

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 10, 1997

ALL-COUNTY INFORMATION NOTICE I-36-97

TO: ALL-COUNTY WELFARE DIRECTORS

Reason For This Transmittal

- State Law Change
- Federal Law or Regulation Change
- Court Order or Settlement Agreement
- Clarification Requested by one or More Counties
- Initiated by CDSS

SUBJECT: SENATE BILL 1780, CHAPTER 206, STATUTES OF 1996, AND TASK FREQUENCY MODE OF SERVICE DELIVERY CONTRACT OPTION UNDER THE IN-HOME SUPPORTIVE SERVICES PROGRAM AND THE PERSONAL CARE SERVICES PROGRAM

The following is information regarding the implementation of Senate Bill (SB) 1780, Chapter 206, Statute of 1996, which added Welfare and Institutions Code (W&IC) Section 12302.7. The statute offers every county the option to enter into nonexclusive contracts for the delivery of services provided by the In-Home Supportive Services (IHSS) Program as specified in W&IC Section 12300 and the Personal Care Services Program (PCSP) as specified in W&IC Section 14132.95. Additionally, SB 1780 offers every county a new and optional contract mode of service delivery called Task Frequency (TF). This new mode of service delivery would allow any county to enter into multiple contracts with multiple contractors to create a more efficient method of delivering IHSS and PCSP on either an hourly basis or a task and frequency basis. This method differs substantially from the California Department of Social Services' (CDSS) current mode of service delivery. Federal approval and the guarantee of Federal Financial Participation (FFP) are required before implementation.

The Health Care Financing Administration (HCFA) requires that a waiver be prepared and approved by them prior to implementation of TF. Currently the CDSS and the Department of Health Services (DHS) staff are preparing a 1915(b) waiver request for FFP and Federal approval of the TF mode of service delivery.

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Enclosed is a photocopy of the TF regulations, a draft of the TF Standard Invitation For Bid (IFB) that includes the Performance and Quality Assurance Standards, and a draft of the TF Standard IHSS Contract. While the regulations for TF have been filed, they will not be effective for implementation until the approved waiver is received from HCFA, and the Director of DHS executes a declaration to that effect.

If you should have any questions regarding this All-County Information Notice please contact Sherland Jordan, Chief, Adult Services Management Branch at (916) 229-4586; Wayman Hindsman at (916) 229-4593 or Carole Cave at (916) 229-4598 for any questions or comments regarding the regulations or policy issues; and Vanessa Southward at (916) 229-4004 for any questions or comments regarding the draft IHSS Standard IFB/Contract or the Performance and Quality Assurance Standards.

Sincerely,



DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Program Division  
California Department of Social Services

Enclosures

- c: Doug Porter, DHS, Deputy Director, Medical Care Services  
Joe Kelly, DHS, Deputy Director, Medi-Cal Managed Care Division  
Darryl Nixon, DHS, Branch Chief, Medi-Cal Benefits Branch  
Kathryn Lowell, Health and Welfare Agency  
Burt Cohen, Health and Welfare Agency

Adopt Chapter 30-900 and Section 30-901 to read:

CHAPTER 30-900 TASK FREQUENCY MODE OF SERVICE

30-901 INTRODUCTION

30-901

The regulations contained in this chapter shall neither be effective nor implemented until the date upon which the Director of the California Department of Health Services executes a declaration that states that any necessary federal approvals have been obtained and that federal financial participation under Title XIX of the federal Social Security Act has been approved as required by Welfare and Institutions Code Section 12302.7.

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- .1 The regulations contained in this chapter implement Senate Bill 1780 (Chapter 206, Statutes of 1996) which added Section 12302.7 to the California Welfare and Institutions Code. These regulations provide policies, instructions, and the requirements of county welfare departments when entering into a nonexclusive contract, pursuant to Welfare and Institutions Code Section 12302.7, to provide or arrange for In-Home Supportive Services (IHSS) as specified in Welfare and Institutions Code Section 12300 et seq. and Personal Care Services Program (PCSP) as specified in Welfare and Institutions Code Section 14132.95 under the Task Frequency mode of service delivery. The Task Frequency mode of service delivery may provide services on an hourly basis or a task frequency basis.
- .2 All contracts pursuant to Welfare and Institutions Code Section 12302.7 must comply with the applicable provisions of the California Department of Social Services' (CDSS) Manual of Policies and Procedures (MPP) Division 10, Sections 10-150 through 10-153; Division 23, Section 23-600; and Division 30, Section 30-700; Title 22 of the California Code of Regulations, Division 3; and all applicable state and federal regulations.
- .3 Payment for services provided in accordance with the provisions of the contract are contingent upon the availability of county, state, and federal funds for the purposes of providing IHSS and PCSP services.

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Authority Cited: Sections 10102, 10553, 10554, 12300 et seq., 13002, 13003, and 14132.95, Welfare and Institutions Code.

Reference: Sections 10554, 12302, and 12302.7, Welfare and Institutions Code.

Adopt Section 30-902 to read:

30-902     SPECIAL DEFINITIONS

30-902

- (a)    (1)    Amount, Scope and Duration - Under a Task Frequency mode of service delivery, the amount and duration of services must be consistent with either the hours or the task(s) and the frequency of those tasks authorized by the county; the scope of services are equal statewide and result in a reasonable and sufficient level of services.
  
