

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 In-Home Supportive Services (IHSS) Minor Recipients Living With Parents

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held December 4, 2013, as follows:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on December 4, 2013.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

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CHAPTERS

CDSS Manual of Policies and Procedures (MPP), Division 30 (Social Service Standards), Chapter 30-700 (Service Program No. 7: In-Home Supportive Services), Section 30-763 (Service Authorization).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The purpose of this regulatory package is to resolve the discrepancy between current regulation § MPP 30-763.453 and Welfare and Institutions Code § 12300(e). It was determined by CDSS that the current regulation goes beyond the scope of the statute by limiting when a parent provider can receive payment for providing IHSS to their minor child with whom they reside.

Current statute allows for parents meeting specific criteria to be paid parent-providers, with no restrictions for two-parent households. Current regulations, however, deduct time from the parent-provider's IHSS hours when the non-provider parent is in the home. The current regulations in this area are inconsistent with the intent of the statute and state hearing decisions. In the new regulations, time is not automatically deducted from a parent-provider's IHSS hours when the non-provider parent is in the home. The new regulations will provide clarity and consistent direction to counties that is consistent with statute.

In addition to resolving this discrepancy, language was added to improve clarity to §30-763.44 and §30-763.45. Language was added concerning persons having a duty under the Family Code to care for his/her child. Parental availability to care for his/her own child is more distinctly addressed in the proposed regulations. The proposed regulations provide examples of when a parent or non-parent may be paid to provide IHSS for their child. The proposed regulations provide a definition of full-time parental employment for the purposes of IHSS, and address the issue of parental employment from home. In addition, clean-up language was completed for current §30-763.454(c) and (e). §30-763.457 was added to clarify that parents of minor recipients are not eligible providers under the Personal Care Services Program (PCSP).

The Department anticipates that these proposed regulations will benefit California residents by increasing the overall IHSS program integrity in assessing the eligibility of applicants and recipients in a manner consistent with state statute. The proposed regulations will also provide consistent economic support to parents who are prevented from full-time employment because of the need to care for their disabled child(ren).

The Department considered other possible related regulations, and found the proposed regulations are the only regulations addressing minor IHSS recipients living with parent(s); therefore, the Department finds that these proposed regulations are compatible and consistent with the intent of WIC 12300(e) and state hearing decisions.

COST ESTIMATE

1. Costs or Savings to State Agencies: The funding for this change is already included in the Local Assistance portion of the Governor's Budget. No additional fiscal impact is assumed.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None.

3. Nondiscretionary Costs or Savings to Local Agencies: The funding for this change is already included in the Local Assistance portion of the Governor's Budget. No additional fiscal impact is assumed.
4. Federal Funding to State Agencies: The funding for this change is already included in the Local Assistance portion of the Governor's Budget. No additional fiscal impact is assumed.

LOCAL MANDATE STATEMENT

These regulations impose a mandate on local IHSS agencies, but not on school districts. There are no "State-mandated local costs" in these regulations that require State reimbursement under Section 17500 et. seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made because this action only pertains to eligibility determinations for IHSS with no significant fiscal effects.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: These amendments will improve the health and welfare of California residents by providing clarity in the IHSS regulations concerning minor recipients living with their parent(s).

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

In developing this regulatory action, CDSS did not consider any other alternatives because no other practical alternatives exist.

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 10553 and 10554. Subject regulations implement and make specific Sections 12300(b) and (e) and 14132.95(f), Welfare and Institutions Code; and Section 11342.2, Government Code.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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