

June 26, 2024

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 24-26

The purpose of this All County Letter is to provide counties with guidance regarding the implementation of Senate Bill 616 (Chapter 309, Statutes of 2023) which increase In-Home Supportive Services provider paid sick leave accrual from 24 hours to 40 hours in each year of employment, calendar year or 12-month period, starting January 1, 2024.



KIM JOHNSON
DIRECTOR

CALIFORNIA HEALTH & HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

June 26, 2024

ALL COUNTY LETTER NO. 24-26

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

SUBJECT: **IMPLEMENTATION OF PROVISIONS OF SENATE BILL 616
RELATING TO PAID SICK LEAVE FOR IN-HOME SUPPORTIVE
SERVICES PROVIDERS**

REFERENCE: [SENATE BILL 616 \(CHAPTER 309, STATUTES OF 2023\); ALL-COUNTY LETTER \(ACL\) 12-19 \(APRIL 11, 2012\); ACL 15-60 \(JULY 22, 2015\); ALL-COUNTY LETTER 18-01 \(JANUARY 9, 2018\); SENATE BILL 3 \(CHAPTER 4, STATUTES OF 2016\)](#)

The purpose of this All-County Letter (ACL) is to provide counties with guidance regarding the implementation of Senate Bill (SB) 616 (Chapter 309, Statutes of 2023), which increased In-Home Supportive Services (IHSS) providers' paid sick leave accrual from 24 hours to 40 hours for each year, calendar year, or 12-month period of employment starting January 1, 2024.

BACKGROUND

Governor Brown signed SB 3 (Chapter 4, Statutes of 2016) on April 4, 2016. This bill allowed IHSS providers to accrue eight hours of paid sick leave in each year of employment, calendar year, or 12-month period, beginning July 1, 2018. Accrual was then increased to 16 hours of paid sick leave in each year of employment, calendar year, or 12-month period beginning when the state minimum wage reached \$13.00 per hour, which was January 1, 2020, and up to 24 hours of paid sick leave in each year of employment, calendar year, or 12-month period beginning when the state minimum wage reached \$15.00 per hour, which was January 1, 2022.

Governor Gavin Newsom signed SB 616 (Chapter 309, Statutes of 2023) on October 4, 2023. The bill increased IHSS providers' paid sick leave accrual from 24 hours to 40 hours in each year of employment, calendar year, or 12-month period beginning January 1, 2024

POLICIES REGARDING PAID SICK LEAVE USAGE

As mentioned above, SB 616 increased IHSS providers' paid sick leave accrual from 24 hours to 40 hours in each year of employment, calendar year, or 12-month period beginning January 1, 2024. To effectuate this change within the 2024 calendar year, and consistent with existing mechanisms tying paid sick leave accrual for qualifying existing providers to the state fiscal year, current IHSS providers will have a maximum paid sick leave of 24 hours through June 30, 2024, and then earn the increased paid sick leave of 40 hours starting July 1, 2024.

ACCRUAL AND USAGE OF PAID SICK LEAVE

As established in ACL 18-01:

- An IHSS provider who has worked a total of 100 hours shall accrue the total amount of sick leave and will continue to accrue the full amount of leave on July 1 of subsequent years if they continue to work as an IHSS provider.
- An IHSS provider shall be entitled to use their paid sick leave hours after working an additional 200 hours providing services to an IHSS recipient, or 60 calendar days from the date on which the provider earned their paid sick leave hours, whichever comes first.
- An IHSS provider will lose any unused paid sick leave hours at the end of each fiscal year regardless of how many used sick leave hours remain or when they received the paid sick leave hours during the previous fiscal year.
- The number of paid sick leave hours earned, available for usage, and previously used will be set forth on the provider's pay warrant.

The following examples will detail how IHSS providers will earn their paid sick leave hours after January 1, 2024:

Example 1: Jason is a current provider and has been since June 2018. Since Jason is currently a provider, he accrued 24 total hours of paid sick leave on July 1, 2023. Jason may utilize his 24 hours in accordance with set IHSS paid sick leave policies through June 30, 2024. If Jason does not use his 24 hours before June 30, 2024, he will lose those paid sick leave hours, but will accrue 40 hours of paid sick leave on July 1, 2024, and will continue to accrue the full amount of leave of 40 hours on July 1 of subsequent years if he continues to work as an IHSS provider.