- (b)    (Reserved)
  
- (c)    (1)    Caregiver - A person working under the contractor, which is an organization, entity or entities, to provide direct services to the recipient as authorized by the county.
  - (A)    An individual person who contracts directly with the county shall also be considered a caregiver.
  
- (2)    Case Management Services - Case management services include, but are not limited to:
  - (A)    Developing a plan of care based on the needs assessment established by the county; and
  - (B)    Monitoring each case served pursuant to Welfare and Institutions Code Section 12302.7 to assure quality of care.
    - 1.    Adhere to the standards developed by CDSS to assure performance and quality of services rendered.
    - 2.    Any other quality of care assurances the county deems necessary.
  
- (3)    Compliance Audit - An audit that covers all fiscal and programmatic terms and conditions of a contract.
  
- (4)    Contractor - Any person or entity awarded a contract pursuant to Welfare and Institutions Code Section 12302.7 to provide or arrange for IHSS as specified in Welfare and Institutions Code Section 12300 et seq. or PCSP as specified in Welfare and Institutions Code Section 14132.95.
  - (A)    A county shall not contract with a single contractor to provide services in a county unless only one bidder is responsive and responsible.
  - (B)    Task Frequency mode of service delivery shall not be the single mode of service available in the county.

1. At least one other mode of service delivery maintained in the county should be the Individual Provider (IP) mode.

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(d) Reserved

(e) (1) Evaluation - An evaluation means the use of reviews to:

(A) Determine the efficiency and effectiveness of social services delivery systems management, optimal utilization of resources and elimination of deficiencies in management information systems, administrative procedures structure or organizational structure; and

(B) Determine whether desired results or benefits are being achieved, whether the objectives established by the regulations are being met, and whether the county has evaluated alternatives which might yield desired results at lower costs.

(f) (1) Financial Audit - An audit to determine compliance with all financial provisions in the contract which includes, but is not limited to, all the financial records, accounts and documents, the caregiver benefits, insurance, wages, wage increases, the budget line items and the budget narrative pertaining to each contract.

(g) (Reserved)

(h) (Reserved)

(i) (1) In-Home Supportive Services (IHSS) Program - The IHSS Program includes two components, PCSP Services and IHSS Residual Services.

(A) The PCSP component provides personal care services to eligible Medi-Cal beneficiaries pursuant to Welfare and Institutions Code Section 14132.95, Title 22 of the California Code of Regulations, Division 3 and is subject to all other provisions of Medi-Cal statutes and regulations. The program is operated pursuant to CDSS' MPP Division 30.

(B) The IHSS Residual that provides assistance as an alternative to out-of-home care, operates pursuant to the Welfare and Institutions Code Sections 12300 et seq. and CDSS' MPP Division 30.

(2) Invitation for Bid (IFB) - A county's description, in document form, of specific services to be purchased in addition to other contract requirements. Contract awards shall be made to one or more responsive and responsible bidders.

(j) (Reserved)

- (k) (Reserved)
- (l) (Reserved)
- (m) (1) Monitoring - The activity necessary to assure compliance with applicable statutes, regulations and contractual requirements.
- (n) (1) Nonexclusive Contracting - Awarding a contract to one or more responsive and responsible bidders pursuant to Welfare and Institutions Code Section 12302.7.
- (o) (Reserved)
- (p) (Reserved)
- (q) (Reserved)
- (r) (1) Recipient - A person determined eligible by the county for IHSS or PCSP as described in MPP Section 30-755 or Section 30-780, respectively.
  - (A) Current Recipient - A person who became eligible for IHSS or PCSP prior to the start date of a contract pursuant to Welfare and Institutions Code Section 12302.7.
  - (B) New Recipient - A person who becomes eligible for IHSS or PCSP on or after the start date of a contract pursuant to Welfare and Institutions Code Section 12302.7.
- (s) (1) Service Hour - A service hour is the actual time spent for providing the services authorized. The service hour does not include training time, travel time, break time or time spent by a caregiver when a recipient is not at home or refuses authorized services.
  - (2) Service Hourly Basis - A unit of time for which all services are authorized.
- (t) (1) Task Frequency Basis - A service delivery method under which all services are provided at intervals of several times a day, daily, weekly or monthly that are consistent with the needs authorized by the county.
  - (A) The Task Frequency basis shall not require that each service be provided in the same duration provided in other modes of service delivery.
  - (2) Task Frequency Conversion Chart - A state-developed chart which converts task frequency to service hours for reimbursement.

(3) Task Frequency Mode of Service Delivery - A mode of service delivery for which a contractor is required to provide all the services authorized by a county regardless of cost.

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Sections 10553, 10554, and 12301.1, Welfare and Institutions Code.

Reference: Section 12302.7, Welfare and Institutions Code.

Adopt Section 30-904 to read:

30-904 PURCHASE OF SERVICE

30-904

- .1 When a county chooses to enter into a contract to purchase services, pursuant to Welfare and Institutions Code Section 12302.7, such contract and its procurement shall comply with MPP Chapter 23-600, except as provided in Chapter 30-900.
  
- .2 Reimbursement of Services
  - .21 The maximum allowable cost of all Task Frequency contracts shall not exceed the average cost per case for each county.
  
  - .22 For Task Frequency contracts, the reimbursement of services shall be used in conjunction with the conversion of task frequency to an hour equivalency as specified in the state-developed Task Frequency Conversion Chart.

Authority Cited: Sections 10553, 10554, 12301.1, 12302, 14132.95, and 22009(b), Welfare and Institutions Code.

