State of California—Health and Human Services Agency
Department of Health Care Services

TOBY DOUGLAS
Director

EDMUND G. BROWN JR.
Governor

June 25, 2014

Medi-Cal Eligibility Division Information Letter No.: I 14-38

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY WELFARE ADMINISTRATIVE OFFICERS
ALL ADMINISTRATIVE LAW JUDGES CONDUCTING STATE HEARINGS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MEDS LIAISONS

SUBJECT: Department Of Health Care Services (DHCS) Waiver Change Information

The purpose of this letter is to provide information on the DHCS Waiver Changes, pursuant to the renewal of current DHCS Waivers.

BACKGROUND

Currently, DHCS offers Home and Community-Based Services (HCBS), Long-Term Care Services and Supports (LTSS) for Medi-Cal beneficiaries in the form of seven waivers. These waivers are approved by the federal Centers for Medicare and Medicaid Services (CMS) and are renewed at varying intervals. New waivers may be requested at any time by DHCS and approved by CMS, increasing this number. Those waivers with end dates in 2014 are being renewed for a five-year term. Additional information on the various waivers is available on the DHCS website. The resource attachment on how to access Long Term Care services includes links that describe the role of the counties and how the client can apply for waiver services.

Current DHCS Waivers

DHCS administers the following 1915c HCBS Waivers:

1. **Acquired Immune Deficiency Syndrome (AIDS) Waiver**
   Approved January 01, 2012 – December 31, 2016
   Administered by: the California Department of Public Health, Office of AIDS

The AIDS waiver offers persons living with AIDS and/or symptomatic HIV an alternative to institutional care. The waiver provides comprehensive and cost-effective services, which include, but are not limited to the following: intensive medical case management (nursing and psychosocial assessments), home delivered meals, attendant care, nutritional counseling, and Medi-Cal supplements for infants and children in foster care.

2. **Assisted Living Waiver (ALW)**
   Approved: March 1, 2014 through February 28, 2019
   Administered by: DHCS

The ALW succeeds the Assisted Living Waiver Pilot Project. It is available in the following 11 counties: Alameda, Contra Costa, Fresno, Kern, Los Angeles, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, and Sonoma. The Monitoring and Oversight Section of this waiver offers assisted living services in two settings: Residential Care Facilities for the Elderly and publically subsidized housing. Qualified participants have full-scope Medi-Cal benefits with zero share-of-cost and are determined to meet the Skilled Nursing Facility Level of Care, A or B.

3. **Home and Community-Based Services Waiver for the Developmentally Disabled (DD Waiver)**
   Approved October 1, 2011 through September 30, 2016
   Administered by: the Department of Developmental Services

The DD Waiver is for individuals with developmental disabilities and is provided through a statewide system of 21 private, non-profit corporations known as Regional Centers. Regional centers provide fixed points of contact in the community for persons with developmental disabilities and their families.

4. **In-Home Operations (IHO) Waiver**
   Approved January 1, 2010 through December 31, 2014
   Administered by: DHCS, In-Home Operations Branch

The IHO waiver serves 1) participants previously enrolled in the Nursing Facility A/B Level of Care (LOC) Waiver who have continuously been enrolled in a DHCS administered HCBS waiver prior to January 1, 2002, and requires direct care services provided primarily by a licensed nurse; or 2) those who have been receiving continuous care in a hospital for 36 months or longer and have physician-ordered direct care services that exceed those available in the Nursing Facility/Acute Hospital (NF/AH) Waiver for the participant's assessed LOC.

5. **NF/AH Waiver**
   Approved: December 01, 2012 through December 31, 2016
   Administered by: DHCS, In-Home Operations Branch

The combined NF/AH Waiver and the Developmentally Disabled Continuous Nursing Care (DD-CNC) waiver offers in-home services to Medi-Cal beneficiaries with a long-term medical condition. Those who would otherwise receive care for at least 90 days in an intermediate care facility, a skilled nursing facility, a sub-acute facility, or an acute care hospital are served by this waiver. It also offers services for persons with severe developmental disabilities, and who need 24-hour continuous nursing care. This includes infants, children, and adults with developmental disabilities.

6. **Pediatric Palliative Care (PPC) Waiver**
   Approved April 1, 2012 through March 31, 2016
   Administered by: DHCS, Children's Medical Services Branch

Partners for Children (PFC) is the name assigned to California's PPC Waiver. This waiver offers children with life limiting conditions a range of home-based, hospice-like services including the option of receiving curative treatment. According to diagnosed need and an approved plan of care, services include concurrent provision of the hospice-like services and therapeutic state plan services, care coordination, expressive therapies, family training, individual and family caregiver bereavement services, and respite care.

