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Regulation Package No. 0615-08

CDSS MANUAL LETTER NO. SS-16-02

TO: HOLDERS OF THE SOCIAL SERVICE STANDARDS MANUAL, DIVISION 30

**Regulation Package # 0615-08**

**Effective 10/1/16**

**Sections 30-701 and 30-754**

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG610.htm>

These regulations specify that, as a condition of receiving in-home supportive services (IHSS), an applicant must obtain certification from a licensed health care professional. Additionally, these regulations define "Licensed Health Care Professional," specify policies, procedures and time frames relating to the health care certification requirement and specify exemption criteria regarding when IHSS services can be authorized prior to county receipt of the certification.

**FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Social Service Standards Manual regulation changes was SS-16-01.

Page(s)

Replace(s) Page(s)

50 and 50.1

50 and 50.1

54 and 55

54 and 55

61.1 and 61.2

61.1 through 61.2

Attachments

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**SOCIAL SERVICES STANDARDS**  
**SERVICE PROGRAM NO. 7: IN-HOME SUPPORTIVE SERVICES**

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**SOCIAL SERVICES STANDARDS**  
**SERVICE PROGRAM NO. 7: IN-HOME SUPPORTIVE SERVICES**

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

- (l) (1) Landlord/Tenant Living Arrangement means a shared living arrangement considered to exist when one housemate, the landlord, allows another, the tenant, to share housing facilities in return for a monetary or in-kind payment for the purpose of augmenting the landlord's income. A landlord/tenant arrangement is not considered to exist between a recipient and his/her live-in provider. Where housemates share living quarters for the purpose of sharing mortgage, rental, and other expenses, a landlord tenant relationship does not exist, though one housemate may customarily collect the payment(s) of the other housemate(s) in order to pay mortgage/rental payments in a lump sum.
- (2) A Licensed Health Care Professional for the purposes of signing the Health Care Certification (LHCP-HCC) is an individual licensed in the State of California by the appropriate regulatory agency, acting within the scope of his/her license or certificate as defined in the 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) Live-In Provider means a provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services.
- (4) A list means any informal or formal listing or registry of written name(s) of prospective In-Home Support Services providers maintained by the county agency, county social services staff, a contractor as defined under Welfare and Institutions Code Section 12302.1, or any public or private agency for purposes of referring the prospective providers for employment.
- (m) Minor means any person under the age of eighteen who is not emancipated by marriage or other legal action.
- (n) (1) Net Nonexempt Income means income remaining after allowing all applicable income disregards and exemptions.
- (2) Nonprofit consortium means an association that has a tax-exempt status and produces a tax exempt status certificate and meets the definition of a nonprofit organization as contained in OMB Circular A-122 found at Federal Register, Vol. 45, No. 132, dated July 8, 1980.

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- (A) OMB Circular A-122 found at Federal Register, Vol. 45, No. 132, dated July 8, 1980, defines a nonprofit organization as one which:
- (1) Operates in the public interest for scientific, educational, service or charitable purposes;
  - (2) Is not organized for profit making purposes;
  - (3) Is not controlled by or affiliated with an entity organized or operated for profit making purposes; and
  - (4) Uses its net proceeds to maintain, improve or expand its operations.

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- (o) (1) Out-of-Home Care Facility means a housing unit other than the recipient's own home, as defined in (o) (2) below. Medical out-of-home care facilities include acute care hospitals, skilled nursing facilities, and intermediate care facilities. Nonmedical out-of-home care facilities include community care facilities and homes of relatives which are exempt from licensure, as specified in Section 46-325.5, where recipients are certified to receive board and care payment level from SSP.
- (2) Own Home means the place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his/her home.
- (p) (1) Paper County means a county which sends its data in paper document form for entry into the payroll system to the IHSS payroll contractor.
- (2) Payment Period means the time period for which wages are paid. There are two payment periods per month corresponding to the first of the month through the fifteenth of the month and the sixteenth of the month through the end of the month.
- (3) Payrolling System means a service contracted for by the state with a vendor to calculate paychecks to individual providers of IHSS; to withhold the appropriate employee taxes from the provider's wages; to calculate the employer's taxes; and to prepare and file the appropriate tax return.
- (4) Personal Attendant means a provider who is employed by the recipient and, as defined by 29 CFR 552.6, who spends at least eighty percent of his/her time in the recipient's employ performing the following services:
  - (A) Preparation of meals, as provided in Section 30-757.131.

