

DEPARTMENT OF DEVELOPMENTAL SERVICES

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August 31, 2020

TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: DEPARTMENT DIRECTIVE 01-083120: POLICIES AND PROCEDURES FOR UTILIZING ALTERNATIVE NONRESIDENTIAL SERVICES DURING THE COVID-19 STATE OF EMERGENCY

This supersedes the Department of Developmental Services' (Department) July 17, 2020, Directive titled, "Department Directive 01-071720: Providing and Claiming for Nonresidential Services During the State of Emergency."

This Directive outlines the policies and procedures for reimbursement of claims for providing nonresidential services using alternative approaches during the COVID-19 State of Emergency.

Governor Gavin Newsom's Executive Order N-75-20 issued on August 24, 2020, suspends Title 17, California Code of Regulations section 54326(a)(11), as applied to payments that would otherwise be made in connection with the COVID-19 State of Emergency. The Executive Order directs the Department to develop and implement policies and procedures to allow provision of nonresidential services to individuals with developmental disabilities.

Beginning September 1, 2020, regional centers and providers shall follow the policies and procedures outlined in this Directive when utilizing Alternative Nonresidential Services (Alternative Services). The purpose of these policies and procedures is to permit Alternative Services that meet the individual needs of consumers, sustain the state's developmental services provider network, and continue receipt of federal reimbursement for services provided to consumers during the COVID-19 State of Emergency.

Alternative Services do not apply to the following:

1. Services to a consumer that are able to continue as they did before the COVID-19 State of Emergency that meet the needs of the consumer; or
2. Services to a consumer that are able to continue as they did before the COVID-19 State of Emergency via remote delivery or in alternate locations that meet the needs of the consumer. Refer to Department-issued Directives regarding the provision of services via remote delivery or in alternate locations.

"Building Partnerships, Supporting Choices"

I. Alternative Nonresidential Services Model (Alternative Services)

Providers of nonresidential services, as defined in Title 17 section 54302(a)(49), may utilize Alternative Services, if needed, to meet a consumer's service needs. When providing services to consumers during the COVID-19 State of Emergency, providers shall be creative, resourceful and make modifications as needed to how existing services are delivered. Any Alternative Services used shall be responsive to each consumer's current needs and be mindful of the importance of safety during the COVID-19 State of Emergency, including compliance with applicable state and local health orders and licensing requirements. Details on implementation of Alternative Services are in Section V of this Directive.

Alternative Services shall include the following:

- a. Supports related to minimizing the exposure to or impact of COVID-19 on the consumer;
- b. Completion of an individual assessment of skills, preferences, and service needs for the consumer;
- c. Completion of an individualized service plan to provide needed services for the consumer;
- d. Alternative services delivered to the consumer via telephone, video or other electronic communication;
- e. Delivery of supplies or other items to the consumer's home needed to provide services or supports;
- f. Use of self-guided training and educational materials supplied to the consumer by the provider intended to support the consumer's service;
- g. Skills training to individuals within the consumer's household who are specifically designated to support the consumer;
- h. Alternative services provided in-person at the consumer's home, in a community setting, or at the provider's facility, modified to comply with the most protective state or local COVID-19 safety guidelines in effect at the time the service is to be delivered;
 - o Provider staff must be trained on COVID-19 safety precautions prior to the delivery of in-person services.
- i. Supports for transition to the Self-Determination Program; and
- j. Other modifications to nonresidential services that are approved by the consumer that further or achieve his or her service needs.

Provider staff should receive training necessary for Alternative Services. This training may include, but is not limited to, the following:

- a. COVID-19 safety precautions for both staff and the consumer;
- b. Delivering services using the person-centered planning and approach criteria set forth in Title 42, Code of Federal Regulations section 441.540;

- c. Informed decision-making so that consumers can understand what choices they have in receiving services and understand the benefits, risks and responsibilities associated with the service choices available to them;
- d. Self-Determination Program requirements;
- e. Developing written materials using plain language that can be readily understood by consumers;
- f. Using alternative communication technology, tools or methods to deliver services;
- g. Delivering services in a manner accommodating the cultural and linguistic needs of the consumer; or
- h. Use of technology utilized to deliver services.

II. Certification

Alternative Services shall be permitted where the provider certifies in writing to the regional center prior to seeking reimbursement, that:

- a. The provider has engaged consumers about their need for and interest in Alternative Services as an option;
- b. The provider has advised consumers of the specific steps they can take if they disagree with the Alternative Services offered by the provider;
- c. The provider has or will prepare an individual service plan that specifies the Alternative Services identified through the consumer engagement;
- d. The provider has trained staff on COVID-19 safety precautions prior to the delivery of in-person services;
- e. The provider will continue to comply with the most protective state or local COVID-19 safety guidelines in effect at the time in-person services are to be delivered;
- f. The provider will maintain a specified phone number and email address and be responsive during the time services are being provided;
- g. The provider will maintain documentation of services provided as required by Title 17 section 54326(a)(3);
- h. The provider will maintain staff to provide services; and
- i. The provider will identify one or more of the Alternative Services to be offered.

For the purpose of certification, providers will use the Enclosure. Certification must be provided to the regional center prior to submitting the first claims for each vendorization that includes provision of Alternative Services. The provider shall update the certification only if there are changes to the Alternative Services offered prior to submitting claims.

