary Threshold*. EPI Technical Paper. Washington, DC: Economic Policy Institute.

Mishel, Lawrence and Ross Eisenbrey. 2015. *Raising the Overtime Threshold Would Directly Benefit 13.5 Million Workers: Here is a Breakdown of Who They Are*. Washington, DC: Economic Policy Institute.

Oxford Economics. 2015. *Rethinking Overtime: How Increasing Overtime Exemption Thresholds will Affect the Retail and Restaurant Industries*. Report to the National Retail Federation. <https://nrf.com/sites/default/files/Documents/Rethinking_Overtime.pdf> (accessed August 10, 2015).

Shierholz, Heidi. 2014a. "It's Time to Update Overtime Pay Rules." Economic Policy Institute, July 9. <<http://www.epi.org/publication/ib381-update-overtime-pay-rules/>> (accessed July 7, 2015).

———. 2014b. "Increasing the Overtime Salary Threshold Is Family-Friendly Policy." Economic Policy Institute, August 20. <<http://www.epi.org/publication/increasing-overtime-salary-threshold-family/>> (accessed July 7, 2015).

The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds. 2014. "Table V.B1.—Principal Economic Assumptions. 2014 OASDI Trustees Report." Social Security Administration, 2014. <http://www.ssa.gov/oact/TR/2014/V_B_econ.html#214592> (accessed July 7, 2015).

U.S. Census Bureau. 2014. Poverty Thresholds 1975. <<http://www.census.gov/hhes/www/poverty/data/threshld/thresh75.html>> (accessed July 29, 2015).

U.S. Department of Labor. 2004. "Economic Report: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees; Final Rule." *Federal Register* Vol. 69 No. 1, April 23. <<http://www.dol.gov/whd/overtime/econreport.pdf>> (accessed July 17, 2015).

U.S. Department of Labor. 2015. Frequently Asked Questions: Overtime NPRM. *United States Department of Labor*. <<http://www.dol.gov/whd/overtime/NPRM2015/faq.htm>> (accessed July 6, 2015).

U.S. Department of Labor, Wage and Hour Division. 2015. "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees." A Proposed Rule Document, 202 pages. <http://www.regulations.gov/#!documentDetail:D=WHD-2015-0001-0001> (accessed August 7, 2016).

U.S. Department of Commerce, Census Bureau. 2015. Table 1. Full-Time, Year-Round Workers and Median Earnings in the Past 12 Months by Sex and Detailed Occupation1: 2013. [Machine readable file.] <<http://www.census.gov/people/io/files/Median%20earnings%20by%20occupation%20031015.xlsx>> (accessed July 16, 2015).