

August 8, 2019

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 19-81**

The purpose of this All County Letter is to inform counties of the process for recovery of In-Home Supportive Services (IHSS) overpayments in cases where an IHSS recipient has been convicted of fraud and the court did not order restitution; and of the availability of two new, manually generated IHSS Notice of Action forms advising recipients of the county's intent to initiate overpayment recovery in these situations.



**KIM JOHNSON**  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



**GAVIN NEWSOM**  
GOVERNOR

August 8, 2019

ALL COUNTY LETTER (ACL) NO. 19-81

TO: ALL COUNTY WELFARE DIRECTORS  
ALL IHSS PROGRAM MANAGERS

SUBJECT: IN-HOME SUPPORTIVE SERVICES (IHSS) RECIPIENT  
OVERPAYMENT RECOVERY PROCESS IN CASES RESULTING  
FROM IHSS RECIPIENT FRAUD CONVICTIONS AND NEW  
RECIPIENT OVERPAYMENT NOTICE OF ACTION (NOA) FORMS

REFERENCE: [WELFARE AND INSTITUTIONS CODE \(WIC\) §12305.8](#); [MANUAL OF POLICIES AND PROCEDURES \(MPP\) §§30-768.11 and 30-768.33](#); [ACL No. 13-110](#)

## PURPOSE

The purpose of this ACL is to inform counties of the process for recovery of IHSS overpayments in cases where an IHSS recipient has been convicted of fraud and the court did not order restitution. There are also two new, manually generated IHSS NOA forms to advise recipients of the county's intent to initiate overpayment recoveries in these situations. One form is for counties to notify recipients convicted of IHSS fraud who do not receive Advance Pay, and one for recipients, also convicted of fraud, who currently receive Advance Pay.

## BACKGROUND

As set forth in [WIC §12305.8\(b\)](#) and [MPP §30-768.11](#), an overpayment includes any payments to a recipient for the purchase of IHSS or services delivered in an amount to which the recipient was not entitled. Pursuant to the overpayment recovery requirements outlined in the IHSS Quality Assurance and Quality Improvement (QA/QI) Policy Manual (released via [ACL No. 13-110](#)), counties must initiate recovery actions to recover the full amount of identified IHSS overpayments.

## **NEW RECIPIENT OVERPAYMENT RECOVERY PROCESS**

Prior to initiating overpayment recoveries from IHSS recipients in cases of alleged fraud against the IHSS program, counties must confirm that the alleged fraud by a recipient has resulted in a *conviction* for fraud against the IHSS program. Once a fraud conviction has been established, counties may proceed with one of the following scenarios:

### ***For Cases Involving Court-Ordered Restitution***

If the conviction includes court-ordered restitution, do not enter the recovered restitution amounts into CMIPS, and instead forward all amounts received as a part of the restitution directly to the CDSS following the submittal instructions outlined in the *CDSS Submittal Instructions For Recipient Overpayments* section below.

### ***For Cases Not Involving Court-Ordered Restitution or Advance Pay***

If the conviction does not include court-ordered restitution, counties are to initiate overpayment recoveries for all identified fraud-related overpayment amounts for which the county has not been reimbursed. As outlined in [MPP §30-768.33](#), counties must provide recipients appropriate and timely notice of their intent to recover the overpayment, via the new, manually generated IHSS Overpayment Recovery NOA-*Recipient Fraud Conviction NA 1284*. Prior to mailing the NOA, counties must complete all blank fields of the form to meet the requirements of [MPP §30-768.33](#).

### ***For Cases Not Involving Court-Ordered Restitution with Advance Pay***

For recipients convicted of IHSS fraud who currently receive IHSS Advance Pay, counties are to initiate overpayment recoveries for all identified fraud-related overpayment amounts and use the new manually generated IHSS Overpayment Recovery NOA-*Advance Pay Recipient Fraud Conviction NA 1283*. Prior to mailing the NOA, counties must complete all blank fields of the form to meet the requirements of [MPP §30-768.33](#).

## **CDSS SUBMITTAL INSTRUCTIONS FOR RECIPIENT OVERPAYMENTS**

For all scenarios detailed above (and for any previously collected funds originating from voluntarily paid recipient overpayment recoveries), counties are to mail recovered funds on a flow basis, when received, along with a memo containing a subject line stating *IHSS Recipient Overpayment Recovery*. The memo should include the recipient's name, case number, program funding source (e.g. Community First Choice Option, Personal Care Services Program, etc.), total of overpayment, applicable overpayment dates, and whether the amount was a result of court-ordered restitution to:

California Department of Social Services  
Attention: Cashier, MS 9-3-67  
P.O. Box 944243  
Sacramento, CA 94244-2430

## **CAMERA READY COPIES AND TRANSLATIONS**

For camera-ready copies in English, contact the Forms Management Unit at [fmudss@dss.ca.gov](mailto:fmudss@dss.ca.gov). If your office has internet access, you may obtain this form from the CDSS webpage at: <http://www.cdss.ca.gov/inforesources/Forms-Brochures>.

