

ITEM 05-7-1(B): IHSS Plus Waiver Program (CDSS All County Letter 05-05 and DHS All County Welfare Directors Letter 05-21)

In response to the Fiscal Year 2004-5 state budget crisis, the California Department of Social Services (CDSS) and Department of Health Services (DHS) submitted a waiver application to the federal Center's for Medicaid and Medicare Services (CMS) to provide Medi-Cal covered services to recipient's who received benefits under the IHSS Residual program. The CMS approved the IHSS Plus Waiver effective August 1, 2004. The statutory authority for the IHSS Plus Waiver Program is found at Welfare and Institutions Code (W&IC) §14132.951 (see also paraphrased regulations 567-1 through 567-5)

The IHSS Plus Waiver applies to individuals who apply for or receive in-home care, have been determined eligible for federally funded full-scope Medi-Cal, and are not eligible for PCSP because they have a spouse provider, a parent (for minor child) provider, receive advance pay or a restaurant meal allowance (RMA).

There are now three in-home care programs:

- IHSS Residual for applicants or recipients who are not eligible for full-scope Medi-Cal but meet eligibility criteria under MPP §30-755.1;
- IHSS Plus Waiver for full-scope Medi-Cal applicants or recipients who have a spouse or parent provider, or receive advance pay or an RMA;
- PCSP that now includes protective supervision and domestic/related services only, as long as there is no spouse or parent provider, no advance pay and no RMA.

Protective Supervision

If the applicant/recipient receives in-home care under PCSP, and the recipient requires protective supervision but is not severely impaired under the IHSS definition found at 30-701(s)(1), the recipient is entitled to 195 hours of protective supervision plus hours for other assessed needs up to a total of 283 hours.

If the applicant/recipient receives in-home care under the IHSS Plus Waiver program, and the recipient requires protective supervision but does not meet the IHSS definition of severely impaired found at 30-701(s)(1), the recipient is entitled to a total of 195 hours of services, just as in the IHSS Residual program.

Share of Cost Under PCSP or the IHSS Plus Waiver

For hearing purposes, when there is an issue concerning PCSP/IHSS Plus Waiver share of cost, counties are required to compute the share of cost based on the lower share of cost based on Medi-Cal rules and IHSS Residual rules (see paraphrased regulation 564-5, also ACL 05-05 pages 2 and 3)

What Rules Apply?

If the applicant/recipient is receiving services under either PCSP or the IHSS Plus Waiver, Medi-Cal eligibility rules apply. This includes, among other rules:

- Resources - Title 22, CCR §§50401-50489.5 and related All-County Welfare Directors Letters
- Transfer of property-CCR §§50408-50411 (no transfer of property rule for someone living at home)
- Minor child (CCR §§50014, 50030 defining adult and child)
- Retroactive benefits-CCR §50197
- Application process-CCR §§50141 et. seq.
- Overpayments-CCR §§50781 et. seq.

Once Medi-Cal eligibility is established, IHSS Plus Waiver follows IHSS Residual rules regarding needs assessments.

Decisions

- If the issue at hearing is an eligibility issue, judges should write the decision for DHS.
- If the issue is a needs assessment, judges should write the decision for both CDSS and DHS.
- If the issue involves the share of cost, judges should write the decision for both CDSS and DHS.

On occasion, a hearing may involve an applicant or recipient who is not eligible for full-scope federally funded Medi-Cal. The applicant or recipient, if eligible, would receive in-home services under the IHSS Residual program. For those applicants or recipients, IHSS residual rules apply to eligibility issues, share of cost issues as well as to needs assessments. Any hearing involving the IHSS Residual program should be written only for the CDSS.

ITEM 05-7-1(C): Need for Study Models to Approve Orthodontic Services in Denti-Cal Cases

In Denti-Cal orthodontic hearings, for authorization of services, a child must have a Handicapping Labio-Lingual Deviation (HLD) index score of 26, or have one of five conditions that allow for authorization of orthodontia without a 26 HLD index score. The Medical Dental Services Branch (MDSB) requires the treating dentist to submit an HLD index as well as a study model of the patient's teeth.

One notable exception occurs when the Medi-Cal Orthodontist invokes the Early and Periodic Screening, Diagnosis, and Treatment Supplemental Services (EPSDT-SS) exception. Each of these cases is adjudicated by an MDSB Dental Program Consultant in accordance with Title 22, California Code of Regulations, Sections 51340 and 51340.1.

The following is from the Denti-Cal Manual of Criteria and is also found at paraphrased regulation 531-11:

The Denti-Cal Provider Manual contains the complete Manual of Criteria for Medi-Cal authorization (Dental Services). Orthodontic services for Handicapping Malocclusion are covered as follows:

1. The provision of medically necessary orthodontic services for handicapping malocclusion is limited to Medi-Cal eligible individuals under 21 years of age by a dentist qualified as orthodontist under the California Code of Regulations, Title 22, §51223(c).
2. The following policies and requirements apply to orthodontic services for handicapping malocclusion:
 - a. **The initial orthodontic examination, which includes the Handicapping Labio-Lingual Deviation (HLD) Index (procedure code 551) and the subsequent Study Models (procedure code 558), are required procedures to establish the medical necessity for orthodontic services for handicapping malocclusion.** The HLD Index is the preliminary measurement tool used to determine the degree of the handicapping malocclusion. Completion of the initial orthodontic examination which includes the HLD Index does not require prior authorization. All other orthodontic services require prior authorization.
 - b. A minimum score of 26 points on the HLD Index, or the indication that any of the five conditions listed below are present, is required for prior authorization of study models. **The study model findings must confirm at least the minimum score attained on the HLD Index, or that one of the five conditions listed below is present,** or that orthodontic services are necessary under Title 22 §51340.1(a)(2)(B) in order to obtain prior authorization of medically necessary orthodontic services. (This does not preclude authorization of x-rays and/or photographs in addition to study models if medically indicated.)

- (1) Cleft palate deformities; or