



## Department of Medicaid

**John R. Kasich**, Governor

**John B. McCarthy**, Director

**To:** Independent RN's, LPN's and Aides, Ohio Home Care Waiver Case Management Agencies  
**From:** Kim Donica, Chief-Bureau of Long Term Care Services and Supports  
**Date:** December 10, 2015 (Rev. 4/1/16)  
**Subject:** Independent Provider Overtime Rates Effective 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 Medicaid (ODM) 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.

### **How is "work week" defined?**

A work week begins Sunday at 12:00 am and ends Saturday at 11:59 pm.

### **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, the Ohio Department of Aging (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 pm – 9:00 pm (30 hours) delivering Homemaker/Personal Care services to a person enrolled in the Individual Options Waiver.
- The provider works the following Saturday from 7:00 am – 7:00 pm (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 Homemaker/Personal Care for the person enrolled in the Individual Options Waiver (APV), 10 hours of regular Personal Care Aide 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 UA modifier.)

**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 or UA modifiers as appropriate.

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

Yes. For Private Duty Nursing (PDN) and some Ohio Home Care Waiver services, independent providers will need to use new modifiers for overtime claims.

- For Personal Care Aide, Home Care Attendant, and Waiver Nursing under the Ohio Home Care Waiver and for Private Duty Nursing services – a TU or UA modifier must be added to the T1019, S5125, T1002, T1003, or T1000 procedure codes. The TU modifier indicates that the entire visit is being billed as overtime. The new UA modifier indicates that a visit was split between regular time and overtime. The UA modifier indicates the units of the split visit that are being billed as overtime.
  - (NOTE: For PDN overtime claims for dates of service 1/1/16-3/31/16 the TD and TE modifiers MAY NOT be used. For dates of service 4/1/16 or later, the TD and TE modifiers MUST be used.)

**How will independent providers know what overtime code to use?**

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

**Examples:**

- An RN works with an individual enrolled in the Ohio Home Care Waiver. She delivers 40 hours of waiver nursing services, then works an 8-hour PDN shift during the same work week. The provider will use the regular T1002 for the first 40 hours, then use the T1000 code with the TU modifier for the 8 hour PDN shift.
- A provider delivers 42 hours of Personal Care Aide services in a work week to an individual enrolled in the Ohio Home Care Waiver. The provider will use the regular T1019 procedure code for the first 40 hours. For the remaining 8 units of service, the provider will add the TU or UA modifier, as appropriate, to the claim.

**How are overtime rates calculated?**

Waiver and PDN rates are made up of several components including a wage component, employee-related expenses (payroll taxes, worker's compensation, health care, retirement, & 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:

PERSONAL CARE AIDE (with TU or UA modifier)

Independent Providers	
Base Rate	15-Minute unit Rate
\$22.46	\$3.95

PDN or WAIVER NURSING – LPN  
(with TU or UA modifier)

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

HOME CARE ATTENDANT (with TU or UA modifier)

Independent Providers		
HCA/N Base Rate	HCA/N 15-Minute unit Rate	HCA/PC 15-Minute unit Rate
\$33.09	\$6.22	\$3.95

PDN or WAIVER NURSING – RN (with TU or UA modifier)

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

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

Independent providers must continue to use the “HQ” modifier when delivering services to groups of 2 – 3 people.

When delivering more than 160 fifteen-minute units of service, independent providers must submit the appropriate code with the overtime modifier, along with the group modifier, in order to be reimbursed at the overtime rate.

**What if an independent provider forgets to submit the overtime code/modifier and only submits the regular 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 the timeframes specified in sections 5123:2-9-06 and 5160-1-19 of the Ohio Administrative Code.

**What if an independent provider accidentally submits an overtime modifier 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 the claim to back-out the overtime claim and resubmit the claim with the code and without the overtime modifier.

**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. Providers do not need to have overtime authorized on the All Services Plan in order to use the TU modifier on their claims.

**How will overtime claims be monitored?**

ODM 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.

**Additional Information on How to Submit Overtime Claims:**

**How do independent providers bill when the same visit includes regular and overtime hours?**

The provider will need to split the visit into two lines. The regular hours will be billed on one line and the overtime hours will be billed on a second line and include the UA modifier. All other appropriate modifiers should be used. Only one regular hour base rate will be received for the visit. All UA modified lines will be paid at the 15-Minute unit rate for the applicable service indicated in the tables above.

***Example:***

A four hour visit consists of two regular and two overtime hours. The provider would bill for two hours (8 units) on one line representing the first two hours. The provider would bill a second line for two hours (8 units) representing the last two hours and include the UA modifier to indicate a split visit with overtime.

**How do independent providers bill for the base rate if overtime occurs during the first hour of a visit?**

A provider must provide services for a minimum of 35 minutes in order to earn the base rate amount. If overtime occurs during the first hour, the provider does not need to split the visit into two lines.

**Example:**

The entire visit (all units) would be billed on one line with the TU modifier, paying the overtime base and unit rates.

**How do independent providers bill when overtime is reached during a second visit of the day, for the same individual?**

The provider will need to split the 2<sup>nd</sup> visit into two lines. The regular hours of the visit will be billed on one line with the U2 modifier. The overtime hours will be billed on a second line with the U2 and UA modifier. The UA modifier is used to indicate a split visit with overtime. All other appropriate modifiers should be used. Only one regular hour base rate will be received for the visit. All UA modified lines will be paid at the 15-Minute unit rate for the applicable service indicated in the tables above.

**Example for the second visit:**

A five hour visit consists of two regular and three overtime hours. The provider would bill for two hours (8 units) on the first line with the U2 modifier to indicate the second visit of regular hours. The second line would be three hours (12 units) representing over time hours and include the U2 and UA modifiers to indicate a 2<sup>nd</sup> visit split with overtime.

**Will there be additional modifier changes due to overtime?**

Yes, in addition to the TU and UA modifiers indicating overtime there will also be a few other modifier related changes. The U6 and U5 modifiers will no longer be permitted with Private Duty Nursing (T1000). Also, when billing for overtime for Private Duty Nursing (T1000) for dates of service 1/1/16-3/31/16 the TD and TE modifiers MAY NOT be used. For dates of service 4/1/16 or later,) the TD and TE modifiers MUST be used.

**How do independent providers bill for a RN Consultation that includes regular and overtime hours?**

RN consultation (T1001) may be conducted face to face or by phone. Units are billed per 15 minutes, (example 30 minutes equals 2 units). If overtime occurs during the consultation, the provider will need to split the consultation into two lines.

- (Note: For dates of service 1/1/16-3/31/16 the TU modifier must be used. For dates of service 4/1/16 or later the UA modifier must be used.)

**Examples:**

The first 15 minutes (1 unit) of regular time will be billed on the first line. The next 15 minutes (1 unit) will be billed on a second line with the appropriate TU or UA modifier for the date of service billed.

If the entire consultation is done during overtime, the provider will bill one line for the whole 30 minutes (2 units) with the appropriate TU or UA modifier for the date of service billed.

**If you have questions, please contact the Ohio Medicaid Provider Hotline at 1-800-686-1516.**

Thank you.