



# MassHealth Educational Trainings for the Personal Care Attendant (PCA)

## Rules Around Overtime

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### PCA Overtime Rules

#### What are the PCA Overtime Rules?

Overtime is any time worked over 40 hours per week. PCA regulations establish the requirement for an overtime authorization for any hours worked over 50 hours per week.

PCAs may only work more than 50 hours in one week with an approved overtime authorization. PCAs may never work more than 60 hours per week.

#### How does the Overtime in the PCA Program Work?

When a consumer needs their PCAs to work more than 50 hours per week, they need to ask for an authorization for that specific PCA.

Consumers must ask for an authorization for overtime in accordance with the PCA Overtime Policy

[www.mass.gov/PCAOvertime](http://www.mass.gov/PCAOvertime)

Overtime is calculated in the aggregate. This means that a PCA working for more than one consumer must consider all of the hours they work for other consumers. This will help them determine whether or not their consumer needs to ask for an authorization for the PCA to work overtime.

**For example, John works for two consumers (consumer A and consumer B). John works 30 hours for consumer A and 30 hours for consumer B. John must tell both consumers that he works 60 hours combined. This means that both of John’s consumer s must request an overtime authorization through their PCM. If neither one requests an authorization for John, John and his consumers will be in violation of the PCA overtime rules. They may be terminated from the PCA program.**

**Authorizations for overtime are for the consumer-PCA pair. A PCA must have an overtime authorization in place when the total number of hours worked for the consumer exceeds 50 hours a week.**

#### How to Request an Overtime Authorization

Consumers should reach out to their PCM to request an authorization for overtime. MassHealth has two different types of overtime authorizations.

TYPE OF AUTHORIZATION/ DETAILS	DURATION	HOURS ALLOWED TO WORK	ACCEPTABLE REASONS FOR THE REQUEST	TYPE OF DOCUMENTATION REQUIRED
<b>Temporary Authorization</b>	Up to 12 weeks	Over 50 hours, but no more than 60 per week	– The consumer’s PCA works for multiple consumers, and in the aggregate, is working over 50 hours, but no more than 60 per week	–

TYPE OF AUTHORIZATION/ DETAILS	DURATION	HOURS ALLOWED TO WORK	ACCEPTABLE REASONS FOR THE REQUEST	TYPE OF DOCUMENTATION REQUIRED
<b>TEMPORARY AUTHORIZATION</b>	Up to 12 weeks	Over 50 hours, but no more than 60 hours per week	<ul style="list-style-type: none"> <li>- The consumer needs time to hire additional PCAs</li> </ul>	At least one of the following: <ul style="list-style-type: none"> <li>- Printed ads offering PCA jobs or posted on any web or social media resource, including the PCA Directory</li> <li>- PCA termination forms with a specific reason provided</li> </ul>
			<ul style="list-style-type: none"> <li>- The consumer has planned travel within the United States, including its territories, and it would not be possible to bring multiple PCAs to provide the consumer's PCA services</li> </ul>	<ul style="list-style-type: none"> <li>- Travel dates relevant to the request</li> </ul>
			<ul style="list-style-type: none"> <li>- The PCA(s) left employment suddenly</li> </ul>	<ul style="list-style-type: none"> <li>- When available, proof that the PCA left employment suddenly (resignation letters or other documentation)</li> </ul>
			<ul style="list-style-type: none"> <li>- The consumer's PCA(s) is/are temporarily unavailable</li> </ul>	<ul style="list-style-type: none"> <li>- Statement from the PCA explaining the reason for being temporarily unavailable, or for taking a short leave, and the dates when the leave will take place</li> </ul>
			<ul style="list-style-type: none"> <li>- The consumer is receiving hospice care</li> </ul>	At least one of the following: <ul style="list-style-type: none"> <li>- Post-hospitalization and discharge summaries, provider's notes, or any other clinical supporting documentation relevant to the request</li> <li>- Hospice referral or care plan</li> </ul>
			<ul style="list-style-type: none"> <li>- The consumer has a temporary medical need to schedule their PCA to work additional approved PA hours, including post-acute hospitalization <b>OR</b> skilled nursing facility</li> </ul>	At least one of the following: <ul style="list-style-type: none"> <li>- Post-hospitalization and discharge summaries, provider's notes, or any other clinical supporting documentation relevant to the request</li> <li>- Proof of intensive ADL needs associated with a formal diagnosis (electronic medical records, doctors' letters)</li> </ul>

