

REPORT TO THE LEGISLATURE

Individual Provider Overtime Quarterly Expenditures

RCW 74.39A.275 enacted by ESSHB 1725 in the 2016 Legislature

June 1, 2018

Aging and Long-Term Support Administration

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1 Executive Summary

This is the first quarter report for Calendar Year (CY) 2018 expenditure report submitted by the Department of Social and Health Services (identified as “the Department” in this report) to meet the requirements outlined in RCW 74.39A.275 enacted by ESSHB 1725 in the 2016 Legislature. It provides data on the overtime hours worked by Individual Providers (IPs) for the reporting period January 1 – March 31, 2018. The key findings include:

- The number of overtime hours claimed by IPs for this period is 4.67%, down from 4.73% last quarter and remains below the limit of 8.75% set forth in RCW 74.39A.270;
- The number of overtime hours claimed and the number of providers claiming overtime have continued to decrease;

The Department continues to monitor the number of provided hours compared to authorized hours to determine whether adjustments in implementation should be made.

Please Note: This will be the last quarterly report submitted by the Department. Reporting requirements were amended in RCW 74.39A.275 and 2016 sp.s. c 30 s 3 as outlined in Section 26, which was enacted by ESSB 6199 in the 2018 Legislature. The department shall prepare annual expenditure reports beginning September 1, 2018.

2 Purpose

In accordance with RCW 74.39A.275, enacted by ESSHB 1725 in the 2016 Legislature, the Department is providing the QTR 1 – CY2018 expenditure report for the time period January 1 through March 31, 2018. Each quarterly expenditure report contains the:

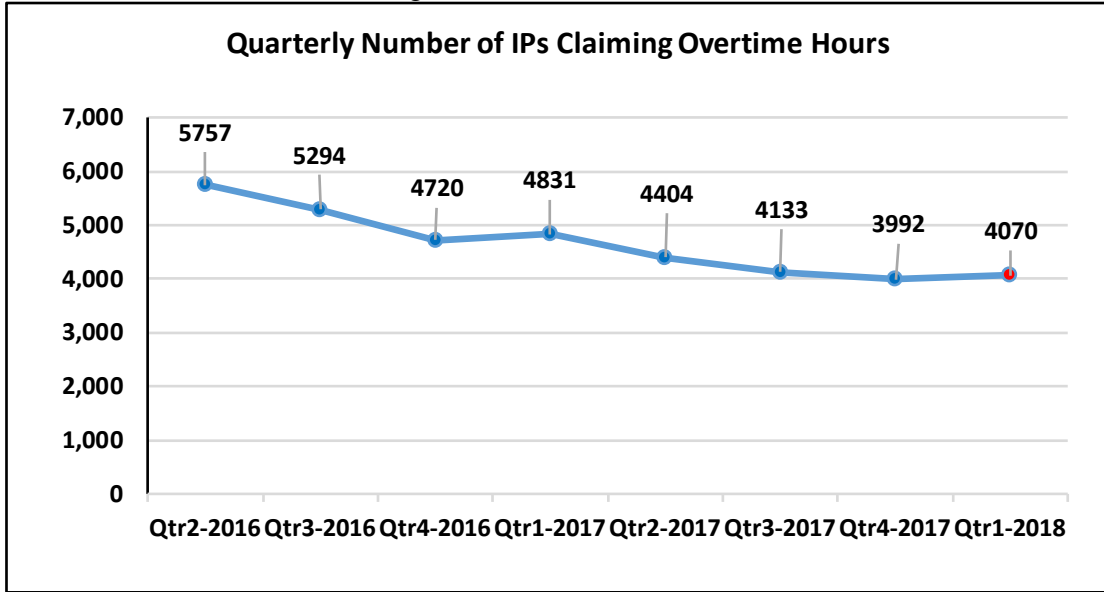
- I. Number of providers receiving payment for more than 40 hours/week
 - a. Including the number of providers who are meeting conditions of [RCW 74.39A.270](#) (5)(b)(i)(A), (b)(ii), (b)(iii), and (9)
- II. Number of hours paid and the amount paid for more than 40 hours in a work week including the:
 - a. Total amounts
 - b. Averages
 - c. Display of the distribution of the amounts
- III. Display of data by:
 - a. Department Region (1, 2 or 3) of consumer
 - b. County of consumer
 - c. Department program (AL TSA, DDA)
 - d. Specified for providers by the number of consumers they serve

See overtime data and findings section, below, for additional information.

