

The COVID Public Health Emergency (PHE) declaration will end on May 11, 2023. As a result, there will be several changes to the OCDD Home and Community Based Waiver Services. For detailed information about activities that were in place before, during, and what will occur after PHE ends, please go to the following link [for a recording of a webinar](https://ldh.la.gov/subhome/11) and [powerpoint](#) that describes this in detail (<https://ldh.la.gov/subhome/11>).

We received the following are frequently asked questions about the information presented during these meetings and webinar. The responses include information about how the system will change when the PHE ends. If you are a waiver participant or family member and you have specific questions about your individual situation, please talk about those questions with your Support Coordinator or Local Governing Entity Waiver section.

General	
Will we be receiving a confirmation or certificate for participation of the PHE webinar?	No. We put together the PHE webinar provide all audiences with general information about what will happen when the PHE ends. There will be additional training for support coordinators, providers, and individuals using the self-direction option; we will be tracking attendance at these upcoming training opportunities.
Will all exceptions end on May 11th?	PHE Exceptions for home and community based waiver services will end November 11, 2023. However, state plan services will end on May 11, 2023. For the I/DD population, this includes services such as Support Coordination for NOW waiver recipients, EPSDT-PCS, and LT-PCS.
Will there be additional expectations on families living in the home requesting additional in-home hours?	There is a process in place to review any requests for additional hours, and these processes will continue. In order to be approved, it must include a justification for what has changed with the waiver participant's needs that requires additional hours. We cannot approve the additional hours because the family needs to be paid for additional hours. We still expect that natural supports that were in place will stay in place.
Does a new Plan of Care have to be done before the PHE ends or before November 11, 2023?	If anything has changed in the participant's situation or circumstances, you should update the plan-of-care before November.
In the presentation, you said the exception to use the Statement of Approval (SOA) in lieu of the 90L ended during the pandemic. It was not clear that this had already ended. Can you clarify?	The exception to extend the 90-L was for a one-year period. Participants had to have an annual 90-L in January of 2021; meaning that the Plans of Care beginning on this date should have had an updated 90-L with the annual planning. In order to ensure compliance with federal regulations, if a family does not have a 90-L support coordinators should assist families with obtaining a 90-L. Additionally, they should immediately include the 90-L form with all annual plans of care.

<p>You mentioned that the increased hours for the Children’s Choice Waiver would be ending in November, would the additional 20 hours per week in the Supports waiver end in November also?</p>	<p>Yes, the conversion of day program hours to in-home hours will end on 11/11/2023. The Supports Waiver does not have in-home direct support services, so there will be no in-home hours offered for waiver participants in Supports Waiver.</p>
<p>Day Habilitation / Vocational Services</p>	
<p>What are the requirements for Day Habilitation providers as far as the number of individuals they are able to provide services for?</p>	<p>The fire marshal’s occupancy determination (based on the square footage of your building) will decide the number of individuals that you can serve at your facility.</p> <p>You can still provide Day Habilitation service in a 1:5-8 ratio. With the HCBS Settings Rule, providers should be moving towards providing services in smaller ratios and participating in community activities more than being inside of the day habilitation facility.</p> <p>You can now offer virtual and community-based services. When you provide services outside of the facility, the number of people served is not dependent on the fire marshal occupancy.</p>
<p>There are waiver participants who participated in Day Habilitation prior to COVID, but they have not been attending during COVID. They have been using the “conversion” of day program hours to in-home hours. What are the responsibilities of providers, support coordinators, and participants in this situation?</p>	<p>The Support Coordinator will have a discussion with individuals who have been converting their day services to in-home services during the pandemic. This will determine if the individual will return to day habilitation.</p> <p>The waiver participant, and his/her support team if indicated, will participate in the discussion and a decision will be made based on the individual’s choice, regarding continuation or needed changes to the Plan of Care.</p> <p>The responsibility of the Day Habilitation provider is to support the participant and follow the Plan of Care as determined by the Interdisciplinary Team.</p>
<p>The waiver participant is able to return to the day habilitation program due to medical concerns documented by his/her physicians. What is the process for converting those day habilitation hours post PHE?</p>	<p>The waiver participant should reach out to his/her support coordination agency to discuss planning options.</p> <p>If the participant can’t return to the day program facility, there is an option to do community life engagement (CLE). CLE is day habilitation in the community (and not at a facility) and is in a much smaller ratio of 4 individuals with 1 staff. There is also a new service called Virtual Day Habilitation where the participant can choose to participate in day program services in his/her home.</p>

