

December 17, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 20-139**

The purpose of this All County Letter (ACL) is to provide counties with guidance regarding the extension of Coronavirus (COVID-19) related exceptions to IHSS rules and requirements.



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**GAVIN NEWSOM**  
GOVERNOR

December 17, 2020

ALL COUNTY LETTER NO. 20-139

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

SUBJECT: **EXTENSION OF COVID-19 RELATED EXCEPTIONS TO IHSS  
PROGRAM REQUIREMENTS**

REFERENCE: [PROCLAMATION ON DECLARING A NATIONAL EMERGENCY  
CONCERNING THE NOVEL CORONAVIRUS DISEASE \(COVID-  
19\) OUTBREAK, BLUEPRINT FOR A SAFER ECONOMY,  
REGIONAL STAY-AT-HOME ORDER \(DECEMBER 3, 2020\), ALL  
COUNTY INFORMATION NOTICE \(ACIN\) I-28-20  
\(MARCH 30, 2020\), ALL COUNTY LETTER \(ACL\) 20-26  
\(MARCH 24, 2020\), ACL 20-32 \(APRIL 10, 2020\), ACL 20-42  
\(APRIL 16, 2020\), ACL 20-75 \(JULY 6, 2020\), EXECUTIVE  
ORDER \(EO\) N-47-20, EO N-55-20, EO N-68-20, EO N-71-20,  
WELFARE AND INSTITUTIONS CODE SECTIONS 12301.1,  
12301.2, 12305.71, 12309, and 12309\(a\)\(2\)\(B\)](#)

The purpose of this All County Letter (ACL) is to provide counties with guidance regarding the extension of COVID-19 related exceptions to IHSS rules and requirements.

These new extensions have been established based on the new color-tiered system established by the Blueprint for a Safer Economy introduced by Governor Gavin Newsom on August 28, 2020.

Information contained in this ACL supersedes the information provided in ACL 20-75 (July 6, 2020).

## **BACKGROUND**

On March 4, 2020, a State of Emergency was proclaimed by the state of California in response to COVID-19. On April 7, 2020, Governor Gavin Newsom signed Executive

Order (EO) N-47-20 which authorized CDSS broad authority to waive IHSS requirements for up to 60 days, to the extent necessary to facilitate the continued provision of IHSS during the COVID-19 pandemic. Subsequently, on June 5, 2020, Governor Newsom signed EO N-68-20, which extended this broad flexibility for an additional 60 days, until August 3, 2020. Governor Newsom's most recent executive order impacting IHSS, EO N-71-20, signed June 30, 2020, specified that effective August 4, 2020, the previous EO waivers regarding IHSS program requirements were replaced with narrow language allowing in-home initial assessment to be conducted via videoconference under certain circumstances.

On August 28, 2020, Governor Newsom unveiled the Blueprint for a Safer Economy, which outlined the State's colored tier system for determining the severity of the COVID-19 viral outbreak on a county-by-county basis. In the system, each county receives a color designation based on the level of outbreak in that county. Each color corresponds to a level of severity and determines the activities and restrictions that are required to be in place for the county. The color levels of severity are:

- **Purple**—Represents Widespread outbreak of the virus in the county. The seven-day average of daily COVID-19 cases per 100,000 people is more than 7 and the seven-day average of all COVID-19 tests performed in the county that are positive is more than 8%. In Purple-tier counties, many non-essential indoor business operations are closed. Further, on November 21, 2020, Governor Newsom issued a limited Stay-at-Home order for citizens living in Purple-tier counties which requires that all non-essential work, movement, and gatherings stop between 10 PM and 5 AM. This limited stay-at-home order will expire on December 21, 2020.
- **Red**—Represents Substantial outbreak of the virus in the county. The seven-day average of daily COVID-19 cases per 100,000 people is between 4 and 7 and the seven-day average of all COVID-19 tests performed in the county that are positive is between 5% and 8%. In Red-tier counties, some non-essential indoor business operations are closed.
- **Orange**—Represents Moderate outbreak of the virus in the county. The seven-day average of daily COVID-19 cases per 100,000 people is between 1 and 3.9 and the seven-day average of all COVID-19 tests performed in the county that are positive is between 2% and 4.9%. In Orange-tier counties, some indoor business operations are open with modifications.
- **Yellow**—Represents Minimal outbreak of the virus in the county. The seven-day average of daily COVID-19 cases per 100,000 people is less than 1 and the seven-day average of all COVID-19 tests performed in the county that are

positive is less than 2%. In Yellow-tier counties, most indoor business operations are open with modifications.