Please Note: The data provided in this report, particularly the last two weeks of March, is still maturing. Historically, the mature data is slightly higher (less than 0.5 percent) than what appears in the initial report.

I. Number of providers receiving payment for more than 40 hours/week

For QTR 1 – CY2018, an average of 4,070 IPs claimed overtime hours each week.

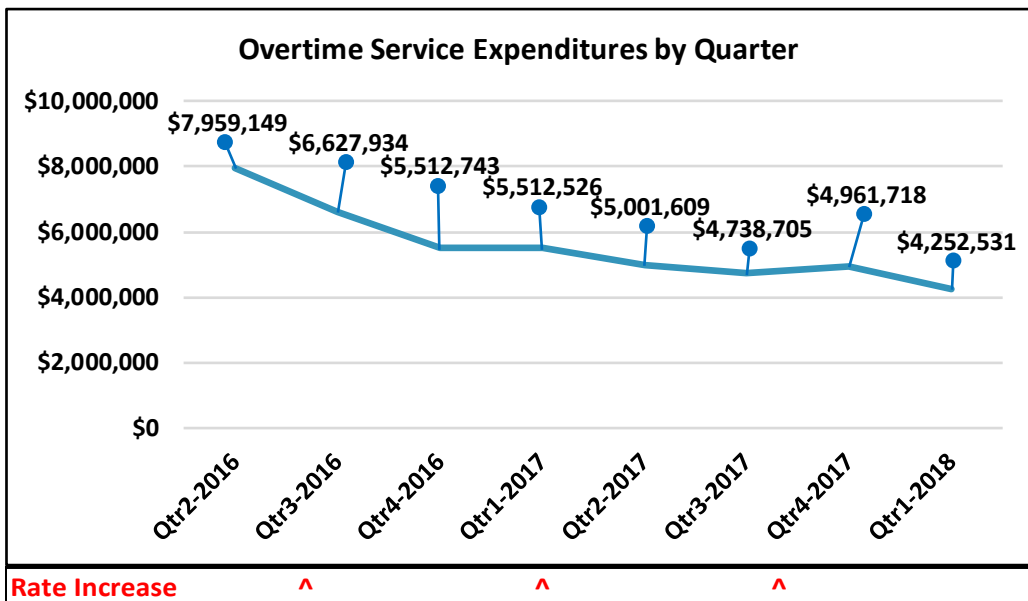


II. Number of hours paid and amount paid for more than 40 hours in a work week

By controlling overtime expenditures, while meeting consumer needs, the results are showing a reduction in the percentage of overtime utilization.

