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To: Waiver Personal Care Services Participant

Subject: Overtime for Waiver Personal Care Services

The Federal Government passed new rules about overtime for Waiver Personal Care Services (WPCS) and In-Home Supportive Services (IHSS) 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 get services either through the In-Home Operations (IHO) Waiver or the Nursing Facility-Acute Hospital (NF/AH) Waiver. In January, 2016, we sent you informational packet Temp # 3002 informing you of the new overtime rule and its limitations and the exemption bulletin letter no. 16-001. If you did not receive the informational packet, please contact IHO at (916) 552-9214, and one will be sent to you in the mail.

Overtime is paid for hours worked over 40 in a week for WPCS, for IHSS, or for a combination of IHSS and WPCS. If a provider works both WPCS and IHSS hours, those hours are added together to figure out the total hours worked per week and the amount of overtime due per week.

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 WPCS and IHSS hours combined. However, because of overtime limits, participants will need to get In-Home Operations (IHO) approval to have their providers work more than the allowed maximum hours, as provided in the new overtime rules. See *Exemption below. If you need a WPCS provider for more than this limit, you must hire more providers.
- 2) Overtime limits: The Department of Health Care Services (DHCS) has limits on the number of overtime hours that can be worked by a WPCS provider.

Providers who work for two or more participants:

- Can work up to 12-hours in a day, and up to a 66-hour work week.
 - A provider who works a 66-hour work week will be paid overtime for 26 hours.

Providers who work for one participant:

- Can work no more than 12-hours in a day, and up to a 70-hour and 45-minute work week, not to exceed 283 hours worked in a month.
 - A provider who works a 70-hour and 45-minute work week will be paid overtime for 30 hours and 45 minutes.

Waiver participants who have more than one provider working for them and their providers do not work for any other participants:

- Providers can work up to a 70-hour and 45-minute work week.
 - A provider who works a 70-hour and 45-minute work week will be paid overtime for 30 hours and 45 minutes.
- The total hours worked by any one provider cannot be more than 283 hours in a month.

Travel time: Travel time is paid separately. Travel time is limited to seven hours per week for travel between two or more participant locations on the same day, and the hours are not deducted from your overall hours.

Since the law is new, there was a three month grace period for violations. Violations will be given beginning May 1, 2016. Providers need to get approval from IHO, before they work extra overtime hours. Without approval, they will get a violation. A provider may get a violation, if:

- The provider is identified to only work up to 40 hours in a work week and works more than the 40 hours, without approval from IHO, when the participant is authorized 40 hours or less in a workweek.
- The provider works more than the participant's maximum weekly hours, and does not get approval from IHO.
- The provider works for more than one participant and works more than 66 hours in a work week.
- The provider claims more than 7 hours of travel time in a work week.

* Exemption from overtime workweek limit:

For IHO or NF/AH waiver participants who were enrolled in a waiver on January 31, 2016:

As of May 1, 2016, DHCS may allow some providers to work more hours in WPCS than the overtime work week limits shown above; up to the waiver limit (a 12-hour work day

or 360 hours per month). However, the provider and participant must request an exemption before a provider works beyond the overtime limits. Without the exemption, the provider may get a violation. To apply for an exemption, see the exemption criteria and process below.

DHCS will allow more overtime on a case-by-case basis, if:

- (1) The care provider lives in the same home as you. They do not have to be a family member; or
- (2) The care provider is now giving care to you, and has done so for two or more years, without a break; or
- (3) DHCS agrees that there are no other possible care providers to assist with your care. You must work closely with IHO care managers. Your IHO care manager will ask you to show that you tried many times to get another provider.

Reasons you may not be able to find a new provider include:

- You live in a rural area;
- No providers are available who speak your primary language;

To show you have tried to find a provider, please demonstrate to IHO that you have:

- Posted ads for the job, but nobody responded;
- Contacted the Public Authority for a Provider Registry list and no providers were available or could meet your needs; and
- Kept track of any other ways you have tried to find a provider. Be sure to include:
 - How many possible care providers you met with;
 - Why you did not hire the care provider; or
 - Whether the providers refused the job.

The Exemption Process:

IHO case managers will work with you and providers to approve exemptions on a case-by-case basis.

To ask for an overtime exemption, the provider must fill out the Workweek Exemption for WPCS Care Provider form sent to him/her. He/she must complete, sign, and date the Exemption form; have the participant or the authorized representative of the participant sign the form, and return it to IHO. You may also call your IHO case manager to ask for the form.

The IHO case manager will check the form the provider sends in. The IHO case manager may need to ask you and/or provider for more information. Then the IHO case manager will review the information and make a decision. You and your provider will

get a letter, in two weeks from the receipt of the exemption request that says if the request was approved, denied, or if IHO needs additional information.

Approved exemption requests will begin on May 1, 2016 to avoid any potential violations. IHO will send a Participant Assignment of Authorized Hours Agreement Form, with the approval letter. This is also known as Form DHCS 2256. This form has your authorized hours. You need to fill out the provider's weekly schedule and return it to IHO.

DHCS will continue to monitor your care and provider situations. This is to safeguard your health, safety, and welfare and ensure all waiver rules are followed.

If you have questions call your IHO care manager or the WPCS Hotline at (916) 552-9214.

If you need a copy of this notice in another language, in Braille, or in large print, call (916) 552-9105.