On December 3, 2020, Governor Newsom introduced a new regional stay-at-home order, which goes into effect at 11:59 PM the day after a region has been announced to have less than 15% Intensive Care Unit (ICU) availability. The new stay-at-home order prohibits private gatherings of any size, closes sector operations except for critical infrastructure and retail, and requires 100% masking and physical distancing in all others. Once triggered in a region, the order remains in effect for at least three (3) weeks. After that period, it is lifted when the region's projected ICU capacity meets or exceeds 15%. The ICU capacity will be assessed on a weekly basis after the initial three-week period. For the purposes of the order, California has been divided into the following five regions:

- **Northern California** (Counties of Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Shasta, Siskiyou, Tehama, and Trinity);
- **Bay Area** (Counties of Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma);
- **Greater Sacramento** (Counties of Alpine, Amador, Butte, Colusa, El Dorado, Nevada, Placer, Plumas, Sacramento, Sierra, Sutter, Yolo, and Yuba);
- **San Joaquin Valley** (Counties of Calaveras, Fresno, Kern, Kings, Madera, Mariposa, Merced, San Benito, San Joaquin, Stanislaus, Tulare, and Tuolumne);
- **Southern California** (Counties of Imperial, Inyo, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura).

Federally, the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak ("National Emergency") allowed states to apply for a waiver of certain Medicare and Medicaid requirements pursuant to Section 1135 of the Social Security Act (Section 1135 Waiver), in order to help beneficiaries access care during national emergencies. On March 23, 2020, the Department of Health Care Services (DHCS) was granted a Section 1135 Waiver which waives certain requirements of the IHSS State Plans, including the requirement that assessments and reassessments be conducted in-person, to ensure IHSS recipients served through the Personal Care Services Program, IHSS Plus Option Program, and the Community First Choice Option program to continue to be adequately served during California's COVID-19 response. On April 22, 2020, Governor Newsom signed EO N-55-20, which specifies that any provision of state law is suspended to the extent it imposes any requirement equivalent to federal law which has been waived by the federal Centers for Medicare and Medicaid Services in connection with COVID-19.

## **COVID-19 EXCEPTIONS TO IHSS REQUIREMENTS**

### Initial Assessments

Pursuant to EO 71, the provisions of [WIC Sections 12301.1, 12301.2](#), and [12309](#) are suspended to the extent necessary to permit in-home initial assessments of IHSS applicants who have known exposure to, present symptoms of, or test positive for COVID-19 to be conducted by video-conferencing, to the extent permitted under federal law, effective August 4, 2020, until the end of the State of Emergency in California. Under the new color-tiered system, IHSS county staff in Purple and Red-tiered counties are also allowed to conduct the initial assessments via video-conferencing. However, in Orange and Yellow-Tiered counties, the use of video-conferencing will be allowed only if it is determined that the applicant or someone in his/her household has been infected with COVID-19, has symptoms of COVID-19, or has been exposed to COVID-19 within the previous two weeks. Before scheduling an initial assessment in an Orange or Yellow-Tiered county, staff should reach out to IHSS applicants to determine if the applicant or anyone in his/her household meets one of these criteria. If so, the county may conduct an initial assessment by videoconference using the process detailed in ACL 20-42 (April 16, 2020). Counties must continue to take appropriate measures to comply with applicable confidentiality and privacy laws when contacting and/or conducting assessments via videoconference.

### Reassessments

Until the end of the State of Emergency in California, county IHSS staff in all counties, regardless of their color-tiered designation or stay-at-home order status, must continue to conduct reassessments as required under Manual of Policies and Procedures (MPP) 30-761.13. However, reassessments in these counties may be conducted via telephone or videoconferencing. Counties must continue to take appropriate measures to comply with applicable confidentiality and privacy laws when contacting and/or conducting reassessments via telephone or videoconference.

If staff in one of these counties choose to conduct face-to-face reassessments, the social workers should minimize the amount of assessment time spent in the recipient's home by collecting all relevant information possible over the phone before the home visit. Social workers should also follow public health guidelines regarding health and safety precautions.

Upon completion of any reassessment, counties shall proceed with any required actions and determinations resulting from the outcome of the reassessment.

### IHSS Forms Required for Application, Initial Assessment/Reassessment

Until the end of the State of Emergency in California, when assessments and reassessments are conducted via telephone or videoconference, county staff may accept self-attestations from applicants and recipients and/or their authorized representatives in lieu of original signatures on most required forms normally signed during assessments and reassessments. However, this does not apply to the following IHSS forms which still require an original signature and may be submitted to the county IHSS office through the U.S. mail:

- Request for Order and Consent – Paramedical Services (SOC 321)
- IHSS Designation of Authorized Representative (SOC 839)
- IHSS Recipient's Request for Provider Waiver (SOC 862)

When an applicant or recipient and/or his/her authorized representative self-attest in lieu of an original signature, the social worker must document and list all forms discussed and self-attested to in the recipient's assessment in the case notes. This self-attestation will be considered to satisfy the requirement of filing of the documents under the rules and regulations of the IHSS program. Once a county has been able to re-establish in-person annual reassessments, IHSS recipients or their authorized representatives who previously submitted self-attested forms must submit new replacement forms with original signatures at the recipient's next annual in-person reassessment.