<p>Some day program providers have not opened yet or they have not opened to the same capacity that they did before COVID. Should participants be offered a freedom of choice (FOC) list to choose another Day Habilitation provider?</p>	<p>Yes, support coordinators should provide participants with the FOC list if the current provider is unable to meet their support needs. Support coordinators should also be advising individuals of Community Life Engagement, which is community day habilitation. Providers provide this service strictly in the community in a 1:2-4 ratio.</p>
<p>Where can I find a list of day rehabilitation providers in my area?</p>	<p>The Freedom of Choice (FOC) list (by region) for Day Habilitation Providers is available at https://ldh.la.gov/page/141.</p>
<p>Family Members, Including Legally Responsible Individuals, Serving as Paid Direct Support Workers</p>	
<p>How does the 40 hours cap apply when multiple family members are workers and reside in the same home as the individual?</p>	<p>The rule is each paid family member residing in the same home as the participant is able to provide 40 hours per week of paid direct support services.</p> <p>For example, if an individual scheduled to receive 80 hours a week and has two paid family members residing in the same home then both family members can work 40 hours.</p>
<p>Can a family member(s) work less than 40 hours week?</p>	<p>Yes, family members can work less than 40 hours. If a waiver participant has more than 40 hours of in-home direct care service approved in the Plan of Care, staff living outside of the home can provide the additional hours. If they have less than 40 hours of in-home direct care service approved, the family living in the home can provide the approved number of hours.</p>
<p>When should the 40 hour work week start for employees?</p>	<p>The maximum 40 hour per week cap for family members living in the same home will begin on November 12, 2023.</p> <p>The workweek usually starts on Sunday. If you are in self-direction, the workweek begins on Sunday. If you are with a traditional provider agency, the provider establishes the beginning of the workweek.</p>
<p>Does the 40-hour cap apply to all family members who are staff or just family members who are staff and living in the same home?</p>	<p>If the family member does not live in the same home with the waiver participant and is not the Legally Responsible Individual, that family member is not limited to the 40 hour a week rule. Only family living in the same home with the participant are limited to 40 hours a week.</p>
<p>Will paid service hours be reduced to 40 hours a week when a family member living in the home is the paid worker?</p>	<p>No. The types of service and the number of hours that a waiver participant receives is included in an approved Plan of Care that is completed as part of a person-centered planning process. This is determined based on the participant's needs. If a participant has over 40 hours per week of in-home services approved in the POC, those hours can be offered by family living in the home (up to 40 hours), and other staff.</p>

