

Overtime Guidance

People enrolled on home and community-based services (HCBS) waivers administered through the Ohio Department of Developmental Disabilities (DODD) may be assessed to need more than forty hours per week of personal care services. Because [Ohio Administrative Code \(OAC\) 5123-9-03](#) defines overtime for independent providers (IPs) as more than 40 hours per week, these people require more services than a single independent provider can provide during the standard work week. In limited circumstances, OAC 5123-9-03 outlines a process for an independent provider to be authorized for additional hours, up to and over 60 hours.

DODD has received additional questions about overtime and has been asked to provide some clarity about this rule. OAC 5123-9-03 (C) requires that the department, county boards, people who receive services, and IPs “work collaboratively to efficiently use available resources and to the extent possible, reduce the need for overtime.” The rule also states that the team will work together to address any known or anticipated events in the planning process to eliminate overage of hours for a single person. If a known or anticipated event is identified in the plan, the provider may be authorized for overtime for the span for purposes including shortage of providers, holidays or breaks from school, travel or medical needs of family or other providers, etc. as identified in the rule.

For non-authorized, non-planned emergencies, the provider must report to the service and support administrator (SSA) the unforeseen and urgent circumstance that caused overage within 72 hours and in compliance with the county board process. This is the requirement per rule for hours over 60; however anytime a provider provides more services than are authorized in the individualized service plan (ISP), they must report the additional services for authorization in the plan and Payment Authorization for Waiver Services (PAWS).

If a person has selected both an independent provider and an agency to provide services, and the independent provider is authorized for 40 hours of service per week, the county board should next authorize additional hours of service to the person’s selected agency to promote efficiency and reduce overtime costs. This supports a person’s free choice of provider because the person has already selected the agency as a provider. A person should be encouraged to search for more providers to avoid emergencies requiring overtime usage by a single independent provider. It should be noted that failure to choose or cooperate with the process does not mean the IP can continue to bill overtime. If other providers are available to cover/meet the need then that authorization should be used per 5123-9-02 (C)(4)(c).

If a county board receives a complaint from a person regarding implementation of this rule, the county board will respond to the person within thirty calendar days and provide the department with a copy of the person's complaint and the county board's response. The department will review the complaint and the response and take actions it determines necessary. These should be submitted to waiverpolicyta@dodd.ohio.gov and they will be reviewed by the Assistant Deputy Director and Waiver Policy. The department will provide a response to the person and the county board.