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June 23, 2017

ALL COUNTY LETTER NO. 17-42

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY IN-HOME SUPPORTIVE SERVICES PROGRAM
MANAGERS

SUBJECT: CLARIFICATION ON THE AUTHORIZATION OF MEDICAL
ACCOMPANIMENT IN THE IN-HOME SUPPORTIVE SERVICES
PROGRAM

REFERENCES: [ALL COUNTY LETTER NO. 16-01 \(January 7, 2016\)](#); [ALL COUNTY LETTER NO. 14-82 \(November 25, 2014\)](#); [WELFARE AND INSTITUTIONS CODE SECTION 12300\(b\)](#); [TITLE 22, CALIFORNIA CODE OF REGULATIONS, SECTION 51323](#); [DEPARTMENT OF HEALTH CARE SERVICES MEDI-CAL PROVIDER MANUAL](#); [MANUAL OF POLICIES AND PROCEDURES SECTION 30 757.15](#)

<u>REASON FOR THIS TRANSMITTAL</u>	
<input type="checkbox"/>	State Law Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input type="checkbox"/>	Court Order
<input checked="" type="checkbox"/>	Clarification Requested by One or More Counties
<input type="checkbox"/>	Initiated by CDSS

The purpose of this All County Letter (ACL) is to provide clarification regarding policies and procedures related to the authorization of Medical Accompaniment in the In-Home Supportive Services (IHSS) program. Specifically, it provides clarification requested by counties on whether, and under what circumstances, Medical Accompaniment, and associated wait time, can be authorized for minor recipients. In addition, it provides guidance requested by counties on the correct procedures for establishing whether non-emergency medical transportation (NEMT) is being provided for an IHSS recipient through the Medi-Cal program, in order to determine whether Medical Accompaniment may be authorized.

BACKGROUND

Accompaniment to health care appointments and alternative resource sites is an allowable service in the IHSS program, pursuant to [Welfare and Institutions Code \(WIC\) section 12300\(b\)](#), which provides that, “Supportive services shall

include...accompaniment by a provider when needed during necessary travel to health-related appointments and to alternative resource sites..." [Manual of Policies and Procedures \(MPP\) section 30-757.15](#) specifies the conditions under which this service may be authorized:

Assistance by the provider is available for transportation when the recipient's presence is required at the destination and such assistance is necessary to accomplish the travel, limited to:

- .151 Transportation to and from appointments with physicians, dentists and other health practitioners.
- .152 Transportation necessary for fitting health related appliances/devices and special clothing.
- .153 Transportation under .151 and .152 above shall be authorized only after social service staff have determined that Medi-Cal will not provide transportation in the specific case.
- .154 Transportation to the site where alternative resources provide in-home supportive services to the recipient in lieu of IHSS.

Although the regulations use the term "transportation," medical accompaniment should not be authorized simply to fill the recipient's need for transportation. Rather, consistent with WIC section 12300(b), Medical Accompaniment shall only be authorized when the recipient needs assistance with another specific authorized IHSS task(s) during transportation to/from and/or at the destination.

As of the state's February 1, 2016, implementation of the United States Department of Labor's Final Rule on the Application of the Fair Labor Standards Act to Domestic Service, IHSS providers must now be paid, under certain circumstances, for wait time associated with accompaniment to medical appointments and alternative resource sites. As set forth in [ACL No. 16-01](#), a provider must be paid for wait time when he/she provides authorized Medical Accompaniment for a recipient and the provider is considered to be "engaged to wait," otherwise referred to as Wait Time-On Duty, meaning the provider is not performing work duties but he/she is unable to use the time effectively for his/her own purposes. Time a provider spends "waiting to be engaged," which means the individual is completely relieved from performing work duties and he/she has enough time to enable him/her to use the time effectively for his/her own purposes, is considered Wait Time-Off Duty and is not compensable.

As noted above, program regulations allow for accompaniment to be provided to sites where services in lieu of IHSS are provided by alternative resources, such as Community Based Adult Services centers; however, the associated wait time generally would not be compensable. While there may be exceptions, the length of time a

recipient would typically spend at an alternative resource site would be sufficient to allow the provider to be completely relieved of his/her duties so that he/she could engage in his/her own personal business or activities. Thus, the wait time associated with accompaniment to alternative resource sites would, most often, be considered Wait Time-Off Duty.

Detailed information on policies relating to wait time and guidelines for determining whether a provider is considered to be “engaged to wait” versus “waiting to be engaged” can be found in [ACL No. 16-01](#).