Reference: Sections 12300(c), 12302, 12302.7, and 12303, Welfare and Institutions Code.

Adopt Section 30-906 to read:

30-906     GENERAL INSTRUCTIONS

30-906

.1     Payment Methods

.11     A contract may include provisions for alternative methods of payment for services, including, but not limited to, a prospectively set reimbursement rate, a negotiated reimbursement rate, or other basis permissible under state and federal laws and regulations.

.12     Reimbursement shall be for actual services delivered.

.2     Reimbursement Limitations

.21     The reimbursement under a contract pursuant to Welfare and Institutions Code Section 12302.7, shall not exceed the county's average cost for severely impaired (SI) and non-severely impaired (NSI) cases at the time the contract is entered into for cases covered by the contract.

.22     The county's reimbursement for SI and NSI cases shall be determined based on an average cost method.

.23     For PCSP recipients, the maximum allowable reimbursement per case shall not exceed, after conversion, the statutory maximum pursuant to Welfare and Institutions Code Section 14132.95. For IHSS Residual recipients, the maximum allowable reimbursement shall not exceed, after conversion, the statutory maximum pursuant to Welfare and Institutions Code Section 12303.4. For combined PCSP/IHSS recipients the maximum is expressed at Welfare and Institutions Code Section 12300(g)(3).

.231     The maximum allowable reimbursement per case shall only be adjusted to reflect subsequent state or federal wage requirements or a change in the statutory maximum.

.24     A contract may be adjusted to reflect subsequent increases in state or federal minimum wage requirements and any adjustment for wages provided in the Budget Acts enacted after January 1, 1997, and as described in MPP Section 30-910.2.

.3     Delivery of Services

.31     The services authorized by the county shall be delivered on a task frequency basis or a service hourly basis.

.32     A county which enters into a contract pursuant to Welfare and Institutions Code Section 12302.7 shall maintain the Individual Provider mode of service delivery.

.4      Contract Provisions

In addition to the contract provisions required by MPP Division 23, the following shall also apply:

- .41      Each contract shall include provisions which allow IHSS and PCSP recipients the option to receive services through the Task Frequency mode of service delivery and shall ensure the most cost-effective and appropriate scope, frequency, and quality of services.
- .42      Each contract shall include the written assurance of the contractor that the scope, frequency, and quality of services provided shall not be reduced below the level authorized by the county.
- .43      Each contract shall include provisions which permit the termination of the contract, if CDSS finds the amount, scope, duration, or quality of care in the county has been reduced below the level authorized by the county.
- .44      Each contract shall meet all applicable federal and state procurement requirements.
- .45      Each contract shall require the contractor, which is an organization, entity or entities, to provide a plan for coordinating recruitment with the Greater Avenues for Independence (GAIN) program in order to maximize the employment opportunities of GAIN recipients.

Authority Cited:      Sections 10553 and 10554, Welfare and Institutions Code.

Reference:      Sections 12302.7 and 14132.95, Welfare and Institutions Code.

Adopt Section 30-908 to read:

30-908     ENROLLMENT ELIGIBILITY

30-908

.1     Recipient Options

.11     Each contract entered into pursuant to Welfare and Institutions Code Section 12302.7, shall apply to all new recipients automatically, unless the recipient requests a different service delivery mode available in the county.

.12     The county shall fully describe, to all recipients, each service delivery mode available in the county, including the recipient's rights and responsibilities under each service delivery mode.

.121     Any recipient may choose to receive his/her authorized services under any mode of service delivery available in a county once the county has entered into a contract pursuant to Welfare and Institutions Code Section 12302.7.

.13     Any recipient who consents to be served under the Task Frequency mode of service delivery shall be fully informed of the contractor's obligation to deliver all the services authorized by the county. This shall include, but is not limited to, the amount of time (hourly) for each service he/she is authorized by the county or the frequency, whichever is applicable, for each task he/she is authorized by the county under the Task Frequency mode of service.

.14     Any recipient authorized IHSS or PCSP in a county that contracts under Welfare and Institutions Code Section 12302.7, shall have the right to disenroll from any mode of service delivery authorized by the county, upon a 72 hour notice to the county.

.141     The 72 hour notification shall be in written or verbal form.

.15     Any recipient served under the Task Frequency mode of service delivery shall be fully informed of his/her right to request a State hearing, pursuant to Welfare and Institutions Code Section 10950, if he/she is dissatisfied with any county action concerning his/her authorized service.

.16     Any recipient served under the Task Frequency mode of service delivery contract may choose the caregiver provided by the contractor or a caregiver of his/her choice, upon 72 hours.

.161     Any recipient may change contractors, upon a 72 hour notification to the county, if there is more than one contractor within the county.

(a)     The 72 hour notification to the county shall be in written or verbal form.

- .17 To the greatest extent possible, a recipient shall be permitted to set his/her own service schedule pursuant to Welfare and Institutions Code Section 12302.7(h)(1).
- .18 Any current recipient shall have the same rights as listed in MPP Section 30-908.1 after a county awards a Task Frequency contract.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 12302.7 and 14132.95, Welfare and Institutions Code.

Adopt Section 30-910 to read:

30-910 CONTRACT REVIEW AND APPROVAL

30-910

.1 Contract Review

.11 Prior to the execution of a contract, the contract and all procurement documents shall be subject to review and approval pursuant to Welfare and Institutions Code Sections 12302.7 and 916.3.

