

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
90 Seventh Street, Suite 5-300 (5W)
San Francisco, CA 94103-6706



Regional Operations Group

June 18, 2019

Mari Cantwell
Chief Deputy Director, Health Care Programs
California Department of Health Care Services
P.O. Box 997413, MS 0000
Sacramento, CA 95899-7413

Dear Ms. Cantwell:

Enclosed is an approved copy of California State Plan Amendment (SPA) 18-0054, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on December 20, 2018. This amendment adds Community Crisis Homes as a Behavioral Intervention Services provider setting under the §1915(i) State Plan Home and Community-Based Services (HCBS) benefit.

This SPA has an effective date of October 02, 2018. Enclosed are the following approved SPA pages that should be incorporated into your approved state plan:

- Attachment 3.1-i, pages 10a, 32, 38, and 38a
- Attachment 4.19-B, pages 75 and 75a

If you have any questions, please contact Cheryl Young at 415-744-3598 or via email at Cheryl.Young@cms.hhs.gov or Adrienne Hall at 415-744-3674 or Adrienne.Hall@cms.hhs.gov.

Sincerely,

A black rectangular box redacting the signature of Richard C. Allen.

Richard C. Allen
Director
Centers for Medicaid and CHIP Services
Regional Operations Group

Cc: Deanna Clark, CMS
Evelyn Schaeffer, DHCS
Rudy Acosta, DHCS
Jalal Haddad, DHCS

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES	1. TRANSMITTAL NUMBER <u>1</u> <u>8</u> — <u>0</u> <u>5</u> <u>4</u>	2. STATE CA
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE October 2, 2018
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5. TYPE OF PLAN MATERIAL (Check One)

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION 1915i of the Social Security Act	7. FEDERAL BUDGET IMPACT a. FFY 2018-19 \$ <u>2,130,000</u> b. FFY 2019-20 \$ <u>2,561,000</u>
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8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT Attachment 3.1-i pages 10a, 32, 38, 38a Attachment 4.19B pages 75, 75a	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable) Attachment 3.1-i pages 32, 38 Attachment 4.19B page 75
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10. SUBJECT OF AMENDMENT
Added Community Crisis Homes as a new provider type under Behavioral Intervention Services

11. GOVERNOR'S REVIEW (Check One)

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL 	16. RETURN TO Department of Health Care Services Attn: State Plan Coordinator 1501 Capitol Avenue, MS 4506 P.O. Box 997417 Sacramento, CA 95899-7417
13. TYPED NAME Mari Cartwell	
14. TITLE State Medicaid Director	
15. DATE SUBMITTED December 20, 2018	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED December 20, 2018	18. DATE APPROVED June 18, 2019
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PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL October 02, 2018	20. SIGNATURE OF REGIONAL OFFICIAL
21. TYPED NAME Richard C. Allen	22. TITLE Director, Western Regional Operations Group

23. REMARKS
For Box 11 "OTHER, As Specified" : Please note: The Governor's Office does not wish to review the State Plan Amendment.

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The state assures that this 1915(i) HCBS SPA will be subject to any provisions or requirements included in the state's most recent and/or approved home and community-based settings Statewide Transition Plan. The state will implement any required changes by the end of the transition period as outlined in the home and community-based settings Statewide Transition Plan.

As noted in state law (W&IC section 4684.80(a) for EBSHs and W&IC 4698(b)(1) for CCHs), EBSHs/CCHs provide services to a maximum of four individuals with private bedrooms and must conform with the HCBS settings requirements of 42 CFR 441.530(a)(1). Therefore, meeting the HCBS settings requirements is considered during the planning and development of these homes. EBSHs are designed for individuals who require more enhanced behavioral supports, staffing and supervision than is available in other licensed residential settings. In addition to the same licensing criteria for adult residential facilities and group homes, certification by DDS is also required as a condition of licensure of an EBSH/CCH. This certification requirement is another opportunity to review the planned service design for compliance with the HCBS settings requirements.

As these homes are new setting types under this 1915i, each one will be assessed regarding compliance with the HCBS settings requirements prior to the submission of federal claiming for services provided in these settings. The assessment process will be as follows:

- The regional center, in conjunction with the consumers and service provider, will conduct an on-site assessment of the EBSH/CCHs using a standardized tool, developed as part of the State's transition planning, which aligns with the HCBS settings requirements.
- This assessment will include a review of the EBSH's/CCH's policies/procedures for alignment with the HCBS requirements.
- Results of the assessment will be documented on the standardized tool and maintained by the regional center and provider
- The assessment will also indicate any setting requirements that initially were not met and the actions taken in response.
- Upon completion, the written assessment and supporting information will be forwarded to DDS for validation of the assessment findings via review of the supporting information and assessment. If validated, the individual EBSH/CCH is considered an eligible 1915i provider.
- On-going monitoring of compliance with the HCBS settings requirements will occur in the following ways:
 - During required on-site monitoring visits of all EBSHs/CCHs by DDS, and
 - During the on-site 1915i monitoring reviews where a representative, random number of consumers are selected for review. This review includes on-site visits to settings where consumers receive services.

