



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 specifically exempted from Fair Labor Standard Act (FLSA) regulations (see 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 exemption – and an exemption form, signed by both employer and employee, is on file:

- **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.

The two FLSA exemptions for domestic service employees are:

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.

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 permanently OR resides in participant’s home for extended periods of time (120 hours or more per week). No family relationship needs to exist.



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 website under the resources tab (Look for the link titled: Guide to DOL Home Care Rule).

Exemption forms are available on the CDCN website at <http://consumerdirectid.com/forms/>, or can be obtained by calling the CDCN Meridian office.

Notice to Employees who have a Live-in Relationship with the Service Recipient

IRS Notice 2014-7 describes "Difficulty of Care Payments" in which income received for care provided under certain Medicaid Waiver programs is excludable from gross income if the service recipient lives in the care provider's home. This means that for qualifying individuals, federal and state income taxes are not withheld from their pay. For an employee to be eligible, the following must apply:

- Services must be provided under a qualified Medicaid Waiver Program providing non-medical support services under a plan of care.
- The service recipient must reside in the care provider's (employee's) home. No family relationship needs to exist.

Additional information on IRS Notice 2014-7 is available online:

https://www.irs.gov/irb/2014-4_IRB/ar06.html

<http://ihssadvocate.com/news/notice-2014-7-explained-by-regina-levy-cpa>

CDCN will need a **Statement of Compliance with IRS Notice 2014-7** on file, with both the employee's and participant's signature to ensure tax withholding are set up correctly. The form is available on the CDCN website at <http://consumerdirectid.com/forms/>, or can be obtained by calling the CDCN Meridian office.