

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TTY 654-2054 (For the Hearing Impaired)
(916) 654-1958



June 12, 2017

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: CHANGE IN EFFECTIVE DATE FOR 5.82 PERCENT RATE INCREASE

As a result of new federal regulations related to the revised definition of "companionship services" under the Fair Labor Standards Act, a 5.82 percent rate increase for in-home respite agency services, personal assistance, and supported living services, was authorized in Welfare and Institutions Code (WIC) sections 4691.6(h) and 4691.9(c). Although the federal regulations were scheduled to be effective January 1, 2015, challenges in federal court delayed the effective date to October 13, 2015, while the federal Department of Labor indicated it would follow a discretionary non-enforcement policy through December 31, 2015. As noted in its November 25, 2015, letter (Enclosure A), the Department of Developmental Services (Department), informed regional centers that the rate increase for affected service providers would go forward with an effective date of December 1, 2015.

The purpose of this letter is to inform regional centers that on February 13, 2017, the Sacramento County Superior Court ruled the Department must implement the 5.82 percent rate increase effective October 13, 2015. As a result, regional centers must ensure payments to in-home respite agency, personal assistance, and supported living service providers for services provided from October 13, 2015 through November 30, 2015, reflect the revised effective date for the 5.82 percent rate increase. To assist regional centers with this effort, the Department's Application Support Team has developed a query to help identify applicable payments that need to be adjusted. However, regional centers may need to obtain further information from vendors (e.g. specific days/amounts of service provided during the affected time period) to correctly calculate the amount of the payment adjustment.

A fiscal year 2015-16 contract amendment is in process for those regional centers requiring increased allocations to make these payments. If you have any questions regarding allocation amounts or the contract amendment, please contact Darla Keys at (916) 654-2255 or darla.keys@dds.ca.gov.

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Regional Center Executive Directors
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Regional centers should take steps to process these payment adjustments as soon as possible (within 30 days from the date of this letter.) For questions regarding this letter, please contact Jim Knight at (916) 654-2759 or by email at jim.knight@dds.ca.gov.

Sincerely,

Original signed by Jim Knight for

BRIAN WINFIELD
Deputy Director
Community Services Division

Enclosure

cc: Regional Center Chief Counselors
Regional Center Administrators
Regional Center Community Services Directors
Association of Regional Center Agencies

DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 320, MS 3-9
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
(916) 654-1954



November 25, 2015

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: 5.82 PERCENT RATE INCREASE FOR IN-HOME RESPITE AGENCY SERVICES, PERSONAL ASSISTANCE, AND SUPPORTED LIVING SERVICES WILL GO FORWARD, WITH AN EFFECTIVE DATE OF DECEMBER 1, 2015

Pursuant to SB 856 (Statutes 2014, c. 30), the State authorized a 5.82 percent rate increase for in-home respite agency services, personal assistance, and supported living services, which was scheduled to begin on January 1, 2015, to implement new federal regulations related to the revised definition of "companionship services" under the Fair Labor Standards Act. [Welfare and Institutions Code (WIC), sections 4691.6(h) and 4691.9(c)]

However, in early 2015, the United States District Court in Washington, D.C. vacated these home care regulations. As a result, the 5.82 percent rate increase authorized in WIC sections 4691.6(h) and 4691.9(c) did not go into effect.

Then, on August 21, 2015, a federal Court of Appeals reversed and issued an opinion affirming the validity of these new federal rules. The Court of Appeals opinion became effective on October 13, 2015, and the federal Department of Labor informed states that it would not begin enforcement of these rules for another 30 days, which was November 12, 2015. The federal Department of Labor further advised that for the period of November 12 through December 31, 2015, it would continue to follow its non-enforcement policy, during which it would exercise prosecutorial discretion in determining whether to bring enforcement actions, with particular consideration given to the extent to which states and other entities made good faith efforts to bring their home care programs into compliance with the new rules.

Accordingly, as the payment system for the providers affected by this notice is only able to reflect new rates at the beginning of a month, the 5.82 percent rate increase for in-home respite agency services, personal assistance, and supported living services will go forward with an effective date of **December 1, 2015**.

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Enclosure A

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The Department of Developmental Services will issue new rate letters in early December to all in-home respite agency providers and send copies of these rate letters to the appropriate regional center(s).

For personal assistance and supported living services, regional centers will implement rate increases of 5.82 percent, applied as a percentage, to the applicable provider rates. Consistent with WIC section 4691.9(c), this increase will only apply to rates for providers vendored under the following service codes:

- Personal Assistance – 062
- Supported Living Services – 891, 892, 893, 894 and 896

If you have any questions, please contact Jeffrey Greer at jeff.greer@dds.ca.gov or (916) 654-2201.

Sincerely,

Original signed by:

BRIAN WINFIELD
Acting Deputy Director
Community Services Division

cc: Regional Center Administrators
Regional Center Chief Counselors
Association of Regional Center Agencies