



To: Waiver Nurses, Home Care Attendants and PASSPORT Administrative Agencies
From: Matthew Hobbs, Chief – Division for Community Living
Date: December 24, 2015 (Rev. January 21, 2016)
Subject: Independent Provider Overtime Rates Beginning January 1, 2016

On Tuesday, October 6, 2015, Chief Justice John Roberts of the United States Supreme Court denied an application that would have stayed implementation of the US Department of Labor’s Home Care Final Rule. The rule applies minimum wage and overtime protections to domestic service workers.

Additionally, on December 9, 2015, the Ohio General Assembly clarified in law that an independent provider who provides services to an individual on Medicaid is not a public employee.

The purpose of this memo is to share information about how the Ohio Department of Aging (ODA) will make overtime payments to eligible independent providers who bill for more than 40 hours or 160 fifteen-minute units in a work week for dates of service beginning January 1, 2016. This memo does not apply to consumer-directed service providers delivering Choices Home Care Attendant or Consumer-Directed Personal Care services in PASSPORT.

How is “work week” defined?

A work week begins Sunday at 12:00 a.m. and ends Saturday at 11:59 p.m.

What hours or units of service are to be included when determining whether an independent provider exceeded 40 hours or 160 fifteen-minute units of service in a work week?

- Time spent delivering services as an independent provider under waiver programs administered by the Ohio Department of Medicaid (ODM), ODA, and the Ohio Department of Developmental Disabilities (DODD), as well as time spent delivering Private Duty Nursing (PDN) as an independent provider should be included.
- Claims submitted to a managed care plan for services provided to an individual enrolled in a managed care plan are NOT included in the overtime calculation.
- Independent providers are responsible for identifying the time at which 40 hours or 160 fifteen-minute units of service were exceeded and submitting overtime claims for the appropriate services.

Examples:

- A provider works Monday – Friday 3:00 p.m. – 9:00 p.m. (30 hours) delivering Personal Care services to a person enrolled in the PASSPORT Waiver.
- The provider works the following Saturday from 7:00 a.m. – 7:00 p.m. (12 hours) delivering Personal Care Aide services to a person enrolled in the Ohio Home Care Waiver.

- The provider submits claims for 30 hours of regular Personal Care for the person enrolled in the PASSPORT Waiver (T1019UA), 10 hours of regular Personal Care Aid for the person enrolled in the Ohio Home Care Waiver (T1019), and 2 hours of overtime for the person enrolled in the Ohio Home Care Waiver (T1019 with the TU modifier in accordance with ODM's overtime policy found here: - <http://medicaid.ohio.gov/Portals/0/Providers/ip-update-2015-12-10.pdf>).

What should independent providers do if working more than 40 hours (160 fifteen-minute units) in a work week?

- Maintain a schedule of hours worked each week. Include the types of services provided and the names of individuals served.
- Submit claims, as usual, for the first 40 hours or 160 fifteen-minute units worked.
- For all units of service provided after the first 40 hours, use the TU modifier if billing under waiver programs administered by ODM and DODD, as well as time spent delivering PDN.
- For all units of service provided after the first 40 hours in the PASSPORT Waiver, submit claims using new billing codes (see below).

Do independent providers have to submit claims differently to be paid overtime?

Yes. For Waiver Nurses and Home Care Attendant service providers in PASSPORT, independent providers will need to submit claims using the following new billing codes for overtime:

- For Home Care Attendant services under the PASSPORT Waiver use billing code: S5125OT for Home Care Attendant Nursing and S5125U8OT for Home Care Attendant Personal Care.
- For Waiver Nursing under the PASSPORT Waiver use billing code: T1003OT if billing as an LPN or T1002OT if billing as an RN.

How will independent providers know what overtime code to use?

Independent providers must use the code that relates to the waiver service being delivered at the time they exceed 40 hours (160 fifteen-minute units) in a work week.