A. Total Amounts

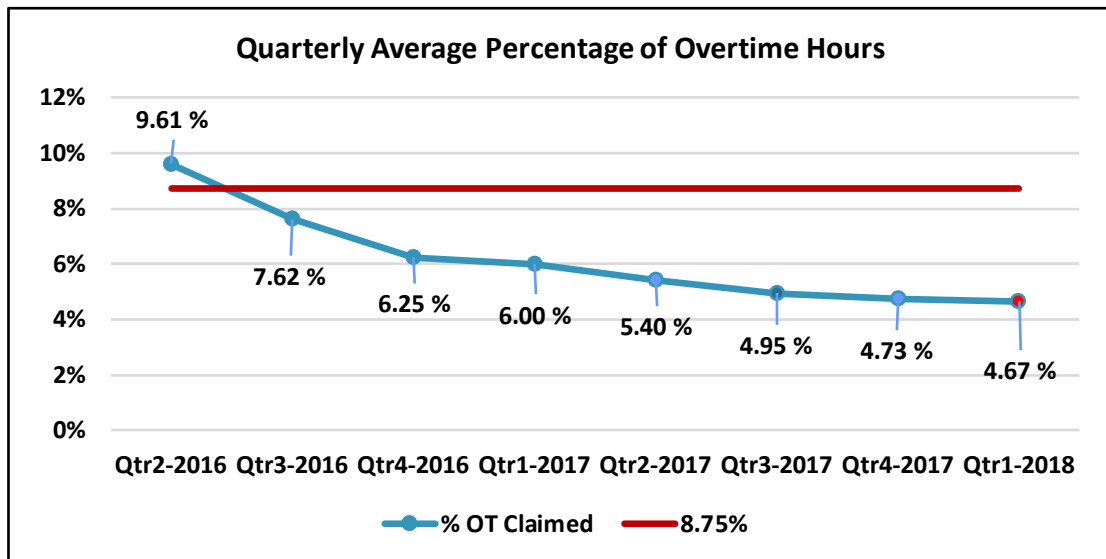
To date, the Department has expended approximately \$44M in overtime payments to IPs. Overtime service expenditures do not include employment taxes, which are an additional 6.74 percent. The expenditures continue to drop each quarter as the Department has put into place controls, and as staff, consumers, and providers have adjusted to the new rules. The most recent quarter’s expenditures are 47% lower than expenditures that occurred for the first quarter following implementation of the rule, and 14% lower than the prior reporting period.



B. Averages

This chart, below, illustrates the percentage of overtime hours claimed and continues to be below the 8.75% limit for QTR 1 – CY2018. The increase in overtime hours in February is due to there being fewer calendar days available to provide the total monthly authorized hours of care for the consumer without incurring overtime.

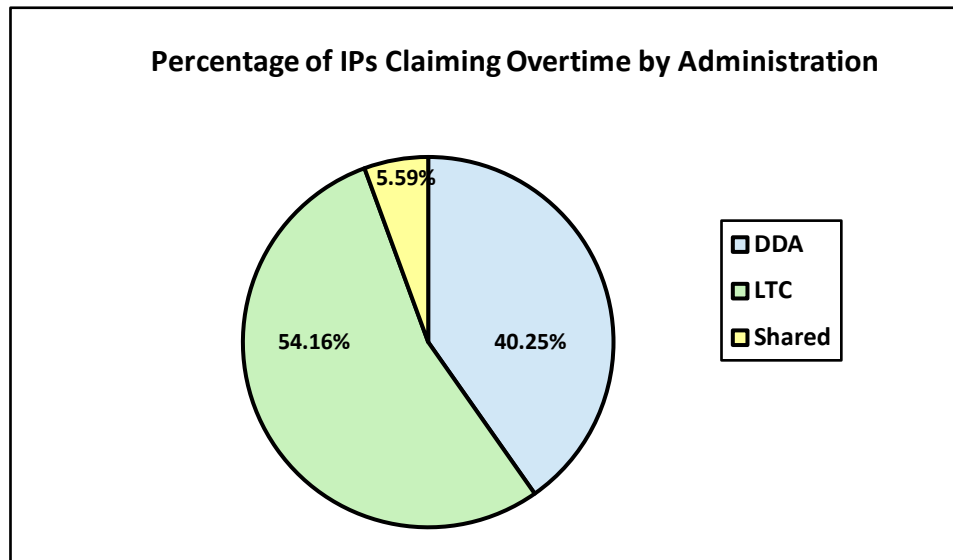
Work Week	Total OT Hours	Total IP Hours	Average OT Hours
01/07/18	47,389	999,398	4.74 %
01/14/18	41,095	949,953	4.33 %
01/21/18	38,290	927,465	4.13 %
01/28/18	36,254	903,349	4.01 %
02/04/18	48,285	1,012,331	4.77 %
02/11/18	52,818	1,017,834	5.19 %
02/18/18	64,274	1,060,736	6.06 %
02/25/18	56,921	1,026,718	5.54 %
03/04/18	44,725	979,546	4.57 %
03/11/18	39,458	925,356	4.26 %
03/18/18	35,982	865,596	4.16 %
03/25/18	30,121	794,101	3.79 %
Totals	535,609	11,462,380	4.67 %



