



CDSS

WILL LIGHTBOURNE
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

October 24, 2016

ALL COUNTY LETTER 16-86

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
IHSS PROGRAM MANAGERS

SUBJECT: REINSTATEMENT OF DEADLINE FOR SUBMISSION OF PROVIDER ENROLLMENT AGREEMENT (SOC 846 [REV. 11/15]) FORM FOR IN-HOME SUPPORTIVE SERVICES PROVIDERS ENROLLED PRIOR TO FEBRUARY 1, 2016

REFERENCE: [All-County Letter 16-01 \(January 7, 2016\)](#)
[All-County Letter 16-27 \(April 14, 2016\)](#)

This All-County Letter (ACL) clarifies the policy regarding the submission of the In-Home Supportive Services (IHSS) Program Provider Enrollment Agreement (SOC 846 [rev. 11/15]) form for IHSS providers enrolled prior to February 1, 2016. The information contained in this ACL supersedes the information provided in ACL16-27 (April 14, 2016).

BACKGROUND

On October 1, 2013, the United States Department of Labor (DOL) published the Final Rule on the Application of the Fair Labor Standards Act (FLSA) to Domestic Service (RIN 1235-AA05). This Final Rule extended the protections of the FLSA to domestic service workers by effectively removing the ability of “third party” agencies to claim an exemption for personal care workers from minimum wage and overtime pay as providers of “companionship services” or as live-in providers. In addition, the federal rules relating to pay for travel time under FLSA were made applicable to IHSS providers, including compensation for traveling between multiple recipients. In response to the new federal regulations, two bills, Senate Bill (SB) 855 (Chapter 29, Statutes of 2014 and SB 873 (Chapter 684, Statutes of 2014), were adopted into law

and provided the requirements for workweek limitations, overtime compensation, and travel time compensation and limitations.

In mid-December 2015, an informational mailer (TEMP 3001) was sent to all IHSS providers within the State of California informing them of the February 1, 2016, implementation of the new overtime and travel time requirements. Providers were also informed of the requirement to submit a newly signed IHSS Program Provider Enrollment Agreement (SOC 846) form by April 15, 2016, in order to maintain their continued eligibility as an enrolled provider and avoid automatic ineligibility as of May 1, 2016. The SOC 846 form was included with the mailer. The SOC 846 form was revised in November 2015 to include information about the new overtime and travel time requirements, including any penalties that would be assessed against any provider who violated the limitations.

During the implementation phase of the workweek and travel time process, which began on February 1, 2016, counties began assisting enrolled providers in the completion and submission of various required documents, including the SOC 846 (rev. 11/15) form. Counties, at that time, expressed concerns that providers would not have sufficient time to submit the SOC 846 form while leaving counties with enough time to enter the updated information into the Case Management, Information, and Payrolling System (CMIPS) II before the April 15, 2016, deadline. In response to these concerns, the California Department of Social Services (CDSS) suspended the April 15, 2016, deadline, thus allowing sufficient time for the completion of this and other required forms. The suspension of the deadline was conveyed in ACL 16-27 (April 14, 2016). Although the deadline was suspended, all providers enrolled in the IHSS program prior to February 1, 2016, were still required to sign and submit a new SOC 846 form in order to be in compliance with the provider enrollment requirements, pursuant to Welfare and Institutions Code section 12301.24 and Manual of Policies and Procedures (MPP) Section 30-776.43. In addition, all providers enrolling in the IHSS program after February 1, 2016, had to sign the new SOC 846 (rev. 11/15) as part of the provider enrollment process.

Through CMIPS II, the CDSS has been tracking the number of existing providers who have submitted the SOC 846 form since the February 1, 2016, implementation date. Based on the most recent report(s), the number of providers who have not submitted a signed SOC 846 form has been steadily decreasing. Therefore, the CDSS expects that county workloads related to monitoring and tracking the completion and submittal of the SOC 846 form will be manageable. Counties will be provided with the download information on the providers who have not yet submitted SOC 846 (rev. 11/15) to the county IHSS offices.

