



CDSS

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GOVERNOR

November 29, 2011

ALL- COUNTY LETTER (ACL) NO. 11-81

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY IN-HOME SUPPORTIVE SERVICES PROGRAM
MANAGERS

SUBJECT: IMPLEMENTATION OF TWENTY-PERCENT REDUCTION IN IN-HOME
SUPPORTIVE SERVICES (IHSS) RECIPIENTS' AUTHORIZED HOURS

This ACL provides instructions for counties on implementing a 20-percent service reduction for recipients in the IHSS program, effective January 1, 2012, in accordance with the mandates of Welfare and Institutions Code (W&I) section 12301.07.

BACKGROUND

The W&I section 12301.07, which was added by Senate Bill (SB) 73 (Chapter 34, Statutes of 2011) and amended by SB 93 (Chapter 143, Statutes of 2011), mandates that, in the event that the state budget revenue forecast in December 2011 is less than approximately \$87 billion (as specified in Assembly Bill 121 (Chapter 41, Statutes of 2011)), the California Department of Social Services (CDSS) shall implement a 20-percent reduction in IHSS recipients' total authorized monthly service hours, effective January 1, 2012.

The statute specifies that:

- Recipients may choose how the total reduction in service hours is applied to their individual authorized services;

REASON FOR THIS TRANSMITTAL

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

- The reduction will not be applied to individuals receiving IHSS who also receive services under one of the State Home and Community Based Services Waivers, including the following: Acquired Immune Deficiency Syndrome (AIDS) Waiver, Home and Community Based Services Waiver for the Developmentally Disabled (HCBS-DD), In-Home Operations (IHO), Multipurpose Senior Services Program (MSSP), and Nursing Facility/Acute Hospital (NF/AH);
- The reduction shall first be applied to any documented unmet need, excluding protective supervision, before being applied to authorized hours;
- Any IHSS recipient who receives notice of the reduction in authorized services and who believes that the reduction puts him/her at serious risk of out-of-home placement may submit an application for IHSS Supplemental Care to request full or partial restoration of his/her reduced hours; and
- CDSS shall work with counties to develop a process to allow for counties to preapprove IHSS Supplemental Care requests (see State/County Preapproval of Exemptions from the Reduction section of ACL).

STATE RESPONSIBILITIES

In November 2011, programming changes will be made to the Case Management Information and Payrolling System (CMIPS) to calculate the 20-percent reduction in each recipient's total monthly authorized service hours. In accordance with statute, CDSS will mail out Notices of Action (NOAs) to recipients by December 15, 2011. The NOAs will inform recipients that, as a result of a new state law, their authorized service hours will be reduced by 20-percent, effective January 1, 2012. The NOA will provide the total authorized hours before and after the 20-percent reduction. Because the recipient may determine how he/she wishes to apply the total reduction in hours to his/her individual authorized services, the hours on the NOA for each authorized service will not reflect the reduction; only the total authorized hours will reflect the reduction.

CDSS has developed the attached Notice to Recipient of Reduction in Authorized Hours (TEMP 2257) (Attachment A) to be inserted along with the NOA to provide additional information about the reduction as well as the procedure for completing an IHSS Supplemental Care application for recipients who believe they are at serious risk of out-of-home placement unless all or part of the reduced hours are restored. Attached is information for the recipient explaining his/her Right to Request a State Hearing (Attachment B), which is intended to be printed on the reverse side of the TEMP 2257. (Armenian, Chinese and Spanish translations of the Right to Request a State Hearing are also attached [Attachments C, D and E]).

CDSS also has developed the Application for IHSS Supplemental Care (SOC 877) (Attachment F), which will accompany the NOA and TEMP 2257.

For the initial implementation:

- CDSS will direct the CMIPS vendor to run a search query to identify recipient cases as being exempt from the reduction based on their participation in one of the State Home and Community Based Services Waivers or if they meet identified preapproval criteria as agreed to by the State and counties (see State/County Preapproval of Exemptions from the Reduction section of ACL).
- CDSS will send the attached IHSS Program Notice to Recipient of Exemption from Reduction in Service Hours (TEMP 2256) (Attachment G) to recipients who have been granted preapproval as well as to those individuals who are exempt from the reduction because they also receive services under a waiver.

