



CDSS

WILL LIGHTBOURNE
DIRECTOR

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

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

March 22, 2018

ALL COUNTY LETTER (ACL) NO. 18-35

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

SUBJECT: UPDATE ON COUNTY IN-HOME SUPPORTIVE SERVICES
MAINTENANCE OF EFFORT

REFERENCE: [SENATE BILL \(SB\) 1008 \(CHAPTER 33, STATUTES OF 2012\);](#)
[ALL-COUNTY LETTER \(ACL\) NO. 13-07 \(FEBRUARY 22, 2013\);](#)
[ACL NO. 14-02 \(JANUARY 22, 2014\);](#) [COUNTY FISCAL LETTER](#)
[\(CFL\) NO. 14/15-44 \(FEBRUARY 23, 2015\);](#) [SENATE BILL 90](#)
[\(CHAPTER 25, STATUTES OF 2017\);](#) [ASSEMBLY BILL \(AB\) 130](#)
[\(CHAPTER 251, STATUTES OF 2017\);](#) [CFL NO. 17/18-21,](#)
[\(SEPTEMBER 8, 2017\);](#) [CFL No. 17/18-44 \(JANUARY 3, 2018\)](#)

This ACL informs counties of the new In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) requirements in effect beginning Fiscal Year (FY) 2017-18, as authorized in [Senate Bill \(SB\) 90 \(Chapter 25, Statutes of 2017\)](#) and [Assembly Bill \(AB\) 130 \(Chapter 251, Statutes of 2017\)](#)

BACKGROUND

The Coordinated Care Initiative (CCI) was enacted as part of SB 1008 (Chapter 33, Statutes of 2012) and SB 1036 (Chapter 45, Statutes of 2012). SB 1036 shifted the responsibility of IHSS provider collective bargaining functions (wages, benefits, and other economic terms and conditions) from county Public Authorities (PAs) to a centralized Statewide Authority as part of the provisions of the CCI, for seven pilot counties. Additionally, as part of the implementing CCI legislation, the county share of IHSS costs previously established by 1991-92 State-Local Realignment legislation was replaced by a county MOE requirement for all 58 counties beginning in FY 2012-13. However, pursuant to SB 94 (Chapter 37, Statutes of 2013), the CCI demonstration

REASON FOR THIS TRANSMITTAL

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

project becomes inoperative if the Director of Finance determines that it is not cost-effective. SB 94 also stipulates that upon such a determination, the county IHSS MOE becomes inoperative on the first day of the following fiscal year, at which time the county share of IHSS costs returns to the amounts established in 1991-92 Realignment. On January 10, 2017, the Director of Finance notified the Legislature that CCI was no longer cost effective and would be discontinued. This would have resulted in returning to the 1991-92 sharing ratios, however the Department of Finance committed to working with the California State Association of Counties to mitigate the fiscal impact to counties. These discussions resulted in the creation of the new MOE beginning July 1, 2017.

NEW POLICIES REGARDING COUNTY IHSS MOE

Effective Date

Commencing July 1, 2017, all counties shall have a new County IHSS MOE. The IHSS administration expenditures will be included in the County IHSS MOE and shall include both county administration, including costs associated with the IHSS Case Management, Information and Payrolling System (CMIPS), and PA administration.

Under the new County MOE structure, the amount of State General Fund moneys available for county and PA administration will be limited to the amount appropriated for those specific purposes within the annual State Budget Act and increases to this amount in subsequent fiscal years will not impact the County IHSS MOE. Amounts expended by the county or PA on administration costs in excess of what is appropriated in the State Budget Act will not be attributed towards meeting the county's overall IHSS MOE requirement. The county specific allocations of State General Fund for county and PA administration and CMIPS MOE amounts were released in [CFL No. 17/18-44](#). Information about how the PA administration amount will be tracked will be provided in a forthcoming Public Authority Administrative Invoicing All County Letter (ACL).

Annual Inflation to County IHSS MOE

On July 1, 2018, the County IHSS MOE base will be increased by an inflation factor of five percent, unless 1991 Realignment revenues for FY 2017-18 are less than FY 2016-17 revenues, in which case no MOE inflation factor will be applied for FY 2018-19. If 1991 Realignment revenue growth between FY 2016-17 and FY 2017-18 is 2 percent or less, the MOE inflation factor applied to FY 2018 -19 will be 2.5 percent.

