



Commonwealth of Puerto Rico  
**DEPARTMENT OF LABOR AND HUMAN RESOURCES**

July 1st., 1997

Administración  
187

Re: Inquiry Number 14335

This is in reference to your inquiry in which you request information about labor laws applicable to your business. Your letter indicates that the company engages in supplying durable medical equipment to Medicare patients that are referred by doctors. You further state that the company does no retail business, all profits being derived from the rental payments made by Medicare for the equipment supplied to the patients. Finally, you indicates that the company has two kinds of employees, specifically, "office employees to take care of the paper work and delivery personnel to handle the stockroom and deliveries".

On the basis of the information provided, it appears that your company is covered by Mandatory Decree No. 42, applicable to the Retail Trade Industry. Notwithstanding your statement that your company does no retail business, the activities you describe are within the Definition of the Industry contained in Article I of that decree, which encompasses "every act process, operation, work or service necessary, incidental or related to the sale or transfer to consumers for or without profit, of any kind of merchandise or goods, carried out at any establishment or place". A dual-language copy of that decree, with a traslation into english on the reverse side, is enclosed for your reference.

It should be noted that your company is undoubtedly covered by the Fair Labor Standards Act (FLSA), popularly known as the Federal

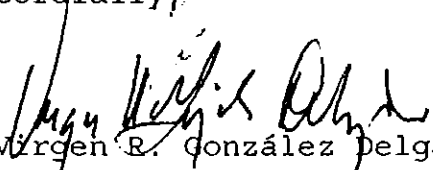
Minimum Wage Law. If so, the minimum wage stipulated in the mandatory decree is preempted by the higher Federal minimum wage. The current federal minimum wage of \$4.75 per hour went into effect on October 1, 1996, and will be increased to \$5.15 per hour on September, 1, 1997. For additional information on the FLSA, you may contact the Federal agency responsible for its enforcement at the following address:

U.S. Department of Labor  
Wage and Hour Division  
New San Juan Building, Rm. 102  
159 Carlos Chardón St.  
Hato Rey, PR 00918  
Phone: 766-5263

You should also be aware that the vacation and sick leave benefits provided under Mandatory Decree No. 42 are superseded by the provisions of Act No. 84 of July 20, 1995 for all employees hired since the effective date of the act, i.e., August 1, 1995. Employees hired prior to that date, however, must be guaranteed the benefits stipulated under the mandatory decree. Also enclosed is a one-page fact sheet in English that summarizes the provisions of Act. No. 84.

In response to your request, we are also enclosing similar fact sheets summarizing the provisions of other labor laws that are applicable to your business. Specifically, these include laws pertaining to maternity leave, annual bonus, payment of wages, overtime, and unjustified dismissal. We trust this information will be helpful to you.

Cordially,

  
Virgen R. González Delgado  
Solicitor of Labor

Enclosures