PROVIDER ENROLLMENT AGREEMENT DEADLINE REQUIREMENT

The CDSS is reinstating a deadline for all IHSS providers who were enrolled as existing providers prior to February 1, 2016, to sign and submit the new SOC 846 (rev. 11/15) form to their respective county for processing. This form must be sent to the county IHSS office postmarked no later than April 29, 2017. Failure on the part of a provider to sign and submit the new SOC 846 (rev. 11/15) form to the county IHSS office postmarked on or before the April 29 date will result in the provider being found ineligible to work and be paid by the IHSS program as an IHSS provider effective July 1, 2017. The change in status within CMIPS for those providers who fail to submit the SOC 846 (rev. 11/15) postmarked on or before the April 29 date will be auto-performed by the system.

REINSTATEMENT

Those IHSS providers found ineligible to work for failure to submit a newly signed SOC 846 who sign and submit an SOC 846 (rev. 11/15) form after July 1, 2017, can be reinstated as long as:

- The signed SOC 846 (rev. 11/15) form is received by the county IHSS office postmarked on or before July 31, 2017. In this instance, the provider will be eligible for retroactive pay for all authorized services that he/she provided to an eligible IHSS recipient during the month of the July 2017 ineligibility period.
- The signed SOC 846 (rev. 11/15) form is received by the county IHSS office postmarked on or after August 1, 2017. In this instance, the provider will only be paid for authorized services provided on and after the date the signed SOC 846 (rev. 11/15) form was postmarked.

When a provider who has been ineligible for one year or longer wants to be reinstated in the IHSS program, he/she will have to complete the provider enrollment process again in order to be returned to active status. This entails completing the four enrollment requirements: completion of the IHSS Program Provider Enrollment form (SOC 426), attendance at the provider orientation, completion of the SOC 846 at the conclusion of the orientation, and submission of fingerprints for a criminal background check with the California Department of Justice.

In order to ensure the proper date for the processing of the SOC 846 (rev. 11/15) is documented to prevent a provider from being inadvertently determined ineligible to work as an IHSS provider or ineligible to receive retroactive pay for work he/she performed as an IHSS provider, counties will need to document the postmark date of the SOC 846 (rev. 11/15) received in the county IHSS office.

NEW NOTICES

Attached to this ACL are two new notices which have been created by the CDSS to notify providers and recipients of the IHSS provider's ineligibility due to failure to sign and submit the SOC 846 (rev. 11/15) form.

Form TEMP 2262, "In-Home Supportive Services Program Notice to Provider of Provider Ineligibility, Failure to Submit the SOC 846 (rev. 11/15)," will notify the provider of his/her ineligibility as IHSS provider. Form TEMP 2262A, "In-Home Supportive Services Program Notice to Recipient of Provider Ineligibility, Failure to Submit the SOC 846 (rev. 11/15)," will inform recipient(s) of the provider's ineligibility.

Because the process of mailing these notices will be temporary and only for those IHSS providers enrolled in the IHSS program prior to February 1, 2016, the mailing of these notices to those providers who have failed to submit the SOC 846 (rev. 11/15) by the required April 29, 2017, due date will be a manual process.

Counties may begin using the new notices as of May 1, 2017. The new notices will be available in camera-ready form at that time on the CDSS Form/Brochures web page at: <http://www.dss.cahwnet.gov/cdssweb/PG183.htm>

Upon completion of the Armenian, Chinese, and Spanish translations, CDSS will post translated versions of these notices on the Translated Forms and Publications web page at:

http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm

The designated Forms Coordinator for your county must distribute translated notices to each program and location. Each county shall provide bilingual/interpretive services and written translations to non-English or limited-English proficient populations, as required by the Dymally-Alatorre Bilingual Services Act (California Government Code section 7290 et seq.) and by state regulation (CDSS Manual of Policies and Procedures Division 21, Civil Rights Nondiscrimination, section 115).

Questions about accessing the notices may be directed to the Forms Management Unit at fmudss@dss.ca.gov. Questions about translations may be directed to the Language Services Unit at LTS@dss.ca.gov.

