

Overtime Fact Sheet For Individual Providers

This fact sheet is intended to help Individual Providers understand the rules about work week limits and overtime. Please contact the client's case manager or visit www.dshs.wa.gov/altsa/IPOT for more information.

GENERAL OVERTIME INFORMATION

1. What is a 'work week'?

A work week begins on Sunday at 12:00 a.m. (midnight) and ends the following Saturday at 11:59 p.m.

2. What is a Work Week Limit (WWL)?

A WWL is the total number of service hours you may work in a work week. A 2016 Washington state law set a limit on the number of hours an Individual Provider (IP) can work in a work week. All IPs have a work week limit (WWL). You may only work up to your WWL when those hours have been assigned to you by one or more clients and the client you work for is eligible to receive the hours. The client may not assign more than the assessed monthly hours in their Plan of Care. WWLs help control overtime costs to ensure funding for services remains available for all those who need them.

3. How does DSHS determine my permanent WWL and how do I know my permanent WWL?

A state law was passed in April 2016. This law established a 40 hour WWL for all IPs except for those who worked an average of more than 40 service hours per week in January 2016. WWLs over 40 hours were determined by dividing the IP's January 2016 paid service hours by 4.33 and rounding to the nearest quarter hour. In May 2016, DSHS mailed notices to IPs who worked in January 2016 with their WWL information. No permanent WWL may exceed more than 65 hours. If you began working as an IP after January 2016, your WWL is 40 hours.

4. What if I think my permanent WWL was determined incorrectly?

If you think your WWL was determined incorrectly, you can submit a request to the client's case manager and DSHS will review your hours per Washington Administrative Code 388-114-0050.

5. Will my permanent WWL ever change?

If your permanent WWL is between 60.25 and 65 hours, it will reduce to 60 hours on July 1, 2017 unless there is a change to the law. Otherwise, your permanent WWL will not change for as long as you remain qualified as an IP. Your WWL will also remain the same if you have a break in service and return as an IP in the future.

6. What services are included in the service hours in my WWL?

- Personal Care
- Relief Care
- Skills Acquisition Training
- Respite Care

7. Does my WWL apply to travel time, DSHS required training, or paid time off (PTO)?

No. Travel time, DSHS required training, and PTO are not included in your WWL. That means you can work up to your WWL doing tasks for the client as needed, even in weeks you also have required training, approved travel time, or take PTO.

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OVERTIME (OT) PAY

8. How is my paid OT calculated?

You are paid your regular wage for all the time you work up to 40 hours in a work week. For all the time you work over 40 hours, you are paid at 1.5 times your regular wage.

The IPOne payment system pays the full amount of the hours you work in a work week at your regular wage (referred to as “full rate”). It shows the OT as an additional ½ rate for the OT hours. Those totals are added together for the final pay.

Example:

You worked 45 hours in a work week and your regular rate is \$12/hour.

Your pay would be:

45 hours x \$12 an hour (full rate) = \$540

+ 5 hours of overtime x \$6 (half rate) = \$30

Total \$540 + \$30 = \$570

OT is displayed in the Payment Summary Description and broken down in the Earnings Section. In this example the Earnings Section would show 45 personal care hours and 5 OT hours.

9. Will I be paid OT for travel time, DSHS required training, or paid time off (PTO)?

You will be paid OT for travel time and DSHS required training if the total hours you worked in a work week are over 40. PTO hours are not considered as hours worked, so they are never eligible for OT payment.

INFORMATION FOR IPS WHO HAVE A PERMANENT 40 HOUR WWL

10. Can I work more than 40 hours in a work week?

You may not work more than 40 service hours in a work week unless you have received a client specific approval from DSHS to temporarily work over 40 hours.

11. Can I work more than my permanent WWL if I work for multiple clients?

You must manage all client service hours within your permanent WWL, regardless of how many clients you work for. If you work for more than one client, you must schedule your time with each of them to ensure that, when you add all your service hours together, you do not work more than your permanent WWL.

12. What should I do if the client I work for wants to schedule me to work more hours than I have available in my permanent WWL?

- Explain that you are not permitted to work more than your WWL and that doing so would be considered excess claiming. See #19 for additional information on excess claiming
- Do not accept assignments that will cause you to work more than your WWL.
- Encourage the client to use an additional provider.
- Encourage the client to contact his/her case manager if the client has a difficult time understanding your limit or can't find an additional provider.
- Please see #18 on page 3 for additional information on emergent and immediate needs.