Screening Tool

In accordance with statutory requirements, CDSS consulted with stakeholders in the development of a screening tool to be used by counties to determine if a recipient is at serious risk of out-of-home placement as a consequence of the reduction in authorized hours. Attached is the IHSS Supplemental Care Worksheet (Attachment H).

This screening tool was initially developed and used by counties during reductions in authorized hours made to the IHSS Program in Fiscal Year 1992-93. It has been adjusted to address individually both physical or cognitive impairments in determining whether an individual would be at serious risk of out-of-home placement. An individual may be considered to be at serious risk of out-of-home placement if he/she, on the basis of his/her most recent assessment/reassessment, meets the criteria as specified in either A or B below.

A. Any three or more of the following conditions are met:

1. Paramedical Services have been authorized to monitor medical condition and/or give injections;
2. His/her functional ranking for Mobility Inside is either 4 or 5;
3. His/her functional ranking for Bathing and Grooming is either 4 or 5;
4. His/her functional ranking for Dressing is either 4 or 5;
5. His/her functional ranking for Bowel, Bladder and Menstrual is 3, 4 or 5, or Paramedical Services have been authorized for catheter or colostomy care;
6. His/her functional ranking for Transfer is either 4 or 5, or Paramedical Services have been authorized for bed sore care;

7. His/her functional ranking for Eating is either 3, 4 or 5; or
8. His/her functional ranking for Respiration is 5.

B. The sum of his/her functional rankings for Memory, Orientation and Judgment is equal to 7 or greater.

State/County Preapproval of Exemptions from the Reduction

The statute requires CDSS to work with counties to establish a process to allow counties to preapprove exemptions from the reduction, targeting those individuals who would be categorically at serious risk of out-of-home placement as a result of the reduction and who would otherwise be granted full restoration of their reduced hours.

Given the time constraints to implement this statutory reduction, CDSS worked with counties to identify criteria that the state would be able to implement as a “county preapproval process.” CDSS will direct the CMIPS vendor to identify and indicate as preapproved all recipients who meet the following criteria:

- In Part A above, a functional ranking of 5 in Items 2, 5, 6 and 7; or
- The individual is assessed for 283 statutory maximum hours; or
- The individual is assessed for Protective Supervision.

Availability of Forms and Notices

Camera-ready copies of the English versions of these forms and notices are available on the CDSS Forms/Brochures web page at:

<http://www.dss.cahwnet.gov/cdssweb/PG183.htm>.

The forms and notices are being translated into the three languages that currently meet the five percent statewide IHSS recipient population threshold: Armenian, Chinese and Spanish. Upon completion, camera-ready copies of the translations will be posted on the CDSS Translated Forms and Publications web page at:

http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm.

Each county is required to provide bilingual/interpretive services and written translations to non-English or limited-English proficient populations, as mandated by the Dymally-Alatorre Bilingual Services Act (Government Code section 7290 et seq.) and/or by state regulation (MPP Division 21, Civil Rights Nondiscrimination, section 115).

Questions about accessing the forms may be directed to the Forms Management Unit at fmudss@dss.ca.gov; questions about translations may be directed to the Language Services Unit at LTS@dss.ca.gov.

COUNTY RESPONSIBILITIES

The TEMP 2257 directs recipients to contact their local IHSS office with questions regarding the 20-percent reduction. Counties should prepare for an increase in calls from recipients regarding the implementation of this law.

Counties shall continue to conduct assessments/reassessments and enter cases into CMIPS in the current manner. As part of the ongoing assessment process counties will need to identify whether a recipient is receiving services from one of the State Home and Community Based Services Waivers or whether they meet identified preapproval criteria as agreed to by the State and counties in order to ascertain whether or not the recipient is exempt from the reduction. If the case meets one of these criteria counties will need to designate the case as exempt using the appropriate field in CMIPS. CMIPS will automatically calculate the 20-percent reduction and apply the reduction to the total authorized hours (see CMIPS Functionality and Data Entry section of ACL) excluding those that have been designated by the county as receiving one of the State Home and Community Based Services Waivers or meeting the preapproval criteria. The designation of recipients/cases as Severely Impaired and Non-Severely Impaired will not be affected due to this reduction as individual authorized services will not be reduced.

