



JENNIFER KENT  
DIRECTOR

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



EDMUND G. BROWN JR.  
GOVERNOR

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Letter No.: 16-001

To: WAIVER PERSONAL CARE SERVICES PARTICIPANTS  
WAIVER PERSONAL CARE SERVICES PROVIDERS

SUBJECT: Overtime for Waiver Personal Care Services

The federal government passed new rules about overtime for In-Home Supportive Services (IHSS) and Waiver Personal Care Services (WPCS) programs. California will start paying IHSS and WPCS care providers under these new overtime rules on February 1, 2016.

Department of Health Care Services (DHCS) staff will work with IHSS and WPCS providers who make an error on their timecard when reporting overtime hours. Providers will need to correct all errors to be paid for hours worked. Starting May 1, 2016, DHCS will take action if the new overtime and work week rules are not followed.

Under State law, IHSS and WPCS providers are allowed to work up to a 70-hour and 45-minute week. This includes those who provide only IHSS or only WPCS services and those who provide both services. The Nursing Facility/Acute Hospital (NF/AH) and In-Home Operations (IHO) waivers allow providers to work up to a 12-hour work day. If a waiver participant needs a WPCS provider for more than a 12-hour work day or a 70-hour and 45-minute work week, they must hire more providers.

**Waiver participants do not have to cut their approved WPCS services or hours as a result of these overtime changes.**

The NF/AH and IHO waiver limits, and the 70-hour and 45-minute work week rule, may lead to changes for some waiver participants. DHCS has setup some safeguards to make sure waiver participants can safely stay in their own home and/or community.

As early as February 1, 2016, DHCS may allow some extra overtime hours.

NF/AH and IHO waiver participants who are enrolled in either waiver on January 31, 2016:

In some cases, DHCS will allow overtime up to the waiver limit (a 12-hour work day, or 360 hours per month), if:

1. The care provider lives in the same home as the waiver participant. They do not have to be a family member; or
2. The care provider is now giving care to the waiver participant and has done so for two or more years without a break; or
3. DHCS agrees that there are no other possible care providers near the waiver participant's home. The waiver participant must work closely with DHCS care managers to try to find more care providers.

NF/AH and IHO waiver participants who enroll in either waiver after January 31, 2016:

DHCS may allow more overtime hours up to the waiver limit (a 12-hour work day, or 360 hours per month), on a case-by-case basis. DHCS will start a process to allow some providers to work more than the 70-hour and 45-minute work week. This would be granted on a case-by-case basis, such as, for WPCS participants who may be at risk of being placed in out-of-home care (e.g., they cannot find a local caregiver who speaks the same language).

DHCS will work with stakeholders to come up with the conditions and rules for this safeguard process. DHCS will be mailing a notice to tell you more about this.

DHCS care managers will work with waiver participants and providers to approve more overtime hours on a case-by-case basis.

DHCS will still monitor each waiver participant's care and provider situations. This is to safeguard waiver participants' health, safety, and welfare, and to make sure all waiver laws are followed.

In-Home Operations Branch contact information is (916) 445-4611 or [IHOWaiver@dhcs.ca.gov](mailto:IHOWaiver@dhcs.ca.gov).

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