

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814
(916) 444-8770

July 10, 1985



ALL COUNTY LETTER NO. 85-77

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: DETERMINING NET COUNTABLE INCOME AND IHSS SHARE OF COST WHEN
DEEMING INCOME OF INELIGIBLE SPOUSE

REFERENCE: MANUAL OF POLICIES AND PROCEDURES (MPP) SECTIONS
30-753(p); 30-755.223; 30-755.264; 30-761.13; 30-761.213;
30-755; 30-755.213; 30-761; 30-775; 30-775.14; 30-775.213;
30-775.213(b); 30-775.337(b); ALL-COUNTY INFORMATION NOTICE
(ACIN) I-02-85 DATED JANUARY 8, 1985; AND SOCIAL SERVICES
LETTER 77-41, DATED SEPTEMBER 26, 1977

This All-County Letter is to convey changes in the determination of a recipient's In-Home Supportive Services (IHSS) share of cost where the income of an ineligible spouse is deemed to the IHSS recipient.

BACKGROUND

In Hodson v. Woods the California Superior and Appeals Courts held that Welfare and Institutions Code (W&IC) Section 12051 requires the deeming methodology for IHSS to conform to the methodology used for Supplemental Security Income (SSI).

Although the courts determined that our regulations were consistent with the W&IC, our procedures to complete the SOC 294A, IHSS Income Eligibility--Adult, were found to be in error.

IHSS CHANGE DESCRIPTION

The federal SSI methodology for deeming the income of an ineligible spouse is contained in 20 Code of Federal Regulations (CFR) 416.1163c. This section requires that income be calculated for the individual and for the couple (the combined income of individual and ineligible spouse), and that the method which produces the greatest income, called "countable income," be used to determine benefits. In calculating countable income for the individual, the income remaining after all exclusions is to be reduced by

the benefit amount for a federally eligible individual. In calculating countable income for a couple, the remaining combined income after all exclusions is to be reduced by the benefit amount for a federally eligible couple.

Currently, the computation of IHSS countable income only partially follows the above process. Individual total countable income and the combined income of the recipient and the ineligible spouse are computed separately. At this point, the combined income amount, also called "total countable income," is reduced by an amount equal to one-half the benefit amount of an SSI eligible individual. The individual computation and the couple computation are then compared, and the larger figure of the two is reduced by the SSI/SSP benefit level for an eligible individual to determine IHSS share of cost.

The method ordered in Hodson requires that IHSS fully parallel the SSI process. Accordingly, to determine IHSS share of cost the following procedure must be used:

1. Complete the individual income computation by deducting the SSI/SSP benefit amount for an individual from the individual's total countable income;
2. Complete the couples income computation by deducting the SSI/SSP benefit amount for a couple from the couple's total countable income;
3. Compare the resulting figures from the two calculations, and use the higher of the two as the IHSS share of cost.

EFFECTIVE DATE

The change being implemented by this All-County Letter (ACL) is to be effective July 1, 1985 for all new cases. Ongoing cases are to be reviewed for applicability of this policy change at the time of eligibility redetermination. Any reduction in share of cost shall be computed retroactive to July 1, 1985. The recipient shall be issued a refund for any excess share of cost that he/she was charged.

SPECIFIC PROCEDURES TO IMPLEMENT CHANGE

The SOC 294A is being revised to accommodate this change. Pending the modification of this form, the specific instructions below should be followed when using the current SOC 294A (see Attachment 1):

1. Recipient is an aged, blind or disabled individual. No change:
 - a. Complete Section A, steps A-1 through A-13 as currently practiced.
 - b. Complete Section C, steps C-1 through C-3 as currently practiced.

2. Recipients are an aged, blind or disabled couple. No change:
 - a. Complete Section A, steps A-1 through A-13 as currently practiced.
 - b. Complete Section C, steps C-1 through C-3 as currently practiced.
3. Recipient is an aged, blind or disabled individual with a spouse who is not aged, blind or disabled.
 - a. Complete Section A, steps A-1 through A-13 as currently practiced.
 - b. Using the blank space below Section A, write in steps A-14 and A-15 as follows:
 - (1) Step A-14: Write in the appropriate SSI/SSP payment level for an individual.
 - (2) Step A-15: Deduct A-14 from the amount in A-13 and write the remainder here. This is the IHSS share of cost figure based on the income of the recipient only.
 - c. Complete Section B, steps B-1 through B-18 as currently practiced.
 - d. Step B-19: Write in the appropriate SSI/SSP payment level for a couple.
 - e. Step B-20: Deduct B-19 from the amount in B-18 and write the remainder here. This is the IHSS share of cost figure based on deeming the income of an ineligible spouse to the recipient.
 - f. Complete Section C, Share of Cost, as follows:
 - (1) Eliminate steps C-1 and C-2.
 - (2) Carry to step C-3 the larger of A-15 or B-20. This is the recipient's IHSS share of cost.

