

Important Information for Live-in Paid Caregivers who Provide Daily Personal Care Services as Qualified Service Providers (QSP) under the Home and Community Based Service (HCBS) Programs of Family Home Care, Family Personal Care, Service Payments to the Elderly and Disabled Daily Rate Personal Care, Waiver Daily Rate Personal Care, Medicaid State Plan Daily Rate Personal Care.

What Live in Paid, Qualified Service Providers need to know.

- All live-in caregivers providing the services listed above who had a close personal relationship with the eligible individual prior to services being started are eligible for overtime payments (if they provide more than 40 hours of care per week) per the FLSA In Home Care Final Rule.
- Live-in providers must have a signed service agreement established that includes the number of hours they will be reimbursed with State or Federal funds.
- A close personal relationship includes relative providers and individuals who had a close personal relationship with the eligible individual prior to paid care being established.
- All live-in caregivers who have a close personal relationship with the eligible individual who are currently providing daily unit rate services may be switched to a daily rate.
- Live-in caregivers providing QSP services at a daily rate will no longer be subject to EVV for these services. Daily rate QSPs will be allowed to attendance bill in Therap.
- Family Home Care and Family Personal Care providers can continue to use paper/atypical claim forms or bill through Therap.
- MMIS Portal will no longer be an option for Family Home Care/Family Personal Care providers to use to submit claims.

Frequently Asked Questions

Why are we making this change?

To comply with the law and to make it easier for providers who use Therap to bill.

Will this change affect how much I am paid?

No, the daily rate is based on the number of units that you are authorized in a month. The dollar amount authorized will only change if there is a change in the consumer's needs.

How is my daily rate calculated?

The daily rate is calculated based on the amount and type of services an eligible individual needs and the amount the provider is authorized for.

I am authorized to provide more than one service code; will I use attendance billing for all the services I provide?

You will only use attendance billing for the personal care daily rate, waiver personal care., family home care and family personal care services. You will still need to use EVV to check in and out for other services such as Homemaker (S5130) or extended personal care services. It is important to only check in and out for the number of units authorized weekly for these services. These services are calculated in your overtime payments.

Why do I have to sign a provider service agreement?

The provider agreement is needed so that live-in daily rate providers know how many hours they will be reimbursed to provide care to an eligible individual. It will be used to calculate any overtime that might be owed as required under the Fair Labor Standards Act in-home final rule. With the service agreements, QSPs agrees to a daily rate, which is determined by the case manager's assessment based on the individual's needs and allowable service tasks.

What is attendance billing?

Attendance billing is a streamlined way for you to verify that you have provided care each day.

Providers will still be required to use Therap to submit their claims, but services will be documented and billed in the attendance module. Documenting in the attendance module will require the QSP to verify the days that the service was provided. Using the attendance module will streamline the process of submitting your claims and making documenting easier.

The instructions on attendance billing and ISP training will be located here:

[Quick Guides and How-To Videos - North Dakota Qualified Service Provider Hub Training \(ndqsphub.org\)](http://ndqsphub.org)

[Adults and Aging Qualified Service Providers \(QSP\) | Health and Human Services North Dakota](#)

Will I still need to keep service records?

Yes, Qualified Service Providers (QSPs) are required to maintain required documentation of services provided to eligible individuals. The purpose of this documentation is to verify payment requests and support the quality and integrity of services provided. The specific elements required in these records are detailed in the provider handbook and must include:

- Individual's name
- Individual's ND number (North Dakota ID number)
- Provider name
- Provider number
- Service location
- Date of service
- Time services started
- Time services ended
- Authorized tasks completed

All these requirements can be met with ISP data feature in Therap. If you don't use Therap you can keep paper or electronic documentation, but it must include all the data shown above.

What is ISP data and how can I use it to keep records?

The Therap Individual Service Plan (ISP) data module allows individuals and agency QSPs to track and document the tasks they complete during client visits within Therap on a mobile device or computer. The ISP program will automatically be uploaded onto each user's Therap account.

ISP is available to the provider who currently use Therap. If the provider is not using Therap, they will not have access to the ISP module.

