

OVERTIME RULE FAQs

- 1. The rule (OAC 5123:2-9-03) states a cap of 60 hours per week. Can I work over 40 hours as long as I don't go over 60 hours per week?**
 - a. No, not on a regular basis. While the rule states that the absolute limit is 60 hours unless there is an emergency (see rule) and it is approved by an SSA, it also states in section C "The department, county boards, individuals who receive services, and independent providers shall work collaboratively to efficiently use available resources and to the extent possible, reduce the need for overtime."
- 2. I heard that all independent providers have to be under 40 hours by February 1st without exception. What if another provider can't be found? What are the people we serve going to do without services?**
 - a. The deadline to be under 40 hours is not February 1st. The deadline is for providers to be under 60 hours per week by February 1, 2018. For providers who consistently work more than 40 hours per week, but less than 60, the CLS department will be reaching out to those providers to work together to reduce the need for overtime in the coming months. Individuals safety and welfare is the most important component for the Board, and they will not be left without proper supports during this process.
 - b. The intent of the rule is not to create gaps in services for individuals, but requires that options be explored to reduce the need for overtime hours. To be clear, no one will be forced to go without needed services in order to reduce overtime.
- 3. I don't want the overtime rate, can I continue to work more than 40 hours if I only want to bill the regular rate for services?**
 - a. No. Unfortunately, it is a Federal mandate that requires all States to pay overtime (over 40/wk) to independent providers in the health service industry. The State of Ohio must comply with the Federal Government's decision. There is not an ability for States to "waive" this entitlement.
- 4. Do Independent providers have to find/recruit other providers to take on service hours to reduce their overtime?**
 - a. No. It is up to the individuals, families, and SSAs to search for and choose a new provider. The role of a provider in this search is to be supportive of the individuals' search and exploration of new providers and new experiences.
- 5. Doesn't this violate the person's right to "free choice of provider"?**
 - a. The rule specifically addresses this by saying " (1) An individual's right to obtain home and community-based services from any qualified and willing provider in accordance with 42 C.F.R. 431.51 as in effect on the effective date of this rule

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and sections 5123.044 and 5126.046 of the Revised Code shall not be interpreted to permit an independent provider to violate this rule”