

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

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.

The authorization of services and hours to your participant(s) will not change because of this new law. Your participant(s) will continue to receive their current authorized services and hours.

**WHEN DO THE CHANGES GO INTO EFFECT?** The changes went into effect February 1, 2016.

### **WHAT HAS CHANGED?**

#### **1. Limit on How Many Hours You Can Work in a Workweek (Maximum Weekly Hours)**

Beginning February 1, 2016, all WPCS participants' monthly authorized hours will be divided by 4 to determine their maximum weekly hours. Your WPCS participant will receive notification of how many monthly and weekly WPCS authorized hours he/she receives. However, your participant may be able to adjust his/her maximum weekly hours under certain conditions. See the section on ADJUSTING HOURS.

- **Single provider working for only one participant:** If you work for one participant only, the maximum hours you may work in a workweek is the participant's maximum weekly hours. A single provider providing services to a single participant who has the maximum number of hours authorized can claim up to 70-hours and 45 minutes in one week for WPCS and IHSS combined.
- **Single provider working for multiple participants:** If you work for more than one participant, the maximum number of hours you may claim in a workweek for all of the time you work for all participants providing WPCS and IHSS services combined is 66 hours.
- **Multiple providers:** If there are multiple providers providing services to a participant, the participant may divide their maximum weekly hours amongst the providers as long as the total hours of all providers combined in a workweek do not exceed the participant's maximum weekly hours or the maximum weekly limit.

**If you work for multiple participants, each of your participants must make a work schedule for you to determine how many hours you will be working for each of them so you can make sure you do not work more than a 66-hour workweek.**

- Example 1: You are working for two participants and each has 100 monthly authorized hours. The maximum weekly hours each participant has is 25 hours and the combined total is 50 hours. You will be able to work for the two participants because the combined total does not exceed your 66-hour workweek.
- Example 2: You are working for two participants. The first participant has maximum weekly hours of 25 hours. The second participant has maximum weekly hours of 50 hours. Between the two participants, the total maximum weekly hours are 75 hours. However, the maximum number of hours you can work is 66 hours in a workweek. You will need to inform the participants that you cannot work 75 hours and then work with one or both of them to create work schedules to make sure you are working no more than the 66-hour workweek. Depending on the work schedule, one or both of the participants will need to hire another provider to work the additional nine hours per workweek.

## **2. Overtime Pay**

You will get paid the overtime pay rate when you work more than 40 hours in a workweek. The overtime pay rate is one and a half times the regular pay rate.

For example, if you earn \$10 per hour and you work 45 hours in a workweek, you will get paid \$10 per hour for the first 40 hours ( $40 \times \$10 = \$400$ ), and \$15 ( $1.5 \times \$10 = \$15$ ) per hour for the five hours you work over 40 hours in the workweek ( $5 \times \$15 = \$75$ ), for a total of \$475.

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

## **3. Travel Time Pay**

Beginning February 1, 2016, if you work for more than one participant at different locations on the same day, you may be eligible to be paid for traveling between the two recipients, up to seven hours per workweek.

Travel time is the time it takes to travel directly from the location where you provide services for one participant to another location where you provide services for a different participant on the same day. Travel time does not include the time it takes you to travel from your own home to the location where you provide services for a participant or back home after your work is completed.

You will get paid for travel time regardless of your method of travel (driving a car, taking public transit, walking, riding a bicycle).

**Your time spent traveling between participant locations does not count toward the maximum 66-hour workweek and is not deducted from any participant's monthly authorized hours.**

You must keep track of your travel time each week so that you can report it on your travel claim form.

You may request the travel claim form from the In-Home Operations office if you are traveling to the IHSS/WPCS participant to provide WPCS services. In order to calculate your wage rate when traveling from a participant in one county to a participant in another county, you will have to state which participant you are traveling to on your travel claim form since the wage rate for that travel will be determined by the county you are traveling to.

### **Limits on Travel Time**

The maximum amount of time providers will be allowed to claim for travel during a workweek without getting a violation is seven hours. Travel time will not be counted as part of the hours you work for a participant.

- If your travel time is going to be more than seven hours per workweek, you will have to rearrange your work schedule with your participants to make sure your claimed travel time is no more than seven hours per workweek.
- If you submit a travel claim form claiming travel time of more than seven hours in a workweek, you will get paid for the travel time claimed but you will get a violation.

### **ADJUSTING HOURS**

Your participant can authorize you to work more than his/her weekly authorized hours without asking the In-Home Operations (IHO) for approval as long as the authorization does not cause you to work:

- More overtime hours in the month than you would normally work;

*Example: Your participant's maximum weekly hours are 45 hours per workweek. One week during the month, your participant needs you to work 55 hours. He/she tells you he/she will adjust your work hours downward by 10 hours the following week, so you will only be working 35 hours during that week.*

*This adjustment would cause you to work 15 hours of overtime in that two week period instead of the 10 hours of overtime you would normally work. Because this adjustment would cause you to work an additional five hours of overtime in the month, your participant must ask their IHO Care Manager for approval for this adjustment in your work schedule.*

- More than 40 hours for your participant in a workweek if his/her maximum weekly hours are 40 hours or less in a workweek.

