

Waiver Personal Care Services (WPCS) Overtime

Frequently Asked Questions (FAQs) for Waiver Participants

Will my personal care service hours change?

No. The new overtime rules will not change the Waiver Personal Care Services (WPCS) you get through the In-Home Operations (IHO) or Nursing Facility/Acute Hospital (NF/AH) Waivers. And the new overtime rules should not change the In-Home Supportive Services (IHSS) you get. But you may have to hire more providers.

What happens if the cost of overtime makes me go over my Yearly Cost Cap?

If this happens, the IHO Nurse will work with you to help you avoid a decrease in waiver services.

When does the new WPCS overtime law start?

The new law starts on February 1, 2016.

Is there a grace period?

Yes. There will be a three month grace period. During this time, a provider will be paid for all overtime hours he/she works. On May 1, 2016, the Department of Health Care Services (DHCS) or the county social worker will start to send notices to providers who do not follow the new law. The rule about hours worked has not changed. Providers must not work more than a 12-hour work day or 70-hours and 45 minutes workweek.

What is considered overtime?

Overtime is considered any time worked over 40 hours in a workweek. A workweek starts at 12:00 a.m. on Sunday and ends at 11:59 p.m. the next Saturday.

What is the overtime pay rate?

The overtime pay rate is one and a half times the normal county IHSS or WPCS pay rate.

How many hours can my provider claim in a workweek?

Your provider must not work more than a 70-hours and 45-minutes workweek of combined IHSS and WPCS services, even if he/she cares for other waiver participants. Your provider must plan the times for each workweek that he/she will care for you. The

service times should not go over your allowed weekly and monthly hours. And the number of all hours a provider works must not go over the 70-hours and 45 minutes workweek cap.

How do I know how many hours I'm allowed each week?

In order to know how many hours your provider is allowed each week, divide your total monthly hours by 4. This is the number of hours you are allowed each workweek.

What is travel time?

Travel time is the time it takes for a WPCS provider to travel from the first place he/she provides services to the next place he/she provides services. A provider may get paid for travel time if they care for more than one person on the same day. Starting on February 1, 2016, WPCS providers may be able to get paid for travel time up to 7 hours per workweek.

How can a provider get paid for travel time?

The provider needs to fill out the WPCS Provider Workweek and Travel Time Agreement Form, and then send it to IHO state staff. After IHO gets this form, IHO state staff will mail a Travel Claim Form to the provider. These are not the same forms as the normal timesheets.

Will travel hours count as part of my service hours?

No. Travel time is not counted towards the 70-hours and 45 minutes workweek. Travel time is not taken from your monthly allowed hours for IHSS and WPCS.

Can my provider work more than my weekly allowed hours?

Yes. But you may need to ask your IHO Nurse to approve a change to your weekly hours. You must have your IHO Nurse approve the change, if it means your provider will work:

- More hours in the month than your total monthly allowed service hours, or
- More than 40 hours in a workweek.

If you allow your provider to work more hours in a workweek, then you must have the provider work fewer hours in the other week(s) of the month. That way your provider does not work more than your total monthly allowed service hours.

If you have only one provider, you can allow him/her to work more than your weekly allowed hours. You do not have to ask your IHO Nurse to approve it, as long as:

- You do not have any other providers working for you;
- Your provider does not work for any other participants; and
- Your provider changes his/her weekly work times to work fewer hours for you the other week(s). This is to make sure he/she does not work more than your monthly allowed hours. Also he/she cannot work more overtime for you than he/she would in a normal month.

What if a participant needs a provider to work over the 70-hours and 45 minute workweek?

There are opportunities for provider exemptions to allow work up to a maximum of 12-hour work days or 360 hours per month of WPCS and IHSS combined. The WPCS provider must meet one of the three following criteria below as of January 31, 2016:

- The WPCS provider is a family member or non-family member and resides in the same house as the WPCS participant; or
- The WPCS provider has an active and established working relationship for two or more years with the WPCS participant; or
- There are no other available providers in the area after working closely with the WPCS participant's IHO Nurse to secure additional providers.

How can a participant or their provider request an exemption?

The provider needs to request a Workweek Exemption for WPCS Care Providers form from their IHO Nurse. A Workweek Exemption form will be mailed to the provider. The provider needs to complete the form and return it to IHO. IHO will mail a notice to the participant and provider to let them know if IHO approved the exemption.

Can a Waiver participant enrolled in the waiver after January 31, 2016 receive an exemption for the 70-hours and 45 minutes workweek requirement for one of their care providers?

IHO is considering an exemption for care providers to waiver participants enrolled in the waiver after January 31, 2016 allowing overtime hours up to the waiver limit (12-hour work day, or 360 hours per month). This exemption will be granted on a case-by-case basis.

How do I ask IHO to approve a change in my provider's allowed weekly hours when needed?

You must ask your IHO Nurse to approve a change to your providers' weekly hours. You must ask them to approve this when you need to make the change, or as soon as

you can afterwards. And you must get IHO to approve the change before you give them the timesheet, so IHO knows what to pay your provider.

Before the IHO Nurse approves the change for more hours, he/she will review all of the following things:

- Does your provider need to work more hours because you have a new or unplanned need?
- Is your need urgent, or can it wait until a back-up provider can come over?
- Does this need have a direct and big impact on your health and/or safety?

IHO will mail a notice to you and your provider to let you know if they approve the change. You will get this notice within 10 days of when you ask them to approve the change.

What happens if my provider claims more than his/her allowed weekly hours without an approval?

Starting on May 1, 2016, your provider will get a violation if his/her timesheet has more hours than allowed. This includes allowed work week hours or travel time hours. You must ask IHO to approve changes, before your provider works more hours. Below are reasons a provider will get a violation.

- The provider is only allowed to work less than 40 hours in a work week. He/she works more than 40 hours without approval from IHO. The participant must ask IHO to approve the change. Then the provider can work more than 40 hours in a work week;
- The provider can only work the participant’s allowed weekly service hours. He/she works more hours in a work week without approval from IHO. This causes the provider to work more overtime hours in a month than normal. The participant must ask IHO to approve the extra hours. Then the provider can work more hours in the month;
- Provider works more than a 70-hours and 45 minutes a workweek without prior authorization from IHO;
- Provider claims more than 7 hours of travel time in a workweek.

What are the violations?

First violation	The participant and the provider will get a notice of violation. It will tell you about your dispute rights.
Second Violation	The participant and the provider will get a notice of violation. It will tell you about your dispute rights.

	The provider has to complete a work week and travel time training. He/she may take the training within 14 calendar days of the notice to remove the second violation.
Third Violation	The participant and the provider will get a notice of violation. It will tell you about your appeal rights. The provider will be banned as a provider for three months.
Fourth Violation	The participant and the provider will get a notice of violation. It will tell you about your appeal rights. The provider will be banned as a provider for one year.

Who do I contact if I have a question?

- For WPCS overtime and payroll questions, call (916) 552-9214.
- To find participant's assigned Nurse Evaluator, request adjustment to your weekly schedule, or ask questions on services or authorized hours, call (916) 552-9105.