NO SUMMARY WAS PREPARED FOR THE 10-18-04 STAKEHOLDER MEETING.

The attached documents were distributed at the meeting.

ATTACHMENT

California Penal Code, Subdivision 273a(a)

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

California Penal Code Section 368

368. (a) The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf.

(b) (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars ($6,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years.

(2) If in the commission of an offense described in paragraph (1), the victim suffers great bodily injury, as defined in Section 12022.7, the defendant shall receive an additional term in the state prison as follows:

(A) Three years if the victim is under 70 years of age.

(B) Five years if the victim is 70 years of age or older.

(3) If in the commission of an offense described in paragraph (1), the defendant proximately causes the death of the victim, the defendant shall receive an additional term in the state prison as follows:

(A) Five years if the victim is under 70 years of age.

(B) Seven years if the victim is 70 years of age or older.

(c) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to exceed two thousand dollars ($2,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(d) Any person who is not a caretaker who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 proscribing identity theft, with respect to the property or personal identifying information of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or a dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years, when the money, labor, goods, services, or real or personal property taken or obtained is of a value exceeding four hundred dollars ($400); and by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the money, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding four hundred dollars ($400).

(e) Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 proscribing identity theft, with respect to the property or personal identifying information

of that elder or dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years when the money, labor, goods, services, or real or personal property taken or obtained is of a value exceeding four hundred dollars ($400), and by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the money, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding four hundred dollars ($400).

(f) Any person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment in the state prison for two, three, or four years.

(g) As used in this section, "elder" means any person who is 65 years of age or older.

(h) As used in this section, "dependent adult" means any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.

"Dependent adult" includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

(i) As used in this section, "caretaker" means any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult.

(j) Nothing in this section shall preclude prosecution under both this section and Section 187 or 12022.7 or any other provision of law. However, a person shall not receive an additional term of imprisonment under both paragraphs (2) and (3) of subdivision (b) for any single offense, nor shall a person receive an additional term of imprisonment under both Section 12022.7 and paragraph (2) or (3) of subdivision (b) for any single offense.`

Senate Bill No. 1104
[In relevant part to the IHSS QA and Program Integrity Provisions]

CHAPTER 229

An act to amend …12300, 12301.1, …to add Sections…12301.21, 12305.7, 12305.71, 12305.72, 12305.8, 12305.81, 12305.82, 12305.83, 12317, 12317.1, 12317.2, [to] the Welfare and Institutions Code, relating to human services, making an appropriation herefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 2004. Filed with Secretary of State August 16, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

"…(b) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Personal care services provided to an individual who is eligible for Medi-Cal benefits as a categorically needy person are a Medi-Cal covered benefit. Personal care services are also a covered benefit under the In-Home Supportive Services program. This bill would require the State Department of Social Services to procure and implement a new Case Management Information and Payrolling System (CMIPS) for the IHSS program and Personal Care Services Program. The bill would establish the components of the new system, and would require the state to begin a fair and open competitive procurement for the new system by August 31, 2004.

(c) Existing law requires the county welfare department to assess each recipient's continuing need of services as necessary, but at least once every 12 months. This bill would authorize a county welfare department to extend these reassessments up to 6 months beyond the 12-month period, if the county meets certain conditions. The bill would require a county to assess a recipient's need for supportive services when a recipient notifies the county of a need to adjust the service hours authorized, or when a change of circumstances is expected that will affect the recipient's need for supportive services. The bill would require the department to adopt emergency regulations to implement these provisions no later than September 30, 2005.

(d) Existing law authorizes the use of a time for task guideline only when appropriate in meeting the individual's particular circumstances. This bill would instead require the department, in consultation and coordination with county welfare departments, to establish and implement statewide hourly task guidelines and instructions, and would require counties to use these guidelines when conducting an individual assessment of an individual's need for supportive services. The bill would require the department to adopt implementing regulations by June 30, 2006, with the input of designated public and private entities.

(e) This bill would require the department to develop, and counties to use, a standardized form for statewide use to obtain medical certification for a person's need for protective supervision.

(f) This bill would require the department to conduct an error rate study beginning with the 2004–05 fiscal year. The bill would require the department, in consultation with the State Department of Health Services and county welfare departments to design and conduct the error rate study to estimate the extent of payment and service authorization errors and fraud in the provision of supportive services. The bill would require the department and the State Department of Health Services to conduct automated data matches to compare supportive services paid services hours data with Medi-Cal and third-party liability data, to identify potential supportive services delivery discrepancies. The bill would require the department to develop methods for verifying the receipt of supportive services by program recipients. The bill would require the department to develop a standardized curriculum, and operate an ongoing training program for county and state personnel.