Examples:

- An RN works with an individual enrolled in the PASSPORT Waiver. She delivers 40 hours of PASSPORT waiver nursing services and then works an 8-hour PDN shift during the same work week. The provider will use the regular T1002RN or T1003LPN as appropriate for the first 40 hours, then use the T1000 code with the TU modifier (per guidance from ODM for billing overtime in PDN services - <http://medicaid.ohio.gov/Portals/0/Providers/ip-update-2015-12-10.pdf>) for the 8 hour PDN shift.
- A provider delivers 42 hours of Home Care Attendant Personal Care services in a work week to an individual enrolled in the PASSPORT Waiver. The provider will use the regular S5125U8 procedure code for the first 40 hours. For the remaining 8 units of service, the provider will bill using S5125U8OT to claim overtime reimbursement.

How are overtime rates calculated?

Waiver rates are made up of several components including a wage component, employee-related expenses (payroll taxes, worker's compensation, health care, retirement, and paid time off), productivity (travel, training, and documentation) and administration. Overtime rates will be calculated based on the wage component of the rate.

What amount of reimbursement will independent providers receive for overtime claims?

As with all waiver services, providers are reimbursed at either their usual and customary rate for the service, which is entered in the billed amount field at the time claims are submitted by the provider, or the Medicaid maximum reimbursement rate for the service that is established in the Ohio Administrative Code (OAC), whichever is lower. The following are the Medicaid maximum reimbursement rates for overtime claims:

WAIVER NURSING – LPN (T1003OT)

Independent Providers	
Base Rate	15-Minute unit Rate
\$40.89	\$7.88

WAIVER NURSING – RN (T1002OT)

Independent Providers	
Base Rate	15-Minute unit Rate
\$50.43	\$9.92

HOME CARE ATTENDANT PERSONAL CARE (\$5125U8OT)

Independent Providers	
	HCA/PC 15-Minute unit Rate
	\$3.95

HOME CARE ATTENDANT NURSING (\$5125OT)

Independent Providers	
HCA/N Base Rate	HCA/N 15-Minute unit Rate
\$33.09	\$6.22

How do independent providers who serve multiple people during a single visit submit overtime claims?

When delivering more than 160 fifteen-minute units of service, independent providers must submit the appropriate overtime billing code to be reimbursed at the overtime rate when services are provided to a group as defined in OAC rules governing service delivery.

- The group visit overtime billing code for PASSPORT Home Care Attendant Nursing services is S5125OTHQ.
- The group visit overtime billing code for PASSPORT Home Care Attendant Personal Care services is S5125UOHQ.
- The group visit overtime billing code for PASSPORT Waiver Nursing services is T1002OTHQ if billing as an RN.

- The group visit overtime billing code for PASSPORT Waiver Nursing services is T1003OTHQ if billing as an LPN.

What if an independent provider forgets to submit the overtime billing code and only submits the regular billing code?

The provider will be reimbursed at the regular, non-overtime rate. However, the provider may adjust the claim in order to receive the appropriate overtime payment. All adjustments to claims must be submitted in accordance with requirements established by ODA and the PASSPORT Administrative Agencies (PAAs).

What if an independent provider accidentally submits a claim using an overtime billing code when the provider did not deliver more than 40 hours or 160 fifteen-minute units of service in a work week?

The provider must adjust and resubmit the claim with the appropriate billing code.

Will overtime payments be authorized?

Case Managers will continue to work with individuals and their teams in the development of service plans that meet individual's needs taking in to consideration availability of providers. Through this process an authorization of overtime could occur.

How will overtime claims be monitored?

Both ODM and ODA will run reports to track overtime payments made to individual providers, as well as to monitor the financial impact of overtime claims. Those who submit claims for overtime when more than 40 hours or 160 fifteen-minute units of service were not delivered may be subject to audits and/or investigation.

Will services have to be reduced to accommodate the payment of overtime claims to prevent someone from exceeding their cost cap?

No. Services will not be reduced as a result of overtime payments and overtime payments WILL NOT count against individuals' cost caps.

How will overtime claims be paid in consumer-directed services?

ODA, through the State's financial management service Morning Star, already has a way to pay Choices Home Care Attendant and Consumer-Directed Personal Care providers for overtime hours worked. ODA will communicate separately with consumer-directed providers to address questions about payment for overtime through Morning Star.

Please contact your local PASSPORT Administrative Agency with questions about billing. Locate your PAA at: <http://aging.ohio.gov/services/passport/passportadministrativeagencies.aspx>.

Thank you.