



## **FACT SHEET - AB 1763 (Lieu)**

### **IHSS Program Consistency**

#### **SUMMARY**

This legislation requires the California Department of Social Services to establish guidelines to provide counties with instructions to consistently and accurately comply with federal and state requirements for the In-Home Supportive Services (IHSS) program.

In addition, the measure requires counties to issue a certificate to individuals who have successfully cleared a Department of Justice criminal background check (as required for IHSS providers and potential providers) that would be accepted by other counties in lieu requiring these individuals to pay for a separate criminal background check.

#### **BACKGROUND**

The core goal of the IHSS program, which was signed into law by Governor Ronald Reagan in 1973, is to provide care to elderly, blind and disabled Californians, to avoid premature institutionalization and allow consumers to live independently in the community at a lower cost than institutional care. It is the largest publicly funded non-medical personal assistance service in the nation to help persons of all ages, with limited resources, stay at home. More than 450,000 aged, blind and disabled individuals who are very frail and extremely poor currently receive IHSS. The people who use IHSS services have been determined by county social workers to need these personal care services to avoid the risk of injury or other harm.

To be eligible, consumers can be of any age and must be a citizen of the United States (or a qualified alien) and a California resident. Consumers must also need specific income requirements consistent with eligibility for Medi-Cal. The types of services which can be authorized through IHSS are housecleaning, meal preparation, laundry, grocery shopping, personal care services (such as bowel and bladder care, bathing, grooming and paramedical services), accompaniment to medical appointments, and protective supervision for the mentally impaired.

IHSS is extremely cost effective, given the comparative costs of out-of-home care. Nursing homes, for example, cost five times as much as services received by a typical

IHSS consumer. Most IHSS recipients need only a few hours of assistance per day or week. However, this assistance makes all the difference in a consumer's ability to live safely at home.

IHSS is paid for through federal, state, and county funds with most services being part of the Medi-Cal program. The federal government shares in IHSS program costs through the Personal Care Services Program (PSCP) and the IHSS Plus Option (IPO). Approximately 97 percent of all IHSS cases receive federal financial participation and 3 percent are funded through the Residual program (which does not receive federal financial participation). The amount of the federal share in the IHSS program is determined by the Federal Medical Assistance Percentage (FMAP) and is normally 50 percent. The American Recovery and Reinvestment Act of 2009 temporarily increased the FMAP from 50 percent to 61.594 percent from October 2008 through December 2010. The state pays 65 percent and the counties pay 35 percent of the non-federal share of program costs.

It is widely understood that the IHSS program is experiencing rapid caseload growth. As California's population ages, pressures to provide services to seniors will continue to increase program costs. Close to sixty percent of the consumers that the IHSS program serves at or above 65 years of age. California demographics show that current and anticipated population growth will continue most significantly in the age categories over 45. Caseload growth is one of the significant drivers fueling increased program costs.

### **NEED FOR THIS LEGISLATION**

IHSS is a complex program and has undergone substantial change over the past five years. Mechanisms have been put in place to improve IHSS program consistency with the enactment of the IHSS Quality Assurance Initiative in SB 1104 (Chapter 229, Statutes of 2004). One component of SB 1104 was the requirement for CDSS to develop statewide hourly task guidelines and instructions to provide counties with a standard tool for consistently and accurately assessing service needs and authorizing service hours to meet those needs. The result was the hourly task guidelines, which were devised over a two-year period with input from a wide array of IHSS administrators and stakeholders. The counties started applying the hourly task guidelines in September 2006.

Despite these statutory changes, there are substantial variations in authorized hours among the counties. For example, the average monthly number of authorized IHSS hours per case was 87.5 in December 2009. Colusa County had the lowest average authorized hours per IHSS case in December 2009 at 56.6 and Mono County was highest at 166.2. There are also significant variations in the average Functional Index Scores among the counties. Sierra County had the lowest average Functional Index Score of 2.29 in December 2009 and San Mateo had the highest at 3.19. The statewide average Functional Index Score was 2.93.

ABX4 4 (Chapter 4, Statutes of 2009) and ABX4 19 (Chapter 17, Statutes of 2009) were enacted to strengthen efforts to detect, prevent and reduce fraud in the IHSS program. The following measures constitute the primary components of the IHSS Anti-Fraud

Initiative:

· New Provider Enrollment requirements	· Fingerprinting and criminal background checks for all providers
· Timecard changes (which includes signature under penalty of perjury)	· Provider acknowledgement of delivering services
· Requiring all consumers to complete fingerprint imaging	· Prohibit the use of post office boxes to mail provider checks
· Fraud training for county staff	· Increased data matching with jail, death and other official records to eliminate fraudulent claims
· Unannounced home visits	· Provider orientations

Despite the numerous All-County Letters and All-County Information notices that have been released since the enactment of ABX4 4 and ABX4 19, counties have not been provided clear instructions that comply with the law. Even worse, some instructions from the CDSS are unlawful and have added to the chaos that exists in many counties around the new Provider Enrollment requirements. Counties have not been given sufficient time to implement the new statutes in a rational manner. This legislation would remedy this situation by requiring CDSS to establish guidelines to provide counties with instructions to consistently and accurately administer the IHSS program.

ABX4 19 established the mandate for counties to conduct criminal background checks through the Department of Justice for all individuals who are applying to become an IHSS provider. Criminal background checks must be completed by July 1, 2010 as a condition of the provider's continued enrollment in the IHSS program. This requirement applies to all providers – not just registry applicants – and the law specifies that existing IHSS providers shall be conducted at the provider's expense.

Criminal Offender Record Information (CORI) records cannot be shared between counties due to privacy statutes that govern sharing and dissemination of DOJ criminal history records. The unintended consequences are that IHSS providers who work in more than one county are required to bear the cost of undergoing and submitting multiple fingerprints and criminal record background checks. This legislation would resolve the problem of providers being required to pay for more than one criminal background check.

## **SUPPORT**

## **FOR MORE INFORMATION**

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