



CDSS

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EDMUND G. BROWN JR.
GOVERNOR

May 19, 2017

ALL-COUNTY LETTER NO. 17-43

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: RECISSION OF DISCIPLINARY ACTION AGAINST PROVIDERS
ENROLLED PRIOR TO FEBRUARY 1, 2016, FOR FAILURE TO SUBMIT
PROVIDER ENROLLMENT AGREEMENT (SOC 846 [REV. 11/15])

REFERENCE: [All-County Letter \(ACL\) 16-01 \(January 7, 2016\)](#),
[ACL 16-27 \(April 14, 2016\)](#), [ACL 16-86 \(October 24, 2016\)](#)

This All-County Letter (ACL) clarifies the policy regarding the submission of the In-Home Supportive Services (IHSS) Program Provider Enrollment Agreement (SOC 846 [rev. 11/15]) form for IHSS providers enrolled prior to February 1, 2016 and rescinds the disciplinary action (termination of eligibility) against those providers for failure to submit the SOC 846 (rev. 11/15). The information contained in this ACL supersedes the information provided in ACL 16-86 (October 24, 2016).

BACKGROUND

On October 1, 2013, the United States Department of Labor (DOL) published the Final Rule on the Application of the Fair Labor Standards Act (FLSA) to Domestic Service (RIN 1235-AA05). The Final Rule extended the protections of the FLSA to domestic service workers by effectively removing the ability of “third party” agencies to claim an exemption for personal care workers from minimum wage and overtime pay as providers of “companionship services” or as live-in providers. In addition, the federal rules relating to pay for travel time under the FLSA were made applicable to IHSS providers, including compensation for traveling between multiple recipients. In response to the new federal regulations, two bills, Senate Bill (SB) 855 (Chapter 29, Statutes of 2014) and SB 873 (Chapter 684, Statutes of 2014) were adopted into law and provided the requirements for workweek limitations, overtime compensation, and travel time compensation and limitations.

The SOC 846 form was revised in November 2015 to include information about the new overtime and travel time requirements, including any penalties that would be assessed against any provider who violated the limitations. In December 2015, when providers were informed of the implementation of the overtime and travel time requirements, they were also informed of the requirement to submit a signed revised IHSS Program Provider Enrollment Agreement (SOC 846) form by April 15, 2016, in order to maintain their continued eligibility as an enrolled provider.

During the implementation phase of the workweek and travel time process, which began on February 1, 2016, some counties expressed concern that providers would not have sufficient time to submit the revised SOC 846 before the April 15, 2016, deadline. In response, the California Department of Social Services (CDSS) suspended the April 15, 2016 deadline, which was conveyed to counties in ACL 16-27 (April 14, 2016). Eventually, a new deadline of April 29, 2017, was established in ACL 16-86 (October 24, 2016) after which time the provider would be found ineligible to work and be paid by the IHSS program as an IHSS provider effective July 1, 2017.

PROVIDER ENROLLMENT AGREEMENT (SOC 846) POLICY CLARIFICATION

Through the Case Management, Information, and Payrolling System (CMIPS) II, CDSS has been tracking the number of existing providers who have submitted the revised SOC 846 form since the February 1, 2016, FLSA implementation date. Based on the most recent reports, the vast majority of existing IHSS providers have completed and submitted a signed SOC 846.

All existing providers who were enrolled prior to February 1, 2016, completed the initial SOC 846 form following provider orientation as part of the enrollment process to become an eligible provider in the IHSS program. The initial SOC 846 states that the applicant provider signing the form understands and agrees to abide by all IHSS program requirements. Additionally, these providers were informed of the new state requirements for workweek and travel time limitations via the informational notice (TEMP 3001) which was sent to all enrolled IHSS providers in mid-December 2015. Therefore, all IHSS providers have received all information pertinent to the current IHSS program rules and responsibilities and shall be held accountable for any violations of the workweek and/or travel time limitations they may receive, regardless of the status of their revised SOC 846 submission. No disciplinary action will be taken against any IHSS provider who fails to return the revised SOC 846 to the county IHSS office by April 29, 2017.

Since the auto-perform feature for termination of eligibility for failure to submit the revised SOC 846 was never implemented into the CMIPS II system, no system changes within CMIPS II are necessary. The system will continue to include fields for both the initial and secondary submission of the SOC 846 for those counties who continue to receive and process the revised SOC 846 from those providers enrolled prior to February 1, 2016. If the SOC 846—Overtime Agreement field is not indicated with either a “yes” or “no” response, this will have no bearing on the eligibility status of the enrolled provider.

Questions regarding the information in this letter should be directed to the Policy and Operations Bureau, Adult Programs Division, at (916) 651-5350.

Sincerely,

Original Document Signed By:

DEBBI THOMSON
Deputy Director
Adult Programs Division