LIMPOPO

PROVINCIAL GOVERNMENT

REPUBLIC OF SOUTH AFRICA

LIMPOPO DEPARTMENT OF HEALTH

COMMUTED OVERTIME POLICY

2019

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1. PREAMBLE

1.1. Disparities in the existing Provincial Policies on Commuted Overtime and inconsistencies in the application of commuted overtime administration are leading to excessive expenditure and compromised patient care within the public health sector.

1.2. Negative Auditor General findings relating to the management of Commuted Overtime

1.3. The need to account for and contain costs relating to Commuted Overtime (in relation to actual availability of medical practitioners to provide patient care)

2. OBJECTIVES

2.1. To provide policy directives on Commuted Overtime of Medical practitioners so as to comply with the provisions of the constitution of the Republic of South Africa, 1996; Public Service Act, 1994 as amended, Labour Relations Act, 1995 as amended, Public Service Regulations, 2016 as amended and other relevant prescripts issued from time to time.

3. PURPOSE

3.1. The purpose of this policy is:

3.1.1. To provide a comprehensive framework within which Commuted Overtime is performed in the Department of Health.

3.1.2. To identify those disciplines where no Commuted Overtime will be paid.

3.1.3. To identify those disciplines which are restricted to a specific group.

3.1.4. Provide a departmental guideline to ensure that there is transparency, fairness and consistency.

4. LEGISLATION

4.1. The performance of Commuted Overtime is regulated by:

4.1.1. Constitution of the Republic of South Africa, 1996;

4.1.2. Health Professions Act, 1974;

4.1.3. Public Service Act, 1994;

4.1.4. Public Service Regulations, 2016;

4.1.5. Basic Conditions of Employment Act, 1997;

4.1.6. Public Finance Management Act, 1999;

4.1.7. Treasury Regulations;

4.1.8. Labour Relations Act, 1995; and

4.1.9. Related Public Service Coordination Bargaining Council Resolutions.

5. GLOSSARY OF TERMS/DEFINITIONS

5.1. For the purpose of this policy the following definitions apply:

5.1.1. *"Medical practitioners"* means a qualified health professional who has complied with all tertiary studies that have allowed him/her to successfully register with the Health Professions Council of South Africa as such.

5.1.2. *"Specialist"* Medical means a medical practitioner who has completed advanced education and clinical training in a specific area of medicine

5.1.3. "*Chief Executive Officer (CEO)*" means an Accounting practitioner of a Hospital.

5.1.4. "*Head of Institution (HOI)*" means an Accounting practitioner of a Small District Hospital as gazetted.

5.1.5. "*Clinical Executive Director*" means a Head of clinical services within a Tertiary hospital who is directly responsible for the management and control of clinical services rendered by medical practitioners and Allied health professionals;

5.1.6. "*Senior Clinical Manager*" means a Head of clinical services within a hospital who is directly responsible for the management and control of clinical services rendered by medical practitioners and Allied health professionals;

5.1.7. "*Clinical Manager*" means a Head of clinical services within a unit in a hospital who is directly responsible for the management and control of clinical services rendered by medical practitioners and Allied health professionals;

5.1.8. *"Part-Time employee"* means a medical practitioner who performs a minimum of three hours and a maximum of six hours per working day

5.1.9. *"Sessional employee"* means a medical practitioner other than a part-time employee, who is remunerated by the department when he/she renders service for a fixed number of hours per week;

5.1.10. *"Standby"* means being available during a specific period which is outside one's normal working hours to render service, should the need arise.

5.1.11. "*On Call*" means the medical practitioner on duty after hours and one who is ready to respond,

5.1.12. *"Normal hours of work"* means the 40 hours of work per week (the period of seven days within which the working week of that employee ordinarily falls) that a medical practitioner is scheduled to work in accordance with a duty roster;

5.1.13. *"Commuted Overtime"* means hours on duty in excess of the employee's normal hours of work and authorized by the relevant delegated authority

6. GUIDING PRINCIPLES

6.1. In terms of the Public Finance Management Act (Section 38), the Head of Department as Accounting Officer must ensure that he/she implements and maintains effective and efficient systems of financial and risk management and internal control measures. With due regard to the above, the commuted overtime system as part of a remuneration system is therefore subject to periodic review in order to reduce the risk of irregular expenditure and/or financial misconduct.

