

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 240, MS 2-13
SACRAMENTO, CA 95814
TTY (916) 654-2054 (For the Hearing Impaired)
(916) 654-1897



March 18, 2020

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: DEPARTMENT DIRECTIVE ON REQUIREMENTS WAIVED DUE TO COVID-19 AND ADDITIONAL GUIDANCE

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 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). 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 regional centers and service providers the greatest flexibility to support consumers and their families. Services to individuals are a priority and regional centers and service providers are working with their consumers and community to identify alternative approaches to support those in greatest need during this unprecedented time.

Flexibility in Provision of Services and Supports for Consumers and Providers**Lanterman Act Remote Services or Alternate Locations**

Any requirements of the Lanterman Act, Title 17, or an Individual Program Plan (IPP) requiring delivery of the services in a specific location or in-person are hereby waived when, due to concern related to exposure to COVID-19, a consumer, parent, guardian, or other authorized legal representative of the consumer requests that one or more of the services listed on the Enclosure be provided in an alternate location or through remote electronic communications, including Skype, Facetime, video conference, or telephone conference.

Prior to, or no later than seven days after, the delivery of a service in an alternate location or by remote electronic communications, the service provider must notify the regional center that the individual requested and/or agrees to either receive services in an alternate location or through remote electronic communication in lieu of in-person services. The regional center shall send a follow-up letter to the individual, in their preferred language, confirming that at their request, services will be provided in an alternate location or through remote electronic communication. The letter shall include contact information for the consumer's service coordinator and their supervisor.

“Building Partnerships, Supporting Choices”

The agreement to provide services in an alternate location or through remote electronic communication shall not change the frequency or duration of any IPP service absent the agreement of the consumer's IPP team.

This waiver is necessary to limit the risk of exposure to COVID-19 and provide individuals with access to services and supports. Providing services and supports in alternate locations or through remote electronic communications enables services and supports necessary for the health, welfare and safety to be delivered.

Supplemental Staffing for Residential Providers

Recognizing that residential providers in all licensing categories, including community care facilities, may need supplemental staffing to support consumers remaining at home to mitigate the spread of COVID-19, the Department reiterates the March 12, 2020, delegation to regional center Executive Directors to grant rate adjustments for residential services and/or supplemental services in residential settings, consistent with Welfare and Institutions Code (WIC) sections 4681.6, 4689.8 and 4691.9, to protect a consumer's health or safety as a result of the outbreak of COVID-19. Further, intermediate care facilities, licensed by the California Department of Public Health (CDPH), may be vendored to provide residential supplemental services, as noted above and to the extent that funding for supplemental staffing is not available through the Medi-Cal program.

Regional centers are directed to work with affected providers to expedite vendorization for the new or additional supplemental services (e.g. Supplemental Residential Program Support) appropriate to provide supplemental staffing required as a result of COVID-19.

Day Program Providers

Day program providers are encouraged to consider all options to continue to provide services to support consumers, families, and residential providers. Necessary and appropriate options aligned with current Centers for Disease Control and Prevention (CDC) and CDPH guidelines, and local county public health recommendations, should be considered. In the event that a county or local authority issues "shelter in place" or "self-isolation" orders, providers should follow the instructions given by the issuing entity.

If, in compliance with CDC and CDPH guidelines and local county public health recommendations and orders, day program providers may provide services and supports, but are directed to limit attendance by evaluating relevant factors (such as limiting capacity, not serving individuals who have age and health-related risk factors). Providers shall prioritize consumers who are able to attend and do not have supports to remain at home. Tailored day services, to include remote electronic communication options, may be utilized as an alternative approach.

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Strategies to facilitate safe day services include adherence to CDC guidelines for recommended group size, alternative days, alternative locations as noted above, ensuring adequate social distancing space, symptom screening, and infection control practices. The most updated recommendations from the CDC are located at <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>. Additionally, providers should ensure staff are familiar with and follow CDPH guidance regarding gatherings: https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/Gathering_Guidance_03.11.20.pdf

Recognizing the evolving nature of the COVID-19 response, it is incumbent on the service provider to evaluate how to safely serve the consumer and if unable to mitigate risk, the provider will be asked to collaborate with the consumer, family and/or residential provider, and regional center to explore alternative approaches (remote electronic communications, in-home, tailored day, etc.).

