

Bureau of Managed Care
Managed Care Organizations
Policy / Procedures

General Contract Monitoring

Home Services Program – Individual Provider Overtime

Background

As required by the U.S. Department of Labor’s Fair Labor Standards Act, Individual Providers (IPs) shall receive time-and-one-half pay for hours worked in excess of forty (40) hours in a work week beginning January 1, 2016. To execute the amended regulation, the Home Services Program (HSP) has implemented a policy that focuses on Customer safety, job creation, and fiscal responsibility.

Definitions

Overtime

The time worked by an IP for an HSP Customer or Customers that exceeds forty (40) hours in a work week.

Work Week

A week that begins Sunday at 12:00 a.m. (midnight) and ends each Saturday at 11:59 p.m.

Travel Time

The time an IP spends traveling between two (2) or more different HSP Customer addresses on the same workday that does not end or begin at the IP’s residence or include any personal errands.

Policy

HSP Customers who utilize IPs are responsible for hiring and monitoring the work hours of all IPs who work for them. IPs are also responsible for monitoring work hours.

- IPs shall not work more than sixty (60) hours in a work week, unless HSP approves an Overtime Exception. This also applies to IPs who work for multiple Customers. The combined hours worked for multiple Customers shall not exceed sixty (60) hours in a work week.
 - IP Overtime is addressed primarily in 89 IAC 686.1500-686.1570, with other supporting references in Sections 676.30, 677.200, 684.10-684.50, and 684.100.
- A. Responsibilities of HSP Customers, including MCO Customers who utilize IPs
1. Hire a back-up caregiver in according with the Illinois HCBS 1915(c) waiver and 89 IAC 686.1520 for coverage when the scheduled IP is unable to provide services.

2. Manage IP work schedules so that no IP works more than sixty (60) hours per week without an approved overtime exception.
3. Monitor IP work hours to ensure the IP does not work more than sixty (60) hours per work week without an approved overtime exception.
4. Monitor IP work hours to ensure the monthly service plan hours are not exceeded.
5. Monitor IP works hours to ensure the IP does not work more than 16 hours in a 24-hour period.

B. Responsibilities of IPs

1. Meet HSP requirements and complete the IP packet.
2. Enroll in Electronic Visit Verification.
3. Be enrolled in the HFS IMPACT system. IPs submit the paperwork to DRS, and DRS staff enroll the IP in IMPACT.
4. Monitor their work hours to ensure they do not work more than sixty (60) hours per work week.
5. When working for multiple Customers, the IP must monitor the total combined hours worked in a week and include any travel time claimed in that total. This total cannot exceed sixty (60) hours without HSP approval.
6. If the IP works for more than one Customer, he/she may request, complete and submit an HSP Travel Agreement form to the local HSP office where the first Customer is served. The HSP Central Office will review the form and notify the IP in writing regarding approval no later than thirty (30) days after receipt of the request.
7. An IP approved for travel must complete a HSP Travel Time Sheet for reimbursement. The completed form must be attached to the paper HSP timesheet, and both forms must be submitted to the local HSP office where the first Customer is served. Approved travel time will be processed and paid on the next available pay date. The IP is responsible for monitoring work time and travel time to ensure he/she does not work unauthorized overtime.
8. Monitor work hours to ensure they do not exceed 16 hours in a 24-hour period.

C. IP Travel Time

1. For the purposes of travel time, a workday begins at 12 midnight and ends at 11:59 pm.
2. If an IP lives with an HSP Customer, the IP cannot be paid for travel time to another Customer's home.

D. When an IP Works More Than Sixty (60) Hours in a Work Week

1. If HSP approves the overtime exception, the additional hours must be within the limits of the Service Plan allowable hours and not to exceed sixteen (16) hours in a twenty-four (24)-hour period.
2. If an overtime exception is not approved, the IP will receive an occurrence of noncompliance.

E. Overtime Exception Process

1. The Customer submits a request to the HSP Central office.
2. The HSP Central records date received.
3. The Central Office contacts the MCO via email.
4. The Central Office approves or denies the exception request.
5. The Central Office notifies the Customer in writing of the final determination.
6. The Customer may appeal the decision.

F. Overtime Exception Categories

1. Provider capacity
2. Unique/complex needs
3. Out-of-town situations
4. Emergency need

Table 2. Overtime Exception Categories

Exception	Description	Duration	Apply for
Provider Capacity	Applies when an incumbent IP no longer works for the Customer, is unfunded, no longer meets qualifications, has expired credentials and/or when there is no qualified IP within 45 miles of the Customer's service location willing and able to provide needed services.	1 year*	In advance or within 2 weeks of need
Unique/Complex Needs	Applies when the Customer's health and safety would be compromised by adding additional IPs to the Service Plan. This may include court ordered service plans, Customers with a DON score at or about 70, Customers who cannot tolerate multiple workers due to medical or behavioral needs, and Exceptional Care Customers.	1 year*	In advance
Out-of-Town Situations	Applies when the Customer requires care to ensure their health and safety while out-of-town and is not feasible for the Customer to bring additional IPs. Only personal care services as noted in 89 IAC 684.60(c) can be provided during the duration of this exception.	14 days per calendar year	In advance
Emergency Need	Applies when an urgent need for care arises and working more than 60 hours in a work week is unavoidable without risking the health and safety of the Customer. This may include the delayed arrival for unexpected illness of a Provider.	4 times/yr., up to 10 hrs./pay period	Within 2 weeks of need

*After one (1) year, the exception will be automatically renewed for successive one-year periods unless and until the State determines not to renew the exception.

