

November 26, 2024

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 24-89**

The purpose of this All-County Letter is to clarify the scope of Licensed Health Care Professionals for purposes of signing the Health Care Certification form for applicants and recipients of the In-Home Supportive Services Program; provide direction to counties for addressing non-state-sanctioned, modified SOC 873, SOC 821, and SOC 321 submissions, and provide direction to counties regarding health providers and clinics charging a fee to patients for filling out forms or providing information responsive to forms that support a claim or appeal regarding eligibility for a public benefit program.



JENNIFER TROIA  
DIRECTOR

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**DEPARTMENT OF SOCIAL SERVICES**  
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GAVIN NEWSOM  
GOVERNOR

November 26, 2024

ALL COUNTY LETTER NO. 24-89

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

SUBJECT: CLARIFICATION OF LICENSED HEALTH CARE PROFESSIONAL  
FOR PURPOSES OF SIGNING THE IN-HOME SUPPORTIVE  
SERVICES HEALTH CARE CERTIFICATION FORM

REFERENCE: [ALL-COUNTY LETTER \(ACL\) NO. 11-55](#); [ACL NO. 11-76](#); [ALL  
COUNTY INFORMATION NOTICE NO. I-74-11](#); [ACL NO. 16-78](#);  
[SENATE BILL 72 \(CHAPTER 8, STATUTES OF 2011\)](#);  
[ASSEMBLY BILL 890 \(CHAPTER 256 STATUTES OF 2020\)](#);  
[WELFARE AND INSTITUTIONS CODE SECTION 12309.1](#);  
[MANUAL OF POLICIES AND PROCEDURES SECTION 30-  
701\(I\)\(2\), SECTION 30-754.21, SECTION 30-754.211](#); [BUSINESS  
AND PROFESSIONS CODE SECTION 2837.103, SECTION  
2837.104](#)

The purpose of this All-County Letter (ACL) is to provide clarification to counties regarding who qualifies as a Licensed Health Care Professional authorized to sign and certify the In-Home Supportive Services (IHSS) Program Health Care Certification form (LHCP-HCC) for applicants and recipients of the IHSS Program.

This letter also provides direction to counties for addressing receipt of non--state--sanctioned, modified IHSS Program Health Care Certification ([SOC 873](#)), Assessment of Need for Protective Supervision for In-Home Supportive Services Program ([SOC 821](#)), and Request for Order and Consent – Paramedical Services ([SOC 321](#)) forms and regarding health care providers and/or clinics who are charging applicants a fee to fill out any forms for the IHSS program.

### **BACKGROUND**

[Senate Bill \(SB\) 72 \(Chapter 8, Statutes of 2011\)](#) added [Welfare and Institutions Code \(WIC\) Section 12309.1](#), which requires that, as a condition of receiving IHSS, an applicant/recipient must obtain a certification from a Licensed Health Care Professional

(LHCP) including, but not limited to, a physician, physician assistant, regional center clinician or clinician supervisor, occupational therapist, physical therapist, psychiatrist, psychologist, optometrist, ophthalmologist, or public health nurse. The certification must declare that the applicant/recipient is unable to perform some activities of daily living (ADLs) independently, and that without IHSS, they would be at-risk of placement in out-of-home care. The certification must also provide a description of any condition or functional limitation that has resulted in, or contributed to, the applicant's/recipient's need for assistance and a description of the type of treatment and care the LHCP is providing to the applicant/recipient.

### **LICENSED HEALTH CARE PROFESSIONAL FOR PURPOSES OF SIGNING THE HEALTH CARE CERTIFICATION REQUIREMENTS**

For purposes of completing the SOC 873, pursuant to [Manual of Policies and Procedures \(MPP\) Section 30-701\(I\)\(2\)](#), the Licensed Health Care Professional Health Care Certification (LHCP-HCC) is defined as an individual licensed in the State of California by the appropriate regulatory agency whose primary responsibilities are to diagnose and/or provide treatment and care for physical or mental impairments which cause or contribute to an individual's functional limitations. In order to sign the SOC 873, the impairment that has resulted in the applicant's/recipient's need for assistance must fall within the LHCP's scope of practice. For example, an optometrist is licensed to diagnose and treat diseases/conditions of the eyes and can determine the degree to which an applicant's sight may impact their ability to execute ADLs and care for themselves independently. Therefore, if an IHSS applicant/recipient has visual impairments, an optometrist would be eligible to sign that applicant/recipient's SOC 873.