.2 Frequent and periodic quality control audits and utilization reviews shall be performed pursuant to Welfare and Institutions Code Section 12302.7.

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.21 Quality control audits and utilization reviews shall be performed by an entity or entities which are independent of the county and the contractor.

.22 Reports generated from the quality control audits and utilization reviews shall be made available to the public. The cost of these quality control audits and utilization reviews shall be considered part of the county administrative costs under the contract.

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Authority Cited: Sections 10553, 10554, 12302, and 12302.1, Welfare and Institutions Code.

Reference: Sections 12302.1, 12302,7 and 14132.95, Welfare and Institutions Code.

Adopt Section 30-912 to read:

30-912 COUNTY RESPONSIBILITIES

30-912

.1 County Advisory Committee

.11 A county contracting for the delivery of services pursuant to Welfare and Institutions Code Section 12302.7 shall appoint an advisory committee of not more than 11 individuals.

.111 No fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of IHSS or PCSP.

.112 Prior to making designations of committee members, the county board of supervisors shall solicit recommendations of qualified members through a fair and open process that include the provisions of reasonable written notice and a reasonable time to respond, satisfying the requirements of the Ralph M. Brown Act, Government Code Section 54950 et seq.

.2 County Assessment

.21 The county shall perform the following tasks for every case under the Task Frequency mode of service delivery:

.211 Needs assessment and reassessments;

(a) The county shall have authority to determine the need for IHSS and PCSP services, the level and quality of services required, and the eligibility of individuals to be served.

(b) The county's assessment and authorization of IHSS and PCSP services shall be conducted by county staff at least every twelve months.

.212 Quality of care assurance reviews using the performance and quality assurance standards established by CDSS and included in all contracts;

.213 Assign recipients and eligible applicants to a contractor;

- .214 Fully inform each recipient of the Task Frequency mode of service delivery and issue a Notice of Action delineating the hours authorized or, the task(s) and frequency authorized.
- (a) Fully inform (i.e., describe in detail) all recipients, each service delivery mode available in the county, including the recipient's rights and responsibilities under each service delivery mode;
- .215 Fully inform each recipient of the contractor's obligation to deliver all of the services authorized by the county, which shall include the amount of time (hourly) for each service he/she is authorized or the frequency for each task he/she is authorized;
- .216 Fully inform each recipient in the county of his/her right to disenroll from any mode of service delivery, change providers, and volunteer to receive services under the Task Frequency mode of service delivery;
- (a) Fully inform each recipient that when he/she believes his/her health and/or safety may be jeopardized, he/she shall have the right to immediately disenroll by verbal or written notification to the county from the Task Frequency mode of service delivery, any other mode of service delivery, or change contractors within 24 hours or the next working day.
- (b) The county shall develop a method for each recipient to exercise his/her right to disenroll from any mode of service delivery available by the county. The disenrollment process shall include, but is not limited to, the county fully describing all of the service delivery modes available in the county and the recipient's rights and responsibilities under each service delivery mode.
- (c) The county shall ensure that a recipient who consents to be served under the Task Frequency mode of service delivery shall be fully informed of the contractor's obligation to deliver all the services authorized by the county. This shall include, but is not limited to, the amount of time (hourly) for each service he/she is authorized by the county or the frequency for each task he/she is authorized by the county.
- .217 Provide case management services which shall include, but is not limited to, the county's development of a plan of care based on each recipient's needs assessment and quality of care assurance performed by the county; and
- .218 The county shall have the authority to terminate the services authorized to a recipient.

.3      Program Cost and Reimbursement

.31      The county shall use county-only funds to fund both the county share and the state share of any increase to the cost of the program for any necessary increases in the level of service as determined by CDSS and as specified in Welfare and Institutions Code Section 12302.7(n) and MPP Section 30-912.531(a).

.311      A contract under this paragraph that does not increase the average cost per case in a county, at the time of the program change, shall not be deemed an increase to the cost of the program.

.32      The county shall use county-only funds to fund both the county share and the state share of any increased costs attributable to entering contracts pursuant to Welfare and Institutions Code Section 12302.7, including the increased costs that are associated with the augmentation of the Case Management, Information and Payrolling System (CMIPS).

.33      The county shall use the Task Frequency Conversion Chart to convert the contractor's claim for reimbursement for services provided on a task frequency basis to an hourly equivalency;

.34      The county shall have the option to authorize a contractor to collect all recipients' shares of cost.

.341      When the county authorizes a contractor to collect all recipients' shares of cost, the county must ensure that the contractor only charges the recipient for his/her share of cost liability.

.342      When a recipient owes any share of cost to a contractor, the county shall ensure that the contractor deducts all recipients' shares of cost amounts from the billings submitted to the county for reimbursement.

.343      When a contractor is authorized to collect all recipients' shares of cost, the county shall ensure that the contractor refunds any over-collected amount when recipients do not receive all of the authorized hours or tasks and frequency of the tasks covered by the share of cost.

.344      The county shall require the contractor to report all delinquent recipients' shares of cost accounts on a monthly basis.

.4      Contract Information

.41      When submitting an IFB or RFP, the county shall identify, in their initial request documents, the Welfare and Institutions Code section under which the contract will be awarded (e.g., Welfare and Institutions Code Section 12302.1 or Welfare and Institutions Code Section 12302.7).

