

REPORT TO THE LEGISLATURE

Individual Provider Overtime Annual Expenditures

RCW 74.39A.275 enacted by ESSB 6199 in the 2018 Legislature

September 1, 2023

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1 Executive Summary

This is the annual report for state Fiscal Year 2023 expenditures 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. It provides data on the overtime hours worked by Individual Providers (IPs) for the reporting period July 1, 2022 – June 30, 2023. The key findings include:

- The average overtime hours claimed by IPs for this annual period is 3.38 percent of all hours. This is up from 3.28 percent in the prior year and remains below the limit of 8.25 percent.
- The average of overtime hours claimed remains between 3% and 4%.
- The number of IPs claiming overtime and the amount of overtime paid increased in state Fiscal Year 2023, the first year of operations for the Consumer Directed Employer (CDE).

The CDE became the legal employer of IPs as per ESSB 6199. IP overtime administration is an employer function of the CDE. This report is based on the data from the CDE contractor (Consumer Direct Network Washington-CDWA).

2 Purpose

In accordance with RCW 74.39A.275 and 2016 sp.s. c 30 s 3 as outlined in Section 26, each annual expenditure report will contain 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.525](#)
- II. Number of hours paid and the amount paid for more than 40 hours in a workweek 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 (ALTSA, DDA)
 - d. Providers by the number of consumers they serve
- IV. Workweek Limit and Impact on Overtime Hours
 - a. IP Overtime Hours Reported Categorized by Workweek Limit
- V. Monitoring of Authorizations and Costs of Hours

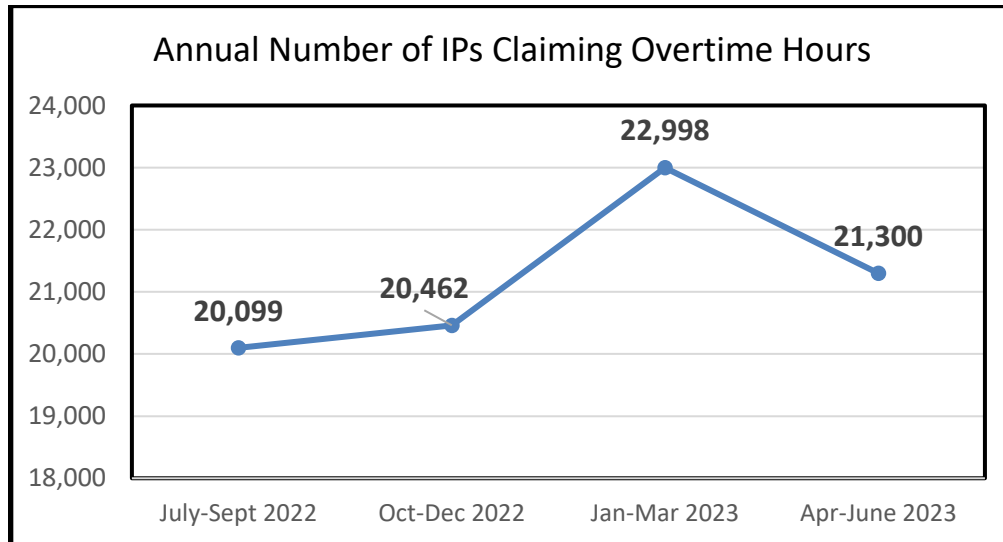
See overtime data and findings section, below, for additional information.

***Please Note:** The data provided in this report, particularly the last two weeks of June, is still maturing.

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

An average of 21,215 IPs claimed overtime hours each quarter for this reporting period.

