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To: Waiver Personal Care Services Provider

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 providers of 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 the Waiver participants.

Overtime is paid for hours worked over 40 in a week. This is for WPCS, for IHSS, or for both. If you work for both programs, add up the total WPCS and IHSS hours you work in a week. If it is more than 40 hours, you 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” on the next page. It tells you how to get approval. If your WPCS participant needs a provider for more hours, they 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 week.

- If you work a 66-hour workweek, you 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.
  - If you work 70-hours and 45-minutes in a workweek, you will be paid overtime for 30 hours and 45 minutes.

**If you work for only one waiver participant, and they have other providers working for them:**

- You can work up to 70-hours and 45-minutes in a week.
  - If you work 70-hours and 45-minutes in a week, you 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. You will only be paid for 7 hours of travel time per week. If you work at two or more participant locations on the same day, you can claim travel time. Travel time hours are not deducted from your overall hours.

**If the participant you work for 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. The Waiver participant lost their main provider (the provider that worked the most hours in a work week or month); and
2. The Waiver participant is working with their IHO care manager to try to find more care providers.

## EXEMPTION PROCESS

### The Temporary Exemption Process:

The IHO care manager will work with the participant enrolled in the IHO or NF/AH waiver. The IHO manager will approve a temporary exemption to the overtime limit on a case-by-case basis.

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

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

### The Permanent Exemption Process:

IHO may permanently allow a Waiver participant to always get 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. The Waiver participant lost their main provider (the 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 the waiver participant's home that can meet their needs.

The waiver participant must work closely with their IHO care manager to try to find more care providers. They must show that they tried to get a new provider.

Below are some reasons Waiver participants can ask for a long term exemption:

- They live in a rural area;
- They could not find an a new provider who speaks their language; or

- They can have other things going on at home that make their life harder. Each participant's case will be looked at by the IHO manager.

**Participants can work with an IHO manager to prove that they have tried to find a provider. They must show that they have:**

- 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 their needs; and
- Kept track of any other ways they tried to find a provider, including:
  - How many possible care providers they met with;
  - Why they did not hire the care provider; or
  - If the providers did not want the job.

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

- You may be able to get a permanent exemption to work more hours for that participant.
- The participant must show that they worked closely with their IHO care manager.

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.