6.2. The payment of commuted overtime remuneration is limited to the rendering of actual patient related clinical services and bed-side teaching as needed by the Department of Health and therefore is not applicable to classroom-based academic/ training or research functions.

6.3. The provision of health is a 24-hour essential service. Performance of overtime may therefore be an operational requirement in order to achieve the constitutional mandate of the Department. The Limpopo Department of Health therefore, employs health professionals on the understanding that this operational requirement will be fulfilled. The Department therefore, expect qualifying health professionals to perform Commuted Overtime and to sign the Commuted Overtime contract. The Department may therefore dismiss an employee who persistently and unreasonably refuses to work overtime as required by the employer due to operational needs.

7. CATEGORIES OF COMMUTED OVERTIME REMUNERATION

7.1. The commuted overtime system makes provision for four categories of overtime remuneration. The purpose is to make provision for a flexible system in order to accommodate medical practitioners who do not perform overtime on a regular basis, as well as those employees who regularly perform overtime duties.

7.2. The four categories are as follows:

Group 1	1-4 hours per week	May claim for actual hours overtime worked where such duties are needed, as applicable to other categories of staff in terms of PSCBC Resolution 3 of 1999
Group 2	5-12 hours per week (average of overtime worked may not be less than 8 hours per week)	Overtime remuneration is payable at a fixed tariff equal to 8 or 12 hours per week depending on the workload that does not justify group 3 at 1.3 of the applicable hourly tariff This is applicable to any qualifying doctor BUT the following categories are limited to Group 2 overtime. • Heads Clinical Departments & Heads of Clinical Units • Clinical Executive: Health/Senior Clinical Managers
Group 3	13-20 hours per week (average of overtime hours worked may not be less than 16 hours per week)	Overtime remuneration is payable at a fixed tariff equal to 16 hours per week at 1.3 of the applicable hourly tariff
Group 4	>20 hours per week	Overtime remuneration is payable at a fixed tariff equal to 16 hours per week at 1.3 of the hourly tariff plus actual hours worked in excess of the limit of 20 hours at the applicable overtime tariff as per PSCBC Resolution 3 of 1999

7.2.1. Group 1

7.2.1.1. As indicated above, the measures contained in PSCBC Resolution 3 of 1999 are applicable provided that the control measures as set out in the aforementioned agreements are adhered to. Commuted Overtime contract and Register in respect of such claims must be completed by the relevant supervisors and submitted to the delegated authority for evaluation and approval (currently District Managers, Chief Director (Academic Hospitals), or Head of Institution). The commuted overtime contract is not applicable to medical practitioners who resort under Group-1. In general, a maximum of 4 hours overtime remuneration is applicable to Group-1. This may only be exceeded in exceptional circumstances.

7.2.2. Groups 2 and 3

7.2.2.1. Medical practitioners who wish to participate in the commuted overtime system as indicated in Groups 2 and 3 must complete the commuted overtime contract. The Head of Clinical Department / Senior Clinical Manager / Clinical Executive Director is responsible for verifying the contract as measured against the need for overtime services in their clinical departments, clinical unit or division. Heads of Institutions or CEO are responsible for the approval of individual contracts and are accountable for the effective control and management of the overtime system.

7.2.2.2. A qualifying HOI may participate in Group 3 Commuted Overtime based on need and subject to approval by the relevant DDG.

7.2.2.3. Manager: Medical Services may, upon recommendation by Head of Clinical Services of the relevant institution based on need and subject to approval by the relevant DDG, participate in Commuted Overtime system.

