

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 19, 2004

ALL-COUNTY LETTER NO. 04-16

TO: ALL COUNTY WELFARE DIRECTORS  
ALL IHSS PROGRAM MANAGERS

## REASON FOR THIS TRANSMITTAL

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

SUBJECT: **MEMORANDUM OF UNDERSTANDING (MOU) REGARDING  
IN-HOME SUPPORTIVE SERVICES PROVIDED TO PARTICIPANTS IN THE OFFICE OF  
AIDS PROGRAMS**

This All-County Letter (ACL) supercedes the January 31, 2001, ACL 13-01 regarding programs serving individuals with Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS). ACL 13-01 referred to the MOU between the California Department of Social Services (CDSS), In-Home Supportive Services (IHSS) and the Department of Health Services (DHS), Office of AIDS (OA).

The purpose of this letter is to transmit an updated copy of the MOU and to remind counties of the importance of county IHSS caseworkers and Medi-Cal Waiver Program (MCWP)/Case Management Program (CMP) case managers working together to coordinate the needs of the recipient. MCWP/CMP services will not supplant or duplicate IHSS hours and county IHSS caseworkers will not decrease IHSS hours solely because MCWP/CMP has increased hours. Ongoing communication should be maintained between county staff and MCWP/CMP case managers regarding changes in the client's health condition and client institutionalization. It is the joint responsibility of both caseworkers and case managers to coordinate the need for changes in type, frequency, or amount of services received by clients.

The MOU continues to specify that the order in which the programs must be utilized is IHSS and then MCWP/CMP. All authorized IHSS benefits must be exhausted before additional services will be paid under the MCWP and/or CMP.

This MOU maintains the ongoing formal agreement between CDSS and DHS-OA in relation to MCWP and CMP program payments for provider services for IHSS recipients. The MOU continues the CDSS waiver of the application of the requirements in the Manual of Policies and Procedure (MPP) 30-763.6 in relation to MCWP/CMP payments for provider services for IHSS recipients. This section of the

regulations requires County Welfare Departments (CWD) to explore and utilize alternative resources in lieu of IHSS program funded services.

This waiver will allow MCWP/CMP to supplement their client's authorized IHSS hours under the following conditions:

- a) For cases currently authorized to receive the statutory maximum number of hours, the CWD will not reduce the authorization of service when the MCWP and CMP grant an additional level of service over and above the IHSS maximum;
- b) For cases assessed at a level less than the maximum, the CWD will not consider additional hours authorized by the MCWP and CMP as an alternative resource and will continue to authorize services at the recipient's assessed need level.

The authority for this waiver is contained in the second paragraph of Welfare and Institutions Code (W&IC) Section 9562 (b), which states:

"To the extent permitted by federal law, each department within the Health and Human Services Agency, including departments designated as single State agencies for the programs described in Section 9561, shall waive regulations and general policies and make resources available which are necessary for the administration of this chapter, upon request of the agency."

If you have any questions regarding this letter, please contact Marie Vann Beckman, Chief, Adult Programs Branch at (916) 229-4582.

Sincerely,

**Original Signed By**  
**Donna L. Mandelstam on 5/19/04**  
DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Programs Division

Attachment

c: CWDA

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
AND  
CALIFORNIA DEPARTMENT OF HEALTH SERVICES**

This Memorandum of Understanding (MOU) is entered into by and between the Office of AIDS (OA) of the Department of Health Services, hereinafter referred to as DHS, and the In-Home Supportive Services (IHSS) Program of the California Department of Social Services, hereinafter referred to as CDSS.

**1. PURPOSE**

The purpose of this Agreement is to formalize an agreement between DHS and CDSS regarding IHSS provided to participants in the AIDS Medi-Cal Waiver Program (MCWP) and the AIDS Case Management Program (CMP). The intent of this Agreement is to insure that eligible individuals with a diagnosis of symptomatic Human Immunodeficiency Virus (HIV) disease or Acquired Immune Deficiency Syndrome (AIDS) related to HIV disease have access to a broad range of consistent and quality care options suited to their particular circumstances.

CDSS and DHS agree that in the administration of the IHSS Program, services provided under the MCWP and CMP will not be treated as "alternative resources" for the recipient for purposes of Manual of Policies and Procedures Section 30-763.6. IHSS benefits shall not be denied or reduced because an individual is eligible for or is receiving services under these programs.

This agreement will allow MCWP and CMP to supplement their clients' IHSS awards under the following conditions:

- a. For cases currently authorized to receive the statutory maximum, the County Welfare Department (CWD) will not reduce the authorization of service when the MCWP and CMP grant an additional level of service over and above the IHSS maximum;
- b. For cases assessed at a level less than the maximum, the CWD will not consider additional hours authorized by the MCWP and CMP as an alternative resource and will continue to authorize services at their assessed need level.

## 2. BACKGROUND

The MCWP operates under a federal waiver to provide comprehensive case management and home and community-based care to Medi-Cal recipients with mid-stage to late-stage HIV/AIDS in lieu of placement in a nursing facility or hospital. The purpose of the program is to maintain clients safely in their homes or a residential setting and to avoid more costly institutional care.