7. **Multipurpose Senior Services Program (MSSP)**
   Approved: July 1, 2009 through June 30, 2014
   Administered by: the California Department of Aging

This waiver provides home and community-based services in 41 sites statewide to Medi-Cal beneficiaries who are age 65 or over and disabled as an alternative to nursing facility placement. MSSP provides comprehensive care management to assist frail elderly persons to remain at home. The goal of the program is to arrange for and monitor the use of community services to prevent or delay premature institutional placement of frail clients.

The specific NF/AH waiver sections below will be submitted for insertion into the Medi-Cal Eligibility Procedure Manual, and is being shared with the California Department of Social Services and the counties while the changes are in progress.

NF/AH Waiver

[**NF/AH Waiver, Appendix B. Participant Access and Eligibility, p. 35**]
An individual requesting NF/AH Waiver services must complete and submit a HCBS Waiver Application to DHCS/IHO. If the application is incomplete or additional information is needed to determine LOC, the application will be deferred pending receipt of current medical information supporting the individual's skilled care needs and LOC. IHO staff will identify the applicant's potential LOC based on the information provided on the application. If a waiver slot is available at the identified LOC, the DHCS Registered Nurse(RN) will schedule a face-to-face meeting to assess the individual for enrollment and provide the applicant and/or legal representative/legally responsible adult with information on the NF/AH waiver. If there are no waiver slots available, applicants who potentially meet the waiver's LOC criteria, will be placed on the waitlist. DHCS will then send a letter confirming receipt of the completed HCBS Waiver Application and the effective date of placement on the NF/AH Waiver waitlist.

DHCS will consider a potential waiver participant requesting NF/AH Waiver services to be provided while residing in an ICF/DD-CN residence based on selection through the coordinated efforts of the Department of Developmental Services regional centers and the waiver providers. Before DHCS receives an application, the person must be enrolled in a Regional Center, determined by the Regional Center to have a developmental disability as defined by Welfare and Institutions Code §4512, be eligible for special treatment programs, and be free of clinically active communicable diseases reportable under Title 17, California Code of Regulations (CCR) §2500.

Enrollment into the NF/AH Waiver is limited to the maximum number of waiver slots authorized for each waiver year. Unused waiver capacity is referred to as available "waiver slots" for purposes of establishing and maintaining a waitlist for enrollment. When there are no available waiver slots during the waiver year, DHCS will establish and maintain a waitlist of individuals eligible for potential enrollment in the NF/AH Waiver. Waiver slots that become available due to the death of a participant will be filled with a new participant from the appropriate waitlist.

Multiple completed HCBS waiver applications received on the same day shall be prioritized based upon the applicant's birth date, 1 through 31, without consideration to the month of the year.

Available waiver slots will be assigned to NF/AH Waiver eligible individuals who are on the waitlist in the following order:

1) Individuals who have been residing in a health care facility for at least 90 days at the time of submission of the HCBS Waiver Application to DHCS.

2) Individuals residing in the community at the time of submission of the HCBS Waiver Application.

Available waiver slots are filled on a rotating basis from the waitlist, offering the first opportunity for waiver enrollment to:

- an individual at the top of the list of individuals residing in a health care facility for at least 90 days and desiring to transition to the community,
- the second opportunity for enrollment will be offered to the individual at the top of the list of individuals residing in the community,
- the third opportunity will be offered to the individual at the top of the list of individuals residing in a health care facility for at least 90 days.

  If an individual is unable to accept or declines waiver enrollment, the open waiver slot will be offered to the next individual in the order of rotation.

[**NF/AH Waiver, Appendix B. Participant Access and Eligibility, p. 36**]

A *current physician-signed plan of treatment* (POT) must be submitted within 90 days under the new waiver, not 180 days as in the past.

The following are reasons for reduction, or termination of waiver services:

- Within 60 days of notification of an available waiver slot, an individual must schedule a face-to-face evaluation with a DHCS RN to determine eligibility for enrollment. If a face-to-face evaluation is not scheduled within 60 days, or if waiver services are declined when offered, a Notice of Action (NOA) will be sent to the individual and he/she will be removed from the waitlist.

- Within 90 days of notification that he/she is eligible for enrollment in the NF/AH Waiver, an individual must identify a waiver service provider and provide DHCS/IHO with a primary care physician-signed POT that meets the requirements outlined in Appendix D. If a primary care physician-signed POT is not received within 90 days, a NOA will be sent to the individual, he/she will be removed from the waitlist, and their case will be closed. The individual may submit a new waiver application to IHO at any time.