Example 2: Lisa is assigned to her first recipient to provide 50 hours per month of services on February 1, 2024. After 2 months, or April 1, 2024, Lisa has completed working 100 hours, and therefore will accrue 24 hours of paid sick leave. Lisa shall be

entitled to use her paid sick leave hours after working an additional 200 hours providing services to an IHSS recipient, or 60 calendar days from the date on which the provider earned her paid sick leave hours, whichever comes first. Since Lisa only earns 50 hours a month, she will be eligible to utilize her paid sick leave after 60 days, or on June 1, 2024. Lisa will lose any unused paid sick leave hours on June 30, 2024, but will accrue 40 hours of paid sick leave on July 1, 2024, and will continue to accrue the full amount of leave on July 1 of subsequent years if she continues to work as an IHSS provider.

Example 3: Robert is assigned to his first recipient to provide 50 hours per month of services on August 1, 2024. After 2 months, or October 1, 2024, Robert has completed working 100 hours, and therefore will accrue 40 hours of paid sick leave. Robert shall be entitled to use his paid sick leave hours after working an additional 200 hours providing services to an IHSS recipient, or 60 calendar days from the date on which the provider earned his paid sick leave hours, whichever comes first. Since Robert only earns 50 hours a month, he will be eligible to utilize his paid sick leave after 60 days, or December 1, 2024 through June 30, 2025. He will lose any unused paid sick leave on June 30, 2025, and will continue to accrue the full amount of leave on July 1 of subsequent years if he continues to work as an IHSS provider.

REASONS FOR PAID SICK LEAVE USAGE

Reasons for paid sick leave usage have not changed. Pursuant to Labor Code (LC) Section 246.5(a), all workers throughout the State of California (including IHSS providers) may use paid sick leave hours for one of two purposes:

- Diagnosis, care, or treatment of an existing health condition, or preventative care for a provider or a provider's family member. This includes attendance at appointments with medical care professionals, including dentists and chiropractors.
- If the provider is a victim of domestic violence, sexual assault, or stalking, for any of the purposes listed in ACL 18-01.

REQUESTING PAID SICK LEAVE

Labor Code Section 246(k) states that an "employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave." For the IHSS program, the minimum increment for paid sick leave usage shall be one hour; additional paid sick leave time may be used in increments of 30 minutes. The minimum increment for paid sick leave usage shall be 30 minutes if the provider has only 30 minutes remaining in their balance.

To request paid sick leave, an IHSS provider must complete the IHSS Program Provider Sick Leave Request Form ([SOC 2302](#)), which the provider can obtain through the

CDSS website or the county IHSS office. The provider can also complete a sick leave request through the Electronic Service Portal (ESP). If the provider is the recipient's authorized representative, they cannot sign their own SOC 2302 or verify the request through the ESP unless they fall under one of the exceptions outlined in ACL 12-19 (April 11, 2012). Namely, a provider can only sign the SOC 2302 or verify a sick leave request through the ESP as the recipient's authorized representative if they are:

- The parent, guardian, or person having legal custody of a minor recipient.
- The spouse or registered domestic partner of an adult recipient; or
- The conservator of an adult recipient.

Each provider should be advised that once the SOC 2302 form is completed and signed, they are responsible for submitting the form to the CMIPS vendor, Enterprise Services, before the end of the pay period in which they used the paid sick leave time, or they should submit the form concurrently when they submit their timesheet for processing. This will ensure accurate accounting of paid sick leave usage and allow timely payment of paid sick leave wages.

NOTIFICATION OF PAID SICK LEAVE

Labor Code Section 246(i) requires the CDSS to provide each IHSS provider with a written notice setting forth the amount of paid sick leave available for use on either the provider's itemized wage statement or in a separate writing provided on the designated pay date with the provider's payment of wages.

To comply with this provision of the statute, each provider's pay warrant will continue to include information stating the number of available paid sick leave hours and the number of paid sick leave hours that the provider used during the previous pay period.

COUNTY RESPONSIBILITIES

Provider orientation materials will be updated by CDSS to include information on paid sick leave requirements and the process of earning and using paid sick leave hours.

The County IHSS office should inform providers during the provider orientation about the paid sick leave process in the interim period between the implementation of these updated paid sick leave requirements and the release of updated materials.

If you have any questions regarding the policy and conditions outlined in 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