When translations are completed per [MPP §21-115.2](#), including the Spanish form, the forms will be posted on the CDSS website. Copies of the translated forms can be obtained at: <http://www.cdss.ca.gov/inforesources/Translated-Forms-and-Publications>.

For questions on translated materials, please contact Language Services at (916) 651-8876. Until translations are available, recipients who have elected to receive materials in languages other than English should be sent the English version of the form or notice along with the GEN 1365-Notice of Language Services and a local contact.

The County Welfare Departments shall ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual employees, and qualified employees of other agencies or community resources. These services shall be provided free of charge to the applicant/recipient.

If CDSS does not provide translations of a form, it is the county's responsibility to provide the translation if an applicant or recipient requests it. More information regarding translations can be found in [MPP §21-115](#).

For questions regarding this ACL, please contact the Adult Programs Fiscal, Appeals and Benefit Programs Branch, Benefit Programs and Program Integrity Bureau, Program Integrity Unit at (916) 653-3850 or via e-mail at: [ihss-pi@dss.ca.gov](mailto:ihss-pi@dss.ca.gov).

Sincerely,

### ***Original Document Signed By:***

DEBBI THOMSON,  
Deputy Director  
Adult Programs Division

Attachments

C: CWDA

**NOTICE OF ACTION  
IN-HOME SUPPORTIVE SERVICES (IHSS)  
OVERPAYMENT - ADVANCE PAY RECIPIENT FRAUD CONVICTION**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Worker Name: \_\_\_\_\_

Worker Telephone: \_\_\_\_\_

Worker Address: \_\_\_\_\_

**Questions?** Contact your worker.

**NOTE:** This notice ONLY relates to your In-Home Supportive Services. It does NOT affect your receipt of SSI/SSP, Social Security, or Medi-Cal.

**KEEP THIS NOTICE WITH YOUR IMPORTANT PAPERS.**

**OVERPAYMENT INFORMATION:**

This notice is to inform you that you were overpaid for authorized In-Home Supportive Services (IHSS) for the period of \_\_\_\_\_ to \_\_\_\_\_, totaling \_\_\_\_\_ months. During this period your monthly IHSS payment amount was \_\_\_\_\_. Thus, the amount of the overpayment is \$\_\_\_\_\_, or \_\_\_\_\_ months x \$\_\_\_\_\_ per month.

You are required to repay the total overpayment amount of \$\_\_\_\_\_.

**REASON FOR OVERPAYMENT:**

The reason for the overpayment is because you have been convicted of fraud against the IHSS program. Your fraud resulted in a cash payment(s) to you, or IHSS delivered to you, in an amount to which you were not entitled.

**METHOD OF REPAYMENT:**

Consistent with State law, your monthly IHSS Advance Pay payment will be adjusted by a reduction of **10%** until the overpayment is repaid. At the current pay rate, your IHSS Advance Pay payment amount will be reduced by \$\_\_\_\_\_. The reduction will take effect \_\_\_\_\_ through \_\_\_\_\_. You must continue to pay your Individual Provider(s) in full for all authorized IHSS services provided.

You have the option of repaying the full amount or making payments, per a repayment plan with the County instead of having your Advance Pay payment reduced. If you would like to arrange a payment plan, please contact the County. Please make checks/money orders payable to:

**(COUNTY DEPARTMENT)**


**ADDITIONAL INFORMATION:**

Please note, if you do not use your Advance Pay payment for the purchase of authorized IHSS, the county may change your Advance Payment method to payment in arrears. This means your IHSS provider(s) will be paid directly by the state (instead of by you) after you approve each timesheet.

**You must immediately report any changes that might affect your eligibility or need for IHSS such as changes in income, property, living arrangement, medical condition or ability to work.**

**LAWS AND RULES:**

These laws and rules apply: Welfare and Institutions Code §10950, 12300(a), 12303.4, 12304 and California Department of Social Services' Manual of Policies and Procedures (MPP) §30-767.133, 30-768.321(b), (c), and (d), 30-769.737, you may review them at your county welfare office.

