

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 to minimum wage and overtime.

Currently, all Ohio independent providers are paid at a rate that meets or exceeds federal minimum wage standards.

The Department of Developmental Disabilities (DODD) will make overtime payments to eligible independent providers who bill for more than 40 hours in a work week for dates of service beginning January 1, 2016.

The DODD will calculate overtime payments for Homemaker/Personal Care Services based on the existing rate methodology as set forth in the chart below. Additionally, the rate accounts for the 6% rate increase that goes into effect on January 1, 2016.

Category	Explanation	Independent
Direct Care/Support	Average hourly wage for direct support	\$11.12
Employee Related Expenses (ERE)	Payroll taxes, worker's compensation, health care, retirement, & paid time off for direct care support (30% of wages for agencies; 32% for independents)	\$3.56
Supervisor/QMRP	Average hourly wage for direct support	
Supervisor ERE	Payroll taxes, worker's compensation, health care, retirement, & paid time off for supervisor/QMRP (30% of wages for agencies; 32% for independents)	
Productivity	Time that is worked but not billed; includes ISP meetings, staff meetings, travel time, etc. (2% for agencies; 10% for independents)	\$1.52
Administration/ Training	Administrative and training costs that are not billed (18% for agencies; 7% for independents)	\$1.13
Total Base Rate		\$17.33

Overtime payments will be calculated by taking the hourly wage rate dividing by 2 then adding that number back to the HPC Medicaid Hourly rate, as follows:

1. Base HPC hourly wage rate = \$11.12
2. Overtime calculation = $\$11.12/2 = \5.56
3. Base HPC hourly Medicaid rate = \$17.33 (includes wage assumption, ERE, productivity, and administrative/training assumptions)
4. $\$17.33 + \$5.56 = \$22.89$
5. Total hourly rate with overtime = \$22.89
6. In any given case, the actual hourly rate will reflect the cost-of-doing-business category for the provider's location.
7. Finally, if there is a rate add-on, that amount will be applied after the overtime rate is calculated.
8. At this time, overtime payments will not count against an individual's Ohio Developmental Disabilities Profile (ODDP) ranges or waiver caps. No prior authorization or budget adjustments are required.

DODD recognizes that overtime will sometimes be necessary, such as in emergency situations or when no other provider is willing to serve the individual. If more than 40 hours per week are being routinely scheduled for an independent provider, the Service and Support Administrator, the individual, and the family should begin planning to reduce the number of overtime hours over the next year. This may include recruiting additional providers, if needed.

DODD will monitor overtime payment to individual providers, as well as on an aggregate basis, to assess the overall impact of overtime payments and to conduct audits as necessary.

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.

If you have questions, please contact the DODD Support Center at 800-617-6733.