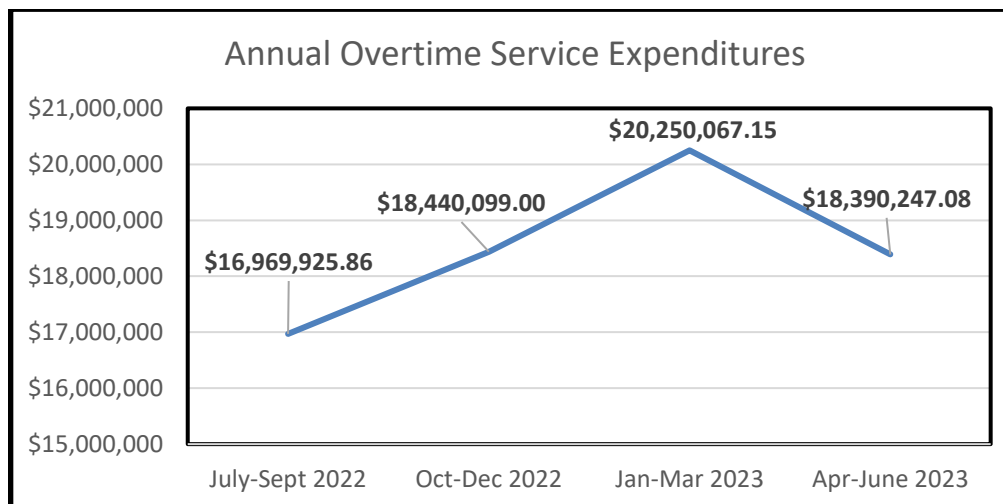
Please Note: The increase in the average is likely due to the change over to the CDE. CDWA is required to pay all hours worked by an IP.



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

A. Total Amounts

The expenditures significantly increased in the state fiscal year 2023. This increase is due to the beginning of the CDE operations. The CDE contractor, CDWA, did not have a corrective action process until February 2023 to address issues related to IPs regularly working over their WWL. CDWA has a process for reviewing and approving/denying temporary WWL increases.

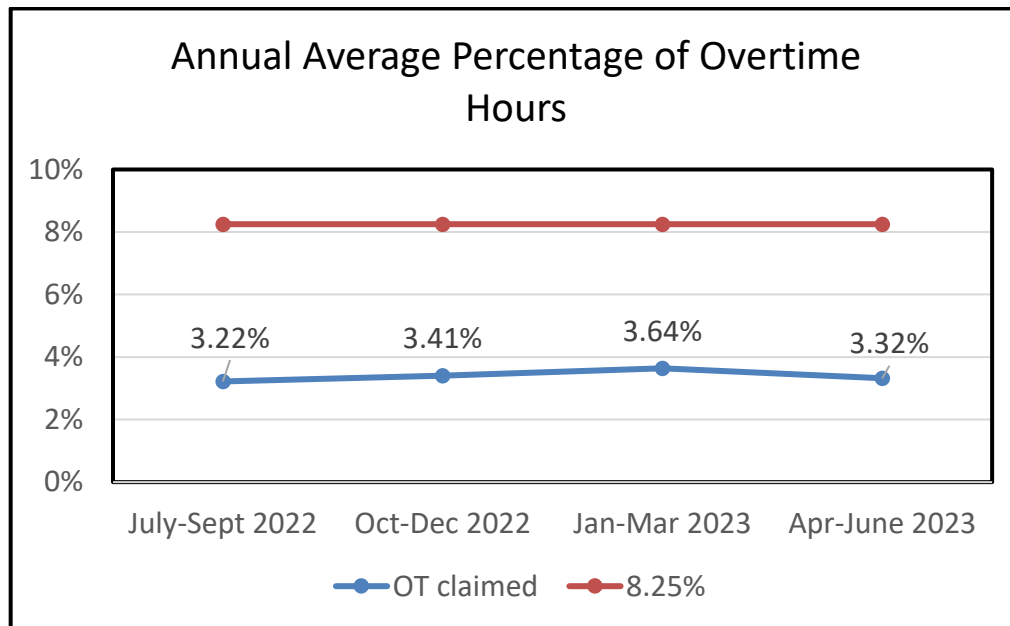


B. Averages

The chart below illustrates the percentage of overtime hours claimed. It continues to be well below the 8.25 percent limit. Note: The increase in overtime hours in February is due to fewer calendar days available to provide the total monthly authorized hours of care for the consumer.