<b>STATE HEARING:</b> YOU HAVE THE RIGHT TO FILE A WRITTEN OR ORAL REQUEST FOR A STATE HEARING. PLEASE SEE REVERSE SIDE OF THIS NOTICE FOR FURTHER DETAILS.
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## YOUR HEARING RIGHTS

1. You have the right to ask for a conference with the county to talk about this action. At the conference you can speak for yourself, or someone else (a lawyer, relative, friend, or other person) can speak for you. If you want a conference, contact the county.
2. Whether or not you ask for a conference, you also have the right to ask for a hearing if you disagree with any county action. You have only 90 days to ask for a hearing. The 90 days started the day after the county gave or mailed you this notice.
3. If you ask for a hearing before an action on your In-Home Supportive Services (IHSS) takes place, your services will continue until the hearing. If you make your request in good faith, you will not have to repay any money you receive for services you get pending the hearing, even if the hearing decision says the county's action was right.
4. You can ask for a hearing in person or in writing. You have to say that you want a hearing and tell the reason(s) you want one.
5. You can ask for a hearing on your own or you can ask the county for assistance. Either way, you should tell your worker as soon as possible.
6. At a hearing, you can speak for yourself, or someone else (a lawyer, relative, friend, or other person) can speak for you. You can get free legal help at your local legal aid or welfare rights office. For a legal aid referral, call the toll-free number listed on this page.
7. If you do not want to go to the hearing alone, you can bring a relative, friend, or other person with you.
8. You can review the regulations about hearings at your local IHSS office.
9. Information Practices: The information you give to ask for a hearing is required to process your request according to state law. A case file will be made up for the hearing and you have the right to look at the information in the file. Any information you give may be shared with the county or the United States Department of Health and Human Services.

## TO ASK FOR A HEARING:

- Fill out this page.
- Make a copy of the front and back of this page for your records. If you ask, your worker will get you a copy of this page.
- Send this page to:

California Department of Social Services  
State Hearings Division  
P.O. Box 944243  
Mail Station 8-16-50  
Sacramento, CA 94244-2430

OR Call toll free:

1-800-952-5253 or for hearing or speech impaired  
who use TDD, 1-800-952-8349.

## REQUEST FOR HEARING:

I want a hearing because I disagree with the action of the county regarding my social services. Here's why:

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- ☐ If you need more space, check box and add a page.
- ☐ I need the state to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing.) My language or dialect is:

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## PERSON WHOSE SOCIAL SERVICES WERE DENIED, CHANGED OR STOPPED

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Telephone	Birthdate
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Street Address
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City	State	Zip Code
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Signature	Date
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## NAME OF PERSON COMPLETING THIS FORM

- ☐ I want the person named below to represent me at this hearing. I give my permission for this person to see my records and/or go to the hearing for me. (This person can be a friend or relative but this person cannot interpret for you.)

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Name
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Telephone
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Street Address
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City	State	Zip Code
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**NOTICE OF ACTION  
IN-HOME SUPPORTIVE SERVICES (IHSS)  
OVERPAYMENT - RECIPIENT FRAUD CONVICTION**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Worker Name: \_\_\_\_\_

Worker Telephone: \_\_\_\_\_

Worker Address: \_\_\_\_\_

**Questions?** Contact your worker.

**NOTE:** This notice ONLY relates to your In-Home Supportive Services. It does NOT affect your receipt of SSI/SSP, Social Security, or Medi-Cal.

**KEEP THIS NOTICE WITH YOUR IMPORTANT PAPERS.**

**OVERPAYMENT INFORMATION:**

This notice is to inform you that you received authorized In-Home Supportive Services (IHSS) for the period of \_\_\_\_\_ to \_\_\_\_\_, totaling \$\_\_\_\_\_. During this period, you were paid for or received \_\_\_\_\_ number of IHSS hours to which you were not entitled. Based on the County's hourly IHSS payrate of \_\_\_\_\_, multiplied by the number of hours you were paid for or received IHSS to which you were not entitled, the total amount of the overpayment is \$\_\_\_\_\_.

You are required to repay the total overpayment amount of \$\_\_\_\_\_.

**REASON FOR OVERPAYMENT:**

The reason for the overpayment is because you have been convicted of fraud against the IHSS program. Your fraud resulted in a cash payment(s) to you, or IHSS delivered to you, in an amount to which you were not entitled.

**METHOD OF REPAYMENT:**

You have the option of repaying the full amount or making payments, per a repayment plan with the County. If you would like to arrange a payment plan, please contact the County. If you do not repay the overpayment voluntarily, the County may demand repayment and file suit for restitution for any outstanding portion of the overpayment. Please make checks/money orders payable to:

(COUNTY DEPARTMENT)



**ADDITIONAL INFORMATION:**

**You must immediately report any changes that might affect your eligibility or need for IHSS such as changes in income, property, living arrangement, medical condition or ability to work.**

**LAWS AND RULES:**

These laws and rules apply: Welfare and Institutions Code §10950, 12300(a), 12303.4, 12304 and California Department of Social Services' Manual of Policies and Procedures (MPP) §30-767.133, 30-768.321(b), (c), and (d), 30-769.737, you may review them at your county welfare office.

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5. You can ask for a hearing on your own or you can ask the county for assistance. Either way, you should tell your worker as soon as possible.
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Street Address
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City	State	Zip Code
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Signature	Date
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Name
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Telephone
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Street Address
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City	State	Zip Code
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