Attachment B

PETE CERVINKA
DIRECTOR

State of California—Health and Human Services Agency
Department of Developmental Services
1215 O Street, Sacramento, CA 95814
www.dds.ca.gov

GAVIN NEWSOM
GOVERNOR

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TO: REGIONAL CENTER EXECUTIVE DIRECTORS

SUBJECT: HEALTH OR SAFETY WAIVERS

This letter provides updated instructions for when and how to submit new or renewal Health or Safety (HS) Waiver requests to the Department of Developmental Services (Department) on or after July 1, 2025. This letter supersedes previous correspondence dated September 13, 2018. Welfare & Institutions Code (WIC) sections 4681.6, 4648.4(b), 4681.5, 4684.55, 4689.8, 4691.6 and 4691.9 authorize the Department to approve waivers to rate freezes for the purpose of mitigating health or safety risks to individual(s). Existing HS Waivers are not affected by this directive until they are reviewed by the Department.

Requests for approval or renewal of a HS Waiver will be considered only on the basis of the needs of an individual. The following should be noted when preparing a HS Waiver request:

Alternative Options Must be Exhausted

- Regional centers must thoroughly review vendors' requests for enhanced rates for an individual(s) before submitting them to the Department. The regional center must consider generic services, supplemental staffing, and alternative vendors. The HS Waiver process shall be used as a last resort.
- Before submitting an HS Waiver, all appropriate service codes should be considered by regional centers to meet the needs of the individual.
- If alternative vendors or services are available and can meet the individual's needs, as identified in the Individual Program Plan (IPP), and consistent with WIC Section 4648(a)(6), regional centers must choose this plan of action in lieu of pursuing an HS Waiver.

Regional Center Review of Health or Safety Risk

- The HS Waiver process is not meant to address issues with general business operations, financial hardship, issues with rate models, or difficulty in hiring staff. The HS Waiver must specifically address risks to an individual's health or safety.
- Regional centers must provide adequate documentation that establishes a health or safety need in their initial request to avoid delays. The Department may deny a request, delay approval, or request additional information to establish a health or safety need.
- The Department may, at its discretion, reduce or modify the requested HS Waiver rate if justification for all parts of a request is not substantiated.

The following documentation must be submitted to the Department:

HS Waiver Request Letter (Attachment)
Regional centers must submit a formal request letter signed by the executive director that includes:

- Current IPP and/or Addendums including any behavior or nursing plan (based on support needs)
- Vendor Program Design
- Vendor Organizational Chart (includes staffing ratio and service assignments)
- Individual and Staff Monthly Schedule, IHSS Hours, Day Program Hours, etc. (required for supported living services or personal assistance HS Waiver requests)
- Staffing Schedule (required for licensed residential services HS Waiver requests)
- Basic service details: vendor information, staffing ratios, etc.
- Rate details: current and proposed rates with justification and timing
- Vendor's compliance status with independent fiscal review/audit requirements
- Any corrective action plans or sanctions within the last two years
- For HS Waiver requests where staff wages are being proposed to be altered, consideration of comparable wages in the area for similar job types
- Payroll/schedules verifying staff hours and wages
- The request letter should also include:
    - Name(s) (or initials) of individual and Unique Client Identifier (UCI) #
    - Detailed description of the health or safety risk(s) and challenges, including what service changes are necessary to protect the individual's health or safety and what are the risks if the HS Waiver request were not approved.
    - Information regarding the availability of alternative, comparable, and local resources to meet the needs of the individual(s) at risk
    - Status of generic resources, if applicable.

HS Waiver Worksheet
Regional centers are required to submit a completed HS Waiver Worksheet for each request. This worksheet must be filled out by the vendor and carefully reviewed by the regional center. The HS Waiver Worksheet can be obtained by contacting healthandsafetyrequest@dds.ca.gov.

HS Waivers
Regional centers may reimburse an enhanced rate to protect an individual’s health or safety with prior written authorization from the Department. This written approval will identify an individual’s initials, Unique Client Identifier (UCI), applicable vendor information, approved rate, and any required conditions. Additionally, approval of retroactive HS Waiver requests due to the regional center paying a HS Waiver rate without receiving prior individual-specific written approval generally will not be considered by the Department.