Recipients may choose how the 20-percent reduction is applied to each of their specific authorized IHSS services. As required under W&IC section 12301.07(d), providers will receive notification about the 20-percent reduction on their timesheets. However, the recipient (or his/her authorized representative) is responsible for advising the provider(s) of how he/she wishes to apply the reduction to his/her authorized services. Recipients do not need to report to the county which hours they choose to reduce. This discussion is between the recipient and his/her provider(s). County IHSS staff will only have a role in advising recipients on how authorized hours should be distributed if it is determined that the reduction puts the recipient at serious risk of out-of-home placement. County IHSS staff may assist (but not compel) the recipient to prioritize his/her hours so as to ensure that the most essential tasks are covered.

Requests for Reassessment

W&IC section 12301.07(a)(2) specifies that, “the reduction...shall not preclude any reassessment to which a recipient would otherwise be entitled...” However, if a request for a reassessment is received during the 90 days following issuance of a NOA related to the 20-percent reduction, the county should evaluate whether the request is disputing the 20-percent reduction or whether there has been a change in the recipient’s circumstances that impacts his/her functional abilities. As part of this evaluation process, when necessary, counties may request additional information from the recipient to document the change in circumstances necessitating a reassessment. If the county determines that the request is solely in response to the 20-percent reduction, the county shall explain the process for requesting an IHSS Supplemental Care application and/or a state hearing (see State Hearings section of ACL) to the recipient and deny the request for a reassessment. If the request is the result of a change in circumstances, the county must accept the request for a reassessment and proceed accordingly. In accordance with the statute, “...hours authorized pursuant to a reassessment shall be subject to the reduction...”

IHSS Supplemental Care Application

Recipients may request IHSS Supplemental Care upon receiving the notice of the reduction; however, they must request it no later than March 1, 2012. If the recipient submits an IHSS Supplemental Care application to the county within 15 days of receiving the NOA, or postmarked by January 3, 2012, the county shall reinstate the reduced hours pending its determination of whether the recipient would be at serious risk of out-of-home placement as a result of the reduction. If the request for IHSS Supplemental Care is submitted more than 15 days after the recipient receives the NOA, or postmarked January 4, 2012 and thereafter, the reduction shall remain in effect while the county makes its determination.

When a completed application for IHSS Supplemental Care is received, the county shall complete the IHSS Supplemental Care Worksheet based on information known to the worker and/or information contained in the case record, or based on additional information from the recipient.

If the worker determines that the recipient is at serious risk of out-of-home placement as a result of the proposed reduction in authorized service hours, the worker shall determine which of the following actions alleviates the serious risk of out-of-home placement. The actions shall be considered in successive order; that is, if the first action fully alleviates the serious risk, the worker shall take that action and he/she need not consider the other options or take any further action.

- Assist the recipient to revise the way his/her authorized hours are used so that the serious risk is eliminated; that is, assist the recipient to prioritize the hours available so that the most essential tasks are completed;
- Arrange for the recipient to receive services from a formal or informal alternative resource (i.e., home delivered meals, neighbors to take the recipient grocery shopping with them, etc.);
- Restore part of the hours to ensure that the serious risk is eliminated; or
- Restore all of the hours to ensure that the serious risk is eliminated.

Upon completing the worksheet and, if necessary, taking steps to alleviate any serious risk of out-of-home placement, the county shall mail the recipient a NOA with the appropriate message (See NOA Messages section of ACL) to inform him/her of the county's decision. The NOA shall be sent as soon as possible but no later than 90 days following the date the application is received. The completed worksheet shall be retained in the recipient's case file.

A forthcoming ACL will address how the IHSS Supplemental Care provisions will be applied to individuals who apply for IHSS after implementation of the reduction.

STATE HEARINGS

If a recipient who has been denied IHSS Supplemental Care disagrees with the county's decision, the individual may request a state hearing of that determination. W&IC section 12301.07(e) specifies that, "the IHSS Care Supplement application process...shall be completed before a request for a state hearing is submitted..." If an individual denied IHSS Supplemental Care files a timely request for state hearing, the individual will be eligible for aid paid pending.

Any state hearing request solely to dispute the mandated 20-percent service reduction will be dismissed pursuant to W&IC section 10950, which states, "...Notwithstanding any other provision of this code, there is no right to a state hearing when either (1) state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation or (2) the sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients..." However, the recipient retains the right to request a state hearing on any other action the county takes on his/her case.

