



PERSONAL CARE and the OVERTIME RULE



The Department of Labor (DOL) has recently recognized the rights of direct care providers to receive well-deserved overtime pay for the work they do. This is an important benefit for providers, but most states do not have the financial ability to pay huge amounts of overtime. This past legislative session, a bill was passed to address overtime pay for personal care providers. The new law sets limits on the amount of overtime the state may pay, while recognizing the realities of provider shortages and emergencies for individuals.

Overtime Under the New Law

DSHS cannot pay a single provider more than 40 hours in a week unless a provider was working more than 40 hours a week in January 2016. These “grandfathered” providers will have a work week limit that’s based on the number of hours they worked in January 2016. The work week limit cannot exceed 65 hours per week. Case managers will assist clients to identify options and find additional resources to obtain providers. [Note: Travel time and required training time are not included in the work week limit.]

Exceptions to the Overtime Limit

Clients can request an exception for their Individual Provider (IP) to work over their work week limit. The law states that exceptions must meet one of the following criteria:

- ▶ Limited number of providers in the region.
- ▶ Limited number of providers available to support complex medical or behavioral needs.
- ▶ Client has specific language needs and the availability of providers who speak that language is limited.
- ▶ There is an emergency or situation that could pose a risk to health and safety.

Approval for an exception to the work week limit must be requested prior to working the overtime hours. In cases where there is a risk to health and safety, approval can be requested as soon as possible after the hours are worked.

Weekly Care Plans: Changes and Tracking of Hours

Individuals who receive services are required to stay within their authorized monthly limits, but weekly care plans will no longer be required. It’s still a good idea, however, to use your weekly care hours as a guide to help you to allocate your monthly hours.

If you receive services from a provider who works for another person, be aware of their limits when scheduling your week. Use a calendar to write your provider’s schedule, including hours worked elsewhere. If you have a need for the provider to work more hours to meet your needs, you will be the one to make the request to your case manager.

Provider Responsibilities

It’s the responsibility of the provider to make sure they are working within their work week limit. Providers who work overtime without approval will receive information and instruction on how to follow the overtime rules. Continuing to work without approval, may result in contract action and suspension of the contract.

Stayed tuned for more information on overtime as DSHS works to implement the new law.

Home Care Referral Registry

It’s a good idea to have more than one provider in the event your current provider is not approved for overtime hours. In-home providers of personal care and respite include individual providers and home care agency providers.

The Washington State Home Care Referral Registry (herr.wa.gov) matches individuals who receive personal care services with screened and pre-qualified home care workers.

