



CDSS

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December 17, 2010

ALL-COUNTY LETTER NO.: 10-61

TO: ALL COUNTY WELFARE DIRECTORS  
ALL IHSS PROGRAM MANAGERS

SUBJECT: **IMPLEMENTATION OF ASSEMBLY BILL 1612 AS IT RELATES TO  
SERVICE REDUCTIONS IN THE IN-HOME SUPPORTIVE SERVICES  
PROGRAM**

REASON FOR THIS TRANSMITTAL

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

The purpose of this All-County Letter (ACL) is to instruct counties on the implementation of a 3.6 percent service reduction to every recipient in the In-Home Supportive Services (IHSS) program, in accordance with the mandates of Assembly Bill (AB) 1612 (Chapter 725, Statutes of 2010).

**BACKGROUND**

AB 1612 added section 12301.06 to the Welfare and Institutions Code (WIC) which requires the California Department of Social Services (CDSS) to reduce every IHSS recipient's total authorized hours by 3.6 percent effective February 1, 2011. AB 1612 requires Notices of Action (NOA), form NA 690, to be mailed at least 30 days prior to the reduction going into effect and permits recipients to choose how this reduction is applied toward each of their specific authorized services. The 3.6 percent reduction will first be applied to any documented unmet need (excluding protective supervision). AB 1612 included a sunset provision that requires each recipient's service hours be restored, effective July 1, 2012, to the recipient's full authorized level based on the recipient's most recent assessment.

**STATE RESPONSIBILITIES**

CDSS will do a Case Management, Information and Payrolling System (CMIPS) run in late December 2010 to calculate the 3.6 percent reduction for every recipient's total authorized hours. In order to meet statutory requirements, CDSS will mail out NOAs to current recipients between December 26 and December 30, 2010.

The NOAs will notify existing recipients that beginning February 1, 2011 their total authorized service hours will be reduced by 3.6 percent. The new NOA message 303 (temp) will show the total authorized hours before the 3.6 percent reduction and the future total authorized hours after the 3.6 percent reduction (see "CMIPS Functionality and Data Entry" for CMIPS NOA messages). Only the total authorized hours will show as reduced. As usual, the NOA will show the unreduced authorized hours for each specific IHSS service. Effective July 1, 2012, CDSS will restore recipients' authorized hours to their full authorized level based on the recipient's most recent assessment.

Additionally, a NOA message insert (303-A) will be included with each NOA sent out by CDSS. The NOA message insert will explain the new law to recipients and will be available in the four state threshold languages (English, Spanish, Armenian, and Chinese), as required by Government Code, section 7295.2. The NOA message insert will also include the appeals information from the NA 690 translated into the required languages.

### **COUNTY RESPONSIBILITIES**

County IHSS staff shall continue to conduct assessments/reassessments and enter cases into CMIPS in the current manner. CMIPS will automatically calculate the 3.6 percent reduction and apply the reduction to the total authorized hours (see "CMIPS Functionality and Data Entry"). Severely Impaired and Non-Severely Impaired categories for recipients will not change due to this reduction, as individual authorized IHSS services will not be reduced.

CMIPS will automatically print NOAs with appropriate NOA messages related to this reduction. However, there are two different NOA message inserts: 303-A and 303-B (attached) and appeals information the county will be responsible for including with every NOA sent between December 31, 2010 and June 30, 2012. The appeals information (attached) is intended to be printed on the reverse side of the NOA message insert. Both NOA message inserts and the appeals information are available in the four state threshold languages (English, Spanish, Armenian, and Chinese). Counties are responsible for any other translations they determine are required for their service area based on their threshold languages.

Beginning December 31, 2010 and continuing through January 31, 2011, counties must include NOA message insert number 303-A, including the appeals information in the appropriate language with **each NOA sent**. Beginning February 1, 2011 and continuing through June 30, 2012, counties must include NOA message insert number 303-B, including the appeals information in the appropriate language with each NOA sent.

Recipients will choose how the 3.6 percent reduction is applied to each of their specific authorized IHSS services. The recipient or his/her authorized representative is responsible for advising the IHSS provider about the total reduction in service hours and also the specific service hours the recipient chooses to reduce. Recipients do not need to report to the county which hours they choose to reduce. This is between the recipient and his/her provider(s). County IHSS staff will not have a role in distributing or allocating remaining hours after the 3.6 percent reduction is applied.

A county which receives a request for a reassessment during the 90 days following issuance of a NOA related to the 3.6 percent reduction should evaluate whether the request is disputing the 3.6 percent reduction, or whether there has been a change in the recipient's circumstances that impacts their functional abilities. As part of this evaluation process, counties may, when necessary, request additional information from recipients to document the change in circumstances necessitating a reassessment. If the request is solely in response to the 3.6 percent reduction, the county shall explain the state hearing process (see state hearings, page five) to the recipient and deny the request for a reassessment. If the request is the result of a change in circumstances, the county must accept the request for a reassessment and proceed accordingly.

