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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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ARNOLD SCHWARZENEGGER
GOVERNOR

REASON FOR THIS TRANSMITTAL

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

October 31, 2009

ALL- COUNTY LETTER NO. 09-68

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

SUBJECT: IHSS PROVIDER APPEALS PROCESS

REFERENCE: WELFARE AND INSTITUTIONS CODE (WIC) SECTION
12301.6 (E)(2)(b)(ii) AND ALL COUNTY LETTER (ACL) 09-52

Assembly Bill (AB), Fourth Extraordinary Legislative Session (ABX4) 19 (Chapter 17, Statutes of 2009) added a new requirement for the California Department of Social Services (CDSS) to develop a written appeals process for prospective and current providers who are determined ineligible to receive payment for the provision of In-Home Supportive Services (IHSS). This All-County Letter (ACL) provides information to counties regarding the new provider appeals process available to prospective and current IHSS providers whom the county determines are ineligible to serve as IHSS providers. Effective November 1, 2009, counties will be required to:

- Review the findings in the criminal background check and determine if the prospective or current provider is ineligible to be a provider in the IHSS program due to any exclusionary crimes noted on the prospective or current provider's criminal offender record documents.
- Review the Department of Health Care Services Medicaid/Medi-Cal list of ineligible providers resulting from suspension as a licensed health care provider or surrender of his/her license or certificate to provide health care services. The Medi-Cal Suspended and Ineligible Provider List can be found at: www.Medi-Cal.ca.gov.

If a prospective or current provider disagrees with the county decision which finds him or her ineligible to be paid for providing IHSS services, the provider may appeal to CDSS for review of the county's denial. Any appeal **must be submitted by mail** and received within 60 days from the date of the county's notice that he or she is ineligible to be an IHSS provider.

A prospective or current provider may not appeal the county's decision by telephone. The appeal must be submitted in writing using the attached **APPEAL REQUEST** form (SOC 856) and mailed to:

California Department of Social Services
Adult Programs Branch
IHSS Provider Enrollment Appeals Unit, MS 19-04
P O Box 944243
Sacramento, CA 94244-2430
(916) 556-1156

Upon receipt of a valid (timely and complete) request for appeal, the Provider Enrollment Appeals Unit (PEAU) will notify the prospective or current provider and county that the request for appeal has been received and accepted for review. If an appeal is not received timely or complete, the prospective or current provider will be notified by the PEAU (in writing) of the reason the appeal cannot be accepted. The PEAU will request the county forward all information used to support its finding of ineligibility to the PEAU via secured mail within 30 days of receipt of PEAU's request for documents supporting the denial action.

Currently, counties do not have statutory authority to release the Criminal Offender Record Information (CORI) to the PEAU; however, counties will be able to extract information from the provider's criminal record that supports the county's denial action if the provider has been convicted of an exclusionary crime. This information can then be forwarded to the PEAU on a form that is currently being developed for this purpose.

The PEAU may also request additional information from the prospective or current provider or any other pertinent agency. A finding regarding the appeal will be completed by PEAU within 90 days of the receipt of the individual's request for appeal.

The final decision by PEAU will either uphold or overturn the findings of the county. A final notice will be mailed to the applicant and the county social services department advising them of the state's decision. The applicant has the right to request his or her CORI from the Department of Justice (DOJ) and the right to contest the CORI by contacting the DOJ directly.

If the state's decision overturns the findings of the county, the county will be instructed to approve the applicant as a valid provider and make the required necessary changes to his or her records to reflect that decision.

All County Letter No. 09-68
Page Three

If the county's decision to deny the provider was in error and is overturned by the PEAU, the provider can be paid for services if he or she continued to provide those services during the period in which he or she was deemed ineligible. Should you have any questions regarding this ACL, please contact the PEAU at (916) 556-1156.

Sincerely,

Original Document Signed By:

EVA L. LOPEZ
Deputy Director
Adult Programs Division

c: CWDA