Services available under the MCWP include:

- (a) Case management,
- (b) Skilled nursing care,
- (c) Attendant care,
- (d) Psycho-social counseling,
- (e) Homemaker services,
- (f) Minor physical adaptations to the home,
- (g) Medi-Cal supplement for infants and foster care children,
- (h) Non-emergency medical transportation
- (i) Specialized medical equipment and supplies,
- (j) Nutritional counseling, and
- (k) Nutritional supplements/home delivered meals.

The CMP provides home and community-based services to persons with HIV/AIDS in lieu of placement in a nursing facility or hospital. Like the MCWP, the purpose of the program is to maintain clients safely in their homes or a residential setting and to avoid more costly institutional care. Services available under the CMP are similar to those under the MCWP except CMP also covers hospice care, food, housing. Additionally, CMP clients are typically not as frail as MCWP clients and Medi-Cal coverage is not a requirement for eligibility.

DHS contracts with local agencies including county health departments and community-based organizations to administer these programs. There are currently 36 MCWP providers and 44 CMP providers statewide. Most CMP providers also have a MCWP contract to allow for continuity of care.

The CDSS In-Home Supportive Services Program provides supportive services to qualified aged, blind, and disabled persons. This service enables clients to remain in or return to their own homes and avoid institutionalization. One of the primary goals of IHSS is to be more cost effective than institutionalization. The IHSS program allows the recipient a better quality of life by being less intrusive, allowing the privacy of being at home, and permitting greater family involvement. IHSS is not provided to clients residing in a licensed residential care facility or an acute care setting.

There are two components of the IHSS Program, state and federal. The differences between the two components are the funding sources and the eligibility requirements. The state component is called the Residual Program, which consists of the following services:

- (a) Domestic, Heavy Cleaning,
- (b) Transportation,
- (c) Protective Supervision,
- (d) Non-medical Personal Care Services,
- (e) Teaching and Demonstration,
- (f) Paramedical, and
- (g) Respite.

The federal component is called the Personal Care Services Program, which consists of the same services, excluding Protective Supervision.

### 3. CDSS RESPONSIBILITIES

CDSS agrees to provide information about this agreement to CWDs that administer the IHSS Program. This will enable them to ensure that services provided under the MCWP and CMP will not be treated as "alternative resources" for the recipient for purposes of Manual of Policies and Procedures Section 30-763.6, and to ensure that IHSS benefits are not denied or reduced because an individual is eligible for or is receiving services under these programs.

### 4. DHS RESPONSIBILITIES

DHS will notify MCWP and/or CMP contractors of this agreement and will inform them of the services available through the IHSS Program so that they may be better able to coordinate care for their clients.

### 5. JOINT RESPONSIBILITIES

It is the responsibility of CDSS and DHS to insure that County administered services provided to MCWP or CMP eligible individuals with HIV/AIDS are coordinated and utilized in the sequence described below.

The MCWP and CMP require that existing resources be fully used before services will be authorized through these programs. Specifically, the MCWP and CMP require that services available to a participant in programs under (a), (b), and (c) below must be utilized before authorizing services (d) and (e) below.

While services from the respective programs are to be part of a continuum, it is important that they be used separately. For example, funds from another

program are not to be used to augment IHSS provider wage rates. We hereby affirm that when the same support or services are available to MCWP or CMP participant from more than one source, said support or services shall be used in the following order:

- (a) Informal support of family, friends, other volunteers, and community services
- (b) Title XVI - SSI/SSP; Title XVII – Medicare
- (c) Title XIX (including Personal Care Services Program); Title XX - Social Security (particularly In-Home Supportive Services).
- (d) MCWP
- (e) CMP

Moreover, CMP/MCWP CDSS caseworkers and MCWP/CMP case managers are to maintain ongoing communication regarding changes in the client's health condition and client institutionalization. It is the joint responsibility of both caseworkers and case managers to coordinate need for changes in type, frequency, or amount of services the client receives. MCWP/CMP will not supplant or duplicate IHSS hours. IHSS will not decrease IHSS hours solely because MCWP/CMP has increased hours. It is recognized that MCWP/CMP assesses clients more frequently, uses a different assessment tool, and that client assessment is subjective. However, it is important that both parties share information about changes in client need and understand that they may or may not agree on the total number of hours that the client needs.

## 6. TERM

This Agreement shall be effective on April 1, 2004 through March 31, 2007. This Agreement will remain in effect until such time that revisions or changes are necessary or either Department decides to terminate the agreement.

## 7. FISCAL PROVISIONS

This is a non-financial Agreement and shall not obligate the appropriation or expenditure of funds by either of the signatory agencies, any CWD, or other local agencies that may be involved.

## 8. GENERAL PROVISIONS

This Agreement may be amended by written agreement of the parties. No alteration of the terms herein shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any party.

**AGREED TO:**

MICHAEL MONTGOMERY, Chief  
Office of AIDS  
Department of Health Services

EVA L. LOPEZ, Chief  
Contracts Bureau  
California Department of Social Services