

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

# GUIDANCE DOCUMENT

“This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Nebraska Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.”

Pursuant to  
Neb. Rev. Stat. § 84-901.03



## PROVIDER BULLETIN

No. 17-23

DATE: August 7, 2017

TO: Individual Providers of In-Home Client Services for the Nebraska Medicaid Aged & Disabled Waiver Program (AD Waiver) and Personal Assistance Services (PAS)

FROM: Thomas "Rocky" Thompson, Interim Director <sup>TNT</sup>  
Division of Medicaid & Long-Term Care

BY: Anne Harvey, Administrator – Program Integrity

RE: Overtime Eligibility for Independent Contractors

This bulletin is to clarify the policies regarding the United States Department of Labor Fair Labor Standards Act rules on the payment of overtime to independent contractors.

Overtime is not available to independent contractors. Generally, a provider is an independent contractor if the provider controls the work setting and how the task is completed, determines the hours to be worked, or renders the services in the provider's home. These are general categorizations. Eligibility for overtime is determined on a case-by-case basis.

Please direct any questions to [DHHS.MedicaidOTTravel@nebraska.gov](mailto:DHHS.MedicaidOTTravel@nebraska.gov) or call 1-844-331-3681.

Medicaid Provider Bulletins, such as this one, are posted on the DHHS website at [http://dhhs.ne.gov/medicaid/Pages/med\\_pb\\_index.aspx](http://dhhs.ne.gov/medicaid/Pages/med_pb_index.aspx). The "Recent Web Updates" page will help you monitor changes to the Medicaid pages.