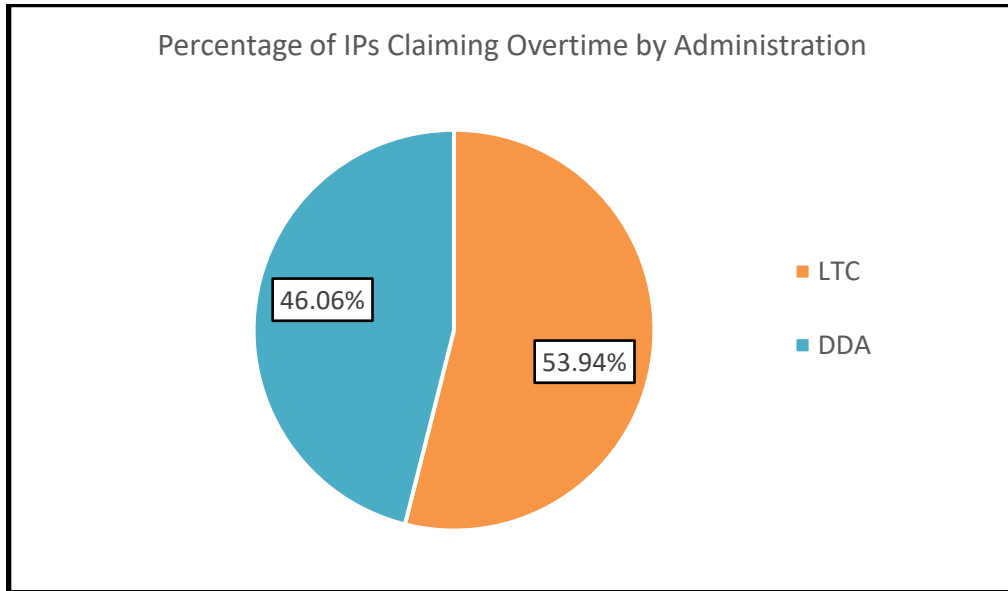
Work Week	Total IP Hours	Total OT Hours	Average OT Hours
7/3/2022	1,321,757	45,135	3.41%
7/10/2022	1,270,363	39,549	3.11%
7/17/2022	1,268,474	42,033	3.31%
7/24/2022	1,114,546	31,740	2.85%
7/31/2022	1,289,799	42,194	3.27%
8/7/2022	1,257,260	39,842	3.17%
8/14/2022	1,316,745	43,779	3.32%
8/21/2022	1,205,508	37,406	3.10%
8/28/2022	1,136,090	33,865	2.98%
9/4/2022	1,322,504	44,117	3.34%
9/11/2022	1,342,245	47,338	3.53%
9/18/2022	1,250,789	40,524	3.24%
9/25/2022	1,142,706	36,622	3.20%
10/2/2022	1,341,379	45,910	3.42%
10/9/2022	1,360,476	48,941	3.60%
10/16/2022	1,275,985	42,597	3.34%
10/23/2022	1,214,952	41,762	3.44%
10/30/2022	1,255,193	40,422	3.22%
11/6/2022	1,393,461	51,075	3.67%
11/13/2022	1,305,917	44,639	3.42%
11/20/2022	1,281,902	45,394	3.54%
11/27/2022	1,171,579	37,194	3.17%
12/4/2022	1,397,904	51,353	3.67%
12/11/2022	1,316,263	44,647	3.39%
12/18/2022	1,299,063	46,703	3.60%
12/25/2022	1,061,718	30,230	2.85%
1/1/2023	1,418,785	56,191	3.96%
1/8/2023	1,335,199	46,424	3.48%
1/15/2023	1,349,806	51,225	3.79%
1/22/2023	1,226,894	41,825	3.41%
1/29/2023	1,285,746	47,011	3.66%
2/5/2023	1,374,203	52,231	3.80%
2/12/2023	1,407,419	59,623	4.24%
2/19/2023	1,307,452	48,570	3.71%