C. Distribution of the Amounts

The overtime hours worked by the 4,070 providers are split across DDA and ALTSA at a rate of 40% to 54%, with the remaining hours shared by IPs that work for consumers in both administrations for QTR 1 – CY2018.

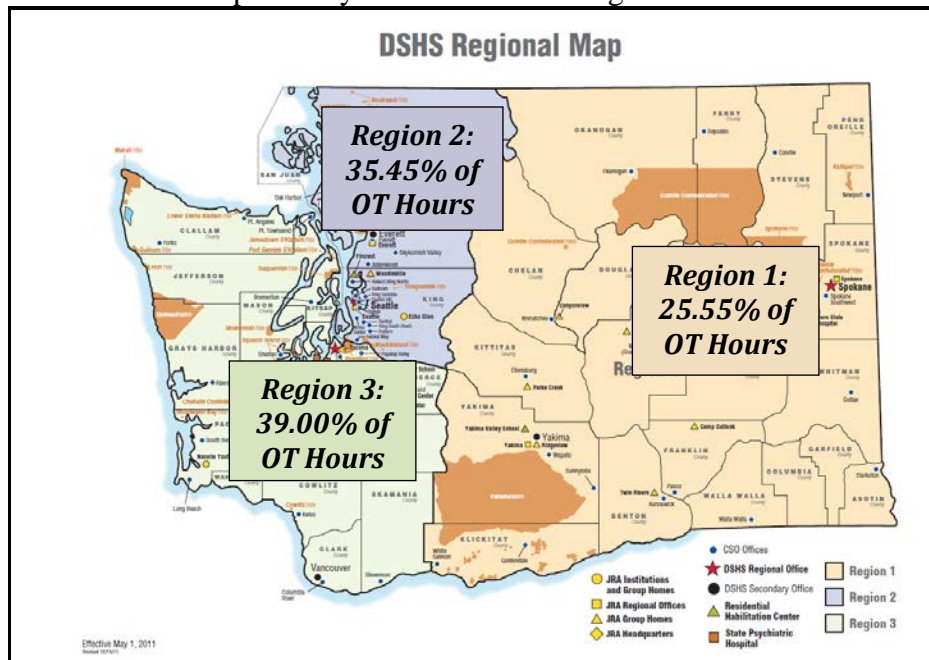
Work Week	IP OT Hours Worked for DDA	Percentage OT hours worked by DDA IPs	IP OT Hours Worked for ALTSA	Percentage OT Hours by ALTSA IPs	IP OT Hours worked for DDA & ALTSA Consumers	Percentage OT worked by DDA & ALTSA IPs	Total IP OT Hours
01/07/18	19,164	3.58 %	25,471	4.76 %	2,753	0.51 %	47,389
01/14/18	17,213	3.21 %	21,619	4.04 %	2,264	0.42 %	41,095
01/21/18	16,039	2.99 %	20,171	3.77 %	2,080	0.39 %	38,290
01/28/18	14,729	2.75 %	19,617	3.66 %	1,908	0.36 %	36,254
02/04/18	19,501	3.64 %	26,059	4.87 %	2,724	0.51 %	48,285
02/11/18	20,422	3.81 %	29,200	5.45 %	3,196	0.60 %	52,818
02/18/18	23,955	4.47 %	36,733	6.86 %	3,586	0.67 %	64,274
02/25/18	22,106	4.13 %	31,608	5.90 %	3,208	0.60 %	56,921
03/04/18	18,035	3.37 %	24,046	4.49 %	2,645	0.49 %	44,725
03/11/18	16,555	3.09 %	20,793	3.88 %	2,110	0.39 %	39,458
03/18/18	15,158	2.83 %	18,895	3.53 %	1,929	0.36 %	35,982
03/25/18	12,727	2.38 %	15,878	2.96 %	1,516	0.28 %	30,121
Total	215,604	40.25 %	290,090	54.16 %	29,917	5.59 %	535,610



