

## Variance Request Form for Paying Employees Overtime DOL "Home Care" Rule

➤ **Instructions:** Complete this form if you are:

- A Case Manager or Consultant for a consumer/surrogate-directed program participant; or
- A program participant and a consumer-directed employer; or
- A surrogate employer for a program participant.

By filling out this form:

- You have already determined that your employee **is not exempt** from overtime
- You are **requesting an exception** to have an employee paid overtime using your budget from the Attendant Services or Choices for Care Program for working more than 40 hours in one workweek; and
- You will **describe** why you need this employee to work overtime.

- **Variance Criteria:** DAIL may grant a variance to the Department of Labor "Home Care" Rule to allow your employee to be paid an overtime rate if you show that the variance is needed to avoid placing the participant at risk of harm or at serious risk of institutionalization.

**Program:**  Attendant Services Program  Choices for Care High/Highest

*Completed by Case Manager, Consultant, Individual or Surrogate:*

1. **Participant Name:** \_\_\_\_\_
2. **Date of Birth:** \_\_\_\_\_
3. **Employer Name:** \_\_\_\_\_
4. **Number of employees working over 40 hours providing "care" in one workweek?** \_\_\_\_\_
5. **How many hours over 40 in one workweek (Sunday to Saturday) is each employee working?**

**Employee #1**

Full Name: \_\_\_\_\_ # hours worked over 40: \_\_\_\_\_

Requested Start Date for Overtime hours: \_\_\_\_\_ Hourly Wage: \$ \_\_\_\_\_

**Employee #2**

Full Name: \_\_\_\_\_ # hours worked over 40: \_\_\_\_\_

Requested Start Date for Overtime hours: \_\_\_\_\_ Hourly Wage: \$ \_\_\_\_\_

6. **Have you tried to hire additional caregivers?** \_\_\_\_ Yes \_\_\_\_ No
  - a. **If no**, please explain why?

7. **Do you have more than one caregiver/employee?** \_\_\_\_ Yes \_\_\_\_ No

8. **Have you scheduled your employees differently**, so they are working no more than 40 hours in one workweek (Sunday to Saturday)?

a. **If no**, please explain why you cannot schedule your employees differently.

9. **Are you able to use Home Health Agency caregivers to provide your care?** \_\_\_ Yes \_\_\_ No

a. **If no**, please explain why?

10. **Is the program participant at risk of harm or serious risk of institutionalization if overtime is not approved?** \_\_\_ Yes \_\_\_ No

a. **If yes**, please explain why? *(Example) Does the participant have any unique care needs that an employee has special skills to meet?*

**Case Manager/Consultant Name** *(if applicable)*: \_\_\_\_\_

**Agency:** \_\_\_\_\_ **Phone number:** \_\_\_\_\_

**Employer Name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Send request to:** Requests will be reviewed by the Adult Services Division (ASD) at the Department of Disabilities, Aging and Independent Living (DAIL).

**Mail:** Department of Disabilities, Aging and Independent Living, ASD  
HC 2 South, 280 State Drive, Waterbury, VT 05671-2070

**FAX:** (802) 241-0385 Attention: ASD

**Email:** [sara.lane@vermont.gov](mailto:sara.lane@vermont.gov)

**ASD Team Decision:**  Approve  Deny  Partial Approval  Copy to ARIS

LTCCC: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Comments:

DAIL Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

***NOTE: A notice must be sent to ARIS, the individual or Surrogate and case manager (if applicable).***

**ASD Team Use Only****CFC- Approved Budget for this request:**

<b>Service</b>	<b>Budget = Wage/2 X 13.3% (.133) X # Hours per 2 weeks</b>	<b>Start Date</b>	<b>End Date</b>
CFC Bi-Weekly Consumer/Surrogate Directed Personal Care	\$		

**ASP Medicaid PDAC- Approved Budget for this request:**

<b>Service</b>	<b>Budget = Wage/2 X 12.9% (.129) X # Hours per 2 weeks</b>	<b>Start Date</b>	<b>End Date</b>
ASP Medicaid PDAC Attendant Care	\$		

**ASP General Fund- Approved Budget for this request:**

<b>Service</b>	<b>Budget = Wage/2 X 7.65% (.0765) X # Hours per 2 weeks</b>	<b>Start Date</b>	<b>End Date</b>
ASP General Fund Attendant Care	\$		
ASP General Fund Personal Services	\$		