2/26/2023	1,352,016	51,092	3.78%
3/5/2023	1,355,102	45,978	3.39%
3/12/2023	1,370,359	50,928	3.72%
3/19/2023	1,269,796	42,023	3.31%
3/26/2023	1,113,916	34,485	3.10%
4/2/2023	1,389,417	48,973	3.52%
4/9/2023	1,412,533	52,446	3.71%
4/16/2023	1,336,693	45,076	3.37%
4/23/2023	1,259,421	44,779	3.56%
4/30/2023	1,348,485	43,902	3.26%
5/7/2023	1,401,550	48,797	3.48%
5/14/2023	1,320,991	42,702	3.23%
5/21/2023	1,272,506	42,559	3.34%
5/28/2023	1,134,182	31,949	2.82%
6/4/2023	1,412,485	48,260	3.42%
6/11/2023	1,336,572	42,736	3.20%
6/18/2023	1,314,696	43,885	3.34%
6/25/2023	1,113,170	31,987	2.87%
Totals	85,240,639	2,878,865	3.38%



C. Distribution of the Amounts

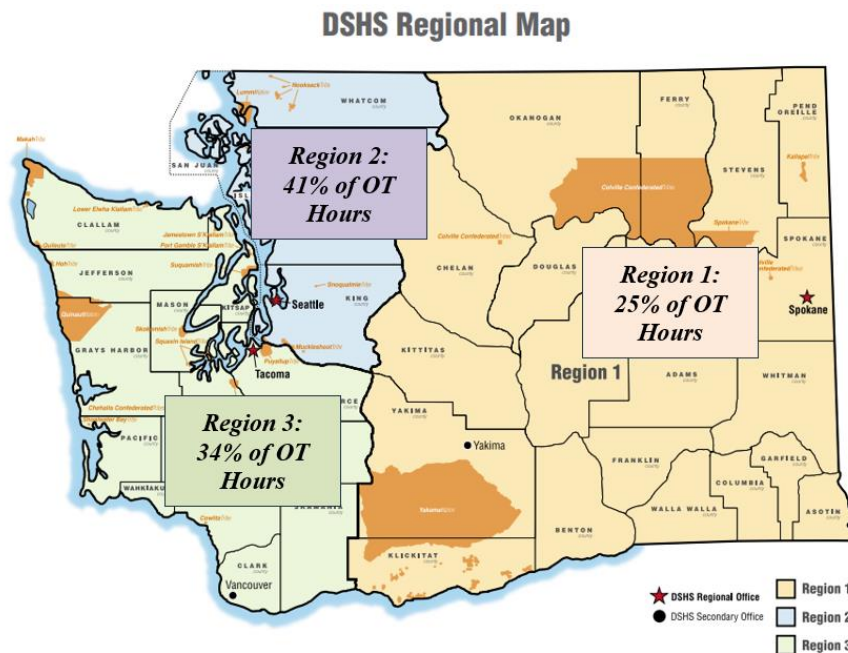
Overtime hours worked are split across DDA and AL TSA at a rate of 46 percent to 54 percent respectively.



III. Division Data

A. Department Region

The map below illustrates the regional organization of DSHS and the distribution of overtime hours reported in each region:



Effective May 1, 2011

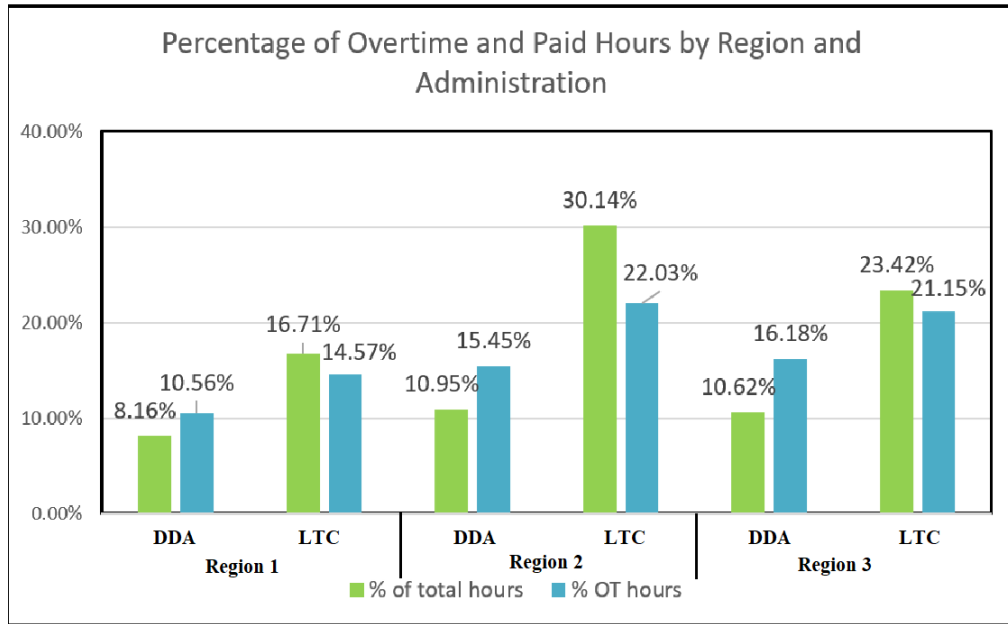
B. County of Consumer

The table below illustrates a breakdown of consumer population, total hours paid, and overtime by the consumer’s county of residence for this annual period. 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	County	Percent Consumer Count	Percent Paid Hours	Percent OT Hours
Adams	0.33%	0.33%	0.39%	Lewis	1.19%	1.22%	1.54%
Asotin	0.32%	0.29%	0.30%	Lincoln	0.17%	0.16%	0.11%
Benton	3.45%	3.43%	3.72%	Mason	0.77%	0.79%	0.62%
Chelan	0.75%	0.69%	0.76%	Okanogan	0.67%	0.62%	0.90%
Clallam	0.80%	0.74%	0.99%	Pacific	0.37%	0.36%	0.47%
Clark	8.30%	8.20%	8.96%	Pend Oreille	0.22%	0.22%	0.16%
Columbia	0.10%	0.07%	0.13%	Pierce	12.33%	13.72%	15.19%
Cowlitz	1.90%	1.80%	1.58%	San Juan	0.09%	0.08%	0.03%
Douglas	0.38%	0.36%	0.58%	Skagit	1.54%	1.54%	1.83%
Ferry	0.17%	0.17%	0.17%	Skamania	0.14%	0.11%	0.11%
Franklin	1.88%	1.79%	1.71%	Snohomish	8.92%	8.71%	8.49%
Garfield	0.02%	0.01%	0.00%	Spokane	8.47%	9.17%	8.99%
Grant	1.72%	1.68%	1.93%	Stevens	0.76%	0.78%	1.14%
Grays Harbor	1.66%	1.61%	1.77%	Thurston	3.81%	3.89%	4.22%
Island	0.71%	0.76%	1.10%	Wahkiakum	0.08%	0.08%	0.24%
Jefferson	0.27%	0.23%	0.20%	Walla Walla	0.85%	0.76%	0.59%
King	26.85%	26.41%	22.93%	Whatcom	2.48%	2.42%	2.30%
Kitsap	2.62%	2.96%	3.73%	Whitman	0.25%	0.24%	0.23%
Kittitas	0.35%	0.30%	0.23%	Yakima	3.85%	3.75%	3.16%
Klickitat	0.22%	0.20%	0.13%				

