

**ITEM 6**  
**TEST CLAIM**  
**FINAL STAFF ANALYSIS**

Government Code Section 16262.5  
Welfare and Institutions Code Sections 12301.3, 12301.4, 12301.6, 12301.8, 12302.25,  
12302.7, 12303.4, 14132.95, 17600

As Added, Amended, or Repealed by  
Statutes 1999, Chapters 90 and 91  
Statutes 2000, Chapter 445

*In-Home Supportive Services II (00-TC-23)*  
County of San Bernardino, Claimant

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**Table of Contents**

<b>Executive Summary and Staff Analysis</b> .....	001
<b>Exhibit A</b>	
Test Claim Filing, Filed June 29, 2001 .....	101
<b>Exhibit B</b>	
Department of Social Services (DSS) Comments on Test Claim, Filed November 9, 2001 .....	229
<b>Exhibit C</b>	
Department of Finance (DOF) Comments on Test Claim, Filed March 6, 2002 .....	273
<b>Exhibit D</b>	
Claimant's Response to State Agency Comments, Filed September 9, 2002 .....	287
<b>Exhibit E</b>	
Claimant's Declaration in Support of the Response to Comments, Filed September 9, 2002 .....	679
<b>Exhibit F</b>	
Draft Staff Analysis and Cover Letter, Issued March 2, 2007.....	727
<b>Exhibit G</b>	
Attachments to Draft Staff Analysis: DSS County Fiscal Letters .....	761
<b>Exhibit H</b>	
DSS Comments on Draft Staff Analysis, Dated March 23, 2007.....	831
<b>Exhibit I</b>	
Claimant Comments on Draft Staff Analysis, Dated March 26, 2007 .....	837
<b>Exhibit J</b>	
DOF Comments on Draft Staff Analysis, Received March 28, 2007.....	851

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12302.7, 12303.4, 12306.1, 14132.95, 17600 and 17600.110

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Statutes 1999, Chapters 90 and 91  
Statutes 2000, Chapter 445

*In-Home Supportive Services II* (00-TC-23)

County of San Bernardino, Claimant

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**EXECUTIVE SUMMARY**

**Background**

County of San Bernardino's test claim filing alleges that legislative amendments governing the operation of the In-Home Supportive Services (IHSS) program in California, added by Statutes 1999, chapters 90 and 91, and Statutes 2000, chapter 445, "imposed a new state mandated program and cost ... by substantially amending the administrative requirements of the IHSS program."

The test claim statutes, in part, address the form in which in-home supportive services care providers are employed, referred to as the "mode of service," including requiring that all counties establish an employer of record for IHSS providers, other than the recipient of the services. The test claim statutes also provide that "[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals."

At the outset, the advisory committee must make recommendations on the best method of employing IHSS providers, and for establishing an "employer of record." According to Welfare and Institutions Code section 12301.4, the advisory committee must also have an ongoing role providing "advice and recommendations regarding in-home supportive services." Claimant asserts that the state funding provided at the time of the test claim filing was inadequate to cover the actual costs of the advisory committee, and seeks to recover the remainder of their claimed costs of creating and operating the advisory committee through mandate reimbursement.

The claimant alleges that the requirement to establish an "employer of record" results in multi-million dollar increased costs, with estimates varying widely according to which form of "employer of record" is ultimately selected: a public authority, a contract with an outside agency, or the county itself. The claimant is also seeking reimbursement for any collective bargaining that may result if providers unionize after the "employer of record" is established.

consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)

- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record in the individual provider mode, upon request. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)
- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)
- Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)

- Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)
- The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12302.25, subd. (d).)
- The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)

- Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Welf. & Inst. Code, § 12302.25, subd. (e).)
- One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)

Staff concludes that all claims for reimbursement for the approved activities must be offset by any funds already received from state or federal sources, including funds allocated for the direct costs of the advisory committee.

Staff concludes that Government Code section 16262.5, and Welfare and Institutions Code sections 12301.6, 12301.8, 12302.7, 12303.4, 12306.1, 14132.95, 17600 and 17600.110, as pled, along with any other test claim statutes and allegations not specifically approved above, do not impose a program, or a new program or higher level of service, subject to article XIII B, section 6.

#### **Staff Recommendation**

Staff recommends the Commission adopt this staff analysis to partially approve this test claim.

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## STAFF ANALYSIS

### Claimant

County of San Bernardino

### Chronology

- 06/29/01 Claimant files test claim, In-Home Supportive Services II (00-TC-23)<sup>2</sup> with the Commission on State Mandates (Commission)
- 07/10/01 Commission staff issues completeness review letter and requests comments from state agencies
- 07/20/01 DOF requests an extension of time for filing comments, to consult with the Office of the Attorney General
- 07/24/01 Commission staff grants DOF extension request to September 10, 2001
- 08/07/01 DSS requests an extension of time for filing comments
- 08/09/01 Commission staff grants DSS extension request to September 10, 2001
- 08/30/01 DSS requests an additional 60-day time extension
- 08/31/01 Commission staff grants DSS extension request to November 9, 2001
- 11/09/01 DSS files initial comments on the test claim
- 11/09/01 DOF requests an additional extension of time for comments
- 11/13/01 Commission staff grants DOF's extension request to December 7, 2001
- 12/06/01 DOF requests an additional extension of time for comments
- 12/07/01 Commission staff grants DOF's extension request to January 7, 2002
- 01/08/02 DOF requests an extension of time for comments to February 7, 2002
- 01/09/02 Commission staff grants DOF's extension request for good cause
- 02/07/02 DOF requests an extension of time for comments to March 7, 2002
- 02/11/02 Commission staff grants DOF's extension request for good cause
- 03/06/02 DOF files initial comments on the test claim
- 03/22/02 Claimant requests an extension of time for filing rebuttals to state agency comment until June 30, 2002
- 03/29/02 Commission staff grants claimant's extension request for good cause
- 06/07/02 Claimant requests another extension of time to July 31, 2002
- 06/11/02 Commission staff grants claimant's extension request for good cause
- 07/25/02 Claimant requests another extension of time to August 31, 2002

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<sup>2</sup> *In-Home Supportive Services* (CSM-4314) is an unrelated test claim addressing issues from the same entitlement program.

07/26/02 Commission staff grants claimant's extension request for good cause  
09/09/02 Claimant files rebuttal to comments by DSS and DOF  
03/02/07 Commission staff issues draft staff analysis on test claim  
03/26/07 Comments on the draft staff analysis received from DSS  
03/26/07 Comments on the draft staff analysis received from the claimant  
03/28/07 Comments on the draft staff analysis received from DOF

## Background

In-Home Supportive Services (IHSS) is a social services program developed to provide necessary care to aged, blind or permanently disabled, low-income persons, with the goal of allowing the individual (hereafter referred to as the "recipient") to remain in their home and out of nursing homes or other institutional care for as long as possible. The services provided range according to the needs of the recipient and can include all manner of housekeeping, including cleaning, laundry, meal preparation, and grocery shopping. In addition, some recipients require, and receive additional personal and medical care services: assistance with bathing, grooming and related activities; transportation to medical appointments; and administration of para-medical procedures, including injections. Since its inception in 1973, IHSS has been jointly funded by federal, state, and county government.

The test claim statutes, in part, address the form in which the IHSS care providers are employed, referred to as the "mode of service." Prior law did not require the designation of an employer of record for individual providers. In 1990, a California appellate decision addressed the issue of who was the employer of record for individual providers of IHSS, particularly for the purposes of collective bargaining under the Meyers-Milias-Brown Act (MMBA). In *Service Employees Internat. Union v. County of Los Angeles* (1990) 225 Cal.App.3d 761, 765, the court discussed the way that providers were employed under prior law, as follows:

A county may deliver services under the IHSS program by (1) hiring in-home supportive personnel in accordance with established county civil services requirements, (2) contracting with a city, county, city or county agency, a local health district, a voluntary nonprofit agency, a proprietary agency or an individual, or (3) making direct payment to a recipient for the purchase of services. (Welf. & Inst. Code, § 12302.) Defendant county chose the third alternative.

The court made findings that the county was not a *de facto* employer of record for purposes of collective bargaining, *id.* at pages 772-773:

Plaintiff insists that the state and the county are joint employers of the IHSS providers and the county's role as a joint employer is sufficient to render the providers employees of the county for purposes of the MMBA.<sup>FN4</sup>

FN4. Interestingly, in the attorney general's opinion upon which plaintiff relied below it is stated: "While the concept that IHSS workers may have more than one 'employer' appears appropriate for purposes of some laws, it would seem inappropriate and unworkable for purposes of collective bargaining under California statutes." (68 Ops.Cal.Atty.Gen. 194, 199, *supra*.)

The trial court found that the county acts as the agent of the state in administering the IHSS program and concluded that in some circumstances an agent may be a joint employer, a dual employer or a special employer. (See *County of Los Angeles v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 391, 405, 179 Cal.Rptr. 214, 637 P.2d 681.) However, such a relationship arises only where both the general employer and the special employer have the right to control the employee's activities. (*Ibid.*) The court found the county had no such right of control and therefore was not an employer of the IHSS providers under a dual or special employer theory. ... As previously indicated, substantial evidence supports the trial court's finding that the county does not exercise control over and direct the activities of the IHSS providers.

Creating a distinct change from the case law cited above, the test claim statutes require that all counties establish an employer of record for IHSS providers, other than the recipient of the services. Welfare and Institutions Code section 12302.25, as added by Statutes 1999, chapter 90, provides, in part:

(a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers ... . Each county may utilize a public authority or nonprofit consortium ..., the contract mode ..., county administration of the individual provider mode ... for purposes of acting as, or providing, an employer ..., county civil service personnel ..., or mixed modes of service authorized pursuant to this article and may establish regional agreements in establishing an employer for purposes of this subdivision for providers of in-home supportive services. ... Upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers pursuant to this subdivision, counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option.<sup>3</sup>

In addition, Welfare and Institutions Code section 12301.3, with certain exceptions, provides that "[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals."

### **Claimant's Position**

County of San Bernardino's June 29, 2001<sup>4</sup> test claim filing alleges that legislative amendments governing the operation of IHSS in California, by Statutes 1999, chapters 90 and 91, and Statutes 2000, chapter 445, "imposed a new state mandated program and cost ... by substantially amending the administrative requirements of the IHSS program."

### *Employer of Record*

The claimant asserts that the legislation "mandates the establishment of an 'employer of record' [for the individuals who provide the in-home care] on or before January 1, 2003." The claimant alleges that this requirement results in multi-million dollar increased costs, with estimates

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<sup>3</sup> References to applicable Welfare and Institutions Code sections omitted for ease of reading.

<sup>4</sup> The potential reimbursement period begins no earlier than July 1, 1999, based upon the filing date for this test claim. (Gov. Code, § 17557.)

varying widely according to which form of "employer of record" is ultimately selected: a public authority, a contract with an outside agency, or the county itself.

The claimant is also seeking reimbursement for any collective bargaining that may result if providers unionize after the "employer of record" is established.

#### *Advisory Committee*

The claimant asserts that the statutes mandate the creation of county advisory committees, with specific membership requirements of up to eleven members, largely made up of current or past users and providers of IHSS, with participation of only one county employee. At the outset, the advisory committee is to make recommendations on the best method of employing IHSS providers, and establishing an "employer of record." According to Welfare and Institutions Code section 12301.4, the advisory committee is also to have an ongoing role providing "advice and recommendations regarding in-home supportive services."

Claimant asserts that the state funding provided at the time of the test claim filing was inadequate to cover the actual costs of the advisory committee, and seeks to recover the remainder of their claimed costs of creating and operating the advisory committee through mandate reimbursement.

In comments on the draft staff analysis, dated March 26, 2007, the claimant disagrees with the finding that reimbursement does not include "any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining." The claimant maintains that collective bargaining was the intent of the test claim legislation, and that the "costs pertaining to collective bargaining, must be reimbursable." In addition, the claimant maintains that any "costs incurred as part of that new activity [of acting as or establishing an employer of record], such as higher wages and benefits, must be reimbursable.

#### **Department of Social Services Position**

DSS, in comments filed November 9, 2001, disputes the test claim filing. As for the requirement to establish an "employer of record," DSS responds that with the multiple choices available to the county, the claimant has not "shown that the legislation at issue "requires" the county to incur an increase in costs and that therefore a basic element of a reimbursable state mandate is not met here."

In addition, DSS asserts that the test claim legislation does not require that the county engage in collective bargaining, nor does it require an increase of wages and benefits to the providers. DSS also cites case law to support the contention that higher costs of compensation or benefits are not subject to article XIII B, section 6.

DSS also argues that San Bernardino has not claimed all available funds set aside by the state for the advisory committee portion of the test claim, and therefore asserts that this portion of the claim should be dismissed.

In comments on the draft staff analysis, dated March 23, 2007, DSS argues that Government Code section 17556, subdivision (e) applies to deny reimbursement "with respect to the establishment and operation of advisory committees pursuant to Welfare and Institutions Code Sections 12301.3 and 12301.4, [because] revenue, specifically intended to fund the costs of the activities required of the advisory committees, and in an amount sufficient to cover those costs, has been available to the counties from the outset." This argument is address further below.



## Department of Finance Position

DOF, in a letter filed March 6, 2002, also disputes the test claim filing “in its entirety.” Specifically, as to the claims of potential costs related to collective bargaining, DOF argues “[e]ven if local governments were in fact required by the test claim statutes to incur these costs, they would not be reimbursable because they are wage/benefit related costs incurred by local governments as a result of state statutes regulating the terms and conditions of employment,” which is not a reimbursable state mandate pursuant to case law. In addition, DOF maintains that “local governments retain options pursuant to which there would be no increased costs to them resulting from the employer of record, ... [which] preclude any findings of reimbursable state mandated costs.”

DOF claims that the claimant failed to adequately address the exceptions to “costs mandated by the state” set out in Government Code section 17556, and therefore the test claim “is incomplete under the Commission’s regulations and should be returned to the test claimant or disallowed.”<sup>5</sup>

DOF also contends that the advisory committee costs are not reimbursable costs mandated by the state “because there is an allocation of funds by DSS pursuant to an appropriation to cover these costs. The test claimant has presented no evidence that these appropriations are insufficient to cover claimed costs as required by the Commission’s regulations.”

DOF filed comments on the draft staff analysis on March 28, 2007, which are addressed below.

## Discussion

The courts have found that article XIII B, section 6, of the California Constitution<sup>6</sup> recognizes the state constitutional restrictions on the powers of local government to tax and spend.<sup>7</sup> “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>8</sup> A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or

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<sup>5</sup> On June 10, 2001, Commission staff issued a completeness review letter finding that all required elements for filing a test claim had been met, and the filing was accepted.

<sup>6</sup> Article XIII B, section 6, subdivision (a), provides: (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

<sup>7</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

<sup>8</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

task.<sup>9</sup> In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.<sup>10</sup>

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.<sup>11</sup> To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.<sup>12</sup> A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”<sup>13</sup>

Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>14</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>15</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>16</sup>

**Issue I: Do the test claim statutes mandate a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?**

In order for a test claim statute or executive order to be subject to article XIII B, section 6 of the California Constitution, it must constitute a “program.” In *County of Los Angeles v. State of*

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<sup>9</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

<sup>10</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878, (*San Diego Unified School Dist.*); *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835 (*Lucia Mar*).

<sup>11</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; see also *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.)

<sup>12</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

<sup>13</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

<sup>14</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

<sup>15</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

<sup>16</sup> *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

California, the California Supreme Court defined the word “program” within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.<sup>17</sup> The court has held that only one of these findings is necessary.<sup>18</sup>

Staff finds that establishing an in-home supportive services advisory committee and an employer of record imposes a program within the meaning of article XIII B, section 6 of the California Constitution. Several of the Welfare and Institutions Code sections claimed governing the administrative activities of IHSS impose unique requirements on the counties that do not apply generally to all residents and entities in the state.

Next, the analysis must continue to determine if the individual elements of the test claim filing also impose a new program or higher level of service. The courts have defined a “higher level of service” in conjunction with the phrase “new program” to give the subvention requirement of article XIII B, section 6 meaning. Accordingly, “it is apparent that the subvention requirement for increased or higher level of service is directed to state-mandated increases in the services provided by local agencies in existing programs.”<sup>19</sup> A statute or executive order mandates a reimbursable “higher level of service” when, as compared to the legal requirements in effect immediately before the enactment of the test claim legislation, it increases the actual level of governmental service to the public provided in the existing program.<sup>20</sup>

IHSS Employer of Record: Welfare and Institutions Code Section 12302.25, Subdivisions (a)-(c)

Welfare and Institutions Code section 12302.25, subdivision (a), as added by Statutes 1999, chapter 90, requires counties to act as, or establish an employer of record for IHSS providers, other than the state or the individual recipient by January 1, 2003.

Claimant alleges that the test claim statutes “require the establishment of an ‘employer of record’” and a “mandate of collective bargaining with providers of IHSS services, as well as the increased costs [of wages and benefits] that will arise once collective bargaining has been instituted.”<sup>21</sup>

The county shall establish an employer of record through several options: a contract, public authority, nonprofit consortium, or by the county acting as the employer of record itself, or a combination of the above. There is no mandate for the county to act as the employer of record, but this is one of the options available to the counties; each option can have great impact on the downstream costs of operating IHSS, but this is a choice made at the discretion of each county.

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<sup>17</sup> *County of Los Angeles, supra*, 43 Cal.3d at page 56.

<sup>18</sup> *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

<sup>19</sup> *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *San Diego Unified School District, supra*, 33 Cal.4th 859, 874.

<sup>20</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

<sup>21</sup> Test Claim Filing, pages 13 and 14.

Counties have always had a share of cost for the ongoing administration of IHSS:<sup>22</sup> the test claim statutes do not alter that share of cost, and no downstream administrative activities are newly required as a result of this statute. However, the requirement to *establish* an employer of record pursuant to the test claim statute is not discretionary and requires administrative action on the part of the counties.<sup>23</sup>

DOF filed comments on March 28, 2007, arguing that the test claim statute “requires any county, not in compliance with the mandates of AB 1682 within a specified timeframe, to act as the employer of record.” Presumably DOF’s argument is that counties did not need to engage in any administrative activities to comply with the law, because they could simply wait and default to become the employer of record. The provision that DOF refers to is section 12302.25, subdivision (j), as amended by Statutes 2002, chapter 1135, operative January 1, 2003. Therefore, counties were required to engage in administrative activities to establish an employer of record from July 12, 1999, the operative date of Statutes 1999, chapter 90, until December 31, 2002. Staff finds that only on or after January 1, 2003 was the “default” employer of record provision applicable, and any requirement to *establish* an employer of record was no longer mandatory.

Therefore, staff finds that Welfare and Institutions Code section 12302.25 imposes a new program or higher level of service for the following new time-limited activity:

- From July 12, 1999, until December 31, 2002, each county shall establish an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)<sup>24</sup>

In addition, staff finds that Welfare and Institutions Code section 12302.25 imposes a new program or higher level of service for the following new activity:

- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, in addition to a county’s selected method of establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record in the individual provider mode, upon request. It does not include mandate reimbursement for

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<sup>22</sup> Welfare and Institutions Code section 12306.

<sup>23</sup> DOF, in its comments filed March 28, 2007, continues to argue that the “contract mode” provides a no-cost option for counties to establish an employer of record. The claimant persuasively countered this argument at pages 6-14 of the September 9, 2002 rebuttal, identifying significant administrative costs involved in establishing a contract.

<sup>24</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

any increased wages or benefits that may be negotiated, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)<sup>25</sup>

DSS, in its November 9, 2001 test claim comments, provides a rebuttal to the mandate claim for collective bargaining costs:

The claimant, on page 2 of the mandate summary, characterizes the legislation at issue as mandated collective bargaining between the employer of record and the providers. A careful reading of the statutes, however, reveals no such mandate. The statutes at issue do not mandate collective bargaining. Collective bargaining rights and duties are established and controlled by other state and federal laws that operate upon labor relations. The mandate to establish an employer for Individual Providers (IPs) for purposes of the [MMBA] or any other applicable state and federal laws makes no statement on whether IPs will organize or whether any representative will be able to force collective bargaining upon counties under [MMBA] or any other provision. What the legislation does is to require counties to appoint, name or otherwise establish the entity that will respond in the event there is a right or obligation to engage in collective bargaining that IPs possess under other law. If collective bargaining between the employer of record and the providers is mandated by law it is not the law at issue that does so.

Subdivision (b) states: "Nothing in this section shall prohibit any negotiations or agreement regarding collective bargaining or any wage and benefit enhancements." Staff finds that the plain language of the test claim statute does not require collective bargaining, but rather confirms that the code section does not prohibit collective bargaining or other negotiations on wages and benefits.<sup>26</sup> Staff finds that Welfare and Institutions Code section 12302.25, subdivision (b), does not mandate a new program or higher level of service for collective bargaining.

Subdivision (c) provides: "Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services." This section maintains the existing law regarding the state's responsibilities under section 12302.2, which addresses certain withholding and contribution requirements when paying individual IHSS providers. This section is only applicable to the state, and clarifies that

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<sup>25</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>26</sup> In comments on the draft staff analysis, dated March 26, 2007, the claimant states that "the fundamental rule of statutory construction is [to] ascertain legislative intent," citing *Select Base Materials v. Board of Equal.* (1959) 51 Cal.2d 640, 645. The claimant then quotes the Legislative Counsel's Digest for Assembly Bill No. 1682 to argue that collective bargaining costs are reimbursable. While the case law cited is correct, it is equally fundamental that "[t]he statute's plain meaning controls the court's interpretation unless its words are ambiguous. If the plain language of a statute is unambiguous, no court need, or should, go beyond that pure expression of legislative intent." *Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851, 861. Moreover, the Legislative Counsel's Digest is not determinative of the ultimate issue whether a statute constitutes a state-mandated program under article XIII B, section 6. (*City of San Jose, supra*, 45 Cal.App.4th 1802, 1817.)

the test claim statute is to have no impact on another provision of law; therefore, staff finds that Welfare and Institutions Code section 12302.25, subdivision (c) does not mandate a new program or higher level of service.

In addition, while counties may incur increased costs for higher wages and benefits as an indirect result of the requirement to act as or establish an employer of record, a showing of increased costs is not determinative of whether the legislation imposes a reimbursable state-mandated program. The California Supreme Court has repeatedly ruled that evidence of additional costs alone do not result in a reimbursable state-mandated program under article XIII B, section 6.<sup>27</sup> The Court also found in *Lucia Mar, supra*, 44 Cal.3d 830, 835:

We recognize that, as is made indisputably clear from the language of the constitutional provision, local entities are not entitled to reimbursement for all increased costs mandated by state law, but only those costs resulting from a new program or an increased level of service imposed upon them by the state.

Comments filed by the state agencies, DOF and DSS, both assert that case law interpreting article XIII B, section 6, including *County of Los Angeles, supra*, *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478, and *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190, results in a finding that “increases in employment benefits or compensation, as the result of legislation that does not directly mandate the increase, are not considered a “new program or “higher level of service in an existing program” as meant by the Constitution.”<sup>28</sup>

In *County of Los Angeles, supra*, 43 Cal.3d 46, the Court addressed the costs incurred as a result of legislation that required local agencies to provide the same increased level of workers’ compensation benefits for their employees as private individuals or organizations were required to provide to their employees. The Supreme Court recognized that workers’ compensation is not a new program and, thus, the court determined whether the legislation imposed a higher level of service on local agencies.<sup>29</sup> The court defined a “higher level of service” as “state mandated increases in the services provided by local agencies in existing programs.” (Emphasis added.)

Looking at the language of article XIII B, section 6 then, it seems clear that by itself the term “higher level of service” is meaningless. It must be read in conjunction with the predecessor phrase “new program” to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing “programs.”

The Supreme Court in *County of Los Angeles* continued:

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders

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<sup>27</sup> *County of Los Angeles, supra*, 43 Cal.3d at page 54; see also, *Kern High School Dist., supra*, 30 Cal.4th 727, 735.

<sup>28</sup> DSS Comments, filed November 9, 2001, page 5. DOF’s Comments, filed March 6, 2002, page 4, expresses similar arguments.

<sup>29</sup> *County of Los Angeles, supra*, 43 Cal.3d at page 56.

creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public.<sup>30</sup>

The court held that reimbursement for the increased costs of providing workers' compensation benefits to employees was not required.

Section 6 has no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation benefits that employees of private individuals or organizations receive. Workers' compensation is not a program administered by local agencies to provide service to the public. Although local agencies must provide benefits to their employees either through insurance or direct payment, they are indistinguishable in this respect from private employers... In no sense can employers, public or private, be considered to be administrators of a program of workers' compensation or to be providing services incidental to administration of the program. Workers' compensation is administered by the state ... Therefore, although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of section 6. (*Id.* at pp. 57-58, fn. omitted.)

Although "[t]he law increased the cost of employing public servants, ... it did not in any tangible manner increase the level of service provided by those employees to the public." (*San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 875.) In this sense, the present test claim is also indistinguishable from the analysis presented by the Court in *County of Los Angeles*.

*City of Richmond*, *supra*, 64 Cal.App.4th 1190, similarly held that requiring local governments to provide death benefits to local safety officers, under both PERS and the workers' compensation system, did not constitute a higher level of service to the public. The court stated:

Increasing the cost of providing services cannot be equated with requiring an increased level of service under a section 6 analysis. A higher cost to the local government for compensating its employees is not the same as a higher cost of providing services to the public.<sup>31</sup>

The court also found that "[a]lthough a law is addressed only to local governments and imposes new costs on them, it may still not be a reimbursable state mandate."<sup>32</sup>

In *City of Anaheim*, *supra*, 189 Cal.App.3d 1478, the court determined that an increase in PERS benefits to retired employees, which resulted in a higher contribution rate by local governments, does not constitute a higher level of service to the public. In this case the court found that:

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<sup>30</sup> *Id.* at pages 56-57.

<sup>31</sup> *City of Richmond*, *supra*, 64 Cal.App. 1190, 1196.

<sup>32</sup> *Id.* at page 1197.

While focusing on the exceptions to reimbursement, City conveniently presumes that [the test claim statute] mandated a higher level of service on local government, a prerequisite to reimbursement when an existing program is modified.

City's claim for reimbursement must fail for the following reasons: (1) [the test claim statute] did not compel City to do anything, (2) any increase in cost to City was only incidental to PERS' compliance with [the test claim statute], and (3) pension payments to retired employees do not constitute a "program" or "service" as that term is used in section 6.<sup>33</sup>

The court in *Anaheim* found that an increase in pension benefits to employees was not a "program" or "service" within the meaning of article XIII B, section 6.<sup>34</sup> The claimant in *City of Anaheim*:

argues that since [the test claim statute] specifically dealt with pensions for *public* employees, it imposed unique requirements on local governments that did not apply to all state residents or entities. [Footnote omitted; emphasis in original.]

However, the court continued:

Such an argument, while appealing on the surface, must fail. As noted above, [the statute] mandated increased costs to a state agency, not a local government. Also, PERS is not a program administered by local agencies.

Moreover, the goals of article XIII B of the California Constitution "were to protect residents from excessive taxation and government spending... [and] preclud[e] a shift of financial responsibility for carrying out governmental functions from the state to local agencies.... Bearing the costs of salaries, unemployment insurance, and workers' compensation coverage-costs which all employers must bear-neither threatens excessive taxation or governmental spending, nor shifts from the state to a local agency the expense of providing governmental services." (*County of Los Angeles v. State of California, supra*, 43 Cal.3d at p. 61.) *Similarly, City is faced with a higher cost of compensation to its employees. This is not the same as a higher cost of providing services to the public.* [Emphasis added, footnote omitted.]

Therefore, the court concluded that the test claim statute did "not fall within the scope of section 6."<sup>35</sup>

In *San Diego Unified School Dist., supra*, 33 Cal.4th at pages 876-877, the Court held:

Viewed together, these cases (*County of Los Angeles, supra*, 43 Cal.3d 46, *City of Sacramento, supra*, 50 Cal.3d 51, and *City of Richmond, supra*, 64 Cal.App.4th 1190) illustrate the circumstance that simply because a state law or order may *increase the costs* borne by local government *in providing services*, this does not

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<sup>33</sup> *City of Anaheim, supra*, 189 Cal.App.3d at page 1482.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Id.* at pages 1483-1484.



necessarily establish that the law or order constitutes an *increased or higher level* of the resulting "service to the public" under article XIII B, section 6, and Government Code section 17514. [Emphasis in original.]

The test claim statutes create a situation where the employer may be faced with "a higher cost of compensation to its employees." As held by the court, in *City of Anaheim, supra*, "[t]his is not the same as a higher cost of providing services to the public." Therefore, staff finds that any increased wage and benefit costs that may be incurred indirectly following implementation of Welfare and Institutions Code section 12302.25, is not a new program or higher level of service.

*IHSS Advisory Committee: Welfare and Institutions Code Sections 12301.3, 12301.4, and 12302.25, Subdivisions (d) & (e)*

Welfare and Institutions Code section 12301.3, was added by Statutes 1999, chapter 90. The amendments by Statutes 2000, chapter 445, are indicated by underline, as follows:

(a) Each county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals. No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article.

(1)(A) In counties with fewer than 500 recipients of services provided pursuant to this article or Section 14132.95, at least one member of the advisory committee shall be a current or former provider of in-home supportive services.

(B) In counties with 500 or more recipients of services provided pursuant to this article or Section 14132.95, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

(2) Individuals who represent organizations that advocate for people with disabilities or seniors may be appointed to committees under this section.

(3) Individuals from community-based organizations that advocate on behalf of home care employees may be appointed to committees under this section.

(4) A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee, but may designate any county employee to provide ongoing advice and support to the advisory committee.

(b) Prior to the appointment of members to a committee required by subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations.

(c) The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(d) Any county that has established a governing body, as provided in subdivision (b) of Section 12301.6, prior to July 1, 2000, shall not be required to comply with

the composition requirements of subdivision (a) and shall be deemed to be in compliance with this section.

Welfare and Institutions Code section 12301.4, was added by Statutes 1999, chapter 90. The amendments by Statutes 2000, chapter 445, are indicated by underline, as follows:

(a) Each advisory committee established pursuant to Section 12301.3 or 12301.6 shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees.

(b) Each county shall be eligible to receive state reimbursements of administrative costs for only one advisory committee and shall comply with the requirements of subdivision (e) of Section 12302.25.

Welfare and Institutions Code section 12302.25, subdivision (d), as added by Statutes 1999, chapter 90, provides that prior to implementing the "employer of record" requirement, "a county shall establish an advisory committee as required by Section 12301.3 and solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services."

Subdivision (e) provides that "Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about the program on an ongoing basis."

A test claim statute mandates a new program or higher level of service within an existing program when it compels a claimant to perform activities not previously required.<sup>36</sup>

Establishing, maintaining and taking advice from an advisory committee regarding the operation of IHSS was not required of counties prior to Statutes 1999, chapter 90. Therefore, staff finds that the plain language of Welfare and Institutions Code sections 12301.3, 12301.4, and 12302.25, subdivisions (d) and (e), mandates a new program or higher level of service, for the following new activities:

- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)<sup>37</sup>
- Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

<sup>36</sup> *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 836.

<sup>37</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)<sup>38</sup>

- Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)<sup>39</sup>
- The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12302.25, subd. (d).)<sup>40</sup>
- The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)<sup>41</sup>
- Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Welf. & Inst. Code, § 12302.25, subd. (e).)<sup>42</sup>
- One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)<sup>43</sup>

Since 1992, Welfare and Institutions Code section 12301.6 has provided an option for counties to “[c]ontract with a nonprofit consortium to provide for the delivery of in-home supportive

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<sup>38</sup> As amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>39</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>40</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>41</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999) and amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>42</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>43</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

services ... or ... [e]stablish, by ordinance, a public authority to provide for the delivery of in-home supportive services.” According to the September 1999 California State Audit Report on In-Home Supportive Services,<sup>44</sup> provided by the claimant as Exhibit 4 to the test claim, “As of June 1999, 6 of the State’s 58 counties—Alameda, San Mateo, San Francisco, Santa Clara, Los Angeles, and Contra Costa—had elected to create public authorities for the delivery of in-home supportive services,” under the optional program described in Welfare and Institutions Code section 12301.6. Therefore, those counties, plus any others meeting the exception described in section 12301.3, subdivision (d), are not required to *establish* an advisory committee, but they may be subject to the ongoing requirements of section 12301.4.<sup>45</sup>

DSS does not dispute that the formation and continuing operation of advisory committees pursuant to Welfare and Institutions Code sections 12301.3 and 12301.4 results in an entirely new program or higher level of service to the public. However, both DSS and DOF argue that it is already being sufficiently funded by the state.<sup>46</sup> This is addressed at Issue 3, below, regarding “costs mandated by the state.”

**Issue 2: Are the remaining test claim statutes subject to article XIII B, section 6 of the California Constitution?**

*Several code sections pled were not in fact substantively amended by the test claim statutes, and therefore are not subject to article XIII B, section 6.*

Welfare and Institutions Code section 2 provides: “[t]he provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.”<sup>47</sup> Staff finds that a renumbering, reenactment or restatement of prior law does not impose a reimbursable state-mandated program to the extent that the provisions and associated activities remain unchanged.

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<sup>44</sup> Subtitled “Since Recent Legislation Changes the Way Counties Will Administer the Program, the Department of Social Services Needs to Monitor Service Delivery.”

<sup>45</sup> Government Code section 17565 provides that if a claimant “at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.”

<sup>46</sup> DOF’s March 6, 2002 comments, pages 3-4, also argue that because the advisory committees “relate to the process of determining the rate of pay and benefits and of paying workers who provide services administered or overseen by the county, there is no “program” ... for which reimbursement is required.” The cases cited by DOF in support of this proposition do not include facts where there were distinct administrative activities *required* by the test claim statutes, in addition to the higher contribution costs alleged, therefore, staff finds that this argument does not preclude a finding of a new program or higher level of service.

<sup>47</sup> This is in accordance with the California Supreme Court decision, which held that “[w]here there is an express repeal of an existing statute, and a re-enactment of it at the same time, or a repeal and a re-enactment of a portion of it, the re-enactment neutralizes the repeal so far as the old law is continued in force. It operates without interruption where the re-enactment takes effect at the same time.” (*In re Martin’s Estate* (1908) 153 Cal. 225, 229.)

Welfare and Institutions Code Section 12301.6

Welfare and Institutions Code section 12301.6 provides an option for counties to “[c]ontract with a nonprofit consortium to provide for the delivery of in-home supportive services ... or ... [e]stablish, by ordinance, a public authority to provide for the delivery of in-home supportive services.” It was amended by Statutes 1999, chapter 90,<sup>48</sup> but then repealed and reenacted in its original form by Statutes 1999, chapter 91; both statutes were effective and operative on July 12, 1999. Government Code section 9605 provides: “In the absence of any express provision to the contrary in the statute which is enacted last, it shall be conclusively presumed that the statute which is enacted last is intended to prevail over statutes which are enacted earlier at the same session ... .” Thus Statutes 1999, chapter 91 conclusively prevails over chapter 90 with respect to Welfare and Institutions Code section 12301.6 so that no language was changed when compared to prior law. Therefore, staff finds that Welfare and Institutions Code section 12301.6 was not substantively amended by the test claim statutes and is not subject to article XIII B, section 6.

Welfare and Institutions Code Section 12301.8

Similarly, Welfare and Institutions Code section 12301.8 was added by Statutes 1999, chapter 90<sup>49</sup> and repealed entirely by Statutes 1999, chapter 91, both effective and operative on July 12, 1999. Government Code section 9605 also applies here, therefore, due to the repeal in Statutes 1999, chapter 91, Welfare and Institutions Code section 12301.8 never operated as law. Thus, staff finds that Welfare and Institutions Code section 12301.8 was never operative and is not subject to article XIII B, section 6.

***Several test claim statutes do not impose a new program or higher level of service because they do not require any new activities or impose a cost shift pursuant to article XIII B, section 6.***

A test claim statute or executive order mandates a new program or higher level of service within an existing program when it compels a local agency to perform activities not previously required,<sup>50</sup> or when legislation requires that costs previously borne by the state are now to be paid by local agencies. Thus, in order for a statute to be subject to article XIII B, section 6 of the California Constitution, the statutory language must order or command that local governmental agencies perform an activity or task, or result in “a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”<sup>51</sup>

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<sup>48</sup> Statutes 1999, chapter 90 would have amended the cost sharing provision between the state and the county for operating a public authority or nonprofit consortium under section 12301.6.

<sup>49</sup> Statutes 1999, chapter 90 would have added specific state cost-sharing language for increased wages and benefits, above the federal minimum wage, for IHSS providers employed through a public authority, nonprofit consortium, or contract.

<sup>50</sup> *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 836.

<sup>51</sup> California Constitution, article XIII B, section 6, subdivision (c).

Government Code Section 16262.5

Government Code section 16262.5 provides that counties "shall not be reduced for the state share of the nonfederal costs for the administration of the In-Home Supportive Services program," under certain circumstances. This section was amended by Statutes 1999, chapter 90, to extend the period of time that this provision was applicable from June 30, 1998 to June 30, 2001, and amended other references to fiscal years consistent with this extension. The section generally provides an opportunity for fiscal relief for counties that are reducing funding for administrative activities county-wide in their budget, and also seek to reduce the administrative costs of IHSS in their budget.

Claimant alleges that this section, as amended, "extends the period for which the counties shall not be reduced for the state share of nonfederal costs for administration of the IHSS program but limits the state share of those costs."<sup>52</sup>

The costs of IHSS have been shared between federal, state and county government since the inception of the program. The test claim statute extended a county fiscal relief program for two additional fiscal years which functioned to provide applicant counties with a reduced share of administrative costs of IHSS. Extending the number of years of fiscal relief available to counties does not require new activities on the part of the claimant, and does not transfer from the state to local agencies "financial responsibility for a required program," as described in article XIII B, section 6, subdivision (c), of the California Constitution. Therefore, staff finds that Welfare and Institutions Code section 16262.5, as amended by Statutes 1999, chapter 90, does not mandate a new program or higher level of service.

Welfare and Institutions Code Sections 14132.95, 17600 and 17600.110

Statutes 1999, chapter 90 amended Welfare and Institutions Code section 17600, by deleting subdivision (b)(4), which eliminated the "In-Home Supportive Services Registry Model Subaccount" from the Sales Tax Account of the Local Revenue Fund.

The deleted language was originally added to the code by Statutes 1993, chapter 100. An uncodified portion of Statutes 1999, chapter 90, (§ 12), provides that "The unencumbered amount residing in the In-Home Supportive Services Registry Subaccount of the Sales Tax Account of the Local Revenue Fund on January 1, 2000, shall be transferred to the General Fund." Statutes 1999, chapter 90 also deleted Welfare and Institutions Code section 17600.110, which previously provided that "(a) Moneys in the In-Home Supportive Services Registry Model Account shall be available for allocation by the Controller for the purposes of Section 12301.6."

Welfare and Institutions Code section 14132.95 is a detailed description of IHSS eligibility services and funding, established by prior law. Statutes 1999, chapter 90, deleted subdivision (k)(3)(A) – (C), which previously specified the allocation of the subaccount funding in Welfare and Institutions Code section 17600.110. This funding was earmarked for "the establishment of an entity specified in Section 12301.6." Prior law allowed a county "at its option, [to] elect to"<sup>53</sup> contract with a nonprofit consortium or establish a public authority, to provide IHSS.

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<sup>52</sup> Test Claim Filing, page 9.

<sup>53</sup> Welfare and Institutions Code section 12301.6

The removal of specific state subaccount funding tied to a discretionary program<sup>54</sup> does not require a claimant to perform new activities, nor does it transfer from the state to local agencies "financial responsibility for a required program," as described in article XIII B, section 6, subdivision (c), of the California Constitution. Staff finds that Statutes 1999, chapter 90, amending Welfare and Institutions Code sections 14132.95, 17600 and 17600.110, does not mandate a new program or higher level of service.

Welfare and Institutions Code section 12302.7

Welfare and Institutions Code section 12302.7 was repealed by Statutes 1999, chapter 90. Prior to repeal of the law, the code section provided for an optional method for counties to contract for IHSS. The section had an inoperative date of July 1, 2001, and an automatic repealer provision operative January 1, 2002. The earlier repeal of this section did not operate to place any new requirements on counties. Therefore, staff finds that the repeal of Welfare and Institutions Code section 12302.7 does not mandate a new program or higher level of service.

Welfare and Institutions Code Section 12303.4

As amended by Statutes 1999, chapter 90, language was stricken from Welfare and Institutions Code section 12303.4, as follows:

(a)(1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), and who is not described in Section 12304, shall receive services under this article which do not exceed the maximum of 195 hours per month.

~~(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 195 hours times the statewide wage rate per hour for the individual provider mode as calculated by the department and by dividing this product by the hourly cost of the mode of service to be provided.~~

(b)(1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), who is in need, as determined by the county welfare department, of at least 20 hours per week of the services defined in Section 12304, shall be eligible to receive services under this article, the total of which shall not exceed a maximum of 283 hours per month.

~~(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 283 hours times the statewide wage rate per hour for the individual provider as calculated by the department and dividing this product by the hourly cost rate of the mode of service to be provided.~~

The claimant alleges "this section amends the total hours of services a qualified recipient is entitled to receive."<sup>55</sup>

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<sup>54</sup> *Ibid.*

<sup>55</sup> Test Claim Filing, page 10.

Prior law allowed for reduction of the number of hours per month of service that a recipient might otherwise be eligible for, when the provider was employed in a method other than the individual provider mode. As an example, if the provider was paid through a contract with an hourly cost rate of \$10 per hour, but the current state wage rate for individual providers was \$8, a recipient otherwise eligible for 283 hours would be limited to approximately 226 hours. This could keep costs to the state and county comparable between the individual provider mode and another mode of service with a higher negotiated hourly cost rate, but could also result in a cut in services to the recipient.

Statutes 1999, chapter 90 eliminated this exception to the maximum number of hours of eligibility for a recipient. Staff finds that Welfare and Institutions Code section 12303.4, by removing an exception to the maximum number of hours a recipient is eligible to receive, does not require any activities on the part of the counties and thus does not mandate a new program or higher level of service.

Welfare and Institutions Code Section 12306.1

Welfare and Institutions Code section 12306.1, as added by Statutes 1999, chapter 91, provides:

Notwithstanding paragraph (3) of subdivision (c) of Section 12301.6, with regard to wage increases negotiated by a public authority pursuant to Section 12301.6, for the 1999-2000 fiscal year the state shall pay 80 percent, and each county shall pay 20 percent, of the nonfederal share of paid increases up to fifty cents (\$0.50) above the hourly statewide minimum wage. This section shall be applicable to wage increases negotiated prior to or during the 1999-2000 fiscal year.

This section was repealed by Statutes 2000, chapter 108, effective and operative July 10, 2000.<sup>56</sup> Welfare and Institutions Code section 12301.6, as referred to in section 12306.1, is a discretionary statute, and staff finds that any negotiated wages in excess of the state minimum wage, or cost-sharing resulting from such a statute, are all costs assumed at the option of the county.<sup>57</sup> Staff finds that Welfare and Institutions Code section 12306.1 did not require any activities on the part of the counties, nor did it transfer from the state to local agencies "financial responsibility for a required program," as described in article XIII B, section 6, subdivision (c), of the California Constitution, and thus did not mandate a new program or higher level of service.

**Issue 3: Do the test claim statutes found to impose a new program or higher level of service also impose costs mandated by the state pursuant to Government Code section 17514?**

Reimbursement under article XIII B, section 6 is required only if any new program or higher level of service is also found to impose "costs mandated by the state." Government Code section 17514 defines "costs mandated by the state" as any *increased* cost a local agency is

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<sup>56</sup> Statutes 2000, chapter 108 was not pled in the test claim.

<sup>57</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th at page 743: "We instead agree with the Department of Finance, and with *City of Merced*, *supra*, 153 Cal.App.3d 777, that the proper focus under a legal compulsion inquiry is upon the nature of claimants' participation in the underlying programs themselves."



required to incur as a result of a statute or executive order that mandates a new program or higher level of service. At the time of filing the test claim, the claimant was required to allege costs in excess of \$200, pursuant to Government Code section 17564. The claimant estimated increased costs to the county share of wages and benefits in the range of \$10 to 21.7 million after establishing a public authority as the employer of record. In addition, the claimant states that these figures “do not include the administrative costs incurred with: creation and ongoing activities of the advisory committee, costs associated with the creation of any new modality or contracting with same, and costs associated with collective bargaining.”

Government Code section 17556 provides, in pertinent part:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

...

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

...

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

...

Although IHSS is a joint federal-state-local program, there is no evidence in the record that any of the mandated activities are required by federal law. Therefore, staff finds that Government Code section 17556, subdivision (c) does not apply.

The claimant stated that *none* of the Government Code section 17556 exceptions apply. However, DOF specifically argues that the claimant has been provided with funding for the advisory committee activities and that Government Code section 17556, subdivision (e) applies to deny a mandate finding.<sup>58</sup> In the response to comments filed September 9, 2002, page 5, the claimant asserts that of the \$11,944 already claimed for the advisory committee expenses “[t]he costs for the Advisory Committee alone have exceeded several times the allotment actually paid by the Department of Social Services.”

While state funds already provided must be used to offset any mandate reimbursement claimed, the claimant has provided a declaration that their administrative costs of forming and operating

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<sup>58</sup> DOF Comments, page 1, filed March 6, 2002. DOF’s March 28, 2007 comments also include a chart showing funds appropriated for the “IHSS Advisory Committee” through 2005-06.

the advisory committee are not being fully reimbursed. To further support this claim, the claimant provided a copy of DSS claiming instructions for the January- March 2001 quarter, which allowed for 100 percent of "IHSS Advisory Committee/Direct Costs," retroactive to July 2000, but required claims for reimbursement of county administrative costs "for supporting the IHSS Advisory Committee," be charged separately under the standard claiming instructions for IHSS. Specifically the document states:

Costs incurred by the County Welfare Department (CWD) for supporting the IHSS Advisory Committee are not allowable for reimbursement under these codes. Any CWD costs for providing support activities for the IHSS Advisory Committee should be charged to the appropriate IHSS/PCSP claim codes on the County Expense Claim (CEC.)<sup>59</sup>

This requires a county share of costs as required by Welfare and Institutions Code section 12306.<sup>60</sup> Section 12306 requires that the state and county share non-federal administrative costs of IHSS in a 65 percent state/35 percent county split. Requiring the claimant to maintain this share of costs for a mandated new program or higher level of service would defeat the stated purpose of article XIII B, section 6 to "provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service."

Various DSS County Fiscal Letters show that funds have been allocated for reimbursing counties for the direct costs of the mandatory advisory committee on an annual basis since July 2000.<sup>61</sup> However, the reimbursement period for this test claim begins on the operative date of Statutes 1999, chapter 90--July 12, 1999. In addition, the state could also fail to allocate such funds in any future budget year.<sup>62</sup>

Another source of funds noted in the County Fiscal Letters, beginning in fiscal year 2003-04, was for a small number of counties' administrative costs to act as the employer of record for IHSS providers.<sup>63</sup> In the current fiscal year, 2006-07, this funding is limited to the counties of Alpine and Tuolumne and is for "the cost of administrative activities necessary for counties to act as the employer of record for IHSS providers."<sup>64</sup> However, the mandated activity pursuant to Welfare and Institutions Code section 12302.25 is for the initial *establishment* of an employer

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<sup>59</sup> County Fiscal Letter (CFL) No. 00/01-48, page 3, issued December 22, 2000, by DSS. (Also, Exh. 2 to Claimant's Response to Comments.)

<sup>60</sup> Claimant Response to Comments, page 5, filed September 9, 2002.

<sup>61</sup> DSS CFL, Nos. 00/01-14, 00/01-33, 00/01-48, 01/02-12, 02/03-28, 02/03-73, 03/04-46, 03/04-51, 04/05-16, 04/05-22, 04/05-27, 05/06-10, 06/07-02.

<sup>62</sup> In *Carmel Valley Fire Protection Dist. v. State* (2001) 25 Cal.4th 287, 299, the Court discussed that, subject only to the Governor's veto power, the Legislature has the power to determine how funds are expended in each annual budget: "Legislative determinations relating to expenditures in other respects are binding upon the executive: 'The executive branch, in expending public funds, may not disregard legislatively prescribed directives and limits pertaining to the use of such funds.'"

<sup>63</sup> DSS CFL, No. 02/03-73, page 2.

<sup>64</sup> DSS CFL, No. 06/07-02, page 2.

of record on or before January 1, 2003. Therefore, this funding is not specific to the mandated activity.

Staff finds that section 17556, subdivision (e) does not apply to disallow a finding of costs mandated by the state, but all claims for reimbursement for the approved activities must be offset by any funds already received from state or federal sources. Thus, for the activities listed in the conclusion below, staff finds accordingly that the new program or higher level of service also imposes costs mandated by the state within the meaning of Government Code section 17514, and none of the exceptions of Government Code section 17556 apply.

### CONCLUSION

Staff concludes that Welfare and Institutions Code sections 12301.3, 12301.4, and 12302.25, as added by Statutes 1999, chapter 90 or amended by Statutes 2000, chapter 445 impose new programs or higher levels of service for counties within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514, for the following specific new activities:

- From July 12, 1999, until December 31, 2002, each county shall establish an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)<sup>65</sup>
- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record in the individual provider mode, upon request. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)<sup>66</sup>
- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)<sup>67</sup>

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<sup>65</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>66</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>67</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

- o Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)<sup>68</sup>

- o Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)<sup>69</sup>
- o The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12302.25, subd. (d).)<sup>70</sup>
- o The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)<sup>71</sup>
- o Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Welf. & Inst. Code, § 12302.25, subd. (e).)<sup>72</sup>
- o One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and

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<sup>68</sup> As amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>69</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>70</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>71</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999) and amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>72</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)<sup>73</sup>

Staff concludes that all claims for reimbursement for the approved activities must be offset by any funds already received from state or federal sources, including funds allocated for the direct costs of the advisory committee.

Staff concludes that Government Code section 16262.5, and Welfare and Institutions Code sections 12301.6, 12301.8, 12302.7, 12303.4, 12306.1, 14132.95, 17600 and 17600.110, as pled, along with any other test claim statutes and allegations not specifically approved above, do not impose a program, or a new program or higher level of service, subject to article XIII B, section 6.

### **Staff Recommendation**

Staff recommends the Commission adopt this staff analysis to partially approve this test claim.

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<sup>73</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

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State of California  
COMMISSION ON STATE MANDATES  
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Sacramento, CA 95814  
(916) 323-3562  
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Claim No. <u>00-TC-23</u>

**TEST CLAIM FORM**

Local Agency or School District Submitting Claim

**San Bernardino County**

Contact Person

Telephone No.

**John Logger, SB-90 Coordinator**

**(909) 386-8821**

**Fax (909) 386-8830**

Address

**222 W. Hospitality Lane, 4th Floor  
San Bernardino, CA 92415-0018**

Representative Organization to be Notified

**California State Association of Counties**

This test claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code section(s) within the chaptered bill, if applicable.

**Chapter 90, Statutes of 1999, Chapter 91, Statutes of 1991,  
Chapter 445, Statutes of 2000**

**IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.**

Name and Title of Authorized Representative

Telephone No.

**John Logger, SB-90 Coordinator**

**(909) 386-8821**

Signature of Authorized Representative

Date

**6/28/01**





**BEFORE THE  
COMMISSION ON STATE MANDATES**

Test Claim of:  
County of San Bernardino

In-Home Supportive Services (IHSS) II

Chapter 90, Statutes of 1999  
Chapter 91, Statutes of 1999  
Chapter 445, Statutes of 2000

STATEMENT OF THE CLAIM

A. MANDATE SUMMARY

The statutes cited above have best been described by the California State Auditor<sup>1</sup> as a significant change in the manner by which counties will administer the In-Home Supportive Services ("IHSS") program. In summary, the legislation sets up a complex requirement for the various counties to act as or create an "employer of record" for the purpose of collective bargaining with the individual providers of IHSS services. The legislation also mandates the creation of an advisory committee to advise the county on the appropriate methodology for establishing an "employer of record", and to provide ongoing advice to the county.

In brief summary, the result of the legislation is to substantially increase administrative and programmatic costs of the program in various ways. The first increase is by mandating the creation of the advisory committees, mandating their composition, and requiring them to provide ongoing advice. Additionally, depending upon what authorized "employer of record" is created, there will be substantial administrative costs in the consideration of and creation of the "employer of record", as well as the ongoing costs associated with the duties of the "employer of record".

The last, and probably greatest cost, is that associated with collective bargaining on behalf of the individual providers of IHSS services, together with the increase in wages and benefits that are contemplated. These costs are exacerbated by the state's limiting its share of costs for administrative costs and provider wages and benefits. At present, if the county provides benefits to the providers, the total costs become a county

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<sup>1</sup> See California State Auditor, *In-Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery* (hereinafter "Auditor's Report"), September 1999 at page 1.

expense. The scenario, which has been created, is that this legislation mandates collective bargaining between the employer of record and the providers, yet the state is not going to contribute above its previous share of the wages of the providers at the base of minimum wage, and provides nothing towards benefits.

The creation of an "employer of record" also creates a myriad of other problems including Cal-OSHA regarding workplace safety, liability for the acts or omissions of the providers, and related liability issues.

### IHSS PROGRAM

The IHSS program is the method by which the State of California has chosen to implement a federal program. Originally in Title XX, in the Social Security Provisions, it is now located in Title XIX, which is part of the medical program. The purpose of this program is to provide the requisite level of care to financially needy individuals to allow them to remain in their home, and avoid nursing home or other residential placement.

There are three main types of services afforded by the IHSS program.

The first category of services is Domestic Services. These services would include such items as the following:

1. Sweeping, vacuuming, washing and waxing of floor surfaces.
2. Washing kitchen counters and sinks.
3. Cleaning oven, stove and refrigerator.
4. Storing food and supplies.
5. Meal planning, preparation of food, and clean-up.
6. Changing bed linen.
7. Laundry services.
8. Dusting and picking up.
9. Food shopping and reasonable errands.

A second category of services is Personal Care Services. These services would include the following:

1. Bowel and bladder care (including enemas, emptying of catheter or ostomy bags, assistance with bed pans, diapers, etc.)
2. Respiration (including assistance with self-administration of oxygen and cleaning of IPPB machines.)
3. Assistance with eating and the intake of fluids.
4. Assistance with bathing, dressing and grooming.
5. Assistance with turning in bed, as well as getting into and out of bed.
6. Assistance with ambulation.
7. Care of and assistance with prosthetic devices and assistance with self-administration of medications.
8. Assistance with transportation for health care appointments and to/from alternate resources.

9. Protective supervision. (This type of service is provided to those who need someone to watch out for them, in order to safeguard the recipient against injury, hazard or accident. A couple of examples are children who are so severely disabled they need extraordinary supervision, and individuals with mental disabilities that tend to wander, such as going out for the paper and never returning. These individuals need help to safely live in their own home.)

The third type of services are Paramedical Services, which have the following characteristics:

1. Are activities which, due to the recipient's physical or mental condition, are necessary to maintain the recipient's health.
2. Are activities which include the direct administration of medications, puncturing the skin, or inserting a medical device into a body orifice, activities requiring sterile procedures, or other activities requiring judgment based on training given by a licensed health care professional.

When one applies for IHSS, there is a needs assessment performed, to determine what services are necessary. There is also an income/financial test, to determine if there is financial eligibility or whether the recipient of the services must pay a share of cost. If the recipient already receives SSI/SSP, there is automatic satisfaction of the income/financial test. The maximum hours that a recipient can receive through the PCSP program is 283 hours per month; the maximum hours a recipient can receive through the Residual program is 195 hours per month. The number of hours granted to a recipient for services depends on the needs the individual in order to remain in the home. Some recipients receive as few as 2 to 10 hours per week, while others receive the maximum allowable hours under the program.

In San Bernardino, the services are provided by individuals who are called "providers". Experience has shown that the provider is often a close family relative, friend or neighbor of the recipient, and is chosen by the recipient.<sup>2</sup> At present, the provider is paid minimum wage by the program.

For the PCSP program, the county pays 17 ½% of the program costs, the federal government 50%, and the state pays the balance of 42 ½%. If the program is Residual<sup>3</sup>, the costs are shared 35% by the county, and 65% by the state.

The problem is that the state has committed to this payment ratio to the minimum wage. Chapter 91, Statutes of 1999 increases the state's commitment to the program to 50 cents above minimum wage. However, if you are a Public Authority county, the state will contribute at its percentage share to a maximum of \$7.50 per hour. The current

<sup>2</sup> Auditor's Report, page 9.

<sup>3</sup> The Residual program is when the provider is the spouse or parent of the recipient. In this case, the program does not qualify for federal funds. It should be noted, however, that if the provider is the employee of a contractor, the degree of affinity is not recognized, and it becomes, again, a federal program, with the state, instead of paying 65% of the costs, pays 42 ½%.

findings of the state is that there is insufficient funding to increase the hourly wage of the providers to \$8.50 per hour, although there is contemplation of increasing the wage \$1.00 per hour for the next four years, provided that there is an adequate budget surplus. However, with the other pressures on the state's fisc, including the current energy crisis, it is doubtful whether the further increases will be realized. In any event, the county's share will increase.

### ADVISORY COMMITTEE

The legislation mandates the creation of an advisory committee, to advise the county on the best methodology for creating an "employer of record", whether to be the "employer of record", to contract with an entity to provide IHSS services, to create a Public Authority, or to establish a Nonprofit Consortium, or a mixture of the foregoing for the purposes of establishing an "employer of record".

Under the test claim legislation, as San Bernardino county has in excess of 500 recipients of IHSS services, the advisory committee, which shall have no more than 11 members, is mandated to be comprised as follows:

Two members shall have been current or former providers of IHSS services  
Individuals who represent organizations that advocate for people with disabilities or seniors

Individuals from community-based organizations that advocate on behalf of home care employees

Cannot have more than one county employee

No less than 50% of the membership shall be individuals who are current or past users of IHSS services<sup>4</sup>.

The advisory committee is initially required to submit recommendations to the county's board of supervisors on the preferred mode or modes of service to be utilized for the provision of IHSS services under the new legislation.<sup>5</sup> Thereafter, once the "employer of record" is created, the advisory committee is to have a continual role, and is required by statute to "provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees."<sup>6</sup>

Given the enormity of the charge given to the advisory committee, the County of San Bernardino started recruiting members of the target population, as set forth in the test claim legislation, to serve on the advisory committee. In order to reach the community as required by the legislation, and as there are over 10,000 recipients and 9,000 providers, and this does not include interested members of the community and community based

<sup>4</sup> See Welfare and Institutions Code, Section 12301.3, as added by Chapter 90, Statutes of 1999, and amended by Chapter 445, Statutes of 2000.

<sup>5</sup> See Welfare and Institutions Code, Section 12301.3(c).

<sup>6</sup> See Welfare and Institutions Code, Section 12301.4, added by Chapter 90, Statutes of 1999.

organizations, the initial mailing was in excess of 19,000.<sup>7</sup> Notwithstanding the large mailing, the county had difficulties in recruiting for the advisory committee. The difficulties in establishing the advisory committee is further compounded by the geographic area encompassed by the county. If there is a meeting in Big River or Needles, given the distance from San Bernardino, which is the county seat where the program is located, staff must spend the night.

The advisory committee has been meeting weekly since November in order to discharge its statutory obligation to recommend a form that the "employer of record" will take. This has necessitated providing materials on the benefits and detriments of each form of organization, financial and cost materials, and programmatic materials. Each meeting must also be noticed in compliance with the Ralph M. Brown Act, so each meeting must have not only the individual agenda items, but also the agenda itself, which must be posted.

Given that a substantial number of the committee members are past or present users of IHSS services, transportation must be provided or arranged for a number of the committee members.

It is hoped that once the "employer of record" has been established by the board of supervisors, that the advisory committee will no longer have to meet weekly, but instead can meet monthly to provide the requisite advice.

The administrative costs in creating the advisory committee, as well as providing the requisite staff to the advisory committee is substantial. The state has partially recognized its obligation to fund this mandated requirement, and the County of San Bernardino has received \$27,000 to partially pay for the costs. However, the funding received to date is inadequate to discharge the mandated activities.

### EMPLOYER OF RECORD

The mode of designating or creating an "employer of record" is an enormous responsibility. There are substantial benefits and detriments with the utilization of each form of entity:

#### County as Employer of Record

~~The issue of whether the county becomes the employer of record involves a myriad of issues. The first issue is that there would be a new bargaining unit of approximately 9,000 employees. Human Resources would have to perform a classification study in order to determine the minimum requirements of the position. Then, a salary study would have to be performed. Job classifications and salaries would~~

<sup>7</sup> See Welfare and Institutions Code, Section 12301.6, as added by Chapter 90, Statutes of 1999, which requires that the solicitation of members through a "fair and open process that includes the provision of reasonable written notice to, and a reasonable response time by, members of the general public and interested persons and organizations."

have to be established by ordinance. The employees would have to meet various minimum requirements, and go through a civil service process for appointment to the position they were presently occupying. Additionally, if the County were their employer, there would have to be county employees supervising the IHSS workers, and it is estimated that this would require 1,000 first line supervisors, plus their supervisors.

Additionally, because of the requirements of civil service, felons could not be service providers. Thus, a lot of individuals who are presently providing services to their relatives would be ineligible because of the county prohibition against employing felons. Civil service would also entail a plethora of administrative activities for the hiring, firing and disciplining of IHSS workers. Also, there would be no guarantee to the recipients that their provider of choice would be eligible to provide services, as there may be others in civil service positions who lose, for one reason or another, the recipient for whom they were providing services.

For example, assume that a recipient wishes for her mother to be the provider. If the county were the employer, the mother would have to apply for the position, assuming that there was a position eligible to be filled. The mother might or might not have the qualifications necessary to be hired, and might not make it to the list of persons eligible to provide services. This would be of extreme importance to the recipient, who might not want a total stranger providing personal care services, particularly if it involved cleaning up after bowel movements or providing menstrual care.

There are a plethora of other issues as well. The issue of the county being the employer of record could result in liability to the county for the actions or inactions of the employee. Another issue is the liability of the county for workplace safety, when the county has no control over the workplace itself, i.e., the home of the recipient of IHSS services. Furthermore, an actuarial study would have to be undertaken if the employees became members of the San Bernardino County Employees' Retirement Association.

In San Bernardino County, pre-school services were just folded in to the county as employees. Although there were only 200 employees involved, the process took over a year and a half to accomplish. It is estimated that the time lines for the incorporation of over 9,000 employees would take substantially longer.

### Contract

Another alternative is to contract with another entity to provide the IHSS services, and be the employer of record. Any contract requires either an RFP (request for proposal) or IFB (invitation for bid). In the County of San Bernardino, you have to go out every two years, although you can extend a contract once for a one year period of time. It is a substantial cost to go through the RFP or IFB process.

With a contract, you establish a contracting rate, which also includes the cost of the contractor's administration and overhead. However, the county would still have overhead, as someone would have to monitor the contract for compliance, appropriate

services, etc. Even with a contractor mode, as the County of San Bernardino has over 500 recipients, there would still have to be a public authority, non-profit consortium or other form, as the recipient under the law maintains the right to have an individual provider option, and there still needs to be an "employer of record" for those providers.

There is another problem with the contracting mode, and that is if the county is dissatisfied with the contractor. The only alternatives are to terminate the contract pursuant to its provisions, or not renew. If the contractor was terminated or not renewed, the RFP or IFB process would still have to be undertaken if a contract remained the desired mode, or there would have to be created an alternative mode for the designation of an "employer of record".

The County of San Bernardino had experience with contracting for IHSS services, which was discontinued in the late 1980's. There were substantial problems with service delivery, as not enough providers were obtained. As a result, there was only 80-90% of the services authorized actually delivered to the recipients. There were also complaints about the quality of service delivery. Additionally, the costs of the contract were prohibitive, at that time approximating \$16 to \$18 per hour of service delivered. There was much difficulty with the contractor, and as a result, the contracting option was terminated.

The contracting mode would, however, result in more costs being shifted to the state and federal government. With a contractor as the provider of services, close relatives would not be seen as disqualifying the case from federal funds participation. With this form, the costs of the Residual Program would be eliminated, and the program costs shifted to PCSP, with a lesser share of county costs.<sup>8</sup>

#### Public Authority

A public authority is a separate governmental entity, the governing body of which can either be the board of supervisors or a separate body. Presently, with regard to those counties establishing a public authority, approximately half of the counties have the board of supervisors as the governing body, whereas the other half has a separate board.

With a public authority, you have to establish a separate governmental entity. That governmental entity has to have its own staff. The public authority is responsible to establish a registry of providers, as well as training. The public authority must also maintain a registry of providers, so that if a recipient does not have a provider in mind, he or she may telephone and obtain a referral for a provider.

However, with a public authority, as an independent entity, some controls must be exercised by the county in order to assure that whatever raises are granted to the individual providers does not put an unwanted strain on the county's general fund. If raises and benefits are granted through collective bargaining with no restraint by the

<sup>8</sup> See Auditor's Report, pages 21-22.

county, the general fund obligation of the county could increase substantially, particularly if the state keeps limiting its share of reimbursement.

One of the biggest drawbacks to this modality is the increased costs in establishing a new public entity, as well as the ongoing administrative costs of operating a new public entity.

#### Nonprofit Consortium

At this time, there are no counties operating under this mode. It is assumed that the benefits and detriments would be similar to that of a public authority. However, at present, the state has committed to an increased rate for public authorities, but has not committed the same resources to a nonprofit consortium.

Presently, to our knowledge, the only nonprofit consortium is not an employer of record. In San Francisco, there are pockets of immigrants with special needs, and there is difficulty in providing services and obtaining providers. The City and County went to the community-based organizations that served those groups, and they came together as a consortium, and a contract was issued to provide services to the communities served.

#### Summary

The summaries given above as to each type of mode, or a combination of the foregoing, is merely meant to illustrate the sophistication of the issues which must be addressed by the advisory committee, as well as IHSS staff, for their ultimate recommendations to the board of supervisors. There has been much analysis performed by the staff, Human Resources Department, as well as the County Counsel regarding various issues, which have arisen. It is anticipated that this type of analysis will continue before the ultimate form of "employer of record" is chosen.

Obviously, the ultimate choice will be dependent upon how well the form will address the following issues: service delivery to recipients, provider of choice, training, cost control, increase in wages and establishment of benefits to providers, minimization of liability, minimization of administrative costs.

#### COLLECTIVE BARGAINING

~~As seen from the Auditor's Report, as well as other writings on this subject, the purpose of this legislation was to increase the wages, and establish benefits, for providers. Although some public authorities already in existence pay wages in excess of minimum wage, the prevailing wage rate in the State of California has been minimum wage. In San Bernardino County, the wage rate paid providers of services has been minimum wage, with no benefits.~~

~~It is clear that there is a strong public policy to pay the providers in excess of minimum wage for the services provided. It is further recognized that minimum wage~~



will not afford the providers a decent standard of living absent an independent source of income. Minimum wage does not always attract the most qualified individuals for provision of services.

However, in addition to raising the total costs for the providers by way of salaries and benefits, there will also be substantial costs in the conduct of collective bargaining. Salaries of the individuals bargaining for both the "employer of record" and providers would have to be paid, as well as the costs of conducting same.

The clear consequence of this legislation, which has been seen and analyzed by all interested, is that the costs of the program will increase substantially with the increase in wages, and establishment of benefits, for the providers. Unless the state increases its participation substantially, counties will experience the entire burden of the change in administration of this program.<sup>9</sup>

#### B. LEGISLATIVE HISTORY PRIOR TO 1975

There was no requirement prior to 1975, or in any of the intervening years, until the passage of the test claim legislation, to mandate the creation and advisory committee, of an "employer of record", nor the costs for collective bargaining and the resultant increase in labor costs.

#### C. SPECIFIC STATUTORY SECTIONS THAT CONTAIN THE MANDATED ACTIVITIES

##### Chapter 90, Statutes of 1999

Government Code, Section 16262.5 -- extends the period for which the counties shall not be reduced for the state share of nonfederal costs for administration of the IHSS program, but limits the state share of those costs.

Welfare and Institutions Code, Section 12301.3 is added -- requires the creation and appointment of the IHSS advisory committee. Requires the county board of supervisors to solicit members for the committee through a "fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations." This statute further requires the advisory committee to submit recommendations concerning the preferred mode or modes of service of the IHSS program.

Welfare and Institutions Code, Section 12301.4 is added -- requires the advisory committee to provide ongoing advice and recommendations "regarding in-home

<sup>9</sup> It should be noted, as stated in the Auditors Report, that the federal government will, in certain instances, share costs up to 150 or 200 percent of minimum wage. See page 10. The county is informed and believes that the state has never attempted to maximize the federal share of funding. Other states are receiving more federal funds for the services provided than are being received in California.

supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees.

Welfare and Institutions Code, Section 12301.6 – requires the state and county to share, according to the provisions of existing law, the annual costs for operating a public authority or nonprofit consortium. There are miscellaneous changes to this provision.

Welfare and Institutions Code, Section 12301.8 – this provision amended some of the cost-sharing provisions if there is an increase in provider wages and benefits.

Welfare and Institutions Code, Section 12301.15 is added – this section mandates the establishment of an “employer of record” on or before January 1, 2003. The options available to counties are: public authority or nonprofit consortium, contract mode, county administration of individual provider mode, county civil service personnel, or mixed modes of service. Recipients of services are entitled to choose the individuals that will provide their care, as well as to “recruit, select, train, reject, or change any provider under the contract mode or to hire, fire, train and supervise any provider under any other mode of service.” If the county has a caseload exceeding 500 recipients, the county is required to offer an individual provider employer option. It is made clear in this section that collective bargaining for wage and benefit enhancements is authorized. This legislation also requires the advisory committee to make recommendations concerning the mode of service delivery. Furthermore, “[e]ach count shall take into account the advice and recommendations of the in-home supportive services advisory committee, . . . prior to making policy and funding decisions about the program on an ongoing basis.” Counties are precluded from reducing the hours that are determined to be needed by a recipient as a consequence of establishing an employer of record.

Welfare and Institutions Code, Section 12302.7 was repealed – this section allowed risk shifting by contract, wherein the county could contract where the contractor would be financially at risk for all IHSS services identified as necessary to enrolled recipients. With the elimination of this provision, risk-shifting contracts are no longer permitted.

~~Welfare and Institutions Code, Section 12303.4 – this section amends the total hours of services a qualified recipient is entitled to receive.~~

Welfare and Institutions Code, Section 14132.95 – this section adjusts the funding participation of the state and counties.

Welfare and Institutions Code, Section 17600 – this section eliminates the In-Home Supportive Services Registry Model Subaccount from the Sales Tax Account in the Local Revenue Fund, and transfers those funds to the state general fund.

Chapter 91, Statutes of 1999

Welfare and Institutions Code, Section 12301.6 – this section as amended by Chapter 90, is repealed and this provision is enacted in its stead. This provision provides that if an increase in provider wages or benefits is negotiated, the county shall use county-only funds to fund both the county share and state share, including employment taxes, unless the state otherwise provides in the Budget Act or other legislation. This legislation shifts the total costs to local government, unless the state decides to assist in the funding.

Welfare and Institutions Code, Section 12301.8 is repealed – as enacted in Chapter 90, this section contained cost sharing in a particular formula. The reimbursement provision is deleted in this legislation.

Welfare and Institutions Code, Section 12306.1 is added – this section requires sharing of the first 50 cents above minimum wage for contracts negotiated prior to or for the 1999-2000 fiscal year, 20% by the county and 80% by the state.

Chapter 445, Statutes of 2000

Welfare and Institutions Code, Section 12301.3 is amended – this section changes the membership and qualifications of the members of the IHSS advisory committee.

Welfare and Institutions Code, Section 12301.4 is amended – clarifies and limits reimbursement to only one IHSS advisory committee, and imposes other restrictions.

D. COST ESTIMATES

It is impossible to estimate the total costs, which will be incurred by virtue of the test claim legislation. In the process of determining which modality to use, preliminary calculations have been made of the total additional costs mandated by this legislation. At present, estimates are also dependent upon whether the state participates in funding of the wages of the providers in excess of minimum wage. The following are estimated increases in the costs to the County of San Bernardino for each of the following options, assuming there is, and there is not, an increase in the state's participation over minimum wage:

COST ESTIMATES FOR SAN BERNARDINO COUNTY  
INCREASED COSTS<sup>10</sup>

MODALITY	STATE DOES NOT PARTICIPATE OVER MINIMUM WAGE	STATE PARTICIPATES IN WAGE OF \$6.95/HR.
Public Authority	\$21,704,007	\$10,392,031
Contract		\$17,508,699 <sup>11</sup>
County as Employer	\$36,930,935	\$14,294,063

Depending upon the level of state participation in the share of increased wages and benefits brought as a result of the pressure on wages and benefits by the authorized collective bargaining, there is a substantial difference in estimated costs.

The costs above do not include the administrative costs incurred with: creation and ongoing activities of the advisory committee, costs associated with the creation of any new modality or contracting with same, and costs associated with collective bargaining.

E. REIMBURSABLE COSTS MANDATED BY THE STATE

The costs incurred by the County of San Bernardino as a result of the statutes included in the test claim are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B (6) of the California Constitution, and Section 17500 *et seq.* of the Government Code. Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975."
3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

<sup>10</sup> This is just the county's share of the increased costs, under various assumptions. This does not include the state and federal participation share.

<sup>11</sup> Assumes state will participate to full cost of \$11.50 per hour, the maximum rate of federal participation in these costs.

## F. MANDATE MEETS BOTH SUPREME COURT TESTS

The mandate created by these three statutes clearly meets both tests that the Supreme Court in the *County of Los Angeles v. State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

### Mandate Is Unique to Local Government

Only through state, federal and county participation are those in need provided with IHSS services. Although the services may be carried out through contract with a private entity, the funding for same, as well as the eligibility for services, rests strictly with local government, under guidelines established by the federal and state government.

### Mandate Carries Out a State Policy

From the legislation, it is clear that there is a new policy to provide those who provide services to recipients with increased wages and benefits, and to that end an "employer of record" has to be established. Additionally, an advisory committee is required in order to make sure that the needs of both the providers and recipients, as well as other interested parties, are taken into account when the type of modality is chosen. This is to make sure that service quality and delivery, as well as the needs of the providers are met, and the total program requirements are not simply examined in light of local government's budgetary constraints.

In summary, the statutes mandate that the County of San Bernardino establish an advisory committee, staff the advisory committee so that it can provide the requisite advice to the board of supervisors on the modality of an "employer of record" to choose. The statutes further require the establishment of an "employer of record", and collectively bargain with the providers for wages and benefits. Given the public purpose of the IHSS program, it is clear that this legislation meets the requirements to be found to be a reimbursable state mandated program.

### STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in Government Code, Section 17556 which could serve to bar recovery of "costs mandated by the State", as defined in Government Code, Section 17556. None of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the Program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.
3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs, which exceed the mandate in that federal law or regulation.
4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.
6. The statute or executive order imposed duties, which were expressly included in a ballot measure approved by the voters in a statewide election.
7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

None of the above disclaimers have any application to the County of San Bernardino's test claim.

#### CONCLUSION:

The enactment of Chapter 90, Statutes of 1999, Chapter 91, Statutes of 1999, and Chapter 445, Statutes of 2000 imposed a new state mandated program and cost on the County of San Bernardino, by substantially amending the administrative requirements of the IHSS program. The test claim legislation requires the establishment and ongoing activities of the advisory committee, the choice of one of a series of modalities for having an "employer of record", the mandate of collective bargaining with providers of IHSS services, as well as the increased costs that will arise once collective bargaining has been instituted. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the so-called disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement has any application to this claim.

G. CLAIM REQUIREMENTS

The following elements of this test claim are provided pursuant to Section 1183, Title 2, of the California Code of Regulations:

- Exhibit 1: Chapter 90, Statutes of 1999
- Exhibit 2: Chapter 91, Statutes of 1999
- Exhibit 3: Chapter 445, Statutes of 2000

H. ADDITIONAL DOCUMENTATION

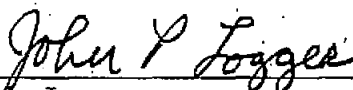
In order to explain more fully the contents of this test claim, the following is attached hereto and incorporated by reference:

- Exhibit 4: California State Auditor, *In-Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery* (hereinafter "Auditor's Report"), September 1999

CLAIM CERTIFICATION

The foregoing facts are known to me personally and if so required, I could and would testify to the statements made herein. I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and complete to the best of my personal knowledge and as to all matters, I believe them to be true.

Executed this 28 day of June, 2001, at San Bernardino, California, by:

  
\_\_\_\_\_  
John Logger  
SB-90 Coordinator









Assembly Bill No. 1682

CHAPTER 90

An act to amend Section 16262.5 of the Government Code, to amend Sections 12301.6, 12303.4, 14132.95, and 17600 of, to add Sections 12301.3, 12301.4, 12301.8, and 12302.25 to, and to repeal Sections 12302.7 and 17600.110 of, the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1999. Filed with Secretary of State July 12, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1682, Honda. Human services.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization.

Existing law provides until June 30, 1998, that the reimbursement of counties meeting certain conditions shall not be reduced for the state share of the nonfederal costs for the administration of the In-Home Supportive Services program.

This bill would extend the operative period of that provision until June 30, 2001.

Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law provides that when any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium, the county shall use county-only funds to fund both the county's share and the state's share, including employment taxes, of any increase in IHSS costs, unless otherwise provided for by law.

This bill would delete this provision, and would, instead, provide that the annual costs for any public authority or nonprofit consortium shall be shared by the state and county according to provisions of existing law.

The bill would also authorize counties to designate funds to be used to increase provider wages and benefits for the provision of IHSS services through a nonprofit consortium or public authority or through a 3-year contract with various providers, and would provide for the reimbursement of any county that expends county funds in

an amount at least equal to the reduction during the fiscal year in the county's share of cost that results from federal financial participation in services provided to medically needy aged, blind, and disabled persons; for the cost of the increase in wages and benefits that exceeds the reduction in the county share of cost.

This bill would require each county to act as, or establish, an employer for in-home supportive service personnel for purposes of provisions of statutory law regarding employer-employee relations and would require the department to establish a timetable for implementation of that requirement. This bill would also require each county that has not established a public authority for the provision of IHSS services to establish an advisory committee and would require the advisory committee in each county to provide recommendations on certain modes of service to be utilized in the county for in-home supportive services.

Because counties are responsible for administration of the IHSS program and participate in the funding of that program, this bill, by requiring counties to appoint an advisory committee, would result in a state-mandated local program.

Existing law provides that any county may contract on a nonexclusive basis with any qualified individual, organization, entity, or entities to provide or arrange for in-home supportive services, and specifies that the contracts may provide for a mode of service delivery under which the contractor is financially at risk for providing all in-home supportive services identified as necessary by the county to enrolled beneficiaries in the county.

This bill would repeal that provision.

Existing law establishes limits on the number of hours of services that may be provided to eligible recipients under the IHSS program.

This bill would revise those limitations.

Existing law provides for the establishment of the Sales Tax Account in the continuously appropriated Local Revenue Fund for the allocation of sales and use tax revenues to local government, includes the In-Home Supportive Services Registry Model Subaccount in the Sales Tax Account of that fund, and provides that money in the In-Home Supportive Services Registry Model Subaccount shall be available for allocation by the Controller for purposes of funding the provision of in-home supportive services through a county contract with a nonprofit consortium or a public authority created for that purpose.

This bill would eliminate the In-Home Supportive Services Registry Model Subaccount from the Sales Tax Account in the Local Revenue Fund, and would transfer any funds in the account to the General Fund.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 16262.5 of the Government Code is amended to read:

16262.5. (a) Notwithstanding any other provision of law, until June 30, 2001, the reimbursement of counties meeting one of the following conditions shall not be reduced for the state share of the nonfederal costs for the administration of the In-Home Supportive Services program.

(1) County-imposed funding reductions in the 1999-2000 or 2000-01 fiscal year prevent a county from fully funding the county share of the nonfederal administrative costs of the programs identified in subdivision (a).

(2) Application for relief under Section 16262 and this section was approved in a prior fiscal year for which relief is sought pursuant to these sections and the level of county match available is at least the amount specified in the application for that same fiscal year subject to the restrictions contained in subdivision (b).

(b) Subdivision (a) shall be subject to the following restrictions:

(1) The reduction imposed upon departments within a county responsible for administering the program referred to in subdivision (a) shall be proportionate to the average reduction in county funds for administrative activities imposed on all other departments within a county, except departments funded with revenue from Section 35 of Article XIII of the California Constitution and the county departments of health services. The county board of supervisors shall certify that the reductions are imposed proportionately.

(2) If a county reduces the department responsible for administering the program referred to in subdivision (a), and makes reductions that exceed the average reduction of any other county departments, with the exception of departments funded with revenue from Section 35 of Article XIII of the California Constitution, and the county departments of health services, then the state allocation for that program shall be reduced by the same percentage.

(3) The state share of nonfederal costs for county administration allocated to a county for the administration of the programs referred

to in subdivision (a) shall be limited to the 1999-2000 or 2000-01 fiscal year allocations as determined by the State Department of Social Services in compliance with current allocation formulas as adjusted pursuant to paragraph (2).

(4) No reduction in county administrative costs authorized by this section shall result in any increased cost to the state General Fund.

(5) No reduction in county administrative costs authorized by this section shall result in any decrease in county assistance payments in the program referred to in subdivision (a).

(6) The maximum rate reduction shall not exceed 15 percent of the required county match. For counties that received fiscal relief in either the 1995-96 or 1996-97 fiscal year, the county match shall be the greater of 50 percent of the required county match for the year relief is being requested, or alternatively, the county match approved in either the 1995-96 or 1996-97 fiscal year.

(c) Counties requesting relief under this section shall apply to the State Department of Social Services on or before October 31 of the fiscal year for which relief is sought pursuant to this section.

SEC. 2. Section 12301.3 is added to the Welfare and Institutions Code, to read:

12301.3. (a) Each county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals. No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article.

(b) Prior to the appointment of members to a committee required by subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations.

(c) The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(d) Any county that has established a governing body, as provided in subdivision (b) of Section 12301.6 shall be deemed to be in compliance with this section.

SEC. 3. Section 12301.4 is added to the Welfare and Institutions Code, to read:

12301.4. Each advisory committee established pursuant to Section 12301.3 or 12301.6 shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative

agency of the public authority, nonprofit consortium, contractor, and public employees.

SEC. 4. Section 12301.6 of the Welfare and Institutions Code is amended to read:

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in

accordance with paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable, written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (d) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (d) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(3) (A) The annual cost for any public authority or nonprofit consortium created pursuant to this section shall be shared by the state and the counties as prescribed in Section 12306.

(B) No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1 or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this



section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) Investigation of the qualifications and background of potential personnel.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) Providing for training for providers and recipients.

(5) Performing any other functions related to the delivery of in-home supportive services.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services program. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system,

unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services. Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management information, and payroll system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(l) (1) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedures Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(2) Notwithstanding subdivision (h) of Section 11364.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be repealed by the Office of Administrative Law

and shall remain in effect until revised or repealed by the department.

(m) (1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (c) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (g) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Paragraph (1) shall become inoperative when the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

SEC. 5. Section 12301.8 is added to the Welfare and Institutions Code, to read:

12301.8. (a) Increases in provider wages and benefits for the provision of services pursuant to Section 12301.6 or 12302.1 may be made in a manner appropriate to the entities or contracts described in those sections. For the 1999-2000 fiscal year, and for each fiscal year thereafter, any county that expends county funds in an amount at least equal to the reduction during the fiscal year in the county's share of cost that results from federal financial participation in

services provided to medically needy, aged, blind, and disabled persons after the implementation of the state plan amendment pursuant to subdivision (p) of Section 14132.95, shall be reimbursed for the cost of the increase in wages and benefits that exceeds the reduction in the county share of cost and is necessary to meet the established rates. This provision does not apply to any wage increase necessary to meet federal or state minimum wage requirements. For the 1999-2000 fiscal year, the reduction in the county's share of cost during the fiscal year shall also include any reduction that occurred in the 1998-99 fiscal year due to the implementation of the state plan amendments pursuant to subdivision (p) of Section 14132.95, unless the county has used the savings during the 1998-99 fiscal year to pay for provider wages and benefit increases. This subdivision applies solely to public authority, nonprofit consortium, and contract employees who provide services pursuant to Sections 12301.6 and 12302.1.

(b) The department shall reimburse counties for the cost of increased wages and benefits that exceed the amount of the reduction in the county's share of cost as determined pursuant to subdivision (a), provided that amount is not greater than the county's actual cost.

(c) Except as specifically set forth in subdivision (a), this section is not otherwise intended to alter the cost sharing described in Sections 12301.6 and 12306.

SEC. 6. Section 12302.25 is added to the Welfare and Institutions Code, to read:

12302.25. (a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal laws. Each county may utilize a public authority or nonprofit consortium as authorized under Section 12301.6, the contract mode as authorized under Sections 12302 and 12302.1, county administration of the individual provider mode as authorized under Sections 12302 and 12302.2 for purposes of acting as, or providing, an employer under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, county civil service personnel as authorized under Section 12302, or mixed modes of service authorized pursuant to this article and may establish regional agreements in establishing an employer for purposes of this subdivision for providers of in-home supportive services. Within 30 days of the effective date of this section, the department shall develop a timetable for implementation of this subdivision to ensure orderly compliance by counties. Recipients of in-home supportive services shall retain the right to choose the individuals that provide their care and to recruit, select, train, reject, or change any provider under the contract mode or to hire, fire, train,

and supervise any provider under any other mode of service. Upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers pursuant to this subdivision, counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option.

(b) Nothing in this section shall prohibit any negotiations or agreement regarding collective bargaining or any wage and benefit enhancements.

(c) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services.

(d) Prior to implementing subdivision (a), a county shall establish an advisory committee as required by Section 12301.3 and solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(e) Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about the program on an ongoing basis.

(f) In implementing and administering this section, no county, public authority, nonprofit consortium, contractor, or a combination thereof, that delivers in-home supportive services shall reduce the hours of service for any recipient below the amount determined to be necessary under the uniform assessment guidelines established by the department.

(g) Any agreement between a county and an entity acting as an employer under subdivision (a) shall include a provision that requires that funds appropriated by the state for wage increases for in-home supportive services providers be used exclusively for that purpose. Counties or the state may undertake audits of the entities acting as employers under the terms of subdivision (a) to verify compliance with this subdivision.

SEC. 7. Section 12302.7 of the Welfare and Institutions Code is repealed.

SEC. 8. Section 12303.4 of the Welfare and Institutions Code is amended to read:

12303.4. (a) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), and who is not described in Section 12304, shall receive services under this article which do not exceed the maximum of 195 hours per month.

(b) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), who is in need, as determined by the county welfare department, of at least 20 hours per week of the services defined in Section 12304, shall be eligible to receive services under this article, the total of which shall not exceed a maximum of 283 hours per month.

SEC. 9. Section 14132.95 of the Welfare and Institutions Code is amended to read:

14132.95. (a) Personal care services, when provided to a categorically needy person as defined in Section 14050.1 is a covered benefit to the extent federal financial participation is available if these services are:

(1) Provided in the beneficiary's home and other locations as may be authorized by the director subject to federal approval.

(2) Authorized by county social services staff in accordance with a plan of treatment.

(3) Provided by a qualified person.

(4) Provided to a beneficiary who has a chronic, disabling condition that causes functional impairment that is expected to last at least 12 consecutive months or that is expected to result in death within 12 months and who is unable to remain safely at home without the services described in this section.

(b) The department shall seek federal approval of a state plan amendment necessary to include personal care as a medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations. For any persons who meet the criteria specified in subdivision (a) or (p), but for whom federal financial participation is not available, eligibility shall be available pursuant to Article 7 (commencing with Section 12300) of Chapter 3, if otherwise eligible.

(c) Subdivision (a) shall not be implemented unless the department has obtained federal approval of the state plan amendment described in subdivision (b), and the Department of Finance has determined, and has informed the department in writing, that the implementation of this section will not result in additional costs to the state relative to state appropriation for in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3, in the 1992-93 fiscal year.

(d) (1) For purposes of this section, personal care services shall mean all of the following:

- (A) Assistance with ambulation.
- (B) Bathing, oral hygiene and grooming.
- (C) Dressing.
- (D) Care and assistance with prosthetic devices.
- (E) Bowel, bladder, and menstrual care.
- (F) Skin care.

- (G) Repositioning, range of motion exercises, and transfers.
- (H) Feeding and assurance of adequate fluid intake.
- (I) Respiration.
- (J) Paramedical services.
- (K) Assistance with self-administration of medications.

(2) Ancillary services including meal preparation and cleanup, routine laundry, shopping for food and other necessities, and domestic services may also be provided as long as these ancillary services are subordinate to personal care services. Ancillary services may not be provided separately from the basic personal care services.

(e) (1) (A) After consulting with the State Department of Social Services, the department shall adopt emergency regulations to establish the amount, scope, and duration of personal care services available to persons described in subdivision (a) in the fiscal year whenever the department determines that General Fund expenditures for personal care services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, are expected to exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992-93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute. At least 30 days prior to filing these regulations with the Secretary of State, the department shall give notice of the expected content of these regulations to the fiscal committees of both houses of the Legislature.

(B) In establishing the amount, scope, and duration of personal care services, the department shall ensure that General Fund expenditures for personal care services provided for under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, do not exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992-93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute.

(C) For purposes of this subdivision, "caseload growth" means an adjustment factor determined by the department based on (1) growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability, (2) the average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1988-89 to 1992-93 fiscal years, inclusive, due to

the level of impairment, and (3) any increase in program costs that is required by an increase in the mandatory minimum wage.

(2) In establishing the amount, scope, and duration of personal care services pursuant to this subdivision, the department may define and take into account, among other things:

(A) The extent to which the particular personal care services are essential or nonessential.

(B) Standards establishing the medical necessity of the services to be provided.

(C) Utilization controls.

(D) A minimum number of hours of personal care services that must first be assessed as needed as a condition of receiving personal care services pursuant to this section.

The level of personal care services shall be established so as to avoid, to the extent feasible within budgetary constraints, medical out-of-home placements.

(3) To the extent that General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1992-93 fiscal year, adjusted for caseload growth, exceed General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in any fiscal year, the excess of these funds shall be expended for any purpose as directed in the Budget Act or as otherwise statutorily disbursed by the Legislature.

(f) Services pursuant to this section shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home Supportive Services program. A provider of personal care services shall be qualified to provide the service and shall be a person other than a member of the family. For purposes of this section, a family member means a parent of a minor child or a spouse.

(g) A beneficiary who is eligible for assistance under this section shall receive services that do not exceed 283 hours per month of personal care services.

(h) Personal care services shall not be provided to residents of facilities licensed by the department, and shall not be provided to residents of a community care facility or a residential care facility for the elderly licensed by the Community Care Licensing Division of the State Department of Social Services.

(i) Subject to any limitations that may be imposed pursuant to subdivision (e), determination of need and authorization for services



shall be performed in accordance with Article 7 (commencing with Section 12300) of Chapter 3.

(j) (1) To the extent permitted by federal law, reimbursement rates for personal care services shall be equal to the rates in each county for the same mode of services in the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3, plus any increase provided in the annual Budget Act for personal care services rates or included in a county budget pursuant to paragraph (2).

(2) (A) The department shall establish a provider reimbursement rate methodology to determine payment rates for the individual provider mode of service that does all of the following:

(i) Is consistent with the functions and duties of entities created pursuant to Section 12301.6.

(ii) Makes any additional expenditure of state general funds subject to appropriation in the annual Budget Act.

(iii) Permits county-only funds to draw down federal financial participation consistent with federal law.

(B) This ratesetting method shall be in effect in time for any rate increases to be included in the annual Budget Act.

(C) The department may, in establishing the ratesetting method required by subparagraph (A), do both of the following:

(i) Deem the market rate for like work in each county, as determined by the Employment Development Department, to be the cap for increases in payment rates for individual practitioner services.

(ii) Provide for consideration of county input concerning the rate necessary to ensure access to services in that county.

(D) If an increase in individual practitioner rates is included in the annual Budget Act, the state-county sharing ratio shall be as established in Section 12306. If the annual Budget Act does not include an increase in individual practitioner rates, a county may use county-only funds to meet federal financial participation requirements consistent with federal law.

(3) (A) By November 1, 1993, the department shall submit a state plan amendment to the federal Health Care Financing Administration to implement this subdivision. To the extent that any element or requirement of this subdivision is not approved, the department shall submit a request to the federal Health Care Financing Administration for any waivers as would be necessary to implement this subdivision.

(B) The provider reimbursement ratesetting methodology authorized by the amendments to this subdivision in the 1993-94 Regular Session of the Legislature shall not be operative until all necessary federal approvals have been obtained.

(k) (1) The State Department of Social Services shall, by September 1, 1993, notify the following persons that they are eligible to participate in the personal care services program:

(A) Persons eligible for services pursuant to the deBickler Amendment, as adopted October 28, 1976.

(B) Persons eligible for services pursuant to subsection (c) of Section 1383c of Title 42 of the United States Code.

(2) The State Department of Social Services shall, by September 1, 1993, notify persons to whom paragraph (1) applies and who receive advance payment for in-home supportive services that they will qualify for services under this section without a share of cost if they elect to accept payment for services on an arrears rather than an advance payment basis.

(l) An individual who is eligible for services subject to the maximum amount specified in subdivision (b) of Section 12303.4 shall be given the option of hiring his or her own provider.

(m) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to the services.

(n) It is the intent of the Legislature that this entire section be an inseparable whole and that no part of it be severable. If any portion of this section is found to be invalid, as determined by a final judgment of a court of competent jurisdiction, this section shall become inoperative.

(o) Paragraphs (2) and (3) of subdivision (a) shall be implemented so as to conform to federal law authorizing their implementation.

(p) (1) Personal care services shall be provided as a covered benefit to a medically needy aged, blind, or disabled person, as defined in subdivision (a) of Section 14051, to the same extent and under the same requirements as they are provided under subdivision (a) of this section to a categorically needy, aged, blind, or disabled person, as defined in subdivision (a) of Section 14050.1, and to the extent that federal financial participation is available.

(2) The department shall seek federal approval of a state plan amendment necessary to include personal care services described in paragraph (1) as a medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations.

(3) In the event that the Department of Finance determines that expenditures of both General Fund moneys for personal care services provided under this subdivision to medically needy aged, blind, or disabled persons together with expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for all aged, blind, and disabled persons receiving in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, in the 2000-01 fiscal year or in any subsequent fiscal year, are expected to exceed the General Fund

appropriation and the federal appropriation received under Title XX of the federal Social Security Act for expenditures for all aged, blind, and disabled persons receiving in-home supportive services provided in the 1999-2000 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1998, as adjusted for caseload growth or as changed in the Budget Act or by statute or regulation, then this subdivision shall cease to be operative on the first day of the month that begins after the expiration of a period of 30 days subsequent to a notification in writing by the Director of the Department of Finance to the chairperson of the committee in each house that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(4) Solely for purposes of paragraph (3), caseload growth means an adjustment factor determined by the department based on:

(A) Growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability.

(B) The average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1994-95 to 1998-99 fiscal years, inclusive, due to the level of impairment.

(C) Any increase in program cost that is required by an increase in hourly costs pursuant to the Budget Act or statute.

(5) In the event of a final judicial determination by any court of appellate jurisdiction or a final determination by the Administrator of the federal Health Care Financing Administration that personal care services must be provided to any medically needy person who is not aged, blind, or disabled, then this subdivision shall cease to be operative on the first day of the first month that begins after the expiration of a period of 30 days subsequent to a notification in writing by the Director of Finance to the chairperson of the committee in each house that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(6) If this subdivision ceases to be operative, all aged, blind, and disabled persons who would have received or been eligible to receive in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, but for receiving services under this subdivision, shall be eligible immediately upon this section becoming inoperative for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3.

(7) The department shall implement this subdivision on April 1, 1999, but only if the department has obtained federal approval of the

state plan amendments described in paragraph (2) of this subdivision.

(q) This section shall become inoperative on July 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 17600 of the Welfare and Institutions Code is amended to read:

17600. (a) There is hereby created the Local Revenue Fund, which shall have all of the following accounts:

- (1) The Sales Tax Account.
- (2) The Vehicle License Fee Account.
- (3) The Vehicle License Collection Account.
- (4) The Sales Tax Growth Account.
- (5) The Vehicle License Fee Growth Account.

(b) The Sales Tax Account shall have all of the following subaccounts:

- (1) The Mental Health Subaccount.
- (2) The Social Services Subaccount.
- (3) The Health Subaccount.

(c) The Sales Tax Growth Account shall have all of the following subaccounts:

- (1) The Caseload Subaccount.
- (2) The Base Restoration Subaccount.
- (3) The Indigent Health Equity Subaccount.
- (4) The Community Health Equity Subaccount.
- (5) The Mental Health Equity Subaccount.
- (6) The State Hospital Mental Health Equity Subaccount.
- (7) The County Medical Services Subaccount.
- (8) The General Growth Subaccount.
- (9) The Special Equity Subaccount.

(d) Notwithstanding Section 13340 of the Government Code, the Local Revenue Fund is hereby continuously appropriated, without regard to fiscal years, for the purpose of this chapter.

(e) The Local Revenue Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be distributed in January and July among the accounts and subaccounts in proportion to the amounts deposited into each subaccount, except as provided in subdivision (f).

(f) If a distribution required by subdivision (e) would cause a subaccount to exceed its limitations imposed pursuant to any of the following, the distribution shall be made among the remaining subaccounts in proportion to the amounts deposited into each subaccount in the six prior months:

- (1) Subdivision (a) of Section 17605.
- (2) Paragraph (1) of subdivision (a) of Section 17605.05.
- (3) Subdivision (b) of Section 17605.10.

(4) Subdivision (c) of Section 17605.10.

SEC. 11. Section 17600.110 of the Welfare and Institutions Code is repealed.

SEC. 12. The unencumbered amount residing in the In-Home Supportive Services Registry Subaccount of the Sales Tax Account of the Local Revenue Fund on January 1, 2000, shall be transferred to the General Fund.

SEC. 13. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make timely adjustments in the process of implementation of the State Budget for the 1999-2000 fiscal year, it is necessary that this act take effect immediately.

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C. 20535  
MAY 19 1964

RE: THE UNITED STATES OF AMERICA  
VS. JAMES EARL RAY







Senate Bill No. 710

CHAPTER 91

An act to add Section 12306.1 to, to repeal Section 12301.8 of, to repeal and add Section 12301.6 of, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1999. Filed with  
Secretary of State July 12, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 710, Burton. IHSS: budget trailer.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization.

Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Legislation pending before the Governor provides that when any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium, the annual costs for any public authority or nonprofit consortium shall be shared by the state and county according to provisions of existing law.

This bill would provide instead that the county shall use county-only funds to fund both the county's share and the state's share, including employment taxes, of any increase in IHSS costs, except as otherwise provided in this bill.

Legislation pending before the Governor would provide for the reimbursement of any county that expends county funds in an amount at least equal to the reduction during the fiscal year in the county's share of cost that results from federal financial participation in services provided to medically needy aged, blind, and disabled persons, for the cost of the increase in wages and benefits that exceeds the reduction in the county share of cost.

This bill would delete that proposed statute.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12301.6 of the Welfare and Institutions Code, as amended by Assembly Bill 1682 of the 1999-2000 Regular Session, is repealed.

SEC. 2. Section 12301.6 is added to the Welfare and Institutions Code, to read:

12301.6. (a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

(1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.

(2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b) (1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3) (A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11

individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable written notice to, and a reasonable response time by, members of the general public and interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c) (1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (d) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2) (A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (d) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(3) When any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium under this section, then the county shall use county-only funds to fund both the county share and the state share, including employment taxes, of any increase in the cost of the program, unless otherwise provided for in the annual Budget Act or appropriated by statute. No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article

by contract in accordance with Sections 12302 and ~~12302.1~~ or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) Investigation of the qualifications and background of potential personnel.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) Providing for training for providers and recipients.

(5) Performing any other functions related to the delivery of in-home supportive services.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f) (1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services program. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services. Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payroll system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306; or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(l) (1) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedures Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(2) Notwithstanding subdivision (h) of Section 11364.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing.

The regulations shall become effective immediately upon filing by the Secretary of State.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(m) (1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (c) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (g) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Paragraph (1) shall become inoperative when the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

SEC. 3. Section 12301.8 of the Welfare and Institutions Code, as added by Assembly Bill 1682 of the 1999-2000 Regular Session, is repealed.

SEC. 4. Section 12306.1 is added to the Welfare and Institutions Code, to read:

12306.1. Notwithstanding paragraph (3) of subdivision (c) of Section 12301.6, with regard to wage increases negotiated by a public authority pursuant to Section 12301.6, for the 1999-2000 fiscal year the state shall pay 80 percent, and each county shall pay 20 percent, of the nonfederal share of paid increases up to fifty cents (\$0.50) above the hourly statewide minimum wage. This section shall be applicable to wage increases negotiated prior to or during the 1999-2000 fiscal year.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make timely adjustments in the process of implementation of the Budget Act of 1999, it is necessary that this act take effect immediately.

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CHAPTER 445

An act to amend Sections 12301.3 and 12301.4 of the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 2000. Filed with Secretary of State September 14, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 288, Peace. IHSS program: administration.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program. Existing law requires each county to establish an advisory committee to provide recommendations on certain modes of service to be utilized in the county for in-home supportive services.

This bill would specify the membership composition of the advisory committee, and would exclude any county that has established a governing body for the provision of IHSS services prior to July 1, 2000, from those composition requirements.

The bill would specify that each county shall be eligible to receive state reimbursement of administrative costs for only 1 advisory committee and would require each county to comply with certain requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12301.3 of the Welfare and Institutions Code is amended to read:

12301.3. (a) Each county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals. No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article.

(1) (A) In counties with fewer than 500 recipients of services provided pursuant to this article or Section 14132.95, at least one member of the advisory committee shall be a current or former provider of in-home supportive services.

(B) In counties with 500 or more recipients of services provided pursuant to this article or Section 14132.95, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

(2) Individuals who represent organizations that advocate for people with disabilities or seniors may be appointed to committees under this section.

(3) Individuals from community-based organizations that advocate on behalf of home care employees may be appointed to committees under this section.

(4) A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee, but may designate any county employee to provide ongoing advice and support to the advisory committee.

(b) Prior to the appointment of members to a committee required by subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations.

(c) The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(d) Any county that has established a governing body, as provided in subdivision (b) of Section 12301.6, prior to July 1, 2000, shall not be required to comply with the composition requirements of subdivision (a) and shall be deemed to be in compliance with this section.

SEC. 2. Section 12301.4 of the Welfare and Institutions Code is amended to read:

12301.4. (a) Each advisory committee established pursuant to Section 12301.3 or 12301.6 shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees.

(b) Each county shall be eligible to receive state reimbursements of administrative costs for only one advisory committee and shall comply with the requirements of subdivision (e) of Section 12302.25.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide counties that are currently forming in-home supportive services advisory committees with clarification regarding

the composition of those committees, it is necessary that this act take effect immediately.

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# California State Auditor

## BUREAU OF SPECIAL AUDITS

### In-Home Supportive Services:

*Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery*



September 1999  
96036

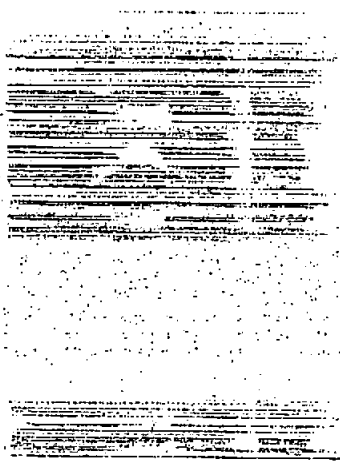
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# CALIFORNIA STATE AUDITOR

KURT R. SJOBERG  
STATE AUDITOR

MARIANNE P. EVASHENK  
CHIEF DEPUTY STATE AUDITOR

September 9, 1999

96036

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 206, Statutes of 1996, the Bureau of State Audits presents its audit report concerning the performance of public authorities in delivering in-home supportive services to aged, blind, or disabled individuals who cannot safely remain in their homes without assistance.

This report concludes that many counties will likely create public authorities to meet the requirement of recent legislation to act as the employer for individual providers of program services for purposes of negotiating wages and benefits. Although these actions will likely increase program costs, neither the Department of Social Services nor the existing public authorities can definitively demonstrate that counties with public authorities deliver program services more effectively than counties without public authorities.

Respectfully submitted,

KURT R. SJOBERG  
State Auditor

BUREAU OF STATE AUDITS

555 Capitol Mall, Suite 300, Sacramento, California 95814 Telephone: (916) 445-0255 Fax: (916) 327-0019

# CONTENTS

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<i>Summary</i>	1
<hr/>	
<i>Introduction</i>	5
<hr/>	
<i>Audit Results</i>	
<hr/>	
Implementation of New Requirements for In-Home Supportive Services Will Require Close Monitoring	15
Recommendations	35
<hr/>	
<i>Appendix</i>	
<hr/>	
Survey Results for 11 Counties Without Public Authorities	39
<hr/>	
<i>Responses to the Audit</i>	
<hr/>	
Department of Social Services	43
San Mateo County Public Authority	47
<hr/>	
<i>California State Auditor's Comments on the Response From the San Mateo County Public Authority</i>	51
<hr/>	
Public Authority for IHSS in Alameda County	53
<hr/>	
<i>California State Auditor's Comments on the Response From the Public Authority for IHSS in Alameda County</i>	55
<hr/>	
San Francisco IHSS Public Authority	57
<hr/>	
<i>California State Auditor's Comments on the Response From the San Francisco IHSS Public Authority</i>	61
<hr/>	

# SUMMARY

## RESULTS IN BRIEF

California's operation of the In-Home Supportive Services (IHSS) program, which assists aged, blind, and disabled individuals who need help to remain in their own homes, will change significantly because the Legislature recently enacted laws that will affect how counties administer the program. Legislation enacted in July 1999 requires California's 58 counties to act as or establish employers for individual providers of program services so that they have an opportunity for collective bargaining. Counties are just beginning to decide which steps they will take to meet this requirement. For some counties with smaller caseloads, the requirements of the new legislation are not clear. We expect that many counties will establish public authorities to meet the new requirement. Public authorities will function separately from the counties, administer the delivery of in-home supportive services, and serve as the employers for individual providers. To project how counties will respond to the new law, we looked at the new and existing legislation related to IHSS, counties' current choices for program providers, recent costs for IHSS, the counties' possible liabilities if they assume the role of employer to individual providers, and comments and reports from selected counties throughout California.

The history of existing public authorities, current funding provisions, and the ability of the State to limit its funding of cost increases for individual providers, indicate that program costs in general will rise and costs to the counties in particular will likely increase. County administrators, who are aware that the law continues to limit the State's payments of program expenses, have expressed concerns that the new mandate will increase costs to the counties mainly because they believe collective bargaining will bring about higher pay for individual providers. As of April 1999, individual providers supplied more than 98 percent of in-home supportive services in the State. However, as the costs for individual providers increase, some counties may turn to more expensive methods of delivering program services, such as home-care contractors. Because the

### Audit Highlights . . .

*Our review of the In-Home Supportive Services program disclosed:*

- More counties will likely establish public authorities to serve as employers for collective bargaining purposes and to limit county liabilities.*
- Generally, counties without public authorities pay individual providers minimum wage while civil service and contract workers earn up to \$16.50 and \$14.75 per hour, respectively.*
- Rising wage and benefit costs may encourage counties to use more expensive contract employees, which garner higher state reimbursements.*

*Finally, although no definitive performance data exist, our analysis reveals few differences in the level of services provided between counties with and without public authorities.*

~~State pays a greater portion of the hourly costs of home-care contractors than it does for individual providers, using contractors may become a more cost-effective option for the counties while increasing the costs to the State.~~

Currently, six counties have created public authorities for IHSS. With the likelihood that many counties will establish public authorities to employ individual providers, both the counties and the Department of Social Services (department), which oversees IHSS, will need to collect data on public authorities' activities to ensure they increase the benefits to recipients. Our audit attempted to compare the performance of counties using public authorities to the performance of those utilizing other services. Although definitive performance data do not exist, evidence reveals that the performance of counties with established public authorities differs little from that of other counties. Some other counties report using systems similar to those the public authorities provide. Those systems include registries for matching providers with recipients, training for providers and recipients, and background checks of applicants for individual provider positions. In addition, we found that the three counties with public authorities we visited perform at about the same level of service as they did before establishing their public authorities. Further, because the legal and departmental requirements for IHSS are vague, both the public authorities and the counties have developed their own standards for implementing IHSS requirements, and their practices differ.

## RECOMMENDATIONS

Given the growth that will likely occur in the public authority program statewide and the potential for increased costs, the State will need more and better information to gauge the program's effectiveness for both recipients and providers relative to the available alternatives for administering the delivery of IHSS. The department should take the lead and work with local entities to develop standards of performance for local IHSS programs and implement a system to gather and evaluate data that measure the performance of public authorities, nonprofit organizations, home-care contractors, and any other service providers counties use. In addition to indicating whether the various methods are benefiting the health and welfare of recipients, the data should allow the department to compare the activities of these various agencies or contractors responsible for IHSS.

To assure the integrity of the information the department uses to evaluate program performance, local entities should develop and implement procedures to accurately and completely enter performance-measuring data into the department's information system.

Moreover, the department together with local agencies should better define program functions to improve their consistency and effectiveness. These functions include training for providers and recipients, background checks for provider applicants, and the use of registries for provider referrals.

Given the pending changes in the counties' administration of in-home supportive services, the Legislature should require the department to report on the operational and fiscal impact of the recently enacted legislation to determine whether the new law promotes a more effective and efficient program.

In addition, the Legislature should clarify the requirement in the Welfare and Institutions Code, Section 12305.25, which calls for each county to establish an employer for individual providers for the purposes of wages and benefits and other terms and conditions. This clarification will furnish the counties with the guidance they need to ensure they comply with the intent of the legislation. Specifically, the Legislature should clarify the requirement for counties with more than 500 in-home supportive services cases to offer an individual provider employer option upon the request of a recipient, and the implications of that requirement on counties with 500 or fewer cases.

#### AGENCY COMMENTS

The Department of Social Services concurs with our recommendations relative to its statewide role in serving in-home supportive services recipients. The three public authorities we reviewed, San Francisco, San Mateo, and Alameda, generally agree with most of our recommendations. However, the public authorities expressed some concern over our conclusions relative to the performance of IHSS in counties with and without public authorities. □



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# INTRODUCTION

## BACKGROUND

Created in 1973 and funded with federal, state, and local money, the In-Home Supportive Services (IHSS) program serves eligible recipients who are not able to remain in their homes without assistance. Those eligible are the aged, blind, or otherwise disabled recipients of public assistance as well as persons similarly disabled who have low incomes.

The IHSS program has two main benefits: It allows recipients the comfort of living in their own homes, thus avoiding institutionalization, and it supplies services that are less expensive than out-of-home care. Those eligible for the program receive a wide variety of basic services, including domestic assistance, such as housecleaning, meal preparation, laundry, and shopping; personal care, such as feeding and bathing; transportation; protective supervision; and certain paramedical services ordered by a physician. Based on assessments of their ability to function independently, recipients may be eligible for up to 283 hours per month of services. Authorized through the Social Security Act, federal funding can provide program services to the aged, blind, or disabled under Title XX, and to Medicaid-eligible individuals under the personal care provisions of Title XIX of the Act.

## ADMINISTRATION OF THE IHSS PROGRAM

The State and counties share administrative responsibilities for the IHSS program. In general, the Department of Social Services (department) administers the IHSS program at the state level. The department's primary functions include overseeing the payroll system for IHSS providers, unemployment insurance, and workers' compensation, as well as supplying financial resources for the program and collecting reimbursements from the counties for costs the State incurs on their behalf. Further, the department writes regulations for the IHSS program and maintains a database that includes eligibility and other information on recipients and providers. The State's Department of Health Services receives the portion of IHSS funding furnished by Title XIX of the federal Social Security Act and transfers this money to the department. The Department of Health Services is

also responsible for reviewing any rate changes that counties request to make sure the changes comply with federal requirements and the federal government assumes appropriate costs of the services supplied under Title XIX.

The day-to-day administration of the program is the responsibility of the counties, which determine an individual's eligibility for the program and the nature of services each recipient needs. Using the department's guidelines, county social workers determine how many hours of service per month recipients qualify for. The counties then help those individuals find service providers. To ensure delivery of program services, counties have used various types of providers, including county civil service employees, employees of home-care contractors, and "individual providers" who are not employees of any government or private entity.

Although the counties help recipients find providers, the recipients themselves can hire, fire, and supervise their caregivers. In fact, many recipients hire family members or friends, who receive their pay through the IHSS program.

### **PUBLIC AUTHORITIES AND NONPROFIT GROUPS ARE ALTERNATIVE ADMINISTRATORS OF IHSS**

#### **Services That Public Authorities Are Required to Provide**

- Establish a provider registry that will assist recipients in finding IHSS providers.
- Investigate the qualifications and background of potential providers.
- Develop a system to refer IHSS providers to recipients.
- Provide training for both providers and recipients.
- Perform any other functions related to the delivery of program services.
- Ensure that providers meet the requirements of Title XIX of the Social Security Act.

Legislation passed in 1992 offers counties two alternatives for administering the delivery of IHSS on their own. This legislation arose after some counties said they could improve services for recipients if they gave providers higher wages and benefits and better training. Now, each county can elect to contract with a non-profit group or to establish by ordinance a public authority to deliver in-home supportive services. These public authorities and nonprofit groups function separately from the counties and have all powers necessary to deliver IHSS, including the ability to contract for services and pay directly providers recipients choose. Under the program, public authorities and nonprofit groups administer the providers' delivery of services, but county departments continue to ensure services are provided to recipients.

