



EMPLOYEE-PARTICIPANT LIVE-IN DETERMINATION

(Determine if employee is exempt from overtime pay and income tax)

Employee Name	Participant/Employer of Record Name

Domestic service workers may be exempt from overtime pay requirements and from paying income taxes. Consumer Direct Care Network (CDCN) will apply exemptions based on your answers below.

Employee-Participant Live-in Status

Employee answers below with Yes or No

Yes No – **Do you live permanently in the same home as the above-named Participant, or temporarily, but for extended periods of time (at least 120 hours per week or 5 consecutive days or nights per week)?**

If you answered YES:

- Overtime hours worked are paid at the regular pay rate.
- Declare your Difficulty of Care income tax exemption status.

Yes No – **I declare under penalties of perjury that I am an individual care provider receiving payments under a state Medicaid Waiver program as defined in IRS Notice 2014-7.** I provide care to the Participant named above. The Participant resides in my home. I am not required to report income earned under this Medicaid program. Federal and state income taxes should not be withheld from my pay. If non-taxable wages have been reported by CDCN in Box 1 of my Form W-2, I can deduct the nontaxable wages from my taxable income when I file my tax return. If I no longer qualify for IRS Notice 2014-7, I will notify CDCN. At that time, federal and state income tax withholding will resume. If the IRS deems I was not eligible for 2014-7 and taxes were not paid, I agree that I will be liable for any back taxes owed.

Note: IRS Notice 2014-7 directs that payments received under a Home and Community-based Medicaid Waiver program for providing Personal Care or Habilitation services are considered "Difficulty of Care" payments excludable from income taxation when the Medicaid recipient lives in the care provider's home. Respite and skilled services do not qualify. For more information please refer to <https://www.irs.gov/pub/irs-drop/n-14-07.pdf>.

If you answered NO:

- Overtime hours worked are paid at 1.5 times the regular pay rate.

Acknowledgement: The Employee and Employer agree the declaration(s) above are accurate. If living arrangements change, the Employee must notify CDCN. Regardless of overtime status identified above, working overtime requires prior approval.

Employee Signature

Date

Participant/Employer Signature

Date