7.2.2.4. All qualifying practitioners performing Group 2 and 3 Commuted Overtime shall be required to sign the Commuted Overtime attendance register. Failure to duly sign the attendance register shall constitute a breach of contract, which may lead to non-payment and/or recovery of any monies paid, and/or termination of contract.

7.2.2.5. Group 2

For the following disciplines, or post levels, that only group 2 overtime will apply unless a deviation is approved by the relevant DDG (DHS or Tertiary) or HOD.

7.2.2.5.1. Maxillofacial surgery,

7.2.2.5.2. Dermatology,

7.2.2.5.3. Ophthalmology,

7.2.2.5.4. ENT,

7.2.2.5.5. Radiation and Medical Oncology, and

7.2.2.5.6. Nuclear Medicine

7.2.2.5.7. Head of Clinical Departments & Units

7.2.2.5.8. Senior Clinical Managers/ HOI / Clinical Executive Directors

7.2.2.6. The Head of Clinical Services of a relevant institution may, based on need, recommend to the relevant DDG participation of the categories mentioned in 7.2.2.5 above in Group 3 Commuted Overtime.

7.2.3. Group 4

7.2.3.1. With regard to individuals in Group 4, Heads of Institutions are urged to limit the need for overtime duties in excess of 20 hours per week. Claims and the subsequent payment for hours worked in excess of 20 hours per week should be in line with the provisions of the Determination and Directive on Working Time as well as Department of Public Service and Administration (DPSA) minute 17/8/R of 22 December 2018.

7.2.3.2. Performance of group 4 must be approved by HOD. Request must be sent at least 14 days in advance, unless in cases of emergency or unforeseen circumstances. Request must be accompanied by call roster indicating the calls that are group 4 and the doctors expected to perform such a call. Claims must be accompanied by approval indicated above, plus the lists of patients seen and hours worked on the applicable tool for this purpose.

7.2.4. Other General Consideration

7.2.4.1. The employer reserves the right to require a medical practitioner who is currently participating in Commuted Overtime to perform such in an area of operational need. Such area may be outside the medical practitioner's station/unit /facility of employment.

7.2.4.2. When medical practitioners change from one work sphere to another or from one rank to another, they will be required to complete a new contract because of changed circumstances. It must be accepted that such changes might result in a reduction in the commuted overtime rate, e.g. appointment of a medical doctor to CEO/ Senior Clinical Manager position.

8. SCOPE OF APPLICABILITY

8.1. Inclusions:

8.1.1. All Medical practitioners employed in a permanent or contract capacity who are rendering actual clinical, patient related services on an organized basis within a health facility, may participate in the commuted overtime system where, on a continuous basis, the need exists for the rendering of such overtime duties.

8.2. Inclusions: Dentists:

8.2.1. This policy is applicable only to Dental practitioners where there is a recognised Maxillofacial unit, headed by a Maxillofacial surgeon

8.3. Exclusions:

8.3.1. The commuted overtime system is however not applicable to:

8.3.1.1. Part-time medical doctors who are employed for less than 40 hours per week as well as sessional medical practitioners.

8.3.1.2. Other health professionals employed in the public sector. Overtime remuneration for such health professionals will be dealt with in terms of the general overtime policy in terms of Resolution 3 of 1999 of the Public Service Coordinating Bargaining Council (PSCBC).

8.3.1.3. In terms of the measures set out in the Collective Agreement on overtime (PSCBC Resolution 3 of 1999), an employee may only be paid overtime remuneration for work performed in addition to his/her contracted hours of work (i.e. 40 normal official hours per week). Commuted overtime should not be confused with **standby** duty.

9. POLICY PROVISIONS

9.1. COMMUTED OVERTIME CONTRACT

9.1.1. Participation in Commuted Overtime is as per employer's operational need.

9.1.2. Medical practitioners who participate in the Commuted Overtime System shall enter into a Commuted Overtime contract with the Head of each institution or his/her delegate, which will stipulate the hours of overtime to be performed and the relevant terms and conditions. The contract only becomes effective once both parties have signed it.