It would require the department, in conjunction with the counties, to develop protocols and procedures for monitoring county IHSS quality assurance programs, as established by the bill.
(g) This bill would require the department to convene periodic meetings to provide information and the opportunity for input from designated stakeholders regarding IHSS quality assurance, program integrity, and program consistency.
(h) This bill would define fraud and overpayment for purposes of IHSS. The bill would deny eligibility to provide or receive payment for providing supportive services for a period of 10 years of a conviction for, or incarceration following conviction for, fraud against a government health care or supportive services program, or other designated crimes. It would require the department and the State Department of Health Services to develop a provider enrollment form, to be signed under penalty of perjury, containing certain information relating to any convictions or incarcerations of this nature. By expanding the crime of perjury, this bill would impose a state-mandated local program. The bill would require the nonprofit consortium or public authority to exclude the provider from its registry, and to report an ineligible provider to the State Department of Social Services.
(i) This bill would authorize the State Department of Health Services to investigate fraud in the provision or receipt of supportive services, and would require counties to refer instances of suspected fraud to that department for investigation. This bill would require the State Department of Health Services to notify the State Department of Social Services, the county, and the county's nonprofit consortium or public authority, if any, of a determination that the provider has engaged in fraud.
(j) This bill would authorize the director or the county to recover an overpayment to a participating provider by means of an offset against any amount currently due to the provider under the Medi-Cal program or a prepaid health plan, or by means of an executed repayment agreement between the provider and the director or the county. The bill would require the department to develop policies, procedures, and due process requirements for identifying and recovering provider overpayments. The bill would set forth additional requirements applicable to the county and the department in connection with recovering overpayments…"

"SEC. 40. Section 12300 of the Welfare and Institutions Code is amended to read:
12300. (a) The purpose of this article is to provide in every county in a manner consistent with this chapter and the annual Budget Act those supportive services identified in this section to aged, blind, or disabled persons, as defined under this chapter, who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided.
(b) Supportive services shall include domestic services and services related to domestic services, heavy cleaning, personal care services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, and paramedical services which make it possible for the recipient to establish and maintain an independent living arrangement.
(c) Personal care services shall mean all of the following:
(1) Assistance with ambulation.
(2) Bathing, oral hygiene, and grooming.
(3) Dressing.
(4) Care and assistance with prosthetic devices.
(5) Bowel, bladder, and menstrual care.
(6) Repositioning, skin care, range of motion exercises, and transfers.
(7) Feeding and assurance of adequate fluid intake.

(8) Respiration.
(9) Assistance with self-administration of medications.
(d) Personal care services are available if these services are provided in the beneficiary's home and other locations as may be authorized by the director. Among the locations that may be authorized by the director under this paragraph is the recipient's place of employment if all of the following conditions are met:
(1) The personal care services are limited to those that are currently authorized for a recipient in the recipient's home and those services are to be utilized by the recipient at the recipient's place of employment to enable the recipient to obtain, retain, or return to work. Authorized services utilized by the recipient at the recipient's place of employment shall be services that are relevant and necessary in supporting and maintaining employment. However, workplace services shall not be used to supplant any reasonable accommodations required of an employer by the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.; ADA) or other legal entitlements or third-party obligations.
(2) The provision of personal care services at the recipient's place of employment shall be authorized only to the extent that the total hours utilized at the workplace are within the total personal care services hours authorized for the recipient in the home. Additional personal care services hours may not be authorized in connection with a recipient's employment.
(e) Where supportive services are provided by a person having the legal duty pursuant to the Family Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care. These providers shall be paid only for the following:
(1) Services related to domestic services.
(2) Personal care services.
(3) Accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites.
(4) Protective supervision only as needed because of the functional limitations of the child.
(5) Paramedical services.
(f) To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided. Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.
(g) A person who is eligible to receive a service or services under an approved federal waiver authorized pursuant to Section 14132.951, or a person who is eligible to receive a service or services authorized pursuant to Section 14132.95, shall not be eligible to receive the same service or services pursuant to this article. In the event that the waiver authorized pursuant to Section 14132.951, as approved by the federal government, does not extend eligibility to all persons otherwise eligible for services under this article, or does not cover a service or particular services, or does not cover the scope of a service that a person would otherwise be eligible to receive under this article, those persons who are not eligible for services, or for a particular service under the waiver or Section 14132.95 shall be eligible for services under this article.
(h) (1) All services provided pursuant to this article shall be equal in amount, scope, and duration to the same services provided pursuant to Section 14132.95, including any adjustments that may be made to those services pursuant to subdivision (e) of Section 14132.95.
(2) Notwithstanding any other provision of this article, the rate of reimbursement for in-home supportive services provided through any mode of service shall not exceed the rate of