C. Department Program

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

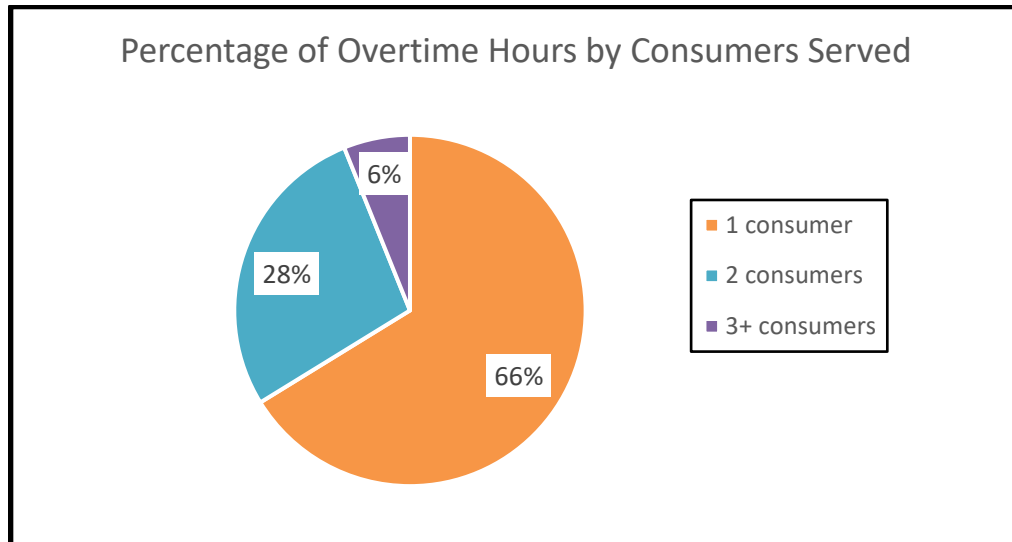


D. By Number of Consumers Served per IP

Work Week	OT Hours IPs Serving 1 Consumer	OT Hours IPs Serving 2 Consumers	OT Hours IPs Serving 3+ Consumers
7/3/2022	35,929	14,877	3,444
7/10/2022	31,924	13,398	2,845
7/17/2022	34,052	14,069	3,377
7/24/2022	26,746	10,925	2,337
7/31/2022	33,985	13,901	3,249
8/7/2022	33,242	13,866	3,000
8/14/2022	35,349	14,078	3,295
8/21/2022	30,267	12,024	2,560
8/28/2022	26,806	11,014	2,646
9/4/2022	35,428	14,303	3,405
9/11/2022	37,395	15,079	3,232
9/18/2022	32,181	12,975	3,386
9/25/2022	29,143	11,305	2,809
10/2/2022	36,446	14,722	3,561
10/9/2022	38,614	15,554	3,418
10/16/2022	33,664	14,084	3,404

10/25/2020	19,723	6,783	1,739
11/1/2001	30,070	11,130	2,837
11/8/2020	27,091	9,932	2,642
11/15/2020	28,511	10,177	2,604
11/22/2020	25,329	8,620	2,417
11/29/2020	27,165	9,551	2,547
12/6/2020	26,878	9,516	2,429
12/13/2020	26,521	7,946	1,770
12/20/2020	24,073	6,316	1,295
12/27/2020	20,327	5,357	1,161
1/3/2021	30,119	9,277	2,053
1/10/2021	27,216	8,540	2,004
1/17/2021	27,078	9,308	2,141
1/24/2021	23,591	7,617	1,619
1/31/2021	29,250	9,653	2,305
2/7/2021	28,790	9,279	2,152
2/14/2021	37,391	12,012	2,403
2/21/2021	41,785	13,039	2,641
8/28/2021	32,306	10,744	2,462
3/7/2021	27,509	9,103	2,046
3/14/2021	25,319	7,978	1,799
3/21/2021	23,782	7,426	1,567
3/28/2021	20,610	5,866	1,285
4/4/2021	28,789	9,697	2,335
4/11/2021	27,006	8,592	2,055
4/18/2021	27,770	9,241	2,122
4/25/2021	24,559	7,437	1,642
5/2/2021	29,956	9,936	2,412
5/9/2021	27,048	8,673	2,183
5/16/2021	26,386	8,644	2,156
5/23/2021	23,209	7,349	1,841
5/30/2021	23,830	7,857	1,572
6/6/2021	27,569	9,203	2,154
6/13/2021	25,127	8,242	1,922
6/20/2021	25,116	8,257	1,791
6/27/2021	1,148	301	25
Grand Total	1,731,015	723,053	159,643

Approximately 66 percent of overtime hours paid were to an IP working with one consumer, and 28 percent of overtime hours were paid to an IP working with two consumers. IPs serving three or more consumers each week accounted for the remaining 6 percent.



