

Fact Sheet for FLSA Overtime Implementation

For HCWs in Medicaid & OPI programs

1. Retroactive overtime checks will be processed on Sept 29th.

- a. These checks will be before the difference between Gross OT and the standard rate HCWs have already been paid.
- b. The retroactive OT is paid on the hours authorized and paid to HCWs.
 - i. HCWs who reported working more than the hours authorized on their vouchers will not be compensated for that time.

2. Letters will be mailed to HCWs by August 31.

- a. Letters will notify HCWs of the retroactive OT payment
- b. Letters will notify HCWs of avg. hours per week based on their 3 month avg. (Mar, Apr, May)
 - i. The hour's limitation was determined by first calculating the average hours worked per day for each HCW. This was done by looking at the hours paid in each pay period and dividing by the number of days in the pay period. Next, the average hours worked per week was determined by taking the total hours worked for each provider over a 14 week period of (Feb 28-June 4) and dividing the total hours worked by 14 to get the average hours worked per week over that period of time.
- c. Letters will also notify HCWs whether they will be limited to 40 OR 50 hours per week.
- d. Per the collective bargaining agreement HCWs who were paid for working an average of 40 or more hours a week during the months of March, April and May will be limited to 50 hours per week across **ALL** consumers served.
 - i. HCWs who worked an average of less than 40 hours (39.8 or below) will be limited to 40 hours per week across **ALL** consumers served.
- e. HCWs working more hours than their authorized hour limitation per week will need to adjust their schedules and/or reduce the hours of service they are providing to some consumers.
- f. HCWs who were not working during March, April and May are limited to 40 hours per week.
 - i. HCWs will be allowed to provide documentation that their hour limitation was calculated incorrectly, but we are holding a very firm and very high burden of proof for HCWs to validate that they were working over 40 hours per week.
- g. There will continue to be exceptions to the 50 hour limitation, although – again, the threshold is very high.
- h. Strictly live-in HCWs are not subject to the 50 hour limitation. If they receive a letter informing them of the hour limitation – it was likely by mistake. We have pulled and reviewed the data, but with 20,000+ providers it can't be perfect.
 - i. HCWs who choose to provide both hourly and live-in services are limited to their hour limitation based on their three month average.

3. A list of HCWs who qualified for the 50 hour limitation will be provided to supervisors.

- a. This is a static list and will not change.
- b. No new HCW will default to being authorized to work above 40 hours per week, unless the consumer they work for receives an exception to hourly limitations.

4. The hour limitation will be applied to the HCW when the first consumer they are working for is reassessed.

- a. For cases with a date of request on or after **September 1, 2016** the HCW hour limitation will be applied when the service plan begins.
- b. For ongoing cases that are reassessed on or after September 1, 2016 the HCW hour limitation will be applied on the start date of the new service plan (generally 10/1/2016).

Example:

Bill is working for 2 consumers (Jodi and Phyllis) and his calculated weekly average is less than 40 hours. Jodi’s assessment was just completed in June and is not due until 2017. Phyllis’ assessment is due in October. Bill will be subject to the hour limitation when Phyllis’ re-assessment is completed.

If Jodi is re-assessed before Phyllis due to a change in condition, Bill would be subject to the hour limitation at that time.

- c. When a HCW is added to a service plans but an assessment has not yet been completed, the HCW is subject to their calculated hour limitation of either 40 or 50 hours.

5. There will be no systems hour limitation initially due to the rolling implementation.

- a. We will rely on HCWs, consumers, and Case Managers to manage the hours authorized to individual HCWs on the front end.
 - i. Case managers will need to be reviewing SHHW (hour’s auth. per month) and ONIQ (ongoing authorizations) to determine if the provider on their case may be impacted by the hour limitation.
 - ii. We estimate that approx. 20% of HCWs have qualified to work above 40 hours per week.
- b. Central office will review payments after payment and review to determine if HCWs are in compliance. Review APD-PT-16-031 and [APD-PT-16-008](#)
 - i. If they are not, there will be subject to a progressive discipline plan/approach

Voucher Exceeds 10% of Authorized Hours	Action for Consumer	Action for HCW
First Violation	CM sends Warning Letter	CM sends Warning Letter
Second Violation	CM sends Warning Letter and makes referral to STEPS	CM notifies Central Office CO sends Warning Letter
Third Violation	CM notifies consumer that they must: <ul style="list-style-type: none"> • Appoint a representative; • Choose to receive services through an In-Home Care Agency; or • Choose a different service setting. 	CM notifies Central Office CO sends Termination Letter