



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

September 28, 2016

ALL COUNTY LETTER NO. 16-78

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

SUBJECT: IMPLEMENTATION OF THE IN-HOME SUPPORTIVE SERVICES  
PROGRAM HEALTH CARE CERTIFICATION REGULATIONS

REFERENCE: [ALL COUNTY LETTER NO. 11-55](#); [ALL COUNTY LETTER NO. 11-76](#);  
[ALL COUNTY INFORMATION NOTICE NO. I-74-11](#)

This All County Letter (ACL) transmits the newly adopted In-Home Supportive Services (IHSS) Program Health Care Certification regulations (Manual of Policies and Procedures [MPP] Section 30-754), which include amendment of the Special Definitions section (MPP 30-701), and revisions to the IHSS Program Health Care Certification form (SOC 873) and IHSS Program Notice to Applicant of Health Care Certification Requirement (SOC 874).

**IMPLEMENTATION DATE**

The newly adopted Health Care Certification regulations, which were approved by the Office of Administrative Law on June 13, 2016, become effective on October 1, 2016. As of the effective date, the new regulations supersede the above-referenced, previously released ACLs relating to the IHSS program Health Care Certification requirements.

**REASON FOR THIS TRANSMITTAL**

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

## **BACKGROUND**

Senate Bill (SB) 72 (Chapter 8, Statutes of 2011) added Welfare and Institutions Code (WIC) section 12309.1, which requires that, as a condition of receiving IHSS, an applicant for or recipient of services must obtain a certification from a Licensed Health Care Professional (LHCP) declaring that the applicant or recipient is unable to perform some Activities of Daily Living (ADLs) independently, and that without services to assist him/her with ADLs, he/she is at risk of placement in out-of-home care.

In addition, WIC section 12309.1:

- Defined the term LHCP;
- Established exceptions which, under certain limited circumstances, services could be authorized prior to receipt of the certification;
- Specified what information must be included on the certification and on alternative documentation which must be accepted in lieu of the certification; and
- Established time frames for individuals who were already receiving IHSS when SB 72 was enacted to meet the health care certification requirement.

On July 27, 2011, the California Department of Social Services (CDSS) released ACL No. 11-55 which provided counties with instructions for implementing the provisions of SB 72 relating to the health care certification requirement effective August 1, 2011. Subsequently, CDSS released ACL No. 11-76, which provided counties with guidance on exceptions to the rule requiring that the health care certification be received prior to the authorization of services. Finally, CDSS released All County Information Notice No. I-74-11, which transmitted revisions to the SOC 873, SOC 874, and the Notice to Recipient of the Health Care Certification Requirement (SOC 875) (now obsolete), and provided clarification of the policy pertaining to inter-county transfers of IHSS cases in relation to the health care certification requirements.

## **HEALTH CARE CERTIFICATION REGULATIONS**

The newly adopted regulations are essentially unchanged from the implementation instructions and policies transmitted in the above-referenced ACLs. A brief summary of each section of the newly adopted Health Care Certification regulations as set forth within the MPP is provided below:

- MPP Section 30-701(l)(2) establishes a definition of a LHCP for the purposes of the health care certification.
- MPP Section 30-754.1 specifies that each IHSS applicant must obtain a health care certification before services can be authorized, and specifies the elements that must be included on the health care certification.

- MPP Section 30-754.2 specifies that the health care certification must be provided on the department-approved form but that alternative documentation must be accepted provided that it includes all of the requisite information.
- MPP Section 30-754.3 specifies at what point in time the county must request the health care certification from an applicant.
- MPP Section 30-754.4 specifies the timeframe in which the applicant must return the completed health care certification to the county.
- MPP Section 30-754.5 specifies that the county should not use the health care certification as the sole determining factor for establishing an applicant's need for services, but that it should be considered as one indicator of need.