COUNTY RESPONSIBILITIES

Each county is responsible for reviewing its CMIPS II records to determine which providers have not yet submitted the newly signed SOC 846 (rev. 11/15) forms to the county IHSS office for the purpose of engaging in outreach with those providers to ensure the newly signed SOC 846 (rev. 11/15) is completed by April 29, 2017, and to provide notices of ineligibility to those providers who do not submit the SOC 846 (rev. 11/15) form by April 29, 2017.

A submission of SOC 846 timeline chart outlining the important dates and county responsibilities is included with this ACL.

Outreach Efforts

Each county must conduct an outreach effort by contacting, either through direct contact via telephone or in-person or in writing, those providers who have not yet submitted their signed SOC 846 (rev. 11/15) form to the county IHSS office for processing. As part of this outreach effort, counties should continue to review the SOC 846 status reports throughout the month of July 2017 and inform providers who have not submitted the SOC 846 (rev. 11/15) that the risk of failing to submit the signed form is being found ineligible to work and, therefore, ineligible to be paid as an IHSS provider. Regardless of the method chosen to contact the providers, the county should also provide an SOC 846 (rev. 11/15) form to the provider to ensure that he/she has the correct form to sign and submit by the April 29, 2017, deadline. These outreach efforts should begin as of the date of the county's receipt of this ACL and must be completed by January 31, 2017.

Counties should ensure that all received SOC 846 (rev. 11/15) forms are documented even if they are not entered into CMIPS II prior to April 29, 2017, so that compliant providers are not determined ineligible. If a signed SOC 846 form is received by the county postmarked by April 29, 2017, the county is responsible for indicating the receipt of the form in CMIPS II no later than June 9, 2017.

Notices TEMP 2262 and TEMP 2262A

Beginning May 1, 2017, and continuing until no later than June 9, 2017, each county is responsible for mailing the new notice TEMP 2262 to each provider who did not submit a signed SOC 846 (rev.11/15) to the county IHSS office postmarked by April 29, 2017. The TEMP 2262 will inform the provider of his/her ineligibility as an IHSS provider effective July 1, 2017. Concurrently, the county must mail the form TEMP 2262A informing the recipient(s) of the provider's ineligibility for failure to submit the SOC 846 (rev.11/15) to the county IHSS office. Both of these notices will be available to the

All-County Letter No. 16-86
Page Six

counties on the CDSS website for download and must be sent to applicable IHSS providers and recipients by June 9, 2017, to allow the provider sufficient time to comply with the submission requirement of the SOC 846 (rev. 11/15) form in order to return to active status and to provide the recipient with the necessary time to find a new provider.

Questions regarding the information in this letter should be directed to the Policy and Operations Bureau, Adult Programs Division at (916) 651-5350.

Sincerely,

Original Document Signed By:

EILEEN CARROLL
Deputy Director
Adult Programs Division

Attachments

SUBMISSION OF PROVIDER ENROLLMENT AGREEMENT (SOC 846)

