

June 1, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 22-44

The purpose of this All County Letter is to provide guidance regarding Assembly Bill 135 In-Home Supportive Services program requirements, sponsor deeming rules, and Social Security Number requirements, and to further clarify instructions for determining eligibility for individuals being assessed under the In-Home Supportive Services Residual Program.



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DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

June 1, 2022

ALL COUNTY LETTER NO. 22-44

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

SUBJECT: SPONSOR DEEMING AND IHSS ELIGIBILITY

REFERENCE: [ALL-COUNTY INFORMATION NOTICE \(ACIN\) I-18-08](#);
[ACIN I-23-99](#); [ALL-COUNTY LETTER \(ACL\) 12-36](#); ALL COUNTY
WELFARE DIRECTORS LETTER ([ACWDL](#)) [NO. 19-13](#);
[ACWDL NO. 18-09](#); [ASSEMBLY BILL \(AB\) 135](#); WELFARE AND
INSTITUTIONS CODE ([WIC](#)) [12300](#); [WIC 12305.6\(b\)\(2\)](#);
[WIC 12302.2](#); [WIC 14007.8](#); 42 U.S. CODE (USC) [SECTION 1382](#);

The purpose of this All County Letter (ACL) is to provide guidance regarding Assembly Bill (AB) 135 In-Home Supportive Services (IHSS) program requirements, sponsor deeming rules, and Social Security Number (SSN) requirements, and to further clarify instructions for determining eligibility for individuals being assessed under the In-Home Supportive Services Residual (IHSS-R) program. The instructions set forth in this ACL only apply to applicants being assessed under the IHSS-R program.

BACKGROUND

The IHSS program provides in-home assistance to eligible aged, blind, or disabled individuals as an alternative to out-of-home care to enable recipients to remain safely in their own homes. IHSS provides services through four programs: Community First Choice Option (CFCO), Personal Care Services Program (PCSP), IHSS Plus Option (IPO), and the IHSS-Residual (IHSS-R) program.

To be assessed for IHSS, all applicants must submit a completed Application for IHSS (SOC 295), submit a completed Health Care Certification Form (SOC 873), and complete a Medi-Cal eligibility determination.

Pursuant to [ACL 12-36](#), all applicants for IHSS must complete a Medi-Cal eligibility determination prior to being authorized services. Medi-Cal eligibility determinations are

completed by county Medi-Cal eligibility workers under the Department of Health Care Services (DHCS). County Medi-Cal eligibility workers are responsible for determining what Medi-Cal benefits applicants are eligible for, including if they are eligible for Federal Financial Participation (FFP) Medi-Cal. Once IHSS applicants are determined Medi-Cal eligible and have submitted an IHSS application and Health Care Certification Form, an IHSS social worker will determine if they are eligible to receive IHSS. The IHSS applicants receiving full-scope Medi-Cal benefits **with** FFP are assessed for the PCSP, IPO and CFCO programs. The IHSS applicants receiving state-only funded full-scope Medi-Cal benefits **with no** FFP are assessed for the IHSS-R program. Also assessed under the IHSS-R program are IHSS applicants who have been denied Medi-Cal eligibility for a reason other than failure to comply with Medi-Cal requirements, or failure to complete the Medi-Cal eligibility process ([ACL 12-36](#), page 10).

Most applicants assessed under the IHSS-R program are non-citizens who are eligible for state-only funded Medi-Cal benefits with no FFP. The instructions set forth in this ACL only apply to applicants being assessed under the IHSS-R program.

ASSEMBLY BILL 135

Effective July 16, 2021, Assembly Bill (AB) 135 added subdivision (h) to Welfare and Institutions Code (WIC) Section 12300 to clarify that any "person who is eligible for state-only funded full-scope Medi-Cal benefits under Chapter 7 (commencing with Section 14000), and who meets all other applicable eligibility criteria for receiving services under this article, shall be eligible for services available under this article" [WIC 12300(h)].