TYPE OF AUTHORIZATION/ DETAILS	DURATION	HOURS ALLOWED TO WORK	ACCEPTABLE REASONS FOR THE REQUEST	TYPE OF DOCUMENTATION REQUIRED
<b>CONTINUITY OF CARE (CoC) AUTHORIZATION</b>	The duration of the PA for PCA services	Over 50 hours, but no more than 60 hours per week	<ul style="list-style-type: none"> <li>- The consumer needs time to hire additional PCAs because the consumer has one or more circumstances that make it difficult to hire additional PCAs</li> </ul>	<ul style="list-style-type: none"> <li>- Proof associated with the specific circumstance(s) that make it difficult for the consumer to hire additional PCAs</li> <li>- Supporting documentation that the consumer is actively recruiting PCAs, such as job postings, responses, etc.</li> <li>- PCA terminations with a specific termination reason</li> </ul>
			<ul style="list-style-type: none"> <li>- The consumer receives hospice care</li> </ul>	At least one of the following: <ul style="list-style-type: none"> <li>- Post-hospitalization and discharge summaries, provider's notes, or any other clinical supporting documentation relevant to the request</li> <li>- Hospice referral or care plan</li> </ul>
			<ul style="list-style-type: none"> <li>- The consumer has a medical need that requires intensive ADL care and needs to schedule the PCA to work additional approved PA hours. This also includes post-acute hospitalization <b>OR</b> post-skilled nursing facility</li> </ul>	<ul style="list-style-type: none"> <li>- Proof of intensive ADL needs associated with a formal diagnosis (electronic medical records, doctors' letters)</li> </ul>

### How Do Violations of the Overtime Rules Work?

A violation occurs when the PCA works at least once for more than 50 hours in a single week without an overtime authorization. The violations can occur consecutively (e.g. two pay periods in a row) or several weeks apart.

Violations will reset after five full pay periods (10 weeks) of compliance following a 6-week grace period.

**PCAs** working for more than one consumer **must** count the number of hours they work combined for all their consumers to make sure that they don't work over 50 hours without an overtime authorization.

**Consumers** should talk to their PCAs. If they work for other consumers, they should discuss how many hours they work in total to make sure they do not work over 50 hours without an overtime authorization.

## What Hours Count Towards Overtime Hours?

The overtime limit applies only to the hours a PCA spends providing MassHealth PCA-covered services. It is important that PCAs and Consumers take the following hours into consideration.

- i. Regular hours worked
- ii. Overtime hours worked
- iii. Holiday hours worked
- iv. Jury duty hours (these hours are put in the timesheet as regular hours worked, and they are added to the PA)

While travel time does count towards overtime, these hours will not be counted for overtime violations.

The overtime limit does not apply to

- i. Paid Time Off (PTO)
- ii. EVV training hours
- iii. NHO hours
- iv. Other training hours paid to PCAs

## Compliance Process

- a) **Violation:** A PCA works over 50 hours in a single week without an overtime authorization.
- b) **Notifications:** The fiscal intermediary (FI) will send a message via Everbridge (email, text). They will also mail a notice for each violation recorded for each consumer or PCA.
  - i. Notice 1: Informs PCA and consumer(s) of a first violation
  - ii. Notice 2: Informs PCA and consumer(s) of a second violation
  - iii. Notice 3: Informs PCA and consumer(s) of a third violation and refers them to MassHealth for potential termination

## Termination from the PCA Program

MassHealth issues a termination from the PCA program when the consumer and a PCA have violated the overtime rules three times.

- Both the PCA and the Consumer are terminated when the PCA only works for that consumer, and they billed over 50 hours per week on three occasions without an authorization for overtime.
- Only the PCA is terminated when the PCA works for multiple consumers and bills over 50 hours in one week across all of their consumers on three separate occasions.
- MassHealth informs the PCA and the consumer of the termination via a mailed notice.
- Terminated PCAs will be prohibited from working as a PCA for 9 months from the date of termination.

## Expungement Process

MassHealth may reset violations in certain circumstances.

- i. Violations will be reset when the consumer or PCA provides proof that they billed for over 50 hours in one week without an overtime authorization because of an emergency or an unforeseen situation.
- ii. Violations reset after five full pay periods (10 weeks) of compliance following a 6-week grace period.

## Readmission to the Program

### PCAs:

- i. PCAs may return to the MassHealth PCA workforce 9 months from the date of termination.
- ii. If, after returning to the workforce, the PCA continues to violate overtime rules and reach their third violation for the second time, the PCA will be terminated and permanently prohibited from working as a PCA in the MassHealth program.

***For example, PCA was terminated from the program for violating the overtime policy. After 9 months, the PCA is eligible to provide PCA services for consumers again. If the PCA continues to violate the overtime rules and receives three violations, MassHealth will permanently terminate this PCA.***

Consumers will be allowed to return at the discretion of MassHealth.

### **Additional Resources:**

For more information about the overtime rules, please see the PCA program regulations at 130 CMR 422.422.

You can also visit <https://www.mass.gov/regulations/130-CMR-422000-personal-care-attendant-services> or visit <https://www.mass.gov/PCAOvertime> to review the PCA Overtime Policy