



COLORADO

**Department of Health Care
Policy & Financing**

Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203

CDASS Participant and Authorized Representative Travel and Overtime Responsibilities

Are you an Authorized Representative (AR) for more than one Consumer Directed Attendant Support Services (CDASS) participant?

Yes **No**

Are you a CDASS participant yourself and also an AR for another CDASS participant?

Yes **No**

If yes to either question, you may have a joint employer relationship according to the Department of Labor.

Joint employment exists when an employee is employed by two (or more) employers and the employers are responsible, both individually and jointly, for following employment laws for that employee.

As a CDASS participant or an AR, you must comply with the Fair Labor Standards Act (FLSA). This means you are potentially responsible for the overtime and travel time that your attendants work. Overtime is when an attendant works over 40 hours in a week or more than 12 hours in a shift. Travel time is when an attendant completes work at one participant's home and then travels to another participant's home to work.

The U.S. Department of Labor (DOL) may consider you the employer whether you hold the Federal Employer Identification Number (FEIN) for everyone whose care you manage or not. As a CDASS participant or an AR, you manage your attendant and are responsible for:

- Managing your attendant's work hours.
- Making sure that attendants, who work for more than one CDASS participant under your management, do not work more than 40 per hours per week total. We cannot pay for overtime pay that is shared across two or more CDASS participants.

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- Attendants may be required to receive payment for travel time costs under the FLSA. We do not have a mechanism to pay for this so do not arrange your care where you would be liable for the travel costs under the FLSA.
- Making sure your attendants do not charge travel costs. We cannot pay them for travel costs that are shared across two or more CDASS participants.
- Monitoring travel time and overtime for shared attendants. There is not a system in place to split these costs among CDASS participants who share an attendant.

Example: You or your AR manages the care of two participants active with CDASS. These participants live 1 mile apart and share the same CDASS attendant. The CDASS attendant works 30 hours a week for one participant and 25 hours for the other participant. You have created a schedule that has the attendant working 55 hours in a week. The attendant must receive overtime pay for all hours past 40 for that week. Because the Colorado CDASS delivery option cannot reimburse for travel time or overtime across multiple participants, the attendant will not be able to get paid an overtime rate for the 15 hours worked.

We appreciate that you have volunteered to be an AR for a CDASS participant. It is the responsibility of the CDASS participant/AR to manage attendant hours with regards to the FLSA. The Department implores you to be cautious and safeguard any risk of violating the FLSA. If it is found that a joint employer relationship exists, it will be the CDASS participant and/or AR responsibility to cover the expense of overtime and travel time.

Please note: Colorado Department of Health Care Policy and Financing is not providing you with legal advice. It is the responsibility of the CDASS participant/AR to ensure compliance with all employment laws.

For more information about the FLSA please contact Consumer Direct Colorado at <http://consumerdirectco.com/> or 1-844-381-4433.