The 1992 legislation also outlines increased expectations for these entities. In addition to establishing requirements for the governing body of any public authority, the law directs public authorities or nonprofit groups to provide certain services. For example, they must establish registries of IHSS service providers as well as provider referral systems for recipients. Further, the legislation includes an apparent advantage for

counties that work through public authorities or nonprofit groups: It indicates counties will not be liable for any actions arising from program services delivered by the public authorities or nonprofit groups.

**Methods Available to Counties As of 1992 for Delivering Program Services.**

- Establishing a public authority
- Contracting with nonprofit groups
- Contracting with proprietary companies, individual voluntary nonprofit agencies, city or county agencies, or local health districts
- Using county civil service or merit system employees
- Using individual providers who are not county employees (modified by legislation enacted on July 16, 1999)
- Paying recipients directly for the purchase of services from individual providers they employ
- Using a combination of the above

Any contracting nonprofit group or any public authority created under the legislation is to act as the providers' employer for the purpose of collective bargaining over wages, hours, and other terms and conditions of employment. This provision also applies to any providers whom recipients choose without using a referral from a nonprofit group or public authority. However, any increase in wages or benefits negotiated would not take effect until the Department of Health Services determined the rate change complied with federal requirements.

As of June 1999, 6 of the State's 58 counties—Alameda, San Mateo, San Francisco,

Santa Clara, Los Angeles, and Contra Costa—had elected to create public authorities for the delivery of in-home supportive services. Of these 6, only the public authorities for Alameda, San Mateo, San Francisco, and Santa Clara counties had state-approved rates that allow them to receive increased funding for administration as of June 30, 1999. However, Santa Clara's public authority was newly-established and had contracted out with a nonprofit organization for the operation of its registry. No county had contracted with a nonprofit group for the administration of the IHSS program. Therefore, in our following discussions of the program and related legislation, we refer only to public authorities. In each of the 6 counties with public authorities, the IHSS providers have union representation.

The staff of the three public authorities that we visited in San Mateo, Alameda, and San Francisco counties include an administrator and subordinate personnel who may interview potential providers, check their background references, or handle county IHSS payroll functions. For San Mateo County and Alameda County, the counties' boards of supervisors also act as the governing boards of the public authorities. The exception, the public authority of San Francisco, has a governing body that includes representatives of city government, consumers, and IHSS service providers. Although the Alameda public authority has six contracted community registries throughout the county, the other two counties operate central registries to provide referral lists of screened home-care workers to IHSS recipients.

The new law also identifies certain indicators of the success or failure of public authorities. These include the degree to which public authorities have delivered all required services, the promptness of responses to recipients' complaints, and the numbers of eligible individuals placed outside their homes because needed care is not available from local IHSS programs. Additionally, the department has determined that the frequency of both recipient abuse and worker turnover and the availability of workers to meet special or hard-to-fill needs are important in measuring the performance of public authorities.

### PROFILES OF THE STATE'S RECIPIENTS AND IHSS PROVIDERS

According to department data, approximately 172,000 providers serve 217,000 IHSS recipients in California. Although the IHSS program is available throughout the State, different areas have different ranges of needs and counties' programs vary in size. Alpine County, for example, reported 352 hours of service for 7 individuals during May 1999, whereas Los Angeles County reported approximately 6.5 million hours of service for more than 92,000 individuals during the same period.

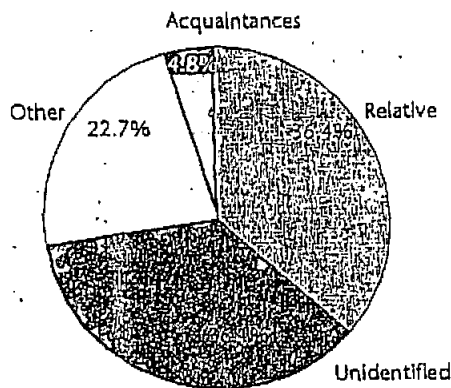
Additionally, the methods of service delivery vary among counties. Although all 58 counties use individual providers, who furnish most in-home supportive services, some counties use different types of providers. Twelve counties also use home-care contractors, and 6 others use county employees as well as individual providers. Currently, a relatively small number of the State's recipients and providers, approximately 9 percent of the

total, participate in IHSS programs of the three public authorities we visited as of June 1999. With the additions of Los Angeles, Contra Costa, and Santa Clara counties, this percentage increases substantially.

Data from the department further suggest that many individual providers are family members or friends of the recipients they serve, even in those counties served by public authorities. Thus, apparently many providers participate in the program to serve specific recipients. We have no information on how many of these providers remain with the program once specific recipients no longer need their services. Providers identified as "other" in the department's data include home-health and other businesses. Figure 1 displays the types of relationships between individual providers and recipients that the department has identified and also for those on which the department has no relevant data. For individual providers working through public authorities, the data are similar.

FIGURE 1

Who Provides Services to IHSS Recipients?



### Program Costs and Sources of Program Funds

Using formulas detailed in the State's Welfare and Institutions Code, the federal, state, and county governments share the costs for IHSS. A combination of state and federal funds pays 65 percent of the service costs for the approximately 45,300 individuals eligible under Title XX of the federal Social Security Act, and local funds cover 35 percent. Of the service costs for the approximately 174,000 individuals eligible under Title XIX, the

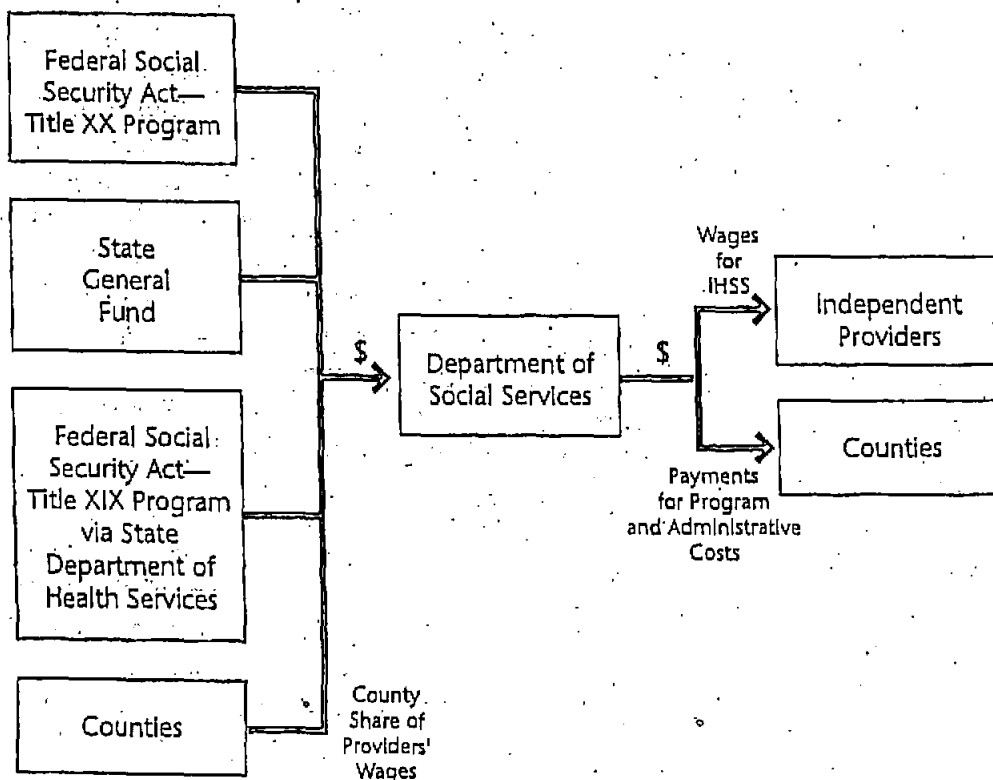
federal government determines and pays its share of program costs, and the State and counties pay 65 percent and 35 percent, respectively, of the remaining amount.

The federal government limits its funding in the IHSS program to a maximum hourly cost equivalent to 150 percent of the minimum hourly wage for counties without public authorities and 200 percent of the minimum hourly wage for counties with public authorities. The State also limits its participation to a maximum hourly cost for services. Historically, the State used the minimum hourly wage as its basis for pay rates to individual providers, although reimbursement rates are higher for contract services. For fiscal year 1999-2000, the department budgeted approximately \$1.6 billion for IHSS. The counties are responsible for all provider costs that exceed the maximum rates established by the state and federal governments.

In addition to funding for hourly program costs, counties receive a separate allocation from the State for administrative costs. Public authorities with state-approved rates also receive

FIGURE 2

Flow of IHSS Program Funds



### Significant New Changes in the 1999 Legislation for IHSS

- Each county must act as, or establish, an employer for individual providers for purposes of collective bargaining.
- Counties without public authorities need to set up an IHSS advisory committee.
- At a recipient's request, each county with a caseload exceeding 500 must offer services through an individual provider.
- The State established its funding contribution limit for fiscal year 1999-2000.

reimbursement for their administrative costs. Currently, the State reimburses public authorities with approved rates at 7 cents to 21 cents per hour of program service provided.

### New Legislation Affecting the IHSS Program

In July 1999, the governor signed into law Assembly Bill 1682 and Senate Bill 710, which may significantly affect the administration, methods of service delivery, and costs of the IHSS program. In particular, on or before January 1, 2003, counties must themselves act as the employers for individual providers in the IHSS program for purposes of collective bargaining or establish or contract with entities that will fill this role. Although the counties still have the same service options described in the

1992 legislation, individual providers will now have an employer for the purposes of collective bargaining.

## SCOPE AND METHODOLOGY

Chapter 206, Statutes of 1996, requires the Bureau of State Audits (bureau) to review the performance of the first IHSS public authority with a reimbursement rate approved by the State. The bureau was to begin the review one year after the effective date of the public authority's approved reimbursement rate and was to give special attention to the health and welfare of the recipients under the public authority. Specifically, the bureau was to determine the degree to which the public authority delivered all required services, affected out-of-home placement rates, responded promptly to recipients' complaints, and fulfilled any other expectations the department deemed relevant. The bill also directed the bureau to recommend any changes to the law governing public authorities that will further ensure the well-being of recipients and the most efficient delivery of required services.

In March 1998, the public authority in San Mateo County was the first to have the State approve its reimbursement rate. In addition to reviewing the San Mateo public authority, we also evaluated the public authorities in Alameda and San Francisco counties because we believed that they had functioned long enough to allow us to draw conclusions about their operations



and that inclusion of data from these counties would help us present a better overview of public authorities' performances. Alameda and San Francisco counties have operated public authorities for in-home supportive services since May 1996 and September 1996, respectively. The Alameda County public authority received rate approval in February 1999 and the State approved San Francisco's rate in September 1998. In contrast, the public authorities of Contra Costa, Los Angeles, and Santa Clara counties had not sufficiently established their operations or did not have their rates approved at the time of our review. We also surveyed 11 counties that do not have public authorities to allow us to compare their services with those public authorities furnish.

To obtain an understanding of the IHSS program in general as well as the public authorities' responsibilities and requirements in supporting IHSS, we reviewed relevant laws, regulations, and policies. We also conducted interviews with staff at the department as well as at the Department of Health Services, the counties, and the public authorities.

In addition, we interviewed representatives of a home-care contractor, representatives of employee unions, and other interested parties to obtain their perspective on the impact of public authorities. Overall, the representatives expressed support for the concept of the public authority program, but voiced concerns about inadequate training, the difficulty of providers in obtaining higher wages because of the State's limited funding of program costs, a lack of program standards for carrying out and measuring program performance, or the inability of registered providers in some counties to find work.

We obtained statistical data and available anecdotal evidence on the three public authorities' registries to determine if they meet the statutory requirement that each public authority establish a registry to assist recipients in finding IHSS providers.

To determine if the three public authorities we reviewed are complying with other statutory mandates, we examined their policies and procedures for screening provider applicants, training, and tracking and resolving complaints. Further, we reviewed selected attendance records for orientation and training sessions offered by the public authorities. At the San Mateo public authority, we verified that county background checks were done and that providers received orientation handbooks.

However, because so many factors affect out-of-home placement rates, reliable data were not available on the specific effect of public authorities on these rates.

We also interviewed public authority staff about how they met the requirement for providing the personal-care option for recipients qualifying under Title XIX of the Social Security Act.

Using the department's database of IHSS information, we identified certain characteristics of IHSS recipients and providers in the State and searched for similarities and differences between those populations in counties with and without public authorities. In addition, we assessed the level of service for IHSS recipients in each county by comparing IHSS service hours authorized and paid for, or delivered, during a recent 12-month period. Further, we compared the levels of service delivered by the three counties we assessed both before and after they established their public authorities so that we could determine whether the public authorities have had any impact on the level of services for IHSS recipients.

Finally, we requested a legal opinion from the Office of Legislative Counsel (Counsel) regarding the extent to which the use of a public authority relieves the State or county of the liability potentially arising from the provision of IHSS services. The Counsel's opinion is that the existing code adequately exempts the State and counties from the liabilities associated with negligence or intentional acts committed by individual providers of IHSS who are employees of a public authority. □

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# AUDIT RESULTS

## *Implementation of New Requirements for In-Home Supportive Services Will Require Close Monitoring*

### SUMMARY

Because legislation enacted in July 1999 will affect the way many counties administer the delivery of the In-Home Supportive Services (IHSS) program for the aged, blind, and disabled, and increase counties' costs for this program, the State's Department of Social Services (department) will need to monitor each county's effectiveness to ensure the program benefits both recipients and service providers. The new legislation requires counties to act as, or establish, an employer for IHSS individual providers for the purpose of wages and benefits and other terms and conditions of employment. However, the new law does not clearly state which counties have to comply with that requirement. To limit costs and exposure to liabilities, most counties that must comply with the new requirement will probably use public authorities, which are separate public entities established by counties for specific purposes, such as to act as an employer for individual providers. A few counties may increase their use of home-care contractors to provide program services. However, neither the department nor the relatively small number of existing public authorities have accumulated data necessary to show that public authorities serve program recipients any more effectively or efficiently than do other methods of administering program services. In addition, many counties that do not have public authorities report delivering in-home supportive services similar to those supplied by counties with public authorities. In fact, because the department has not established definite program standards, existing public authorities differ in the manner and extent that they supply expected benefits to recipients, provide access to training for individual providers, and obtain information on providers' backgrounds.

**NEW LEGISLATION WILL PROBABLY PROMPT MANY COUNTIES TO ESTABLISH PUBLIC AUTHORITIES TO ADMINISTER THE DELIVERY OF IHSS**

Recently enacted legislation will cause counties to examine their IHSS programs and prompt many counties to change how they administer the delivery of services. Although the new legislation needs clarification, it still allows counties several options for the delivery of IHSS. It is too early to predict with assurance how counties will respond to the new law. However, even though little information exists to demonstrate how IHSS recipients are benefited, many counties will probably establish a public authority or contract with a nonprofit group or association to serve as the employer for individual providers. We base this conclusion on our analysis of the legislation's requirements and the liabilities associated with acting as employer for individual providers, as well as interviews with county IHSS administrators.

The new legislation does not require each county to establish a public authority, but the law does require that each county act as, or establish, an employer for purposes of negotiating wages and benefits and other terms and conditions of employment between public employers and public employee organizations. This new mandate allows counties to choose one or a combination of these current modes of delivering services: using public authorities or nonprofit groups or associations; contracting with government, nonprofit, or proprietary agencies; hiring county civil service employees; or directly acting as the employers of individual providers. The law further allows counties to enter into regional agreements with other counties to provide an employer for purposes of negotiating wages and benefits and other terms and conditions of employment.

Because home-care contractors and county civil service employees currently cost more than individual providers and because of concerns over the continuity of services, many counties may keep using individual providers to deliver program services. To avoid the potential liabilities associated with acting as employers for individual providers, we anticipate that counties continuing to use individual providers for program services will likely establish public authorities or contract with nonprofit groups to act as the employer for these providers.

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*Liabilities associated with acting as employer for individual providers will likely cause many counties to establish public authorities to avoid these risks.*

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## The New Legislation Does Not Clearly State Which Counties Must Provide Employers for Individual Providers

*Although new legislation will require counties with more than 500 IHSS cases to offer the "individual provider employer option" to recipients, the law does not give clear guidance to those with fewer cases.*

One provision of the new law requires that counties with more than 500 IHSS cases must offer the "individual provider employer option" upon the request of a recipient, in addition to any type of service provider counties may choose. This implies those counties with 500 or fewer cases do not have to comply with the requirement. However, the statute does not clearly define an individual provider employer option. Alternative interpretations could be that either counties with 500 or less IHSS cases do not have to offer individual providers to their IHSS recipients, or that those smaller counties would not have to comply with the requirement to provide an employer for individual providers in their communities. To interpret the requirement in a manner that is consistent with federal law and regulations and relevant state law, counties with 500 or less IHSS cases would have to allow their recipients to employ anyone they chose, including individual providers, but those counties would not have to provide an employer for individual providers for the purposes of negotiating wages and benefits and other terms and conditions of employment. Because the law is not clear, 20 counties in the State with 500 or fewer IHSS cases will not be certain how they must comply with the new legislation.

## Counties We Surveyed Are Not Certain How They Will Comply With New Program Requirements

We asked 17 counties that currently do not have a public authority how each intended to provide an employer for individual providers. Overall, they responded that they were just beginning to assess the new legislation and its impact on their programs and were uncertain how they would meet the new requirements. Because they have not had sufficient time to study the options available for providing an employer for individual providers, most county administrators were tentative in their responses to our questions. Although only one county reported it was in the process of establishing a public authority, approximately half of the county administrators did say they probably would consider a public authority. Two counties said they were considering contracting with a nonprofit group to act as the employer for individual providers and another county said it was considering using a home-care contractor to provide program services. Another county responded that it does not intend to formulate plans until it receives more guidance from the State. Some of the counties that are considering establishing

public authorities cited multiple reasons for doing so, including the counties' wish to eliminate the liabilities associated with being employers, recipients' opposition to providers supplied by contractors, the counties' preference for using individual providers, and the higher cost of contract providers. In addition, managers from 11 counties voiced concern over the anticipated additional cost of delivering program services. Three also indicated their concern about the State's lack of commitment in sharing those additional costs.

### Many Counties Will Probably Continue Using Individual Providers as the Primary Means of Delivering IHSS

The new law allows counties to continue the methods they currently use to supply IHSS, and we anticipate that many counties will continue to rely on individual providers as their primary means of delivering services. Counties and public authorities currently use individual providers to deliver 98 percent of program services because of these providers' availability and the higher costs of the other options. As we mentioned in the Introduction, many individual providers are relatives or acquaintances of the recipients they serve.

Most counties furnish a high percentage of their authorized services through individual providers. From May 1998 through April 1999, counties met the demand for individual providers from approximately 53 percent to 99 percent of the time, with 49 counties achieving 90 percent or higher. These high percentages are due, in part, to the fact that many recipients had already arranged for their providers when they applied for assistance. As of April 1999, the percentages for IHSS recipients in the State's 58 counties who indicated they required help in locating providers ranged from zero to 62 percent, with less than 20 percent of recipients in 38 counties requiring help.

Of the available options for service providers, individual providers are currently the least expensive alternative, another factor that we expect to encourage the use of individual providers. Generally, all of the counties that have not established public authorities pay individual providers the state minimum wage of \$5.75 per hour. In addition to wages, hourly costs include employers' payroll taxes. Some counties also use county civil service employees or home-care contractors to deliver IHSS. The 6 counties that also use civil service employees pay hourly costs ranging from \$5.75 to \$16.50 for employees. The 12 counties that engage home-care contractors as well are currently paying

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*Historically, individual providers have been the least expensive way to deliver in-home supportive services. Generally, those counties without public authorities pay individual providers minimum wage.*

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them \$9.77 to \$14.75 per hour. Often, counties and public authorities use the relatively costly contractors or county employees when recipients have hard-to-fill needs or they cannot locate an individual provider.

*Civil service and contract workers earn up to \$16.50 and \$14.75 per hour, respectively.*

A provision of the new legislation will ensure that many counties continue to use individual providers as well. The new law requires that counties with more than 500 IHSS cases offer recipients the option of using individual providers upon the request of a recipient. As of April 1999, 32 of the 52 counties that have not already established public authorities had a caseload greater than 500. Because the department's data indicate that many individual providers statewide are relatives or acquaintances of the recipients they serve, we believe it is highly probable that many recipients in each of the 32 counties will ask to retain current providers. Consequently, we anticipate these counties will have to offer their recipients the option of choosing individual providers.

#### DUE TO DIFFERING REIMBURSEMENT FORMULAS, RISING COSTS FOR INDIVIDUAL PROVIDERS MAY LEAD SOME COUNTIES TO USE A MORE EXPENSIVE METHOD OF DELIVERING SERVICES

The history of existing public authorities, current funding provisions, and the ability of the State to limit its funding of cost increases for individual providers, all indicate that program costs in general will rise, and costs to the counties in particular will likely increase. However, as the costs for individual providers rise, it may become practical for some counties to increase their use of contract providers, although this is a more expensive method of delivering program services. Because the State pays a greater portion of the total hourly costs of contract providers than it does for individual providers, the more expensive contract providers may become a cost-effective option for the counties while increasing the costs to the State.

#### Establishing an Employer For Individual Providers May Increase Costs

Several factors encourage rising program costs, especially for counties. At each of the public authorities with approved rates individual providers have joined employee groups and collectively bargained for higher wages and benefits. In the future, individual providers of some new public authorities will



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*The State establishes its level of funding independent of agreements counties and public authorities reach through collective bargaining with providers.*

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probably do the same. Moreover, the State continues to establish its financial participation in the costs of individual providers independent of agreements reached by counties and public authorities with employee groups. Further, counties may not reduce any recipient's hours of service below the amount determined necessary under the department's uniform assessment guidelines. Without a commitment from the State to share in higher costs, counties may assume a greater portion of higher service costs when employee groups negotiate for higher wages and benefits. We contacted 17 counties that currently do not have public authorities, 10 of which were concerned about their potentially increased financial burden.

In the three counties with public authorities that we visited, individual providers currently earn negotiated wages of \$6, \$6.05, and \$7 per hour—25 cents to \$1.25 above the State's hourly minimum wage. Another county's public authority has entered into an agreement with its employee organizations to pay \$6.25 per hour now and \$6.75 beginning in April 2000. Furthermore, as of June 1999, the San Francisco public authority is paying an additional \$1.23 per hour for health care benefits for its individual providers who enroll in the county's health care program. Three union representatives we interviewed indicated that higher wages and benefits for IHSS providers are a priority. If future public authorities follow current patterns, the counties that currently pay the State's hourly minimum wage will eventually be paying higher wages and benefits to individual providers of in-home supportive services.

Even if counties agree with employee groups to pay higher wages and benefits, the State, through the annual budget act or other statutes, can limit its financial participation in those increased costs. During fiscal year 1999-2000, for wages negotiated by public authorities, the State will pay 80 percent of the nonfederal share of increased costs, but will limit its added participation to 50 cents above the hourly statewide minimum wage. However, the legislation is silent on the State's participation in the costs of benefits. As a result, for fiscal year 1999-2000, the counties will be responsible for the nonfederal portion of hourly wages that exceed \$6.15 per hour. In addition, the degree to which the State helps to pay future increases in costs for individual providers may vary.

~~Under Current Funding Provisions, Rising Costs~~  
~~May Cause Some Counties to Use More Contractors~~  
~~to Deliver Program Services~~

Although we expect many counties will establish public authorities to employ individual providers, some counties may choose to increase their use of home-care contractors to deliver in-home supportive services. Two of the three union representatives we interviewed indicated that some counties may use more contract providers because of the funding provisions in the new law and the accompanying need for collective bargaining, and because contractors create fewer administrative demands on the counties than public authorities.

*Because the State pays a greater portion of hourly wages for contract providers, state and federal program costs would increase while county costs may not.*

We interviewed the administrators from 20 selected counties and 12 indicated that their counties did not see much benefit in using contract providers. They cited such reasons as limited services from contractors and contractors fail to provide additional benefit to program recipients beyond the supervision and limited training the providers receive. Three counties reported that higher costs for contract providers would prohibit their extensive use. However, one county reported that a program that engages contractors is easier to administer than one involving independent providers because such a program does not require establishing a public authority and additional staff.

Under certain circumstances, switching to contractors for IHSS will add to the program costs of the state and federal governments, but may not significantly increase counties' costs. Contract providers, who are more costly overall, may become counties' cost-effective alternative to administering individual providers. The hourly cost of contract providers to the 12 counties that currently use them ranges from \$9.77 to \$14.75, or 170 percent to 211 percent of the rates those counties pay their individual providers. Nonetheless, the State pays a greater portion of the hourly cost for the contract providers. A county with a statewide average caseload mix of recipients eligible for Title XIX and Title XX, and that pays \$7 per hour to its individual providers could pay approximately \$9 per hour for contract providers without increasing its own costs. Conversely, the State's share of the cost would increase by approximately 77 cents per hour served. Similarly, because the federal government currently contributes 51.55 percent of the hourly costs for eligible recipients for Title XIX—up to 150 percent of minimum hourly wage for counties without public authorities and up to 200 percent of minimum wage for counties with public

authorities—its costs will also increase. Our calculation uses the funding provisions in the new law and assumes payroll taxes and benefits approximate 10 percent of wages and have the same federal and state participation rates. We cannot predict the number of individual provider hours, if any, that counties may convert to contract providers.

### THE DEPARTMENT AND THE COUNTIES HAVE NOT YET DEMONSTRATED THE EFFECTIVENESS OF PUBLIC AUTHORITIES IN ADMINISTERING IHSS

Although more counties are likely to establish public authorities, neither the department nor the existing public authorities have accumulated consistent, relevant data that show whether public authorities' activities provided additional benefits to the health and welfare of IHSS recipients. Thus, we cannot quantitatively compare any benefits with the costs to the IHSS program, nor can we predict whether the new legislation will eventually benefit recipients. However, administrators at the three public authorities we visited have indicated that increasing providers' wages and health benefits will raise the level of service delivered to IHSS recipients by raising provider morale and attracting more qualified candidates.

Although the law and the department identify potential performance measures, the department has not developed specific performance standards. The manager of the department's Adult Programs Branch, which administers the IHSS program at the state level, offered several reasons why the department has not accumulated detailed data and developed in-depth standards to measure the performance of public authorities. First, according to the manager, the department has not had the resources to monitor the qualitative aspects of program activities. In addition, the department indicates that the local agencies implement the program, so it should be subject to local evaluation. Furthermore, the department intends to rely on our study of the public authorities' performance mandated in the Welfare and Institutions Code.

Staff at the public authorities and the counties we visited believe that public authorities' activities improve services to IHSS recipients, but these staff have not accumulated firm data to support this belief. For example, San Mateo County staff maintain information on the levels of service furnished recipients, resolutions of complaints from recipients, and eligible individuals who

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*Although the law and the department identify potential performance measures, the department has not developed specific performance standards.*

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must be placed out of their homes for care because they can no longer be served by the IHSS program. Similarly, the San Mateo public authority maintains information on the IHSS providers from the registry that it refers to recipients. However, the county currently has no centralized data system to link providers' activities to recipients' satisfaction with the IHSS program or to report on the public authority's performance in meeting program expectations. The fact that the public authorities for San Mateo and Alameda counties could not produce from their computerized systems a list of IHSS recipients served by registry workers illustrates their inability to link information. Instead, this information would have to be compiled manually.

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*The San Francisco public authority is currently developing a system for evaluating the quality and effectiveness of its IHSS program.*

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The San Francisco public authority is currently developing a system to accumulate data it has identified as necessary for evaluating the quality and effectiveness of its activities and the IHSS program. According to the public authority's executive director, because data have not been accumulated from periods before the establishment of the public authority, it is not possible to identify how its current activities have affected the health and welfare of recipients. However, the new system will help the public authority establish baselines that it can use to evaluate the success of future activities. The public authority is evaluating both its and the department's needs for program information and plans to accumulate data on recipients, providers, and the program accomplishments and costs of its service delivery system. The public authority's executive director anticipates needing a year and a half to complete the system model and accumulate baseline data and up to three years to accumulate sufficient comparative data to evaluate program changes.

The law requires the department to report annually to the Legislature on the public authorities' capacity to meet their intended purpose. The report is to include an assessment of the public authorities' effect on the quality of care delivered to IHSS recipients. However, the department's information system does not gather the data required to make those assessments, nor have the public authorities accumulated the data.

The department polls the public authorities to obtain information that includes program statistics relating to such matters as provider retention and turnover, new costs or savings, and recipient satisfaction. However, the public authorities sometimes respond that the data are not available or they have not completed comparisons to performance in periods before they established public authorities. In addition, public

authorities reported that they did not track their effect on the hospitalization rates of IHSS recipients. Thus, the department does not always have information essential to monitoring the IHSS program to report to the Legislature.

### BEFORE THE RECENT LEGISLATION, FEW COUNTIES REPORTED THEY WERE CONSIDERING ESTABLISHING A PUBLIC AUTHORITY

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*Between enactment of the 1992 legislation and June 1999, only six counties elected to administer IHSS services with public authorities.*

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For multiple reasons, counties have been slow to participate in the public authority program. Since the enactment of the enabling legislation in 1992 until June 1999, only six counties have elected to establish a public authority to administer the delivery of in-home supportive services. In March 1999, the department conducted a survey of counties to identify those interested in establishing public authorities. Of these counties, 13 reported that they had considered establishing a public authority but decided against it; 8 counties said they do not want a public authority; 23 counties stated that they have never discussed using a public authority; 7 reported they are considering whether having a public authority is a good idea; and 1 did not respond to the survey.

Prior to the passage of recent legislation requiring each county to act as or establish an employer for individual providers of IHSS, we surveyed 11 counties, of which 6 reported they did not want to establish a public authority. They cited various reasons for their decisions; some counties did not want to be the providers' employers and some were happy with their contractors. Another reported that providers had not shown much response to efforts to unionize. In addition, county officials felt their current level of service was adequate, they did not see the value added by a public authority, and they did not want to increase costs and add another layer of bureaucracy to the IHSS program. In contrast, 1 county reported it was in favor of a public authority because it believed higher wages would encourage more providers to participate in the program. Officials for 2 counties felt that a public authority would provide better registry services and training, but these counties were concerned about escalating costs. The respondents for another county believed higher wages would attract more providers but felt it could perform all of the functions without a public authority.

We surveyed these 11 counties again after the passage of the new legislation and asked how they intended to comply with its requirements. Generally, 10 counties responded that they were considering their options, including establishing a public authority, and 1 county reported it was in the process of creating a public authority. The Appendix presents the updated results of our survey.

### CERTAIN DATA SUGGEST THAT PUBLIC AUTHORITIES MAY NOT PROVIDE MORE SERVICES TO ELIGIBLE IHSS RECIPIENTS

Although no data exist to definitively demonstrate the impact of the three public authorities we visited on the health and welfare of IHSS recipients, certain data suggest that establishing a public authority does not significantly affect the level of services eligible individuals receive.

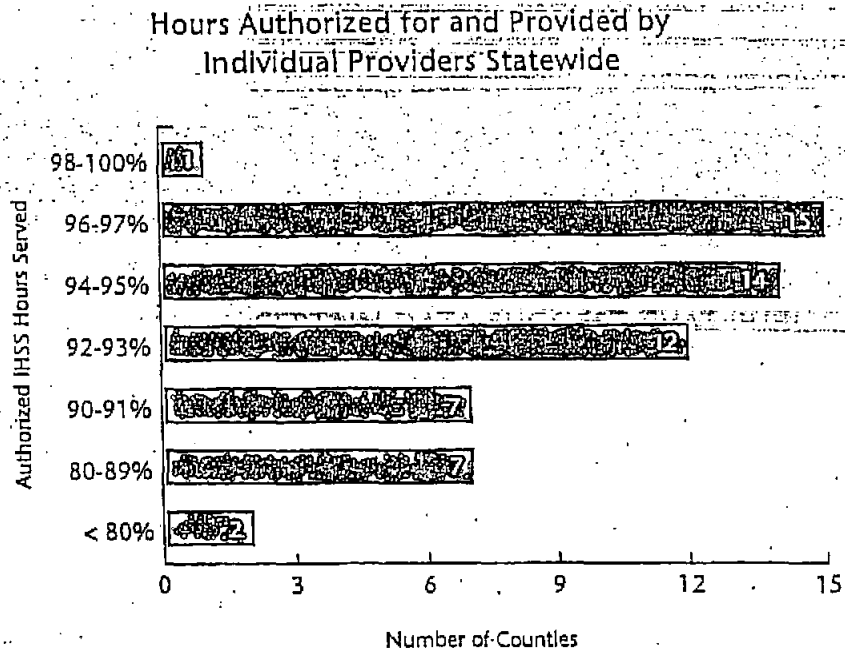
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*Our analysis revealed few differences in the level of services provided between counties with and without public authorities.*

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Using information collected by the department in its Case Management, Information and Payrolling System, we independently analyzed data related to the level of service IHSS recipients receive in each county, and found few differences between counties with or without public authorities. Because public authorities primarily support individual providers, we compared the IHSS hours authorized for delivery by individual providers to the hours the providers actually served. In addition, we compared total authorized IHSS hours to total hours actually supplied through all modes of service. We used data from a recent 12-month period to perform our analysis. Even though department staff have indicated factors other than the availability of providers may affect the data, such as temporary stays in care facilities, services refused by recipients, or temporary alternate sources of care, nothing came to our attention that suggests these factors affect one county's data more than they influence any other county's data. Figure 3 presents statewide data on the degree to which individual providers supply authorized services to IHSS recipients.

FIGURE 3



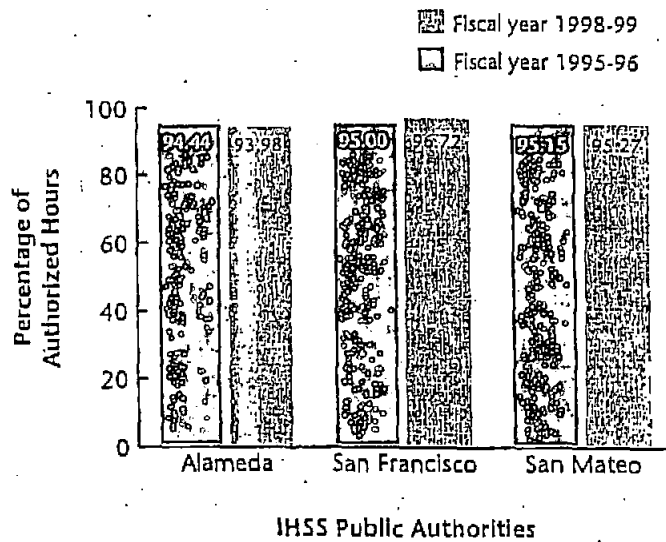
Our analyses revealed that from May 1998 through April 1999, recipients in San Francisco, San Mateo, and Alameda counties received 97 percent, 95 percent, and 94 percent, respectively, of IHSS hours authorized and served by individual providers. Although these three counties were able to fulfill most needs for authorized program services, their performances are generally comparable to the performances of most of the other 55 counties as represented in Figure 3. Among the State's 58 counties, the three ranked 9<sup>th</sup>, 22<sup>nd</sup>, and 31<sup>st</sup>, respectively, in their success in delivering authorized IHSS through individual providers. For the same period, the City and County of San Francisco, San Mateo County, and Alameda County performed similarly in delivering authorized IHSS hours through all modes of service.

Additionally, we compared the level of service individual providers delivered in these three counties during the period May 1998 through April 1999 to a similar 12-month period during fiscal year 1995-96, when the counties either had just established their public authorities or had not yet established them. The San Mateo public authority implemented services meeting minimum requirements in March 1995, the Alameda public authority began its registry operations in May 1996, and the San Francisco public authority began its registry operations in the summer of 1996. Again, these counties offered a reasonably high percentage of authorized program services through

individual providers both before and after they created their public authorities. Figure 4 illustrates what percentage of recipients in the three counties received authorized IHSS hours supplied by individual providers in the two periods.

FIGURE 4

Authorized IHSS Hours Served by Individual Providers Before and After Establishment of Public Authorities



The levels of service for San Mateo and Alameda counties were similar for the two periods. The San Francisco public authority showed a slight increase in the percentage of authorized hours its individual providers delivered.

According to our further analysis of recipient data in the department's database, the three counties did not experience a proportionately greater demand from recipients in locating providers than did other counties. Using the data for April 1999, we calculated each county's percentage of IHSS recipients who indicated they required assistance in locating providers. When we ranked all 58 counties based on the percentage of recipients who required assistance locating a provider, San Mateo, San Francisco, and Alameda scored 41<sup>st</sup>, 43<sup>rd</sup>, and 55<sup>th</sup>, respectively. The data suggest that recipients in these three counties have a less-than-average need for help in locating service providers.



## SOME COUNTIES WITHOUT PUBLIC AUTHORITIES REPORT DELIVERING SERVICES SIMILAR TO THOSE SUPPLIED BY COUNTIES WITH PUBLIC AUTHORITIES

To compare information about in-home supportive services delivery, we surveyed counties without public authorities that had IHSS needs similar to those of the 3 counties above and found that both groups deliver similar services. We identified 11 counties without public authorities that had needs similar to the public authorities we visited, including more than two million authorized IHSS hours from May 1998 through April 1999. We asked the 11 counties about their processes for locating, training, and screening providers; resolving complaints against providers; and locating providers for recipients who are at high risk for placement out of their homes unless they can get the care that they require. Detailed survey results appear in the Appendix.

Through our survey, we found many similarities in the assistance given to IHSS providers and recipients among counties with and without a public authority. For example, most surveyed counties without public authorities indicated they operate provider registries, perform matching and referral services, and resolve recipient complaints using methods similar to those used by public authorities. Further, information gathered from employment applications and from qualifications and background screening procedures at the surveyed counties is similar as well. On the other hand, provider training is more available in counties with public authorities, but attendance at the training is voluntary and generally low. Moreover, provider orientations for new applicants are part of the registry compilation process for counties with public authorities we reviewed and for those surveyed counties without public authorities.

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*Most surveyed counties without public authorities operated worker registries, provided background checks, and provided training to IHSS recipients and providers.*

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### Many Surveyed Counties Without Public Authorities Also Use Registries to Help Recipients Locate Providers

All counties we surveyed reported assisting recipients in locating providers. Of these 11 counties without public authorities, 10 offer this assistance primarily through provider registries, while one county uses a contractor to locate providers. In addition, 7 of these counties indicated that they have little or no difficulty in locating providers and two counties reported being able to expand their registries through community outreach programs. In contrast, 4 counties reported some difficulty in creating an adequate pool of providers. They cited reasons including an

inability to find providers who could travel to rural recipients and competition with higher-paying jobs in an improving local

economy. The administrators for two of these counties expressed the belief that high wages for IHSS providers would attract more and better-qualified applicants.

Nine of the 11 surveyed counties reported having processes that match registry providers' qualifications and willingness to work with the needs of recipients. Generally, county social workers who know recipients' needs perform this matching, while the remaining two counties rely on a community group and a contract agency to provide these services. The matching process typically considers where recipients live, the types of services they are authorized to receive, and the hours they require assistance. The agency or social workers then refer those registry providers who live in the recipients' geographical region and are able to provide the needed services when required. The recipients then decide which of those providers they wish to hire. However, the remaining 2 of the 11 counties indicate they give recipients an extensive list of providers and let them determine those who best meet their needs.

#### Survey Results for Selected Counties Without Public Authorities

- Ten of the 11 counties surveyed use a registry to refer providers.
- Nine counties attempt to match providers and recipients.
- Eight counties have procedures for locating providers for high-risk recipients.
- Eight counties track effectiveness in locating providers and five monitor recipient satisfaction.
- All 11 counties have processes in place to resolve complaints.
- Nine counties have procedures to screen potential providers.
- Three counties perform criminal background checks as part of their screening process.
- All 11 counties give orientations to providers but only 2 provide access to voluntary training.

Our survey also indicated that 8 counties have procedures for locating providers for eligible

applicants who are at high risk for placement outside their homes unless they get required care. One county reports matching high-risk recipients with appropriately-skilled providers. Further, three additional counties may refer their high-risk recipients to more expensive contract providers that are trained caregivers employed and supervised by private agencies. An additional county indicated it has hired a group of skilled individual providers who are qualified to assist high-risk recipients. In addition, some counties reported that they provide assistance to high-risk recipients through their Multipurpose Senior Service Program (MSSP). MSSP coordinators for this program provide this assistance through regular contact with high-risk recipients, making available public health nurses and helping with transportation.

Survey results also indicate that 8 of the 11 counties are tracking their effectiveness in locating providers. To measure effectiveness, one county monitors the performance of the nonprofit organization that operates its provider registry, while 7 others say they follow up with recipients or track the number of providers hired from their registries. Further, 5 counties report tracking recipients' satisfaction with their providers. In addition, all counties indicate they have informal procedures for tracking and resolving recipient complaints. Unless the complaints involve provider abuse or neglect, county social workers resolve complaints in the order they are received. Typically, social workers note each complaint in the case file along with how it was resolved. When a county uses a contractor agency, the agency resolves recipient complaints against contract providers.

### Most Counties We Surveyed Conduct Background Checks And Supply Limited Training for Providers and Recipients

In addition to maintaining registries of providers, 9 of the 11 counties we surveyed reported they investigate the qualifications and backgrounds of potential providers. According to survey responses, these procedures usually require candidates to complete an application and list work and personal references. These applications capture such information as whether the applicants have any special qualifications, the types of services they are willing to perform, and whether they have ever been arrested. Two of the 9 counties also reported they perform countywide criminal background checks on applicants while another told us it ensures applicants have no record of adult or child abuse. Finally, one county reported that it does not investigate the qualifications and backgrounds of providers; instead it gives recipients written notices that it has not performed these procedures.

Lastly, all 11 counties surveyed reported providing orientations for the providers. These orientations generally include instruction on how provider registries work, how to fill out time sheets, the nature of their responsibilities as IHSS providers, and the tasks they are authorized to perform. Further, 7 counties reported they give recipients orientations that cover similar topics as well. These orientations usually include a handbook that outlines the basic materials that IHSS staff believe both the provider and recipient will need. However, only two counties reported that they offer access to more in-depth training on

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*All 11 nonpublic authority counties we surveyed reported providing orientations for the providers.*

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home-care topics, through advertisements in newsletters about personal-care training sessions and through local community adult school classes.

### Funds From the Department Pay for Services to IHSS Providers and Recipients in Some Counties Without Public Authorities

Of the 11 counties we surveyed, 7 offer supportive services to IHSS providers and recipients using funds made available by the department through its Supported Individual Provider (SIP) program, which appears to be a viable alternative for achieving certain objectives of the public authority program. Department staff indicate that they allocate savings realized by counties that switched from more costly contractors to individual providers and thereby reduced their costs. The purpose of SIP within a county is to help individual counties form centralized and coordinated resource pools of screened providers. SIP offers assistance to recipients in topics such as employer/employee relationships and teaches recipients basic skills for hiring and supervising providers. In addition, SIP programs offer such services as coordinating the outreach and recruitment of providers, maintaining a list of potential providers, and conducting introductory meetings to familiarize both recipients and providers with the IHSS program.

*Using money from the Supported Individual Provider (SIP) program, some counties offer training in employee/employer relationships, and hiring and supervising providers.*

For fiscal year 1998-99, the department allocated approximately \$10.5 million in additional funding for administrative costs to 23 counties approved for the SIP program. These allocations range from \$56,500 for Kings County to almost \$3.4 million for San Bernardino County, for an average of approximately \$458,000 per SIP county. In comparison, for fiscal year 1998-99, the public authority for San Mateo County reported it budgeted approximately \$497,000 for IHSS administrative expenditures and the Alameda County public authority reported budgeting approximately \$840,000. The San Francisco public authority reported that it budgeted approximately \$465,000 for administrative expenditures and \$7.9 million for health benefits for IHSS providers.

Because SIP activities duplicate the program activities of public authorities, the department is uncertain how requirements of the new legislation will affect the future of the SIP program.

## THE IMPLEMENTATION OF PROGRAM REQUIREMENTS VARIES AMONG PUBLIC AUTHORITIES

Because the department's regulations do not contain much guidance for the implementation of requirements regarding public authorities, each public authority develops and operates its own worker registry, referral system, and related support functions. As a result, the extent to which public authorities offer services to providers and recipients, and the resulting benefits, varies between public authorities. For example, each public authority must develop its own standards for including a potential provider in its registry. Similarly, department regulations do not stipulate how comprehensive investigations of qualifications or background checks must be, nor do the regulations discuss the content or frequency of training. Instead, the regulations instruct public authorities that they are not obligated to directly provide training, screen or be responsible for the content of any training, or ensure any provider or recipient completes any training.

According to the manager of the department's Adult Programs Branch, the department has not developed and implemented more specific regulations and instructions for implementing the statutory requirements for public authorities because the State's past position was that the department should not impose restrictive regulations on local activities. Because local governments have paid a significant portion of public authorities' additional costs, the State's position has been that public authorities should have the flexibility to consult with local groups and determine how best to operate their individual programs and meet the IHSS needs in their communities. The department is currently reconsidering its involvement in the oversight of, and formulating regulations for, the public authority program. However, according to the manager, the department's future oversight activities will depend on the State's position on oversight and on the availability of additional funding.

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*Because the law and department regulations do not provide specific program implementation guidance, public authorities individually develop standards to meet program requirements.*

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### Public Authorities Differ in Providers' Background Information They Obtain

Although the law does not specifically require criminal background checks, public authorities we visited attempt to obtain this additional information on potential providers in varying ways. However, none of their methods effectively identifies individuals with criminal histories. For two of the three counties we visited, public authorities base criminal background checks

*For two of the three public authorities we reviewed, criminal background checks are based on potential providers' voluntary disclosure of their criminal misconduct.*

on potential providers' voluntary disclosure of criminal misconduct. For example, staff in Alameda County ask applicants if they object to a criminal background check. If the applicant does not object, staff members do not perform the background checks. However, if the applicant does object, staff members exclude the individual from the registry. Alameda County public authority staff indicate they also ask applicants if they have committed a felony. When an applicant answers yes, the public authority policy is to inform recipients of the crime and when it occurred. According to the Alameda public authority, some IHSS recipients do not believe that past criminal activity affects the ability to be a good home-care provider. Those recipients who do believe there is a correlation can reject the applicant or request a background check.

The policy for the public authority for San Francisco County is to ask its applicants to report any felony convictions, but reported felonies do not necessarily compromise the providers' eligibility for the registry. Rather, when applicants report felony convictions, the public authority requires that applicants provide sufficient details to allow it to contact the appropriate law enforcement, rehabilitation, or health agency and confirm the information and obtain recommendations regarding the suitability of the applicant for home-care work. When applicants with felony convictions are accepted onto the registry, the conviction information is included along with the applicants' brief descriptions of their positive qualities. Because disclosure of felony convictions is voluntary, to notify recipients of these limited background investigation procedures, the public authority includes a disclaimer that it uses information applicants supply and does not guarantee the accuracy of that information or any specifics related to a referred provider's character, actual work experience, criminal history, or fitness. According to the San Francisco public authority, those recipients, providers, and others who designed the registry concluded that it was currently not cost-effective to do an adequate criminal background check on all applicants. In addition, they feel that the procedures for collecting personal information about applicants deter those who want to prey on vulnerable IHSS recipients.

In contrast, the San Mateo County public authority's policy is to conduct criminal background checks, but it uses only records from that county. This procedure has limited effectiveness because it will not identify those applicants with criminal backgrounds outside the county. However, the San Mateo public authority performs these checks for all applicants and their

results may detect an applicant's criminal history. Applicants will not qualify for the registry if checks reveal criminal activities such as sexual offenses, theft, robbery, or burglary.

In addition to criminal history, public authorities investigate the personal background of potential providers. Although the legal requirement is vague, each public authority screens applicants in generally the same manner. Through registry applications and intake interviews, public authorities collect personal identification information, work histories, and proofs of citizenship or the right to work. Additionally, they collect personal background information applicants supply voluntarily. Applicants must also provide personal or work references. For example, the San Mateo public authority's policy is to require two employment references and one personal reference from applicants. However, if an applicant has either no references or an insufficient number, the San Mateo public authority may place the applicant in the registry in a provisional status if the applicant otherwise appears to be a good candidate. When the public authority refers such an applicant, it informs the recipient of the lack of references. In contrast, the San Francisco public authority's procedures require that providers on its registry have two positive references.

#### Public Authorities Do Not Yet Furnish Much Training to IHSS Providers

Each public authority has established separate training standards and practices. They may offer orientations, issue provider and recipient handbooks, hold one-on-one training sessions with public authority or caseworker staff, or schedule voluntary group sessions. Although the public authorities provide orientations and some access to training, both training sessions and attendance have been limited. To ensure individual providers and recipients are consistently trained, the department will need to help counties develop training guidelines.

The orientations typically include instruction on registry policies and procedures and payroll procedures, the rights and responsibilities of providers and recipients, the types of services that providers can or cannot perform, and an explanation of public authority and county IHSS procedures. Further, providers and recipients may receive handbooks that review the orientation sessions. In San Mateo County, one-on-one training sessions may occur to meet training needs identified during orientation sessions or identified by county social workers.

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*The number of classes public authorities have offered is small, and enrollment has been limited.*

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Public authorities schedule additional training sessions on specific subjects, but class offerings are limited and enrollments are usually low. For example, the San Mateo public authority has offered providers and recipients training regarding elder abuse and on general health and safety. However, it has offered only seven group sessions between March 1997 and December 1998, with attendance ranging from 6 to 16 providers and recipients. Through City College of San Francisco, the San Francisco public authority has facilitated access to training for health care providers on health, safety, nutrition, job readiness, and communication. Although 41 people attended training sessions offered at the college from October 1988 through April 1999, only 28 providers from the public authority's registry attended. The San Francisco public authority reports another 85 people, primarily IHSS providers, attended Chinese-language classes in June 1999.

Although training opportunities and attendance have been limited, each of the public authorities we visited reports plans to expand training and encourage attendance. For example, the San Mateo public authority stated its advisory council is gathering information from providers regarding training needs and is exploring ways to build career ladders and encourage participation in career development opportunities. The public authority for Alameda County indicated it currently has plans to add staff to coordinate training efforts and to provide incentives to increase attendance at training courses. Staff stated that they will begin to offer their monthly orientations in Spanish and Chinese. In addition, they said they will initiate a new workshop to teach providers how to problem solve and handle the paperwork required by the IHSS program. They also commented that interest in their workshops has been high and they currently have a waiting list for those wishing to attend. Lastly, the San Francisco public authority says it plans to post training manuals and information on public authority Web sites and work with local labor unions to provide AIDS/HIV classes.

## RECOMMENDATIONS

Given the growth that will likely occur in the public authority program statewide and the potential for increased costs, the State will need more and better information to gauge the program's effectiveness for both recipients and providers relative to the available alternatives for administering the delivery of IHSS. The Department of Social Services should take the lead



and work with local entities to develop standards of performance for local IHSS programs and implement a system to gather and evaluate data that measure the performance of public authorities, nonprofit organizations, home-care contractors, and any other service providers counties use. In addition to indicating whether the various methods are benefiting the health and welfare of recipients, the data should allow the department to compare the activities of these various agencies or contractors responsible for IHSS.

To assure the integrity of the information the department uses to evaluate program performance, local entities should develop and implement procedures to ensure that they accurately and completely enter performance-measuring data into the department's information system.

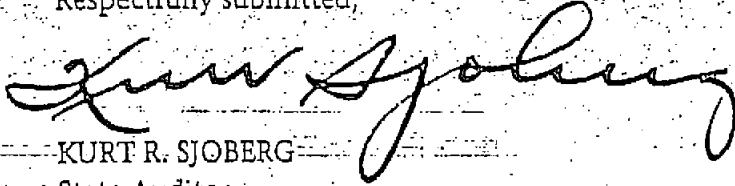
Moreover, the department together with local agencies, should better define program functions to improve their consistency and effectiveness, including training for providers and recipients, background checks for provider applicants, and the use of registries for provider referrals.

Given the pending changes in the counties' administration of in-home supportive services, the Legislature should require the department to report on the operational and fiscal impact of the recently enacted legislation to determine whether the new law promotes a more effective and efficient program.

The Legislature should clarify the language in the Welfare and Institutions Code, Section 12305.25, requiring each county to provide an employer for individual providers for the purposes of wages and benefits and other terms and conditions. This clarification will furnish the counties with the guidance they need to ensure they comply with the intent of the legislation. Specifically, the Legislature should clarify the requirement for counties with more than 500 in-home supportive services cases to offer an individual provider employer option upon the request of a recipient, and the implications of that requirement on counties with 500 or fewer cases.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG

State Auditor

Date: September 9, 1999

Staff: Lois Benson, CPA, Audit Principal  
Norm Calloway, CPA  
DeLynn Cheney

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# APPENDIX

## Survey Results for 11 Counties Without Public Authorities

Survey Questions	Monterey	Kern	Riverside
1. Does the county assist in locating providers?	The county does assist in locating providers.	The county does assist in locating providers.	The county generally does not assist in locating providers.
2. What methods are used by the county in locating providers?	The county uses a registry to locate providers.	The county uses a registry to locate providers.	The county uses a home care contractor to locate providers.
3. What types of difficulties does the county have in locating providers?	County difficulties in locating providers include low salaries that do not attract workers, problem recipients who are difficult to match with providers, and rural areas where providers do not want to travel.	Although the county does not have a problem locating people who want to be providers, they are not always qualified or dependable. Also, some recipients have difficulties in keeping providers.	The county has no problem locating providers because they mostly live near the recipients with the contractor acting as a back up.
4. Are there procedures for locating providers for high-risk recipients?	There are no specific protocols targeting assistance to high-risk recipients.	The county has no formal procedures for locating providers for high-risk recipients.	The county's procedure for locating providers for high-risk recipients includes meeting with the contractor to discuss these recipients' needs.
5. How does the county measure effectiveness in locating providers?	The registry coordinator tracks outreach and recruitment efforts to evaluate the marketing effort.	The county does not have a process to measure its effectiveness in locating providers.	The county measures its effectiveness through home visits and phone calls to recipients.
6. Does the county investigate provider qualifications and background?	The county investigates providers by using an application, reference checks, and requiring that applicants report any criminal backgrounds.	The county investigates providers by using an application, reference checks, and a criminal background check only using county records.	The contract agency investigates the providers' qualifications and backgrounds.
7. Does the county give recipients provider referrals?	County registry coordinators match manually, potential providers with recipients.	The county's referral system involves using a list that indicates the services that providers are willing or qualified to perform.	Only the contractor performs referral procedures.
8. Does the county offer orientation to providers and recipients?*	New providers take part in orientations offered twice a month, and recipients are given a handbook during their intake process.	New providers take part in orientations, while recipients are given pamphlets and instruction during their assessments.	The contractor does the provider orientations and instructs recipients on signing time sheets.
9. Does the county offer training to providers?	The county occasionally offers training to providers. Most frequently, this involves time sheet and payroll topics.	The county uses Bakersfield Adult School to offer low-cost optional training.	The county does not offer training to providers.
10. How does the county track recipient satisfaction?	The county does not track recipient satisfaction.	The county tracks recipient satisfaction by having social workers question recipients during annual assessments and quarterly contact.	The county received funds to begin a satisfaction survey.
11. How does the county track and resolve complaints?	With some assistance from their supervisors, social workers resolve complaints.	The county deals with complaints by having social workers resolve the issues with some assistance from their supervisors and the Supported Individual Provider team.	The contractor tracks and resolves complaints.
12. Has the county considered establishing a public authority (PA)? What are its reasons?	The county is establishing a PA in response to consumer demand.	The county has not considered establishing a PA. It has not yet evaluated this mode.	The county has not considered establishing a PA because it is satisfied with its contractor, the county geography is not conducive to a PA, and providers have shown no desire to join unions.

\* Orientations usually involve providers learning how to fill out and submit time sheets, how the registry works, and what providers' and recipients' rights and responsibilities are.

Survey Questions

Butte

Stanislaus

Orange

1. Does the county assist in locating providers?	The county does assist in locating providers.	The county does assist in locating providers.	The county does assist in locating providers.
2. What methods are used by the county in locating providers?	The county uses a registry, a community group, and a contractor to locate providers.	The county uses a community nonprofit group to locate providers. This group uses a registry, outreach, and substitute providers as resources.	The county operates a registry to locate providers.
3. What types of difficulties does the county have in locating providers?	The county stated it has little problem locating providers. However, due to payrollling delays, some are quitting due to the lack of timeliness in receiving a paycheck.	The county has difficulty locating providers because some recipients live in isolated locations or have negative factors associated with providing care for them.	The county has some difficulty locating providers because it has a small registry, and an improved local economy has made it difficult to attract providers.
4. Are there procedures for locating providers for high-risk recipients?	The county's procedure for locating providers for high-risk recipients includes referring most cases to the contractor. However, many high-risk recipients use family members as their providers.	The county locates providers for high-risk recipients using substitute providers, the assistance of county special services' case managers, or direct services.	The county uses the same procedures for locating providers for high-risk recipients as for other recipients.
5. How does the county measure effectiveness in locating providers?	The county measures its effectiveness by noting the number of recipients without providers.	The county measures its effectiveness by monitoring its contractor performance reports and by Advisory Board review.	The county measures its effectiveness by tracking the providers hired from the registry.
6. Does the county investigate provider qualifications and background?	The county investigates registry providers through an interview process and a request for references. The contractor and community group investigate their applicants.	The community group investigates providers by using an application, references, and the county's criminal check.	The county does reference checks to investigate providers, and providers must sign a statement regarding their criminal records.
7. Does the county give recipients provider referrals?	County clerical staff operate the referral system to match providers with recipients.	The community group, not the county, provides recipients with referrals.	County IHSS registry staff create lists of potential providers based on areas in which they will work and types of care they will provide.
8. Does the county offer orientation to providers and recipients?	Both providers and recipients take part in separate orientations.	Both providers and recipients take part in orientations that give participants pamphlets.	Both providers and recipients take part in orientations.
9. Does the county offer training to providers?	The county does not offer training to providers.	The county does not offer training to providers.	The county does not offer training to providers.
10. How does the county track recipient satisfaction?	The county does not track satisfaction but it fully investigates reports of abuse.	The county has used satisfaction surveys in the past and plans to do so again.	The county does not track recipient satisfaction.
11. How does the county track and resolve complaints?	The contractor tracks and resolves complaints.	Protective Services' social workers track and resolve complaints.	The process used by the county in dealing with complaints includes social workers resolving the issues with some appropriate help from Adult Protective Services or law enforcement.
12. Has the county considered establishing a public authority (PA)? What are its reasons?	The county has considered a PA because it believes a PA will serve as a central location for all IHSS payroll and provider issues and will allow for sharing with the State the costs that are above minimum wage.	The county is in the process of evaluating all legislative alternatives in the context of their overall impact on the program.	The county has not considered a PA because consumer input at public forums strongly supported the current individual provider mode. Passage of recent legislation may impact this position.

\* Orientations usually involve providers learning how to fill out and submit time sheets, how the registry works, and what providers' and recipients' rights and responsibilities are.

Survey Questions

Fresno

San Bernardino

Sonoma

1. Does the county assist in locating providers?	The county does assist in locating providers.	The county does assist in locating providers.	The county does assist in locating providers.
2. What methods are used by the county in locating providers?	The county uses a registry to locate providers.	The county uses a registry to locate providers.	The county uses a registry to locate providers and has hired county employees to serve as providers in emergency situations.
3. What types of difficulties does the county have in locating providers?	The county has some problems locating providers that it can match with difficult recipients.	The county stated it has no problem locating providers.	The county has difficulty locating providers because of low pay, lack of benefits, and a low county unemployment rate.
4. Are there procedures for locating providers for high-risk recipients?	The county's procedure for locating providers for high-risk recipients includes matching the skills of the providers to the recipients' needs and the assistance of case managers.	The county's procedure for locating providers for high-risk recipients includes matching providers with recipients.	The county's procedure for locating providers for high-risk recipients includes the use of county-hired providers to assist these recipients.
5. How does the county measure effectiveness in locating providers?	The county did not indicate how it measures effectiveness in locating providers.	The county measures its effectiveness by monitoring and regular contact with recipients.	The county measures effectiveness through an on-going tracking system and monthly reports on recipients not served.
6. Does the county investigate provider qualifications and background?	County procedures to investigate providers include an application with an inquiry regarding applicants' criminal histories and a request for references.	County procedures to investigate providers include an application with an inquiry regarding applicants' criminal histories and a request for references.	County procedures to investigate providers include an application, and reference checks.
7. Does the county give recipients provider referrals?	County social workers and aide staff assigned to IHSS provide referrals.	The county does not provide referrals to recipients unless they are high risk.	Provider coordinators match potential providers with recipients.
8. Does the county offer orientation to providers and recipients?*	Only providers receive orientations.	Only providers receive orientations.	Only providers receive orientations while new recipients receive a payroll handbook and a home visit by a provider coordinator.
9. Does the county offer training to providers?	The county does not offer training to providers.	The county does not offer training to providers.	The county offers voluntary personal care training every quarter.
10. How does the county track recipient satisfaction?	The county tracks satisfaction through comments and evaluations received by social workers and their aide staff.	The county performs random recipient surveys to determine satisfaction.	The county does not track recipient satisfaction. However, complaints are resolved by social worker supervisors and a management review team.
11. How does the county track and resolve complaints?	The county deals with complaints by having either the social workers or their aides investigate the issues.	The county deals with complaints by having IHSS coordinators follow up and track these issues in the providers' files.	The county deals with complaints by having the social workers and/or the provider coordinator resolve the issues and mediate disputes between recipients and care providers.
12. Has the county considered establishing a public authority (PA)? What are its reasons?	The county has not considered a PA because the county believes it has been able to provide IHSS services in a cost-effective, timely manner.	The county has not considered a PA in the past. However, it will be reviewing all options in the future.	The county feels it can attract more qualified applicants with higher provider salaries. However, the county will be researching IHSS options for administration, including a PA, in response to recent legislation.

\* Orientations usually involve providers learning how to fill out and submit time sheets, how the registry works, and what providers' and recipients' rights and responsibilities are.

Survey Questions

Solano

San Joaquin

1. Does the county assist in locating providers?	The county does assist in locating providers.	The county does assist in locating providers.
2. What methods are used by the county in locating providers?	The county uses a registry, community groups, and advertising to locate providers.	The county uses a registry and a contractor to locate providers.
3. What types of difficulties does the county have in locating providers?	The county stated it usually has no problem locating providers.	The county has some problems locating providers that it can match with difficult recipients.
4. Are there procedures for locating providers for high-risk recipients?	The county's procedures for locating providers for high-risk recipients include the use of Supported Individual Provider resources and having social workers dedicated to working with these recipients.	The county's procedure for locating providers for high-risk recipients includes giving their recipients the option of using contract workers.
5. How does the county measure effectiveness in locating providers?	The county did not indicate how it measures effectiveness in locating providers.	The county assesses the reasons why a recipient does not have a provider and resolves issues as needed.
6. Does the county investigate provider qualifications and background?	The county does not investigate provider backgrounds, but the county notifies, in writing, each recipient that it has not performed these procedures.	The county does not perform an investigation of provider qualifications and background.
7. Does the county give recipients provider referrals?	County social workers match potential providers with recipients.	The county's referral process includes only supplying recipients with a list of providers who are in the recipient's geographical region.
8. Does the county offer orientation to providers and recipients?*	Both providers and recipients participate in orientations.	While the county does not give orientations, the contractor offers orientations for providers.
9. Does the county offer training to providers?	The county does not offer training to providers.	The county does not offer training to providers.
10. How does the county track recipient satisfaction?	The county does not track recipient satisfaction.	Currently, the county does not track recipient satisfaction. However, it is in the final stages of implementing a recipient satisfaction survey.
11. How does the county track and resolve complaints?	The county deals with complaints by having social workers resolve the issues.	The county deals with complaints by having social workers resolve the issues.
12. Has the county considered establishing a public authority (PA)? What are its reasons?	The County Board of Supervisors will consider all its options in light of the newly enacted legislation.	The county believes a PA would assist in increasing the registry's size and in implementing provider training; however, the county could not cover the increased wages.

\* Orientations usually involve providers learning how to fill out and submit time sheets, how the registry works, and what providers' and recipients' rights and responsibilities are.

~~Agency's response provided as text only:~~

Department of Social Services  
P.O. Box 944245  
Sacramento, California  
94244-2450

August 26, 1999

Mr. Kurt R. Sjoberg  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Mr. Sjoberg:

SUBJECT: BUREAU OF STATE AUDITS REPORT ON THE IN-HOME  
SUPPORTIVE SERVICES PROGRAM

Thank you for the opportunity to respond to your August 23, 1999, draft audit report entitled "In-Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, the Department of Social Services Needs to Monitor Service Delivery." I have reviewed the report and discussed it at length with my staff. Our response is attached. As the new director of the California Department of Social Services, I, along with Secretary Johnson, am committed to the genuine reform and improvement of this program and we welcome the assessment you have offered.

If you have any questions regarding this letter, please call me at (916) 657-2598, or have your staff contact Donna Mandelstam, Deputy Director, Disability and Adult Programs Division at (916) 657-2265.

Sincerely,

(Signed by: Rita Saenz)

RITA SAENZ

Director



CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
 RESPONSE TO RECOMMENDATIONS  
 BUREAU OF STATE AUDITS REPORT ON PUBLIC AUTHORITY'S DELIVERY OF IN-HOME SUPPORTIVE SERVICES

Following are California Department of Social Services' (CDSS) comments in response to the recommendations contained in the Bureau of State Audits draft report entitled "In-Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery."

**Recommendation 1:** The Department of Social Services should take the lead and, together with local entities involved with the In-home Supportive Services (IHSS) program, should develop standards of performance for local IHSS programs and implement a system to gather and evaluate data that measure the performance of public authorities, nonprofit organizations that contract with individual providers, home-care contractors, and any other entity counties use to deliver program services to recipients. In addition to indicating whether the various methods are benefiting the health and welfare of recipients, the data should allow the department to compare the activities of these various agencies or contractors responsible for IHSS.

**Response:** We concur with this recommendation. The Department is looking at alternatives to provide statewide leadership and monitor the activities of Public Authorities and other entities delivering program services.

**Recommendation 2:** Local entities should develop and implement procedures to ensure that performance-measuring data are accurately and completely entered into the department's information system.

**Response:** We concur with this recommendation and will work with these entities in establishing these procedures as part of our aforementioned analysis (see response to Recommendation 1).

**Recommendation 3:** The department together with local agencies should better define program functions to improve their consistency and effectiveness, including training for providers and recipients, background checks for provider applicants, and the use of registries for provider referrals.

**Response:** We concur. Our analysis referenced in Recommendation 1 includes considering working with local agencies to improve consistency and definition of program functions.

**Recommendation 4:** The Legislature should require the department to report on the operational and fiscal impact of the recent enacted legislation to determine whether the new law promotes a more effective and efficient program.

**Response:** We agree that there should be a report to the Legislature to determine if the new law promotes a more effective and efficient program. However, we believe that the efforts could be enhanced by the Bureau of State Audit conducting a follow-up review as outlined in the Welfare and Institutions Code Section 12301.6(n) including an assessment of the operational and fiscal impact of the law change. This review should be conducted in 15 months from the date of this report.

**Recommendation 5:** The Legislature should clarify the requirement in the Welfare and Institutions Code, Section 12305.25, requiring each county to provide an employer for individual providers for the purpose of wages and benefits and other terms and conditions to provide the counties with the guidance need to ensure they comply with the intent of the legislation. Specifically, the requirement for counties with more than 500 IHSS cases and the requirement for counties with 500 or fewer IHSS cases.

**Response:** We concur that the statute as written requires clarification.

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*Agency's response provided as text only:*

San Mateo County Public Authority  
225 37th Avenue San Mateo, CA 94403

August 27, 1999

Mr. Kurt Sjoberg  
State Auditor  
Bureau of State Audits  
555 Capital Mall, Suite 300  
Sacramento, CA 95814

Dear Mr. Sjoberg:

Thank you for providing the San Mateo County Public Authority with the opportunity to comment on the Bureau of State Audit's report entitled, "In-Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery." We appreciate the difficulty in studying a complex system and offer the following comments as our written response to the report.

- In general, we agree with the recommendations suggested by the report. We are especially encouraged by the suggestion that the Department of Social Services work with the local entities to develop standards of performance and systems to measure the performance of public authorities. The efficacy of programs to meet the needs of In-Home Supportive Services (IHSS) consumers is a responsibility of the State and local agencies. Thus we would welcome the opportunity to engage in discussions with the State and other agencies involved regarding the standards and measures needed to assess service delivery.
- We agree that local entities should develop and implement procedures to ensure that performance-measuring data are accurately and completely entered into the department's information system. However, this is contingent on the above recommendation that performance measures are determined and that the data that is needed is capable of being captured in the department's information system. The report implies this, but the expectation is not made explicit.
- The report implies that the performance of public authorities and other programs used in non-public authority counties are relatively the same. Our issue is not with this conclusion but with an apparent bias in the report towards non-public authority programs. This is evidenced by the following:

— The subtitles regarding the audit results of the public authorities are written in the negative, ("Certain Data Suggest That Public Authorities May Not Increase the Delivery of Services to Eligible IHSS Recipients"; "Public Authorities Do Not Yet Furnish Much Training to IHSS Providers"). Yet subtitles written about the counties surveyed were written in the positive, ("Many Surveyed Counties Without Public Authorities Also Use Registries to Help Recipients Locate Providers"; "Most Counties

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\* California State Auditor's comments on this response begin on page 51.

We Surveyed Conduct Background Checks And Supply Limited Training for Providers and Recipients").

- The same data that is seen as negative for public authorities is seen as positive for non-public authority counties. For instance, the fact that San Mateo did criminal background checks only within the County was seen as a negative, yet the two non-public authority counties that did county only background checks were seen as going beyond the norm. While the limited effectiveness of county-only criminal record checks is not being disputed, the difference in reporting of the same process for public authorities and non-public authority counties is a concern.
- In a similar vein, the report acknowledges that training is one area in which public authorities are doing more than in non-public authority counties. The report then negates this by saying that San Mateo County only offered seven group sessions between March 1997 and December 1998 with limited attendance. The data is accurate, but the use of the word "only" implies that there is an ideal amount. There is nothing in the regulations regarding the required amount; therefore it appears we are being negatively judged according to criteria which is unclear.
- The report does not acknowledge one of the key reasons public authorities were created - - to give the independent providers an opportunity to organize and have a voice. Public authorities were created to improve the quality of living for providers as well as consumers. While the report mentions collective bargaining as an opportunity afforded providers as a result of the new legislation, it does not discuss this same benefit when discussing public authorities, especially when comparing public authority counties to non-public authority counties.
- The report states that it set out to determine whether the public authorities were in compliance with the statutory requirements (see page 12). There is no explicit statement as to whether the public authorities were in compliance. As it seems to be implied by the report's equal yet positive comparison of non-public authority counties to public authorities, we would like to see a statement of recognition regarding public authorities' compliance with the requirements.
- Public authorities only administer the provider component of the IHSS program, the consumer component being administered by the county department. Although the report does acknowledge this on page 6, this shared administration of the IHSS program tends to become lost in reading the entire report. This is evidenced by :
  - The title of the report. The scope of the report as delineated in the section "Scope and Methodology" seems to focus the report on a review of public authorities, yet the title seems to put the emphasis on the entire IHSS program.
  - The use of headline, "Public Authorities and Nonprofit Groups as Alternative Administrators of IHSS." Again, public authorities are not administrators of the entire IHSS program.
  - The opening line of the second paragraph on page 23, "Given the pending changes in the counties' administration of in-home supportive services...."

- On page 21, the report states that in San Mateo County, applicants will not qualify for the registry if they have in their background criminal activities involving sexual offenses, or offenses against property, including theft, robbery or burglary. This statement is not completely accurate. As delineated in our policy manual, individuals will not qualify for the registry for the following reasons:
  - Failing to disclose any previous criminal conviction in their application to join the Registry.
  - Convictions of a sexual offense against a minor or offenses against property, including but limited to theft, robbery and burglary.
  - Convictions within the preceding ten years of any other felony under the Penal Code.
  - Convictions of any other offenses, at any time, where inclusion or continued participation in the registry would in the judgement of the Public Authority, subject an IHSS recipient to risk of harm or otherwise undermine the functioning of the registry.

As you can see, this last bullet is the only dispute of the content of the report. Our other comments are offered for the clarification and the objective reporting of data. If you should have any questions regarding the comments, please feel free to contact me at (650) 573-2701. Thank you again for this opportunity to respond.

Sincerely,

*(Signed by: Marsha Fong)*

Marsha Fong

Program Director

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# COMMENTS

## **California State Auditor's Comments on the Response From the San Mateo County Public Authority**

To provide clarity and perspective, we are commenting on the San Mateo County Public Authority's (San Mateo) response on our report. The numbers correspond with the numbers we have placed in the response.

① We note that San Mateo does not disagree with our conclusion that the performance of public authorities and other programs are relatively the same. However, we take serious exception to the statement that there is an "apparent bias" in the report in favor of programs without public authorities. The legislation authorizing the audit clearly anticipates that demonstrable benefits would accrue from public authorities and our report merely reflects our efforts to gain information on public authorities' performances in providing increased levels of service to In-Home Supportive Services (IHSS) recipients. In the absence of definitive data that may demonstrate public authorities' additional benefits to recipients, we surveyed 11 counties without public authorities and analyzed information the Department of Social Services (department) maintains for all counties to look for similarities or differences between the activities of public authorities and the IHSS programs of counties without public authorities. Based on the information we gathered and reviewed, the public authorities did not distinguish themselves from some other counties without public authorities in delivering authorized supportive services, training providers and recipients, or conducting background checks.

② San Mateo has missed the point of our discussion. At no point do we imply that regulations specify a required amount of training or extent of background checks. Further, we do not negatively judge San Mateo according to unclear criteria. In addition to comparing their activities in the above areas to other counties' programs, we mention in the report summary, the



chapter summary, and several additional times in the chapter that the law and the department's regulations are lacking specific guidance and public authorities must develop their own performance guidelines.

San Mateo is incorrect when it states we did not mention collective bargaining as a benefit to providers in our discussion of public authorities. In our Introduction we specifically state that any nonprofit group or public authority created under statute acts as the employer for individual providers for the purposes of collective bargaining over wages and benefits and other terms and conditions of employment.

San Mateo is correct in pointing out that the list in our report of conditions surrounding criminal activities that will disqualify applicants from their registry is not a complete list. Our intent was not to disclose all of San Mateo's reasons for not including an applicant in its registry, but to provide examples of some causes. As a result, we have modified the language in our report.

Agency's response provided as text only:

Public Authority for IHSS in Alameda County  
8000 Edgewater Drive  
Oakland, California 94621

August 27, 1999

Kurt R. Sjoberg, State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Mr. Sjoberg:

Thank you for the opportunity to respond to your audit report, "In-Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery." I appreciate the efforts of your staff to put together this document, and I believe that the information contained in this response will further clarify misconceptions or lack of information on Public Authorities. Thank you for including this response in your report.

#### General Comments

The audit report under consideration appears to be driven in response to SB 710, the recently passed legislation that requires each county to establish an employer of record for the In-Home Supportive Services (IHSS) home care workers and to establish consumer directed advisory boards. This report compares existing Public Authority counties to counties without Public Authorities to determine whether establishing a Public Authority improves the general IHSS program.

There are many issues that a county must consider when deciding how they will deliver IHSS services. Amongst the most important are quality of life issues and consumer choice, in addition to cost. Government institutions have a responsibility to provide the best services and care for their citizens, and because we live in a democracy, citizen choice must be upheld and valued throughout the course of delivery of services. Therefore, whether a county chooses to become a Public Authority or not is secondary to whether a county respects and responds to the preferences of it's citizenry. The Public Authority is a tool that is used by some counties because they believe in the following principles:

- \* Consumer choice and quality of life is paramount.
- \* Home care work should be a respected profession that attracts quality employees who are paid a living wage and receive comprehensive health benefits.
- \* Because of it's unique quasi-governmental structure, a Public Authority can affect change from within and without the IHSS system.

Paragraph two of the report summary encourages counties to use contract providers rather than the individual provider mode to deliver services. The argument is made that there is a higher state contribution towards contract providers and that using the individual provider mode is more expensive to the counties. The question begs to be answered—why is state government willing to spend more money to reimburse private contractors than individual providers?

Private contractors diminish freedom of choice in the lives of IHSS consumers. They cannot choose who will come into their homes to provide what are often very intimate services. Often, they don't even have a choice as to when that person will come into their home. There is no assurance of a higher quality of care. The individual provider mode allows our elders and people with disabilities to live in their own homes, under their own direction, as equal members of our community. Governor Davis should sign AB 16, a bill that would increase state funding for the individual provider mode and level the playing field with competing private contractors. With equal funding, counties could make their best choices for delivery of services based on knowledge of their community, not on a skewed funding formula.

A remarkable finding of the report is the assertion that there is little difference between Public Authority and non-Public Authority counties. Public Authorities have made strides that should be acknowledged. In Alameda County, we have developed a 24-hour-per-day, seven-day-a-week worker dispatching service. This national demonstration project can dispatch a trained and experienced home care worker to the home of an IHSS consumer in urgent need. The emergency workers can fill in when the regular worker cannot come to work, or if the consumer is otherwise without assistance. We are very proud of this potentially life-saving service and are aware of only one other such service in the entire United States of America. Another accomplishment in our county is that worker wages have risen above minimum wage for the first time in the history of the program, and we are currently developing a worker health plan.

#### Response to Recommendation

The development of outcome measurements are indeed an invaluable undertaking for Public Authorities as well as any other entities that are delivering IHSS services. We welcome collaboration and input from the state as we formulate these measures. The actual IHSS program itself and specifically its payroll practices would benefit from such analysis. It is evident that hard data supporting the efficacy of a Public Authority is necessary and we are confident that we will be able to collect such data in the upcoming future.

Best regards,

*(Signed by: Georgia Kolas)*

Georgia Kolas  
Executive Director

\* California State Auditor's comments on this response are on page 55.

# COMMENTS

## California State Auditor's Comments on the Response From the Public Authority for IHSS in Alameda County

To provide clarity and perspective, we are commenting on the Public Authority for IHSS in Alameda County's (Alameda) response on our report. The numbers correspond with the numbers we have placed in the response.

Alameda is incorrect when it asserts that we encourage counties to use home-care contractors rather than individual providers to deliver services. At no time in the report do we encourage counties to use contract providers. The discussion Alameda references makes no recommendations, but identifies a potential effect should the costs for individual providers increase substantially and funding patterns remain the same. We provide a full discussion of this potential effect on pages 21 through 22 in our report chapter. As we describe on page 21, we spoke with administrators from 20 counties, and 12 indicated they did not see much benefit in using contractors. They cited reasons such as limited services from contractors and no additional benefits to IHSS recipients beyond the supervision and limited training contract workers receive.

Alameda's response underscores our contention that performance standards and measurements are needed for the In-Home Supportive Services program. In our comparison of the performance of counties with and without public authorities, we used the limited data available on a statewide basis. The legislation authorizing our audit clearly anticipated that demonstrable benefits would accrue from the use of public authorities. Our analysis of the limited statewide data did not demonstrate that public authorities had a significant impact on service delivery.

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*Agency's response provided as text only:*

San Francisco IHSS Public Authority  
942 Market Street, Suite 509  
San Francisco, California 94102

Response to State Auditor's Report on IHSS  
August 30, 1999

The San Francisco IHSS Public Authority appreciates this opportunity to respond to a partial draft by the State Auditor's Office. We support the call for more evaluation of the benefits and long term impact of IHSS public authorities on consumers, workers and the entire IHSS program. The strengths of IHSS are often misunderstood and the ways in which the IHSS program might be improved have been too long ignored in public policy arenas. We also hope the successes we have had in San Francisco and in other counties can be replicated throughout the state.

IHSS is the second largest publicly funded long term care program in California, which spends over \$1.5 billion on this program per year. IHSS is an invaluable resource in helping disabled people remain in their homes and out of institutions. However, there has been little ongoing evaluation of IHSS at the state level. The San Francisco Public Authority has identified evaluation as crucial and is incorporating evaluation as part of its ongoing operation by:

- \* Building a conceptual model for study and evaluation of the benefits and outcomes, both short term and long term, of the Public Authority on IHSS consumers and workers and on public sector costs. See Figure 1, attached.
- \* Developing and using automated systems for data collection and tracking information on consumers and workers served by the authority.
- \* Creating objective measures of program services benefits and the developing systems to track them on an ongoing basis.
- \* Developing sophisticated data systems for refining and tracking CMIPS data in order to monitor outcomes.
- \* Producing Annual Progress Reports to share with the community information on the San Francisco Public Authority and IHSS.
- \* Developing with the Department of Human Services and helping implement a Consumer Quality of Care Survey to monitor IHSS and public authority services and outcomes.

While we agree with the State Auditor's call for outcome measures, we do have some concerns with the focus, method and outcome criteria selected in the current report.

Focus - As noted in the report, public authorities were developed to establish an employer of record, increase consumer involvement, and expand support services such as registries and training. The intended goal was to improve IHSS services and outcomes, especially the independent provider mode. In focusing on what we view as more long term outcomes, the report did not sufficiently recognize significant accomplishments toward these first phase goals.

\* Employer of record: A labor agreement was established and wages and benefits have significantly improved in San Francisco.

\* Consumer involvement: One of the major new aspects of IHSS public authorities is that they must formally involve a majority of personal assistance consumers in their policy and operations. In San Francisco, we also involve worker representatives on our board and committees. This inclusion of the individuals most directly affected by IHSS has led to their involvement not only in the Public Authority but other long term care planning and development in San Francisco. In our view, this is one of the most innovative aspects of public authorities, which is not found in non-public authority counties and was not reflected in this report.

\* Support services: A county-wide registry, on-call worker replacement program and training options now exist in San Francisco where none existed before.

Method - We would suggest that it is misleading to compare public authority counties to supported independent provider (SIP) counties at this time. SIP counties have received additional funding over that of non-SIP counties to provide support services and have had time to develop those services. Public authorities and SIP's should be compared to counties with no publicly funded support services. Pre- and post-comparisons across counties would be even more methodologically sound.

Criteria - We agree that there is a need for objective outcome measures. However, the initial measures here - comparison of authorized hours to actual hours delivered, the presence or absence of registry services - could be more appropriate. We suggest that better measures of public authority impact and quality can be obtained from a more refined historical reanalysis of CMIPS data.

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\* California State Auditor's comments on this response begin on page 61.

These include the length of match between consumer and worker, the percentage of time that workers are employed, and quality of care assessment. See Figure 1, attached.

We appreciate the recommendation by the State Auditors that those who have been involved in the start-up and operation of public authorities should partner with the State Department of Social Services in establishing appropriate standards and measures for public authority operations. This should include the concept of fair measures for public agencies that are in the first phases of their development, as well as measures that are more appropriate for evaluating their impact overtime. As was made clear in the report, very little baseline information comparing IHSS to other forms of long-term care services were made prior to their establishment.

Any standards and measures for public authorities should also allow for differences among counties on how they operate. This would be consistent with the intention that these new public agencies to be innovative, flexible and creative in their approach to improving the independent provider mode of IHSS.

We would be happy to expand on these ideas with any one who is interested. Thank you for your hard work on the research and writing of this report.

Very truly yours,

*(Signed by: Donna Calame)*

Donna Calame  
Executive Director



## Conceptual Model for the Study of In-Home Supportive Services

INPUT VARIABLES	BENEFITS & SERVICES	DIRECT OUTCOMES	LONG-TERM OUTCOMES
<b>Consumer</b> Demographics Assessment (Health/Funct/Cog) Living Arrangements Assistance Needs Referral Source	# of Consumers Served # of PAS Hours Rec'd Referral Lists Sent On-Call Users and Hours Hrs of Management Assist	# Successful Placements Efficiency: Days to Match Retention: Length of Match # Days w/o Help # Consumer Complaints	Quality of Care: Satisfaction w/ System, Prov, Support Unmet Needs Quality of Life Level of Independence
<b>Worker</b> Demographics Skill level Consumer relationship Work Preferences	Avg # Paid IHSS Hours # Workers Screened # Referrals Made # Trainings	# Disputes Settled Worker Employment Status Avg Pay Rate % Receiving Hlth Care Worker Skill Level	Work Stability - Yrs of Work Career Advancement Worker Satisfaction % Above Poverty Worker Health Status
<b>System</b> Mode/Model Services Offered: Registry On-Call/ Rapid Resp Training Care Management Financial	<b>Program Accomplishments</b> Coalition Building Labor Agreements Policy Development Increased Public Awareness <b>Costs</b> Total IHSS Prog Costs Cost by Funder Support Service Costs	Avg # IHSS Hours Received Average Pay Rate Benefit Package Valu County Share of Cost % Costs/Hour by Mode Cost/hr for Supp Serv Cost vs other LTC Service	% Elig rec IHSS Use of Med Serv (Hosp, ER, SNF use) Equity: Service vs Needs Resource Use Ratio (Serv\$/Total\$) LTC Costs w/IHSS Cnty LTC Costs/Eligible

# COMMENTS

## California State Auditor's Comments on the Response From the San Francisco IHSS Public Authority

To provide clarity and perspective, we are commenting on the San Francisco IHSS Public Authority's (San Francisco) response on our report. The numbers correspond with the numbers we have placed in the response.

- 98 We make four references in the introduction and report chapter regarding public authorities acting as employers for individual providers, union representation, the potential for individual providers under public authorities to join employee groups, and the higher wages earned by individual providers who work in counties with public authorities.

We are pleased that San Francisco takes seriously the requirement to involve In-Home Supportive Services (IHSS) consumers in policy and operational decision-making activities and includes providers on its boards and committee memberships.

- 99 We disagree that our comparison of public authorities to counties with Supported Individual Provider (SIP) programs is misleading. First, in the absence of definitive data from the Department of Social Services (department) or public authorities that may demonstrate their additional benefits to recipients, we looked for ways to distinguish the performances of public authorities from other counties. As we describe in our Scope and Methodology section, we surveyed 11 counties without public authorities and reviewed information the department maintains for all counties to look for similarities or differences between the activities of public authorities and the IHSS programs of counties without public authorities. As we describe on page 31, 7 of the 11 counties we compared to public authorities maintained SIP programs.

Secondly, the public authorities we visited that have all been operational since at least the summer 1996 and, in our opinion, have had sufficient opportunity to establish processes for provider referrals, training, and background checks.

Finally, we agree that pre-public authority and post-public authority comparisons would have been a more methodologically sound way to determine the effectiveness of the public authorities. However, as we point out on page 22 of our report, neither the department nor the counties have accumulated consistent, relevant data that show whether public authorities' activities provided additional benefits to the health and welfare of IHSS recipients. As we describe on page 23, during our field work, San Francisco's IHSS executive director told us they will require one and a half years to complete the model from Figure 1 attached to San Francisco's response and compile baseline data. Further, San Francisco estimates it will need up to three years to accumulate sufficient comparative data to evaluate program changes.

cc: ~~Members of the Legislature~~  
~~Office of the Lieutenant Governor~~  
Attorney General  
State Controller  
Legislative Analyst  
Assembly Office of Research  
Senate Office of Research  
Assembly Majority/Minority Consultants  
Senate Majority/Minority Consultants  
Capitol Press Corps

# Department of Aging & Adult Services

## In-Home Supportive Services

### Fingerimaging/ Background Checks

November 1999 Update of Grand Jury Recommendations

Grand Jury Recommendation #	Summary/Actions
99-86	<p data-bbox="545 464 1409 569">"Protect the County's aged and disabled population by conducting local records background checks on all prospective care providers."</p> <p data-bbox="545 611 1409 751">Legislation enacted on July 1999, AB 1682 and SB 710 (section 12301.6), require each the employer(s) of record to investigate background of potential providers. This legislation is effective 1/1/2003.</p> <p data-bbox="545 793 1409 1119">Currently, San Bernardino County has 8,229 providers; of which nearly 60% are related to the recipient of services. Although background checks can currently be conducted (Welfare &amp; Institutions Code 15660), the regulations require that the recipient bear the burden of the cost. The recently enacted legislation will allow the Department to pursue background checks as an integral part of this new law, eliminating the expense to the recipient. We are currently in the process of the evaluating and planning for the implementation of the enacted legislation.</p>
99-87	<p data-bbox="545 1157 1409 1192">"Require that all care provider applicants be fingerprinted."</p> <p data-bbox="545 1234 1409 1375">While legislation enacted (see above) in 1999 required background checks in the implementation of program changes in 2003, the law does not specifically address the issue of fingerprinting for background checks.</p> <p data-bbox="545 1417 1409 1665">San Bernardino County currently has in place a fingerimaging and Department of Justice search for all recipients of welfare programs. We will be evaluating a computer match to determine the number of IHSS providers who are currently on the welfare rolls, and already subject to fingerprint and DOJ checks. We will also be ensuring the newly enacted law on background checks ensures that the needs of the recipient are met.</p>

Attachments- AB 1682/SB710 Executive Summary

IHSS Caseload Statistics

IHSS Relationship of Providers Statistics

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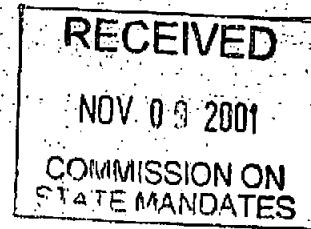
**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814

EXHIBIT B

November 8, 2001

MS. PAULA HIGASHI  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA. 95814



Re: In Home Supportive Services II - 00-TC-23

Dear Ms. Higashi:

Thank you for the opportunity to review and comment upon the above cited test claim. A full review of the papers filed in this case prompts us to comment upon several aspects of the claim as follows:

**SCOPE OF CLAIM**

The test claim expressly lists Chapters 90 and 91, Statutes of 1999 and Chapter 445, Statutes of 2000 as legislation to be adjudicated as containing "costs mandated by the state". However, the text of the claim does not clearly describe a basis for including Chapter 91 within the claim. The claimant's primary reference to Chapter 91 in the body of the claim, is to acknowledge on page 3 of the claim that the enactment increases the state's commitment to the program to 50 cents above minimum wage. This hardly sounds like a reimbursable state mandate.

The claimant also alludes to the repeal and reenactment of W&IC Section 12301.6, accomplished in Chapter 91, as having shifted to local government the total cost of increases in wages and benefits negotiated by a public authority under that section. This is not the case. The repeal and reenactment at issue, in reality, effectively nullified a proposed change in the section, as contained in Chapter 90, which would have shifted the cost of such increases from local agencies to the state. The provisions in Chapter 91, approved by the Governor and filed with the Secretary of State on the same day as Chapter 90, merely reinstated Section 12301.6 in its original form before any changes made by Chapter 90 became effective. The fact is that increases in wages or benefits negotiated under Section 12301.6 had always been the sole financial responsibility of the local agency. Chapter 91 merely continued existing law in that regard.

The claim focuses on the creation of the "advisory committee" and the establishment of the "employer of record". Chapter 91 deals with neither. Chapter 91 should be dismissed from the claim.

### CHARACTERIZATION OF MANDATE

The claimant, on page 2 of the Mandate Summary, characterizes the legislation at issue as mandating collective bargaining between the employer of record and the providers. A careful reading of the statutes, however, reveals no such mandate. The statutes at issue do not mandate collective bargaining. Collective bargaining rights and duties are established and controlled by other state and federal laws that operate upon labor relations. The mandate to establish an employer for Individual Providers (IPs) for purposes of the Myers, Millias, Brown Act or other applicable state and federal laws makes no statement on whether IPs will organize or whether any representative will be able to force collective bargaining upon counties under Myers, Millias, Brown or any other provision. What the legislation does is to require counties to appoint, name or otherwise establish the entity that will respond in the event there is a right or obligation to engage in collective bargaining that IPs possess under other law. If collective bargaining between the employer of record and the providers is mandated by law it is not the law at issue that does so.

### SPECIFICS OF CLAIM

The test claimant asserts that the result of the enactments at issue is to "substantially increase administrative and programmatic costs of the program in various ways. The first increase is by mandating the creation of the advisory committees, mandating their composition, and requiring them to provide ongoing advice. Additionally, depending upon what authorized 'employer of record' is created, there will be substantial administrative costs in the consideration of and creation of the 'employer of record', as well as the ongoing costs associated with the duties of the 'employer of record'. The last, and probably greatest cost, is that associated with collective bargaining on behalf of the individual providers of IHSS services, together with the increase in wages and benefits that are contemplated."

From our perspective the enactments do not require increases in administrative and programmatic costs at the local level that are reimbursable by the state that have not already been provided for by the Legislature.

### ADVISORY COMMITTEE

In his advisory committee analysis the claimant clearly describes the charge of the statute and the implementation efforts of the County. What has not been described, however, is a reason for submitting such a claim to quasi-judicial action by the Commission. In our view the Commission need not adjudicate this aspect of the claim. This is because the statute itself expressly provides for reimbursement to counties, including San Bernardino, for the administrative costs associated with the required advisory committee. Welfare and Institutions Code Section 12301.4, enacted in 1999 then amended in 2000 and Chaptered as Chapters 90 and 445, Statutes of 1999 and 2000 in pertinent part provides: "(b) Each County shall be eligible to receive state reimbursements of administrative costs for...one advisory committee..."

In connection with the implementation of this provision the California Department of Social Services has annually allocated approximately \$53,000 to San Bernardino



County for both FY 2000/01 and FY 2001/02. State records indicate however, that, to date, San Bernardino County has submitted advisory committee claims for only \$11,944, for which the County has been fully reimbursed. In this test claim the claimant acknowledges receipt of some reimbursement pursuant to the statute and merely asserts that "the funding received to date is inadequate to discharge the mandated activities."

We submit that the established administrative procedure for reimbursement of these costs is adequate and is the appropriate procedure contemplated by the Legislature for counties to follow in securing reimbursement. In these circumstances, it appears that the County need only avail itself of the process to be made whole.

Clearly, there is no need for the commission to exercise its quasi-judicial authority in determining whether the enactment at issue creates a reimbursable state mandate when, if allowed to run its course, the administrative process will render the question moot. This aspect of the claim should be dismissed.

#### EMPLOYER OF RECORD

Again the test claimant clearly describes the pros and cons involved in a county decision as to which option to choose in implementing the statute. Granted, the choice may be a difficult one for San Bernardino. It is however, a choice nonetheless. One of the options presented by the statute is to use the Contract Mode of service delivery. Using this mode involves no county administrative costs unique to the establishment of an employer. The costs here are those associated with the delivery of IHSS only. Under this mode the contractor is the employer. The contractor performs all employer duties including any associated with collective bargaining with its employees. The County incurs no increased costs associated with being an employer as a result of this choice. Having such an option militates against finding a reimbursable mandate.

The claimant in his argument points out that one of the elements of the definition of "costs mandated by the State" is that there must be "increased costs which a local agency is required to incur after July 1, 1980 as a result of any statute enacted on or after January 1, 1975..."

The important terms for purposes of this test claim are "required to incur." As pointed out above, the statute at issue does not "require" San Bernardino, or any county to opt for a method that involves county administration of employer/employee relations. A county choosing to take on administration of employee relations and whatever, increased costs that involves, takes on those increased costs by choice. Any such increased costs are not required by the statute. The statute carefully gives the counties a no-cost choice, namely, the Contract Mode.

The Claimant's analysis contains a description of some of the issues raised and work involved in using the Contract Mode. However, no evidence is presented that shows that using the Contract Mode raises more issues or involves more work than using the mode currently employed by the County.

The County apparently employs the Individual Provider (IP) mode of delivery, which undoubtedly involves a lot of individual attention to each case and each individual provider working in the County. Contracting with an entity that employs its own workforce eliminates the need for the County to attend to each individual provider. Additionally, as pointed out by the Claimant using the Contract Mode would "result in more costs being shifted to the state and federal government." The claimant acknowledges on page 7 of the claim, that with this form, "the costs of the Residual Program would be eliminated, and the program costs shifted to PCSP, with a lesser share of County costs."

None of this supports the speculation that opting for the Contract Mode would result in a net increase in County costs. On the contrary, what this does suggest is that a net decrease could very well occur. In any event, whether the circumstances result in a net decrease or simply no net increase, Government Code Section 17556(e) would require that the Commission find no "costs mandated by the state" as defined in Government Code Section 17514.

The claimant correctly points out that as a county with more than 500 recipients San Bernardino would be required to provide an individual provider employer option at the request of recipients. However, it would be by recipient request only that such an arrangement would be needed. Whether any recipient would request such an arrangement is pure speculation. Additionally, this requirement could easily be met by requiring in its contract under the Contract Mode that individual providers selected by recipients shall be referred to the contractor for purposes of wages, hours and working conditions in the same way that providers under the public authority statute who are not sent to recipients by a public authority are nevertheless referred to the public authority for wages, benefits and other terms and conditions of employment. (See W&IC 12301.6(h))

In any event, we submit, in light of the above options presented to the County, and in light of the lack of evidence of a net cost increase, that it has not been shown that the legislation at issue "requires" the county to incur an increase in costs and that therefore a basic element of a reimbursable state mandate is not met here.

#### COLLECTIVE BARGAINING

The Claimant suggests that the mandate to act as or establish an "employer of record" for individual providers will require increased costs attributable to both the process of collective bargaining and inevitable increases in wages and benefits growing out of collective bargaining. The Claimant further contends that the statute therefore creates "costs mandated by the state" as meant by Government Code Section 17514 and amounts to a reimbursable state mandate. We beg to differ.

The following analysis of the wages and benefits aspect of collective bargaining and the administrative process aspect of collective bargaining negates the notion that any increased costs are "costs mandated by the state" as meant by section 17514.

### WAGES AND BENEFITS

Any increases in wages or benefits that might result from collective bargaining are certainly not mandated by the statute at issue. If any collective bargaining takes place the County will be a party to the negotiations over wages and benefits, either directly or indirectly, and will have full power to agree or not agree to any proposed increases in wages or benefits put forward on behalf of providers. County decisions during negotiations to raise or lower wages or benefits are County decisions not state requirements.

Additionally, as acknowledged by more than one judicial source, increases in employment benefits or compensation, as the result of legislation that does not directly mandate the increase, are not considered a "new program" or "higher level of service in an existing program" as meant by the Constitution. The increases are more correctly characterized as higher costs of providing an existing level of service and not a new program or higher level of service in an existing program as meant by Article XIII B Section 6. (See City of Richmond v. Commission on State Mandates (1998) 64 Cal. App. 4<sup>th</sup> 1190 and City of Anaheim v. State of California (1987) 189 Cal. App. 3d 1478) Such increased costs, if they occur, are therefore not reimbursable state mandates.

### ADMINISTRATIVE COST OF BARGAINING

Again, the only mandate contained in the "employer of record" statute is to act as or establish an employer for IPs for collective bargaining purposes. The method to be employed is optional for the counties. As pointed out in connection with the "employer of record" analysis, the Legislature has not imposed any particular method on counties. More than one of the options available to counties would involve no county duties with regard to collective bargaining. Since it is open to the county to choose an option involving considerable county involvement in the process or an option with no county involvement whatsoever, it would be difficult to accept the notion that the statute at issue "requires" an increase in county costs attributable to the process of collective bargaining.

Additionally, in considering the administrative cost of bargaining in connection with the options presented to the counties, it can be seen that those costs, if any, are not the result of legislative imposition of a "new program" or "higher level of service in an existing program" as meant by the Constitution.

The statute at issue permits counties to comply by simply choosing from among the preexisting IHSS delivery modes. Each of those delivery modes already contemplates and accommodates administrative costs associated with collective bargaining if collective bargaining takes place. In each delivery mode, administrative costs attributable to collective bargaining, if any, are expected to be included within a county's general IHSS administrative cost claim and shared by the county and the state pursuant to the applicable sharing ratio. For example, where a Public Authority or non-profit consortium is used for delivering IHSS, (under WIC Section 12301.6 these entities are expressly deemed to be employers for collective bargaining purposes), WIC Section 12301.7 provides that the administrative costs are to be shared, and establishes the

sharing ratio, by reference to Section 12306, at 35% county and 65% state. Also, where county administration of the IP mode and where county civil service personnel are used WIC Section 10101.1 sets the administrative cost sharing at 30% county and 70% state. Finally, in the Contract Mode the administrative cost of bargaining conducted by the contractor is built into the rate the contractor charges the county, payment of which in turn is shared by the county and state pursuant to Section 12306. It is clear from this, that each mode includes an administrative cost-sharing component, and that the cost-sharing component extends to and includes any applicable collective bargaining costs.

The statute at issue permits the use of any of these modes as they existed prior to its enactment, including the applicable administrative cost-sharing component.

San Bernardino County contends that the Constitution and Government Code Section 17514 require that by having mandated in WIC Section 12302.25 that counties choose one of the preexisting modes of delivery for compliance, the Legislature thereby has shifted the entire burden of administrative costs attributable to collective bargaining, to the state alone.

As pointed out above, under ordinary circumstances where a county delivers IHSS using one of the delivery modes open to it, administrative costs associated with collective bargaining, if any, are shared between the county and state. We submit that the statute at issue has done nothing to change that.

In terms of the level of service, it is clear that none of the options open to the County has been changed to increase the level of service associated with the administrative requirements of collective bargaining. Each of the options preexisted Section 12302.25 and each option contemplated sharing those costs. Section 12302.25 requires no more. The Section merely asks the counties to operate the individual provider component of IHSS pursuant to one of the modes that have always been open to them.

Section 12302.25 does not create a new program and it does not impose a higher level of service in an existing program. The level of service contemplated by Section 12302.25 in terms of collective bargaining is the same level of service contemplated by Sections 12302, 12302.2 and 12301.6, as they have always existed.

#### CONCLUSION

We wish to conclude our comments by recapping the principal areas of disagreement with the County's claim.

Chapter 91 should be dismissed from the claim because it contains no local mandate at all and because the effect of the chapter was merely to continue existing law:

The "advisory committee" aspect of the claim should be dismissed because the administrative process for reimbursement contained in the statute has not been shown to have failed and therefore, that aspect of the claim is not ripe for adjudication.

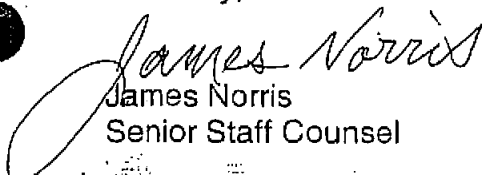
The "employer of record" statute does not amount to a reimbursable state mandate because the statute carefully gives the County a choice of implementation methods and because at least one of the options has the potential for offsetting savings:

The cost of any increases in wages or benefits that may result from collective bargaining are not "costs mandated by the state" because an increase in employment compensation is not considered by the courts to be a new program or higher level of service in an existing program and because County agreement to any wage or benefit increases proposed during negotiations is a matter of County choice and not state mandate.

Finally, the administrative cost of collective bargaining is not a cost the County is "required to incur" because the county is given the option to not take upon itself the burden of collective bargaining. These costs are also not a "new program" or "higher level of service in an existing program" because the implementation options already contemplate and provide for sharing the administrative costs of collective bargaining under existing law, and the County is only mandated to choose one or more of the preexisting delivery methods for compliance.

Thank you for this opportunity. If you have any questions regarding this letter please contact me at (916) 654-0843 or Dan Louis at (916) 653-1854.

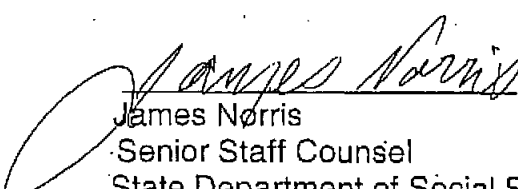
Sincerely,

  
James Norris  
Senior Staff Counsel

Enclosures: Welf. & Inst. 10101.1, 12301.6, 12301.7, 12302, 12302.2, 12306  
CFL: 00/01-33; 01/02-12

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and complete to the best of my personal knowledge or information or belief.

Executed this 8 day of November, 2001 at Sacramento, California, by:

  
James Norris  
Senior Staff Counsel  
State Department of Social Services  
744 P. Street Sacramento, Ca. 95814  
Phone: (916) 654-0843  
FAX: (916) 654-1171

THE UNIVERSITY OF CHICAGO  
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nonfederal expenditures for the program or the amount appropriated by the Legislature for that purpose, whichever is less.

(b) Federal funds received under Title 20 of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the Legislature for child welfare services shall be considered part of the state share of cost and not part of the federal expenditures for this program.

(c) Notwithstanding subdivision (a), the amount of funds appropriated from the General Fund in the annual Budget Act that equates to the amount claimed under the Emergency Assistance Program that has been included in the state's Temporary Assistance for Needy Families block grant for child welfare services shall be considered federal funds for the purposes of calculating the county's share of cost, provided the expenditure of these funds contributes to the state meeting its federal maintenance of effort requirements.

(Added by Stats.1991, c. 91 (A.B.948), § 15, eff. June 30, 1991. Amended by Stats.1993, c. 69 (S.B.35), § 8, eff. June 30, 1993; Stats.1997, c. 606 (A.B.67), § 19, eff. Oct. 3, 1997.)

Historical and Statutory Notes

For conditions rendering the provisions of Stats.1991, c. 91 inoperative, see Historical and Statutory Notes under Health and Safety Code § 255.

Sections 68 and 70 of Stats.1993, c. 69 (S.B.35), provide:

"Sec. 68. The Director of Social Services shall promptly seek any federal waivers necessary to implement applicable provisions of this act."

"Sec. 70. Except where otherwise specified in this act, provisions of this act requiring a federal waiver or federal approval shall become operative on the first day of the month immediately following the month in which this act is enacted, or the effective date of approvals by the Secretary of the United States Department

of Health and Human Services or the Secretary of the United States Department of Agriculture, as appropriate, necessary to implement those sections, whichever is later and shall remain operative only so long as the waiver or federal approval is in effect and federal financial participation is available."

Former § 10101, relating to the amount of the county share, was repealed by Stats.1991, c. 91 (A.B.948), § 14, eff. June 30, 1991.

Former § 10101, relating to legislative findings and declarations, added by Stats.1978, c. 1235, § 1, was repealed by Stats.1983, c. 883, § 1.5, eff. Sept. 19, 1983, operative Jan. 1, 1984.

Derivation: Former § 10201, added by Stats. 1982, c. 978, p. 3544, § 29.

Cross References

- County costs of eligible programs, see Government Code § 16265.2.
Public health nursing program, use of foster care public health nurses, see Welfare and Institutions Code § 16501.3.
Tax limitation on real property, see Const. Art. 13A, § 1 et seq.

Library References

- Counties ⇨ 162.
Social Security and Public Welfare ⇨ 5.
States ⇨ 132.
WESTLAW Topic Nos. 104, 356A, 360.
C.J.S. Counties §§ 199 to 201.
C.J.S. Social Security and Public Welfare §§ 6 to 7.
C.J.S. States §§ 230, 240.

§ 10101.1. County services block grant requirements; state's share of costs

(a) For the 1991-92 fiscal year and each fiscal year thereafter, the state's share of the costs of the county services block grant and the in-home supportive services administration requirements shall be 70 percent of the actual nonfederal expenditures or the amount appropriated by the Legislature for that purpose, whichever is less.

UNLAWFUL PROVISION

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... States ⇨ 131.
WESTLAW Topic No. 360
C.J.S. States §§ 230, 234

§ 10101.5. Repealed operation

... the repealed section, added... 1983, c. 6663, § 8, related

§ 10102. Plan to control programs; etc.

The State Department whereby costs of county controlled within the county shall utilize least maintained. Allocations and determined based upon ment of Social Service administering the plan, allocate funds to cover c meet requirements of the Added by Stats.1983, c. 883

Former § 10102, added by 1235, § 1, relating to goals of program, was repealed by Stats. 1983, c. 883, § 1.5, eff. Sept. 19, 1983, operative

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**FISCAL PROVISIONS**

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(b) Federal funds received under Title 20 of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the Legislature for the county services block grant and the in-home supportive services administration shall be considered part of the state share of cost and not part of the federal expenditures for this purpose:

(Added by Stats.1991, c. 91 (A.B.948), § 16, eff. June 30, 1991. Amended by Stats.1993, c. 69 (S.B.35), § 9, eff. June 30, 1993.)

**Historical and Statutory Notes**

For conditions rendering the provisions of Stats.1991, c. 91 inoperative, see Historical and Statutory Notes under Health and Safety Code § 255.

Section 70 of Stats.1993, c. 69 (S.B.35), describing operation of provisions of that chapter

requiring federal waiver or federal approval, is set out in the Historical and Statutory Notes under Welfare and Institutions Code § 10101.

**Library References**

States 131.  
WESTLAW Topic No. 360.  
U.S. States §§ 230, 234 to 239.

**§ 10101.5. Repealed by Stats.1983, c. 883, § 1.5, eff. Sept. 19, 1983, operative Jan. 1, 1984**

**Historical and Statutory Notes**

The repealed section, added by Stats.1982, c. 666, § 8, related to legislative find-

ings, social services, review of federal and state laws and report to legislature.

**§ 10102. Plan to control costs of county administered social service programs; establishment; administration**

The State Department of Social Services shall establish and maintain a plan whereby costs of county administered social services programs will be effectively controlled within the amount annually appropriated for these services. Each county shall utilize least cost services, provided that the quality of services is maintained. Allocations shall be made to each county and shall be limited by, and determined based upon, an allocation plan developed by the State Department of Social Services and approved by the Department of Finance. In administering the plan, the State Department of Social Services shall not allocate funds to cover county cost overruns which result from county failure to meet requirements of the plan.

(Added by Stats.1983, c. 883, § 2, eff. Sept. 19, 1983, operative Jan. 1, 1984.)

**Historical and Statutory Notes**

Section § 10102, added by Stats.1978, c. 978, § 19, relating to goals of social service programs, was repealed by Stats.1983, c. 883, § 2, eff. Sept. 19, 1983, operative Jan. 1, 1984.

Derivation: Former § 10202, added by Stats. 1982, c. 978, p. 3544, § 29.

**Cross References**

Department of Social Services, see Welfare and Institutions Code § 10550 et seq.



WEST'S ANNOTATED CALIFORNIA CODES  
WELFARE AND INSTITUTIONS CODE  
DIVISION 9. PUBLIC SOCIAL SERVICES  
PART 3. AID AND MEDICAL ASSISTANCE  
CHAPTER 3. STATE SUPPLEMENTARY PROGRAM FOR AGED, BLIND AND DISABLED  
ARTICLE 7. IN-HOME SUPPORTIVE SERVICES

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Current through end of 1999-2000 Reg.Sess. and 1st Ex.Sess.  
and urgency legislation through ch. 109 of the 2001 Reg.Sess.  
and ch. 13 of the 2001 1st Ex.Sess. and Nov. 7, 2000 election

§ 12301.6. Delivery of in-home supportive services

(a) Notwithstanding Sections 12302 and 12302.1, a county board of supervisors may, at its option, elect to do either of the following:

- (1) Contract with a nonprofit consortium to provide for the delivery of in-home supportive services.
- (2) Establish, by ordinance, a public authority to provide for the delivery of in-home supportive services.

(b)(1) To the extent that a county elects to establish a public authority pursuant to paragraph (2) of subdivision (a), the enabling ordinance shall specify the membership of the governing body of the public authority, the qualifications for individual members, the manner of appointment, selection, or removal of members, how long they shall serve, and other matters as the board of supervisors deems necessary for the operation of the public authority.

(2) A public authority established pursuant to paragraph (2) of subdivision (a) shall be both of the following:

(A) An entity separate from the county, and shall be required to file the statement required by Section 53051 of the Government Code.

(B) A corporate public body, exercising public and essential governmental functions and that has all powers necessary or convenient to carry out the delivery of in-home supportive services, including the power to contract for services pursuant to Sections 12302 and 12302.1 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. Employees of the public authority shall not be employees of the county for any purpose.

(3)(A) As an alternative, the enabling ordinance may designate the board of supervisors as the governing body of the public authority.

(B) Any enabling ordinance that designates the board of supervisors as the governing body of the public authority shall also specify that no fewer than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of services under this article.

(C) If the enabling ordinance designates the board of supervisors as the governing body of the public authority, it shall also require the appointment of an advisory committee of not more than 11 individuals who shall be designated in accordance with subparagraph (B).

(D) Prior to making designations of committee members pursuant to subparagraph (C), or governing body members in accordance with paragraph (4), the board of supervisors shall solicit recommendations of qualified members of either the governing body of the public authority or of any advisory committee through a fair and open process that includes the provision of reasonable, written notice to, and a reasonable response time by, members of the general public and

interested persons and organizations.

(4) If the enabling ordinance does not designate the board of supervisors as the governing body of the public authority, the enabling ordinance shall require the membership of the governing body to meet the requirements of subparagraph (B) of paragraph (3).

(c)(1) Any public authority created pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients under paragraph (3) of subdivision (d) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services to them.

(2)(A) Any nonprofit consortium contracting with a county pursuant to this section shall be deemed to be the employer of in-home supportive services personnel referred to recipients pursuant to paragraph (3) of subdivision (d) for the purposes of collective bargaining over wages, hours, and other terms and conditions of employment.

(B) Recipients shall retain the right to hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1 or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to, all statutory and regulatory provisions applicable to the respective delivery mode.

(e) Any nonprofit consortium contracting with a county pursuant to this section or any public authority established pursuant to this section shall provide for all of the following functions under this article, but shall not be limited to those functions:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry.

(2) Investigation of the qualifications and background of potential personnel.

(3) Establishment of a referral system under which in-home supportive services personnel shall be referred to recipients.

(4) Providing for training for providers and recipients.

(5) Performing any other functions related to the delivery of in-home supportive services.

(6) Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

(f)(1) Any nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section shall be deemed not to be the employer of in-home supportive services personnel referred to recipients under this section for purposes of liability due to the negligence or intentional torts of the in-home supportive services personnel.

(2) In no case shall a nonprofit consortium contracting with a county pursuant to this section or any public authority created pursuant to this section be held liable for action or omission of any in-home supportive services personnel whom the nonprofit consortium or public authority did not list on its registry or otherwise refer to a recipient.