Pre-Service Delivery of a HS Waiver Request
The Department accepts HS Waiver requests before the start of service for situations such as: transitions from Institutions of Mental Disease, out-of-state, crisis homes, or for new specialized services. Regional centers should submit these requests at least 15 days prior to the start of services. When service costs are not fully known, the Department can establish provisional rates to avoid delays. Once actual costs are documented, the Department will set an ongoing HS Waiver rate. Vendors are not liable for repayment if the provisional rate exceeds the permanent HS Waiver rate.

Expedited HS Waiver Requests
For immediate health or safety risks, the Department offers an expedited review. Expedited review scenarios may include, but are not limited to, preventing admission to restrictive settings, addressing crisis situations, or maintaining critical services when no alternatives exist. Regional centers should contact the Department as soon as the potential need for expedited review is identified and must clearly indicate the urgent nature in the executive director's signed request letter. The Department will respond with a decision within five working days.

Approval/Denial of a HS Waiver Request
When the Department approves a request, an interim approval may be issued to the regional center. The regional center must review the interim approval for accuracy and notify the Department of any discrepancies. A formal letter will then be issued by the Department. Language in the formal letter will supersede the interim approval, and there is no appeal process for a denial, rate reduction or change to the effective date. However, the regional center may submit a new request with additional information or justification supporting the need for a rate increase based on individual needs.

Timeliness of an HS Waiver Request
Regional centers must submit HS Waiver requests within 30 days of receiving the provider's request. If obtaining missing information will delay submission beyond 30 days, the regional center must notify the Department and provide an expected date for the complete submission.

Submission of an HS Waiver Request
The regional center must submit HS Waiver requests to the following: healthandsafetyrequest@dds.ca.gov. The Department will acknowledge receipt of each HS Waiver request via email. Regional centers also may request secure access via SharePoint by contacting the Department at the e-mail address above.

Technical Support
The Department will meet with regional centers to provide technical support on completing the HS Waiver request, upon request to healthandsafetyrequest@dds.ca.gov.

Procedure to Prevent Unauthorized Use of HS Waiver Rates
Regional centers must adopt a procedure by August 1, 2025, to prevent service coordinators, managers, and fiscal staff from authorizing and processing a purchase of service (POS) using an HS Waiver rate for an individual who is not approved by the Department in writing for an HS Waiver. As previously indicated, the Department generally will not consider retroactive HS Waiver requests due to the regional center paying an HS Waiver rate without prior individual-specific written approval from the Department.

Monthly Review of Purchase of Service Data
There is a new rate type in SANDIS/UFS, as outlined below, to assist in tracking and reporting approved HS Waiver rates. The Department recommends each regional center review POS data monthly to identify any unauthorized use of approved HS Waiver rates. This new rate type will assist in oversight and identification of HS Waiver rates:

- **Rate Type "H":** This character option has been added to the rate type field of the rate record in SANDIS/UFS.
- **Purpose:** Rate type "H" is intended to aid regional centers in creating custom reports and streamlining procedures.

- **Department Approval:** Service coordination and fiscal staff must be instructed that rates flagged with rate type "H" require the Department's prior written approval. This also applies to any subcodes used by the regional center in SANDIS/UFS.
- **Tracking and Reporting:** To simplify the internal auditing process, regional centers shall develop reports in SANDIS/UFS to identify new authorizations under the rate type "H."

Ongoing Monitoring

The regional center must ensure the vendor provides support and wages to staff based upon the amount(s) in the approved rate. It is the responsibility of the regional center to monitor and inform the Department of the necessity for future rate increases based on the services and supports required by the individual(s).

By August 1, 2025, regional centers must implement the new rate type described above and have procedures in place to prevent unauthorized use of HS Waiver rates. Regional center assistance is critical in implementing these changes.

If you have any questions about this guidance, please contact the Office of Community Operations, at (833) 421-0061, or by email, at healthandsafetyrequest@dds.ca.gov.

Sincerely,

Original Signed by:

MICHI GATES
Chief Deputy Director
Program Services

Attachment

cc: Regional Center Administrators
Regional Center Chief Counselors
Regional Center Community Services Directors
Association of Regional Center Agencies
Ernie Cruz, Department of Developmental Services
Jim Knight, Department of Developmental Services
Tiffani Andrade, Department of Developmental Services
Yasir Ali, Department of Developmental Services
Ed Yan, Department of Developmental Services
Department of Developmental Services Application Support Team