Consistent with WIC section 12309.1 and the intent of SB 72, although the health care certification should not be considered the sole factor in determining an applicant's need for services, in order for the county to determine an applicant eligible and authorize services for him/her, the LHCP must have answered YES to questions 1 and 2 on the SOC 873. In situations in which the county IHSS worker has completed the in-home assessment and firmly believes there is a need for services to enable the individual to remain safely in his/her home but the LHCP has indicated NO to questions 1 and 2 on the SOC 873, the county IHSS worker is not precluded from contacting the LHCP to clarify the LHCP's responses and discuss the worker's own observations regarding the applicant's needs. If the LHCP determines, based on the discussion, that the individual requires services in order to remain safely in his/her own home after all, the county must obtain a new SOC 873 on which the LHCP has indicated YES to questions 1 and 2.

- MPP Section 30-754.6 specifies the limited circumstances under which services can be temporarily authorized prior to receipt of the health care certification.

There is one change of note from the initial implementation instructions provided in ACL No. 11-76. The newly adopted regulations permit an applicant who has been granted an exception to be granted additional time to return the completed health care certification to the county if good cause exists for his/her inability to submit it within the standard 45 calendar day timeframe. In such a circumstance, the individual must ask the county for additional time to submit the completed health care certification before the initial 45 calendar day period expires.

Documents related to the adoption of the Health Care Certification regulations, including the Initial Statement of Reasons, may be found on the CDSS Office of Regulations Development's web page at: <http://www.dss.cahwnet.gov/ord/PG4837.htm>.

## **REVISIONS TO THE SOC 873 AND SOC 874**

Counties should begin using the revised SOC 873 and SOC 874 (for new applicants only) as of October 1, 2016, the date on which the newly adopted Health Care Certification regulations go into effect. Below is a brief summary of the minor revisions made to the forms.

### **SOC 873**

One revision to the SOC 873 is on page 2, item 4, where the following language is added to the end of the sentence: "OR expected to result in death within 12 months." This change was made to make the language consistent with Title 22 of the California Code of Regulations, section 51350(b), which states as follows: "Personal care services may be provided only to a categorically needy beneficiary as defined in Welfare and Institutions Code, Section 14050.1, who has a chronic, disabling condition that causes functional impairment that is expected to last at least 12 consecutive months or that is expected to result in death within 12 months and who is unable to remain safely at home without the services..."

Additionally, the following language was removed from the LHCP Certification section (Part D): "and/or certified as a Medi-Cal provider." This change was made to conform with the definition of LHCP in WIC section 12309.1(a)(1), which states: "For purposes of this section, a licensed health care professional means an individual licensed in California by the appropriate California regulatory agency, acting within the scope of his or her license or certificate as defined in the Business and Professions Code."

### **SOC 874**

The SOC 874 was revised to include a statement indicating that an applicant who has been granted an exception, which, in certain limited and specific circumstances, allows services to be authorized prior to the county's receipt of the health care certification, may be granted an additional 45 calendar days to return the completed health care certification to the county, if good cause exists for the individual's inability to submit it within the standard 45-day timeframe. In such a circumstance, the individual must request additional time to submit the health care certification from the county before the initial 45-day period expires.

## **CAMERA-READY COPIES AND TRANSLATIONS OF FORMS**

Camera-ready copies of the English language versions of the forms referenced in this ACL may be obtained (as of October 1, 2016) on the CDSS Forms and Publications webpage at: [http://www.dss.cahwnet.gov/cdssweb/FormsandPu\\_271.htm](http://www.dss.cahwnet.gov/cdssweb/FormsandPu_271.htm). Any questions related to obtaining forms and notices may be directed to [fmudss@dss.ca.gov](mailto:fmudss@dss.ca.gov).

Pursuant to Manual of Policies and Procedures Section (MPP) 21-115.2, camera-ready copies of the translations may be obtained (as of October 1, 2016) on the Translated Forms and Publications web page at:

[http://www.dss.cahwnet.gov/cdssweb/FormsandPu\\_274.htm](http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm).

For questions on translated materials, please contact Language Services at (916) 651-8876.

Counties shall ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual employees, and qualified employees of other agencies or community resources. These services shall be provided free of charge to the applicant/recipient.