reimbursement established under subdivision (j) of Section 14132.95 for the same mode of service unless otherwise provided in the annual Budget Act.
(3) The maximum number of hours available under Section 14132.95, Section 14132.951, and this section, combined, shall be 283 hours per month. Any recipient of services under this article shall receive no more than the applicable maximum specified in Section 12303.4.
SEC. 41. Section 12301.1 of the Welfare and Institutions Code is amended to read:
12301.1. (a) The department shall adopt regulations establishing a uniform range of services available to all eligible recipients based upon individual needs. The availability of services under these regulations is subject to the provisions of Section 12301 and county plans developed pursuant to Section 12302.
(b) The county welfare department shall assess each recipient's continuing need for supportive services at varying intervals as necessary, but at least once every 12 months.
(c) (1) Notwithstanding subdivision (b), at the county's option, assessments may be extended, on a case-by-case basis, for up to six months beyond the regular 12-month period, provided that the county documents that all of the following conditions exist:
(A) The recipient has had at least one reassessment since the initial program intake assessment.
(B) The recipient's living arrangement has not changed since the last annual reassessment and the recipient lives with others, or has regular meaningful contact with persons other than his or her service provider.
(C) The recipient or, if the recipient is a minor, his or her parent or legal guardian, or if incompetent, his or her conservator, is able to satisfactorily direct the recipient's care.
(D) There has been no known change in the recipient's supportive service needs within the previous 24 months.
(E) No reports have been made to, and there has been no involvement of, an adult protective services agency or agencies since the county last assessed the recipient.
(F) The recipient has not had a change in provider or providers for at least six months.
(G) The recipient has not reported a change in his or her need for supportive services that requires a reassessment.
(H) The recipient has not been hospitalized within the last three months.
(2) If some, but not all, of the conditions specified in paragraph (1) of subdivision (c) are met, the county may consider other factors in determining whether an extended assessment interval is appropriate, including, but not limited to, involvement in the recipient's care of a social worker, case manager, or other similar representative from another human services agency, such as a regional center or county mental health program, or communications, or other instructions from a physician or other licensed health care professional that the recipient's medical condition is unlikely to change.
(3) A county may reassess a recipient's need for services at a time interval of less than 12 months from a recipient's initial intake or last assessment if the county social worker has information indicating that the recipient's need for services is expected to decrease in less than 12 months.
(d) A county shall assess a recipient's need for supportive services any time that the recipient notifies the county of a need to adjust the supportive services hours authorized, or when there are other indications or expectations of a change in circumstances affecting the recipient's need for supportive services.
(e) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, until emergency regulations are filed with the Secretary of State, the department may implement this section through all-county letters or similar instructions from the director. The department shall adopt emergency regulations implementing this section no later than September 30, 2005,

unless notification of a delay is made to the Chair of the Joint Legislative Budget Committee prior to that date. The notification shall include the reason for the delay, the current status of the emergency regulations, a date by which the emergency regulations shall be adopted, and a statement of need to continue use of all-county letters or similar instructions. Under no circumstances shall the adoption of emergency regulations be delayed, or the use of all-county letters or similar instructions be extended, beyond June 30, 2006.

(2) The adoption of regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days by which time final regulations shall be adopted. The Department shall seek input from the entities listed in Section 12305.72 when developing all-county letters or similar instructions and the regulations.

SEC. 42. Section 12301.2 of the Welfare and Institutions Code is repealed.

SEC. 43. Section 12301.2 is added to the Welfare and Institutions Code, to read:

12301.2. (a) (1) The department, in consultation and coordination with county welfare departments and in accordance with Section 12305.72, shall establish and implement statewide hourly task guidelines and instructions to provide counties with a standard tool for consistently and accurately assessing service needs and authorizing service hours to meet those needs.

(2) The guidelines shall specify a range of time normally required for each supportive service task necessary to ensure the health, safety, and independence of the recipient. The guidelines shall also provide criteria to assist county workers to determine when an individual's service need falls outside the range of time provided in the guidelines.

(3) In establishing the guidelines the department shall consider, among other factors, adherence to universal precautions, existing utilization patterns and outcomes associated with different levels of utilization, and the need to avoid cost shifting to other government program services. During the development of the guidelines the department may seek advice from health professionals such as public health nurses or physical or occupational therapists.

(b) A county shall use the statewide hourly task guidelines when conducting an individual assessment or reassessment of an individual's need for supportive services.

(c) Subject to the limits imposed by Section 12303.4, counties shall approve an amount of time different from the guideline amount whenever the individual assessment indicates that the recipient's needs require an amount of time that is outside the range provided for in the guidelines. Whenever task times outside the range provided in the guidelines are authorized the county shall document the need for the authorized service level.