### Health Care Certification Form (SOC 873)

As stated in All-County Information Notice I-28-20 (March 30, 2020), WIC Section 12309.1 and MPP Section 30-754 specify that a recipient must submit an SOC 873 completed by a licensed health care provider prior to the authorization of IHSS services. However, an exception to this requirement may be made when the recipient is at imminent risk of out of home placement (WIC Section 12309.1(a)(2)(B) and MPP Section 30-754.62). Applicants who are granted this exception may be authorized IHSS pending the county's receipt of the SOC 873 and are permitted 45 days from the date of the county's request for the SOC 873 to submit the form. Applicants who receive the exception may be granted an additional 45 days to submit the SOC 873 if they have "good cause" to do so. The MPP Section 30-754.641 states that "good cause means a substantial and compelling reason beyond the control of the applicant who has been granted an exception."

To alleviate the non-essential workload of existing California health care workers and to ensure IHSS applicants are not penalized for delays in their ability to complete an SOC 873, until the end of the State of Emergency in California, counties may continue,

regardless of its color-tiered or stay-at-home order status, to consider all new IHSS applicants who are unable to obtain a SOC 873 from their licensed health care providers due to the redirection efforts to address the COVID-19 pandemic, to be at imminent risk of out of home placement. In addition, because these applicants have a substantial and compelling reason beyond their control which prevents them from submitting the SOC 873 within 45 days, they should be determined to have "good cause" for the delay and be granted an additional 45 days, from the date it is requested by the county, to submit their SOC 873.

#### Emergency Back-Up Provider System

As part of the State effort to alleviate concerns regarding IHSS recipient health and safety during the COVID-19 pandemic, as stated in ACL 20-29, CDSS implemented a back-up provider system for IHSS recipients when their provider can no longer work due to COVID-19 related impacts. ACL 20-29 further provided for a salary differential of two dollars above the current county hourly rate for those IHSS providers assigned to provide emergency back-up services due to circumstances related to COVID-19. As stated in ACL 20-75, both the back-up provider system and the pay differential are due to expire on December 31, 2020. However, due to the continued impact of the COVID-19 pandemic, CDSS has extended the expiration date for both the back-up provider system and the pay differential to June 30, 2021.

#### IHSS Provider Enrollment Requirements

As set forth in ACL 20-32 (April 10, 2020), the provider enrollment requirements of attendance at an in-person IHSS provider orientation and the associated signing of the IHSS Program Provider Enrollment Agreement (SOC 846) were temporarily waived. Per ACL 20-75, the temporary waiver of provider enrollment requirements expired on August 31, 2020.

All counties began conducting in-person or remote provider orientations on September 1, 2020. Providers enrolled in the IHSS program between April and August 2020 who had their provider orientation and SOC 846 requirements waived due to the COVID-19 pandemic were initially required to complete both the provider orientation and the signing of the SOC 846 by December 31, 2020. However, the deadline for completion of the provider orientation and SOC 846 for those providers is extended to June 30, 2021. If those providers do not complete these requirements by June 30, 2021, they will be determined ineligible to continue to work as IHSS providers and will not be paid by the IHSS program until such requirements are completed.

Further, as stated in ACL 20-32 and ACL 20-75, presentation and photocopying of original documentation (state-issued Driver's License or other government issued photo

identification and social security card as required under the MPP Section 30-776.414) verifying the identity of an applicant to serve as an IHSS provider at the county IHSS office at the time of submission of the IHSS Provider Enrollment Application (SOC 426) was also waived through December 31, 2020. The waiving of the presentation of the original documentation at the time of submission of the SOC 426 is extended and will continue until the end of the State of Emergency in California. During this time period, counties shall accept a mailed-in photocopy or facsimile copy of the original documentation. Applicant providers who provide the photocopies of their documentation during the waiver period will not be required to present their original documentation once the State of Emergency in California ends. However, any new applicants seeking to enroll to be eligible to work as IHSS providers in the IHSS program after the end of the State of Emergency in California will need to present the original documentation at the county office at the time of SOC 426 submission.

Quality Assurance/Program Integrity (QA/PI) Home Visits

As stated in ACL 20-42, home visits required to be conducted by the county for purposes of QA/PI as set forth in WIC section 12305.71 may be conducted via telephone or video-conferencing. This is applicable in all counties regardless of their color-tiered designation or stay-at-home order status. This provision will continue until the end of the State of Emergency in California.

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