(3) Counties and the state shall be immune from any liability resulting from their implementation of this section in the administration of the In-Home Supportive Services Program. Any obligation of the public authority or consortium pursuant to this section, whether statutory, contractual, or otherwise, shall be the obligation solely of the public

authority or nonprofit consortium, and shall not be the obligation of the county or state.

(g) Any nonprofit consortium contracting with a county pursuant to this section shall ensure that it has a governing body that complies with the requirements of subparagraph (B) of paragraph (3) of subdivision (b) or an advisory committee that complies with subparagraphs (B) and (C) of paragraph (3) of subdivision (b).

(h) Recipients of services under this section may elect to receive services from in-home supportive services personnel who are not referred to them by the public authority or nonprofit consortium. Those personnel shall be referred to the public authority or nonprofit consortium for the purposes of wages, benefits, and other terms and conditions of employment.

(i) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services. Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) To the extent permitted by federal law, personal care option funds, obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, along with matching funds using the state and county sharing ratio established in subdivision (c) of Section 12306, or any other funds that are obtained pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code, may be used to establish and operate an entity authorized by this section.

(k) Notwithstanding any other provision of law, the county, in exercising its option to establish a public authority, shall not be subject to competitive bidding requirements. However, contracts entered into by either the county, a public authority, or a nonprofit consortium pursuant to this section shall be subject to competitive bidding as otherwise required by law.

(l)(1) The department may adopt regulations implementing this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

(2) Notwithstanding subdivision (h) of Section 11364.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

(3) Except as otherwise provided for by Section 10554, the Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(m)(1) In the event that a county elects to form a nonprofit consortium or public authority pursuant to subdivision (a) before the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95, all of the following shall apply:

(A) Subdivision (c) shall apply only to those matters that do not require federal approval.

(B) The second sentence of subdivision (g) shall not be operative.

(C) The nonprofit consortium or public authority shall not provide services other than those specified in paragraphs (1), (2), (3), (4), and (5) of subdivision (d).

(2) Paragraph (1) shall become inoperative when the State Department of Health Services has obtained all necessary federal approvals pursuant to paragraph (3) of subdivision (j) of Section 14132.95.

(n)(1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

#### CREDIT(S)

2001 Main Volume

(Added by Stats.1999, c. 91 (S.B.710), § 2, eff. July 12, 1999. Amended by Stats.2000, c. 108 (A.B.2876), § 44.2, eff. July 10, 2000.)

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Former § 12301.6, added by Stats.1992, c. 722 (S.B.485), § 54, amended by Stats.1993, c. 69 (S.B.35), § 44; Stats.1993, c. 1252 (S.B.1078), § 16; Stats.1994, c. 146 (A.B.3601), § 229; Stats.1994, c. 1029 (A.B.1354), § 3; Stats.1996, c. 206 (S.B.1780), § 22; Stats.1999, c. 90 (A.B.1682), § 4, relating to delivery of in-home supportive services, was repealed by Stats.1999, c. 91 (S.B.710), § 1, eff. July 12, 1999. See this section.

Derivation: Former § 12301.6, added by Stats.1992, c. 722, § 54, amended by Stats.1993, c. 69, § 44; Stats.1993, c. 1252, § 16; Stats.1994, c. 146, § 229; Stats.1994, c. 1029, § 3; Stats.1996, c. 206, § 22; Stats.1999, c. 90, § 4.

#### LIBRARY REFERENCES

2001 Main Volume

Social Security and Public Welfare 5, 6, 176.1, 179.1.  
WESTLAW Topic No. 356A.  
C.J.S. Social Security and Public Welfare §§ 6 to 9, 96, 102.

West's Ann. Cal. Welf. & Inst. Code § 12301.6

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END OF DOCUMENT

§ 12301.6

PUBLIC SOCIAL SERVICES

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recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

(Added by Stats.1999, c. 91 (S.B.710), § 2, eff. July 12, 1999. Amended by Stats.2000, c. 108 (A.B.2876), § 44.2, eff. July 10, 2000.)

Historical and Statutory Notes

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Stats.1999, c. 91 (S.B.710), § 1, eff. July 12, 1999. See this section.

Derivation: Former § 12301.6, added by Stats.1992, c. 722, § 54, amended by Stats.1993, c. 69, § 44; Stats.1993, c. 1252, § 16; Stats.1994, c. 146, § 229; Stats.1994, c. 1029, § 3; Stats.1996, c. 206, § 22; Stats.1999, c. 90, § 4.

Library References

Social Security and Public Welfare 5, 6, 176.1, 179.1. WESTLAW Topic No. 356A.

C.J.S. Social Security and Public Welfare §§ 6 to 9, 96, 102.

§ 12301.7. Administrative costs for public authority or nonprofit consortium

The annual administrative cost for any public authority or nonprofit consortium created pursuant to Section 12301.6, exclusive of any increase in provider wages or benefits or employer taxes when negotiated or agreed to by the public authority or nonprofit consortium, shall be shared by the state and the counties as prescribed in Section 12306.

(Added by Stats.1997, c. 606 (A.B.67), § 27, eff. Oct. 3, 1997.)

Historical and Statutory Notes

The Senate Daily Journal for the 1997-98 Regular Session, page 3114, contained the following letter dated September 11, 1997, from Sen. Thompson, regarding A.B.67 (Stats.1997, c. 606):

"Sacramento, September 11, 1997  
"The Honorable Bill Lockyer  
"President pro Tempore  
"Dear Senator Lockyer: I am writing this letter to the Senate Journal to clarify the intent of Section 27 of AB 67 (Welfare and Institutions Code 12301.7), the Omnibus Social Services Trailer bill of 1997. This bill reflects statutory

changes required to implement the budget. This bill includes nearly all of the language which was contained in AB 1153 which was passed by the Legislature and subsequently vetoed by the Governor due to his objections to Sections 2 and 62 of AB 1153. The two sections of AB 1153 to which the Governor objected have been removed. The language in Section 27 dealing with Public Authorities in AB 67 is identical to that passed by the Legislature in AB 1153.

"The process of developing this bill began in March when subcommittees of the Legislature began public hearings on the Governor's proposed budget.

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**SOCIAL SERVICES**  
Div. 9

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For § 12301.6, added by 72, § 54, amended by Stats. 44; Stats.1993, c. 1252, § 16, 46, § 229; Stats.1994, c. 1029, c. 206, § 22; Stats.1999, c. 20

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**AID AND MEDICAL ASSISTANCE**  
Pt. 3

"Section 27, grew out of a hearing held by Senate Budget and Fiscal Review Subcommittee No. 3, which I chair, on April 24, 1997. The following appeared in the Subcommittee's analysis:

**3. Public Authority Administration Costs.**

**Background:**

"Historically, there have been two primary modes of service delivery for IHSS services: the Individual Provider mode, in which individuals needing services sought, hired, trained and fired their own providers and the contract mode, which employed providers and provider services to clients. Last year, the legislature also approved a third mode: the Task Frequency Basis. After a great deal of discussion last year, it was clarified that Public Authorities are not a fourth mode of service delivery.

"In 1991, during Realignment counties were given a much larger share of cost for the IHSS program and discussions were initiated by the Health and Welfare Agency regarding improvements in the system. These discussions led to the adoption in 1993 of a Public Authority option for counties. The Public Authority option allowed counties to continue the Individual Provider mode but allowed them (and in some cases required them) to provide for registries of providers, background checks and collective bargaining. Under the Individual Provider mode, the state provides payrollling services including workers compensation and provides funding for administration to the counties.

"Legislation authorizing public authorities was passed in 1993 and clarified in 1994. A state plan amendment was submitted to the federal government to allow for the establishment of public authorities. (Approximately 60% of funding for IHSS comes from federal Medi-Cal Personal Care Services Program, PCSP). It was approved in January of 1995.

**Issue:**

"According to the Public Authority Council, the Department of Social Services has not paid the administrative claims of Public Authorities in San Mateo, San Francisco, and Alameda Counties. The current amount required to cover these costs is \$1.3 million.

"The action of the Subcommittee was to appropriate the \$1.3 million and instruct the Department to pay the claims of the Public Authorities. This action was subsequently adopted by the full Senate. On May 12, 1997, Subcommittee No. 1 of the Assembly Budget committee took an identical action. Again, this action was upheld by a full vote of the Assembly.

"Subsequent to this hearing, but prior to passage of the state budget, the Department began paying the claims of the Public Authorities as submitted, without the appropriation of additional funds. When the Governor chose to pay the full PERS claim, which required massive budget reductions, the Conference committee on AB 107 eliminated the \$1.3 million augmentation for Public Authority Claims believing the funding level proposed by the Governor for 1997-98 would be sufficient to cover all allowable IHSS administrative costs including Public Authority claims. In addition, the Conference Committee acted to adopt statutory language to clarify the validity of Public Authority claims. Specifically, this language provides that Public Authorities be reimbursed at the same rate—neither less than nor greater than—as any county for IHSS administrative activities which would otherwise be performed by the county.

"It has been the intent of the Legislature that future year appropriations be adjusted as necessary to cover the cost of the IHSS program including county administrative claims, contract claims, and Public Authorities' claims.

"Sincerely,

**MIKE THOMPSON, Chair**

"Senate Budget and Fiscal Review Committee"

**Library References**

Social Security and Public Welfare 5. WESTLAW Topic No. 356A.

C.J.S. Social Security and Public Welfare §§ 6 to 7.

**§ 12301.8. Repealed by Stats.1999, c. 91 (S.B.710), § 3, eff. July 12, 1999**

**Historical and Statutory Notes**

The repealed section, added by Stats.1999, c. 20 (A.B.1682), § 5, eff. July 12, 1999, related to increases in provider wages and benefits.

**§ 12302. Provision of services in accordance with county plan; implementation; review; expenditure pattern**

Each county is obligated to ensure that services are provided to all eligible recipients during each month of the year in accordance with the county plan.

§ 12302

PUBLIC SOCIAL SERVICES

Div. 9

In order to implement such a plan, an individual county may hire homemakers and other in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service, or may contract with a city, county, or city and county agency, a local health district, a voluntary nonprofit agency, a proprietary agency, or an individual or make direct payment to a recipient for the purchase of services.

County plans are effective upon submission to the department. In reviewing county plans the department shall assure that plans are in compliance with provisions of this article including compliance with Section 12301. In the event the department finds a county plan is not in compliance it shall take appropriate action to assure compliance.

The department shall monitor the actual monthly expenditures where available for services to assure compliance with the county plans. If the county's expenditure pattern is not consistent with the plan, the department shall require the county to amend the plan.

(Added by Stats.1973, c. 1216, p. 2910, § 37, eff. Dec. 5, 1973. Amended by Stats.1974, c. 75, p. 164, § 4, eff. March 14, 1974; Stats.1977, c. 1252, p. 4662, § 813, operative July 1, 1978; Stats.1981, c. 69, p. 173, § 19, eff. June 17, 1981, operative July 1, 1981; Stats.1985, c. 86, § 3, eff. June 21, 1985; Stats.1987, c. 1438, § 3, operative July 1, 1988.)

Historical and Statutory Notes

Operative date of Stats.1973, c. 1216, p. 2894, see Historical and Statutory Notes under Welfare and Institutions Code § 10551.

Operative effect of 1974 amendment, see Historical and Statutory Notes under Welfare and Institutions Code § 12151.

Section 19 of Stats.1974, c. 75, p. 171, provided:

"The amendments to Sections 12302, 12303 and 12304 of, and the addition of Sections

12303.5 and 12304.5 to, the Welfare and Institutions Code made by this act do not constitute a change in, but are declaratory of, the preexisting law."

Intent of Stats.1985, c. 86, see note under Welfare and Institutions Code § 12301.

Derivation: Former § 13912, added by Stats. 1968, c. 1399, p. 2757, § 1, amended by Stats. 1971, c. 1593, p. 3407, § 559.

Cross References

In-home supportive services, personal care services, see Government Code § 6253.2. State supplementary program for aged, blind and disabled, amendments as declaration of preexisting law, see Welfare and Institutions Code § 12307.

Library References

Social Security and Public Welfare ¶5. WESTLAW Topic No. 356A.

C.J.S. Social Security and Public Welfare §§ 6 to 7.

Notes of Decisions

Approval 1  
Payment for services 2

1. Approval

State agency in charge of administration of social services has implied authority to approve or disapprove in-home supportive services contracts entered into between counties and private

individuals or entities pursuant to provision of this section; such authority includes the special power to deny funding where the circumstances surrounding the contracts so indicate. City and County of San Francisco v. State (App. 1 Dist. 1978) 151 Cal.Rptr. 469, 87 Cal.App.3d 959.

2. Payment for services

A voluntary nonprofit or proprietary agency provider of in-home supportive services per-

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§ 12302.

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22, 1996.)



§ 12302.1

PUBLIC SOCIAL SERVICES

Historical and Statutory Notes

Section 2 of Stats.1980, c. 943, p. 2988, provided:

"The provisions of this act shall not apply to any contract in effect on the effective date of this act."

Amendment of this section by § 2 of Stats. 1991, c. 1181, failed to become operative under the provisions of § 3 of that Act.

Under the provisions of § 3 of Stats.1991, c. 1182, the 1991 amendments of this section by c. 1181 and c. 1182 were given effect and incorpo-

rated in the form set forth in § 2 of c. 1182. Amendment of this section by § 1 of Stats. 1991, c. 1182, failed to become operative under provisions of § 3 of that Act.

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

Urgency effective provisions of Stats. 1991, c. 206 (S.B.1780), see Historical and Statutory Notes under Welfare and Institutions Code § 10830.

Cross References

Administrative regulations and rulemaking, see Government Code § 11340 et seq. Department of Social Services, generally, see Welfare and Institutions Code § 10550 et seq.

Library References

Social Security and Public Welfare §5. WESTLAW Topic No. 356A.

C.J.S. Social Security and Public Welfare §§ 6 to 7.

§ 12302.2. Performance of rights, duties and obligations and payment of certain contributions, premiums and taxes on recipient's behalf as employer

(a) If the state or a county makes or provides for direct payment to a provider chosen by a recipient or to the recipient for the purchase of in-home supportive services, the department shall perform or assure the performance of all rights, duties and obligations of the recipient relating to such services as required for purposes of unemployment compensation, unemployment compensation disability benefits, workers' compensation, federal and state income tax, and federal old-age survivors and disability insurance benefits. Such rights, duties, and obligations include, but are not limited to, registration and obtaining employer account numbers, providing information, notices, and reports, making applications and returns, and withholding in trust from the payments made to or on behalf of a recipient amounts to be withheld from the wages of the provider by the recipient as an employer and transmitting such amounts along with amounts required for all contributions, premiums, and taxes payable by the recipient as the employer to the appropriate person or state or federal agency. The department may assure the performance of any or all such rights, duties, and obligations by contract with any person, or any public or private agency.

Contributions, premiums, and taxes shall be paid or transmitted on the recipient's behalf as the employer for any period commencing on or after January 1, 1978, except that contributions, premiums, and taxes for federal and state income taxes and federal old-age, survivors and disability insurance contributions shall be paid or transmitted pursuant to this section commencing with the first full month which begins 90 days after the effective date of this section.

Contributions, premiums, and taxes paid or transmitted on the recipient's behalf for unemployment compensation, workers' compensation, and the em-

**AID AND MEDICAL ASSISTANCE**  
Pt. 3

**§ 12302.2**  
Note 1.

ployer's share of federal old-age survivors and disability insurance benefits shall be payable in addition to the maximum monthly amount established pursuant to Section 12303.5 or subdivision (a) of Section 12304 or other amount payable to or on behalf of a recipient. Contributions, premiums, or taxes resulting from liability incurred by the recipient as employer for unemployment compensation, workers' compensation, and federal old-age, survivors and disability insurance benefits with respect to any period commencing on or after January 1, 1978, and ending on or before the effective date of this section shall also be payable in addition to the maximum monthly amount established pursuant to Section 12303.5 or subdivision (a) of Section 12304 or other amount payable to or on behalf of the recipient. Nothing in this section shall be construed to permit any interference with the recipient's right to select the provider of services or to authorize a charge for administrative costs against any amount payable to or on behalf of a recipient.

(b) Funding for the costs of administering this section and for contributions, premiums, and taxes paid or transmitted on the recipient's behalf as an employer pursuant to this section shall qualify, where possible, for the maximum federal reimbursement. To the extent that federal funds are inadequate, notwithstanding Section 12306, the state shall provide funding for the purposes of this section.

(Added by Stats.1978, c. 463, § 4, eff. July 18, 1978.)

**Historical and Statutory Notes**

Another § 12302.2 was renumbered Welfare and Institutions Code § 12302.4 and amended by Stats.1988, c. 160, § 192.

**Cross References**

- Contracts with nonprofit consortiums or established public authorities to deliver in-home supportive services, not to interfere with provisions of this section, see Welfare and Institutions Code § 12301.6.
- Disability compensation, employment, domestic services, see Unemployment Insurance Code § 2606.5.
- Employing unit which employs individuals to perform in-home supportive services, see Unemployment Insurance Code §§ 683, 685.
- Unemployment and disability compensation, see Unemployment Insurance Code § 100 et seq.

**Library References**

- Social Security and Public Welfare ⇐5.
- WESTLAW Topic No. 356A.
- C.J.S. Social Security and Public Welfare §§ 6 to 7.

**Notes of Decisions**

Domestic service workers 1  
Payments to providers 2

**Domestic service workers**

Assuming that persons employed to assist aged and disabled welfare recipients with basic daily chores could be said to be employed by the recipients, state and county agencies could nonetheless be held as joint employers under the Fair Labor Standards Act (29 U.S.C.A.

§ 203). *Bonnette v. California Health and Welfare Agency*, N.D.Cal.1976, 414 F.Supp. 212.

Domestic services worker, hired and supervised by in-home supportive services program aid recipient, is accorded same treatment as state employee for purposes of withholding federal and state income taxes, social security, and retirement contributions; for unemployment and disability insurance purposes, worker is covered as employee of aid recipient but aid recipient's contributions must be made by the

I Patricia Johnston state:

**County Fiscal Letter (CFL) 00/01-61**

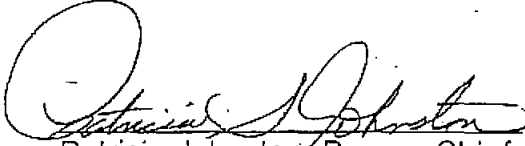
Each fiscal year the IHSS Advisory Committee funds were included in the IHSS Administrative Allocation. Initially in FY 2000/2001 the counties were given \$27,054 each in CFL 00/01-33. The funding was later augmented in CFL 00/01-61. The amount of \$1,452,000 was equally divided between participating counties (56). The two non-participating counties were San Diego and Sutter. The amount allocated to each of the counties was \$25,929 (\$1,452,000 divided by 56). The total amount allocated to each county for FY 2000/2001 was \$52,983.00. See enclosures CFL 00/01-33 & CFL 00/01-61.

**County Fiscal Letter (CFL) 01/02-12**

In FY 2001/2002 a total of \$3,020,000 in federal and state funds was distributed for IHSS Advisory Committee operations. CFL 01/02-12 was equally divided between participating counties (57). The only non-participating county was San Diego County. The amount allocated to each of the counties was \$52,982 (\$3,020,000 divided by 57). See enclosure CFL 01/02-12.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

*November 8, 2001*  
Date

  
Patricia Johnston, Bureau Chief  
IHSS/PCSP Bureau  
Adult Programs Branch



## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



October 27, 2000

COUNTY FISCAL LETTER (CFL) NO. 00/01-33

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY FISCAL OFFICERSSUBJECT: REVISED FISCAL YEAR 2000/01 IN-HOME SUPPORTIVE  
SERVICES (IHSS) PROGRAM ADMINISTRATIVE ALLOCATION.

REFERENCE: COUNTY FISCAL LETTER (CFL) NO. 00/01-14

This letter provides your county with a revised FY 2000/01 IHSS Administrative Program allocation. This revised allocation includes an additional \$668,000 in State General Fund and \$847,000 in Federal Reimbursement for the start-up and operation of the AB 1682 IHSS Advisory Committees. Each county's revised allocation is a result of the Certification Statements (CFL NO. 00/01-14, Attachment II) that were returned to the County Financial Analysis Bureau. In order to be eligible to receive a portion of the available State General Fund, a county needed to certify that they will be establishing or continuing operation of an AB 1682 Advisory Committee in the current Fiscal Year.

The available funds are being distributed equally to the participating counties (see Attachment I) and then added to your total initial IHSS administrative allocation (CFL 00/01-14) for a revised IHSS administrative allocation (see Attachment II).

A new claiming code(s), specific to the AB 1682 Advisory Committees will be established and tracked against the IHSS Administrative Allocation. Claiming instructions and program guidelines for the AB 1682 Advisory Committee allocation will be issued to the counties as soon as possible. Program Codes 102, 103, 104 and 330 will continue to be controlled against the total IHSS Administrative Allocation.

For questions regarding this allocation, please contact your county analyst in the County Financial Analysis Bureau at (916) 657-3806. For program questions please contact Vanessa Southward of the Adult Programs Bureau at (916) 229-4004.

*Original Document Signed by  
DOUGLAS D. PARK on 10/27/00*

DOUGLAS D. PARK, Chief  
Financial Planning Branch

Attachments

c: CWDA



FY2000/01  
IHSS Advisory Committees Allocation

CFL00/01-33  
ATTACHMENT I

County	Total	Federal	State	County
Alameda	\$27,054	\$15,125	\$11,929	\$0
Alpine	\$27,054	\$15,125	\$11,929	\$0
Amador	\$27,054	\$15,125	\$11,929	\$0
Butte	\$27,054	\$15,125	\$11,929	\$0
Calaveras	\$27,054	\$15,125	\$11,929	\$0
Colusa	\$27,054	\$15,125	\$11,929	\$0
Contra Costa	\$27,054	\$15,125	\$11,929	\$0
Del Norte	\$27,054	\$15,125	\$11,929	\$0
El Dorado	\$27,054	\$15,125	\$11,929	\$0
Fresno	\$27,054	\$15,125	\$11,929	\$0
Glenn	\$27,054	\$15,125	\$11,929	\$0
Humboldt	\$27,054	\$15,125	\$11,929	\$0
Imperial	\$27,054	\$15,125	\$11,929	\$0
Inyo	\$27,054	\$15,125	\$11,929	\$0
Kern	\$27,054	\$15,125	\$11,929	\$0
Kings	\$27,054	\$15,125	\$11,929	\$0
Lake	\$27,054	\$15,125	\$11,929	\$0
Lassen	\$27,054	\$15,125	\$11,929	\$0
Los Angeles	\$27,054	\$15,125	\$11,929	\$0
Madera	\$27,054	\$15,125	\$11,929	\$0
Marin	\$27,054	\$15,125	\$11,929	\$0
Mariposa	\$27,054	\$15,125	\$11,929	\$0
Mendocino	\$27,054	\$15,125	\$11,929	\$0
Merced	\$27,054	\$15,125	\$11,929	\$0
Modoc	\$27,054	\$15,125	\$11,929	\$0
Mono	\$27,054	\$15,125	\$11,929	\$0
Monterey	\$27,054	\$15,125	\$11,929	\$0
Napa	\$27,054	\$15,125	\$11,929	\$0
Nevada	\$27,054	\$15,125	\$11,929	\$0
Orange	\$27,054	\$15,125	\$11,929	\$0
Placer	\$27,054	\$15,125	\$11,929	\$0
Plumas	\$27,054	\$15,125	\$11,929	\$0
Riverside	\$27,054	\$15,125	\$11,929	\$0
Sacramento	\$27,054	\$15,125	\$11,929	\$0
San Benito	\$27,054	\$15,125	\$11,929	\$0
San Bernardino	\$27,054	\$15,125	\$11,929	\$0
San Diego	\$0	\$0	\$0	\$0
San Francisco	\$27,054	\$15,125	\$11,929	\$0
San Joaquin	\$27,054	\$15,125	\$11,929	\$0
San Luis Obispo	\$27,054	\$15,125	\$11,929	\$0
San Mateo	\$27,054	\$15,125	\$11,929	\$0
Santa Barbara	\$27,054	\$15,125	\$11,929	\$0
Santa Clara	\$27,054	\$15,125	\$11,929	\$0
Santa Cruz	\$27,054	\$15,125	\$11,929	\$0
Shasta	\$27,054	\$15,125	\$11,929	\$0
Sierra	\$27,054	\$15,125	\$11,929	\$0
Siskiyou	\$27,054	\$15,125	\$11,929	\$0
Solano	\$27,054	\$15,125	\$11,929	\$0
Sonoma	\$27,054	\$15,125	\$11,929	\$0
Stanislaus	\$27,054	\$15,125	\$11,929	\$0
Sutter	\$0	\$0	\$0	\$0
Tehama	\$27,054	\$15,125	\$11,929	\$0
Trinity	\$27,054	\$15,125	\$11,929	\$0
Tulare	\$27,054	\$15,125	\$11,929	\$0
Tuolumne	\$27,054	\$15,125	\$11,929	\$0
Ventura	\$27,054	\$15,125	\$11,929	\$0
Yolo	\$27,054	\$15,125	\$11,929	\$0
Yuba	\$27,054	\$15,125	\$11,929	\$0
Total	\$1,515,000	\$847,000	\$668,000	\$0





	FY2000/01 REVISED IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July99-Mnrch00 IHSSHR U geRate
ALAMEDA	\$7,293,317	\$3,221,568	\$2,853,803	\$1,217,946	87.36%
ALPINE	\$89,624	\$15,125	\$55,728	\$18,771	0.00%
AMADOR	\$105,518	\$54,621	\$39,207	\$11,690	99.65%
BUTTE	\$1,200,804	\$580,739	\$437,624	\$182,441	95.40%
CALAVERAS	\$182,794	\$90,295	\$68,328	\$24,171	95.55%
COLUSA	\$214,184	\$77,001	\$99,607	\$37,576	65.46%
CONTRACOSTA	\$3,831,805	\$1,749,622	\$1,461,107	\$621,076	90.25%
DELNORTE	\$141,938	\$68,677	\$54,861	\$18,400	92.28%
ELDORADO	\$317,928	\$134,490	\$131,985	\$51,453	81.24%
FRESNO	\$5,456,699	\$2,339,794	\$2,185,412	\$931,493	84.76%
GLENN	\$280,016	\$125,920	\$111,446	\$42,650	86.71%
HUMBOLDT	\$1,488,416	\$737,276	\$529,377	\$221,763	97.83%
IMPERIAL	\$1,578,130	\$683,831	\$629,588	\$264,711	85.35%
INYO	\$127,512	\$62,627	\$48,998	\$15,887	93.62%
KERN	\$3,903,050	\$1,853,361	\$1,438,361	\$611,328	93.89%
KINGS	\$533,738	\$263,638	\$192,649	\$77,451	97.10%
LAKE	\$771,621	\$391,222	\$269,858	\$110,541	100.00%
LASSEN	\$124,393	\$57,298	\$50,545	\$16,550	85.78%
LOSANGELES	\$71,227,338	\$33,692,832	\$26,277,333	\$11,257,173	93.64%
MADERA	\$420,025	\$210,807	\$150,031	\$59,187	98.58%
MARIN	\$1,039,755	\$477,664	\$397,042	\$165,049	90.42%
MARIPOSA	\$101,695	\$49,579	\$40,060	\$12,056	91.38%
MENDOCINO	\$1,636,941	\$781,234	\$602,574	\$253,133	94.21%
MERCED	\$827,582	\$401,863	\$301,582	\$124,137	95.64%
MODOC	\$112,573	\$58,321	\$41,555	\$12,697	100.00%
MONO	\$88,159	\$33,993	\$41,495	\$12,671	61.14%
MONTEREY	\$1,992,969	\$971,120	\$718,873	\$302,976	96.27%
NAPA	\$436,202	\$211,363	\$160,966	\$63,873	94.95%
NEVADA	\$320,014	\$161,078	\$114,834	\$44,102	98.63%
ORANGE	\$3,896,707	\$1,790,347	\$1,478,031	\$628,329	90.82%
PLACER	\$702,107	\$326,275	\$266,661	\$109,171	91.25%
PLUMAS	\$126,936	\$62,881	\$48,417	\$15,638	94.66%
RIVERSIDE	\$4,708,735	\$2,243,750	\$1,729,068	\$735,917	94.24%
SACRAMENTO	\$7,435,006	\$3,493,263	\$2,762,799	\$1,178,944	92.95%
SANBENITO	\$126,947	\$50,381	\$57,175	\$19,391	69.88%
SANBERNARDINO	\$9,740,962	\$4,886,053	\$3,402,015	\$1,452,894	99.27%
SANDIEGO	\$9,761,075	\$4,504,564	\$3,679,558	\$1,576,953	91.36%
SANFRANCISCO	\$8,367,552	\$4,031,799	\$3,038,606	\$1,297,14	



**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



February 16, 2001

**COUNTY FISCAL LETTER (CFL) NO. 00/01-61****TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORS****SUBJECT: PLANNING AUGMENTATION TO FISCAL YEAR (FY) 2000/01  
IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM  
ADMINISTRATIVE ALLOCATION****REFERENCE: CFL No. 00/01-14, CFL No. 00/01-33, CFL No. 00/01-48**

The purpose of this letter is to provide counties with a planning allocation augmentation of \$10.5 million in Federal, State, and County funds for the administration of the IHSS Program in FY 2000/01. CFL No. 00/01-33 dated October 27, 2000, allocated \$175 million for FY 2000/01 IHSS Administration. This planning allocation includes augmentations for the Basic Administrative allocation, the Advisory Committee component, and funding for the implementation/administration of the Tyler v. Anderson court case judgement.

**IHSS Basic**

The augmentation of \$6,592,000 in State, Federal, and County funds was distributed based on the following:

- Each county's actual average monthly paid cases for the period covering May 1999 through April 2000. Caseload was obtained from the IHSS Management Statistics Summary Report.
- Each county's revised FY 1998/99 actual IHSS unit cost adjusted for the cost of doing business (1.84%) for both FY 1999/00 and FY 2000/01.
- Each county's actual Title XIX usage rate based on FY 1999/00 expenditures.

Please reference CFL No. 00/01-14 for claiming codes and instructions.



## IHSS Advisory Committee

CFL No. 00/01-33 allocated \$1,515,000 in State and Federal funds for the establishment or continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682, Chapter 90 statutes of 1999. This allocation includes an augmentation of \$1,452,000 in State and Federal funds for the current year Advisory Committee allocation. The available funds were distributed equally to participating counties.

In CFL No. 00/01-48, dated December 22, 2000, Program Code 023 was established retroactive to the September 2000 claiming quarter in order to capture costs related to the Advisory Committees. Please reference CFL No. 00/01-48 for specific claiming guidelines.

### Tyler v. Anderson

A total of \$2,519,000 in State and County funds is being allocated for costs associated with Tyler v. Anderson claim settlement activities. With the exception of Amador, Calaveras, Fresno, Los Angeles, San Bernardino, and Tehama counties, the available funds are being distributed based upon a percent to total of each county's actual average monthly paid cases for the period covering May 1999 through April 2000. The counties listed above were excluded from the original Tyler v. Anderson lawsuit; however, there will still be some workload associated with the settlement activities. Therefore, each of those excluded counties is being allocated \$1,000 per number of locations where Tyler v. Anderson information will be displayed.

ACL 08-01, dated January 22, 2001, provides counties with program implementation guidelines. In addition ACIN No. I-99-99, dated December 22, 1999, provides background information on this settlement. Staff time related to the administration of this program should be charged to Time Study Code 1042 (IHSS -NON HR/NON-PCSP).

If you have any questions concerning this allocation, please contact your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

*Original Document Signed by  
DOUGLAS D. PARK on 2/16/01*

DOUGLAS D. PARK, Chief  
Financial Planning Branch

Attachment

c: CWDA



FINAL REVISED FY 2000/01 IHSS ADMINISTRATIVE ALLOCATION

COUNTIES	FY 2000/01 INITIAL IHSS ALLOCATIONS	FY 2000/01 PLANNING AUGMENTATION	TOTAL	FEDERAL SHARE	STATE SHARE	COUNTY SHARE
CFL'S 00/01-14 & 00/01-33						
ALAMEDA	\$7,293,317	\$502,550	\$7,795,866	\$3,389,833	\$3,092,564	\$1,313,470
ALPINE	\$89,624	\$30,218	\$119,841	\$25,107	\$74,676	\$20,058
AMADOR	\$105,518	\$31,176	\$136,693	\$66,557	\$57,458	\$12,678
BUTTE	\$1,200,804	\$116,879	\$1,317,682	\$619,632	\$496,992	\$201,058
CALAVERAS	\$182,794	\$34,670	\$217,463	\$103,609	\$88,060	\$25,794
COLUSA	\$214,184	\$31,870	\$246,053	\$88,447	\$118,686	\$38,920
CONTRA COSTA	\$3,831,805	\$254,658	\$4,086,463	\$1,832,554	\$1,586,087	\$667,821
DEL NORTE	\$141,938	\$37,149	\$179,087	\$81,499	\$76,673	\$20,915
EL DORADO	\$317,928	\$46,725	\$364,652	\$150,284	\$158,419	\$55,950
FRESNO	\$5,456,699	\$269,280	\$5,725,978	\$2,467,523	\$2,289,279	\$969,176
GLENN	\$280,016	\$39,277	\$319,292	\$139,534	\$134,193	\$45,565
HUMBOLDT	\$1,488,416	\$95,459	\$1,583,874	\$768,510	\$579,113	\$236,251
IMPERIAL	\$1,578,130	\$112,264	\$1,690,394	\$716,089	\$690,370	\$283,934
INYO	\$127,512	\$32,177	\$159,689	\$75,118	\$67,561	\$17,009
KERN	\$3,903,050	\$189,297	\$4,092,347	\$1,913,074	\$1,533,844	\$645,428
KINGS	\$533,738	\$64,276	\$598,014	\$284,315	\$227,949	\$85,749
LAKE	\$771,621	\$89,393	\$861,014	\$420,011	\$317,060	\$123,942
LASSEN	\$124,393	\$31,822	\$156,215	\$68,915	\$69,471	\$17,828
LOS ANGELES	\$71,227,338	\$3,036,373	\$74,263,711	\$35,372,741	\$27,231,630	\$11,659,339
MADERA	\$420,025	\$61,160	\$481,184	\$230,323	\$183,963	\$66,898
MARIN	\$1,039,755	\$63,604	\$1,103,359	\$500,186	\$430,581	\$172,591
MARIPOSA	\$101,695	\$31,670	\$133,365	\$61,027	\$58,998	\$13,339
MENDOCINO	\$1,636,941	\$97,539	\$1,734,480	\$818,242	\$649,726	\$266,512
MERCED	\$827,582	\$93,552	\$921,134	\$431,401	\$351,171	\$138,562
MODOC	\$112,573	\$30,600	\$143,173	\$70,039	\$59,556	\$13,578
MONO	\$88,159	\$28,819	\$116,977	\$44,836	\$58,861	\$13,280
MONTEREY	\$1,992,969	\$132,036	\$2,125,004	\$1,018,164	\$783,145	\$323,695
NAPA	\$436,202	\$46,870	\$483,072	\$228,586	\$186,501	\$67,984
NEVADA	\$320,014	\$49,962	\$369,976	\$178,151	\$142,638	\$49,187
ORANGE	\$3,896,707	\$302,656	\$4,199,362	\$1,887,182	\$1,626,874	\$685,306
PLACER	\$702,107	\$56,710	\$758,816	\$344,071	\$298,682	\$116,064
PLUMAS	\$126,936	\$31,567	\$158,503	\$73,847	\$67,621	\$17,034
RIVERSIDE	\$4,708,735	\$368,536	\$5,077,270	\$2,362,573	\$1,908,632	\$806,065
SACRAMENTO	\$7,435,006	\$542,341	\$7,977,346	\$3,679,018	\$3,017,168	\$1,281,161
SAN BENITO	\$126,947	\$33,163	\$160,109	\$61,849	\$77,145	\$21,115
SAN BERNARDINO	\$9,740,962	\$302,084	\$10,043,045	\$5,046,768	\$3,505,752	\$1,490,525
SAN DIEGO	\$9,761,075	\$703,744	\$10,464,819	\$4,723,309	\$4,019,021	\$1,722,490
SAN FRANCISCO	\$8,367,552	\$561,550	\$8,929,102	\$4,241,013	\$3,290,001	\$1,398,088
SAN JOAQUIN	\$2,649,986	\$210,891	\$2,860,876	\$1,326,063	\$1,082,722	\$452,091
SAN LUIS OBISPO	\$946,209	\$75,467	\$1,021,676	\$493,959	\$377,762	\$149,955
SAN MATEO	\$1,722,440	\$140,545	\$1,862,984	\$724,034	\$805,622	\$333,328
SANTA BARBARA	\$969,669	\$98,866	\$1,068,535	\$433,121	\$453,148	\$182,266
SANTA CLARA	\$4,045,019	\$283,332	\$4,328,351	\$1,980,106	\$1,652,122	\$696,122
SANTA CRUZ	\$990,668	\$86,504	\$1,077,172	\$505,670	\$408,411	\$163,091
SHASTA	\$958,500	\$92,467	\$1,050,967	\$491,420	\$400,041	\$159,505
SIERRA	\$69,829	\$29,018	\$98,847	\$41,757	\$48,325	\$8,765
SISKIYOU	\$181,876	\$38,963	\$220,839	\$103,071	\$90,799	\$26,969
SOLANO	\$1,919,567	\$130,192	\$2,049,759	\$1,001,408	\$742,202	\$306,148
SONOMA	\$2,809,026	\$140,655	\$2,949,680	\$1,433,681	\$1,069,556	\$446,443
STANSLAUS	\$2,678,277	\$187,598	\$2,865,874	\$1,345,466	\$1,072,639	\$447,769
SUTTER	\$231,238	\$13,077	\$244,315	\$120,450	\$86,705	\$37,160
TEHAMA	\$373,825	\$43,812	\$417,636	\$164,389	\$185,636	\$67,611
TRINITY	\$108,878	\$31,930	\$140,808	\$47,083	\$73,969	\$19,755
TULARE	\$1,386,940	\$132,225	\$1,519,164	\$733,582	\$558,264	\$227,318
TUOLUMNE	\$231,698	\$32,985	\$264,682	\$130,149	\$102,535	\$31,998
VENTURA	\$1,441,348	\$112,007	\$1,553,355	\$748,481	\$571,769	\$233,105
YOLO	\$772,349	\$56,105	\$828,453	\$400,527	\$307,909	\$120,017
YUBA	\$386,915	\$42,689	\$429,604	\$206,628	\$164,444	\$58,532
<b>TOTAL</b>	<b>\$175,585,000</b>	<b>\$10,563,000</b>	<b>\$186,148,000</b>	<b>\$87,014,990</b>	<b>\$69,860,702</b>	<b>\$29,272,308</b>





**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



July 18, 2001

COUNTY FISCAL LETTER (CFL) NO. 01/02-12

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORSSUBJECT: FISCAL YEAR (FY) 2001/02 IN-HOME SUPPORTIVE SERVICES  
(IHSS) PROGRAM ADMINISTRATIVE PLANNING ALLOCATION

Contingent upon approval of the State Budget, the amounts identified on the enclosed attachment are your planning allocations for the IHSS program. It is anticipated that a total of \$195 million in Federal, State, and County Funds will be made available upon approval of the FY 2001/02 Budget Act. This planning allocation includes funding for costs associated with Personal Care Services Program (PCSP) activities, Supported Individual Providers (SIP), nurses, and denials of assistance.

**IHSS Basic**

The IHSS planning allocation was developed using the following factors to best model each county's program size for FY 2001/02:

- Each county's actual average monthly paid cases for the period covering May 2000 through April 2001.
- Each county's FY 1999/00 actual IHSS unit cost adjusted for the cost of doing business (5.40%) for FY 2000/01.
- Each county's actual Title XIX usage rate based on expenditures through the first three-quarters of FY 2000/01.
- Each county was guaranteed to receive a minimum planning allocation of 90% of their prior four quarters expenditures.

The caseload information used in this allocation was obtained from the In Home Supportive Services Management Statistics Summary Report. The allocation methodology used assumes that each IHSS/PCSP case takes 11.5 hours to process. The cases were multiplied by the 11.5-hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalents for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.



Counties that operate with SIPs were allocated additional funds included in the FY 2001/02 Budget Act for this activity based on a percent to total of the SIP amount included in the FY 2000/01 allocation. These additional funds were added to the initial base planning allocation.

The IHSS health-related (HR) usage rate was applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP and the residual program. The State General Fund (SGF) share was calculated at 70% of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes 102 (IHSS-Skilled Professional Medical Personnel), 103 (IHSS-PCSP/HR), 104 (IHSS-Non HR/NonPCSP) and 330 (IHSS - Fraud) on the County Expense Claim will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only share through State Use Only Program Code 193. Consistent with prior policy, IHSS surplus funds will be redistributed to counties that are deficit during the closeout process.

### IHSS Advisory Committee

Contingent upon approval of the State Budget, \$3 million in federal and state funds for continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682 will be made available. The SGF portion of \$1,589,000 has been distributed equally to the participating counties and has been included in your total allocation on the attachment. Program Code 023 has been established to capture costs associated with the IHSS Advisory Committees. Program Code 023 is tracked against the total IHSS allocation.

### Tyler vs. Anderson

Contingent upon approval of the State Budget, a total of \$115,000 in SGF will be made available to cover costs associated with Tyler vs. Anderson claim settlement activities. At this time, the funds will not be allocated, but rather held in reserve to be distributed during the close out process.

If you have any questions concerning this allocation, please call your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

*Original Document Signed By*  
GLORIA MERK  
Deputy Director  
Administration Division

Attachment  
c: CWDA



## FY 2001/02 IN-HOME SUPPORTIVE SERVICES (IHSS) &amp; ADVISORY COMMITTEE PLANNING ALLOCATION

COUNTIES	FY 2001/02 IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July 00-March 01 IHSS HR Usage Rate
ALAMEDA	\$8,326,111	\$4,046,707	\$3,003,946	\$1,275,458	49.47%
ALPINE	\$124,045	\$25,105	\$77,621	\$21,319	0.00%
AMADOR	\$128,289	\$61,919	\$54,822	\$11,548	49.75%
BUTTE	\$1,427,556	\$698,289	\$518,850	\$210,417	49.84%
CALAVERAS	\$210,056	\$101,012	\$84,694	\$24,350	49.18%
COLUSA	\$220,734	\$107,671	\$87,507	\$25,556	50.09%
CONTRA COSTA	\$4,561,118	\$2,245,323	\$1,629,420	\$686,375	50.12%
DEL NORTE	\$209,176	\$93,757	\$89,156	\$26,263	44.73%
EL DORADO	\$428,077	\$175,116	\$185,436	\$67,525	40.70%
FRESNO	\$6,707,227	\$2,763,480	\$2,768,986	\$1,174,761	41.88%
GLENN	\$295,560	\$140,282	\$117,058	\$38,220	48.32%
HUMBOLDT	\$1,222,507	\$595,684	\$447,139	\$179,684	49.65%
IMPERIAL	\$1,502,061	\$626,703	\$621,114	\$254,244	42.25%
INYO	\$155,996	\$71,942	\$67,201	\$16,853	46.27%
KERN	\$2,658,662	\$1,216,973	\$1,017,545	\$424,144	46.55%
KINGS	\$535,986	\$256,003	\$204,351	\$75,632	48.65%
LAKE	\$816,922	\$400,438	\$299,902	\$116,582	50.00%
LASSEN	\$172,594	\$77,031	\$75,257	\$20,306	44.18%
LOS ANGELES	\$84,290,886	\$40,253,362	\$30,834,528	\$13,202,996	48.60%
MADERA	\$446,016	\$213,572	\$171,074	\$61,370	48.80%
MARIN	\$1,166,551	\$564,337	\$429,913	\$172,301	49.28%
MARIPOSA	\$135,690	\$62,059	\$59,905	\$13,726	45.47%
MENDOCINO	\$1,422,919	\$688,210	\$522,659	\$212,050	49.26%
MERCED	\$949,672	\$453,765	\$355,498	\$140,409	48.65%
MODOC	\$164,336	\$79,515	\$67,528	\$16,993	50.00%
MONO	\$134,106	\$43,663	\$71,673	\$18,770	23.28%
MONTEREY	\$1,805,129	\$857,892	\$671,429	\$275,808	48.37%
NAPA	\$427,573	\$195,969	\$170,486	\$61,118	46.42%
NEVADA	\$337,047	\$164,670	\$129,027	\$43,350	50.00%
ORANGE	\$4,055,273	\$1,749,615	\$1,622,324	\$683,334	43.85%
PLACER	\$605,039	\$284,186	\$232,960	\$87,893	47.76%
PLUMAS	\$152,497	\$71,827	\$64,832	\$15,838	47.78%
RIVERSIDE	\$5,854,356	\$2,732,306	\$2,193,798	\$928,252	47.49%
SACRAMENTO	\$9,805,017	\$4,910,306	\$3,434,661	\$1,460,050	50.98%
SAN BENITO	\$224,112	\$97,278	\$97,147	\$29,687	42.92%
SAN BERNARDINO	\$8,674,925	\$4,299,295	\$3,071,304	\$1,304,326	50.45%
SAN DIEGO	\$8,902,605	\$4,014,418	\$3,421,731	\$1,466,456	45.89%
SAN FRANCISCO	\$8,749,684	\$4,167,153	\$3,216,135	\$1,366,396	48.47%
SAN JOAQUIN	\$2,864,283	\$1,376,772	\$1,049,621	\$437,890	48.93%
SAN LUIS OBISPO	\$894,663	\$415,392	\$343,853	\$135,418	47.19%
SAN MATEO	\$2,055,603	\$842,342	\$857,646	\$355,615	41.53%
SANTA BARBARA	\$1,269,604	\$577,179	\$493,061	\$199,364	46.18%
SANTA CLARA	\$4,396,682	\$2,079,402	\$1,630,459	\$686,821	48.13%
SANTA CRUZ	\$1,123,938	\$518,235	\$432,355	\$173,348	46.86%
SHASTA	\$896,256	\$418,535	\$342,768	\$134,953	47.48%
SIERRA	\$113,466	\$45,152	\$56,183	\$12,131	33.73%
SISKIYOU	\$219,164	\$102,311	\$90,160	\$26,693	47.28%
SOLANO	\$2,118,699	\$1,026,822	\$772,677	\$319,200	49.35%
SONOMA	\$2,883,533	\$1,381,022	\$1,060,121	\$442,390	48.75%
STANISLAUS	\$2,617,683	\$1,300,546	\$930,359	\$386,778	50.61%
SUTTER	\$265,311	\$129,424	\$103,484	\$32,403	50.00%
TEHAMA	\$439,532	\$162,491	\$202,292	\$74,749	36.17%
TRINITY	\$151,370	\$62,036	\$70,897	\$18,437	38.20%
TULARE	\$1,349,850	\$681,259	\$476,377	\$192,214	51.49%
TUOLUMNE	\$280,691	\$136,981	\$108,960	\$34,750	50.00%
VENTURA	\$1,492,830	\$744,121	\$532,459	\$216,250	50.82%
YOLO	\$805,680	\$389,072	\$299,989	\$116,619	49.21%
YUBA	\$399,455	\$200,472	\$147,651	\$51,332	51.51%
TOTAL	\$194,644,429	\$92,196,714	\$72,190,000	\$30,257,715	48.16%



Joint Expense Claim

San Bernardino

Before Ledger System Processing

A 327.5's Welfare Program Funding

Form Number: DFA 327.5's	County Number 36	Quarter: 06/30/01	08/03/01 15:15:54
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Program Code / Title	Total Prg. Cost to Fund	Federal Share / Ratio	State Share / Ratio	Reimbursements/ Health Share / Ratio	County Share / Ratio
Assesment/Case Plan (A 9/98)	215,240		150,668 0.700		64,572 0.30
Visits/Group Homes/CWD	137,662	68,831 0.500	68,831 0.500		
ADVISORY COMMITTEE	11,944		6,330 0.530	5,614 0.470	
SHIP & FOSTER CARE EMERGENCY	19,572		19,572 1.000		
PROBATION IV-E TRAINING ADMIN (A 9/98)	30,980	15,490 0.500			15,490 0.50
VISITS/GROUP	55,692	27,846 0.500	27,846 0.500		
NO VISITS/GROUP HOMES PROBATION	11,621		11,621 1.000		
Group Home Placements(CWD)	28,726		28,726 1.000		
CWS - IV-B -146-75/17.57.5	3,393,598	2,545,199 0.750	593,880 0.175		254,520 0.07
CCCL - Family Day Care 100% fed				1.000	
CSBG-APS Cnty % Reduction			272,101		( 272,101)
CSBG / MOE			( 55,974)		55,974
<b>Total for Social Services:</b>	<b>30,315,370</b>	<b>16,437,641</b>	<b>7,272,993</b>	<b>2,249,671</b>	<b>4,355,073</b>

CalWORKs

WORKS - IEVS	775,884	775,884 1.000			
Spousal Support Disregard	12,418	12,418 1.000			
WORKS SAVE	61,798	61,798 1.000			
WORKS-Overpayment Collections	618,630	618,630 1.000			
WORKS Fraud	654,995	654,995 1.000			
Federal CalWORKs Fraud	26,921		26,921 1.000		
PA Food Stamps	515,466	257,733 0.500	219,073 0.425		38,660 0.07
Federal CalWORKs	46,263	46,263 1.000			
Team Support Services	17,927	17,927 1.000			
Federal WTW	121,918		121,918 1.000		
WORKS Jail Match (SB 1556)	9,731	9,731 1.000			
WORKS Eligibility	2,813,650	2,813,650 1.000			
Elig Det - CalWORKs/FS/MediCal	685,210	685,210 1.000			
Federal CalWORKs	57,560		57,560 1.000		





DECLARATION OF SERVICE

Erin Corbin, declare that I am employed in the County of Sacramento, State of California, that I am over the age of 18 years and am not a party to the within action, that my business address is 744 P Street, Sacramento, California 95814, that on November 9, 2001, I served the item(s) described in number 1, below, by the method described in number 2, below, to the person(s) and at the address(es) indicated in number 3, below.

1. ITEM(S) SERVED:

DEPARTMENT OF SOCIAL SERVICES TEST CLAIM RESPONSE

2. METHOD OF SERVICE:

**First Class Mail.** I declare that I placed a true copy of the item(s) in a sealed envelope, that I am readily familiar with this agency's practice for the collection and processing of correspondence for mailing with the United States Postal Service, that, pursuant to this agency's ordinary course of business, correspondence will be deposited with the United States Postal Service the same day that mail is placed for collection and mailing, and that, following ordinary business practices, I deposited the envelope(s) in the place at 744 P Street, Sacramento, California for collection and mailing.

**Certified Mail, Return Receipt Requested.** I declare that I placed a true copy of the item(s) in a sealed envelope with the designation "Certified Mail, Return Receipt Requested," that I am readily familiar with this agency's practice for the collection and processing of correspondence for mailing with the United States Postal Service, that, pursuant to this agency's ordinary course of business, correspondence will be deposited with the United States Postal Service the same day that mail is placed for collection and mailing; and that, following ordinary business practices, I deposited the envelope(s) in the place at 744 P Street, Sacramento, California for collection and mailing.

**Facsimile Transmittal.** I declare that on the date shown above at \_\_\_\_\_ am/pm, I sent by facsimile machine a true copy of the item(s) to the person(s) and at the facsimile machine number(s) indicated in number 3, below, that the telephone number of the sending machine is (916) \_\_\_\_\_, that the transmission was reported as complete and without error, and that the transmission report was properly issued by the sending machine. A true copy of the transmission report is attached to this declaration.

**Personal Service.** I declare that I handed a true copy of the item(s) to each person indicated in number 3, below.

**Golden State Overnight.** I declare that I caused a true copy of the items, enclosed in a sealed envelope, with delivery charges pre-paid, addressed as indicated in number 3, below, to be delivered to Golden State Overnight for delivery by next day air.

3. PERSON(S) SERVED:

MS. PAULA HIGASHI, E.D. (HAND DELIVERED)  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

MR. GLENN HASS, Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95816

MR. STEVE KEIL  
California State Association of Counties  
1100 K Street, Suite 101  
Sacramento, CA 95814-3941

MR. JOHN P. LOGGER, SB 90 Coordinator  
Auditor-Controller-Recorder  
County of San Bernardino  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

MR. JAMES LOMBARD  
Principal Analyst  
Department of Finance  
915 L Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814

MR. PAUL MINNEY  
Spector, Middleton, Young & Minney, LLP  
7 Park Center Drive  
Sacramento, Ca 95825

MR. KEITH B. PETERSEN, President  
Sixten & Associates  
5252 Balboa Avenue, Suite 807  
San Diego, Ca 92117

MR. STEVE SMITH, CEO  
Mandated Cost systems, Inc.  
2275 Watt Avenue  
Sacramento, Ca 95825

MR. DAVID WELLHOUSE  
David Wellhouse & Associates, Inc.  
9175 Kiefer Blvd., Suite 121  
Sacramento, CA 95826

MS. PAM STONE, Legal counsel  
DMG-MAXIMUS  
4320 Auburn Blvd., Suite 2000  
Sacramento, CA 95841

MR. JIM SPANO  
State Controller's Office  
Division of Audits (B-8)  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

MS. HARMEET BARKSCHAT  
Mandate Resource Services  
8254 Heath Peak Place  
Antelope, CA 95843

MR. MARK SIGMAN  
Specialized Accounting  
Auditor-Controller's Office  
Riverside County  
4080 Lemon Street, 3<sup>rd</sup> Floor.  
Riverside, CA 92501

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed at Sacramento, California.

DATED: November 9, 2001

SIGNED: \_\_\_\_\_

*Erin Corbin*  
Erin Corbin

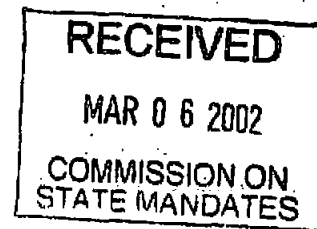


Exhibit C

Public: (916) 445-9555  
Telephone: (916) 324-5465  
Facsimile: (916) 324-8835  
E-Mail: geoffrey.graybill@doj.ca.gov

March 6, 2002

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814



RE: In Home Supportive Services II - 00-TC-23  
County of San Bernardino, Claimant

Dear Ms. Higashi:

The Department of Finance (DOF) has reviewed the above-referenced test claim and hereby submits its views on the validity of the claim.

Although the claim has several elements to it, all of the elements relate to statutes affecting the role of counties in connection with the possibility that in-home supportive service workers become organized for collective bargaining.

The Department agrees with the view of the Department of Social Services (DSS) set forth in its letter to the Commission dated November 8, 2001 that the element relating to the advisory committees is moot because the class covered by the test claim is reimbursed for costs associated with the committees pursuant to Welfare and Institutions Code section 12301.4. Moreover, a finding of "costs mandated by the state" is precluded pursuant to Government Code section 17555 (e) because there is an allocation of funds by DSS pursuant to an appropriation to cover these costs. The test claimant has presented no evidence that these appropriations are insufficient to cover claimed costs as required by the Commission's regulations. (2 CCR section 1183 (e)(4).)

DOF also agrees with the position of DSS that the portion of the test claim pertaining to Chapter 91, Stats. 2000 should be dismissed because it effects no change in the law affecting claimant as alleged in the claim.

Ms. Paula Higashi  
March 6, 2002  
Page 2

DSS also points out that existing federal-state-county cost sharing ratios for the various aspects of providing in-home supportive services apply to the purported costs identified in the test claim. Thus, Government Code section 17556 (e) precludes a finding of "costs mandated by the state."

All of the categories alleged by the test claim to constitute a new program or higher level of service in an existing program created by the state which mandate increased costs on local government relate to costs associated with possible collective bargaining for in-home supportive services workers.

Even if local governments were in fact required by the test claim statutes to incur these costs, they would not be reimbursable because they are wage/benefit-related costs incurred by local governments as a result of state statutes regulating the terms and conditions of employment which the courts have held are not programs subject to the requirements of section 6 of art. XIII B of the California Constitution or Government Code section 17500 et seq.

Moreover, as DSS explains, local governments retain options pursuant to which there would be no increased costs to them resulting from the employer of record, administrative costs and wages and benefits aspects of collective bargaining for in-home supportive services workers. These cost-free or reduced-cost options, which also predate the test claim statutes, preclude any findings of reimbursable state mandated costs.

#### **PREREQUISITES TO FINDING A REIMBURSABLE STATE MANDATE**

The constitutional and statutory prerequisites for a test claim to establish a right to reimbursement for a state mandate are that the test claim statutes or executive orders:

1. Constitute a "program"; and
2. Are "new" programs; or
3. Are "higher levels of service of an existing program"; and
4. These new programs or higher levels of service in an existing program are mandatory i.e., not optional or discretionary; and

5. As a result local governments inevitably and unavoidably incur increased costs; and
6. None of the factors set forth in Government Code section 17556 exist.

The test claimant bears both the burden of proof and the burden of producing admissible evidence to establish each of these prerequisites for each purported reimbursable state mandated program or increased level of service.

The test claim fails to meet these burdens for any of the purported reimbursable state mandated programs or increased levels of service.

**FAILURE OF THE TEST CLAIM TO ESTABLISH ANY  
REIMBURSABLE STATE MANDATE**

***A. None of the Purported Reimbursable Mandates Is A "Program"***

All of the purported reimbursable mandates relate to implementation of potential collective bargaining rights for in-home supportive services workers.

Welfare and Institutions Code section 12301.3 requires the creation and appointment by county boards of supervisors of members of an IHSS advisory committee which is to, *inter alia*, submit recommendations concerning the preferred mode or modes of service of the IHSS program.

These modes of service are related to the requirement of Welfare and Institutions Code section 12301.5 which the test claim (p. 10) alleges requires the selection of one or more modes of service so as to identify an "employer of record" for the purpose of potential collective bargaining with in-home supportive services workers.

The test claim also alleges (p. 11) that Welfare and Institutions Code sections 12301.6 and 12306.1 shift the responsibility for payment of wages and benefits negotiated above a certain amount for in-home supportive services workers to the counties.

Even if these allegations were true, which is not conceded, case law makes clear that since all of these purported mandates relate to the process of determining the rate of pay and

Ms. Paula Higashi  
March 6, 2002  
Page 4

benefits and of paying workers who provide services administered or overseen by the county, there is no "program" within the meaning of section 6 of art. XIII B of the Calif. Const. or Government Code section 17500 et seq. for which reimbursement is required.

The California Supreme Court first articulated and explained this concept in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56-57:

The goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending. [Citation.] Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs. Neither of these goals is frustrated by requiring local agencies to provide the same protections to their employees as do private employers. Bearing the costs of salaries, unemployment insurance, and workers' compensation coverage — costs which all employers must bear — neither threatens excessive taxation or governmental spending, nor shifts from the state to a local agency the expense of providing governmental services.

The Supreme Court reiterated this holding in *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, where it found that extending unemployment insurance to local government employees was not a "program" and therefore was not reimbursable under Art. XIII B or Government Code section 17500 et seq.

*City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190; holds that extending workers' compensation death benefits to local safety members of the Public Employees' Retirement System (PERS), which also provided a death benefit, was not a reimbursable state mandate. The court recited an unbroken line of cases following *County of Los Angeles* and *City of Sacramento* in holding that statutes resulting in increased wage and benefit costs for local government are not reimbursable state mandates. (Id. at 1195-1199.)

The test claim makes no attempt to distinguish any of its purported reimbursable mandates from this unbroken line of cases which preclude reimbursement under Art. XIII B and Government Code section 17500 et seq.

***B. The Test Claim Fails To Establish That The Purported Mandated Programs Inevitably and Unavoidably Result In Increased Costs To The Test Claimant Or Any Other Local Government***

The test claim acknowledges that state funds have been allocated to cover the costs of the advisory committee. (p. 5.) The DSS letter establishes that more money has been allocated for the test claimant than it has sought reimbursement for in connection with advisory committee costs. Thus, Government Code section 17556 (e) precludes a finding of costs mandated by the state.

Moreover, the test claim admits that local governments have the choice of several modalities through which to provide in-home supportive services.<sup>1</sup> (pp. 5-8.) It also concedes that at least one of those modalities actually results in a reduction of county costs. (p. 7.) Further, where the county directly employs in-home supportive services it has complete discretion in any collective bargaining with them as to what wages and benefits will be.<sup>2</sup> Thus, those wages and benefits could not be considered reimbursable state mandated costs. (See, *City of Merced v. State of California* (1984) 153 Cal.App.3d 777.)

The test claim fails to present any evidence, as distinguished from speculation and hypotheticals unsupported by admissible evidence, that notwithstanding existing state-federal-county cost sharing and acknowledged cost savings the test claim statutes result in a net

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<sup>1</sup>These options existed prior to Ch 90/Stats 1999, therefore no county must change or adopt a new mode of service delivery to meet its employer of record obligations or comply with the law. For example, San Bernardino currently operates in the Individual Provider (IP) mode, Ch 90 authorizes counties to act as the employer of record for IHSS workers though the IP mode, so San Bernardino does not need to make a change.

<sup>2</sup>This is true both where the county directly employs IHSS workers in the County Welfare Mode, and where the county acts as the employer of record in the IP mode or through establishment of a Public Authority. In the Contract Mode the county has complete discretion as to what the contract rate will be.

inevitable and unavoidable increase in costs. Thus, Government Code section 17556 (e) again precludes a finding of costs mandated by the state.

***C. The Test Claim Does Not Establish That None Of The Seven Factors Set Forth In Government Code Section 17556 Exist With Respect To Each Purported Mandated Program***

Government Code section 17556 provides that:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

- (a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.
- (b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.
- (c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.
- (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.
- (e) The statute or executive order provides for offsetting savings to local



agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

The test claim addresses these factors on pp. 13-14 and simply concludes with no discussion or reference to evidence that: "None of the above disclaimers have any application to the County of San Bernardino's test claim."

The Commission's regulations (2 CCR section 1183 (e)(4)) require that:

(4) If the narrative describing an alleged mandate involves more than discussion of statutes or regulations or legal argument and utilizes assertions or representations of fact, such assertions or representations must be supported by documentary evidence which shall be submitted with the test claim. All documentary evidence must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.

The test claim fails to comply with the requirements of this regulation. Compliance with the regulation would require a full discussion supported by admissible evidence with regard to each of the seven factors in relation to each of the purported reimbursable state mandates.

For example, in order to rule out Gov. Code section 17556 (d) with respect to each purported reimbursable state mandate, the test claim should set forth every service charge, fee or assessment that the test claimant currently uses or is authorized by law to use, what the revenues from each of these charges, fees or assessments are currently or could be used to fund the

Ms. Paula Higashi  
March 6, 2002  
Page 8

functions at issue and an explanation of the reasons, if any, that the revenues from these charges, fees or assessments cannot be used to fund each of the purported reimbursable state mandates.

Moreover, 2 CCR section 1183 (i) provides in pertinent part:

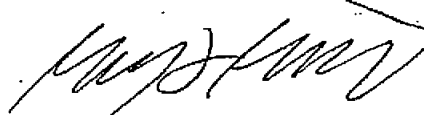
...Test claims will be considered incomplete if any of the preceding [sic] elements or documents required in subsections (e), (f), (g), or (h) of this section are illegible or are not included. If a completed test claim is not received by the commission within thirty (30) calendar days from the date that the incomplete test claim was returned by the commission, the original test claim filing date can be disallowed, and a new test claim(s) can be accepted on the same statute or executive order alleged to contain or impact a mandate.

Thus, not only has the test claim failed to establish each of the prerequisite elements with regard to each purported reimbursable state mandate, it is incomplete under the Commission's regulations and should be returned to the test claimant or disallowed.

### CONCLUSION

For the reasons stated herein and in the response to the test claim submitted by DSS, the test claim should be denied as to each of its elements and in its entirety.

Respectfully submitted,



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Deputy Attorney General

For BILL LOCKYER  
Attorney General

Counsel for Department of Finance, Interested Party

Ms. Paula Higashi  
March 6, 2002  
Page 9

cc: Susan Geanacou, Sr. Staff Attorney, DOP  
TC-23 Mailing List

DECLARATION OF SERVICE

Case Name: **In Home Supportive Services II - 00-TC-23**  
**County of San Bernardino, Claimant**

I declare: I am employed in the County of Sacramento, California. I am 18 years of age or older and not a party to the within entitled cause; my business address is 1300 I Street, Suite 125, Sacramento, California 95814.

On March 6, 2002, I served the attached

**Letter to Paula Higashi of March 6, 2002**  
**re In Home Support Services II - 00-TC023 of**

in said cause, by placing a true copy thereof enclosed in a sealed envelope and served as follows:

United States mail by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing mail in accordance with this office's practice, whereby the mail is deposited in a United States mailbox in the City of Sacramento, California, after the close of the day's business

Golden State Overnight Courier


Facsimile at the following Number: →

Personal Service at the below address at the following time: → \_\_\_ a.m./p.m.

to the parties addressed as follows:

**SEE ATTACHED SERVICE LIST**

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct, and that this declaration was executed at Sacramento, California on March 6, 2002.

  
Ruthann Andersen

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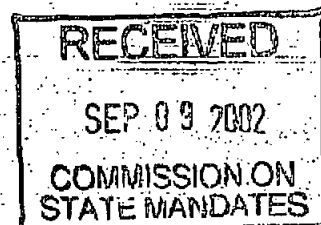
**RESPONSE TO DEPARTMENT OF SOCIAL SERVICES  
AND DEPARTMENT OF FINANCE**

*In Home Supportive Services II*

Chapter 90, Statutes of 1999, Chapter 91, Statutes of 1999, and

Chapter 445, Statutes of 2000

00-TC-23



The County of San Bernardino hereby responds to the comments of the Department of Social Services and Department of Finance to the within test claim.

First, in review of the responses of San Bernardino County, it must be remembered the IHSS is a federal entitlement program<sup>1</sup>: all persons who qualify are entitled to services. The purpose of the program is to reduce the cost of care for the aged, blind or disabled, by providing care for them in their homes. A state may participate in the program by paying a portion of the funding, and complying with the federal requirements. California has participated in the program, and this is codified in Welfare and Institutions Code, Sections 12300 *et seq.* Counties administer the program for the state pursuant to statute and regulations which establish a uniform range of services available to all eligible recipients. *Service Employees International Union v. County of Los Angeles* (1990) 225 Cal.App.3d 761, 765.

This is an important factor, as a common theme throughout is how to best take care of the service recipients, while having an appropriate pool of service providers. As there is presently both a state and county share of costs in the program, it has become incumbent to make sure that the best services are rendered in the least costly manner.

**I. THE TEST CLAIM CONSTITUTES A REIMBURSABLE STATE MANDATE**

The Department of Finance argues that the mandate is to implement potential collective bargaining rights for IHSS workers. On the basis that the process of determining rates of pay and benefits to workers is the crux of the claim, Finance then goes on to state there is no "program" for which reimbursement is required. In so doing, Finance relies upon the case of *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, at 56-57. However, reliance on the *County of Los Angeles* is misplaced as Finance fails to read the clear definition of "program" as offered by the California Supreme Court.

In the *County of Los Angeles*, the issue was whether the increase in workers' compensation benefits which was applicable to both employers in the public and private sector, constituted a reimbursable mandate. The Supreme Court held that with the passage of Proposition 4, which placed Article XIII B, Section 6 in the California

<sup>1</sup> See Unsafe in Their Own Homes: State Programs Fail to Protect Elderly From Indignity, Abuse and Neglect, Little Hoover Commission report dated November 6, 1991, attached hereto as Exhibit 20, at page 3.

Constitution, the "drafters and electorate had in mind subvention for the expense or increased cost of programs administered locally and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities." In using the word "programs" they had in mind the commonly understood meaning of the term, programs which carry out the governmental function of providing services to the public." *Id.* at 49-50.

There is no question but that IHSS is a program which provides services to the public. The public which IHSS serves are the most vulnerable: the aged, blind and disabled. Thus, clearly the test claim legislation meets the requirement of imposing a new higher level of service on an existing program.

Finance also cites *City of Sacramento v. State of California* (1990) 50 Cal.3d 51 for the proposition that the extension of unemployment insurance to local government employees did not constitute a "program", and thus was not reimbursable. However, that case turned on the fact that Chapter 2, Statutes of 1978 did not impose a "unique" obligation on local governments, nor did it require them to provide new or increased governmental services to the public.

However, the within matter clearly imposes a new requirement in order to provide governmental services to the public. Counties must now establish an advisory committee, to provide input to determine the structure of providing services to IHSS recipients; and establish an "employer of record" for the purpose of collective bargaining. Thus, because the state has a compelling interest to allow IHSS service providers to unionize, there is a unique requirement imposed upon counties which provide IHSS services. Counties are not allowed the option of not providing IHSS services. Thus, the requirement imposed by the test claim legislation is clearly a unique obligation on local government. Private entities are not told that they must choose an "employer of record", and have an advisory body with a mandatory composition provide input into the manner in which the services are to be delivered. Thus, Finance's response must fail.

Finance also cites *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4<sup>th</sup> 1190 for the proposition that statutes resulting in increased wage and benefit costs to local governments are not reimbursable state mandates. That, however, is a much too simplistic view of the state of the law.

*City of Richmond* is much like the *County of Sacramento* case. *Richmond* involved the elimination of the PERS coordination of death benefits for workers' compensation for peace officers. As a result of the passage of Chapter 478, Statutes of 1977, peace officer survivors were entitled to not only the PERS benefit, but also the worker's compensation benefits. The court found that the requirement was not "unique" to local government, because it merely repealed an exemption to workers' compensation laws which had previously inured to the benefit of local government. Thus, the law was a matter of general application, and not unique to government. Thus, *Richmond* is clearly inapplicable, because the test claim legislation does not result in local government being

treated the same as private entities: rather, a whole new process which is applicable only to local government has been instituted.

This test claim is much like Collective Bargaining in the school district arena. When the Legislature mandated a collective bargaining system for California's public schools, costs incident to that legislation were found to be reimbursable. Specifically, the costs of the impasse mechanisms of mediation and fact-finding, i.e. advisory interest arbitration, were held reimbursable. (See pages 5 and 6 of the Parameters and Guidelines for *Collective Bargaining*, a true and correct copy of which is attached hereto as Exhibit 1.) Thus, it is not a new concept for the costs of a collective bargaining system in a governmental program to be deemed a reimbursable state mandate.

Thus, the claim of Finance that the test claim does not constitute a new program or increased level of service in an existing program must fail.

## II. THE FACT THAT COUNTIES HAVE A CHOICE AS TO HOW TO IMPLEMENT AN "EMPLOYER OF RECORD" DOES NOT ELIMINATE THE REIMBURSABLE MANDATE

Finance has cited *City of Merced v. State of California* (1984) 153 Cal.App.3d 777, for the proposition that since the county has a choice as to the modality to use to establish an "employer of record", there is in essence a discretionary act, which eliminates the possibility of a finding of a reimbursable mandate.

In *City of Merced*, the issue was once the city determined to exercise the power of eminent domain, whether new requirements for the payment of loss of business goodwill constituted a reimbursable mandate. The court found that the issue of exercising eminent domain was a discretionary one:

"We agree that the Legislature intended for payment of goodwill to be discretionary. The above authorities reveal that whether a city or county decides to exercise eminent domain is, essentially, an option of the city or county, rather than a mandate of the state. The fundamental concept is that the city or county is not required to exercise eminent domain. If, however, the power of eminent domain is exercised, then the city will be required to pay for loss of goodwill. Thus, payment for loss of goodwill is not a state-mandated cost." *Id.* at 783.

The choices imposed upon the county with regard to the establishment of an "employer of record" are not discretionary. In *Merced*, the city had the option of whether or not to commence a proceeding in eminent domain. That choice is not available to counties with IHSS. They must choose the form of an "employer of record". Counties

have no choice not to designate an "employer of record". Thus, there is not the element of discretion which was found by the court in *Merced*.<sup>2</sup>

Accordingly, the fact that the test claim legislation has given counties a choice as to the form that the "employer of record" should take, that choice is not voluntary. The counties must make the decision, and accept the ramifications therefrom.

### III. THE REIMBURSEMENT PROVIDED TO DATE FOR ADVISORY THE COMMITTEE DOES NOT COVER ALL OF THE COSTS INCURRED

Both the Department of Social Services as well as the Department of Finance contend that the test claim is not reimbursable, because all of the costs of the advisory committee required to provide input into the designation of the "employer of record" have been paid. Same is not true.

Attached hereto as Exhibit 2 is a true and correct copy of the Department of Social Services' December 22, 2000 County Fiscal Letter No. 00/01-48. Commencing on page 2, the items which are eligible for reimbursement are specified in detail as follows:

#### "Claiming Instructions"

Assembly Bill 1682 (Chapter 90, Statutes of 1999) requires each county to establish an Advisory Committee to provide recommendations on modes of service to be used in the county for IHSS.

Retroactive to the September 2000 quarter, the following Program Code (PC) and Program Identifier Number (PIN) have been established to capture costs associated with the IHSS Advisory Committees.

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<sup>2</sup> Rather, this matter is much more akin to the cases of *San Diego Unified School District v. Commission on State Mandates* (July 3, 2002) Fourth Appellate District, Division 1, No. D038027 and *Department of Finance v. Commission on State Mandates* (July 17, 2002), Third Appellate District No. C037645. Although in the first matter both the Commission on State Mandates and Department of Finance have filed Petitions for Review with the Supreme Court, and in the latter matter, only the Commission on State Mandates has filed a Petition for Review, neither of these petitions have yet been granted or denied as of the date of preparation of this response. Both of these matters address the issue of whether certain actions taken by school districts are truly voluntary. Given the length of time that it takes the Commission to set test claims for hearing, it is anticipated that these two cases will be resolved prior to hearing on the within test claim. These two cases reexamine the issue of discretion and whether matters which the Commission to this date has determined to be "discretionary" are, in fact, voluntary and discretionary. *San Diego Unified School District* examined the new procedural requirements instituted by the state for mandatory and discretionary expulsions. The Appellate Court held that the discretionary expulsions were truly not discretionary, when the safety of other school children was at issue, and to the extent that the new procedures on discretionary expulsions exceeded federal due process standards, same should be deemed reimbursable. The *Department of Finance* case addressed the issue of the applicability of the Ralph M. Brown Act to school site councils and advisory committees. The Appellate Court had remanded the matter back to the Commission to see whether the creation of these bodies was truly discretionary.

These costs may include but are not limited to: stipends, travel, training, mileage, conference fees, and supplies. Advisory Committees in the Public Authority counties will submit claims for expenses in the same manner as the Non-Public Authority counties.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
023	023068	IHSS Advisory Committee-Direct Costs

The sharing ratio will be 0/53/47/0 (Federal/State/Health/County). Expenditures will be controlled to the IHSS administration allocation (Refer to CFL #00/01-33, dated October 27, 2000). Advisory Committee costs that were incurred and paid between July and September 2000 may be submitted on a supplemental claim.

Costs incurred by the County Welfare Department (CWD) for supporting the IHSS Advisory Committee are not allowable for reimbursement under these codes. Any CWD costs for providing support activities for the IHSS Advisory Committee should be charged to the appropriate IHSS/PCSP claim codes on the County Expense Claim (CEC).

The effect of these Claiming Instructions is to eliminate substantial costs that were incurred by the County of San Bernardino's Department of Aging & Adult Services (DAAS), which is the department within the county that administers the IHSS program. As seen from the Declaration of Janice Lindsay, filed contemporaneously herewith, substantial supportive services were necessary in order that the Advisory Committee actually exercise its mandate, namely to provide quality input into the county's decision making process as to the determination of the appropriate mode of service. The costs for the Advisory Committee alone have exceeded several times the allotment actually paid by the Department of Social Services.

The Department of Social Services has stated that it has annually appropriated \$53,000 for San Bernardino's Advisory Committee, however only \$11,944 was claimed, and thus asserts that this component has been fully subvented by the Department of Social Services.

If, however, as in this matter, the Department of Social Services has so defined what it will voluntarily reimburse to exclude a substantial amount of the costs incurred, then such payment does not constitute full reimbursement to the County of San Bernardino, as is required by the California Constitution. Thus, the argument of both the

Department of Social Services and Department of Finance that the Advisory Committee has been fully recompensed must fall.

#### IV. THE CONTRACT MODE IS NOT A NO COST CHOICE

The Department of Social Services has argued at length that if the county were to have chosen the Contract Mode, instead of the Public Authority Mode which it ultimately selected, that it would be at no cost to the county, and there would be no cost to the county. This could not be further from the truth.

Previously, the County of San Bernardino did previously use the contract mode, which required the expense of a substantial amount of administrative time. Problems were encountered when the County of San Bernardino wanted to use a Request for Proposal (RFP) instead of the state's required Invitation for Bid, because of past problems experienced by the county in using the IFB process. When the IFB was used in the past, once the contract was signed, the contractor started carving out services and recipients which it would not provide or serve, notwithstanding the contract. The county wanted to have a new contract ready to commence effective July 1, 1989; however, it took from June until September of 1988 just to get permission to use the RFP.<sup>3</sup> This is just one small step in trying to utilize the contract mode for the provision of IHSS services. Thereafter, the RFP had to be issued, a contract negotiated and executed. Thus, there are substantial administrative costs just getting to the point of contract execution.

Even if the assertions of the Department of Social Services that the contract mode costs no money for administration, the Department has omitted one crucial fact: Under the test claim legislation, pursuant to Welfare & Institutions Code, Section 1230.25, counties such as San Bernardino, which have in excess of 500 cases are required, at the request of the recipient, to provide the individual provider option. Thus, no matter what, the County of San Bernardino would have to have an option other than contract for the administration of an "employer of record" for those individuals who wish the individual provider option.

The Department of Social Services has argued that an individual provider can be tied in to a contractor under the contract option. See response of the Department of Social Services, paragraph 6 under the heading "Employer of Record". However, this is

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<sup>3</sup> Attached hereto as Exhibit 3 is a true and correct copy of the June 29, 1988 letter from the county to Linda S. McMahon of the Department of Social Services requesting to use the RFP instead of the IFB. Attached hereto as Exhibit 4 is a true and correct copy of the July 14, 1988 letter from Loren Suter of the Department of Social Services to the county, indicating that the request to use an RFP was incomplete, and specifying what other requirements had to be included for Department of Social Services' approval. Attached hereto as Exhibit 5 is a true and correct copy of a letter from the county to Loren Suter of the Department of Social Services, providing more information on the RFP. Attached hereto as Exhibit 6 is a true and correct copy of the letter by Loren Suter to the county, approving the usage of the RFP for the selection of a contractor. Attached hereto as Exhibit 7 is a true and correct letter from the Department of Social Services to the county, dated November 1, 1988, stating that the RFP had not been approved. Attached hereto as Exhibit 8 is a true and correct copy of the Department of Social Services' All County Letter No. 88-124, dated September 20, 1988, providing an update on the State's model contract for contracting counties.

not necessarily true. The individual provider may not wish to work for the contractor; conversely, the contractor may find that a particular employee is not suitable for its work force. To force a contractor to accept any person so designated by a recipient may fly in the face of requirements imposed through the RFP or IFB process, if the county requires that contract employees meet certain conditions before providing services, such as clearing a criminal background check. Additionally, recipients or their care givers may not wish to be required to join a given contract care provider.<sup>4</sup>

However, the track record of contracting for IHSS providers is not as easy as described by the Department of Social Services.

An early contract dispute arose between the City and County of San Francisco and the Department of Health (precursor to the Department of Social Services with regard to the administration of the IHSS program). San Francisco had issued an IFB to find a contractor for provision of IHSS services. San Francisco did not choose the lowest bidder, but the next lowest bidder. One day prior to the day when the contract was to become effective, the Department of Health informed the County that the lowest bidder established the reasonable cost of services, and since the County had not provided a reason not to accept the lowest bidder, the State would not approve the contract upon which the County had entered. As a result, San Francisco brought suit.

The litigation ultimately resulted in the opinion at *City and County of San Francisco v. State of California* (1978) 78 Cal.App.3d 959. In reviewing the then existing legislation regarding the operation of the IHSS program, the court held that the Department of Health had total control to approve or disapprove all contracts. In this regard, the court stated:

"First, as indicated above, the statute grants full power to DOH, the designated single, financially liable state agency, to supervise every phase of the administration of services. This all-inclusive supervisory power necessarily embraces the power of fiscal control. In order to exercise fiscal control in an efficacious and meaningful way, however, the state must have authority to disapprove ill-considered, wasteful or overly burdensome social

<sup>4</sup> See Exhibit 20, Report of the Little Hoover Commission, wherein the report states, at page 15:

"California officials defend the heavy reliance on IPs because it gives the recipients freedom of choice in who serves them. Advocates for the elderly and the disabled also have argued strenuously against legislation in past years that would have automatically placed non-severely impaired recipients with Contract Care agencies. They say that not only is freedom of choice critical to allowing IHSS participants to retain their dignity but they also argue that past performances by contract agencies have not been good. Some have treated workers poorly, others have abruptly quit providing service in counties and others have not been any more successful in finding adequate numbers of care providers than those struggling to obtain service in the Individual Provider mode."

~~From services contracts which unduly deplete the limited state~~  
~~welfare funds on the one hand, and shut off the all-~~  
important federal contribution on the other. The implied  
~~power to disapprove social service contracts, therefore,~~  
must be deemed to constitute an indispensable element of  
the full fledged supervisory power granted to DOH by way  
of express statutory mandate.

~~Second, as also set out earlier, the statute delegates~~  
the power to determine the maximum allowable cost of  
homemaker and chore services contracts to DOH [citation  
omitted]. It is plain that this cost-setting power of the state  
agency would be meaningless and futile if not combined  
with authority to enforce it. In short, the enforcement of  
the cost-limiting provisions postulates a state power to  
disapprove home-maker or chore services contracts in case  
they are in conflict with or contravene the cost-limitation  
mandated by the statute.

"Third, the authority of the state to approve or  
disapprove the homemaker and chore services contracts is  
supported by sound legal policy. As mentioned earlier,  
state welfare funds are limited in amount even if  
contributed to a large extent by the federal government.  
The limited nature of the financial resources makes it  
imperative that the funds available be used in a prudent,  
thrifty and equitable way in view of the overriding  
objective that all eligible and needy welfare recipients be  
provided the in-home services to which they are entitled  
under the statute. It is obvious that this statutory goal may  
be attained only if the designated single state agency has  
control over the allocation of the funds among the  
numerous counties and has the authority to strike a balance  
among competing claims. Should the supervisory power of  
the state be curtailed and the respective counties be given a  
blank check in the state funding of such contracts as San  
Francisco advocates, the legislative objective to provide in-  
home supportive services to *all* needy and eligible welfare  
recipients would be frustrated, and the profligate and  
unreasonable spending of certain counties would result in  
depletion of the limited welfare resources at the expense of  
other equally eligible and needy welfare recipients.

"Fourth, the state's power to disapprove wasteful  
and undesirable social services contracts is buttressed by  
the administrative directives issued by DOH and the



longstanding practice established between State and the counties. Thus, guidelines attached to Social Services Letter No. 76-7 issued to all county welfare directors on July 16, 1976, emphasizes that: "*County awards contract contingent on Department of Health approval.* . . ." and that "*The county will submit the contract . . . to the Department of Health for approval.*" (Italics added.) The invitation for bids likewise underlined that "Following the public hearing before the Board of Supervisors on material pertaining to the bids, *all material pertaining to the award will be sent to the Department of Health, State of California, for final approval* and that approval be directed to your Department in writing." (Italics added). Also, in a similar action (San Francisco Home Health Service v. State of California, action No. 717-372), County's purchasing agent acknowledged that in-home supportive services contracts called for approval by State. [Footnote omitted]. The above samples clearly indicate that all the parties to this lawsuit interpreted the applicable statutes and regulations to the effect that State had power to approve or disapprove the types of social service contracts involved in this case. . . ." *Id.* at 964-967, emphasis in original.

Thus, even the extraordinary amount of time and effort needed to process a contract does not necessarily result in a contract being approved by the now Department of Social Services.

Additionally, San Bernardino has had problems in the contracting process previously, when it utilized the contract mode for service delivery.

Attached hereto as Exhibit 9 is a true and correct copy of an internal memorandum, outlining the difficulties that San Bernardino County was having with the Department of Social Services regarding the contract mode as far back as 1982.<sup>5</sup> Even at that time, Social Services was not easy to deal with in the contract mode, particularly given the geography of San Bernardino County, where there are substantial areas which are distant from the county seat.

In 1987, San Bernardino went through an audit of its IHSS contract. Attached hereto as Exhibit 10 is a true and correct copy of an internal memorandum detailing

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<sup>5</sup> With this issue, as well as others pertaining to the historical relationship between the county and the Department of Social Services, in the past few years, most of the individuals with knowledge of the relationship have retired. Some of the old documents and correspondence has disappeared, and is rumored to have left with departing employees. Efforts are continuing to contact former employees in order to ascertain better information. If further information is forthcoming, same will be provided to the Commission in a supplemental filing.

issues regarding the audit, and Exhibit 11 is the county's official response to the audit.<sup>6</sup> It is obvious from the correspondence that the contract process involves more than just the issuance of a contract, with no administrative responsibilities.

Additionally, in 1986, the Department of Social Services granted a 1% cost of living increase to IHSS providers. Due to the fact that San Bernardino had an existing contract at that time with Health Conservation, Inc., which subcontracted with Visiting Nurses Association, much work was necessary in order for the actual care providers to receive the COLA. Attached hereto as Exhibits 12, 13, 14, and 15 is correspondence relating to the problems associated with the contract amendment, in order that the care providers actually receive the COLA.<sup>7</sup>

Over the years, many studies have been performed to determine what is actually cheaper, contract or the individual provider mode. Without a doubt, the individual provider mode has been found less expensive to provide. This is due to the fact that generally the providers who work for a contractor receive some small benefits, and there is also the built-in profit and administrative costs for the contractor. Additionally, usually the cases which are assigned to a contractor are less time intensive, and thus the hours of service for these cases is less than those which remain in the individual provider mode. As the county must bear a share of costs for this mode, if the cost per service hour under the contract mode is greater than that for the individual provider mode, then the total cost to the county, pursuant to its share of cost, will also be greater.

Attached hereto as Exhibit 16, is a report to the Legislature by the Department of Social Services, evaluating Santa Cruz County's pilot project. It should be noted, on page 5, in assessing the claims by Santa Cruz that the mixed mode (both contract and individual provider) was cost efficient, the Department noted that that claim was not supported by the evidence. The report notes in the analysis that the contract hourly rate was approximately twice the cost of the hourly rate for individual providers.

The IHSS program was the subject of a report by California's Auditor General in March, 1987, a true and correct copy of which is attached hereto as Exhibit 17. On page 2 of the report, it notes the difference in hourly cost per case depending upon the mode of service. For the individual provider mode, the average cost per hour was \$3.76. For private agencies under contract to a county, the average cost per hour was \$7.21. For those cases where counties employees provided services, the average cost per hour was \$9.43, which did not include county overhead. Thus, even as far back as 15 years ago, the contract mode was clearly not less expensive.

<sup>6</sup> Again, notwithstanding a review of old records, all of the materials pertaining to the conduct of the audit could not be located. Attempts are being made to ascertain if there are any of these old materials still extant.

<sup>7</sup> As is noted, by the time two years had elapsed, the COLA had still not been granted to the actual care providers. San Bernardino was of the opinion that the contract should be amended and increased, whereas the State was of the opinion that the COLA could be granted within the contract's cap. Unfortunately, correspondence and documentation regarding the ultimate outcome was not found, and this is additional information for which ongoing efforts to locate are being made.

Additionally, on page 23 of the report, those persons with individual providers were more satisfied and had been less inconvenienced by an interruption in service than those served by the contract mode. The Auditor General's Report also noted that more contract providers requested falsification of their time sheets than individual providers (14% versus 2%).

In consideration of the cost of providing care, it should be noted that the types of services provided by the IHSS workers include everything from the mundane such as domestic services to the very personal including bowel and bladder care, menstrual care and bed baths.<sup>8</sup> Thus, particularly for those who need personal care services, satisfaction and comfort with the care provider is of paramount importance.

Over the years, there have been competing interests in providing services under IHSS. In the 1990's, the private industry providing care provider services had been urging greater privatization under the contract mode. Attached hereto as Exhibit 19, is a true and correct copy of the response to the industry's privatization proposal by the State Department of Social Services, dated July 6, 1990. All throughout this document, Social Services provides documentation that the contract mode costs greater than the individual provider mode, starting in the first paragraph. At that time, the average cost per hour of service under the individual provider mode was \$4.68, whereas the average cost per hour under the contract mode was \$8.51. There was an attempt by the industry to show that the difference was attributable to the fact that once contract cases were converted to individual provider cases, the social worker would increase hours in order to make up the differential. The Department of Social Services found that not to be the case: the hours would have to be increased by 82% to make up the difference. (*Id.*, page 1.) There was some evidence presented by the Department that to convert individual provider cases to contract cases would, in fact, cost an additional \$169.9 million dollars annually. (*Id.*, page 3.) Additionally, overhead in the individual provider mode cost only 2¢ per hour, while overhead for contract mode cost 98¢ per hour, with an additional 21¢ per hour for profit. (*Id.* at page 5.)

The Department also stated that:

"The Contract mode administration overhead referred to in proponents allegations is essentially the cost of the private business, not the cost of administering the IHSS program. As mentioned above, the IHSS administrative/overhead costs occur at essentially the same level across all modes. Simply stated, the costs of County and/or State administration remain the same regardless of the mode of delivery for IHSS services." (*Id.* at page 6.)  
[Emphasis in original.]

<sup>8</sup> Welfare and Institutions Code, Section 12300 contains the outline of the basic types of care which are provided to recipients. Attached hereto as Exhibit 18 is a true and correct copy of a page of a document taken from the County of San Bernardino which lists the subcategories of care provided by the Department's Regulations.

Thus, the present contention by the Department of Social Services that there would be no administrative overhead by San Bernardino if it were to elect the contract mode flies in the face of statements made by the Department. Additionally, change in mode to the contract mode has been discouraged by the Department:

"State law and policy clearly do not limit the ability of Counties to choose their mode of service delivery. However, the State has not approved mode shift requests that increase expenditures unless the County is willing to cover any costs that exceed their allocation. The State continues to approve County plans that utilize the Contract mode of delivery when it can be accomplished within existing resources. Basically each County's allocated share of the annual State budget is the controlling factor. Therefore, if contracting is less expensive, Counties should be able to shift to that mode and remain within their allocation." (*Id.* at page 9.)

"On 7/1/88 the average cost per hour of the IP mode was \$4.68 while the Contract mode cost per hour was \$8.51. These costs are not similar and it cannot be said that a switch to Contract mode for all NSI cases would be cost effective. Using 7/1/88 cost/hour data for cases served in April 1990, the added cost of serving all NSI cases in the Contract mode which were served in the IP mode that month would be an annual cost of \$247.2 million (5,378,274 NSI Paid Hours in IP Mode x \$3.83 x 12 months). At the 1990 rate, the cost would be even more dramatic." (*Id.*)

Thus, the contention that conversion to the contract mode would be a cost savings to the County of San Bernardino flies in the face of the Department's own research and findings.

The differences between the individual provider and contract mode of care was reviewed, amongst other issues, by the Little Hoover Commission in its report, Unsafe in Their Own Homes: State Programs Fail to Protect Elderly From Indignity, Abuse and Neglect, dated November 6, 1991, and attached hereto as Exhibit 20. The report concluded that individual providers make less than \$5 per hour, whereas contract agencies charge \$9 per hour. (*Id.* at page 12.) However, in addition to cost, there are other considerations. Individual provider mode is a vital element of the IHSS program, particularly to those recipients who need personal care services, and the need to select relatives as care providers. (*Id.* at page 13.) Freedom of choice is very important to IHSS recipients. (*Id.* at page 15.)

Thus, the Department of Social Services' conclusion that there is no extra cost by the conversion by San Bernardino to contract mode is substantially in error. Furthermore, San Bernardino experienced the state's displeasure with its prior contract mode due to ever increasing costs due to case load growth.

In 1987, the Department of Social Services required San Bernardino County to terminate its contract with the then provider, Remedy Home and Health Care, Inc., because of the costs involved. Attached hereto as Exhibit 21 are a number of newspaper articles which covered the issue, discussing the effect of the contract's cancellation on both providers and recipients. In passing, it should be noted that the Remedy Home and Health Care, Inc. workers were members in the United Domestic Workers' union.<sup>9</sup>

The reason for the contract's cancellation was because the state had charged that contracting for the services was more expensive than the individual provider plan.<sup>10</sup> Apparently, it was the opinion of some that the genesis of the audit of 1984-1986 previously referred to was a previous attempt to end San Bernardino's contracting process. It was asserted in the article that:

"But the audits proved though the cost per hour for Remedy workers was higher than the hourly cost of individual providers, the former provided quicker and better service.

"So the state backed down. Until now.

"According to Decker, the system has priced itself out of business.

"Remedy workers cost about \$8.88 an hour, while aides employed directly cost the program just \$4.03.

"This year Remedy's contract would cost \$20.5 million. But 90 percent of the money comes from the state; and the state has allocated just \$16.5 million.

"The county begged for more, offering to meet the state part way by cutting services to some less needy clients.

"The state said OK. Well, sort of. The state realized this was the opening it had been looking for. It agreed to supply enough money to pay individual providers, effectively killing the contract.

"By the way, the state said, cutting services to any of the program's clients was out of the question.

"So on Jan. 5 the supervisors voted to terminate Remedy's contract." (*Id.*)

<sup>9</sup> See article in The Daily Report, entitled "Union warns program fro elderly in danger", published Wednesday January 28, 1987.

<sup>10</sup> See article in the Desert Dispatch, entitled "What Would Ronnie Think?", published Saturday, January 24, 1987.

In conclusion, the contention of the Department of Social Services that to contract for care provider services is specious. First of all, there is no guarantee that the Department of Social Services will approve a contract mode or the contract itself. Even if the Department of Social Services approves the contract, it may refuse to fully fund it. Administrative costs do not decrease once the contract mode has been selected; as seen from the documents above, the Department contends that the county's administrative costs remain the same. Even if the contract mode is selected, the Department may force the county to disband it in the future due to fiscal concerns. Thus, there is no validity to the contention that the contract mode is at no cost to the counties.

#### V. THE PURPOSE OF THE TEST CLAIM LEGISLATION WAS TO FORCE COUNTIES TO ESTABLISH A MECHANISM FOR BARGAINING WITH CARE PROVIDERS

For years, there had been efforts to unionize individual providers for the purpose of collective bargaining. As noted above, United Domestic Workers represented contract employees in San Bernardino County, and we are informed and believe, and based upon such information and belief, state that other counties' contract care providers were also represented by a union.

In 1985, the California Attorney General issued an opinion that stated that individual providers were employed by the county for the purpose of collective bargaining, and thus were entitled to the protections of the Meyers-Milias-Brown Act.<sup>11</sup>

As a result of that opinion, the Service Employees International Union attempted to organize the individual providers in Los Angeles County, and sought to bargain with the county. When Los Angeles refused, SEIU filed a petition for writ of mandate, seeking to compel collective bargaining. The trial court denied the petition, and an appeal was filed. In *Service Employees International Union, Local 434 v. County of Los Angeles* (1990) 225 Cal.App.3d 761.

The appellate court, while finding that the opinions of the Attorney General are entitled to great weight, found that the county did not exercise control over the providers either directly or indirectly. The court reviewed indicia of employment, and found that they were not "public employees" for the purposes of the Meyers-Milias-Brown Act. Consequently, these individuals had no right to collective bargaining.

As recently as 1991, the Little Hoover Commission noted that the state had ducked the unionization issue and had passed it on to the counties.<sup>12</sup>

The Department of Social Services has recognized that the effect of the test claim legislation is to increase costs for provider wages and benefits, as well as the

<sup>11</sup> See Opinion of the California Attorney General, No. 84-308, dated July 23, 1985, attached hereto as Exhibit 22, and incorporated herein by reference.

<sup>12</sup> See Report of the Little Hoover Commission, Exhibit 20, at pages 10-11.

establishment of an employer of record. After noting that the costs of the program will increase, the Department states that the legislation does not permit the reduction in service hours to any recipient.<sup>13</sup> The Department reiterated that IHSS is an entitlement program, but services must be provided within the constraints of the Budget Act, and counties who exceed their allotment are at risk of not receiving full reimbursement. (*Id.* at page 4.) Additionally, the Department reminded counties that their responsibility is to pay 35% of the non-federal share of costs. (*Id.* at page 2.)

Thus, the entire purpose of this legislation is to allow individual providers to unionize, yet be able to totally control any exposure the state may have to increased costs which will inevitably occur. This is particularly disheartening in light of the finding by the Little Hoover Commission that the State has not taken advantage of all federal resources available to it, which would result in a diminished state and county contribution.<sup>14</sup>

The issue of the state's maximizing federal revenue was apparently raised by the County of Tulare in connection with its IHSS demonstration project. Attached hereto as Exhibit 24 is a true and correct copy of a letter written by John Rodriguez, Deputy Director with the Department of Health Services to the Robert W. Naylor, dated August 29, 1995, denying that the state believed that there was any need to apply for federal Medicaid waivers or other federal funds.

Thus, while recognizing that this new state legislation has the result of increasing costs to local government, the state has refused to examine the issue of federal waivers or additional federal funding to alleviate the obvious funding issues.

#### **VI. CHAPTER 91, STATUTES OF 1999 WAS PROPERLY INCLUDED IN THE TEST CLAIM**

Both the Department of Social Services and the Department of Finance have argued that Chapter 91, Statutes of 1999 should not be included in the test claim. The County of San Bernardino respectfully disagrees.

The state agencies have argued that since the primary focus of the test claim is the designation of the "employer of record" and the issue of collective bargaining, that this provision does not belong in the test claim. That is an overly simplistic summation of the test claim, as there are additional provisions for which reimbursement is sought including, but not limited to the required advisory committee as well as the county's share of any increase in wages resulting from collective bargaining.

Chapter 90, Statutes of 1999 contained a provision wherein there was an increase in provider wages or benefits negotiated or agreed to by a public authority or non-profit consortium, the increase would be shared in the same ratio as the service components of

<sup>13</sup> See Department of Social Services, All-County Letter No. 00-68, dated September 20, 2000, attached hereto as Exhibit 23, at page 5.

<sup>14</sup> See Report of the Little Hoover Commission, Exhibit 20, at page 19.

the program (65% state, 35% county of the non-federal share). However, Chapter 91, Statutes of 1999 repeals that provision, and requires that the county use county-only funds to fund both the county's, as well as the state's share, including employment taxes.

Although Chapter 91 was also effective on July 12, 1999, it came after Chapter 90. Thus, Chapter 90 was in effect prior to the sections' repeal by the passage of Chapter 91. The Legislature is presumed to be aware of related law. *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 176. Thus with the passage of Chapter 90, the Legislature is presumed to have known its contents and the new provisions regarding payment of increase in wages. If the Legislature had not wished to pass the law in that fashion, it could have so amended it. Since the Legislature did not change the provisions of Chapter 90, it is presumed that the Legislature so intended. The fact that Chapter 91 was later enacted means that the Legislature intended the provisions of Chapter 90 to be enacted as is.

To eliminate Chapter 91 from the test claim eliminates the provisions of law from consideration by the Commission which effectively reduced the amount of the State's contribution to wages.

Pursuant to 2 California Code of Regulations, Section 1183 (3)(2), all test claims must contain those provisions of state law which impact the alleged mandate. Thus, the test claim would be incomplete if Chapter 91 were not included in the test claim.

Thus, the County of San Bernardino requests that Chapter 91 remain part of the within test claim.


## VI. CONCLUSION

In conclusion, the County of San Bernardino requests that the Commission find that Chapters 90 and 91, Statutes of 1999, and Chapter 445, Statutes of 200 be found to constitute a reimbursable state mandate claim.

## CERTIFICATION

The foregoing facts are known to me personally, except as to those matters which are stated under information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and complete to the best of my personal knowledge and as to all matters, I believe them to be true.

Executed this 6 day of September, 2002, at San Bernardino, California, by:

  
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Mary R. Sawicki, Director  
Aging & Adult Services, County of San Bernardino



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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Government Code Section 3540 et seq., as added by Chapter 961, Statutes of 1975 et al

Government Code Section 3547.5, as added by Chapter 1213, Statutes of 1991, and the California Department of Education Advisory 92-01

And filed on December 29, 1997;

By the Alameda County Office of Education, Claimant.

No. CSM 97-TC-08

*Consolidation of Collective Bargaining and Collective Bargaining Agreement Disclosure*

ADOPTION OF AMENDED  
PARAMETERS AND GUIDELINES  
PURSUANT TO GOVERNMENT  
CODE SECTION 17557 AND  
CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, SECTIONS  
1183.12 AND 1183.2.

(Adopted on August 20, 1998)

DECISION

The attached *amended* Parameters and Guidelines of the Commission on State Mandates were hereby adopted in the above-entitled matter.

This Decision shall become effective on August 25, 1998.

  
\_\_\_\_\_  
PAULA HIGASHI, Executive Director

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Adopted: October 22, 1980  
Amendments Adopted: 8/19/81  
(Amendments applicable only to claims for costs incurred  
after June 30, 1981)  
Amended: 3/17/83  
Amended: 9/29/83  
Amended: 12/15/83  
Amended: 6/27/85  
Amended: 10/20/88  
Amended: 7/22/93  
Amended: 8/20/98  
Document Date: August 21, 1998

**CLAIMANT'S PROPOSED CONSOLIDATED PARAMETERS AND GUIDELINES,  
AS MODIFIED BY STAFF**

Chapter 961, Statutes of 1975  
Chapter 1213, Statutes of 1991

**Collective Bargaining  
and  
Collective Bargaining Agreement Disclosure**

An act to repeal Article 5 (commencing with Section 13080) of Chapter 1 of Division 10 of the Education Code, and to add Chapter 10.7 (commencing with Section 3540) to Division 4 of Title 1 of the Government Code, relating to public educational employment relations, and making an appropriation. This bill, which was operative July 1, 1976, repealed the Winton Act and enacted provisions to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. Chapter 1213, Statutes of 1991 added section 3547.5 to the Government Code. Government Code section 3547.5 requires school districts to publicly disclose major provisions of a collective bargaining agreement after negotiations, but before the agreement becomes binding.

A. Operative Date of Mandate

The provisions relating to the creation, certain duties of, and appropriations for the Public Employment Relations Board were operative on January 1, 1976. The provisions relating to the organizational rights of employees, the representational rights of employee organizations, the recognition of exclusive representatives, and related procedures were operative on April 1, 1976. The balance of the added provisions were operative on July 1, 1976.

The provisions relating to Collective Bargaining Agreement Disclosure added by Chapter 1213, Statutes of 1991 were operative on January 1, 1992. The California Department of Education issued Management Advisory 92-01 dated May 15, 1992, to establish the

public disclosure format for school district compliance with the test claim statute.

B. Period of Claim

Only costs incurred after January 1, 1978 may be claimed. The initial claim should have included all costs incurred for that portion of the fiscal year from January 1, 1978, to June 30, 1978.

Pursuant to language included in the 1980-81 budget, claims shall no longer be accepted for this period. All subsequent fiscal year claims should be filed with the State Controller's Office for processing.

The test claim on Chapter 1213, Statutes of 1991 was filed with the Commission on December 29, 1997. Accordingly, the period of reimbursement for the provisions relating to disclosure begins July 1, 1996. Only disclosure costs incurred after July 1, 1996 may be claimed.

C. Mandated Cost

Public school employers have incurred costs by complying with the requirements of Section 3540 through 3549.1 established by Chapter 961, Statutes of 1975. In addition, some costs have been incurred as a result of compliance with regulations promulgated by the Public Employment Relations Board (PERB). Since these activity costs (referred to collectively as "Rodda Act" activities and costs in this document), in many respects, simply implement the original legislation, it is intended that these parameters and guidelines have embodied those regulations or actions taken by PERB prior to December 31, 1978.

D. County Superintendent of Schools Filing

If the County Superintendent of Schools files a claim on behalf of more than one school district, the costs of the individual school district must be shown separately.

E. Governing Authority

The costs for salaries and expenses of the governing authority, for example the School Superintendent and Governing Board, are not reimbursable. These are costs of general government as described by the federal guideline entitled "Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government," ASMB C-10.

**F. Certification**

The following certification must accompany all claims:

**I DO HEREBY CERTIFY:**

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claim for funds with the State of California.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

**G. Claim Components (Reimbursable Costs)**

Reimbursable activities mandated by Chapter 961, Statutes of 1975 and Chapter 1213, Statutes of 1991 are grouped into seven components, G1 through G7. The cost of activities grouped in components G1, G2, and G3 are subject to offset by the historic cost of similar Winton Act activities as described in H2.

1. Determination of appropriate bargaining units for representation and determination of the exclusive representatives.
  - a. Unit Determination: Explain the process for determining the composition of the certificated employee council under the Winton Act, and the process for determining appropriate bargaining units including the determination of management, supervisory and confidential employees, under Chapter 961, Statutes of 1975, if such activities were performed during the fiscal year being claimed.
  - b. Determination of the Exclusive Representative: Costs may include receipt and posting of the representation and decertification notices and, if necessary, adjudication of such matters before the PERB.

c. Show the actual increased costs including salaries and benefits for employer representatives and/or necessary costs for contracted services for the following functions:

- (1) Development of proposed lists for unit determination hearings if done during the fiscal year being claimed. Salaries and benefits must be shown as described in Item H3.
- (2) Representation of the public school employer at PERB hearings to determine bargaining units and the exclusive representative. Actual preparation time will be reimbursed. Salaries and benefits must be shown as described in Item H3.
- (3) If contracted services are used for either (a) or (b) above, contract invoices must be submitted with the claim. Contract costs must be shown as described in Item H5.
- (4) Indicate the cost of substitutes for release time for employer and exclusive bargaining unit witnesses who testify at PERB hearings. The job classification of the witnesses and the date they were absent must also be submitted. Release time for employee witnesses asked to attend the PERB hearing by bargaining units will not be reimbursed.
- (5) Identify the travel costs for employer representatives to any PERB hearing. Reimbursement shall reflect the rate specified by the regulations governing employees of the local public school employer.
- (6) Cost of preparation for one transcript per PERB hearing will be reimbursed.

2. Elections and decertification elections of unit representatives are reimbursable in the event the Public Employment Relations Board determines that a question of representation exists and orders an election held by secret ballot.

- a. Submit with your claim any Public Employment Relations Board agreements or orders which state how the election must be held.
- b. If a precinct voting list was required by PERB, indicate the cost of its development. Salaries and benefits must be shown as described in Item H3.
- c. The salary and benefits of a school employer representative, if required by PERB for time spent observing the counting of ballots, will be

reimbursed. The representatives' salary must be shown as described in Item H3.

3. Negotiations: Reimbursable functions include -- receipt of exclusive representative's initial contract proposal, holding of public hearings, providing a reasonable number of copies of the employer's proposed contract to the public, development and presentation of the initial district contract proposal, negotiation of the contract, reproduction and distribution of the final contract agreement.
- a. Show the costs of salaries and benefits for employer representatives participating in negotiations. Contracted services will be reimbursed. Costs for maximum of five public school employer representatives per unit, per negotiation session will be reimbursed. Salaries and benefits must be shown as described on Page 7, Item H3.
  - b. Show the costs of salaries and benefits for employer representatives and employees participating in negotiation planning sessions. Contracted services for employer representatives will be reimbursed. Salaries and benefits must be shown as described in Item H3.
  - c. Indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations. Give the job classification of the bargaining unit representative that required a substitute and dates the substitute worked. Substitute costs for a maximum of five representatives per unit, per negotiation session will be reimbursed. The salaries of union representatives are not reimbursable.
  - d. Reasonable costs of reproduction for a copy of the initial contract proposal and final contract, which is applicable and distributed to each employer representative (i.e. supervisory, management, confidential) and a reasonable number of copies for public information will be reimbursed. Provide detail of costs and/or include invoices. Costs for copies of a final contract provided to collective bargaining unit members are not reimbursable.
  - e. If contract services are used for a. and/or b. above, contract invoices must be submitted. Contract costs must be shown as described in Item H5.
  - f. A list showing the dates of all negotiation sessions held during the fiscal year being claimed must be submitted.



6

## 4. Impasse Proceedings

## a. Mediation

- (1) Costs for salaries and benefits for employer representative personnel are reimbursable. Contracted services will be reimbursed. Costs for a maximum of five public school employer representatives per mediation session will be reimbursed. Salaries and benefits must be shown as described in Item H3.
- (2) Indicate the costs of substitutes for the release time of exclusive bargaining unit representatives during impasse proceedings. The job classification of the employee witnesses and the date they were absent shall be indicated. Costs for a maximum of five representatives per mediation session will be reimbursed.
- (3) Renting of facilities will be reimbursed.
- (4) Costs of the mediator will not be reimbursed.
- (5) If contract services are used under 1, contract invoices must be submitted with the claim. Contract costs must be shown as described in Item H5.

## b. Fact-finding publication of the findings of the fact-finding panel. (To the extent fact-finding was required under the Winton Act during the 1974-75 fiscal year, costs are not reimbursable.)

- (1) All costs of the school employer panel representative shall be reimbursed. Salaries and benefits must be shown as described in Item H3.
- (2) Fifty percent of the costs mutually incurred by the fact-finding panel shall be reimbursed. This may include substitutes for release time of witnesses during fact-finding proceedings, and the rental of facilities required by the panel.
- (3) Special costs imposed on the public school employer for the development of unique data required by a fact-finding panel will be reimbursed. Describe the special costs and explain why this data would not have been required by a fact-finding panel under the Winton Act. Salaries and benefits must be shown as described in Item H3.

5. **Collective Bargaining Agreement Disclosure**

Disclosure of collective bargaining agreement *after* negotiation and *before* adoption by governing body, as required by Government Code section 3547.5 and California State Department of Education Management Advisory 92-01 (or subsequent replacement), attached to the amended Parameters and Guidelines. Procedures or formats which exceed those or which duplicate activities required under any other statute or executive order are not reimbursable under this item.

- a. Prepare the disclosure forms and documents, as specified.
- b. Distribute a copy of the disclosure forms and documents, to board members, along with a copy of the proposed agreement, as specified.
- c. Make a copy of the disclosure forms and documents and of the proposed agreement available to the public, prior to the day of the public meeting, as specified.
- d. Training employer's personnel on preparation of the disclosure forms and documents, as specified.
- e. Supplies and materials necessary to prepare the disclosure forms and documents, as specified.

For 5. a., b., and c., list the date(s) of the public hearing(s) at which the major provisions of the agreement were disclosed in accordance with the requirements of Government Code section 3547.5 and Department of Education Advisory 92-01 (or subsequent replacement).

6. **Contract administration and adjudication of contract disputes either by arbitration or litigation. Reimbursable functions include grievances and administration and enforcement of the contract.**

- a. Salaries and benefits of employer personnel involved in adjudication of contract disputes. Contracted services will be reimbursed. Salaries and benefits must be shown as described in Item H3.
- b. Indicate substitutes necessary for release time of the representatives of an exclusive bargaining unit during adjudication of contract disputes. The job classification of the employee witnesses and the dates they were absent shall also be indicated.
- c. Reasonable costs incurred for a reasonable number of training sessions held for supervisory and management personnel on contract administration/interpretation of the negotiated contract are reimbursable. Contract interpretations at staff meetings are not reimbursable. Personal development and informational programs, i.e., classes, conferences, seminars, workshops, and time spent by employees attending such meetings are not reimbursable. Similarly, purchases of books and subscriptions for personal development and information

8

purposes are not reimbursable. Salaries and benefits must be shown as described in Item H3.

- d. The cost of one transcript per hearing will be reimbursed.
  - e. Reasonable public school employer costs associated with a contract dispute which is litigated are reimbursable, as follows:
    - 1. Reasonable public school employer costs associated with issues of contract disputes which are presented before PERB are reimbursable.
    - 2. Reasonable public school employer cost of litigation as a defendant in the court suit involving contract disputes may be reimbursable.
    - 3. Where the public school employer is the plaintiff in a court suit to appeal a PERB ruling, costs are reimbursable only if the public school employer is the prevailing party (after all appeals, final judgment).
    - 4. No reimbursement is allowed where the public school employer has filed action directly with the courts without first submitting the dispute to PERB, if required.
    - 5. No reimbursement shall be provided for filing of amicus curiae briefs.
  - f. Expert witness fees will be reimbursed if the witness is called by the public school employer.
  - g. Reasonable reproduction costs for copies of a new contract which is required as a result of a dispute will be reimbursed.
  - h. If contract services are used under "a" above, copies of contract invoices must be submitted with your claim. Contract costs must be shown as described in Item H5.
  - i. Public school employer's portion of arbitrators' fees for adjudicating grievances, representing 50% of costs, will be reimbursed.
7. Unfair labor practice adjudication process and public notice complaints.
- a. Show the actual costs for salaries and benefits of employer representatives. Services contracted by the public school employer are reimbursable. Salaries and benefits must be shown as described in Item

9

## H3.

- b. Indicate cost of substitutes for release time for representatives of exclusive bargaining units during adjudication of unfair practice charges.
- c. The cost of one transcript per PERB hearing will be reimbursed.
- d. Reasonable reproduction costs will be reimbursed.
- e. Expert witness fees will be reimbursed if the witness is called by the public school employer.
- f. If contract services are used under "a" above, contract invoices must be submitted. Contract costs must be shown as described in Item H5.
- g. No reimbursement for an appeal of an unfair labor practice decision shall be allowed where the Public Employee Relations Board is the prevailing party.
- h. No reimbursement for filing of amicus curiae briefs shall be allowed.