TIMELINE/ APPLICABLE DATE(S)	TASK	DESCRIPTION OF COUNTIES' ACTIVITIES
10/12/2016 – 01/31/2017	OUTREACH TO IHSS PROVIDERS	<ul style="list-style-type: none"> Review data download to determine which IHSS providers enrolled prior to February 1, 2016, have not yet submitted the SOC 846. Contact IHSS providers, either through direct contact (telephone or in-person) or writing, to inform them of requirement to submit SOC 846 and the consequences for not complying with requirement.
01/31/2017	Deadline to complete outreach efforts	
10/12/2016 - 04/29/2017	SUBMISSION OF SOC 846 TO COUNTIES	<ul style="list-style-type: none"> Document all SOC 846 forms received that were postmarked by 4/29/16, even if not yet entered into CMIPS. Enter into CMIPS.
04/29/2017	Deadline for IHSS providers to submit SOC 846.	
05/01/2017 – 06/09/2017	NOTIFICATION TO PROVIDERS AND RECIPIENTS	Begin mailing TEMP 2262 (Ineligibility notice) to those providers who have failed to submit the SOC 846 form postmarked by 04/29/2017 and mail the TEMP 2262A to the recipients of those providers to inform them that the providers will be ineligible to work and be paid by the IHSS program as of 07/01/2017. All notices must be completed no later than 6/9/17.
07/01/2017	IHSS Providers who fail to submit SOC 846 (postmarked by 4/29/16) are ineligible.	
05/01/2017 – 07/31/2017	SOC 846 RECEIVED BY COUNTY POSTMARKED AFTER 4/29/16 BUT ON/BEFORE 7/31/17.	Reinstate provider with retroactive payment for services provided for the month of <u>July 2017</u> .
08/01/2017 – 06/30/2018	SOC 846 RECEIVED BY COUNTY POSTMARKED ON OR AFTER 8/1/17	Reinstate provider with payment for services provided from the postmarked date of the SOC 846.
06/30/2018	Last date for ineligible provider to be reinstated if he/she submits the SOC 846 and provides services. If SOC 846 is not postmarked by 6/30/18, then ineligible provider cannot be reinstated and is required to re-enroll to be an IHSS provider.	

**IN-HOME SUPPORTIVE SERVICES PROGRAM
NOTICE TO PROVIDER OF PROVIDER INELIGIBILITY
FAILURE TO SUBMIT SOC 846 (REV. 11/15)**

(ADDRESSEE)

COUNTY OF: _____

Notice Date: _____

Provider Name: _____

IHSS Office Address: _____

IHSS Office Telephone Number: _____

To: In-Home Supportive Services (IHSS) Provider

In December 2015, you received the Important Information for the In-Home Supportive Services (IHSS) provider mailer (TEMP 3001) which instructed you to return the signed IHSS Program Provider Enrollment Agreement (SOC 846 [rev. 11/15]) form to the county in order to avoid being determined ineligible to work and be paid by the IHSS program as an IHSS provider.

Effective July 1, 2017, you are no longer eligible to work and be paid by the IHSS program as an IHSS provider. The reason for this determination of ineligibility is because you did not submit the signed SOC 846 (rev. 11/15) form by April 29, 2017.

How to Return to Active Status as an IHSS Provider

If you wish to be placed back on active status in order to work and be paid as an IHSS provider, you must complete and sign the SOC 846 (rev. 11/15) form and return it to the county IHSS office. If you do not have the SOC 846 (rev. 11/15) form, please find an enclosed blank SOC 846 for you to sign and submit to your county office.

If you believe you signed and submitted the SOC 846 prior to the April 29, 2017, required due date or if you have any other questions regarding the SOC 846 form requirement, you may call the county at the telephone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM
NOTICE TO RECIPIENT OF PROVIDER INELIGIBILITY
FAILURE TO SUBMIT SOC 846 (REV. 11/15)**

(ADDRESSEE)

COUNTY OF: _____

Notice Date: _____

Provider Name: _____

Recipient Name: _____

Recipient Case Number: _____

IHSS Office Address: _____

IHSS Office Telephone Number: _____

To: In-Home Supportive Services (IHSS) Recipient

In December 2015, your provider _____ received the Important Information for the In-Home Supportive Services (IHSS) provider mailer (TEMP 3001) which instructed him/her to return a signed IHSS Program Provider Enrollment Agreement (SOC 846 [rev. 11/15]) form to the county in order to avoid being determined ineligible to work and be paid by the IHSS program as an IHSS provider.

Effective July 1, 2017, your provider listed above is no longer eligible to work and be paid by the IHSS program as an IHSS provider. The reason for this determination of ineligibility is because he/she has not submitted the signed SOC 846 (rev. 11/15) form by April 29, 2017.

Because your provider has been determined ineligible as an IHSS provider, you must choose a different person to be your IHSS provider. Your current provider may not continue to provide you services under the IHSS program and will not be paid by the IHSS program for any work you may have him/her perform for you. You will be responsible for paying this individual for any work you may have him/her perform for you.

If you have any questions about this notice or need help finding a different provider, you may call your county IHSS office at the telephone number above.