9.2. PAYMENT OF COMMUTED OVERTIME DURING PERIODS OF LEAVE

9.2.1. Commuted overtime is payable to medical practitioners who participate in the commuted overtime system during periods of all types of leave within each calendar year (i.e. from 1 January of a year to 31 December of that year) provided the individual shall have fulfilled his/her commuted overtime contractual obligation during a specific month, subject to clauses 9.2.4. Sick leave affecting more than two calls which cannot be swapped within a month should result in reduction of commuted overtime allowance for the period of absence. NB. Failure to swap calls should results in reduction of commuted overtime allowance. Performance of commuted overtime while on sick leave is not permitted as one cannot work while on sick leave..

9.2.2. Commuted overtime will not be paid where the individual shall not have fulfilled his/her commuted overtime contractual obligation during a specific month.

9.2.3. No reduction of commuted overtime must however take place in cases where an individual for the reasons as set out hereunder is able to fulfill his/her commuted overtime-contractual obligation during a specific month:

9.2.3.1. With regard to periods of leave where the individual is rostered to perform after-hour duties, but is able to meet his/her after-hour commitment by interchanging (swopping of calls) his/her after-hour duties with other medical practitioners in a specific month. This arrangement must be approved by the supervisor (Senior Clinical Manager/Clinical Executive). The supervisor (Senior Clinical Manager/Clinical Executive) must certify on the Z1(a) (leave form) that the commuted overtime commitment for the leave period was worked in.

9.2.3.2. In the event that a medical practitioner is unable to fulfil his/her Commuted Overtime contractual obligations and is unable to swop with a colleague due to circumstances beyond the individual's control and the employer is forced to find a replacement or work without a replacement, no reduction of Commuted Overtime will be effected provided the medical practitioner performs the unfulfilled call (s) within a period of three months

9.3. CARRY OVER OF COMMUTED OVERTIME HOURS

9.3.1. Medical practitioners should not carry over their rostered after-hour commitment for a specific calendar month.

9.4. NON-PAYMENT OF COMMUTED OVERTIME DURING SUSPENSION

9.4.1. Commuted overtime remuneration is not payable in cases where employees have been suspended from duty with full emoluments.

10. RESPONSIBILITIES

10.1. Clinical Executive Directors (CED) / Senior Clinical Managers (SCMs) and Clinical Managers (CMs)

10.1.1. CED, SCMs and CMs shall ensure that:

10.1.1.1. The Call Roster is compiled on monthly basis;

10.1.1.2. Commuted Overtime Attendance Registers are duly signed;

10.1.1.3. Undue non-attendance is monitored, minimised and reported accordingly;

10.1.1.4. Verify the overtime worked by participants in the commuted overtime system in accordance with their relevant duty roster and Commuted Overtime register;

10.1.1.5. They shall certify the hours overtime worked in the rendering of clinical services per calendar month for each participant in the system. Furthermore, they shall also report all leave taken by each participant during the calendar month on the prescribed reporting tool; and

10.1.1.6. Keep record of all Commuted Overtime activities

10.1.1.7. Ensure that all practitioners needed for Commuted Overtime are available when needed, whilst ensuring that Commuted Overtime is optimised and not abused

10.2. Chief Executive Officers (CEOs) / Heads Of Institutions (HOIs)

10.2.1. CEOs and HOIs must determine their actual clinical, related overtime need (operational requirements) per week, preferably over a 12-month period, or lesser as the case may be.

10.2.2. Once the overall need has been established, the actual number of overtime hours required per week must be allocated to the filled posts of medical practitioners (as applicable) on an individual basis.

10.2.3. CEOs and HOIs shall determine allocations of Commuted Overtime to incumbents of existing posts and determine Commuted Overtime contracts accordingly.