H. Supporting Data for Claims—Report Format for Submission of Claim.

1. Description of the Activity: Follow the outline of the claim components. Cost must be shown separately by component activity. Supply workload data requested as part of the description to support the level of costs claimed. The selection of appropriate statistics is the responsibility of the claimant.
2. Quantify "Increased" Costs: Public school employers will be reimbursed for the "increased costs" incurred as a result of compliance with the mandate.
  - a. For component activities G1, G2, and G3:
    1. Determination of the "increased costs" for each of these three components requires the costs of current year Rodda Act activities to be offset [reduced] by the cost of the base-year Winton Act activities. The Winton Act base-year is generally fiscal year 1974-75.  
  
Winton Act base-year costs are adjusted by the Implicit Price Deflator prior to offset against the current year Rodda Act costs for these three components. The Implicit Price Deflator shall be listed in the annual claiming instructions of the State Controller.
    2. The cost of a claimant's current year Rodda Act activities are offset [reduced] by the cost of the base-year Winton Act activities either: by matching each component, when claimants can provide sufficient

documentation to segregate each component of the Winton Act base-year activity costs; or, by combining all three components when claimants cannot satisfactorily segregate each component of Winton Act base-year costs.

b. For component activities G4, G6, and G7:

All allowable activity costs for these three Rodda Act components are "increased costs" since there were no similar activities required by the Winton Act; therefore, there is no Winton Act base-year offset to be calculated.

<u>BASE YEAR</u>	<u>ADJUSTMENT</u>
1974-1975	1.490 1979-80 FY
"	1.560 1980-81 FY
"	1.697 1981-82 FY
"	1.777 1982-83 FY
"	1.884 1983-84 FY

3. **Salary and Employees' Benefits:** Show the classification of the employees involved, amount of time spent, and their hourly rate. The worksheet used to compute the hourly salary rate must be submitted with your claim. Benefits are reimbursable. Actual benefit percent must be itemized. If no itemization is submitted, 21 percent must be used for computation of claim costs. Identify the classification of employees committed to functions required under the Winton Act and those required by Chapter 961, Statutes of 1975.
4. **Services and Supplies:** Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed.
5. **Professional and Consultant Services:** Separately show the name of professionals or consultants, specify the functions the consultants performed relative to the mandate, length of appointment, and the itemized costs for such services. Invoices must be submitted as supporting documentation with your claim. The maximum reimbursable fee for contracted services is \$100 per hour. Annual retainer fees shall be no greater than \$100 per hour. Reasonable expenses will also be paid as identified on the monthly billings of consultants. However, travel expenses for consultants and experts (including attorneys) hired by the claimant shall not be reimbursed in an amount higher than that received by State employees, as established under Title 2, Div. 2, Section 700ff, CAC.
6. **Allowable Overhead Cost:** School districts must use the Form J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

County Offices of Education must use the Form J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

Community College Districts must use one of the following three alternatives:

- A Federally-approved rate based on OMB Circular A-21;
- The State Controller's FAM-29C which uses the CCFS-311; or
- Seven percent (7%).







**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



December 22, 2000

COUNTY FISCAL LETTER (CFL) No. 00/01-48

TO: COUNTY WELFARE DIRECTORS  
 COUNTY FISCAL OFFICERS  
 COUNTY AUDITOR CONTROLLERS  
 COUNTY PROBATION OFFICERS

SUBJECT: COUNTY WELFARE DEPARTMENT (CWD) COUNTY EXPENSE  
 CLAIM (CEC) FOR THE JANUARY-MARCH 2001 QUARTER TIME  
 STUDY AND CLAIMING INSTRUCTIONS

This CFL provides time study and claiming instructions for the January through March 2001 quarter and includes information pertaining to the following program areas:

<b><u>General</u></b>	<b>Page 2</b>
<b><u>In-Home Supportive Services (IHSS)</u></b>	<b>Page 2</b>
<b><u>In-Home Supportive Services Tyler v. Anderson</u></b>	<b>Page 3</b>
<b><u>Child Welfare Services (CWS) - Live Scan/California Law Enforcement Telecommunications System (CLETS) Background Checks</u></b>	<b>Page 4</b>
<b><u>Non-Emergency Assistance-Emergency Response (Non-EA-ER) Referrals</u></b>	<b>Page 5</b>
<b><u>California Work Opportunity and Responsibility to Kids (CalWORKs) Information and Referral</u></b>	<b>Page 6</b>
<b><u>CalWORKs Transitional Services, Nonfederal</u></b>	<b>Page 6</b>
<b><u>Workforce Investment Act</u></b>	<b>Page 6</b>
<b><u>Two-Parent Families</u></b>	<b>Page 7</b>
<b><u>Supportive Services Outreach</u></b>	<b>Page 8</b>
<b><u>Job Training and Partnership Act</u></b>	<b>Page 9</b>

The Program Code Descriptions (PCDs) and Support Staff Time Reporting Instructions for use during the March quarter is as follows:

Social Services	3/01
CalWORKs	3/01
Other Public Welfare Programs	3/01
Child Care	3/01
Non-Welfare	3/01
Staff Development	3/01
Electronic Data Processing	3/01
Support Staff Time Reporting Instructions	3/01
General Time Study Instructions	3/01

Attached are copies of the March 2001 PCDs for the Social Services, CalWORKs, Other Public Welfare Programs, Child Care, Non-Welfare, Staff Development, Electronic Data Processing, Support Staff Time Report Instructions and the General Time Study Instructions.

## I. GENERAL

In order to increase the effectiveness and timeliness of when the audited claims are returned to the counties, we will return the audited claims via e-mail beginning with the September 2000 quarter. This information was shared with the counties via an e-mail message sent on November 20, 2000 asking for their correct county contact person's e-mail address. If you have any updates to this, please e-mail us at [cec@dss.ca.gov](mailto:cec@dss.ca.gov). Counties will continue to send all completed quarterly and supplemental claims to [csystems@dss.ca.gov](mailto:csystems@dss.ca.gov).

## II. SOCIAL SERVICES

### A. In-Home Supportive Services (IHSS)

Time Study:

None

Claiming Instructions:

Assembly Bill 1682 (Chapter 90, Statutes of 1999) requires each county to establish an Advisory Committee to provide recommendations on modes of service to be used in the county for IHSS.

Retroactive to the September 2000 quarter, the following Program Code (PC) and Program Identifier Number (PIN) have been established to capture costs associated with the IHSS Advisory Committees.

These costs may include but are not limited to: stipends, travel, training, mileage, conference fees, and supplies. Advisory Committees in the Public Authority counties will submit claims for expenses in the same manner as the Non-Public Authority counties.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
023	023068	IHSS Advisory Committee-Direct Costs

The sharing ratio will be 0/53/47/0 (Federal/State/Health/County). Expenditures will be controlled to the IHSS administration allocation (Refer to CFL #00/01-33, dated October 27, 2000). Advisory Committee costs that were incurred and paid between July and September 2000 may be submitted on a supplemental claim.

Costs incurred by the County Welfare Department (CWD) for supporting the IHSS Advisory Committee are not allowable for reimbursement under these codes. Any CWD costs for providing support activities for the IHSS Advisory Committee should be charged to the appropriate IHSS/PCSP claim codes on the County Expense Claim (CEC).

#### **B. In-Home Supportive Services (IHSS) – Tyler v. Anderson**

##### Time Study:

Effective with the March 2001 quarter, all activities related to the Tyler v. Anderson class action lawsuit should be reported to Time Study Code (TSC) 1042, IHSS – NON HR/NON PCSP. The Tyler v. Anderson lawsuit relates to Range of Motion (ROM) exercises provided to IHSS recipients between June 17, 1990 and March 31, 1994. No revisions are being made to the current Program Code Description for TSC 1042 since the existing language already includes implementation activities for court cases. Counties should time study all of their Tyler vs. Anderson activities to this code.

Please refer to All-County Information Notice No. I-99-99, dated December 22, 1999, for program implementation instructions.

##### Claiming Instructions:

Please reference CFL 92/93-46, dated June 7, 1993, for claiming instructions.

### C. CWS – Live Scan/ CLETS Background Checks

As outlined in CFL 99/00-55, dated March 30, 2000, Senate Bill (SB) 645 appropriated funds to reimburse counties for costs associated with conducting background checks of relatives, prospective guardians, or other persons who are not licensed or certified foster parents. Counties were to use the California Law Enforcement Telecommunications System (CLETS) or Child Abuse Index for these background checks and charge the associated processing fees to PC 359, CWS Background Checks.

SB 2161, Chapter 421, Statutes of 2000 updates the previous statutory requirements regarding the use of the CLETS as a means of assessing the appropriateness of a foster care placement. CWDs now have statutory authority to access full criminal background information via the CLETS. This legislation also requires CWS placement agencies to follow up a CLETS or Child Abuse Index background check with a fingerprint check within five judicial days, which can be done by using an automated mobile and fixed location fingerprint identification system (Live Scan).

As a result of the above changes, the Budget Act of 2000 appropriated \$6,075,000 for the purchase and maintenance of Live Scan equipment that is to be used specifically for the background check/fingerprinting associated with CWS relative/guardian or other non-licensed/certified foster parent placement assessments. As outlined in CFL 00/01-43, dated November 13, 2000, the Live Scan and CWS Background Check funds were combined into one allocation and as outlined below, both the costs will be claimed to PC 359.

#### Time Study:

Time Study Code (TSC) 3591, CWS Live Scan/CLETS Background Checks, has been established to capture staff activities associated with using the Live Scan equipment to fingerprint foster parents and transfer information to the Child Abuse Index, Federal Bureau of Investigation and Department of Justice for a background check.

<u>TSC</u>	<u>Description</u>
3591	CWS Live Scan/CLETS Background Checks

#### Claiming Instructions:

To accommodate the combined allocation/claiming of the Live Scan and background check costs, retroactive to the September 2000 quarter, the title for PC 359, CWS Background Checks has been changed to CWS Live Scan/CLETS Background Checks. PIN 359031, Contracted Services has been established to

capture the costs of purchasing Live Scan equipment, the associated implementation fees, and ongoing equipment Maintenance and Operation (M&O) costs. All CWS background check fees will continue to be claimed to 359068, CWS Live Scan/CLETS Background Checks - Direct Costs.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
359	359031	CWS-Live Scan/CLETS-Background-Checks-Contracted- Services
	359068	CWS-Live Scan/CLETS Background Checks-Direct

#### D. Non-EA-ER Referrals

##### Time Study:

Effective retroactively to the December 2000 quarter, TSC 1101, Non-EA-ER Referrals, has been established to capture time spent on Non-EA-ER Referral cases that do not meet the EA criteria (i.e., more than one episode in a 12-month period). The Fiscal Policy Bureau issued a reminder (CFL No. 99/00-55) to CWDs to query the Assistance to Children in Emergency (ACE) System for prior EA episodes to determine when a child is an EA case or not. Workers should use TSC 1101 at the point in time when it becomes known that the case is not EA eligible.

The Social Services Program Code Descriptions (PCDs) have been updated to include the following Non-EA-ER Referral activities; time spent receiving emergency referrals, confirming whether the referral is a child welfare services referral, completing the ER protocol, and investigating the emergency allegations, including the collateral contacts. This includes time spent closing those cases in which the allegations are unfounded. For those cases in which the allegations are founded, it includes investigation activities, reporting to the Department of Justice, and notifying the parents regarding the temporary custody of the child.

##### Claiming Instructions:

PC 110, Non-EA-ER, has been established retroactive to the December 2000 quarter to claim the costs of Non-EA-ER cases that do not meet the EA criteria.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
110	110088-91	Support Operating Costs (Codes Available)
	110092	Casework OT/CTO Costs
	110093	Support Staff OT/CTO Costs
	110094	Start Up/Nonrecurring Costs

Non-EA-ER is funded with Federal Title IV-E funds 50/35/0/15. (Federal Welfare/State Welfare/ Health/County) for those costs that are federally eligible.

The Title IV-E non-federal discount ratio will be applied to costs reported on PC 110 and the non-federal portion shifted to PC 146.

### III. CalWORKS

#### A. Information and Referral

It has come to our attention that a code has not been established for County Welfare Departments (CWDs) to claim costs associated with contracted services for Information and Referral activities. Retroactive to the September 2000 quarter, the direct cost PIN code for PC 664 has been established to capture these costs, based on the final TANF regulations and new reporting requirements associated with CalWORKs Information and Referral services. The sharing ratio is 100/0/0/0 (Federal/State/Health/County):

Time Study:

None.

Claiming Instructions:

The following direct cost PIN has been established for PC 664:

<u>PIN</u>	<u>Description</u>
664032	Information and Referral-Contracted Services (Non-assistance).

#### B. CalWORKs Transitional Services, Nonfederal

Time Study:

Effective with the March 2001 quarter, the program description listed under TSC 6481, CalWORKs Transitional Services, Nonfederal, has been amended to include activities associated with Two-Parent Families. This activity was overlooked during the implementation of the State Only Two-Parent Family program.

Claiming Instructions:

None.

#### C. Workforce Investment Act

Time Study:

Subsequent to review and discussions between the California Department of Social Services (CDSS) and County Welfare Directors Association (CWDA) and retroactive to the September 2000 quarter, costs associated with the provision of services under the Workforce Investment Act (WIA) will be captured under the following TSCs:

<u>TSC</u>	<u>Description</u>
8201	WIA Dislocated Worker Program
8211	WIA Adult Program Activities
8221	WIA Youth Program Activities
8231	WIA Rapid Response Activities
8241	WIA Formula Grant Activities
8251	WIA Retention Activities
8261	WIA WtW Grant 30%-70% Activities
8271	WIA Other Activities

Claiming Instructions:

Retroactive to the September 2000 quarter, costs associated with the provisions of services under the Workforce Investment Act (WIA) will be captured under the following PC's. The sharing ratios for these programs are 0/0/100 (Federal/State/County).

<u>PC</u>	<u>PIN</u>	<u>Description</u>
820	820068	WIA Dislocated Worker Program-Direct Costs
821	821068	WIA Adult Program Activities-Direct Costs
822	822068	WIA Youth Program Activities-Direct Costs
823	823068	WIA Rapid Response Activities-Direct Costs
824	824068	WIA Formula Grant Activities-Direct Costs
825	825068	WIA Retention Activities-Direct Costs
826	826068	WIA WtW Grant 30%-70% Activities-Direct Costs
827	827068	WIA Other Activities-Direct Costs

Support staff performing direct-to-program activities associated with the provision of services under WIA will time study to B-46, Workforce Investment Act Activities.

**D. Two-Parent Families**

Time Study:

Per CFL No. 00/01-04, counties will time study all CalWORKs eligibility activities, including Two-Parent Family, to TSC 6141, CalWORKs Eligibility and TSC 6631, CalWORKs Case Management. This program code is subject to the Two-Parent Family Caseload shift. The PCD has been corrected to reflect these activities.

Claiming Instructions:

None.

## E. Supportive Services Outreach Expanded Activities

### Time Study:

As outlined in CFL 00/01-44, dated November 14, 2000, counties were provided with a \$3 million augmentation to their FY 00/01 Single Allocation for Supportive Services Outreach. Expenditure of these funds is being captured separately. Therefore, retroactive to the December 2000 quarter, TSC 2571, Supportive Services Outreach and Direct-to-Program Support Staff Code B56 have been established to capture costs associated with the expansion of existing county outreach efforts, and to develop and implement new outreach strategies.

Only those counties that have received the augmentation may use this TSC. In addition, only those counties who have directed staff to separately capture expanded outreach activities may report their time to these codes for the December 2000 quarter.

### Claiming Instructions:

Retroactive to the December 2000 quarter, PC 257, Supportive Services Outreach, has been established to capture costs associated with the expansion of existing county outreach efforts, and to develop and implement new outreach strategies. This PC is available only to those counties that received an allocation in CFL 00/01-44.

This expanded outreach activity is to ensure current and former CalWORKs participants, as well as other low income individuals, are made aware of and have access to available income-support services. Outreach services may be provided through a contract or directly by county staff. These services may include, but are not limited to, information on:

- Earned Income Tax Credit (EITC)
- Health coverage
- Food and nutrition programs

The sharing ratio for this program is 100/0/0/0 (Federal/State/County/Health).

The following PINs have been established for PC 257:

<u>PC</u>	<u>PIN</u>	<u>Description</u>
257	257032	Contracted Services, Non-Assistance
	257088-91	Support Operating Costs (Codes Available)
	257092	Casework OT/CTO Costs
	257093	Support Staff OT/CTO Costs
	257094	Start Up/Nonrecurring Costs



**IV. NONWELFARE****A. Job Training and Partnership Act**Time Study:

Effective with the March 2001 quarter, the reference to activities associated with the Job Training and Partnership Act (JTPA) has been deleted. This program has been replaced by the Workforce Investment Act (WIA) effective July 2000. Program codes have been established under the CalWORKs function to capture the costs associated with WIA.

Claiming Instructions:

None.

If you have any questions regarding this CFL, please contact your Fiscal Policy Bureau Analyst at (916) 657-3440.

Sincerely,

***Original Document Signed by  
Mary Jane Archer on 12/22/00***

MARY JANE ARCHER, Chief  
Fiscal Systems and Accounting Branch

C: CWDA

Attachments

1  
**SOCIAL SERVICES FUNCTION**  
**PROGRAM CODE DESCRIPTION**

3/01

GENERAL FUNCTION DEFINITION

Any activity related to achieving or maintaining economic self growth to prevent, reduce, or eliminate dependency; preventing or remedying neglect, abuse, or exploitation of children and adults; preserving, rehabilitating or reuniting families; preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and providing services to individuals in institutions.

TIME STUDY STAFF

Staff performing the activities listed below are required to record time to the Social Services programs. Staff who are not listed must obtain prior authorization from CDSS to record casework time to Social Services programs.

- A. Caseworkers performing social services activities specified in the program descriptions below;
- B. Staff performing adoptions and appeals activities;
- C. First-line supervisors of the staff listed in A and B above.

The Criteria to be considered a Skilled Professional Medical Personnel (SPMP) are as follows:

- Must have completed a two-year or longer program leading to an academic degree or certificate in a medically related profession.
- Must possess a medical license or certificate issued by a recognized national or state medical licenser or certifying national or medical licenser or certifying organization, or a degree in a medical field issued by a college or university certified by a professional medical organization (e.g., registered nurse).
- Must be in a position that requires their professional medical knowledge and skills as evidenced by position descriptions, job announcements, or job classifications; and
- Must be CED or other county agency staff contracted to perform allowable activities.

In addition, the services rendered by a SPMP must be to a Medi-Cal eligible individual in order to be reimbursed at the enhanced 75% federal financial participation level.

**NOTE:** "Caseworkers" are CWD staff who perform activities which benefit public assistance recipients. Caseworker activities may include any of the following: case management, the determination of eligibility for grants and services, grant maintenance, needs assessment, arranging for and providing employment training services or social services, and welfare fraud investigations. Manual of Policies and Procedures (MPP) 25-810.4.

**ADOPTIONS:**

**CODE 1171 ADOPTIONS - CASE MANAGEMENT**

Include activities directed to a child in adoptive placement or activities immediately preceding an adoptive placement, such as a child adoptability assessment, adoptive applicant screening, home study and Adoptions Assistance Program assessment and adoption backlog. Also, use for activities generally supportive of the county's adoption program. (See CWS Case Management examples.)

**CODE 1181 ADOPTIONS - INDEPENDENT**

Includes activities directed to a child in adoptive placement or activities involved in an adoptive placement, such as a child adoptability assessment, adoptive applicant screening, and home study.

**CODE 1251 ADOPTIONS - TRAINING**

Training activities include the following for all elements of the Adoptions Program:

- Preparing for or providing training to CWD staff;
- Participating in continuing training received after induction training;
- Participating in short-term training provided by outside agencies;
- Participating in training conferences; and
- Providing training to current or prospective adoptive parents or to adoption agency staff.

**ADULT PROTECTIVE SERVICES (APS):**

**CODE 5691 APS - RESPONSE**

Includes time spent performing activities in response to all reports or referrals alleging abuse, neglect, or exploitation of elder or dependent adult clients who meet the criteria for APS. Public Guardian's (PG), who are employees of the CWD, may time study to this code only if the PG is

responsible for performing APS activities; or, is responsible for activities which would normally be the responsibility of the APS worker. APS clients are defined as only elder or dependent adults who are unable to protect their own interests; harmed or threatened with harm; caused physical or mental injury due to action or inaction of another person or as a result of ignorance, illiteracy, incompetence, mental limitation, substance abuse or poor health; lacking in adequate food, shelter, or clothing; exploited for their income and resource; or deprived of entitlements due them. Allowable response activities may include, but are not limited to:

- Immediate in-person face-to-face response for the purposes of providing immediate intake or intervention to new reports of immediate life-threatening circumstances or imminent danger to an elder or dependent adult or to crisis in existing cases;
- Implementing and operating a 24-hour APS response program;
- Evaluating and investigating reports of abuse, neglect, or exploitation, including reports on the 24-hour hotline. Investigation activities include, but are not limited to:
  - o A systematic inquiry to determine the validity of a report of elder or dependent adult abuse;
  - o Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk;
  - o Interviews with the elder or dependent adult and with other persons including other members of the family or of the household, service providers or other members of the multidisciplinary team.
- Determining client risk for response by screening in-coming calls, and when necessary, through face-to-face meetings, or during home visits;
- Determining response needs;
- Providing social work activities designed to remedy or prevent situations of abuse, neglect, or exploitation;
- Arranging for the provision of food, housing, medical, counseling, emergency shelter, and in-home temporary services, as needed;
- Providing crisis intervention;
- Referring clients to appropriate response service agencies;
- Assisting clients voluntarily into shelter in response to emergencies;
- Gathering documentation of abuse for law enforcement agencies during an investigation, as requested;
- Documenting client activities in the case file;
- Locating a friend or relative to act as a collateral contact or a support system;
- Processing court petitions and declarations for Conservatorship; and
- Preparing written reports and assessments.

## CODE 5701 - APS - CASE MANAGEMENT -

Includes time spent performing case management activities during the period following the initial investigation and response to reports involving abuse, neglect, or exploitation of elder or dependent adult clients who meet the criteria for APS (see definition in Code 5691). Public Guardian's (PG), who are employees of the CWD, may time study to this code only if the PG is responsible for performing APS activities; or, is responsible for activities which would normally be the responsibility of the APS worker. Allowable activities are those necessary to bring about changes in lives of victims and to provide a safety net to enable victims to protect themselves in the future.

Case management activities are those performed after the initial response and investigation of reports of abuse. Such activities may include, but are not limited to:

- Further investigation of alleged abuse after case has been established, and subsequent reporting of protection issues, including, but not limited to, social, medical, environmental, physical, emotional, socio-economic, or developmental issues;
- Investigation activities including, but not limited to:
  - o A systematic inquiry to determine the validity of a report of elder or dependent adult abuse;
  - o Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk;
  - o Interviews with the elder or dependent adult and with other persons including other members of the family or of the household, service providers or other members of the multidisciplinary team.
- Assessing the client's concerns and needs, and the concerns and needs of other members of the family and household as it pertains to the report of, occurrence of, prevention of or remediation of adult abuse or neglect;
- Identification of the client's strengths, problems, and limitations;
- Establishing and updating a service plan to alleviate the identified problems and coordinating with other agencies which may include:
  - o Identification of the problems to be alleviated;
  - o Time-limited objectives based on the problems and strengths identified in the assessment;
  - o The services to be provided and activities to be performed in order to meet the service plan objectives and goals;
  - o Description of how the client will be stabilized and linked with community services;
  - o Provisions for monitoring, follow-up, and reassessment to determine the effectiveness of the service plan;
  - o Brokering case management services with peripheral agencies;
  - o Money management;

- o Voluntary placement;
- o Removal of client from their home;
- o Family issues, including stress, conflict, management, and care-giving issues; and
- o Conservatorship in-home services needs.
- Providing counseling for clients and significant others to alleviate identified problems and to implement the service plan, including negotiating, mediating, and participating in problem solving;
- Training for law enforcement, banking officials, etc.;
- Arranging for food, housing, medical, and counseling services, as needed;
- Conducting Conservatorship investigations when appropriate, and preparing petitions for Conservatorship and;
- Providing 24-hour shelter, respite care for providers, in-home temporary services for clients whose caregivers have left the home or been arrested.

**CODE 5711 APS - SPMP RESPONSE**

Includes time spent by SPMP performing activities in response to all reports or referrals alleging abuse, neglect, or exploitation of Medi-Cal eligible elder or dependent adults who meet the eligibility criteria for APS (see definition in Code 5691). Activities are limited to those necessary to help clients gain access to medical services in order to reduce risk or poor health outcomes. Allowable response activities include, but are not limited to:

- Immediate in-person face-to-face response for the purposes of providing immediate intake or intervention to new reports of immediate life-threatening circumstances or imminent danger to an elder or dependent adult or to crisis in existing cases;
- Implementing a health-related service plan;
- Evaluating and investigating reports of abuse, neglect, or exploitation, including reports on the 24-hour hotline. Investigation activities include, but are not limited to:
  - o A systematic inquiry to determine the validity of a report of elder or dependent adult abuse;
  - o Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk;
  - o Interviews with the elder or dependent adult and with other persons including other members of the family or of the household, service providers or other members of the multidisciplinary team.
- Determining response health needs;
- Providing health related services to remedy or prevent situations of abuse, neglect, or exploitation;

- Arranging for food, housing, medical, counseling, emergency shelter, and in-home temporary services, as needed;
- Providing crisis intervention;
- Referring clients to appropriate response service agencies for treatment of health related needs;
- Assisting clients with voluntary placement in response to reports of abuse;
- Gathering documentation of abuse for law enforcement agencies during an investigation;
- Documenting client activities in the case file;
- Locating a friend or relative to act as a collateral contact or a support system for health related needs;
- Processing court petitions and declarations for Conservatorship; and
- Preparing written reports and assessments.

**CODE 5721 APS - SPMP CASE MANAGEMENT**

Includes time spent by SPMP performing case management activities during the period following the initial investigation and response to reports involving abuse, neglect, or exploitation of Medi-Cal eligible elder or dependent adult clients who meet the criteria for APS (see definition in Code 5691). Allowable activities are those necessary to help clients gain access to medical services in order to reduce risk or poor health outcomes, bring about changes in the lives of victims, and to provide a safety net to enable victims to protect themselves in the future. Case management activities are those performed after the initial response and investigation of reports of abuse. These may include, but are not limited to:

- Further investigation of alleged abuse after case has been established, and subsequent reporting of protection issues, including, but not limited to, social, medical, environmental, physical, emotional, socio-economic, and developmental issues;
- Investigation activities including, but not limited to:
  - o A systematic inquiry to determine the validity of a report of elder or dependent adult abuse;
  - o Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk;
  - o Interviews with the elder or dependent adult and with other persons including other members of the family or of the household, service providers or other members of the multidisciplinary team.
- Assessing the client's concerns and needs and the concerns and needs of other members of the family and household as it pertains to the report of, occurrence of, prevention of or remediation of adult abuse or neglect;
- Identification of the client's strengths, problems, and limitations;

- Analyzing health-related problems and strengths of the client, family, household;
- Establishing and updating a service plan to alleviate the identified problems, coordinating with other agencies which may include:
  - o Identification of the problems to be alleviated;
  - o Time-limited objectives based on the problems and strengths identified in the assessment;
  - o The services to be provided and activities to be performed in order to meet the service plan objectives and goals;
  - o Description of how the client will be stabilized and linked with community services;
  - o Provisions for monitoring, follow-up, and reassessment to determine the effectiveness of the service plan;
  - o Family issues, including stress, conflict, management, care-giving issues;
  - o Voluntary removal of clients from their home; and
  - o Conservatorship needs.
- Providing counseling for clients and significant others to alleviate identified problems and to implement the health service plan, including negotiating, mediating, and participating in problem solving;
- Stabilizing and linking with community services for health-related needs; and
- Arranging for food, housing, medical, and counseling services, as needed.

**CODE 5731 APS - HR RESPONSE**

Includes time spent performing activities in response to all reports or referrals alleging abuse, neglect, or exploitation of Medi-Cal eligible adults who meet the eligibility criteria for APS (see definition in Code 5691). Public Guardian's (PG), who are employees of the CWD, may time study to this code only if the PG is responsible for performing APS activities; or, is responsible for activities which would normally be the responsibility of the APS worker. Allowable activities are limited to those necessary to help clients gain access to medical services in order to reduce risk or poor health outcomes. Allowable response activities include, but are not limited to:

- Immediate in-person face-to-face response for the purposes of providing immediate intake or intervention to new reports of immediate life-threatening circumstances or imminent danger to an elder or dependent adult or to crisis in existing cases;
- Implementing a health-related service plan;



- Evaluating and investigating reports of abuse, neglect, or exploitation, including reports on the 24-hour hotline. Activities include, but are not limited to:
  - o A systematic inquiry to determine the validity of a report of elder or dependent adult abuse;
  - o Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk;
  - o Interviews with the elder or dependent adult and with other persons including other members of the family or household, service providers, or other members of the multidisciplinary team.
- Determining immediate health needs;
- Providing health related services to remedy or prevent situations of abuse, neglect, or exploitation;
- Arranging for the provision of food, housing, medical, counseling, emergency shelter, and in-home temporary services, as needed;
- Providing crisis intervention;
- Referring clients to appropriate response service agencies for treatment of health-related needs;
- Assisting clients into voluntary shelter in response to emergencies;
- Gathering documentation of abuse for law enforcement agencies during an investigation, as requested;
- Documenting client activities in the case file;
- Locating a friend or relative to act as a collateral contact or a support system for health needs, and
- Preparing written reports and assessments.

**CODE 5741 APS - HR CASE MANAGEMENT**

Includes time spent performing case management activities during the period following the initial investigation and response to reports involving abuse, neglect, or exploitation of Medi-Cal eligible elder or dependent adult clients who meet the criteria for APS (definition in Code 5691). Public Guardian's (PG), who are employees of the CWD, may time study to this code only if the PG is responsible for performing APS activities; or, is responsible for activities which would normally be the responsibility of the APS worker. Allowable activities are those necessary to help clients gain access to medical services in order to reduce risk or poor health outcomes, to provide a safety net to enable victims to protect themselves in the future and bring about changes in the lives of victims. Case management activities are those performed after the initial response and investigation of reports of abuse. Such activities may include, but are not limited to:

- Further investigation of alleged abuse after case has been established, and subsequent reporting of protection issues, including, but not

limited to; social, medical, environmental, physical, emotional, socio-economic, and developmental issues;

- Investigation activities including, but not limited to:
  - o A systematic inquiry to determine the validity of a report of elder or dependent adult abuse;
  - o Gathering of information to develop an intervention plan to address any condition which places the elder or dependent adult at risk;
  - o Interviews with the elder or dependent adult and with other persons including other members of the family or household, service providers, or other members of the multidisciplinary team;
- Assessing the client's concerns and needs and the concerns and needs of other members of the family and household as it pertains to the report of, occurrence of, prevention of or remediation of adult abuse or neglect;
- Identification of the client's strengths, problems, and limitations;
- Analyzing health problems and strengths of the client, family, household;
- Establishing and updating a health-related service plan to alleviate the identified problems, coordinating with other agencies which may include:
  - o Identification of the problems to be alleviated;
  - o Time-limited objectives based on the problems and strengths identified in the assessment;
  - o The services to be provided and activities to be performed in order to meet the service plan objectives and goals;
  - o Description of how the client will be stabilized and linked with community services;
  - o Provisions for monitoring, follow-up, and reassessment to determine the effectiveness of the service plan;
  - o Voluntary removal of clients from their home;
  - o Family issues, including stress, conflict, management, and care-giving issues;
  - o Conservatorship needs.
- Providing counseling for clients and significant others to alleviate identified problems and to implement the health service plan, including negotiating, mediating, and participating in problem solving;
- Stabilizing and linking with community services for treatment of health related needs, and
- Arranging for food, housing, medical, and counseling services, as needed.

## **CHILD WELFARE SERVICES (CWS):**

### **CASE MANAGEMENT**

Case Management means a service-funded activity performed by a social worker which includes assessing the child's/family needs, developing the case plan, monitoring progress in achieving case plan objectives, and ensuring that all services specified in the case plan are provided. MPP 31-002(c)(1).

### **CASE PLAN**

Case Plan means a written document which is developed based upon an assessment of the circumstances which required child welfare services intervention and in which the social worker identifies a case plan goal, the objectives to be achieved, the specific services to be provided, and case management activities to be performed. MPP 31-002(c)(2).

### **PUBLIC LAW # 96-272**

Public Law #96-272 requires developing a case or services plan for a child including initial plan, and comprehensive reunification plan. Additional reference: Public Law #101-239.

### **COUNSELING**

Counseling means assisting the child and his/her family to analyze and better understand the situation; select methods of problem-solving; identifying goals; and exploring alternative behavior MPP 31-002(16).

### **VOLUNTARY FC PROGRAM**

Voluntary FC Program Senate Bill 1125, Chapter 1203, Statutes of 1991, provided for federal financial participation for children voluntarily placed in foster care; current federal reporting requirements require separate identification of these expenditures (County Fiscal Letter Number 92/93-40, dated March 2, 1993).

CODE 1381 CWS - SPMP

Includes selected activities to help children who are Medi-Cal eligible, including children in foster care and Seriously Emotionally Disabled children; to gain access to health related services in order to reduce their risk of poor health outcome. These activities include, but are not limited to, the development, implementation and management of health related service plans; referrals to other agencies and programs for the assessment, evaluation or treatment of health related needs; interagency coordination and liaison with providers to health-related services to improve the service delivery system, and in-depth informing and anticipatory guidance about the causes, prevention and remediation of health related needs; completing, updating, and disseminating any paperwork necessary to the completion of these activities; and receiving or providing health related training.

**NOTE:** If these activities are performed by a person not qualifying as SPMP, record the time to Program 144. SPMP performing non-enhanced health related activities also record this time to Program 144.

CWS - PREPARATION FOR ELIGIBILITY DETERMINATION

CODE 1431 CWS - EMERGENCY RESPONSE SERVICES

CODE 1432 CWS - FAMILY MAINTENANCE SERVICES

CODE 1433 CWS - FAMILY REUNIFICATION SERVICES

CODE 1434 CWS - PERMANENT PLACEMENT

Includes activities related to preparing for the determination of a child's eligibility for the Foster Care, or Adoption Assistance Program, not the actual eligibility determination, e.g.:

- Gathering and verifying information used by the Eligibility Worker in regard to income, parental deprivation, resources, social security numbers, birth certificates, and child support;
- Filling out and processing necessary forms;
- Providing information to determine eligibility for other financial benefits such as SSI, VA, or Black Lung;
- Querying systems, records, and other staff for current AFDC status;
- Making court recommendations for support, requesting such court action and completing court orders;
- Preparing and participating in program audits; and

- Travel time associated with any of the above activities.

**CWS - HR FOR MEDI-CAL ELIGIBLE CHILDREN**

**CODE 1441 CWS - EMERGENCY RESPONSE PROGRAM**

**CODE 1442 CWS - FAMILY MAINTENANCE PROGRAM**

**CODE 1443 CWS - FAMILY REUNIFICATION PROGRAM**

**CODE 1444 CWS - PERMANENT PLACEMENT PROGRAM**

Any activity to help children who are Medi-Cal eligible, including all foster and SED children, to gain access to medical services and/or to attain or maintain a favorable physical or mental health condition by assisting them in identifying and understanding their health needs or securing and utilizing treatment and health maintenance services. Such activities include, but are not limited to, performing, assisting the eligibility worker in, or assisting the parent of the child in applying for determination or documentation of Medi-Cal eligibility for children; development, implementation and management of health plans; referrals to other agencies and programs for health needs; statistical reporting; outreach activities to Medi-Cal eligible or potential eligibles about available services and programs; and liaison activities with medical providers.

**CODE 1456 CWS - TRAINING**

Training activities include the following for all elements of the CWS program:

- Preparing for or providing training to staff;
- Participating in continuing training received after at least five consecutive days of induction training;
- Participating in training conferences or short-term training provided by outside agencies of less than four weeks;
- Providing training to current or prospective foster parents and to staff of foster family agencies; and
- Travel time associated with any of the above activities.

**CODE 1465 CWS - SERVICES / NON-FEDERAL**

The individual child's case plan shall be the basic guideline for the provision of child welfare services. Services include, but are not limited to the following:

- Providing counseling, or other therapeutic services to a child or to the child's family in order to ameliorate or remedy personal problems, behaviors, or home conditions, as referenced;
- Providing homemaking instruction, through discussion and example when parent/guardian functioning can be improved by teaching more effective child care skills and home maintenance. MPP 31-002(t)(1);
- Parenting training;

#### CWS - COURT-RELATED ACTIVITIES

CODE 1471 CWS - EMERGENCY RESPONSE SERVICES

CODE 1472 CWS - FAMILY MAINTENANCE SERVICES

CODE 1473 CWS - FAMILY REUNIFICATION SERVICES

CODE 1474 CWS - PERMANENT PLACEMENT SERVICES

Any court-related activity directed to the placement of a child:

- Preparing for and/or participating in any judicial determination regarding a child;
- Preparing or filing court documents including petitions, motion for extension, termination of dependencies or a custodial order;
- Any court appearance where the local agency is seeking custody of a child, or the status of a child in the county's custody which is being reviewed;
- Paperwork and contacts related to judicial activity; and
- Travel time associated with the above activities.

#### CWS - CASE MANAGEMENT

CODE 1481 CWS - EMERGENCY RESPONSE SERVICES

CODE 1482 CWS - FAMILY MAINTENANCE SERVICES

CODE 1483 CWS - FAMILY REUNIFICATION SERVICES

CODE 1484 CWS - PERMANENT PLACEMENT SERVICES

Includes activities directed to a specific child when the child remains in the home or in out-of-home placement, including relative placements and emergency shelter care. Included is the development of the case plan, which indicates the specific services necessary to meet the protective needs of the child. Activities include, but are not limited to the following:

- Assessing child's/family's needs and developing a case plan as indicated in regulations;
- Arranging for the provision of services and referrals for other services, when necessary;  
Arranging for pre-placement visits;
- Working with foster parents to prepare them to receive a child;

- Monitoring progress in meeting case plan objectives and updating the case plan;
- Management and supervision of the case, participation in case conferences, permanency planning meetings, and administrative reviews;
- Recruitment activities, developing and distributing resource material, consulting and coordinating with service providers and community based organizations;
- Activities that are directed towards enhancing, expanding or supporting the county's program of preventive services or out-of-home care;
- Do not include court document preparation or petition filing - these are code 147, CWS-Court Related activities.
- Visits for non group home foster care placements (i.e., relatives and foster family homes). See TSC 5771 for visits related to children in group home placements; and
- Travel time associated with any of the above activities.

**CODE 1542 CWS - CASE MANAGEMENT: VOLUNTARY FOSTER CARE PROGRAM**

Includes activities directed to a specific child when the child is voluntarily placed in foster care.

- Refer to activities identified in CWS-Case Management.

**CODE 1701 CWS - EMERGENCY HOTLINE RESPONSE**

Includes time spent performing initial activities in response to and investigation of all reports or referrals alleging abuse, neglect or exploitation of children. Allowable Emergency Hotline Response activities include but are not limited to:

- Operating a 24-hour emergency hotline response program;
- Evaluating and investigating telephone reports of abuse, neglect or exploitation, including reports on the 24-hour hotline;
- Determining client risk for emergency response by screening in-coming calls;
- Determining whether a reported situation is an emergency or non-emergency within required timeframes;
- Determining emergency response needs;
- Providing crisis intervention;
- Referring clients to appropriate emergency response service agencies;
- Gathering documentation of abuse for law enforcement agencies;
- Documenting and completing all required forms; and
- Preparing written reports and assessments.

**CODE 5231 CWS - OPTIONS FOR RECOVERY RECRUITMENT**

Includes time spent performing Foster Parent recruitment activities for the Options for Recovery Program.

**CODE 5441 CWS - MINOR PARENT INVESTIGATIONS (MPI) (AB 908)**

This program code has been established to capture social worker time spent performing in-person investigation activities for teen pregnancy disincentive requirements. Investigation activities include:

- Completing an in-home investigation of a minor parent's allegation of risk of abuse/neglect, and returning the CA 25s to the eligibility worker indicating the results of the investigation;
- Completing an in-person assessment of the minor parent and his/her child(ren);
- Developing a safety plan that will include MPS for the minor parent and his/her child(ren); and
- Referral of minor parent to other available services.

**CODE 5561 CWS - MPS (AB 908)**

A home visiting model of supportive services provided to minor parents and their child(ren) to assist them in creating a healthy and safe environment. MPS activities include: Provision of in-home based services, in-home visits, on-going assessments of the minor parent and his/her child(ren), and referrals to appropriate community services.

**COMMUNITY CARE LICENSING (CCL):**

**CODE 1551 FOSTER FAMILY LICENSING**

Includes recruitment, study, certification, licensing, and approval of foster family homes for children; re-certification, renewal, suspension, revocation, and complaint investigation actions affecting licensing; public information on out-of-home care programs and supporting participation of the public in such care; licensing information/data system activities; and travel related to any of these activities.

**CODE 1571 DAY CARE LICENSING**

Includes the provision of licensing requirements to facilitate the development of new family day care homes; evaluation and verification of the application, including the required onsite evaluation; renewal



applications and site visit, if required; follow-up on complaints and deficiencies; and maintenance of a list of licensed family day care homes.

Additional activities include:

- Review facility records prior to visits;
- Contact local resource and referral agencies for information about the facility;
- Review staff and child records on site;
- Interview children regarding facility conditions;
- Interview staff regarding qualifications and training;
- Provide licensees with copies of licensing regulations and inform licensees about changes in licensing law and regulations since the last visit;
- Provide information about new community resources.

#### **CODE 1581 FOSTER FAMILY LICENSING - TRAINING**

Includes the following training activities for the Foster Family Licensing Program:

- Preparing and providing training to prospective foster parents on foster family home licensing requirements;
- Participating in continuing training received after induction training;
- Participating in short term training provided by outside agencies; and
- Participating in training conferences.

#### **COUNTY SERVICES BLOCK GRANT (CSBG):**

##### **CODE 1131 CSBG - SPMP**

Includes time spent by SPMP performing selected activities to help adult CSBG clients who are Medi-Cal eligible to gain access to health related services in order to reduce their risk of poor health outcome. These activities include, but are not limited to the development, implementation and management of health related service plans; referrals to other agencies and programs for the assessment, evaluation, or treatment of health related needs; interagency coordination and liaison with providers of health related services to improve the service delivery system; and informing and anticipatory guidance about the causes, prevention, and remediation of health related needs.

##### **CODE 1142 CSBG - HR**

Includes time spent performing activities to help adult CSBG recipients, who are Medi-Cal eligible, to gain access to medical services and attain

and/or maintain a favorable physical or mental health condition by assisting the recipient in identifying and understanding their health needs.

This includes performing or assisting the eligibility worker in the determination or documentation of the recipients Medi-Cal eligibility; development, implementation and management of health plans; outreach activities to Medi-Cal eligible or potentially eligible persons about available services and programs; referrals to other agencies and programs for health needs; providing assistance to eligible recipients to access needed health related services; and statistical reporting.

CODE 1151 CSBG

Includes time spent performing activities not eligible for Title XIX funding for adult CSBG recipients. This includes information and referral activities, out-of-home care for adults, and optional services funded under CSBG.

**EMERGENCY ASSISTANCE (EA):**

CODE 2231 EMERGENCY ASSISTANCE (EA) - FOSTER CARE (FC)-ELIGIBILITY

This program was previously titled Emergency Assistance (EA) Child Welfare Services (CWS) Eligibility. Includes eligibility determinations, screening for prior EA episodes, approvals, denials, authorization actions, and issuance of notices.

CODE 5131 EMERGENCY ASSISTANCE (EA) - ER APPLICATION COMPLETION

Includes time spent completing the EA-ER application. Time spent obtaining the parent's signature on the EA application may be included.

CODE 5132 EMERGENCY ASSISTANCE (EA) - ER TRAINING

Includes time spent preparing for and providing EA-ER training for staff.

CODE 5134 EMERGENCY ASSISTANCE - ER REFERRALS

Includes time spent receiving emergency referrals, assessing whether the referral is a child welfare services referral, completing the ER protocol, and investigating the emergency allegations, including the collateral contacts. This includes time spent closing those cases in which the allegations are unfounded. For those cases in which the allegations are not unfounded. It includes time spent in investigation activities, including reporting to the Department of Justice and noticing the parents regarding the temporary custody of the child.

**FAMILY PRESERVATION PROGRAM (FPP):**

**CODE 1501 EARLY, PERIODIC, SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)**

Includes support activities for EPSDT, such as consultation, outreach, and follow-up, when performed by an EPSDT unit under contract to the local Child Health and Disability Prevention Agency. This does not include information and referral activities performed by eligibility workers.

**CODE 1591 FAMILY PRESERVATION PROGRAM - SPMP**

Refer to Code 1380, CWS-SPMP, for description of activities.

**NOTE:** SPMP performing non-enhanced activities use Code 1680.

**CODE 1681 FAMILY PRESERVATION PROGRAM - HR**

Refer to Program 144, CWS-HR for Medi-Cal Eligible Children, for description of activities.

**CODE 1741 FAMILY PRESERVATION PROGRAM - TRAINING**

Refer to Program 145, CWS-Training, for description of activities.

**CODE 1751 FAMILY PRESERVATION PROGRAM - SERVICES/NONFEDERAL**

Refer to Program 146, CWS-Services, for description of activities.

**CODE 1771 FAMILY PRESERVATION PROGRAM - CASE MANAGEMENT: PREVENTIVE SERVICES**

Refer to Program 148, CWS-Case Management, for description of activities.

**CODE 1791 FAMILY PRESERVATION PROGRAM - CASE MANAGEMENT: FOSTER CARE**

Refer to Program 148, CWS-Case Management, for description of activities.

**FAMILY PRESERVATION AND SUPPORT PROGRAM (FPSP):**

**CODE 5151 FAMILY PRESERVATION SERVICES**

Activities include, but are not limited to; services designed to help families alleviate crises that might lead to out-of-home placement of children; services that maintain the safety of children in their home; services that support families preparing to reunite or to adopt a child; information and referral services.

**CODE 5161 FAMILY SUPPORT SERVICES**

Family Support activities include, but are not limited to, home visitation, parent education, information and referral services, family counseling services, respite care for parents and other caregivers, early development of children to assess the needs of children, literacy services, and health education for children and parents.

**CODE 6751 FPSP - ADOPTION PROMOTION AND SUPPORT**

Includes pre- and post-adoptive services designed to expedite the adoption process and support adoptive families; identifying prospective adoptive parents; assuring a foster care permanency option or, with older adolescents preparing for independent living; and preparing an adoption plan assessment on child.

**CODE 6761 FPSP-TIME LIMITED FAMILY REUNIFICATION**

Includes activities that are provided to a child who is removed from the child's home and placed in a foster family home or a child care institution. These services are also for the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately, but only during the 15-month period that begins on the date that the child is considered to have entered foster care.

Services include individual, group and family counseling; inpatient, residential or outpatient substance abuse treatment services; mental health services; assistance to address domestic violence; temporary child care and therapeutic services for families, including crisis nurseries; and transportation to and from any of the above services.

**FOSTER CARE (FC):**

**CODE 5041 AB 2129 FOSTER PARENT TRAINING**

Includes time spent preparing for and providing short-term training to current and prospective foster parents.

**CODE 5061 AB 2129 FOSTER PARENT RECRUITMENT**

Includes time spent performing foster parent recruitment activities for the AB 2129 Foster Parent Training and Recruitment Program, and travel associated with the recruitment activities.

**CODE 5771 MONTHLY VISITS FOR GROUP HOME PLACEMENTS**

Includes those activities performed by CWD social workers when providing monthly visits to all children placed in group homes (in and out of state).

**FOSTER FAMILY AUDIT (FFA):**

**CODE 5331 FFA - SAN MATEO COUNTY**

Includes time spent by caseworkers and support staff on county-operated FFA activities. It is restricted to San Mateo County.

**IN HOME SUPPORT SERVICES (IHSS):**

**CODE 1021 IHSS - SPMP**

Includes the following activities for welfare staff meeting the SPMP requirements:

- 1) A physician completing the certification that an IHSS recipient needs personal care services.
- 2) A registered/public health nurse reviewing the case, reviewing the services authorized by the social worker as outlined in the Needs Assessment, reviewing the certification of medical necessity for consistency with the authorized services, providing consultation on the recipient's service needs, monitoring the recipient's condition and effectiveness of the client's Personal Care Services Program (PCSP) services, providing expert medical opinions related to the treatment plan, and liaison activity with service providers and other agencies that provide medical care on the medical aspects of PCSP.
- 3) Performing selected activities to help IHSS recipients who are Medical eligible to gain access to Health Related (HR) services in order to reduce their risk of poor health outcome. These activities include, but are not limited to the development, implementation and management

of HR service plans; referrals to other agencies and programs for the assessment, evaluation, or treatment of HR needs; interagency coordination and liaison with providers of HR services to improve the service delivery system; and informing and anticipatory guidance about the causes, and prevention and remediation of HR needs.

CODE 103 IHSS - PCSP/HR

Program 103 captures costs for PCSP and HR activities for the IHSS program, including Supported Individual Providers (SIP) and SPMP costs not eligible for enhanced Federal Financial Participation. Related time study codes are as follows:

CODE 1031 IHSS - HR

Includes explaining, arranging for, and authorizing IHSS services when such activities are HR and provided to Medi-Cal eligible IHSS recipients; computation of any share of cost; development, implementation, and management of plans of treatment; outreach activities to inform IHSS Medi-Cal eligible recipients of available services and programs; providing assistance to eligible recipients to access needed HR services; and statistical reporting. This code applies to all HR activities on non-PCSP cases.

CODE 1032 IHSS - SUPPORTED INDIVIDUAL PROVIDERS (SIP) PCSP

Includes time spent assisting IHSS-PCSP recipients in selecting an individual provider(s); assisting and training the recipient in the supervision of their individual provider(s); and the actual transporting or accompaniment of the recipient to services related to personal care.

Coordinating the outreach and recruitment of potential individual providers; establishing and maintaining a list of potential providers that recipients can choose from and, conducting orientation for recipients and individual providers on the IHSS program.

CODE 1033 IHSS - SIP HR

Includes time spent assisting IHSS-Non PCSP who are HR and Medi-Cal eligible recipients in selecting an individual provider(s); assisting and training the recipient in the supervision of their individual provider(s); and the actual transporting or accompaniment of the recipient to services.

CODE 1034 IHSS - PCSP

Includes development, implementation, and management of the plan of treatment; referrals to other agencies and programs; determining third party insurance coverage; referring IHSS-PCSP recipients to potential individual providers to assist them in selecting a provider; transporting or accompanying recipients to obtain services related to personal care; obtaining a doctor's certificate; making eligibility determinations and redeterminations for IHSS-PCSP; statistical reporting; voter registration activities; and processing provider grievances.

**CODE 1041 IHSS - SIP NON-HR / NON-PCSP**

Includes time spent assisting IHSS Program recipients not eligible for federal Medi-Cal funding, including non-PCSP recipients, in selecting an individual provider(s); assisting and training the recipient in the supervision of their individual provider(s); and the actual transporting or accompaniment of the recipient to services.

**CODE 1042 IHSS - NON HR / NON PCSP**

Includes IHSS activities not eligible for Title XIX funding. These activities are related to non-HR activities on non-PCSP cases. This includes time spent explaining IHSS program benefits to applicants/recipients; explaining employee and employer responsibilities; assessing service needs; development, implementation, and management of treatment plans; implementation activities for any IHSS court case; processing a claim form and calculating the benefits related to a court case ruling; data input of claims; preparing reports; participation in case reviews and audits; voter registration activities, appeals, case dictation, and statistical reporting.

**CODE 3301 IHSS - IN HOME SUPPORTIVE SERVICES**

Includes fraud activities related to IHSS performed by Welfare Fraud Investigators and their first-line supervisors who have peace officer status under Penal Code Section 830.

**INDEPENDENT LIVING PROGRAM (ILP)**

**CODE 1821 ILP - CASE MANAGEMENT**

Includes ILP case management activities for children; assessing the need for ILP services, developing the ILP service plan, and referring the child to services.

**CODE 1841 ILP - SERVICES**

Includes the provision of ILP services to children: independence counseling; providing training on occupational and college preparatory high school classes, financial aid and scholarships, the acquisition of social security cards, medical history information, birth certificates or other proof of birth, housing and home management; and other necessary services.

#### **OFFICE OF CHILD ABUSE PREVENTION (OCAP)**

#### **CODE 1671 CHILD ABUSE PREVENTION, INTERVENTION AND TREATMENT (CAPIT)**

Includes the provision of services for child abuse and intervention.

#### **REFUGEE RESETTLEMENT PROGRAM (RRP):**

#### **CODE 1401 RRP - CWS**

Includes time spent arranging and providing the following services to eligible refugees in support of a CWS plan:

- Information and referral services.
- Outreach services, including activities designed to familiarize refugees with available services, explain the purpose of these services, and to facilitate access to these services.

Social adjustment services include:

1. Emergency services as follows: assessment and short term counseling to persons or families in a perceived crisis, referral to appropriate resources, and making arrangements for necessary services.
2. Health-related services as follows: information, referral to appropriate resources, assistance in scheduling appointments and obtaining services, and counseling to individuals or families to help them understand and identify their physical and mental health needs and maintain or improve their physical and mental health.
3. Home management services as follows: formal or informal instruction to individuals or families in management of household budgets, home maintenance, nutrition, housing standards, tenants' rights, and other consumer education services.



- Day care for children.
- Transportation.
- Translation and interpretation services.
- Case management services.

**CODE 1411 RRP - CSBG**

Includes the same activities specified for Code 1400 except activities identified to Code 1410 must be provided to eligible refugees in support of a service plan directed at goals other than Employability or CWS.

**CODE 1421 RRP - UNACCOMPANIED MINORS**

Includes the provision of CWS to unaccompanied Refugee and Cuban Haitian entrant minors.

**SPECIALIZED TRAINING FOR ADOPTIVE PARENTS (STAP):**

**CODE 0051 STAP - RECRUITMENT**

Includes time spent performing STAP recruitment activities that are performed in order to find and develop required resources which either do not exist, or do not exist in sufficient quantity to meet the needs of the population being served. This includes travel time associated with recruitment activities.

**CODE 0052 STAP - TRAINING**

Includes time spent preparing for and providing training to recruited adoptive parents to care for eligible children.

**CODE 0053 STAP - CASE MANAGEMENT**

Includes activities directed to a child in adoptive placement or activities immediately preceding an adoptive placement, such as a child adoptability assessment, adoptive applicant screening, and home study. This includes activities associated with the arrangement for non-medical support services including respite care for specially trained prospective adoptive parents and relative caretakers and activities generally supportive of the county's adoption program (see CWS case management activities in the PCDs).

**SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTAL PAYMENT  
(SSI/SSP):**

**CODE 1351 SSI/SSP - OUT OF HOME CARE**

Includes determining and certifying the need for out-of-home care for an SSI/SSP applicant or recipient who resides in an unlicensed home. This activity must be initiated by the Form SSP 22.

**SUPPORTIVE AND THERAPEUTIC OPTIONS PROGRAM (STOP):**

**CODE 5881 STOP - CASE MANAGEMENT**

Activities are directed at developing a case plan, which indicates the specific services necessary to promote a successful transition home and allows for continuity in service delivery. Activities include but are not limited to the following:

- Identifying and developing specific services needed by children and their families;
- Developing a strength-based assessment;
- Linking families with community-based services and local service providers, along with teaching families how to access needed services;
- Coordinating with service providers and community based organizations;
- Activities that are directed towards enhancing, expanding or supporting STOP; and
- Travel time associated with any of the above activities.

**SPECIAL PILOT PROJECTS:**

**CODE 5651 SB 163 WRAPAROUND SERVICES PILOT**

Wraparound services are family centered, strengths-based, needs-driven, and individualized service planning including, but not limited to:

- Providing intensive case management;
- Performing life domain needs assessment; facilitating child/family teams; developing an individualized family and child service resource plan; implementing and monitoring appropriate services/resources; and

- Assisting the family and child in all life domain areas.

CODE 5661 ADOPTIONS ASSISTANCE PROGRAM (AAP) WRAPAROUND SERVICES

Services include, but are not limited to the following:

- Providing counseling or other therapeutic wraparound services to an adopted child or to the child's adoptive family in order to ameliorate or remedy personal problems, behaviors, or home conditions, as referenced;
- Providing homemaking instruction through discussion and example when adoptive parent functioning can be improved by teaching more effective child care skills and home maintenance; and
- Parenting training.

CODE 5781 Title IV-E WAIVER PROJECT EXTENDED VOLUNTARY ADMINISTRATION

Activities related to preparing for the determination of a child's eligibility for the waiver project and activities directed to a participating child when the child is in a voluntary placement. Included is the development of the case plan, which indicates the specific services necessary to meet the protective needs of the child. Activities include but are not limited to the following:

- Assessing child's/family's needs and developing a case plan as indicated in regulations;
- Arranging for the provision of services and referrals for other services, when necessary;
- 22placement visits;
- Working with placement providers or child's family to prepare them for receiving the child;
- Arranging for a lower level placement or to return the child home;
- Management and supervision of the case, participation in case conferences, permanency planning meetings, and administrative reviews;
- Recruitment activities, developing and distributing resource material, consulting and coordinating with service providers and community based organizations;
- Activities that are directed towards enhancing, expanding or supporting the county's program of preventive services or out-of-home care; and
- Travel time associated with any of the above activities.

CODE 5782 TITLE IV-E WAIVER PROJECT EXTENDED VOLUNTARY EVALUATION

Includes time spent by county casework staff providing information or reports to the evaluation team as well as gathering the necessary data.

CODE 7001 GENERIC

Includes time spent by caseworkers performing general administrative activities that essentially provide a department-wide benefit such as developing a manual on casework procedures. Also include time spent in training, conferences, or staff meetings when the subject has department-wide benefit or cannot be identified to a specific program. This code is not to be used when performing case management activities, which continue to be recorded to the associated program.

II  
**CalWORKs FUNCTION  
PROGRAM CODE DESCRIPTIONS**

3/01

**GENERAL FUNCTION DEFINITION**

Any activity related to the CalWORKs Program.

**TIME STUDY STAFF**

- A. Workers performing CalWORKs eligibility determinations and grant maintenance activities; as well as referrals for services (such as mental health, substance abuse and domestic violence);
- B. Staff providing employment training services, including case management and needs assessment as well as referrals for services (such as mental health, substance abuse and domestic violence);
- C. Appeals Workers;
- D. County Performance Sample data collection staff;
- E. Welfare Fraud staff (NOTE: These are Welfare Fraud Investigators (WFI) and their first-line supervisors who have peace officer status under Penal Code Section 830. Investigative staff who do not have peace officer status—a requirement necessary for reporting time to the same Fraud codes used by WFI - should report time to the applicable program codes that do not indicate that they are restricted to WFI staff.)
- F. Clerical and administrative staff performing CalWORKs activities on a full-time basis, e.g., case budget computations and Child Support disregard;
- G. Caseworkers, clerical and administrative staff performing fiscal or case budget activities associated with Title IV-D Child Support collections; and
- H. First-line supervisors of the staff listed in A-G, above.

## CalWORKs

Includes information and referral, eligibility determinations and grant maintenance functions for the CalWORKs Program; Medi-Cal and Food Stamp functions for linked cash grant CalWORKs cases; Welfare to Work (WTW) activities; voter registration activities; Income and Eligibility Verification System (IEVS) functions including inquiries, matches, fraud referrals, and follow-up; preparing and/or presenting a case for hearing; and modified Quality Control Information System (QCIS) activities for the CalWORKs. This category also includes Integrated Earnings Clearance/Fraud Detection System (IFD) functions including earning clearance reviews; IFD fraud referrals; IFD overpayment computations, and related contacts; and CalWORKs zero grants.

Identify all time to one of the following:

### CODE 2041 CalWORKs-IEVS

Includes reviewing and verifying that a discrepancy identified by the Integrated Earnings Clearance/Fraud Detection System (IFD) Wage Match and New Hire Match (NHM) exists between the gross earnings and employment reported by the recipient to the county and by the employer to the Employment Development Department (EDD); contacting recipients and employers to verify if earnings were unreported or underreported by the recipient and determining if an overpayment/overissuance was made; reviewing and verifying whether recipients received duplicate aid as indicated by the IFD Wage Match; contacting recipients, financial institutions, or any persons/agencies to verify the existence and ownership of assets identified by the Franchise Tax Board Asset Match System, and determining if the recipient was ineligible for aid; determining whether an overpayment/overissuance was made and the amount of overpayment/overissuance if total ineligibility exists; and preparing the associated Notice of Action and IEVS Response Document and IEVS Management Report (DPA 482). (NOTE: the NHM information must be processed by dedicated IEVS staff who time study in accordance with CDSS time study instructions. As in the case with the wage match, we recommend that any resulting overpayments and grant reduction collections be initiated by dedicated IEVS or Collections staff, and time studied to Code 2781, CalWORKs Overpayment Collections.)

### CODE 2261 CHILD/SPOUSAL SUPPORT DISREGARD

TSC 2261, Child/Spousal Support Disregard, inadvertently dropped off in the 12/99 quarter. It includes preparing and authorizing payments, preparing any required notices, and responding to client inquiries about the disregard payment.

Code 2571 Includes time spend performing activities to expand existing outreach

efforts and to develop and implement new outreach strategies. This may include media spots, posters, employment fairs, and providing information on availability of income support including the Earned Income Tax Credit (EITC), health coverage, and food and nutrition programs.

CODE 2691 CaWORKs SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM

~~Primary and/or secondary verification~~ activities to establish alien Satisfactory Immigration Status (SIS) with the Immigration and Nationalization Service (INS) including: completion of primary and secondary INS verification forms; obtaining, copying, and transmitting alien documents to the INS; comparing INS data with documents submitted by aliens; and execution of consent for disclosure statement for amnesty and special agricultural worker applicants. SIS should be established for all aliens at application and for all alien recipients at recertification or redetermination.

CODE 2781 CaWORKs OVERPAYMENT COLLECTIONS (SB 627)

Includes the following CaWORKs collection activities:

1. Discovery and computation of overpayment, and notification of recipients (excluding IEVS matches);
2. Establishment of the overpayment record, and initiation of grant reduction or cash collection (for all overpayments, including those discovered by IEVS);
3. Recording and accounting of collections;
4. Referral of closed cases for cash collection;
5. Re-establishment of grant reduction on reopened cases; and
6. Reporting of collection activity.

CODE 6101 CaWORKs - JAIL MATCH (SB 1556)

CaWORKs and PAFS cases - Jail Match casework activities required by SB 1556: includes reviewing and verifying that a recipient identified by the Jail Match System is or has been incarcerated; contacting recipients and jail facilities to verify whereabouts and exact dates of incarceration; determining if the recipient was eligible for aid and whether an overpayment/overissuance was made and the amount of the overpayment/overissuance if ineligibility exists for the recipient or case.

CODE 6141 CaWORKs ELIGIBILITY

Includes eligibility determinations in the CaWORKs Program to process Monthly Eligibility Report, and annual re-investigations. Activities

included are review application, review required forms and verifications, fingerprint imaging, request for information, home and office visits, completion of Notice of Actions, sanctions, computer data input, and activities in support of non-Administrative Disqualification Hearings (ADH)/non-Intentional Program Violations (IPV) cases.

Public Assistance Food Stamps (PAFS) and Two-Parent Family activities are time studied here but the PAFS shift and the Two-Parent Family caseload shift are applied to this program code. Activities that can be specifically identified to the Medi-Cal Non-Assistance Food Stamp Program, and Non-Federal Legal Aliens are captured under other program codes.

**CODE 6151 INITIAL ELIGIBILITY DETERMINATION FOR CalWORKs, FOOD STAMP, AND MEDI-CAL PROGRAMS**

Includes the initial eligibility determination intake and grant determination activities that are common to CalWORKs, Food Stamp, and Medi-Cal Programs. Included activities are review of SAWS 1, application, review required forms and verifications, request for information, early fraud referral, home and office visits, computer data input, fingerprint imaging, and completion of Notice of Actions.

This code is intended for new applicants, or returning recipients requiring a full intake due to a break in aid. It is intended for applicants whose eligibility for these three programs is unknown (or uncertain) pending eligibility determination. If the applicant states they are applying for CalWORKs only (NO Food Stamps or Medi-Cal), use Code 6141.

**CODE 6161 NONFEDERAL CalWORKs ELIGIBILITY-LEGAL NON CITIZENS**

Includes eligibility determinations including initial determinations, review of Monthly Eligibility Reports, and Annual Re-Investigations performed on behalf of Nonfederal CalWORKs participants (e.g., legal aliens ineligible under TANF guidelines but eligible for CalWORKs). Allowable activities include review of SAWS 1, application, required forms and verifications, request for information, early fraud referral, home and office visits, computer data input, fingerprint imaging, and completion of Notice of Actions.

**CODE 6181 CalWORKs PROGRAM INTEGRITY**

This code is for non-WFI staff performing activities related to CalWORKs and Welfare-to-Work ADH/IPV cases and CalWORKs Early Detection/Prevention Program (ED/PP). ED/PP activities with CalWORKs cases may include, but are not limited to, conducting investigations, home



visits, interviews, preparing investigative reports for civil and criminal complaints for the prosecuting authority, maintaining complete records of fraud investigative activities, and statistical reports.

**CODE 6631 CalWORKs CASE MANAGEMENT**

Includes time spent performing case management activities. Allowable activities include grant maintenance, responding to inquiries, address and phone changes, case file reviews for TANF/CalWORKs families, and data collection conducted by County Performance Sample staff through the modified QCIS.

**CODE 6641 INFORMATION AND REFERRAL**

Includes providing applicant with information regarding programs and services available within the Department of Social Services. Includes referrals to community agencies. Activities include explaining support services for employed persons, diversion program, childcare program, Welfare-to-Work Supportive Services, Cal-Learn program, Food Stamp Program, voter registration, etc.

**CODE 6651 NONFEDERAL CalWORKs CASE MANAGEMENT-LEGAL ALIENS**

Includes time spent performing case management activities. Allowable activities include grant maintenance, responding to inquiries, address and phone changes, case file reviews for TANF/CalWORKs families, and data collection conducted by County Performance Sample staff through the modified QCIS.

**CAL-LEARN PROGRAM**

**CODE 0261 STATE-ONLY CAL-LEARN – ELIGIBILITY**

Includes time spent performing administration activities associated with the Cal-Learn program sanctioned cases. Allowable activities include identifying Cal-Learn sanctioned cases; providing a teen parent with information; preparing informational notices and Notices of Action (NOAs); processing supportive services payments; making grant determinations; authorization and processing of sanctions. This also includes time spent determining deferral and exemption status; determining good cause; approving sanction and bonus recommendations; and preparation for hearings.

**CODE 0271 STATE-ONLY CAL-LEARN – CASE MANAGEMENT**

Includes time spent performing case management activities associated with the Cal-Learn Program sanctioned cases. Allowable activities include providing assistance to a teen parent to obtain educational, social and health services, scheduling and providing orientations to teen parents for the Cal-Learn Program; counseling; developing case plans; identifying the need for, arranging, and authorizing supportive services; coordinating the child care plan with the educational plan; making referrals to community services; monitoring the teen parent to determine effectiveness of service provision; assessing progress toward case plan goals; making adjustment to improve teen parent's program; and recommending payment of bonuses or imposition of sanctions.

**CODE 6171 CAL-LEARN CASE MANAGEMENT**

Includes providing assistance to teens to obtain educational, social and health services; scheduling and providing orientation to the Cal-Learn Program; counseling; developing case plans; identifying the need for, arranging, and authorizing supportive services; coordinating child care plan with educational plan; making referrals to community services; monitoring the teen parent to determine effectiveness of service provision; assessing progress toward case plan goals; making changes to improve teen parent's program; and recommending payment of bonuses or imposition of sanctions.

This code does not include activities that can be specifically identified to Child Welfare Services-Minor Parent Investigations.

**CODE 6301 CAL-LEARN ELIGIBILITY**

Includes identifying Cal-Learn cases; providing a teen parent or pregnant teen with information and referral to the Cal-Learn Program; preparing informational notices and Notices of Action; processing supportive services payments; making grant determinations; authorization and processing of sanctions and bonuses. This includes time spent determining deferral and exemption status; determining good cause; approving sanction/bonus recommendations; and preparation for hearings.

**CODE 6401 NONFEDERAL CAL-LEARN ELIGIBILITY-LEGAL ALIENS**

Includes time spent performing program administration activities associated with the Cal-Learn Program on behalf of nonfederally-eligible CalWORKs recipients (e.g., legal aliens, though ineligible under the Temporary Assistance for Needy Families [TANF] guidelines remain eligible for aid under CalWORKs). Allowable activities include identifying Cal-Learn cases; providing a teen parent or pregnant teen with information

and referral to the Cal-Learn Program; preparing informational notices and Notices of Action (NOAs); processing supportive services payments; making grant determinations; authorization and processing of sanctions and bonuses. This includes time spent determining deferral and exemption status; determining good cause; approving sanction and bonus recommendations; and preparation for hearings.

**CODE 6411 NONFEDERAL CAL-LEARN CASE MANAGEMENT-LEGAL ALIENS**

Includes time spent performing case management activities associated with the Cal-Learn Program on behalf of nonfederally eligible CalWORKs recipients. Allowable activities include providing assistance to teens to obtain educational, social and health services; scheduling and providing orientation to the Cal-Learn Program; counseling; developing case plans; identifying the need for arranging, and authorizing supportive services; coordinating child care plan with educational plan; making referrals to community services; monitoring the teen parent to determine effectiveness of service provision; assessing progress toward case plan goals; making adjustments to improve teen parent's program; and recommending payment of bonuses or imposition of sanctions. Deferral and exemption status; determining good cause; approving sanction and bonus recommendations; and preparation for hearings.

**CalWORKs FRAUD ACTIVITIES**

Includes any activity performed by WFIs related to the investigation and prosecution of fraud when a person, on behalf of himself or herself, has knowingly and with intent to deceive or defraud made a false statement or representation to obtain aid, to obtain a continuance or increase of aid, or to avoid reduction or denial of aid.

WFIs are required to record time for investigative activities to the programs specified below. Investigators and their first-line supervisors are required to have peace officer status under Penal Code Section 830 in order to record time to fraud programs. Investigative staff who do not have peace officer status must record time spent on investigative activity as casework time, identified to the applicable program.

**CODE 3011 CalWORKs FRAUD**

Includes fraud activities related to a federal CalWORKs case. A case is defined as federal if at any time during the investigation period it was federally eligible. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3051 NONFEDERAL CalWORKs FRAUD**

Includes fraud activities related to a nonfederal CalWORKs case, including Two-Parent program participants. A case is defined as nonfederal if during the entire investigation period it was non-federally eligible (e.g., legal aliens ineligible under TANF guidelines but eligible for CalWORKs). Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3151 FEDERAL CalWORKs AND FOOD STAMP FRAUD**

Includes activities related to a case receiving both federal CalWORKs and Food Stamps. When the investigation ceases on one of the program components of the case, the activities are reported solely to the remaining component, i.e., either CalWORKs fraud or Food Stamp fraud. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3201 NONFEDERAL CalWORKs and FOOD STAMP FRAUD**

Includes activities related to a case receiving both nonfederal CalWORKs and Food Stamps (e.g., legal aliens ineligible under TANF guidelines but eligible for CalWORKs). When the investigation ceases on one of the program components of the case, the activities are reported solely to the remaining component, i.e., either non-federal CalWORKs fraud or nonfederal Food Stamp fraud. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3401 EARLY FRAUD DETECTION/PREVENTION (EFD/P) - FEDERAL CalWORKs**

Activities with federal CalWORKs cases include, but are not limited to, conducting investigations, home visits, interviews, preparing investigative reports for civil and criminal complaints for the prosecuting authority, maintaining complete reports of fraud investigative activities, and completing statistical reports. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3421 EFD/P - CalWORKs and FOOD STAMPS**

Includes EFD/P activities related to combined CalWORKs and Food Stamp cases. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3921 FRAUD - CalWORKs AFIRM - LA COUNTY**

For LA County only - includes identifying match situations, investigating referrals from eligibility staff, validating fingerprint matches, referring cases to the District Attorney when necessary, determining if half matches are full matches, referral of full match cases to eligibility staff, and statistical reporting. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3931 FRAUD - PAFS AFIRM - LA COUNTY**

For LA County only - activities on a Public Assistance Food Stamp (PAFS) case (combined CalWORKs and Food Stamp) includes identifying match situations, investigating referrals from eligibility staff, validating fingerprint matches, referring cases to the District Attorney when necessary, determining if half matches are full matches, referral of full match cases to eligibility staff, and statistical reporting. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3941 FRAUD - CalWORKs AFIRM - EVALUATION**

For LA County only - casework activities to be included for this code are the same as described for Code 3921, Fraud - CalWORKs AFIRM - LA County. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**WELFARE TO WORK (WTW) CASEWORKER ACTIVITIES**

Effective with the March 1998 quarter, Greater Avenues to Independence (GAIN) Placement and Development Services activities formerly captured separately under Code 4052, GAIN-PLACEMENT AND DEVELOPMENT SERVICES, have been re-classified as "general" WTW caseworker activities listed below. These activities include: soliciting and developing employment and training slots for the Work Experience component; negotiating employment and training contracts; and performing on-site programmatic monitoring of contracts, including contractor compliance in meeting the participant's employment goal and resolution of participation problems.

General WTW caseworker activities include: determining deferrals; arranging for the participant's entry into the WTW component; referring clients to the tribal Job Training and Basic Skills (JOBS) program; assessing the need for, and arranging for supportive services, other than child care; calculating supportive service overpayments (OP); completing OP Notices of Actions; coordinating OP grant adjustments with CalWORKs caseworker; tracking and monitoring participant activities; securing and referring participants to job interviews; arranging for or providing employment or training-related counseling; completing subsequent Activity Agreements; coordinating grant diversion

activities with the CalWORKs caseworker; conducting conciliation and good cause determinations; determining the need for and coordinating sanction activities with the CalWORKs caseworker; preparing for and presenting information at hearings; providing client services, and domestic violence resource and referral activities.

WTW caseworker activities listed within each WTW Code listed below are in addition to the general WTW caseworker activities listed above. PLEASE IDENTIFY ALL CASEWORKER ACTIVITIES TO THE FOLLOWING WTW PROGRAM COMPONENTS ACCORDING TO PROGRAM PARTICIPANT ASSIGNMENT.

CODE 4512 NONFEDERAL WTW: CALWORKS AND FOOD STAMP FRAUD

Includes activities for all WTW components performed on behalf of a nonfederal participant (e.g., legal aliens ineligible under TANF guidelines but eligible for CalWORKs).

CODE 6201 WTW PRE-ASSESSMENT

Includes providing a CalWORKs applicant/recipient with an orientation to the WTW Program and the available supportive services; advising the client of his/her rights and responsibilities; activities associated with the WOTC Program; administering the basic skills screening tests; developing and documenting the preliminary employment goal; completing the General and Initial Activity Agreement; referring the participant to the initial assignment or WTW Assessment; and activities prior to and after Assessment related to one-week job readiness workshop and activities related to supervised/unsupervised job search. This includes Job Club Case Management (CM) and Program Operations, Supervised Job Search CM and Program Operations, and Other Job Search Services CM activities.

CODE 6211 WTW POST-ASSESSMENT: COMMUNITY SERVICE

Includes any activities performed relating to the provision of community service assignments to WTW Program Participants who are participating in Community Service activities prior to reaching the 18 or 24 month time limit as well as those who have reached their time limit (18th month or 24th month, as applicable) and have not found unsubsidized employment sufficient to meet the required minimum hours of participation.

CODE 6221 WTW POST-ASSESSMENT: OTHER

Includes any WTW Post-Assessment activities other than those related to either the Vocational Education or Community Service WTW components.

CODE 6231 WTW POST-ASSESSMENT: VOCATIONAL EDUCATION

Includes job-specific training in a classroom or on-site setting and other college training, including post-secondary education, and self-initiated programs.

CODE 6241 WTW ASSESSMENT

Includes activities related to the participant's entry into the component; amended Activity Agreement; third party assessors; vocational assessment; evaluation of participant's education and employment history and need for supportive services; evaluation and completion of the employment goal and plan; and reappraisals. This includes all Assessment Program Operations activities.

CODE 6311 CaWORKs TRANSITIONAL SERVICES

For counties that have provisions for transitional services in their county plans, this includes transitional services case management activities.

CODE 6481 CaWORKs TRANSITIONAL SERVICES, NONFEDERAL

For counties that have provisions for transitional services to legal aliens and Two-Parent Families (e.g., legal alien's ineligible under TANF guidelines but eligible for CaWORKs) in their county plans. This is including transitional services case management activities.

CODE 6781 WTW -STATE ONLY TWO-PARENT FAMILIES: PRE ASSESSMENT

Includes WTW pre-assessment activities for State Only Two-Parent families. Allowable activities are the same as those under TSC 6201, WTW Pre-Assessment.

CODE 6791 WTW STATE ONLY TWO-PARENT FAMILIES: COMMUNITY SERVICE

Includes WTW community service activities for State Only Two-Parent families. Allowable activities are the same as those under TSC 6211, WTW Community Service.

CODE 6801 WTW STATE ONLY TWO-PARENT FAMILIES: VOCATIONAL EDUCATION

Includes WTW vocational education activities for State Only Two-Parent families. Allowable activities are the same as those under TSC 6231, WTW Vocational Education.

CODE 6811 WTW STATE ONLY TWO-PARENT FAMILIES: ASSESSMENT

~~Includes WtW assessment activities for State Only Two-Parent families.~~  
~~Allowable activities are the same as those under TSC 6241; WtW Assessment.~~  
~~Services provided for the program are limited to the following:~~  
~~Case services, case management, case coordination, and other services.~~

**CODE 6821 WTW STATE ONLY TWO-PARENT FAMILIES: POST-ASSESSMENT OTHER**

Includes WtW post-assessment activities for State Only Two-Parent families. Allowable activities are the same as those under TSC 6221, WtW Post-Assessment: Other.

**CODE 6851 CalWORKs DOMESTIC VIOLENCE SERVICES**

Includes time spent by county staff in direct provision of domestic violence services. These services may include, but are not limited to: Community domestic violence services; Individual counseling of the participant and children; Group counseling; Parenting skills training; independent living skills training.

**CODE 7001 GENERIC**

Includes time spent by caseworkers performing general administrative activities that essentially provide a department-wide benefit such as developing a manual on casework procedures. This includes time spent in training or in conference or staff meetings when the subject has department-wide benefit or cannot be identified to a specific program. This code is not to be used when performing case management activities, which continue to be recorded to the associated program.

**FEDERAL WtW PROGRAM**

**CODE 6421 FEDERAL WtW GRANT PROGRAM - MATCHING FUNDS**

Includes activities related to the provision or arrangement of specific allowable activities under the Federal WtW Grant Program to target populations of the hardest to employ recipients of CalWORKs. Pursuant to H.R. 3424, some non-custodial parents may be included; along with young adults between 18 and 25 years of age who received foster care as a minor and custodial parents with income below the 100 percent poverty level. (These individuals do not have to be recipients of assistance to be eligible).

Includes referring program participants to community service and work experience assignments; activities related to job creation through public or private sector employment wage subsidies and on-the job training;



contract-related activities involving public or private providers of readiness, placement and post-employment services; providing job vouchers for placement readiness and post-employment services; and, providing job retention or supportive services provided that such services are not otherwise available.

**CODE 6471 WtW REGIONAL COLLABORATIVES**

For Alameda, Humboldt, Los Angeles, Riverside, San Bernardino, San Joaquin, and Ventura counties only includes activities related to the statewide collaborative effort to improve efficiency and effectiveness in delivering workforce development services that directly benefit the targeted populations of CalWORKs recipients who meet specific criteria under the WtW Grant Program or noncustodial parents as long as the custodial parent meets the criteria.

**DEMONSTRATION PROJECTS**

**CODE 0401 CHILD SUPPORT ASSURANCE (CSA) DEMO PROJECT**

Includes activities associated with the CSA for the counties that are selected by the California Department of Social Services to participate in the demonstration project. Code previously listed incorrectly as TIME STUDY CODE 6521.

**CODE 2631 U.S. RESIDENCY PROJECT - CalWORKs**

For Imperial and San Diego Counties only - includes interviewing applicants and recipients of public assistance to determine residency; reviewing documents for authenticity, completeness, and accuracy; determining case status; data collection for project evaluation; and referral of sampled cases for fraud investigation follow-up.

**CODE 6191 CalWORKs CALIFORNIA WORK PAYS DEMONSTRATION PROJECT (CWPDP) CONTROL**

For Alameda, Los Angeles, San Bernardino, and San Joaquin counties only - Includes eligibility intake and continuing casework activities for "control" status cases under CWPDP. The casework activities to be included for this code are the same as described for Code 6141, CalWORKs Eligibility.

**CODE 6291 NONCUSTODIAL PARENT EMPLOYMENT AND TRAINING DEMONSTRATION PROJECT (NCP)**

Includes activities associated with the NCP for the counties that are selected by the California Department of Social Services to participate in the project.

**CODE 6351 EMPLOYMENT READINESS DEMONSTRATION PROJECT (ERDP)**

For Humboldt, Monterey, Orange, San Diego, Santa Cruz, Sonoma, and Ventura Counties, who provide ERDP services through a contractor, include time spent identifying potential participants through statistical matches; screening participants for at-risk status; contract management activities.

For direct service delivery activities by Fresno County, include time spent identifying potential participants through statistical matches; screening participants for at-risk status; conducting needs assessments; job search and placement assistance; and case management; and contract management.

III  
**OTHER PUBLIC WELFARE PROGRAMS FUNCTION**  
**PROGRAM CODE DESCRIPTION**  
**3/01**

**GENERAL FUNCTION DEFINITION** reporting participants for at-risk status, continued management

Includes activities associated with the eligibility determination process performed on behalf of public assistance applicants (other than CalWORKs) and, case management activities for continuing cases.

**TIME STUDY STAFF**

- A. Staff performing the activities listed below should record time to the appropriate Other Public Welfare Programs code.
- B. Workers performing public assistance eligibility determinations and associated case management activities, including Food Stamp certification workers; as well as referrals for services (such as mental health, substance abuse and domestic violence);
- C. Quality control/quality assurance staff;
- D. Caseworkers who generally perform program activities associated with another function (e.g., CalWORKs, Social Services, etc.) performing Other Public Welfare Programs Function activities;
- E. Clerical and administrative staff performing Other Public Welfare Programs Function activities on a full-time basis;
- F. Welfare Fraud Staff (NOTE: These are Welfare Fraud Investigators (WFI) and their first-line supervisors who have peace officer status under Penal Code Section 830. Investigative staff who do not have peace officer status—a requirement necessary for reporting time to the same Fraud codes used by WFI - should report time to the applicable program codes that do not indicate that they are restricted to WFI staff.);
- G. Caseworkers, clerical, and administrative staff performing fiscal or case budget activities associated with Title IV-D Child Support collections, AND;
- H. First-line supervisors of the staff listed in A - F, above.

CODE 0301 Kin-GAP PROGRAM-ELIGIBILITY FEDERAL PROGRAM

Includes the following activities performed on behalf of Kin-GAP cases: conducting eligibility determinations and benefit payment functions; various intake activities such as screening, approvals, denials, other dispositions of requests for aid, including restorations; budget computations and authorizing actions; child support referrals; home visits; intercounty transfers; and program status changes. Code 0301 also includes activities performed for continuing Kin-GAP case maintenance.

CODE 0311 Kin-GAP PROGRAM ELIGIBILITY NONFEDERAL PROGRAM

Includes the following activities performed on behalf of Nonfederal Kin-GAP cases: conducting eligibility determinations and benefit payment functions; and various intake activities, such as screening, approvals, denials; and other dispositions of requests for aid, including restorations; budget computations and authorizing actions; child support referrals; home visits; intercounty transfers; and program status changes. Code 0311 also includes activities performed for continuing Kin-GAP case maintenance.

CODE 2111 FOOD STAMP ISSUANCE

Issuance activities include all activities after the household is certified, excluding completion of the FNS-46, FNS-250, and FNS-259 reports. Issuance activities include, but are not limited to, preparation and issuance of an authorization document or list, such as the Authorization to Participate; completion of direct access records, such as the Record-for-Issuance file or Household Issuance Record card; providing replacement authorization documents; and EDP developmental or maintenance and operations activities for on-line issuance systems.

CODE 2171 COUNTY MEDICAL SERVICES PROGRAM - NON-REFUGEE RESETTLEMENT PROGRAM (RRP)/CHEP

Includes eligibility determinations and case maintenance for the County Medical Services Program for the following population:

- Applicants or recipients identified as non-aided and non-linked who are not pregnant or who are not living in an Intermediate Care Facility/Skilled Nursing Facility (ICF/SNF).
- Persons ineligible for services through RRP or Cuban/Haitian Entrant program.

CODE 2191 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) -  
PROBATION ELIGIBILITY

Includes eligibility determinations, screening for prior TANF Probation episodes, approvals, denials, authorization actions, and issuance of notices.

CODE 2251 CHILD SUPPORT

Includes activities related to processing support obligations collected by the District Attorney, recoupment and pass-on calculations, and activities performed when disbursing funds to the appropriate parties.

CODE 2301 ADOPTION ASSISTANCE PROGRAM (AAP)

Includes eligibility determinations and payment maintenance activities on AAP cases.

CODE 2451 SPECIAL CIRCUMSTANCES PROGRAM – Admin

Includes time spent determining eligibility, assessing and verifying need for special circumstances, informing applicants of program requirements/benefits, maintaining case files, performing benefit computations, and preparing authorization actions for eligible SSI/SSP recipients.

CODE 3061 ABAWDs – WORKFARE

Includes time associated with an ABAWD's participation in a qualifying workfare slot, which includes assessment, placement, and case management activities to place and keep an ABAWD in a work or workfare slot.

CODE 3071 ABAWDs – EDUCATION/TRAINING

Includes time associated with an ABAWD's participation in a qualifying educational/training slot, which includes assessment, placement, and case management activities to place and keep an ABAWD in a work, educational, or training slot.

CODE 3081 CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)

Includes time spent performing selected activities for CAPI applicants and recipients. Activities include, but are not limited to, accepting /screening applications, including applications for SSI; determining/redetermining eligibility; performing grant calculations and grant maintenance functions; informing applicants of program requirements; preparing notice of actions; making fraud referrals; and preparing reports.

**CODE 3451 AFDC FOSTER CARE (FC) ELIGIBILITY**

Includes the following activities performed on behalf of FC cases: conducting eligibility determinations and benefit payment functions; Medical Program functions and various intake activities, such as screening, approvals, denials, and other dispositions of requests for aid, including restorations; budget computations and authorizing actions; Early Periodic Screening Detection Treatment (EPSDT) and child support referrals; home visits; intercounty transfers; and program status changes. Code 3451 also includes activities performed for continuing case maintenance.

**CODE 3461 BASS V. ANDERSON LAWSUIT**

Includes reviewing claim forms; determining reimbursement amounts; documenting the corrective payment in the case file; completing/issuing NOAs; and issuing approved retroactive reimbursement checks.

**CODE 3481 OCOP/GR Non-EDP**

For activities associated with the GR program and for individuals who are not eligible for services under other programs. This program code is to be used for those programs that do not benefit from county EDP operations/costs. Programs that do benefit from EDP should be claimed to CODE 3521, OCOP/GR.

**CODE 3501 RRP MEDICAL**

Includes RRP Medically Needy Only (MNO) refugees, refugee children less than 21 years of age, pregnant refugee women, refugees residing in an ICF/SNF, and eligible non-aided Medically Indigent (MI) adult refugees. This includes eligible adult refugees who are non-aided, non-linked, not pregnant, and not living in an ICF/SNF.

**CODE 3511 REFUGEE CASH ASSISTANCE/ENTRANT CASH ASSISTANCE PROGRAM (RCA/ECA)**

Includes eligibility determinations and grant maintenance activities for time eligible RCA/ECA recipients and for Unaccompanied Refugee/Entrant Minors. This also includes conducting cause determinations and conciliation for RCA clients.

**CODE 3521 OTHER COUNTY ONLY PROGRAM (OCOP)/GENERAL RELIEF (GR)**

For the GR program and for individuals who are not eligible for services under other programs. This includes the following activities: eligibility

determinations (including fingerprint imaging) and grant maintenance functions; fraud activities related to the OCOP or GR programs; providing employment training services to GR recipients and other individuals who are not eligible for services under other employment programs; providing Welfare to Work (WTW) and social services to GR and RCA recipients. This also includes the provision of non-CSBG services to refugees. This program code is to be used for those programs that benefit from county EDP operations/costs. Programs that do not benefit from EDP should be claimed to CODE 3481, OCOP/GR Non-EDP.

**CODE 3891 CASH ASSISTANCE PROGRAM FOR IMMIGRANTS (CAPI)  
SUPPLEMENTAL SECURITY INCOME (SSI)/NATURALIZATION CASE  
MANAGEMENT AND REFERRAL**

Includes time spent assisting the CAPI client in completing SSI appeal forms and referring clients to a panel of attorneys to provide representation at appeal hearings; assisting the CAPI client in collecting medical and psychological records, scheduling medical/psychiatric appointments, arranging for transportation to medical appointments if the client has a disability determination or appeal hearing pending with the Social Security Administration (SSA) on a disability hearing; submitting completed forms to SSA and the State Disability Determination Office; acting as liaison with SSA and State Disability Determination Office to ensure that all SSI-related requirements are met for SSI approval; and assisting the CAPI client in obtaining citizenship by making referrals to the Immigration and Naturalization Service, assisting in completion of documents, making referrals to citizenship courses, and assisting in the SSA appeal process of a citizenship issue.

**CODE 4641 FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM (FSET)**

Includes activities associated with providing employment training services to FSET program participants, determining deferrals, arranging for supportive services payments, and conducting good cause/conciliation determinations. FSET program participants include non-ABAWDs and ABAWDs in non-qualifying activities such as job search, job club, alcohol rehabilitation, and drug rehabilitation, which do not qualify either as a work or workfare program for ABAWDs.

**CODE 4781 REFUGEE EMPLOYMENT SOCIAL SERVICES**

Includes all activities related to the provision of employment and training services that are approved in the county's plan. These activities are provided to eligible refugees and funded by Refugee Employment Social Services.

**CODE 4801 REFUGEE TARGETED ASSISTANCE**

Includes all activities related to the provision of employment and training services that are approved in the county's plan. These activities are provided to eligible refugees and funded by Refugee Targeted Assistance.

**CODE 6131 AFDC - FC ELIGIBILITY - VOLUNTARY PROGRAM**

Includes activities performed while conducting eligibility determinations, payment functions, and continuing case activities, on behalf of cases involving children voluntarily placed in FC. Code 6131 should also be used for reporting time spent acting in an advisory-type capacity, to ensure that the parent/guardian is aware that they will retain legal custody of the child in question, although the parent/guardian voluntarily chose to place the child in out-of-home care.

**NONASSISTANCE FOOD STAMP (NAFS)**

The following program codes currently assigned to the NAFS Program were established to capture caseworker hours associated with performing specific activities previously identified as those which benefit NAFS, or pure FS cases only. As indicated by the program title, NAFS cases are FS cases which include individuals whom, aside from receiving FS benefits, are not currently receiving a cash grant through the CalWORKs (previously AFDC) program. NAFS cases may also include Refugee, GR, Cuban/Haitian Entrant, or MI members.

In contrast, with the exception of Code 2110, Food Stamp Issuance, caseworker hours performed on behalf of Public Assistance Food Stamp (PAFS) cases (i.e., cases that receive both CalWORKs and FS), as opposed to NAFS cases, should be reported to the appropriate CalWORKs program time study code, located in the CalWORKs Function PCD. Code 2110, Food Stamp Issuance, is an exception because food stamp issuance activities are by definition food stamp costs, therefore, there is no need to distinguish between PAFS and NAFS cases. In addition to the various activities listed below for each individual NAFS program time study code, allowable NAFS activities also include: Income and Eligibility Verification System (IEVS) related functions (e.g., inquiries, matches, fraud referrals, Integrated Earnings Clearance / Fraud Detection System (IFD) overpayment computations and related follow-up contacts), fingerprint imaging, hearing preparation and/or presentation, and FS Quality Control (QC) activities.

**CODE 2181 NAFS-IEVS**



Includes reviewing and verifying that a discrepancy identified by the IFD Wage Match and New Hire Match (NHM) exists between the gross earnings and employment reported by the recipient to the county and by the employer to the EDD; contacting recipients and employers to verify if earnings were unreported or underreported by the recipient; determining if an overpayment/overissuance was made; reviewing and verifying whether recipients received duplicate aid as indicated by the IFD Wage Match; contacting recipients, financial institutions, or any persons/agencies to verify the existence and ownership of assets identified by the Franchise Tax Board Asset Match System; determining if the recipient was ineligible for aid; determining whether an overpayment/overissuance was made and the amount of overpayment/overissuance if total ineligibility exists; and preparing the associated Notice of Action and IEVS Response Document and IEVS Management Report (DPA 482). (NOTE: the NHM information must be processed by dedicated IEVS staff who time study in accordance with CDSS time study instructions. As in the case with the wage match, we recommend that any resulting overpayments and grant reduction collections be initiated by dedicated IEVS or Collections staff, and time studied to Code 2780, CalWORKs Overpayment Collections [SB 627].)

CODE 2341 FRAUD-NAFS AFIRM - LOS ANGELES (LA) COUNTY

For LA County only - includes referral of cases to fraud investigations, documenting applicant/recipient explanations, and preparing notices of actions.

CODE 2621 U.S. RESIDENCY PROJECT-NAFS

For Imperial and San Diego Counties only - includes interviewing applicants and recipients of public assistance to determine residency; reviewing documents for authenticity, completeness and accuracy; determining case status; gathering data for project evaluation; and referral of sampled cases for fraud investigations.

CODE 2681 SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM - NAFS

Satisfactory Immigration Status (SIS) verification activities for aliens applying for the NAFS program. Primary and/or secondary verification activities to establish alien SIS with the Immigration and Nationalization Service (INS) including: completion of primary and secondary INS verification forms; obtaining, copying, and transmitting alien documents to the INS; comparing INS data with documents submitted by aliens; and execution of consent for disclosure statement for amnesty and special agricultural worker applicants. SIS should be established for all aliens at application and for all alien recipients at recertification or redetermination.

**CODE 2751 EARLY FRAUD DETECTION/PREVENTION PROGRAM (EFD/P) NAFS**

For counties which have an approved plan for 100% federal and state funding; the activities listed for ED/PP in Code 3441, NAFS Program Integrity, apply to this program.

**CODE 3101 NAFS FRAUD**

Includes fraud activities performed by WFI and their first-line supervisors who have peace officer status under Penal Code Section 830 related to NAFS cases. Do not report time spent on investigative activities to Code 3100 for cases receiving both CalWORKs and FS benefits. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3341 FRAUD-NAFS AFIRM - LA COUNTY**

For LA County only - includes activities performed by WFI and their first-line supervisors who have peace officer status under Penal Code Section 830. Allowable activities include: identifying match situations, investigating referrals received from eligibility workers, validating fingerprint matches, referring cases to the District Attorney when necessary, determining if half matches are full matches, referral of full match cases to eligibility staff, and statistical reporting activities. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3411 EFD/P - NAFS (WFI)**

Includes NAFS case-related EFD/P activities performed by WFI and their first-line supervisors who have peace officer status under Penal Code Section 830. Allowable activities include conducting investigations, home visits, interviews, preparing investigative reports for civil and criminal complaints for the prosecuting authority, maintaining complete records of investigative activities, and completing statistical reports. Note: This code is reserved solely for WFI and their first-line supervisors who have peace officer status.

**CODE 3431 NAFS ELIGIBILITY**

Includes NAFS Program Intake activities, such as: fingerprint imaging and certification or denial of benefits on behalf of new applicants; recertification following a break in receiving benefits; verification of income, mandatory deductions, and other asset-related issues; activities in support of non-Administrative Disqualification Hearings/non-Intentional Program Violation

(IPV) cases; budget computation, quality assurance, supervisorial review activities; and Work Opportunity Tax Credit (WOTC) Program-related activities. This also includes continuing NAFS activities, such as: performing budget recomputations, program eligibility termination, making Employment Development Department (EDD) referrals, authorizing actions, intercounty transfers, program loss computations and adjustments, fraud or collection referrals, home visits, expedited service, recertification with no break in benefits, authorization for benefit issuance, budget computations for recertifications, quality assurance or supervisorial review activities, and WOTC Program activities. This also includes time spent providing applicants and recipients with voter registration forms and instructions, assisting in the completion of these forms as necessary, and processing the voter registration forms for submission to the Secretary of State. NAFS activities performed on Indian Reservations should also be included here.

**CODE 3441 NAFS PROGRAM INTEGRITY**

This code is intended for use by non-WFI staff performing NAFS administrative hearing activities for IPV cases, and FS ED/PP activities. ED/PP activities may include, but are not limited to, conducting investigations, home visits, interviews, preparing investigative reports for civil and criminal complaints for the prosecuting authority, maintaining complete records of fraud investigative activities, and statistical reports.

**CODE 3471 NAFS - QUALITY CONTROL**

Includes case reviews, desk audits, third-party verifications, home visits related to case reviews, and all other activities specifically related to the Quality Control Review of Food Stamp certification. Do not include time spent performing quality assurance, supervisorial reviews or other activities which are not an integral part of the required Quality Control Review.

**CODE 6111 NAFS - JAIL MATCH (SB 1556)**

NAFS cases Jail Match casework activities required by SB 1556 includes reviewing and verifying that a recipient identified by the Jail Match System is or has been incarcerated; contacting recipients and jail facilities to verify whereabouts and exact dates of incarceration; determining if the recipient was eligible for aid and whether an overpayment / overissuance was made and the amount of the overpayment / overissuance if ineligibility exists for the recipient or case.

**MEDI-CAL**

Includes activities performed on behalf of MNO and MI Medi-Cal Program applicants and recipients. MNO activities are defined as those performed on behalf of applicants/recipients that are linked to an aid program and, are not currently receiving aid in the form of a cash grant. MI activities are defined as those performed on behalf of nonaided, nonlinked, applicants and recipients PROVIDED THAT THEY ARE EITHER: children under 21 years of age, pregnant, or persons residing in an ICF/SNF.

**CODE 2151 MEDI-CAL - INTAKE**

Includes screening and referral of MNO applicants; accepting and processing initial applications, reapplications, and transfers-in; hearing activities; and preparing and/or presenting a case for hearing. This also includes time spent providing applicants and recipients with voter registration forms and instructions, assisting in the completion of these forms as necessary, and processing the voter registration forms for submission to the Secretary of State.

**CODE 2153 MEDI-CAL - CONTINUING**

Includes processing approved cases, including budget changes, address changes, redeterminations, discontinuances and rescinded discontinuances, income reporting, and hearings for either MNO or MI recipients. Also includes issuing temporary Medi-Cal cards to SSI/SSP recipients who did not receive their regular Medi-Cal card because of a failure of the SSA system, replacing lost or stolen Medi-Cal cards, and providing additional proof of eligibility labels for SSI/SSP recipients.

**CODE 2711 SAVE - MEDI-CAL**

SIS verification activities for aliens applying for the MNO and MI programs. Primary and/or secondary verification activities to establish alien SIS with the INS include: completion of primary and secondary INS verification forms; obtaining, copying, and transmitting alien documents to the INS; comparing INS data with documents submitted by aliens; and execution of consent for disclosure statement for amnesty and special agricultural worker applicants. SIS should be established for all aliens at application and for all alien recipients at recertification or redetermination.

**MEDI-CAL SECTION 1931**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 established a new mandatory coverage group at Section 1931 (b) of the Social Security Act (SSA). According to the SSA Section 1931 requirements, Medi-Cal benefits will be provided to low income families determined to be eligible under Section 1931 rules. Consistent with CalWORKs implementation, the Medi-Cal Section Program becomes effective January 1,

1998. Detailed instructions pertaining to the Section 1931 coverage group will be transmitted under separate cover by the Department of Health Services.

**CODE 3491 MEDI-CAL SECTION 1931-INTAKE**

Includes screening and referral of Section 1931 coverage group applicants; accepting and processing initial applications, reapplications, and transfers-in; hearing activities; and preparing and/or presenting a case for hearing. Also includes time spent providing applicants and recipients with voter registration forms and instructions; assisting in the completion of these forms as necessary, and processing the voter registration forms for submission to the Secretary of State.

**CODE 3492 MEDI-CAL SECTION 1931-CONTINUING**

Includes processing approved cases, including budget changes, address changes, redeterminations, discontinuances and rescinded discontinuances, income reporting, and hearings for Section 1931 coverage group recipients.

**CODE 7001 GENERIC**

Includes time spent by caseworkers performing general administrative activities that essentially provide a department-wide benefit such as developing a manual on casework procedures. This also includes time spent in training or in conference or staff meetings when the subject has department-wide benefit or cannot be identified to a specific program. This code is not to be used when performing case management activities, which continue to be recorded to the associated program.

**TANF FISCAL INCENTIVES**

Welfare and Institutions Code 10544.1 established performance incentives to counties to move CalWORKs recipients to employment. Counties may use TANF federal incentive funds for expanded services and benefits that directly lead (or can be expected to lead to) the accomplishment of one of the four purposes of the TANF program.

The following Time Study Codes have been established to capture costs for federal reporting purposes for activities consistent with benefits or services provided under TANF. These codes will only be used for reporting federal fiscal incentives. Counties may no longer report fiscal incentive expenditures to extraneous; all expenditures must be reported under existing and new program codes. Both state and federal fiscal incentive expenditures will continue to be reported on the addendum page.

The listing of potential activities below is by no means exhaustive but serves to illustrate

a few of the possibilities that counties may consider when designing their programs.

**TANF FISCAL INCENTIVES – PROGRAMS THAT PROVIDE ASSISTANCE TO NEEDY FAMILIES**

Activities consistent with the first purpose of TANF are those which provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives. It does not cover children living with non-relatives. Benefits or services may include funding of home repairs or food banks to provide groceries to needy families. Benefits provided under this purpose are not limited to those within the definition of "assistance."

CODE 0911 **TANF FISCAL INCENTIVES-PROGRAMS THAT PROVIDE ASSISTANCE TO NEEDY FAMILIES-NON-ADMIN**

Includes time spent providing program service information to clients, screening and assessments, case management, data collection, and supportive services.

CODE 0951 **TANF FISCAL INCENTIVES-PROGRAMS THAT PROVIDE ASSISTANCE TO NEEDY FAMILIES-ADMIN**

Includes time spent performing general administrative activities including but not limited to coordination of the program, preparation of program plans, budgets and schedules and program eligibility determinations.

**TANF FISCAL INCENTIVES-PROGRAMS THAT END DEPENDENCE OF NEEDY PARENTS**

Activities consistent with the second purpose of TANF are those which end the dependence of needy parents on government benefits by promoting one of three objectives; job preparation, work and marriage. Activities would include time spent helping any needy parent, including a noncustodial parent or a working parent, by providing employment, job preparation, or training services. Potential services include job or career advancement activities, marriage counseling, refundable earned income tax credits, child care services, and employment services designed to increase the noncustodial parent's ability to pay child support. Activities that promote any one of the three objectives-job preparation, work, and marriage would be consistent with this purpose.

CODE 0921 **TANF FISCAL INCENTIVES-PROGRAMS THAT END DEPENDENCE OF NEEDY PARENTS-NON-ADMIN**

Includes time spent providing program service information to clients, screening and assessments, case management, data collection and

... providing supportive services.

**CODE 0961 TANF FISCAL INCENTIVES-PROGRAMS THAT END DEPENDENCE OF NEEDY PARENTS-ADMIN**

Includes time spent performing general administrative activities including but not limited to coordination of the program, preparation of program plans, budgets and schedules, and program eligibility determinations.

**TANF FISCAL INCENTIVES – PROGRAMS THAT PREVENT OR REDUCE OUT-OF-WEDLOCK PREGNANCIES**

Activities consistent with the third purpose of TANF are those which prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies. Neither this purpose nor the following purpose is limited to needy families or individuals. Potential activities that are reasonably calculated to accomplish this purpose include abstinence programs, visiting nurse services, and programs and services for youth such as counseling, teen pregnancy prevention campaigns, and after-school programs that provide supervision when school is not in session. Counties may also fund a media campaign for the general population on abstinence or preventing out-of-wedlock childbearing.

**CODE 0931 TANF FISCAL INCENTIVES – PROGRAMS THAT PREVENT OR REDUCE OUT-OF-WEDLOCK PREGNANCIES –NON-ADMIN**

Includes time spent providing program service information to clients, screening and assessments, case management, data collection and providing supportive services.

**CODE 0971 TANF FISCAL INCENTIVES – PROGRAMS THAT PREVENT OR REDUCE OUT-OF-WEDLOCK PREGNANCIES –ADMIN**

Includes time spent performing general administrative activities including but not limited to coordination of the program, preparation of program plans, budgets and schedules, and program eligibility determinations.

**TANF FISCAL INCENTIVES – PROGRAMS THAT ENCOURAGE THE FORMATION AND MAINTENANCE OF TWO-PARENT FAMILIES**

Activities consistent with the fourth purpose of TANF are those which encourage the formation and maintenance of two-parent families. This includes parenting skills training, premarital and marriage counseling, and mediation services; activities to promote parental access and visitation; job placement and training services for noncustodial parents; initiatives to promote responsible fatherhood and increase the

capacity of fathers to provide emotional and financial support for their children; and crisis or intervention services.

**CODE 0901 TANF FISCAL INCENTIVES – PROGRAMS THAT ENCOURAGE THE FORMATION AND MAINTENANCE OF TWO-PARENT FAMILIES-NON-ADMIN**

Includes time spent providing program service information to clients, screening and assessments, case management, data collection and providing supportive services, ~~and is not limited to those within the duration of~~

**CODE 0941 TANF FISCAL INCENTIVES – PROGRAMS THAT ENCOURAGE THE FORMATION AND MAINTENANCE OF TWO-PARENT FAMILIES ADMIN**

Includes time spent performing general administrative activities including but not limited to coordination of the program, preparation of program plans, budgets and schedules and program eligibility determinations



IV  
**CHILD CARE FUNCTION**  
**PROGRAM CODE DESCRIPTIONS**  
3/01

**GENERAL FUNCTION DEFINITION**

Any activity related to a child care program, including providing supportive services to CalWORKs applicants/recipients and other eligible participants who are employed or participating in an approved CalWORKs work activity to help enable them to obtain employment.

**TIME STUDY STAFF**

- A. Staff providing child care program, training services, referrals, including case management and needs assessment;
- B. Appeals workers; and
- C. First-line supervisors of A and B above.

**CHILD CARE:**

Includes securing child care slots; arranging child care purchase of service contracts; matching participant needs to available services; authorizing/calculating child care payments and registration fees; preparing Notices of Actions (NOAs); coordinating overpayment grant adjustments with caseworker; fraud referrals; coordinating or consulting with other child care delivery systems, and the review and verifying of self-certifications forms. Also included is maintaining records for parental complaints; and referral and verification activities in conjunction with the local Resource and Referral agency for families who select a license exempt child care provider under CalWORKs.

**CHILD CARE STAGES:**

**CODE 0361 TWO PARENT FAMILIES (STATE ONLY) STAGE ONE – CHILD CARE**

Includes broad-based activities by CWDs related to two-parent families who are simultaneously employed or participating in an approved CalWORKs work activity. Activities include initiating and securing child care slots for use by CalWORKs or Tribal Jobs participants within the existing universe of child care providers; arranging child care purchase of service contracts; matching participant needs to available services; authorizing/calculating child care payments and registration fees; and coordinating or consulting with other child care delivery systems; benefit computations; over and under payments and adjustments; outreach; and

preparing for and providing presentations to community groups and organizations; verifying hours, and coordinating overpayment grant adjustments with a caseworker. With the implementation of AB 1542, counties will no longer be required to calculate childcare payments and registration fees within the 75<sup>th</sup> percentile Regional Market Rate ceiling. Counties will be required to calculate up to the maximum payment rate for all actual CalWORKs child care, at 1.5 times the standard deviation above the mean market rate (EC Section 8357[a]).

CODE 4531 STAGE ONE CHILD CARE

Includes broad-based activities by CWDs related to initiating and securing child care slots for use by CalWORKs or Tribal Jobs participants who are employed or participating in an approved CalWORKs work activity; program notifications; benefit computations; over and under payments and adjustments; outreach; and preparing for and providing presentations to community groups and organizations; arranging child care purchase of service contracts; matching participant needs to available services and verifying hours; authorizing / calculating child care payments and registration fees; and coordinating or consulting with other child care delivery systems; overpayment NOAs, and coordinating overpayment grant adjustments with the CalWORKs caseworker. With implementation of AB 1542, counties will no longer be required to calculate child care payments and registration fees within the 75<sup>th</sup> percentile Regional Market Rate (RMR) ceiling. Counties will be required to calculate up to the maximum payment rate for all actual CalWORKs child care, at 1.5 times the standard deviation above the mean market rate (EC Section 8357[a]).

CODE 9001 UNABLE TO TRANSFER STAGE ONE TO TWO

Includes activities with the Stage One participant's, who remain in Stage One because they cannot move to Stage Two or Stage Three child care, and continue to be served by the CWD. Specific activities performed by the CWD includes initiating and securing child care slots for participants who are employed or participating in an approved CalWORKs activity; child care payment activities; program notification, recertifications, benefit computations, authorization actions, over/under payment computations and adjustments, issuance of notices, fraud referrals, hearings, outreach, and preparing for and providing presentations to community groups and organizations.

CODE 9031 NONFEDERAL CHILD CARE

Includes activities (described in Code 4531) related to the provision of child care services for legal aliens that are employed or participating in an approved CalWORKs activity, who are ineligible under TANF guidelines

but are being served under the CalWORKs Welfare to Work Program as State-only cases. This population is defined as individuals that meet the federal requirements of a qualified alien but enter the U.S. on or after 8/22/96 or meet the eligibility requirement of an alien described in CDSS EAS 42-431 (7/1/89).

**CODE 9051 STAGE TWO CHILD CARE**

For CWDs that are Stage Two Alternative Payment Program (APP) providers, this optional code will permit CWDs to capture and track all Stage Two Child Care-related activities for participants who are employed or participating in an approved CalWORKs work activity. Effective January 1, 1998, the California Department of Education (CDE) is the responsible State agency administering Stage Two-Child Care. Samples of Stage Two child care activities performed in cooperation with the CDE requirements, include: payments; program notifications; benefit computations; over/under payment computations and adjustments; outreach; preparing for and providing presentations to community groups and organizations and verifying hours.

**CODE 9071 STAGE THREE CHILD CARE**

For CWDs that are Stage Three APP providers, this optional code will permit CWDs to capture and track all Stage Three Child Care related activities for participants who are employed. Effective January 1, 1998, the CDE is the responsible State agency administering Stage Three Child Care. Samples of Stage Three child care activities performed, in cooperation with the CDE requirements, include: child care usage and actual costs; determining/calculating the amount of the child care payments; authorizing payments; verifying hours of employment; providing the recipient with rights and responsibilities information; and statistical reporting.

**CAL-LEARN CHILD CARE**

**CODE 8111 STATE-ONLY CAL-LEARN CHILD CARE**

Includes activities on behalf of the sanctioned Cal-Learn participant's who are employed or participating in an approved activity by matching needs to available child care services; authorizing/calculating child care payments and registration fees; coordinating or consulting with other child care delivery systems. Also includes completing overpayment NOAs, and coordinating overpayment grant adjustments with the CalWORKs caseworker. However, with implementation of AB 1542 counties will no longer be required to calculate child care payment and registration fees

within the 75<sup>th</sup> percentile RMR ceiling. Effective January 1, 1998, counties will be reimbursed up to the maximum payment rate for all actual CalWORKs child care at 1.5 times the standard deviation above the mean market rate.

**CODE 9091 CAL-LEARN CHILD CARE**

Activities include matching participants who are employed or participating in an approved CalWORKs activity to available child care services; authorizing/calculating child care payments and registration fees; coordinating or consulting with other child care delivery systems. Also includes calculating child care overpayments, completing overpayment NOAs, and coordinating overpayment grant adjustments with the CalWORKs caseworker. However, with implementation of AB 1542 counties will no longer be required to calculate child care payment and registration fees within the 75<sup>th</sup> percentile RMR ceiling. Effective January 1, 1998, counties will be reimbursed up to the maximum payment rate for all actual CalWORKs child care at 1.5 times the standard deviation above the mean market rate.

**CODE 9121 NONFEDERAL CAL-LEARN CHILD CARE**

The State continues to provide aid to recent non-citizen entrants who are non-federally eligible for assistance but are employed or participating in an approved CalWORKs activity. This population is defined as individuals that meet the federal requirements of a qualified alien but enter the U.S. on or after August 22, 1996, or meet the eligibility requirement of an alien described in CDSS EAS 42-431 (7/1/89). Includes activities on behalf of a non-federally eligible participant's needs to available services, authorizing/calculating child care payment and registration fees, coordinating or consulting with other child care delivery systems. This also includes calculating child care overpayment, completing overpayment NOAs, and coordinating overpayment grant adjustment with the CalWORKs caseworker. However, with the implementation of AB 1542, counties will no longer be required to calculate child care payment and registration fees within the 75<sup>th</sup> percentile RMR ceiling.

**OTHER CHILD CARE PROGRAMS/RESOURCES**

**CODE 1601 CHILD CARE AND DEVELOPMENT PROGRAM – COUNTY ONLY**

Includes eligibility determination, service arrangement, and associated case management for child care provided under the standard agreement between the county and the California Department of Education.

**CODE 9011 CHILD CARE HEALTH AND SAFETY SELF-CERTIFICATION**

Includes the following self-certification activities to gather information from child care providers serving families that receive child care under the CalWORKs and Cal-Learn Programs:

1. Providing an information notice and self-certification form to all families currently using and / or planning to begin using license-exempt providers;
2. Reviewing and verifying self-certification forms;
3. Completing pertinent forms and NOAs.
4. Maintaining records of parental complaints and making this information available to the public upon request.
5. Informing the exempt providers of the parents' complaints and their right to submit rebuttal.

