



Notice to Employer and Employee regarding working more than 40 hours a week

In the My Voice, My Choice and Family Directed Services programs, Idaho Medicaid prohibits employees from working more than 40 hours per week unless they are exempted from overtime pay requirements under the Fair Labor Standards Act (FLSA). Please refer to page two of your Participant-CSW Employment Agreement.

Because of this restriction, Consumer Direct Care Network (CDCN) cannot pay an employee for any hours worked beyond 40 in a work week unless they qualify for an FLSA exemption and we have an exemption form on file, signed by both employer and employee.

- **If CDCN has an exemption form on file...**Employee is eligible to work more than 40 hours in a work week - Hours worked beyond 40 are paid at the regular hourly rate.
- **If CDCN does not have an exemption form on file...**Employee is not eligible to work more than 40 hours in a work week - Hours worked beyond 40 will not be paid.

There are two FLSA overtime pay exemptions for domestic service employees

1. Companionship Services Exemption - Congress exempted minimum wage and overtime provisions to domestic service employees who provide “companionship services” to the elderly or to people with illness, injuries, or disabilities who require assistance in caring for themselves.

Criteria: Employee must perform at least 80% of their work on one or both of the following:

- Fellowship – engages participant in social, physical, and mental activities, such as conversation, reading, games and crafts; and/or accompanying participant on walks, errands, appointments and social events.
- Protection – be present with participant in home or accompany participant when outside of home, and monitor participant’s safety and well-being.

Note: a *Companionship Services Exemption* form is found on the CDCN Idaho website.

2. Live-in Exemption - Congress exempted overtime provisions to domestic service employees who have a “live-in relationship” with their employer. That is, they reside in the household in which they provide services.

Criteria: The employee resides in the participant’s home either permanently, or for extended periods of time (120 hours or more per week). No family relationship needs to exist.

Note: an *Employee-Participant Live-in Determination* form is included in employee enrollment packets for both My Voice, My Choice and Family Directed Services programs.

Guidance on these exemptions is available from the Department of Labor’s website at https://www.dol.gov/whd/homecare/homecare_guide.htm and on the CDCN Idaho website under the resources tab (Look for the link titled: Guide to DOL Home Care Rule).