Beginning July 1, 2019, and annually thereafter, the county IHSS MOE base will be increased by an inflation factor of 7 percent, unless 1991 Realignment revenues decline over the two prior fiscal years, in which case no MOE inflation factor will be applied. If 1991 Realignment revenues grow by 2 percent or less over the prior two fiscal years, the applicable MOE inflation factor will be 3.5 percent.

Adjustments to County IHSS MOE

State Participation Cap

The current State participation cap for combined wages and health benefits for all IHSS providers in the State is \$12.10 per hour. When state minimum wage increases to \$12.00 per hour (January 1, 2019, pursuant to Labor Code (LC) section 1182.12(b)(1)(C)) and beyond in subsequent years, the cap will be adjusted to equal the current state minimum wage plus \$1.10 per hour. When there is a provider wage change due to a statewide minimum wage increase, the county MOE will not be adjusted.

Locally Negotiated Wages and/or Health Benefits

If a county approves any increases to IHSS provider wages and/or health benefits that are locally negotiated, mediated, imposed, or adopted by ordinance, on or after July 1, 2017, the County IHSS MOE will be adjusted by 35 percent of the non-federal share of the increase up to the State participation cap at the time of the increase. The county shall have the responsibility of paying the entire non-federal share of any portion of a cost increase in excess of the state cap. Specific information about how these adjustments to the County IHSS MOE will be calculated will be provided in a forthcoming CFL.

10 percent Increase Over Three-year Period

For a county that is at or above the current State participation cap of \$12.10 per hour in combined wages and health benefits, the county may negotiate a contract for combined wages and benefits, and the State shall participate (with 65 percent of the non-federal share) in a cumulative total of up to 10 percent of the sum of the combined total of changes in wages or health benefits or both within a three-year period. A three-year period is defined as three consecutive years with a new three-year period beginning only after the conclusion of the previous three-year period. The State shall participate for no more than two three-year periods after which time the county shall pay the entire non-federal share of any future increases in wages and health benefits that exceed the then current cap. Additionally, to be eligible for State participation, the 10 percent increase will be required to begin prior to the date that the State minimum wage reaches \$15.00 per hour (January 1, 2022, pursuant to LC section 1182.12(b)(1)(F)).

The 10 percent shall be calculated based on the combined total of provider wages and health benefits in effect when the increase in wage or health benefit or both is first negotiated at the beginning of the three-year period. The 10 percent increase may take effect all at once or be phased in during the three-year period. If a county does not approve a full 10 percent increase for the three-year period, the county may subsequently negotiate a wage or health benefit increase or both up to the 10 percent at any time during the three-year period and receive state participation in the non-federal costs. In that case, however, the 10 percent amount will still be the original 10 percent

amount (i.e., it will not be recalculated for wage or health benefit increase or both that was provided earlier in the three-year period).

The tables below are examples of counties utilizing the above option: County A is currently negotiating a 10 percent increase within the next three-year period. Their current wage rate is \$16.00 an hour with no individual health benefits. County A has negotiated their first increase on March 1, 2018 for 4 percent, the second increase on March 1, 2019 for 3 percent and their final increase on March 1, 2020 for 3 percent. The rate change on March 1, 2018 would result in the state participating in 65 percent of the non-federal share of the \$0.64 increase. The rate changes on March 1, 2019 and March 1, 2020 would result in the state participating in 65 percent of the non-federal share for the \$0.48 increase each time. County A then negotiates a second three-year period beginning on March 1, 2021. County A will increase their rate by 4 percent the first year beginning March 1, 2021 and 3 percent for each of the two subsequent years. The state would participate 65 percent of the non-federal share of \$0.70 the first year and \$0.53 the following two fiscal years.

