Consumer Directed Employer (CDE) Rate Setting Board

**Policy & Procedure # 02: Establishing the Labor and Administrative Rates**

**Policy:**

In accordance with [RCW 74.39A.530](https://app.leg.wa.gov/rcw/default.aspx?cite=74.39A.530#:~:text=The%20consumer%20directed%20employer%20shall,collective%20bargaining%20agreement%2C%20if%20applicable.), beginning in the year following the establishment of the initial rate and in in every even-numbered year thereafter, the CDE Rate Setting Board (Board) shall attempt to determine a proposed CDE rate consisting of a labor and an administrative component, and may make a recommendation on the home care agency administrative rate. The labor rate must include a specific amount identified for health benefits.

If an agreement on a proposed labor rate is not reached by a majority of the voting members of the rate-setting board by July 1, then the chair can cast a tie-breaking vote to create a majority for the labor rate. If an agreement on a proposed administrative rate is not reached by a majority of the voting members of the rate-setting board by July 1, the administrative rate can be determined by the department. DSHS must send the proposed CDE rate to the Office of Financial Management (OFM) by October 1 of that year to be considered for review as described in the statute.

**Original Effective Date:** 08/08/22

**Revision Date:** 07/08/2024

**Definitions:**

Administrative Rate**:**  The portion of a consumer directed employer's hourly rate that is to be used by the consumer directed employer to perform its administrative duties.

Board Staff: A member of the Department of Social and Health Services CDE Program Unit.

Home Care Agency Administrative Rate: The portion of the home care agency rate that is not subject to direct care worker parity ([RCW 74.39A.310](https://app.leg.wa.gov/rcw/default.aspx?cite=74.39A.310#:~:text=RCW%2074.39A.,or%20increase%20in%20labor%20rates.&text=These%20documents%20are%20currently%20being,during%20the%202024%20Legislative%20Session.)).

Labor Rate: The portion of the consumer directed employer's hourly rate that is to be used by the consumer directed employer to compensate its workers; including wages, benefits, and any associated taxes.

**Purpose:**

The Board was established per RCW 74.39A.530 to evaluate and determine a proposed rate paid to the CDE. The rate consists of a combined labor and an administrative component. In addition, the Board may make a recommendation regarding the administrative rate for home care agencies that serve Medicaid clients.

**Procedure:**

Prior to Board Commencement:

Board Staff will provide, to the extent possible, Board members with the following information and other supporting materials, including requested information from Board members seven days prior to the meeting(s), but no later than two days prior if circumstances necessitate.

A workgroup including staff (with no more than 2 board members) from the CDE, SEIU, and DSHS will meet prior to the Rate Setting Board meeting to discuss and propose what information should be provided.

1. A planning tool that will show how changes in compensation increase to the overall rate and the Agency Provider parity rate.
2. Current labor rate with all components broken out.
3. Data on actual and projected # of total caregivers and new caregivers.
4. Data on actual Individual Provider (IP) information:
	1. Number of IPs
	2. Turnover rate
	3. Overtime use
	4. Mileage
5. Data on actual Agency Provider (AP) hours by month.
6. Program considerations (expansion, new programs, changes to programs).
7. DSHS IP case load growth forecast based on the two most recent biennia data.
8. Cost of living information pursuant to RCW 41.56.465(1).
9. An analysis of new requirements related to the labor rate to account for any “legally required benefits or labor costs” that were not included in the labor rate such as new taxes or programmatic changes.
10. Information on the administration of the CDE, including costs to meet the CDE contract requirements over the previous year.
11. Labor rate breakout between wage, non-wage, and healthcare.
12. Comparable rate comparisons as defined in RCW41.56.465(5).

The Board members shall thoroughly review the materials provided in advance of the Board meeting(s) and come prepared to discuss the rates, ask applicable questions, or request more information if needed.

During the Board meetings:

* The Board shall have the opportunity to hear testimony, request additional information, and ask questions.
* If necessary, Board staff will prioritize questions from voting members of the Board related to information or data.
* Board members are encouraged to submit questions as early as possible in the process.
* The Board may consider testimony and make a recommendation on the administrative rate for home care agencies.
* Board staff will work with OFM, DSHS and other relevant agencies to provide additional information in response to written requests from the Board. All Board requests will be in writing and submitted to the Board staff through the Board email address CDERateSettingBoard@dshs.wa.gov. Board staff will attempt to respond to information requests prior to the following meeting.
* The Board voting process is outlined in the RSB Bylaws.
* The Board shall discuss the materials provided and propose a labor rate that considers at minimum the following elements:
	+ - All wages, payroll taxes, mileage, and paid time off.
		- A specific amount for health benefits.
		- Current collective bargaining agreement(s) provisions.
		- The factors listed in RCW 41.56.465(1) and (5).
	+ If the voting members of the Board fail to reach an agreement on the labor rate by July 1, the Chair can cast a tie-breaking vote.
* The Board shall discuss the materials provided and propose an administrative rate for the CDE vendor.
	+ If the voting members of the Board are unable to reach an agreement on the administrative rate by July 1, the Department of Social and Health Services can determine the administrative rate.

The Board may make a recommendation regarding the administrative rate for home care agencies that serve Medicaid clients.

After the Board has agreed to a proposed rate:

* 1. The Board staff will submit the agreed upon rates information to OFM no later than October 1st of the year the Board meets.
	2. If the Director of the OFM certifies the rates as being financially feasible for the state, the Governor shall include a request for funds necessary to implement the proposed rates as part of the Governor's budget document submitted under RCW 43.88.030 and 43.88.060.
	3. The Legislature shall approve or reject the request for funds as a whole.
	4. If the Legislature rejects the request, the matter shall return to the Board for further consideration. The current labor rate shall stay in effect until the Legislature approves a request for funds.