.411 For contracts pursuant to Welfare and Institutions Code Section 12302.7, all IFBs or RFPs shall specify the number of contracts the county shall award.

.42 The county shall promptly obtain clarifying information of a prospective contractor after the bid opening process is complete. (Refer to MPP Sections 23-601 et seq.).

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.43 An additional source for obtaining clarifying information regarding the responsibility of prospective contractors may include suppliers, subcontractors, professional organizations, customers of prospective contractors, CDSS, CDHS, or the federal list of sanctioned Medi-Cal providers.

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.44 The county shall assist the contractor in obtaining complete and current information with respect to pertinent statutes, regulations, policies, procedures and guidelines which apply to the delivery of IHSS and PCSP services.

.5 Service Performance Level

.51 If CDSS finds the amount, scope, duration, or quality of care in a county has been reduced below the individual provider mode of service delivery level authorized by the county, then CDSS shall inform the county and require that the county take one of the following actions:

.511 Terminate the contract; or

.512 Continue the contract and address the Department's concerns by:

(a) Increasing the level of service required; and/or

(1) Any increase in the cost of the program to fund necessary increases in the level of service shall be funded by county-only funds to fund both the county share and the state share; and/or

(b) Increasing monitoring and evaluating procedures;

.513 Sanctioning the contractor:

(a) Require the contractor to pay liquidated damages; and/or

(b) Place restrictions on new referrals to the contractor.

.6 Service Delivery

- .61 The county shall ensure the quality of services as provided for in all contracts, and in addition to provisions required by Division 23, shall include the following provisions:
- .611 The contractor shall not serve as a case manager.
- .612 Delivery of all authorized services required on weekends, holidays and/or nights. The contractor shall also provide adequate support personnel to ensure the availability of sufficient substitute caregivers during caregiver's vacations, sick leave and holidays so that recipients will receive all of the services authorized and to comply with the requirements of the contract.
- .613 Assure that the scope, frequency, and quality of services provided shall not be reduced below the IP mode of service delivery level authorized by the county.
- (a) The scope, frequency, and quality of services will not be considered to have been reduced where services determined as necessary by the county are being fully performed but in less time than in any mode of service delivery available in the county.
- .614 Commence services in a timely manner. Unless otherwise stated herein, timely shall mean five (5) calendar days from receipt of county authorization documentation for non-emergency services and within 24 hours for emergency services as determined by the county.
- .615 Provide the county with a monthly activity report which includes, but is not limited to, any grievance and the result of any grievance by any recipient, his/her conservator, or caregiver; and any other items the county deems necessary.
- (a) Submit reports or other data in the format as required for the automated Case Management, Information and Payrolling System, which is the management information system used by the CDSS for IHSS and PCSP services.
- .616 Obtain the prior written approval from a county before subcontracting any of the services contracted under the Task Frequency mode of service delivery. All subcontracting shall be subject to all applicable provisions of the Task Frequency contract. The contractor shall be held responsible by the county for the performance of any and all subcontractors.
- .617 The contractor does not have the authority, under any circumstances, to determine the IHSS or PCSP program eligibility for services or to terminate the services authorized by a county.

.7 Recipient Options and Share of Cost

.71 Recipients Options

.711 The county shall permit a recipient to change his/her caregiver within 72 hours after notifying the county verbally or in writing by the recipient or his/her conservator.

.712 The county shall require the contractor to:

- (a) Notify the county within three working days of any changes in the recipient's need for services.
- (b) Notify the county within five (5) working days of each instance of non-receipt of scheduled services with an explanation and the dates affected. However, if a change in the circumstances indicates a possible danger to the safety of the recipient, the contractor shall notify the county of such change within 24 hours or the next working day.
- (c) Fully inform a recipient that when he/she believes his/her health or safety may be jeopardized, he/she shall have the right to immediately disenroll by written or verbal notification to the county from the Task Frequency mode of service delivery or any other mode of service delivery or change contractors within 24 hours or the next working day.
- (d) Develop and provide a procedure for a recipient to have the opportunity to express his/her views or to seek a remedy regarding grievances and complaints of the contractor's delivery of services. The views, grievances and complaints of the recipient shall be included in the required monthly report submitted to the county. This procedure shall not negate the right of a recipient to request a State Hearing.

.72 Recipient Shares of Cost

.721 If the county authorizes a contractor to collect recipient's share of cost, the county shall require that the contractor only charge the recipient for his/her share of cost liability.

.722 If a recipient owes any share of cost to a contractor, the contractor shall deduct the recipient's share of cost amounts from the billings submitted to the county for reimbursement.

.723 If a contractor is authorized to collect a recipient's share of cost, the contractor shall refund any over-collection amount when a recipient does not receive all of his/her authorized hours or task and frequency covered by the share of cost.

.724 The contractor shall report any delinquent recipient share of cost accounts on a monthly basis.

.8 PCSP Requirement

.81 The contractor becomes the enrolled provider for the PCSP when the county has received a signed Personal Care Program Contract Agency Enrollment Form (SOC 431) from the contractor. The county shall require that the contractor shall, at a minimum, certify the following:

.811 All employees of the contractor, with the exception of certain relative caregivers pursuant to CCR Section 51181, are qualified to provide the care authorized;

(a) Relatives are excluded from PCSP funding.

