



CDSS

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GOVERNOR

January 26, 2012

ALL COUNTY LETTER (ACL) NO. 12-04

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
ALL IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM
MANAGERS

SUBJECT: IMPLEMENTATION OF SENATE BILL (SB) 930

REFERENCES: ACL NO. 09-52, DATED OCTOBER 1, 2009; ACL NO. 09-68, DATED OCTOBER 31, 2009; ACL NO. 09-70, DATED OCTOBER 31, 2009; AND, ACL NO. 11-12, DATED JANUARY 26, 2011

This ACL provides counties with information and instructions for implementing SB 930 (Chapter 649, Statutes of 2011). SB 930 eliminated several statutory mandates affecting the IHSS program which were established under previously enacted legislation. Specifically, the bill repealed the statutes relating to the following provisions:

- The requirement that counties obtain fingerprint images from all IHSS applicants and recipients during the in-home assessment or reassessment;
- The requirement that the index fingerprints of both the provider and the recipient appear on the provider timesheet in order for it to be eligible for payment;
- The requirement that an individual provide his/her physical residence address, not a Post Office (P.O.) Box, when completing the IHSS Provider Enrollment Form (SOC 426); and
- The prohibition against mailing a provider's paycheck to a P.O. Box address unless the county approved a request from an individual to use a P.O. Box as his/her mailing address.

In addition, SB 930 established a new mandate specifically authorizing and requiring the county, Public Authority (PA) or Non-Profit Consortium (NPC) to release state-level criminal offender record information (CORI) search responses received from the California Department of Justice (DOJ) to individuals who have been determined ineligible to be IHSS providers based on information contained in the CORI. The bill also authorizes and requires the county, PA or NPC to release the CORI to the California Department of Social Services (CDSS) when an individual who has been determined ineligible to be an IHSS provider by the county (or to be placed on the provider registry by the PA or NPC) requests a written appeal of the decision.

All provisions of SB 930 became effective on January 1, 2012.

BACKGROUND

- Fingerprinting of Recipients: As part of the IHSS Anti-Fraud Initiative, Assembly Bill 19 of the Fourth Extraordinary Session of 2009 (ABX4 19) (Chapter 17, Statutes of 2009), added section 12305.73 to the Welfare and Institutions Code (WIC). The statute required CDSS, in consultation with counties, to develop protocols and procedures for obtaining fingerprints from all individuals being assessed or reassessed to receive IHSS. Once these protocols had been established, county social workers were to obtain all IHSS recipients' fingerprints upon assessment or reassessment. In February 2010, CDSS held a public meeting for stakeholders to provide input on the implementation of the recipient fingerprinting requirements. In addition, a pilot program was established in a small number of counties to obtain photographs and fingerprint images from recipients, on a voluntary basis, using mobile devices. Upon completion of the pilot project, no further actions were taken to implement the fingerprinting requirements.

SB 930 repealed WIC section 12305.73.

- Provider and Recipient Fingerprints on Timesheets: ABX4 19 also added WIC section 12301.25(c), which required, effective July 1, 2011, that the standardized provider timesheet include a designated space for the index fingerprints of both the provider and the recipient. It required the provider and the recipient to place their respective fingerprints in the designated space in order for a timesheet to be eligible for payment. CDSS took preliminary steps to modify the timesheet to include a space for the index fingerprints; however, this requirement was never fully implemented.

SB 930 deleted subsection (c) of WIC 12301.25.

- Use of Post Office Box on SOC 426: WIC section 12305.85(a), also added by ABX4 19, required that the SOC 426 be completed using the provider's physical residential address, not a P.O. Box address. CDSS revised the SOC 426 to include a home address field, with a notation stating that a P.O. Box may not be provided as the home address, as well as a mailing address field. CDSS released ACL No. 09-52, which transmitted the revised SOC 426 as well as policy instructions requiring counties to ensure that current and prospective providers supply their physical residence address when completing the SOC 426.

SB 930 repealed WIC section 12305.85.

- Restrictions on Mailing of Provider Paycheck to Post Office Box: ABX4 19 added WIC section 12305.85(b), which prohibited a provider's paycheck from being mailed to a P.O. Box unless the county had approved a written or oral request from the provider, including an explanation of the circumstances that make the use of a P.O. Box appropriate or necessary. CDSS developed a draft Provider Request to Use a P.O. Box as Mailing Address form (SOC 866) and, as a means of seeking input from stakeholders on this statute, released multiple drafts of an ACL providing instructions to counties on implementation of the restrictions on the mailing of provider paychecks to P.O. Boxes; however, neither the SOC 866 nor the ACL were issued as final.

As noted above, SB 930 repealed WIC section 12305.85.

- Release of CORI to CDSS: ABX4 19, which established the requirement that all current (as of October 1, 2009) and prospective IHSS providers submit fingerprints and undergo a criminal background check conducted by the California DOJ, also added WIC sections 12301.6(e)(2)(B)(ii) and 12305.86(c)(4), requiring CDSS to develop a written appeal process for the current and prospective providers who are determined ineligible to receive payment for being an IHSS provider as a result of information appearing on the CORI. At the time the appeals process was established, statutory authority did not exist to allow a county/PA/NPC to release a copy of a disqualified individual's state-level CORI to the CDSS Provider Enrollment Appeals Unit (PEAU) for the purpose of making a decision on the appeal. Consequently, in ACL No. 09-68, CDSS instructed counties to provide the PEAU with information extracted from the CORI, rather than the CORI itself, to support the county's decision to deny an individual enrollment as a provider.