The Department also reiterates the March 12, 2020, directive to regional centers, "State of Emergency Statewide," authorizing regional centers to pay vendors for absences that are a direct result of the COVID-19 outbreak, pursuant to Title 17 section 54326(a)(11).

Administrative Flexibility for Regional Centers

Public Meetings

Any requirements of the Lanterman Act, the Department's regional center contract or other requirements to hold in-person public meetings are hereby waived, with the exception of regional center board meetings held pursuant to WIC section 4660, which shall continue to occur in-person or through use of remote electronic communications.

To the extent feasible, attempts should be made to conduct meetings using remote electronic communications, including Skype, Facetime, video conference, or telephone conference options. If remote electronic communications are not feasible, the meeting should be delayed so the public can participate.

The requirement of WIC section 4519.5(e) that regional centers hold public meetings within three months of compiling purchase of service disparities data with the Department, and the requirements of WIC section 4519.5(f) and the Department's contracts with regional centers requiring submission of a report to the Department regarding the meetings and recommendations by May 31, 2020, are waived. Regional centers shall hold their public meetings by August 31, 2020, and submit associated reports to the Department by December 31, 2020.

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This waiver is necessary because the Department finds that large events and mass gatherings may contribute to the spread of COVID-19. However, limiting large events and mass gatherings may result in less attendance at public meetings. The following is a link to CDC's guidance related to mass gatherings and large community events:

<https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>

WIC §4731 Consumers' Rights Complaints

The 20-working day requirement for investigating and providing a written proposed resolution to a complainant pursuant to WIC section 4731(b) is waived. The regional center director shall investigate and send a written proposed resolution to a complainant and service provider, if applicable, as soon as possible within 40 working days of receiving the complaint.

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

Additional Areas of Relief

Departmental Audits and Programmatic Monitoring Reviews

Any on-site Departmental fiscal audits or programmatic monitoring reviews not directly related to the oversight of health, welfare and safety of consumers, and scheduled within forty-five days of the date of this letter are postponed. The Department will determine the feasibility of using remote electronic communications to complete some monitoring activities on a case-by-case basis.

Home and Community-Based Services (HCBS) Self Assessments

The requested completion date for provider HCBS self-assessment has been extended to June 30, 2020.

Direct Support Professional Training

The Department is temporarily placing the Direct Support Professional Training (DSPT) on hold until June 30, 2020. DSPT is required by WIC section 4695.2(a). Direct support professionals are encouraged to use online resources posted on the Department's website at <https://www.dds.ca.gov/services/dspt>, to keep abreast with current practices and procedures to provide the best care to consumers.

Frequently Asked Questions (FAQs)

The Department will post answers to frequently asked questions related to COVID-19 directives online at <https://www.dds.ca.gov/corona-virus-information-and-resources>.

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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

Enclosure

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

Services Eligible for Alternate Location or Remote Access

Service Code	Description
017	Crisis Team
028	Socialization Training Program
048	Client/Parent Support Behavior Intervention Training
055	Community Integration Training Program
062	Personal Assistance
063	Community Activities Support Service
091	In-Home Day Program
094	Creative Arts Program
102	Individual or Family Training Services
106	Specialized Recreational Therapy
108	Parenting Support Services
110	Supplemental Day Program Support
115	Specialized Therapeutic Services (Age 3-20)
116	Early Start Specialized Therapeutic Services
117	Specialized Therapeutic Services (Age 21+)
505	Activity Center
510	Adult Development Center
515	Behavior Management Program
520	Independent Living Program
525	Social Recreation Program
605	Adaptive Skills Trainer
612	Behavior Analyst
613	Associate Behavior Analyst
615	Behavior Management Assistant
616	Behavior Management Technician
620	Behavior Management Consultant
625	Counseling Services
635	Independent Living Specialist
691	Art Therapist
692	Dance Therapist
693	Music Therapist
694	Recreational Therapist
707	Speech Pathology
772	Physical Therapy
773	Occupational Therapy
780	Psychiatrist
896	Supported Living Service