



IHSS Coalition

QUALITY CARE BEGINS AT HOME

September 27, 2011

Charissa Miguelino, Chief
Adult Programs Policy and Operations Bureau
California Department of Social Services
Marshall Browne at Marshall.Browne@dss.ca.gov

RE: DRAFT ACL on Exceptions to IHSS Health Care Certification Requirement

Dear Charissa:

On behalf of the undersigned organizations, the IHSS coalition offers these comments on the draft ACL.

In the spirit of the Olmstead decision and the ADA, the limited exceptions were included to mitigate the risk of IHSS applicants and recipients unnecessarily going to or staying in hospitals and nursing homes. Our first concerns are with the portions of the ACL which undermine that mitigation.

Defining “temporary” as 45 days is too short, as the people who are being granted the exceptions are, by definition, in a crisis which requires first attention to health care and housing and safety before anything else. We offer 90 days as a reasonable alternative.

Whatever the final definition of “temporary”, the proposed ban on counties granting an extension of time for good cause is unreasonable and violates legislative intent. DSS is making a distinction between recipients and applicants, using a narrow construction whereby the exception would fully apply only in reassessment, which was not the legislature's intent. Instead, the ACL should refer to WIC 12309.1(e)(2), which allows a county “to extend the 45-day period for the recipient to submit the medication certification on a case-by-case basis, if the county determines that good cause for the delay exists.” Allowing the possibility of extension would help ensure what legislative staff have confirmed was legislative intent – that IHSS applicants would not experience an unnecessary delay in services at the very time at which their needs are most acute – when they are trying to avoid losing their homes and their lives in their communities.

The only people who should lose services because of this new requirement are those who do not need IHSS services – not that who cannot get an appointment with a medical professional, nor those whose energy and attention must go first to survival. Toward that principle, we request that DSS include a statement in the ACL saying that counties should not be reluctant to utilize the good cause exception in instances such as but not limited to difficulty in obtaining a health care professional that will agree to

perform this service, when individuals with print impairments are unable to read materials in a timely manner, or when professionals insist on extra compensation for filling out the form.

Neither ACL 11-55 nor this one addresses what happens if the consumer is unable to submit a completed health certification form, either at the end of the normal process (including extensions) or after the exception expires. Please clarify:

- 1) if the case is terminated, who is responsible for paying the provider for the time already worked, and
- 2) does the social worker terminate the case or does CMIPS do it automatically?

Lastly, we would like to see any proposed revisions to the original ACL 11-55 and the Certification Form, because the Exceptions ACL is part of a package and is best assessed in context rather than separately.

Thank you for the opportunity to comment on this ACL.

AARP-California
Access to Independence
ACLU of Southern California
California Alliance for Retired Americans (CARA)
California Association of Public Authorities (CAPA)
California Church IMPACT
California Council of the Blind
Californians for Disability Rights, Inc. (CDR)
California Foundation for Independent Living (CFILC)
California IHSS Consumer Alliance (CICA)
California Senior Legislature
California Disability Community Action network (CDCAN)
California United Homecare Workers (CUHW)
Congress of California Seniors
Dayle McIntosh Center for the Disabled
Disability Rights California (DRC)
East Bay Community Law Center
Friends Committee on Legislation
Gray Panthers
Independent Living Resource Center Inc.
Independent Living Services of Northern California (ILSNC)
Marin IHSS Public Authority
National Senior Citizen's Law Center
Nevada-Sierra-Plumas Public Authority
Northern California ADAPT
Older Women's League
Personal Assistance Services Council of Los Angeles
Resources for Independent Living
The San Diego IHSS Coalition
San Francisco Public Authority
Service Employees International Union – State Council
SEIU United Long Term Care Workers
SEIU United Healthcare Workers West

SEIU Local 521

Silicon Valley Independent Living Center (SVILC)

Southeast Asia Resource Action Center | California Office

The Arc and United Cerebral Palsy in California

Tri-County Independent Living Center, Inc.

UDW Homecare Providers Union/AFSCME