SB 930 amended WIC sections 12301.6(e)(2)(B)(ii) and 12305.86(c)(4) to require that the county/PA/NPC provide CDSS with an unaltered/unmodified copy of the state-level CORI as provided to the county/PA/NPC by DOJ for any individual who has requested an appeal of a denial of enrollment as an IHSS provider or placement on a provider registry.

- Release of CORI to Individuals Found Ineligible to be Providers: When CDSS released ACL No. 09-70, to implement the criminal background check requirements for IHSS providers, statutory authority did not exist to allow counties to release a copy of the CORI to individuals found ineligible to be providers on the basis of information appearing in the CORI. At that time, CDSS instructed counties to advise individuals who requested a copy of their CORI to request the information directly from DOJ. Subsequently, at the request of CDSS, in March 2010, DOJ released Information Bulletin 10-01-BCIA, informing applicant agencies that, “the (CORI) response received from the DOJ, following a fingerprint-based non-law enforcement purpose CORI search request, may be provided to the subject of the record; however, the subject of the record should be advised that the information received is for his or her personal review only and should not be furnished to another agency or person.”

CDSS reiterated this policy in ACL No. 11-12, which provided counties with instructions for implementing the Tier 1/Tier 2 exclusionary crime provisions of AB 1612 (Chapter 725, Statutes of 2010). In that ACL, CDSS stated, “Counties/PAs/NPCs are reminded that a copy of the DOJ applicant response, (i.e. CORI) shall be provided to the disqualified applicant provider when they are notified of their disqualification.”

SB 930 amended sections 12301.6(e)(2)(B)(i) and 12305.86(c)(3) to expressly require that, when an individual is determined ineligible to be an IHSS provider and/or placed on a provider registry on the basis of information found on his/her CORI, the county/PA/NPC must provide the individual a copy of the CORI along with the notice of denial. The statute also requires that the county provide information in plain language on how an individual may contest the accuracy and completeness of, and refute any erroneous or inaccurate information on the CORI.

STATE RESPONSIBILITIES

With regard to the program provisions which had yet to be implemented, namely the fingerprinting of recipients, the inclusion of recipient and provider fingerprints on provider timesheets, and the restrictions on mailing of provider paychecks to P.O.

boxes, CDSS will take no further actions to implement these provisions. Any draft policy directives issued relating to these provisions will not be finalized.

- Use of P.O. Box on the SOC 426: Any and all policy directives issued to date stating that individuals must provide a physical residence address, rather than a P.O. Box, when completing the SOC 426 are hereby rescinded. Upon the next revision of the SOC 426, references to this requirement on the form will be deleted.
- Release of CORI to CDSS: When an individual who has been denied enrollment as an IHSS provider files a formal written appeal of that denial with the PEAU, the PEAU will notify the county/PA/NPC by mail that the appeal has been filed. PEAU will also request that the county/PA/NPC provide the appellant's CORI and complete a form (Fact Sheet Supporting Denial) explaining the county's/PA's/NPC's rationale for denying enrollment. PEAU will provide an expected due date for the submittal of these items.
- Release of CORI to Individuals Found Ineligible to be Providers: As noted above, CDSS has already instructed counties to provide individuals found ineligible to be providers based on information in the CORI, a copy of the CORI along with the notice of ineligibility. The existing notices of ineligibility developed by CDSS already contain language informing an ineligible individual to contact the DOJ Record Review Unit if he/she believes information on the CORI is incorrect; however, this information will be augmented and revised notices will be released in an All County Information Notice.

COUNTY RESPONSIBILITIES

Because CDSS never instructed counties to take any actions to implement either the requirements to obtain recipient fingerprint images or to include provider and recipient index fingerprints on the provider timesheet, counties need not take any steps to reverse any actions taken now that these requirements have been eliminated.

With regard to the mailing of provider paychecks to P.O. Boxes, if counties suspect fraud or have other program integrity concerns regarding an individual's request to use a P.O. Box, they should continue to follow their own established procedures to make a determination as to whether an individual may use a P.O. Box as a mailing address.

Use of Post Office Box on SOC 426: Counties are instructed that they may request, but not require, that an individual to provide a physical residential address when completing the SOC 426.

Release of CORI to CDSS: Upon receipt of the PEAU's notification of appeal, the county/PA/NPC will complete the Fact Sheet Supporting Denial form with the county's/PA's/NPC's specific denial information, attach a copy of the appellant's CORI, and return it to the PEAU by way of secured mail (Priority Mail, Registered Mail, Certified Mail/Return Receipt Requested, etc.).

Release of CORI to Individuals Found Ineligible to be Providers: Counties/PAs/NPCs are again reminded that a copy of the CORI must be provided to individuals found ineligible to be IHSS providers or placed on the provider registry) on the basis of information found on the CORI. The CORI must accompany the notice of ineligibility.

Should you have questions regarding the provisions of SB 930 pertaining to the release of CORI to CDSS, you may contact the Litigation and Appeals Bureau at (916) 651-3488. For any other questions related to information in this ACL, please contact the Adult Programs Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By:

EILEEN CARROLL
Deputy Director
Adult Programs Division