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INFORMATION FOR IPS WHO HAVE A PERMANENT WWL OF 40.25 HOURS OR MORE

13. Can I work more than 40 hours in a work week?

If you received written notice from DSHS that your permanent WWL is greater than 40 or if you had a temporary client specific WWL increase approved, you may work up to the number of hours on your notice.

14. What should I do if I work for more than one client?

Please see the answer to question #11.

15. What if the client I work for wants me to adjust my hours to work more than my permanent WWL in one week?

You may be able to adjust your hours if all of the following are true:

- The client has a need; and
- Working the additional hours would not exceed the client's monthly assessed hours; and
- Working more in one week will not result in the client going without essential care in other weeks of the month; and
- Working more in one week will not cause you to work more overtime in the month than you would have if you worked up to your WWL every week of that month.

When your WWL is over 40, you may adjust your hours as needed as long as you do not work more overtime in a month than you would normally work. The amount of monthly overtime hours is calculated by subtracting 40 hours from your WWL and multiplying the remainder by the number of Saturdays in that month.

Example:

Jose's WWL is 46 hours. The amount of monthly overtime that Jose can work depends on the number of Saturdays in the month he is working.

Calculation 5 Saturdays: $46 - 40 = 6 \times 5 = 30$

Calculation 4 Saturdays: $46 - 40 = 6 \times 4 = 24$

The client Jose works for needs him to work a flexible schedule throughout the month, which Jose can do as long as he does not work more than 30 hours of overtime in months with 5 Saturdays, or 24 hours of overtime in months with 4 Saturdays.

You may also adjust your hours to work more than your WWL if the client you work for is purchasing extra overtime hours with their New Freedom or Veteran Directed Homecare Services budgets.

16. What should I do if the client I work for wants to schedule me to work more total monthly overtime hours than I have available in my permanent WWL?

Please see the answer to question #12.

TEMPORARY CLIENT SPECIFIC WORK WEEK LIMIT (CSWWL)

17. What is a temporary CSWWL?

The client you work for may ask DSHS to temporarily increase your WWL while he or she looks for additional providers to meet their needs. DSHS will respond to you by mail with a written approval or denial. If approved, the notice will also tell you the date the approval begins and ends and the number of hours approved. The client you work for will also receive a copy. This request/written notification is also known as a CSWWL request. DSHS will not approve a temporary WWL that exceeds the client's assessed monthly hours.

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EMERGENCY NEEDS

18. What should I do if I have worked all the hours in my WWL but the client has an emergent and immediate need and I must continue to work to support the client's health or safety?

- Stay with the client until the situation is safe and stable.
- If there is an emergency that requires emergency medical services, contact 9-1-1.
- End your work day as soon as it is safe to do so.
- Contact the case manager by the next business day to explain the situation.

EXCESS CLAIMING

19. What is excess claiming?

Excess claiming occurs when:

- You work more service hours in a month than you are authorized to provide; or
- You work hours over your WWL that were not approved by DSHS; or
- You claim more travel time than you are authorized to provide in a work week.

20. What is a Contract Action?

A contract action is a notice sent to you by DSHS. The notice informs you that you worked more overtime service hours or travel time hours than you were approved to work.

21. What happens if I work over my WWL or travel time limit?

- Each time you excess claim, you will receive a written contract action notice and information from DSHS reminding you of the importance of not working unapproved overtime. The notice will also be sent to the client(s) for whom you work and their representatives.
- On the third occasion of excess claiming, your contract may be terminated or you may become ineligible to receive payment for 90 days. If your contract is terminated you must wait 90 days before you are eligible to have a new contract.
- If you significantly or repeatedly exceed your work week or travel time limits, DSHS may terminate your contract for default and decline to re-contract with you.

22. How long will contract actions stay on my contract file?

Each contract action will stay open for 12 months from the date of the contract action notice. After 12 months, the contract action is closed.

23. How can I avoid contract actions?

- Always plan your work schedule in advance and write it down.
- If the client's needs change and you have to work a different schedule that affects your WWL, contact the client's case manager immediately.
- Record your work time on your timesheet after each day you work, it may help to also record it on a paper calendar. Check often to make sure you are staying within your WWL.
- DSHS has resources available to help you and your employer/client learn more about managing your schedule to stay within your WWL. These resources are available at www.dshs.wa.gov/altsa/IPOT.