III. Reporting

On or before the fifth day of each month the provider shall submit to the regional center a written report for each vendorization of the Alternative Services provided for the prior month.

This requirement applies to any provider that provides Alternative Services to one or more consumers. The initial report, covering the period of September 1, 2020 through October 31, 2020, shall be submitted by November 5, 2020. Each report shall include, but not be limited to:

- a. The total number of consumers with service authorizations.
- b. The number of consumers with service authorizations for traditional services.
 1. The number of consumers who received traditional services.
 2. The number of consumers who did not receive traditional services.
- c. The number of consumers with service authorizations for Alternative Services.
 1. The number of consumers who received Alternative Services.
 2. The number of consumers who did not receive Alternative Services.
 3. The number of consumers who received each type of Alternative Service.
 4. For each consumer, the number of days an Alternative Service was received.
- d. The provider's verification of compliance with the most protective state or local COVID-19 safety guidelines in effect at the time in-person services were delivered.

For the purpose of monthly reporting, providers shall use a reporting format issued by the Department. Further guidance is forthcoming.

IV. Service Rate

For September and October 2020:

- a. Providers shall use the current authorized rate and each consumer's average monthly attendance over the prior 12 months ending February 2020 for each consumer who received Alternative Services and the provider complied with Section V.
- b. Providers shall not submit reimbursement claims for consumers who did not receive services.

For November 2020 and subsequent months:

- a. The monthly unit rate will be uniform for all consumers served by the provider within each vendorization.
- b. Providers shall use the monthly unit rate (described below) for each consumer who received Alternative Services.
- c. Providers shall not submit reimbursement claims for consumers who did not receive services.
- d. Further guidance is forthcoming for providers not reimbursed by individual consumer service authorizations (i.e. service contracts).

For vendorizations prior to March 2020, the monthly unit rate calculated by the Department shall use the following methodology:

- a. Taking the total amount billed over the 12 months ending February 2020, divided by the total number of consumer months of service during the 12 month period.
- b. The total number of consumer months of service is the sum of the number of consumers receiving services each month during the 12 months ending February 2020.
- c. Rate calculations shall only include months in which reimbursement to the provider for a consumer is greater than zero.
- d. The calculation shall include adjustments for rate changes that occurred during or subsequent to the 12 months ending February 2020.

For vendorizations March 2020 and thereafter, the monthly unit rate calculated by the regional center shall use the following methodology:

- a. First, establish the unit rate (e.g. daily, hourly, etc.) based on the type of service to be provided utilizing the rate setting methodologies in Welfare and Institutions Code and Title 17.
- b. Then establish the monthly rate for Alternative Services by utilizing the calculated monthly rate for providers of the same service with both similar rates as established in step one and anticipated similar utilization levels.

Prior to November 1, 2020, providers will be notified of the monthly rate for Alternative Services, along with the data and methodology used for the calculation. Providers should contact their vendoring regional center for any rate questions.

V. Alternative Services Implementation

To facilitate an inclusive and individualized implementation of Alternative Services, providers shall offer Alternative Services and:

- a. In the month of September 2020, the provider shall engage the consumer about his or her need for and interest in Alternative Services as an option.
 1. With the consumer's or authorized representative's permission, the provider is encouraged to work with other providers that also have service authorizations for the same consumer to best support the consumer's needs.
 2. The provider shall document the consumer engagement including at minimum, the date, the participants, and a description of the consumer's input.
 3. The provider shall notify the regional center of each consumer engaged and interested in receiving Alternative Services.

- b. In the month of October 2020, complete or review and amend as needed, an individual service plan specifying the type and amount of Alternative Services to be provided for each consumer.
 1. The individual service plan may involve services provided in collaboration with other service providers, including residential service providers, to enhance the consumer's participation.
 2. The provider shall give the consumer a copy of the individual service plan.

Within 30 days of notification of a consumer's interest in Alternative Services, the regional center shall send a follow-up letter to the consumer, in their preferred language, confirming that at their request, Alternative Services will be provided by the provider. The letter shall include contact information for the consumer's service coordinator and their supervisor.

Support will be provided to consumers, families, regional centers, and service providers throughout this transition using a variety of communication methods, with written materials in plain language and other languages on information regarding Alternative Services. Additional information is forthcoming.

VI. Next Steps

The Department will continue working with stakeholders on next steps, including but not limited to:

- Monthly reporting requirements
- Identifying additional accountability and outcome measures
- Developing, posting and updating Frequently Asked Questions (FAQs) on its website
- Rolling out the Family Member and Self-Advocate Engagement Guide
- Technical Assistance and Training
- Ongoing evaluation of Alternative Services

Self-advocates, family members or providers should contact their local regional center with any questions. Questions from regional centers only should be directed to DDSC19Directives@dds.ca.gov.

Sincerely,

Original Signed by:

NANCY BARGMANN
Director

Enclosure

cc: See next page.

Regional Center Executive Directors
October 31, 2020
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cc: Regional Center Board Presidents
Regional Center Administrators
Regional Center Directors of Consumer Services
Regional Center Community Services Directors
Association of Regional Center Agencies