III. Division Data

A. Department Region

The map below illustrates the regional organization of DSHS and the distribution of overtime hours reported by the three DSHS Regions:



B. County of Consumer

The table below illustrates a breakdown of consumer population, total hours paid, and overtime by the consumer's county of residence for QTR 1 – CY2018. It excludes the small number of overtime hours worked by IPs with consumers in multiple counties.

County	Percent Consumer Count	Percent Paid Hours	Percent OT Hours
Adams	0.33 %	0.34 %	0.36 %
Asotin	0.27 %	0.31 %	0.48 %
Benton	3.23 %	3.50 %	3.91 %
Chelan	0.72 %	0.76 %	0.88 %
Clallam	0.85 %	0.86 %	0.87 %
Clark	9.16 %	8.95 %	9.83 %
Columbia	0.08 %	0.06 %	0.09 %
Cowlitz	1.79 %	1.85 %	1.87 %
Douglas	0.25 %	0.33 %	0.50 %
Ferry	0.19 %	0.21 %	0.22 %
Franklin	1.75 %	1.82 %	1.67 %

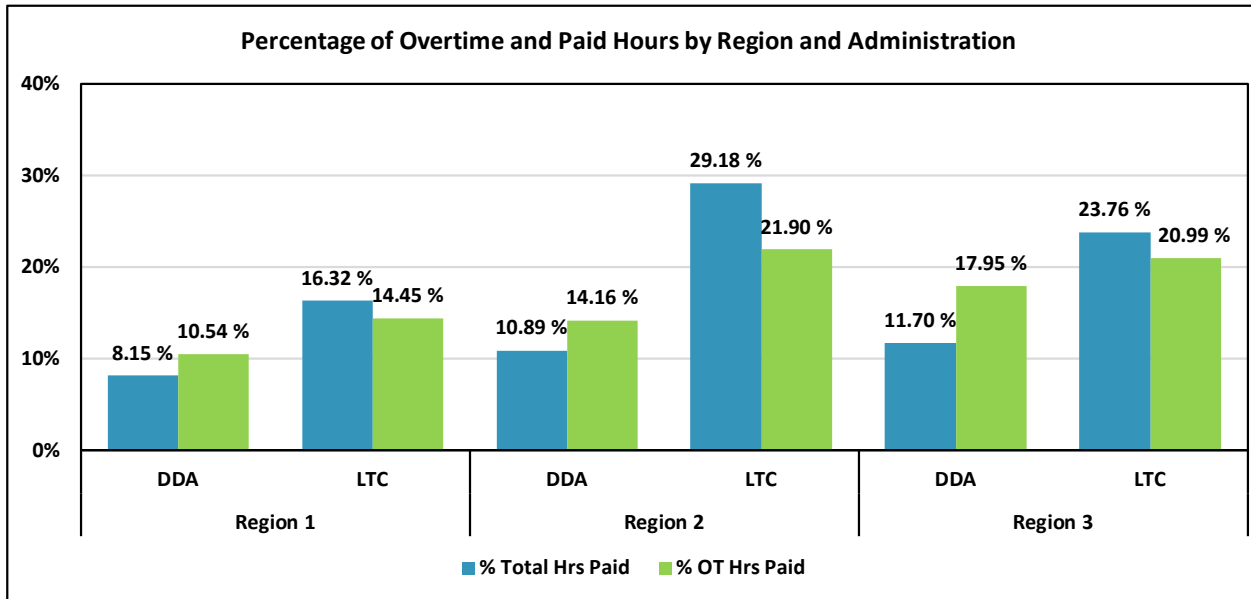
County	Percent Consumer Count	Percent Paid Hours	Percent OT Hours
Lewis	1.22 %	1.15 %	1.50 %
Lincoln	0.15 %	0.15 %	0.30 %
Mason	0.69 %	0.69 %	0.45 %
Okanogan	0.85 %	0.86 %	1.00 %
Pacific	0.49 %	0.46 %	0.44 %
Pend Oreille	0.27 %	0.27 %	0.23 %
Pierce	12.76 %	13.12 %	14.42 %
San Juan	0.05 %	0.05 %	0.04 %
Skagit	1.55 %	1.42 %	1.49 %
Skamania	0.14 %	0.12 %	0.12 %
Snohomish	9.14 %	9.09 %	8.98 %

