



CDSS

JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

744 P Street, MS 19-96, Sacramento, CA 95814



ARNOLD SCHWARZENEGGER
GOVERNOR

ALL-COUNTY LETTER NO: **DRAFT 11/18/2010**

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

SUBJECT: IMPLEMENTATION OF ASSEMBLY BILL 1612 AS IT RELATES TO
SERVICE REDUCTIONS IN THE IN-HOME SUPPORTIVE SERVICES
PROGRAM

The purpose of this All-County Letter (ACL) is to instruct counties on the implementation of a 3.6 percent service reduction to every recipient in the In-Home Supportive Service (IHSS) program, in accordance with the mandates of Assembly Bill (AB) 1612 (Chapter 725, Statutes of 2010).

Background

AB 1612 added section 12301.06 to the Welfare and Institution Code (WIC) which requires the California Department of Social Services (CDSS) to reduce every IHSS recipient's total authorized hours by 3.6 percent effective February 1, 2010. AB 1612 requires Notices of Action (NOA) NA 690 to be mailed at least 30 days prior to the reduction going into effect and permits recipients to choose how this reduction is applied toward each of their specific authorized services. The 3.6 percent reduction will first be applied to any documented unmet need (excluding protective supervision). AB 1612 included a sunset provision that requires each recipient's service hours be restored, effective July 1, 2012, to the recipient's full authorized level based on the recipient's most recent assessment.

State Responsibilities

CDSS will do a Case Management, Information and Payrolling System (CMIPS) run in late December 2010 to calculate the 3.6 percent reduction for every recipient's total authorized hours. In order to meet statutory requirements, CDSS will mail out NOAs to current recipients between December 27 and December 30, 2010.

The NOAs will notify existing recipients that beginning February 1, 2011 their total authorized service hours will be reduced by 3.6 percent. The new NOA message

REASON FOR THIS TRANSMITTAL

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

303 (temp) will show the total authorized hours before the 3.6 percent reduction and the future total authorized hours after the 3.6 percent reduction (see “CMIPS Functionality and Data Entry” below for NOA messages). Only the total authorized hours will show as reduced. As usual, the NOA will show the unreduced authorized hours for each specific IHSS service. Effective July 1, 2012 CDSS will restore recipients’ authorized hours to their full authorized level based on the recipient’s most recent assessment.

Additionally, a NOA message insert (303-A) will be included with each NOA sent out by CDSS. The NOA message insert will explain the new law to recipients and will be available in the four State threshold languages: English, Spanish, Armenian, and Chinese as required by Government Code Section 7295.2. The NOA message insert will also include the appeals information from the NA 690 translated into the required languages.

County Responsibilities

County IHSS staff will continue to conduct assessments/reassessments and enter cases into CMIPS in the current manner. CMIPS will automatically calculate the 3.6-percent reduction and apply the reduction to the total authorized hours (see “CMIPS Functionality and Data Entry” below). Calculations for Severely Impaired and Non-Severely Impaired categories will not be affected by this reduction, as individual authorized IHSS services will not be reduced.

CMIPS will automatically print NOAs with appropriate NOA messages. However, there are two different NOA message inserts: 303-A and 303-B (attached) and appeals information the county will be responsible for including with every NOA sent between December 31, 2010 and June 30, 2012. The appeals information (attached) is intended to be printed on the reverse side of the NOA message insert. Both NOA message inserts and the appeals information are available in the four State threshold languages: English, Spanish, Armenian, and Chinese. Counties may translate the NOA message inserts into other languages as needed.

Beginning December 31, 2010 and continuing through January 31, 2011 counties must include NOA message insert number 303-A, including the appeals information in the appropriate language with each NOA sent. Beginning February 1, 2011 and continuing through June 30, 2012 counties must include NOA message insert number 303-B, including the appeals information in the appropriate language with each NOA sent.

Recipients will choose how the 3.6 percent reduction is applied to each of their specific authorized IHSS services. The recipient is responsible for advising his/her provider about the total reduction in service hours and also the specific service hours they chose to reduce. Recipients do not need to report to the county which hours they choose to

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reduce. This is between the recipient and his/her provider(s). County IHSS staff will not have a role in distributing or allocating remaining hours after the 3.6 percent reduction is applied.

