

Agenda for CDASS FLSA Implementation Stakeholder Meeting

Date: October 15th, 2015

Time: 11:30am-1:00pm

Call in:

Local: 720-279-0026

Toll Free: 1-877-820-7831

Participant Code: 308112#

FLSA:

Effective Date: 10/13/2015

Department of Labor enforcement date: 11/12/2015

How will overtime and travel time be paid for?

- Data: 5,600+ attendant timesheets over 6 months had more than 40 hrs. 2,100+ of these had hours that came from multiple clients to total over 40 work hours in one week.
- As of March 2015, 400+ attendants worked for multiple clients

Various FLSA Implementation Options:

1) Institute a 40 hour a week work cap across both models for all CDASS attendants.

Considerations:

- a. No overtime costs associated with this option
- b. Travel time costs will require reimbursement
- c. Could limit choice of attendants
- d. Requires changes to CDASS regulations

2) No attendant can work for more than one client under the AwC model

Considerations:

- a. Overtime costs are attributed to one client and are met within allocation

- b. No travel time costs with this option
 - c. Could limit choice of attendants and services
 - d. Requires changes to CDASS regulations
- 3) Discontinue AwC Model. Continue with F/EA Model
 Considerations:
- a. No travel time costs with this option
 - b. Overtime costs are attributed to one client and are met within allocation
 - c. Possible exception process for those who are unable to access additional attendants and therefore d/t health and welfare concerns require an increased allocation to cover overtime costs.
 - d. All AwC clients to complete paperwork to change to F/EA model
 - e. Requires changes to CDASS regulations

Per Centers for Medicare and Medicaid #4 is not an option.

- 4) Split overtime and travel time costs across the clients who utilize the same attendant
- a. CMS guidance released in July 2014 states "*CMS strongly urges states to ensure that overtime or travel costs beyond an individual's control not be deducted from the individual's self-directed budget*"

Example Questions: Two CDASS clients have the same attendant. Can both clients split the cost of the travel time from their budgets when the attendant drives from client A home to client B home? Also if the CDASS attendant totals over 40 hours in a week, can the overtime costs be divided between both clients?

CMS Response: In the AwC model, overtime and travel time would be out of the control of the individuals A and B from the example provided. As such, funds to cover travel time and

overtime would not be able to be deducted from the client's individualized budgets

Implementation of FLSA in other states:

Wisconsin: F/EA only state. They will be implementing a cap on the number of hours an attendant can work per week. It will be up to 50 hrs. per week but the client's budget must accommodate this as they will not add funds to the budget.

Texas: F/EA only state, placed 40 hr. work week cap on attendant hours.

California: Has attendant cap of 62 hours a week. There is 22 hours of overtime allowed and allocations had been adjusted to allow for this (unclear if this was for all clients or only those who use overtime) Severe penalties for going past 62 hours (first offense= suspend for a month from program).

Kansas: Does not have a plan they are willing to share yet; multiple other states were outreached via email with no response.