County	Percent Consumer Count	Percent Paid Hours	Percent OT Hours
Garfield	0.04 %	0.03 %	0.03 %
Grant	1.95 %	1.89 %	2.22 %
Grays Harbor	1.99 %	1.83 %	2.07 %
Island	0.79 %	0.84 %	0.92 %
Jefferson	0.40 %	0.36 %	0.26 %
King	26.00 %	26.14 %	22.20 %
Kitsap	2.58 %	2.86 %	3.86 %
Kittitas	0.31 %	0.27 %	0.39 %
Klickitat	0.23 %	0.24 %	0.29 %

County	Percent Consumer Count	Percent Paid Hours	Percent OT Hours
Spokane	8.01 %	7.73 %	6.98 %
Stevens	0.74 %	0.80 %	0.89 %
Thurston	3.28 %	3.21 %	3.42 %
Wahkiakum	0.06 %	0.06 %	0.11 %
Walla Walla	1.04 %	0.96 %	0.76 %
Whatcom	2.59 %	2.24 %	1.93 %
Whitman	0.21 %	0.20 %	0.23 %
Yakima	3.84 %	3.95 %	3.77 %

C. Department Program

The percentage of overtime paid in each region is consistent with the percentages of authorized hours in each region.

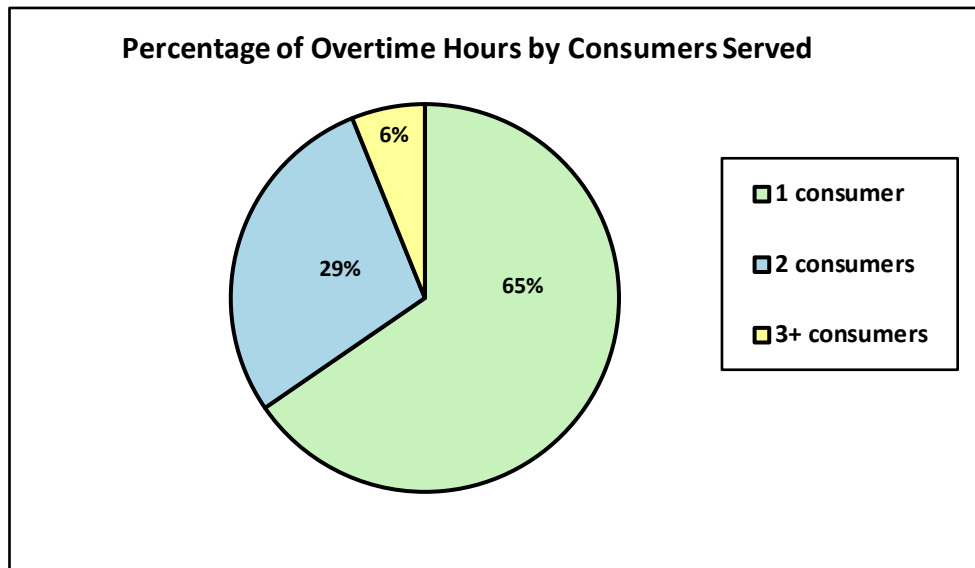


D. By Consumer Served

The data on overtime hours by the number of consumers served by the IP, for QTR 1 – CY2018.