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evidence-based, positive approaches. Behavioral intervention services are designed to assist individuals in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community-based settings. These services include staff training, cross-training, or supports needed specifically to assist individuals transitioning into or out of a Community Crisis Home. Services may be provided to family members if they are for the benefit of the recipient. Services for family members may include training and instruction about treatment regimens and risk management strategies to enable the family to support the recipient. The participation of parent(s) of minor children is critical to the success of a behavioral intervention plan. The person-centered planning team determines the extent of participation necessary to meet the individual's needs. "Participation" includes the following meanings: Completion of group instruction on the basics of behavior intervention; Implementation of intervention strategies, according to the intervention plan; If needed, collection of data on behavioral strategies and submission of that data to the provider for incorporation into progress reports; Participation in any needed clinical meetings; provision of suggested nominal behavior modification materials or community involvement if a reward system is used. If the absence of sufficient participation prevents successful implementation of the behavioral plan, other services will be provided to meet the individual's identified needs.

(1) "Intensive behavioral intervention" means any form of applied behavioral analysis (ABA) based treatment (see #2 below) that is comprehensive, designed to address all domains of functioning, and provided in multiple settings, depending on the individual's needs and progress. Interventions can be delivered in a one-to-one ratio or small group format, as appropriate.

(2) "Applied behavioral analysis based treatment" means the design, implementation, and evaluation of systematic instructional and environmental modifications to promote positive social behaviors and reduce or ameliorate behaviors which interfere with learning and social interaction.

Behavioral Habilitation services do not include services otherwise available to the person under the Individuals with Disabilities Education Act or the Rehabilitation Act of 1973.

This service in the 1915(i) state plan benefit is only provided to individuals age 21 and over. All medically necessary Habilitation Behavior Intervention Services for children under age 21 are covered in the state plan pursuant to the EPSDT benefit.

Additional needs-based criteria for receiving the service, if applicable (*specify*):

Categorically needy (*specify limits*):

Consumers are limited to no more than 12 months in a community crisis home in a service plan year and up to 18 consecutive months in total, per occurrence. Any additional day(s) must be approved by the Department, and reviewed monthly thereafter. Should these limits be reached, the regional center and community crisis home will follow the transition plan developed for the consumer to identify an alternative residential setting with services and supports that meet the consumer's needs.

Medically needy (*specify limits*):

Consumers are limited to no more than 12 months in a community crisis home in a service plan year and up to 18 consecutive months in total, per occurrence. Any additional day(s) must be approved by the Department, and reviewed monthly thereafter. Should these limits be reached, the regional center and community crisis home will follow the transition plan developed for the consumer to identify an alternative residential setting with services and supports that meet the consumer's needs.

Provider Qualifications (*For each type of provider. Copy rows as needed*):

Provider Type	License	Certification	Other Standard
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TN No. 18-0054

Supersedes

TN. No. 16-016

Approval Date: June 18, 2019 Effective Date: October 2, 2018

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Associate Behavior Analyst	No state licensing category. As appropriate, a business license as required by the local jurisdiction where the business is located.	Certification by the national Behavior Analyst Certification Board	Works under the direct supervision of a Behavior Analyst or Behavior Management Consultant.
Behavioral Technician / Paraprofessional	No state licensing category As appropriate, a business license as required by the local jurisdiction where the business is located.	N/A	Works under the direct supervision of a Behavior Analyst or Behavior Management Consultant. (1) Has a High School Diploma or the equivalent, has completed 30 hours of competency-based training designed by a certified behavior analyst, and has six months experience working with persons with developmental disabilities; or (2) Possesses an Associate's Degree in either a human, social, or educational services discipline, or a degree or certification related to behavior management, from an accredited community college or educational institution, and has six months experience working with persons with developmental disabilities.
Community Crisis Homes	Licensed Adult Residential Facility or group home by the Department of Social Services pursuant to Health and Safety Code §§ 1567.80 - 1567.87 As appropriate, a business license as required by the local jurisdiction where the business is located.	Certified by the Department of Developmental Services pursuant to WIC 4698	In addition to the requirements in Title 22, CCR, §§85000-85092, requirements from Title 17, CCR, §§59004 - 59005 also apply. Administrator Qualifications (a) An administrator must:(1) Have a minimum of two years of prior experience providing direct care or supervision to individuals with developmental disabilities and be one of the following: (A) A registered behavior technician. (B) A licensed psychiatric technician. (C) A qualified behavior modification professional. (b) An administrator must complete the Residential Services Orientation as required

