

REPORT TO THE LEGISLATURE

Individual Provider Overtime Spending Plan

ESSHB 1725 Section 1(10) passed by 2016 Legislature

July 1, 2016

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PURPOSE:

In accordance with ESSHB 1725 Section 1(10), the Department of Social and Health Services is providing this expenditure plan and explanation of the system being put in place to monitor the authorization and cost of Individual Provider personal care and respite hours authorized or paid in excess of forty hours per week. This spending plan is based on the appropriation for State Fiscal Years 2016 and 2017 in the 2016 supplemental appropriation bill, and projections for the 2017-19 Biennium based on the fiscal model provided by legislative committee staff when ESSHB 1725 was passed.

The legislation calls for the following in the spending plan:

(10)(a) Each fiscal year, the department shall establish a spending plan and a system to monitor the authorization and cost of hours in excess of forty hours each workweek from subsections (5)(b) and (9) of this section beginning July 1, 2016, and each fiscal year thereafter. Expenditures for hours in excess of forty hours each workweek under subsections (5)(b) and (9) of this section shall not exceed 8.75 percent of the total average authorized personal care hours for the fiscal year as projected by the caseload forecast council. The caseload forecast council may adopt a temporary adjustment to the 8.75 percent of the total average hours projection for that fiscal year, up to a maximum of 10.0 percent, if it finds a higher percentage of overtime hours is necessitated by a shortage of individual providers to provide adequate client care, taking into consideration factors including the criteria in subsection (9) of this section. If the council elects to temporarily increase the limit, it may do so only upon a majority vote of the council.

SPENDING PLAN:

The spending plan below describes the 2016 Supplemental budget appropriation related to ESSB 1725. Please note, the DSHS fiscal note for the bill published on April 11, 2016 anticipates a higher cost, estimating that overtime in the 2015-17 Biennium will be 9.7 percent of the estimated authorized personal care hours provided by IPs, including respite hours, and the steps DSHS is taking to manage the utilization. As required by the statute, DSHS will provide a quarterly expenditure report accounting for actual costs. If the expenditures exceed the limitation, the department will take steps to comply.

TOTAL	FY16	FY17	FY18	FY19
State	5,088,000	19,975,000	18,155,000	16,451,000
Federal	6,345,000	25,423,000	23,107,000	20,936,000
Total	\$11,433,000	\$45,398,000	\$41,262,000	\$37,387,000

AL TSA	FY16	FY17	FY18	FY19
State	3,816,000	14,981,000	13,616,000	12,338,000
Federal	4,759,000	19,067,000	17,330,000	15,702,000
Total	\$8,575,000	\$34,048,000	\$30,946,000	\$28,040,000

DDA	FY16	FY17	FY18	FY19
State	1,272,000	4,994,000	4,539,000	4,113,000
Federal	1,586,000	6,356,000	5,777,000	5,234,000
Total	\$2,858,000	\$11,350,000	\$10,316,000	\$9,347,000

MONITORING OVERTIME AUTHORIZATION:

The Department is in the process of establishing overtime authorization controls as described in ESSB 1725 Section 1(5)(b) and Section 1(9). The bill was signed by Governor Inslee on April 18, 2016 and the department issued emergency rules on April 22, 2016 to implement the statute (Chapter 388-114 WAC). The process of implementation can be summarized as follows:

The department established and assigned work week limits to all Individual Providers (IPs). A “work week limit” is the total number of service hours an IP can provide in a work week. “Service hours” are hours paid to an IP by DSHS to provide personal care, relief care, skills acquisition training, or respite services. Approved travel time, required training hours and paid time off are not included in an IP’s work week limit.