If the county receives an oral request for a state hearing regarding the 20-percent reduction, the county should refer the recipient to the State Hearings Division (SHD) at

1 (800) 743-8525. Written requests for a state hearing regarding the 20-percent reduction should be faxed to SHD at (916) 651-5210; otherwise recipients can mail their request to the address on the "Right to Request a State Hearing" attachment.

CMIPS FUNCTIONALITY AND DATA ENTRY

CMIPS will be programmed to perform a one-time process that reduces the Authorized to Purchase hours on existing recipient cases, in "E", "I" or "L" status, by 20-percent. This reduction applies to recipients and providers in a one-to-one relationship in either "E", "I" or "L" status. CMIPS will suppress the printing of the SOC 293 and SOC 311 for the initial 20-percent reduction. However, turnaround documents will be generated for the ongoing caseload as usual. The effective date of this change will be January 1, 2012. System edits will not allow creation of eligibility segments that span the January 1, 2012 date. The system will automatically create an ending segment (N line) for existing files that contain open segments and create a new segment (M line) starting January 1, 2012.

CMIPS will also be modified to apply the 20-percent reduction to new recipient cases, and any reactivated recipient cases. Date span editing will apply to these cases using a January 1, 2012 effective date. Cases entered after December 1, 2011 will require two segments; a segment for any days of services provided in December 2011 and a second segment created beginning January 1, 2012. **The second segment beginning January 1, 2012 cannot be built until December 16, 2011 to ensure CMIPS does not issue an incorrect NOA showing the 20-percent reduction before the trigger is pulled.**

A new NOA message (see NOA Messages section of ACL) will be displayed in CMIPS on the RELC screen. The RELC screen will be modified to display the reduction calculation immediately following the current calculation. The new field titled "SB 73" displays the number of reduction hours. The new field SB 73 is followed by the reduced hours in the existing fields of Net Hours, Authorized to Purchase hours and the Unmet Needs hours. The calculation will not be displayed on the SOC 293. It is possible to have a case where the only adjustment is to the Unmet Needs resulting in no actual change to the number of hours the recipient will receive.

A new field titled "RE-INST" will also be added to the RELC screen to allow county staff to manually restore hours to a recipient case based on their IHSS Supplemental Care Request Risk Assessment Worksheet. When restoring hours to a case, counties will be able to reinstate time in whole hours and tenths of hours up to the entire amount of the 20-percent reduction.

CMIPS will produce a one-time 15-day notification for all recipients in “E”, “I” or “L” status whose hours are being reduced. New NOA messages have been developed (see NOA Messages section of ACL) and will be displayed on the NOA mailed by CDSS in late December. For new or reactivated cases and other assessments, CMIPS will generate the normal 10-day NOA with one of the new NOA messages. Instructions will be added to the CMIPS 2000 manual with the next quarterly manual update.

For all providers with assigned hours, CMIPS will automatically reduce the assigned hours by 20-percent. The exception to this process is for providers whose recipients have a documented unmet need. As with the prior reduction, counties will have to manually update the assigned hours for these individuals. Recipients with multiple providers wishing to reallocate their providers’ hours must contact their local IHSS office. Counties are responsible for implementing requests for reallocation.

For counties with contract mode cases, CDSS will provide a report with a listing of cases in contract mode and their reduced hours.

NOTICES OF ACTION MESSAGES

CDSS has developed NOA messages to inform recipients of the 20-percent reduction in their authorized monthly service hours, as well as NOA messages to inform recipients of the receipt and disposition of requests for IHSS Supplemental Care. CMIPS will print the messages on the standard IHSS NOA (NA 690). There are two different messages informing recipients of the reduction; one is intended for recipients who have been assessed as having no unmet need (306A-TEMP, 306) and the other for those with an unmet need (307A-TEMP, 307). The messages designated as temporary, or “TEMP”, are to be used prior to the effective date of the reduction; the other messages are to be used after the reduction takes effect and will continue to appear on the NA 690 for the duration of the reduction.

NOA Messages Related to the 20-Percent Reduction:

Reduction – No Unmet Need (306A-TEMP): Beginning January 1, 2012, because of a new state law, your total monthly authorized hours will be reduced by 20-percent, from ###.## to ###.##. (W&IC section 12301.07) See the insert for information about the new law.