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TN. No.16-016

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			<p>per Section 56003(b).</p> <p>Direct Care Staff Qualifications</p> <p>(a) A direct care staff person must:</p> <p>(1) Have at least six months' prior experience providing direct care to individuals with developmental disabilities who have challenging behavior service needs and</p> <p>(2) Become a registered behavior technician within twelve months of initial employment or be a qualified behavior modification professional.</p> <p>(b) A direct care lead staff person must:</p> <p>(1) Have at least one-year prior experience providing direct care to individuals with developmental disabilities with challenging behavior service needs and</p> <p>(2) Become a registered behavior technician within 60 days of initial employment or be a qualified behavior modification professional.</p>
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Verification of Provider Qualifications (For each provider type listed above. Copy rows as needed):

Provider Type (Specify):	Entity Responsible for Verification (Specify):	Frequency of Verification (Specify):
All Habilitation – Behavioral Intervention Services providers	Regional centers, through the vendorization process, verify providers meet requirements/qualifications outlined in Title 17, CCR, § 54310 including the following, as applicable: any license, credential, registration, certificate, permit, or academic degree required for the performance or operation of the service; the staff qualifications and duty statements; and service design.	Verified upon application for vendorization and ongoing thereafter through oversight and monitoring activities.

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3) DHCS Fee Schedules - As described on page 70, above. The fee schedule rates for Non-Facility-Based Behavior Intervention Services were set as of July 15, 2016 and are effective for services provided on or after that date. All rates are published at:
http://files.medical.ca.gov/pubsdoco/Rates/rates_download.asp

B. Crisis Intervention Facility – The following three methodologies apply to determine the rates for these providers:

- 1) **Usual and Customary Rate Methodology** - As described on page 70, above. If the provider, who is not a Community Crisis Home provider, does not have a usual and customary rate, then rates are set using #2 below.
- 2) **Median Rate Methodology** - As described on pages 70-71, above.
- 3) **Community Crisis Homes Rate Methodology** - There are three components to the monthly rate for Community Crisis Homes:
 - a. the facility component: The allowable costs used to calculate the facility component include payroll costs of facility staff and facility related costs such as lease, facility maintenance, repairs, cable/internet, etc.
 - b. the individualized services and supports component: the allowable costs used to calculate the individualized services and supports component include the salaries, wages, payroll taxes, and benefits of individuals providing individualized services and supports and other consumer specific program costs. and
 - c. the transition plan component: the allowable costs used to calculate the transition component includes the salaries, wages, payroll taxes and benefits of direct care staff providing additional services and supports needed to support a consumer during times of transition out of the CCH.

As part of the certification process for CCHs, the Department reviews the proposed facility component rate and supporting documentation for each CCH to determine if the included costs are reasonable and economical. These rates must be approved by the Department prior to the delivery of service at each CCH. Note: This is not the rate that is claimed for FFP. All claims for CCHs are validated in the waiver billing system to ensure the cost of room and board is excluded from the claim prior to claiming FFP. In California, the cost of room and board is less than or equivalent to the Supplemental Security Income/State Supplement Payment (SSI/SSP) amount. Rates for providers of CCHs include the amount for room and board and an additional amount for the provision of support services. Prior to claiming FFP, the amount of the claim is compared to the provider's rate to ensure that only the amount in excess of the SSI/SSP amount is claimed for FFP. For example, if a provider's rate is \$2,000/month, and the SSI/SSP amount equals \$960, the Waiver billing system will not process claims that are more than \$1,040 ($\$2,000 - \$960 = \$1,040$).

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REIMBURSEMENT METHODOLOGY FOR RESPITE CARE

There are five rate setting methodologies for Respite Services. The applicable methodology is based on whether the service is provided by an agency, individual provider or facility, type of facility, and service design.

1) Rates Set pursuant to a Cost Statement Methodology – As described on page 69, above. This methodology is used to determine the hourly rate for In-home Respite Agencies. The rate schedule, effective July 1, 2016, for this service is located at the following link:

http://www.dds.ca.gov/Rates/docs/Comm_Based_Respite.pdf

2) Rates set in State Regulation – This rate applies to individual respite providers. Per Title 17 CCR, Section 57332(c)(3), the rate for this service is \$15.23 per hour. This rate is based on the current California minimum wage of \$10.00 per hour, effective January 1, 2016, plus \$1.17 differential (retention incentive), plus mandated employer costs of 17.28%; a 5% rate increase for respite services per Assembly Bill (AB) X2-1, effective July 1, 2016; and an 11.25% rate increase for enhancing wages and benefits for staff who spend 75% of their time providing direct services to consumers per AB X2-1, effective July 1, 2016.

3) ARM Methodology - As described on pages 71-73 above. This methodology is applicable to respite facilities that also have rates established with this methodology for “Habilitation-Community Living Assistance Services.” The daily respite rate is 1/21 of the established monthly ARM rate. This includes Foster Family Agency/Certified Family Home, Foster Family Home, Small Family Home, Group Home, Adult Residential Facility, Residential Care Facility for the Elderly, Adult Residential Facility for Persons with Special Health Care Needs and Family Home Agency. If the facility does not have rate for “Habilitation-Community Living Assistance Services” using the ARM methodology, then rates are set using #5 below.