Because qualified travel time is not included in an in IPs work week limit and may cause additional overtime utilization, the department has implemented limits on qualified travel time. Approval for qualified travel time will not be more than those indicated below unless additional hours are necessary to meet client health and safety needs;

- 60 minutes between eligible work sites; or
- 7 hours in a work week

Training is a requirement for an IP to become and remain qualified and must be completed within specific timeframes of the IP’s employment. Hours claimed for training fluctuate significantly because of these specific timeframes and deadlines and thus are not included in an IP’s work week limit. It would be ineffective to attempt to manage authorization of any overtime that could apply to training hours because of this fluctuation.

Including training hours in the IP’s work week limit would also negatively impact the client’s ability to assign hours to IPs identified in their plan of care and may consequently

create disincentive for an IP to complete required training within mandatory deadlines. It is important that barriers are not created for IPs to complete training. Maintaining and building a qualified workforce is essential in the management of IP overtime utilization. If IPs do not complete required training on time, they are no longer qualified to work as an IP and therefore unavailable to provide care to clients. A reduction in the IP workforce would result in increased difficulty for clients to identify and hire an additional provider when the provider is needed to prevent the utilization of overtime by another existing IP.

As established in law, assigned work week limits are based upon the hours each individual IP worked in January 2016. The work week limit is 40 hours for IPs who were paid for working an average of 40 hours or less in January 2016 or for providers who were hired after January 31, 2016. These IPs may not work overtime hours without approval by the department. The majority of the population of IPs fall into this category.

A smaller population of IPs may have work week limits over 40 and up to 65 if the IP was paid for working an average number of weekly hours over 40 in January 2016. If an IP was paid for working an average number of weekly hours over 65, the IP will be limited to 65 once the care plan is reviewed with the client by the case manager and an additional provider can be found to work the additional hours in the client's care plan. For IPs who worked over 40 and up to 65 in January 2016, their work week limit was individually established based upon the number of hours paid in January and range from 40.25 to 65 hours. These IPs may not work additional overtime without approval by the department. IPs with work week limits between 60.25 and 65 will be reduced to 60 in FY18 and thereafter.

As directed in the law, an appeal process has been created to allow IPs to request re-evaluation of their work week limit if the hours the IP worked in January materially underrepresent the average hours worked in January, February, and March of 2016.

The department has also implemented policy and procedure to make decisions on requests to approve temporary additional hours to an IP's work week limit when a qualified provider is unavailable to the client and also for client health and safety reasons. In general, requests must be pre-approved but one-time retroactive approvals may be granted in specific situations based on client need.

To ensure maximum flexibility to clients and support them in meeting their needs which can vary throughout a month, the rules provide that a client can assign their monthly hours determined by their Comprehensive Assessment Reporting Evaluation (CARE) assessment, in different weeks of the month, allowing an IP to exceed the work week limit in one week as long as:

- the client has a specific need to do so;
- the assignment does not cause an IP to work **more** overtime than the IP would have worked had the IP worked the hours evenly throughout the month;
- the IP does not work more than the client's authorized monthly hours; and
- the use of more service hours in one week will not cause the client to go without essential care in other weeks of the month

This type of flexibility of the client's monthly hours does not require approval by the department when all the above conditions are met.

The department is in the process of designing and implementing monitoring controls using current reporting tools and IT systems. Case Managers will be notified when IPs have exceeded their work week limit using payment system claims data. To provide the flexibility to clients as described above, work week limits will be converted to a monthly amount. If an IP claims in excess of this limit, their name will show up on a report, the Case Managers will be notified, and contract action may be initiated, which could result in loss of certification.

The following are violations of the terms of rule and IP contract terms and may result in contract action:

- An IP exceeds their work week limit without approval by the department
- An IP exceeds a client's monthly benefit
- An IP exceeds their travel time authorization limit

The department will continue to monitor overtime utilization and spending to determine if established controls are sufficient to manage overtime costs while conserving the ability to meet the identified needs of clients as indicated in their plans of care and address potential client health and safety risks. Based on the results of this monitoring, the department will determine if adjustments need to be made in policy and procedure, or if additional quality assurance measures are necessary.