

DEPARTMENT OF DEVELOPMENTAL SERVICES

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April 15, 2020

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: DEPARTMENT DIRECTIVE 01-041520: REQUIREMENTS WAIVED DUE TO COVID-19

Pursuant to Governor Gavin Newsom's Proclamation of a State of Emergency dated March 4, 2020, and Governor Newsom's Executive Order N-25-20 issued on March 12, 2020, the Director of the Department of Developmental Services (Department) issues this Directive to regional centers waiving or modifying certain requirements of the Lanterman Developmental Disabilities Services Act (Lanterman Act) and/or certain provisions of Title 17, Division 2 of the California Code of Regulations (Title 17), as well as the Department's regional center contract. The Department recognizes that to ensure the health, welfare and safety of regional center consumers and the general population, there may be instances where consumers, regional centers, and service providers will need flexibility to receive and provide services and supports.

The intent of this Directive is to provide consumers, regional centers and service providers the greatest flexibility to support consumers and their families.

Residential Facility Payments

The Department hereby modifies any requirements of the Lanterman Act or Title 17 regarding payments to a residential facility when a consumer is temporarily absent. If the temporary absence from the facility is for the purpose of preventing or minimizing the risk of exposure to COVID-19 and the regional center is in agreement that the absence is related to this purpose, the regional center shall continue to pay the established rate as long as no other consumer occupies the vacancy or until it is determined the consumer will not return to the facility and the facility retains and continues to pay staff during this time. Any claims made for these absences are subject to audit and review.

This modification is necessary to allow providers to receive payment when absences are due to preventing or minimizing the risk of exposure to COVID-19.

Health and Safety Waiver Exemptions for Alternative Residential Model (ARM) Homes

Requirements of Welfare and Institutions (W&I) Code sections 4681.1 and 4681.5 and Title 17 establishing the residential facility rate schedule are hereby waived when necessary to protect a consumer's health or safety as a result of the outbreak of COVID-19 and/or to permit a consumer to remain at their current facility during the COVID-19 crisis. Regional centers may pay a residential facility a rate that is necessary to protect a consumer's health or safety as a result of the outbreak of COVID-19 and/or to permit a consumer to remain at their current facility during the COVID-19 crisis. Rate adjustments pursuant to this waiver will require supplemental reporting to the Department. Instructions on the required supplemental reporting will be provided in a future correspondence.

“Building Partnerships, Supporting Choices”

This waiver is necessary to allow regional centers flexibility to expedite rate adjustments to protect a consumer's health or safety.

Vendor Fiscal Audits

The requirements of Article III, Section 9, paragraph (c) of the Department's regional center contract are waived. To the extent feasible, regional centers shall continue to conduct fiscal audits in accordance with this paragraph.

This waiver is necessary to allow regional centers flexibility to prioritize work associated with COVID-19 response.

Home and Community-Based Services (HCBS) Final Rule Compliance Information

W&I Code section 4519.2(b), requiring regional centers to post on their websites by April 1, 2020, information on compliance with the HCBS Final Rule, is waived. Regional centers shall post this information on their websites by July 1, 2020.

This waiver is necessary to allow regional centers flexibility to prioritize work associated with COVID-19 response.

EBSH/CCH Registered Behavior Technician Certification

Any requirements of the Lanterman Act or Title 17 requiring administrators, direct care lead staff or direct care staff in Enhanced Behavioral Supports Homes (EBSH) and Community Crisis Homes (CCH) to be certified as Registered Behavior Technicians, are waived. While certification requirements are waived, administrators, direct care lead staff and direct care staff are expected to continue participating in trainings and classes, where available and feasible.

This waiver is necessary to prioritize delivery of Lanterman Act services to eligible individuals during the COVID-19 response.

Competitive Integrated Employment (CIE) Incentive Payments

The requirements of W&I Code section 4870(d) stating that a consumer must be competitively employed for 30 consecutive days, six consecutive months or 12 consecutive months for a service provider to receive associated payments, are waived. Retroactive to March 12, 2020, when a consumer who was or is participating in the CIE incentive payment program experiences a break in employment as a result of COVID-19, including instances when an employer closes temporarily due to shelter-in-place orders, and if after the break the consumer returns to work for the same employer, the date the consumer last worked and the date the consumer resumes working shall be counted as consecutive days for the purpose of this section.

This waiver is necessary to ensure providers receive payment for placements that would meet the requirements of this section if not for the outbreak of COVID-19 and its effects.

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Parental Fees

The requirements of W&I Code section 4784, related to monthly parental fees are waived. Retroactive to March 12, 2020, the Department will not conduct assessments and families will not be required to pay monthly parental fees pursuant to this section.

The Department finds that the effects of COVID-19 may result in negative economic impacts to families. This waiver is necessary to lessen the economic burden on families.

This directive remains in effect for 30 days unless extended by the Director of the Department. Consumers, family members or providers should contact their local regional center with any questions regarding this Directive. Questions from regional centers should be directed to Brian Winfield at (916) 654-1569 or brian.winfield@dds.ca.gov.

Sincerely,

Original signed by:

NANCY BARGMANN
Director

cc: Regional Center Board Presidents
Regional Center Administrators
Regional Center Directors of Consumer Services
Regional Center Community Services Directors
Association of Regional Center Agencies