County A:

Current Rate (as of 2/28/18)	1st three years (3/1/18-2/28/21)		
\$16.00	March 1, 2018	March 1, 2019	March 1, 2020
	\$16.64	\$17.12	\$17.60
Current Rate (as of 2/28/21)	2nd three years (3/1/21-2/29/24)		
\$17.60	March 1, 2021	March 1, 2022	March 1, 2023
	\$18.30	\$18.83	\$19.36

County B below has negotiated their first three-year increase on February 1, 2018 increasing their wages by 10 percent from \$13.00 to \$14.30. The county has no individual health benefits. Following this three-year period, the county negotiates a second three-year period 10 percent increase. For the second three-year period, their rate will increase from \$14.30 to \$15.73 on February 1, 2021. The rate change on February 1, 2018 would result in the state sharing in 65 percent of the non-federal share of the \$1.30 increase. The increase on February 1, 2021 would result in the state sharing in 65 percent of the non-federal share of the \$1.43 increase.

County B:

Current Rate (as of 1/31/18)	1st three years (2/1/18-1/31/21)	2nd three years (2/1/21-1/31/24)
\$13.00	February 1, 2018	February 1, 2021
	\$14.30	\$15.73

Wage Supplement

Under W&IC section 12306.16 (d)(7) counties may negotiate a wage supplement. This W&IC section is pending amendments to clarify information in the section that must be passed by the Legislature and signed into law before becoming effective. The information covered in this section of the ACL reflects pending amendment clarifications. A county may establish a wage supplement to the highest wage rate paid in the county since June 30, 2017. For counties that submitted a rate change request including a wage supplement to the California Department of Social Services (CDSS) prior to January 1, 2018, the requirement that the wage supplement be added to the highest wage rate paid in the county since June 30, 2017 does not apply. If a county negotiates a wage supplement, the County IHSS MOE shall include a one-time 35 percent county share adjustment for the non-federal costs by the amount of the increase as specified under W&IC section 12306.16(d)(1)(A)(i) through 12306.16(d)(1)(B) for counties where the combined provider wages and individual health benefits plus the wage supplement is less than or equal to the State participation cap. For counties where the combined provider wages and health benefits plus the wage supplement is above the State participation cap, the one-time county share adjustment shall be 100 percent of the non-federal costs of the adjustment (for the portion that is above the state participation cap). However, a county above the State participation cap may take advantage of the 10 percent increase within a three-year period provision to obtain state sharing in the non-federal costs of the wage supplement up to 10 percent of the combined wages and individual health benefits prior to the wage supplement. Specific information about how these adjustments to the County IHSS MOE will be calculated will be provided in a forthcoming CFL.

Once a county has established a wage supplement, the wage supplement will first be applied as of the effective date of the agreement following state approval of the PA rate change. The wage supplement will then be subsequently applied to the state minimum wage when the state minimum wage increases to an amount that is equal to or exceeds the county paid wage without inclusion of the wage supplement. For counties that submitted a rate change request to CDSS prior to January 1, 2018 including a wage supplement, the wage supplement will subsequently be applied to the state minimum wage when the state minimum wage increases to an amount that is equal to or exceeds the county paid wage including the wage supplement. These subsequent applications of the wage supplement to the new state minimum wage will not adjust the County IHSS MOE.

Below are examples of a county utilizing the wage supplement option:

County C is below the state participation cap and is negotiating a wage supplement

County C: Current wage in January 2018 is \$11.00 and no individual health benefits. In February 2018, the county establishes a \$0.50 wage supplement creating a county individual provider wage of \$11.50. The new county individual provider wage is under the \$12.10 state participation cap, so the County IHSS MOE shall have a one-time

adjustment of 35 percent of the non-federal share of this increase. Since the increase takes effect in February, the adjustment will be prorated for the current fiscal year and then annualized for future fiscal years.

For County C when state minimum wage increases to \$12.00, the county wage supplement will be added to the new state minimum wage making the county individual provider wage \$12.50. This application and all subsequent applications to future state minimum wage increases will not adjust the County IHSS MOE.