A county that receives a request for a reassessment during the 90 days following issuance of a NOA related to this reduction should evaluate whether the request is disputing the 3.6 percent reduction, or whether there has been a change in the recipient's circumstances that impacts their functional abilities. As part of this evaluation process counties may, when necessary, request additional information from recipients to document the change in circumstances necessitating a reassessment. If the request is solely in response to the 3.6 percent reduction, the county should explain the state hearings process (see below) to the recipient and deny the request for a reassessment. If the request is the result of a change in circumstances, the county should accept the request for a reassessment and proceed accordingly.

The NOA message inserts (303-A and 303-B) direct recipients to contact their local IHSS office with questions regarding the 3.6 percent reduction. Counties should prepare for calls from recipients regarding the implementation of this law.

CMIPS Functionality and Data Entry

CMIPS will be programmed to perform a one-time process that reduces existing recipient cases Authorized to Purchase hours by 3.6 percent. This reduction applies to recipients and providers in a one-to-one relationship in either "E" or "L" status. CMIPS will suppress the generation of the In-Home Supportive Services Assessment, SOC 293 and the Provider Eligibility Update Form, SOC 311 for this initial reduction processing. Thereafter, turnaround documents will be produced for the ongoing caseload as usual. The effective date of this change will be February 1, 2011. System edits will not allow creation of eligibility segments that span the February 1, 2011 date. The system will automatically create an ending segment (N line) for existing files that contain open segments and create a new segment (M line) starting February 1, 2011.

CMIPS will also be modified to apply the 3.6 percent reduction to new recipient cases, and any reactivated recipient cases. Date span editing will apply to these cases using a February 1, 2011 effective date. Cases entered after January 1, 2011 will require two segments, a segment for any days of services provided in January and a second segment created beginning February 1, 2011. Please note counties must wait until the following day to create the second segment, February 1, 2011, because a NOA will be generated for the January hours.

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The RELC screen will be modified to display the reduction calculation immediately following the current calculation. The new field AB 1612 displays the number of reduction hours. The new field AB 1612 is followed by the reduced hours in the existing fields of Net Hours, Authorized to Purchase hours and the Unmet Needs hours. The calculation will not display on the SOC 293. Please note, it is possible to have a case where the only adjustment is to Unmet Needs resulting in no actual change to the number of hours the recipient will receive.

CMIPS will produce a one-time 30-day notification for all recipients in "E" or "L" status whose hours are being reduced. The new NOA message 303 (temp), shown below, has been developed and will be displayed on the NOA mailed by CDSS in late December. For new or reactivated cases and other ongoing situations, CMIPS will generate the normal 10-day NOA with the new NOA message number 303 (shown below). Instructions will be added to the CMIPS 2000 manual with the next quarterly manual update.

NOA Messages

303 (temp) - Beginning February 1, 2011 and as a result of a new state law your total monthly authorized hours of ###.## will be reduced by 3.6 percent to ###.##. (W&IC 12301.06) Please see the insert for more information about the new law.

303- As a result of a new state law your total monthly authorized hours of ###.## have been reduced by 3.6-percent to ###.## (W&IC 12301.06) Please see the insert for more information about the new law.

State Hearings

Recipients will have their normal appeal rights. Recipient appeal rights will be available in the four State threshold languages (English, Armenian, Spanish, and Chinese) and will be included with each NOA message insert. For IHSS, Administrative Law Judges only have jurisdiction to review cases within 90 days of a county action such as an assessment, failure to assess or reassess, or denial of services.

WIC Section 10950 states: "Notwithstanding any other provision of this code, there is no right to a state hearing when either (1) state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation, or (2) the sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients." This means hearing requests solely based on the 3.6 percent reduction will be dismissed. Recipients will continue to have the right to appeal any county action made on their IHSS case.

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If the county receives an oral request for a state hearing regarding the 3.6 percent reduction, the county should refer the recipient to the State Hearings Division at 1-866-513-5103. Likewise, if the county receives a written request for a state hearing regarding the 3.6 percent reduction the county should fax the request to the State Hearings Division at 916-651-2737.

For questions regarding the contents of this letter, please contact Victoria Rodriguez, Analyst in the Adult Programs Division Policy Bureau, Operations and Technical Assistance Unit at 916-229-4587 or Victoria.Rodriguez@dss.ca.gov

Sincerely,

EILEEN CARROLL
Deputy Director
Adult Programs Division

Attachments

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