G. Overtime Exception Submission and Process:

1. The overtime exception forms and letters are available at the local HSP office and online at: www.DRS.Illinois.gov/HSP/OT.
2. If the Customer has a service plan that warrants more than 60 hours in a work week, the Customer submits a completed exception request form to the HSP Central office.
3. See Table 2 for when to apply for an exception.
4. Incomplete forms will not be processed and will be returned to the Customer for completion.
5. IPs should not work more than sixty (60) hours in a week until the request for exception is approved.
6. The HSP Central Office will approve or deny the request and notify the Customer in writing of the final determination within thirty (30) days of receiving the exception application.

If no determination is made within thirty (30) days of receiving the exception, the Individual Provider will be deemed conditionally approved to work the overtime hours until the determination is made.

H. Exception Review

1. The HSP Central Office will date stamp and review the Overtime Exception request for completeness on the day it is received.
2. The Central Office will make the final determination to either approve or deny the request.
3. Final determinations are noted in WebCM.
4. Email notifications will be sent to the HSP Counselor or MCO as appropriate.
5. Customers always have the right to appeal a determination.

I. Noncompliance occurs when the use of IP Overtime is unauthorized.

1. The HSP Central Office identifies IPs who work unapproved overtime.
2. The Central Office sends occurrence letters to the Customer and the IP.
3. The Central Office case notes the occurrence in WebCM and emails the MCO.
4. Continued IP noncompliance may result in IP sanctions/suspensions up to and including termination.
5. Continued Customer noncompliance may result in a change to an agency provider.
6. The Customer may appeal the level of care change.

- J. First Noncompliance in a rolling 24-month period
 - 1. HSP sends a 'first occurrence of unauthorized use of overtime' letter to the Customer and the IP.
 - 2. A case note is recorded in WebCM.
 - 3. The MCO may provide further education to the Customer:
 - a. Review applicable overtime requirements, and/or
 - b. Remind Customer of his/her responsibility to manage the IP's use of time.

- K. Second Noncompliance in a rolling 24-month period
 - 1. HSP sends a 'second occurrence of unauthorized use of overtime' letter to the Customer and the IP.
 - 2. WebCM is case noted.
 - 3. The MCO may provide further education to the Customer:
 - a. Review applicable overtime requirements, and/or
 - b. Help the Customer understand that if unjustified use of overtime continues, their IP may be suspended from the program.

- L. Third Noncompliance in a rolling 24-month period
 - 1. HSP sends a 'third occurrence of unauthorized use of overtime' letter to the Customer and the IP.
 - 2. WebCM is case noted.
 - 3. The MCO may provide further education to the Customer:
 - a. Review applicable overtime requirements, and/or
 - b. Help the Customer understand that if unjustified use of overtime continues, their IP may be suspended from the program.

- M. Fourth Noncompliance in a rolling 24-month period
 - 1. HSP sends a 'fourth occurrence of unauthorized use of overtime' letter to the Customer and the IP.
 - a. The letter provides notification that the IP has been temporarily suspended from HSP for three (3) months.
 - b. The IP will not be allowed to work for any HSP Customer during this three (3) month time period.
 - c. The suspension begins after the IP receives the notification.
 - d. Customers may continue to utilize other IPs during this time.
 - 2. WebCM is case noted.

- N. Continued IP Noncompliance in a rolling 24-month period
 - 1. IPs who have already been suspended twice for overtime policy noncompliance will be terminated from HSP on the twelfth (12th) overtime occurrence.

2. HSP will send written notification of IP termination to the IP and the Customer.
3. IPs who have been terminated due to noncompliance may reapply to the program after a period of twelve (12) months, except in cases of Fraud, Abuse, Neglect or Exploitation.
4. The Customer will replace the IP with another IP or change to an agency provider.
5. When a Customer has multiple IPs terminated due to noncompliance, the MCO Care Coordinator (CC) may notify the Customer that his/her Service Plan will be amended to an agency provider. The MCO CC will case note WebCM and maintain a copy.

O. Continued Customer Noncompliance

1. Customers with continued noncompliance such as multiple IP terminations, or non-compliance with other HSP requirements, may have their Service Plan amended to an agency provider. The MCO CC will note this in WebCM, with a copy of the Service Notice placed in the Customer's file.
2. Any change in the level of service (e.g., IP services to homemaker services) is determined by the Customer's MCO CC and may be appealed.

P. MCOs Should Encourage Customers to:

1. Review their Service Plan and consider how many IPs and registered back-ups they need.
2. Hire and train additional IPs as soon as possible.
3. Outreach the local CIL to assist in finding additional IPs if the Customer has difficulties hiring IPs.
4. Review the allowed overtime exceptions.

For more information on letters, forms and administrative rules, visit the DRS HSP Overtime webpage: <http://www.dhs.state.il.us/page.aspx?item=84346>.

Policy History
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Date	Action	Policy Originator
April 2018	Contract Clarification	Lauren Tomko
May 2022	Policy Revision	Bonnee Hartman

Policy Revisions [revision date]	Revision Approved [name of person who approved revision]
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