Work Week	OT Hours IPs Serving 1 Consumer	OT Hours IPs Serving 2 Consumers	OT Hours IPs Serving 3+ Consumers
01/07/18	31,101	13,527	2,761
01/14/18	27,229	11,691	2,175
01/21/18	25,424	10,796	2,071
01/28/18	23,989	10,272	1,993
02/04/18	31,327	13,985	2,974
02/11/18	34,059	15,447	3,312
02/18/18	41,963	18,351	3,960
02/25/18	37,127	16,390	3,404
03/04/18	28,908	12,857	2,961
03/11/18	25,578	11,143	2,737
03/18/18	23,491	9,948	2,544
03/25/18	20,121	8,201	1,799
Averages	350,314	152,606	32,690

The majority (65%) paid to IPs working with just one consumer. Approximately 29% of the overtime hours were paid to IPs serving two consumers, and the remaining 6% percent claimed by IPs serving three or more consumers each week.



IV. Work Week Limit and Impact on Overtime Hours

In accordance with RCW 74.39A.270(5)(b)(i), the Department established and assigned permanent work week limits to all IPs based upon average hours worked in January 2016. A work week limit is the maximum total number of service hours an IP can provide in a work week. Service hours are paid to an IP to provide personal care, relief care, skills acquisition training, or respite services.

In the original Legislative order, IPs with permanent work week limits between 60.25 and 65 hours were to be reduced to 60 hours in FY18 and thereafter. This would have impacted 1,800 clients and 1,500 providers. Senate bill 5976, as passed in the third special session of the 2017 Legislature, extended the 65 hour work week limitation through FY18. Therefore, the Department will not be implementing actions to reduce work week limit maximums from 65 hours to 60 hours. The approach for reducing the work week limit in FY19 was discussed at the Task Force meeting held March 8, 2017.

Per RCW 74.39A, as outlined in Section 26(3&4), which was enacted by ESSB 6199 in the 2018 Legislature, an individual provider may be authorized to work more than forty hours in a workweek:

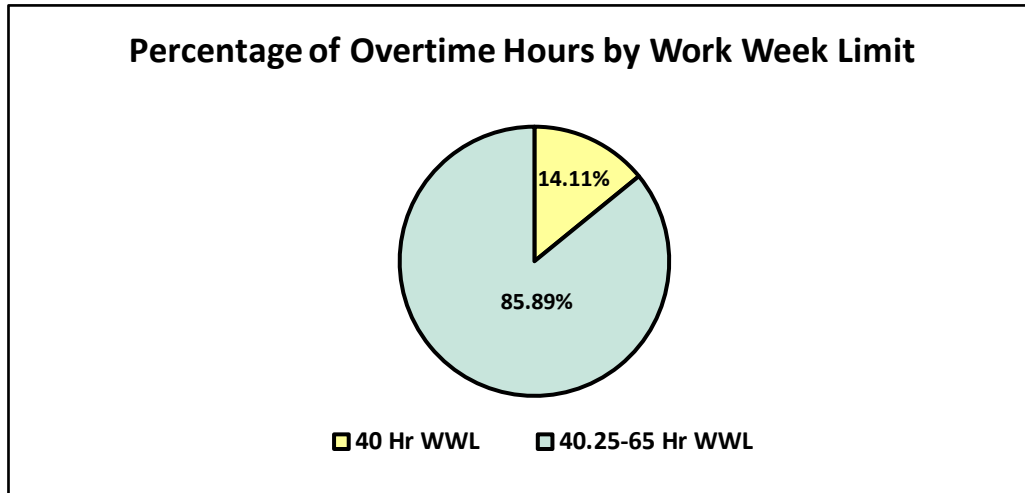
- (a) As described in Washington Administrative Code 388-114-0080; if the department determines it is necessary due to a lack of available providers who are able to adequately meet a client's care needs because,
 - there is an overall shortage of providers in the client's specific geographic region,
 - the client has complex medical or behavioral needs, or
 - the client requires a provider who speaks a specific language
- (b) If the department established a permanent workweek limit between forty and one-quarter hours and sixty-five hours for an individual provider, based upon work performed by the individual provider in January 2016, as modified by an appeal, if any; or
- (c) For required training under RCW 74.39A.074, 74.39A.076, and 74.39A.341, and for required travel time between clients.