Reduction – No Unmet Need (306): Because of a new state law, your total monthly authorized hours have been reduced by 20-percent, from ###.## to ###.##. (W&IC section 12301.07) See the insert for information about the new law.

Reduction – Unmet Need (307A-TEMP): Beginning January 1, 2012, because of a new state law, your total monthly authorized hours will be reduced by 20-percent, from ###.## to ###.##. (W&IC section 12301.07) See the insert for information about the new law. You have an unmet need because your most recent assessment showed that you need more hours than the maximum amount allowed by law. Your unmet need hours will be reduced first when the reduction in authorized hours takes effect.

Reduction – Unmet Need (307): Because of a new state law, your total monthly authorized hours have been reduced by 20-percent, from ###.## to ###.##. (W&IC section 12301.07) See the insert for information about the new law. You have an unmet need because your most recent assessment showed that you need more hours than the maximum amount allowed by law. Your unmet need hours were considered first when the reduction in authorized hours was calculated.

NOA Messages Related to Applications for IHSS Supplemental Care:

IHSS Supplemental Care Application Received Timely (570): Because your application for IHSS Supplemental Care was submitted timely, the proposed reduction in your authorized monthly hours will be corrected by the county and will not take effect. You will continue to get ###.## authorized hours until the county determines if the proposed reduction in hours puts you at serious risk of out-of-home placement.

IHSS Supplemental Care Application Received Untimely (571): Because your application for IHSS Supplemental Care was not submitted timely, the proposed reduction in your authorized monthly hours has taken effect. Your authorized monthly hours have been reduced to ###.##. If the county determines that the reduction in hours puts you at serious risk of out-of-home placement, your authorized hours may be partially or fully restored.

Timely IHSS Supplemental Care Application Approved – No Hours Reduced (572): The county has approved your application for IHSS Supplemental Care because the proposed reduction in your authorized monthly hours puts you at serious risk of out-of-home placement. Your authorized monthly hours will not be reduced. You will continue to get ###.## authorized monthly hours.

Timely IHSS Supplemental Care Application Approved – Partial Hours Reduced (304): The county has approved your application for IHSS Supplemental Care because the proposed 20-percent reduction in your authorized monthly hours puts you at serious risk of out-of-home placement. Your monthly authorized hours have been reduced less than 20-percent, from ###.## to ###.##.

(NOTE: For those individuals who are granted IHSS Supplemental Care to partially restore their hours, the above message will continue to appear on the NA 690 for the duration of the reduction.)

Timely IHSS Supplemental Care Application Denied (573): The county has denied your application for IHSS Supplemental Care because the proposed reduction in your authorized monthly hours does not put you at serious risk of out-of-home placement. The reduction in your authorized monthly hours will take effect. Your authorized monthly hours will be reduced from ###.## to ###.##.

Untimely IHSS Supplemental Care Application Approved – Hours Fully Restored (574): The county has approved your application for IHSS Supplemental Care because the reduction in your authorized monthly hours puts you at serious risk of out-of-home placement. The authorized monthly hours that were reduced have been fully restored. You will now get ###.## authorized monthly hours.

Untimely IHSS Supplemental Care Application Approved – Hours Partially Restored (575): The county has approved your application for IHSS Supplemental Care because the reduction in your authorized monthly hours puts you at serious risk of out-of-home placement. The authorized monthly hours that were reduced have been partially restored. You will now get ###.## authorized monthly hours.

Untimely IHSS Supplemental Care Application Denied (576): The county has denied your application for IHSS Supplemental Care because the reduction in your authorized monthly hours does not put you at serious risk of out-of-home placement. The reduction in your authorized monthly hours will continue. You will get ###.## authorized monthly hours.

Should you have questions regarding the information in this ACL, please contact the Adult Programs Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By:

EILEEN CARROLL
Deputy Director
Adult Programs Division

Attachments

[IHSS Request a State Hearing](#)

In-Home Supportive Services (IHSS) Services Application for Supplemental Care
(Removed)

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In-home Supportive Services (IHSS) Supplemental Care Worksheet (Removed)

In-Home Supportive Services (IHSS) Notice to Recipient of Reduction in
Authorized Hours (Removed)