**CODE 9021 CHILD CARE TRUSTLINE**

Includes the following Trustline registration activities required for families who select a license exempt child care provider under the CalWORKs Stage One Childcare and Cal-Learn Programs:

1. Advising applicants/recipients who choose license exempt child care of the Trustline Program, requirements, and participant responsibilities;
2. Distributing Trustline brochures, applications, and fingerprint cards;
3. Referral and verification activities in conjunction with the local Resource and Referral agency, child care provider, and California Department of Justice; and
4. Completion of pertinent forms and NOAs.

**CODE 9061 CHILD CARE CAPACITY BUILDING PROGRAM**

Includes activities associated with the Child Care Capacity Building Program, including all activities associated with capacity building for both licensed and license-exempt providers that best meet local child care needs.

**CODE 7001 GENERIC**

Includes time spent by caseworkers performing general activities that essentially provide a department-wide benefit such as developing a manual on casework procedures. Also includes time spent in training or in conference or staff meetings when the subject has department-wide benefit or cannot be identified to a specific program. This code is not to

be used when performing case management activities, which continue to  
be recorded to the associated program.

## DEMONSTRATION PROJECT

### CODE 9041 CHILD CARE PILOT PROJECT

Includes activities performed within the following 29 participating project counties: Butte, et al., [a consortium of 14 rural Northern California counties], Contra Costa, El Dorado, Humboldt, Kern, Mendocino, Monterey, Napa, Placer, Sacramento, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Shasta, and Sonoma. This project will focus on necessary training and teaching basic child care and safety to CalWORKs recipients. The expected outcome is the ability for these recipients to serve as in-home license exempt or in-home licensed, child care providers.

V  
**NONWELFARE FUNCTION  
PROGRAM CODE DESCRIPTION**  
3/01

**GENERAL FUNCTION DEFINITION**

Any activity related to a nonwelfare program. Costs of nonwelfare program activities may be identified to this function or as an Extraneous Cost on the CEC. If claimed to the nonwelfare function, then all associated overhead costs are allocated to county-only funding. If claimed as extraneous, then County Welfare Departments (CWDs) must apply the appropriate indirect cost rate to these nonwelfare costs.

**TIME STUDY STAFF**

Casework and support staff performing those activities in support of nonwelfare programs administered and/or operated by the CWD must record time to nonwelfare.

**NONWELFARE PROGRAMS**

Examples of nonwelfare programs include, but are not limited to, Public Guardian and Veterans Affairs.

State established Nonwelfare codes are:

CODE 8051 **NONWELFARE PROGRAMS**

This program code is to be used for those nonwelfare programs that benefit from county EDP operations/costs.

CODE 8061 **NONWELFARE PROGRAMS – NON-EDP**

This program code is to be used for those nonwelfare programs that do not benefit from county EDP operations/costs.

CODE 7001 **GENERIC**

Includes time spent by caseworkers performing general administrative activities that essentially provide a department-wide benefit such as developing a manual on casework procedures. Also include time spent in training, conferences, or staff meetings when the subject has department-wide benefit or cannot be identified to a specific program. This code is not

to be used when performing case management activities, which continue  
to be recorded to the associated program.



VI  
STAFF DEVELOPMENT  
PROGRAM CODE DESCRIPTION

3/01

GENERAL FUNCTION DEFINITION

Staff development personnel are required to complete a continuous time study. In addition, part-time staff must record time spent performing staff development activities on a continuous basis as well.

**TIME STUDY STAFF**

- A. Trainers, their first-line supervisors, and non-supervisory training coordinators time study to staff development all activities that are specified in the county's Annual Training Plan. For staff not assigned full-time, the non-staff development time is recorded as casework or administrative activity in accordance with the Support Staff Time Reporting Plan (SSTRP).
- B. Clerical staff, who are assigned to support the staff development unit, record this time to Staff Development Support on the DFA 7. For those staff who also provide support to non-staff development units, the non-staff development support time is recorded in accordance with the SSTRP, and as a result, their salaries and benefits are prorated between the Staff Development Costs and other applicable cost pools.
- C. Second-line staff development supervisors who are assigned to the staff development unit record their time to Staff Development Support on the DFA 7. If not assigned solely to staff development, the non-staff development time is recorded in accordance with the SSTRP, their salaries and benefits are prorated between the Support Staff Costs and Staff Development Costs pools.
- D. Staff Development Trainees do not time study to staff development.
  - 1. Caseworkers attending induction training or full-time training of at least four consecutive weeks do not complete any time study.
  - 2. Caseworkers in continuing training record the time to the benefiting program as a casework activity; generic training is recorded as generic:

3. In SSTRP counties, administrative and clerical staff record time for program or function-related training to the level approved in the SSTRP on the Support Staff Time Report; generic training is recorded as generic.

### TIME STUDY INSTRUCTIONS

Staff development activities include planning, needs assessment, course design, presenting training, monitoring and evaluation. Staff development activities are identified to three categories: function, specific program, or generic. Identify activities to the category based on the following definitions:

- A. Function: The training activity relates to a function but is not specific to one program within the function:
  1. Social Services-General
  2. CalWORKs – General
  3. Other Public Assistance - General
  4. Child Care - General
  5. Nonwelfare - General
  6. Generic
- B. Program: The training activity relates to one or more specific programs which can be identified. For example, CalWORKs eligibility worker induction training covers both the Food Stamp and CalWORKs programs, the training activity is prorated between the two programs based on the training time spent in each program area. Activities are recorded to programs using the appropriate four-digit code; refer to the Program Code Description for each function to obtain the appropriate code.
- C. Generic: The training activity does not relate to a particular function or program. Some examples of Generic training subjects are time management, supervising techniques, civil rights, first aid, and stress reduction.

VII  
ELECTRONIC DATA PROCESSING (EDP)  
PROGRAM CODE DESCRIPTION  
3/01

TIME STUDY STAFF

County welfare department employees who are assigned to perform EDP activities on a temporary or permanent basis will record time as specified. Eligible EDP activities include: analysis, feasibility and system studies, system design, development, programming, implementation, and maintenance.

Electronic data processing staff and first-line EDP supervisors who perform these EDP activities will record time to the developmental or maintenance and operations (M and O) category, as applicable. These staff must complete continuous time studies.

Other CWD staff who are temporarily assigned to perform EDP activities will record their EDP time to the developmental category only. Their non-EDP time will be recorded, as applicable, to those activities in accordance with the Staff Support Time Reporting Plan (SSTRP). Both the EDP and non-EDP time must be recorded on a continuous basis in order to capture the total hours worked for the day.

Administrative and clerical staff who are assigned to support the EDP unit record this time to EDP Support on the DFA 7. For those staff who also provide support to the non-EDP units, the non-EDP support time is recorded in accordance with the SSTRP, and as a result their salaries and benefits are prorated between the EDP and other cost pools.

TIME STUDY INSTRUCTIONS

County welfare department staff are required to record their EDP activities as M and O or developmental.

M and O:

Activities are recorded to the program, function, or SAWS project, if the EDP activity benefits one specific program, function or one SAWS project. If the activity benefits more than one function, the activity is recorded to Generic. Record activities to these designators:

A. Social Services	B3. SAWS	E. Nonwelfare
B1. CalWORKs	C. Other Public Assistance	F. General
B2. Central Data Base SAWS	D. Child Care	G. Direct-to-Program

Developmental Projects:

Activities or Purchase of Service benefiting developmental projects are recorded to the project number, project title, and/or program code.

VIII  
SUPPORT STAFF  
TIME REPORT INSTRUCTIONS  
3/2001

I. Staff Required to Complete Support Staff Time Report (DFA 7)

The DFA 7 is completed by all county welfare department (CWD) support staff who perform department administrative support, program administrative support, and clerical support, identified in the Support Staff Time Reporting Plan (SSTRP). In non-SSTRP counties, CWD support staff complete the DFA 7 if they perform: direct service delivery, electronic data processing (EDP) support, staff development support, nonwelfare activities, or direct-to-program/functions.

Support Staff Salary Pools

- A. General Administrative Support: Staff (includes both management/supervisory and clerical) who perform activities having department wide benefit, or who are not in direct support of casework staff.
- B. Program Administrative Support: Administrative staff who predominantly support casework staff.
- C. Clerical Support: Clerical staff who are predominantly in direct support of casework staff.

II. Benefiting Level

- A. Generic: Activities of unit staff typically have department wide benefit.
- B. EDP Support: Staff who are organizationally assigned to support an EDP office on a full- or part-time basis. The salary of individuals reporting time to EDP support will be reported on the DFA 325.1A, EDP Cost Detail Schedule.
- C. Staff Development Support: Staff who are organizationally assigned to support a staff development office on a full- or part-time basis. The salary of individuals reporting time to staff development support will be reported on the DFA 325.1C, Staff Development Schedule.
- D. Nonwelfare: Staff who supports nonwelfare activities.
- E. Function(s): Activities of unit staff are identified to one or more of the functions individually.
- F. Multifunction: Activities of unit staff are identified to combined functions. There are now 25 combinations of functions. Staff should write on their time studies the functions they support.
- G. Direct Service Delivery (DSD): The DSD codes listed below are for use by staff who provide services to clients on a full- or part-time basis. The salary of individuals who perform DSD will be reported on the DFA 325.1B, Direct Cost Schedule.

- H. Direct-to-Program/Functions: Activities time studied to functions/programs by recording the applicable alpha-numeric support staff codes which are listed below.

### III. Nonwelfare Support Time

Support staff salary, benefits and overhead costs (as determined by the indirect cost rate) will be identified to the Direct Cost pool when there are no casework hours for the nonwelfare program. Counties shall report nonwelfare support costs, when there are casework hours, to the Nonwelfare Function to allow for appropriate distribution of allocable costs.

### IV. Completing the DFA 7

- A. Check the appropriate box to indicate the worker's classification: General/Direct-to Program/Function management/supervisory or clerical, EDP support, or staff development support. A worker may have more than one classification.
- B. If a worker is recording time to the program level, enter the program code from the appropriate function Program Code Descriptions and record on the generic DFA 7.
- C. Record travel and continuing training time to the program or function level approved in the SSTRP. Travel and training time having a department-wide benefit, or cannot be identified to a program or function will be recorded as generic. For staff not included in a SSTRP, record this time to time study code used for all other customary activity.
- D. Time Study Staff
- Complete the DFA 7 on a daily basis throughout the month.
  - Check Time Study box.
- E. Time Certification Staff
- Record nonallocable time daily; record total allocable time at the end of the month only.
  - Check the Time Certification box.

At the end of each time study month, each first-line supervisor will attest to the accuracy of the time studies and certifications completed by employees in their units by signing the designated line.

### V. Time Reporting Instructions for First-Line Supervisors

First-line supervisors may certify the time spent supervising their unit if their staff certify. If their staff time study, they must prorate their supervisory time based on the allocable time reported by the unit staff.

**VI. Time Reporting for Second-Line Supervisors through Directors**

Second-line supervisors and above will time study/time certify as specified in the SSTRP. Please refer to General Time Study Instructions.

IX  
**Direct Service Delivery (DSD) Codes**  
 3/2001

**SOCIAL SERVICES FUNCTION**

<u>PIN</u>	<u>Title</u>	<u>Program</u>
101060	DSD	IHSS-Welfare Staff Service Providers
102060	DSD	IHSS-Skilled Professional Medical Personnel (SPMP)
103003	Transportation	IHSS-HR/Personal Care Services Program (PCSP)
103260	DSD	IHSS-Supported Individual Providers (SIP) PCSP
103360	DSD	IHSS-SIP-HR
104160	DSD	IHSS-SIP-NON HR/NON-PCSP
108060	DSD	IHSS-PCSP
113060	DSD	CSBG-SPMP
114003	Transportation	CSBG-HR
115003	Transportation	CSBG
117003	Transportation	Adoptions-Case Management
138060	DSD	CWS-SPMP
141003	Transportation	Refugee Resettlement Program (RRP)/CSBG Services
144103	Transportation	CWS-HR/Emergency Response (ER)
144203	Transportation	CWS-HR/Family Maintenance (FM)
144303	Transportation	CWS-HR/Family Reunification (FR)
144403	Transportation	CWS-HR/Permanent Placement (PP)
146068	Direct Costs	CWS-Services/Nonfederal
147103	Transportation	CWS-Court-Related/ER
147203	Transportation	CWS-Court-Related/FM
147303	Transportation	CWS-Court-Related/FR
147403	Transportation	CWS-Court-Related/PP
148103	Transportation	CWS-Case Management/ER
148303	Transportation	CWS-Case Management/FR
148403	Transportation	CWS-Case Management/PP
154003	Transportation	CWS-Case Management-Voluntary Foster Care Program
159060	DSD	FPP-SPMP
168003	Transportation	FPP-HR
175003	Transportation	FPP-Counseling/Nonfederal
179003	Transportation	FPP-Case Management: Foster Care
184003	Transportation	ILP-Services
515060	DSD	FPSP-Family Preservation Services
516060	DSD	FPSP-Family Support Services
569060	DSD	APS Response
570060	DSD	APS Case Management
573060	DSD	APS HR-Response
574060	DSD	APS HR-Case Management



578160 DSD

Extended Voluntary Administration

Direct Service Delivery (DSD) Codes (continued)

CalWORKs FUNCTION

<u>PIN</u>	<u>Title</u>	<u>Program</u>
409803	Transportation	Welfare-to-Work (WTW)
451203	Transportation	Nonfederat WTW
468003	Transportation	Food Stamp Employment and Training

OTHER PUBLIC WELFARE PROGRAMS FUNCTION

<u>PIN</u>	<u>Title</u>	<u>Program</u>
211025	Food Stamp Issuance	Food Stamp Issuance
215060	DSD	Medi-Cal
217060	DSD	CMSP/Non-RRP/CHP
349060	DSD	Medi-Cal Section 1931

**Direct-to-Program/Function Alpha-Numeric Codes**

**SOCIAL SERVICES FUNCTION**

<u>Code</u>	<u>New Title</u>	<u>Previous Code/Title</u>	<u>Program Code</u>
A1	IHSS	A1	Same
	IHSS-PCSP/Non HR		103
	IHSS-Non PCSP/Non HR		104
A2	CSBG	A2	Same
	CSBG-HR		114
	CSBG		115
A3	Adoptions	A3	Same
	Adoptions-Case Management		117
	Independent Adoptions		118
	Adoptions-Training		125
A4	SSI/SSP Out-of-Home Care	A4	Same
A5	RRP	A5	Same
	RRP - CWS		140
	RRP - Unaccompanied Minors		142
A6	CWS	A6	Same
	CWS - Eligibility Determination		143
	CWS - HR		144
	CWS - Training		145
	CWS - Services Nonfederal		146
	CWS - Court Related Activities		147
	CWS - Case Management		148
	CWS - Case Management Voluntary Foster Care Program		154
	Non-EA Emergency Response		110
A7	Early Periodic Screening, Detection, and Treatment	A7	Same
A8	Foster Family Licensing	A8	Same
	Foster Family Licensing		155
	Foster Family Licensing-Training		158
A9	Licensing - Day Care	A9	Same
A11	FPP	A11	Same
	FPP - HR		168
	FPP - Training		174
	FPP - Services		175
	FPP - Case Management-Preventive Services		177
	FPP - Case Management-Foster Care		179
A12	ILP	A12	Same
	ILP - Case Management		182
	ILP - Services		184

A14	Emergency Assistance (EA) - CWS	A14	Same	---
	EA - Services			513
	EA - Eligibility			223
A19	CWS - Minor Parent Investigations (MPI) (AB 908)	A19	Same	544
A20	CWS - MPS	A20	Same	542
A21	IHSS - CSBG		No prior number	330
A22	AB 2129 Foster Parent Recruitment		No prior number	506
A23	FPSP			---
	FPSP - Family Preservation Services		No prior number	515
	FPSP - Family Support Services		No prior number	516
A25	Adult Protective Services (APS)			---
	APS- Response		No prior number	569
	APS-Case Management		No prior number	570
	APS-HR-Response		No prior number	573
	APS-HR-Case Management		No prior number	574
A26	Extended Voluntary Administration		No prior number	578
A27	Extended Voluntary Evaluation		No prior number	598
A28	STOP Support Staff -over age 18		No prior number	588
A29	IV-E Waiver Extended Voluntary (EV) Case Management		No prior number	578
A30	EV Dependency Cases—Court Related		No prior number	009
A31	Specialized Training for Adoptive Parents (STAP)		No prior number	005
A32	Intensive Services Case Management		No prior number	010
A33	Wraparound Services Case Management		No prior number	012
A34	Family Conference Case Management		No prior number	014
A44	Intensive Services Evaluation		No prior number	016
A45	CWS-Emergency Hotline Response		No prior number	170
A46	Kinship Support Services		No prior number	582
A47	Federal Incentive Funds-Post Adoptive Services		No prior number	151
A48	Options for Recovery-Foster Parent Training		No prior number	137
A49	Options for Recovery-Recruitment		No prior number	523
A50	Wrap-around Services		No prior number	165
A51	AAP Wrap-around Services		No prior number	169

### CalWORKs FUNCTION

<u>Code</u>	<u>New Title</u>	<u>Previous Code/Title</u>	<u>Program Code</u>
B1	CalWORKs Eligibility Two-Parent Families State-Only CalWORKs Eligibility	B1 AFDC FG/U	614
B7	Child/Spousal Support Disregard	No prior number	065
B13	CalWORKs Overpayment Collection (SB 627)	B7 Same	226
B14	Cal-Learn Administration	B13 AFDC O/P Collection	278
		B14 Same	630

B20	CalWORKs Program Integrity	No prior number	618
B22	Initial Eligibility Determination for CalWORKs, Food Stamp, and Medi-Cal Programs	No prior number	615
B23	Nonfederal CalWORKs Eligibility	No prior number	616
B24	CalWORKs IEVS	No prior number	204
B25	CalWORKs Systematic Alien Verification for Entitlements (SAVE) Program	No prior number	269
B26	Cal-Learn Case Management	No prior number	617
B27	CalWORKs Transitional Services	No prior number	631
B28	CalWORKs - Jail Match (SB 1556)	No prior number	610
B29	CalWORKs Fraud	No prior number	301
B30	Nonfederal CalWORKs Fraud- Welfare Fraud Investigators (WFI)	No prior number	305
B31	Federal CalWORKs & Food Stamp Fraud (WFI)	No prior number	315
B32	Nonfederal CalWORKs & Food Stamp Fraud (WFI)	No prior number	320
B33	Early Fraud Detection/Prevention - (EFD/P) - Federal CalWORKs (WFI)	No prior number	340
B34	EFD/P - CalWORKs and Food Stamp (WFI)	No prior number	342
B35	Welfare to Work (WTW) WTW Pre-Assessment	No prior number	620
	WTW Assessment	No prior number	624
	WTW Post-Assessment: Community Services	No prior number	621
	WTW Post-Assessment: Other	No prior number	622
	WTW Post-Assessment: Vocational Education	No prior number	623
	Nonfederal WTW	No prior number	451
	WTW State Only Two-Parent Families: Pre Assessment	No prior number	678
	WTW State Only Two-Parent Families: Assessment	No prior number	681
	WTW State Only Two-Parent Families: Post-Assessment-Community Services	No prior number	679
	WTW State Only Two-Parent Families: Post-Assessment-Other	No prior number	682
	WTW State Only Two-Parent Families: Post Assessment-Vocational Education	No prior number	680
B36	Nonfederal Cal-Learn Nonfederal Cal-Learn-Eligibility	No prior number	640
	Nonfederal Cal-Learn-Case Management	No prior number	641
B37	Employment Readiness Demonstration Project	No prior number	635
B38	SUCCESS Evaluation	No prior number	643
B39	CalWORKs Evaluation	No prior number	646
B40	CSA Demonstration Project	No prior number	040
B41	STATE-ONLY CAL-LEARN	No prior number	026
B42	NCP Demonstration Project	No prior number	629
B43	CalWORKs Case Management Two-Parent Families State-Only CalWORKs Case Management	No prior number	663
		No prior number	066

B44	Information and Referral	No prior number	664
B45	CalWORKs Nonfederal Case Management - Legal Allens	No prior number	665

**OTHER PUBLIC WELFARE PROGRAMS FUNCTION**

<u>Code</u>	<u>New Title</u>	<u>Previous Code/Title</u>	<u>Program Code</u>
C11	Food Stamp Issuance	No prior number	211
C12	County Medical Services Program Non-RRP/CHEP	No prior number	217
C13	Temporary Assistance for Needy Families - Probation - Eligibility	No prior number	219
C14	Child Support	No prior number	225
C15	Adoption Assistance Program	No prior number	230
C16	Foster Care Eligibility	No prior number	345
C17	Foster Care Eligibility- Voluntary Program	No prior number	613
C19	RRP - Medical	No prior number	350
C20	Refugee Employment Social Services	No prior number	478
C21	Refugee Targeted Assistance	No prior number	480
C22	Refugee Cash Assistance/ Entrant Cash Assistance Program	No prior number	351
C23	Other County Only Program/ General Relief (OCOP/GR)	D2S Same	352
C24	OCOP/GR - Non-EDP	D9 Same	348
C25	Food Stamp Employment & Training Program	D3 Same	464
C26	Non Assistance Food Stamps (NAFS) Eligibility	No prior number	343
C27	NAFS - IEVS	No prior number	218
C28	SAVE Program NAFS	No prior number	268
C29	EFD/P - NAFS	No prior number	275
C30	NAFS Fraud	No prior number	310
C31	EFD/P - NAFS (WFI)	No prior number	341
C32	NAFS - Program Integrity	No prior number	344
C33	NAFS - Quality Control	No prior number	347
C34	NAFS - Jail Match (SB 1556)	No prior number	611
C35	Medi-Cal	No prior number	---
	Medi-Cal-Intake		215(1)
	Medi-Cal-Continuing		215(3)
C36	SAVE - Medi-Cal	No prior number	271
C37	Medi-Cal Section 1931	No prior number	---
	Medi-Cal Section 1931 - Intake		349(1)
	Medi-Cal Section 1931 - Continuing		349(2)
C38	Bass v. Anderson Lawsuit	No prior number	346
C39	ABAWDs - Workfare	No prior number	306
C40	ABAWDs - Education/Training	No prior number	307
C41	Cash Assistance Program Immigrants	No prior number	308

C42	Special Circumstances Allowance Program	No prior number	245
C43	CAP/SSI/Naturalization Case Management	No prior number	389
C44	TANF Fiscal Incentives—Programs That Encourage the Formation and Maintenance of Two-Parent Families – Non-Admin	No prior number	090
C45	TANF Fiscal Incentives—Programs That Provide Assistance to Needy Families-Non-Admin	No prior number	091
C46	TANF Fiscal Incentives-Programs That End Dependence of Needy Parents – Non-Admin	No prior number	092
C47	TANF Fiscal Incentives – Programs that Prevent or Reduce Out-of-Wedlock Pregnancies – Non-Admin	No prior number	093
C48	TANF Fiscal Incentives – Programs That Encourage the Formation and Maintenance of Two-Parent Families – Admin	No prior number	094
C49	TANF Fiscal Incentives—Programs That Provide Assistance to Needy Families – Admin	No prior number	095
C50	TANF Fiscal Incentives-Programs That End Dependence of Needy Parents – Admin	No prior number	096
C51	TANF Fiscal Incentives – Programs that Prevent or Reduce Out-of-Wedlock Pregnancies - Admin	No prior number	097
C52	Kinship Guardianship Assistance Payment (Kin-GAP) Federal Program	No prior number	030
C53	Kin-GAP Non-Federal Program	No prior number	031

### CHILD CARE FUNCTION

<u>Code</u>	<u>New Title</u>	<u>Previous Code/Title</u>	<u>Program Code</u>
D11	Stage One Child Care	No prior number	453
D12	Stage One Transitional Child Care-Other	No prior number	900
D13	Cal-Learn Child Care	No prior number	909
D14	Child Care Health and Safety Self-Certification	No Prior number	901
D15	Child Care Trustline	No prior number	902
D16	Nonfederal Child Care	No prior number	903
D17	Child Care Pilot Project	No prior number	904
D18	Stage Two Child Care	No prior number	905
D19	Child Care Capacity Building Program	No prior number	906
D20	Stage Three Child Care	No prior number	907
D21	Child Care and Development Program	A10 Same	160
D22	Nonfederal Cal-Learn-Child Care	No prior number	912
D23	State-Only Cal-Learn Child Care	No prior number	811
D24	Two-Parent Families (State-Only) Stage One Child Care Program	No prior number	036

**NONWELFARE FUNCTION**

<u>Code</u>	<u>New Title</u>	<u>Previous Code/Title</u>	<u>Program Code</u>
E1	Nonwelfare	Not applicable	Not Applicable
E2	Nonwelfare - Non-EDP	Not applicable	Not Applicable

X

**GENERAL TIME STUDY INSTRUCTIONS:**

**3/01**

**GENERAL INSTRUCTIONS FOR COMPLETING THE TIME STUDY**

Complete the time study on a continuous basis throughout the day.

Round hours to the nearest quarter hour.

Record the total hours worked for each day; do not record overtime (OT) and compensating time off (CTO) hours worked in the total hours for the day. When CTO is used, record the time to the program or activity that caused the overtime. If the county is unable to track CTO to the program that caused the overtime, CTO may be recorded as nonallocable when used.

Record travel time to the program with which it is associated.

Record breaks, dock, furlough, leave without pay time, holidays, jury duty, military leave, sick leave, and vacation as nonallocable. Lunch and normal days off are not recorded.

Record time spent in continuing training to the associated program; if not identifiable to a program, record as generic.

Record quality control/quality assurance and program integrity activities to the associated program.

Record time for conferences and staff meetings to the associated program or function; if not identifiable to either, record as generic.

The total allocable and nonallocable hours recorded for each day must equal the total assigned routine work hours as defined by the County Welfare Department (CWD).

Caseworkers who perform administrative activities, whether full-time or part-time, will record these activities to generic.

First-line supervisors of caseworkers record their nonallocable time and any direct time spent on casework activity on a daily basis. Time spent on supervision is allocated to the appropriate programs at the end of the time study period based on the allocable time of their staff.







# DEPARTMENT OF PUBLIC SOCIAL SERVICES

*Wicker*  
COUNTY OF SAN BERNARDINO  
HUMAN RESOURCES AGENCY



JAMES FARE  
Director

Reply to:  
Administrative Office  
488 Fifth Street, Second Floor  
San Bernardino, CA 92401  
(714) 387-4700

TDD - Telephone Service  
For The Hearing Impaired  
(714) 387-5036

June 29, 1988

Linda S. McMahon, Director  
Department of Social Services  
744 "P" Street, MS 17-11  
Sacramento, CA 95814

San Bernardino County requests expeditious approval of the County's request to utilize a Request for Proposal (RFP) and approval of the attached RFP.

The County believes the feasibility of returning to a mixed mode of service delivery must be determined. The RFP was selected as the appropriate means of making that determination.

The RFP was selected because:

1. it will permit prospective contractors to formulate a program within the 110% cost limitations;
2. it will encourage "originality and effectiveness" (DSS 23-601.23); and,
3. it will be more advantageous to the County and State in terms of price and service delivery.

The evaluation factors are spelled out in the RFP. See Section IV, pg. 9 and 10 of the attached RFP.

It is the County's intent to insure the selected proposal will not result in increased County or State cost to the program. It is also expected the selected proposal will result in an improved service delivery program for both clients and providers of service.

The primary focus of this RFP is to receive proposals for services to non-severely impaired (NSI) clients. If contractors choose to submit proposals on the severely impaired (SI) population, it will be considered as secondary to the NSI portion of the proposal. This is intended to accommodate the limited number of SI clients who prefer to receive services through the contract mode.

June 29, 1988  
RE: Approval of RFP

Page 2

The San Bernardino County Board of Supervisors desires an early release of this RFP. Please let me know as soon as possible if there is anything that can be done to expedite your approval of both the use of the RFP process and the attached RFP.

*J Fare*  
*mb*  
JAMES FARE  
DIRECTOR

JF:MG:11

cc: Loren Suter, Deputy Director, Adult & Fam. Services

bcc: Jerry Rose





*nick*DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814

July 14, 1988

James Fare, Director  
San Bernardino County Department  
of Social Services  
468 5th Street, 2nd floor  
San Bernardino, CA 92401

Dear Mr. Fare:

CONTRACT NUMBER: 36-C-01 89/90 (PROPOSED RFP)  
CONTRACTOR: UNKNOWN  
CONTRACT PERIOD: PENDING  
TYPE OF SERVICE: IN-HOME SUPPORTIVE SERVICES (IHSS)  
CONTRACT MAXIMUM: UNKNOWN

In accordance with the State Department of Social Services Manual of Policies and Procedures (SDSS MPP) Section 23-610 (a) (1), this is to notify you that your initial request to utilize the Request For Proposal (RFP) method to select an IHSS contract provider is incomplete. As delineated in SDSS MPP Section 23-610 (b), the Invitation For Bid (IFB) method of procurement "... must be used, unless the County documents the RFP method of procurement is more advantageous, in terms of price and service delivery, before starting the procurement process." Your letter of June 29, 1988, did not provide documentation substantiating your rationale for utilizing the RFP method of procurement.

Although you may be granted approval to use the RFP method of procurement, ~~your RFP~~ incorporate the use of the IHSS Model Contract within the overall scope of the RFP as is currently done with IFB's. For your convenience a copy of an updated IHSS Model Contract is enclosed.

Once we receive a complete request, we will notify you of our decision within 45 days of its receipt. I assure you that we will do all we can to process your request in a timely fashion. I have included an outline which delineates turnaround times as required in SDSS MPP Section 23-600 et seq. Based on our experience in these matters, we believe that a July 1, 1989 contract commencement date is feasible. Of course, success will depend on a cooperative effort by all, as well as the avoidance of lengthy appeals.

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Regardless of the method of procurement utilized, should you let a contract for IHCS, we expect it to be a full service contract. That is, the contractor will supervise its providers and for every 324 cases referred to the contractor, one County IP supervisor will be let go.

I hope you find the information enclosed useful, and wish you success in your endeavor. If you have questions regarding the contract process or the other contents of this letter, please contact me at (910) 445-6410 or Mr. Ed Barragan, Adult Services Bureau at (910) 375-9065.

Sincerely,

Original Signed By:  
Loren D. Suter

LOREN D. SUTER  
Deputy Director  
Adult and Family Services

Enclosures

cc: LINDA E. McNAULON  
Director

Doc: M. SUTER  
E. Barton 0-134  
J. Rose 0-534  
T. Jordan 0-534  
S. Barragan 0-134  

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AKF Chief  
ACE Filed  
Record Services 11-21

SBK/g/afcham/ROD/GE







# DEPARTMENT OF PUBLIC SOCIAL SERVICES



COUNTY OF SAN BERNARDINO  
HUMAN RESOURCES AGENCY

JAMES FARE  
Director

Reply to:

Administrative Office:  
468 Fifth Street, Second Floor  
San Bernardino, CA 92401  
(714) 387-4700

TDD - Telephone Service  
For The Hearing Impaired  
(714) 387-5036

JULY 27, 1988

LOREN D. SUTER, DEPUTY DIRECTOR  
ADULT AND FAMILY SERVICES  
744 'P' STREET, MS. 17-18  
SACRAMENTO, CA 95814

This letter is in response to your letter of July 14, 1988 which indicated San Bernardino County's Request for Proposal (RFP) is incomplete. The following information addresses your concerns.

## Utilization of an RFP

San Bernardino County believes the use of an RFP will result in a mixed mode program which will be more cost effective than one resulting from the use of an IFB. The County does not want to fix the number of hours, cases, or dollars on which prospective contractors are to bid, as is required in an IFB. Rather, the County wants prospective contractors to identify which portion of the client population it is most cost effective to serve via the contract mode, as the County has instructed contractors in the RFP. The IFB method eliminates flexibility on the part of both the County and prospective contractors, the RFP method stimulates creativity by contractors to design a cost effective program and promotes flexibility by the County in selecting from various proposals.

Additionally, utilizing the IFB method in the past resulted in the selection of a contractor whose bid indicated all the services identified in 30-750 would be provided. However, once the contract was signed, the contractor identified certain services and certain clients as inappropriate for contract services. Large blocks of staff time were spent in negotiating the issues and intervening on behalf of individual clients and providers. The contractor's service hour rate was not reduced though they were not providing all the services identified in their bid or in the contract. The County believes the RFP method will reduce this inequity in that prospective contractors will identify which services they will provide and which clients they will serve.

The County will evaluate the individual proposals, from both a cost effective and service delivery view and compare the hourly rates of the prospective contractors in selecting a proposal. Time spent negotiating with contractors will be saved and individual clients will benefit by not being shuttled between the contract and IP programs. It is reasonable to anticipate that a service delivery program designed by the people who are responsible for it's operation will be more effective than one which is imposed. The creativity and flexibility permitted by the RFP may lead to cost and service delivery effectiveness.

Model Contract

San Bernardino County will utilize the Model Contract. The major components of the Model Contract are contained in the RFP, i.e. definitions, duties and responsibilities of the County, the contractor, and joint responsibilities, general provisions, and fiscal provisions. The line item budget found in the Model Contract is the same as that in the RFP.

It is anticipated, however, because of the nature of the RFP itself, there will be some differences in a contract resulting from the RFP than from one resulting from an IFB. These differences will be in the areas of clients served and services provided primarily. There may be other areas where slight differences may exist. These changes are permissible, per ACL 87-145 of October, 1987 which transmitted the Model Contract and State regulations addressing use of standardized contracts (MPP 23-604.21).

County Cost

We will add language in the RFP, in Section V Proposal Acceptance Criteria, which clearly states that the County's actual dollar costs cannot be increased due to a contract resulting from this RFP.

County Allocation

We will add language in the RFP, in Section V Proposal Acceptance Criteria, which clearly states any increase in the County's allocation on the basis of caseload would be funded at the IP rate. This was initially not our understanding. However, after receiving All County Letter 88-75, we became aware of this mandate.

Client Hours Reduction

We concur with you the level of service of clients may not be reduced because of a mode shift. We have problems mandating in the RFP that client hours may not be reduced due to a mode shift. If any client continues to receive all the services to which they are assessed, and they receive them in fewer hours, mandating hours remain the same does not appear to be a reasonable expectation. We believe the contract mode may maintain a client's level of service at fewer hours; this may be one of the cost benefits to be gained in utilizing the contract mode.

Full Service Contract

We will indicate in the RFP the contractor will be responsible for supervising the contract providers. We understand we will receive funding to retain an IP IHSS Supervisor for every 224 IP mode cases.

A revised RFP will be forwarded for your review within one week.

If you have any questions or need additional information, please contact me.

JAMES FARE, DIRECTOR  
DEPARTMENT OF PUBLIC SOCIAL SERVICES

JF:CB:mp

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THE INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE BY THE MARKINGS

DATE 08/01/2001 BY SP-6 JAC/STP







9/30/88 CC: MG  
MD  
E. Nhill  
C. Brumby TO J  
Q

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

September 27, 1988

James Fare, Director  
San Bernardino County Department  
of Public Social Services  
468 West 5th Street, 2nd Floor  
San Bernardino, CA 92401

Dear Mr. Fare:

CONTRACT NUMBER: 36-C-01 89/90 (PROPOSED RFP)  
CONTRACTOR: UNKNOWN  
CONTRACT PERIOD: PENDING  
TYPE OF SERVICE: IN-HOME SUPPORTIVE SERVICES (IHSS)  
CONTRACT MAXIMUM: UNKNOWN

This is to inform you that your request to use the Request for Proposal (RFP) method to select an IHSS contract provider is approved.

Since your County has already submitted a proposed RFP, we will review this procurement document and notify you within 30 days as to whether it is complete. If your RFP is found to be complete enough for review, you will be notified of its approval or any required changes in accordance with timeframes described in Manual of Policies and Procedures Section 23-610(d).

As mentioned in our letter of September 6, 1988, any RFP considered must contain language indicating that if a contractor cannot deliver all hours authorized for a particular recipient, the County will not assign the case to the contract mode unless a) the recipient provides a written request for a reduction in hours to be placed in the contract mode, and b) the County Social Worker agrees that a reduction in hours will not jeopardize the recipient's ability to remain safely at home. This item is one which we immediately noted that must be included as a revision to your proposed RFP. Additional items may also be identified for discussion/revision as we progress through a detailed review of the document.

If you have any questions regarding the contents of this letter, please contact me at (916) 445-6410 or Mr. Frank Fong, Adult Services Bureau at (916) 322-0869.

Sincerely,

*Robert A. Suter for*

LOREN D. SUTER  
Deputy Director  
Adult and Family Services





## DEPARTMENT OF SOCIAL SERVICES

4 P Street, Sacramento, CA 95814



NOV 1 1988

James Fare, Director  
San Bernardino County Department  
of Public Social Services  
468 West 5th Street, 2nd Floor  
San Bernardino, CA 92401

Dear Mr. Fare:

CONTRACT NUMBER: 36-C-01 89/90 (PROPOSED RFP)  
CONTRACTOR: UNKNOWN  
CONTRACT PERIOD: PENDING  
TYPE OF SERVICE: IN-HOME SUPPORTIVE SERVICES (IHSS)  
CONTRACT MAXIMUM: UNKNOWN

We have been attempting to review your Request for Proposal (RFP) dated August 1, 1988, but we cannot complete our review of the RFP as submitted.

As previously mentioned in our correspondence dated July 14, 1988, your RFP must incorporate the use of the IHSS Model Contract. Please keep the RFP procedural requirements such as purpose, County information, bid process, submission requirements, structure of bid package etc., separate from the contract. This will aid bidders in developing their responses to your RFP and facilitate a timely review process.

We recognize that because of the nature of the RFP itself, there will be some differences in a contract resulting from the RFP process than from one resulting from an IFB. However, there is still the need to maintain the IHSS Model Contract format and language as much as possible. Also, all deviations must still have an explanation.

For your information, County requests for modification to the IHSS Model Contract are reviewed by the State Department of Social Services (SDSS) for approval in the following manner:

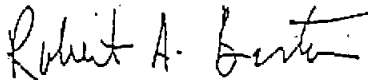
1. County-specific requirements that are mandated by specific County ordinances are to be incorporated under the appropriate heading in the existing format of the IHSS Model Contract with specific justification including citations, points and authorities for each inclusion. Changes with justifications based on County ordinances will be approved so long as they do not conflict with Federal and State laws and regulations.

2. There are certain clauses in the IHSS Model Contract that are marked (Option). These clauses were intended to be included or deleted from the contract dependent upon a particular County's specific program requirements. The use of these clauses as written will be approved. Variations from the optional language must be justified as required in section number 4 below.
3. Counties are required to administer liquidated damages. Liquidated damages shall be specified in the IHSS Model Contract Section IV D. Examples of liquidated damages are provided in Section IV D 1 a through i of the Model Contract. Counties may utilize these examples, revise them or develop their own. If clauses other than those listed in the IHSS Model Contract are utilized, they shall be reviewed by SDSS under the provisions of number 4 below.
4. A County-specific clause that is considered a change or addition will be considered for approval if it does not distort the original intent of the IHSS Model Contract, replaces it in the proper sequence of the IHSS Model Contract format, and is fully justified. Justification must include a factual basis for the change. Clauses of this type that are approved will be introduced at forthcoming Contracts Subcommittee meetings for (possible) inclusion in the IHSS Model Contract.

Once we receive the revised RFP incorporating the IHSS Model Contract in the format specified above, we will be able to review its contents for approval.

We hope that this information is helpful. If you have questions regarding the RFP process or the other contents of this letter, please contact Ms. Liz Peralta at (916) 322-0197.

Sincerely,



Robert A. Barton, Chief  
Adult Services Bureau

cc: R. Barton 6-536  
T. Jordan 6-536  
 L. Peralta 6-536  
Jerry Rose 6-536  
ASB Files  
ASB Chron  
Record Services 14-80

LP/ag/aflpera/K3690







*M. Becker*

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

September 20, 1988

~~ALL-COUNTY LETTER NO. 88-124~~



TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY PROGRAM COORDINATORS  
ALL COUNTY PROGRAM FISCAL OFFICERS

SUBJECT: UPDATE OF STATE DEPARTMENT OF SOCIAL SERVICES  
IN-HOME SUPPORTIVE SERVICES MODEL CONTRACT

REFERENCE: ALL COUNTY LETTER (ACL) NO.87-45, DATED  
OCTOBER 27, 1987

The purpose of this letter is to transmit to Counties the updated State Department of Social Services (SDSS) In-Home Supportive Services (IHSS) Model Contract.

This updated version of the IHSS Model Contract is the result of an ongoing cooperative effort between the County Welfare Directors Association's (CWDA's) IHSS Contract Subcommittee and SDSS staff.

If you should identify a need to modify the IHSS Model Contract language, in accordance with MPP Section 23-604.21, please submit your modification requests at least 90 days prior to the start of any contract or distribution of an IFB which would use a modified contract. As with all IHSS contracts and IFBs, SDSS approval is required prior to the start of any contract or distribution of an IFB. Counties will be notified in writing within 15 calendar days if the required information is complete or deficient and within 45 calendar days upon receipt of complete information of the decision on each request for modification.

A County request for modification to the IHSS Model Contract shall be reviewed by the State Department of Social Services (SDSS) for approval in the following manner:

1. County-specific requirements that are mandated by specific County ordinances are to be incorporated under the appropriate heading in the existing format of the IHSS Model Contract with specific justification including citations, points and authorities for each inclusion. Changes with justifications based on County ordinances will be approved so long as they do not conflict with Federal and State laws and regulations.

2. There are certain clauses in the IHSS Model Contract that are marked (Option). These clauses were intended to be included or deleted from the contract dependent upon a particular County's specific program requirements. The use of these clauses as written will be approved. Variations from the optional language must be justified as required in section number 4 below.


3. Counties are required to administer Liquidated Damages. Liquidated damages shall be specified in the Model Contract section IV D. Examples of liquidated damages are provided in Section IV D 1 a through i of the Model Contract. Counties may utilize these examples, revise them or develop their own. If clauses other than those listed in the Model Contract are utilized, they shall be reviewed by SDSS under the provisions of number 4 below.

4. A County-specific clause that is considered a change or addition will be considered for approval if it does not distort the original intent of the IHSS Model Contract, replaces it in the proper sequence of the IHSS Model Contract format, and is fully justified. Justification must include a factual basis for the change. Clauses of this type that are approved will be introduced at forthcoming Contracts Subcommittee meetings for possible inclusion in the IHSS Model Contract.

Should an unforeseen or unanticipated emergency situation arise that may not be addressed in regulation, SDSS will continue to assist the Counties in resolving such situations.

Recognizing that laws and regulations change with time and that a vehicle such as the IHSS Model Contract can be built upon and/or improved, SDSS in conjunction with the CWDA will periodically review the IHSS Model Contract for modifications.

If you have any questions, please contact Mr. Jerry Rose of the Adult Services Bureau, at (916) 322-6320.

  
LOREN D. SUTER  
Deputy Director  
Adult and Family Services

Attachment

cc: CWDA

COUNTIES	Sal-Barajas 323-9065	Myrlys Hollis 445-1749	Liz Peralta 322-0197	Frank Fong 322-0869
ALAMEDA	X			
ALPINE				X
AMADOR				X
BUTTE				X
CALAVERAS				X
COLUSA			X	
CONTRA COSTA			X	
DEL NORTE			X	
EL DORADO			X	
FRESNO			X	
GLENN			X	
HUMBOLDT				X
IMPERIAL		X		
INYO			X	
KERN			X	
KINGS		X		
LAKE				X
LASSEN				X
LOS ANGELES			X	
MADERA	X			
MARIN	X			
MARIPOSA	X			
MENDOCINO			X	
MERCED	X			
MODOC	X			
MONO		X		
MONTEREY		X		
NAPA	X			
NEVADA			X	
ORANGE			X	
PLACER			X	
PLUMAS	X			
RIVERSIDE				X
SACRAMENTO				X
SAN BENITO	X			
SAN BERNARDINO				X
SAN DIEGO	X			
SAN FRANCISCO	X			
SAN JOAQUIN		X		
SAN LUIS OBISPO				X
SAN MATEO	X			
SANTA BARBARA	X			
SANTA CLARA		X		
SANTA CRUZ		X		
SHASTA		X		
SIERRA		X		
SISKIYOU		X		
SOLANO			X	
SONOMA		X		
STANISLAUS				X
SUTTER				X
TEHAMA			X	
TRINITY	X			
TULARE			X	
TUOLUMNE		X		
VENTURA			X	
YOLO				X
YUBA		X		
GRAND TOTAL		433		

COUNTY OF \_\_\_\_\_  
 PUBLIC SOCIAL SERVICES AGENCY  
 CONTRACT TO PROVIDE IN-HOME SUPPORTIVE SERVICES

THROUGH \_\_\_\_\_  
 MAXIMUM AMOUNT SHALL NOT EXCEED \_\_\_\_\_  
 MAXIMUM SERVICE HOURS SHALL NOT EXCEED \_\_\_\_\_

**I. DECLARATION**

This contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, in the State of California by and between the COUNTY of \_\_\_\_\_, hereinafter referred to as "COUNTY", and \_\_\_\_\_, hereinafter referred to as "CONTRACTOR", for the purpose of providing In-Home Supportive Services (IHSS). It is let in accordance with Title XX, of the Social Security Act; California State Welfare and Institutions Code, Sections 12300 et seq.; California State Department of Social Services (SDSS) Manual of Policy and Procedures (MPP), Divisions 10, 19, 21, 22, 23, 25, 30 and 46 et seq.

**II. DEFINITIONS**

A. In-Home Supportive Services (IHSS) are designed to include:

1. Services pursuant to the State Department of Social Services (SDSS) MPP Division 30, Chapter 700 to provide assistance to those eligible aged, blind and disabled individuals who are unable to remain safely in their own homes without this assistance. IHSS is an alternative to out-of-home care. Services are limited by the availability of funds.

B. Recipients are persons determined eligible by the COUNTY for IHSS. To be eligible recipients must be living in their own homes within the boundaries of the COUNTY and must meet one of the following conditions:

1. Currently receives Supplemental Security Income (SSI) or State Supplementary Program (SSP) benefits.
2. Meets all SSI/SSP eligibility criteria including income, but does not receive SSI/SSP benefits.
3. Meets all SSI/SSP eligibility criteria except for income in excess of SSI/SSP eligibility standards.
4. Was once eligible for SSI/SSP benefits but became ineligible because of engaging in substantial gainful activity and meets all of the following conditions:
  - a. The individual was once determined to be disabled in accordance with Title XVI of the Social Security Act (SSI/SSP).

b. The individual continues to have the physical and mental impairments which were the basis of the disability determination.

c. The individual requires assistance in one or more areas specified under the definition of severely-impaired in SDSS MPP Division 30, Section 753.

C. Description of Services:

1. Domestic services which are limited to the following:

- a. Sweeping, vacuuming, washing and waxing of floor surfaces;
- b. Washing kitchen counters and sinks;
- c. Cleaning the bathroom;
- d. Storing food and supplies;
- e. Taking out garbage;
- f. Dusting and picking up;
- g. Cleaning oven and stove;
- h. Cleaning and defrosting refrigerator;
- i. Bringing in fuel for heating or cooking purposes from a fuel bin in the yard;
- j. Changing bed linen;
- k. Miscellaneous domestic services, e.g., changing light bulbs.

2. Heavy cleaning which involves thorough cleaning of the home to remove hazardous debris or dirt. The COUNTY shall have the authority to authorize this service, only at the time IHSS is initially granted, to enable the provider to perform continuous maintenance, or, if a lapse in eligibility occurs, eligibility is reestablished and IHSS has not been provided within the previous 12 months. The COUNTY shall have the authority to authorize this service should the recipient's living conditions result in a substantial threat to his/her health/safety. Such service may also be authorized when a recipient is at risk of eviction for failure to prepare his/her home or abode for fumigation as required by statute or ordinance.

3. Related services limited to:

- a. Preparation of meals includes such tasks as washing vegetables; trimming meat; cooking; setting the table; serving the meal; cutting the food into bite-size pieces.
- b. Meal cleanup including washing and drying dishes, pots, utensils and culinary appliances and putting them away.

- c. Planning of meals.
- d. Routine mending, laundry, ironing, folding and storing clothes on shelves or in drawers.
- e. Reasonable food shopping and other shopping/errands limited to the nearest available stores or other facilities consistent with the client's economy and needs.

(1) The COUNTY shall not authorize additional time for the recipient to accompany the provider.

4. Nonmedical personal services limited to:

- a. Bowel and bladder care such as assistance with enemas, emptying of catheter or ostomy bags, assistance with bed pans, application of diapers, changing rubber sheets, assistance with getting on and off commode or toilet.
- b. Respiration limited to nonmedical services such as assistance with self-administration of oxygen and cleaning of intermittent positive pressure breathing (IPPB) machines.
- c. Consumption of food consisting of feeding or related assistance to recipients who cannot feed themselves or who require assistance with special devices in order to feed themselves.
- d. Routine bed baths.
- e. Bathing, oral hygiene, grooming.
- f. Dressing.
- g. Rubbing of skin to promote circulation, turning in bed and other types of repositioning, assistance on and off seats and wheelchairs or into and out of vehicles.
- h. Moving into and out of bed.
- i. Care of and assistance with prosthetic devices.
- j. Routine menstrual care limited to application of sanitary napkins and external cleaning.
- k. Ambulation consisting of assisting the recipient with walking or moving the recipient from place to place.

5. Transportation services when the recipient's presence is required at the destination and assistance is necessary to accomplish the travel limited to:

- a. Transportation to and from appointments with physicians, dentists and other health practitioners.
- b. Transportation necessary for fitting health related appliances/devices and special clothing.
- c. Transportation under a. and b. shall be authorized only after social service staff have determined that Medi-Cal will not provide transportation in the specific case.

d. Transportation to the site where alternative resources provide in-home supportive services to the recipient in lieu of IHSS.

6. Yard hazard abatement, which is light work in the yard, may be authorized for:

- a. Removal of high grass or weeds and rubbish when this constitutes a fire hazard.
- b. Removal of ice, snow or other hazardous substances from entrances and essential walkways when access to the home is hazardous.

(OPTION) 7. Protective supervision consisting of observing recipient behavior in order to safeguard the recipient against injury, hazard, or accident.

a. This service is available for monitoring the behavior of nonself-directing, confused, mentally impaired, or mentally ill persons with the following exceptions:

- (1) Protective supervision does not include friendly visiting or other social activities.
- (2) Supervision is not available when the need is caused by a medical condition and the form of the supervision required is medical.
- (3) Supervision is not available in anticipation of a medical emergency.
- (4) Supervision is not available to prevent or control antisocial or aggressive recipient behavior.

b. Protective supervision is available under the following conditions:

(1) Social services staff has determined that a 24-hour need exists for protective supervision and that the recipient can remain at home safely if protective supervision is provided.

(2) Services staff determines that the entire 24-hour need for protective supervision can be met through any of the following or combination of the following:

- (a) In-Home Supportive Services.
- (b) Alternative resources.
- (c) A reassurance phone service when feasible and appropriate.

(OPTION) 8. Teaching and demonstration services provided by IHSS providers to enable recipients to perform for themselves services which they currently receive from IHSS. Teaching and demonstration services are limited to instruction in those tasks listed in Parts C.1., C.3., C.4. and C.6. above.

- a. This service shall be provided by persons who have successfully completed at least \_\_\_\_\_ hours of training as evidenced by a valid certificate.
- b. This service shall only be provided when the provider has the ability to do so effectively and safely.

(OPTION) 9. Paramedical services under the following conditions:

- a. The services shall have the following characteristics:
  - (1) Are activities which persons would normally perform for themselves but for their functional limitations.
  - (2) The activities which, due to the recipient's physical or mental condition, are necessary to maintain the recipient's health.
- b. The services shall be provided when ordered by a licensed health care professional who is lawfully authorized to do so. The licensed health care professional shall be selected by the recipient.
- c. The services shall be provided under the direction of the licensed health care professional.
- d. The licensed health care professional shall indicate to social services staff the time necessary to perform the ordered services.

D. Service hour - The basic unit of time to which the contractual hourly rate will apply and for which COUNTY will be billed and the CONTRACTOR paid in each billing cycle. A service hour is the actual time spent providing the services listed in II.C. above. The service hour does not include training time, travel time, break time or time spent by providers when clients are not at home or refuse services.



### III. DUTIES AND RESPONSIBILITIES

#### A. COUNTY and CONTRACTOR shall have the following Joint Responsibilities:

1. Prepare periodic evaluations to determine a fiscal and program appraisal of the successes and/or deficiencies of this IHSS contract to determine the extent to which the program is achieving its purposes.
2. Confer on all cases in which a client grievance/appeal has been registered regarding the conduct or performance of the provider.
3. Maintain liaison personnel:
  - a. CONTRACTOR must provide COUNTY, in writing, the name and address of the person who has primary responsibility for liaison and coordination of activities of the In-Home Supportive Services Program.
  - b. COUNTY will provide a similar liaison person to CONTRACTOR.
  - c. These persons will act on behalf of their respective organizations to ensure compliance with all contract provisions.

#### B. COUNTY shall have the following responsibilities:

1. Purchase IHSS from CONTRACTOR for appropriate cases, where such services are not otherwise available.
2. Have sole authority for determination of need for In-Home Supportive Services, the level and quality of services required, and the eligibility of individuals to be served.
3. Assess the continuing need for services and evaluate the effectiveness and quality of services performed by the CONTRACTOR pursuant to this agreement. Assessment and authorization of In-Home Supportive Services shall be accomplished by COUNTY staff at least every twelve months.
4. Have the exclusive right to terminate the recipient's participation in the IHSS Program at any time based on regulatory requirements.
5. Have the exclusive right to terminate provisions of service under this contract to any recipient.
6. Have the exclusive right to authorize services for a recipient. The COUNTY shall not be liable for the cost of such services furnished to any recipient unless authorization is designated in writing by the COUNTY.
7. Maintain records which will include, but not be limited to, the assessment of need; case opening and closing dates; description of actual services to be provided.

- ~~8.~~ Establish a procedure by which each recipient shall have the opportunity to initiate and participate in a COUNTY review in order to present grievances concerning services under this contract.
9. Evaluate the level and quality of service performed by the CONTRACTOR. This evaluation may include, but is not limited to, inquiries concerning individual employees of the CONTRACTOR.
10. Assist the CONTRACTOR in obtaining complete and current information with respect to pertinent statutes, regulations, policies, procedures and guidelines which apply to the delivery of IHSS.
11. Coordinate services with other community resources and activities.
12. Provide orientation to all appropriate social services staff regarding CONTRACTOR'S bidding, role, responsibilities and contracting agreements.
13. Administer liquidated damages for non-performance as specified in Section IV.D.

C. CONTRACTOR shall have the following responsibilities:

1. Provide IHSS, as herein defined above, as specified herein.
2. Follow the COUNTY policy and procedure to notify the COUNTY within three working days of any changes in the recipient's need for services identified by the recipient which indicates a reassessment of need and/or eligibility may be appropriate, including provisions for 24-hour care and weekend or holiday services. CONTRACTOR shall notify COUNTY, within 5 working days, of each instance of nonreceipt of scheduled services with an explanation and effective dates. CONTRACTOR shall notify COUNTY immediately if the change in circumstances indicates a possible danger to the safety of the recipient.
3. Provide adequate IHSS supervisory staff (at least one IHSS supervisor for each \_\_\_\_\_ hours of actual IHSS service hours authorized each month to recipients). An additional supervisor is to be employed when each \_\_\_\_\_ hour plateau of hours of actual services is reached under this agreement, based on service hours authorized in the immediately preceding month.

NOTE: THIS CLAUSE MAY BE REWRITTEN TO ACCOMMODATE THE USE OF A SUPERVISOR TO PROVIDER RATIO IN LIEU OF HOURS.

4. Provide adequate support personnel to carry out the requirements of this agreement.
5. Employ, orient, train, direct and supervise sufficient numbers of qualified IHSS service providers, including substitute workers. The CONTRACTOR shall employ enough substitutes during providers' vacations or sick leave so that clients will not be deprived of authorized service.

6. Provide an initial mandatory orientation, pursuant to SDSS MPP Divisions 19 and 21 to each new and existing service provider within one month of hiring or initiation of contract. This will include training in specific tasks to be performed. Such training shall be performed pursuant to the plan as attached marked Exhibit        and made a part hereof.
7. Ensure that paramedical services for recipients are performed only by personnel who have been trained to provide such care.
8. Require that a supervisor visit each recipient's home at least once every \_\_\_\_\_ months to:
  - a. Observe the condition of the home;
  - b. Discuss with the recipient the quality of the work provided; and,
  - c. Notify the recipient of the process by which any dissatisfaction over service delivery may be expressed.As a part of this supervision, a supervisor shall accompany each newly hired provider on their first work assignment. Additional visits may be required until the provider has demonstrated an adequate level of job performance.
9. To conform with State Department of Social Services Manual of Policies and Procedures, Section 30-767.1, to the fullest extent possible, give preference to the employment and training of public assistance recipients and persons who would otherwise qualify for public assistance in the absence of such employment.
10. In accordance with WIC Section 12304, allow recipients receiving nonmedical personal or paramedical services, to recruit their own providers. CONTRACTOR shall accommodate client preference in provider assignments in all other cases where practical.
11. The CONTRACTOR liaison shall provide any information, as requested by the COUNTY, which documents activity and accomplishments of the program.
12. Provide budget, fiscal, statistical, program and other data as may be required by the COUNTY, which may be used, among other things, to provide basic information to all bidders on subsequent bidding cycles.
13. Comply and require its officers and employees to comply with the provisions of Section 10850 of the Welfare and Institutions Code and Division 19 of the SDSS Manual of Policies and Procedures to assure that:

a. All individuals' applications and records made or kept by a public officer or agency in connection with the administration of the provision of the Welfare and Institutions Code relating to any form of public social services for which grants in aid are received by this state or by the federal government will be confidential and will not be open to examination for any purpose not directly connected with the administration of public social services.

b. No person will publish or disclose, or use or permit, or cause to be published, disclosed or used, any confidential information pertaining to an applicant or recipient.

Inform all of its employees, agents, subcontractors and partners of the above provision and that any person knowingly and intentionally violating the provisions of said State law is guilty of a misdemeanor.

14. Maintain a local office/local offices at \_\_\_\_\_, California, which will remain open for business \_\_\_\_\_ through \_\_\_\_\_ between the hours of \_\_\_\_\_ and \_\_\_\_\_ except for designated holidays. It shall be staffed at all times with appropriate supervisory personnel during business hours.
15. Provide to the COUNTY (quarterly) or (upon request): (Select the appropriate time frame)
- a. names of all employees working under this contract;
  - b. their addresses and telephone numbers;
  - c. their orientation training records;
  - d. their latest evaluation; and,
  - e. their weekly schedule.

This information shall be used as a means of obtaining an ongoing evaluation and assessment of the services provided by the CONTRACTOR and/or a means of implementing a smooth and orderly transfer to a new CONTRACTOR, if appropriate.

16. Make no charges to recipient for services with the exception of share of cost as delineated in item IV.E.
17. Obtain prior written approval from the COUNTY before subcontracting any of the services delivered under this contract. Any subcontracting will be subject to all applicable provisions of this Contract, and all applicable State and Federal regulations. The CONTRACTOR shall be held responsible by the COUNTY for the performance of any subcontractor.

18. Submit reports or other data as required for the Case Management Information and Payrolling System (CMIPS), the management information system in use in the State Department of Social Services.
19. Abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, the Welfare and Institutions Code, Section 10000, SDSS MPP Division 21, and other applicable federal and state laws to ensure that employment practices and the delivery of social services are non-discriminatory. Under this requirement, the CONTRACTOR shall not discriminate on the basis of race, color, national origin, political affiliation, religion, marital status, sex, age, or handicap.
20. Comply with U.S. Executive Order 11246, entitled "Equal Employment Opportunity." This is amended by U.S. Executive Order 11375 and supplemented in 45 CFR, Part 60. CONTRACTOR shall not discriminate against any employee, or applicant for employment on the basis of race, national origin or ancestry, religion, sex, marital status, political affiliation, age or handicap. Practices in hiring, compensation, benefits, and firing are among the employment practices subject to this requirement.
21. Orient all staff to reporting of any suspected elder and dependent adult abuse pursuant to WIC Sections 15600 et seq. Suspected incidents of abuse should be immediately reported to the COUNTY, followed by a written report within 36 hours.
22. Provide a system by which recipients of service shall have the opportunity to express and have considered their views, grievances and complaints regarding CONTRACTORS' delivery of services.
23. Require applicants for employment to indicate, in writing, whether the applicant has ever been convicted of a crime. CONTRACTOR shall use the following specific language on their applications for employment:
  - a. Have you ever been convicted by any court of a crime?

NOTE: You may answer "no" if the conviction is specified in Health and Safety Code Section 11361.5, which section pertains to various marijuana offenses, or, the conviction was under Health and Safety Code Section 11557 or its successor 11366 when that conviction was stipulated or designated to be a lesser included offense of the offense of possession of marijuana.

24. Require proof of identification from a prospective provider prior to placing the prospective provider on a list or registry, or prior to supplying a name from the list or registry to an applicant for, or recipient of, In-Home Supportive Services, as stipulated in WIC Section 12306.5. In addition, CONTRACTOR shall interview all applicants, check and document their references, prior to employment as an IHSS provider.
25. Supervisor must make recipient contact within \_\_\_\_\_ working days (except for provision of emergency services as referenced in Sections III.C.26 and IV.D., as applicable) of the Contractor's receipt of the County service authorization document. A copy of a home evaluation document shall be completed by the Contractor and sent to the County within \_\_\_\_\_ working days following the initial recipient contact. This document shall include, but not be limited to the following: 1) date authorization was received, 2) beginning date of service, 3) proposed service delivery schedule, 4) any problems associated with service delivery, and 5) any other recommendation(s) indicated by the County.
26. Commence services in a timely manner. Unless otherwise stated herein, timely shall mean 10 calendar days from receipt of COUNTY authorization documentation for non-emergency services and within 24 hours for emergency services.
- (OPTION) 27. Provide toll free telephone service 24 hours per day, seven days a week to recipients/providers in order for them to communicate with the Contractor regarding the IHSS Program.

#### IV. FISCAL PROVISIONS

##### A. Costs/Rates:

1. SELECT ONE OF THE FOLLOWING CLAUSES:

(For a ONE YEAR TERM use the following clause):

The maximum amount of this contract for the period \_\_\_\_\_ through \_\_\_\_\_ shall not exceed \$ \_\_\_\_\_. This amount will purchase a maximum of \_\_\_\_\_ service hours at a fixed rate of \$ \_\_\_\_\_ per hour.

(OR)

(For a TWO-YEAR TERM use the following clause):  
The maximum amount payable under this contract for the period \_\_\_\_\_ through \_\_\_\_\_, shall not exceed \$ \_\_\_\_\_, and for the period \_\_\_\_\_ through \_\_\_\_\_, shall not exceed \$ \_\_\_\_\_. The hourly rate for each service hour for the period \_\_\_\_\_ through \_\_\_\_\_, shall be \$ \_\_\_\_\_ for \_\_\_\_\_ hours, and for the period \_\_\_\_\_ through \_\_\_\_\_, shall be \$ \_\_\_\_\_ for \_\_\_\_\_ hours.

Pursuant to Welfare and Institutions Code (WIC) Section 12302.1, this is a two-year contract, and may be renewed for a period not to exceed one year, subject to approval by the State Department of Social Services.

2. This is a fixed rate cost contract. The rate(s) is (are) supported by the Contract Budget and Budget Narrative EXHIBIT(S) \_\_\_\_\_ which are hereby incorporated by reference and made a part hereof.
3. CONTRACTOR agrees that the hourly rate to be charged to the COUNTY for contracted services and the total cost of furnishing these services for the term of this contract includes all allowable CONTRACTOR costs, both indirect and direct, relative to this contract.
4. Costs must conform with federal costs regulations: OMB Circular A-87, A Guide For State and Local Government Agencies, 48 CFR, Chapter 1, Part 31, Subpart 31.2 (for profit agencies), and OMB Circular A-122 (for non-profit agencies). All equipment purchased by the CONTRACTOR must be depreciated in accordance with 45 CFR 95.705.
5. Payment for all services provided in accordance with provisions under this contract shall be contingent upon the availability of Federal, State and County funds for the purpose of providing IHSS. The COUNTY shall not be required to purchase any definite amount of services nor does the COUNTY guarantee to CONTRACTOR any minimum amount of funds or hours.
6. If the Legislature allocates additional funds for provider wages and benefits during the contract year, the contract may be amended to increase the maximum amount payable and to change affected clauses to allow for increases in wages and benefits consistent with the funding authorized by the Legislature.

7. CONTRACTOR agrees maximum payments for Non-severely Impaired (NSI) and Severely Impaired (SI) recipients are those amounts authorized by the State. The COUNTY will notify the CONTRACTOR of any changes in these amounts.

B. Billings:

1. CONTRACTOR billing cycle shall be consistent with a monthly reporting system which is compatible with the Case Management Information and Payrolling System (CMIPS). CONTRACTOR shall submit billings to the COUNTY, in a format specified by the County, within \_\_\_\_\_ days following the end of the month in which services were delivered. Such billings shall include, at a minimum, an itemized listing of client names and case numbers, authorized hours, and actual service hours rendered. The COUNTY will review the billings and make payment within \_\_\_\_\_ days following the month in question, as specified in Section IV.C.
2. No billing or any part thereof shall be paid by the COUNTY unless the CONTRACTOR submits a certified sworn statement under the penalty of perjury that all employees' wages have been paid on a current basis; that all time sheets supporting said billing have been verified as properly signed, dated, and totaled; and each time sheet will be kept in the CONTRACTOR'S possession for audit purposes.
3. CONTRACTOR must deduct all share of cost liabilities owed by clients when submitting monthly billings for services to the COUNTY. (See share of Cost Item IV.E.)

C. Payments:

1. If the conditions set forth in this Contract are met, the COUNTY shall pay, on or before the \_\_\_\_\_ day of each month of the filing of the billing, the sum of money claimed by the approved billings, (less the share of cost liability and any credit due the COUNTY for adjustments of prior billings). If the conditions are not met in a timely manner, the COUNTY shall pay when the necessary processing is completed.
2. The COUNTY may make mid-month payments no later than \_\_\_\_\_ working days following receipt of billing for services delivered.



3. The COUNTY will not pay for unauthorized services rendered by the CONTRACTOR nor for the claimed services which COUNTY monitoring shows have not been provided as authorized.
4. The COUNTY retains the right to withhold payment on disputed claims.
5. Final payment under contract may be held until termination audit is completed.

D. LIQUIDATED DAMAGES:

NOTE: THE FOLLOWING ARE EXAMPLES OF LIQUIDATED DAMAGES CLAUSES PREVIOUSLY USED IN IHSS CONTRACTS FOR USE BY THE COUNTIES IN DEVELOPING THEIR OWN LIQUIDATED DAMAGES CLAUSE.

1. The COUNTY intends that the CONTRACTOR comply fully with all contractual requirements. CONTRACTOR and COUNTY agree that it would be impracticable and extremely difficult to fix the actual damages in the event CONTRACTOR does not fully comply in the area listed in this section and that the amount set forth in each area listed in this section shall be presumed to be the amount of damages sustained by COUNTY for CONTRACTOR'S non-compliance with the requirements in such area. Upon non-compliance with contract requirements listed below, the COUNTY and CONTRACTOR agree on the following liquidated damages:
  - a. With respect to recipients with established service schedules, \$50 per day/ for each day scheduled homemaker per recipient service is not provided to a recipient through fault of CONTRACTOR;
  - b. With respect to new referrals for service, for each day beyond the 10th calendar day after \$50 per day/ CONTRACTOR is notified of a new per recipient recipient, that service is not provided (24-hours on emergency cases);
  - c. For each day beyond the due date \$50 in which required supervisor or per day provider training is not completed within time frames set forth in the contract.

- d. For each instance in which CONTRACTOR fails to comply fully with all required record maintenance. \$25 per instance
- e. For each instance in which first line supervisors are responsible on the average for more than 3000 service hours during one month. \$25 per instance
- f. For each instance in which supervisors do not meet all license, certification, or experience requirements. \$50 per instance
- g. For each instance in which supervisors fail to perform 10% of their scheduled hours for each month performing monitoring activities in recipient's home. \$25 per instance
- h. For each day beyond the due date in which CONTRACTOR fails to submit the required monthly reports and specified billings on a timely basis. \$50 per day
- i. For each instance in which a months delivered services are less than 95% of the monthly hours authorized. \$50 per day per recipient

The COUNTY Contract Liaison shall advise the CONTRACTOR in writing of his/her intent to assess liquidated damages not less than ten (10) calendar days prior to actual withholding of such amounts from any payment. Notice to the CONTRACTOR shall contain specific instances or causes for assessing the amount, including the dates thereof. Amounts assessed shall be withheld from the next payment of claim submitted under the contract or from the final claim for payment submitted under the contract. Should the CONTRACTOR disagree with the COUNTY'S action the CONTRACTOR may appeal specific assessed liquidated damages for non-compliance items identified by the COUNTY. Such appeal must set forth, in writing, detail of all facts and matters, including records where appropriate which CONTRACTOR believes will justify a resolution to the specific case where liquid damages had been assessed.

Any appeal regarding a dispute on liquidated damages will be resolved by the COUNTY Contract Liaison. This decision shall be in writing and final.

E. Shares of Cost (OPTIONAL ITEM: TO BE USED IF COUNTY WANTS CONTRACTOR TO COLLECT SHARE OF COSTS.):

1. CONTRACTOR agrees that no charges will be made to any recipient of services under this contract unless the recipients have been determined by the COUNTY to have a share of cost liability.
2. In those cases where the recipient is liable for a share of cost, the CONTRACTOR shall be responsible for the collection of that share of cost liability from the recipient and must deduct all share of cost liability owed by recipients from billings submitted to the COUNTY.
3. The CONTRACTOR agrees to refund any over-collection when a recipient does not realize all the authorized hours covered by the share of cost.
4. CONTRACTOR agrees to report delinquent share of cost accounts on a monthly basis.

F. General Accountability:

1. In the event of an audit exception or exceptions, the party responsible for not meeting the program requirement or requirements shall be responsible for the deficiency.
2. In the event of any State hearings award or lawsuit award resulting from the CONTRACTOR'S failure to perform as required by this contract, reimbursement shall be made to the damaged party by the CONTRACTOR.
3. Additional costs to the COUNTY for maintaining any portion of the IHSS Program as a result of the CONTRACTOR'S failure to perform, as required by this agreement, are subject to recoupment by the COUNTY through withholding from billings or any other form of legal action. Notwithstanding any specific liquidated damages defined elsewhere in this agreement, CONTRACTOR'S failure to perform as required in any provision of this agreement shall weigh negatively against the "responsibility" factor inherent in any future IHSS Third Party IFB statewide.

G. Termination:

This contract may be terminated under the following conditions:

1. Failure or refusal of CONTRACTOR to perform or do any act herein required shall constitute a default. In the event of any default, in addition to any other remedy available to the COUNTY, this contract may be terminated by the COUNTY immediately upon written notice and/or services may be purchased from any source by the COUNTY. If a greater price than that named in this contract is paid for such services, the excess price will be charged to and collected from the CONTRACTOR and sureties on his bond, and in addition thereto any other damages proximately resulting from said default may be recovered.
2. This Contract may be terminated by the COUNTY upon \_\_\_\_\_ days written notice if CONTRACTOR breaches this contract or refuses or fails to perform the services under this contract or any phase of such services.
3. This Contract may be terminated by the COUNTY without cause when a \_\_\_\_\_ day written notice is provided to the CONTRACTOR.
4. This Contract may be terminated by the CONTRACTOR without cause when a \_\_\_\_\_ day written notice is provided to the COUNTY.
5. Notwithstanding any other provisions of this contract, the COUNTY may terminate the contract immediately:
  - a. Upon receipt of evidence of probable contract provider mistreatment or abuse of recipients of IHSS services, or of unsafe and hazardous practice in the provision of service; or,
  - b. Upon loss of any license(s) required for lawful operation of CONTRACTOR'S business; or,
  - c. Upon an unauthorized decrease in the required insurance in force; or,
  - d. Upon failure to make payroll payments; or,
  - e. Upon failure to remit payroll deductions in a timely manner to the appropriate state and federal government; or,
  - f. Upon failure to substantially meet other financial obligations; or,
  - g. Upon service of a writ of attachment by creditors of CONTRACTOR.

H. Monitoring/Audit Provisions:

1. Authorized representatives of the COUNTY, State and Federal Governments shall have the right to monitor and audit all aspects of operations under this Contract. The right to audit includes that of the State Auditor General to examine and audit this contract for a period of three years after the final payment, in accordance with Section 10532 of the Government Code.
2. CONTRACTOR shall give full cooperation in any monitoring or auditing conducted by governmental entities.
3. COUNTY shall notify CONTRACTOR in writing within 30 calendar days of the discovery of any potential audit exceptions discovered during any monitoring or auditing examination.
4. The COUNTY, shall have the right to audit all billings and records of the CONTRACTOR related to this Contract as required by State law. Any independent public accountant can be appointed by the COUNTY.
5. CONTRACTOR agrees their financial records shall contain itemized records of all costs and be available for inspection in COUNTY within three working days of the request by the COUNTY, State, or Federal agencies.
6. Monitoring by the COUNTY may be accomplished by the following means: field reviews, audit claims, monthly review of records, etc.
7. Record Maintenance:

CONTRACTOR agrees to maintain all program, fiscal, statistical and management records locally and make such records available for inspection by County, State and Federal representatives at all reasonable times. The records to be kept and maintained in connection with this program shall include, but are not limited to, the COUNTY'S assessment of need, case opening and closing dates, billing invoices, records and recipient-contractor service related correspondence. As a part of such records, the time spent at each visit to the recipient shall be recorded and documented by signature or initial of the recipient or recipient representative on a report service format approved by the COUNTY.

8. Records Retention:

CONTRACTOR agrees to maintain all records pertaining to service delivery and fiscal and administrative controls for a minimum of 3 years after final payment has been made, or until all pending COUNTY, State and Federal audits are completed, whichever is later.

Upon request, the CONTRACTOR shall make these records available in the COUNTY to all authorized COUNTY, State, and Federal personnel.

9. Disposal of Records:

Records shall be destroyed in accordance with SDSS MPP Division 23, Section 350.

I. Minimum Standards for Salaries and Benefits:

The CONTRACTOR shall maintain the following minimum standards with regard to salaries and benefits for all employees:

1. All employees shall receive basic statutory coverage for Federal Insurance Contribution Act (FICA), Workers' Compensation, State Unemployment Insurance (SUI) and Federal Unemployment Tax (FUTA) benefits and State Disability Insurance (SDI) Benefits.
2. All employees shall receive wages and benefits which are no less than required by applicable State and Federal law. The minimum wage in California, effective July 1, 1988, will be \$4.25 an hour.
3. The job descriptions, salary levels, step merit increases, related promotional and step merit increase requirements under this contract are as follows:

(INSERT THE JOB DESCRIPTIONS, SALARY LEVELS, STEP MERIT INCREASES, RELATED PROMOTIONAL AND STEP MERIT INCREASE REQUIREMENTS INCLUDED IN THE AWARDED CONTRACTOR'S SUBMITTED BID).

J. Availability of Funds:

Payment of all services provided in accordance with the provisions of this Contract are contingent upon the availability of COUNTY, State and Federal funds for the purposes of providing IHSS. Pursuant to SDSS MPP Division 10, Section 205, the portion of a payment by a County on an IHSS contract in excess of 110% of the allowable cost of service shall not be eligible for matching or reimbursement from State or Federal funds.

V. GENERAL PROVISIONS

A. Term of Agreement:

1. The term of this contract is from \_\_\_\_\_ through \_\_\_\_\_

NOTE: IF THE TERM OF THE CONTRACT IS FOR TWO YEARS, ADD THE FOLLOWING CLAUSE:

Pursuant to WIC Section 12302.1 and SDSS MPP Section 23-621 the COUNTY has the option to renew this Contract for a period not to exceed one year, subject to approval by the State Department of Social Services.

B. Copyright Access:

The COUNTY, SDSS, and United States Department of Health and Human Services (DHHS) shall have a royalty free, nonexclusive and irrevocable license to publish, translate, or use, now or hereafter, all material developed under this Contract including those covered by copyright.

C. Totality of Contract:

This Contract contains all the terms and conditions agreed upon by the COUNTY and CONTRACTOR and no other understanding, oral or otherwise, regarding this Contract, shall be deemed to exist or to bind any of the parties to this Contract.

D. Alterations, Modifications:

Any alterations, variations, modifications or waivers of provisions of this Contract shall be valid only when reduced to writing, duly signed and attached to the original of this Contract, with prior approval from the COUNTY and the State.

E. Contract Transition Process:

The CONTRACTOR agrees to provide all information deemed necessary by the COUNTY for use in subsequent bidding cycles.

1. When terminating this Contract, for any reason, the existing CONTRACTOR shall assist the COUNTY in the orderly transfer of the In-Home Supportive Services (IHSS) Program to a successor contractor or other mode of delivery.
2. The CONTRACTOR shall provide to the COUNTY all information requested by the COUNTY that is necessary to facilitate a subsequent bidding process.

3. CONTRACTOR shall provide access to the COUNTY, without additional cost to the COUNTY and at least            days prior to expiration or termination of this agreement copies of all recipient files, all provider and supervisor employment data, and any other  information reasonably necessary to effect a smooth transition.
4. CONTRACTOR will be liable to the COUNTY for any costs incurred by the COUNTY because of CONTRACTOR'S failure to cooperate in the transition process. ~~Recoupment of costs may be through withholding payment of CONTRACTOR'S final billing.~~

F. Laws Governing Contract:

This Agreement shall be governed and construed in accordance with all of the laws of the State of California, in addition to any other laws cited herein.

G. Licensing or Accreditation:

CONTRACTOR agrees to comply with all applicable State licensing standards, all applicable accrediting standards, and any other standards or criteria established by the State to assure quality of service.

H. Bonding:

1. CONTRACTOR shall obtain a fidelity bond in the amount of at least \$            per loss. The bond shall cover all CONTRACTOR'S employees, officers and agents. CONTRACTOR shall provide evidence of the bond before the effective date of this Contract. The bond shall be maintained during the term of this Contract.

I. Insurance:

CONTRACTOR shall, prior to commencement of the work, submit a copy of insurance policies evidencing that the CONTRACTOR has obtained for the period of the Contract, from a generally recognized responsible insurer, insurance in the following forms of coverage and specified minimum amounts:

1. A policy or certification of self insurance for Worker's Compensation insurance covering all employees of the CONTRACTOR.



2. Comprehensive General and Automobile Liability Insurance of:

- a) \$ \_\_\_\_\_ Bodily Injury - per person and
- b) \$ \_\_\_\_\_ Bodily Injury - each occurrence and
- c) \$ \_\_\_\_\_ Property Damage or
- d) \$ \_\_\_\_\_ Combined single limit bodily injury and property damage.

3. Contractual liability, including coverage for audit exceptions, in the amount of \$ \_\_\_\_\_.

The policies shall include the COUNTY as co-insured and all policies shall provide thirty (30) days written notice to the COUNTY by certified mail, of cancellation or material change of said policies. Any such policies or insurance shall act as primary insurance, and no insurance held or owned by the COUNTY shall be called upon to cover a loss under said policy.

4. The amounts referenced above are specific to the County of this contract or is an aggregate amount for this and other contracts. And further, if the amount(s) is/are or does become an aggregate for the Contractor, the Contractor shall execute an agreement with the Insurance Company, and provide evidence of said to the County, for the Insurance Company to immediately provide notice to the County of any claim that is filed which may reduce the aggregate amount.

J. Indemnification:

CONTRACTOR shall defend and hold harmless the COUNTY from and against any liability, claims, actions, costs, damages or losses, (1) for injury, including death, to any person or damage to any property arising out of CONTRACTOR'S activities under this Agreement, or (2) incurred by COUNTY as a result of CONTRACTOR'S violation of any duty under this Agreement resulting in any actual or proposed disallowance by the State of California to the COUNTY'S claim for reimbursement, (3) incurred by COUNTY as a result of CONTRACTOR'S failure to pay and discharge any obligation incurred by CONTRACTOR, with third parties in the performance of its duties under this agreement, or (4) incurred by COUNTY from any State hearing cash grant award or lawsuit award resulting from CONTRACTOR'S failure to perform.

K. Independence of Contractor:

CONTRACTOR is, for all purposes arising out of this Contract, an Independent Contractor and shall not be deemed an employee of the COUNTY.

L. Medical Health Consultation Expenses:

CONTRACTOR shall not pay for any medical or health related consultation expenses except as necessary for orientation/training of providers under this contract.

M. State Energy Conservation Plan:

CONTRACTOR agrees to recognize the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan Title 23, California Administrative Code, as required by the U.S. Energy, Policy and Conservation Act (P.L. 94-165).

N. Clean Air/Clean Water Acts:

Pursuant to 45 CFR, Part 74, Appendix G, Section 14.1. A CONTRACTOR agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S. Code 1368, Executive Order 11738) and Environmental Protection Agency (EPA) Regulations (40 CFR, Part 15). Under these laws and regulations the Contractor assures that:

1. No facility to be utilized in the performance of a proposed grant has been listed on the EPA list of violating facilities.
2. It will notify the COUNTY prior to award, of the receipt of any communications from the Director, Office of Federal Activities, U.S. EPA, indicating that a facility to be utilized for the grant is under consideration to be listed on the EPA list of violating facilities.
3. It will notify the COUNTY and the U.S. EPA about any known violation of the above laws and regulations.
4. It will substantially include this assurance including this fourth part, in every nonexempt subgrant, contract, or subcontract.

ADD SIGNATURE PAGE. THE FOLLOWING IS A SAMPLE SIGNATURE PAGE:

IN WITNESS WHEREOF, this contract has been executed by the parties hereto upon this date first above written.

CONTRACTOR

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

COUNTY OF \_\_\_\_\_  
BOARD OF SUPERVISORS

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_,  
County Clerk, County of \_\_\_\_\_,  
State of California, and  
ex officio of the Board of  
Supervisors

\_\_\_\_\_  
DEPUTY CLERK

\*\*\*\*\*

REQUIRED CONTRACT BUDGET

EXHIBIT \_\_\_\_\_

NOTE: SUBMIT ONE BUDGET FOR EACH CONTRACT YEAR

COUNTY \_\_\_\_\_ DATE \_\_\_\_\_  
 CONTRACTOR \_\_\_\_\_  
 PERIOD BEGINNING \_\_\_\_\_ PERIOD ENDING \_\_\_\_\_  
 TOTAL SERVICE HOURS FOR PERIOD \_\_\_\_\_ HOURLY RATE \_\_\_\_\_

	TOTAL COST	HOURLY RATE
IHSS PROVIDER WAGES		
FULL TIME	_____	_____
PART TIME	_____	_____
IHSS PROVIDER EMPLOYMENT TAXES		
SOCIAL SECURITY (FICA)	_____	_____
FEDERAL UNEMPLOYMENT INS. (FUTA)	_____	_____
STATE UNEMPLOYMENT INS. (SUI)	_____	_____
IHSS PROVIDER WORKER'S COMPENSATION	_____	_____
IHSS PROVIDER EMPLOYMENT BENEFITS		
VACATION	_____	_____
SICK LEAVE	_____	_____
HOLIDAY	_____	_____
HEALTH INSURANCE	_____	_____
DENTAL INSURANCE	_____	_____
IHSS PROVIDER TRAVEL COSTS		
TRAVEL WAGES	_____	_____
MILEAGE	_____	_____
IHSS PROVIDER TRAINING		
TRAINING WAGES	_____	_____
TRAINING STAFF/CONSULTANTS	_____	_____
OTHER TRAINING COSTS (SPECIFY)	_____	_____
ADMINISTRATIVE SALARIES		
LOCAL ADMINISTRATION	_____	_____
CLERICAL	_____	_____
IHSS SUPERVISORS	_____	_____
SALARIES TO OWNERS/OFFICERS/DIRECTORS	_____	_____
ADMINISTRATION TAXES		
SOCIAL SECURITY (FICA)	_____	_____
FEDERAL UNEMPLOYMENT INS. (FUTA)	_____	_____
STATE UNEMPLOYMENT INS. (SUI)	_____	_____
ADMINISTRATIVE WORKER'S COMPENSATION	_____	_____

	TOTAL COST	HOURLY RATE
ADMINISTRATIVE BENEFITS		
VACATION		
SICK LEAVE		
HOLIDAY		
HEALTH INSURANCE		
DENTAL INSURANCE		
ADMINISTRATIVE TRAVEL		
TRAVEL WAGES		
MILEAGE		
INSURANCE AND BONDING		
LIABILITY INSURANCE		
AUTOMOBILE INSURANCE		
FIDELITY BOND		
PERFORMANCE BOND		
OFFICE EXPENSE		
RENT		
MAINTENANCE/JANITORIAL		
UTILITIES		
EQUIPMENT (NEW)		
EQUIPMENT MAINTENANCE		
EQUIPMENT DEPRECIATION (PURCHASED PRIOR)		
ACCOUNTING AND DATA PROCESSING		
TELEPHONE		
POSTAGE		
PHOTOCOPYING/PRINTING		
SUPPLIES		
PERSONNEL ADVERTISING		
HOME OFFICE EXPENSE		
INDEPENDENT AUDIT		
PROFIT (PROPRIETARY FIRMS)		
OTHER COSTS		
FEE FOR SERVICE		
TOTAL COST		
HOURLY RATE		

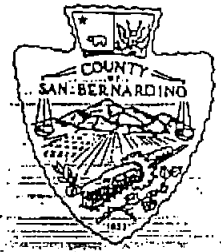








# INTER-OFFICE MEMO



DATE September 29, 1982

FROM Virginia Boyko, Services Chief *mg* PHONE 1124 *Dugh?*

TO Bart Bonner, SSDM, Special Programs ✓  
T. Michael Decker, Services Chief

CONFIDENTIAL

SUBJECT IHSS CONTRACT STRATEGIES

As you know, we must have something for an IFB by 11/1/82. Because of the State's inflexibility regarding our current contracting method (as confirmed by John Hobe at our 9/27/82 meeting), we need to set in motion some immediate strategies:

1. PREPARING TO FIGHT THE STATE TO KEEP OUR PRESENT CONTRACTING METHOD:

- ✓* a. Review Laws - SB 14 threw out some old W&I Code language on IHSS - please look up old language and new to see if there is anything in the code we can use. Cite all applicable law sections (for and against us) preparatory to a meeting with Dick Strong.
- b. Do this with DSS regs (chapter 10, 30 and any other on contracting) which may apply. Remember that John cited 30-469.1 as their legal authority to fix us.
- c. Pull together folder of pertinent correspondence; our current Contract, Mike's letter regarding our possible plan to go full service contract, the State's approval letter(s) of our current contract, the State's letter informing us they would not again approve our contract method and Mike's letter requesting specific information from the State on why they won't (which I believe has not yet been answered by the State).
- d. Check old files (going back to 1969), lets see if we can resurrect any letters of support from the State re our contracting system, since we've had the same system since our program inception. (IE, what's different now?)
- e. Pull together a case that our contract is NOT just simply a payrolling contract like EDS-F. Most significantly, the Providers are employees of HCI, not the client. Do what you can (by checking our contract provisions, audit reports etc., to refute this).
- f. Pull together a picture of an IHSS program in other counties which are very like ours, in terms of IHSS service components (whether via inter-agency agreement or full service). Build a case that only difference between our way of doing things and what county provider and full service method providers do is matter of arrangement... show that we do what these other methods do, which have State approval. (Maximize likenesses, minimize differences).
- g. Pull together whatever materials we have (in writing, like Mike McIntyre's old letters to us) and known to any of us via verbal comments from the State, regarding the State's prejudicial treatment of our county. Show that State's problems regarding our contract are not based in law of sound reason, but are prejudicial. I think Hobe used the word "invasion of turf". Show their dislike of our contract method is because of slight inconvenience and irritation due to lack of conformity. 463

- h. Pull together factual material on financial impact of any changes. Get figures accurate, and authority which back's up figures (like McDonald's memo on FSC). To help with this, have Mike find correspondence on why we wanted to extend HCI instead of going out for bid this past year.
- i. Pull together what we can on problems of cost effectiveness of different methods as opposed to our own. Gather all materials which show ours in cheaper.
- j. Pull together profile of program delivery problems under either IPM or FSC. Such as, problems in delivering service to our more isolated areas of the county.

Let me know by 10/1 (Friday) how quickly you can pull together this stuff. I want to consult with Mary Gronewald and probably make an appointment with Dick Strong for someone to meet with him on this (and for help with more strategies).

Anything we pull together in preparation for an adversary role with the State is NOT to be shared with IHSS, SSPA or State staff. What we can do must be held in strict confidence until we are ready to use it.

## 2. PREPARING TO NEGOTIATE WITH STATE ON CONTRACT FORMAT

I have drafted a letter to John Hobe (attached), with a copy to Horel. Let me know what you think. I won't mail it ahead of your's and Mike's input.

## 3. PREPARING FOR IFB

- a. Pull together a package on Individual Provider Method (as if we were going to go that way). Show costs, increased costs in order to maintain current level of service. Do a cost estimate of our IHSS program under the IP method, in terms of how much additional allocation we would need from State. Find out results of San Francisco Lawsuit (exactly what it was about and outcome. Mike says it is on the same issue of benefit buyout and SFCo lost, and had to come up with dough. (If our issue is at all different, we would want to claim that money must come from IHSS allocation to our County for the \$600,000.00). Bottom line on this must be the highest cost you and Mike can come up with which is plausible (likely) for SBCo.

- b. Pull together a package on Full Service Contract (as if we were going to go that way): Show costs, program losses, the Cost shift for other positions (250,000.00 McDonald estimated).

Develop a tentative IFB package based on full service contract; locate IHSS supervision in our offices (like now) even though contract employees. Put in everything we'd want in a full service contract.

- c. Develop County delivered package; using special districts model. This one manifestly gets the State off our back the best, but brings up the overriding problem of keeping the contract staff without making them actual county employees. See what might be possible here.
  1. Consider intra-agency agreement with Office On Aging approach... remember that John Hobe insisted that State has sayso on agreements, just like contracts. We might need to check this out in terms of #1 on Page 1. (Is it an inter-agency agreement, like Tulare, if the program is all done within the same agency, though not the same Department?).
  2. Exactly what is involved in payrollng? Could we assume the function in our own Department <sup>464</sup> using special district model re the IHSS provider employees as non-county?

3. Find out all you can about Special Districts; do they have some legal differences which would permit them to do it, but which would preclude us from doing it? What do they do anyway that we think of their model as a resource?

(Find out who the Personnel Officer is for the Special Districts... is it by any chance, Bill Brown?)

We will need to have items "a", "b" and "c" under #3 (Preparing for IFB) done by October 15th, so that Mary can check with Fred and Mr. Fare on what way they all want the county to go.

We will divert staff time (Mike Decker, I, Frank Schiller and if need be, Tommie Lewis) to researching parts of this/helping you with it. Please lay out an action plan for accomplishing all of the above, and let me know what help you need by whom.

Thank you.

cc: Mary Gronewald, Associate Director (Mary, can you think of other things we need to do, or which might help?)

T. Michael Decker, Services Chief (Mike, ditto)

Mr. John Hobe,  
Adult Services Consultant,  
State Department of Social Services,  
744 P Street, Mail Station  
Sacramento, California

Dear John:

This is to thank and commend you for your frank and open discussion with me and our other Department representatives regarding the problems your Department has with our current IHSS contracting procedures. We also sincerely appreciate your offer of help to us in seeking to develop a contract which is both satisfactory to the State and which will resolve those problems peculiar to our County situation.

We are extremely interested in your idea regarding a meeting between our staff and Mr. Horel, yourself, Charles Kerr and Rick Burroughs. We feel that bringing together State Department of Social Services staff (and the expertise represented by the individuals you mentioned) together with our own IHSS program management people, is vitally necessary if we are to resolve the dilemma we find ourselves in at this time.

We would of course hope that this meeting could be scheduled early in October, since we must open up our IFB process on November 1st, at the latest.

As we mentioned in our conference with you, we would like to develop a contract which meets the following County needs:

1. Permits for <sup>some</sup> Department control of program costs and effectiveness. (Both of which are in keeping with the intent of AB 2712).
2. Provides for IHSS coverage in all areas of our County. As we discussed, we have had problems (both in the IP and Full Service Contract approach), resolving the provision of homemakers in our desert areas. Approximately one-third of our IHSS clients reside in the isolated areas of our county. Contract agencies have not found it to be fiscally sound to attempt to develop IHSS providers and supervision for these far-flung areas.
3. A resolution to the problems presented by the Individual Provider Method of delivering IHSS Services. Moving to this method at this time would require an outlay of around \$600,000.00 to "buy-out" the Contract employees' benefit package.
4. A resolution to the problems presented by the Full Service Contract method, which our fiscal people tell us would result in a cost shift of around \$250,000.00 in Social Services staffing locally.
5. A resolution to our dilemma regarding the acquisition of around 1,000 additional county employees, if we were to provide the full IHSS program through Department auspices. This also brings in the benefit payoff problem, and is probably unacceptable politically to our CAO and Board of Supervisors.

Of course, we would also like to develop a contract method which would be of interest to the State, in considering our request to be selected as one of the AB 2712 project counties (either as a "control" county, or "special project").

Please let me know as soon as possible if the meeting you described can be worked out. We are anxiously awaiting this information from you.

466

Thanks again,

Robert Horel

10/1/77



# INTEROFFICE MEMO

1853

DATE January 19, 1987

PHONE 387-5353

FROM Mary E. Goldberg, ARM *MES*  
Services, San Bernardino

TO T. Michael Decker, DD  
DPSS Administration

County of San Bernardino

SUBJECT STATE AUDIT OF THE IHSS HCI CONTRACT  
August 1, 1984 - August 31, 1986

Per your request, the following are my concerns regarding the current IHSS audit of the HCI contract, August 1, 1984 - August 31, 1986.

## I. Service Case Records:

A total of 146 service case records were requested. All 146 records were selected from an August, 1986, CMIPS client listing rather than spread over the two-year period. All of these records were located; however, of the total sample of 146 cases, 33 were individual provider cases (IP mode).

On December 22, 1986, I had a lengthy telephone conversation with the State Auditor, Jonny Chan. I questioned why any IP cases were selected in the service record sample, as this was an audit of the HCI contract. I went on to explain in great detail the difference between the IP and CC modes. Ms. Chan responded that no one had explained it to her and she now understood the difference between the two modes. This had been previously explained by Konnie and myself at least three times. At the end of that conversation (on December 22), I asked her if she wanted to replace those 33 IP cases with CC cases. She told me we should go ahead and collect the 146 case sample she had requested.

On January 5, 1987, Jonny Chan called me and requested that we indicate all of the IP cases on the Service Case Record Listing. We did so and turned over all 146 cases to her (33 IP and 113 CC). Twice during the week of January 5, Paulette Finneseth, SSS, offered to go to Auditing where Ms. Chan was working on the audit in an effort to explain our service case set up and the county forms used in the assessment/eligibility process. Ms. Chan declined the offer.

Later that same week, Ms. Chan called me to say she did not need to pull anymore contract service records for the audit.

## II. Payroll Documents:

A total of 139 payroll documents were requested. Of the 139 documents, all 45 monthly cases were from pay period May 15 - May 30, 1985, and

94 hourly cases (homemaker and board copies) were from pay period December 1 - December 14, 1984. Again, as with the service case samples, these documents were not sampled from a spread over the two-year period.

Of the 139 payroll documents, a total of 1½ were not located: one monthly case and the homemaker copy of an hourly case (we had the "board" copy).

III. Internally, this audit was considerably smoother than the prior one. An "Audit Team" was formed with representation from each office. Guidelines were established (see attached memo), and an IHSS Service Case Filing Guide was developed and agreed upon by the IHSS Task Force. Members of the "Audit Team" were:

Bart Bonner, Rancho Cucamonga

Earl Blakesley )  
John Russell ) Desert  
Alice Burdick )

Paulette Finneseth )  
Konnie Zaharopoulos ) San Bernardino

Additionally, on a countywide basis, Paulette coordinated the service case record portion and Konnie coordinated the payrolling document portion.

All of their cooperation and involvement is to be commended.

cc: Tom Sansone, SSRM

MEG:cdc



# INTEROFFICE MEMO

1853



County of San Bernardino

DATE December 3, 1986  
PHONE  
FROM Mary Goldberg, ARM  
Services, San Bernardino  
TO Debbie Wilkins, ARM, Victorville  
Paul Shaw, ARM, Rancho Cucamonga

SUBJECT IHSS AUDIT - JULY 1, 1984 - AUGUST 31, 1986

We have just received notification that, once again, the State will be auditing our IHSS program. The time frame will be for the recent HCI/VNA contract from July 1, 1984 to August 31, 1986.

About one year ago, we experienced the last IHSS audit. We received several criticisms and, in fact, are threatened with a 7.2 million dollar disallowance which has not yet been resolved.

The IHSS program has lacked written instructions regarding case transfers, filing of closed cases, and maintenance of past payroll records. Because of these aspects, we experienced problems in IHSS audits by not locating needed documents in a timely manner. It should be stressed to all staff that audits have important fiscal and program impact, and the State judges our agency, personnel, IHSS program, and fiscal allocation by the results, cooperation, attitude, efficiency and professional conduct of the staff they deal with.

To prevent some problems experienced in the last audit, special efforts will be made to organize in a way that allows us to quickly locate documents requested by State auditors. A county-wide, structured framework, or "Audit Team", will be formed whose purpose will be to funnel needed documents to one central person designated to receive and present them to the auditor. The Audit Team will have one designated contact person per office who will spearhead coordination efforts to research, locate and submit records from their district office. An IHSS clerk or supervisor can be selected as a secondary backup and assistant to the office Audit Team member. If records are required from both Social Services and IHSS, a team member for each unit can be chosen. Once these people are selected, a memo will be sent to all team members listing names and telephone numbers, since consistent inter-office communication between team members is vital to a successful audit.

## AUDIT PROCEDURE:

### I. Central Audit Team Delegate - Preparation Tasks:

- A. Clarify with the auditor the time period being audited on the requested document.
- B. Clarify exactly which forms and/or folders are needed for the audit, i.e. payroll board copies, schedules signed by providers, or both; Social Service IHSS folders, IHSS copies, or both; payroll/schedule originals or photocopies?

- II. Office Team Member - Preparation Tasks:
- A. Clarify with IHSS and Social Services clerical staff where all payroll and service folders needed for the audit time period are kept or maintained (i.e., in office area, special storage, or central storage).
  - B. Familiarize yourselves with any existing IHSS closed file system for case folders and payroll documents.

III. Actual Audit Steps and Duties:

- A. Each office representative will be provided with a complete list of requested cases or payroll documents. Cases designated for that office will be highlighted. Each office will be responsible for locating and forwarding their assigned/designated documents to the central Audit Team delegate.
- B. A second notice will be issued listing cases and payroll documents not located. Each office will check for all items on this list, in case of a possible undocumented case transfer, closing, etc.
- C. If photocopies of documents are requested, make sure all copies are clearly legible and reproduced in their entirety before forwarding.
- D. Keep accurate records on the provided lists as to which documents are forwarded to the central member of the Audit Team, on what date, and by what method, i.e. inter-office mail, courier, etc.
- E. Maintain a folder of the original documents or a good copy, in case a second copy needs to be submitted.
- F. Upon completion of the audit, members of the Audit Team will be notified, and all documents submitted will be returned for refiling to the case folders or appropriate storage facilities.

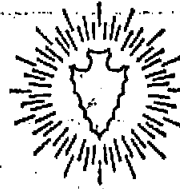
cc





DEPARTMENT OF PUBLIC SOCIAL SERVICES

COUNTY OF SAN BERNARDINO  
HUMAN RESOURCES AGENCY



JAMES FARE  
Director

Reply to:  
Administrative Office  
488 Fifth Street, Second Floor  
San Bernardino, CA 92401

September 16, 1987

SEP 21 1987

cc Goldberg  
Sansone  
+ cslm

Audits and Evaluation Section  
State Department of Social Services  
Sacramento, CA 94250

Enclosed please find our response to the final audit report of the County of San Bernardino and the County's In-Home Supportive Services (IHSS) contract with Health Conservation, Inc. for the period August 1, 1984 through August 31, 1986 as completed by the Cities and Counties Audits Branch of the State Controller.

We were troubled by the audit, not because of any fiscal sanction, there are none, but by the rigidity, poor communication, and total lack of interest in our process displayed by your staff. Criticism without knowledge is offensive.

We appreciate the factual findings and will use them to our benefit to improve the process.

JAMES FARE  
Director

JF:rd (32:23)

Enclosure

AUDITOR CONTROLLER'S AUDIT  
IHSS CONTRACT #36-C-01  
REPORT ON INTERNAL CONTROL

SAN BERNARDINO COUNTY'S PROTEST  
September 17, 1987

1(a) Time Sheets Not Signed:

Thirteen time sheets were not signed by the supervisors.

County Response:

Thirteen time sheets, out of 140 reviewed, were not signed by the IHSS Supervisor. However, San Bernardino County contests the appropriateness of this issue as a valid internal control item.

The regulatory basis cited by the auditor speaks to the county's responsibility to "monitor and evaluate processes..." A regulatory basis requiring a county to have staff sign a time sheet does not exist.

The IHSS Supervisors are responsible to review all time sheets for accuracy prior to submitting them to the contractor for payroll purposes. The lack of a signature can not be interpreted to mean the time sheet was not reviewed. San Bernardino County meets the intent of MPP 10-150 through the monitoring and evaluating role of the IHSS Supervisors.

San Bernardino County further asserts the requirements of MPP 10-150 were met through its use of two provider schedules, one maintained by the provider and one by the IHSS Supervisor. This serves as a monitoring tool to "check and balance" and insure hours claimed by the provider as worked are consistent with the hours indicated on the supervisor's copy. The supervisors' copies indicate concurrence with the hours worked as reported by the provider for all 13 of the time sheets.

San Bernardino County requests this internal control item be removed from the final report.

1(b) Time Sheets Signed Prior to Last Working Day:

Thirty-seven time sheets were signed by clients and/or providers prior to the last working day posted.

County Response:

From the seven district offices, 37 out of 140 time sheets reviewed were signed by clients and/or providers prior to the last working day posted. However, we contest the appropriateness of this as a valid internal control item.

The auditor cites State Regulations Section 10-150 (December 1, 1978) to demonstrate San Bernardino County's procedures for time sheet signatures is lacking in internal controls. This section is not appropriate to the finding. The state regulations do not prohibit early submittal of time sheets. San Bernardino County has 22 IHSS Supervisors with primary responsibility to monitor, evaluate, and supervise the contract and contracted employees, thus meeting the intent of 10-150.

The IHSS Supervisor positions were created to ensure monitoring and evaluation of the contractor's employees (i.e. providers). San Bernardino County has continually demonstrated the value, efficiency and cost effectiveness of this position since the early 1970s. Each supervisor had a caseload of contract providers within a defined geographical area and was responsible to monitor and evaluate the performance. The supervisors were in close contact with the providers through personal contact at the client's home, telephone calls, and office appointments. Time sheets were signed and turned in to the supervisors prior to the end of the pay period due to:

San Bernardino County had two days once the pay period ended to process the entire payroll on 900 contracted providers for the contractor. The contract was approved by the state prior to its beginning. The timeframes to process the payroll are in Attachment 1 of the HCI/DPSS Contract. These timeframes necessitate some of the time sheets being signed prior to the last working day of the pay period.

San Bernardino County requests this internal control item be removed from the final report.

**2(a) Eligibility Recertification:**

In ten case files, the recertifications of eligibility had occurred after the expiration of the maximum twelve-month period of time for eligibility determinations.

**County Response:**

The finding is correct. The county will establish and implement new procedures designed to ensure recertification of eligibility occurs prior to expiration of the maximum twelve-month period of time for eligibility determination.

**2(b) Needs Assessment Documents Were Not Signed by IHSS Supervisors:**

In 57 case files, reassessment documents had not been signed by the Social Services Supervisors to indicate their approval.

**County Response:**

The Social Services Supervisor has the responsibility to sign the reassessment documents according to county policy. However, there is no state regulation requiring supervisory sign off on the needs assessment.

All of the cases selected have supervisory sign off on the initial needs assessments and on those which reflect a change in the client's needs. The needs assessments which were not signed by supervisors are "dumps" from the state's payrolling system, or turnaround documents reflecting needs assessments entered into the payrolling system. The cases selected for review meet the county policy for supervisory sign off.

**2(c) Late Needs Assessments:**

In six case files, reassessments of client needs were not performed every twelve months.

**County Response:**

San Bernardino County is in agreement with this finding.

**2(d) Recipient's Statement of Need Not Completed:**

In eight case files, the recipient's statements of need were not completed.

**County Response:**

San Bernardino County is in agreement with this finding.

**2(e) No Explanation of Available Alternative Resources:**

In 91 case files, the recipient's statements of need were not completed.

**County Response:**

The county is particularly concerned about this item.

The regulatory basis cited in the auditor's report directs Social Services staff to explore alternative resources. San Bernardino County staff comply with this policy as evidenced in 22 cases where alternative resources were identified as being utilized to provide IHSS services.

There is no regulatory basis requiring the absence of alternative resources to be indicated on the form. The absence of an alternative resource on the SOC 293-A or SOC 293 does not signify the worker did not explore for alternative resources.

State forms are used to document assessments. The State CMIPS facesheet has a place only to indicate when alternative resources are available. On the CMIPS 293 form, the time for IHSS services is written in the fields only when the worker assesses a need for that service. The state prints only in those field and uses blank fields to indicate no services in the area.

San Bernardino County requests this internal control item be removed from the final report.



**2(f) Notices of Action Not Mailed in a Timely Manner:**

In 80 case files, the Notices of Action were not mailed in a timely manner.

**County Response:**

The regulatory basis cited for this item states a notice is to be sent to a client at least ten days in advance of a reduction or discontinuance of a client's services. Section 10.116.5 provides for additional exceptions to the 10-day notice; i.e., a client is admitted to an institution in which continued IHSS services would not qualify for federal financial participation.

A review of the 80 cases revealed that in 44 cases, a 10-day Notice of Action was not required as no negative action, i.e. reduction or discontinuance of a client's service, occurred. The 44 cases that did not require a notice or were given proper notice are as follows:

**District Office**

**Client Name**

San Bernardino

Bailey, Emma  
Bunker, Lida  
Fleming, Ernest  
Carr, Eunice  
Cook, Richard  
Johnson, Mac  
Kelday, Winifred  
Lamb, Lucille  
McLaren, Freda  
Moore, Charles  
Murphy, Marie  
Palermo, Lorraine  
Sanders, Esther  
Shurtleff, Hazel  
Suerez, Fernando  
Thomas, Aurella  
Turner, Eva  
Walker, Belle  
Zornes, Irene

Redlands

Barker, DAVID  
Chaddock, Emmitt  
Marshall, Betty  
Petrus, William  
Smalling, Bettie  
Walters, Esther

Desert

Delgado, Anita  
Brown, Jerry  
Fiegler, Ed  
Harris Tent  
Burnes, Rosetta  
Fox, Charlie  
Hanks, Pierre  
Shearing, Ella  
Stobaugh, George  
479

Rancho Cucamonga Atchley, Edith  
Berndt, Howard  
Campbell, Mary  
Chadwick, Sue Ann  
Dixon, Roosevelt  
Lewis, Maxine  
Lukehart, Mary  
Rice, Annabelle  
Tandy, Betty  
Vaughn, William

San Bernardino County requests the accurate number of cases be reflect  
in this internal control item.





DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814  
(916) 322-4801



August 4, 1986

Mr. Chuck Bruntington  
County of San Bernardino  
Human Resources Agency  
Social Services Office  
468 Fifth Street, 2nd Floor  
San Bernardino, CA 92401

Dear Mr. Bruntington:

CONTRACT NUMBER: 36-C-01.5 84/85  
CONTRACTOR: Health Conservation, Inc.  
CONTRACT PERIOD: August 1, 1984 - August 31, 1986  
TYPE OF SERVICE: In-Home Supportive Services (IHSS)  
CONTRACT MAXIMUM: 17,556,308

We have completed our review of the fully executed contract amendment identified above and hereby grant approval for claiming clearance. This contract amendment is to extend the contract term for one month, through August 31, 1986. This will also increase the contract amount by \$1,579,200.

Departmental approval is contingent upon the availability of county, state and federal funds. This approval does not relieve the county of the responsibility for assuring that all costs are reasonable and necessary.

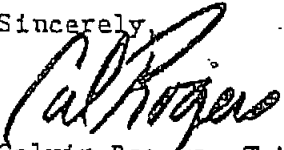
These costs are to be claimed on the Administrative Expense Claim DFA 325.1B, Direct Costs Detail Schedule - Purchase of Services and coded to the applicable program. Please include the contractor's name and contract number.

All claims for reimbursement must be submitted to this department within 18 months of the end of the calendar quarter in which the costs were paid. (W&I Code, Article 2, Section 10604.5).

Questions regarding proper claiming of the contract amounts should be directed to your liaison in the Fiscal Policy and Procedures Bureau at (916) 445-7046.

If you have questions regarding the contract process or the other contents of this letter, please contact Joyce Coles at (916) 322-8734.

Sincerely,

  
Calvin Rogers, Chief  
Contracts Bureau









DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814  
(916) 323-9065

NOV 12 1987

*HCI  
Contract 1 5*



*cc May General  
Chuck Bennett  
Appointments Section  
TMD  
E 10/20*

September 23, 1987

Mr. T. Michael Decker, Deputy Director  
San Bernardino County Department  
of Social Services  
468 West 5th Street, 2nd floor  
San Bernardino, CA 92401

Dear Mr. Decker:

CONTRACT NUMBER: 36-C-01.6 84/85 (PROPOSED)  
CONTRACTOR: HEALTH CONSERVATION, INC.  
CONTRACT PERIOD: AUGUST 1, 1984 - AUGUST 31, 1986  
TYPE OF SERVICE: IN-HOME SUPPORTIVE SERVICES (IHSS)  
CONTRACT MAXIMUM: \$17,556,308 (PRIOR TO ONE PERCENT COLA)

This is in response to your request for assistance on what direction San Bernardino County should take regarding the impasse with Health Conservation, Inc., over the costs associated with the retroactive 1% COLA due providers for the period July 1, 1986 through August 31, 1986.

In reviewing your contract file and the correspondence associated with the 1% COLA negotiations between yourself and Health Conservation, Inc., we offer the following suggestions which may help you fulfill your requirement to grant a COLA at the one percent rate as specified in the Budget Act of 1986 to all providers. Additionally it may be helpful to review All County Letter No. 86-72 which clarifies the COLA requirements of the 1986 Budget Act that mandate counties grant a one percent COLA to all providers.

Please reference letters between yourself and Health Conservation, Inc. dated June 10, 1987 and June 17, 1987 respectively. Our suggestions are in the sequence of questions and answers listed in both letters.

COVER LETTER

1. We have no preference on the usage of the term "extension" or "amendment", please consult with your county counsel regarding the proper terminology for your county's use.

2. Although it has no direct bearing on the amount of funds associated with the cost of the 1% COLA and the associated administrative costs for its distribution, we concur with \$17,556,308 as the contract maximum prior to the inclusion of the 1% COLA.
3. Regarding the change to paragraph III Q: Your paragraph III Q, as proposed on page 2 of your original draft received May 2, 1987 seems to be the best way to go as it reflects the new cost schedule and new wage rates quite clearly. Although the format used by the contractor is not acceptable, it does have its merits as it can be used to determine the costs associated with the 1% COLA and its distribution. Either method would only serve as an estimate of the cost. Funding will be based on the actual costs associated with the 1% COLA.

#### ATTACHMENT I

1. a. It is appropriate to expect reimbursement at the documented FICA rate in effect at the time of payment.
  - b. See 1.a. above.
  - c. See 1.a. above.
2. The use of actual number of hours paid for work in July and August of 1986 is appropriate.
3. The practice of using actual number of hours earned in each step for the total 227,179 hours as documented is the best way of determining actual costs.

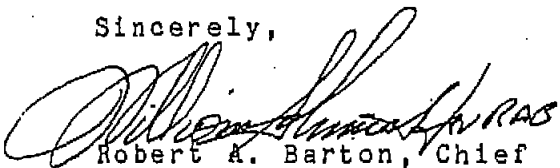
As for the administrative costs and profit factor, COLA funds are intended for the providers. The State will not approve an increase in the profit line item nor will the State reimburse such an exorbitant amount for administrative costs. Historically, contractors in similar situations have distributed retroactive COLA payments at costs between \$1,000 and \$2,500.

It is the State's intention to reimburse the county for actual documented costs associated with the State mandated distribution of the 1% COLA. This includes wages, associated benefits and taxes and reasonable payroll and administrative costs.

We are hopeful that the aforementioned will assist you in concluding your negotiations and urge you to compel the contractor to expedite the 1% COLA payments as it has been well over one year since the providers who are eligible for them actually earned them.

If you have questions regarding the contract process or the other contents of this letter, please contact Mr. Jerry Rose of the Adult Services Bureau at (916) 322-6320.