(d) The department shall adopt regulations to implement this section by June 30, 2006. The department shall seek input from the entities listed in Section 12305.72 when developing the regulations.

SEC. 44. Section 12301.21 is added to the Welfare and Institutions Code, immediately following Section 12301.2, to read:

12301.21. (a) The department shall, in consultation and coordination with the county welfare departments and in accordance with Section 12305.72, develop for statewide use a standard form on which to obtain certification by a physician or other appropriate medical professional as determined by the department of a person's need for protective supervision.

(b) At the time of an initial assessment at which a recipient's potential need for protective supervision has been identified, the county shall request that a person requesting protective supervision submit the certification to the county. The county shall use the certification in

conjunction with other pertinent information to assess the person's need for protective supervision. The certification submitted by the person shall be considered as one indicator of the need for protective supervision, but shall not be determinative. In the event that the person fails to submit the certification, the county shall make its determination of need based upon other available evidence.

(c) At the time of reassessment of a person receiving authorized protective supervision, the county shall determine the need to obtain a new certification. The county may request another certification from a recipient if determined necessary. The county shall document the basis for its determination in the recipient's case file.

(d) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, until emergency regulations are filed with the Secretary of State, the department may implement this section through all-county letters or similar instructions from the director. The department shall adopt emergency regulations implementing this chapter no later than September 30, 2005, unless notification of a delay is made to the Chair of the Joint Legislative Budget Committee prior to that date. The notification shall include the reason for the delay, the current status of the emergency regulations, a date by which the emergency regulations shall be adopted, and a statement of need to continue use of all-county letters or similar instructions. Under no circumstances shall the adoption of emergency regulations be delayed, or the use of all-county letters or similar instructions be extended, beyond June 30, 2006.

(2) The adoption of regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days by which time final regulations shall be promulgated. The department shall seek input from the entities listed in Section 12305.72 when developing all-county letters or similar instructions and the regulations.

SEC. 45. Section 12305.7 is added to the Welfare and Institutions Code, to read:

12305.7. The department shall perform all of the following activities:

(a) Beginning in the 2004–05 fiscal year, and in each subsequent fiscal year, the department in consultation with the State Department of Health Services and the county welfare departments shall design and conduct an error rate study to estimate the extent of payment and service authorization errors and fraud in the provision of supportive services. The error rate study findings shall be used to prioritize and direct state and county fraud detection and quality improvement efforts. The State Department of Health Services shall provide technical assistance and guidance for the error rate studies as requested by the department.

(b) (1) The department and the State Department of Health Services shall conduct automated data matches to compare Medi-Cal paid claims and third-party liability data with supportive services paid service hours data to identify potential overpayments, duplicate payments, alternative payment sources for supportive services, and other potential supportive services delivery discrepancies, including but not limited to, receipt of supportive services by a recipient on the same day that other potentially duplicative Medi-Cal services are received. Relevant data match findings shall be transmitted to the counties, or to the appropriate state entity, for action.

(2) The department, in consultation with the county welfare departments and the State Department of Health Services, shall determine, define, and issue instructions to the counties describing the roles and responsibilities of the department, the State Department of Health Services, and counties for resolving data match discrepancies requiring followup, defining the