In the event that CDSS does not provide translations of a form, it is the county's responsibility to provide the translation if an applicant or recipient requests it. More information regarding translations can be found in MPP Section 21-115.

Questions regarding the Health Care Certification regulations or the information contained in this letter may be directed to the Adult Programs Division, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

***Original Document Signed By:***

EILEEN CARROLL  
Deputy Director  
Adult Programs Division

Attachments

c: CWDA

Amend Section 30-701 to read:

**30-701 SPECIAL DEFINITIONS (Continued)**

**30-701**

(1) (1) (Continued)

(2) A Licensed Health Care Professional means a person who is a physician as defined and authorized to provide for the purposes of signing the Health Care Certification (LHCP-HCC) is an individual licensed in this the sState of California by the appropriate regulatory agency, acting within the scope of his/her license or certificate as defined in accordance with the California Business and Professions Code, and whose primary responsibilities are to diagnose and/or provide treatment and care for, physical or mental impairments which cause or contribute to an individual's functional limitations.

(3) (Continued)

Authority Cited: Sections 10553, 10554, 12301.1, and 22009(b), Welfare and Institutions Code; and Chapter 939, Statutes of 1992 (AB 1773).

Reference: Sections 10554, 11102, 12300(c), 12301, 12301.6, 12304, 12305.81, 12305.87, 12306, 12308, 12309.1, 13302, 14132.95, 14132.95(e), 14132.95(f), and 22004, Welfare and Institutions Code.

Adopt Section 30-754 to read:

**30-754 HEALTH CARE CERTIFICATION**

**30-754**

- .1 As a condition of receiving services, each applicant shall provide a health care certification.
- .11 The health care certification shall:
  - .111 Indicate that the applicant is unable to independently perform one or more activities of daily living;
  - .112 Indicate that without services to assist the applicant with activities of daily living, the applicant is at risk of placement in out-of-home care;
  - .113 Provide a description of any condition or functional limitation that has resulted in, or contributed to, the applicant's need for services; and
  - .114 Be signed by a LHCP-HCC, as defined in Section 30-701(1)(2).

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- (a) Individuals who are considered to be LHCP-HCCs include, but are not limited to, the following:
  - (1) A Physician;
  - (2) A Physician Assistant;
  - (3) A Regional Center Clinician or Clinician Supervisor;
  - (4) An Occupational therapist;
  - (5) A Physical Therapist;
  - (6) A Psychiatrist;
  - (7) A Psychologist;
  - (8) An Optometrist;
  - (9) An Ophthalmologist;
  - (10) A Public Health Nurse;
  - (11) A Licensed Clinical Social Worker; or

(12) A Marriage and Family Therapist.

HANDBOOK ENDS HERE

- .12 The completed and signed health care certification shall not be dated more than 60 days prior to the date it is submitted to the county.
- .13 The health care certification shall not be required on subsequent reassessments.
- .2 The health care certification shall be provided on a department-approved form, incorporated in its entirety herein by reference, the California Department of Social Services In-Home Supportive Services Program Health Care Certification (SOC 873 (10/16)).
- .21 The county shall accept alternative documentation in place of the SOC 873 (10/16) provided that the alternative documentation meets the following criteria:
- .211 Alternative documentation shall include all of the following elements:
- (a) A statement or description indicating the applicant is unable to independently perform one or more activities of daily living, and that without services to assist the applicant with activities of daily living, the applicant is at risk of placement in out-of-home care;
  - (b) A description of the applicant's condition or functional limitation that has contributed to the need for assistance; and
  - (c) A signature with date of a LHCP-HCC, as defined in Section 30-701(1)(2).
- .212 Alternative documentation shall not be dated more than 60 days prior to the date it is submitted to the county.
- .22 Alternative documentation refers to clinical or casework documents generated for some purpose other than IHSS certification that also meets the criteria above.