Sincerely,



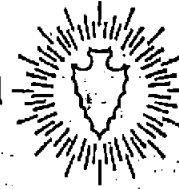
Robert A. Barton, Chief  
Adult Services Bureau

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DEPARTMENT OF PUBLIC SOCIAL SERVICES



COUNTY OF SAN BERNARDINO  
HUMAN RESOURCES AGENCY

JAMES FARE  
Director

September 28, 1987

REC-3 0 9587

Reply to:  
Administrative Office  
488 Fifth Street, Second Floor  
San Bernardino, CA 92401  
(714) 387-4700

TDD - Telephone Service  
For The Hearing Impaired  
(714) 387-6036

Ms. Fahari Jeffers  
Executive Vice President  
United Domestic Workers of America

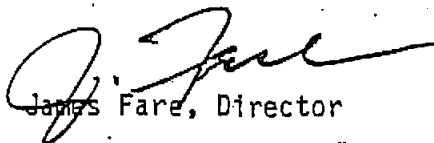
Ms. Jeffers,

In regard to your letter of September 1, 1987, concerning the 1% COLA for IHSS providers for July and August, 1986, please be advised of the following information.

San Bernardino County initiated contact on April 10, 1987, with Health Conservation, Inc., the contractor for the two months in question. We informed HCI of the need to execute an amendment to the contract which ended August 31, 1986; an amendment to the contract would be necessary to enable the employer to increase the providers hourly rate of pay by 1%. In addition, a draft contract amendment was sent to HCI for their review at that time.

We have subsequently had two exchanges of questions and responses with HCI regarding the contract amendment. The County and HCI are not in agreement over the cost of the proposed amendment. We have structured the proposed amendment according to the budget act which authorized the 1% COLA for providers.

I suggest you discuss your concerns regarding the COLA with the employer, Visiting Nurses Association (VNA). HCI was the contractor during the two months in question; their subcontractor, VNA, was the employer of the providers affected by the 1% COLA. As the contractor and the employer, respectively, it is their responsibility to pay providers for services provided. San Bernardino County will fund payment to the providers, however, only as is allowed by the budget act via a contract amendment which has been approved by the State.

  
James Fare, Director



# United Domestic Workers of America

National Headquarters: 2405 Plaza Blvd., National City, CA 92050  
(619) 263-7254

September 1, 1987

Mr. James Fare, Director  
Dept. of Public Social Services  
San Bernardino County  
468 West Fifth Street, 2nd flr  
San Bernardino, CA 92401

Dear Mr. Fare:

It is our understanding that San Bernadino IHSS contract homemakers were entitled to receive a 1% cost of living adjustment raise (C.O.L.A.) for at least the two month period of July and August 1986. This 1% raise was to be applied to all hours worked during the eligible period of payment.

To our knowledge no contract homemaker has, to date, received any such C.O.L.A. payment from this period. As the 1986-87 state budget bill was passed on July 1, 1986 authorizing and funding this C.O.L.A. we're concerned about the lack of payment some 13 months after it's enactment.

I would appreciate hearing from you as to the status of this C.O.L.A., when it will in fact be passed on to those contract homemakers who were working under the IHSS contract at the time, and what method your department will be utilizing to ensure payment to all eligible workers.

Sincerely,

*Fahari Jeffers*  
Fahari Jeffers  
Executive Vice President

- cc: • Lena M. Patty  
President, San Bernardino  
UDW Board of Directors
- UDW National Executive Board

FJ/rd







1115  
CB  
GA

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814  
(916) 323-9065



July 14, 1988

T. Michael Decker, Deputy Director  
San Bernardino County Department  
of Social Services  
468 West 5th Street, 2nd floor  
San Bernardino, CA 92401

Dear Mr. Decker:

CONTRACT NUMBER: 36-C-01.6 84/85 (PROPOSED 1% COLA)  
CONTRACTOR: HEALTH CONSERVATION, INC.  
CONTRACT PERIOD: AUGUST 1, 1984 - AUGUST 31, 1986  
TYPE OF SERVICE: IN-HOME SUPPORTIVE SERVICES (IHSS)  
CONTRACT MAXIMUM: \$17,556,308 (INCLUDES ONE PERCENT COLA)

We have completed our review of the proposed 1% COLA amendment identified above and agree with the contract language contained therein. Per Chuck Bruington of your staff, we understand that the figure \$17,566,308 in your amendment is a typographical error and should read \$17,556,308. Your contract maximum remains unchanged as the cost for the 1% COLA can be absorbed within said maximum.

Once we receive a copy of the fully executed contract amendment, we will review it for claiming clearance. It is our understanding that the contractor has signed off on the amendment. Please expedite its execution as it is long overdue.

If you have questions regarding the contract process or the other contents of this letter, please contact Mr. Sal Barajas at (916) 322-6320.

Sincerely,

Robert A. Barton, Chief  
Adult Services Bureau







9/1/88 CC: MG #  
MD #  
Brunswick  
Null  
Kane/d

\* I will want  
to discuss at  
future date when  
Mary is back.

J

LEGISLATIVE REPORT ON  
IN-HOME SUPPORTIVE SERVICES PROGRAM  
METHOD OF DELIVERY DEMONSTRATION PROJECT

Period Covered:

July 1, 1984 through December 31, 1987

State of California

Department of Social Services

July, 1988

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....1

INTRODUCTION.....2

BACKGROUND.....2

SANTA CRUZ PROJECT.....3

    Project Design Measures.....4

    Population Characteristics.....4

    Cost Comparisons.....5

    Result of Client Choice.....6

    Influencing Client Selection.....6

    Waiver of Statutory Maxima.....7

    Public Health Nurses.....7

SUMMARY.....7

RECOMMENDATIONS.....8

ATTACHMENT.....9



## EXECUTIVE SUMMARY

Pursuant to Welfare and Institutions Code (WIC) 12314 and Item 5180-490 of the 1984 Budget Act, Santa Cruz County conducted a three-year Demonstration Project to evaluate the comparative cost effectiveness and quality of care between a pure individual provider mode and a mixed (contract and individual provider) mode of service delivery. Santa Cruz County's three-year evaluation is attached. In addition, the State Department of Social Services (SDSS) reviewed the County findings and has summarized its evaluation in this Report.

The SDSS worked with Santa Cruz County to develop the research design used in the Demonstration Project. However, SDSS is left with reservations about the validity of the statistics generated by the Demonstration Project.

The Demonstration Project was designed to allow comparison only between the individual provider and mixed individual provider/contract modes. The Santa Cruz County Demonstration Project data cannot be used to draw conclusions between the individual provider and contract modes. The frailest of the County's clients were excluded from the Demonstration Project. Clients selecting the contract mode seem to be less impaired, in general, than clients who select the individual provider mode. The County is more likely to reassess clients served by contract mode than by individual provider mode, when they have information that the client's needs may have changed.

Approximately \$500,000 additional funding annually was provided from the Demonstration Project funding solely to purchase services from a contract provider in Fiscal Year 1987/88. Santa Cruz County has a caseload of approximately 1,000 clients. However, the County projects that implementing the mixed mode costs only \$84 per client per year more than the cost of the pure individual provider mode. If that were true, only \$84,000 per year would have been needed for additional funding to support the contract mode portion of the Demonstration Project. Based on the actual cost per hour difference between the contract and individual provider modes, SDSS estimates that to implement a mixed mode model statewide would cost an additional \$74,000,000 for only the Nonseverely Impaired portion of the caseload.

Because SDSS and the County have been unable to reconcile differences in data interpretation, SDSS intends to provide the data to an independent, third party outside resource to evaluate the results of the Demonstration Project. The SDSS expects to have a completed evaluation in approximately one year. A summary of these results will be forwarded to all involved parties, including the Legislature, when they become available.

## INTRODUCTION

WIC Section 12314 authorizes the SDSS to conduct a Demonstration Project in the In-Home Supportive Services (IHSS) program to comprehensively assess the comparative cost effectiveness and quality of care of both contract and individual provider modes of service. Item 5180-490 of the 1984 Budget Act established funding for Santa Cruz County to conduct this three-year Demonstration Project. The SDSS is required by the 1984 Budget Act to report the results of this Demonstration Project to the Joint Legislative Budget Committee. The SDSS is forwarding the County Report of the Demonstration Project (written by Santa Cruz County staff), with our evaluation of this County Report to fulfill this report requirement.

## BACKGROUND

The IHSS program provides housekeeping and personal care to low income, aged, blind and disabled individuals to enable them to live at home. County Welfare Departments (CWDs) are responsible for assessing clients' needs and arranging for the provision of this care.

The CWDs have the option of three service delivery modes in the IHSS program. In May 1988, 88 percent of the State's IHSS recipients were served by the individual provider mode at an average hourly cost of \$3.79. The County authorizes the hours and tasks to be performed and specifies the rate of pay. The recipient selects, hires and supervises the provider. There is no required provider health screening, background check nor training requirement. Individual providers do not accrue sick leave, vacation time or holidays, nor are they covered by health insurance or other employee benefits. As specified in WIC Section 12302.2, the State provides a payroll function, collects and accounts for employment taxes, and covers the providers with worker's compensation benefits on behalf of the recipient-employer.

Eleven percent of the State's IHSS recipients were served last year by proprietary or nonprofit contract agencies at an average hourly cost of \$7.62. Generally, providers who work for contract agencies are trained to provide home care. They are supervised by the contractor, although the recipient has the role of directing the care being provided. Providers generally receive benefits (i.e., vacation, sick leave, health insurance, etc.) and have the opportunity of increasing their hours of work by serving multiple recipients. The balance of the State's recipients are

served by County employed homemaker staff at an average cost of \$21.66 per hour. This mode was not addressed in this study.

On the whole, clients served by contract and County employed homemaker modes receive fewer hours of IHSS than clients served by individual providers. Although previous Statewide studies have looked into mode differences, SDSS has been unable to determine conclusively whether this fact results from the efficiencies of the trained, supervised providers or whether clients who are served by individual providers are more impaired. Clients who are more impaired generally require personal services and may want to choose their own provider of these services. Also, this population usually has a high hour need and may only be able to afford the individual provider mode in order to remain within the statutory maximum benefit level. This Demonstration Project was designed to evaluate the differences between individual provider and mixed (individual provider/contract) modes.

#### SANTA CRUZ PROJECT

Prior to the beginning of this Demonstration Project, Santa Cruz County delivered IHSS primarily by the individual provider mode. This care was augmented by a County employed homemaker who provided emergency coverage of needed services. The Demonstration Project was designed to test the difference in total cost per case and quality of care between mixed contract-individual provider mode and the traditional individual provider mode of IHSS delivery.

Santa Cruz County conducted a three-year Demonstration Project at a cost of \$3,051,000. To allow for start-up and phaseout of the Demonstration Project, data were collected, analyzed and reported for 27 of the 36 months of the Project term. The attached Report is Santa Cruz County's Final Report summarizing their analysis of the results of the data collected in the Demonstration Project.

The objectives of the Demonstration Project were to generate and evaluate information on the consequences of two service delivery configurations: Individual provider mode and a combined contract and individual provider mode. These options are analyzed in the County Report with respect to the following:

- serving the needs of recipients who can act as employers, as well as those who cannot.

- improving provider availability and the quality of service for IHSS recipients.
- reducing the need for institutionalization.
- improving the accuracy and efficiency of assessments using multidisciplinary assessment teams.
- furnishing an opportunity for improved terms of employment for providers.
- reducing provider turnover and improving service delivery.

The County reports that the Demonstration Project has shown the following: "(1) the choice of modes improved the responsiveness of the program to the varying abilities of clients to function in the role of provider; (2) quality of care was improved for clients who were given the choice of mode; (3) it was less costly on a case month basis to offer clients a choice of mode; (4) reduced need for institutionalization accounted for additional savings; (5) the use of a multidisciplinary assessment team of social workers and public health nurses increased the accuracy and efficiency of client assessments; and (6) the use of a contract created the opportunity for providers to receive improved wages and benefits. For more detailed information on the Demonstration Project analysis and findings, the final County report is attached."

The SDSS has reservations about these findings and recommendations. The following summarizes these concerns.

#### Project Design Measures

The reader will notice that throughout the County Report, the County compares results between the contract and individual provider modes. We reiterate that the Demonstration Project design allows only comparison between the pure individual provider mode and mixed individual provider/contract mode.

#### Population Characteristics

The Demonstration Project excluded Multi-purpose Senior Services Program (MSSP) clients from the study. They were all treated as experimental, and thus offered the choice of delivery mode. The reason for their exclusion was that their personal care needs are

greater and many are likely to be less able to carry out the responsibilities of supervising a provider. Professional literature in the field reports that purity of experimental design is often compromised in human service experiments for humanitarian reasons. In this study, purity of the experimental design was compromised in favor of providing what was perceived to be the service better able to serve this vulnerable group of clients, and thereby, prevent their institutionalization. This compromise created a problem in applicability of Demonstration Project results Statewide.

Although in general, severely impaired clients were more likely to select the individual provider mode when given the choice, MSSP clients/case managers were more likely to select the contract mode. We attribute this to two factors. First, the waiver of the statutory maxima (discussed below) removed a major disincentive to the contract mode. The other is that MSSP staff actively encouraged their clients to select the contract mode.

#### Cost Comparisons

The County Report concludes that mixed mode is cost efficient. There are two reasons credited for this assertion. One is that, although the contract hourly cost is approximately double the individual provider cost, contractor efficiencies result in clients receiving the same services in fewer hours. The other assertion is that clients served by mixed mode are less likely to be institutionalized, and if institutionalized their stay is likely to be shorter than clients served by the pure individual provider mode. The County Report data does not appear to clearly support these conclusions.

With regard to the assertion of contractor efficiency, the County cites two other differences between the studied groups which could account for the differences in hours between groups. First, page 14 of the County Report states that clients with fewer hours of need are more likely to select the contract mode. Second, page 24 of the County Report states, "where there were a high number of unserved hours reported by the contractor and County analyst staff, the social workers reassessed the client and adjusted the number of authorized hours as appropriate to meet the needs of the client". However, page 19 of the County Report states that more hours are unserved in the individual provider mode than in the contract mode. Therefore, it seems apparent that the County was more diligent in reassessing client needs and lowering authorized hours in the contract mode than the individual provider mode, leading to lower mixed mode costs per case for mixed mode cases.

With regard to the County's Report conclusions about institutionalization, tests of statistical significance were not cited in the comparison of institutionalization section of the County Report; however such tests (Chi Square) were reported in the County's Second Year Report and affirmed that no conclusion of comparative rates of institutionalization or length of institutionalization can be drawn because of the low number of clients institutionalized. Since the Final County Report indicates a low occurrence rate, SDSS believes that the data cannot be used and should not be cited.

Further, the County Report, page 28, indicates that the primary factor in lessening client institutionalization in mixed mode cases was the service performed by the nurses funded by the Demonstration Project. However, the nurses' services were equally available to both the control group as well as the experimental groups. Therefore, this factor should not have caused a decrease in institutionalization for the experimental group and not for the control group and should not be considered as a mixed mode benefit.

#### Result of Client Choice

As the County Report states on page 14, less impaired clients tend to select the contract mode when given a choice. Therefore, comparisons of total cost per case per month between experimental and control groups are skewed as types of clients are dissimilar between modes. In Santa Cruz County during the term of the Demonstration Project, the cost per hour of the contract mode has been twice that of the individual provider mode. In order for mixed mode to be cost effective in IHSS, average monthly service hours authorized per case in mixed mode would have to either be markedly decreased or increased at a much slower rate than average hours in the individual provider mode. Page 24 and Figure 12 on page 25 of the County Report show that mixed mode authorized hours were only slightly less than in the individual provider mode, and that the rate of increase appears to be the same between the mixed mode and the individual provider mode.

#### Influencing Client Selection

Once the Demonstration Project began, it became apparent that the County, on occasion, failed to adhere to statistical procedures which would have assured randomness when assigning clients to the control group.

Another concern is that client's "free choice" of mode was, at times, influenced both by the County and the contractor because too few clients had selected the contract mode, and the number of cases and hours assigned to the contractor were substantially less than anticipated in the Request for Proposal.

#### Waiver of Statutory Maxima

As described on pages 6 and 61 of the County Report, SDSS authorized a waiver of the statutory cost maxima specified in WIC Sections 12303.5 and 12304. The SDSS saw this waiver as pivotal in removing a major barrier to client choice. Clients who are least able to conduct the responsibilities of employer (the physically frail and mentally impaired) are left with no option of modes due to the hourly cost of the contract and County employed mode. However, extrapolating Santa Cruz County's costs statewide, if the contract mode were available at client's option in all Counties and if the waiver were in effect throughout the State, SDSS expects that this option alone would cost approximately \$11,081,000 annually.

#### Public Health Nurses

Pages 4, 6 and 9 of the County Report state that the reason for contracting with the County Health Department for Public Health Nurses is that they would become a part of a multidisciplinary assessment team to assist the worker in assessing clients' needs more accurately. However, the scenarios on page 10 show that the primary uses of nurses were to provide nursing care and supervision ("...teach her medical self-care skills and to monitor the response to her new medication"; "...coordinate home health agency services...; ...instructed her on post-operative exercises and breast self examination."). While SDSS agrees that these services are important, they are public health services rather than IHSS related and would not be appropriately funded by the IHSS program on a statewide basis.

#### SUMMARY

The SDSS agrees with the County that providing client autonomy whenever feasible is a superior way to deliver services. The SDSS also agrees that providing adequate wages and benefits for providers is preferable. The SDSS also thinks that providers who

are supervised and trained, are likely to be better able to provide services. However, SDSS is concerned that the potential cost of providing these features on a statewide basis would be prohibitive. The SDSS estimates that if mode choice were extended only to Nonseverely Impaired clients in those Counties which are exclusively individual provider Counties now, and if 40 percent of those given a choice selected to receive services from a contract agency (the same percentage opting for contract services in Santa Cruz County) at the projected statewide average hourly rate next fiscal year of \$8.51, this would cost the State an additional \$74,000,000.

### RECOMMENDATIONS

The SDSS believes that implementing the Santa Cruz County Pilot Project would substantially increase IHSS Program costs. Santa Cruz County believes their Demonstration Project has proven that offering clients the option of mixed mode is cost-efficient. Therefore, SDSS intends to provide the complete Demonstration Project data to an outside resource to evaluate the results of the Demonstration Project. A summary of these results will be forwarded to all involved parties and to the Legislature when they become available.







REPORT BY THE  
AUDITOR GENERAL  
OF CALIFORNIA

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THE DEPARTMENT OF SOCIAL SERVICES  
COULD REDUCE COSTS AND IMPROVE  
COMPLIANCE WITH REGULATIONS OF THE  
IN-HOME SUPPORTIVE SERVICES PROGRAM

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STATE OF CALIFORNIA

Thomas W. Hayes  
Auditor General

# Office of the Auditor General

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March 25, 1987

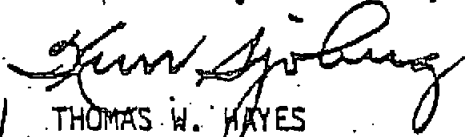
P-630

Honorable Art Agnos, Chairman  
Members, Joint Legislative  
Audit Committee  
State Capitol, Room 3151  
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of Social Services' In-Home Supportive Services program. The report addresses the ways the department could reduce costs and improve compliance with regulations.

Respectfully submitted,

  
THOMAS W. HAYES  
Auditor General

REPORT BY THE

REPORT BY THE  
OFFICE OF THE AUDITOR GENERAL

P-630

THE DEPARTMENT OF SOCIAL SERVICES  
COULD REDUCE COSTS AND IMPROVE COMPLIANCE WITH  
REGULATIONS OF THE IN-HOME SUPPORTIVE SERVICES PROGRAM.

MARCH 1987

## TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	S-1
INTRODUCTION	1
CHAPTER	
I <u>THE DEPARTMENT OF SOCIAL SERVICES COULD REDUCE THE COST OF PROVIDING IN-HOME SUPPORTIVE SERVICES</u>	7
ADDITION ERRORS ON TIMESHEETS RESULT IN OVERPAYMENTS TO INDIVIDUAL AND CONTRACT PROVIDERS	7
SANTA CLARA COUNTY PAID ITS CONTRACT PROVIDER FOR MORE SERVICES THAN WERE AUTHORIZED	12
CONCLUSION	14
RECOMMENDATIONS	15
II <u>THE DEPARTMENT OF SOCIAL SERVICES DOES NOT ALWAYS ENFORCE COMPLIANCE WITH REGULATIONS OF THE IN-HOME SUPPORTIVE SERVICES PROGRAM</u>	17
COUNTIES ARE NOT ALWAYS ASSESSING CLIENTS' CONTINUING NEED FOR IN-HOME SUPPORTIVE SERVICES ON SCHEDULE	18
COUNTIES DO NOT VERIFY THAT CLIENTS OBTAIN IN-HOME SUPPORTIVE SERVICES	25
CONCLUSION	31
RECOMMENDATIONS	32
III <u>SOME PROVIDERS OF IN-HOME SUPPORTIVE SERVICES TO ELDERLY AND DISABLED CLIENTS HAVE CRIMINAL CONVICTIONS</u>	35
CONCLUSION	43
RECOMMENDATIONS	44

TABLE OF CONTENTS (Continued)

	<u>Page</u>
APPENDIX	
INFORMATION ON IN-HOME SUPPORTIVE SERVICES PROVIDERS WITH CRIMINAL CONVICTIONS	47
RESPONSE TO THE AUDITOR GENERAL'S REPORT	
HEALTH AND WELFARE AGENCY Department of Social Services	53

## SUMMARY

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### RESULTS IN BRIEF

For fiscal year 1985-86, we estimate that Santa Clara and San Diego counties overpaid the providers of 931 (7.8 percent) of the 11,925 clients of the In-Home Supportive Services (IHSS) program approximately \$194,000. These overpayments occurred because providers completed their timesheets incorrectly and because the county welfare departments did not adequately verify the accuracy of these timesheets. Furthermore, Santa Clara County paid its contract provider an additional \$118,000 in fiscal years 1984-85 and 1985-86 because of the way it scheduled services to clients.

In addition, counties do not always reassess the need for continuing services to IHSS clients on schedule, nor do they verify that the providers have actually rendered the services they claim to have rendered to the elderly and disabled clients in the program.

Finally, under current law, the department is not authorized to screen providers of in-home supportive services to determine if they have criminal convictions as the department does in residential care programs for the elderly and disabled. We estimate that, in San Joaquin, San Diego, and Santa Clara counties, 709 (6.4 percent) of the 11,083 IHSS providers have criminal convictions. Providers who have a history of violent crime would be ineligible to serve as providers in residential facilities for the elderly, which serve a clientele similar to that of the IHSS program.

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### BACKGROUND

The IHSS program provides care to low-income aged, blind, or disabled persons who are unable to remain in their homes without assistance. A principal purpose of the program is to provide clients with an alternative to institutions



such as skilled nursing facilities. To achieve this goal, providers come into the clients' homes and perform services that include preparing meals, cleaning, and assisting with personal care. In fiscal year 1985-86, the federal, state, and county governments spent approximately \$392 million to provide these services.

The department administers the IHSS program statewide while the county welfare departments administer the program locally. IHSS services may be provided in three ways: clients may hire an individual provider themselves; counties may contract with agencies to provide services to clients; or the counties themselves may provide services directly to the clients. Counties may choose one of these methods or a combination of the three.

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## PRINCIPAL FINDINGS

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### Counties Authorized Overpayments to Individual and Contract Providers

For fiscal year 1985-86, we estimate that San Diego and Santa Clara counties overpaid the individual and contract providers of 931 (7.8 percent) of the 11,925 IHSS clients in the two counties by approximately \$194,000. The overpayments occurred because the providers submitted timesheets that contained addition errors, and neither the counties nor the contractors corrected these errors on the timesheets.

In addition, in fiscal years 1984-85 and 1985-86, Santa Clara County paid its contractor an additional \$118,000 because the county paid for hours of service that exceeded the hours authorized for each client. Santa Clara County has changed its procedures to avoid this problem in the future.

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Counties Are Not Always  
Assessing Clients' Continuing  
Needs for Services on Schedule

State law requires county welfare departments to reassess each client's need for IHSS services at least once every 12 months. However, the three counties we visited did not always conduct reassessments of the need for continuing services on schedule. We estimate that caseworkers in San Joaquin, San Diego, and Santa Clara counties were late in conducting reassessments by an average of 49 days for 2,309 (16.7 percent) of the 13,787 cases. When caseworkers do not conduct reassessments on schedule, some clients may be authorized to receive either too little or too much service. Caseworkers are late in conducting reassessments because they sometimes schedule the reassessment to coincide with the end of the 12-month authorization period. In some cases, the end of the service authorization period occurs more than 12 months from the previous home visit.

---

Counties Do Not Verify That Clients  
Obtain In-Home Supportive Services

Elderly and disabled persons are required to sign the timesheets of their providers to verify that the providers actually performed the services they claim. In the three counties we visited, we estimate that 1,397 (10.1 percent) of the 13,787 clients did not sign their providers' timesheets. In these cases, no other authorized person, including relatives, signed for the client. As a result, the IHSS program staff do not know whether IHSS clients actually obtained the services for which providers billed the program or whether providers served all the hours for which they were paid. Neither the county welfare departments nor the contractors verified the signatures of the elderly and disabled clients on the timesheets against the actual signatures of the clients.

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## Some Providers Have Criminal Convictions

Currently, state law does not authorize the department to screen providers to prevent persons with criminal convictions from caring for elderly and disabled IHSS clients. Other services for the elderly and disabled require the State to screen providers to ensure that the providers do not pose a risk to these clients.

Based on a review of the criminal records of both individual and contract providers, we estimate that 709 (6.4 percent) of the 11,083 providers in San Joaquin, San Diego, and Santa Clara counties have been convicted of crimes such as murder, assault with a deadly weapon, using and selling dangerous drugs, and petty theft. Providers who have a history of violent crime would be ineligible to serve as providers in residential facilities for the elderly, which serve clients similar to those of the IHSS program.

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## RECOMMENDATIONS

The department should take the following actions:

- Ensure that counties verify the accuracy of the timesheets submitted by both individual and contract providers and that counties do not pay contractors for services their employees perform for IHSS clients that exceed the number of hours clients are authorized to receive;
- Ensure that counties conduct annual reassessments of the continuing needs of IHSS clients every 12 months as required by state law and that counties review a sample of the timesheets of individual and contract providers at least once each quarter to compare the client's signature on the timesheet to the client's signature on the application for services; and

- Study the feasibility of obtaining information on the criminal convictions of all IHSS providers similar to the requirement for employment in residential care facilities for the elderly, and report its recommendations to the Legislature within one year. In the interim, the department should adopt a standard application form for all providers of IHSS that contains a question on the applicants' criminal convictions.

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#### AGENCY COMMENTS

The Department of Social Services concurs with the Auditor General's recommendations concerning the department's In-Home Supportive Services program. However, the department does not believe it needs to conduct a study of the feasibility of obtaining information on the criminal convictions of providers in the IHSS program because it believes that the Auditor General's report adequately addresses the probable costs of such a system. In response to the remaining recommendations, the department will issue directives to the counties within 60 days and initiate other actions.

## INTRODUCTION

The In-Home Supportive Services (IHSS) program provides care to low-income persons who are aged, blind, or disabled and who are unable to remain safely in their own homes without assistance. A principal purpose of the program is to provide clients with an alternative to institutions such as community care facilities and skilled nursing facilities. To assist persons to remain in their own homes, the IHSS program provides clients with a variety of services, including domestic chores such as sweeping, vacuuming, changing bed linen, preparing meals, and shopping for food and with nonmedical personal care such as assistance with dressing, bathing, and walking. In addition, IHSS providers may accompany clients to medical appointments. Under certain conditions, the program provides clients with paramedical services.

The Department of Social Services (department) supervises the IHSS program statewide, and county welfare departments administer the program at the local level. The department formulates regulations, allocates funds, arranges for payments to individual providers through a contractor and the State Controller's Office, and monitors the counties' operations. County caseworkers determine the client's eligibility for services, assess the type and amount of IHSS services the client needs, and arrange for the provision of services.

When county caseworkers assess a client's need for services, they determine how many hours of service the client requires. If the client requires 20 hours or more of personal service per week, the client is considered severely impaired and is eligible for a maximum of \$1,024 per month in IHSS assistance. If the client requires less than 20 hours of personal service per week, the client is considered nonseverely impaired and may receive a maximum of \$708 per month in assistance. As of September 30, 1986, 17,383 IHSS clients (14.8 percent) were severely impaired, and 100,062 (85.2 percent) of the 117,445 IHSS paid cases statewide were nonseverely impaired.

Each county welfare department uses one of three methods, or a combination of these methods, to deliver services. In September 1986, 94,943 IHSS clients (80.8 percent) chose to receive services from individual providers hired by the client at an average hourly cost of \$3.76. The second most common method of providing service is through providers employed by private agencies under contract to the county; 21,195 clients (18 percent) received services from contract providers at an average hourly cost of \$7.21. Finally, some counties supply services to clients directly through county employees; 1,385 IHSS clients (1.2 percent) obtained services directly from county employees at an average cost of \$9.43 per hour, which does not include the county's costs for overhead.

The federal, state, and county governments fund the IHSS program. The department estimates that the IHSS program spent

approximately \$392 million in fiscal ~~year~~ 1985-86. The federal government provided \$297 million, the State's General Fund provided \$83 million, and the counties provided the remaining \$12 million. For fiscal year 1986-87, the department anticipates a 9.2 percent increase in the cost of the program to approximately \$428 million. The department also estimates that the number of clients will increase from 116,000 in 1985-86 to 125,000 in 1986-87, a 7.8 percent increase.

#### SCOPE AND METHODOLOGY

The purpose of this audit was to evaluate the operation of the department's In-Home Supportive Services program. We focused on the verification of the charges that individual providers and contractors submitted to the counties, the payroll procedures used by the department and county welfare departments, county welfare departments' compliance with state laws and department regulations in opening and supervising IHSS cases and on the screening, hiring, and supervising of providers.

To evaluate the IHSS program, we visited 3 of the 58 county welfare departments in the State: the San Joaquin County Human Services Agency, the San Diego County Department of Social Services, and the Santa Clara County Department of Social Services. In fiscal year 1984-85, these counties accounted for \$31.8 million (10.5 percent) of the total \$303.5 million statewide program costs and 11,000

(10.4 percent) clients of the total 106,000 clients statewide. Each of these counties serves IHSS clients through both individual and contract providers.

To evaluate the verification of charges submitted to the county welfare departments by individual providers and contract agencies and to assess the payroll system at each county, we reviewed a random sample of the timesheets submitted by the providers of 369 of the 13,787 IHSS clients in the three counties for arithmetical accuracy. To ensure that each timesheet was signed by the recipient of the services, we also reviewed the timesheets of 357 of these 369 providers. In addition, we reviewed a sample of the billings submitted by the contract agencies in fiscal years 1984-85 and 1985-86.

We also selected a random sample of 351 of the 13,787 cases in the three counties to evaluate compliance with department regulations that require counties to assess an applicant's need and eligibility for IHSS services within 30 days of the date of application, to verify the eligibility of clients once every 12 months, and to reassess the client's need for service by visiting the client at least once every 12 months. We determined that each county we visited complies with department regulations to complete the initial assessment of the client's need for IHSS services within 30 days of the date of application and to verify the client's eligibility for IHSS services at least once each year.



To assess the screening, hiring, and supervising of providers, we submitted the names of random samples totaling 780 of the 11,083 providers in the three counties to the Department of Justice to determine whether these providers had criminal convictions. We also interviewed county IHSS social services supervisors and staff to determine the procedures the county uses to screen, refer, and supervise individual providers. Furthermore, we interviewed supervisors at each of the private contract agencies to determine their procedures for hiring and supervising providers.

In reviewing the case files of IHSS clients, we attempted to determine if elderly clients had been abused by their providers and whether the providers were individual or contract providers. However, the county IHSS programs do not systematically record this information, and, in reviewing the case files, we did not detect any evidence of suspected abuse of clients by their providers. Adult protective service units within county welfare departments receive and investigate reports of suspected abuse of the elderly. However, the adult protective service programs do not report whether the suspected abused person was an IHSS client or whether the alleged abuser was an IHSS provider.

To review the department's controls to prevent false billings for individual providers, we interviewed IHSS staff at the department and the staff of the State Controller's Office who are responsible for auditing county IHSS programs and preparing the individual provider payroll it receives from the department's contractor.

Finally, we presented the results of the audit to each of the county welfare departments we reviewed. We took the concerns of the county welfare departments into consideration in the audit report.

CHAPTER I

THE DEPARTMENT OF SOCIAL SERVICES  
COULD REDUCE THE COST OF PROVIDING  
IN-HOME SUPPORTIVE SERVICES

We estimate that, in fiscal year 1985-86, Santa Clara and San Diego counties overpaid the providers of 931 (7.8 percent) of the 11,925 In-Home Supportive Services (IHSS) clients in the two counties. Because these counties did not adequately verify that the total hours of service that providers claimed on timesheets were added correctly, we estimate that these two counties overpaid providers approximately \$194,000 in fiscal year 1985-86. In addition, Santa Clara County paid its contractor approximately \$118,000 for services that exceeded those authorized for individual clients in fiscal years 1984-85 and 1985-86. Santa Clara County did this to avoid disrupting weekly service to clients in months with more than 20 workdays. Both San Diego and San Joaquin counties adjusted the hours of service to avoid this problem with their contract providers.

ADDITION ERRORS ON TIMESHEETS RESULT  
IN OVERPAYMENTS TO INDIVIDUAL  
AND CONTRACT PROVIDERS

The department's regulations require the counties to review all timesheets before entering data into the department's automated payroll system for individual providers. In addition, the regulations require the counties to change payroll information to ensure that the IHSS individual provider receives correct payment. Also, the counties

may not authorize payment to providers for more hours than a provider actually worked. Finally, the department's regulations direct counties to demand repayment of any excess compensation to providers of in-home supportive services.

### Overpayments to Individual Providers

To receive payment for service, individual providers record the hours they work daily in each semi-monthly pay period on a timesheet the counties supply to them. The providers total the hours on the timesheets, and clients sign the timesheets; then, providers submit their completed timesheets to the counties. When the payroll clerks in the three counties we reviewed receive the timesheets from the providers, they review the timesheets to ensure that the providers are not claiming more hours of service than the client is authorized to receive, and, in two of the three counties, they check for arithmetical accuracy.

In a financial audit of the Department of Social Services Welfare Advance Fund for fiscal year 1985-86, the Auditor General's Office discovered mathematical errors on 3 (6 percent) of a random sample of 50 IHSS timesheets it examined. To determine if the individual providers in our review are correctly claiming hours on the timesheets they submit to the counties, we reviewed a random sample of 179 clients with individual providers for the pay period beginning May 16, 1986, and ending May 31, 1986. We detected addition errors on

the timesheets in two of the three counties we reviewed. However, in San Joaquin County, where we reviewed the timesheets for 40 clients with individual providers, we found no arithmetical errors.

In San Diego County, 10 (11.9 percent) of the 84 timesheets we reviewed had addition errors; the average addition error overstated the number of hours worked by 1.8 hours. These discrepancies resulted in an average overpayment of \$6.78 per provider for each semi-monthly pay period. On the basis of the sample results, we estimate that for fiscal year 1985-86, San Diego County authorized overpayments amounting to approximately \$126,000 to the individual providers of 715 (11.9 percent) of the 6,006 IHSS clients with individual providers.

In Santa Clara County, we reviewed a sample of 55 timesheets. Three (5.5 percent) of the 55 timesheets contained addition errors. The average addition error overstated the number of hours worked by 1.1 hours for an average overpayment of \$4.20 per provider for the semi-monthly pay period we reviewed. On the basis of the sample results, we estimate that for fiscal year 1985-86, the county authorized overpayments amounting to approximately \$8,800 to the providers of 81 (5.5 percent) of the 1,481 clients with individual providers.

When the timesheets that providers submit to the counties are arithmetically inaccurate and counties' payments are based on inaccurate figures, the counties are paying excess compensation to

providers. For example, San Diego County paid a provider \$57.97 for 15.5 hours; however, the county should have paid only \$20.94 for 5.6 hours, the actual total on the timesheet. The county overpaid the provider \$37.08. Similarly, Santa Clara County paid a provider for 38 hours although the hours on the provider's timesheet totaled only 35.2 hours, resulting in an overpayment of \$10.39.

Since the counties are not always checking the addition of the daily hours on the timesheets providers submit to them, the counties are not identifying overpayments to providers. As a result, the counties cannot demand repayment from these providers, as the department's regulations require.

The reason that San Diego and Santa Clara counties authorize incorrect payments to providers is that these counties either do not check the addition at all or do not accurately check the addition of the hours claimed on the providers' timesheets. Further, the department has not adopted specific regulations requiring the counties to verify the arithmetical accuracy of provider timesheets. However, the payroll clerks in San Joaquin and Santa Clara counties do review the accuracy of the addition on the timesheets; San Diego County, which had the highest error rate, does not. Finally, the department does not regularly monitor the counties to ensure that the timesheets are added accurately.

Overpayments to Contract Providers  
in San Diego County

The contractors in the three counties we reviewed use timesheets that are similar to those the counties use for individual providers. The contractors require that each employee's supervisor review the timesheets for arithmetical accuracy. The contractors should not pay their employees nor bill the counties for more hours of service than the contractors can document for their employees.

For two pay periods--May 16, 1986 through May 31, 1986, or June 1, 1986 through June 15, 1986--we reviewed random samples of timesheets for 190 cases in which the IHSS client was served by a contract provider. We found no addition errors in the 150 sample cases in San Joaquin and Santa Clara counties. However, 2 (5 percent) of the 40 timesheets in San Diego County were added incorrectly, resulting in an average overstatement of 2.5 hours worked. As a result, the county overpaid the contractor \$33.60 for the pay period. On the basis of our review of the sample of timesheets of contract providers in San Diego County, we estimate that the county overpaid the providers of 135 (5 percent) of the 2,709 IHSS clients with contract providers a total of approximately \$59,000 in fiscal year 1985-86.

San Diego County overpaid its contract provider because county staff did not monitor the timesheets of the contractor's employees. Timesheet errors were prevented in Santa Clara County because the county employs a clerk to review the contract provider's timesheets.

The clerk makes a weekly visit to the contractor and randomly selects 10 timesheets to review for arithmetical accuracy. The department has not adopted specific regulations that direct the county welfare departments to ensure that providers' timesheets are added correctly. Moreover, the department does not review the IHSS program in the counties to ensure that the timesheets are added correctly.

According to the chief of the department's Adult Services Bureau, the department met with the State Liaison Subcommittee of the County Welfare Directors Association's Adult Services Committee on January 12, 1987, to solicit suggestions from the association to ensure that provider timesheets do not contain addition errors. According to the chief of the Adult Services Bureau, the department will incorporate these suggestions into a directive to the counties.

SANTA CLARA COUNTY PAID ITS CONTRACT PROVIDER  
FOR MORE SERVICES THAN WERE AUTHORIZED

When the counties assess each client's needs, the counties authorize a specified number of hours of service per month. The counties' provider contracts also prohibit payment to providers for more hours than the client is authorized to receive in a month. Department regulations define overpayment as payments for service in an amount that exceeds what the client was entitled to receive.

To determine if the three counties we visited are paying contract providers for more hours of service than the contractor's IHSS



clients are authorized to receive, we examined a sample of the monthly billings ~~contractors~~ submitted to San Joaquin, San Diego, and Santa Clara counties for fiscal years 1984-85 and 1985-86. Neither San Joaquin County nor San Diego County paid contract providers for more hours of service than the contractor's IHSS client was authorized to receive.

In Santa Clara County, some IHSS clients received hours of service that exceeded their monthly authorization level for 10 of the 14 months we reviewed from July 1984 through July 1986. As a result, the county overpaid the contractor approximately \$57,000 for these excessive hours of service during these months. Further, we estimate that the contractor billed the county for excessive hours of service in 21 of the 25 months from July 1984 through July 1986, resulting in overpayments to the contractor totaling approximately \$118,000.

The county overpaid the contractor because both the county and the contractor converted each client's level of authorized service from a monthly to a weekly schedule. Both the county's staff and the contractor's staff did this to ensure that IHSS clients would receive the same amount of service each week, regardless of the number of days in the month. One effect of converting hours of service from a monthly to a weekly basis is that the hours of service that clients receive exceeds the authorized number in months with more than 20 workdays.

San Joaquin and San Diego counties also contract with agencies to provide service to IHSS clients. However, neither of these counties converted the amount of authorized service from a monthly to a weekly basis. Rather, in these counties, the contractors adjust the number of hours of service per week so that they do not exceed the total number of monthly hours of authorized service for each client. Since our review, the Santa Clara County IHSS program has revised its procedures to conform to the practice employed in San Joaquin and San Diego counties.

Although the contracts between the counties and the contractors prohibit payments to providers for more hours of service than the counties authorize IHSS clients to receive, the department does not monitor county IHSS programs to ensure that the county payments to contractors comply with this provision of the contracts.

#### CONCLUSION

The Department of Social Services could reduce the cost of providing care to the clients of the In-Home Supportive Services program. We estimate that, in fiscal year 1985-86, Santa Clara and San Diego counties overpaid providers approximately \$194,000 because these counties did not verify that the total hours of service that providers claimed on the timesheets were added correctly.

In addition, Santa Clara County paid its contractor approximately \$118,000 for services that exceeded the amount authorized for individual clients in fiscal years 1984-85 and 1985-86. Santa Clara County did this to avoid disrupting weekly service to clients. Both San Diego and San Joaquin counties adjusted the hours of service to avoid this problem. Since our review, the Santa Clara County IHSS program has revised its procedures to conform to the practice used by San Joaquin and San Diego counties.

#### RECOMMENDATIONS

To ensure that there are no addition errors on the timesheets that individual and contract providers submit to county welfare departments, the department should take the following actions:

- Amend its regulations to require counties to ensure that the timesheets of providers are correctly added;
- Direct county welfare departments to select a sample of the timesheets of individual and contract providers at least once each quarter to verify that the timesheets are added correctly;

- Direct county welfare departments to collect any overpayments from providers or the contract agencies after the overpayments are identified; and

- Periodically review a sample of provider timesheets at each county to ensure the counties are complying with the department's directive to verify the addition on the timesheets and collect any overpayments resulting from addition errors.

To ensure that counties are not paying contract providers for more hours of service than individual clients are authorized to receive, the department should take the following action:

- Send a directive to the counties that contract with agencies for IHSS providers stating that the counties are not permitted to pay the contractor for services their employees deliver to IHSS clients that exceed the number of hours per month that individual clients are authorized to receive.

## CHAPTER II

### THE DEPARTMENT OF SOCIAL SERVICES DOES NOT ALWAYS ENFORCE COMPLIANCE WITH REGULATIONS OF THE IN-HOME SUPPORTIVE SERVICES PROGRAM

State and county governments need to increase efforts to guarantee compliance with the regulations of the IHSS program. Counties do not always conduct reassessments of the need for continuing services to IHSS clients on schedule. We estimate that caseworkers were an average of 49 days late in reassessing 2,309 (16.7 percent) of the 13,787 IHSS clients in the three counties we visited. As a result, the counties are authorizing either too little or too much service for some IHSS clients.

Furthermore, IHSS clients may not always obtain the services for which the providers bill the counties because the counties do not verify that clients received services by comparing the clients' signatures on their providers' timesheets to their actual signatures. We estimate that 1,397 (10.1 percent) of the 13,787 clients in the three counties did not sign their providers' timesheets. As a result, clients may not have received services from the providers, or the hours the providers claimed may not have been fully served.

COUNTIES ARE NOT ALWAYS ASSESSING  
CLIENTS' CONTINUING NEED FOR IN-HOME  
SUPPORTIVE SERVICES ON SCHEDULE

Section 12301.1 of the Welfare and Institutions Code requires county welfare departments to assess the continuing need for services of each IHSS client at least once every 12 months. The department has also adopted regulations that require caseworkers in county welfare departments to reassess the client's need for services at least once every 12 months. In addition, the department's policy and procedures manual requires caseworkers to have a face-to-face contact with IHSS clients at least once every 12 months to determine whether the clients can remain safely in their own homes without IHSS services.

The department is not ensuring that county welfare departments are conducting prompt reassessments of clients' continuing need for IHSS services. In San Joaquin, San Diego, and Santa Clara counties, we reviewed random samples of 351 clients who received services in June 1986 to determine if caseworkers in these counties are completing the annual reassessments promptly. Table 1 presents the results of our review of annual reassessments in these three counties.

TABLE 1

LATE REASSESSMENTS IN A SAMPLE OF CASES  
IN THREE COUNTIES  
1986

Number of Cases					Average Number Days Late
<u>County</u>	<u>Total</u>	<u>In Our Sample</u>	<u>Late Reassessments</u>	<u>Percent</u>	
San Joaquin	1,862	94	4	4.3	10
San Diego	8,715	132	12	9.1	23
Santa Clara	<u>3,210</u>	<u>125</u>	<u>56</u>	44.8	57*
Total	<u>13,787</u>	<u>351</u>	<u>72</u>	20.5	49*

\*As of December 15, 1986, Santa Clara County had completed the reassessment of 54 of the 56 cases with late reassessments. To avoid distorting the analysis, we excluded 2 cases without completed reassessments from the calculation of average days late.

As Table 1 shows, caseworkers in these counties were an average of 49 days late in completing the reassessment for 72 (20.5 percent) of the 351 cases we reviewed. We estimate that caseworkers were late in completing the annual reassessment for 2,309 (16.7 percent) of the 13,787 recipients in these three counties.

The performance of each of the three counties in our review varies. Caseworkers in Santa Clara County were late in completing annual reassessments for more cases over a longer period of time than were caseworkers in the other two counties. However, the case with the longest delay was that of a 91-year old woman in San Diego County who

uses a walker at all times. She was due for reassessment on March 31, 1986, but the caseworker did not complete her reassessment until September 22, 1986, 175 days late.

### Effects of Late Reassessments

When caseworkers in the counties do not complete annual reassessments of IHSS clients on schedule, the counties are not in compliance with state law that requires reassessments every 12 months and regulations that require face-to-face visits with the client every 12 months. Prompt reassessments help to ensure that clients are receiving services that are appropriate to their needs.

When caseworkers perform annual reassessments, they may take actions that include discontinuing the case, continuing the case with no change in the level of authorized service, authorizing fewer hours of service, or increasing the authorized number of hours of service. When caseworkers are late in completing clients' annual reassessments, some clients may be authorized either too little or too much service.

To determine the effect of late annual reassessments, we compared the number of hours of service the county authorized at the time of the previous assessment to the number of hours authorized after the new assessment. At the time of our review, caseworkers had completed the annual reassessment of 347 of the 351 cases in our samples. Of these 347 cases, 68 assessments were late. In 36



(53 percent) of these 68 cases, the county increased the number of authorized hours of service by an average of 13.6 hours per month. We estimate that 1,179 (8.6 percent) of the 13,787 clients in these counties had late reassessments in which their hours of authorized service were increased. As a result, these clients may not have been authorized enough service for the time between the due date of the reassessment and the date on which the reassessment was actually conducted. For example, in Santa Clara County, a caseworker increased the hours of service for a 57-year old female stroke victim from 11.7 to 118.8 per month. Since the caseworker was late in completing the annual reassessment, this client was without the increased level of service for 44 days.

In contrast, caseworkers in San Diego and Santa Clara counties decreased the number of hours of authorized service by an average of 9 hours per month for 8 (12 percent) of the 68 cases with late reassessments. We estimate that 252 (2.1 percent) of 11,925 IHSS clients in these two counties had their hours of service decreased as a result of their annual reassessment. For example, in Santa Clara County, a 76-year old female stroke victim had recovered sufficiently from her illness so that the caseworker reduced her hours of service from 170 to 113 per month.

When clients who have been reassessed late have their authorization for service reduced, they may have received more hours of service than they required from the end of the previous authorization

to their new assessment. As a result, the IHSS program may incur costs for services that are unnecessary. Two of the three counties in our sample may have paid for more than 115 hours of service at a cost of \$480 for the 8 cases that were reassessed late and in which the hours of service were decreased. For example, in the case involving the 76-year old stroke victim, Santa Clara County may have purchased an excess of 102 hours of service at a cost of \$381. We estimate that San Diego and Santa Clara counties may have spent a total of \$12,939 for excess service for the estimated 252 cases in which caseworkers reduced the authorized hours of service.

Another harmful effect of late reassessments is that the caseworkers are unaware of changes in the circumstances of the IHSS client. For example, a client with an individual provider may have been without the services of a provider for some time during the period since the previous assessment. If the caseworker is late in visiting the client, the county may be unaware of the client's need for a new provider, and the client may have to do without vital IHSS services. Without IHSS services, the client may be at risk and may require premature hospitalization or a more expensive level of care such as a skilled nursing facility. Also, a client's eligibility for IHSS may change or the client may move, recover, or die.

In June 1986, the San Diego County IHSS program surveyed its clients to ascertain their satisfaction with the program. The survey asked clients whether they had ever had an interruption in services

during the year and whether the interruption had caused them any inconvenience. Twenty-eight percent of the clients with contract providers who answered said that they had been inconvenienced by an interruption in service from their providers. Clients with individual providers reported that they were less likely to experience an interruption in service, but 59 percent said they were more likely to be inconvenienced by the interruption.

#### Reasons for Late Reassessments

Caseworkers were late in completing reassessments in San Joaquin and San Diego counties because they sometimes scheduled the reassessment visit to coincide with the end of the service authorization period. In some cases, the end of the service authorization period occurs more than 12 months from the previous home visit. In Santa Clara County, caseworkers were late in completing annual reassessments because supervisors assigned a low priority to reassessments during the conversion of IHSS cases to the department's automated Case Management Information and Payrolling System. Originally, the supervisors anticipated that the conversion would take no more than one month; however, it took almost two months. Although both San Joaquin and San Diego counties also converted their caseloads to the department's automated case management system at about the same time, neither county experienced as much difficulty as Santa Clara County in completing the annual reassessments promptly.

In San Diego County, one case had a late reassessment because the caseworker was new and not familiar with county policies regarding prompt reassessments of IHSS cases. The county states that this caseworker will receive additional training.

In addition, casework supervisors do not always monitor the caseworkers to ensure that they are completing the assessments promptly. In each county, a supervisor assigns cases to the caseworker whose task it is to assess the client. However, according to the casework supervisors, they are not always aware of whether the caseworkers are completing the reassessments on time. To assist supervisors in monitoring caseworkers, the department's computerized Case Management Information and Payrolling System produces a report each month that lists the cases due for reassessment by caseworker. The system also produces a report that lists cases in which reassessments are overdue. However, these reports did not become available to casework supervisors until mid-1986 or later.

Furthermore, according to the chief of the department's Adult and Family Services Operations Bureau, the department does not monitor the county welfare departments regularly to ensure that they comply with Department of Social Services' regulations for prompt completion of annual reassessments. The Adult and Family Services Operations Bureau conducted a review of 313 cases in 38 counties statewide in July 1985 and found that the counties failed to complete annual reassessments within 12 months for 9.2 percent of the cases reviewed.

Because the bureau reviewed cases statewide, it did not reach any conclusions about the level of compliance in individual counties. The bureau was, therefore, unable to recommend corrective action to specific county welfare departments. However, the department urged counties to study the review's findings to identify and correct problems in their own systems.

COUNTIES DO NOT VERIFY THAT CLIENTS  
OBTAIN IN-HOME SUPPORTIVE SERVICES

The counties administering the IHSS program do not verify that elderly and disabled clients actually receive services from their providers. The department's policy and procedures manual requires IHSS clients to sign the timesheets of their individual providers. To receive payment for services, individual providers must submit timesheets to the county welfare department twice each month listing the hours they worked for the pay period. The timesheets must be signed by both the client and the provider. The policy of each of the contractors we reviewed requires clients to sign the timesheets of their providers before the contractors' employees are paid. The purpose of the signature requirement is to ensure that providers actually performed the services for the client.

In San Joaquin, San Diego, and Santa Clara counties, we reviewed randomly selected samples of timesheets in 357 cases for both individual providers (177 cases) and contract providers (180 cases). We compared the clients' signatures on the timesheets to the signatures

on their applications for social services, or on other documents in the case file that the clients signed in the presence of a caseworker, to determine if the clients signed the timesheets and if the signatures matched the signatures on the applications in the case file. If the signatures did not appear to match, or if the clients' signatures were missing altogether, we concluded that the clients did not sign the providers' timesheets. Table 2 presents the results of our review of client signatures.

TABLE 2

TIMESHEET SIGNATURES THAT DID NOT MATCH  
IN THREE COUNTIES

<u>County</u>	<u>Number of Cases</u>			<u>Percent Without Matching Signatures</u>
	<u>Total</u>	<u>In Our Sample</u>	<u>Without Matching Signatures</u>	
<u>San Joaquin</u>				
Individual providers	545	38	9	23.7
Contract providers	<u>1,317</u>	<u>69</u>	<u>6</u>	8.7
Subtotal	<u>1,862</u>	<u>107</u>	<u>15</u>	14.0
<u>San Diego</u>				
Individual providers	6,006	84	10	11.9
Contract providers	<u>2,709</u>	<u>40</u>	<u>3</u>	7.5
Subtotal	<u>8,715</u>	<u>124</u>	<u>13</u>	10.5
<u>Santa Clara</u>				
Individual providers	1,481	55	6	10.9
Contract providers	<u>1,729</u>	<u>71</u>	<u>3</u>	4.2
Subtotal	<u>3,210</u>	<u>126</u>	<u>9</u>	7.1
<u>Three Counties</u>				
Individual providers	8,032	177	25	14.1
Contract providers	<u>5,755</u>	<u>180</u>	<u>12</u>	6.7
Total	<u>13,787</u>	<u>357</u>	<u>37</u>	10.4

In the cases we reviewed in the three counties, the signatures on the providers' timesheets of 37 (10.4 percent) of the 357 clients did not match their signatures on the application forms. In 2 (5.4 percent) of the 37 cases in which the signatures did not match, the signature of the client was missing from the timesheet altogether. Based on the results of our review, we estimate that the signatures on the providers' timesheets of 1,397 (10.1 percent) of the 13,787 clients in the three counties either did not match their actual signatures or were missing altogether.

In addition, the signatures of clients with individual providers were less likely to match the signatures on their applications than were clients with contract providers. The signatures on the providers' timesheets of 25 (14.1 percent) of the 177 clients with individual providers did not match the signatures on the clients' applications. In contrast, the signatures of 12 (6.7 percent) of the 180 clients with contract providers did not match the signatures on their contract providers' timesheets. Based on our samples, we estimate that the signatures on the providers' timesheets of 1,006 (12.5 percent) of the 8,032 clients with individual providers and 391 (6.8 percent) of the 5,755 clients with contract providers did not match their actual signatures or were missing altogether.

In some of the cases with a signature discrepancy, the client was a relative of the individual provider. In San Joaquin County, the individual provider was a relative of the client in 7 (78 percent) of



9 cases. In Santa Clara County, the provider was a relative in 3 (50 percent) of 6 cases, and in San Diego County, the provider was a relative in one (10 percent) of 10 cases. However, in none of these cases was the relative authorized to sign for the client.

When the signatures of IHSS clients on the providers' timesheets are missing or do not match the clients' signatures on the applications, the department and the county welfare departments do not know if the clients actually received the services from the providers or if the hours claimed by the providers were fully served. For example, in the two cases in which the clients did not sign the timesheets, the providers claimed a total of 118 hours of service at a cost of \$479 for May 16, 1986, through May 31, 1986. In another case of signatures that did not match, the provider claimed 76 hours of service at a cost of \$288. In both of these cases, the providers may not have worked any or all of the hours they claimed on their timesheets. As a result, the department may have paid providers for services they did not actually render. Moreover, IHSS clients may have been deprived of the services to which they were entitled.

Neither the county welfare departments nor the contractors monitor the timesheets submitted by providers to ensure that the signatures of the clients match their signatures on the application forms. They do not do this because the application forms are kept in individual case files, and, in each of these counties, the case files are not in the same location as the clerks who process the timesheets.

According to the payroll clerks in each county we visited, it is likely that comparing signatures would increase the workload and result in delays in paying the providers.

Although counties do not monitor the signatures of clients on the providers' timesheets, San Diego County does attempt to verify that IHSS clients receive services from their providers. Each year, the IHSS program sends a questionnaire to its clients that asks them whether their providers ever asked them to sign timesheets for hours that the providers did not work. In 1986, clients who responded "yes" to this question ranged from 2 percent for individual providers to 14 percent for contract providers.

Also, to prevent fraud, the State Controller's Office uses a computer program to match the names of all IHSS clients and providers with persons in the State who have died. This match of names is designed to detect clients or providers who received payments under the IHSS program and who are also listed as dead. The department advises the county of the matching names, and the county then investigates and reports the results to the department. This match is done twice a year.

According to the chief of the department's Adult Services Bureau, the department met with the State Liaison Subcommittee of the County Welfare Directors Association's Adult Services Committee on January 12, 1987. The department solicited the recommendations of the

association regarding how to ensure that the signatures of IHSS clients on their providers' timesheets match their signatures on the application for social services. The chief of the bureau stated that the department will incorporate the suggestions into a directive to the counties.

### CONCLUSION

Counties are not conducting prompt reassessments of the need for continuing services to IHSS clients. We estimate that caseworkers were an average of 49 days late in reassessing 2,309 (16.7 percent) of the 13,787 IHSS clients in the three counties we visited. As a result, the counties may be authorizing either too little or too much service for some IHSS clients. The department does not monitor the counties regularly to ensure that they are completing the annual reassessments promptly. Also, casework supervisors in the counties are not monitoring their caseworkers sufficiently to ensure that the reassessments are completed when they are due.

In addition, the counties do not verify that IHSS clients obtain the services for which the providers bill the counties because the counties do not compare the signatures of clients on timesheets to the clients' actual signatures. We estimate that the signatures on the providers' timesheets of 1,397 (10.1 percent) of the 13,787 clients in the three counties

~~either did not match their actual signatures or were missing altogether. As a result, the counties do not know if the clients received services from the provider or if the hours the provider claimed were fully served.~~

### RECOMMENDATIONS

To increase compliance with the department's regulations for the IHSS program, the department should take the following actions:

- Direct the county welfare departments to adopt and use procedures that require caseworkers to complete the annual reassessment within 12 months from the previous home visit rather than at the expiration of the current authorization period;
- Direct the county welfare departments to adopt and use procedures to monitor caseworkers to ensure that they complete annual reassessments promptly; and
- Periodically monitor the counties to ascertain whether the counties are complying with the department's regulations to conduct reassessments of all IHSS clients at least once each year.

To ensure that the signatures of IHSS clients on their providers' timesheets match the clients' signatures on the applications for social services, the department should take the following actions:

- Direct counties to select a sample of the timesheets of individual providers at least once each quarter and compare the clients' signatures on the timesheets to the clients' most recent signatures in the case file;
- Direct counties to select a sample of the timesheets of contract providers at least once each quarter to compare the clients' signatures on the timesheets to the clients' most recent signatures in the case file; and
- Periodically monitor the counties to ensure that the counties are verifying the signatures of clients on the timesheets of their providers.

CHAPTER III

SOME PROVIDERS OF IN-HOME SUPPORTIVE SERVICES TO ELDERLY AND DISABLED CLIENTS HAVE CRIMINAL CONVICTIONS

Current law does not authorize the department to obtain the criminal records of providers of care in the IHSS program to determine if they have criminal convictions. However, other programs serving the elderly or disabled are required by law to obtain the criminal records of those who provide care in their programs, and they may deny employment to providers with criminal convictions. We estimate that in San Joaquin, San Diego, and Santa Clara counties, 709 (6.4 percent) of the 11,083 IHSS providers have criminal convictions. Some of these providers who have committed a violent crime or who have been convicted of other serious crimes would be ineligible to serve as providers in residential facilities for the elderly, which serve clients similar to those served by the IHSS program.

Counties and Agencies Are Not Authorized To Screen Providers for Criminal Convictions

Neither the county welfare departments nor the agencies with whom the counties contract can obtain information on the criminal convictions of IHSS providers from the California Department of Justice. The Department of Justice can release information on criminal convictions only if authorized to do so by statute. Currently, the Department of Justice is not authorized to release this information for

providers in the IHSS program. However, the Department of Justice is authorized to release information on the criminal convictions of providers in other programs serving similar clients.

Section 1569.17 of the Health and Safety Code requires individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety to submit fingerprints to the Department of Justice. The Department of Social Services is required to obtain a criminal record for any person who provides assistance in dressing, grooming, bathing, or personal hygiene and for any staff person who has frequent and routine contact with the clients. If the applicant has been convicted of any crime other than a minor traffic violation, the Department of Social Services must deny the application. After reviewing the applicant's record, the department can grant an exemption if the applicant can demonstrate that he or she is of good character. However, an exemption cannot be granted to anyone who has been convicted of child abuse, sexual abuse of a child, or a violent felony.

#### Some Providers Have Criminal Convictions

Providers of in-home supportive services with criminal convictions pose a potential danger to the welfare and safety of elderly and disabled IHSS clients. For example, in Santa Clara County, a client alleged that her provider, who had a previous conviction for passing bad checks, stole \$100 from her purse and cashed checks she

stole from her by forging her name. ~~The client has signed a warrant for the provider's arrest. The provider left California and, as of December 1986, the San Jose Police Department is seeking her extradition.~~

Clients may also be subject to more serious harm from providers who have criminal convictions. In another case in Santa Clara County, a provider with two previous convictions for forgery is currently awaiting trial for attempting to murder the client for whom she provided services by setting fire to his home. The county's district attorney has also charged the provider with arson, with theft for stealing over \$5,700 from the client by forging the client's signature, and with theft for continuing to receive payment of over \$1,000 from the county for services to a second client after that client's death. In addition, the client is suing the State and Santa Clara County for damages resulting from the alleged acts of the provider.

To determine if IHSS providers have criminal convictions, we selected random samples of individual and contract providers in San Joaquin, San Diego, and Santa Clara counties. We submitted the providers' names and other identifying information to the Department of Justice, which informed us of the age and type of criminal convictions of providers in our samples. Table 3 shows the results of our review of individual and contract providers in San Joaquin, San Diego, and Santa Clara counties.



TABLE 3

INDIVIDUAL AND CONTRACT PROVIDERS  
WITH CRIMINAL CONVICTIONS  
BY COUNTY

<u>County</u>	<u>Individual Providers</u>	<u>Contract Providers</u>	<u>Total</u>
<u>San Joaquin</u>			
Total providers in county	747	294	1,041
Providers reviewed	129	100	229
Providers with criminal convictions	15	5	20
Percent with criminal convictions	11.6%	5.0%	8.7%
<u>San Diego</u>			
Total providers in county	6,693	1,149	7,842
Providers reviewed	130	141	271
Providers with criminal convictions	7	8	15
Percent with criminal convictions	5.4%	5.7%	5.5%
<u>Santa Clara</u>			
Total providers in county	1,827	373	2,200
Providers reviewed	130	150	280
Providers with criminal convictions	11	11	22
Percent with criminal convictions	8.5%	7.3%	7.9%
<u>Three Counties</u>			
Total providers	9,267	1,816	11,083
Providers reviewed	389	391	780
Providers with criminal convictions	33	24	57
Percent with criminal convictions	8.5%	6.1%	7.3%

On the basis of the random samples of providers we reviewed in these three counties, we estimate that 602 (6.5 percent) of the 9,267 individual providers in these counties have criminal convictions. Further, we estimate that 107 (5.9 percent) of the 1,816 contract providers in these three counties have been convicted of crimes.\*

The types of crimes for which the providers in our samples have been convicted range from murder to drunk driving. For example, the individual providers in San Joaquin County have 73 convictions, of which 30 involved theft or theft-related crimes such as forgery, receiving stolen property, or bank robbery. Crimes against persons included murder, battery, and battery on a police officer. Other convictions included prostitution, assault with a deadly weapon, and drunk driving. We also identified eight drug-related convictions. One provider with 30 convictions used 17 different names and four social security numbers. Her convictions ranged from drug-related problems and prostitution to assault with a deadly weapon. Based on the Health and Safety Code, Section 1569.17, most of these crimes would be grounds for the department to deny employment as providers in residential care facilities for the elderly. As Table A-4 in the Appendix shows, some providers with criminal convictions are related to the clients for whom they care.

\*Since we could not confirm the identity of many of the persons in the samples we selected, these are conservative estimates based only on the providers whose identity we could confirm.

The Appendix presents additional tables and more detailed information on the number of convictions per provider, the dates of the convictions, and the relationship of the provider to the IHSS client.

#### Counties Do Limited Monitoring of Providers

The principal reason that neither the county welfare departments nor the contract agencies obtain the criminal records of providers in the IHSS program is that the Department of Justice can release information on criminal convictions only if authorized to do so by statute. In addition, both county and department officials maintain that the client is the employer of the individual provider and that the contract agency is the employer of the contract provider; therefore, it is the client's or the contract agency's responsibility to screen, interview, and hire the provider. The State and the counties are the employers only for certain limited purposes, such as to provide worker's compensation. However, clients lack the authority to obtain information from the Department of Justice on the criminal convictions of providers.

The county welfare departments maintain a file of persons who are interested in being individual providers. The file includes information such as their names, addresses, times available for employment, desired locations, and desired types of care. However, the county does not screen the applicant's qualifications or background. If a caseworker is aware of instances in which the applicant has

provided unsatisfactory service in the past, the applicant may not be referred to clients. When a client hires an individual provider either by a referral from the county's files or by some other means, the county collects information on the provider from the client for the statewide automated payroll system. This information includes only the name, address, and social security number of the provider.

When the contract agency hires providers, the agency interviews prospective employees and has them complete applications. The contractor also obtains references from the applicants and contacts the references to verify information contained in the application form. Further, the contractor asks the applicants if they have ever been convicted of a crime. However, applicants often lie about their previous criminal convictions on their applications. For example, in San Diego County, a provider stated on her application that she had never been convicted of a crime. However, in 1978 she was convicted of fraudulently obtaining welfare benefits. She was sentenced to one year in jail and three years of unsupervised probation.

As of January 1, 1987, both the counties and the contractors are required by law to obtain proof, such as a photo identification from a government source, of the identification of prospective providers. The department is currently formulating procedures to implement this law.

## Estimated Cost of Screening IHSS Providers

We estimate that it would cost the department approximately \$8.75 per applicant to screen applicants by obtaining the criminal records of providers. According to the chief of the department's Residential Care and Data Systems Bureau, the bureau processes about 68,000 fingerprint applications per year. This work is carried out by 17 clerical staff in 13 district offices. The cost of supporting a staff of 17 clerical positions, according to the chief of the bureau, is approximately \$595,000 per year.

The IHSS program employs approximately 111,000 providers statewide. Further, we estimate that clients and contract agencies hire at least 22,200 new employees every year. Therefore, we estimate that at \$8.75 per application, the first-year cost of screening providers for the IHSS program would be approximately \$1.2 million. After the first year, the cost of screening providers would be approximately \$200,000 annually. In addition, the Department of Justice currently charges applicants a fee of \$17.50 to process their fingerprints and forward them to the department for review. If the applicant's fee were waived, as it is under the Community Care Facilities Act, the Department of Justice would require an estimated additional \$2.3 million in state funds the first year and approximately \$400,000 annually thereafter. Otherwise, the cost of the fingerprinting fee would be incurred by the applicant and not the IHSS program.

## CONCLUSION

Under current law, the Department of Social Services is not authorized to obtain the criminal records of providers of care in the In-Home Supportive Services program to determine if they have criminal convictions. However, other programs serving a similar clientele are authorized by law to obtain the criminal records of those who provide service in their programs and to deny employment to providers with criminal convictions. We estimate that in San Joaquin, San Diego, and Santa Clara counties, 709 (6.4 percent) of the 11,083 IHSS providers in these counties have criminal convictions. Moreover, the county welfare departments do not screen, interview, or monitor individual providers they refer to IHSS clients. As a result, the health and safety of elderly and disabled clients of the program may be at risk. The department does not screen IHSS providers because it lacks the legal authority to do so and because the department considers the IHSS client to be the employer. We estimate the cost to the department to screen providers of IHSS would be approximately \$1.2 million in the first year and \$200,000 annually thereafter.

## RECOMMENDATIONS

To determine whether the Department of Social Services should obtain the criminal records of providers in the IHSS program, as the department does in other programs serving similar clients, the department should take the following actions:

- Conduct a study to determine the feasibility and advisability of obtaining information from the Department of Justice on the criminal convictions of all providers in the IHSS program; and
- Report to the Legislature within one year on the results of this study. Include an estimate of the benefits and costs of obtaining providers' criminal records and recommend changes in the law, if necessary, to implement the program.

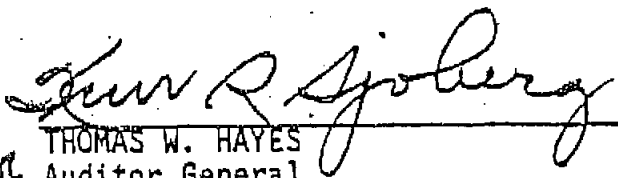
In the interim, the department and the counties should take the following actions:

- Develop a standard application form and information for clients to use when they interview and hire individual providers. The application form should include a question on whether the client has had a criminal conviction;

- Distribute the application form to clients at the time the county assesses clients for the IHSS program;
- Interview the applicants, have all applicants who want the counties to refer them as providers complete the application form; and verify the references on the form; and
- Require all contractors to state on an employee's application form whether the employee has any criminal convictions.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

*for*   
 THOMAS W. HAYES  
 Auditor General

Date: March 23, 1987

Staff: Robert E. Christophel, Audit Manager  
 Stephan J. Cohen, PhD  
 Dore C. Tanner, CPA  
 Graeme W. Johnson  
 Linda W. Lindert  
 James D. Lynch, Jr.



INFORMATION ON IN-HOME SUPPORTIVE SERVICES  
PROVIDERS WITH CRIMINAL CONVICTIONS

The following tables present additional data on In-Home Supportive Services providers with criminal convictions. These data are based on our review of a random sample of 780 individual and contract providers in San Joaquin, San Diego, and Santa Clara counties. The California Department of Justice provided information on the criminal convictions of providers.

Estimated Incidence of Criminal Convictions  
Among In-Home Supportive Services Providers

Table A-1 shows our estimate of the incidence of criminal convictions in the three counties. These estimates are based on the sample results presented in Table 3, page 38.

TABLE A-1

ESTIMATED NUMBER OF INDIVIDUAL AND CONTRACT PROVIDERS  
WITH CRIMINAL CONVICTIONS  
THREE COUNTIES\*

<u>County</u>	<u>Individual Providers</u>	<u>Contract Providers</u>	<u>Total</u>
<u>San Joaquin</u>			
Total providers in county	747	294	1,041
Providers with criminal convictions	87	15	102
Percent with criminal convictions	11.6%	5.0%	9.8%
<u>San Diego</u>			
Total providers in county	6,693	1,149	7,842
Providers with criminal convictions	360	65	425
Percent with criminal convictions	5.4%	5.7%	5.4%
<u>Santa Clara</u>			
Total providers in county	1,827	373	2,200
Providers with criminal convictions	155	27	182
Percent with criminal convictions	8.5%	7.3%	8.3%
<u>Three Counties</u>			
Total providers	9,267	1,816	11,083
Providers with criminal convictions	602	107	709
Percent with criminal convictions	6.5%	5.9%	6.4%

\*Calculations of percent values for the combined totals are weighted by the numbers of providers for each method of delivering services in each county.

Number of Convictions

Table A-2 shows the number of convictions for both individual and contract providers in our sample. The 57 providers in the three counties have been convicted of 165 crimes.

TABLE A-2

NUMBER OF CONVICTIONS  
INDIVIDUAL PROVIDERS COMPARED TO CONTRACT PROVIDERS  
THREE COUNTIES

<u>County</u>	<u>Individual Providers</u>	<u>Contract Providers</u>	<u>Total</u>
<u>San Joaquin</u>			
Criminal convictions	15	5	20
Number of convictions	73	13	86
<u>San Diego</u>			
Criminal convictions	7	8	15
Number of convictions	29	10	39
<u>Santa Clara</u>			
Criminal convictions	11	11	22
Number of convictions	26	14	40
<u>Three Counties</u>			
Criminal convictions	33	24	57
Number of convictions	128	37	165

Dates of Convictions

Table A-3 provides data on when the 165 criminal convictions in our sample occurred. Almost a third (29 percent) of all convictions occurred since 1980. However, individual providers were more likely to have been convicted of a crime since 1980 (31 percent of convictions) than were contract providers (22 percent of convictions).

**TABLE A-3**

**DATES OF CONVICTIONS  
INDIVIDUAL PROVIDERS COMPARED TO CONTRACT PROVIDERS  
THREE COUNTIES**

<u>Dates of Convictions by County</u>	<u>Individual Providers</u>	<u>Contract Providers</u>	<u>Total</u>
<u>San Joaquin</u>			
Before 1970	20 ( 27%)	1 ( 8%)	21 ( 24%)
1970-1979	32 ( 44%)	9 ( 69%)	41 ( 48%)
1980-1986	21 ( 29%)	3 ( 23%)	24 ( 28%)
Subtotal	73 (100%)	13 (100%)	86 (100%)
<u>San Diego</u>			
Before 1970	7 ( 24%)	0 ( 0%)	7 ( 18%)
1970-1979	9 ( 31%)	7 ( 70%)	16 ( 41%)
1980-1986	13 ( 45%)	3 ( 30%)	16 ( 41%)
Subtotal	29 (100%)	10 (100%)	39 (100%)
<u>Santa Clara</u>			
Before 1970	8 ( 31%)	0 ( 0%)	8 ( 20%)
1970-1979	12 ( 46%)	12 ( 86%)	24 ( 60%)
1980-1986	6 ( 23%)	2 ( 14%)	8 ( 20%)
Subtotal	26 (100%)	14 (100%)	40 (100%)
<u>Three Counties</u>			
Before 1970	35 ( 27%)	1 ( 3%)	36 ( 22%)
1970-1979	53 ( 41%)	28 ( 76%)	81 ( 49%)
1980-1986	40 ( 31%)	8 ( 22%)	48 ( 29%)
Total	128 (100%)	37 (100%)	165 (100%)

Clients Served by Relatives

Table A-4 shows the number of providers in our sample with criminal convictions who are related to the clients they serve. As the table shows, the 57 providers with criminal convictions cared for a total of 181 clients. Twelve (6.6 percent) of the 181 clients are related to their providers. Also, the data indicate that individual providers are more likely to be related to the clients they serve (27.8 percent) than are contract providers (1.4 percent).

TABLE A-4

CLIENTS RELATED TO PROVIDERS WITH CRIMINAL CONVICTIONS  
THREE COUNTIES

	<u>Individual Providers</u>	<u>Contract Providers</u>	<u>Total</u>
Providers with criminal convictions	33	24	57
Clients served by providers with criminal convictions	36	145	181
Clients served by providers with criminal convictions to whom they are related	10 (27.8%)	2 (1.4%)	12 (6.6%)

The number of providers who are related to clients may be higher than the data in Table A-4 indicate because the Department of Social Services does not require counties or contractors to gather information on whether the client is related to the provider.

DEPARTMENT OF SOCIAL SERVICES

44 P Street, Sacramento, CA 95814



March 17, 1987

Mr. Thomas W. Hayes  
Auditor General  
Office of the Auditor General  
660 J Street, Suite 300  
Sacramento, CA 95814

Dear Mr. Hayes:

OFFICE OF THE AUDITOR GENERAL'S (AGO) REPORT ENTITLED "THE DEPARTMENT OF SOCIAL SERVICES COULD REDUCE COSTS AND IMPROVE COMPLIANCE WITH REGULATIONS OF THE IN-HOME SUPPORTIVE SERVICES PROGRAM" (AUDIT CONTROL NUMBER P-630)

Mr. Allenby has asked me to respond to the above referenced draft report.

Enclosed you will find the comments prepared by the State Department of Social Services (SDSS) in response to the recommendations made in the above report.

If you have any questions regarding our comments, please contact me at (916) 445-2077, or have your staff contact Mr. Loren D. Suter, Deputy Director, Adult and Family Services Division, at (916) 445-6410.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda S. McMahon".

LINDA S. McMAHON  
Director

Enclosure

STATE DEPARTMENT OF SOCIAL SERVICES' RESPONSE

The State Department of Social Services (SDSS) comments concerning the report of the Auditor General's Office (AGO) entitled "The Department Of Social Services Could Reduce Costs And Improve Compliance With Regulations Of The In-Home Supportive Services Program" (Audit Control Number P-630)

AGO Recommendation 1

"To ensure that there are no addition errors on the timesheets that independent and contract providers submit to county welfare departments, the department should take the following actions:

- Amend its regulations to require counties to ensure that the timesheets of providers are correctly added;
- Direct county welfare departments to select a sample of the timesheets of individual and contract providers at least once each quarter to verify that the timesheets are added correctly;
- Direct county welfare departments to collect any overpayments from providers or the contract agencies after the overpayments are identified; and,
- Periodically review a sample of provider timesheets at each county to ensure the counties are complying with the department's directive to verify the addition on the timesheets and collect any overpayments resulting from addition errors."

SDSS Response

The SDSS will issue an All-County Letter within 60 days reminding counties of the regulatory requirement (Manual of Policies and Procedures Section 30-769) that counties ensure the accuracy of the timesheets and requesting copies of the procedures that counties follow to verify the accuracy of the timesheets. This will include specific reference to addition errors. The letter will also remind counties that timesheet errors which result in the payment of excess hours are subject to overpayment recovery regulations. The SDSS will include suggestions for county verification practices in the letter.

SDSS Response

With respect to the recommendation to increase county compliance with reassessment requirements, the SDSS will periodically monitor reports of overdue reassessments and identify counties with problems in this area and seek county corrective action. Santa Clara, the county identified by the audit as having the worst problem in this area, has already taken action to eliminate this problem. As of January 31, 1987, Santa Clara's overdue reassessments were reduced to 400, and Santa Clara projects no overdue reassessments by May 1, 1987.

The SDSS conducted statewide training in the fall of 1986 which provided instructions to counties on the use of the management reports generated by the statewide Case Management Information and Payrolling System (CMIPS), including the overdue reassessments reports.

AGO Recommendation 4

"To ensure that the signatures of IHSS clients on their provider's timesheets match the clients' signatures on the application for social services, the department should take the following actions:

- Direct the counties to select a sample of the timesheets of individual providers once each quarter and compare the clients' signatures on the timesheets to the clients' most recent signatures in the case file;
- Direct the counties to select a sample of the timesheets of contract providers at least once each quarter and to compare the clients' signatures on the timesheet to the clients' most recent signatures in the case file; and
- Periodically monitor the counties to ensure that the counties are verifying the signatures of clients on the timesheets of their providers."

SDSS Response

The SDSS will issue an All-County Letter within 60 days to remind counties of their responsibility to ensure that payments are made only when signed timesheets are received. The SDSS will also include the recommendation to spot check recipient signatures. In addition, the SDSS will explore the feasibility of the State Controller's Office reviewing the recipient signatures on the timesheets on a sample basis as part of its audit of county welfare departments.



AGO Recommendation 5

"To determine whether the Department of Social Services should obtain the criminal records of providers in the IHSS program, as the department does in other programs serving similar clients, the department should take the following actions:

- Conduct a study to determine the feasibility and advisability of obtaining information from the Department of Justice on the criminal convictions of all providers in the IHSS program; and
- Report to the Legislature within one year on the results of this study. Include an estimate of the benefits and costs of obtaining providers' criminal records and recommend changes in the law, if necessary, to implement the program."

SDSS Response

The SDSS does not believe that a study would provide any additional information on the benefits of a fingerprinting requirement. This report adequately addresses the probable costs of such a system which would either be borne by the SDSS or the SDSS and potential providers, most of whom have low incomes. (1)

AGO Recommendation 6

"In the interim, the department and the counties should take the following actions:

- Develop a standard application form and information for clients to use when they interview and hire independent providers. The application form should include a question on whether the client has had a criminal conviction;
- Distribute the application form to clients at the time the county assesses clients for the IHSS program;
- Interview the applicant, have all applicants who want the counties to refer them as providers complete the application form, and verify the references on the form; and
- Require all contractors to state on an employee's application form whether the employee has any criminal convictions."

\*The Auditor General's comment appears on page 59.

SDSS Response

Beginning this fiscal year, the SDSS will explore the feasibility of developing a model application form for use by recipients with individual providers and by contract counties and counties which have registries of persons who want to be individual providers. The SDSS agrees that such a form would allow recipients to make more informed judgments in their selection of providers.

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- ① Auditor General's Comment: While the Auditor General's report estimates some of the costs of fingerprinting providers of In-Home Supportive Services, our recommendation requires the department to address both the costs and benefits of checking the criminal records of providers. One potential benefit would be the increased protection of clients from possible abuse by criminals providing services. Finally, our report requires the department to report its recommendations to the Legislature regarding whether state law should require the department to check the criminal convictions of providers in the In-Home Supportive Services program.

EXHIBIT 18



18

A DESCRIPTION OF THE SERVICES PROVIDED UNDER THE IHSS PROGRAM  
(These are taken from State regulatory material).

AA. Domestic services which are limited to the following:

- (a) Sweeping, vacuuming, washing and waxing of floor surfaces.
- (b) Washing kitchen counters and sinks.
- (c) Cleaning the bathroom.
- (d) Storing food and supplies.
- (e) Taking out garbage.
- (f) Dusting and picking up.
- (g) Cleaning oven and stove.
- (h) Cleaning and defrosting refrigerator.
- (i) Bringing in fuel for heating or cooking purposes from a fuel bin in the yard.
- (j) Changing bed linen.

BB. Preparation of meals, includes such tasks as menu planning, washing vegetables, trimming meat, cooking, setting the table, serving the meal, and cutting the food into bite-size pieces.

CC. Meal clean-up, including washing and drying dishes, pots, utensils, and culinary appliances, and putting them away.

DD. Laundry services including the tasks of washing and drying laundry, mending, ironing, folding, and storing clothes on shelves or in drawers. Also, the time needed to travel to/from a locally available laundromat or other laundry facility, if none is available in the home.

EE. Food shopping includes the tasks of making a grocery list, travel to/from the store, shopping, loading, unloading, and storing food.

FF. Other shopping/errands includes the tasks of making a shopping list, travel to/from the store, shopping, loading, unloading, and storing supplies purchased, and/or performing reasonable errands such as delivering a delinquent payment to avert an imminent utility shut-off or picking up a prescription, etc.

GG. Heavy cleaning which involves thorough cleaning of the home to remove hazardous debris or dirt.

\*HH. Respiration limited to nonmedical services such as assistance with self-administration of oxygen and cleaning IPPB machines.

\*II. Bowel and bladder care, such as assistance with enemas, emptying of catheter or ostomy bags, assistance with bed pans, application of diapers, changing rubber sheets and assistance with getting on and off commode or toilet.

- \*JJ. Consumption of food consisting of feeding or related assistance to recipients who cannot feed themselves or who require assistance with special devices in order to feed themselves.
- \*KK. Routine bed baths.
- \*LL. Dressing.
- \*MM. Routine menstrual care, limited to application of sanitary napkins and external cleaning.
- \*NN. Ambulation, consisting of assisting the recipient with walking or moving the recipient from place to place.
- \*OO. Moving into and out of bed.
- \*PP. Bathing, oral hygiene and grooming.
- \*QQ. Rubbing of skin to promote circulation, turning in bed and other types of repositioning, assistance on and off seats and wheel chairs, or into and out of vehicles.
- \*RR. Care of and assistance with prosthetic devices.
- SS. Transportation to and from appointments with physicians, dentists and other health practitioners, or for fitting health related appliances/devices and special clothing.
- TT. Transportation to the site where alternative resources provide in-home supportive services to the recipient in lieu of IHSS.
- UU. Removal of high grass or weeds, and rubbish when this constitutes a fire hazard.
- VV. Removal of ice, snow or other hazardous substances from entrances and essential walkways when access to the home is hazardous.
- WW. Protective supervision consisting of observing recipient behavior in order to safeguard the recipient against injury, hazard, or accident.
- XX. Teaching and demonstration services provided by IHSS providers to enable recipient to perform for themselves services which they currently receive from IHSS.
- YY. Paramedical services.

\* These services are nonmedical personal care services. A recipient authorized less than 20 hours per week of these services is considered Non-Severely Impaired (NSI), and, if age 65 or more, would be a potential participant in the CMC project.

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111 Bronwald  
July 6, 1990

RESPONSE TO INDUSTRY PROPOSAL FOR REDUCING IHSS PROGRAM COSTS  
THROUGH PHASED IN PRIVITIZATION

PREPARED BY STATE DEPARTMENT OF SOCIAL SERVICES

Other than caseload, there are only two variables that drive the total cost of the In-Home Supportive Services (IHSS) Program - hours of assessed need per case and the cost per hour of service. The average cost per hour in the Individual Provider (IP) mode of service is \$4.68, while the average cost in the Contract mode is \$8.51 per hour - a difference of \$3.83.

The entire "Industry" proposal hinges on one pivotal allegation, namely the total cost per case per month is actually less expensive in the Contract mode because County social workers purposely inflate assessed hours of need in cases that are to be served via the Individual Provider (IP) mode. Social workers would have to be inflating the IP hours by 82% for every case in order to cause the case cost of the IP mode to break even with the cost of the Contract mode. Not only is this highly improbable, but Uniformity statistics show that when the assessed hours of cases with similar functional disability levels are compared across all modes of delivery, it simply is not true. The cost per case in the Contract mode is less because that mode serves a less severely disabled group of recipients.

The Department of Social Services (DSS) is accused of being anti-contract. In fact our policies are directed toward ensuring that services are delivered in the most cost-effective manner possible. The State annually provides Counties with an allocation of funds to provide IHSS to recipients. Each County already has statutory authority to choose which mode(s) of delivery it wishes to utilize within the limits of that County's allocation. Therefore, legislation that mandates or prescribes utilization levels in the Contract mode is unnecessary and would inappropriately constrict the ability of Counties to exercise local control in accord with local needs and demographics.

In a previous year, DSS agreed to proposed legislation that would provide for expanded use of the Contract mode in Counties that do not already use it. That language required the Contract mode to cost less than the IP mode in every case referred to the contractor, and if authorized hours were to be reduced, the County social worker had to agree that the recipient could live safely at home at that level of care. Proponents did not accept those conditions. If the Contract mode of service delivery is truly less expensive, we ask why do Counties consistently find existing funding levels a hindrance to making such a conversion?

**Allegation:**

- \* "There is also the tendency (for County social workers) to be more liberal in giving IP hours because of the perception that with a lower IP hourly rate more hours can be assigned for less money."
- \* "The IP mode substitutes hours assigned for dollars paid as the workers' currency of reimbursement."
- \* "The highly personalized nature of IHSS program services and the client assessment process, make a high degree of uniformity difficult to achieve and sustain."

**Response:**

- o There is no factual basis supporting the above statements. In fact, these allegations run counter to the basic social work principal of assisting with furthering recipient independence rather than creating dependency on the system. In order to accomplish what the proponents allege, i.e., authorize more IP hours to equate the Contract rates, Social Workers would have to inflate IP assessment awards by 82 %.
- o The Uniformity System was designed by an expert group composed of client advocate groups such as the Center for Independent Living, IHSS recipients, representatives from the Department of Aging, professorial level staff from the Schools of Gerontology at USC, the School of Social Work at UCB, the Dean of The School of Medical Gerontology at Rutgers, State program staff, and County administrative and professional social worker staff. The Uniformity assessment guidelines were tested in 12 Counties for 12 months resulting in proof of high inter-rater reliability and, with minor modifications, were implemented statewide. Post implementation reports show that Social Workers statewide are uniformly assessing cases regardless of method of delivery and that there is a high reliability and correlation between functional disabilities and assessed hours.

## Allegation

- \* "According to a DSS letter of September 2, 1988, even without assigning any overhead costs to the IP System, counties that used the contract system for NSI cases had a lower average cost per case."
- \* "The State Department of Social Services is correct in its ... analyses which show that ... mixed mode (IHSS Contract and IP system combined) spend less per case each month than the Individual Provider mode in caring for non-severely impaired (low-hour) client cases within the IHSS population, and the private sector contract system is even cheaper."
- \* "A September 2, 1988 letter ... showed that the average cost per casemonth for non-severely impaired cases was \$234.89 in mixed mode counties and \$241.35 in IP only counties. ... means ... counties ... save \$6.46 per non-severely impaired case each month, when combining the cost of IP care and contract care in that county."
- \* "...the State Department of Social Services' calculated savings of \$28.87 per case, per month, for non-severely impaired cases served under contract versus IP may be reduced by greater uniformity in assessment but the savings will not be eliminated. If the \$28.87 per case gap was narrowed down to \$25.00 per case, the annual savings would still reach more than \$30 million dollars."

## Response:

- o The "Industry" proposal is based on the premise that each IP case's hours are being inflated by at least 82%. This is not true. See Response Number 1.
- o The Industry's use of proposals that focus on cost per casemonth as the basis for projecting cost savings and making cost comparisons is not appropriate. The cost of purchasing a single hour of IHSS service is the only basis of a true cost comparison.

For the universe researched the following is true:

Average cost per IP Mode hour of service is	\$4.68
Average cost per Mixed Mode hour of service is	\$5.83
Average cost per Contract Mode hour of service is	\$8.51

- o A mixed mode average cost per casemonth for non-severely impaired is \$6.46 less than an IP only case. However, an IP mode only case provides 11.31 hours more service per casemonth at \$1.15 an hour less than the mixed mode County casemonth. An IP case converted to a mixed mode case without a decrease in service hours would cost an additional \$13.01 per case per month or \$51 million annually.

- o A Contract Mode casemonth in a mixed-mode County is \$28.87 cheaper than a IP only casemonth. However, the the IP mode provides 26.6 more hours of service per casemonth at an hourly rate \$3.83 less than a Contract mode hour. To convert IP only cases to Contract mode cases at their existing hours per case level would cost an additional \$169.9 million dollars annually.

**Allegation:**

- \* "An hour-inflation phenomenon was dramatically illustrated in San Bernardino County, which terminated its contract in 1987, and had its average hours per case inflated by 40% in one year."
- \* "Program expenditures have increased 141% (in ten years)."

**Response:**

- o Statistics indicate that San Bernardino was double-counting some cases when they were utilizing both the IP and Contract modes for IHSS. When the change occurred from a mixture of IP and Contract modes to the IP mode only, the double-counting was eliminated and a true case count was established. As an example, the quarterly reporting of casemonths in the 3rd quarter of FY 1986 shows a total of 18,758 casemonths. Two quarters later, after the shift from a mixed mode to the IP mode, the casemonth total was 15,945 cases, a difference of -2,813 cases. This, of course, mathematically affected the average hours per case calculation and artificially made it appear that a large inflation of assessed case hours had occurred.
- o Since that time, San Bernardino's hours per case average has changed at a rate (10.9%) which is similar to other counties of similar size (Sacramento, Riverside).
- o IHSS recipient caseload and hours have grown statewide due to numerous influences on the program such as the growth of the aged population, medical improvements resulting in longevity, medicare/medical cost containment policies, etc.

**Allegation:**

- \* "Based on information from a 1983 program evaluation by the DSS, the IP program overhead then cost approximately \$0.52 or 14.4% an hour more than basic IP wages and employee taxes -- reflecting the cost of administration, time of Social Worker, clerical and support staff, travel and operating expenses. Most of this overhead is assumed by the contractor under the contract system and is built in to the contractor's hourly rate."
- \* "Under the IP these costs (administration and overhead) are hidden and unreported. Under the contract system these costs are reported, scrutinized and monitored."

**Response:**

- o The cost of administering the IHSS program does not show in any analysis of cost/case or cost/hour. County Administration of the program is paid essentially with CSBG funds, which are separate from IHSS Program costs. The cost of administration paid by CSBG funds are primarily for Social Worker time conducting assessments. Assessments of IHSS applicants and recipients are common to every mode of service delivery.
- o In the September 2, 1988 letter earlier referred to by the proponents, the following table which shows IP mode overhead was included as a part of the attachment:

Average IP cost per hour as of 7/1/88

Hourly Wage	\$4.25
Empl. Taxes	0.37
Workers Comp.	0.04
SCO/STO Cont.	0.01
EDS Payrolling	0.01
Total	\$4.68

Therefore IP overhead equals only \$ .02 per hour. As of 07/01/89 Contract overhead equalled \$ .98 per hour plus \$ .21 per hour for profit.



o The Contract mode administrative overhead referred to in proponents allegations is essentially the cost of the private business, not the cost of administering the IHSS program. As mentioned above, the IHSS administrative/overhead costs occur at essentially the same level across all modes. Simply stated, the costs of County and/or State administration remain the same regardless of the mode of delivery for IHSS services.

o The Case Management, Information and Payrolling System now includes an interface for processing/auditing Contractor invoices and updating of individual case information in the data base. The cost of doing this makes the EDS Payrolling costs apply to all modes.

Allegation:

- \* "Contracts provide screening, training, supervision, better pay and benefits, multiple employee assignments, frequent client service assessments, fraud control and fiscal accountability. The absence of these features is what drives IP hours up in the first place, and what causes IP hours to grow at a faster, uncontrolled pace. The ability to combat these IP system deficiencies can only be achieved by implementing a full system of proper program features, of which uniform assessment is a part, but certainly not the whole."

Response:

- o Client service assessments can only be provided by Social Service staff in Counties. Contractors are not permitted by statute, regulation, contract, or any other means to conduct client assessments.
- o We are unaware of any role Contractors play in screening providers/fraud control - this is not stipulated by any contract, past or present. Counties are charged with this obligation by regulation for all three methods of service delivery.
- o Better pay may be a myth. Due to high contract provider turnover (as expressed by County and Contractor representatives) and lengthy time period requirements to advance, few providers reach a significantly higher wage level. The attached chart reflects wage ranges and the associated timeframes to reach the highest wage level for a given County. Furthermore, in San Mateo and Ventura Counties contract providers were not paid their annual merit adjustment as promised in their IHSS Contract until the State and Counties intervened on the providers' behalf. Also, the contract providers, unlike IP providers, pay union dues which lessens their takehome pay.
- o Not all IHSS contracts offer benefits. In fact, other than workers compensation, State Unemployment Insurance (SUI), Federal Unemployment Insurance (FUTA), and Social Security (FICA), contracts that include benefits offer those benefits only to specified employees, e.g., full-time employees or those that work 30 hours or more per week, willing and able to cover anywhere from 25% to 60% of the monthly premiums which often renders the benefit unuseable. Benefits are not provided to all contract providers. For example, in San Joaquin County 10 of 277 IHSS providers participate in their Health Plan, in San Mateo County only 52 of over 210 receive Health Benefits, in San Diego County only 75 of over 350 are enrolled in their Health Insurance program, and in Stanislaus County there are no Health Benefits offered to anyone.

o The need for a greater number of service hours derives from the clients' needs rather than from the mode of service delivery.

Allegation:

- \* "Counties have already wanted to contract out in the past but have been denied the option. Many more will recognize contracting as a promising relief to the unprecedented fiscal turmoil faced regarding the IHSS program."
- \* "Currently, there is a virtual one-mode system of care imposed on 93% of the State's 143,100 IHSS recipients. Forty three (43) counties have an IP only system, fifteen (15) counties have small contracts that are being strangled by State policy."

Response:

- o State law and policy clearly do not limit the ability of Counties to choose their mode of service delivery. However, the State has not approved mode shift requests that increase expenditures unless the County is willing to cover any costs that exceed their allocation. The State continues to approve County plans that utilize the Contract mode of delivery when it can be accomplished within existing resources. Basically each County's allocated share of the annual State budget is the controlling factor. Therefore, if contracting is less expensive, Counties should be able to shift to that mode and remain within their allocation.
- o Counties have decreased/discontinued use of the Contract mode because the increased cost would cause them to exceed their allocation, services are not being delivered, or the Contractor has terminated the contract without cause. The common denominator for the discontinuance of the Contract mode or its introduction into an IP mode only County is that Contract mode costs have become prohibitive.
- o On 7/1/88 the average cost per hour of the IP mode was \$4.68 while the Contract mode cost per hour was \$8.51. These costs are not similar and it cannot be said that a switch to Contract mode for all NSI cases would be cost effective. Using 7/1/88 cost/hour data for cases served in April 1990, the added cost of serving all NSI cases in the Contract mode which were served in the IP mode that month would be an annual cost of \$247.2 million (5,378,274 NSI Paid Hours in IP Mode x \$3.83 x 12 months). At the 1990 rate, the cost would be even more dramatic!

As of 6/1/90

COUNTY	PROVIDER WAGE RANGE	COMPOSITE GROSS WAGE	TIME TO REACH TOP STEP	MILEAGE RATE MIL
BUTTE	\$4.45 - \$6.95	\$4.86	9,880 hours	\$.25
MENDOCINO	\$4.25 - \$5.13	\$4.43	Unknown	\$.21
NEVADA	\$4.40 - \$5.75	\$4.65	5 years	\$.26
RIVERSIDE	\$4.55 - \$5.70	\$5.06	Unknown	\$.26
SAN DIEGO	\$4.25 - \$5.45	\$4.96	6,240 hours	\$.24
SAN FRANCISCO	\$4.75 - \$7.26	\$5.85	13 years	\$.21
SAN JOAQUIN	\$4.35 - \$5.05	\$4.74	6,764 hours	\$.24
SAN MATEO	\$4.65 - \$7.00	\$5.78	6,760+ hours	\$.26
SANTA BARBARA	\$4.73 - \$5.61	\$5.18	48+ months	\$.24
SANTA CLARA	\$5.31 - \$6.29	\$6.26	25 months	\$.29
SANTA CRUZ	\$4.99 - \$5.75	\$5.75	Unknown	\$.20
STANISLAUS	\$4.25 - \$4.48	\$4.38	48+ months	\$.28
TEHEMA	\$4.35 - \$4.68	\$4.42	Unknown	\$.21
TULARE	\$4.55 - \$6.00	\$5.00	10,400 hours	\$.24
VENTURA	\$4.35 - \$6.22	\$5.10	11,700 hours	\$.26











# Little Hoover Commission

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Abraham Spiegel

Barbara S. Stone

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Phillip D. Wyman  
*Assemblyman*

Jannine L. English  
*Executive Director*

**UNSAFE IN THEIR OWN HOMES:**

*STATE PROGRAMS FAIL  
TO PROTECT ELDERLY FROM  
INDIGNITY, ABUSE AND NEGLECT*

LITTLE HOOVER COMMISSION

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Chairman

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Vice Chairman

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# Little Hoover Commission

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November 6, 1991

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Jeanne L. English  
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The Honorable Pete Wilson  
Governor of California

The Honorable David Roberti  
President Pro Tempore of the Senate  
and Members of the Senate

The Honorable Kenneth L. Maddy  
Senate Minority Floor Leader

The Honorable Willie L. Brown Jr.  
Speaker of the Assembly  
and Members of the Assembly

The Honorable Bill Jones  
Assembly Minority Floor Leader

Dear Governor and Members of the Legislature:



A man's home is his castle. But if the man or woman is an elderly Californian who needs assistance with the activities of daily living, that home may well turn into a trap of indignity, abuse and neglect. The Little Hoover Commission is dismayed to report that the State's efforts to help this vulnerable population may instead leave the frail elderly at the mercy of untrained, unreliable and even abusive care givers who are largely unmonitored by either the State or the counties.


In the past, the Little Hoover Commission has focused its energies on elderly citizens who, through ill health and unfortunate circumstances, have been forced to enter institutions to receive care and protection. In turning its attention to the frail elderly who are able to remain in their own homes despite disabilities, the Commission has found a flawed system that fails to meet the needs of too many senior citizens who have turned to the State for protection and care.

In one example brought to the attention of the Commission, a woman was hired to provide in-home services. No one reviewed her history of assault and battery, drunken driving, manic-depressive illness and frequent incarceration. The end result was a state prison sentence for a murder attempt on the elderly man she was supposed to be taking care of.

While not the norm, this kind of example unfortunately was not unique. Cases reviewed by the Commission frequently showed a lack of quality control and safeguards; these cases signal a program that leaves the elderly in distressful situations too often to be tolerated.

The flaws of a single state program, however, are not the Commission's only concerns. In addition, the Commission has found that the vast array of services that are supposed to provide a continuum of care for the elderly are not well-integrated and may be difficult to access since they are scattered among a variety of state departments. Finally, because of changes in the way the State handles budgeting for elder care programs, the Commission is concerned about the prospects for maintaining or improving senior services in the future.

### **Background**

 Little more than a year ago, the Commission began a series of studies on the elderly in California. Revisiting past topics of concern to review progress and pinpoint ongoing gaps in services, the Commission issued a report on residential care facilities in January 1991 and a report on skilled nursing facilities in March 1991. Rounding out the trilogy, the Commission chose to examine Elder Care At Home, an early step in the different levels of care that are available to the elderly.

In its August 1990 hearing, the Commission focused on In-Home, Supportive Services, a program designed for those who are poor and in need of some level of assistance in order to continue living at home. Not only is such home care supposed to be more psychologically beneficial for the elderly, who thus can remain in familiar surroundings, but it is also supposed to provide a less costly level of care than if the person had to be institutionalized prematurely.

As the study progressed, the Commission became aware that other programs designed to help this same population, such as Adult Protective Services and the Area Agencies on Aging, were fragmented among various departments and limited in how many people could be served. Thus, in March 1991, the Commission held a second hearing devoted to the network of state programs for the elderly and the potential for better integrating these services. (Please see Appendix A for a complete list of witnesses at each hearing.)

As this report neared completion, the State's budget crisis led to a shift in funding for the programs under study and opened the door to changes in eligibility and service levels in the future. The Commission's concerns about this new approach to IHSS have been folded into the study.

On the basis of its examination, the Commission has reached four conclusions and formulated five recommendations, detailed in this letter report.

## Findings

**FINDING # 1: In-Home Supportive Services Has Inherent Structure And Funding Limitations That Prevent The Program From Working Well. The Result Is That Frail Elderly People Are Left At The Mercy Of Untrained Care Givers, May Be Preyed Upon By Criminals In Their Own Homes And May Be Subject To Abuse, Neglect And Indignity.**

In-Home Supportive Services, commonly called IHSS, is the largest state program involving in-home care for the elderly.<sup>a</sup> Using a combination of State and federal funds, the program pays various types of care providers to meet the needs of those who can no longer live independently in their homes but who do not have complex enough problems to require institutionalization. Because of the way the program is structured and funded, however, it often fails to deliver appropriate care. Key concerns with the program are:

- \* The fragmentation of responsibility.
- \* The method of managing care.
- \* The quality of care delivered.
- \* The differences in modes of delivering care.

The end result of this mixture of problems is that many elderly may face abuse and fear in their own homes, or may fail to receive the help they need and are entitled to.

In the 1991-92 fiscal year, IHSS will serve about 170,000 persons who are aged, blind or disabled at a cost for direct services of about \$731 million.<sup>1</sup> Roughly 65 percent of the recipients are 65 or older.<sup>2</sup> (Although the program also serves the blind and disabled, the Commission's study involved elder care only. Nonetheless, many of the program issues identified by the Commission that affect the elderly are also concerns for those with disabilities.)

Overseen by the California Department of Social Services (Department) and locally administered by county social services or welfare departments, the program is open to anyone whose income is low enough to qualify for the Supplemental Security Income/State Supplemental Program (roughly under \$600 a month income for a single person) and who cannot live safely in their own home without assistance.<sup>b</sup>

The Department has described the IHSS program as having the nation's broadest range of services for the widest range of recipients with the most latitude for service providers (spouses and other relatives may be paid under the program). IHSS is an entitlement program, which means that anyone who fits the eligibility criteria has the right to services regardless of how much money has been allocated for the program. In past years, the program has overrun its budget and the Legislature has made additional allocations.<sup>3</sup>

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<sup>a</sup> Other programs that provide services to the elderly at home include: the Department of Aging's In-Home Services program and the Multiple Senior Services Program; the Department of Health Services' Medi-Cal programs for in-home care; and the Department of Rehabilitation's Independent Living Rehabilitation program.

<sup>b</sup> Approximately 11,500 persons who have excess income but who otherwise would qualify for IHSS participate in the program under a share-of-cost basis that allows them to "spend down" their resources until they are below the income limits.

So far, the State has approached cost containment by setting a limit on the number of hours of service that can be granted. When further cost containment has been proposed requiring recipients to be more disabled to qualify and/or eliminating many recipients whose spouses and other relatives are paid by the State as providers of care, the Legislature has refused to enact the restrictions.

The program may provide domestic services (housecleaning), heavy cleaning, non-medical personal services (meal preparation, feeding, bathing, etc.), essential transportation, yard hazard abatement, protective supervision, teaching of skills, and paramedical services.

Once an individual applies for IHSS, the program begins with an assessment by county social workers of the individual's capabilities and the degree of assistance that is needed for the person to remain safely at home. For instance, a person who can no longer cook or who has repeatedly started fires in the kitchen may be judged to need assistance with meals. On the other hand, someone who merely shows poor judgment by only eating junk food or allowing garbage and dishes to stack up may be found to not need assistance.

Since individual social workers in each of the State's 58 counties are in charge of assessing eligibility and level of need, the program is susceptible to being administered differently in different areas of the State. However, at the direction of the Legislature in 1987, the Department instituted a "Uniformity System," accompanied by intensive training, in an effort to ensure that recipients are treated the same if they have the same level of disability, regardless of where they live in the State.

The system, which seeks to make assessments objective rather than subjective, is based on rating the individual's abilities in 11 categories using a scale of values from one to six. Examples of the categories include housework, laundry, shopping, meal preparation, bathing and grooming, dressing, and bladder and bowel care. Possible scores range from a one (no help needed) to five (cannot perform at all without human help) and six (needs paramedical services).<sup>4</sup>

The Department believes the system has made a substantial difference in assessment equality. As will be discussed in more detail later, others maintain that assessments are influenced by factors that have little to do with an individual's needs. For instance, those who qualify for only a few hours of assistance may have more difficulty finding a care giver than someone who has been granted more hours. Conversely, fewer hours may be granted to someone using more expensive types of care givers.

Following assessment, the social worker uses a formula to compute how much assistance is needed for specific daily activities. The recipient is then authorized a certain number of hours per month of care. Those who are found to be "severely impaired" (needing more than 20 hours a week of personal care) can be allocated up to 283 hours a month (about nine and one-half hours a day), while the "non-severely impaired" are limited to 195 hours (about six and one-half hours a day).<sup>5</sup>

The State tracks information about those receiving IHSS services. The table on the next page details some selected characteristics.

**SUMMARY OF IHSS RECIPIENT CHARACTERISTICS\***  
January through March 1991

<b>Gender:</b>			<b>Spouse/Parent Aid:**</b>		
Male	50,625	30.2%	None	131,917	79.2%
Female	117,170	69.8%	Spouse Able/Available	5,997	3.6%
Total	167,795	100.0%	Spouse Able/Part Avail	890	5%
			Spouse Able/Not Avail	249	1%
<b>Age:</b>			Spouse Not Able/Avail	2,825	1.7%
0-6	1,097	7%	Spouse IHSS Recipient	20,733	12.4%
7-18	3,037	1.8%	Parent--All Services	2,380	1.4%
19-44	21,010	12.5%	Parent--Some Services	997	6%
45-64	33,239	19.8%	Parent--No Services	130	1%
65-79	63,252	37.7%	Parent--IHSS Recipient	349	2%
80 plus	46,179	27.5%	Total	166,467	100.0%
Total	167,814	100.0%			
			<b>Care delivery mode:</b>		
<b>Level of Impairment:</b>			Independent Provider	152,593	90.9%
Non-Severe	132,902	79.9%	Contract Care	14,021	8.4%
Severe	33,525	20.1%	County Homemaker	766	.4%
Total	166,427	100.0%	Mixed	442	.3%
			Total	167,822	100.0%

Source: "In-Home Supportive Services in California: Quarterly Statistical Report, January-March 1991," California Department of Social Services

\* The California Department of Social Services indicates that the total for each characteristic category is not the same because of missing data elements in individual cases that are tracked at the county level. This is why, for instance, the total number of cases by gender (167,795) is not the same as the total number of cases by age (167,814). In addition, percentage totals may not add up to 100 percent because of rounding off.

\*\* This category indicates what resources (either a spouse or parent) other than IHSS are available to provide help to the recipient in his or her own home and is broken down to indicate how much help is available.

As the table indicates, the program serves far more women than men (117,170 vs. 50,625), and those who are elderly make up the bulk of recipients (109,431 or 65.2 percent are age 65 or older). The breakdown of elderly and disabled recipients by available household help shows that 131,917 had neither parents nor spouse to attend their needs, while another 21,082 had either a spouse or parent that was also an IHSS recipient. This indicates that almost 92 percent of the recipients simply have no close relative in their own home who can attend to their needs.

In addition, the table indicates that the bulk of people on the program do not have a need for extensive services. Only about 20 percent (33,525) are severely impaired and therefore eligible for a greater number of hours. Moreover, other information from the Department of Social Services shows that only 3,674 were allocated the full monthly maximum hours of services.

The Department's statistical report also shows the most heavily provided services during January through March, 1991.<sup>6</sup> 92 percent of the cases received domestic help (housecleaning, which is capped at 6 hours per month), 89 percent were helped with laundry and mending, 83 percent had their shopping done, 81 percent could send workers on errands, and 77 percent had their meals prepared. Of the more personal services offered under IHSS, 69 percent of the cases were helped with bathing, 52 percent with dressing, 34 percent with walking and 32 percent with bowel and bladder functions.

**O**f course, statistical reports may only tell what is occurring on the surface of a program. A more human face is brought into the picture when recipients tell of their experiences. One woman wrote to the Commission:

*My husband and I are both disabled and dependent on in-home care. We are in our 70s. He has cancer and vertigo and shakes a lot and falls from dizzy spells. I am in the late stages of a rare form of muscular dystrophy. I'm dependent on someone 24 hours a day: I can't bathe myself, I need a bedpan or diaper, and I'm too weak to do any cooking...*

*The in-home care workers are just off the street. They have no training to care for the frail or disabled, or to handle bed-baths, bedpans or other personal problems we might have. They don't even know first aid.*

*Because they are just off the street and they aren't screened good enough, some steal from you. We've lost money and a \$50 camera. Most are uncaring, lazy and careless. One drank on the job. They sleep on the job. Some have mental problems that you don't find out about until they are in your home. All are clock watchers. They are just putting in hours.*

*In two years, we have never found one that did a good job...*

*Right now, I'm looking for a new worker, and I'm scared of who will show up and want to share my home and time. Will she be a drinker, on drugs, or maybe a mental case? Or have a boyfriend on drugs who knows everything you own, knows you are old, frail and alone? How safe would you feel looking for a new worker to share your home?*

*I'm grateful for all the help I have gotten in the past. We couldn't have made it at home without it. But now I'd like to find just one caring, reliable, honest in-home care worker -- one who would take good care of me because she cared, not just for the money.<sup>7</sup>*

Another woman told the Commission that in-home care workers neglected to change her sheets and failed to adequately clean up after meals, instead putting dirty dishes away on shelves.<sup>8</sup> Others say they put up with being cheated on the hours they are supposed to receive for fear they will end up with no care provider at all if they refuse to sign fraudulent time cards.

State officials believe such problems are not widespread and they point to surveys that indicate recipient satisfaction. Others charge that such surveys are flawed because people are afraid their hours will be cut back if they complain. Although it is difficult to accurately assess how many IHSS recipients are plagued with problems, no one involved with the program denies that there are flaws with IHSS that could and should be avoided.



**F**ragmentation of responsibility: The program's problems begin with the fragmentation of responsibility and authority. The State funds, sets standards and oversees, in a general sense, the operation of IHSS. The counties administer the program, screening people for eligibility, providing ongoing assessments and, to varying degrees, acting as case managers. The recipient is responsible for employing and supervising the care providers.

The fragmentation allows the State to deny responsibility for problems that occur when care providers are unreliable or abusive. Counties, in turn, maintain that the responsibility is not theirs and that the State neither provides enough funds nor requires counties to provide adequate oversight. If IHSS recipients have problems with their care providers, they may receive little or no help from their county social worker. If their problem is with an assessment or ruling at the county level, they face a State administrative law judge appeal process that is hardly "user friendly." One woman wrote to the Commission about her frustration:

*Written information, such as brochures or pamphlets that generally describe the IHSS program's policies and procedures, should be provided to each recipient and care provider at the time of program enrollment. If such information is available, I have never seen nor received it in our five years of enrollment. I have requested both general and specific written explanations of IHSS regulations and county decisions from my county social worker and other IHSS administrators.*

*When I filed for a State hearing on the IHSS hourly allotment, I obtained a copy of regulations through the office of my county supervisor. This is the only written data about the IHSS program I have been able to acquire, and it took me five years and a hearing to get it. This reflects the absence of a solid organizational structure for the IHSS program....*

*Since written program information either does not exist or is not made available to IHSS recipients, greater reliance is placed upon county social service workers to obtain answers to questions about the program. Based upon my experience and the experiences of other IHSS participants as described to me, the county personnel typically do not follow up on telephone messages nor on direct requests for information....The county personnel whom I have encountered can be described as: incompetent, disorganized, unaware, vague, contradictory, insensitive, non-compassionate, non-disclosing and out of touch with their clients' needs....*

*Instructions for requesting a State hearing are printed on the back of the Notice of Action form. This is the only written information about the hearing process offered to recipients by the county or State....As a result of my research and communication skills, I was able to develop our case and present it at our hearings. However, few care providers are likely to possess these abilities, nor should they need to if the process were defined clearly and assistance provided easily and readily to them.*

*During this process, the authoritative attitude I encountered from county and State IHSS personnel probably would intimidate most persons, discouraging them from continuing with their hearing requests. This further hinders the equitable distribution of IHSS resources by keeping silent those who are in need.*

*The waste of tax dollars as a result of administrative inefficiency and program mismanagement must not be discounted in a study of IHSS. Thousands of dollars were squandered needlessly in our IHSS case.<sup>9</sup>*

The State may believe it is fulfilling its responsibilities and the counties may feel they are doing their share. But from the recipients' perspective, because there is little centralized accountability and leadership, the program often appears uncoordinated, unresponsive and unreliable.

**M**anagement of care: For the preponderance of IHSS cases, it is the recipients themselves who actually manage the services they receive. The irony of this cannot be overemphasized. Individuals who have been assessed and found to need assistance just to get by with their daily living activities are, nonetheless, expected to recruit, interview, hire, supervise, train and, if necessary, fire the workers who provide care to them.