necessary actions that will be taken to resolve them, and the process for exchange of information pertaining to the findings and disposition of data match discrepancies.
(c) The department shall develop methods for verifying the receipt of supportive services by program recipients. In developing the specified methods the department shall obtain input from program stakeholders as provided in Section 12305.72. The department shall, in consultation with the county welfare departments, also determine, define, and issue instructions describing the roles and responsibilities of the department and the county welfare departments for evaluating and responding to identified problems and discrepancies.
(d) The department shall make available on its Internet Web site the regulations, all-county letters, approved forms, and training curricula developed and officially issued by the department to implement the items described in Section 12305.72. The department shall inform supportive services providers, recipients, and the general public about the availability of these items and of the Medi-Cal toll free fraud hotline and Web site for reporting suspected fraud or abuse in the provision or receipt of supportive services.
(e) The department shall, in consultation with counties and in accordance with Section 12305.72, develop a standardized curriculum, training materials, and work aids, and operate an ongoing, statewide training program on the supportive services uniformity system for county workers, managers, quality assurance staff, state hearing officers, and public authority or nonprofit consortium staff, to the extent a county operates a public authority or nonprofit consortium. The training shall be expanded to include variable assessment intervals, statewide hourly task guidelines, and use of the protective supervision medical certification form as the development of each of these components is completed. Training shall be scheduled and provided at sites throughout the state. The department may obtain a qualified vendor to assist in the development of the training and to conduct the training program. The design of the training program shall provide reasonable flexibility to allow counties to use their preferred training modalities to educate their supportive services staff in this subject matter.
(f) The department shall, in conjunction with the counties, develop protocols and procedures for monitoring county quality assurance programs. The monitoring may include onsite reviews of county quality assurance activities. The focus of the established monitoring protocols and procedures shall include determining the extent to which counties are fulfilling their quality assurance responsibilities and county quality assurance staff are correctly applying the uniformity system in reviewing supportive services cases for consistent, appropriate, and accurate service need assessments. The department and the county welfare departments shall also develop the protocols and procedures under which the department will report its monitoring findings to a county, disagreements over the findings are resolved, to the extent possible, and the county, the State Department of Health Services, and the department will follow up on the findings.
(g) The department shall conduct a review of program regulations in effect on the date of enactment of this section and shall revise the regulations as necessary to conform to the statutory changes that have occurred since the regulations were initially promulgated and to conform to federally authorized program changes.
SEC. 46. Section 12305.71 is added to the Welfare and Institutions Code, immediately following Section 12305.7, to read:
12305.71. Counties shall perform the following quality assurance activities:
(a) Establish a dedicated, specialized unit or function to ensure quality assurance and program integrity, including fraud detection and prevention, in the provision of supportive services.
(b) Perform routine, scheduled reviews of supportive services cases, to ensure that caseworkers appropriately apply the supportive services uniformity system and other supportive services rules and policies for assessing recipients' need for services to the end that there are accurate

assessments of needs and hours. Counties may consult with state quality assurance staff for technical assistance and shall cooperate with state monitoring of the county's quality assurance activities and findings.

(c) The department and the county welfare departments shall develop policies, procedures, implementation timelines, and instructions under which county quality assurance programs will perform the following activities:

(1) Receiving, resolving, and responding appropriately to claims data match discrepancies or other state level quality assurance and program integrity information that indicates potential overpayments to providers or recipients or third-party liability for supportive services.

(2) Implementing procedures to identify potential sources of third-party liability for supportive services.

(3) Monitoring the delivery of supportive services in the county to detect and prevent potential fraud by providers, recipients, and others and maximize the recovery of overpayments from providers or recipients.

(4) Informing supportive services providers and recipients, and the public that suspected fraud in the provision or receipt of supportive services can be reported by using the toll-free Medi-Cal fraud telephone hotline and Internet Web site.

(d) Develop a schedule, beginning July 1, 2005, under which county quality assurance staff shall periodically perform targeted quality assurance studies.

(e) In accordance with protocols developed by the department and county welfare departments, conduct joint case review activities with state quality assurance staff, including random postpayment paid claim reviews to ensure that payments to providers were valid and were associated with existing program recipients; identify, refer to, and work with appropriate agencies in investigation, administrative action, or prosecution of instances of fraud in the provision of supportive services.

The protocols shall consider the relative priorities of the activities required pursuant to this section and available resources.

SEC. 47. Section 12305.72 is added to the Welfare and Institutions Code, to read:

12305.72. The department shall convene periodic meetings in which supportive services recipients, providers, advocates, IHSS provider representatives, organizations representing recipients, counties, public authorities, nonprofit consortia, and other interested stakeholders may receive information and have the opportunity to provide input to the department regarding the quality assurance, program integrity, and program consistency efforts required by Sections 12305.7 and 12305.71. The program development activities that shall be covered in these meetings shall include, but are not limited to:

(a) Implementation of variable assessment intervals as provided in Section 12301.1.

(b) Development and implementation of statewide hourly supportive services task guidelines as provided in Section 12301.2.

(c) Development and implementation of a standardized medical certification form for protective supervision, as provided for in Section 12301.21.

(d) The development and implementation of statewide training for county staff, as specified in subdivision (e) of Section 12305.7, on various subjects relating to the provision of supportive services including, but not limited to, the uniformity system, variable assessment intervals, statewide hourly task guidelines, and the standardized medical certification form for protective supervision services.

(e) The development and implementation of approaches to verifying receipt of program services by program recipients.

(f) Alternatives to requiring that a full reassessment be completed in order to authorize a temporary increase in supportive services hours following the discharge of a recipient from a medical facility.

SEC. 48. Section 12305.8 is added to the Welfare and Institutions Code, to read:

12305.8. The following definitions apply for purposes of this article:

(a) ''Fraud'' means the intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. Fraud also includes any act that constitutes fraud under applicable federal or state law.