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- .221 Examples of alternative documentation include, but are not limited to, the following:
- (a) A hospital or nursing facility discharge plan;
  - (b) Minimum Data Set forms, which is a standardized screening and assessment tool used to evaluate the physical, clinical, psychological and psycho-social functioning and document the life care wishes of residents of long-term care facilities certified to participate in Medicare or Medicaid (Medi-Cal); or

- (c) An Individual Program Plan, which is an agreement developed by the planning team for a developmentally disabled individual who receives Regional Center services, that outlines the individual's goals and objectives, and specifies the services and supports he/she will need to achieve them.

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- .23 In the absence of such alternative documentation, the SOC 873 (10/16) shall be utilized.
- .3 The county shall request the health care certification from the applicant at or before the time of the in-home assessment.
- .31 If the health care certification is requested before the in-home assessment, the county shall screen applications received and, for those in which clear evidence of a need for services exists, the county shall not delay conducting the in-home assessment until the completed and signed health care certification is received by the county.
- .32 At the time the county requests the health care certification, the county shall provide the applicant with the department approved notice, the California Department of Social Services In-Home Supportive Services Program Notice to Applicant of Health Care Certification Requirement (SOC 874 (10/16)), incorporated in its entirety herein by reference, on which the county has specified the date by which the completed and signed health care certification shall be returned.
- .321 The county shall retain a copy of the notice, which includes the specified due date, in the applicant's file.
- .4 The county shall allow 45 calendar days from the day the county requests the health care certification for the completed and signed health care certification to be submitted to the county.
- .41 The completed and signed health care certification shall be received by the county or postmarked no later than the 45<sup>th</sup> calendar day after it is requested by the county.
- .5 The county shall consider the health care certification as one indicator, but not the sole determining factor, in determining an applicant's need for services.
- .6 The county may not authorize services in the absence of the health care certification except in following circumstances:
- .61 When services have been requested by or on behalf of an applicant who is being discharged from a hospital or a nursing home and services are needed to return safely to the community.

.62 When the county determines the applicant is at imminent risk of out-of-home placement.

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.621 An example of imminent risk of out-of-home placement:

- (a) An Adult Protective Services worker advised the county that an IHSS applicant is at imminent risk of out-of-home placement without IHSS services in place. If the county determines that waiting up to 45 calendar days for the health care certification to be returned would place an IHSS applicant at risk of out-of-home placement, services can be granted temporarily pending receipt of the health care certification or alternative documentation.

HANDBOOK ENDS HERE

.63 Applicants who have been granted an exception, pursuant to Sections 30-754.6 through 30-754.62, shall return the completed health care certification within 45 calendar days from the date it is requested by the county.

.64 Applicants who have been granted an exception, pursuant to Sections 30-754.6 through 30-754.62, may be granted an additional 45 calendar days for good cause.

.641 Good cause means a substantial and compelling reason beyond the control of the applicant who has been granted an exception.

.642 Counties shall inform the applicant who has been granted an exception, pursuant to Sections 30-754.6 through 30-754.62, that he/she may request additional time to provide the health care certification or alternative documentation.

.643 Applicants who have been granted an exception, pursuant to Sections 30-754.6 through 30-754.62, shall notify the county of the need for a good cause extension no later than 45 calendar days from the date the county requests the certification.

.644 Counties have the discretion to determine on a case-by-case basis when good cause exists.

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.645 Some examples of good cause include but are not limited to:

- (a) Applicant was in the hospital for much of the 45-day timeframe;
- (b) The LHCP-HCC was scheduling appointments out for more than the 45-day timeframe; or

(c) The form was lost in the mail.

HANDBOOK ENDS HERE

.65 When the county grants an exception pursuant to Section 30-754.61 and authorizes services before the in-home assessment has been conducted, the county shall provide the applicant with a notice of provisional approval of his/her application for services.

.651 The notice shall include information about the specific services and the amount of time being provisionally authorized.

.652 The notice of provisional approval shall be in lieu of the Notice of Action required pursuant to Section 10-116 and shall not confer the right to a hearing pursuant to Section 10-117.

.653 Once the in-home assessment has been conducted, the county shall provide the applicant a Notice of Action as required pursuant to Section 10-116 which shall confer the right to a hearing pursuant to Section 10-117.

