



Eric Holcomb, Governor
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Division of Disability and Rehabilitative Services
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To: Division of Disability and Rehabilitative Services, Bureau of Developmental Disabilities Services Providers, Case Managers, and BDDS Staff
From: Cathy Robinson, Director, Bureau of Developmental Disabilities Services
Re: Clarification of 40 hour rule for family caregivers
Date: February 22, 2019

The Bureau of Developmental Disabilities Services would like to clarify the rules for the number of hours a paid family caregiver can provide waiver services. The current '40 hour rule' is outlined in the service definition for Residential Habilitation in the Community Integration and Habilitation waiver, as well as the definition for Participant Assistance and Care in the Family Supports Waiver. The rule states: 'Reimbursable waiver funded services furnished to an adult waiver participant by any combination of relative(s) and/or legal guardian(s) may not exceed a total of 40 hours per week.'

This service delivery rule applies only when an individual is receiving Residential Habilitation or PAC and is not applied to other services. For example, a relative caregiver can be paid to provide 40 hours of Residential Habilitation Hourly to a participant in waiver services, and the same caregiver could also provide additional hours of Community Habilitation or CHIO to the same participant.

Please note, as outlined in the August 2018 version of the Division of Disability and Rehabilitative Services waiver module, available [by clicking here](#), the decision for a relative to provide services to a waiver participant is part of the Person Centered Individualized Support Plan planning process, which outlines the following team discussion and documentation requirements:

- The team indicates that the relative is the best choice of persons to provide services from the DDRS-approved provider agency, and this decision is recorded and explained in the PC/ISP.
- There is detailed justification as to why the relative is providing service.
- The decision for a relative to provide services is evaluated periodically (for example, at least annually) to determine whether it continues to be in the best interest of the waiver participant.