10.2.4. Keep record of all Commuted Overtime activities.

10.3. District Executive Manager: (DEM):

10.3.1. The DEM shall ensure that the policy is fully implemented and monitored by all relevant officials

10.3.2. The DEM shall monitor the planning and deployment of the relevant health care services personnel, to ensure optimal utilisation of Commuted Overtime in the district

10.3.3. They shall make the necessary intervention in planning and deployment practices in the district to ensure appropriate utilisation of Commuted Overtime

10.3.4. They shall provide quarterly compliance and analysis reports

10.4. Deputy Directors General (DDGs):

10.4.1. The DDG: Health Care Services and DDG Tertiary and Academic Health Development shall monitor the planning and deployment of the relevant health care services personnel, to ensure optimal utilisation of Commuted Overtime in the province

10.4.2. They shall make the necessary intervention in planning and deployment practices in the province.

10.4.3. The DDG: Corporate Services shall ensure that there is compliance to the policy

10.5. Accounting Officer:

10.1. The Accounting Officer shall ensure the overall implementation and compliance of Commuted Overtime Policy.

10.2. The Accounting Officer, may, from time to time, request audits of the commuted overtime system within institutions, to monitor the compliance of medical staff to the commuted overtime system and the conditions of the contract in accordance with the duty rosters.

11. COMMUTED OVERTIME IN RELATION TO BASIC SALARY

11.1. The commuted overtime tariffs are fixed and must not be taken into account when:

11.1.1. Any benefits/payments are determined which are derived from/based on basic salary; and

11.1.2. Practitioners and employees are classified according to their salaries, for purposes of granting any service benefit, payment of housing allowance, overtime remuneration and any allowance, etc.

11.2. When an employee's basic salary is reduced/increased, the commuted overtime tariff must be reduced/increased in the same ratio.

12. COMPULSORY OVERTIME AND REFUSAL TO WORK OVERTIME

12.1. Where there is a need for the performance of overtime duties and certain existing medical practitioners are not prepared to perform overtime duties (i.e. not prepared to participate in the commuted overtime system or are no longer prepared to continue with the performance of overtime duties as contracted for and cancel their existing commuted overtime contracts), their discharge in terms of Section 17(2)(b) of the Public Service Act, 1994 (as amended) may be considered.

12.2. It is important to note with regard to the actions as set out hereunder, that the employee must be afforded the opportunity to be represented by his/her union representative. Before proceeding with the termination of services in terms of the aforementioned section, the following process should have been followed:

13. CONSULTATION PROCESS:

13.1. Request the relevant employee in writing to perform the required number of hours overtime duties based on the operational requirements of the institution involved.

13.2. In the request, elaborate on the negative impact on the work situation (i.e. the effect on service delivery to patients and his/her co-workers) should the employee not be prepared to perform the required overtime duties.

13.3. Request the employee to respond in writing within a specified period of time whether or not he/she is willing to perform the required overtime duties and should he/she not be prepared to perform such duties, to submit reasons.

13.4. Should the employee respond negatively to the written request, inform the employee of the fact that his/her refusal to perform overtime duties has a detrimental effect on service delivery to patients and that his/her action cannot be accommodated in the work situation of the institution concerned.

at another institution for the employee in question where it is not a requirement to render overtime duties (i.e. relocate by means of transfer mechanism).

13.6. Also inform the employee that should it not be possible to secure a transfer to another position under the control of the Department of Health, the head of institution has no other alternative but to request a termination of service in terms of Section 17(2)(b) of the Public Service Act, 1994 (as amended).

13.7. Where it is possible to transfer the employee to another position under the control of the Department of Health, the CEO/head of institution shall inform the employee accordingly.

13.8. Upon receipt of an affirmative response by the employee, execute the necessary transfer actions.

13.9. Where it is not possible to secure a transfer to another position under the control of the Department of Health, the CEO/head of institution shall inform the employee accordingly and execute procedures for termination of service in terms of Section 17(2)(b) of the Public Service Act, 1994 (as amended).

14. POLICY REVIEW

14.1. This policy shall be reviewed after three years of implementation or as and when it becomes necessary

APPROVED with effect from 01 April 2019.

ACTING HEAD OF DEPARTMENT

DR F.T. MHLONGO

29.03.2019.

DATE