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

Reference: Section 12309.1, Welfare and Institutions Code.

# IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM

## HEALTH CARE CERTIFICATION FORM

### A. APPLICANT/RECIPIENT INFORMATION (To be completed by the county)

Applicant/Recipient Name:		Date of Birth:
Address:		
County of Residence:	IHSS Case #:	
IHSS Worker Name:		
IHSS Worker Phone #:	IHSS Worker Fax #:	

### B. AUTHORIZATION TO RELEASE HEALTH CARE INFORMATION (To be completed by the applicant/recipient)

I, \_\_\_\_\_, authorize the release of health care information related to my physical and/or mental condition to the In-Home Supportive Services program as it pertains to my need for domestic/related and personal care services.

Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
(APPLICANT/RECIPIENT OR LEGAL GUARDIAN/CONSERVATOR)

Witness (if the individual signs with an "X"): \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

#### TO: LICENSED HEALTH CARE PROFESSIONAL\* –

The above-named individual has applied for or is currently receiving services from the In-Home Supportive Services (IHSS) program. State law requires that in order for IHSS services to be authorized or continued a licensed health care professional must provide a health care certification declaring the individual above is unable to perform some activity of daily living independently and without IHSS the individual would be at risk of placement in out-of-home care. This health care certification form must be completed and returned to the IHSS worker listed above. The IHSS worker will use the information provided to evaluate the individual's present condition and his/her need for out-of-home care if IHSS services were not provided. The IHSS worker has the responsibility for authorizing services and service hours. The information provided in this form will be considered as one factor of the need for services, and all relevant documentation will be considered in making the IHSS determination.

IHSS is a program intended to enable aged, blind, and disabled individuals who are most at risk of being placed in out-of-home care to remain safely in their own home by providing domestic/related and personal care services. IHSS services include: housekeeping, meal preparation, meal clean-up, routine laundry, shopping for food or other necessities, assistance with respiration, bowel and bladder care, feeding, bed baths, dressing, menstrual care, assistance with ambulation, transfers, bathing and grooming, rubbing skin and repositioning, care/assistance with prosthesis, accompaniment to medical appointments/alternative resources, yard hazard abatement, heavy cleaning, protective supervision (observing the behavior of a non-self-directing, confused, mentally impaired or mentally ill individual and intervening as appropriate to safeguard recipient against injury, hazard or accident), and paramedical services (activities requiring a judgment based on training given by a licensed health care professional, such as administering medication, puncturing the skin, etc., which an individual would normally perform for him/herself if he/she did not have functional limitations, and which, due to his/her physical or mental condition, are necessary to maintain his/her health). The IHSS program provides hands-on and/or verbal assistance (reminding or prompting) for the services listed above.

\*Licensed Health Care Professional means an individual licensed in California by the appropriate California regulatory agency, acting within the scope of his or her license or certificate as defined in the Business and Professions Code. These include, but are not limited to: physicians, physician assistants, regional center clinicians or clinician supervisors, occupational therapists, physical therapists, psychiatrists, psychologists, optometrists, ophthalmologists and public health nurses.

# IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM HEALTH CARE CERTIFICATION FORM

Applicant/Recipient Name:

IHSS Case #:

## C. HEALTH CARE INFORMATION (To be completed by a Licensed Health Care Professional Only)

**NOTE: ITEMS #1 & 2 (AND 3 & 4, IF APPLICABLE) MUST BE COMPLETED AS A CONDITION OF IHSS ELIGIBILITY.**

1. Is this individual unable to independently perform one or more activities of daily living (e.g., eating, bathing, dressing, using the toilet, walking, etc.) or instrumental activities of daily living (e.g., housekeeping, preparing meals, shopping for food, etc.)?  YES  NO

2. In your opinion, is one or more IHSS service recommended in order to prevent the need for out-of-home care (See description of IHSS services on Page 1)?  YES  NO

*If you answered "NO" to either Question #1 OR #2, skip Questions #3 and #4 below, and complete the rest of the form including the certification in PART D at the bottom of the form.*