	<p>If the participant only wants family living in the home to provide services, and there is only one family member who can provide these services, they can discuss if their needs can be met with 40 hours of in-home service; if not, services outside the home or per diem services can be considered.</p>
<p>Is a person who has Power of Attorney over an individual, also considered a Legally Responsible Individual (LRI)?</p>	<p>No. As it relates to providing waiver services, Legally Responsible Individuals are any of the following: Spouse, Parent of a Minor Child, Curator, or Tutor. When this relationship exists between someone who is paid to provide services and a waiver participant, it must be shown that this person is being paid to provide “extraordinary care”. Extraordinary care means they are doing things outside of what they would be required to do as a legally responsible individual.</p>
<p>Will there be an area in the plan of care that captures whether the direct support worker is a family member that lives in the home and/or the legally responsible individual.</p>	<p>Yes. When a family member living in the home is paid staff, there will be an attachment to the Plan of Care that will include information on:</p> <ul style="list-style-type: none"> • criteria for ensuring best interest of the individual, • self-determination, and • extraordinary care.
<p>Is a spouse really a LRI without having to obtain an interdiction for their spouse who becomes incapable of decision-making?</p>	<p>In the context of HCBS waiver services, the spouse is a legally responsible individual. The identification of a Legally Responsible Individual, as it pertains to being paid to provide waiver services, is not directly related to a person’s legal status.</p>
<p>If I use a traditional provider agency, can I provide 40 hours of paid services if I am the authorized representative and live in the same home as the waiver participant?</p>	<p>Yes, if all conditions are met (you meet all DSW qualifications, best interest of the individual, individual wants you to be paid staff, and extraordinary care criteria is met if you are the legally responsible individual).</p> <p>For the purposes of providing paid waiver services to your family member, the legally responsible individual and the authorized representative are not the same. In this situation, the legally responsible individual is defined as the spouse, parent of a minor child, curator, or tutor, and they can be paid to provide up to 40 hours of service, if all conditions are met. In this situation, the authorized representative is a term used to describe a person who assists someone who uses the self-direction option, and they essentially become the “employer” in self-direction; if you use a traditional provider agency, then the criteria for authorized representative does not apply to your situation.</p>
<p>I understand that the individual receiving services must agree with the family member living in the home being paid to provide</p>	<p>The Support Coordinator will have a discussion with the waiver participant about whether they want the family to be paid to provide services, and this discussion must occur without the person who will be paid present. If the waiver participant needs assistance with understanding and/or responding to this discussion, they can have a supporter that they are comfortable with for the discussion. This can</p>

services. What happens if the individual is not able to verbalize this or doesn't understand?	be anyone the waiver participant knows; however, it cannot be the person who will be paid to provide services.
Virtual Visits	
Can the family or participant require the support coordinator (SC) to wear a mask (N-95) for the entirety of the visit given the requirement for return to in person support coordination visits?	Yes, unless the Support Coordinator suffers from asthma and cannot wear a mask. If this is the case, you can ask the SC Agency to assign another SC for your family member who can wear a mask.
When do the new requirements for support coordination virtual visits begin?	For the New Opportunities Waiver (NOW), the new requirements for virtual visits for quarterly support coordination visits will begin May 12, 2023. For waiver participants in the Children's Choice Waiver, Supports Waiver, and Residential Options Waiver (ROW), the new requirements for virtual visits for quarterly support coordination visits will begin on November 12, 2023.
What will happen if a participant is receiving/or requesting virtual visits and then some major incident or concern happens. Does the LGE or OCDD State Office step in and say that the family can no longer do virtual visits? Is that decision appealable?	You must do the initial and annual Plan of Care meetings in-person. You can hold two virtual visits per year for the other quarterly meeting at the waiver participant's request, if the following conditions are met: <ul style="list-style-type: none"> • No significant incidents in last two years (Incident meeting Critical Incident Review Committee criteria; lack of progress towards goals; identification of unsafe living conditions; significant changes in medication; significant changes in behavior, medical status or appearance) • No family members living in the home are being paid to provide services • There are no anticipated revisions to the Plan of Care for the meeting • Technology is available and present to be able to directly observe the participant and the environment <p>If any of these conditions are not met, then an in-person quarterly meeting is required. This is so we can ensure the health and safety of the waiver participant. We will notify waiver participants. This decision is not subject to appeal because this is not a denial of services. These conditions must be met as outlined in the Waiver Applications.</p>
Has there been a mechanism put in place to monitor and ensure Support	The virtual visits do not have to be pre-scheduled; they can occur upon request of the waiver participant if all conditions are met. The Support Coordinator will enter the visit as a virtual visit in