If I use the ISP data feature in Therap to document the tasks I provided to the eligible individual, do I still need to keep paper documentation?

No, if the ISP data feature in Therap is used correctly it meets the documentation requirements for services provided by QSPs.

How do I know if I will receive overtime payments?

Not all providers will receive overtime. You must provide more than 40 hours in a 7-day workweek to be eligible to receive it.

The Fair Labor Standards Act (FLSA) recognizes the unique nature of programs in which the care provider and the eligible individual live together and have pre-existing family ties or a pre-existing shared household. There is both a familial or household relationship and an employment relationship. Under these programs, the services to be provided and the number of hours of paid services are described in the plan of care, which is based on an assessment of the services the eligible individual requires and the eligible individual's existing circumstances, such as unpaid assistance provided by family or household members ("natural supports"). The person-centered plan of care covers the scope of the employment relationship; the services paid under the Medicaid program. Additional services that are provided because of the familial or household relationship are unpaid natural supports.

Per the Fair Labor Standards Act, Aging Services pays overtime for care provided more than 40 hours in a work week. Overtime is determined by the amount of care provided over seven days, starting on Sunday at midnight and ending on Saturday at 11:59 pm. Potential overtime claims are reviewed before payments are released, and not everyone is guaranteed overtime, and all payments are subjected to audit.

How is the Overtime Payment Calculated?

The reimbursement for overtime is paid at 1.5 times the regular rate.

All Family Personal Care providers receive the same daily rate of \$165.98, and all Family Home Care providers receive the same daily rate of \$77.69. All Sped 1020 daily rate receive the same daily rate of \$91.31. The number of hours of care authorized are documented on the service agreement, and any hours more than 40 hours per week will be paid overtime.

- The Family Home Care - T2033 overtime rate is calculated at an hourly rate of \$3.88. The number of authorized hours for family home care is documented on the service agreement, and overtime is based on half of the hourly rate of \$7.76.
- The Family Personal Care- S5136 overtime rate is calculated at an hourly rate of \$8.29. The number of authorized hours is documented on the service agreement, and overtime is based on half of the hourly rate of \$16.59.

- Medicaid State Plan Personal Care- T1020 overtime rate is calculated based at hourly rate of 13.96. The number of authorized hours is documented on the service agreement, and overtime is based on half of the hourly rate of \$27.92.
- SPED- T1020 daily rate overtime is calculated at an hourly rate of \$4.55. The number of authorized hours is documented on the service agreement, and overtime is based on half of the hourly rate of \$9.11.
- Waiver Personal Care Daily Rate S5102 overtime rate is calculated based at an hourly rate of \$13.96. The number of authorized hours is documented on the service agreement, and overtime is based on half of the hourly rate of \$27.92.

Note: Since the caregiver has already been paid at the regular rate for all units, any additional compensation for hours worked over 40 is provided as a separate payment. This payment is calculated at 0.5 times the regular unit rate. In other words, it is half of the caregiver's usual pay rate for each unit worked beyond the standard 40 hours.

If I am owed overtime, when will I receive it?

Overtime payments will always be at least 3 months behind because it takes that long to receive the billing data needed to calculate the overtime. Payments don't follow a check-write date but most often the payments will be made at the end of the month for the previous month's work. All billing data must be verified before overtime payments can be calculated.

What if I have more than more consumer, how will overtime be paid?

If a provider has more than one consumer who they are providing daily live in care, the provider will only be paid overtime for the consumer who has more hours approved on their service agreement.

Support

Contact the OT Review Team for questions about overtime payment

- Email:
 - hcbstreviews@nd.gov

Contact the QSP Hub for support:

- Call- Leave a message (all calls are returned within 1-2 days, with the exception to holidays/weekends)
 - 701-777-3234
- Submit Help Ticket:
 - [UND Qualtrics](#)
- Email us:
 - info@ndqsphub.org
- Website
 - [ND QSP HUB](#)

Contact Therap for Therap billing questions:

[North Dakota Therap](#)

Email: ndsupport@therapservices.net

EVV Support - Request Form [Therap Support Forms](#)

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