County C:

Current Rate (as of 1/1/18)	Feb 1, 2018	Minimum wage \$12.00	Minimum wage \$13.00
\$11.00	\$11.50	\$12.50	\$13.50

County D is below the state participation cap and is negotiating a wage supplement

County D: Current individual provider wage in January 2018 is \$11.75 and no individual health benefits. The county negotiates a \$0.50 wage supplement to begin March 2018. The county individual provider wage will then be \$12.25 exceeding the \$12.10 state participation cap. However, per W&IC 12306.1(d)(3)(A), for a county that is at or above the \$12.10 state participation cap in combined wages and individual health benefits, the state shall participate in a cumulative total of up to 10 percent within a three-year period in the sum of the combined total of changes in wages and or individual health benefits or both. Therefore, in this situation the County will need to do a two-step process. The portion of the wage supplement below the state participation cap will have the standard state participation in the county IHSS MOE one-time adjustment, so the county IHSS MOE shall have a one-time adjustment of 35 percent of the non-federal share of this portion of the increase. For the portion of the increase above the state participation cap, if the county chooses to utilize the 10 percent within a three-year period option, then the county IHSS MOE shall have a one-time adjustment of 35 percent of the non-federal share of this portion of the increase. Additionally, the \$0.15 of the increase that is above the state participation cap will contribute toward the 10 percent over a three-year period that the state will participate in per W&IC 12306.1(d)(3)(A). If the county chooses not to utilize the 10 percent within a three-year period option, then the county IHSS MOE shall have a one-time adjustment for the entire non-federal share of this portion of the increase. Since the increase takes effect in March, the adjustment will be prorated for the current fiscal year and then annualized for future fiscal years.

For County D when the state minimum wage increases to \$12.00, the wage supplement will be added to the state minimum wage increase bringing their total wage to \$12.50. When state minimum wage increases to \$13.00, the county wage supplement will be added to the new state minimum wage making the county individual provider wage \$13.50. This application of the wage supplement and all subsequent applications to future state minimum wage increases will not adjust the County IHSS MOE.

County D:

Current Rate (as of Jan 2018)	March 1, 2018	Minimum wage \$12.00	Minimum wage \$13.00
\$11.75	\$12.25	\$12.50	\$13.50

County E is over the state participation cap and negotiating a wage supplement

County E: Current individual provider wage in January 2018 is \$13.00 and no individual health benefits. The county negotiates a \$0.50 wage supplement to begin March 2018. The county individual provider wage will then be \$13.50 exceeding the \$12.10 state participation cap. However, per W&IC 12306.1(d)(3)(A), for a county that is at or above the \$12.10 state participation cap in combined wages and individual health benefits, the state shall participate in a cumulative total of up to 10 percent within a three-year period in the sum of the combined total of changes in wages and or individual health benefits or both. Therefore, in this situation, if the county chooses to utilize the 10 percent within a three-year period option, then the county IHSS MOE shall have a one-time adjustment of 35 percent of the non-federal share of this increase. Additionally, since the entire \$0.50 wage supplement is above the state participation cap, the full \$0.50 will contribute toward the 10 percent over a three-year period that the state will participate in per W&IC 12306.1(d)(3)(A). If the county chooses not to utilize the 10 percent within a three-year period option, then the county IHSS MOE shall have a one-time adjustment for the entire non-federal share of this increase. Since the increase takes effect in March, the adjustment will be prorated for the current fiscal year and then annualized for future fiscal years.

For County E when the state minimum wage increases to \$12.00, the county wage will remain \$13.50 as the state minimum wage did not increase to an amount that equals or exceeds the county individual provider wage without the supplement. When state minimum wage increases to \$13.00, the county wage will continue to remain \$13.50. While the state minimum wage does now equal the county individual provider wage without the supplement, which would trigger a subsequent application of the wage supplement, adding the \$0.50 supplement amount to the new \$13.00 minimum wage would equal the rate that the provider is already being paid. When the minimum wage increases to \$14.00 the wage supplement will be added to the new state minimum wage making the county individual provider wage \$14.50. This application of the wage supplement and all subsequent applications to future state minimum wage increases will not adjust the County IHSS MOE.

