

October 26, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 21-132**

The purpose of this All County Letter (ACL) is to inform counties of amendments to Welfare and Institutions Code (WIC) sections 12306.1 and 12306.16, revising the In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) for counties effective July 1, 2021, as authorized in Assembly Bill (AB) 135 (Chapter 85, Statutes of 2021) and reestablishes the withholding of 1991 Realignment funds when a collective bargaining agreement is not achieved.



KIM JOHNSON  
DIRECTOR

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

October 26, 2021

ALL COUNTY LETTER NO. 21-132

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

SUBJECT: IN-HOME SUPPORTIVE SERVICES MAINTENANCE OF EFFORT  
EFFECTIVE JULY 1, 2021

REFERENCE: [ASSEMBLY BILL \(AB\) 135 \(CHAPTER 85, STATUTES OF 2021\)](#)  
[SENATE BILL \(SB\) 80 \(CHAPTER 27, STATUTES OF 2019\)](#)  
[WELFARE & INSTITUTIONS CODE \(WIC\) 12306.1](#)  
[WELFARE & INSTITUTIONS CODE 12306.16](#)  
[WELFARE & INSTITUTIONS CODE 12301.61](#)  
[ACL NO. 19-111, DATED DECEMBER 11, 2019](#)  
[ACL NO. 19-101, DATED OCTOBER 14, 2019](#)  
[ACL NO. 19-69, DATED JULY 30, 2019](#)  
[ACL NO. 18-35, DATED MARCH 22, 2018](#)  
[ACL NO. 02-95, DATED DECEMBER 18, 2002](#)  
[CFL NO. 19/20-22, DATED SEPTEMBER 4, 2019](#)

The purpose of this letter is to inform counties of amendments to WIC sections 12306.1 and 12306.16, revising the In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) requirements in effect beginning Fiscal Year (FY) 2021-22, as authorized in AB 135 (Chapter 85, Statutes of 2021) and reestablishes the withholding of 1991 Realignment funds when a collective bargaining agreement is not achieved.

### **BACKGROUND**

In January 2019, the Department of Finance found that 1991 Realignment could no longer support county IHSS costs in its [SB 90: 1991 Realignment Report](#). As a result, WIC sections 12306.1 and 12306.16 were amended (SB 80, Chapter 27, Statutes of 2019) and the rebased County IHSS MOE became effective on July 1, 2019. This legislation changed the non-federal sharing ratio for any locally negotiated mediated, imposed, or adopted by ordinance provider wages or health benefits once the state minimum wage reached \$15.00 an hour to 35 percent state and 65 percent county.

The legislation also removed the state participation cap and the 10 percent option as the state would be participating in all locally negotiated wages and approved benefits regardless of the amount.

### **MOE CHANGES BEGINNING JULY 1, 2021**

Assembly Bill 135 amended WIC sections 12306.1 and 12306.16 that revise the IHSS MOE requirements for counties. Changes to the County IHSS MOE include:

- The non-federal sharing ratio for locally negotiated, mediated, imposed, or adopted by ordinance provider wages or health benefits will be held to the traditional 65 percent state and 35 percent county;
- The traditional 65 percent state and 35 percent county sharing ratio will apply to contract mode up to the Maximum Allowable Contract Rate (MACR);
- The state participation cap of one dollar and ten cents (\$1.10) over minimum wage will continue to be in place;
- The 10 percent option will be available to counties for two three-year periods that begin on or after the date the state minimum wage reaches \$15.00 per hour. A three-year period that begins prior to the state minimum wage reaching \$15.00 per hour does not count toward the two uses of three-year periods authorized by this statute, even if that three-year period extends past the date that the state minimum wage reaches \$15.00 per hour.

Wage supplement and 10 percent option scenarios can be found in [ACL 18-35](#) and [ACL 19-111](#). Policy information regarding the County IHSS MOE in ACL 18-35 and ACL 19-111 is superseded by this ACL; however, the wage supplement and 10 percent option scenarios are relevant.

### **CHANGES TO COLLECTIVE BARGAINING-COUNTIES SUBJECT TO A WITHHOLDING OF FUNDS**

Effective October 1, 2021, counties shall be subject to a seven (7) percent withholding of 1991 Realignment funds if all the following conditions are met:

- The parties have completed the process described in subdivisions (a) through (c) of WIC Section 12301.61;
- The factfinding panel has issued findings of fact and recommended settlement terms that are more favorable to the employee organization than those proposed by the Public Authority (PA) or Nonprofit Consortium (NPC);

- The parties do not reach a collective bargaining agreement within 90 days after the release of the factfinding panel's recommended settlement terms;
- The collective bargaining agreement for IHSS providers in the county has expired.

The amount of 1991 Realignment funds withheld will be equivalent to seven (7) percent of the county's FY 2020-21 County IHSS MOE requirement. For any county that does not have an agreement as of July 1, 2021 and where factfinding settlement terms were released prior to June 30, 2021, that county will have 90 days to reach an agreement or the Realignment withholding will be applied on October 1, 2021. The Public Employment Relations Board is required to notify the county, the employee organization, the Department of Finance and the State Controller that a county is subject to the withholding. The county's social service base will be restored in the following fiscal year pursuant to WIC Section 17602.05.

Questions or requests for clarification regarding the information in this letter should be directed to the Adult Programs Division (APD) Fiscal and Administrative Bureau's Financial Management Unit (FMU) at [APD\\_FMU@dss.ca.gov](mailto:APD_FMU@dss.ca.gov) or by calling (916) 653-3850. The inquiry will be directed to the assigned APD FMU Analyst for each county.

Sincerely,

***Original Document Signed By***

DEBBI THOMSON  
Deputy Director  
Adult Programs Division