.812 All claims submitted for reimbursement for PCSP services, as provided by the contractor, shall only be for the actual time spent providing the services to the recipient; and

.813 Any false statement, claim, or concealment of information regarding PCSP funds may be prosecuted under federal and/or state laws; and

.814 All services shall be offered and provided without discrimination based on race, religion, color, national or ethnic origin, sex, age, or physical or mental disability.

.9 Evaluate, Monitor and Audit

The county shall require of a contractor all of the following:

.91 A contractor shall give full cooperation in any monitoring or auditing activities conducted by governmental entities or their agents; and the contractor shall comply with all financial and compliance audits as specified in MPP Section 23-640 and as the county deems necessary.

.92 A contractor shall agree that their financial records contain all itemized records of the cost related to the contract and the records shall be available for inspection in the county within three working days after the request of the county, state or federal agencies.

.93 A contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of any investigation.

Authority Cited: Sections 10553, 10554, 12150, 12301.1, 12302, 12302.1, 12302.4(b) and 12305, Welfare and Institutions Code and Sections 54950 et seq., Government Code.

Reference: Sections 12302, 12302.1, 12302.7, 12305, and 14132.95, Welfare and Institutions Code.



Adopt Section 30-914 to read:

30-914     CONTRACT PROVISIONS

30-914

.1     Contract Components

.11     In addition to the contract provisions specified in MPP Chapter 23-600, a county shall use the CDSS standard contract and standardized language pertaining to the Task Frequency Mode of Service delivery. Any deviation from the departmental standard Task Frequency Mode of Service delivery contract shall have prior CDSS and CDHS approval. However, a county shall be permitted to add its own contracting requirements to any state standard contract, as long as the addition does not conflict with the standard contract, standardized language, or other requirements of applicable regulations.

.12     The following general provisions shall be included in all contracts, in addition to those set forth above:

.121     The contract for a provider of IHSS or PCSP under the Task Frequency mode of service delivery shall include a provision that the contractor shall not serve as a case manager.

.122     A provision for appropriate remedies such as fiscal penalties or withholding of payment, in instances when the contractor violates or breaches contract terms and conditions; e.g., the assessment of liquidated damages or the withholding of any portion of the final payment; and,

.123     A provision to monitor and evaluate the contractor's performance to assure compliance with the terms, conditions, and specifications of the contract; and,

.124     A provision to comply with Section 10850 of Welfare and Institutions Code and MPP Division 19, when applicable.

.2     Contract Amendments

.21     When contract amendments appear necessary, the county shall observe the following criteria:

.211     Amendments to a contract for IHSS or PCSP services under the Task Frequency Mode of Service shall be subject to the same approval requirements as the original contract.

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.3 This section contains provisions that are included in a county contract for services when procured through formal advertising. These requirements also apply to subcontracts of any tier under such contracts. All contract provisions must comply with MPP Division 10, Sections 10-150 through 10-153, Division 23, Chapter 23-600, Division 30, Chapters 30-700 and 30-900, and Welfare and Institutions Code Section 12300 et seq. When federal funds are involved, a provision requiring contractors to be in compliance with all federal rules including the applicable sections of the Code of Federal Regulations, the United State Department of Labor Occupational Safety and Health Administration rules and regulations and all applicable OMB circulars.

.4 Payment of all services provided in accordance with the provisions of a contract are contingent upon the availability of county, state and federal funds for the purposes of providing IHSS or PCSP services. Pursuant to MPP Section 10-205, the portion of a payment by a county for a contract in excess of 110% of the allowable cost of service shall not be eligible for matching or reimbursement from state or federal funds.

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.5 Contractor Personnel

The county shall require that:

.51 A contractor which is an organization, entity or entities shall provide a plan for coordinating recruitment with the Greater Avenues for Independence (GAIN) program in order to maximize the employment opportunities of GAIN recipients.

.52 Contractors who maintain a list of prospective caregivers shall require a valid, positive photographic identification from a government source. This identification shall be provided prior to placing the prospective caregiver on a list, or supplying a name from the list to an applicant for or recipient of IHSS or PSCP services as required by Welfare and Institutions Code Section 12306.5.

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.521 A reference check may be required on prospective caregivers. A reference check may include, but is not limited to:

(a) A valid Social Security Number

(b) A valid California driver's license (only if accompanying to medical appointments or alternative resources has been authorized as a service).

(c) Fingerprint and/or background reference check.

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- .53 The contractor shall provide a complete skills development package.
- .531 Skills development is training that has a direct relationship to job competencies required of home care workers that will enable each caregiver to provide safe, efficient and appropriate personal care services.
- .532 A contractor shall train all staff to reporting any suspected elder and dependent adult abuse pursuant to Welfare and Institutions Code Section 15600 et seq. Suspected incidents of abuse should be immediately reported to the county, followed by a written report within two working days.
- .533 A contractor shall provide documentation of any safety program which helps control Worker's Compensation cost, and report all injuries and Worker Compensation claims to the county within ten (10) days of the injury and/or the receipt of a Worker Compensation claim.
- .54 The contractor shall inform all employees, agents, subcontractors and partners of the above provision and that any person knowingly and intentionally violating the provisions of said state law is guilty of a misdemeanor.
- .55 A contractor which is an organization, entity or entities shall maintain a local office(s), remain open for business during normal business hours and have it staffed at all times with appropriate supervisory personnel during business hours.
- .551 A contractor shall provide a "no charge" telephone service (such as an 800 number) including a telephone log of responses, 24 hours a day, seven days a week to recipients and caregivers of an organization, entity or entities in order for them to communicate with the contractor regarding IHSS and/or PCSP services as follows:
- (a) When a caregiver is not present to provide the scheduled authorized services, the contractor shall respond in a timeframe not to exceed two (2) hours after being called by the recipient, his/her conservator, or the caregiver; and any rescheduled services beyond this time frame shall be agreed to by the recipient or his/her conservator.
- .56 A contractor which is an organization, entity or entities shall require applicants for employment to indicate, in writing, whether the applicant has ever been convicted of a crime. A contractor shall use the following specific language on their applications for employment:

"Have you ever been convicted by any court of a crime?"