(b) ''Overpayment'' means the amount paid by the department or the State Department of Health Services to a provider or recipient, which is in excess of the amount for services authorized or furnished pursuant to this article.

(c) Notwithstanding any other provision of law, ''health care benefits'' includes supportive services, for purposes of subdivision (a) of Section 550 of the Penal Code.

SEC. 49. Section 12305.81 is added to the Welfare and Institutions Code, immediately following Section 12305.8, to read:

12305.81. (a) Notwithstanding any other provision of law, a person shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act or a violation of subdivision (a) of Section 273a of the Penal Code, or Section 368 of the Penal Code, or similar violations in another jurisdiction. The department and the State Department of Health Services shall develop a provider enrollment form that each person seeking to provide supportive services shall complete, sign under penalty of perjury, and submit to the county. The form shall contain statements to the following effect:

(1) A person who, in the last 10 years, has been convicted for, or incarcerated following conviction for, fraud against a government health care or supportive services program is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

(2) An individual who, in the last 10 years, has been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the Penal Code or Section 368 of the Penal Code, or similar violations in another jurisdiction, is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

(3) A statement declaring that the person has not, in the last 10 years, been convicted or incarcerated following conviction for a crime involving fraud against a government health care or supportive services program.

(4) A statement declaring that he or she has not, in the last 10 years, been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the Penal Code or Section 368 of the Penal Code, or similar violations in another jurisdiction.

(5) The person agrees to reimburse the state for any overpayment paid to the person as determined in accordance with Section 12305.83, and that the amount of any overpayment, individually or in the aggregate, may be deducted from any future warrant to that person for services provided to any recipient of supportive services, as authorized in Section 12305.83.

(b) The department shall include the text of subdivision (a) of Section 273a of the Penal Code and Section 368 of the Penal Code on the provider enrollment form.

(c) A public authority or nonprofit consortium that is notified by the department or the State Department of Health Services that a supportive services provider is ineligible to receive payments under this chapter or under Medi-Cal law shall exclude that provider from its registry.

(d) A public authority or nonprofit consortium that determines that a registry provider is not eligible to provide supportive services based on the requirements of subdivision (a) shall report that finding to the department.

SEC. 50. Section 12305.82 is added to the Welfare and Institutions Code, to read:

12305.82. (a) In addition to its existing authority under the Medi-Cal program, the State Department of Health Services shall have the authority to investigate fraud in the provision or receipt of supportive services. Counties shall refer instances of suspected fraud in the provision or receipt of supportive services to the State Department of Health Services, which shall investigate all suspected fraud. The department, the State Department of Health Services, and county quality assurance staff shall work together as appropriate to coordinate activities to detect and prevent fraud by supportive services providers and recipients in accordance with federal and state laws and regulations, including applicable due process requirements, to take appropriate administrative action relating to suspected fraud in the provision or receipt of supportive services, and to refer suspected criminal offenses to appropriate law enforcement agencies for prosecution.

(b) If the State Department of Health Services concludes that there is reliable evidence that a supportive services provider has engaged in fraud in connection with the provision or receipt of supportive services, the State Department of Health Services shall notify the department, the county, and the county's public authority or nonprofit consortium, if any, of that conclusion.

SEC. 51. Section 12305.83 is added to the Welfare and Institutions Code, to read:

12305.83. (a) When it has been determined that a provider of supportive services participating under this chapter has received an overpayment that is a debt due and owing, as defined in subdivision (g) of Section 14043.1, the director or the county may, to the extent permissible under existing labor laws, recover the overpayment by offset against any amount currently due to a provider under the provisions of this chapter, Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) or by means of a repayment agreement executed between the provider and the director or the county, or by filing a civil action.

(b) The department, in consultation with the entities listed in Section 12305.72, shall identify, define, and develop policies, procedures, and applicable due process requirements under which overpayments to supportive services providers will be identified and recovered.

(c) If it is determined that an overpayment to a supportive services provider has occurred the county shall:

(1) Take all appropriate actions to recover the full amount of the overpayment by any combination of the following actions:

(A) Offsetting the overpayment from any future warrants to that provider for services provided to any recipient of services pursuant to subdivision (d).

(B) Entering into a negotiated repayment agreement.

(C) Filing a civil court action.

(2) If the overpayment was determined to have occurred as a result of fraud on the part of the supportive services provider, take all appropriate actions to suspend or exclude the provider as an enrolled provider and to prevent in the future any further payment of state or federal funds to the provider for up to 10 years following the conviction or the term of incarceration following the conviction for fraud.

(d) If the overpayment described in this section was determined to be the result of fraud, the full amount of the overpayment may be offset, in total, from any future warrants, as described in paragraph (1) of subdivision (c). If the overpayment is not determined to be the result of fraud the offset shall be limited to either of the following:

(1) The amounts provided for in a repayment agreement negotiated with the provider.

