



BRADLEY P. GILBERT, MD, MPP  
DIRECTOR

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



GAVIN NEWSOM  
GOVERNOR

## Care Coordination Agency Guidance for Assisted Living Waiver Relative to the 2019 Coronavirus (COVID-19) Pandemic

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The purpose of this time-limited guidance is to inform Assisted Living Waiver (ALW) Care Coordination Agencies (CCAs) of temporary operational flexibilities for Home and Community-Based Services (HCBS) waivers during the COVID-19 pandemic. This guidance describes approved flexibilities for ALW.

### BACKGROUND

On April 2, 2020, the Centers for Medicare & Medicaid Services (CMS) approved an [Appendix K](#) request by the Department of Health Care Services (DHCS) to implement temporary operational flexibilities for HCBS waivers. The authorized flexibilities are effective February 4, 2020, through June 30, 2020, and are intended to help ensure California is able to meet the needs of waiver participants receiving medically necessary services during the COVID-19 pandemic.

### GUIDANCE

DHCS will allow the following changes to current ALW service delivery methods, through June 30, 2020:

- I. Access and Eligibility
  - a. Temporarily suspend the 60-day enrollment period for applicants who are unable to complete the application submission process and/or secure a bed in an assisted living facility because they or the facility have been impacted by the COVID-19 virus. Instead, applicants who are assigned a waiver slot and are unsuccessful in securing placement in a facility would be allowed to keep the slot without being placed back on the ALW wait list, through June 30, 2020; and

- b. DHCS is monitoring those applicants with six-month pend notices that would have expired during the COVID-19 State of Emergency. DHCS will close without enrollment those with a pend notice on their normal schedule but applicants from this group will not go back on the wait list. The CCA will need to submit an updated application (Assessment and Individual Service Plan) to restart the applicant's six-month calendar with current information that will assist with placement and completion of their enrollment.

## II. Services

- a. Temporarily allow CCAs to conduct telephonic assessments or video conferencing interactions in lieu of, or as an option for, face-to-face visits for initial assessments/enrollments and level of care evaluations or re-evaluations in accordance with HIPAA requirements;
  - i. The CCAs will inform participants via telephone of the plan to decrease face-to-face visits and to provide telephonic or video visits and assessments in lieu of, or as an option for, face-to-face visits.
- b. Temporarily allow forms that require participant or legal representative signatures to be signed, scanned, and emailed to the CCA, or for the documents to be signed digitally, through June 30, 2020;
  - i. Electronic signatures will be accepted but copies with "wet" signatures from the participant or their legal representative should be kept by the participant for their legal representative or at the Community Care Licensed Facility (CCLF) in the participant's file for retrieval at a later date. Copies of the Individual Service Plan (ISP) and Informing Notices should still be provided to the CCLF and the participant and/or legal representative upon completion of each step in the enrollment process through either electronic means or by U.S. mail.
- c. Temporarily modify incident reporting requirements for CCAs by allowing facility staff to submit incident reports on non-standard forms as long as all elements of the state-approved form are present;
- d. Temporarily modify medication management or other participant safeguards to ensure individual health and welfare, and to account for emergency circumstances; and
- e. Temporarily allow for an extension of the 31-60 day re-enrollment period for participants who are unable to return to their CCLF by June 30, 2020, because of the COVID-19 outbreak, so that they are not disenrolled as a result of the emergency.

- i. If a participant leaves an assisted living setting due to hospitalization, the CCA will continue to advocate for the participant for up to 30 days for the purpose of coordinating the participant's return to the assisted living setting. If the participant is unable to return after 30 days, the participant will be disenrolled from the ALW. Once the state of emergency is lifted, participants will have 30 days from the day the order is lifted to return to an ALW-approved CCLF without the need to submit reenrollment applications. A complete reenrollment application will be required for those who need 31 to 60 days to return to an ALW CCLF.
- ii. If a participant is enrolled in the ALW but requests to go home for more than 60 days, they will not lose their slot. Although the participant will retain his or her slot in the waiver, it will be the responsibility of the CCA to outline to participants and/or their legal representatives the risks of removing a member from a CCLF as follows:
  - The flexibility holds the ALW spot in the waiver but **does not** guarantee a bed at the same CCLF should the participant and/or their legal representative choose not to continue paying rent for the room and/or bed;
  - Possible participant exposure to COVID-19 from family or others who have not been under quarantine in the past 14 days prior to the participant moving to the family home;
  - Possible exposure to COVID-19 from an infected participant to the family; and
  - Without an order from the Governor, a CCLF may deny return during the emergency once the participant has been subjected to possible exposure.