Level of Care Evaluation Citations
[**NF/AH Waiver, Appendix B. Participant Access and Eligibility, p. 28.]**

DHCS/IHO utilizes the following procedures to determine in advance of waiver enrollment that the individual's health and welfare can be assured within the alternative institutional cost limit:

A DHCS RN utilizes the following procedures for waiver participants at the time of enrollment.

1. The DHCS RN schedules a face-to-face intake visit with the potential waiver participant and an evaluation is completed. The DHCS RN utilizes this evaluation to determine if the participant meets one of the NF/AH Waiver's facility alternative LOC. The DHCS RN documents the type, frequency, and amount of waiver and State Plan services the participant is currently receiving or the primary care physician has ordered. The information from the initial visit is documented on the Case Report along with medical justification to support the LOC, alternative facility type and the need to receive the type, frequency and amount of services that are currently authorized or being requested to ensure the health and safety of the participant to return to and/or remain safely in his/her home and community.

2. Upon the determination of the participant's LOC and the need for services, the DHCS RN provides information to the participant and/or his/her legal representative/legally responsible adult and/or circle of support on the services available through the NF/AH Waiver, and the alternative facility type and the waiver's institutional cost limit for the participant's LOC. The DHCS RN works with the participant and/or his/her legal representative/legally responsible adult and/or circle of support, the participant's primary care physician and the NF/AH Waiver Case Manager/Coordinator in identifying the State Plan and NF/AH Waiver services that meet the participant's care needs but do not exceed the participant's institutional alternative cost limit.

3. The type, frequency and amount of the participant's authorized waiver and State plan services are documented in the Menu of Health Services (MOHS) worksheet and provided to the participant and/or his/her legal representative/legally responsible adult prior to enrolling in the NF/AH Waiver. The MOHS is a planning instrument used by the participant and/or his/her legal representative/legally responsible adult, circle of support, NF/AH Waiver Case Manager/Coordinator and the DHCS RN to develop a home care program and ensure the cost of the participant's selected services do not exceed the institutional alternative cost limit for their LOC. The MOHS summarizes all the waiver services and provider types available through the NF/AH Waiver. The MOHS enables the participant and/or his/her legal representative/legally responsible adult and/or his/her circle of support to select a combination of waiver and state plan services best suited to meet his/her medical care needs and ensure his/her health and safety.

4. If the cost of the State Plan and NF/AH Waiver services selected by the participant and/or his/her legal representative/legally responsible adult exceed the participant's institutional alternative cost limit and the participant and/or his/her legal representative/legally responsible adult is unwilling to make any changes to the

selected services, DHCS will issue a NOA denying enrollment in the NF/AH Waiver, due to not meeting the waiver's cost neutrality requirement.

[NF/AH Waiver, Appendix B. Participant Access and Eligibility, p. 43.

An RN or Medical Doctor (MD), employed by DHCS, will make the LOC determination based upon the Case Report completed by the RN or MD/DO during the initial evaluation.

NF/AH Waiver, Appendix D. Participant-Centered Planning and Service Delivery, p. 255.

On enrollment into the NF/AH Waiver, the intake DHCS RN reviews the initial POT with the participant and/or his/her legal representative/legally responsible adult(s) and/or circle of support. Ninety (90) days after the case is transferred to Case Management and the participant begins receiving waiver services, the DHCS RN conducts a home visit to assess how the participant is coping. The DHCS RN reviews the POT with the participant and/or his/her legal representative/legally responsible adult(s) and/or circle of support to verify that services are provided as described. Subsequent scheduled LOC reevaluation visits include a review of the POT with the participant and/or his/her legal representative/legally responsible adult(s) and/or circle of support to determine if the POT continues to meet the participant's needs. The level of case management acuity system is used by the DHCS RN to determine the frequency of home visits based upon the participant's risk factors and the complexity of his/her home program. The system identifies four levels of case management of increasing acuity. The level of acuity is reevaluated at each home visit and upon changes to the participant's medical care needs, support system, and provider types. The level of case management acuity system is described in detail in Appendix B, at item B-6(g).

Between the scheduled home visits, the DHCS RN maintains contact with the participant and the waiver case manager/coordinator. A record of the interim contact is documented in the running record section of the participant's case record. Based on interim contact reports and/or information received from the participant or the waiver case manager/coordinator, the DHCS RN may request the POT be updated to reflect changes in the participant's care needs, waiver providers, and/or the delivery of waiver services. The waiver case manager/coordinator is responsible for submitting the revised POT to the DHCS RN for review and approval.