AUTHORIZATION OF MEDICAL ACCOMPANIMENT FOR MINOR RECIPIENTS

It is typically considered an expected parental responsibility to accompany a child to a medical appointment. Therefore, as a general rule, Medical Accompaniment may not be authorized for a minor recipient. However, there are certain limited circumstances under which Medical Accompaniment can be authorized for a minor recipient. In order for Medical Accompaniment to be authorized for a minor recipient, each of the three following conditions must be met:

1. The minor recipient must have an assessed extraordinary need.

An extraordinary need is a need that is based on the functional impairment due to the minor’s disability and that is beyond what would normally be expected for a minor of the same age without the functional impairment. Whenever assessing the service needs of a minor recipient, the social worker should utilize the Age Appropriate Guidelines tool and process, making sure to take into consideration any extraordinary need(s) the individual may have.

2. The appointment(s) must be with a physician or other licensed health care professional (LHCP) in a specialty care discipline, e.g., cardiology; neurology; immunology; orthopedics; physical, speech or occupational therapy; rehabilitation/prosthetics; etc., and the appointment must be related to the minor’s disability or functional impairment.

Medical Accompaniment may not be authorized for routine appointments with the minor recipient’s pediatrician or primary care physician, such as well-baby/child visits, annual check-ups, immunizations, visits related to common childhood illnesses/injuries, etc.

3. The minor recipient must have a need for an authorized IHSS task(s) to be performed for him/her during travel to/from or at the appointment.

As noted above, Medical Accompaniment is not intended to satisfy a recipient’s transportation needs. Rather, the provider’s presence must be required to

perform one or more authorized IHSS services for the minor recipient during transit or at the destination.

If all the above conditions are met, Medical Accompaniment may be authorized in a minor recipient case.

An example of when Medical Accompaniment could be authorized for a minor recipient would be when a ten-year-old recipient who has been authorized time in the Ambulation and Transfer service categories (because of an assessed extraordinary need) requires assistance with walking into/out of the medical office and transferring on to/off the exam table when he/she has an appointment with an orthopedic surgeon. Another example would be, when traveling to an appointment with an immunologist, a parent provides Protective Supervision for a non-self-directing minor recipient, or performs a Paramedical Services task, such as airway suctioning, for a minor recipient for whom these IHSS services have been authorized.

It should be noted that, although Medical Accompaniment may not be authorized for routine medical appointments, if the minor recipient needs other authorized services to be provided based on an assessed extraordinary need, the provider may be paid for providing these services in transit to/from or at these types of appointments. For example, in the example above, the parent would be paid to provide ambulation and transfer assistance for the minor recipient during transit to/from and at the child's annual check-up with his/her pediatrician. The time would be authorized not in the Medical Accompaniment category but in the Ambulation and Transfer service categories (as part of the total authorization for these categories). However, it would (generally) not be necessary to authorize additional time in these service categories because the total authorization would include all the time required to perform these services regardless of whether they were performed at home or at a medical appointment.

Associated Wait Time

The guidelines provided in [ACL No. 16-01](#) (beginning on Page Fourteen) for determining whether a provider is "engaged to wait" (Wait Time—On Duty) versus "waiting to be engaged" (Wait Time—Off Duty) during a medical appointment need not be applied in minor recipient cases. This is because a parent is typically expected to be present during a child's medical appointment so that he/she can participate in a discussion with the medical professional about the child's health and make decisions about treatment and care. Therefore, in minor recipient cases, as a general rule, when all of the conditions have been met to authorize Medical Accompaniment, any associated wait time would be considered to be compensable, and the social worker should include the wait time in the authorization. However, depending on the specific circumstances of a case, there may be limited exceptions to this general rule, such as when medical professional staff take physical charge of the minor recipient for a set period of time to perform a procedure and there is sufficient time for the parent provider to conduct his/her own personal business/activities. For example, if a 15-year-old

recipient had a one-hour appointment with a physical therapist to perform rehabilitative exercises and the parent's participation was not required, the parent could use the time during the appointment for his/her own purposes. In such a case, the parent would be considered to be "waiting to be engaged" and the time would not be compensable.

PROCEDURES FOR DETERMINING WHEN NEMT IS PROVIDED UNDER THE MEDI-CAL PROGRAM

Under certain limited circumstances, NEMT may be provided to a recipient under the Medi-Cal program. Pursuant to [Section 51323 of Title 22 of the California Code of Regulations](#), and the [section of the Department of Health Care Services \(DHCS\) Medi-Cal Provider Manual pertaining to ground medical transportation](#), NEMT coverage is limited and only covered when a recipient's medical and physical condition does not allow the recipient to travel by bus, passenger car, taxicab or another form of public or private conveyance. Transportation is not covered if the care to be obtained is not a Medi-Cal benefit.