A. IP Overtime Hours Reported Categorized by Work Week Limit

About 85% percent of the overtime hours worked in this quarterly reporting period were worked by IPs who, based upon the statute, have a DSHS assigned permanent work week limit above 40 hours. This shows a greater proportion of overtime is worked by individuals who have permanent work week limits above 40. Overtime hours reported for these IPs include hours that are within their approved work week limit as well as hours claimed that are above their limit.

Work Week	Percent OT with 40 Hr WWL	Percent OT with 40.25 – 65 Hr WWL
01/07/18	1.19 %	7.66 %
01/14/18	0.96 %	6.72 %
01/21/18	0.71 %	6.44 %
01/28/18	0.79 %	5.98 %
02/04/18	1.23 %	7.78 %
02/11/18	1.62 %	8.25 %

02/18/18	2.58 %	9.42 %
02/25/18	2.10 %	8.53 %
03/04/18	1.09 %	7.26 %
03/11/18	0.84 %	6.52 %
03/18/18	0.57 %	6.15 %
03/25/18	0.44 %	5.18 %
Total	14.11 %	85.89 %



3. Next Steps

The Department has been managing overtime utilization within the limits outlined in the annual Spending Plan. This includes reviewing requests to temporarily increase work week limits based upon criteria in the statute related to needs of consumers. The Department has also processed contract actions for IPs working over their work week limit without a valid approval reason as defined in the statute and WAC.

When an IP has claimed more hours than are allowed and approved by the Department, there is a multi-step contract action process intended to educate the IP and their consumer about the rules and support compliance with the statute. Each contract action remains active on an Individual Provider's contract for one year from the date it was issued to the Individual Provider:

- **First Contract Action (16,888 to date)**: IP and consumer are notified, in writing, that continuing violations may lead to contract termination.
- **Second Contract Action (6,845 to date)**: IP and consumer are notified, in writing that one more violation could lead to contract termination.
- **Third Contract Action/Additional Warning (1,359 to date)**: The Department considers individual cases and determines if IP contract termination is appropriate. If the IP contract is not terminated, the IP and consumer are notified, in writing, that continuing violations may lead to contract termination. If the IP contract is terminated, the IP and consumer are notified of contract termination and the consumer is offered assistance in locating a new, qualified care provider, if needed.
- **Third Contract Action/Consideration for Termination (25 to date)**: These IPs have had contracts terminated for excess claiming of overtime. All IPs who receive a termination notice have 10 days from the date of their contract action notice to request a

review of their termination if they believe the Department made an error. If, after the reviews are completed, we determine the department did not make an error, the terminations will be effective 30 days from the date of their contract action notice.

Overall utilization of overtime has consistently decreased, the department is exploring ways to provide more flexibility for clients to assign overtime that would be consistent with statutory revisions to RCW 74.39A resulting from the 2018 legislative session. Workforce availability will continue to be evaluated as the Department works with consumers who have a high number of hours authorized.

Moving forward, the department shall prepare annual expenditure reports beginning September 1, 2018, per the amendments to RCW 74.39A.275, outlined in Section 26, which was enacted by ESSB 6199 in the 2018 Legislature.