IV. Workweek Limit and Impact on Overtime Hours

In accordance with RCW 74.39A.525 (4) (a), the Department established and assigned permanent workweek limits to all IPs based on average hours worked in January 2016. A workweek limit is the maximum number of service hours an IP can provide in a workweek. Service hours are paid to an IP to provide personal care, relief care, skills acquisition training, and/or respite services.

Per RCW 74.39A.525 (3), an individual provider may be authorized to work more than forty hours in a workweek:

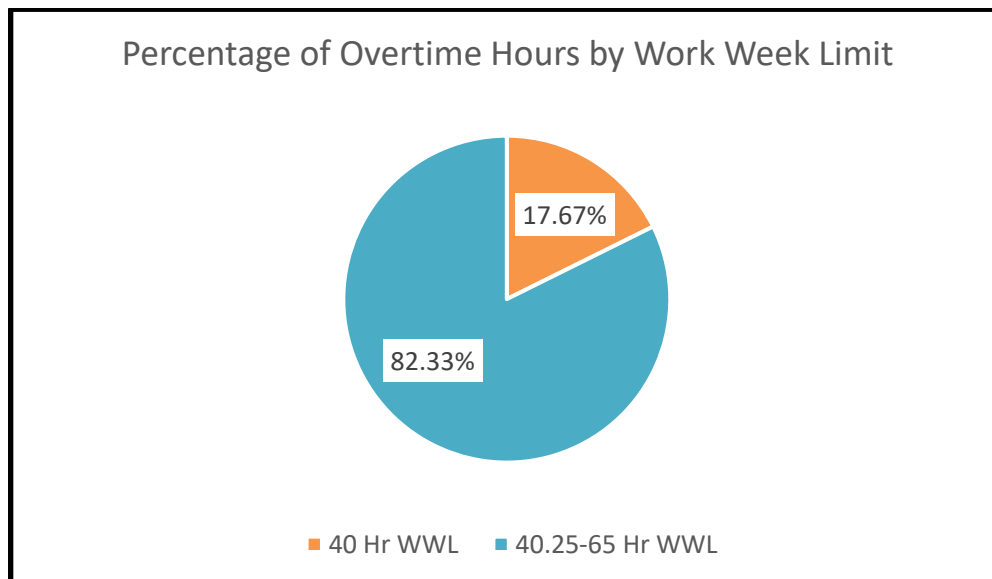
- (a) If it is necessary, due to a lack of available providers who are able to meet a client's care needs, because:
 - there is an overall shortage of providers in the client's specific geographic region,
 - the client has complex medical or behavioral needs, or
 - the client requires a provider who 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 Workweek Limit

About 82 percent of the overtime hours worked in this annual period were worked by IPs who, based upon the statute, have a DSHS-assigned permanent workweek limit above 40 hours. About 18 percent of overtime hours worked in this period were by those IPs with a 40-hour workweek limit who temporarily went above their workweek limit, either with or without approval. The chart below shows that individuals who have permanent workweek limits above 40 hours work a greater proportion of overtime. Overtime hours reported for these IPs include hours that are within their approved workweek limit as well as hours claimed that are above their limit.