Families should also be made aware that the ALW does not cover the following:

- Home modifications or equipment;
- Medical support staff for the home; and
- In-Home Supportive Services.

CCAs are also responsible for ensuring families have a clear understanding of the support needs of the ALW participant including their physical, mental, nutritional, medical, and medication needs. In addition to "face-to-face" electronic or in-person monthly visits and 6-month reassessments, CCAs should maintain, at a minimum, weekly contact with the member or an identified family contact.

Once the state of emergency is lifted, participants will have 30 days from the day the order is lifted to return to an ALW-approved CCLF without the need to submit reenrollment applications. A complete reenrollment application will be required for those who need 31 to 60 days to return to an ALW CCLF.

## **ADDITIONAL FLEXIBILITIES**

### State Fair Hearing Request Extension

CMS approved a temporary extension of the state hearing request timeframe, allowing beneficiaries to have more than 90 days, up to an additional 120 days, to request a State Fair Hearing. Specifically, individuals for whom the 90-day deadline would have occurred between March 1, 2020, through the end of the COVID-19 public health emergency, are now allowed up to an additional 120 days to request a State Fair Hearing. All other existing State Fair Hearing processes remain unchanged. DHCS has issued [guidance](#) on Medi-Cal Fee-For-Service (FFS) State Fair Hearings Section 1135 Waiver Flexibilities Relative to COVID-19. A Notice of Action (NOA) [template](#) specific to the COVID-19 timeframe extension is available.

### Provision of ALW Services via Telehealth

Medically necessary services can be delivered by home health agency (HHA) providers and CCAs via telehealth, as deemed appropriate by the HHA provider or CCA. HHA providers and CCAs should seek to implement telehealth methods that would provide remote consultation as an alternate means of providing critical, medically necessary services. DHCS has issued [guidance](#) on Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to COVID-19, describing the use of telehealth as an alternate means of providing critical, medically necessary services. For more information regarding Medi-Cal's telehealth policy, please see the Medi-Cal Provider Manual (Medicine: Telehealth). Provision of ALW Services via Telehealth

### Discretion in Enforcement of Compliance with Health Insurance Portability and Accountability Act (HIPAA) Regulations during the COVID-19 Response

During the COVID-19 public health emergency, covered health care providers, subject to the HIPAA Rules, may seek to communicate with patients and provide telehealth services through remote communications technologies. Some of these technologies, and the manner in which they are used by HIPAA-covered health care providers, may not fully comply with the requirements of the HIPAA Rules.

The Office of Civil Rights (OCR) will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency.

A covered health care provider that wants to use audio or video communication technology to provide telehealth to patients during the COVID-19 emergency can use any non-public facing remote communication product that is available to communicate with patients. Additional information is available from the [U.S. Department of Health & Human Services Health Information Privacy](#).

### Provider Enrollment

On March 23, 2020, CMS Approved California's 1135 Waiver Request to allow the temporary enrollment of providers who are enrolled as Medicaid Providers in other states. If a certified provider is enrolled in Medicare or with a state Medicaid program other than California, California may provisionally, temporarily enroll the out-of-state provider for the duration of the public health emergency in order to accommodate participants who were displaced by the emergency under certain circumstances. See Provider Enrollment [guidance](#) from CMS for additional information on flexibilities.

### Support for At-Risk Individuals Staying at Home

DHCS has also issued [guidance](#) on Preventing Isolation of and Supporting Older and Other At-Risk Individuals to Stay Home and Stay Healthy During COVID-19 Efforts. This information includes resources for older/at-risk individuals who may need assistance with basic needs like groceries and prescriptions, and much-needed social interaction and connection while stay-at-home orders are in effect.

The CCAs will also provide resources to ALW participants and family members as more information becomes available. Additional information about approved operational flexibilities for HCBS waivers can be found on DHCS' COVID-19 [webpage](#).

## **QUESTIONS**

For further information about this guidance, please submit a question to the ALW email inbox at [ALW.IR@DHCS.CA.GOV](mailto:ALW.IR@DHCS.CA.GOV).