



# MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
6.197

KEITH SCHAFFER, DEPARTMENT DIRECTOR

CHAPTER Human Resources	SUBCHAPTER Personnel Administration	EFFECTIVE DATE 6/17/14	NUMBER OF PAGES 2	PAGE NUMBER 1 of 2
SUBJECT Direct Care Overtime Payments		AUTHORITY 105.935 & 630.050 RSMo	HISTORY See Below	
PERSON RESPONSIBLE Deputy Director, Administration			Sunset Date 7/1/17	

**PURPOSE:** Describes federal and state overtime and holiday provisions and prescribes the process for paying overtime under the provisions of 105.935 RSMo.

**APPLICATION:** This is applicable to state and federal overtime and holiday time and to employees in positions which are not exempt from the FLSA and which provide direct client care. It further applies only to department facilities providing direct client care on a twenty-four hour, seven day a week basis.

(1) In this procedure, the following terms shall mean:

(A) **FLSA:** The federal Fair Labor Standards Act, which governs overtime payment and other pay matters.

(B) **Federal Overtime:** Overtime earned under the provisions of the FLSA. Overtime is calculated as the amount of time worked over forty (40) hours in a work week. Overtime earned under the FLSA is compensated at one and one half times the regular rate in pay or time off.

(C) **State Overtime:** Hours beyond forty (40) in pay status for a work week. State overtime is compensated at the regular rate of pay or time off.

(D) **Holiday Time:** Hours earned for working on a holiday or for not getting equivalent time off during the week of a holiday.

(E) **Compensatory Time or Compensatory Leave:** Time off taken in lieu of a payment for overtime or holiday time earned.

(F) **Compensatory Balance:** Accrued overtime and/or holiday hours that have not been paid or taken off in lieu of a payment.

(G) **Exempt Employee:** An employee whose position is exempt from the overtime provisions of the FLSA. Exempt employees are identified in the state classification and pay plan as overtime code 1 and code 0.

(H) **Non-exempt Employee:** An employee whose position is covered by the overtime provisions of the FLSA. Non-exempt employees are identified in the state classification and pay plan as overtime code 2.

(I) **Direct Care Employee:** A non-exempt employee who provides direct health, habilitation, or psychiatric care. Direct care job classes include: Developmental Assistant I, II, and III; Licensed Practical Nurse I, II, and III; Psychiatric Aide I and II; Security Aide I, and II; Registered Nurse I, II, and III; and, Substance Abuse Counselor Assistant I and II.

(2) Beginning on January 1, 2006, and annually thereafter, each facility must pay direct care employees in full for any federal overtime compensatory balance; except that employees may retain up to eighty (80) hours balance.



**MISSOURI DEPARTMENT OF MENTAL HEALTH**

RON DITTEMORE, DEPARTMENT INTERIM DIRECTOR



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**(3) The facility must pay a direct care employee for federal overtime on a monthly basis upon written request by the employee.**

**(A) Each facility must implement a process for employees to indicate their desire to receive a payment for federal overtime.**

**(B) Employees must request that at least twenty (20) hours of federal overtime be paid. Balances or requests of less than twenty hours are not required to be paid although a facility may choose to pay such balance.**

**(C) The employee will receive the payment for federal overtime worked in the calendar month following the request.**

**(4) The facility may pay at any time for any amount of federal or state overtime and/or holiday time balances, except that an employee may retain up to eighty (80) hours of federal compensatory leave if so desired and if the facility has been notified of such.**

**(5) A direct care employee who has accrued any state or federal overtime or holiday time may choose to use those hours as compensatory leave time provided that the leave time is available and agreed upon by both the employee and the supervisor. Employees may request the use of compensatory leave by completing the appropriate leave form (DMH 13a) prior to the leave use.**

**(6) An employee may not earn more than eight (8) hours of holiday time for any holiday occurrence, regardless of the number of hours worked. See DOR 6.180 for more information on holidays.**

*History: Original DOR effective December 1, 2005. Amendment effective October 15, 2006. On May 17, 2010, the sunset date was extended to July 1, 2013. Amendment effective April 8, 2011. On May 17, 2010, the sunset date was extended to July 1, 2013. Amendment effective April 8, 2011. On June 17, 2014, the sunset date was extended to July 1, 2017.*