*If you answered "YES" to both Question #1 AND #2, respond to Questions #3 and #4 below, and complete the certification in PART D at the bottom of the form.*

3. Provide a description of any physical and/or mental condition or functional limitation that has resulted in or contributed to this individual's need for assistance from the IHSS program:

4. Is the individual's condition(s) or functional limitation(s) expected to last at least 12 consecutive months OR expected to result in death within 12 months?  YES  NO

**Please complete Items # 5 - 8, to the extent you are able, to further assist the IHSS worker in determining this individual's eligibility.**

5. Describe the nature of the services you provide to this individual (e.g., medical treatment, nursing care, discharge planning, etc.):

6. How long have you provided service(s) to this individual?

7. Describe the frequency of contact with this individual (e.g., monthly, yearly, etc.):

8. Indicate the date you last provided services to this individual: \_\_\_ / \_\_\_ / \_\_\_

**NOTE: THE IHSS WORKER MAY CONTACT YOU FOR ADDITIONAL INFORMATION OR TO CLARIFY THE RESPONSES YOU PROVIDED ABOVE.**

## D. LICENSED HEALTH CARE PROFESSIONAL CERTIFICATION

By signing this form, I certify that I am licensed in the State of California and all information provided above is correct.

Name:

Title:

Address:

Phone #:

Fax #:

Signature:

Date:

Professional License Number:

Licensing Authority:

PLEASE RETURN THIS FORM TO THE IHSS WORKER LISTED ON PAGE 1.

## IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM

### NOTICE TO APPLICANT OF HEALTH CARE CERTIFICATION REQUIREMENT

State Law (Welfare and Institutions Code section 12309.1) requires that each person applying for IHSS provide a health care certification from a licensed health care professional (LHCP) before they can get IHSS.

The certification must be completed by a LHCP, such as a physician (doctor), physician assistant, regional center clinician or clinician supervisor, occupational therapist, physical therapist, psychiatrist, psychologist, optometrist, ophthalmologist, public health nurse, etc.

The certification must state that you are not able to do some activities of daily living (ADLs) on your own and that without help to do these activities you would be at risk of placement in out-of-home care.

Basic ADLs are: eating, bathing, dressing, using the toilet, walking, and getting out of bed or a chair. Other ADLs are: housekeeping, preparing meals, shopping for food or other necessities, taking medication, etc.

Attached is a blank copy of the Health Care Certification Form (SOC 873) that you can give to your LHCP to complete. If you want, the county can send it to the LHCP for you but you will have to give the county the LHCP's name and address.

The county may accept alternative documentation in place of the SOC 873 as long as it meets all of the following requirements:

1. Indicates that you are not able to do one or more ADLs on your own and without services you are at risk of placement in out-of-home care,
2. Describes the medical or other condition that makes you unable to do ADLs on your own and causes you to need IHSS, and
3. Has been signed by a LHCP within the last 60 days.

Whether you give the SOC 873 to the LHCP yourself or the county sends it for you, you are responsible for making sure it is completed and returned to the county within **45 days** from the date the county worker requested it.

**If you do not provide the SOC 873 or alternative documentation to the county within 45 days, your application for IHSS will be denied. As with any county action taken on your case, you may request a state hearing if you do not agree with the county's decision.**

Under certain limited circumstances, such as when services are requested because you are being discharged from a hospital or nursing facility and you need services to return safely to your home, or the county determines that you are at risk of placement in out-of-home care, the county may grant an exception that would allow you to get IHSS on a temporary basis before the county receives the completed SOC 873 or alternative documentation. However, even if an exception is granted, you will still be required to provide one of these documents for the county within the 45-day timeframe to determine if you can continue getting IHSS. If you have been granted an exception but you are not able to get the SOC 873 from your LHCP within 45 days, call your social worker **before the due date** to tell him/her why you are not able to meet the due date and ask if the county can grant you more time.

If you have questions about the health care certification requirement, ask the social worker who has been assigned to your case.

DUE BY: \_\_\_\_/\_\_\_\_/\_\_\_\_