County social workers who testified at a Commission hearing indicated they assist the recipients as much as their case loads allow them to. But social workers, who estimate that 15 to 20 percent of the cases need some kind of ongoing management, feel there is little they can do. A Southern California social worker said:

*We try to help them understand their role as an employer, that the care providers work for them and that they have the right to hire and fire. Some of us get more involved than we can afford to, talking to doctors, family members and others. But caseloads are doubling and more. It's a lot of stress for the social worker because he knows he can't really help the client and that he isn't really servicing the client adequately.<sup>10</sup>*

The crunch of cases for social workers is partially related to growth in the IHSS program, which has seen recipients increase more than 50 percent in the past decade. But the more critical element has been the static amount of funding coming from the State to counties for administration of the program.

The funding picture is complicated. Historically, IHSS services have been funded 50 percent by the federal government, 49 percent by the State and 1 percent by counties. (As will be discussed in Finding 3, this formula was changed substantially when the 1991-92 budget was adopted; the counties share of service costs will now be 35 percent.) Because the federal funding that goes into IHSS has been capped, any additional expenditures--whether for higher pay for care providers or more services to more seniors--would have to come out of the State's General Fund. The State's overall, annual fiscal problems have applied steady pressure on administrators and policy makers to place limitations on IHSS to keep costs from eating into the General Fund any further.

IHSS funds are broken down into two pools of money. The first, about \$731 million in 1991-92, directly supplies the services. The second pool of money, about \$93 million in 1991-92, is a block grant that is supposed to cover the administration of all adult services: Adult Protective Services, In-Home Supportive Services and Information and Referral Programs.<sup>11</sup> The State allocates money to counties and requires matching funds from the counties based on the number of projected cases and the resulting number of caseworkers that are needed to handle that many cases.

A problem, however, lies in the reimbursement rate for the cost of the social workers. Since fiscal year 1984-85, the State has kept the figure it uses to calculate the cost of IHSS social workers steady at \$49,400 (this so-called "fully loaded" figure includes salary, benefits, administration and overhead for one caseworker). Counties argue that had the figure been adjusted for inflation and rising costs each year, it would be closer to \$75,000 by now, a figure that is comparable to that used by the State for a "fully loaded" children's services caseworker.<sup>12</sup>

Thus, counties feel that each year's budget has granted them less and less money, after adjusting for inflation, to provide adult services.

With the freedom to divide the block grant in any way they wish among the adult services programs, counties have chosen a variety of methods to make ends meet. Some have subsidized the administration of adult services with local funds. In 1986-87, the statewide block grant was about \$100 million, with counties adding an additional \$19 million.<sup>13</sup>

Other counties have forced social workers to handle increasingly larger caseloads for the In-Home Supportive Services program. For instance, while the state standards call for a caseworker to handle 126 new and ongoing cases, Los Angeles County has workers handling between 350 and 400 cases, Nevada County has 352 cases per social worker and Kings County's sole worker handles 690 cases. In Alameda County, the caseload is kept at 140 cases, according to social workers, by having 3,000 cases that "float" with no worker assigned to them except when an emergency arises.<sup>14</sup>

The concept that each case will be reviewed whenever conditions change and that the social worker will be available to help the IHSS participant who is having problems becomes little more than a pretense when the caseload mounts to these levels.

Such high caseloads leave management of the services to the recipient. The frail recipients are told how many hours of care they are eligible for but are left to advertise for, screen, hire, train, supervise and/or fire their own workers.

In some counties, registries of workers are offered to IHSS recipients. Unfortunately, in many cases the lists are not current, showing people no longer available, or do not reflect the status of workers who already have full schedules. But there are worse problems with some registries. A February 3, 1991 *Sacramento Bee* article revealed that of 630 people on Sacramento County's list of potential chore workers, 16 had prior convictions for petty theft, 10 for possession of drugs for sale, seven for possession of drugs, five for burglary, three for assault with a deadly weapon and three for robbery. One woman on the list is actually in prison serving a four-year term. In sentencing another on the list, a judge said the woman was "an incorrigible thief. What I see is someone who has stolen from innocent people. Time and time again, she has stolen from innocent people."<sup>15</sup>

Although counties warn recipients that they do not screen the lists, program participants understandably may feel there is some implied "approval" of registry workers. But those who have problems with their workers may expect little help from the same county bureaucracy that gave them the worker to start with. A Sacramento County official told the *Bee*, "I feel horrible that people with those kinds of backgrounds are providing service to vulnerable, frail elderly and disabled people. But one of the positive things about the program is that clients are allowed to hire whomever they want. We don't have the right to do it and we don't have the money."<sup>16</sup>

Unfortunately, the task of managing an employee is beyond the capabilities of some recipients and is a drain on energy and health for many others. In addition, it may be difficult for the recipient to get rid of those who provide inadequate care, particularly if the recipient is fearful and feels powerless. Testifying to the Commission, a representative for Southern California Presbyterian Homes told how that organization tries to bridge the management gap:

*He/she may not be able to find a worker; may not know how to deal with the system; and, he/she must do his or her own monitoring. By the time everything is finally in place, the resident is desperate and discouraged....*

*Many of our residents have not had in-home help before. They are not always sure what to tell a worker to do. Sometimes the resident even has some fear of the worker because of difficulty in communication. My staff often sits with the resident and worker to go over what needs to be done so that the worker knows we will be checking.*

*Even when there are problems, the resident will hesitate to resolve them, also hesitates to call for help in resolution, because of fear that he or she will end up without any help.<sup>17</sup>*

The lack of rational, professional day-to-day management of the care provided to recipients is a key flaw in the IHSS program that allows many of the problems that are discussed in the next section to occur.

**Q**uality of care: One of the major concerns expressed by many IHSS recipients is that the quality of service is poor. Workers are neither trained nor educated to handle the needs of a geriatric population. Recipients also complain that many workers are lazy, unreliable or dishonest. Some say the workers do not know first aid, while others say even simple chores, like sweeping a floor or washing dishes, need to be explained. Such complaints lead to the question of whether the State is getting its money's worth in terms of care that IHSS is supposed to provide.

Those connected with the program believe most of the quality problems stem from the unattractive nature of the care provider jobs. The pay offered is low and benefits non-existent, leading to low incentive and high turnover. Individual care providers are paid \$4.25 an hour. (The cost to the State, which pays the Social Security contribution and unemployment insurance costs normally paid by an employer, brings the total hourly amount to \$4.79.)<sup>18</sup>

This low wage compares unfavorably with the "careers" enjoyed by the average hamburger flipper at a fast-food restaurant (\$5/hour) or a housekeeper working for a service (\$6/hour), jobs that typically include some level of benefits and hold at least a hint of possible upward mobility. State officials have indicated, however, that because of the size of the IHSS program, each raise of the hourly rate by one penny would cost the State an additional \$1 million. Increasing the wages of workers could come only at the expense of paring back the hours granted to IHSS recipients or foreclosing the program entirely to some group of recipients, officials say.<sup>19</sup>

But critics of the program believe the State does more than underpay the workers. They believe that federal requirements for minimum worker conditions are routinely skirted because the workers are employed neither by the State nor the counties. One person told the Commission during its August 30, 1990, hearing that other states, including Washington and Wisconsin, are moving away from such systems because of federal labor law problems.

In California, while the State processes the paychecks for care providers and covers costs normally contributed by an employer, the State has carefully distanced itself from being the employer of record. Unions that would like to deal directly with the State to bargain for higher wages, vacations, and other benefits have argued that the State is sidestepping its responsibility so that it need not pay for travel time between jobs, overtime and other items that the unions believe are federally mandated. The representative of one union wrote the following to the Commission:

~~They~~ ~~are~~ ~~paying~~ ~~low~~ ~~income~~, largely minority women barely minimum wages with no benefits and no job protection. Because of the legal charade maintained about each client/recipient being the employer, instead of the government, the workers are denied the opportunity to be represented by a collective bargaining agent, which would provide them the chance to advance economically. There is no training, supervision or screening of employees, no substitutes provided when a worker doesn't show up, and complaints of worker and client abuse proliferate.

(These workers) cannot even make a simple home appliance purchase on credit because when they list the county as their employer, the county denies it and refers the creditor to the frail, elderly, sick client for the employment/credit reference. This is absolutely ridiculous and completely humiliating.<sup>20</sup>

Even if low pay and lack of benefits were not enough to discourage a quality pool of workers, other system failures also work against the provision of quality care. No criminal background checks of potential workers are required or conducted. This can lead to abusive situations. Wrote one IHSS participant:

Care providers simply cannot be found for the minimum wage (with no benefits). When care providers are hired for less than the prevailing private sector wage, the disabled recipient is often the helpless victim of theft and abuse.<sup>21</sup>

Statistics noted by the *Sacramento Bee* about the Sacramento County registry of workers are detailed in the previous section, but they are not isolated. When Santa Clara County was given funding for a pilot program in 1988 and 1989, 10.7 percent of the 294 people fingerprinted were found to have criminal records.<sup>22</sup>

In a letter to the Commission, the Inyo-Mono Ombudsman/Advocacy Services wrote:

In this area, when in-home services are suggested, many elderly will do without rather than use this service because of the stories they have heard from friends who have been victimized by in-home services help or their own fear of the unknown....The frail senior is easily intimidated due to their frail condition and are afraid to confront anyone if there is a chance of retaliation.

In speaking with two adult probation officers in Inyo County, I was told the following information: Of the 30 or so people on a list given out by the Inyo County Social Services Department to do in-home services, five or six of these people are on probation for substance abuse. Other people on the list may be on probation for theft, forgery, child abuse, spousal abuse or other reasons....

Another example from the probation department was a female who presented as a quiet, docile person. She was hired to do in-home services. This person had a history of assault/battery on a child, drunk driving and a Mental Health Department determination of manic-depressive. This person had served a lot of jail time for assaultive behavior. The end result of this was a state prison sentence for a murder attempt on an elderly man she was providing care for.

In another case, an In-Home Supportive Services worker was hired. The senior was asked if the [worker's] grandchildren could come along when the worker was doing work. The senior thought it would be good to have children around and agreed. Other family members started to come also and would stay the day, taking

over the senior's home. The worker would then feed all of the family members at the senior's home, would place the senior in bed so the senior would not bother the family members when watching TV or other activities. The senior finally, with the assistance of friends and neighbors, had this person removed from their home, but was so fearful of a repeat of this scene that they went to a board and care facility.

For the career criminal, it is common knowledge that the elderly "rat-hole" money and valuables as security for rainy days. There are in-home service workers that prey on this situation and the elderly are not inclined to report for fear that this will affect their Medicare or Medi-Cal status....There certainly are some very responsible and wonderful in-home workers, but an effort must be made to either have a more effective screening process for seniors to follow when hiring or to allow more cross-reporting of agencies to protect this frail segment of our society.<sup>23</sup>

In a less anecdotal vein, a 1987 Auditor General report found that almost 7 percent (709) of the care givers in three counties had previous criminal convictions.<sup>24</sup> Concluding that the health, safety and welfare of the elderly may have been endangered, the Auditor General said that it would cost the State \$1.2 million initially to screen IHSS care providers and \$200,000 annually thereafter. In recent years, legislation to provide such screening has been vetoed because of the State's fiscal problems.

Finally, quality of care is undermined by the lack of training programs or standards. Workers need know nothing more to become care providers than how to find their way to the recipient's house and how to fill out a time card. The State has refused to set such standards, citing higher costs; the counties have clearly indicated it is not their responsibility. The recipient, the manager of last resort, often is so desperate to get "someone, anyone" that training becomes a nicety that falls by the wayside.

Thus, when it comes to the question of quality of care, IHSS does not appear to provide Cadillac care or even Volkswagen care. For many recipients, the program sputters along like an antiquated junker that may not make it to the next service station.

**M**ode of care: A pivotal issue in the IHSS program is the difference between the two primary methods of delivering care to recipients: Independent Providers and Contract Care agencies. On the surface, one mode appears to be cheaper--thereby allowing limited dollars to provide more services to more people--and allows for greater personal choice and flexibility in who provides care. The other appears to be more expensive but holds greater promise for accountability and quality control.

Under IHSS, care can come from Individual Providers (IPs), who make less than \$5 an hour, Contract Care agencies, which charge around \$9 an hour, or county employees under county "Homemaker" programs, where costs run between \$30 and \$40 an hour. (This last category is used almost entirely in emergency situations and is never a long-term arrangement. Thus, it is not considered a primary mode of care.) Services to about 91 percent of the recipients are delivered by IPs found and hired directly by the recipient. Since 40 percent of all recipients use relatives as care providers, a large component of IP service is family care givers.<sup>25</sup>

All of the problems detailed in the sections above--forcing frail recipients to act as employers and problems with accountability, training and reliability--are hallmarks of the Individual Provider mode as it functions in IHSS today because there is no centralized authority in charge of the workers and no responsible party to complain to when problems occur. Advocates for the elderly and disabled and state officials connected with IHSS feel, however, that the Individual

Provider mode is a vital element of the IHSS program, providing recipients with the maximum freedom of choice in who will take care of their personal needs. They particularly point to the ability of recipients to choose their own relatives as care givers.

The fact that IHSS will pay relatives to care for family members draws criticisms from some. Their question: For recipients who need only a few hours a week for chores or grocery shopping to allow them to remain home, should it be society's role to subsidize relatives who perform services that many other committed families do routinely and without government intervention?

Conversely, for severely disabled recipients whose family members give up their own lives to provide care, supporters of family care providers argue it is a proper role for society to support these people with a stipend. One woman told Commission staff that her grown, disabled son would be a far more costly burden to the State if she had not quit her job and stayed home with him 24 hours a day. The IHSS check allows her to meet mortgage payments and put food on the table. Another wrote:

*To provide care for one recipient in a home, an IHSS care provider does the work of 20 institutional employees at a maximum annual salary of \$14,000....IHSS parent care providers are not legally allowed to have Social Security withheld from our pay, nor do we receive any insurance or pension benefits. What if: We become ill? Our children die, which concludes our jobs as care givers? We outlive our children but we have no way of supporting ourselves?*

*The posture of the IHSS regulations and administrators toward parents, spouses or family members as IHSS care providers is that we should volunteer to be care providers, that we should be willing to sacrifice our health, well-being and lives to be care providers, and that we should be grateful for any dime our government generously hands out to us to do this care providing.*

*The facts are: We have tried to hold down a full-time job and care for our disabled family member, and it is an impossible life for any length of time; even with full 283-hour a month reimbursement, we are volunteering the rest of those hours; our purpose is to sustain the lives of our family members through a healthy, happy, loving home life.*

*The facts are: If we get ill, we have no health insurance; and when we get old, we will have no pension or Social Security to draw upon after all our years of dedicated work.<sup>26</sup>*

In the case of relatives of severely impaired IHSS recipients, it is difficult to conclude that anyone is getting rich off this government program. These relatives may quit their jobs and stay home to provide round-the-clock care while receiving only a minimum wage for a small portion of the hours they actually put in.

But not all relatives who work for IHSS recipients are in this same selfless, sacrificing category. Statewide statistics reflect the fact that elder abuse is typically committed by family members rather than outsiders. And many believe that IHSS recipients are even less likely to complain to officials about shorted hours, poor quality of care and other problems when the provider is a relative. Thus, the problems outlined in previous sections--accountability, training and reliability of workers--may remain a problem even when the care provider is a family member.

While there is widespread agreement that there is little quality control in IHSS today, there is no such agreement over changes to address the problems in the program.

One option is to make broader use of Contract Care agencies. These agencies tout their ability to deliver the accountability, training and reliability that is missing in the Independent Provider mode of care. They point out that they handle the recruiting, screening, training and supervision of workers. And while they may pay little more than the same minimum wage offered to IP workers, benefits such as vacations and sick time, as well as standard pay for mileage and travel time, are usually included in their contracts with workers. In addition, the agencies represent a focal point for responsibility and liability when problems arise.<sup>27</sup>

Only 16 of the 58 counties in the State use a "mixed mode" model for IHSS, offering both IP and contract agency services. Contract services are usually authorized for low-hour-need cases that might otherwise have difficulty finding a willing care provider. (Individual providers would, in general, rather work full-time for one person than splitting their hours among many clients and locations, since travel and mileage are not reimbursed.)

Since the cost of contract services is roughly twice that of independent provider service, one would expect counties to shy away from these services. But the agencies and a union representing agency workers say that the State's own surveys have shown that their services are actually less costly for low-hour cases. A 1988 statistical analysis by the Department of Social Services showed that the average monthly cost per non-severely impaired case was \$234.89 in counties that offered mixed modes and \$241.35 in IP-only counties. In a case-by-case comparison for non-severely impaired recipients, when contract care was compared directly with IP care, savings was \$28.87 a month per case.

The underlying reason for the cost savings, according to contentions by the contract agencies and a union that represents contract workers, is that counties tend to give more hours to recipients when assessing their needs for the IP mode of care. They contend that only by granting more hours can the county make the small jobs attractive enough for the recipients to find an IP. Others point out, however, that the expensive cost of contract services causes case workers to limit the number of hours that are granted even if the workers believe more are needed.

Whatever the reason, the differences do exist. In a small but random sample of 18 cases that had been switched from contract to IP care, the total hours allotted for all cases went from 310 to 761 per month, or by average case from 17 hours to 42 hours per month.<sup>c</sup>

The Commission was unable to locate any studies that quantitatively assess the case-by-case care given by contract agencies versus that given by independent providers. It is human nature to want more hours of service. But if better training, supervision and efficiency provide the same service packed into fewer hours, is the recipient not actually better off?

One sign that this may be the case is the direction that other states are moving. Contacts with some of the larger states showed that Illinois, Massachusetts, New York, Virginia, New Jersey and South Carolina do not allow independent providers. Washington and Wisconsin, which have been involved in federal lawsuits over the issue of who is the employer, are both moving away from the IP mode, while Florida and Maine run only small IP programs.

<sup>c</sup> Taken from a random sample of 125 cases that were terminated from contract care (National Homecare Systems) in a two-year period. Of those cases, 18 were switched to Independent Provider mode. 614




California officials defend the heavy reliance on IPs because it gives the recipients freedom of choice in who serves them. Advocates for the elderly and the disabled also have argued strenuously against legislation in past years that would have automatically placed non-severely impaired recipients with Contract Care agencies. They say that not only is freedom of choice critical to allowing IHSS participants to retain their dignity but they also argue that past performances by contract agencies have not been good. Some have treated workers poorly, others have abruptly quit providing service in counties and others have not been any more successful in finding adequate numbers of care providers than those struggling to obtain service in the Individual Provider mode.

The Commission is hard put to ignore the similarities between these arguments and those advanced by advocates for Medi-Cal recipients who fight against managed care systems. In an earlier study on Medi-Cal, the Commission noted that freedom of choice is illusory if the choice is limited to doctors who refuse to provide service. Similarly, the right of the elderly to choose anyone they want as a care giver is a phantom right if they can only find inadequate workers who are poorly screened, trained and supervised.

The Commission also observed that poor performance by managed health care systems in earlier decades of the Medi-Cal program did not continue as a persistent problem in this mode of health care delivery once contracts were adequately written and enforced so that quality control was a key element.

Contract Care agencies, then, offer one remedy, although a controversial one, to the problems in the IHSS program.

nother option that would focus on bolstering the Independent Provider mode has been experimented with by some counties. Ventura County has hired "recipient aides" to help IHSS participants with securing a provider and dealing with any problems that arise. The county says this approach has benefitted both the participants and the care providers and takes up the slack in services that overloaded social workers cannot be expected to provide.<sup>28</sup>

However, this so-called Supported IP mode, when proposed in state regulations, was criticized for requiring a new layer of bureaucracy and, because it was coupled with funding restrictions to counties, was seen as an attempt to shut out contract agencies. (The regulations were rejected by the State Office of Administrative Law on April 11, 1990.) It has also been suggested that this option moves both the county and the State that much closer to being the actual employers of care providers, thus raising the issue of costly federal labor standards again.<sup>29</sup>

Another plan to bring accountability and responsibility to the Independent Provider mode is backed by advocates for the elderly and disabled. Under this plan, non-profit groups already in existence or created solely for this purpose would set up regulated and screened registries of workers, offer training and provide other services on a county-by-county basis.

While adding an unknown cost to the IHSS program, this option is believed by its backers to be a more practical approach than hiring more case workers to provide a higher level of case management for each IHSS participant, yet another option. Because of the non-profit status of these groups, overhead and management costs should be less than those of Contract Care agencies, and because the case managers would be functioning at a level lower than full-fledged county social workers, the cost should also be less than it would be to expand the current county system, according to advocates.

Each of these options would require some infusion of new resources (except for expanding the Contract Care mode. If its advocates are correct in their contention that better service can be provided in fewer hours). If taken out of the existing allocation for IHSS, the program would be forced to cut back on the numbers of people served or the hours of service provided. An alternative would be to find a new, richer source of funding. As will be discussed under Finding #2, many believe that a more aggressive effort by the State to integrate programs between departments and bring in more federal funding might yield the needed resources.

While those most closely connected with IHSS on an official basis are willing to concede the program is riddled with problems, little progress has been made on the structural flaws that produce those problems. As detailed above, those flaws include:

- \* A purposeful fragmentation of responsibility to avoid increased program costs.
- \* A management method that leaves the least capable element in the IHSS equation (the recipient) in charge of workers.
- \* Poor quality of care stemming from low worker wages, lack of training and inadequate screening of workers.
- \* Disagreements over how services should be delivered.

The program may be fulfilling its bottom-line intention: keeping people out of institutionalized care for as long as possible. But there are no signs that it is doing so with the maximum degree of effectiveness and efficiency.

**FINDING 2: The State Has Failed To Put Uniform Mechanisms In Place That Would Allow It To Fully Implement The Goals Of The California State Plan on Aging; The Elderly In Need Of Assistance Thus Are Left To Navigate A Fragmented System Of Programs Run By A Diversity Of State And County Entities.**

**I**n a perfect world, as the elderly move from complete independence to needing constant attention, they would find easy access to all options along a continuum of care. In California the blueprint for such a world has been drawn up, but bureaucratic barriers, lack of funds and a failure of leadership have kept it from being implemented.

Under the federal Older Americans Act (OAA), each state must have a plan to deal with senior citizens that is updated every two to four years. California's current State Plan on Aging, issued by the Department of Aging, covers 1989 to 1993. If one were only to read the State Plan on Aging, one could imagine all is well with California's seniors, for the plan incorporates everything that could be on a senior advocate's wish list. The plan:

1. Emphasizes the need to develop a comprehensive and coordinated community-based system of services for older persons.
2. Professes that one of its key elements is ensuring that older persons can easily access the services.
3. Envisions the elderly moving through a continuum of care based on changing needs. They begin as completely independent, then are in need of some assistance so they can remain in their homes, eventually may be in need of limited out-of-home care at a residential facility, and finally may need full-time care in a skilled nursing institution.

4. Draws together program descriptions and goals from agencies and departments throughout state government that are designed to serve the elderly.

5. Defines the Department of Aging as the lead state agency for services to seniors and designates 33 Area Agencies on Aging around the State as the primary mechanism for ensuring that services are coordinated.

The State Plan on Aging, then, is a model for coordination of services and cooperation among the state agencies that house a variety of programs to serve the elderly. Under the plan, any senior citizen should be able to contact one of the 33 Area Agencies on Aging and receive information and referral to services suited to his or her needs. Armed with the correct information, the senior citizen would be able to pick and choose among the appropriate programs to receive a wide variety of help.

In some cases, reality does match the State Plan on Aging. Structurally, the plan envisions a well-coordinated network of programs that will meet the changing needs of the State's elderly. And in some counties, such as Monterey, disparate agencies have pulled together at the local level to accomplish just such coordination.<sup>30</sup> In Los Angeles County, an integration of services has begun with the movement of the county's Adult Protective Services program from the county's Department of Public Social Services to the Department of Community and Senior Citizens Services in November of 1990. A Los Angeles official says the transfer already has led to closer coordination with the Area Agency on Aging and that it has allowed a much higher priority to be placed on services that could easily be lost in the large bureaucracy of the county's welfare system. The official further recommends structural changes "beyond mere coordination of services," including the creation of an Adult Services Department at both the state and county levels.<sup>31</sup>

But such examples of close coordination are the exception rather than the rule. At the state level, the coordinating entity--the state Department of Aging with a budget of about \$134 million--is a small tall attempting to wag a rather large dog. Just one program alone, the Department of Social Services' IHSS, has administrative costs of about \$93 million and direct service costs of about \$731 million. The Department of Health Services is another large provider of care to the elderly through various Medi-Cal services, spending \$2 billion alone on nursing home care.

**W**hile the Area Agencies on Aging are meant to be the place where an elderly person would have one point of contact and one assessment, eligibility and screening process for a wide variety of services as his or her needs change, in many areas of the State they fall short of that goal. Officials from the Department of Social Services and county government say seniors are much more apt to come into the network of programs through the assistance of the local social services or welfare department.<sup>32</sup> Advocates for seniors go one step farther and argue that too many seniors fail to make connections at all--either through Area Agencies on Aging or through county offices--with programs that they desperately need.

In addition to finding diffused points of contact for programs, the elderly also quickly run into the limitations of programs because of a lack of federal and state funds. One such program is Adult Protective Services. This state-funded, county-run operation is intended to investigate allegations of abuse involving the elderly and determine follow-up actions that will ensure the safety of the senior citizen. But in many counties, Adult Protective Services has faced a progressive squeeze on funding that has resulted from a rising caseload demand on all adult services, static state funding and the inability of counties to make up the difference.

As described in the previous section on IHSS, counties receive a block grant from the State to spend on all-adult services. Because there are no State standards and no State-mandated requirements for minimum levels of service, the level of Adult Protective Services activities varies throughout the State. A legislatively authorized pilot program in five counties led to 50 recommendations by the Department of Social Services that would standardize service and ensure greater protection for the elderly. Among those recommendations were 24-hour access to service by use of a crisis phone line, coordination with existing community agencies and services that would include, at a minimum, crisis intervention, needs assessment and investigation of abuse reports. But with an annual price tag estimated at \$76 million, no headway has been made on the proposal.<sup>33</sup>

The importance of this type of watchdog program for the elderly can be seen in just one example from Sacramento County. Barbara T., as she was called by the media, was a mentally incompetent woman who was abused by her care provider in Sacramento County early in 1990. Adult Protective Services was asked to investigate her living circumstances three times, once by a taxi driver and twice by neighbors. Each time, county workers found nothing wrong and took no action.

Only when the local ombudsman program became aware of the case was the woman removed from the care provider. She had lost 30 pounds, was bruised, had cigarette burns on her breasts, had open sores and was tied to a bed. The woman was incapable of caring for her own needs; she lived with another woman who was to provide care in exchange for her Supplemental Security Income check. In essence, the care provider was running an unlicensed single-bed residential care facility.

The Barbara T. case represents what can go wrong for an individual human being when the system breaks down. But the Commission also was given examples by a social worker of how effective Adult Protective Services can be when it works well:

*I've been working on a case of an 84-year-old woman. She was living alone and she fell in her home. She was hospitalized and then one week later she went home. She had her daughter move in with her because there was no one else to take care of her. I advised against this because she had a lot of trouble with her daughter before and I questioned the daughter's motives. I visited the client after the daughter moved in; the client said everything was fine.*

*One month later, I received a call from police. They were with the client at her bank. The daughter had been signing her mother's name to checks totalling over \$10,000. The client had no idea that this was happening, unfortunately. The police had contacted the daughter so the client was afraid to go home at this time. She told me that the daughter had slapped her and spit in her face one week before.*

*I took her to a board and care, which was hard to find because we don't have any emergency board and care [facilities in our county]. I called around until I found one. I got a temporary restraining order against the daughter to get her out of the house and to keep her away from the client. I helped the client find a private conservator to handle her money. I insisted that the bank give her all the money the bank had illegally paid out of her account, which they eventually did.*

*Another case example is a 67-year-old man who had two strokes after his wife died. The hospital referred him to us. His children had brought a recreational*

vehicle salesman to the hospital and forced him to sign papers to buy an RV that he could not afford. When I interviewed him at the hospital he said his family had been taking his money. I offered to set up a representative payee for him; he agreed to this. When I took the representative payee to his home after he got out of the hospital, the family became very upset because they didn't want the representative payee to have charge of his money. He then refused the service and I knew that he was being intimidated by his family, who all are on drugs.

I made several more visits to the home and talked to him about the fiduciary abuse and neglect that was going on because we had further reports from visiting nurses. I talked to the family about the abuse and neglect. Nothing took place at this time and he still refused services.

Finally, one day he called me and he said that he was not being cared for at all. There was no one to get him out of bed or to help him get to the bathroom or to fix his meals. He said he would willingly go to any care facility I could arrange for him. I found one and got him moved in. When I went out to get him, the children all arrived at the house and protested him leaving and said they would take care of him, there was no need for him to leave. I told them no, he had made up his mind and we were going on with it. I helped him get a private conservator and if we could have found a good provider for him and kept the children out of the home, he could have stayed in his home. But unfortunately, he couldn't.

Both of these cases are very typical; we deal with this every day. Frail, elderly clients dependent on their abusing relatives.<sup>34</sup>

**T**hose familiar with Adult Protective Services are in firm agreement that the program is overloaded, underfunded and not standardized. But it is only one example of a program that cannot meet the demands placed on it by the State's aging population. For instance, state officials estimate IHSS now serves about 20 percent of the people on Supplemental Security Income and that approximately 50 percent may be eligible for the services. Since IHSS is an entitlement program--one must be given the services if one fits program eligibility requirements--more widespread knowledge about IHSS might result in an explosion of service demands.<sup>35</sup>

Since state and county resources have not grown to meet the needs of the elderly, some have urged that creative solutions be set forth that will bring more federal funds into the State for elder care. The federal Medicaid program (known as Medi-Cal in California), which is generally funded 50-50 by the state and federal governments, has waiver and optional programs available that allow states to provide a variety of services, including case management and personal care. If existing state funding could be used for the State's 50 percent share of cost, taking advantage of Medicaid options would bring new federal funds and new services into the State without adding to the State's fiscal burden.

California does make limited use of some specialized Medicaid programs already. The Multipurpose Senior Services Program serves only eight sites in California, but provides an integrated array of services: case management, adult social day care, housing assistance, IHSS, respite care, transportation, meal services, protective services and special communications. A separate Medi-Cal program provides home health care, but only in limited cases in which recipients have been recently hospitalized. Finally, a very limited program that allows the level of care provided in a skilled nursing facility to be provided at home and which grants 80 percent of the funds that would be needed for institutionalization, allows about a dozen recipients with heavy medical needs to remain in their homes.<sup>36</sup>

Other uses of Medicaid funding could be made if the State applied for program approval. In September 1990, a committee of the California Welfare Directors Association recommended that the State's Medicaid plan be amended to fund an Adult Protective Services emergency response service. Such a program would bring in more than \$31 million to the State to either improve services or to free up comparable state funds for other uses. The committee said it had been told by the Department of Health Services that the option was not being pursued because of lack of staff time.<sup>37</sup>

In testimony submitted to the Commission, the National Health Law Program pointed out that a new Medicaid program, which became available on July 1, 1991, allows home- and community-based care for the "frail elderly." The testimony also pointed out that while California has not made extensive use of Medicaid waivers and optional programs to relieve pressures on other state programs, other states have been more creative.

A summary of the National Health Law Program assessment:<sup>38</sup>

- \* New York provides a "nursing home without walls" program to its elderly Medicaid recipients who might otherwise be placed in nursing homes. Using Medicaid's personal care option and a home and community-based services waiver, the program provides home health attendants to meet a variety of medical and personal care needs. A companion state-funded program pays family members who become care givers. Through the extensive use of case management and a per-patient cap of 75 percent of the cost of residing in a skilled nursing facility, the program has proven that it saves dollars and improves care.
- \* Colorado runs a similar intensively case-managed program, pairing a Medicaid waiver with a state program called the Home-Care Allowance. The state program pays family members to provide supervision, exercise, assistance with personal hygiene, and aid with the activities of daily living. Once again, a cap is placed on funding so that costs do not exceed that of a nursing home stay.
- \* New Jersey makes extensive use of all Medicaid options, with its program covering personal care services and home- and community-based waiver services. Short-term skilled nursing care is provided under the Medicaid home health services program. Once again, state funds are used to reimburse family members to provide care. The total program cap is set at 70 percent of the funding that would be required for nursing home placement, but the average expenditure is far less.
- \* Oregon operates a Medicaid demonstration project, in conjunction with other Medicaid options, that rehabilitates housing and, in some cases, nursing facilities and turns them into "assisted living units." The cost is capped at 80 percent of the average nursing facility rate.

Most of the successful programs in other states, then, have relied on a combination approach--both to the services provided and to the sources of funding. In California, such cross-breeding of programs is encouraged in the State Plan on Aging but has yet to yield much in the way of results. One reason is that different departments have different priorities based on budgeting and staffing constraints. If the Department of Health Services were to vigorously pursue Medicaid programs that would care for the elderly at home, it would need a pool of state matching funds; its own budget of state matching funds is already allocated to other priorities. But if the funds were to come from the Department of Social Services' IHSS program, then the question arises over where ultimate control of the program will be lodged.

Such procedural and bureaucratic barriers are perceived as the main reason for California's failure to follow the lead of other states. The follow-through required to move funding and authority from one state department to another and create integrated programs has been missing. Similarly, the commitment to integrating services so they are easily accessed by the elderly has been fragmented and left without a dedicated source of funding that would ensure success.

**FINDING #3: The Effect Of "County Realignment" Remains Uncertain; While It May Pose Risks For The Future Of Elder Care Programs, It Also Presents Opportunities For Improvements.**

One proposal to meet the State's daunting fiscal need to close a \$14 billion gap in the 1991-92 budget was that certain health and social service programs, including IHSS, be turned over to counties along with new sources of revenue. Known as "county realignment," this process was eventually pared down in the case of IHSS from a complete abdication of state control, interest and participation in IHSS to making counties responsible for a larger share of IHSS costs. But because there is no certainty that the new, added revenue sources for counties will keep pace with program costs, counties in the future may suspend IHSS services to some recipients. On the positive side, the realignment legislative package directed that new approaches to long-term care for the elderly be studied.

Under realignment, the county share of costs for IHSS increased from 3.3 percent to about 35 percent, for a savings to the State of \$235 million. The County Services Block Grant, which provides funds for IHSS administration and Adult Protective Services, will now require 30 percent county participation, up from 16 percent, for a total state savings of \$13 million. New county revenues, which are expected to cover the costs of a wide array of programs besides IHSS, will derive from one-half cent of the recently increased sales tax and a special increase in the vehicle license fee.<sup>39</sup>

On its face, realignment should neither increase nor decrease the current level of funding for IHSS and Adult Protective Services. The amount cut out of the State's budget is supposed to be placed back into the programs by the new county funding. But the prospects in future years are less clear. If the new funding mechanisms allow revenues to grow at a faster rate than demand for services grow, programs for the elderly may have the resources to be improved. But if the revenues only keep pace with growth in demand or, worse yet, are outstripped by the need for social programs, IHSS will continue to suffer the same inadequacies. This latter possibility is real, given that revenues are tied to the sales tax and the economy currently is slumping.

Recognizing the unpredictability of the future, the Legislature protected the State and the counties--but not necessarily the program recipients. Under realignment, the entitlement to IHSS is suspended for 1992-93 and 1993-94. This means that even if an elderly person meets the eligibility requirements, they will not automatically receive IHSS services if state and county funds are insufficient to cover all demand for the program. The realignment legislation attempts to protect the most frail by requiring counties to only reduce services on a case-by-case basis and then only if the recipient would not be institutionalized as a result of the cuts.

This restriction actually may serve to focus attention on the underlying premise of IHSS and permit some assessment of whether the program works to meet its intent. Under the California Welfare and Institutions Code (Section 12300), the intent of the IHSS program is to provide supportive services to the aged, blind and disabled who are unable to perform the services themselves and who could not otherwise remain safely in their homes. The program meets two of five federal goals: preventing or remedying abuse and neglect, and preventing or reducing

Inappropriate institutional care by providing community-based care, home-based care or other forms of less intensive care.<sup>40</sup>

A two-fold motive frequently is cited for providing in-home care: It is psychologically better for someone to remain at home and it is cheaper to provide services at home than to pay for placement in long-term care facilities. But the concept that most state-run, at-home care programs are cheaper is thoroughly disputed by experts who have written an article entitled "The Past and Future of Home- and Community-Based Long-Term Care."<sup>41</sup> After thoroughly examining data and conclusions from 27 studies, the authors of this article concluded that at-home care is only a cost-savings when programs are rigorously and narrowly targeted to those people who are in imminent danger of being placed in a long-term care facility.

Most programs, including IHSS in California, do not practice such targeting. The State's program by statute specifically provides service if a person would be unsafe to remain at home with no help--not the same standard as being in imminent danger of being placed in a long-term care facility. And the program is not always a cost savings for the State. The Department of Social Services says that IHSS recipients at the high end of hours usage cost \$1,200 or \$1,300 for IHSS and another \$600 for their SSI/SSP grant.<sup>42</sup> Placement in a long-term care facility costs about \$1,600. At the low end of usage, some critics contend that recipients may be getting services (at a cost to the State) that they would manage without or that someone else would provide to them (at no cost to the State) if IHSS were not available.

If IHSS were rigorously targeted and assessments were aimed at only giving services to those in danger of institutionalization, then counties would have great difficulty in reducing services in the next two fiscal years without violating the legislative strictures that are intended to protect anyone from being forced into skilled nursing facilities. Conversely, if counties easily find recipients who can stay at home without services, either because someone else will pitch in and provide them or because the person will simply get by without help, then the goals of IHSS may need to be re-examined.

Under the realignment legislation, two requirements make such an examination likely and hold out the prospect for future state innovations. The legislation requires the Health and Welfare Agency to establish a task force to recommend the proper role of IHSS in the long-term care continuum and develop methods of coordinating and improving the delivery of long-term care services. A report to the Legislature is required by January 31, 1992. The legislation also requires the Secretary of the Health and Welfare Agency to investigate the feasibility of maximizing federal funds for IHSS under Medicaid waivers and optional programs.

Thus, while realignment may pose short-term problems for IHSS recipients if funding sources fail to grow at a rapid pace, the seeds for eventual program improvement are also part of the package. Re-examining the continuum of care to ensure that it flows smoothly and is accessible to the elderly may lead to dramatic improvements in how the State delivers services. In addition, the emphasis on maximizing the use of federal programs and dollars may cause California to follow the lead of other states that have successfully tried innovative approaches.

### Recommendations

**T**

he Little Hoover Commission urges the State to take immediate actions to improve the In-Home Supportive Services program, to move more aggressively to integrate the array of services offered to the elderly and to monitor closely the effects of realignment.

Recommendation #1: The Governor and the Legislature should enact legislation to require each county to adopt one of several approaches that will provide accountability, worker training and reliability in the individual provider mode of care.



The universal agreement that the Individual Provider mode of care is largely unregulated and unmonitored has not translated, unfortunately, into any statewide moves for improvement. Instead, frail elderly individuals continue to be burdened with the responsibilities of acting as an employer. Changing this system, however, does not have to mean choosing only one answer to the problems on a statewide basis. Under the philosophy of county realignment, which gave counties more fiscal responsibility for programs like IHSS, the State has pledged to allow counties more latitude in methods used to reach general standards and goals. In line with this, it seems appropriate to allow counties to pursue a higher quality of care using whatever option best fits their needs.

Those options should include, but not necessarily be limited to:

- \* The creation of non-profit entities to run controlled registries of screened and available workers, provide training and offer dispute resolution services.
- \* Greater allocation of resources for hiring county IHSS case workers and reducing work loads to allow ample time for case management.
- \* The county creation of an "Assisted Independent Provider" mode that would provide lower level employees to screen care givers and track problems.
- \* Counties' hiring of care givers directly and providing the supervision normally expected of an employer.

Increased costs deriving from these options may well be offset by the reduction of fraud and waste in provided services. In addition, increased costs may be met by fulfilling Recommendation #4 below, which addresses the desirability of forming programs that bring California more federal funds.

**Recommendation #2:** The Governor and the Legislature should enact legislation to encourage counties to place new non-severely impaired, low-hour cases into the Contract Care mode of service.

For low-hour cases, the contract care agencies appear to provide a higher quality service for a lower cost, in addition to holding out the promise of accountability that is sorely lacking in the present Independent Provider system. But advocates for the elderly and disabled have legitimate concerns about freedom of choice and holding agencies to high performance standards. Therefore, legislation should include safeguards, such as requiring contract agencies to offer training and employment to relatives who want to become care providers.

In addition, the State should provide counties with model contracts that contain adequate performance-based standards and contract enforcement mechanisms for handling recipient complaints, monitoring the quality of care, dealing with worker concerns and accepting responsibility for any actions taken by employees that adversely affect the recipient.

**Recommendation #3:** The Governor and the Legislature should enact legislation to institute other IHSS improvements and set standards that will allow the program to work more smoothly and responsively.

Procedurally, the IHSS program is not user-friendly. The Department of Social Services and county welfare departments should be directed to provide full information to recipients and their care providers, including:

- \* Brochures describing program limitations, restrictions and rules.
- \* Reasonable resources to provide answers for those with more detailed questions or unique problems.

## Errata

\* Assistance for those who wish to appeal decisions or file complaints.

Care providers also should be notified whenever the recipient's hours are reduced or other changes in status are made to avoid situations where the worker, unaware of any change, continues to work longer hours than the State will pay for. Training standards should be set for workers. Finally, adequate numbers of well-trained social workers should be involved in IHSS to conduct timely assessments and respond to problems immediately.

Recommendation #4: The Secretary of the Health and Welfare Agency should move aggressively, across departmental lines, to implement the integration of services outlined in the California State Plan on Aging and, in the process, maximize federal funding of programs.

Bureaucratic barriers have been successfully breached in other states where programs that meet the varied needs of the elderly at home have been put together using a variety of funding mechanisms. Yet in California, program restrictions and departmental turf appear to disrupt what should be a continuum of care for the elderly.

Recently enacted realignment legislation requires a task force to explore the potential for delivering better long-term care and to examine creative ways of bringing more federal funding into the State to cope with the problems of the elderly, including the use of Medicaid waivers and optional programs. The task force should begin its study with a thorough review of the goals set forth in the State Plan on Aging and should look at examples of coordinated programs in other states.

Recommendation #5: The Governor and the Legislature should closely monitor the effect of county realignment on IHSS and other programs that protect the frail elderly.

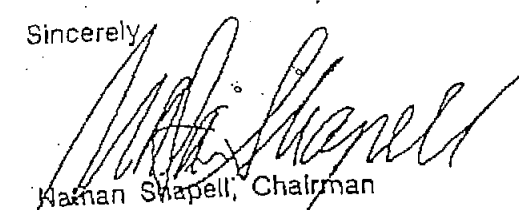
Although realignment holds the potential for program improvements, it also may prove to be an avenue for reducing services that are vitally needed by a vulnerable elderly population. The State should be prepared to implement a safety net program if realignment threatens the well-being of those who rely on IHSS.

### Conclusion

The Little Hoover Commission believes the State has a high degree of responsibility for the welfare of its citizens that does not diminish just because someone is near the end of life. Just as children should be protected by any caring society, the elderly should not be cast aside and left to suffer indignities, neglect or abuse.

Unfortunately, that is the fate of many elderly citizens who never make connection with existing programs or who receive inadequate service because of program flaws. The Commission has examined programs designed to protect this vulnerable population and found that in many cases they are not working adequately. Therefore, the Commission urges the State to take immediate action on recommendations contained in this report that are designed to improve the level of care and restore dignity and safety to the elderly.

Sincerely,

  
Norman Shapell, Chairman

## Appendix A

### WITNESSES AT COMMISSION HEARINGS ON ELDER CARE AT HOME

August 30, 1990 - Elder Care

Westside Center for Independent Living

Stan Greenberg, Executive Director

California Association of Homes for Aging

Darrell Kelch, Vice President of Public Policy

Southern California Presbyterian Homes

Marc Herrera, Director of Home Administration

California Association for Health Services at Home

Joe Hafkenschiel, President

Visiting Nurse Association

Lynn M. Campbell, P.H.N., M.S.N., Executive Director

Department of Social Services

Loren Suter, Deputy Director, Adult and Family Services

Gerald Rose, Program Manager, In-Home Supportive Services

Service Employees International, Local 535

Sharlene Dane, Sandra Gerbling, Liam Smith

United Domestic Workers of America

Faharl Jeffers

Other Participant

David Valdez

March 20, 1991 - Elder Care

Senior Legislature

Ted Ruhig

Council of Sacramento Senior Organizations

Frank McPeak

San Diego County Department of Social Services

William Bruner

Nevada County Department of Social Services

John Crane

Service Employees International, Local 535

Sharlene Dane, Sandy Einbinder,  
Barbara Murphn

Department of Aging

Chris Arnold, Director

Department of Social Services

Robert A. Barton, Chief

National Health Law Program

Michelle Melden, Staff Attorney

Protection and Advocacy Program

Marilyn Holle, Staff Attorney

California Dental Hygiene Association

Sharon Ranler

## Endnotes

1. California Department of Social Services, Fiscal Unit Manager for IHSS.
2. "In-Home Supportive Services in California: Quarterly Statistical Report, January - March 1991," California Department of Social Services.
3. California Department of Social Services, IHSS Program Manager.
4. "Report to the Legislature: IHSS Uniformity," California Department of Social Services, July 1, 1989.
5. California Department of Social Services, Fiscal Unit Manager, IHSS Regulations
6. "In-Home Supportive Services in California: Quarterly Statistical Report, January-March 1991," California Department of Social Services.
7. Letter received by the Little Hoover Commission on July 30, 1990, from a San Pablo woman.
8. Testimony received by the Little Hoover Commission during a May 17, 1990 hearing on health care issues.
9. Letter received by the Little Hoover Commission from a Fullerton resident.
10. Interview with social workers from Los Angeles and San Diego Counties, October 31, 1990.
11. California Department of Social Services, Fiscal Unit Manager for IHSS.
12. Interviews with California Department of Social Services and representatives of social workers.
13. California Department of Social Services, deputy director, Adult and Family Services Division.
14. Interview with Service Employees International Union, social workers from Los Angeles and San Diego counties, and a representative of the statewide County Welfare Directors Association.
15. "Use of Convicts to Care for Elderly, Disabled Under Fire," Sacramento Bee, February 3, 1991.
16. Ibid.
17. Testimony to Little Hoover Commission, August 30, 1990, by the Director of Home Administration for Southern California Presbyterian Homes.
18. California Department of Social Services, Fiscal Unit Manager for IHSS.
19. California Department of Social Services, IHSS Program Manager.
20. Letter to Little Hoover Commission on September 18, 1990, from Secretary/Treasurer, United Domestic Workers of America.
21. Letter to Little Hoover Commission on August 24, 1990 from a Bolinas resident.
22. "Use of Convicts to Care for Elderly, Disabled Under Fire," Sacramento Bee, February 3, 1991.
23. Letter to Little Hoover Commission on September 14, 1990 from the Coordinator for Ombudsman Advocacy Services of Inyo-Mono.
24. "The Department of Social Services Could Reduce Costs and Improve Compliance with Regulation of the In-Home Supportive Services Program," Auditor General of California, March 1987.
25. California Department of Social Services, IHSS Program Manager.

26. Letter to Little Hoover Commission on October 25, 1990 from Fullerton resident.
27. Testimony to the Little Hoover Commission, August 30, 1990, Vice President, National Homecare Systems.
28. Letter to Little Hoover Commission on September 4, 1990 from the Director of Public Social Services for Ventura County.
29. Documents provided to the Little Hoover Commission by the United Domestic Workers of America, including correspondence from legislators to the Department of Social Services, testimony from United Domestic Workers of America during hearings on the proposed regulations and the Notice of Decision of Disapproval from the Office of Administrative Law.
30. Testimony to the Little Hoover Commission, March 20, 1991, Director of Public Social Services, Nevada County.
31. Letter to Little Hoover Commission on April 19, 1991 from the Assistant Director of the Los Angeles County Department of Community and Senior Citizens Services.
32. Meeting with social service department directors, an IHSS official and a Contract Care agency representative, October 19, 1990.
33. "Update to the Legislative Report for the Evaluation of the Adult Protective Services Demonstration Projects," December, 14, 1990, California Department of Social Services.
34. Testimony to the Little Hoover Commission on March 20, 1991 by a Contra Costa County Adult Protective Services social worker.
35. California Department of Social Services, IHSS Program Manager.
36. California Department of Health Services, Medi-Cal Operations Division.
37. "Summary of Preliminary Findings and Recommendations," Alternate Funding Subcommittee memorandum to the County Welfare Directors Association Adult Services Committee, September 12, 1990.
38. "Follow-Up Report to the Little Hoover Commission," prepared by a staff attorney for National Health Law Program Inc., June 21, 1991.
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41. "The Past and Future of Home- and Community-Based Long-Term Care," William G. Weissert, Cynthia Matthews Cready, and James E. Pawelak, *Milbank Quarterly*, Vol. 66, No. 2, 1988.
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## LITTLE HOOVER COMMISSION FACT SHEET

The Little Hoover Commission, formally known as the Commission on California State Government Organization and Economy, is an independent state watchdog agency that was created in 1962. The Commission's mission is to investigate state government operations and through reports and recommendations promote efficiency, economy and improved service.

By statute, the Commission is a balanced bipartisan board composed of five citizen members appointed by the Governor, four citizen members appointed by the Legislature, two Senators and two Assembly members.

The Commission holds hearings once a month on topics that come to its attention from citizens, legislators and other sources. But the hearings are only a small part of a long and thorough process:

- \* Two or three months of preliminary investigations and preparations come before a hearing is conducted.
- \* Hearings are constructed in such a way to explore identified issues and raise new areas for investigation.
- \* Two to six months of intensive fieldwork is undertaken before a report, including findings and recommendations, is written, adopted and released.
- \* Legislation to implement recommendations is sponsored and lobbied through the legislative system.
- \* New hearings are held and progress reports issued in the years following the initial report until the Commission's recommendations have been assimilated.

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## Letter From The Editor

By Julie Merrell

# A Slap In The Face



BARSTOW — Some 50 to 60 Barstow homemakers are angry — and worried.

Employees of Remedy Home and Health Care Inc., a company that provides services to the disabled and elderly under a contract with San Bernardino County, these women will find their wages slashed from an average of \$5.38 an hour to a flat \$3.72 on March 13.

But many, especially those who support a family, are worried more because their benefits — vacation pay, sick leave, health insurance, mileage and paid travel time — will be eliminated.

All because the county canceled the Remedy contract, opting to employ the homemakers directly.

The women joke about the situation, but there is an undercurrent of worry, concern not just for themselves but for the people they serve.

"I'm gonna quit," one worker from Newberry Springs says.

"Don't worry. I'll come out to take care of you," another quips.

Both laugh, then the first grows serious saying: "But I do want you to take care of ..." and she names a client. "That's been worrying me."

The women worry about the kind of care their friends might receive if they quit. And some, especially those whose clients live in outlying areas such as Newberry Springs and Trona, are worried the county won't

*Julie Merrell is the Desert Dispatch managing editor.*

be able to find anyone to care for their charges.

"Nobody is going to drive out to Newberry and into town for groceries and back out to Newberry Springs," says Dorothea Tonseth, a Newberry Springs worker who plans to quit.

She's probably right. It would be ridiculous to expect anyone to buy gasoline and not be reimbursed for either their fuel or time.

Clients are worried too, and neither the county nor Remedy has said anything to alleviate that concern, the homemakers charge. Some clients fear they will be deprived of help they can't do without.

"We have some desperate clients," says Polly Fosler, a Remedy employer.

"We have some very nice clients," adds Glenda Sherrick, a co-worker.

Therein lies the tragedy: The homemakers care about the people they serve.

But they aren't supposed to. In fact, they are told to limit their contact with the clients. They are even advised not to talk to them.

Shirley Workman, who has been with the program only since September, says, "I've been called in four times and told I'm not a social worker." She laughs.

"You don't have these people and not learn to love them," says Grace Naples, another Remedy worker.

"We've got them spoiled rotten," Workman says.

The homemakers' anger is aimed

at the "bureaucracy."

Naples says hers is a humble job, and accepts it as that, citing biblical passages on humility, the washing of feet.

"We wash butts," she says. "That's real humility."

"I don't mind that, but I do mind getting slapped in the face by people (legislators) getting pay raises."

The homemakers say the county knows they are dedicated and for that reason silently expects many will stay on at what the workers consider "slave wages."

They may be right.

Mike Decker, who runs the program for the county, says: "These homemakers are fantastic people. There are some real caring homemakers who will stay on."

In Barstow those who stay will do it for their clients, for their friends, for people they have come to care for.

"You're not doing it for the county," Naples said.

"I have got some clients who I couldn't quit, if (the county) couldn't pay me," Workman says.

They admit their cause seems hopeless and they aren't sure they can do anything about it.

But, Workman says "we think the people of Barstow need to know."

And the county needs to know what Barstow thinks.

1-800-472-8597. First District Supervisor John Joyner would love to hear from you.

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# WEST VALLEY

## County to cancel housekeeping

Service for home-bound seniors, disabled employing 950 people

By PATRICK MCGREEVY  
The Daily Report

SAN BERNARDINO — The county is canceling a \$9 million contract providing housekeepers for home-bound senior citizens and disabled persons, despite warnings by union officials that 950 people could be put out of work.

An emotional crowd of 80 homemakers was on hand Monday to see county supervisors serve 60-day notice of the cancellation of a contract with Remedy Home Health Care Inc.

James Fare, the administrator of the county's Human Services Agency, said the action was ordered by the state after higher-than-expected activity in the program threatened to increase the approved \$16 million budget for the program to \$21 mil-

lion.

Fare said a less-expensive program in which individual home-bound residents can contract one-to-one with housekeepers will be allowed to continue.

Without the termination, both kinds of housekeeping services would be jeopardized.

"Although this action may inconvenience some of the program's existing caseload who have relied on the contract mode of service delivery, no clients will lose services as a result of this contract termination," Fare told supervisors.

Currently 3,600 senior citizens and disabled people receive housekeeping services through the contract with Remedy Inc. and 1,400 have individual contracts.

Fare predicted the 3,600 currently

being served through Remedy Inc. will receive service on an individual-contract basis using the money saved by the contract termination. An additional \$1.2 million will be saved besides.

Because the 950 people employed by Remedy receive health insurance, vacation pay, retirement benefits and higher pay, the cost to the county of the Remedy contract ranges from \$7.37-per-hour to \$8.82-per-hour, Fare said.

In comparison, the county pays an average of \$4.00 per hour to housekeepers contracted with individually by home-bound residents, he said.

But housekeepers and officials of the United Domestic Workers' local union said the quality of homemaking services will suffer if workers lose their benefits and take a 30 percent cut in pay.

"I'll quit," said Mona Cortez of Ontario. "We're not going to go back to \$3 an hour. The clients are going to lose because they were used to the

quality we provided."

Fontana resident Joan Gross was typical of those making emotional appeals to the supervisors. Choking back tears, Gross said she was a widow raising a son who has been proud to earn her living as a housekeeper.

"Why are you taking our dignity away?" asked Chris Barron, another housekeeper.

Supervisor Jon Mikels of Rancho Cucamonga said he understood the concern of the workers, however they must understand the county's financial predicament.

"One of the things these service providers have to understand is not only is there a financial impact on you, there's a financial impact on the county," Mikels said.

Supervisor Barbara RJordan said that during the 60-day period before the contract's cancellation the county staff can work to soften the impact of the change on the housekeepers who had worked for Remedy Inc.

# County cancels contract, draws housekeepers' ire

By PATRICK MCGREEVY  
Donrey Media Group

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Supervisor Barbara Riordan said that during the 60-day period before the contract's cancellation the county staff can work to soften the impact of the change on the housekeepers who had worked for Remedy Inc.

# Hundreds of home-care workers face deep pay cut

## State orders county to trim cost of program for frail, disabled

By BILL ROGERS  
Sun Staff Writer

SAN BERNARDINO — Representatives of some 950 workers who provide home care for frail elderly and disabled people Monday protested a cost-cutting action that would drastically reduce their pay and possibly leave some without jobs.

While calling for a search for alternative solutions, the county Board of Supervisors concluded a state directive left it a choice but to cancel its contract with

Remedy Home and Health Care Inc., which supervises the workers. The contract will end March 13.

The expected result is that about 3,600 elderly and disabled people will have to hire their own homemaker aides. The state-paid aides, like those now hired directly by another 1,400 people requiring care, would receive the \$3.72 per hour minimum wage with virtually no bene-

fits. Remedy's current package includes salaries ranging from \$4.77 to \$6 an hour and liberal benefits.

Representatives of the Remedy firm and its workers said the contract termination also would reduce the quality of care.

James Fare, director of the county's Public Social Services Department, said termination of the Remedy contract has

been ordered by the state Department of Social Services because of estimates that expenses for the entire program would reach nearly \$21 million this fiscal year. The original cost estimate was \$16.5 million, including a \$500,000 county cost share.

Fare said the increased costs — now estimated at \$18.3 million even if the Remedy contract ends — have resulted

from a growing caseload, including a disproportionately large number of elderly and disabled who need full-time care.

Glenda Ponder, a spokeswoman for the United Domestic Workers union, said "the clients (the elderly and disabled) are the ones who are going to be in jeopardy" because many are unable to arrange for their care or to meet accounting requirements for receiving state compensation for their aides.

Another union representative, Ken Msemasi, said Remedy workers "have got-

See CARE/B2

## Care: Cutback is planned

Continued from/B1

ten used to being treated like human beings, and the care they provide is better as a result.

Fare said many of the criticisms voiced by Remedy and its workers "are very valid" and "cannot be dismissed lightly." But he noted most California counties require direct employment of aides by clients and do not provide contract programs like Remedy's. San Bernardino County has operated dual programs since 1973, he said.

"...Fare said his department will make special efforts to ensure adequate care for those now served by Remedy, and will attempt to keep the Remedy workers employed.

ployed, directly, are now costing \$4.03 an hour, including Social Security and workers compensation expenses. Costs for Remedy workers are averaging \$8.80 an hour because they include high wages, health and dental insurance, vacation and sick leave and mileage allowances, as well as the firm's administrative costs at profit margin.

Delfina Lopez, a homemaker aide and union vice president, told the board the contract termination will "put a lot of workers on welfare, unable to pay the rent." Most have no training for other jobs, she said.

Board members asked for further study of alternatives that Supervisor Barbara Riordan said could "move us in a different

# Editorial

## Letter From The Editor

By Julie Merrell



## What Would Ronnie Think?

BARSTOW — Ironically, Ronald Reagan's state may bite the hand that once fed him as governor.

Reagan's former cook, now 90 years old and living in Barstow, needs help to stay in her own home and out of a nursing home.

But recently the state directed San Bernardino County to terminate its contract with Remedy Home and Health Care Inc., a company that provides services to elderly and disabled people in their homes.

San Bernardino County has helped the elderly and disabled in this manner since 1973, since Reagan was our governor. That year the county began Project Hire, a program aimed at employing able workers 60 and older.

Over the years the county has used two systems to provide services to elderly and disabled clients. Most of the workers are employed by a contractor hired by the county to provide services. The current contractor is Remedy.

But more difficult-to-care-for clients are usually helped by individual workers. The clients hire the workers, then the state pays them.

Now the state has pressured the county into terminating its contract with Remedy, effective March 13.

Mike Decker, the deputy director of county Public Social Services and one of the contract program's organizers, said county supervisors had no choice.

He said the state has long opposed San Bernardino's unique contract method of supplying services, charging it is costlier than the independent

provider plan.

For many years, the state has looked for ways to end the contract system.

Three years ago the state went so far as to send auditors to evaluate the county's program, Decker said.

But the audits proved though the cost per hour for Remedy workers was higher than the hourly cost of individual providers, the former provided quicker and better service.

So the state backed down. Until now.

According to Decker, the system has priced itself out of business.

Remedy workers cost about \$8.88 an hour, while aides employed directly cost the program just \$4.03.

This year Remedy's contract would cost \$20.8 million. But 90 percent of the money comes from the state; and the state has allocated just \$18.5 million.

The county begged for more, offering to meet the state part way by cutting services to some less needy clients.

The state said OK. Well, sort of. The state realized this was the opening it had been looking for. It agreed to supply enough money to pay individual providers, effectively killing the contract.

By the way, the state said, cutting services to any of the program's clients was out of the question.

So on Jan. 5 the supervisors voted to terminate Remedy's contract.

Workers will not be fired, the county says, but acknowledges 60 to 70 percent will quit.

Under Remedy's contract, workers earn \$4.77 to \$6 an hour, paid sick leave, paid vacation, health and dental insurance, paid mileage

and paid travel time.

When the contract ends, the few who stay on will be paid \$3.72 an hour, period. No benefits.

And because so many are expected to quit, services to clients will suffer, Decker conceded, but he hopes only temporarily.

San Bernardino County's program has been successful, he claimed, because the county has provided regularly scheduled mandatory training seminars.

That supervision will continue and, once new employees are hired and trained, quality care will resume, he said.

Well, I'm sorry Mr. Decker, but that doesn't make much sense to me. First of all, many of the workers currently employed have worked for years. They are experienced and they care.

If these people quit, and who will blame them, it will take years to bring service back to the existing level.

And I doubt the county will find many dedicated, caring workers at the proposed wage.

Something else bothers me. The program was set up in 1973 to help older workers find jobs. But by cutting wages and eliminating all-important benefits, it seems the county has managed to eliminate the very people it set out to help — older workers.

And perhaps that is the biggest irony of all.

Next week: the affected workers have their say.

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Home-care worker Sybil Turner at the Yucaipa mobile home of Ira Swinford.

CONNIE RUTH/The Sun

# Cuts may lead to less home-care

By CONNIE RUTH  
Sun Staff Writer

YUCAIPA — Sybil Turner moves around the mobile home with the speed and determination of a woman half her age. A skilled sixties on the stove. The vacuum is running. And in the small living room, a man sits in an easy chair, a vague smile on his face.

Turner, 78, is one of 600 workers who provide home care for 3,000 frail, elderly and disabled people in San Bernardino County under the federally mandated In-Home Support Services program.

Because of the program — established in California in 1973 — people like 83-year-old Ira Swinford, whom Turner cares for, are able to remain in their homes.

But under a state directive to cut program costs, the county Board of Supervisors on Jan. 8 canceled its contract with Remedy Home and Health Care Inc., which handles the payroll and hires, fires and trains the home-care workers.

County officials say the board's action won't eliminate the program, but it will result in pay cuts for workers who decide to stay.

"Actually, we're changing a way of doing business," said county Supervisor Barbara Hordan. "We are not eliminating services; we're simply changing the mode of contracting."

Hordan said the state is finding that the home-care programs are becoming too costly. She said the board is reviewing ways to trim program costs, one of which may be a re-appraisal of the number of hours and days that care is provided for certain individuals.

*"The loyal, dedicated ones will stay. But there'll be those who can't afford to take a pay cut and meet their living expenses."*

Mike Decker, deputy director of county social services

Mike Decker, deputy director of the county Department of Public Social Services, which supervises the workers, said the county has operated two home-care programs since 1973.

The state-paid Individual Provider Program includes 1,400 severely impaired clients and as many workers, while the contract program, for less-handicapped people who need help to stay in their homes, has 3,000 clients and 600 workers. About half the aides work part time, Decker said.

When the contract ends on March 13, "whether the workers will be employed or not depends on the decision they make — to take a pay cut from \$5 or \$4 an hour to \$3.77 per hour," he said.

Decker said the cost-cutting move means all clients will be required to hire their own workers, as is now done in the Individual Provider Program. He said he plans to set up a "check-and-balance system to make sure (clients) are protected."

Hordan said those unable to handle the necessary paperwork will get help from her office and other agencies.

County officials say workers directly employed by clients now cost \$4.03 an hour, including Social Security and worker's con-

pensation expenses.

Costs for Remedy workers average \$9.00 an hour because they get higher wages, health and dental insurance, vacation, sick leave and a mileage allowance. In addition, there are the firm's administrative costs and profit margin.

Those eligible for home care must be on supplemental income and unable to fully care for themselves, Decker said. "The purpose of the program is to keep people out of board-and-care homes."

Decker said this isn't the first time the state has tried to cancel the contract program. "But this time, they're saying we're not willing to pay for this anymore."

Noting the program's growth, Decker said the 1974 budget was \$1.7 million, compared to \$21.0 million this year.

"With the elimination of the contract, we're still talking \$10.4 million," he said. "Our allocation right now is \$10.8 million. We're short \$1.1 million, which I understand the state will be coming up with."

Decker said the "basic culprit in this is growth." And he attributes that growth to the county's attractiveness. "If people can find reasonable rents, good doctors and homeinkeepers put that together and you have a real attractive area."

Decker said that although most home-care workers are disturbed about the pay cuts, "the loyal, dedicated ones will stay. But there'll be those who can't afford to take a pay cut and meet their living expenses."

Turner, who has been in the program for six years, the past year on a part-time basis, said she plans to continue caring for her six clients no matter what she is paid. Turner makes \$4 an hour and works 8 1/2 hours a day, not counting the time she donates.

"If they cut wages to \$3.77 an hour, I'll keep on working because I do it for the people and for myself — to get out of the house for a while," she said.

Swinford, whose wife died 10

years ago and who lives in the Twin Pines Mobile Home Park, said of the program and Turner: "I think it's wonderful. I don't know what I'd do without her."

Wednesday morning, Turner ran the vacuum through Swinford's home and prepared him a breakfast of hamburger and gravy on toast. Besides cooking and cleaning, Turner said she takes Swinford to the doctor, does his grocery shopping, his laundry, pays his bills and bathes him.

Turner said she takes Swinford for a haircut on her own time and checks on him weekends to see if he is all right or needs anything. She often takes him a plate of food on weekends.

Turner, a widow, said she hopes the program never ends. "It's better for them to be in their own home than to have to go into a convalescent home. They've all been good citizens and they deserve to be treated with dignity."

But the work is more than just a job for Turner. "I'm not only a worker, I'm a friend. On birthdays I bake them a cake. Some of them don't have anyone else. It's a little missionary work."

Rose Stewart of San Bernardino, who has been in the program six months and works a 40-hour week, worries that the pay cut will draw less qualified workers to the program.

"The clients won't get quality care if the wages are cut," she said, adding that the \$3.77 an hour would fall below minimum wage when mileage costs are added. Under the Remedy contract, the mileage allowance is 27 cents a mile.

Stewart thinks there'll be enough money to run the program without cutting wages or benefits after the contract with Remedy expires.

"I think there's enough money. If the county hires us as county employees without trimming the pay," she said. "Why the middle man?"

Stewart said many of her co-workers are saying they'll go on welfare before they'll work for \$3.77 an hour. "Can you imagine the cost to the county if that happens?"



# The Daily Report

## Union warns program for elderly in danger

By ANDREW HORAN  
The Daily Report

Senior citizens who depend on a state- and county-funded housekeeping program could be endangered by a compromise forged to save the program. United Domestic Workers union officials warned Tuesday.

"There's no guarantee that there won't be a cutback in client services that could leave senior citizens without housekeeping services, charged Judy Shahan, UDW third vice president.

Shahan was one of a dozen senior citizens and domestic workers who gathered at the Grove Apartments in Ontario to hear state and county officials explain why the subsidized housekeeping service is in peril.

Bill Hill, field representative to state Sen. Ruben S. Ayala, D-Chino, and Betsy Boul, field representative to 4th-district County Supervisor Larry Walker, were quick to answer Shahan.

"If we don't take action, in March there's not going to be any service, period," Boul said.

The county faces a \$4 million shortfall in the state-mandated program that provides house-

keeping — and in some cases, minor physical therapy — to 3,600 disabled residents and eligible senior citizens.

That shortfall — caused by static funding levels for a growing client population — would have forced the county to abandon the program in March, Boul and Hill told the group.

Instead, county and state officials forged a compromise that will bring \$2.6 million in extra funds to allow the county to continue the service through July, when new legislation to reform the program is expected.

In exchange, the county must cancel a \$9 million contract with Reruddy Home Health Care Inc. to provide the in-home services.

That will force the program's clients to find "individual providers" of housekeeping services. The county then will pay the workers.

But union officials, worried that the program will destroy their 950-member organization, warn that their members will not participate in the individual-provider program.

Under the compromise, homemakers will take a pay cut to \$3.72 an hour, from \$4.77 to \$5 per

hour, and lose medical benefits and travel reimbursement.

At least two homemakers at the Ontario meeting said they could not afford to stay in the program.

"I can't survive on \$3.72 and no medical," said Sandra Campos of Montclair.

"It would just pay for my baby sitter, that's it," she said.

"What's going to happen when a homemaker quits and a client is left without services?" she asked.

Boul and Hill said the county is working through non-profit agencies to find homemakers willing to work at the new rate.

WEDNESDAY  
January 28, 1987

# VOICE OF THE PEOPLE

## Disastrous cut

Recently, a very disturbing article appeared in the news concerning a drastic budget cut for the more than 900 San Bernardino County Homemakers. These workers have served 3,000 disabled and elderly persons since 1973.

On March 18 of this year, County Homemakers will receive \$2 less per hour, receive no remuneration for operating their cars in the line of their duties, nor will the benefits of health insurance be offered. This means that these workers will receive only \$3.72 per hour and no more.

In the past, a County Homemaker's job has been to give the elderly and the disabled the helping hand much needed for them to remain in the stable, familiar environment of their own homes. Otherwise, many of the homebound and bedridden would have been placed in nursing homes, or have gone without proper attention. Each client, no matter the disabilities, received such services as general home cleanups, at least one prepared meal per day if needed, and for the more seriously disabled, hygienic care if it were required.

The effect of the budget cuts seem to spell disaster for the Homemaker and the elderly. At the current cost of living, it looks impossible for a worker to operate a car and find adequate health insurance on \$3.72 per hour. Many people will seek better pay out of their own needs. This will mean that fewer Homemakers must try to serve the same number of clients. The quality of care that has been offered the old for 13 years in this county will certainly decline. Many may have to seek a place in facilities for the aging. And as any can readily discover for himself, most hospitals and retirement homes are filled to capacity.

What happens to the old and the disabled is up to us, the younger or more able citizens of this county. The elderly have the right to finish their lives in some degree of dignity.

I feel that concerned persons should take time to write a short note to the offices of the San Bernardino County Department of Social Services in their town, or send a letter to the editors of their local newspapers. It could divert what seems like a great injustice to the those who have given us so much — the elderly.

RALPH EMBREY

The Sun  
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**SUNDAY**  
Jan. 25,  
1987

In Your  
Opinion  
Letters To The Editor

DESERT DISPATCH, Barstow, CA - Sat., January 24, 1987

Homemaker  
Has Her Say

Editorial

This letter concerns in-home care for the elderly and disabled people of San Bernardino County — especially Barstow.

As residents of this city and state, we should be concerned about what is happening to the elderly and disabled people who are residents of Barstow. We should have their welfare at heart.

These people are not asking for much, just a little in-home help from the county and state in which they have lived and contributed throughout the years.

Now it is payback time and we are letting them down by not giving them the best care possible.

They should have the dignity to live the rest of their lives in respect.

As of March 14, 1986, some of these people will not have the help they should have, and the care they deserve, because San Bernardino County and the state of California say they don't have the money to pay the homemakers who care for the elderly a decent wage and the benefits they deserve.

Some homemakers now make \$6 an hour, but I make \$4.77 an hour. We now work a five-day week and have five holidays off with pay but they think this is too much so they are cutting everyone back to \$3.72 an hour with no holidays, no sick leave, no vacation and work seven days a week.

I would like to know of any other person who works for the government or any job for that matter under such conditions.

We aren't second class citizens, neither are the clients we are serving.

We may be servicing your mother, father, sister, brother. If so, think about this and get involved.

If not, think about what you would do if something would happen to your or a family member and you needed a homemaker and there wasn't one to service you because her benefits and half of her wages were taken away.

In the first part of the year all government officials received a large pay raise, but homemakers of San Bernardino County lost all their benefits and went back to \$3.72 an hour.

I hope you as concerned citizens will do something about this. Are you going to sit by and let the county and state do this to our citizens of Barstow?

Most of these people are very proud and do not want to accept anything. They want only to be able to stay in their own homes and take care of themselves instead of being put in a nursing home. That would cost a lot more than having 2 or 3 hours of in-home service daily.

Does this seem like an awful lot to you? Don't you think we owe them something?

We must not stand by and let the state and county treat our residents this way. They need our help, any way that we can give it to make living a little more bearable.

Shirley Workman  
Barstow

Multiple lines of extremely faint, illegible text at the top of the page.

AMERICAN BANK OF NEW YORK TRUST COMPANY

TO: ...

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OFFICE OF THE ATTORNEY GENERAL  
State of CaliforniaJOHN K. VAN DE KAMP  
Attorney GeneralAttachments  
to Envelope  
JUL 2 1985  
Julia  
SILVIA GUERRERO UET.

## OPINION

of

No. 84-308

JOHN K. VAN DE KAMP  
Attorney General

JULY 23, 1985

RODNEY O. LILYQUIST  
Deputy Attorney General

THE HONORABLE RICHARD E. FLOYD, MEMBER OF THE CALIFORNIA ASSEMBLY, has requested an opinion on the following question:

Where an in-home supportive services program aid recipient hires and supervises the domestic services worker, is the worker also the "employee" of the state and/or county for purposes of unemployment insurance, disability insurance, collective bargaining, level of compensation, health insurance, sick leave, vacation leave, holiday benefits, pension and retirement benefits, credit union membership, and payroll deductions and payments covering social security, federal and state income taxes, and other voluntary designations?

## CONCLUSION

Where an in-home supportive services program aid recipient hires and supervises the domestic services worker, the worker is accorded the same treatment as a state "employee" for some but not all purposes. For purposes of withholding federal and state income taxes, social security and, where applicable, retirement contributions, the state must compute and make these deductions in the wages owing the worker. For purposes of unemployment and disability insurance, the worker is covered as the employee of the aid recipient. The aid recipient's contributions to the unemployment insurance program must be made by the state. The aid recipient's obligation to collect the worker's contributions to the disability insurance program must be performed by the state. For purposes of retirement, pension, and health benefits, the worker is covered only if his or

her particular work situation qualifies for coverage under the Public Employees' Retirement Law. For purposes of membership in employee credit unions, the by-laws of the individual credit union would govern the right of each worker to join. For purposes of voluntary payroll deductions, the workers are not included in the uniform state payroll system and for this reason are not entitled to the benefits of the voluntary deduction system administered by the State Controller. For purposes of collective bargaining, because the workers are not members of the state civil service system, there is no coverage under the State Employer-Employee Relations Act. As the counties are significantly involved in the day-to-day administration of the In-Home Supportive Services Program, the workers would be deemed employees of the counties for purposes of collective bargaining under the Meyers-Millias-Brown-Act.

#### ANALYSIS

In Bonnette v. California Health and Welfare Agency (9th Cir. 1983) 704 F.2d 1465, 1468-1470, the Ninth Circuit ruled that in-home supportive services (IHSS) workers were the "employees" of the state and counties for purposes of the minimum wage provisions of the Fair Labor Standards Act (29 U.S.C. §§ 201-219).

In In-Home Supportive Services v. Workers' Comp. Appeals Bd. (1984) 152 Cal.App.3d 720, 725-741, the Court of Appeal ruled that IHSS workers were the "employees" of the state for purposes of workers' compensation coverage (Lab. Code, §§ 3351-3352).

The question presented for resolution is whether these workers are the "employees" of the state and/or counties for various other purposes: unemployment insurance, disability insurance, collective bargaining, level of compensation, health insurance, sick leave, vacation leave, holiday benefits, pension and retirement benefits, credit union membership, social security, federal and state income tax withholding, and voluntary payroll deductions. We conclude that the answer depends upon the application of the law in each particular situation.

Preliminarily, we note that the IHSS program (Welf. & Inst. Code, §§ 12300-12314)1/ is designed to provide disabled, blind, and aged public assistance aid recipients with domestic services, nonmedical personal services, transportation, and supervision, without which they could

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1. All unidentified section references prior to footnote three are to the Welfare and Institutions Code.



not safely remain in their homes. (See §§ 12300, 12304; In-Home Supportive Services v. Workers' Comp. Appeals Bd., supra, 152 Cal.App.3d 720, 725; County of Sacramento v. State of California (1982), 134 Cal.App.3d 428, 430-431; City and County of San Francisco v. State of California (1978) 87 Cal.App.3d 959, 961; Driskill v. Woods (1977) 70 Cal.App.3d 622, 624; Bonnette v. California Health and Welfare Agency, supra, 704 F.2d 1465, 1467; 56 Ops.Cal.Atty. Gen. 341, 341-343 (1973).)

The program is administered by the counties under the supervision of the state in compliance with federal law. (See §§ 12301.1, 12302; In-Home Supportive Services v. Workers' Comp. Appeals Bd., supra, 152 Cal.App.3d 720, 725, 729-731; County of Sacramento v. State of California, supra, 134 Cal.App.3d 428, 432-433; City and County of San Francisco v. State of California, supra, 87 Cal.App.3d 959, 961-968; Driskill v. Woods, supra, 70 Cal.App.3d 622, 624; Bonnette v. California Health and Welfare Agency, supra, 704 F.2d 1465, 1467-1468.)

The counties are authorized to implement the program in three different ways: by using their own civil service or merit system employees to provide the services, by contracting out to private and public agencies for the services, and by having the aid recipient hire and supervise the worker. (See §§ 12302, 12302.2; In-Home Supportive Services v. Workers' Comp. Appeals Bd., supra, 152 Cal.App.3d 720, 725, 730-731; Driskill v. Woods, supra, 70 Cal.App.3d 622, 625, 627; Bonnette v. California Health and Welfare Agency, supra, 704 F.2d 1465, 1467.)

It is the third method of implementing the program which is the subject matter of this opinion. Although the aid recipients have various responsibilities in the hiring and supervising of the workers under this method, it has been judicially determined that the state and/or counties (1) pay the workers directly through a state payrolling system, (2) control the rate and method of payment, (3) maintain the employment records, (4) exercise considerable

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2. Although both state and county funds are used for the program, "[t]he brunt of the burden in furnishing these social services rests on the federal government." (City and County of San Francisco v. State of California, supra, 87 Cal.App.3d 959, 963; see § 12306; In-Home Supportive Services v. Workers' Comp. Appeals Bd., supra, 152 Cal.App.3d 720, 725; County of Sacramento v. State of California, supra, 134 Cal.App.3d 428, 431-433; Driskill v. Woods, supra, 70 Cal.App.3d 622, 624; Bonnette v. California Health and Welfare Agency, supra, 704 F.2d 1465, 1467.)

control over the structure and conditions of employment, (5) determine the amount and nature of the services required by the recipient, (6) make the final determination of the number of hours to be worked and tasks to be performed, (7) determine the types of services to be provided, the service delivery method, and the number of hours per service per week, (8) intervene when problems arise between the recipient and the worker, (9) have periodic and significant involvement in supervising the worker's job performance, (10) hire and fire the worker when the aid recipient is unable to do so, (11) exercise direct hiring and firing control when they discern that the work is not being performed in accordance with the assessment of need, (12) have substantial power over the employment relationship by virtue of their control over the purse strings, (13) exercise considerable control over the nature and structure of the employment relationship, and (14) have complete economic control over the employment relationship. (In-Home Supportive Services v. Workers' Comp. Appeals Bd., supra, 152 Cal.App.3d 720, 730-731; Bonnette v. California Health and Welfare Agency, supra, 704 F.2d 1465, 1470.)

We know of no significant changes in the IHSS program that would render inapplicable the above judicial findings made in In-Home Supportive Services and Bonnette. Additionally, while the usual test of an employment relationship (the extent of direction and control) would normally be a question of fact to be determined in each particular case, we recognize that "in public law cases uniformity of decision is important, and where essential facts are not in conflict the question of the legal relations arising therefrom is a question of law." (Sadduth v. California Emp. Stab. Com. (1955) 130 Cal.App.2d 304, 311; see Isenberg v. California Emp. Stab. Com. (1947) 30 Cal.2d 34, 41; Bemis v. People (1952) 109 Cal.App.2d 253, 269.)

We thus examine the various statutory schemes relating to the issues presented in light of the facts found in In-Home Supportive Services and Bonnette. In so doing, we must necessarily focus upon the intent of the Legislature and purpose of the specific legislation being analyzed. (See Laeng v. Workmen's Comp. Appeals Bd. (1972) 6 Cal.3d 771, 778, fn. 7; Adcock v. Board of Administration (1979) 93 Cal.App.3d 399, 404; 31 Ops. Cal. Atty. Gen. 194, 196 (1958).)

#### 1. Unemployment Insurance

Among the definitions of "employee" for purposes of unemployment insurance coverage is "[a]ny individual who, under the usual common law rules applicable in determining

the employer-employee relationship, has the status of an employee." (Unemp. Ins. Code, § 621, subd. (b).) 3/

The principle test to be applied, although several secondary factors may be considered, "is whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired." (Tieberg v. Unemployment Ins. App. Bd. (1970) 2 Cal.3d 943, 946; see Isenberg v. California Emp. Stab. Com., supra, 30 Cal.2d 34, 39; Sudduth v. California Emp. Stab. Com., supra, 130 Cal.App.2d 304, 311.)

Moreover, if one is an employee for purposes of workers' compensation coverage, "[i]t cannot seriously be contended that one . . . is not engaged in 'employment' within the meaning . . . of the California Unemployment Insurance Act." (Isenberg v. California Emp. Stab. Com., supra, 30 Cal.2d 34, 38.)

Applying the above definitions and principles, one could conclude that the state or county would be "an" employer of an IHSS worker hired and supervised by the aid recipient. As found in In-Home Supportive Services and Bonnette, the state and counties have substantial direction and control over the manner and means by which the work is performed.

The specific provisions of section 683, however, require consideration:

"'Employer' also means any employing unit which employs individuals to perform domestic service comprising in-home supportive services under Article 7 (commencing with Section 12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code and pays wages in cash of one thousand dollars (\$1,000) or more for such service during any calendar quarter in the calendar year or the preceding calendar year, and is one of the following:

"(a) The recipient of such services, if the state or county makes or provides for direct payment to a provider chosen by the recipient or to the recipient of such services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

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3. All unidentified section references hereafter prior to footnote four are to the Unemployment Insurance Code.

84-308

"(b) The individual or entity with whom a county contracts to provide in-home supportive services.

"(c) Any county which hires and directs in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service systems." (Italics added.)

Does the fact that the Legislature has specifically included the IHSS aid recipient as an employer of the IHSS worker preclude a finding that the state or county is also an employer for purposes of unemployment insurance coverage? In In-Home Supportive Services, the court examined the legislative history of the relevant statutes and concluded that such specific inclusion of one employment relationship did not require the exclusion of other general ones. (In-Home Supportive Services v. Workers Comp. Appeals Bd., supra, 152 Cal.App.3d 720, 734-738.) (Here, however, the court was dealing with an area of law (workers' compensation) that recognized the concept of "dual" or "joint" employments--one employee with two or more employers. (Id. at pp. 732-733.) The same concept was the basis of the Bonnette decision dealing with the Fair Labor Standards Act. (Bonnette v. California Health and Welfare Agency, supra, 704 F.2d 1465, 1469-1470.)

Here, on the other hand, the concept of dual employments is not to be found in the area of unemployment insurance coverage. (Compare §§ 926, 976, 1251, 1252 with Lab. Code, §§ 3351, 3352; see B. P. Schulberg Prod. v. Cal. Emp. Com. (1944) 66 Cal.App.2d 831.) Since section 683 expressly defines a recipient of in-home supportive services as the "employer" for purposes of computing unemployment benefits, such designation excludes consideration of the state or a county as the employer under the unemployment insurance statutory scheme.

We thus conclude that the IHSS workers in question are the employees of only the IHSS aid recipients for purposes of unemployment insurance coverage. Nevertheless, pursuant to Welfare and Institutions Code section 12302.2, the State Department of Social Services has an obligation to assure that each IHSS aid recipient's duties under the unemployment insurance laws are met. Section 12302.2 provides in part:

"(a) If the state or a county makes or provides for direct payment to a provider chosen by a recipient or to the recipient for the purchase of in-home supportive services, the department shall perform or assure the performance of all rights,

duties and obligations of the recipient relating to such services as required for purposes of unemployment compensation, unemployment compensation disability benefits, workers' compensation, federal and state income tax, and federal old-age survivors and disability insurance benefits.

## 2. Disability Insurance

Our analysis of what constitutes an employment relationship for purposes of unemployment insurance is equally applicable to disability insurance. (See § 2602.) Sections 685 and 2606.5 expressly designate the IHSS aid recipient as the employer for purposes of disability insurance. Under Welfare and Institutions Code section 12202.2, the State Department of Social Services has the responsibility to perform or assure performance of the IHSS aid recipient's obligation to collect the IHSS worker's disability contribution.

## 3. Collective Bargaining, Level of Compensation, Sick Leave, Vacation, and Holiday Benefits

While the concept that IHSS workers may have more than one "employer" appears appropriate for purposes of some laws, it would seem inappropriate and unworkable for purposes of collective bargaining under California statutes.

Under the Meyers-Millias-Brown-Act (Gov. Code, §§ 3500-3510),<sup>4/</sup> local governments such as counties may enter into collective bargaining agreements with their employees concerning "wages, hours, and other terms and conditions of employment" (§ 3505).

Under the State Employer - Employee Relations Act (§§ 3512-3524), the state may enter into collective bargaining agreements with its employees concerning "wages, hours, and other terms and conditions of employment" (§ 3512).

Just as the word "wages" in these statutes contemplates the determination of the level of compensation, the words "other terms and conditions of employment" therein include sick leave, vacation, and holiday benefits for employees covered by collective bargaining agreements.

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4. All unidentified section references hereafter are to the Government Code.

It is clear that the IHSS workers would not meet the definition of state employees for purposes of collective bargaining, since they are not "civil service" employees (§ 3513, subd. (c)).5/

Under the legislation for county employees, however, coverage is broadly authorized for those "employed" by the county. (See § 3501, subd. (d).) In analyzing this statutory provision, the Court of Appeal recently applied the primary "right of control" test, as well as considered the usual secondary factors regarded as relevant. (Service Employees Internat. Union v. Superior Court (1982) 137 Cal.App.3d 320.) The court looked at which party had the right to hire, supervise, promote, discipline, and discharge the employees, as well as which party set and paid the salaries, the nature of the services, and the belief of the parties. (Id., at pp. 324-326.)

We believe that the Service Employees case supports the conclusion that the IHSS workers are county employees for purposes of collective bargaining. The counties control the rate and method of payment, determine the amount and nature of the services required by the recipient, and are significantly involved in supervising the worker's job performance. Our conclusion is supported by "the strong policy in California favoring peaceful resolution of employment disputes by means of arbitration" (Fire Fighters Union v. City of Vallejo (1974) 12 Cal.3d 608, 622) and allows for the salutary goals of the collective bargaining process (see § 3500; International Brotherhood of Electrical Workers v. City of Gridley (1983) 34 Cal.3d 191, 201; Glendale City Employees' Assn., Inc. v. City of Glendale (1975) 15 Cal.3d 328, 336; Chula Vista Police Officers' Assn. v. Cole (1980) 107 Cal.App.3d 242, 247-248) to be met.

Consequently, for purposes of collective bargaining, we conclude that the IHSS workers may be considered the employees of the counties.

#### 4. Pension and Retirement Benefits

Under the County Employees' Retirement Law of 1937 (§§ 31450-31895), counties provide pension and retirement benefits to their employees.6/ Section 31469 defines

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5. To obtain state civil service status, one must comply with the elaborate requirements of the State Civil Service Act (§§ 18500-19798) as administered by the State Personnel Board.

6. Special statutory schemes cover peace officers and firefighters. (§§ 31900-33000.)

"employee" in a number of ways, none of which would be applicable to IHSS workers.

Under the Public Employees' Retirement Law (§§ 20000-21500), the state provides pension and retirement benefits to its employees; a county may also elect to participate in this system as a "contracting agency." For purposes of the legislative scheme, "employee" is defined in part as "[a]ny person in the employ of the state" and "[a]ny person in the employ of any contracting agency." (§ 20012.)

In Adcock v. Board of Administration, supra, 93 Cal.App.3d 399, 404, the Court of Appeal recently interpreted the provisions of section 20012, noting "the well-established rule that pension legislation should be liberally construed, resolving all ambiguities in favor of the applicant." (See Gorman v. Cranston (1966) 64 Cal.2d 441, 444; Adams v. City of Modesto (1960) 53 Cal.2d 833, 840; Durham v. City of Berkeley (1970) 7 Cal.App.3d 508, 513.) Nonetheless, it ruled against the applicant, primarily because the state paid only a de minimis portion of his salary and lacked significant control over him. Here, on the other hand, the IHSS workers are paid entirely by state warrant, perform services on behalf of the state in a state program, and are subject to strict control by the state and counties.

We are informed that 35 counties have contracted with the Public Employees Retirement System. In these counties, the eligibility of IHSS workers for retirement benefits would not be dependent upon whether they are county or state employees. Whatever their status, eligibility for retirement benefits would be governed by the Public Employees Retirement Law. With respect to those counties that are not members of the Public Employees Retirement System and which, because of the narrow definition of "employee" in section 31469, cannot include IHSS workers in their retirement systems, we believe that under the liberal construction demanded of section 20012, such IHSS workers may be considered the employees of the state for purposes of the pension and retirement provisions of the Public Employees' Retirement Law.

However, not all employees of the state (or of contracting agencies) are automatically entitled to participate in the Public Employees Retirement System. Part-time employees are excluded under the provisions of section 20334:

"An employee serving on a part-time basis is excluded from this system unless:

"(a) He or she is a member at the time he or she renders part-time service.

"(b) His or her position requires service for at least an average of 20 hours a week, or requires service which is equivalent to at least an average of 20 hours a week, and he or she is not excluded pursuant to Section 20336.

"(c) He or she is a member of the Board of Prison Terms, the State Personnel Board, or the Air Resources Board and elects to become a member of this system pursuant to Section 20360.

"(d) He or she is participating in partial service retirement, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

"(e) He or she is included by specific provision of the board relating to the exclusion of part-time employees."

Section 20336 excludes from coverage employees who, in the opinion of the Public Employees Retirement Board, work on a "seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis" unless one of the following conditions is met:

"(a) The appointment or employment contract fixes a term of full-time, continuous employment in excess of six months or, if a term is not fixed, full-time employment continues for longer than six months, in which case membership shall be effective not later than the first day of the seventh month of employment.

"(b) The person is employed in one of the positions which provide state safety membership in accordance with Section 20017.6.

"(c) The person is a member at the time of entering such employment.

"(d) The person works more than 15 days, if employed on a per diem basis or, if employed on other than a per diem basis, 1,000 hours within the fiscal year, in which case membership shall be effective not later than the first day of the month following the month in which 125 days or 1,000 hours of service were completed."

84-308



Assuming that an individual IHSS worker's particular circumstances meet one of the specific conditions, the remaining issue would be whether the worker is an "independent contractor," a status excluded from coverage under section 20330, subdivision (b). Based upon the factors cited in In-Home Supportive Services, supra, and Bonnette, supra, we believe that an IHSS worker would not be regarded as an independent contractor.

In summary, the eligibility of IHSS workers to retirement benefits is governed by the Public Employees Retirement Law and specifically sections 20334 and 20336.

#### 5. Health Insurance

Under the Public Employees' Medical and Hospital Care Act (§§ 22751-22856), health insurance is provided to "any officer or employee of the State of California" as well as to "any officer or employee" who is a "member of the Public Employees' Retirement System" and "employed by a [county] which has selected to be or otherwise has become subject to" sections 22751-22856, "except persons employed on an intermittent, irregular or less than half-time basis." (§ 22754, subd. (b).) Regulations issued pursuant to this statutory scheme (see § 22810, 38 Ops. Cal. Atty. Gen. 86, 87-88 (1961)) also exclude certain employees from participation in the program (see Cal. Admin. Code, tit. 2, § 599.501.)

As we concluded for purposes of retirement benefits, IHSS workers meeting certain conditions would be part of the Public Employees Retirement System; those IHSS workers meeting such conditions would be entitled to health benefits under the Public Employees' Medical and Hospital Care Act.

#### 6. Credit Union Membership

We have found no law which excludes or includes IHSS workers as state or county employees for purposes of credit union membership. Indeed, the most relevant statute we have found merely provides that "[e]very credit union may admit to membership those persons qualified for membership, as provided in the credit union bylaws, upon payment of an entrance fee or the purchase of a share in the credit union." (Finan. Code, § 14800, subd. (a).)

Hence, whether an IHSS worker would be eligible for membership in a credit union as either a state or county employee would depend upon the bylaws of the particular credit union.

## 7. Social Security

It is our understanding that the Social Security Administration treats the IHSS workers as the employees of only the IHSS aid recipients. Pursuant to Welfare and Institutions Code section 12302.2, discussed previously in connection with unemployment and disability insurance, the state has the responsibility to perform or assure the performance of the duties and obligations of the IHSS aid recipients under the social security laws. This function is performed through a fiscal intermediary under contract to the State Department of Social Services.

## 8. Federal and State Income Taxes

Compensation paid to IHSS workers for their services is income subject to tax under the Internal Revenue Code. The general requirement for the withholding of federal income taxes from an employee's wages is contained in section 3402 of the Internal Revenue Code: "Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax . . . ." Compensation paid to IHSS workers for their services is also income subject to tax under California's Personal Income Tax Law. (Rev. & Tax Code, § 17001 et seq.) State withholding statutes generally parallel federal law in requiring employers to withhold state income taxes from the wages of their employees. (See Unemp. Ins. Code, § 13020.) The actual withholding of state or federal income taxes from a particular IHSS worker's compensation depends upon the application of the federal and state withholding statutes and their associated regulations.

It is our understanding that the Internal Revenue Service has ruled that IHSS workers are employees of the IHSS aid recipients and that this ruling has been implemented for both federal and state income tax purposes. As with the social security, unemployment, and disability insurance programs, the responsibility of the aid recipients to withhold federal and state income taxes is performed or assured by the state on behalf of the recipient through a fiscal intermediary under contract to the State Department of Social Services. (See Welf. & Inst. Code, § 12302.2.)

## 8. Voluntary Payroll Deductions

Sections 1150-1151 authorize state employees to designate the deduction of various voluntary payments from their salaries. For purposes of the legislation, "state employees" are defined as "all persons who receive wages for services through the uniform payroll system established and administered by the Controller under Section 12470." (§ 1150, subd. (a).)

Section 12470 states:

"In conformity with the accounting system prescribed by the Department of Finance pursuant to Section 13300, the Controller shall install and operate a uniform state payroll system for all state agencies, except the University of California. The Controller may provide for the orderly inclusion of state agencies into such system, and may make exceptions from the operation thereof for such periods as he determines necessary."

The State Controller does not regard IHSS workers as employees of a state agency for purposes of inclusion in the uniform state payroll system and does not maintain a roster of IHSS workers or compute any deductions for such workers. Mandatory deductions are calculated by a private fiscal intermediary under contract to the State Department of Social Services. The fiscal intermediary forwards a computer tape to the State Controller who issues a warrant in the net amount calculated by the fiscal intermediary. To the extent voluntary deductions are allowed to IHSS workers, they would be covered by the contract between the State Department of Social Services and the fiscal intermediary.

\* \* \* \*

84-308

THE UNITED STATES OF AMERICA  
DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C. 20535





**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street, Sacramento, California 95814



September 20, 2000

ALL-COUNTY LETTER NO: 00-68

TO: ALL COUNTY WELFARE DIRECTORS  
ALL IHSS PROGRAM MANAGERS

**REASON FOR THIS TRANSMITTAL**

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

**SUBJECT: IMPLEMENTATION OF ASSEMBLY BILL (AB) 1682**

This All-County Letter (ACL) provides additional information regarding the implementation of Assembly Bill (AB) 1682 (Chapter 90, Statutes of 1999). As you know, AB 1682 requires that each county, on or before January 1, 2003, act as an employer of record or establish an employer of record for In-Home Supportive Services (IHSS) Program providers for specific legal purposes. Specifically, this ACL answers a second set of questions from an October 7, 1999 meeting where approximately 70 questions and issues were raised by counties. ACL 00-36 addressed the first set of questions and has already been released.

Counties should also be aware of Senate Bill 288, which was enrolled with an urgency clause and sent to the Governor on August 30, 2000. If enacted, this bill would limit State reimbursement of administrative costs for local IHSS program advisory committees. This means that if a county has or establishes a Public Authority and were also to create an AB 1682 advisory committee, only the administrative costs of either the Public Authority's advisory board or the AB 1682 advisory committee could be funded. The State would not be permitted to reimburse counties for the costs of both advisory bodies.

If you have questions or concerns, you may contact Alan Stolmack, Adult Programs Branch, at (916) 229-4583.

Sincerely,

*Original Document Signed By Leonard Tozier For  
Donna L. Mandelstam on 9/20/00*

DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Programs Division

Attachment

## RESPONSE TO AB 1682 QUESTIONS

Note: The question numbers referenced in parentheses are the original numbers assigned to these questions at the October 7, 1999, meeting of the Department of Social Services with the counties.

1. Is the relationship between Public Authority (PA) mandates and Supported Individual Provider (SIP) impacted by this legislation? (Question 35)
  - A. AB 1682 does not change the provisions of SIP. Counties should continue to report allowable SIP activities as described in the current County Expense Claim process and in accordance with the federally approved County Welfare Department Cost Allocation Plan. We do not see any problems with SIP coexisting with a PA as long as counties take steps to ensure that PA activities do not duplicate any SIP activities performed by the county in accordance with ACL 98-20.
  
2. Is SIP money an unfair allocation of one county over another? (Question 36)
  - A. We cannot speak for the counties; however, at the present time there is no plan to discontinue this funding arrangement.
  
3. Did AB 1682 eliminate SIP money and General Fund transfers? (Question 37)
  - A. No.
  
4. This bill only addresses cost sharing with regards to wages and not for benefits or administration costs. (Question 9)
  - A. Under the fiscal year 2000/01 budget the sharing ratio for all provider wage and benefits costs is 65% State and 35% county of the nonfederal share of the costs. The sharing ratio for administrative costs was unchanged by AB 1682 and continues to be 70% State and 30% county of the nonfederal share.

With the enactment of the 2000/01 Budget Act, there is now \$109.7 million from the General Fund for the State's share of cost for an hourly wage increase to \$7.50 (\$1.75 above minimum wage) for PA providers. The budget also includes \$34.2 million from the General Fund for the State's share of cost in up to \$0.60 per hour for health benefits for PA providers.

Prior to the 2000/01 Budget Act, State law limited In-Home Supportive Services (IHSS) providers in non-PA counties to the minimum wage. The 2000/01 budget includes \$3.7 million from the General Fund for up to a 3 percent wage increase



for these providers at county discretion. State participation in the cost of the wage increases for non-PA providers is effective January 2001.

Wage increases and benefits for IHSS providers are not mandated. Counties have the discretion to provide or not provide wage increases to their providers. Even when wage increases or benefits are collectively bargained the county's Board of Supervisors must adopt the bargaining agreement. The Department will be issuing a subsequent ACL to tell counties how to claim for PA and other budgeted wage and benefits costs.

Funding was also provided in the 2000/01 budget for the State share of the cost of contracting counties electing to increase their contract rates to the Maximum Allowable Contract Rate (MACR). Funding was also provided for the State share of increasing the existing MACRs by 10 percent. Additionally, the budget includes State funds to allow the number of IHSS cases under the contract mode to increase by 40 percent statewide.

5. Can we do anything that will ensure the timeliness of State approval of rates? (Question 18)
  - A. There are several considerations for a county to ensure a more timely response for the State approval of wage rates:
    - Close communication between the county and State is essential;
    - A county should obtain any needed clarification from the State on the documentation that is required to approve a rate, including certification from the county's Board of Supervisors that the rate has been approved by the board; and
    - A county should allow reasonable lead-time for the approval by the California Department of Health Services and implementation of a new PA rate. Under AB 2876, the Budget Trailer Bill, new PA rates are effective the month following the month in which they are approved although rates may be approved conditionally subject to funding availability.
  
6. What is the county process in establishing a contract rate and what are the financial considerations? (Question 27)
  - A. Counties that elect to use the contract mode should pursue the following process:
    1. Make a written request to the Adult Programs Branch asking the Branch to calculate a MACR and to advise the county if funds have been included in the State budget to cover the cost of the county's anticipated contract(s). (Once calculated by the Department, the California Department of Finance must approve the MACR.) If sufficient budgeted funds are not available the county runs the risk of being required to absorb the costs of their IHSS

contract(s) until additional funds are budgeted, unless deficiency funding is approved. (See below for more details.)

2. Conduct a competitive bid process to award the IHSS contract(s).
3. Inform the Adult Programs Branch in writing to implement the rate into the Case Management, Information and Payrolling System (CMIPS).

The State's share in the costs of county IHSS contracts is available only within the constraints imposed by the State's annual Budget Act and Welfare and Institutions Code (WIC) section 12300, et seq. Counties that incur IHSS contract costs for which budgeted funds are not available run the risk of not receiving full reimbursement if the costs in excess of budgeted funds were due to non-State mandated costs (i.e., costs within county control, or using more expensive modes of service delivery.) As noted above, the Fiscal Year 2000/01 State budget provides funding for the State share of counties increasing their contract rates up to 10% above their current MACR, and to expand the number of IHSS cases statewide under the contract mode by up to 40 percent.

7. Is IHSS a continuously appropriated entitlement or is it capped in the State budget and is there a process for over-expenditures? (Question 28)
  - A. Each county's IHSS administrative allocation is a capped amount. Additionally, the administrative costs of a PA are capped at the PA's approved hourly administrative rate component. If a county exceeds its administration budget, the State would look at the total State allocation for a surplus to absorb any overrun.

The IHSS service component is budgeted as an entitlement. If the appropriation were exceeded, it would have to be handled as a budget deficiency. AB 1682 does not change the current funding arrangement or eligibility requirements for the PCSP or the IHSS Residual programs.

8. How does this law impact the realignment formula? (Question 32)
  - A. AB 1682 does not change the realignment formula.
9. Are there any county administrative costs that are reimbursable? (Question 33)
  - A. The administrative costs of AB 1682 are reimbursable provided that the county remains within their IHSS administrative allocation. The costs would be claimed in accordance with the federally approved California Welfare Department (CWD) Cost Allocation Plan. Claiming questions should be directed to the California Department of Social Services (CDSS) Fiscal Policy Bureau. The AB 1682 advisory committee requirement is a State mandate. The reasonable costs of

county AB 1682 advisory committees are reimbursable and no county share is required.

10. Will counties have mandated costs incurred under WIC, Section 12301.3, which require funding? (Question 38)

A. Yes. See answer to question 9.

11. Is the county civil service mode budgeted by the State as administrative or service money and what is the funding ratio? (Question 44)

A. State funding for the county IHSS civil service ("homemaker") mode is budgeted as local assistance as are IHSS services. The sharing ratio for the nonfederal share of the local assistance costs of the IHSS program is 65% State and 35% county.

12. Do we need a way to control the costs that may be incurred by this legislation? (Question 51)

A. AB 1682 creates the potential for increased county costs for IHSS provider wages and benefits and for administering an employer of record. Ultimately, each county's Board of Supervisors will determine what the county will spend on wages above minimum wage and for provider benefits. In so doing, we presume that counties will be cognizant of the limits on State and federal sharing in PA and contract rates and the funds provided in the State budget for the contract mode. The State and federal government will share in costs that are at or below the cost limits as long as the costs have been approved through the budget process. Additionally, it is presumed that, in selecting their approach for meeting AB 1682 requirements counties will consider the administrative costs of the various options for complying with this law. Notwithstanding any cost increases, AB 1682 does not permit necessary service hours to be reduced for any recipient.

13. Are the "start-up" costs categorized as direct or indirect charges or are they considered a combination? (Question 61)

A. All costs incurred by the counties in the compliance with AB 1682 will occur in the context of their administrative allocation. Counties should claim these costs consistent with established claiming instructions and direct cost claiming decisions and approvals for their county.

14. How long does it take for the county to receive funding when it identifies the costs and the fiscal mechanism? (Question 62)
- A. The claiming and State reimbursement for the allowable, budgeted costs of AB 1682 will occur under the existing, established claiming process and time frames. Other costs must be met within each county's existing IHSS/PCSP administrative allocation.
15. Does the State provide money to the county for the planning of a Public Authority? (Question 67)
- A. Except for the funding budgeted for the cost of the AB 1682 advisory committees; no State funds are budgeted for the planning of a PA. Counties must undertake this activity within their established IHSS program administrative cost allocation.
16. How do we educate or brief the county Board of Supervisors? (Questions 1 & 2)
- A. WIC, Section 12301.3, provides for an advisory committee that the county Board of Supervisors will utilize prior to implementing an employer of record. Presently, there are counties operating PA, contracts, Individual Provider and mixed modes of service delivery that could give valuable insight into an employer of record option. We suggest that counties consult with one another as they consider their options under AB 1682. If we can be of assistance to a county in educating a county Board of Supervisors we would be happy to assist in any way we can.
17. The Bureau of State Audits report raises numerous issues related to the bill. (Questions 4 & 20)
- A. The Department believes that all ambiguities or issues brought forward by the Bureau of State Audits report have been addressed by the release of this ACL and ACL 00-36. If further issues remain, please contact us.
18. What AB 1682 implementation efforts can be made that will help minimize system impact? (Question 11)
- A. This answer presumes that by use of the term "system", this is referring to CMIPS. CMIPS must be programmed and tested for each new wage change requested by a county. The critical issue is the updating of wage rates as counties convert to either the contract or PA modes of IHSS delivery, or enact wage increases for their non-PA Individual Providers between now and January 1, 2003. The more counties concurrently requesting an update to their provider wage rates in CMIPS, the greater the potential for delays as we attempt to update the CMIPS with multiple counties' new provider rates. Counties need to be conscious of this and provide for plenty of lead-time. The individual decision

of when counties will comply with AB 1682 before the statutory deadline is out of the State's control.

19. Can we break out different employer functions and identify which entity is performing the employer functions? (Question 16)
  - A. We are unsure how to separate the employer/employee relationship. This seems like a matter for discussion with your county counsels. The employer/employee relations requirements for public agencies, such as PAs, are governed by the Meyers, Millias, Brown Act. Other labor relations laws including the National Labor Relations Act govern the employer/employee relations requirements for non-public entities, such as IHSS contractors.
  
20. We need to educate the Legislature about what the bill means to consumers and providers. (Question 19)
  - A. The requirements of AB 1682 were again the topic of extensive discussion involving the Department, consumers, and consumer advocates, providers and organized labor at the legislative subcommittee hearings on the budget for Fiscal Year 2000/01. The legislature not only heard from the State, but also from PA representatives and counties.
  
21. Is it possible to receive more than the EDS information regarding the hours cap elimination? (Question 24)
  - A. There were additional provisions in AB 1682 other than the requirement to establish an employer of record for IHSS providers. One of those provisions changed WIC, Section 12303.4 eliminating the wage rate formula for determining maximum service hours for recipients served in either the contract or homemaker mode of service delivery. This formula was commonly called the "hours or dollar cap". ACL 99-91 provided information and instructions to the counties regarding the implementation of this provision of the bill. Prior to this ACL, in October 1999, the Department provided counties with a CMIPS generated list that identified the recipients who were entitled to additional service hours because of the change in statute.
  
22. What authority does the State have in enforcing cost neutrality regulations if a county opts to move to the contract mode? To what extent is the regulation valid? (Question 26)
  - A. During this year's budget hearing, cost neutrality was extensively discussed and has not changed. Current IHSS statute and regulations interpret cost neutrality to mean that counties that change from the Individual Provider mode to the contract mode during the Budget Year cannot obtain State sharing in any costs

that have not been included in the State Budget for that Budget Year. If the identified budgeted funding is not available to cover the added costs of the contract mode, a county would have to pay the difference with county funds. However, the Fiscal Year 2000/01 budget has modified this limitation. The budget appropriated \$14.675 million for a 40% expansion in the caseload for the contract mode. Any county may opt to establish the contract mode. Therefore, State funding will be available to enable counties to change to or expand the contract mode within the amount appropriated by the annual Budget Act.

23. What are the legal ramifications and financial liabilities to local government if a Public Authority (PA) or Joint Powers Agreement (JPA) administration is cross-jurisdictional? (Question 46)

A. The county financial liability has not changed. Under AB 1682, the employer of record whether, PA or JPA, is legally charged with collective bargaining for wages and benefits. The ultimate decision rests with the county Board of Supervisors to the extent that they approve and allocate funds required by the PA or JPA.

WIC Section 12301.6(f)(3) expresses legislative intent with regard to potential liability arising from the implementation of the section. This provision, among other things, is intended to make a PA or Non Profit Consortium solely responsible for the obligations the PA enters into in implementing the WIC Section 12301.6, regardless of whether the obligations are statutory, contractual or otherwise.

Counties are advised to consult with their legal counsel in regards to any legal ramifications.

24. Are there Title XIX plan amendment implications? (Question 50)

A. No State Plan amendment implications have been identified so far. The Department though, is continuing to research this possibility and will meet any requirements to assure continued Medicaid Title XIX participation.

25. What things need to be fixed in the bill for next year? (Question 55)

A. At the present time, the CDSS is not considering any changes to AB 1682. We would appreciate being notified if counties are contemplating proposing changes.

26. Are there changes or issues with respect to contract procurement that need to be examined to meet the employer of record provisions? (Question 63)

A. No, there have been no changes resulting from AB 1682.

27. To what extent does a county's Board of Supervisors have to take the recommendations of the advisory group and what recourse does the advisory group have if they are ignored? (Question 66)
- A. The advisory committee is advisory only and makes recommendations to the county Board of Supervisors. The board may act on the advisory committees' recommendations as they see fit.
28. Will the increase in program costs due to the implementation of AB 1682 "trigger" the "poison pill" language in AB 1682 as it relates to Title XIX funding?
- A. We do not anticipate that the "poison pill" would be "triggered" by implementing AB 1682. State General Fund expenditures for the IHSS program will not exceed the current level of federal financial participation, which is the criterion used for "triggering" the bill's language.
29. Federal Medicaid law requires that provider rates are to be set at a level sufficient for program recipients to access services. Therefore, the federal government will not approve rates that are either too low or too high for recipients to gain equal access to them. How does local collective bargaining relate to the federal approval of Medicaid rates?
- A. California has an approved Medicaid (Medi-Cal) State Plan amendment regarding the IHSS/PCSP program which describes in great detail California's policies and procedures for setting and approving Individual Provider wage rates, PA rates, and contract rates. The State Plan specifically governs the extent to which the federal government will share in the cost of this program. Collectively bargained wages and benefits will be subject to the existing limits of federal financial participation set forth in the State Plan as they are subject to statutory limitations on State financial participation.









## DEPARTMENT OF HEALTH SERVICES

714/744 P STREET  
P.O. BOX 947732  
SACRAMENTO, CA 95834-7732

116) 654-0391

August 29, 1995

Robert W. Naylor, Esq.  
Nielsen, Merksamer, Parrinello,  
Hueller, & Naylor  
770 L Street, Suite 800  
Sacramento, CA 95814

Dear Mr. Naylor:

## FEDERAL FUNDING ISSUES DURING TEMPORARY EXTENSION OF TULARE COUNTY CONTRACT

This is in response to your August 25, 1995 letter wherein you inquired as to the need for federal Medicaid waivers or whether there are federal funding issues presented should Tulare County extend its contract with National Homecare Systems for IHSS and personal care services.

It is the Department of Health Services' position that as long as the personal care program in Tulare County is operated in a manner involving both individual provider (IP) and contract modes of service (mixed mode county), both the IP and contract agency are paid on a fee-for-service basis, and the client has the option of retaining the IP or using the contract provider, then there is no need for federal waivers nor is there a potential loss of federal funding for personal care services. We believe this is true even during the temporary extension of the current amended contract between period Tulare County and National Homecare Systems needed to allow time for the county to complete a reprocurement. As you know, however, the issue of an extension is within the purview of the Department of Social Services.

Everyone should be clear, however, that any effort by the county to rebid the contract for personal care services must meet all federal procurement rules which require open and competitive bidding and permit arrangements with one or more contractors who meet the selection criteria specified in the invitation for bid.

Please let me know if I can be of further assistance.

Sincerely,

John Rodriguez  
Deputy Director  
Medical Care Services

cc: See next page



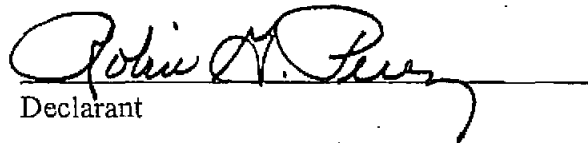
PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On September 9, 2002 I served The Response To Department Of Social Services And Department Of Finance, *In Home Supportive Services II*, Chapter 90, Statutes of 1999, Chapter 91, Statutes of 1999, and Chapter 445, Statutes of 2000, 00-TC-23 by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United State mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 9th day of September, 2002 at Sacramento, California.

  
Declarant

- Susan Geanacou, Senior Staff Attorney  
- Department of Finance  
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Sacramento, CA 95814

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Jim Spano  
State Controller's Office  
Division of Audits (B-8)  
300 Capitol Mall, Suite 518  
P. O. Box 942850  
Sacramento, CA 95814

Mr. Tom Lutzenberger  
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Department of Finance  
915 L Street, 6<sup>th</sup> Floor  
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Senior Staff Counsel  
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SB-90 Coordinator  
Riverside County  
Auditor-Controller  
4080 Lemon Street, 3rd Floor  
Riverside, CA 92501

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**DECLARATION OF JANICE L. LINDSAY IN  
SUPPORT OF THE COUNTY OF SAN BERNARDINO'S  
RESPONSE TO DEPARTMENT OF SOCIAL SERVICES  
AND DEPARTMENT OF FINANCE**

EXHIBIT E

*In Home Supportive Services II*

Chapter 90, Statutes of 1999, Chapter 91, Statutes of 1999, and  
Chapter 445, Statutes of 2000  
00-TC-23

RECEIVED

SEP 09 2002

COMMISSION ON  
STATE MANDATES

I, Janice L. Lindsay, state:

I have been employed by the County of San Bernardino for the past 12 years, and I am presently a Staff Analyst II for the County's Department of Aging and Adult Services (DAAS). In this position, I conduct research and analytical studies involving the operations and programs of the department, and make recommendations for development, implementation or improvement to programs or operations. Often, these recommendations result in new or revised policies, procedures, systems or programs. One of my primary assignments is to the IHSS program.