(2) No more than 5 percent of each warrant, for errors caused by the government and no more than 10 percent of each warrant, for errors resulting for any other reason, until the full or negotiated amount is recovered."

SB 1104 -- IHSS QUALITY ASSURANCE PROJECT
STAKEHOLDER SUBJECT MATTER INTEREST

NAME:_____
_____
ORGANIZATION:_____
_____
ADDRESS:_____
_____
_____
_____
TELEPHONE:_____
E-MAIL_____

I am interested in:	**"X"**
Variable Assessment Intervals	
IHSS Need Assessment Training	
Hourly Task Guidelines	
Provider Enrollment	
Protective Supervision Medical Certification Form	
IHSS Regulations Review & Revision	
Over-Payment Recovery	
Other (Describe):	

_____

_____

_____

_____

SB 1104 IHSS/PCSP QA PROJECT

MEETING PURPOSE

STAKEHOLDER MEETINGS

- SB 1104 REQUIRES THE STATE TO CONVENE PERIODIC MEETINGS WITH COUNTIES & PROGRAM STAKEHOLDERS TO:
  - PROVIDE INFORMATION TO &
  - RECEIVE INPUT FROM STAKEHOLDERS

ON THE REQUIRED IHSS QA, PROGRAM INTEGRITY & PROGRAM CONSISTENCY EFFORTS BEING DEVELOPED & IMPLEMENTED BY CDSS, CDHS & THE COUNTIES.

STAKEHOLDER MEETINGS *Continued.*

- **IHSS QA PROGRAM SUBJECT MATTER REQUIRED TO BE INCLUDED IN STAKEHOLDER MEETINGS:**
  - VARIABLE ASSESSMENT INTERVALS.
  - HOURLY TASK GUIDELINES.
  - STANDARDIZED PROTECTIVE SUPERVISION MEDICAL CERTIFICATION FORM.
  - STATEWIDE COUNTY TRAINING PROGRAM,
  - VERIFICATION OF CLIENT RECEIPT OF SERVICES.
  - ALTERNATIVES TO A FULL REASSESSMENT FOLLOWING DISCHARGE FROM A MEDICAL FACILITY.

SB 1104
QA PROJECT OBJECTIVES

IMPROVE THE QUALITY OF IHSS NEEDS ASSESSMENTS

- DEVELOP & PROVIDE ONGOING STATEWIDE TRAINING & FORMAL MONITORING AT THE STATE & LOCAL LEVEL.
- STATEWIDE TRAINING PROGRAM FOR COUNTY IHSS STAFF ON:
  - THE IHSS UNIFORMITY SYSTEM,
  - RELATED RULES & POLICY GOVERNING NEEDS ASSESSMENTS, &
  - EMERGING IHSS QA & PROGRAM INTEGRITY POLICIES & PROCEDURES.

IMPROVE THE QUALITY OF IHSS NEEDS ASSESSMENTS *Continued.*

- COUNTIES REQUIRED TO PERFORM IHSS PROGRAM INTEGRITY CASE REVIEW ON A ROUTINE BASIS. STATE TO MONITOR COUNTY QA ACTIVITY.

- VARIABLE REASSESSMENT INTERVALS TO ALLOW COUNTIES TO BETTER FOCUS RESOURCES WHERE COSTS CAN BE AVOIDED, I.E., WAITING LONGER TO REASSESS STABLE CASES ALLOWING RESOURCES TO BE APPLIED TO CASES THAT MIGHT IMPROVE WITHIN 12 MONTHS.

CREATE IHSS PROGRAM PROCESS CONSISTENCY

- STANDARD STATEWIDE COUNTY IHSS STAFF TRAINING;
- DEDICATED, SPECIALIZED COUNTY QA & PROGRAM INTEGRITY UNIT OR FUNCTION.
- HOURLY TASK GUIDELINES;
- PROGRAM PROVIDER PARTICIPATION STANDARDS & ENROLLMENT PROCESS;

CREATE IHSS PROGRAM PROCESS CONSISTENCY

Continued.

- STATEWIDE PROTECTIVE SUPERVISION MEDICAL CERTIFICATION FORM;
- CONSISTENT STATE/COUNTY QA & PROGRAM INTEGRITY PROTOCOLS & PROCEDURES;
- UPDATED PROGRAM REGULATIONS.

DETECT & PREVENT IHSS PROGRAM FRAUD

- CDSS & COUNTIES REQUIRED TO PUBLICIZE AVENUES FOR REPORTING SUSPECTED FRAUD & ABUSE TO THE STATE.
- EACH COUNTY REQUIRED TO HAVE A DEDICATED IHSS QA FUNCTION & CARRY OUT SPECIFIED FRAUD DETECTION & PREVENTION ACTIVITIES.

