

Home and community-based services- Overtime Rule

5123:2-9-03

Home and community-based services- Overtime Rule

- The rule outlines procedures related to overtime worked by independent providers, places a limit on the number of hours worked in a work week by an independent provider that provides services under a home and community-based services (HCBS) Medicaid waiver administered by the Ohio Department of Developmental Disabilities (DODD) and/ or **ANY other Medicaid funded service.**
- Medicaid-funded waiver services-
 - a. Department of Medicaid
 - b. The Ohio Department of Aging
 - c. DODD- Homemaker Personal Care
 - d. Private Duty Nursing

Home and community-based services- Overtime Rule

- Definitions:
 - Emergency- An unanticipated and sudden absence of an individual's provider or natural support due to illness, incapacity or other causes.
 - Overtime- Hours worked in excess of forty (40) in a work week.
 - Work week- The seven consecutive days beginning on Sunday at 12 AM and ending on Saturday at 11: 59 PM of each week.

Home and community-based services- Overtime Rule

- DODD, County Boards, individuals who receive services, and independent providers shall work collaboratively to efficiently use available resources and to the extent possible to reduce the need for overtime. This includes the following provider's responsibilities (**Ongoing conversations will be maintained amongst the team during this process**):
 - Provider shall maintain a schedule of hours worked for each week, in addition to regular waiver documentation that is currently maintained.
 - Provider shall inform an individual's service and support administrator (SSA) of the number of persons whom he/she provides any Medicaid-funded services (Include the type of services provided).
 - Provider shall share the location (anywhere in the State) where the services are being provided.
 - Provider shall share the number of hours of services he/she is providing in a work-week for each of the individuals when-
 - a. Being selected by the individual to provide services.
 - b. Upon the request of the SSA.
 - c. Emergency situation (72 hour-notice).

Home and community-based services- Overtime Rule

- Circumstances an independent provider is permitted to provide over sixty (60) hours of Medicaid-funded services in a work week effective February 1, 2018.
- When authorized by the individual's SSA for whom the services are being provided.
 - a. Scheduled travel or surgery of the individual, the individuals' family member, or the individual's provider.
 - b. Holidays or scheduled breaks from school/day program/work.
 - c. The individual has a compromised immune system and may be put at risk by having additional providers.
 - d. The independent provider is the only provider that has been trained by a nurse on delegated tasks or trained by a behavioral specialist to implement unique behavioral support strategies.
 - e. A shortage of other available providers.
 - f. Due to an emergency (Notification by e-mail is required)

Home and community-based services- Overtime Rule

- Mandatory Notification:
 - When an emergency necessitates the provision of exceeding the limit established (over 60 hours of Medicaid-funded service delivery), the independent provider shall notify the SSA in accordance with the County Board's written procedure, within seventy-two (72) hours of the event or circumstances creating the emergency and report the hours worked that exceeded the limit. Notifications shall be made by e-mail.

Home and community-based services- Overtime Rule

- Violation of the Rule-
 - An individual's right to exercise his/her freedom of choice of providers shall not be interpreted to permit an independent provider to violate this rule.
 - An independent provider who violates the requirements of this rule may be subject to denial, suspension, or revocation of certification.

Home and community-based services- Overtime Rule

- Complaint and Due Process:
 - If a complaint is received from an individual regarding the implementation of this rule, the County Board has the responsibility to respond to the individual within thirty calendar days and provide DODD with a copy of the complaint .
 - Due Process will be afforded to the individual served, including the denial of the choice of provider who is qualified and willing to provide HCBS.
 - Providers shall have no standing in an appeal under this section of Revised Code (5160.31)

Home and community-based services- Overtime Rule

- Example of overtime billing:
 - A provider works Monday- Friday 3:00 p.m. – 9:00 p.m (30 hours), delivering Homemaker/ Personal Care (HPC) services to Tom Smith.
 - The provider works the following Saturday from 7:00 a.m. – 7: 00 p.m. (12 hours) delivering personal care aide services/ HPC to another individual, Jake Smith.
 - The provider will submit claims for 40 hours of regular HPC (APC) and 2 hours of HPC overtime (APV) will apply under Jake Smith’s billing (last person receiving the services).

Home and community-based services- Overtime Rule

- Modifier Codes for Overtime Billing/ Rates:
 - For Homemaker/ Personal Care (\$ 5.82/unit):
 - APV when providing services under I.O
 - FPV when providing routine services under L1
 - EPV when using Emergency L1 funding.
 - For On-site/ On-call (\$ 3.20/unit):
 - AOV when providing under I.O
 - FOV when providing under L1
 - EOv when using Emergency L1 funding

Home and community-based services-

Overtime Rule

Questions?