

## **PLEASE READ CAREFULLY-----IMPORTANT INFORMATION FOR THE WAIVER PERSONAL CARE SERVICES (WPCS) PARTICIPANT**

This notice is to inform you of a recent change to state law which affects WPCS participants and providers. (Welfare and Institutions Code sections 12300.4 and 12300.41.) This law says that WPCS providers will be paid overtime within certain limits and will be paid for their travel time between participants, within limits.

**Your monthly authorized service hours will not change because of this new law. You will continue to receive your current services and hours regardless of the overtime paid to your providers.**

**When Do the Changes Go Into Effect:** The changes went into effect February 1, 2016.

### **What Has Changed?**

#### **1. Weekly Calculation of Authorized Hours**

Your current total monthly authorized hours will now be divided by 4 to determine your maximum weekly hours. The maximum weekly hours amount is a guideline telling you the highest number of hours your provider(s) will be able to work for you during a workweek.

*Example 1: You receive 100 monthly authorized hours. The system will divide those 100 hours by 4 to get the maximum weekly hours amount of 25 hours.*

However, since most months are slightly longer than 4 weeks, you will need to work with your provider(s) to spread your hours throughout the month in order to make sure you have all of your service hours you need for the month.

In the month of December, there are 31 days. You receive 100 monthly authorized hours. The maximum weekly hours are 25 hours (100 monthly authorized hours divided by 4). However, since December is actually 4 ½ weeks long, you would need to decide how many hours to take away from each week in order to have enough hours left over for the last few days at the end of the month. You could, for example, set up a work schedule for your provider to work 22 hours per week for the first four weeks which would leave you with 12 authorized service hours left over for the final few days of the month (22 hours multiplied by 4 equals 88 hours; 88 hours plus 12 hours equals 100 hours).

You may be able to adjust your maximum weekly hours under certain conditions. See the section on **ADJUSTING HOURS**.

## 2. Limits on the Provider Workweek

- **Single provider working for only one participant:** If you have only one provider, who works only for you, the maximum hours the provider may work in a workweek is your maximum weekly hours.  
A single provider providing services to a single participant who has the maximum number of hours authorized can claim up to 283 hours of WPCS and IHSS combined in a month not to exceed 12 hour in one day (283 divided by 4 = 70 hours and 45 minutes in one workweek).
- **Single provider working for multiple participants:** If you have only one provider and that provider works for other participants as well, the maximum number of hours that the provider may claim in a workweek for all of the time he/she works for all participants providing WPCS and IHSS services combined is 66 hours.
- **Multiple providers:** If there are multiple providers providing services to you, you may divide the maximum weekly hours amongst the providers as long as the total hours of all providers combined in a week, do not exceed your maximum weekly hours or the maximum weekly limit.

**You must make a work schedule for your provider to determine how many hours he/she will be working for you each week to make sure he/she does not work more than the workweek limit.** In order to make the schedule, your provider must tell you how many hours he/she is available to work for you each workweek. If your provider cannot work all of your authorized hours, you will need to hire additional provider(s). If you need help finding and hiring another provider(s), you can call the county IHSS office or the county IHSS Public Authority.

### **Overtime Pay**

**Your WPCS provider will get paid the overtime pay rate when he/she works more than 40 hours in a workweek.** The overtime pay rate is one and a half times the regular pay rate.

The workweek begins at midnight (12:00 a.m.) on Sunday and ends just before midnight (11:59 p.m.) the following Saturday.

### **Travel Time Pay**

**Beginning February 1, 2016, WPCS providers who work for more than one participant at different locations on the same day must sign a travel agreement which says they will be paid for travel time up to 7 hours per week.**

They will get paid for the time it takes to travel directly from the location where services are provided for the first participant to the location where services are provided for the

second participant, up to a total of seven hours per week. Providers will document their travel time on a travel claim form.

**A provider's time spent traveling is not counted towards the 66 hour workweek and is not deducted from any participant's monthly authorized hours.**

## **ADJUSTING HOURS**

### **Authorizing Your Provider to Work More Than Your Maximum Weekly Hours**

Sometimes you may need your provider to work more than your weekly maximum hours. You may authorize provider to work more hours without requesting approval from IHO as long as the hours your provider worked:

- Do not result in provider working more overtime hours in the month than he/she would normally work.

*Example: You are authorized 180 hours per month. By dividing the 180 hours by 4.0, it is determined that your provider would normally work 45 hours per workweek. One week during that month, however, you need him/her to work 55 hours. You plan to adjust his/her hours downward by 10 hours the following week, so he/she will only be working 35 hours during that week.*

*This adjustment would cause your provider to work 15 hours of overtime in that two week period instead of the normal 10 hours of overtime he/she would normally work. Because this adjustment would cause your provider to work an additional five hours of overtime in the month, you must ask your In-Home Operations (IHO) Case Manager for approval for this adjustment to your authorized workweek.*

- Do not result in provider working more than 40 hours for you in a workweek if your maximum weekly hours are 40 hours or less in a workweek.

