

April 23, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 20-49

This All County Letter (ACL) provides guidance to counties regarding the redetermination of eligibility of a parent to be a paid In-Home Supportive Services (IHSS) provider for their minor child during the coronavirus (COVID-19) response.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

April 23, 2020

ALL COUNTY LETTER NO. 20-49

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

**SUBJECT: REDETERMINATION OF ELIGIBILITY OF A PARENT TO BE A
PAID IN-HOME SUPPORTIVE SERVICES (IHSS) PROVIDER
FOR THEIR MINOR CHILD DURING THE CORONAVIRUS
(COVID-19) RESPONSE**

REFERENCE: [WELFARE AND INSTITUTIONS CODE SECTION 12300\(e\);](#)
[FAMILY CODE SECTION 7610; MANUAL OF POLICY AND](#)
[PROCEDURES \(MPP\) SECTIONS 30-763.44 through 30-763.457;](#)
[ALL COUNTY LETTER \(ACL\) 19-02; ACL 20-26; EXECUTIVE](#)
[ORDER N-29-20; EXECUTIVE ORDER N-33-20; and EXECUTIVE](#)
[ORDER N-47-20](#)

This ACL provides guidance to counties regarding the redetermination of the eligibility of a parent to be a paid In-Home Supportive Services (IHSS) provider for their minor child during the COVID-19 response. The application of this guidance during the COVID-19 emergency is effective immediately upon release of this ACL and continues in force until June 30, 2020.

BACKGROUND

On March 19, 2020, Governor Gavin Newsom issued [Executive Order N-33-20](#) which specified that all non-critical California residents should remain in their residences in an effort to reduce the spread of COVID-19. This has resulted in many Californians working reduced hours or, in some cases, temporary or permanent loss of employment. It has also impacted how Californians are being trained and educated. Normally, such changes in parental availability would impact the eligibility of a parent to be a paid IHSS provider for their minor child, and/or their ability to hire a non-parent provider to provide IHSS to their minor child, as set forth in IHSS Manual of Policies and Procedures Section 30-763.44 et seq.

ELIGIBILITY OF PARENTS TO BE PAID IHSS PROVIDERS FOR THEIR MINOR CHILDREN

Notwithstanding their duties pursuant to the Family Code, under normal circumstances, parents are allowed to be paid IHSS providers for their own minor children when the parent has left full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and the inability of the parent to perform supportive services may result in inappropriate placement or inadequate care. (Welfare and Institutions Code (WIC) Section 12300(e) and [MPP Section 30-763.45.](#)) Pursuant to [MPP Section 30-763.452](#), when a suitable provider who has a duty pursuant to the Family Code (in this case a natural parent or adoptive parent of a minor recipient), they only need to be able and available to provide the needed IHSS, i.e. it is presumed that the parent is willing to provide the needed IHSS. As set forth in MPP Section 30-763.452, a parent is only considered to be unavailable if that unavailability occurs during a time the recipient must receive a specific service, due to employment (including parents working from home), enrollment in an educational or vocational training program, or employment searches. Parents are considered able to provide needed IHSS services unless they are determined to be mentally or physically unable to provide the needed IHSS.

Typically, in a two-parent household where one parent is a minor recipient's paid provider, if the second parent loses employment or is no longer attending educational or vocational training, the second parent would then be considered a second suitable provider. A likely scenario in the context of the COVID-19 pandemic may include the following:

The first parent is a paid IHSS provider for their minor child because the second parent is normally unavailable due to one of the circumstances set forth in MPP Section 30-763.452, and the first parent is prevented from full-time employment because no other suitable provider is available. Upon the outbreak of COVID-19, the second parent is no longer attending educational or vocational training, or has recently lost significant employment hours, or has been temporarily or permanently laid off.

If the parent provider regulations were applied normally, the second parent in the scenario above would now be considered a suitable provider if they are able and available to provide the needed IHSS to their child. Because another suitable provider is available, the first parent would no longer be prevented from full-time employment due to the IHSS needs of their child. Accordingly, both parents are able and available to care for the minor recipient child pursuant to [MPP Section 30-763.452](#) and both are considered suitable providers. As a result, neither parent is eligible to be a paid parent provider as neither parent meets the requirements of [MPP Section 30-764.45](#).

However, due to the current State of Emergency, the IHSS Program released [All County Letter \(ACL\) 20-26](#) which permits reassessments to be postponed until June 30, 2020. Furthermore, it specifies that “any adverse actions related to any reassessments conducted during this time (i.e. reduced hours or termination or services) shall not take effect until June 30, 2020.”