Work Week	% of OT with 40 HR WWL	% of OT with 40.25 - 65 HR WWL
7/3/2022	0.40%	1.68%
7/10/2022	0.26%	1.59%
7/17/2022	0.34%	1.63%
7/24/2022	0.19%	1.34%
7/31/2022	0.39%	1.56%
8/7/2022	0.29%	1.63%
8/14/2022	0.36%	1.65%
8/21/2022	0.23%	1.49%
8/28/2022	0.30%	1.25%
9/4/2022	0.37%	1.66%
9/11/2022	0.43%	1.70%
9/18/2022	0.26%	1.59%
9/25/2022	0.30%	1.35%
10/2/2022	0.43%	1.66%
10/9/2022	0.47%	1.73%
10/16/2022	0.31%	1.65%
10/23/2022	0.35%	1.53%
10/30/2022	0.34%	1.52%
11/6/2022	0.49%	1.82%
11/13/2022	0.32%	1.72%
11/20/2022	0.37%	1.67%
11/27/2022	0.28%	1.43%
12/4/2022	0.52%	1.81%
12/11/2022	0.32%	1.73%
12/18/2022	0.40%	1.72%
12/25/2022	0.20%	1.20%
1/1/2023	0.65%	1.81%
1/8/2023	0.36%	1.74%

1/15/2023	0.48%	1.82%
1/22/2023	0.26%	1.63%
1/29/2023	0.44%	1.60%
2/5/2023	0.46%	1.87%
2/12/2023	0.65%	1.95%
2/19/2023	0.36%	1.82%
2/26/2023	0.47%	1.78%
3/5/2023	0.29%	1.78%
3/12/2023	0.43%	1.84%
3/19/2023	0.23%	1.69%
3/26/2023	0.22%	1.33%
4/2/2023	0.40%	1.83%
4/9/2023	0.45%	1.89%
4/16/2023	0.26%	1.79%
4/23/2023	0.34%	1.66%
4/30/2023	0.31%	1.70%
5/7/2023	0.39%	1.80%
5/14/2023	0.25%	1.69%
5/21/2023	0.28%	1.63%
5/28/2023	0.17%	1.25%
6/4/2023	0.37%	1.66%
6/11/2023	0.20%	1.49%
Grand Total	17.67%	82.33%



V. **Monitoring of Authorizations and Costs of Hours**

The Department transferred management of overtime utilization to the CDE, as the legal employer of IPs. The CDE reviews requests to temporarily increase workweek limits based upon criteria in the statute related to needs of consumers. The CDE has a corrective action policy for IPs working over their workweek limit without a valid approval reason as defined in the statute and WAC.

A. **Corrective Action**

When an IP has claimed more hours than are allowed and approved by the Department, the CDE has a multi-step corrective action process intended to educate the IP and their consumer about the rules and support compliance with the statute. There are 4 steps, starting with a verbal conversation or electronic communication and ending with termination of employment if the IP has continually failed to correct the multiple violations. This corrective action policy went into effect in February 2023

For this annual period, the following corrective actions have been issued to Individual Providers:

A. **Documented Notice: 498**

- IP is notified via a verbal conversation or electronic communication that is designed to inform the IP of initial violations and documented in the IPs worker profile.

B. **First Written Warning: 161**

- IP is notified via email and time portal notification. The consumer is notified by phone call and/or email.

C. **Final Written Warning: 12**

- IP, consumer, Case Manager, and the union are notified that the final written warning has been issued. The IP is notified via email and time portal notification. The consumer is notified by phone call and/or email. The Case Manager is notified via a CARE notification. The union is notified via email.

D. **Termination: 0**

- Termination is the result of continued incidents or policy violations following a Final Written Warning. It may also be used in cases of severe situations. IP will be notified via email. The consumer is notified by phone call and/or email. The Case Manager is notified via a CARE notification. The union is notified via email.
- IPs who are terminated are eligible to reapply 90 days after the termination date. The CDE reserves the right to deny re-applications based on the termination reason.

VI. **Conclusion**

The implementation and first year of operations of the Consumer Directed Employer resulted in an increase in utilization of overtime. CDWA has established a corrective action process with a progressive, 4-step process of warnings. This corrective action process is expected to reduce the amount of overtime being claimed. CDWA will continue to manage the overtime and educate

the IPs on the corrective action process and need to stay within the Work Week Limits. CDWA continues to explore adjustments in practice, consistent with the law, that provide flexibility for clients and providers and assists clients to remain in the least restrictive setting of their choice.