ASSURE IHSS PROGRAM INTEGRITY

- IHSS PROVIDER PARTICIPATION STANDARDS & REQUIREMENTS. ALL PROGRAM PROVIDERS REQUIRED TO ENROLL IN THE PROGRAM.
- STANDARD PROCEDURES TO IDENTIFY & RECOVER INAPPROPRIATE IHSS PROGRAM PAYMENTS WITH APPROPRIATE DUE PROCESS & CONSISTENT WITH APPLICABLE LABOR LAWS.

ASSURE IHSS PROGRAM INTEGRITY

Continued.

- STANDARD PROCESSES TO IDENTIFY & RECOVER IHSS PROGRAM PAYMENTS FROM LIABLE THIRD PARTIES.
- ROUTINE ERROR STUDIES & IHSS/MEDI-CAL PAID SERVICES DATA MATCHES TO IDENTIFY POTENTIALLY INAPPROPRIATE OR DUPLICATE PAYMENTS.
- 'OVERPAYMENT' LEGALLY DEFINED FOR PURPOSES OF IHSS. LEGAL AUTHORITY & STATE/COUNTY OBLIGATION TO RECOVER ESTABLISHED.

WORKGROUP/COMMITTEE REQUIREMENTS

IMPLEMENTATION MEETINGS

- IHSS/MEDI-CAL CLAIMS DATA MATCHES
- ANNUAL ERROR RATE STUDY
- VARIABLE ASSESSMENT INTERVALS

IMPLEMENTATION WORKGROUPS

- STATEWIDE ASSESSMENT TRAINING PROGRAM.
- HOURLY TASK GUIDELINES.
- PROVIDER PARTICIPATION, INCLUDING ENROLLMENT FORM DEVELOPMENT, EXCLUSION RULES & PROCEDURES, REPORTING PROCESSES, NOTICE & DUE PROCESS.
- STANDARD PROTECTIVE SUPERVISION MEDICAL CERTIFICATION FORM.
- *IHSS REGULATIONS REVISION.*

ONGOING STATE/COUNTY OPERATIONS COMMITTEE

- ***FOR STATE/COUNTY METHODS, PROTOCOLS, PROCEDURES & INSTRUCTIONS***:
  - POLICIES & PROCEDURES GOVERNING STATE MONITORING OF COUNTY QA PROGRAMS.
  - IHSS/MEDI-CAL DATA MATCH DEVELOPMENT; COUNTY ACTIONS ON DATA MATCH DISCREPANCIES.
  - COUNTY IDENTIFICATION OF THIRD PARTY LIABILITY FOR IHSS.
  - LOCAL PROGRAM MONITORING BY COUNTIES TO DETECT & PREVENT FRAUD & MAXIMIZE RECOVERY OF OVERPAYMENTS.

ONGOING STATE/COUNTY OPERATIONS COMMITTEE

Continued

- STATE/COUNTY INFORMING OF RECIPIENTS, PROVIDERS & THE GENERAL PUBLIC OF THE MEDI-CAL TOLL-FREE LINE & WEBSITE FOR REPORTING SUSPECTED FRAUD.
- JOINT STATE/COUNTY CASE REVIEWS, INCLUDING RANDOM POST-PAYMENT CLAIMS REVIEWS.
- IDENTIFYING, REFERRING TO CDHS, & WORKING COLLABORATIVELY TO INVESTIGATE & TAKE ADMINISTRATIVE ACTIONS ON OR PROSECUTE FRAUD.
- OVERPAYMENT IDENTIFICATION, NOTICE, DUE PROCESS & RECOVERY.

STAKEHOLDER MEETING SUBCOMMITTEE

- METHODS FOR VERIFYING RECIPIENT RECEIPT OF SERVICES.
- ALTERNATIVES TO A FULL REASSESSMENT TO AUTHORIZE A TEMPORARY SERVICE INCREASE FOLLOWING DISCHARGE.
- WEBSITE POSTINGS OF IHSS INFORMATION.

PRIORITIES

- STATEWIDE SOCIAL WORKER ASSESSMENT TRAINING PROGRAM.
- IHSS REGULATIONS REVIEW & REVISION
- HOURLY TASK GUIDELINES.
- PROVIDER PARTICIPATION STANDARDS & ENROLLMENT PROCESS.
- COUNTY QA EVALUATION & INTEGRITY CASE REVIEW PROCESS.
- ANTIFRAUD/OVERPAYMENT ACTIONS.