*Example: Your participant's maximum weekly hours are 40 hours per workweek. One week during the month, your participant needs you to work 42 hours, two hours over his/her maximum weekly hours. Your participant would need to request IHO approval for this adjustment.*

- More than the maximum weekly limit of 66 hours in a workweek if you work for more than one participant.

*Example:* You work for two participants, Participant A who has maximum weekly hours of 31 hours per workweek and Participant B who has maximum weekly hours of 35 hours per week. One week during the month, Participant A needs you to work 35 hours in the workweek. Since doing so would cause you to work 70 hours for that workweek, four more hours than your maximum 66-hour workweek, you cannot work the extra four hours.

If you work the maximum 66-hours per workweek combined and one of your participants asks for you to work additional hours for him/her, you can only do so if you can reduce the hours you work for one of your other participants. Otherwise, you will have to tell the participant that he/she will have to get another WPCS provider to work the additional hours.

**PLEASE NOTE:** If you work for a single participant or more than one participant, you can never work more than your maximum workweek limit. (See Limit on How Many Hours you can Work on page one)

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

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

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

To ask for approval for this adjustment, the participant can simply call his/her IHO Care Manager and request a one-time adjustment.

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

- Does (did) the provider need to work more hours because the participant has (had) an unanticipated need?
- Is (was) the 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 the participant’s 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 participant that tells you whether the 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 the participant has a monthly recurring need that requires a change in his/her weekly hours, the participant may request an ongoing recurring adjustment from your IHO Care Manager.

### **Submitting Your Timesheet**

You will report all of the service hours you work for your participant on your timesheet like you have before.

You must submit your timesheet (signed by both you and your participant) within two weeks after the end of each pay period.

- If you submit your timesheet on time, your payment for participant service hours will be issued within 10 days of the day it is received at the timesheet processing facility.
- If you do not submit your timesheet on time, it may take up to 30 days from the day your timesheet is received at the timesheet processing facility for you to get paid for the participant service hours you worked.

### **Submitting Your Travel Claim Form**

If you are traveling between locations where you provide services for different participants on the same day, you will report your travel time on your travel claim form (not the regular timesheet).

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

**Beginning May 1, 2016**, if you submit a timesheet reporting hours that go over the workweek or travel time limits, you will get a violation. Each time you do any of the following, you will get a violation:

- You work more than 40 hours in a workweek for a participant without your participant getting approval from his/her IHO Nurse Evaluator, when that participant is authorized less than 40 hours in a workweek;
- You work more hours for your participant than he/she is authorized for in a workweek, and this causes you to work more overtime hours in the month than you normally would;
- You work more than your maximum workweek limit;
- Your claimed travel time is more than seven hours in a workweek

For each violation you receive, there will be a consequence:

First Violation	<ul style="list-style-type: none"> <li>• Your participant(s) and you will get a notice of the first violation with dispute rights information.</li> </ul>
Second Violation	<ul style="list-style-type: none"> <li>• Your participant(s) and you will get a notice of the second violation with dispute rights information. You will have a choice to complete a <u>one-time training</u> about the workweek and travel time limits. If you choose to complete the training, you will avoid a second violation.</li> <li>• If you choose not to complete the training within 14 calendar days of the date of the notice, you and your participant will be sent a notice of the provider's second violation with dispute rights information.</li> </ul>
Third Violation	<ul style="list-style-type: none"> <li>• Your participant(s) and you will get a notice of State Administrative Review rights information.</li> <li>• You will be suspended as a provider for <u>three</u> months.</li> </ul>
Fourth Violation	<ul style="list-style-type: none"> <li>• Your participant(s) and you will get a notice of the fourth violation with State Administrative Review rights information.</li> <li>• You will be terminated as a provider for <u>one year</u>.</li> </ul>

Whenever you receive a violation of any type, you have 10 calendar days from the date of the violation notice to request a review of the violation from IHO. Once IHO receives the request for review, there are ten calendar days to review the violation and to send you a notice stating the outcome of the review.

For the third and fourth violations, if IHO does not remove the violation, you may request a review of the violation by the Department of Health Care Services, Long-Term Care Division's State Administrative Review Unit.

Once you have received a violation, the violation will remain on your record. However, after one year, if you do not receive another violation, the number of violations you have received will be reduced by one.

- As long as you do not receive any additional violations, each year after the last violation has been removed, your number of violations will be reduced by one.
- If you receive a fourth violation and are terminated as a provider for one year, when the year is up and you apply again to be a provider, your violations count will be reset to zero.

If you get terminated because you received a fourth violation, when the one-year termination ends, you will have to complete all of the provider enrollment requirements again before you can work as a provider, including the criminal background check, provider orientation, and all required forms for the County and IHO.

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.