<b>30-702</b>	<b>COUNTY QUALITY ASSURANCE AND QUALITY IMPROVEMENT</b>	<b>30-702</b>
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(Continued)

- .171 Long-Term Care Insurance.
- .172 Worker's Compensation Insurance.
- .173 Victim Compensation Program Payments.
- .174 Civil Judgment/Pending Litigations.
- .18 Conduct joint case review activities with State QA staff.
- .19 Develop a plan for and perform targeted QA/QI studies based on:
  - .191 Analysis of data acquired through the county's quality assurance program; or
  - .192 Analysis of data available through Case Management Information Payrolling System (CMIPS), county systems; or
  - .193 Other information, including but not limited to:
    - (a) Data from QA case review findings; or
    - (b) Input from Public Authorities and other consumer groups.
  - .194 The county shall submit a quarterly report of their QA/QI activities to CDSS on the SOC 824 (3/06) form fifteen days after the report quarter ends. (Quarters end on March 31, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>).
- .2 Each county shall develop and submit an annual QA/QI Plan to CDSS no later than June 1 of each year.
  - .21 The QA/QI Plan shall identify how the county will use the information gathered through QA activities to improve the quality of the IHSS program at the local level.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12305.71, Welfare and Institutions Code.

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<b>30-754</b>	<b>HEALTH CARE CERTIFICATION</b>	<b>30-754</b>
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- .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.

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**30-754** **HEALTH CARE CERTIFICATION** **30-754**  
(Continued)

- .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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**HANDBOOK BEGINS HERE**

- .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

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**HANDBOOK CONTINUES**

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<b>30-754</b>	<b>HEALTH CARE CERTIFICATION</b> (Continued)	<b>30-754</b>
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**HANDBOOK CONTINUES**

- (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.

<b>30-754</b>	<b>HEALTH CARE CERTIFICATION</b> (Continued)	<b>30-754</b>
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.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.

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.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.

<b>30-754</b>	<b>HEALTH CARE CERTIFICATION</b> (Continued)	<b>30-754</b>
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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.

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.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.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.  
Reference: Section 12309.1, Welfare and Institutions Code.

**30-755 PERSONS SERVED BY THE NON-PCSP IHSS PROGRAM 30-755**

.1 Eligibility

.11 A person is eligible for IHSS who is a California resident living in his/her own home, and who meets one of the following conditions:

.111 Currently receives SSI/SSP benefits.

.112 Meets all SSI/SSP eligibility criteria including income, but does not receive SSI/SSP benefits.

.113 Meets all SSI/SSP eligibility criteria, except for income in excess of SSI/SSP eligibility standards or immigration criteria, and meets applicable share of cost obligations.

(a) A person must meet immigration status criteria as provided in 20 CFR Part 416, subpart P, or must meet the state program noncitizen status criteria as provided in MPP Section 30-770.51.

.114 Was once eligible for SSI/SSP benefits, but became ineligible because of engaging in substantial gainful activity, and meets all of the following conditions:

(a) The individual was once determined to be disabled in accordance with Title XVI of the Social Security Act (SSI/SSP).

(b) The individual continues to have the physical or mental impairments which were the basis of the disability determination.

(c) The individual requires assistance in one or more of the areas specified under the definition of "severely impaired individual" in Section 30-753.

(d) The individual meets applicable share of cost obligations.

.12 Otherwise eligible applicants, currently institutionalized, who wish to live in their own homes and who are capable of safely doing so if IHSS is provided, shall upon application receive IHSS based upon a needs assessment.

.121 Service delivery shall commence upon the applicant's return home, except that authorized services as specified in Section 30-757.12 may be used to prepare for the applicant's return home.

.2 Eligibility Determination

.21 Eligibility shall be determined by county social service staff at the time of application, at subsequent 12-month intervals, and when required based on information received about changes in the individual's situation.