Coordinators are doing the right number of visits?	the billing system. The LGE and Central office will review reports of usage from the Medicaid data contractor.
What is the approval process for using virtual visits?	If the family requests virtual visits, this should be stated in the Plan of Care. The typical approval process for the Plan of Care will occur.
Regarding face to face, will support coordinators be able to do 2 virtual visits in a row, or do they have to be separated to ensure clients are being seen in person on a routine basis?	The initial and annual plan of care meetings must be in person. The use of virtual visits, as requested by the waiver participant, can be done for any other two visits during the year, if all conditions are met.
Should the LGE begin doing in-home pre-certification visits now or 6 months after the end of the PHE?	There is no current mandate that the in-home pre-certification visits be done virtually; however, beginning November 12, 2023, in-home pre-certification visits will be required.
Self-Direction	
In self-direction, what is the difference between an authorized representative and an employer?	<p>In self-direction, the authorized representative is the person that acts on behalf of the service participant to “represent” the service participant when dealing with state/federal agencies or programs, or in some legal issues. The service participant (or authorized representative) becomes the <i>employer</i> and will hire <i>employee(s)</i> to be direct care staff. The waiver participant must select the authorized representative, and the name of the authorized representative must be documented with the Fiscal Employer Agent. Therefore, for the purposes of self-direction the authorized representative and the employee are the same.</p> <p>For this purpose, the authorized representative is not directly related to other authorized representatives, such as those with Social Security Administration. They may or may not be the same.</p>
Under Self-Direction, can the legally responsible individual and the authorized representative also be the employee until November or May?	The Legally Responsible Individual (LRI) is the waiver participant’s spouse, parent of a minor child, curator or tutor. Beginning November 12, 2023, LRI may be paid to provide up to 40 hours per week of paid direct support services if it is in the best interest of the participant, the participant wants them to be paid staff, and they are providing extraordinary care, as long as the LRI is not the identified authorized representative.

	<p>For this purpose, the authorized representative is designated on the self-direction forms as the person who will assist the participant with self-direction. Beginning November 12, 2023, the designated authorized representative may not serve as a paid direct support worker.</p>
<p>Can my son be his own employer for Self-Direction? Will he have to complete a new employer package?</p>	<p>A waiver participant can be their own employer if they can hire/fire workers, interview and complete paperwork and understand how we administer the program. The participant cannot be the identified “employer” if the family member does all the work of the employer.</p> <p>If there is an identified “authorized representative” on the self-direction forms and there is a change in the authorized representative or the person will represent themselves, this must be documented with the Fiscal Employer Agent.</p>
<p>In self-direction, can one parent serve as the employer/authorized representative and the other as the employee, if one parent is the tutor and the other the co-tutor?</p>	<p>If a parent is a tutor and co-tutor, they are a Legally Responsible Individual, who can provide services up to 40 hours per week if it is in the best interest of the participant, the participant wants them to be paid staff, and they are providing extraordinary care, as long as the LRI is not the identified authorized representative. If one parent is identified as the authorized representative for the purposes of self-direction, they may not be paid to provide services. If the other parent is not identified as the authorized representative for the purposes of self-direction, they may provide services as identified for the LRI above.</p> <p>It should be noted that there are requirements that the authorized representative must conduct, including setting salary, monitoring progress of participant, and doing performance evaluations of paid staff. They are responsible for providing this information upon any time of audit that occurs. The parent serving as the employee cannot continue to serve the function of the authorized representative.</p> <p>If both parents are listed as authorized representatives in self-direction, they cannot serve as paid staff. They can explore the Monitored in Home Caregiving service, which may better meet the needs.</p>
<p>For those under self-direction, can the authorized representative (AR) live in the same home as the participant? Can they be the spouse of the authorized representative?</p>	<p>In self-direction, the authorized representative can live in the same home as the participant, but they can also live in a different home. If they live in a different home, they must live in state and within reasonable proximity of the self-directed individual in order to perform the requirements of the authorized representative.</p>