As a result of AB 135, all IHSS applicants receiving state-only funded full-scope Medi-Cal benefits shall be assessed under the IHSS-R program effective July 16, 2021. These IHSS-R applicants may include, but are not limited to, qualified non-citizens subject to the five-year bar, individuals who are considered to be Permanently Residing Under Color of Law (PRUCOL), individuals granted relief under the Deferred Action for Childhood Arrivals (DACA) program, and individuals receiving full-scope Medi-Cal benefits under WIC Section 14007.8, as amended by Assembly Bill (AB) 133. Under WIC Section 14007.8, individuals 25 years of age or younger, and who do not have satisfactory immigration status or are unable to establish satisfactory immigration status, as specified, are eligible for full-scope Medi-Cal if they meet all other Medi-Cal eligibility requirements. Additionally, AB 133 granted full-scope Medi-Cal benefits to older adults who are 50 years of age or older, and who do not have satisfactory immigration status or are unable to establish satisfactory immigration status as required by WIC section 14011.12, if otherwise eligible.

To be eligible for IHSS-R, these individuals must meet all other IHSS eligibility criteria, including the completion and submission of the Application for IHSS (SOC 295) and the IHSS Health Care Certification Form (SOC 873); and there is a determination that the applicant has an assessed IHSS need for services after a needs assessment is conducted by the county IHSS program staff. Counties must accept and process the

IHSS applications for these individuals with full-scope Medi-Cal benefits regardless of their immigration status.

Please note, IHSS applicants receiving state-only funded full-scope Medi-Cal benefits being assessed under IHSS-R shall **not** be required to complete any other IHSS-R eligibility forms, including the IHSS Sponsor to Alien Deeming Worksheet (SOC 811), the Statement of Facts for IHSS (SOC 310), the IHSS Income Eligibility – Adults (SOC 294A) or the IHSS Income Eligibility – Child (SOC 294C).

SPONSOR DEEMING

As a result of AB 135, IHSS-R applicants who are receiving state-only funded full-scope Medi-Cal benefits shall not be subject to the sponsor deeming rules under IHSS-R for purposes of determining eligibility. Only those IHSS-R applicants who are not eligible for Medi-Cal benefits are subject to sponsor deeming rules and will continue to be required to complete the SOC 811, when it's determined that sponsor deeming applies, and all other applicable forms including SOC 310, and SOC 294A/C.

Effective immediately, if IHSS-R applicants are subject to sponsor deeming rules, counties shall follow the updated guidance set forth in this ACL and cease following the prior guidance regarding the length of sponsor deeming periods as set forth in [ACIN I-18-08](#) and [I-23-99](#).

WIC section 12305.6(b)(2) requires that for the IHSS-R program, the applicable sponsor deeming rules as set forth in 42 U.S. Code (USC) Section 1382j shall apply. The 42 USC Section 1382j provides that sponsor deeming shall apply for “a period of three years after the individual’s entry into the United States.” This USC section also provides that sponsor deeming does not apply for an individual who is blind or disabled, and whose blindness or disability commenced after the date of that individual’s admission into the U.S. for permanent residence. (Note: “Entry” or “admission” into the U.S. is the date the individual is admitted as a lawful permanent resident into the U.S., or their status is adjusted to lawful permanent resident status.)

Based on WIC section 12305.6(b)(2), regardless of which Affidavit of Support was signed, when sponsor deeming applies, it shall be limited to a period of three years after the non-citizen’s admission as a lawful permanent resident into the U.S. In addition, there is an exemption (where sponsor deeming shall not be applied) for non-citizens whose blindness or disability commenced after they were admitted to the U.S. for permanent residence.

Counties shall immediately begin following the sponsor deeming requirements in 42 USC Section 1382j as explained in this ACL and shall cease following prior guidance regarding the length of sponsor deeming periods, as set forth in [ACIN I-18-08](#) and [ACIN I-23-99](#). Furthermore, under the updated guidance, the examples provided in [ACIN I-23-99](#), Attachment A, page 2 under the “Deeming Period” section, shall no longer be relevant.

NEW NOTICE OF ACTION MESSAGES

The California Department of Social Services (CDSS) created sponsor deeming specific Notice of Action (NOA) messages to ensure IHSS-R applicants/recipients are informed of how sponsor deeming rules have affected the determination of their IHSS eligibility. County social workers will manually select the appropriate NOA message based on the applicant/recipient's specific circumstance. The following NOA messages will be used by county social workers to provide additional information to applicants/recipients who are **not** receiving state-only funded full-scope Medi-Cal benefits **AND** who are subject to sponsor deeming rules:

- SD01 NOA: You are subject to sponsor deeming because three years have not passed since the date you became a lawful permanent resident. You do not meet the exception to sponsor deeming, as you did not become blind or disabled after you became a lawful permanent resident. Your sponsor's income and resources have been used to determine your IHSS eligibility. [WIC 12305.6(b)(2); 42 USC Section 1382j]
- SD02 NOA: Even though you have a sponsor, you are no longer subject to sponsor deeming because three years have passed since the date you became a lawful permanent resident in the U.S. Your sponsor's income and resources were not used to determine your IHSS eligibility. [WIC 12305.6(b)(2); 42 USC Section 1382j]
- SD03 NOA: Even though you have a sponsor, you are not subject to sponsor deeming because it has been determined that you became blind or disabled after the date you became a lawful permanent resident in the U.S. Your sponsor's income and resources were not used to determine your IHSS eligibility. [WIC 12305.6(b)(2); 42 USC Section 1382j]

SOCIAL SECURITY NUMBER AND INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER REQUIREMENTS

As set forth in WIC sections 12302.5(b) and 12301.6, the IHSS recipient is the employer for the IHSS provider for purposes of selecting, replacing, terminating, scheduling, and supervising the IHSS provider. However, CDSS is required to perform payroll and other functions on behalf of the IHSS recipient (i.e., the IHSS employer) pursuant to WIC 12302.2. Therefore, all IHSS applicants must either have or apply for a Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN) for employment related purposes.

When IHSS applicants are unable to obtain an SSN due to their immigration status, they shall apply for an ITIN from the Internal Revenue Service (IRS). An ITIN is a nine-digit number issued by the IRS to individuals who are required, for federal tax purposes, to have a U.S. taxpayer identification number but do not have and are not eligible to obtain an SSN. For purposes of the IHSS application process, individuals who are not eligible

to obtain an SSN shall provide an ITIN issued by the IRS in lieu of an SSN. Pseudo numbers are not accepted in lieu of SSNs or ITINs.

In situations when counties have directed applicants to apply for an ITIN, counties should allow for about 60 days for the ITIN process to be completed. For more information on how and where to apply for an ITIN, counties may direct applicants to visit the [IRS website](#).

When applying for Medi-Cal benefits, individuals who are not citizens or nationals of the U.S. or do not have satisfactory immigration status (e.g., individuals receiving state-funded full-scope Medi-Cal benefits under WIC section 14007.8), are not required to provide an SSN, pursuant to [ACWDL No. 19-13](#). Once these individuals are approved for Medi-Cal to receive state-only funded full-scope Medi-Cal benefits, their cases will be assigned a Client Index Number (CIN) rather than an SSN. When individuals receiving state-only funded full-scope Medi-Cal benefits without an SSN apply for IHSS benefits, the county shall take their IHSS application and assist them in applying for the ITIN. After the county accepts the IHSS application and assists the applicant in applying for the ITIN, the county shall enter the application information in the Case Management, Information and Payrolling Systems (CMIPS) and check the “Applied for SSN” box. Upon entering the information into CMIPS, the county shall proceed with the assessment to determine authorization of services. The CMIPS will be modified to update the “Applied for SSN” box to include ITIN and the modification is expected to be completed by the end of June 2022. In the interim, should the counties receive applications for IHSS from these Medi-Cal recipients, who have applied for an ITIN, the county may check the box “Applied for SSN”.

MEDI-CAL AID CODES

The following information was gathered from DHCS to assist counties in the IHSS eligibility determination process. Based on the information shared by DHCS, some individuals with full-scope Medi-Cal non-FFP are provided state-only funded full-scope Medi-Cal but may be placed in FFP full-scope aid codes (e.g., aid code M1). For these individuals, FFP is only available for emergency and pregnancy-related Medi-Cal covered services. Any non-emergency services and services that are not pregnancy-related are 100 percent state-only funded. State-only funded populations that these adjustments are made for are qualified non-citizens subject to the five-year bar, PRUCOL, and individuals receiving full-scope Medi-Cal benefits under WIC section 14007.8. The [ACWDL No. 18-09](#), developed by DHCS, provides further information on immigration status.

To assist counties in the IHSS eligibility determination process, IHSS county staff may access the [California Medicaid Eligibility Groups by Medi-Cal Aide Code](#) for a list of state-funded full-scope Medi-Cal aid codes. If counties have questions regarding a specific aid code and require further assistance in determining whether it is full-scope Medi-Cal and state-only funded, county staff may contact DHCS at MCEDImmigrationUnit@dhcs.ca.gov.

If you have any questions regarding this ACL, you may direct them to the CDSS, Adult Programs Division, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By

LEORA FILOSENA, P.M.P.
Deputy Director
Adult Programs Division