The NOA message inserts (303-A and 303-B) direct recipients to contact their local IHSS office with questions regarding the 3.6 percent reduction. Counties should prepare for calls from recipients regarding the implementation of this law.

### **CMIPS FUNCTIONALITY AND DATA ENTRY**

CMIPS will be programmed to perform a one-time process that reduces the Authorized to Purchase hours on existing recipient cases, in "E", "I" or "L" status, by 3.6 percent. This reduction applies to recipients and providers in a one-to-one relationship in either "E", "I" or "L" status. CMIPS will suppress the printing of the SOC 293 and SOC 311 for the initial 3.6 percent reduction. However, turnaround documents will be generated for the ongoing caseload as usual. The effective date of this change will be February 1, 2011. System edits will not allow creation of eligibility segments that span the February 1, 2011 date. The system will automatically create an ending segment (N line) for existing files that contain open segments and create a new segment (M line) starting February 1, 2011.

CMIPS will also be modified to apply the 3.6 percent reduction to new recipient cases, and any reactivated recipient cases. Date span editing will apply to these cases using a February 1, 2011 effective date. Cases entered after January 1, 2011 will require two segments; a segment for any days of services provided in January and a second segment created beginning February 1, 2011. Counties must allow a one-day

turnaround on CMIPS before creating the second segment for February 1, 2011, because a separate NOA will be generated for the January hours. The new NOA message 303 will display in CMIPS on the RELC screen. The RELC screen will be modified to display the reduction calculation immediately following the current calculation. The new field titled "AB 1612" displays the number of reduction hours. The new field AB 1612 is followed by the reduced hours in the existing fields of Net Hours, Authorized to Purchase hours and the Unmet Needs hours. The calculation will not display on the SOC 293. It is possible to have a case where the only adjustment is to Unmet Needs resulting in no actual change to the number of hours the recipient will receive.

CMIPS will produce a one-time 30-day notification for all recipients in "E", "I" or "L" status whose hours are being reduced. The new NOA message 303 (temp), shown below, has been developed and will be displayed on the NOA mailed by CDSS in late December. For new or reactivated cases and other assessments, CMIPS will generate the normal 10-day NOA with the new NOA message number 303 (shown below). Instructions will be added to the CMIPS 2000 manual with the next quarterly manual update.

For all providers with assigned hours, CMIPS will automatically reduce the assigned hours by 3.6 percent. The exception to this process is for providers whose recipients have a documented unmet need. Recipients with multiple providers wishing to reallocate their providers' hours must contact their local IHSS office. Counties are responsible for implementing requests for reallocation.

For counties with contract mode cases, CDSS will provide a report with a listing of cases in contract mode and their reduced hours.

### **CMIPS NOA MESSAGES**

303 (temp) - Beginning February 1, 2011 and as a result of a new state law your total monthly authorized hours of ###.## will be reduced by 3.6 percent to ###.##.  
(WIC, section 12301.06) Please see the insert for more information about the new law.

303 - As a result of a new state law your total monthly authorized hours of ###.## have been reduced by 3.6-percent to ###.## (WIC, section 12301.06) Please see the insert for more information about the new law.

## **STATE HEARINGS**

Recipients will have their normal appeal rights. Recipient appeal rights will be available in the four state threshold languages (English, Armenian, Spanish, and Chinese) and will be included with each NOA message insert. For IHSS, Administrative Law Judges only have jurisdiction to review cases within 90 days of a county action such as, an assessment, failure to assess or reassess or denial of services.

WIC, section 10950 states, "Notwithstanding any other provision of this code, there is no right to a state hearing when either: (1) state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation, or (2) the sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients." This means hearing requests solely based on the 3.6 percent reduction will be dismissed. Recipients will continue to have the right to appeal any other county action made on their IHSS case.

If the county receives an oral request for a state hearing regarding the 3.6 percent reduction, the county should refer the recipient to the State Hearings Division at 1 (800) 743-8525. Likewise, if the county receives a written request for a state hearing regarding the 3.6 percent reduction, the county should fax the request to the State Hearings Division, at fax number (916) 651-5210.

For questions regarding the contents of this letter, please contact Victoria Rodriguez, Analyst, Adult Programs Branch, Operations and Technical Assistance Unit, at (916) 651-0548 or by email, at [Victoria.Rodriguez@dss.ca.gov](mailto:Victoria.Rodriguez@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

EILEEN CARROLL  
Deputy Director  
Adult Programs Division

Attachments

[IHSS REQUEST A STATE HEARING](#)