REQUIRED NOTICE OF ACTION (NOA)

When the recalculation of the SOC 294A results in a reduced recipient IHSS share of cost, retroactive to July 1, 1985, NA 690B (11/83), IHSS NOA- Reassessment, should be used to report this change and to transmit the IHSS share of cost refund. In the section titled "The reason for this change is:" the following statement should be used:

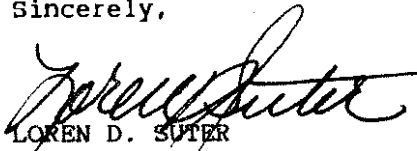
"A policy change resulting from a recent court case uses a revised method to calculate share of cost. In your case, this benefits you by a share of cost reduction of \$_____ monthly, retroactive to July 1, 1985. The amount of \$_____ is being refunded to you as a result of this calculation."

CERTIFICATION OF COUNTY IMPLEMENTATION

Counties must return the attached certification form to provide verification to the Department that you are implementing the revised methodology of deeming of income of an ineligible spouse to an IHSS recipient.

If you have any questions, please contact your Adult and Family Service Program Operations Consultant at (916) 445-0623.

Sincerely,



LOREN D. SUTER
Deputy Director
Adult and Family Services Division

cc: CWDA

Attachments

IHSS INCOME ELIGIBILITY – ADULT

Name _____ Case No. _____ Month _____

RECIPIENT

SPOUSE

<p>A. Income of aged, blind or disabled individual or couple (if individual has spouse not aged, blind or disabled, also complete Part B)</p>	<p>B. Income of aged, blind or disabled individual and spouse who is not aged, blind or disabled.</p>
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	UNEARNED	EARNED		UNEARNED	EARNED
1. Unearned income (list) (Do not show exempt income)	/	/	1. Income of client's spouse*	\$	\$
a.	\$	/	2. Allowance for children not blind or disabled.	/	/
b.	\$	/	a. Children's needs		
c.	\$	/	b. Children's income*	\$	\$
2. Total unearned income (A1a to A1c)	\$	/	c. Net needs (a – b)	\$	\$
3. Any income exclusion	\$20	/	d. Total allowance (add B2 c's)	\$	/
4. Net unearned income (A2 minus A3)	\$	/	3. Remaining unearned income (B1 minus B2d)	\$	/
5. Earned income (Do not show exempt income)	/	\$	4. Unmet children's needs (If B2d is greater than B1 unearned, enter the difference)	/	\$
6. Unused \$20 exclusion (If A3 is greater than A2, enter the difference)	/	\$	5. Remaining earned income (B1 minus B4)	/	\$
7. Earned income exclusion	/	\$65	6. Net income of spouse (B3 plus B5)		
8. Total exclusions (A6 plus A7)	/	\$	— If equal to or less than _____, A13 is entered in C1		
9. Remaining earned income (A5 minus A8)	/	\$	— If greater than _____, complete B7 through B20		
10. Net earned income (A9 X ½)	/	\$	7. IHSS client's income (From A2 and A5)	\$	\$
11. Other earned income deductions	/	\$	8. Income of couple (B3 plus B7 unearned, B5 plus B7 earned)	\$	\$
12. Total net earned income (A10 minus A11)	/	\$	9. Any income exclusion	\$20	/
13. Total countable income (A4 plus A12)	\$		10. Net unearned income (B8 minus B9)	\$	/
			11. Unused \$20 exclusion (If B9 is greater than B8 unearned, enter the difference)	/	\$
			12. Earned income exclusion	/	\$65
			13. Total exclusions (B11 plus B12)	/	\$
			14. Remaining earned income (B8 minus B13)	/	\$
			15. Net earned income (B14 X ½)	/	\$
			16. Other earned income deductions	/	\$
			17. Total net earned income (B15 minus B16)	/	\$
			18. Total countable income (B10 plus B17)	\$	
			19. Needs of spouse		
			20. Net countable income (B18 minus B19)	\$	
			C. SHARE OF COST		
			1. Countable income (higher of A13 or B20)	\$	
			2. SSI/SSP payment level	\$	
			3. IHSS share of cost (C1 minus C2)**	\$	

** If there is also a blind or disabled child in the family, the share of cost shown in Line C3 is not paid. Enter this amount on Form SOC 294C, Line A9. The share of cost will be the amount determined in SOC 294C, Line B16.

Worker _____ Date _____

State of California
Health and Welfare Agency

Department of Social Services

IMPLEMENTATION OF POLICY CHANGE

RESULTING FROM

HODSON v. WOODS

The County of _____, State of California, has issued instructions to social services staff to apply the revised methodology for deeming of income of an ineligible spouse to an IHSS recipient, a policy change made as a result of Hodson v. Woods, a recent California court decision. In implementing ACL 85-77, instructions were to make this change effective July 1, 1985 for all new cases and retroactive to July 1, 1985 for an ongoing case, the recalculation to be made at time of eligibility redetermination.

Your Name/Title (print)

Date

Signature

Return to:

Department of Social Services
Adult Services Bureau
Adult Services and Operations Branch
744 P Street, MS 9-536
Sacramento, CA 95814