As specified in [ACL No. 14-82](#), counties are required to verify if NEMT is being provided for the IHSS recipient through the Medi-Cal program: "The IHSS recipient must have an approved Treatment Authorization Request (TAR) on file with DHCS for NEMT, which is only covered subject to the written prescription of a physician, dentist or podiatrist." Counties should follow the procedures outlined below to determine whether NEMT is being covered under Medi-Cal:

1. The recipient/applicant may know whether the Medi-Cal program is providing for his/her NEMT needs. Therefore, at the time of the assessment or reassessment, the social worker should first inquire of the applicant/recipient whether his/her LHCP has prescribed and submitted a TAR for non-emergency ambulance, wheelchair van or litter van to transport him/her to/from medical appointments.
2. If the applicant/recipient is unable to provide this information, the social worker may ask the individual to sign a county-developed release of information form allowing the social worker to communicate directly with the LHCP to determine whether NEMT is being provided under the Medi-Cal program.
3. Finally, if the social worker is unable to determine this information by speaking with the LHCP, he/she may contact the DHCS Medi-Cal Benefits Telephone Service Center (TSC) at 1-800-541-5555, identify him/herself as an IHSS social worker and request to confirm if a NEMT TAR is on file for the IHSS recipient.

The TSC representatives will only be able to provide information for recipients whose IHSS is provided under the IHSS Plus Option (IPO), the Personal Care Services Program (PCSP), or the Community First Choice Option (CFCO). DHCS cannot provide information for IHSS applicants; the individual must

already be enrolled in IPO, PCSP or CFCO. In addition, because the IHSS-Residual (IHSS-R) program is not federally funded, and state and federal law prohibit the release of Medi-Cal protected health information except for purposes directly related to the administration of Medi-Cal/Medicaid, TSC representatives will not be able to provide information on recipients whose IHSS is provided under IHSS-R.

It should be noted that it is possible that NEMT may be provided through Medi-Cal for some but not all the individual's medical appointments. If this is the case, Medical Accompaniment may be authorized for those appointments for which NEMT is not being provided through Medi-Cal.

If the social worker is informed by either the applicant/recipient or his/her LHCP that NEMT is not being provided through Medi-Cal, it is not necessary for the social worker to contact the TSC to confirm this information. The social worker can authorize Medical Accompaniment as appropriate based on the information provided by the applicant/recipient or LHCP. However, no matter what means the social worker uses to determine whether the applicant's/recipient's NEMT is being covered under Medi-Cal, the social worker should document it in the case notes in the Case Management, Information and Payrolling System (CMIPS).

The [MPP section 30-757.153](#) specifies that Medical Accompaniment may be authorized for an IHSS recipient only after it has been determined that NEMT is not being provided under the Medi-Cal program; however, in only those cases in which the social worker has determined that the recipient receives NEMT through Medi-Cal but the individual also needs assistance with an IHSS authorized task either in transit to/from or at the location of the appointment with the health care professional, the social worker may authorize Medical Accompaniment. Please note that the California Department of Social Services soon intends to undertake revision of the IHSS program regulations relating to Medical Accompaniment to better align the terminology used in the regulations with that used in [WIC section 12300\(b\)](#) as well as to clarify this policy.

In cases in which the circumstances described above are met, the amount of time to be authorized would be only the time it takes for traveling from the recipient's home to the appointment location and back to the recipient's home. The time to perform the needed IHSS tasks, e.g., Ambulation, Transfer, Dressing, etc., would already have been accounted for in the total authorization for those service categories; therefore, no additional time would need to be authorized for these tasks. The social worker must follow the guidelines indicated in [ACL No. 16-01](#) for determining whether any associated wait time would be compensable. The social worker should clearly document in the recipient's case record in CMIPS the reason for authorizing Medical Accompaniment and how the amount of time authorized was determined.

Regardless of whether an applicant's/recipient's NEMT needs are being met through the Medi-Cal program or Medical Accompaniment is authorized as an IHSS service, the

social worker, at the time of the assessment or reassessment, should assess for the service needs of the individual, e.g., ambulation, transfer, dressing, etc., during transit to/from and/or at the medical appointment, and document and authorize the appropriate services in accordance with [MPP section 30-761.27](#). In the event that the applicant's/recipient's Medi-Cal funded NEMT is discontinued at a later date, if the IHSS needs of the applicant/recipient have been appropriately documented, the social worker will then only need to authorize Medical Accompaniment for travel time to/from medical appointments and allowable wait time, as appropriate. All other IHSS service needs, including those needs related to medical appointments, will already have been accounted for in the authorization.

Questions and/or requests for clarification on the information transmitted in this ACL may be directed to the Adult Programs Division, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By:

DEBBI THOMSON
Deputy Director
Adult Programs Division

c: CWDA