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To: Waiver Personal Care Services Participants Enrolled After January 31, 2016

Subject: Temporary and Permanent Overtime Exemption

The federal government passed new rules about overtime for In-Home Supportive Services (IHSS) and Waiver Personal Care Services (WPCS) programs. California started paying IHSS and WPCS care providers under these new overtime rules on February 1, 2016.

This letter is being sent to people who enrolled in the In-Home Operations (IHO) Waiver or the Nursing Facility-Acute Hospital (NF/AH) Waiver after January 31, 2016. It is also being sent to your care providers.

Overtime is paid for hours worked over 40 in a week. This is for WPCS, for IHSS, or for both. Providers who work in both programs add up all the hours they work in a week. If it is more than 40 hours, they will be paid overtime.

There are two kinds of limits on the number of hours a provider can work:

1) Waiver limits: The IHO and NF/AH Waivers allow providers to work up to a 12-hour day for both WPCS and IHSS hours. The new overtime limits mean that you must get approval from IHO before your providers can work more overtime hours. Please see “Exemption Process” below. It tells you how to get approval. If you need a WPCS provider for more hours than the limits outlined below, you must hire more providers.

2) Overtime limits: The Department of Health Care Services (DHCS) limits the number of overtime hours that a WPCS provider can work.

**Providers who work for two or more participants:**

- Can work up to 12-hours in a day.
- Can work up to 66-hours in a work week.

- A provider who works 66-hours in a week will be paid overtime for 26 hours.

**Providers who work for one participant:**

- Can work up to 12-hours in a day.
- Can work up to 70-hours and 45-minutes in a workweek.
- Cannot work more than 283 hours in a month.
  - A provider who works 70-hours and 45-minutes in a week will be paid overtime for 30 hours and 45 minutes.

**If you have more than one provider working for you, and the provider does not work for any other participants:**

- Providers can work up to 70-hours and 45-minutes in a week.
  - A provider who works 70-hours and 45-minutes in a week will be paid overtime for 30 hours and 45 minutes.
- Each provider cannot work more than 283 hours in a month.

Travel time: Travel time is paid separately. Providers will only be paid for 7 hours of travel time per week. Providers who work at two or more places on the same day, can claim travel time. Travel time hours are not deducted from your overall hours.

**If you enrolled in the NF/AH or IHO waiver after January 31, 2016:**

DHCS may temporarily allow more overtime hours up to the waiver limit (a 12-hour work day, or 360 hours per month) on a case-by-case basis, if:

1. You lost your main provider (your provider that worked the most hours in a work week or month); and
2. You are working with your IHO care manager to try to find more care providers.

## EXEMPTION PROCESS

### The Temporary Exemption Process:

Your IHO care manager will work with you to decide if you can get a temporary exemption to the overtime limit.

To ask for an overtime exemption, your provider must fill out the Workweek Temporary Exemption for WPCS Care Providers form (DHCS 2280). You or your authorized representative must sign the form and return it to DHCS. You and your provider can get a copy of the Workweek Temporary Exemption form from your IHO care manager.

A Temporary exemption can be given for a period of 60 calendar days. If you could not find a new provider during the 60-day Temporary Exemption, you may ask for a long term exemption from your IHO care manager.

### The Permanent Exemption Process:

IHO may permanently allow more overtime hours up to the waiver limit (a 12-hour work day, or 360 hours per month) on a case-by-case basis, if:

1. You lost your main provider (your provider that worked the most hours in a work week or month); and
2. DHCS agrees that there are no other possible care providers near your home that can meet your needs.
3. You must work closely with your IHO care manager to try to find more care providers. You must show that you tried to get another provider.

Below are some reasons you may ask for a long term exemption:

- You live in a rural area;
- You could not find an new provider who speaks your language; or
- You may have other things going on at home that make life harder. Each person's case will be looked at by the IHO manager.

**You can work with an IHO manager to prove that you have tried to find a provider. You must show that you:**

- Posted ads for the job, but no one replied;
- Contacted the Public Authority for Provider Registry list. And there were no providers or none that could meet your needs; and
- Kept track of any other ways you tried to find a provider, including:
  - How many possible care providers you met with;
  - Why you did not hire the care provider; or
  - If the providers did not want the job.

**What if I cannot find a new provider during the 60-day Temporary Exemption?**

- You must show you worked with your IHO care manager.
- The provider that cares for you now may be able to get a permanent exemption.

DHCS will still monitor each waiver participant's care and provider situations. This is to safeguard waiver participants' health, safety, and welfare. And DHCS wants to make sure all waiver laws are followed.

To request an exemption form:

Call: (916) 552-9214 or

Send an email to: [IHOWaiver@dhcs.ca.gov](mailto:IHOWaiver@dhcs.ca.gov)

If you need this letter in another language or alternate format, like large print, audio, or Braille; or if you need help understanding this letter, please call the IHO Branch at (916) 552-9105, Monday – Friday from 8am to 5pm.