

**Procedure to request to increased funding  
due to requirement to pay overtime according to the  
Department of Labor “Home Care” Rule**

**Approval Process for Provider Agencies/Transition-II**

(Revised April 29, 2016)

**Funding for OT approval process**

Agencies/ Transition-II (T-II) must document requests for increased funding on the attached form. Any team member may submit a request, but the employer of record must be involved. The agency or T-II must provide a written decision to the request for additional funding within 30 days of receiving a request. Below is the process to follow to determine whether to grant additional funds.

1. Assess whether the employer has made a reasonable effort to hire additional employees. If not, provide advice and support to do so.
2. Determine whether the employer has made an effort to schedule employees to avoid or minimize the need for overtime, e.g., scheduling respite across 2 workweeks rather than all in one workweek, spreading hours across employees.
3. Determine whether there is a good rationale for the need for a specific worker to provide more than 40 hours in a workweek as opposed to multiple workers?
4. Review most recent balance statement from ARIS. Are there sufficient funds remaining to cover needed services through the end of the fiscal year? Could funds be shifted from other service categories either in remaining ARIS funds or the person’s whole budget?
5. Seek input from team to determine whether the lack of additional funds puts the person at risk of harm or institutionalization or jeopardizes remaining in community-based services.
6. If you determine that additional funding is not warranted, issue a decision to the employer, individual and guardian. Include a copy of the request. The individual and guardian must also receive a copy of their right to appeal and instructions for how to file an appeal. If you determine that funds are warranted, follow steps below.
7. Determine whether the additional funds requested are short term to get through the fiscal year or whether the need to pay overtime is ongoing.
  - A. If the increased need is ongoing, the agency should follow the SOCP processes for requesting additional funding. One exception to the SOCP for this specific type of funding

request is that the \$4,500 minimum threshold will not be applied. Agencies may submit requests to Equity or Public Safety funding committees for ongoing needs that are of any dollar amount. These requests should be reviewed by the local funding committee prior to submission to Equity or Public Safety committee. The request should be on the attached form along with the decision and budget pages that are typically sent to Equity and PS committees. The rest of the regular proposal form is not required.

B. Short term funds to get through the fiscal year should be funded internally. The agency should keep track of the funds approved. The Department will determine towards the end of the FY whether it has funds available to reimburse agencies for short term needs.

Adjustments to HCBS agency spreadsheets should follow the usual processes for short term or long term adjustments.

8. Determine the amount of funding needed to prevent risk of harm or institutionalization.
9. Complete the agency portion of the request form and send a copy of the request and decision to the DDS Financial Manager.
10. DAIL will be determining at the end of the fiscal year whether it has funds available to reimburse agencies for the increased costs related to compliance with the DOL rules. We would like a copy of the agencies' decisions in order to help inform the need for revisions to the process and to anticipate the need for funds.

(v.4.29.16)