County E:

Current Rate (as of Jan 2018)	March 2018	Minimum wage \$12.00	Minimum wage \$13.00	Minimum wage \$14.00
\$13.00	\$13.50	\$13.50	\$13.50	\$14.50

County F is negotiating a wage supplement with combined wages and health benefits

County F: Current individual provider wage is \$11.50 and individual health benefit rate is \$0.60 in January 2018. The county negotiates a \$1.00 wage supplement creating a county individual provider wage of \$12.50 and a \$0.21 increase to individual health benefits to begin April 2018. Since the current total of wages and benefits is \$12.10, the county IHSS MOE will be adjusted by the entire non-federal share of the increase to both wages and individual health benefits. However, per W&IC 12306.1(d)(3)(A), for a county that is at or above the \$12.10 state participation cap in combined wages and individual health benefits, the state shall participate in a cumulative total of up to 10 percent within a three-year period in the sum of the combined total of changes in wages and or individual health benefits or both. Therefore, in this situation if the county chooses to utilize the 10 percent within three-year period option, since the amount of the increase to the wages and individual health benefits combined is 10 percent of the current wages and individual health benefits combined, the state would participate in the increase and the county IHSS MOE would have a one-time adjustment of 35% of the non-federal share of the increase to the wages and individual health benefits combined. Since the increases takes effect in April, the adjustments will be prorated for the current fiscal year and then annualized for future fiscal years.

For County F when state minimum wage increases to \$12.00, the wage supplement will be added to the minimum wage increase and the county total wage will be \$13.00. When minimum wage goes to \$13.00 an hour the county wage supplement will be added to the new state minimum wage making the county individual provider wage \$14.00. This application and all subsequent applications of this wage supplement to future state minimum wage increase will not adjust the County IHSS MOE. Additionally, no additional adjustments will be made to the County IHSS MOE for health benefit costs unless the county negotiates another health benefit increase.

County F:

Current Rates (as of Jan 2018)	April 1, 2018	Minimum wage \$12.00	Minimum wage \$13.00	Minimum wage \$14.00
Wage: \$11.50 HB: \$0.60	Wage: \$12.50 HB \$0.81	Wage: \$13.00 HB: \$0.81	Wage: \$14.00 HB: \$0.81	Wage: \$15.00 HB: \$0.81

Non-Health Benefits

With respect to an increase to other benefits (non-health benefits) that may be locally negotiated, mediated, imposed, or adopted by ordinance, there will be a one-time adjustment to the county IHSS MOE equal to 35 percent of the non-federal share of the increased non-health benefit costs. The increased amount shall be fixed. If the original amount is subsequently increased, there will be another adjustment to the county IHSS

MOE equal to 35 percent of the non-federal share for the difference between the initial and the subsequent increases.

Non-health benefits may fall under either administrative or services funding. Non-health benefits that will be a part of the Public Authority administrative funding will include: Tuberculosis testing, stipends for provider training and job related safety equipment for providers. Non-health benefits that will be a part of services funding will include: vacation/holiday pay, pension and life insurance.

CFCO

The County IHSS MOE shall also be subject to a one-time adjustment in the event the State ceases to receive enhanced Federal Financial Participation (FFP) for the Community First Choice Option. The County IHSS MOE will be adjusted to reflect a 35 percent share of the enhanced FFP that would have been received for the fiscal year in which the State ceased receiving the enhanced FFP.

Contract Mode

Existing Contracts

For any rate increases to existing contracts that a county has already entered into pursuant to Section 12302, the state shall pay 65 percent and the affected county shall pay 35 percent of the non-federal share of the amount of the rate increase up to the Maximum Allowable Contract Rate (MACR). The county shall pay the entire non-federal share of any portion the of the rate increase exceeding the MACR.

New Contracts

For new contracts entered into by a county pursuant to Section 12302 on or after July 1, 2017, the state shall pay 65 percent and the affected county shall pay 35 percent of the non-federal share of the difference between the county's Individual Provider wage and the contract rate for all the hours of service IHSS recipients to be provided under the contract up to the MACR. The county shall pay the entire non-federal share on any portion of the contract rate exceeding the MACR.

Specific information about how these adjustments to the County IHSS MOE will be calculated will be provided in a forthcoming CFL.

Additional guidance on the County IHSS MOE, including how the various adjustments will be calculated, and how the administration caps will be implemented will be provided in a forthcoming CFL.

Questions or requests for clarification regarding the information in this letter should be directed to the Fiscal and Administrative Bureau, Adult Programs Division, at (916) 653-3850.

Sincerely,

Original Document Signed By:

DEBBI THOMSON
Deputy Director
Adult Programs Division