[NF/AH Waiver, Appendix B Participant Access and Eligibility. p. 44.]

A DHCS RN conducts a complete LOC evaluation/reevaluation of the applicants or participants of waiver services. The initial evaluation and reevaluations for LOC are documented in the Case Report. The evaluation and reevaluations include identification of a primary care physician who provides the participant's specific written orders;

a complete and accurate written medical record including diagnoses, history, physical assessment, treatment plan, and prognosis, confirmation that a medical need exists for the level of services requested, and a determination that the services to be provided do not exceed the participant's institutional cost limit.

For a complete description of the LOC criteria that are used to evaluate and reevaluate an individual's need for waiver services, refer to Appendix B, Section 1.b. Once the evaluation visit is completed, the DHCS RN uses the Case Report to document the individual's LOC, and medical care needs, including identification of caregivers and support systems; a home safety evaluation and concerns or issues identified by the individual, his/her circle of support, caregivers, or the DHCS RN. The Case Report also documents plans for resolution of issues identified during the evaluation for waiver enrollment. The DHCS RN provides a justification and recommendation for the individual's LOC in the Case Report.

[NF/AH Waiver, Appendix B. Participant Access and Eligibility, p. 44-45.]

The DHCS RN uses the Case Management Acuity System to determine the periodicity of LOC reevaluations and the intensity of the required participant case management. Information collected during the initial evaluation and later reevaluations for LOC is documented in the Case Report and is used to determine a participant's level of case management. NF/AH waiver participants are assigned a level of case management between 1-4, which is based on factors such as a participant's medical stability, compliance with the POT, issues affecting participant health and safety, and availability and adequacy of staffing for waiver services. The DHCS RN will conduct on-site home visits based upon the level of case management acuity, or as necessary, to assess the effectiveness of the home program in ensuring the participant's health and safety and adherence to the POT.

a. Level 1 - participants are reevaluated at least once every 365 days. Participants are medically stable, have not recently been hospitalized for emergency care, and have no eligibility or staffing issues.

b. Level 2 - participants are reevaluated between 270 and 365 days. Participants have minor staffing or durable medical equipment issues and maintain regular contact with the DHCS RN.

c. Level 3 - participants are reevaluated between 180 and 270 days. Participants may have high turnover of waiver providers, have had four or more unscheduled hospitalizations in the previous 12-month period, and/or had difficulty in obtaining primary care physician ordered medically necessary services.

d. Level 4 - participants are reevaluated more frequently than once every 180 days. Participants are considered high risk and require frequent monitoring and

interventions by the DHCS RN to address issues that affect their health and safety. The DHCS RN conducts frequent on-site visits to work with the participant and/or his/her legal representative/legally responsible adult(s) and/or circle of support and the waiver provider responsible for rendering waiver case management services in response to issues requiring a plan of correction and follow-up.

A current copy of the NF/AH Waiver may be found at:

http://www.dhcs.ca.gov/services/medi-cal/Pages/NFAHMedi-CalWaiver.aspx

If you have questions regarding this letter, please contact Tammy Kaylor at (916) 327-0406 or by email at Tammy.Kaylor@dhcs.ca.gov.

You can also contact Mary Sayles in the Long Term Care Division at (916) 319-9719 or by email at Mary.Sayles@dhcs.ca.gov.

Sincerely,

Original Signed By

Tara Naisbitt, Chief
Medi-Cal Eligibility Division

Attachment

ATTACHMENT – MEDIL NO.: I 14-38

HOW TO ACCESS DHCS LONG-TERM CARE (LTC) SERVICES INFORMATION

COMPUTER ACCESS

1. Go to **DHCS Home Page**: http://www.dhcs.ca.gov.

2. Click on **Services** tab in the top section of the page – this brings up a listing of services by category.

3. View the sections listed and choose the one you would like to view.

4. Adult Health Services

    4a. Under Adult Health Section, click on **LTC Alternatives** – this brings up a listing of the LTC alternatives available.

    4b. Click on the blue words for the service from which you would like information – **Long Term Care Waivers**

5. Children & Youth Health Services

    5a. Under **Children and Youth Health Section**, click on the More option

    5b. Click on the blue words: **Pediatric Palliative Care** – this brings up Partners for Children, the Pediatric Palliative Care Waiver Program.

CONTACT US

If you have any questions, you may call (916)-552-9105, Monday through Friday from 8:00 a.m. to 5:00 p.m.