"NOTE: You may answer "no" if the conviction is specified in Health and Safety Code Section 11361.5, which pertains to various marijuana offenses, or, the conviction was under Health and Safety Code Section 11557 or its successor 11366 when conviction was stipulated or designated to be a lesser included offense of the offense of possession of marijuana."

.561 A contractor who is an organization, entity or entities shall require proof of identification from all prospective caregivers prior to placing the prospective caregivers on a list, or prior to supplying a name from the list to an applicant for, or recipient of IHSS and/or PCSP. In addition, a contractor shall interview all applicants, check and document his/her references prior to employment as a caregiver.

.562 In order to safeguard the health and safety of homebound recipients, all IHSS and/or PCSP caregivers shall:

(a) Affirm that he/she is free from any communicable diseases; and,

(b) Demonstrate that he/she is physically capable of providing home care.

.57 A contractor which is an organization, entity or entities shall offer continued employment under the contract to those IHSS or PCSP caregivers employed by the incumbent or previous contractor in order to maintain continuity of services in carrying out the program.

.6 Contract Termination

.61 A county may terminate a contract pursuant to Welfare and Institutions Code Section 12302.7 immediately as set forth in MPP Chapter 23-600 and the contract.

.62 The county may terminate a contract for any reason, upon a 60 day written notice to the contractor.

Authority Cited: Sections 10553, 10554, 10850, 12302, 12302.7, 12306.5, 14132.95, 14133, and 14133.1, Welfare and Institutions Code.

Reference: Sections 12302, 12302.7, and 14132.95, Welfare and Institutions Code.

Adopt Section 30-916 to read:

30-916      FORMAL ADVERTISING: INVITATIONS FOR BIDS (IFBS)      30-916  
AND REQUESTS FOR PROPOSALS (RFPS)

.1      All procurements shall be made by formal advertising in accordance with MPP Chapter 23-600.

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.2      This section contains the requirements for procurement of services by formal advertising, as defined in MPP Section 23-601.21, and specifies the information which shall be contained in an IFB, as defined in MPP Section 23-601.22, or a RFP as defined in MPP Section 23-601.23 and, in accordance with Welfare and Institutions Code Sections 12300 et seq., Welfare and Institutions Code Section 14132.95, and Welfare and Institutions Code Sections 18000 et seq.

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.3      In applying MPP Chapter 23-600 requirements to procurements under Welfare and Institutions Code Section 12302.7, every applicable provision which calls for CDSS review or approval shall be read to mean both CDSS and CDHS review or approval.

Authority Cited:      Sections 10553, 10554, 12302, 12302.1, 12302.7 and 14132.95, Welfare and Institutions Code.

Reference:      Sections 12302, 12302.1, 12302.7, and 14132.95, Welfare and Institutions Code.

Adopt Section 30-918 to read:

30-918     AWARD OF CONTRACT

30-918

.1     Award Notification

.11     A county may award a contract to one or more responsive and responsible bidders to an IFB or RFP.

.12     When a county has completed the evaluation process and has made a recommendation for awarding a contract, all bidders shall be notified of the county's decision, the date and time of any public hearings regarding the proposed contract. A county shall forward, at the same time, two photocopies of the recommendation to award the contract and all procurement documents to CDSS.

Authority Cited:     Sections 10553, 10554, 12302, 12302.1, 12302.7, and 14132.95, Welfare and Institutions Code.

Reference:     Sections 12302, 12302.1, 12302.7, and 14132.95, Welfare and Institutions Code.

Adopt Section 30-920 to read:

30-920     CONTRACT PERIODS

30-920

.1     Terms

.11     Contracts entered into under the Task Frequency mode of service delivery shall not exceed two (2) years.

.111     At the end of the two-year term, a contract may be renewed for a second term not exceeding one (1) year.

(a)     All contracts must state the effective date and the termination date.

Authority Cited:     Sections 10553, 10554, 12150, 12301.1, 12302, 12302.1, 12302.4(b) and 12305, Welfare and Institutions Code and Sections 54950 et seq., Government Code.

Reference:     Sections 12302, 12302.1, 12302.7, 12305, and 14132.95, Welfare and Institutions Code.

Adopt Section 30-922 to read:

30-922     RENEWAL PROCEDURES

30-922

.1     Renewal Provisions and Approvals

.11     In addition to Division 23 requirements, the rate of reimbursement for an additional period let shall reflect subsequent increases in state or federal minimum wage requirements and any adjustments for wages provided in Budget Acts enacted after January 1, 1997.

Authority Cited:     Sections 10553, 10554, 12302, 12302.1, and 14132.95, Welfare and Institutions Code.

Reference:             Sections 12302, 12302.12302.7, and Welfare and Institutions Code.