*Example: You are authorized 160 hours per month. By dividing the 160 hours by 4.0, it is determined that your provider would normally work 40 hours per workweek. One week during that month, however, you need him/her to work 42 hours.*

*Because this adjustment would cause your provider to work over 40 hours in a workweek when you are authorized 40 hours or less, you need to ask your IHO Care Manager for approval for this adjustment in your authorized workweek.*

- And do not result in a provider working for multiple participants working more than the maximum weekly limit of 66 hours.

*Example: David works a total of 65 hours providing services for his participants Peter and Denise. In one week, Denise needs David to work an additional hour and tells him she will adjust his weekly hours the following week so that he works 1 hour less for her. Since David works for 2 participants, the maximum number of*

*hours he can work per week is 66 hours. Denise's request will not exceed the 66 hour limit; therefore, Denise does not need to request approval from the IHO to adjust David's schedule. However, David will have to work one less hour in another week to ensure that he does not work more overtime than he normally does in a calendar month.*

**Important:** Whenever you authorize your provider to work extra hours in one week, you must have the provider work fewer hours the other week(s) of the month so that the provider does not work more than your total monthly authorized service hours.

**Keep in mind that:**

- You can **never** authorize your provider to work more than your total authorized monthly service hours and their maximum workweek limit.

**How to Ask IHO for Approval to Adjust Authorized Weekly Hours When Necessary**

Effective February 1, 2016, if you need your provider to work more than the maximum weekly hours and the work performed will not meet one of the criteria in the previous section, you will be required to contact IHO to obtain a one-time exception to allow the provider to work the additional overtime hours.

You can ask IHO for approval to adjust your maximum weekly hours either at the time an adjustment is needed or as soon as possible afterwards. You can request a one-time exception or you can request future changes to meet a need you know you will have. You should contact your IHO Care Manager for approval prior to submitting the timesheet so IHO has the correct information for the provider payment of wages.

To ask for approval for this adjustment you can simply call your IHO Care Manager and request a one-time adjustment.

Your IHO Care Manager will review your request to determine if all of the following conditions exist that support your request for an adjustment:

- Does (did) your provider need to work more hours because you have (had) an unanticipated need?
- Is (was) your need immediate or can it be (could it have been) delayed until a back-up provider arrives (arrived)? And
- Does (did) the request have a direct and significant impact on your health and/or safety?

If the exception request meets all of these conditions, IHO will approve it. Otherwise, IHO will deny the request.

Within 10 calendar days of the call requesting an adjustment, IHO will mail a notice to you and your provider that tells you whether your request for an adjustment was approved or denied. If the request is denied, the notice will tell you why IHO denied it and the consequences resulting from the denial.

If you have a monthly recurring need that requires a change in your weekly hours, you may request an ongoing recurring adjustment from your IHO Care Manager.

**Provider Violations for Going Over Workweek & Travel Time Limits**

**Beginning May 1, 2016**, if your provider submits a timesheet reporting hours that go over the workweek or travel time limits, he/she will get a violation. Each time he/she does any of the following, he/she will get a violation:

- Your provider works more than 40 hours in a workweek for you without you getting approval from IHO when you are authorized less than 40 hours in a workweek;
- Your provider works more hours for you than you are authorized in a workweek without getting approval from IHO and this causes him/her to work more overtime hours in the month than he/she normally would;
- Your provider works more than their maximum workweek limit
- Your provider’s claimed travel time is more than seven hours in a workweek.

For each violation your provider receives, there will be a consequence:

First Violation	Your provider and you will get a notice of the violation with the dispute rights information
Second Violation	Your provider and you will get a notice of the violation, with dispute rights information. Your provider will have a choice to complete a <u>one-time training</u> about the workweek and travel time limits. If your provider chooses to complete the training, he/she will avoid a second violation.  If your provider chooses not to complete the training within 14 calendar days of the date of the notice, you and your provider will be sent a notice of the provider’s second violation with dispute rights information.
Third Violation	Your provider and you will get a notice of the third violation with the State Administrative Review rights information. Your provider will be suspended as a provider for <u>three</u> months.
Fourth Violation	Your provider and you will get a notice of the fourth violation with the State Administrative Review rights information. Your provider will be <u>terminated</u> as a provider for <u>one year</u> .

Whenever your provider receives a violation of any type, he/she has ten calendar days from the date of the violation notice to request IHO review of the violation. Once IHO receives the request for review, it has ten calendar days to review and investigate the violation and to send your provider a notice stating the outcome of the review.

For the third and fourth violations, if IHO does not remove the violation, your provider may request a review of the violation by the Department of Health Care Services, Long-Term Care Division. The notice will explain how your provider may request the state review.

Once your provider has received a violation, the violation will remain on his/her record. However, after one year, if your provider does not receive another violation, the number of violations he/she has received will be reduced by one. As long as the provider does not receive any additional violations, each year after the last violation was removed, his/her number of violations will be reduced by one.

If your provider receives a fourth violation and is terminated as a provider for one year, when the year is up and he/she applies again to be a provider, his/her violations count will be reset to zero.

If your provider gets terminated because he/she received a fourth violation, when the one-year termination ends, he/she will have to complete all of the provider enrollment requirements again before he/she can work as a WPCS provider, including the criminal background check, provider orientation and all required forms for IHSS and WPCS enrollment.

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 WPCS Hotline at (916) 552-9214, Monday-Friday from 8am to 5pm.