In accordance with [ACL 19-02](#) and [ACL 20-26](#), through June 30, 2020 counties will not reduce a recipient’s authorized hours. This includes when the reassessment results in a determination that a recipient’s authorized hours should be reduced due to the termination of a parent’s eligibility to be a paid provider. If this occurs, the county will not implement the reduction nor issue a related Notice of Action (NOA) until after June 30, 2020. Notwithstanding this, if the reassessment indicates an increase in the recipient’s need, resulting in a need for additional authorized IHSS hours, the county will process the reassessment and issue a change NOA increasing the authorized hours, while not making any changes to the eligibility of the parent to be a paid IHSS provider until after June 30, 2020.

After June 30, 2020, if the second parent continues to be able and available, they will be considered a second suitable provider pursuant to [MPP Section 30-763.45](#) and therefore, the first parent would no longer be eligible to be a paid parent provider consistent with the regular application of the parent provider regulations. In this circumstance, the family would only be eligible to hire a non-parent provider for up to 8 hours per week when the parents are unavailable in order to perform shopping and errands essential to the family, search for employment, or for essential purposes related to the care of the recipient's minor siblings. ([MPP Section 30-763.444](#)) When implementing this change in a recipient’s case, the county must include this information in the change NOA along with any other assessment changes. If one of the parents becomes unavailable to perform the needed IHSS services due to the reasons set forth in MPP Section 30-763.452 in the future, one of the parents may be able to become a paid parent provider again.

Alternatively, if by June 30, 2020 the second parent is once again unable or unavailable to provide the needed IHSS pursuant to MPP Section 30-763.452, the county will update the reassessment narrative in the Case Management, Information, and Payroll System (CMIPS), and will not change the status of the first parent’s eligibility to be a paid provider. If necessary, the county should issue an appropriate change NOA to the family notifying them of any other adverse actions on their child’s case, effective July 1, 2020.

ELIGIBILITY OF PARENTS TO HIRE NON-PARENT PROVIDERS FOR THEIR MINOR CHILDREN

Pursuant to [MPP Section 30-763.44](#), parents of minor IHSS recipients may hire a non-parent provider to provide IHSS to their minor child under the following circumstances:

- When the parent(s) is unavailable because of employment or is enrolled in an educational or vocational training program.
- If the parent(s) is physically or mentally unable to provide the needed IHSS services.
- When the parent is unavailable because of on-going medical, dental or other health-related treatment.
- When the parent(s) must be unavailable to perform shopping and errands essential to the family, search for employment, or for essential purposes related to the care of the recipient's minor siblings, IHSS may be purchased from a provider other than the parent(s) for up to eight hours per week to perform IHSS tasks necessary during the unavailability of the parent(s).

In accordance with [ACL 19-02](#) and [ACL 20-26](#), if the county conducts a reassessment prior to June 30, 2020 and determines that a reduction of authorized IHSS hours would be appropriate because the parents are now able and available to provide the needed IHSS, and thus they cannot hire a non-parent provider, nor can they be paid providers for the reasons set forth above, the county will not issue a NOA implementing such a reduction until after June 30, 2020. Notwithstanding this, if the reassessment indicates an increase in the recipient's need, resulting in a need for additional authorized IHSS hours, authorized hours in addition to a change in provider eligibility, the county will process the reassessment and issue a change NOA increasing the authorized hours.

Again, common examples of changes in parental availability due to COVID-19 include, but are not limited to:

- Able parent(s) are now available because both parents are temporarily out of school, temporarily laid off, or permanently unemployed due to COVID-19. Prior to the stay at home order, both parents were working or going to school.
- Able parent(s)' availability has recently increased as the parent's work hours/school hours have been reduced during COVID-19.

Counties should ensure that the circumstances of parental ability and availability to care for the minor child remain unchanged since the assessment performed during the COVID-19 response period prior to taking adverse action after June 30, 2020. If the counties determine that circumstances have changed and the parents are once again unable or unavailable to provide the needed IHSS as specified in [MPP Section 30-763.44](#) after June 30, 2020, the county will update the reassessment narrative in CMIPS and will not change their eligibility to hire a non-parent provider. Additionally, as needed, the county will follow-up with the parents to complete a new [Recipient Request for Assignment of Authorized Hours to Providers \(SOC 838\)](#) based on parental ability and availability after June 30, 2020, to document their eligibility to hire a non-parent provider to provide IHSS to their minor child. If a change NOA has not already been issued to the recipient, the county shall also issue the change NOA as appropriate.

AVAILABILITY OF UNEMPLOYMENT INSURANCE FOR FAMILIES

Counties should also inform families that have had a parent in the home whose employment has been affected by COVID-19, that they may file an [Unemployment Insurance claim](#) with the Employment Development Department (EDD) and the representative will make a determination regarding their eligibility for unemployment insurance benefits.

Questions or requests for clarification regarding the information in this letter should be directed to the Adult Programs Division, Policy and Quality Assurance Branch, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By

DEBBI THOMSON
Deputy Director
Adult Programs Division