### **Nurse Practitioner as Licensed Health Care Professional-Health Care Certification**

In order for an individual to receive IHSS services, existing [WIC Section 12309.1\(a\)](#) and [MPP Section 30-754.114](#) require a health certification from an LHCP. These statutory and regulatory sections include non-exhaustive lists of health care professions that have potential authority to sign the health care certification. Each list includes public health nurse, but neither specifically names a Nurse Practitioner (NP) as an LHCP.

In September 2020, Governor Gavin Newsom signed [Assembly Bill \(AB\) 890 \(Chapter 265, Statutes of 2020\)](#) into law, codified as [Business and Professions Code \(BPC\) Section 2837.103](#) and [Section 2837.104](#), which created two new categories of NP that can function within a defined scope of practice without standardized procedures. [AB 890 \(Chapter 265, Statutes of 2020\)](#) was brought to the attention of the California Department of Social Services (CDSS) (Department) by the IHSS stakeholder community in order for the Department to determine the potential impact on the IHSS program and signing of the SOC 873.

Based on a review of [AB 890 \(Chapter 265, Statutes of 2020\)](#) as well as existing statutory and regulatory authority, CDSS has determined that an NP may sign the SOC 873, even without additional AB 890 certifications. Therefore, as of February 22, 2024, counties shall accept and process an SOC 873 that has been

signed by an NP. The NP must be licensed by the State of California to diagnose and/or provide treatment and care for physical or mental impairments that would qualify an applicant/recipient for IHSS services in order to serve as the signatory for the SOC 873.

However, registered nurses (RN) are still not eligible to certify and sign the SOC 873, as they do not meet the requirements in [MPP Section 30-701\(l\)\(2\)](#). In California, RNs cannot diagnose patients, create treatment plans, and prescribe medications. In California, RNs primarily provide patient care and work under supervision.

### **CLARIFICATIONS OF COMMON QUESTIONS REGARDING THE SOC 873**

Pursuant to [MPP Section 30-754](#), all IHSS applicants must provide a completed and signed SOC 873. This form must be completed and signed by an LHCP-HCC as defined in [MPP Section 30-701\(l\)\(2\)](#). It has been brought to our attention that counties are requesting further clarification regarding blank or incomplete responses to required questions on the SOC 873.

In accordance with [MPP Section 30-780.2\(b\)](#), personal care services may be provided to applicants/recipients who have "...a chronic, disabling condition that causes functional impairment that is expected to last at least 12 consecutive months or that is expected to result in death within 12 months and who is unable to remain safely at home without the services." The SOC 873, question 4, asks LHCPs to consider whether their patient meets this requirement. If the LHCP marks "no" to this question, and the county disagrees or feels there is a discrepancy, the county should contact the LHCP to clarify their response.

Completion of the SOC 873 as required in [MPP Section 30-754](#), includes providing responses to all questions on the form. Any information that is missing, incomplete, or unclear on the SOC 873 should be verified by contacting the health care professional. If required information regarding the LHCP's qualifications in Section D (Licensed Health Care Professional Certification) is missing, incomplete, or unclear, the county can either contact the health care professional or seek to confirm the LHCP's professional license number directly through the appropriate licensing authority. If county staff are unable to verify the missing information, and is confident in the accuracy of the information, the staff need not request any updated, or new, SOC 873 and may accept the form.