Adopt Section 30-924 to read:

30-924 CDSS and CDHS REVIEW

30-924

.1 Review and Approval

- .11 A contract procurement and amendment for services shall be subject to prior CDSS and CDHS review. (See MPP Sections 30-910.1 and 30-916.3.)

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.2 Audit Review

- .21 One year after the effective date of the first contract approved, pursuant to Welfare and Institutions Code Section 12302.7, the Bureau of State Audits shall commission a study to review the performance of all contracts under Welfare and Institutions Code Section 12302.7.

- .211 The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the first contract approved.

- .212 The study shall give special attention to the following:

- (a) The health and welfare of recipients under task frequency based contracts;
- (b) The degree to which all required services have been delivered;
- (c) The out-of-home placement rates in the county;
- (d) The prompt response to recipient complaints;
- (e) The cost implications of task frequency based contracts;
- (f) The potential for ongoing savings; and,
- (g) Other issues deemed relevant by the Director of CDSS.

- .213 The study shall make recommendations to the Legislature and the Governor for any changes to the Welfare and Institutions Code section that would further ensure the well-being of recipients and the most efficient delivery of required services.

.3     Efficiency Reports

- .31     Pursuant to Welfare and Institutions Code Section 12302.7(s), CDSS shall provide annual reports to the appropriate committees of the Legislature beginning July 1, 1997, on the efficacy of the implementation of Welfare and Institutions Code Section 12302.7, including an assessment of the quality of care provided.

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Authority Cited:     Sections 10553, 10554, 12302, 12302.1, Welfare and Institutions Code.

Reference:     Sections 12302, 12302.1, 12302.7, and 14132.95, Welfare and Institutions Code; OMB Circular A-128, dated April 12, 1985, and OMB Circular A-133, dated April 30, 1996.

Adopt Section 30-926 to read:

30-926     EVALUATION OF CONTRACTS

30-926

.1     Monitor, Evaluate and Audit Criteria

.11     A county shall ensure the monitoring and evaluation of a contract in accordance with the criteria set forth in MPP Division 10, Sections 10-150 through 10-153.

.12     Final performance reports and audits shall be completed within 120 calendar days of the completion of a contract. In the case of a multi-year contract, audits shall be performed at least every two years.

.13     A contract shall be audited to the following standards:

(A)     Any adjustment that is made to the authorized hours or authorized task and frequency provided by the contractor; i.e., compare authorized hours to hours actually served or task and frequency to tasks and the frequency of those tasks actually served.

1.     The contractor has served all authorized hours or task(s) and the frequency of those tasks seven days a week including nights, weekends and holidays.

(B)     The contractor is providing a "no charge" telephone service (such as an 800 number) including a telephone log of responses, 24 hours a day, seven days a week to recipients and caregivers, if the contractor is an organization, entity or entities, in order for them to communicate with the contractor regarding the IHSS or PCSP services as follows:

1.     When a caregiver is not present to provide the scheduled authorized services, the contractor shall respond in a timeframe not to exceed two (2) hours after being called by the recipient, his/her conservator, or caregiver; and any rescheduled services beyond this timeframe, shall be agreed to by the recipient or his/her conservator.

(C)     All county required contractor reports are sent in a timely manner.

1.     Require all caregiver information and reports be maintained by the contractor according to the contract specifications.

2.     The contractor, which is an organization, entity or entities, to comply with the minimum and maximum wage and benefit requirements as specified in the contract.

(D) The recipient has received written notification of his/her grievance/appeal rights regarding the contractor's delivery of services as specified in the contract.

(E) The contractor, which is an organization, entity or entities, is maintaining a personnel file for each caregiver which includes, but is not limited to: the caregiver's name, address, telephone number, health insurance, and any other pertinent employee information, as well as documentation of the caregiver's training, skills development for recipient care, training on wages, benefits, and the completion/submission of timesheets.

1. Requiring the contractor, which is an organization, entity or entities, to retain documentation of payments made to each caregiver; i.e., the recipient and caregiver has signed and dated the timesheets and the recipient has certified the service hours or task(s) and frequency of those tasks were provided as authorized.

(F) The contractor, which is an organization, entity or entities, is in compliance with the supervisor ratio and supervisor/recipient visits as specified by the contract.

(G) The contractor has submitted a current copy of the insurance policy to show actual cost for insurance premiums, and a copy of the insurance premium to show actual cost for workers compensation including the ex-mod rate.

(H) The contractor is in compliance with the Welfare and Institutions Code, the CDSS MPP, and the provisions of Title XIX and Title XX of the Social Security Act, as applicable to the IHSS and PCSP Programs.

.14 Monitoring, evaluation, and audit reports shall be made available to CDSS and CDHS upon request.

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.15 The standards for auditing shall be in accordance with OMB Circular A-87 et seq., dated May 17, 1997; OMB Circular A-128 et seq., dated April 12, 1985; Public Law 98-502 "Single Audit Act"; and OMB Circular A-133 et seq., dated April 30, 1996, as applicable.

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.2 Quality Control and Utilization Reviews

.21 A county shall ensure the completion of a quality control and utilization review, a compliance audit and a financial audit for each contract, in accordance with the appropriate state and federal audit standards. Audits shall be performed by an independent entity of the county and the contractor. The cost of each audit shall be consider as part of the county administrative cost under the contract.

Authority Cited: Sections 10553, 10554, 12302, and 14132.95, Welfare and Institutions Code.

Reference: Sections 12302, 12302.7, and 14132.95, Welfare and Institutions Code.