### **NON-STATE SANCTIONED SOC 873, SOC 821, and SOC 321 FORM MODIFICATIONS**

It has been brought to the attention of CDSS that a few health care organizations have modified the SOC 873, as well as the Assessment of Need for Protective Supervision for In-Home Supportive Services Program form (SOC 821) and the Request for Order

and Consent – Paramedical Services form (SOC 321), through the utilization of their electronic record systems. The CDSS intervened and worked with the Department of Health Care Services to communicate the information below:

### **SOC 873 Forms**

The CDSS has reviewed IHSS program statutes and regulations and determined that counties may accept alternative documentation in place of the SOC 873, including modified SOC 873 documents. The references to “alternative documentation” in [WIC Section 12309.1\(c\)](#) and [MPP Section 30-754.221](#) list items such as discharge papers, or other medical documentation that would substantiate a recipient’s need for the IHSS program, and, while the modified SOC 873 form does not meet the original intent of the statutory “alternative documentation” reference, CDSS will now allow for the inclusion of modified SOC 873 forms. Counties may accept the modified SOC 873 rather than requiring another SOC 873 from the LHCP, which would result in a delay in authorization of services. As a reminder, the modified form must contain all the required elements listed in [MPP Section 30-754.211](#) to be accepted.

### **SOC 821 and SOC 321 Forms**

The SOC 821 and SOC 321 forms may not be modified or restructured by any entity outside of CDSS, including health care organizations, since there is no statutory or regulatory authority to support any modification to the SOC 821 or SOC 321 form in any way.

Counties should provide assistance to these applicants/recipients to ensure that they are able to submit an original SOC 821 or SOC 321 to the county as soon as possible. Counties that have already accepted a modified SOC 821 and SOC 321 and authorized Protective Supervision hours and/or Paramedical services hours based on those modified forms shall not adjust any hours or services until the authorized forms have been received by the county. Changing services or reducing hours without the benefit of this documentation could jeopardize the health and wellbeing of these recipients.

### **IN-HOME SUPPORTIVE SERVICES FORMS AND PATIENT ACCESS TO HEALTH RECORDS**

It was recently brought to the CDSS’ attention that some health care providers and clinics are charging applicants a fee to fill out the SOC 873, SOC 821, and SOC 321 forms. Pursuant to the California [Health and Safety Code \(HSC\) Section 123114\(a\)](#), a health care provider shall not charge a fee to a patient for filling out forms or providing information responsive to forms that support a claim or appeal regarding eligibility for a public benefit program. The IHSS program and the Medi-Cal program are both public benefit programs that fall under this HSC section. As such, health care providers and clinics may not charge a fee for completing any forms (e.g., SOC 873, SOC 821, or SOC 321) related to an IHSS applicant’s eligibility determination. If a county is informed

and/or discovers that any health care provider(s) or clinic(s) are charging applicants a fee to fill out any forms for the IHSS program, the county should inform the applicant of the illegality of such fee practices.

### **COPIES AND TRANSLATIONS**

Forms referenced in this letter are available on the [CDSS Forms/Brochures webpage](#). When CDSS completes translations of a form, they are posted on the [Translated Forms and Publications webpage](#). When made available by CDSS, forms translated into an individual's preferred language must be provided to the individual pursuant to [Manual of Policies and Procedures \(MPP\) Section 21-115.2](#). For questions on translated materials, please contact Language Services at (916) 651-8876. If translations are not available, recipients who have elected to receive materials in languages other than English should be sent the English version of the form or notice along with the [GEN 1365-Notice of Language Services](#) and a local contact number. See [All County Letter \(ACL\) 22-56](#).

Per [MPP Section 21-115](#), the County Welfare Departments (CWDs) must ensure effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual employees, and qualified employees of other agencies or community resources. These services must be provided, free of charge, to the applicant/recipient. If CDSS does not provide translations of a form, it is the county's responsibility to read and interpret the form if an applicant or recipient requests it. See [ACL 22-56](#).

Additionally, the CWDs must provide auxiliary aids and services to persons with vision, hearing, or speech disabilities, where applicable. More information regarding provisions for services to applicants and recipients who have limited English proficiency or who have disabilities can be found in [MPP Section 21-115](#) and [ACL 19-45](#).

If there are any questions regarding this ACL, reports of any modified forms, or knowledge of any health care providers and clinics who are charging applicants a fee to fill out any forms for the IHSS program, please contact the Adult Programs Policy and Operations Bureau at (916) 651-5350.

Sincerely,

### ***Original Document Signed By***

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