I further review present and pending legislation to determine its effect on departmental programs, and present recommendations to the Director. Additionally, I participate in various meetings and present requested and independently gathered data to assist DAAS management in making administrative and operational decisions.

I spent 8 years with the County's Job and Employment Services Department. My responsibilities included contract development and oversight for the department's federal Job Training Partnership Act program. These oversight responsibilities required me to conduct financial and program audits of various governmental agencies, private companies and non-profit organizations.

Prior to my employment with the County of San Bernardino, I was employed for 12 years by the Los Angeles County Office of Education as an instructional assistant and teacher. During this time, I worked with Severely Emotionally Disturbed students.

I am presently the Chair of the California Welfare Director's Association (CWDA) Long Term Care (LTC) Operations Committee. This Committee is composed of representatives from the adult social services departments in the state's 58 counties. The Committee's purpose is to identify operational issues and their impact on LTC programs, and to make recommendations as appropriate. The goal is to provide a statewide forum to leverage expertise on LTC programs and develop proactive strategies to affect positive change within the state. In my position as chair, I work closely with the Department of Social Services (DSS) staff to develop a cooperative working relationship between DSS, CWDA and the counties. I have an Associate of Arts degree in Behavioral Science, and I am presently working on my Bachelor of Science degree in Business and Applied Management at Azusa Pacific University.

In my employment at DAAS, from September of 1999 until February of 2002, my primary responsibility was working on implementing the requirements of AB 1682, the subject test claim legislation. I was lead staff on this project, and created a County AB 1682 workgroup, established the IHSS Advisory Committee, facilitated the Committee's meetings, researched and developed material for the Committee, and presented Committee recommendations to the Board of Supervisors. Upon the selection by the Board of the employer of record mode, and under their direction, I developed the ordinance, interagency agreement and budget to implement the public authority.

First of all, in September of 1999, it became necessary for me to understand the task which I had been assigned.

The then existing DAAS administration<sup>1</sup> explained to me that previously, the County of San Bernardino had been under the contract mode. We cancelled the contract at the request of the State of California, as the contracts had become so costly that the State said there had to be another way to provide services. Additionally, services were not being well provided. Only 76% of the authorized hours allotted to recipients were actually being provided. So, I was informed that the contract method had not been beneficial to either the recipients or the providers, and we had cancelled the contract at the request of the State.

The State apparently proposed that if San Bernardino, and other counties, dropped their contracts, they would provide additional funds to be an SIP county (Supported Individual Provider). It is my understanding that approximately 23 other counties also took advantage of this provision, and also cancelled their contracts as well.

I also understood that under the contract mode, if there was to be collective bargaining, the union would have to bargain with the contractor. Otherwise, under the Individual Provider (IP) mode, the employer was the recipient.

At the time that contracts were prevalent in the state, before the state pushed the termination of contracts, National was a large contractor in the state, and United Domestic Workers (UDW) had collective bargaining agreements with National. As a result of the termination of the contracts, I understand that UDW was upset when the contracts began to go away.

In order to plan for the implementation of AB 1682, a county workgroup was established. I was a member of that workgroup, together with a number of county employees from DAAS as well as other departments. To commence implementation, a binder was developed that contained the pertinent materials, including the legislation, state regulations, statistics pertaining to case load, time frames, options for the "employer of record", analyses of the law in this area, copies of board agenda items and notes from

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<sup>1</sup> These individuals have since retired from County service.

workgroup meetings, as well as a copy of the State Auditor's Report on the change in legislation as a result of AB 1682.<sup>2</sup>

In order to commence working with an Advisory Committee, all the relevant issues had to be researched and addressed. This involved not only the DAAS, but County Counsel, Risk Management, County Administrative Office, Building and Finance, Legislative Analyst as well as a statistician, and other departments as well. There are a number of issues relating to presenting to the Advisory Committee the ramifications of the options. These issues included, but were not limited to: insurance, collective bargaining, OSHA with regard to working conditions of the providers, contractual liability exposure, workers' compensation, wages and hours, quality of service to the recipients, cost of option, unemployment insurance, provider training, and human resources (hiring, firing of providers).

Many interdepartmental meetings were held in the County of San Bernardino in order to establish a plan as to how the Advisory Committee would address the options presented, and that plan was required to be sent to the State Department of Social Services by January 1, 2000, in order to meet the requirements of All County Letter No. 99-62, a true and correct copy of which is attached hereto as Exhibit 1. That letter required counties to submit a preliminary plan as to how the county was to comply with the provisions of the plan by January 1, 2000. Two further reports had to be submitted regarding the county's plan and progress, one being due on January 1, 2001, and another on January 1, 2002. By July 1, 2002, the county was required to inform the Department of Social Services its readiness to establish the employer of record by the January 1, 2003 deadline. By January 1, 2003, the county must certify that it is in compliance with the law.

In addition to interdepartmental meetings, meetings were held state-wide in order to ascertain whether all the issues had been identified, the experiences of other counties with public authority and contract modes, and to discuss how best to implement the new legislation. Additionally, the Department of Social Services provided some guidance by way of All County Letters on issues raised in the implementation.

While substantial information was being obtained regarding the issues concerning each option for "employer of record", the county started pursuing the establishment of an Advisory Committee.

SB 288 (Chapter 445, Statutes of 2000) set up the membership qualifications of members of the Advisory Committee to include:

- a. At least two members who are current or former providers, and
- b. No less than 50% of the membership must be past or current recipients.

SB 288 also permitted on the Advisory Committee:

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<sup>2</sup> A true and correct copy of the California State Auditor's Report, In Home Supportive Services: Since Recent Legislation Changes the Way Counties Will Administer the Program, The Department of Social Services Needs to Monitor Service Delivery, September 1999, is attached as Exhibit 4 to the test claim.

- a. Individuals who advocate for people with disabilities or seniors, and
- b. Individuals from community-based organizations that advocate on behalf of home care employees.

The county was prohibited from appointing more than one county employee as a member, but specifically authorized any county employee to provide ongoing advice and support.

With regard to the composition of San Bernardino's Advisory Committee, it must be remembered that the county has a diverse geographic location, from urban to distant desert communities. Because recipients in the outlying communities have had experienced difficulties in obtaining providers, it was deemed important that the recipients on the Advisory Committee come from different geographic locations.

After an implementation plan was created and approved by the Board of Supervisors, we held six public hearings throughout the county in order to explain AB 1682, and discuss the purpose of the Advisory Committee. We needed to talk to the community about the program, its purpose, and solicit applicants for the Advisory Committee. At those meetings, we distributed applications for the Advisory Committee.

We also ran a newspaper advertisement for a two week period to obtain Advisory Committee members. Because initially we had no response to our request for Advisory Committee members, we needed to have a statistician perform data runs, in order to make a special mailing to providers and recipients. We mailed 25,000 mailers. The statistician went through the data and configured mailing labels, to take out duplicates. It was necessary to do a couple of mailings.<sup>3</sup>

After the first round, we received 80 applications. Of those, we interviewed 43, and still did not have every supervisorial district<sup>4</sup> represented, nor did we have every category of member. Thus, it became incumbent to advertise in 12 different papers to have the most notice possible.

The Department of Social Services has allowed us to claim certain administrative costs for the Advisory Committee. The costs we have been allowed to claim the costs of transporting the Advisory Committee members to the meeting. If we don't transport the member himself or herself, we have paid their mileage. We have paid their telephone bills in connection with the Advisory Committee. We have paid for refreshments served at the meeting. Also, one Advisory Committee member has had a stroke and communicates better through the internet, so we have paid those costs.

The Department of Social Services has not paid for the time involved in producing the plan that it required for implementation of AB 1682. It has not paid the time for the secretary who devoted 100% of her time to this project. It did not pay for county staff involved with the implementation of AB 1682, or the creation of the

<sup>3</sup> The efforts were required pursuant to Welfare & Institutions Code, Section 12301.3(b).

<sup>4</sup> This was necessary in order to have the appropriate geographic mix of recipients and providers.

Advisory Committee. For example, in the initial stages, I devoted 100% of my time to the implementation of AB 1682; in the latter stages, my time was 50% devoted to the project. None of the costs associated with my work have been reimbursed.

In the past, and at the present, the County of San Bernardino only pays minimum wage; as that is all in which the state will participate. The county has approximately 10,500 providers.

In considering options, the allocation of DSS to San Bernardino is based upon the delivery of services at minimum wage, plus a factor for overhead. If San Bernardino wished to use the contract mode, it would have to cost less than the county's existing allocation. As shown in the Response filed contemporaneously herewith, all analyses of the contract mode demonstrates that it costs almost twice that of the individual provider mode. Thus, it is unlikely that the state would approve any request of San Bernardino to use the contract mode as it would cost more than the present allocation.

For the Department of Social Services to contend that there is no administration with regard to the contract, that is not true. First of all, in order to have a contract, you have to go through either the IFB or RFP process. It takes at least six months from the time that DSS approves your RFP, if that is the mode chosen, to complete the process. Whether an IFB or RFP is used, you have to allow a period of time for responses, and then with the RFP process, the interviewing of those who respond. Then, regardless of the mode selected, you still have an evaluation process. Then, the contract is entered into. With the RFP process, the contract must be negotiated.

After the contract is executed, you still have to resolve complaints, and monitor the contract for compliance. It is still necessary to do the assessments for recipients' eligibility and assessment for hours of service needed. The only thing a contract does is to provide care providers at an increased hourly cost.

The state has a formula for reimbursement of a Public Authority, which was the mode adopted by the Board of Supervisors<sup>5</sup>. Our administrative rate is 18¢ per hour of service. If we have a million hours of service per month (which is slightly less than what we are presently providing), our cap is \$180,000 per month; however, we can only invoice the state for actual costs. If it costs more to administer the Public Authority, the county is responsible for 100% of the costs. Additionally, the DSS pays by the quarter. If we use less than our allotment one quarter and more the next, we cannot net the two quarters. But, the county still has a share of costs in the reimbursement for the public authority, which is 22% of the administrative costs.

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<sup>5</sup> The Advisory Committee recommended a Public Authority. The contract mode was believed important for those clients who were incompetent to hire, fire or supervise employees (e.g., Alzheimer's sufferers). However, the Advisory Committee noted that the contract mode might be better for some individuals, and requested that the Public Authority be granted the authority to contract, if necessary.

There is a different allowance between non-public authority counties and public authority counties as to how much the state will share in the hourly wage.<sup>6</sup>

For non-public authority counties, the state will share in:

Effective 1/1/01 -- minimum wage (6.25) + 3% = \$6.57/hr.

Effective 7/1/01 -- minimum wage (6.25) + 5.31% = \$6.58/hr.

Effective 1/1/02 -- minimum wage (6.75) + 5.31% = \$7.11/hr.

For public authority counties, the state will share in:

Effective 7/1/00 -- \$7.50 + \$.60 = \$8.10

Effective 1/1/02 -- \$8.50 + \$.60 = \$9.10

Thus, there has been union support for the public authority mode.

All of this, and more, information was provided to the Public Authority, as it is charged by statute with the following responsibilities:

"The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services." (Welfare & Institutions Code, Section 12301.3(c).)

"Each advisory committee established pursuant to Section 12301.3 or 13201.6 shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees." (Welfare & Institutions Code, Section 12301.4(a).)

As the Advisory Committee was mandated by law to make a recommendation to the Board for the mode of service delivery and is charged with providing on-going advice and recommendations, it was deemed necessary that the Advisory Committee be provided with all of the issues and educated on the task before it. To that end, binders were prepared for each committee member. These binders had many sections.

The first section contained laws and regulations, which included AB 1682, SB 710 and SB 288. Additionally, DSS All County Letters 00-36, 00-68, 99-62 and 99-68 were included.

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<sup>6</sup> Anything above the state share in the minimum wage would be totally at the county's cost.

ACL 00-36 is attached hereto as Exhibit 2. This is the first All County Letter which attempted to respond to issues raised by counties in the implementation of AB 1682. This letter makes reference throughout to the fact that the issues involved need the assistance of the county's attorneys in interpretation and application. It again, notes that IHSS is an entitlement program up to 283 hours per month of service, depending upon the needs of the recipient.<sup>7</sup> Additionally, it should be noted that no reduction in service hours is allowed because of the implementation of AB 1682.<sup>8</sup>

ACL 00-68 is attached to the Response to Department of Social Services and Department of Finance as Exhibit 23. This document notes that AB 1682 has not changed the preexisting cost sharing ratio of 65% state and 35% county of the non-federal share of costs for provider wage and benefits, and 70% state and 30% of the non-federal share for administrative costs.

What is most interesting is the provision in the letter if a county should decide to proceed with the contract mode:

Counties that elect to use the contract mode should pursue the following process:

1. Make a written request to the Adult Programs Branch asking the Branch to calculate a MACR and to advise the county if funds have been included in the State budget to cover the cost of the county's anticipated contract(s). (Once calculated by the Department, the California Department of Finance must approve the MACR.) If sufficient budgeted funds are not available the county runs the risk of being required to absorb the costs of their IHSS contract(s) until additional funds are budgeted unless deficiency funding is approved. (See below for more details.)
2. Conduct a competitive bid process to award the IHSS contract(s).
3. Inform the Adult Programs Branch in writing to implement the rate into the Case Management, Information and Payrolling System (CMIPS),

The State's share in the costs of county IHSS contracts is available only within the constraints imposed by the State's annual Budget Act and Welfare and Institutions Code (WIC) section 12300 et seq. Counties that incur IHSS contract costs for which budgeted funds are not available

<sup>7</sup> *Id.* at page 4, question 6.

<sup>8</sup> *Id.* at page 4, question 7.

run the risk of not receiving full reimbursement if the costs in excess of budgeted funds were due to non-State mandated costs (i.e., costs within county control, or using more expensive modes of service delivery.) As noted above, the Fiscal Year 2000/01 State budget provides funding for the State share of counties increasing their contract rates up to 10% above their current MACR, and to expand the number of IHSS cases statewide under the contract mode by up to 40 percent.<sup>9</sup>

What is most interesting is the statement in the ACL that the advisory committee costs are reimbursed and no county share is required, when it has been clearly shown above that the actual reimbursement is far less than the total costs incurred.<sup>10</sup>

Also, attached hereto as Exhibit 3 is a copy of All County Letter No. 99-68, which addresses SB 710, Chapter 91, Statutes of 1999. This is the statute which both the Department of Social Services and Department of Finance wishes dismissed from the test claim. This ACL instructs counties on the state's additional participation in wage increases for providers employed by a Public Authority, and provides the steps counties must take to have the wage increases approved. Additionally, it gives cost claiming instructions.

In the beginning, the Advisory Committee met almost weekly, on Tuesdays from 9 a.m. until 11 a.m. The issues initially presented and discussed were the role, responsibility and focus of the Advisory Committee and its responsibilities; the IHSS program; issues pertaining to the Brown Act which is applicable to the Advisory Committee; different types of "employer of record"; and a variety of other issues, including members' expense reimbursement. For each possible type of mode, the benefits, detriments, issues and costs were explained. Binders were passed out to the committee members, and as new materials were presented, they were passed out to be included in the binder. Presenters from other locales gave information regarding different modes of service provision. The role of the county regardless of mode of service provider was also discussed. The rights of the recipient were stressed.

After a substantial number of meetings, the Advisory Committee made its recommendation on the mode of service delivery. Attached hereto as Exhibit 4 is a true and correct copy of the recommendation presented to the Board of Supervisors by the Advisory Committee.

The Board adopted the mode of Public Authority, with a stand alone board. An ordinance was prepared and approved by the Board. At this juncture, the County of San Bernardino is in the process of having the public authority get under way, so that the County can have its Public Authority fully operational on or before January 1, 2003, as required by state law.

<sup>9</sup> *Id.* at pages 3-4, question 6.

<sup>10</sup> *Id.* at pages 4-5, question 9.

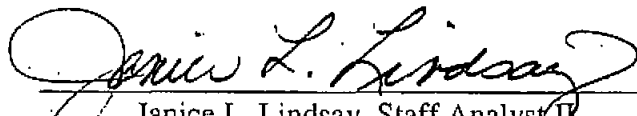


The Advisory Committee performed as required by the state mandate, however it required substantial staff time before the recommendation was ready to go before the Board of Supervisors. Additionally, the Committee remains in place to provide ongoing advice and recommendations to the County and the Public Authority regarding the administration and operation of the IHSS program.

Now that the Public Authority has been created, it must maintain a registry of providers, screen providers, train providers and recipients, recruit providers, and negotiate with providers. Also, there is a director of the Public Authority, as well as staff, who is responsible for locating and occupying facilities, as well as buying or leasing furniture and equipment.

As a result of the utilization of the Public Authority, there have been no cost savings to the County.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is executed this 6<sup>th</sup> day of September, 2002, at San Bernardino, California.



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Janice L. Lindsay, Staff Analyst  
Aging & Adult Services, County of San Bernardino

CONFIDENTIAL  
The following information is being furnished to you for your information only. It is not to be distributed outside your organization. It is not to be used for any purpose other than that for which it was furnished. It is not to be retransmitted to any other person or organization. It is not to be used in any way to the detriment of the Government or its interests. It is not to be used in any way to the detriment of the United States or its interests. It is not to be used in any way to the detriment of the United States or its interests.





**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street, Sacramento, California 95814



September 14, 1999

ALL-COUNTY LETTER NO: 99 - 62

TO: ALL COUNTY WELFARE DIRECTORS  
IHSS PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

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

**SUBJECT: ESTABLISHING EMPLOYER OF RECORD FOR IN-HOME SUPPORTIVE SERVICES (IHSS) PROVIDERS**

REFERENCE: AB 1682, ACL 98-20

This All-County Letter (ACL) provides instructions as required in one of this year's Budget Act implementation bills for social services (AB 1682, Chapter 90, Statutes of 1999). A provision of this bill adds Section 12302.25 to the Welfare and Institution Code (WIC) which states each county on or before January 1, 2003 shall act as an employer or establish an employer of record for providers under WIC 12302.2 for collective bargaining purposes.

Another provision of Section 12302.25, requires the State to develop a timetable for implementation of this requirement. In order to comply with this provision, this letter provides the timetable (Attachment 1) that counties are to use. It requires the counties to submit their first report on January 1, 2000 with additional reports due until the department receives final certification on January 1, 2003.

There is no required format for the first report. (A reporting format will be provided for the second report.) Please submit it to:

Department of Social Services  
Adult Programs Branch  
Operations and Technical Assistance  
744 P Street, MS. 19-96  
Sacramento, CA 95814

The language of this statute is complicated. Additional instructions will be issued as requirements for implementation are clarified. Questions regarding this letter can be directed to your Adult Programs Operations and Technical Assistance Analyst at 916) 229-4000.

Sincerely,

*Original Signed By:*  
*Donna L. Mandelstam*

DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Programs Division

Attachments

ATTACHMENT 1

TIMETABLE

The following table lists the county responsibilities and the required actions necessary for compliance:

STEPS/ ACTION	AREAS TO ADDRESS	DUE DATE
1. Preliminary Plan.	Describe the county's plan for complying with the provisions of the statute.	1/1/2000
2. Plan and Progress.	Report on the county's plan and progress. Counties may include: <ul style="list-style-type: none"> <li>◦ Advisory Committee</li> <li>◦ Recommendations</li> <li>◦ Structure</li> </ul>	1/1/2001 1/1/2002
3. Actions and Decisions.	Describe county readiness for establishing employer of record by 1/1/2003 deadline.	7/1/2002
4. Certification.	Certify county is in compliance with the law.	1/1/2003

CONFIDENTIAL - SECURITY INFORMATION

CONFIDENTIAL - SECURITY INFORMATION

CONFIDENTIAL - SECURITY INFORMATION







## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 19, 2000

ALL-COUNTY LETTER NO. 00-36

TO: ALL COUNTY WELFARE DIRECTORS  
ALL IHSS PROGRAM MANAGERS

## REASON FOR THIS TRANSMITTAL

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

## SUBJECT: IMPLEMENTATION OF ASSEMBLY BILL (AB) 1682

This All-County Letter (ACL) provides information regarding the implementation of AB 1682 (Chapter 90, Statutes of 1999). A provision of this bill added Section 12302.25 to the Welfare and Institutions Code (WIC) which states that each county, on or before January 1, 2003, must act as an employer of record or establish an employer of record for In-Home Supportive Services (IHSS) Program providers for specific legal purposes.

Specifically, this ACL answers questions from an October 7, 1999, meeting where approximately 70 questions and issues were raised. We are answering an initial set of the questions in this letter. State staff is preparing answers to the remaining outstanding questions. When those answers are available, we will provide them in a separate ACL.

The answers provided merely represent the Department's initial reading of the statute. They do not represent the Department's official position with respect to the issues raised. To the extent implementation of the statute will require the Department to officially interpret or make specific its provisions the regulatory process will be invoked.

Counties will recall that AB 1682 requires each county to create an Advisory Committee whose initial responsibilities include providing recommendations to the county's Board of Supervisors on the mode(s) of IHSS delivery the Board should adopt to comply with AB 1682. The Governor has included new funding in the May budget revision for the costs of AB 1682 advisory committees expected to be incurred by counties in the 2000-01 fiscal year.

Given that the role of the Advisory Committee is to furnish advice for consideration by the Board before it makes a decision regarding AB 1682, it follows that the Advisory Committee must be created before a county begins deliberations on the mode(s) of service delivery to select.

The Advisory Committee that is required under AB 1682 is distinct from the governing board required under the Public Authority mode. However, a county may elect to use its Public Authority governing board for the purposes of AB 1682 as long as the functions of the governing board for the purposes of AB 1682 meet the requirements of the bill.

If you have questions or concerns, you may contact Alan Stelmack, Chief, Adult Programs Branch at (916) 229-4583.

Sincerely,

*Original Document Signed By  
Donna L. Mandelstam on 5/19/00*

DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Programs Division

Attachment

## AB 1682: QUESTIONS AND ANSWERS

1. **Question:** What is meant by "county administration of the Individual Provider mode?"

**Answer:** We interpret "County administration of the Individual Provider mode" to mean that a county can directly serve as the employer of record or perhaps use a bargaining agent to represent the county in fulfilling the county's obligations under AB 1682 in the Individual Provider mode. This is distinct from the county employing county staff to provide IHSS program services under the Homemaker mode. The ability to use a bargaining agent as described above should not be presumed. The County's labor relations counsel should be consulted on this issue.

2. **Question:** Does Welfare & Institutions Code (WIC), Section 12302.25 only refer to current Individual Providers?

**Answer:** Based upon the plain language of the statute, WIC, Section 12302.25 applies to both current and future Individual Providers.

3. **Question:** Does this statute really eliminate the Individual Provider mode?

**Answer:** No. The statute does not expressly or by implication eliminate the Individual Provider mode.

4. **Question:** Is this "Individual Provider option" the old Individual Provider mode, a Public Authority, or what?

**Answer:** The "Individual Provider option" means that a county with over 500 cases will have to establish an employer of record for providers who may continue to work as Individual Providers. The employer of record may be established by using a Public Authority, Non Profit Consortium or directly administering the Individual Provider mode (see above) of service delivery even if only in a limited way. A county with over 500 cases would not be able to exclusively contract with private agencies or use only the Homemaker mode for all of their cases if a recipient requests the Individual Provider employer option.

5. **Question:** Does this statute call for training and background checks for IHSS providers? Are the costs the responsibility of the county, state, or employer of record?

**Answer:** AB 1682 does not "require" training or background checks for providers. However, WIC, Section 12301.6 which governs Public Authorities, requires a Public Authority to offer provider training, investigate provider

qualifications, establish a referral system, and establish a provider registry. These costs are funded through the hourly rate paid to the Public Authority.

6. **Question:** Does this bill make IHSS/PCSP an entitlement?

**Answer:** AB 1682 did not change the current funding arrangements or eligibility requirements for either the PCSP or IHSS programs. As a covered Medi-Cal benefit, PCSP is an entitlement up to the 283 hours per month cap on services based on the assessed need for services.

7. **Question:** Will the implementation of AB 1682 and its associated costs result in a decrease in authorized hours?

**Answer:** No. WIC, Section 12302.25(f), specifically requires that no county, Public Authority, Non Profit Consortium, contractor, or combination will (as the result of the implementation of AB 1682) reduce the amount of hours, determined to be necessary for a program recipient, based on individual need.

8. **Question:** Does this bill create an entitlement or an unfunded mandate?

**Answer:** AB 1682 provides that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions. In the case of both the Public Authority and contract modes, administrative costs of the Public Authority or contractor are funded in the approved hourly Public Authority or contract rate. (See also Question 6)

9. **Question:** What are the implications for the Case Management, Information and Payrolling System (CMIPS) changes for tracking training and other costs?

**Answer:** We are not contemplating any immediate changes to the CMIPS as a result of AB 1682 and no funds have been allocated for this purpose. At this time it is likely that substantive changes to CMIPS will occur as the result of the re-procurement of the CMIPS contract; however, we are open to ongoing discussions with the counties on CMIPS requirements under AB 1682.

10. **Question:** If a county has more than 500 cases, can a county interpret that before the passage of AB 1682 counties met the statutory requirement of AB 1682?

**Answer:** No, unless a county had an employer of record as defined by AB 1682 for their Individual Providers prior to the passage of AB 1682. Only a county with a Public Authority or Non Profit Consortium could be deemed to have met the requirements of AB 1682 prior to its enactment. Additionally, if a county with more than 500 cases had contracted exclusively with a private agency, or

AB 1682 QUESTIONS AND ANSWERS

delivered all IHSS services through the Homemaker mode, the county would have been in compliance with AB 1682 unless a recipient requested the Individual Provider mode. Counties should construe a request from a recipient to use a provider who is not an employee of either a contractor or the county as a "request for the Individual Provider mode."

11. **Question:** How does AB 1682 define "mixed mode"? In mixed modes, are there two employers of record?

**Answer:** A mixed mode is defined as having a mix of the employer of record options. And yes, a county can have more than one option and more than one employer for providers. San Francisco County is an example. San Francisco County has both a Public Authority and a contract mode of service delivery.

12. **Question:** What do the terms "employer of record" and "for the purpose of collective bargaining" really mean?

**Answer:** The term "employer of record" is used to designate the employer in a formal employer/employee relationship and is the designated entity that interacts with the provider workforce in the manner referenced in WIC Section 12302.25.

AB 1682 requires each county to act as, or establish, an employer of record for IHSS providers for the purposes of provisions of statutory law regarding employer/employee relations. The employer/employee relations of public agencies, such as Public Authorities, are governed by the Meyers, Millias, Brown Act. The employer/employee relations of private entities, such as IHSS contractors, are governed by other labor relations laws including the National Labor Relations Act.

13. **Question:** Is there a conflict between the recipient's right to direct the provider and the provider's right to negotiate with the employer of record?

**Answer:** Notwithstanding the provisions of AB 1682 every recipient will continue to have the right to direct their provider of services. We do not believe it was the intent of the Legislature to change the current relationship between a recipient and his or her provider.

14. **Question:** Are there still some employer functions the recipient retains?

**Answer:** AB 1682 does not change a recipient's right to choose the individuals who provide their care and recruit, select, train, reject, or change any provider under the contract mode, or hire, fire, train, and supervise any provider under any other mode of service.

15. **Question:** Will the county be able to create an employer of record and then not negotiate anything?

**Answer:** The reference in AB 1682 to the Government Code Chapter which commences with Section 3500, expresses the Legislature's intent that the employer of record operate in the manner provided in that Chapter. This Chapter is intended to promote full communication between public employers and their employees, by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations.

Counties should consult with their legal counsel regarding their obligations to meet, confer and bargain with IHSS providers and their representatives under the cited code and under the laws governing private sector employers.

16. **Question:** Can a county establish a contractor to become an employer of record without doing a "contract mode"?

**Answer:** See Question 1. The county can act as an employer of record or may be able to contract with a bargaining agent to represent the county in fulfilling the requirements of AB 1682 and Government Code 3500. It is not clear, however, that this is an option. Counties will need to consult their labor relations counsel. This would be different from contracting with a private agency to provide IHSS services.

17. **Question:** How does the legislation impact the recipient's right to choose a particular mode?

**Answer:** Freedom of choice means that an IHSS recipient may choose among "available" modes and participating providers in their county. AB1682 does not change this. However, although recipients in the residual program previously had no right to force a county to operate an Individual Provider mode, it appears now that counties with 500 or more recipients may be required to offer an Individual Provider upon request.

18. **Question:** Where do the rights of recipients come in when there are different service delivery systems and access across state, different wage rates, etc? Does this raise an equal access or equal protection issue? How does local collective bargaining relate to federally approved Medicaid rate?

**Answer:** PCSP recipients have the right to choose among the IHSS modes and providers available in their area. IHSS residual program recipients are afforded the same opportunity. We do not believe there is an equal access or equal protection issue raised by AB 1682 as long as PCSP recipients continue to be allowed to have their provider of choice. Varying wages currently exist from county to county depending on the mode(s) of operation in the counties;



however, the wage "floor" at the minimum wage is consistent throughout the program.

19. **Question:** Could a county select one option of employer of record and later change to another?

**Answer:** Yes, this legislation still provides the counties with flexibility in the establishment of an employer of record and allows counties to change to a different employer of record at another time.

20. **Question:** How will we evaluate effects of AB 1682 in 3, 5, 10 years down the road?

**Answer:** Although the bill does not require a formal evaluation, the Department will be held accountable along with the counties to ensure that IHSS services are available and provided when needed in a cost-effective manner. The Department and counties will also be held accountable for the delivery of services of a reasonable quality to accomplish program goals. We expect to review on an ongoing basis the effects of AB 1682 on the availability of IHSS providers, the stability of the IHSS workforce, the quality of the services provided and program costs.

21. **Question:** How will we evaluate effectiveness of mode of options and impact on clients to give the County Board of Supervisors more information to make decisions?

**Answer:** WIC, Section 12301.3, provides for an advisory committee that the County Board of Supervisors will utilize prior to implementing an employer of record. Presently, there are counties operating Public Authorities, contracts, Individual Provider, and mixed modes of service delivery that could give valuable insight into an employer of record option. We suggest that counties consult with one another as they consider their options under AB 1682.

22. **Question:** How do we educate or brief the Boards of Supervisors?

**Answer.** See question 22.

23. **Question:** What does it mean that a county can establish regional agreements?

**Answer:** This means that a group of counties may agree to organize and collectively meet the requirements of AB 1682.

24. **Question:** If a client asks for a mode the county does not offer, is the county obligated to establish that mode?

**Answer:** No – with one exception. (See Question 4.) In a county that has an IHSS caseload greater than 500, the county is required to provide the Individual Provider employer option if requested by the recipient.

25. **Question:** Can you segment a population or run multiple methods to address particular parts of the population?

**Answer:** Yes. Whatever the manner in which a county decides to deliver IHSS services, the recipient retains the right to choose his or her provider.

26. **Question:** How does AB 1682 address issues of integrated Long-Term Care (LTC) and vice versa?

**Answer:** AB 1682 does not address or provide guidance as to its applicability under LTC integration. Specific questions regarding AB 1682 as it relates to LTC integration would require specific analysis.

27. **Question:** AB 1682 refers to Non Profit Consortium. Could a Non Profit Consortium be a Joint Powers Agreement (JPA)?

**Answer:** The Non Profit Consortium referred to is "as authorized under Section 12301.6."

A Non Profit Consortium, as defined in WIC, Section 12301.6, must provide for, but is not limited to, all of the following functions:

1. Assisting recipients to find IHSS personnel through the establishment of a registry.
2. Investigating the qualifications and background of potential personnel.
3. Establishing a referral system under which IHSS personnel are referred to recipients.
4. Providing for training for providers and recipients.
5. Performing any other functions related to the delivery of IHSS.
6. Ensuring that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met.

Counties should work with their legal counsels to make sure that a JPA will allow the involved counties to organize in a manner that meets the requirements for a Non Profit Consortium.

28. **Question:** WIC, Section 12301.6(f)(3) states that the counties and the state are immune from liability. What does this mean in practice and is it legally appropriate language? Has it been tested and what protection does it provide?

**Answer:** The subdivision expresses legislative intent with regard to potential liability arising from implementation of the section. This provision, among other things, is intended to make a Public Authority or Non Profit Consortium solely responsible for the obligations the Public Authority enters into in implementing the WIC, 12301.6 regardless of whether the obligations are statutory, contractual or otherwise.

29. **Question:** Is there a potential to do a "no strike" policy statewide?

**Answer:** A "no strike" agreement is within the realm of collective bargaining. Counties should consult with their legal counsel on this issue.

30. **Question:** If a county has established a Public Authority, what law says that it is in compliance? Is it as simple as it reads or is it more complex?

**Answer:** If a county has a Public Authority, they have met the statutory requirements in that WIC, Section 12301.6, provides that a Public Authority is deemed the employer for purposes of Chapter 10. Compliance with AB 1682 also requires creation of an Advisory Committee. A county with a Public Authority advisory committee would meet this requirement if the committee's role were to be expanded to meet AB 1682 requirements. Counties should note that AB 1682 requires each county to create an Advisory Committee whose initial responsibilities include providing recommendations to the county's Board of Supervisors on the mode(s) of IHSS delivery the Board should adopt to comply with AB 1682.

Given that the role of the Advisory Committee is to furnish advice for consideration by the Board before it makes a decision regarding AB 1682, it follows that the Advisory Committee must be created before a county begins deliberations on the mode(s) of service delivery to select.

The Advisory Committee required under AB 1682 is distinct from the governing board that is required under the Public Authority mode. However, a county may elect to use its Public Authority governing board for the purposes of AB 1682 as long as the functions of the governing board for the purposes of AB 1682 meet the requirements of the bill.

31. **Question:** How does this legislation impact counties with fewer than 500 cases?

**Answer:** Counties with fewer than 500 cases must meet all of the requirements of AB 1682 except they do not have to offer the Individual Provider employer option if requested by a recipient. Nevertheless, if the employer of record in a county with fewer than 500 cases is a contractor, or the county opts for the homemaker mode, under Medi-Cal freedom of choice requirements the

county must make arrangements for Medi-Cal recipients to retain their individual providers under the county's mode of choice.

32. **Question:** Can a county accelerate implementation of the bill?

**Answer:** Yes, counties have the discretion to fully implement the bill prior to January 1, 2003, subject to cost neutrality. (Please see the next item for further discussion of "cost neutrality".)

33. **Question:** Does cost neutrality prohibit a county from moving to a more expensive mode of service or expanding an existing mode of service?

**Answer:** No. The legal requirements of cost neutrality do not prohibit counties from changing modes of IHSS services or increasing costs within a mode. The law does create a framework within which a county may propose to change to a higher cost mode subject to approval by the Department and the Department of Finance, and inclusion in the budget process. The State has the discretion to either grant or deny an increase in costs in the current fiscal year as well as the subsequent budget year. Under the legal requirement for an IHSS county plan, a county can submit an amendment to the county plan requesting a change in the mode of service delivery.

The key consideration for cost neutrality is for the county to make sure that money has been budgeted and is available to fund the county's IHSS mode expansion or change when the county intends to begin its new service mode. We expect to issue guidance to counties on the timing of the budget process as it relates to county planning for compliance with AB 1682.

We are currently reviewing this issue to determine if any changes should be made to current regulations.





**DEPARTMENT OF SOCIAL SERVICES**

744-P Street, Sacramento, California 95814



September 21, 1999

ALL-COUNTY LETTER NO. 99-68

TO: ALL COUNTY WELFARE DIRECTORS  
 COUNTY IHSS PROGRAM MANAGERS  
 COUNTY FISCAL OFFICERS

**REASON FOR THIS TRANSMITTAL**

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

**SUBJECT: SENATE BILL (SB) 710 REQUIREMENTS AFFECTING THE IN-HOME  
 SUPPORTIVE SERVICES PROGRAM (IHSS) AND COUNTY WELFARE  
 DEPARTMENT AGENCIES OPERATING A PUBLIC AUTHORITY (PA)**

**REFERENCES: ACL 98-20**

The purpose of this All-County Letter (ACL) is to provide counties with information on a state law change regarding financial participation in wages for IHSS Public Authority counties. SB 710 (Chapter 91, Statutes of 1999), a budget trailer bill approved on July 12, 1999, allows the state to participate in the cost of wages for IHSS Individual Providers (IP) above minimum wage. This letter will inform counties how this change will be implemented.

**Background**

Prior to the passage of SB 710 counties were required to use county-only funds to cover the nonfederal share of any increase in provider wages or benefits negotiated or agreed to by a PA. Counties also were required to use county-only funds to cover the nonfederal share of the associated employment taxes. Federal financial participation in the PA rate cannot exceed 200% of the statewide minimum wage.

The Case Management, Information and Payrolling System (CMIPS) will be used to do IP payroll and to track wages unless a PA opts to perform this function. Counties are responsible for developing their own systems to pay and track IP benefits gained as part of collective bargaining by a PA.

## Enhanced State Participation

SB 710 made the following changes:

- Requires the state to pay 80% of the nonfederal share of a PA negotiated IP wage increase up to \$0.50 above the statewide minimum wage (Welfare and Institutions Code Section 12306.1).
- Requires the county to pay 20% of the nonfederal share of a PA negotiated IP wage increase up to \$0.50 above the statewide minimum wage.
- The State participation in the increase is only effective for the 1999/00 fiscal year.
- The 80% state participation is only for IP wages (benefits and employer taxes are not included).

The cost sharing for wages up to the statewide minimum wage and PA administrative costs will remain at 65% State and 35% County of the nonfederal costs. Federal financial participation will continue to be available up to 200% of the statewide minimum wage.

Counties with an approved PA hourly wage rate above the statewide minimum wage as of July 1, 1999 do not need to submit a new PA rate request. Those counties will automatically receive state participation for the PA hourly rate up to \$0.50 above the statewide minimum wage beginning July 1, 1999. Any county without an approved PA rate as of July 1, 1999 must establish a PA rate as outlined in ACL 98-20. For these counties, the enhanced funding provisions of SB 710 will begin after the approved rate is programmed in CMIPS after July 1, 1999. Retroactive rates will not be permitted.

For wages above the \$0.50 increase, counties must continue to use county-only funds to cover the nonfederal share of costs.

## PA Rate Approval Process

Counties will continue to be responsible for establishing a total PA rate that includes IP wages, benefits, taxes, and PA administrative cost. The PA rate must be submitted on the rate setting form and sent to the California Department of Social Services (CDSS) Adult Programs Branch. The Adult Programs Branch will review and forward each county's PA rate request to the Department of Health Services (DHS) for final approval. The rate approval procedure is a 60-day process. There are no retroactive reimbursements for PA rate approvals or costs.

The 60-day rate approval process allows Electronic Data Systems (EDS) sufficient time to schedule technical and business analyst resources, review county requirements, test the rate change, implement the rate change, and produce any turnaround documents that are required. For any rate change request requiring an implementation date less than the 60-day processing time, the following must be met:



- There are no significant problems and priorities arising out of the implementation of CMIPS 2000. As you can understand, correction of payrolling issues related to CMIPS 2000 would take top priority.
- The rate change package must be complete and contain all the required materials.
- The rate change package must be approved by the DHS.
- The rate must be received and approved two weeks prior to the advance pay cycle run for the next month. As an example, the October payroll cycle will run September 27, 1999. Therefore the rate would have to be received and approved prior to September 13, 1999.
- The extension of future month segments (segments that end before the effective date of the rate change and an assessment has not been performed) will have to be reviewed for processing. EDS could extend for one month, those cases with a segment ending on the end of the month prior to the rate change. The extension does not release counties from meeting the requirement to perform timely reassessments. Cases with assessments overdue beyond thirty (30) days will need to be worked manually.

### Monthly Invoices

The Adult Programs Branch will calculate the wages paid plus the increase up to \$0.50 on a monthly basis. A Provider Payment report will be submitted to the CDSS Fund Accounting and Reporting Bureau who will invoice counties to obtain reimbursement for the amounts paid above the state's obligation less the federal share.

### PA Administration and Benefits Cost Claiming

Counties must submit an invoice, form SOC 448, on a quarterly basis to claim the costs and receive Federal Financial Participation for PA administrative costs and any negotiated IP benefits. Please refer to ACL 98-20 for a copy of the form, attachments, and instructions. The SOC 448 must be submitted to CDSS Adult Programs Branch within 30 days after the end of each quarter. Please be sure to include all supporting documentation used to develop the expenditure amounts invoiced.

Any questions regarding this ACL should be directed to Mike Ellison, Chief, Adult Programs Fiscal and Administrative Bureau, at (916) 229-4591. Any questions pertaining to funding, rate setting, or claiming and reimbursement please contact your Adult Programs Operations Analyst at (916) 229-4000.

Sincerely,

*Original Signed By  
Donna L. Mandelstam on September 21, 1999*

DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Programs Division

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# IN-HOME SUPPORTIVE SERVICES ADVISORY COMMITTEE

## EMPLOYER OF RECORD RECOMMENDATION

### I. Background

#### Legislation

In July 1999, the Governor signed into law Assembly Bill 1682 and Senate Bill 710. This legislation mandated that on or before January 1, 2003, each county must designate an employer of record for providers of In-Home Supportive Services (IHSS) for the purpose of collective bargaining. This legislation also mandated that each county establish an IHSS advisory committee of not more than 11 individuals, at least 50% of whom must be current or past consumers of in-home personal assistance services. Senate Bill 288 (chaptered July, 2000) further defined the composition of the advisory committee by mandating that two of the advisory committee members must be past or present IHSS care providers.

#### Advisory Committee

On October 31<sup>st</sup>, 2000, the Board of Supervisors adopted Resolution No. 2000-244 establishing the San Bernardino County IHSS Advisory Committee. This Committee has three major tasks:

1. To study and then recommend to the Board of Supervisors an employer of record mode for IHSS providers.
2. To provide guidance in establishing the employer of record mode selected by the Supervisors.
3. To provide advice and recommendations in implementing the policies and procedures for the operation of the designated employer of record.

#### Key Issue

The challenge for the Board of Supervisors, the Department of Aging and Adult Services, and the IHSS Advisory Committee is to develop an employer of record that protects the interests of the IHSS consumers, provides equity for the IHSS service providers and performs its responsibilities in a fiscally responsible manner. The following recommendation is made keeping that balance in mind.

## II. Recommendations

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**County Authority**

By law, the County Board of Supervisors retains full responsibility for, and authority over, the approval and authorization of expenditures related to the In-Home Supportive Services (IHSS) program. No contracts can be entered into and no increases in wages and benefits resulting from collective bargaining can be authorized without prior approval from the Board of Supervisors.

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**Employer of Record**

After careful consideration, the IHSS Advisory Committee recommends to the Board of Supervisors that the County of San Bernardino designate a **Public Authority** as the employer of record mode for IHSS care providers.

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**Governing Board**

The Advisory Committee recommends that the County Board of Supervisors appoint a stand-alone governing board for the Public Authority. By law, at least 50% of the members appointed by the Supervisors must be current or past recipients of personal assistance services.

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**Future Consideration**

The Advisory Committee recommends that in order to address the potential of unmet needs in the IHSS program, the Public Authority be given the capacity to contract for services upon recommendation from its governing board.

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**Functions**

The Advisory Committee has provided further detailed descriptions of the functions of the Public Authority under Section V of this report.

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### III. Rationale

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**Employer of Record Options**

Five choices exist for consideration by the IHSS Advisory Committee in the selection of an employer of record for In-Home Supportive Services (IHSS) care providers: Public Authority, Non-Profit Consortium, Homemaker Mode (county as employer), Contractor and Mixed Mode.

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**Mandate**

State law mandates that any county with 500 or more IHSS cases must maintain an individual provider mode. The only two options that meet this requirement are the Public Authority and Non-Profit Consortium. Either one of these can be used exclusively as the employer of record or in conjunction with another option under Mixed Mode.

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**Public Authority**

After careful review, the IHSS Advisory Committee selected the Public Authority mode for recommendation to the Board of Supervisors. The following facts support this decision:

- There are eight Public Authorities currently in place that can provide the County with operational models.
  - Fiscal analysis showed that this option had the least impact upon local funding.
  - Individuals who attended the public hearings largely spoke in support of the Public Authority option.
  - Meets the individual provider mandate.
- 

**Non-Profit Consortium**

Since no IHSS Non-Profit Consortium exists in San Bernardino County or any other county and there is no statutory definition of a Non-Profit Consortium, this option was eliminated by the Committee. Therefore, the Committee selected a Public Authority for individual providers.

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**County Homemaker**

The Homemaker mode would require San Bernardino County to hire an additional three to five thousand employees to provide IHSS. As is shown in the Fiscal Section of this report, this mode would be exorbitantly expensive without providing additional benefits or advantages to IHSS consumers. This, plus the fact that the County would still need to establish a Public Authority in order to maintain the individual provider mode, lead the Advisory Committee to eliminate the Homemaker mode.

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## Rationale, Continued

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### IHSS Contractor

Because the County is mandated to maintain the individual provider mode, having an IHSS Contractor as the exclusive employer of record was not an option the Committee could consider. The potential of utilizing an IHSS contractor in the future is addressed under Mixed Mode.

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### Mixed Mode

The Advisory Committee believes that a Public Authority may sufficiently meet the needs of consumers and providers in San Bernardino County. However, they also feel that because of the unique attributes of this county some consumer needs might best be served through a contract. The Committee recommends to first establish a Public Authority. If unmet program needs are later identified, or if more flexibility is needed, a contract could then be considered.

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### Public Authority Governing Board

To establish a Public Authority, some determination must be made regarding the composition of its governing board. This board would be responsible for providing guidance and direction for the operation of the Public Authority and overseeing the activities of its Executive Director.

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### Choices for Board

Essentially two choices exist under state law for the establishment of a governing board:

1. The County Board of Supervisors.
  2. A free standing governing board whose membership shall be specified by the enabling ordinance.
- 

### Selected Choice

The IHSS Advisory Committee recommends the establishment of a free standing governing board. By law, no fewer than 50% must be past or current recipients of personal assistance services. In addition to the consumers of personal assistance services, it is recommended that the governing board have a member of the Board of Supervisors or its staff as part of its membership, along with various other professionals with expertise in organizational operations and fiscal issues. This composition would help insure balance between the needs of consumers, the needs of service providers and the interests of the County.

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## IV. Fiscal Analysis

### Method

Comparisons of ongoing annual costs associated with three of the employer of record options (Public Authority, Homemaker and Mixed Mode) were developed by Staff Analysts from Human Services System. An analysis of In-Home Supportive Services (IHSS) Contractor as an exclusive mode for employer of record was not made due to the IHSS 500 case mandate. An analysis of Non-Profit Consortium was not made since the IHSS Advisory Committee eliminated that option as a viable consideration.

### Conclusion

Upon review and consideration of the cost analysis developed by the Analysts, the IHSS Advisory Committee concluded that the Public Authority mode for employer of record had the least impact upon local funding.

### Analysis

This chart shows a summary of the comparative estimated costs that were presented to and considered by the IHSS Advisory Committee.

		Homemaker	Mixed-mode	Public Authority
A	Admin. Costs	\$11,615,029	\$22,184,276	\$11,678,692
B	County Share	\$1,742,254.35	\$3,327,641.40	\$1,751,803.80
C	Provider Wages	\$121,229,636	\$71,696,221	\$67,523,625
D	County Share of Provider Wages	\$35,316,248	\$15,471,728	\$14,593,543
E	Total Co. Share (Rows B + D)	\$37,058,502	\$18,799,369	\$16,345,347
F	Less Current County Share	-\$15,512,499	-\$15,512,499	-\$15,512,499
G	Increase to County Share	\$21,546,003	\$3,286,870	\$832,848

#### Notes:

1. Startup costs are not included
2. Costs are based on current IHSS caseload
3. The Public Authority cost reflects the increase in minimum wage effective 1/1/02. The increase in County share associated directly with operating a Public Authority is estimated not to exceed \$350,000/year.

Continued on next page

## IV. Fiscal Analysis, Continued

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**Assumptions** In order to develop the comparative cost analysis, certain assumptions were made by the Analysts regarding each mode. These assumptions are as follows:

**County Homemaker mode:**

- Provider identified as County-classified "Nursing Attendant" (Grade 20 - \$8.69/hr)
- 90% of 5500 providers receive benefit package of 37%
- Costs do not include provider supervisors
- Provider wages and County share of costs based on 5500 providers at 70 hrs/pay period

**Mixed Mode (Public Authority + Contractor):**

- 82% of caseload provided by Public Authority with wages at \$6.75/hr
- 18% of caseload provided by contractors at \$7.81/hr (avg. of 12 counties with existing IHSS contracts)
- Administrative rate at \$6.00/hr (avg. of 12 counties with existing IHSS contracts)

**Public Authority mode:**

- Provider wages at \$6.75/hr
  - No benefits
  - Provider wages and the Public Authority share of costs based on 8550 providers at 45 hrs/pay period
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## V. Functions of a Public Authority

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**Mandate:** Section 12301.6 of the Welfare and Institutions Code mandates six specific functions that a Public Authority for In-Home Supportive Services (IHSS) must provide.

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**Functions**

The six mandated functions are:

1. The provision of assistance to recipients in finding IHSS personnel through the establishment of a registry.
  2. Investigation of the qualifications and background of potential IHSS personnel.
  3. Establishment of a referral system under which IHSS personnel shall be referred to recipients.
  4. Provide training for IHSS providers and recipients.
  5. Performing other authorized functions related to the delivery of IHSS.
  6. Ensuring that the requirements of the personal care option pursuant to Subchapter 7 of Title 42 of the United States Code are met.
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**Requisite**

A description of how the functional requirements will be met must be submitted to the California Department of Social Services as part of the Public Authority authorization process.

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## VI. Establishing a Public Authority

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### Regulation

All County Letter No. 98-20 from the California Department of Social Services (CDSS) outlines county activities, public authority activities and State activities for counties opting to use a Public Authority to provide for the delivery of In-Home Supportive Services (IHSS).

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### Ordinance Approval

It is anticipated that the required Public Authority ordinance will be drafted, sent through the necessary legal review, and presented to the Board of Supervisors no later than December 31, 2001. This timeline will allow for the completion of the tasks required to fund and put the Public Authority into operation on or before the State-mandated deadline.

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### Funding

In order to receive state and federal funding for operating an IHSS Public Authority, approval of a County Public Authority Rate is required from the California Department of Health Services. To obtain that approval, certain documents must be completed and presented to the California Department of Social Services for their endorsement. These are:

- Interagency agreement between the Public Authority and the County
  - Funding provisions for the Public Authority cost including how the proposed rate was developed
  - Public Authority organization chart
  - Staffing classifications and duties
  - Description of how the mandated functions will be met
  - Board Resolution approving the Public Authority rate
- 

### Start Up

To place a Public Authority in operation, certain tasks must be accomplished. The following is an initial listing of these tasks:

- Develop roles and responsibilities of the Public Authority in conjunction with other entities (governing board, Human Service System, Department of Aging and Adult Services, labor relations, County Counsel, etc.).
- Create specific duties, responsibilities and reporting hierarchy for the Public Authority staff.
- Establish salaries and benefits for paid Public Authority staff and recruitment strategies.

*Continued on next page*

## VI. Establishing a Public Authority, Continued

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### Start Up, cont.

- Develop an Employee/Employer labor relations policy, which may necessitate a separate ordinance.
  - Establish governing board composition and responsibilities.
  - Recruit and appoint governing board members
  - Design IHSS provider registry and protocols.
  - Develop training plan for IHSS consumers and providers.
  - Define IHSS provider oversight activities to be performed by Public Authority staff.
  - Establish criteria for IHSS recipients to receive emergency services.
  - Identify space and define infrastructure for the Public Authority.
  - Develop the final budget for the Public Authority.
  - Determine additional policies/procedures required.
-

PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On September 9, 2002 I served Declaration of Janice L. Lindsay in Support of the County of San Bernardino's Response to Department of Social Services and Department of Finance, *In Home Supportive Services II*, Chapter 90, Statutes of 1999, Chapter 91, Statutes of 1999, and Chapter 445, Statutes of 2000, 00-TC-23 by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United State mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 9th day of September, 2002 at Sacramento, California.

  
Declarant

Susan Geanacou, Senior Staff Attorney  
Department of Finance  
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Mr. Glenn Haas, Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
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**COMMISSION ON STATE MANDATES**

EXHIBIT F

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SACRAMENTO, CA 95814

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March 2, 2007

Ms. Bonnie Ter Keurst  
County of San Bernardino  
Office of the Auditor/Controller-Recorder  
San Bernardino, CA 92415-0018

*And Interested Parties and Affected State Agencies (See Enclosed Mailing List)*

**RE: Draft Staff Analysis and Hearing Date**  
*In Home Supportive Services II, 00-TC-23*  
Statutes of 2000, Chapter 445; Statutes of 1999, Chapter 90;  
Statutes of 1991, Chapter 91  
County of San Bernardino, Claimant

Dear Ms. Ter Keurst:

The draft staff analysis of this test claim is enclosed for your review and comment.

**Written Comments**

Any party or interested person may file written comments on the draft staff analysis by Friday, **March 23, 2007**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

**Hearing**

This test claim is set for hearing on **Monday April 16, 2007**, at the Department of Water Resources, 1416 Ninth Street, First Floor, Auditorium, Sacramento, California. The final staff analysis will be issued on or about April 2, 2007. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Please contact Katherine Tokarski at (916) 445-9429 with any questions regarding the above.

Sincerely,



PAULA HIGASHI  
Executive Director

Enclosures

MAILED: X FAXED: \_\_\_\_\_  
DATE: 03/02/07 INITIAL: AE  
CHRON: \_\_\_\_\_ FILE: \_\_\_\_\_  
WORKING BINDER: X

ITEM \_\_\_\_\_  
**TEST CLAIM**  
**DRAFT STAFF ANALYSIS**

Government Code Section 16262.5  
Welfare and Institutions Code Sections 12301.3, 12301.4, 12301.6, 12301.8, 12302.25,  
12302.7, 12303.4, 12306.1, 14132.95, 17600 and 17600.110

As Added, Amended, or Repealed by

Statutes 1999, Chapters 90 and 91  
Statutes 2000, Chapter 445

*In-Home Supportive Services II (00-TC-23)*

County of San Bernardino, Claimant

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**EXECUTIVE SUMMARY**

**Background**

County of San Bernardino's test claim filing alleges that legislative amendments governing the operation of the In-Home Supportive Services (IHSS) program in California, added by Statutes 1999, chapters 90 and 91, and Statutes 2000, chapter 445, "imposed a new state mandated program and cost ... by-substantially amending the administrative requirements of the IHSS program."

The test claim statutes, in part, address the form in which in-home supportive services care providers are employed, referred to as the "mode of service," including requiring that all counties establish an employer of record for IHSS providers, other than the recipient of the services. The test claim statutes also provide that "[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals."

At the outset, the advisory committee must make recommendations on the best method of employing IHSS providers, and for establishing an "employer of record." According to Welfare and Institutions Code section 12301.4, the advisory committee must also have an ongoing role providing "advice and recommendations regarding in-home supportive services." Claimant asserts that the state funding provided at the time of the test claim filing was inadequate to cover the actual costs of the advisory committee, and seeks to recover the remainder of their claimed costs of creating and operating the advisory committee through mandate reimbursement.

The claimant alleges that the requirement to establish an "employer of record" results in multi-million dollar increased costs, with estimates varying widely according to which form of "employer of record" is ultimately selected: a public authority, a contract with an outside agency, or the county itself. The claimant is also seeking reimbursement for any collective bargaining that may result if providers unionize after the "employer of record" is established.

The Department of Social Services (DSS), in comments filed November 9, 2001, disputes the test claim filing. DSS argues that San Bernardino has not claimed all available funds set aside by the state for the advisory committee portion of the test claim, and therefore asserts that this portion of the claim should be dismissed. As for the requirement to establish an "employer of record," DSS responds that with the multiple choices available to the county, the claimant has not "shown that the legislation at issue 'requires' the county to incur an increase in costs and that therefore a basic element of a reimbursable state mandate is not met here."

In addition, DSS asserts that the test claim legislation does not require that the county engage in collective bargaining, nor does it require an increase of wages and benefits to the providers. DSS also cites case law to support the contention that higher costs of compensation or benefits are not subject to article XIII B, section 6.

Department of Finance (DOF), in a letter filed March 6, 2002, also disputes the test claim filing "in its entirety," and makes similar arguments to DSS. In addition, DOF maintains that "local governments retain options pursuant to which there would be no increased costs to them resulting from the employer of record, ... [which] preclude any findings of reimbursable state mandated costs."

### Conclusion

Staff concludes that Welfare and Institutions Code sections 12301.3, 12301.4, and 12302.25, as added by Statutes 1999, chapter 90 or amended by Statutes 2000, chapter 445 impose new programs or higher levels of service for counties within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514, for the following specific new activities:

- On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)
- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers. (Welf. & Inst. Code, § 12302.25, subd. (c).)
- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)

- Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)

- Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)
- The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12302.25, subd. (d).)
- The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)
- Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Welf. & Inst. Code, § 12302.25, subd. (e).)
- One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)

Staff concludes that all claims for reimbursement for the approved activities must be offset by any funds already received from state or federal sources, including funds allocated for the direct costs of the advisory committee.

Staff concludes that Government Code section 16262.5, and Welfare and Institutions Code sections 12301.6, 12301.8, 12302.7, 12303.4, 12306.1, 14132.95, 17600 and 17600.110, as pled, along with any other test claim statutes and allegations not specifically approved above, do not impose a program, or a new program or higher level of service, subject to article XIII B, section 6.

**Staff Recommendation**

Staff recommends the Commission adopt this staff analysis to partially approve this test claim.

## STAFF ANALYSIS

### Claimant

County of San Bernardino

### Chronology

- 06/29/01 Claimant files test claim, In-Home Supportive Services II (00-TC-23)<sup>1</sup> with the Commission on State Mandates (Commission)
- 07/10/01 Commission staff issues completeness review letter and requests comments from state agencies
- 07/20/01 DOF requests an extension of time for filing comments, to consult with the Office of the Attorney General
- 07/24/01 Commission staff grants DOF extension request to September 10, 2001
- 08/07/01 DSS requests an extension of time for filing comments
- 08/09/01 Commission staff grants DSS extension request to September 10, 2001
- 08/30/01 DSS requests an additional 60-day time extension
- 08/31/01 Commission staff grants DSS extension request to November 9, 2001
- 11/09/01 DSS files initial comments on the test claim
- 11/09/01 DOF requests an additional extension of time for comments
- 11/13/01 Commission staff grants DOF's extension request to December 7, 2001
- 12/06/01 DOF requests an additional extension of time for comments
- 12/07/01 Commission staff grants DOF's extension request to January 7, 2002
- 01/08/02 DOF requests an extension of time for comments to February 7, 2002
- 01/09/02 Commission staff grants DOF's extension request for good cause
- 02/07/02 DOF requests an extension of time for comments to March 7, 2002
- 02/11/02 Commission staff grants DOF's extension request for good cause
- 03/06/02 DOF files initial comments on the test claim
- 03/22/02 Claimant requests an extension of time for filing rebuttals to state agency comment until June 30, 2002
- 03/29/02 Commission staff grants claimant's extension request for good cause
- 06/07/02 Claimant requests another extension of time to July 31, 2002
- 06/11/02 Commission staff grants claimant's extension request for good cause
- 07/25/02 Claimant requests another extension of time to August 31, 2002

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<sup>1</sup> *In-Home Supportive Services* (CSM-4314) is an unrelated test claim addressing issues from the same entitlement program.

07/26/02 Commission staff grants claimant's extension request for good cause  
09/09/02 Claimant files rebuttal to comments by DSS and DOF  
03/02/07 Commission staff issues draft staff analysis on test claim

### Background

In-Home Supportive Services (IHSS) is a social services program developed to provide necessary care to aged, blind or permanently disabled, low-income persons, with the goal of allowing the individual (hereafter referred to as the "recipient") to remain in their home and out of nursing homes or other institutional care for as long as possible. The services provided range according to the needs of the recipient and can include all manner of housekeeping, including cleaning, laundry, meal preparation, and grocery shopping. In addition, some recipients require and receive additional personal and medical care services: assistance with bathing, grooming and related activities; transportation to medical appointments; and administration of para-medical procedures, including injections. Since its inception in 1973, IHSS has been jointly funded by federal, state, and county government.

The test claim statutes, in part, address the form in which the IHSS care providers are employed, referred to as the "mode of service." Prior law did not require the designation of an employer of record for individual providers. In 1990, a California appellate decision addressed the issue of who was the employer of record for individual providers of IHSS, particularly for the purposes of collective bargaining under the Meyers-Milias-Brown Act (MMBA). In *Service Employees Internat. Union v. County of Los Angeles* (1990) 225 Cal.App.3d 761, 765, the court discussed the way that providers were employed under prior law, as follows:

A county may deliver services under the IHSS program by (1) hiring in-home supportive personnel in accordance with established county civil services requirements, (2) contracting with a city, county, city or county agency, a local health district, a voluntary nonprofit agency, a proprietary agency or an individual, or (3) making direct payment to a recipient for the purchase of services. (Welf. & Inst. Code, § 12302.) Defendant county chose the third alternative.

The court made findings that the county was not a *de facto* employer of record for purposes of collective bargaining, *id.* at pages 772-773:

Plaintiff insists that the state and the county are joint employers of the IHSS providers and the county's role as a joint employer is sufficient to render the providers employees of the county for purposes of the MMBA.<sup>FN4</sup>

FN4. Interestingly, in the attorney general's opinion upon which plaintiff relied below it is stated: "While the concept that IHSS workers may have more than one 'employer' appears appropriate for purposes of some laws, it would seem inappropriate and unworkable for purposes of collective bargaining under California statutes." (68 Ops.Cal.Atty.Gen. 194, 199, *supra.*)

The trial court found that the county acts as the agent of the state in administering the IHSS program and concluded that in some circumstances an agent may be a joint employer, a dual employer or a special employer. (See *County of Los Angeles v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 391, 405, 179



Cal.Rptr. 214, 637 P.2d 681.) However, such a relationship arises only where both the general employer and the special employer have the right to control the employee's activities. (*Ibid.*) The court found the county had no such right of control and therefore was not an employer of the IHSS providers under a dual or special employer theory. ... As previously indicated, substantial evidence supports the trial court's finding that the county does not exercise control over and direct the activities of the IHSS providers.

Creating a distinct change from the case law cited above, the test claim statutes require that all counties establish an employer of record for IHSS providers, other than the recipient of the services. Welfare and Institutions Code section 12302.25, as added by Statutes 1999, chapter 90, provides, in part:

(a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers ... Each county may utilize a public authority or nonprofit consortium ... the contract mode ..., county administration of the individual provider mode ... for purposes of acting as, or providing, an employer ..., county civil service personnel ..., or mixed modes of service authorized pursuant to this article and may establish regional agreements in establishing an employer for purposes of this subdivision for providers of in-home supportive services. ... Upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers pursuant to this subdivision, counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option.<sup>2</sup>

In addition, Welfare and Institutions Code section 12301.3, with certain exceptions, provides that "[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals."

#### **Claimant's Position**

County of San Bernardino's June 29, 2001<sup>3</sup> test claim filing alleges that legislative amendments governing the operation of IHSS in California, by Statutes 1999, chapters 90 and 91, and Statutes 2000, chapter 445, "imposed a new state mandated program and cost ... by substantially amending the administrative requirements of the IHSS program."

#### *Employer of Record*

The claimant asserts that the legislation "mandates the establishment of an 'employer of record' [for the individuals who provide the in-home care] on or before January 1, 2003." The claimant alleges that this requirement results in multi-million dollar increased costs, with estimates varying widely according to which form of "employer of record" is ultimately selected: a public authority, a contract with an outside agency, or the county itself.

The claimant is also seeking reimbursement for any collective bargaining that may result if providers unionize after the "employer of record" is established.

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<sup>2</sup> References to applicable Welfare and Institutions Code sections omitted for ease of reading.

<sup>3</sup> The potential reimbursement period begins no earlier than July 1, 1999, based upon the filing date for this test claim. (Gov. Code, § 17557.)

### *Advisory Committee*

The claimant asserts that the statutes mandate the creation of county advisory committees, with specific membership requirements of up to eleven members, largely made up of current or past users and providers of IHSS, with participation of only one county employee. At the outset, the advisory committee is to make recommendations on the best method of employing IHSS providers, and establishing an "employer of record." According to Welfare and Institutions Code section 12301.4, the advisory committee is also to have an ongoing role providing "advice and recommendations regarding in-home supportive services."

Claimant asserts that the state funding provided at the time of the test claim filing was inadequate to cover the actual costs of the advisory committee, and seeks to recover the remainder of their claimed costs of creating and operating the advisory committee through mandate reimbursement.

### **Department of Social Services Position**

DSS, in comments filed November 9, 2001, disputes the test claim filing. As for the requirement to establish an "employer of record," DSS responds that with the multiple choices available to the county, the claimant has not "shown that the legislation at issue "requires" the county to incur an increase in costs and that therefore a basic element of a reimbursable state mandate is not met here."

In addition, DSS asserts that the test claim legislation does not require that the county engage in collective bargaining, nor does it require an increase of wages and benefits to the providers. DSS also cites case law to support the contention that higher costs of compensation or benefits are not subject to article XIII B, section 6.

DSS also argues that San Bernardino has not claimed all available funds set aside by the state for the advisory committee portion of the test claim, and therefore asserts that this portion of the claim should be dismissed.

### **Department of Finance Position**

DOF, in a letter filed March 6, 2002, also disputes the test claim filing "in its entirety." Specifically, as to the claims of potential costs related to collective bargaining, DOF argues "[e]ven if local governments were in fact required by the test claim statutes to incur these costs, they would not be reimbursable because they are wage/benefit related costs incurred by local governments as a result of state statutes regulating the terms and conditions of employment," which is not a reimbursable state mandate pursuant to case law. In addition, DOF maintains that "local governments retain options pursuant to which there would be no increased costs to them resulting from the employer of record, ... [which] preclude any findings of reimbursable state mandated costs."

DOF claims that the claimant failed to adequately address the exceptions to "costs mandated by the state" set out in Government Code section 17556, and therefore the test claim "is incomplete under the Commission's regulations and should be returned to the test claimant or disallowed."<sup>4</sup>

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<sup>4</sup> On June 10, 2001, Commission staff issued a completeness review letter finding that all required elements for filing a test claim had been met, and the filing was accepted.

DOF also contends that the advisory committee costs are not reimbursable costs mandated by the state "because there is an allocation of funds by DSS pursuant to an appropriation to cover these costs. The test claimant has presented no evidence that these appropriations are insufficient to cover claimed costs as required by the Commission's regulations."

### Discussion

The courts have found that article XIII B, section 6, of the California Constitution<sup>5</sup> recognizes the state constitutional restrictions on the powers of local government to tax and spend.<sup>6</sup> "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill-equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."<sup>7</sup> A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.<sup>8</sup> In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.<sup>9</sup>

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.<sup>10</sup> To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.<sup>11</sup> A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."<sup>12</sup>

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<sup>5</sup> Article XIII B, section 6, subdivision (a), provides: (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

<sup>6</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

<sup>7</sup> *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

<sup>8</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

<sup>9</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878, (*San Diego Unified School Dist.*); *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835 (*Lucia Mar*).

<sup>10</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; see also *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

<sup>11</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830,

Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>13</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>14</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."<sup>15</sup>

**Issue 1: Do the test claim statutes mandate a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?**

In order for a test claim statute or executive order to be subject to article XIII B, section 6 of the California Constitution, it must constitute a "program." In *County of Los Angeles v. State of California*, the California Supreme Court defined the word "program" within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.<sup>16</sup> The court has held that only one of these findings is necessary.<sup>17</sup>

Staff finds that establishing an in-home supportive services advisory committee and an employer of record imposes a program within the meaning of article XIII B, section 6 of the California Constitution. Several of the Welfare and Institutions Code sections claimed governing the administrative activities of IHSS impose unique requirements on the counties that do not apply generally to all residents and entities in the state.

Next, the analysis must continue to determine if the individual elements of the test claim filing also impose a new program or higher level of service. The courts have defined a "higher level of service" in conjunction with the phrase "new program" to give the subvention requirement of article XIII B, section 6 meaning. Accordingly, "it is apparent that the subvention requirement for increased or higher level of service is directed to state-mandated increases in the services

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835.

<sup>12</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

<sup>13</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

<sup>14</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

<sup>15</sup> *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>16</sup> *County of Los Angeles*, *supra*, 43 Cal.3d at page 56.

<sup>17</sup> *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

provided by local agencies in existing programs.”<sup>18</sup> A statute or executive order mandates a reimbursable “higher level of service” when, as compared to the legal requirements in effect immediately before the enactment of the test claim legislation, it increases the actual level of governmental service to the public provided in the existing program.<sup>19</sup>

IHSS Employer of Record: Welfare and Institutions Code Section 12302.25, Subdivisions (a)-(c)

Welfare and Institutions Code section 12302.25, subdivision (a), as added by Statutes 1999, chapter 90, establishes the requirement for counties to act as, or establish an employer of record for IHSS providers, other than the state or the individual recipient.

Claimant alleges that the test claim statutes “require the establishment of an employer of record” and a “mandate of collective bargaining with providers of IHSS services, as well as the increased costs [of wages and benefits] that will arise once collective bargaining has been instituted.”<sup>20</sup>

The county shall establish an employer of record through several options: a contract, public authority, nonprofit consortium, or by the county becoming the employer of record itself, or a combination of the above, and each option can have great impact on the downstream costs of operating IHSS, but this is a choice made at the discretion of each county. Counties have always had a share of cost for the ongoing administration of IHSS, and the test claim statutes do not alter that share of cost.<sup>21</sup>

However, the requirement to act as, or establish an employer of record pursuant to the test claim statute is not discretionary and requires administrative action on the part of the counties; therefore, staff finds that Welfare and Institutions Code section 12302.25 imposes a new program or higher level of service for the following new activities:

- On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)<sup>22</sup>
- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, in addition to a county’s selected

<sup>18</sup> *County of Los Angeles, supra*, 43 Cal.3d 46, 56; *San Diego Unified School District, supra*, 33 Cal.4th 859, 874.

<sup>19</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

<sup>20</sup> Test Claim Filing, pages 13 and 14.

<sup>21</sup> Welfare and Institutions Code section 12306.

<sup>22</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

method of establishing an employer for in-home supportive service providers.  
(Welf. & Inst. Code, § 12302.25, subd. (c).)<sup>23</sup>

DSS, in its November 9, 2001 test claim comments, provides a rebuttal to the mandate claim for collective bargaining costs:

The claimant, on page 2 of the mandate summary, characterizes the legislation at issue as mandated collective bargaining between the employer of record and the providers. A careful reading of the statutes, however, reveals no such mandate. The statutes at issue do not mandate collective bargaining. Collective bargaining rights and duties are established and controlled by other state and federal laws that operate upon labor relations. The mandate to establish an employer for Individual Providers (IPs) for purposes of the [MMBA] or any other applicable state and federal laws makes no statement on whether IPs will organize or whether any representative will be able to force collective bargaining upon counties under [MMBA] or any other provision. What the legislation does is to require counties to appoint, name or otherwise establish the entity that will respond in the event there is a right or obligation to engage in collective bargaining that IPs possess under other law. If collective bargaining between the employer of record and the providers is mandated by law it is not the law at issue that does so.

Subdivision (b) states: "Nothing in this section shall prohibit any negotiations or agreement regarding collective bargaining or any wage and benefit enhancements." Staff finds that the plain language of the test claim statute does not *require* collective bargaining, but rather confirms that the code section does not prohibit collective bargaining or other negotiations on wages and benefits. Staff finds that Welfare and Institutions Code section 12302.25, subdivision (b), does not mandate a new program or higher level of service for collective bargaining.

Subdivision (c) provides: "Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services." This section maintains the existing law regarding the state's responsibilities under section 12302.2, which addresses certain withholding and contribution requirements when paying individual IHSS providers. This section is only applicable to the state, and clarifies that the test claim statute is to have no impact on another provision of law; therefore, staff finds that Welfare and Institutions Code section 12302.25, subdivision (c) does not mandate a new program or higher level of service.

In addition, while counties may incur increased costs for higher wages and benefits as an indirect result of the requirement to act as or establish an employer of record, a showing of increased costs is not determinative of whether the legislation imposes a reimbursable state-mandated program. The California Supreme Court has repeatedly ruled that evidence of additional costs alone do not result in a reimbursable state-mandated program under article XIII B, section 6.<sup>24</sup> The Court also found in *Lucia Mar*, *supra*, 44 Cal.3d 830, 835:

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<sup>23</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>24</sup> *County of Los Angeles*, *supra*, 43 Cal.3d at page 54; see also, *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 735.

We recognize that, as is made indisputably clear from the language of the constitutional provision, local entities are not entitled to reimbursement for all increased costs mandated by state law, but only those costs resulting from a new program or an increased level of service imposed upon them by the state.

Comments filed by the state agencies, DOF and DSS, both assert that case law interpreting article XIII B, section 6, including *County of Los Angeles, supra*, *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478, and *City of Richmond v. Commission on State Mandates* (1998) 64 Cal.App.4th 1190, results in a finding that "increases in employment benefits or compensation, as the result of legislation that does not directly mandate the increase, are not considered a "new program or "higher level of service in an existing program" as meant by the Constitution."<sup>25</sup>

In *County of Los Angeles, supra*, 43 Cal.3d 46, the Court addressed the costs incurred as a result of legislation that required local agencies to provide the same increased level of workers' compensation benefits for their employees as private individuals or organizations were required to provide to their employees. The Supreme Court recognized that workers' compensation is not a new program and, thus, the court determined whether the legislation imposed a higher level of service on local agencies.<sup>26</sup> The court defined a "higher level of service" as "state mandated increases in the services provided by local agencies in existing programs." (Emphasis added.)

Looking at the language of article XIII B, section 6 then, it seems clear that by itself the term "higher level of service" is meaningless. It must be read in conjunction with the predecessor phrase "new program" to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing "programs."

The Supreme Court in *County of Los Angeles* continued:

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public.<sup>27</sup>

The court held that reimbursement for the increased costs of providing workers' compensation benefits to employees was not required.

Section 6 has no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation benefits that employees of private individuals or organizations receive. Workers' compensation is not a program administered by local agencies to provide service to the public. Although local agencies must

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<sup>25</sup> DSS Comments, filed November 9, 2001, page 5. DOF's Comments, filed March 6, 2002, page 4, expresses similar arguments.

<sup>26</sup> *County of Los Angeles, supra*, 43 Cal.3d at page 56.

<sup>27</sup> *Id.* at pp. 56-57.

provide benefits to their employees either through insurance or direct payment, they are indistinguishable in this respect from private employers... In no sense can employers, public or private, be considered to be administrators of a program of workers' compensation or to be providing services incidental to administration of the program. Workers' compensation is administered by the state... Therefore, although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of section 6. (*Id.* at pp. 57-58, fn. omitted.)

Although "[t]he law increased the cost of employing public servants, ... it did not in any tangible manner increase the level of service provided by those employees to the public." (*San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 875.) In this sense, the present test claim is also indistinguishable from the analysis presented by the Court in *County of Los Angeles*.

*City of Richmond*, *supra*, 64 Cal.App.4th 1190, similarly held that requiring local governments to provide death benefits to local safety officers, under both PERS and the workers' compensation system, did not constitute a higher level of service to the public. The court stated:

Increasing the cost of providing services cannot be equated with requiring an increased level of service under a section 6 analysis. A higher cost to the local government for compensating its employees is not the same as a higher cost of providing services to the public.<sup>28</sup>

The court also found that "[a]lthough a law is addressed only to local governments and imposes new costs on them, it may still not be a reimbursable state mandate."<sup>29</sup>

In *City of Anaheim*, *supra*, 189 Cal.App.3d 1478, the court determined that an increase in PERS benefits to retired employees, which resulted in a higher contribution rate by local governments, does not constitute a higher level of service to the public. In this case the court found that:

While focusing on the exceptions to reimbursement, City conveniently presumes that [the test claim statute] mandated a higher level of service on local government, a prerequisite to reimbursement when an existing program is modified.

City's claim for reimbursement must fail for the following reasons: (1) [the test claim statute] did not compel City to do anything, (2) any increase in cost to City was only incidental to PERS' compliance with [the test claim statute], and (3) pension payments to retired employees do not constitute a "program" or "service" as that term is used in section 6.<sup>30</sup>

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<sup>28</sup> *City of Richmond*, *supra*, 64 Cal.App. 1190, 1196.

<sup>29</sup> *Id.* at page 1197.

<sup>30</sup> *City of Anaheim*, *supra*, 189 Cal.App.3d at page 1482.



The court in *Anaheim* found that an increase in pension benefits to employees was not a "program" or "service" within the meaning of article XIII B, section 6.<sup>31</sup> The claimant in *City of Anaheim*:

argues that since [the test claim statute] specifically dealt with pensions for *public* employees, it imposed unique requirements on local governments that did not apply to all state residents or entities. [Footnote omitted; emphasis in original.]

However, the court continued:

Such an argument, while appealing on the surface, must fail. As noted above, [the statute] mandated increased costs to a state agency, not a local government. Also, PERS is not a program administered by local agencies.

Moreover, the goals of article XIII B of the California Constitution "were to protect residents from excessive taxation and government spending... [and] preclud[e] a shift of financial responsibility for carrying out governmental functions from the state to local agencies.... Bearing the costs of salaries, unemployment insurance, and workers' compensation coverage costs which all employers must bear neither threatens excessive taxation or governmental spending, nor shifts from the state to a local agency the expense of providing governmental services." (*County of Los Angeles v. State of California, supra*, 43 Cal.3d at p. 61.) Similarly, *City is faced with a higher cost of compensation to its employees. This is not the same as a higher cost of providing services to the public.* [Emphasis added, footnote omitted.]

Therefore, the court concluded that the test claim statute did "not fall within the scope of section 6."<sup>32</sup>

In *San Diego Unified School Dist., supra*, 33 Cal.4th at pages 876-877, the Court held:

Viewed together, these cases (*County of Los Angeles, supra*, 43 Cal.3d 46, *City of Sacramento, supra*, 50 Cal.3d 51, and *City of Richmond, supra*, 64 Cal.App.4th 1190) illustrate the circumstance that simply because a state law or order may increase the costs borne by local government in providing services, this does not necessarily establish that the law or order constitutes an *increased or higher level* of the resulting "service to the public" under article XIII B, section 6, and Government Code section 17514. [Emphasis in original.]

The test claim statutes create a situation where the employer may be faced with "a higher cost of compensation to its employees." As held by the court, "[t]his is not the same as a higher cost of providing services to the public." Therefore, staff finds that increased wage and benefit costs that may be incurred indirectly following implementation of Welfare and Institutions Code section 12302.25, is not a new program or higher level of service.

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<sup>31</sup> *Ibid.*

<sup>32</sup> *Id.* at pages 1483-1484.

IHSS Advisory Committee: Welfare and Institutions Code Sections 12301.3, 12301.4, and 12302.25, Subdivisions (d) & (e)

Welfare and Institutions Code section 12301.3, was added by Statutes 1999, chapter 90. The amendments by Statutes 2000, chapter 445, are indicated by underline, as follows:

(a) Each county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals. No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article.

(1)(A) In counties with fewer than 500 recipients of services provided pursuant to this article or Section 14132.95, at least one member of the advisory committee shall be a current or former provider of in-home supportive services.

(B) In counties with 500 or more recipients of services provided pursuant to this article or Section 14132.95, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

(2) Individuals who represent organizations that advocate for people with disabilities or seniors may be appointed to committees under this section.

(3) Individuals from community-based organizations that advocate on behalf of home care employees may be appointed to committees under this section.

(4) A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee, but may designate any county employee to provide ongoing advice and support to the advisory committee.

(b) Prior to the appointment of members to a committee required by subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations.

(c) The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services.

(d) Any county that has established a governing body, as provided in subdivision (b) of Section 12301.6, prior to July 1, 2000, shall not be required to comply with the composition requirements of subdivision (a) and shall be deemed to be in compliance with this section.

Welfare and Institutions Code section 12301.4, was added by Statutes 1999, chapter 90. The amendments by Statutes 2000, chapter 445, are indicated by underline, as follows:

(a) Each advisory committee established pursuant to Section 12301.3 or 12301.6 shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services,

and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees.

(b) Each county shall be eligible to receive state reimbursements of administrative costs for only one advisory committee and shall comply with the requirements of subdivision (e) of Section 12302.25.

Welfare and Institutions Code section 12302.25, subdivision (d), as added by Statutes 1999, chapter 90, provides that prior to implementing the "employer of record" requirement, "a county shall establish an advisory committee as required by Section 12301.3 and solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services."

Subdivision (e) provides that "Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about the program on an ongoing basis."

A test claim statute mandates a new program or higher level of service within an existing program when it compels a claimant to perform activities not previously required.<sup>33</sup>

Establishing, maintaining and taking advice from an advisory committee regarding the operation of IHSS was not required of counties prior to Statutes 1999, chapter 90. Therefore, staff finds that the plain language of Welfare and Institutions Code sections 12301.3, 12301.4, and 12302.25, subdivisions (d) and (e), mandates a new program or higher level of service, for the following new activities:

- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)<sup>34</sup>
- Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

<sup>33</sup> *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 836.

<sup>34</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999):

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)<sup>35</sup>

- Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)<sup>36</sup>
- The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12302.25, subd. (d).)<sup>37</sup>
- The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)<sup>38</sup>
- Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Welf. & Inst. Code, § 12302.25, subd. (e).)<sup>39</sup>
- One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)<sup>40</sup>

Since 1992, Welfare and Institutions Code section 12301.6 has provided an option for counties to “[c]ontract with a nonprofit consortium to provide for the delivery of in-home supportive services ... or ... [e]stablish, by ordinance, a public authority to provide for the delivery of in-home supportive services.” According to the September 1999 California State Audit Report on In-Home Supportive Services,<sup>41</sup> provided by the claimant as Exhibit 4 to the test claim, “As of

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<sup>35</sup> As amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>36</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>37</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>38</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999) and amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>39</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>40</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>41</sup> Subtitled “Since Recent Legislation Changes the Way Counties Will Administer the Program, the Department of Social Services Needs to Monitor Service Delivery.”

June 1999, 6 of the State's 58 counties—Alameda, San Mateo, San Francisco, Santa Clara, Los Angeles, and Contra Costa—had elected to create public authorities for the delivery of in-home supportive services,” under the optional program described in Welfare and Institutions Code section 12301.6. Therefore, those counties, plus any others meeting the exception described in section 12301.3, subdivision (d), are not required to *establish* an advisory committee, but they may be subject to the ongoing requirements of section 12301.4.<sup>42</sup>

DSS does not dispute that the formation and continuing operation of advisory committees pursuant to Welfare and Institutions Code sections 12301.3 and 12301.4 results in an entirely new program or higher level of service to the public. However, both DSS and DOF argue that it is already being sufficiently funded by state.<sup>43</sup> This is addressed at Issue 3, below, regarding “costs mandated by the state.”

**Issue 2: Are the remaining test claim statutes subject to article XIII B, section 6 of the California Constitution?**

*Several code sections pled were not in fact substantively amended by the test claim statutes, and therefore are not subject to article XIII B, section 6.*

Welfare and Institutions Code section 2 provides: “[t]he provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.”<sup>44</sup> Staff finds that a renumbering, reenactment or restatement of prior law does not impose a reimbursable state-mandated program to the extent that the provisions and associated activities remain unchanged.

*Welfare and Institutions Code Section 12301.6*

Welfare and Institutions Code section 12301.6 provides an option for counties to “[c]ontract with a nonprofit consortium to provide for the delivery of in-home supportive services ... or ... [e]stablish, by ordinance, a public authority to provide for the delivery of in-home supportive

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<sup>42</sup> Government Code section 17565 provides that if a claimant “at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.”

<sup>43</sup> DOF’s March 6, 2002 comments, pages 3-4, also argue that because the advisory committees “relate to the process of determining the rate of pay and benefits and of paying workers who provide services administered or overseen by the county, there is no “program” ... for which reimbursement is required.” The cases cited by DOF in support of this proposition do not include facts where there were distinct administrative activities *required* by the test claim statutes, in addition to the higher contribution costs alleged, therefore, staff finds that this argument does not preclude a finding of a new program or higher level of service.

<sup>44</sup> This is in accordance with the California Supreme Court decision, which held that “[w]here there is an express repeal of an existing statute, and a re-enactment of it at the same time, or a repeal and a re-enactment of a portion of it, the re-enactment neutralizes the repeal so far as the old law is continued in force. It operates without interruption where the re-enactment takes effect at the same time.” (*In re Martin’s Estate* (1908) 153 Cal. 225, 229.)

services." It was amended by Statutes 1999, chapter 90,<sup>45</sup> but then repealed and reenacted in its original form by Statutes 1999, chapter 91; both statutes were effective and operative on July 12, 1999. Government Code section 9605 provides: "In the absence of any express provision to the contrary in the statute which is enacted last, it shall be conclusively presumed that the statute which is enacted last is intended to prevail over statutes which are enacted earlier at the same session . . . ." Thus Statutes 1999, chapter 91 conclusively prevails over chapter 90 with respect to Welfare and Institutions Code section 12301.6 so that no language was changed when compared to prior law. Therefore, staff finds that Welfare and Institutions Code section 12301.6 was not substantively amended by the test claim statutes and is not subject to article XIII B, section 6.

Welfare and Institutions Code Section 12301.8

Similarly, Welfare and Institutions Code section 12301.8 was added by Statutes 1999, chapter 90<sup>46</sup> and repealed entirely by Statutes 1999, chapter 91, both effective and operative on July 12, 1999. Government Code section 9605 also applies here, therefore, due to the repeal in Statutes 1999, chapter 91, Welfare and Institutions Code section 12301.8 never operated as law. Thus, staff finds that Welfare and Institutions Code section 12301.8 was never operative and is not subject to article XIII B, section 6.

*Several test claim statutes do not impose a new program or higher level of service because they do not require any new activities or impose a cost shift pursuant to article XIII B, section 6.*

A test claim statute or executive order mandates a new program or higher level of service within an existing program when it compels a local agency to perform activities not previously required,<sup>47</sup> or when legislation requires that costs previously borne by the state are now to be paid by local agencies. Thus, in order for a statute to be subject to article XIII B, section 6 of the California Constitution, the statutory language must order or command that local governmental agencies perform an activity or task, or result in "a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility."<sup>48</sup>

Government Code Section 16262.5

Government Code section 16262.5 provides that counties "shall not be reduced for the state share of the nonfederal costs for the administration of the In-Home Supportive Services program," under certain circumstances. This section was amended by Statutes 1999, chapter 90, to extend the period of time that this provision was applicable from June 30, 1998 to June 30, 2001, and amended other references to fiscal years consistent with this extension. The

<sup>45</sup> Statutes 1999, chapter 90 would have amended the cost sharing provision between the state and the county for operating a public authority or nonprofit consortium under section 12301.6.

<sup>46</sup> Statutes 1999, chapter 90 would have added specific state cost-sharing language for increased wages and benefits, above the federal minimum wage, for IHSS providers employed through a public authority, nonprofit consortium, or contract.

<sup>47</sup> *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 836.

<sup>48</sup> California Constitution, article XIII B, section 6, subdivision (c).

section generally provides an opportunity for fiscal relief for counties that are reducing funding for administrative activities county-wide in their budget, and also seek to reduce the administrative costs of IHSS in their budget.

Claimant alleges that this section, as amended, "extends the period for which the counties shall not be reduced for the state share of nonfederal costs for administration of the IHSS program but limits the state share of those costs."<sup>49</sup>

The costs of IHSS have been shared between federal, state and county government since the inception of the program. The test claim statute extended a county fiscal relief program for two additional fiscal years which functioned to provide applicant counties with a reduced share of administrative costs of IHSS. Extending the number of years of fiscal relief available to counties does not require new activities on the part of the claimant, and does not transfer from the state to local agencies "financial responsibility for a required program," as described in article XIII B, section 6, subdivision (c), of the California Constitution. Therefore, staff finds that Welfare and Institutions Code section 16262.5, as amended by Statutes 1999, chapter 90, does not mandate a new program or higher level of service.

Welfare and Institutions Code Sections 14132.95, 17600 and 17600.110

Statutes 1999, chapter 90 amended Welfare and Institutions Code section 17600, by *deleting* subdivision (b)(4), which eliminated the "In-Home Supportive Services Registry Model Subaccount" from the Sales Tax Account of the Local Revenue Fund.

The deleted language was originally added to the code by Statutes 1993, chapter 100. An uncodified portion of Statutes 1999, chapter 90, (§ 12), provides that "The unencumbered amount residing in the In-Home Supportive Services Registry Subaccount of the Sales Tax Account of the Local Revenue Fund on January 1, 2000, shall be transferred to the General Fund." Statutes 1999, chapter 90 also deleted Welfare and Institutions Code section 17600.110, which previously provided that "(a) Moneys in the In-Home Supportive Services Registry Model Account shall be available for allocation by the Controller for the purposes of Section 12301.6."

Welfare and Institutions Code section 14132.95 is a detailed description of IHSS eligibility services and funding, established by prior law. Statutes 1999, chapter 90, deleted subdivision (k)(3)(A) – (C), which previously specified the allocation of the subaccount funding in Welfare and Institutions Code section 17600.110. This funding was earmarked for "the establishment of an entity specified in Section 12301.6." Prior law allowed a county "at its option, [to] elect to"<sup>50</sup> contract with a nonprofit consortium or establish a public authority, to provide IHSS.

The removal of specific state subaccount funding tied to a discretionary program<sup>51</sup> does not require a claimant to perform new activities, nor does it transfer from the state to local agencies "financial responsibility for a required program," as described in article XIII B, section 6, subdivision (c), of the California Constitution. Staff finds that Statutes 1999, chapter 90, amending Welfare and Institutions Code sections 14132.95, 17600 and 17600.110, does not mandate a new program or higher level of service.

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<sup>49</sup> Test Claim Filing, page 9.

<sup>50</sup> Welfare and Institutions Code section 12301.6

<sup>51</sup> *Ibid.*

Welfare and Institutions Code section 12302.7

Welfare and Institutions Code section 12302.7 was repealed by Statutes 1999, chapter 90. Prior to repeal of the law, the code section provided for an optional method for counties to contract for IHSS. The section had an inoperative date of July 1, 2001, and an automatic repealer provision operative January 1, 2002. The earlier repeal of this section did not operate to place any new requirements on counties. Therefore, staff finds that the repeal of Welfare and Institutions Code section 12302.7 does not mandate a new program or higher level of service.

Welfare and Institutions Code Section 12303.4

As amended by Statutes 1999, chapter 90, language was stricken from Welfare and Institutions Code section 12303.4, as follows:

(a)(1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), and who is not described in Section 12304, shall receive services under this article which do not exceed the maximum of 195 hours per month.

~~(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 195 hours times the statewide wage rate per hour for the individual provider mode as calculated by the department and by dividing this product by the hourly cost of the mode of service to be provided.~~

(b)(1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), who is in need, as determined by the county welfare department, of at least 20 hours per week of the services defined in Section 12304, shall be eligible to receive services under this article, the total of which shall not exceed a maximum of 283 hours per month.

~~(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 283 hours times the statewide wage rate per hour for the individual provider as calculated by the department and dividing this product by the hourly cost rate of the mode of service to be provided.~~

The claimant alleges "this section amends the total hours of services a qualified recipient is entitled to receive."<sup>52</sup>

Prior law allowed for reduction of the number of hours per month of service that a recipient might otherwise be eligible for, when the provider was employed in a method other than the individual provider mode. As an example, if the provider was paid through a contract with an hourly cost rate of \$10 per hour, but the current state wage rate for individual providers was \$8, a recipient otherwise eligible for 283 hours would be limited to approximately 226 hours. This could keep costs to the state and county comparable between the individual provider mode and another mode of service with a higher negotiated hourly cost rate, but could also result in a cut in services to the recipient.

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<sup>52</sup> Test Claim Filing, page 10.



Statutes 1999, chapter 90 eliminated this exception to the maximum number of hours of eligibility for a recipient. Staff finds that Welfare and Institutions Code section 12303.4, by removing an exception to the maximum number of hours a recipient is eligible to receive, does not require any activities on the part of the counties and thus does not mandate a new program or higher level of service.

Welfare and Institutions Code Section 12306.1

Welfare and Institutions Code section 12306.1, as added by Statutes 1999, chapter 91, provides:

Notwithstanding paragraph (3) of subdivision (c) of Section 12301.6, with regard to wage increases negotiated by a public authority pursuant to Section 12301.6, for the 1999-2000 fiscal year the state shall pay 80 percent, and each county shall pay 20 percent, of the nonfederal share of paid increases up to fifty cents (\$0.50) above the hourly statewide minimum wage. This section shall be applicable to wage increases negotiated prior to or during the 1999-2000 fiscal year.

This section was repealed by Statutes 2000, chapter 108, effective and operative July 10, 2000.<sup>53</sup> Welfare and Institutions Code section 12301.6, as referred to in section 12306.1, is a discretionary statute, and staff finds that any negotiated wages in excess of the state minimum wage, or cost-sharing resulting from such a statute, are all costs assumed at the option of the county.<sup>54</sup> Staff finds that Welfare and Institutions Code section 12306.1 did not require any activities on the part of the counties, nor did it transfer from the state to local agencies "financial responsibility for a required program," as described in article XIII B, section 6, subdivision (c), of the California Constitution, and thus did not mandate a new program or higher level of service.

**Issue 3: Do the test claim statutes found to impose a new program or higher level of service also impose costs mandated by the state pursuant to Government Code section 17514?**

Reimbursement under article XIII B, section 6 is required only if any new program or higher level of service is also found to impose "costs mandated by the state." Government Code section 17514 defines "costs mandated by the state" as any *increased* cost a local agency is required to incur as a result of a statute or executive order that mandates a new program or higher level of service. At the time of filing the test claim, the claimant was required to allege costs in excess of \$200, pursuant to Government Code section 17564. The claimant estimated increased costs to the county share of wages and benefits in the range of \$10 to 21.7 million after establishing a public authority as the employer of record. In addition, the claimant states that these figures "do not include the administrative costs incurred with: creation and ongoing activities of the advisory committee, costs associated with the creation of any new modality or contracting with same, and costs associated with collective bargaining."

<sup>53</sup> Statutes 2000, chapter 108 was not pled in the test claim.

<sup>54</sup> *Kern High School Dist., supra*, 30 Cal.4th at page 743: "We instead agree with the Department of Finance, and with *City of Merced, supra*, 153 Cal.App.3d 777, that the proper focus under a legal compulsion inquiry is upon the nature of claimants' participation in the underlying programs themselves."

Government Code section 17556 provides, in pertinent part:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

Although IHSS is a joint federal-state-local program, there is no evidence in the record that any of the mandated activities are required by federal law. Therefore, staff finds that Government Code section 17556, subdivision (c) does not apply.

The claimant stated that *none* of the Government Code section 17556 exceptions apply. However, DOF specifically argues that the claimant has been provided with funding for the advisory committee activities and that Government Code section 17556, subdivision (e) applies to deny a mandate finding.<sup>55</sup> In the response to comments filed September 9, 2002, page 5, the claimant asserts that of the \$11,944 already claimed for the advisory committee expenses “[t]he costs for the Advisory Committee alone have exceeded several times the allotment actually paid by the Department of Social Services.”

While state funds already provided must be used to offset any mandate reimbursement claimed, the claimant has provided a declaration that their administrative costs of forming and operating the advisory committee are not being fully reimbursed. To further support this claim, the claimant provided a copy of DSS claiming instructions for the January- March 2001 quarter, which allowed for 100 percent of “IHSS Advisory Committee/Direct Costs,” retroactive to July 2000, but required claims for reimbursement of county administrative costs “for supporting the IHSS Advisory Committee,” be charged separately under the standard claiming instructions for IHSS. Specifically the document states:

Costs incurred by the County Welfare Department (CWD) for supporting the IHSS Advisory Committee are not allowable for reimbursement under these codes. Any CWD costs for providing support activities for the IHSS Advisory

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<sup>55</sup> DOF Comments, page 1, filed March 6, 2002.

Committee should be charged to the appropriate IHSS/PCSP claim codes on the County Expense Claim (CEC).<sup>56</sup>

This requires a county share of costs as required by Welfare and Institutions Code section 12306.<sup>57</sup> Section 12306 requires that the state and county share non-federal administrative costs of IHSS in a 65 percent state/35 percent county split. Requiring the claimant to maintain this share of costs for a mandated new program or higher level of service would defeat the stated purpose of article XIII-B, section 6 to "provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service."

Various DSS County Fiscal Letters show that funds have been allocated for reimbursing counties for the direct costs of the mandatory advisory committee on an annual basis since July 2000.<sup>58</sup> However, the reimbursement period for this test claim begins on the operative date of Statutes 1999, chapter 90--July 12, 1999. In addition, the state could also fail to allocate such funds in any future budget year.<sup>59</sup>

Another source of funds noted in the County Fiscal Letters, beginning in fiscal year 2003-04, was for a small number of counties' administrative costs to act as the employer of record for IHSS providers.<sup>60</sup> In the current fiscal year, 2006-07, this funding is limited to the counties of Alpine and Tuolumne and is for "the cost of administrative activities necessary for counties to act as the employer of record for IHSS providers."<sup>61</sup> However, the mandated activity pursuant to Welfare and Institutions Code section 12302.25 is for the initial *establishment* of an employer of record *on or before January 1, 2003*. Therefore, this funding is not specific to the mandated activity.

Staff finds that section 17556, subdivision (e) does not apply to disallow a finding of costs mandated by the state, but all claims for reimbursement for the approved activities must be offset by any funds already received from state or federal sources. Thus, for the activities listed in the conclusion below, staff finds accordingly that the new program or higher level of service also imposes costs mandated by the state within the meaning of Government Code section 17514, and none of the exceptions of Government Code section 17556 apply.

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<sup>56</sup> County Fiscal Letter (CFL) No. 00/01-48, page 3, issued December 22, 2000 by DSS, attached. (Also, Exh. 2 to Claimant's Response to Comments.)

<sup>57</sup> Claimant Response to Comments, page 5, filed September 9, 2002.

<sup>58</sup> DSS CFL, Nos. 00/01-14, 00/01-33, 00/01-48, 01/02-12, 02/03-28, 02/03-73, 03/04-46, 03/04-51, 04/05-16, 04/05-22, 04/05-27, 05/06-10, 06/07-02. See attachments to Draft Staff Analysis.

<sup>59</sup> In *Carmel Valley Fire Protection Dist. v. State* (2001) 25 Cal.4th 287, 299, the Court discussed that, subject only to the Governor's veto power, the Legislature has the power to determine how funds are expended in each annual budget: "Legislative determinations relating to expenditures in other respects are binding upon the executive: 'The executive branch, in expending public funds, may not disregard legislatively prescribed directives and limits pertaining to the use of such funds.'"

<sup>60</sup> DSS CFL, No. 02/03-73, page 2.

<sup>61</sup> DSS CFL, No. 06/07-02, page 2.

## CONCLUSION

Staff concludes that Welfare and Institutions Code sections 12301.3, 12301.4, and 12302.25, as added by Statutes 1999, chapter 90 or amended by Statutes 2000, chapter 445 impose new programs or higher levels of service for counties within the meaning of article XIII B, section 6 of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514, for the following specific new activities:

- On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)<sup>62</sup>
- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers. (Welf. & Inst. Code, § 12302.25, subd. (c).)<sup>63</sup>
- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)<sup>64</sup>
- Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)<sup>65</sup>

<sup>62</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>63</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>64</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>65</sup> As amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

- Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)<sup>66</sup>
- The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12302.25, subd. (d).)<sup>67</sup>
- The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)<sup>68</sup>
- Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Welf. & Inst. Code, § 12302.25, subd. (e).)<sup>69</sup>
- One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)<sup>70</sup>

Staff concludes that all claims for reimbursement for the approved activities must be offset by any funds already received from state or federal sources, including funds allocated for the direct costs of the advisory committee.

Staff concludes that Government Code section 16262.5, and Welfare and Institutions Code sections 12301.6, 12301.8, 12302.7, 12303.4, 12306.1, 14132.95, 17600 and 17600.110, as pled, along with any other test claim statutes and allegations not specifically approved above, do not impose a program, or a new program or higher level of service, subject to article XIII B, section 6.

### **Staff Recommendation**

Staff recommends the Commission adopt this staff analysis to partially approve this test claim.

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<sup>66</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>67</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>68</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999) and amended by Statutes 2000, chapter 445 (oper. Sept. 14, 2000.)

<sup>69</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).

<sup>70</sup> As added by Statutes 1999, chapter 90 (oper. Jul. 12, 1999).



Commission on State Mandates

Original List Date: 7/6/2001

Mailing Information: Draft Staff Analysis

Last Updated: 7/7/2006

List Print Date: 03/02/2007

Mailing List

Claim Number: 00-TC-23

Issue: In Home Supportive Services II

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Attachments to Draft Staff Analysis

Department of Social Services County Fiscal Letters Nos. 00/01-14,  
00/01-33, 00/01-48, 01/02-12, 02/03-28, 02/03-73, 03/04-46,  
03/04-51, 04/05-16, 04/05-22, 04/05-27, 05/06-10, 06/07-02



**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



July 19, 2000

COUNTY FISCAL LETTER (CFL) NO. 00/01-14

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: FISCAL YEAR (FY) 2000/01 IN-HOME SUPPORTIVE SERVICES  
(IHSS) PROGRAM ADMINISTRATIVE ALLOCATION

The purpose of this letter is to allocate \$174 million in Federal, State, and County Funds for the IHSS Program Administration in FY 2000/01. This allocation includes funding for costs associated with Personal Care Services Program (PCSP) activities, Supported Individual Providers (SIP), nurses, and denials of assistance.

**IHSS Basic**

The IHSS allocation was developed using the following factors to best model each county's program size for FY 2000/01:

- Each county's actual average monthly paid cases for the period covering May 1999 through April 2000.
- Each county's FY 1998/99 actual IHSS unit cost adjusted for the cost of doing business (1.84%) for both FY 1999/00 and FY 2000/01.
- Each county's actual Title XIX usage rate based on expenditures through the first three-quarters of FY 1999/00.
- Each county was guaranteed to receive a minimum allocation of 90% of their prior four quarters expenditures.

The caseload information used in this allocation was obtained from the In Home Supportive Services Management Statistics Summary Report. Statewide growth of 5.5% through FY 2000/01 was applied to each county's average number of monthly paid cases. The allocation methodology used assumes that each IHSS/PCSP case takes 11.5 hours to process. The cases were multiplied by the 11.5-hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalents for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.

Counties that operate with SIPs were allocated additional funds included in the FY 2000/01 Budget Act for this activity based on a percent to total of the SIP amount included in the FY 1999/00 allocation. These additional funds were added to the initial base allocation.

The IHSS health-related (HR) usage rate was applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP and the residual program. The State General Fund (SGF) share was calculated at 70% of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes 102 (IHSS-Skilled Professional Medical Personnel), 103 (IHSS-PCSP/HR), 104 (IHSS-Non HR/NonPCSP) and 330 (IHSS - Fraud) on the County Expense Claim will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only share through State Use Only Program Code 193. Consistent with prior policy, IHSS surplus funds will be redistributed to counties that are deficit during the closeout process.

### IHSS Advisory Committee

The Budget Act of 2000 has appropriated \$1.8 million in total funds for the establishment, or continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682.

The SGF portion, which is \$668,000 will be distributed equally to the counties who certify that they have established or will be establishing their AB 1682 Advisory Committee during the FY 2000/01. In order to access AB 1682 Advisory Committee funds, a county must complete the attached certification document (attachment #2) signed by the County Welfare Director and submit it to the Department of Social Services, County Financial Analysis Bureau, postmarked no later than August 31<sup>st</sup>, 2000.

### Tyler vs. Anderson

A total of \$520,000 in State General funds is budgeted to cover costs associated with Tyler vs. Anderson claim settlement activities. Costs will be shared 70% State, 30% County. Due to a delay in implementation of this program, the funds are not being allocated at this time. When program guidelines are established, the Department will allocate funds to the counties.

If you have any questions concerning this allocation, please call your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

*Original Document Signed by  
Jarvio A. Grevious on 7/19/00*

JARVIO A. GREVIOUS  
Deputy Director  
Administration Division

Attachment  
c: CWDA

FY 2000/01 IN-HOME SUPPORTIVE SERVICES (IHSS) ALLOCATION CFL 00/01-14

Attachment #1

COUNTIES	FY 2000/01 IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July 99-Mnrch 00 IHSS HR Usage Rate
ALAMEDA	\$7,266,263	\$3,206,443	\$2,841,874	\$1,217,946	87.36%
ALPINE	\$62,570	\$0	\$43,799	\$18,771	0.00%
AMADOR	\$78,464	\$39,496	\$27,278	\$11,690	99.65%
BUTTE	\$1,173,750	\$565,614	\$425,695	\$182,441	95.40%
CALAVERAS	\$155,740	\$75,170	\$56,399	\$24,171	95.55%
COLUSA	\$187,130	\$61,876	\$87,678	\$37,576	65.46%
CONTRA COSTA	\$3,804,751	\$1,734,497	\$1,449,178	\$621,076	90.25%
DEL NORTE	\$114,884	\$53,552	\$42,932	\$18,400	92.28%
EL DORADO	\$290,874	\$119,365	\$120,056	\$51,453	81.24%
FRESNO	\$5,429,645	\$2,324,669	\$2,173,483	\$931,493	84.76%
GLENN	\$252,962	\$110,795	\$99,517	\$42,650	86.71%
HUMBOLDT	\$1,461,362	\$722,151	\$517,448	\$221,763	97.83%
IMPERIAL	\$1,551,076	\$668,706	\$617,659	\$264,711	85.35%
INYO	\$100,458	\$47,502	\$37,069	\$15,887	93.62%
KERN	\$3,875,996	\$1,838,236	\$1,426,432	\$611,328	93.89%
KINGS	\$506,684	\$248,521	\$180,714	\$77,449	97.10%
LAKE	\$744,567	\$376,097	\$257,929	\$110,541	100.00%
LASSEN	\$97,339	\$42,173	\$38,616	\$16,550	85.78%
LOS ANGELES	\$71,200,284	\$33,677,707	\$26,265,404	\$11,257,173	93.64%
MADERA	\$392,971	\$195,682	\$138,102	\$59,187	98.58%
MARIN	\$1,012,701	\$462,539	\$385,113	\$165,049	90.42%
MARIPOSA	\$74,641	\$34,454	\$28,131	\$12,056	91.38%
MENDOCINO	\$1,609,887	\$766,109	\$590,645	\$253,133	94.21%
MERCED	\$800,528	\$386,738	\$289,653	\$124,137	95.64%
MODOC	\$85,519	\$43,196	\$29,626	\$12,697	100.00%
MONO	\$61,105	\$18,868	\$29,566	\$12,671	61.14%
MONTEREY	\$1,965,915	\$955,995	\$706,944	\$302,976	96.27%
NAPA	\$409,148	\$196,238	\$149,037	\$63,873	94.95%
NEVADA	\$292,960	\$145,953	\$102,905	\$44,102	98.63%
ORANGE	\$3,869,653	\$1,775,222	\$1,466,102	\$628,329	90.82%
PLACER	\$675,053	\$311,150	\$254,732	\$109,171	91.25%
PLUMAS	\$99,882	\$47,756	\$36,488	\$15,638	94.66%
RIVERSIDE	\$4,681,681	\$2,228,625	\$1,717,139	\$735,917	94.24%
SACRAMENTO	\$7,407,952	\$3,478,138	\$2,750,870	\$1,178,944	92.95%
SAN BENITO	\$99,893	\$35,256	\$45,246	\$19,391	69.88%
SAN BERNARDINO	\$9,713,908	\$4,870,928	\$3,390,086	\$1,452,894	99.27%
SAN DIEGO	\$9,761,075	\$4,504,564	\$3,679,558	\$1,576,953	91.36%
SAN FRANCISCO	\$8,340,498	\$4,016,674	\$3,026,677	\$1,297,147	95.34%
SAN JOAQUIN	\$2,622,932	\$1,237,333	\$969,919	\$415,680	93.39%
SAN LUIS OBISPO	\$919,155	\$451,848	\$327,115	\$140,192	97.32%
SAN MATEO	\$1,695,386	\$665,923	\$720,624	\$308,839	77.76%
SANTA BARBARA	\$942,615	\$388,768	\$387,693	\$166,154	81.65%
SANTA CLARA	\$4,017,965	\$1,864,169	\$1,507,657	\$646,139	91.85%
SANTA CRUZ	\$963,614	\$461,147	\$351,727	\$150,740	94.74%
SHASTA	\$931,446	\$446,740	\$339,294	\$145,412	94.95%
SIERRA	\$42,775	\$15,749	\$18,918	\$8,108	72.88%
SISKIYOU	\$154,822	\$74,262	\$56,392	\$24,168	94.96%
SOLANO	\$1,892,513	\$940,377	\$666,495	\$285,641	98.37%
SONOMA	\$2,781,972	\$1,368,568	\$989,383	\$424,021	97.39%
STANISLAUS	\$2,651,223	\$1,265,541	\$969,977	\$415,705	94.50%
SUTTER	\$231,238	\$116,672	\$80,196	\$34,370	99.89%
TEHAMA	\$346,771	\$133,003	\$149,638	\$64,130	75.93%
TRINITY	\$81,824	\$20,874	\$42,665	\$18,285	50.50%
TULARE	\$1,359,886	\$675,165	\$479,305	\$205,416	98.29%
TUOLUMNE	\$204,644	\$103,370	\$70,892	\$30,382	100.00%
VENTURA	\$1,414,294	\$693,747	\$504,383	\$216,164	97.11%
YOLO	\$745,295	\$366,568	\$265,109	\$113,618	97.37%
YUBA	\$359,861	\$181,521	\$124,838	\$53,502	99.86%
<b>TOTAL</b>	<b>\$174,070,000</b>	<b>\$81,858,000</b>	<b>\$64,548,000</b>	<b>\$27,664,000</b>	<b>93.07%</b>

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



Attachment #2  
CFL 00/01-14

**AB 1682 ADVISORY COMMITTEE CERTIFICATION**

\_\_\_\_\_ County certifies:

\_\_\_\_\_ We have established, or will establish an AB 1682 Advisory Committee during Fiscal Year 2000/01.

\_\_\_\_\_ We have a Public Authority in our county, but have established, or will establish during FY 2000/01, an AB 1682 Advisory Committee that is separate from the existing Public Authority Advisory Committee.

SIGNATURE

\_\_\_\_\_ County Welfare Director

\_\_\_\_\_ Date

Return this form by August 31, 2000 to:

California Department of Social Services  
County Financial Analysis Bureau,  
Attention: Jennifer Moore  
744 P Street, M.S. 8-200  
Sacramento, CA 95814



**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



October 27, 2000

COUNTY FISCAL LETTER (CFL) NO. 00/01-33

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY FISCAL OFFICERSSUBJECT: REVISED FISCAL YEAR 2000/01 IN-HOME SUPPORTIVE  
SERVICES (IHSS) PROGRAM ADMINISTRATIVE ALLOCATION.

REFERENCE: COUNTY FISCAL LETTER (CFL) NO. 00/01-14

This letter provides your county with a revised FY 2000/01 IHSS Administrative Program allocation. This revised allocation includes an additional \$668,000 in State General Fund and \$847,000 in Federal Reimbursement for the start-up and operation of the AB 1682 IHSS Advisory Committees. Each county's revised allocation is a result of the Certification Statements (CFL NO. 00/01-14, Attachment II) that were returned to the County Financial Analysis Bureau. In order to be eligible to receive a portion of the available State General Fund, a county needed to certify that they will be establishing or continuing operation of an AB 1682 Advisory Committee in the current Fiscal Year.

The available funds are being distributed equally to the participating counties (see Attachment I) and then added to your total initial IHSS administrative allocation (CFL 00/01-14) for a revised IHSS administrative allocation (see Attachment II).

A new claiming code(s), specific to the AB 1682 Advisory Committees will be established and tracked against the IHSS Administrative Allocation. Claiming instructions and program guidelines for the AB 1682 Advisory Committee allocation will be issued to the counties as soon as possible. Program Codes 102, 103, 104 and 330 will continue to be controlled against the total IHSS Administrative Allocation.

For questions regarding this allocation, please contact your county analyst in the County Financial Analysis Bureau at (916) 657-3806. For program questions please contact Vanessa Southward of the Adult Programs Bureau at (916) 229-4004.

*Original Document Signed by*  
**DOUGLAS D. PARK on 10/27/00**

DOUGLAS D. PARK, Chief  
Financial Planning Branch

Attachments

c: CWDA

FY 2000/01  
IHSS Advisory Committees Allocation

CFL 00/01-33  
ATTACHMENT I

County	Total	Federal	State	County
Alameda	\$27,054	\$15,125	\$11,929	\$0
Alpine	\$27,054	\$15,125	\$11,929	\$0
Amador	\$27,054	\$15,125	\$11,929	\$0
Butte	\$27,054	\$15,125	\$11,929	\$0
Calaveras	\$27,054	\$15,125	\$11,929	\$0
Colusa	\$27,054	\$15,125	\$11,929	\$0
Contra Costa	\$27,054	\$15,125	\$11,929	\$0
Del Norte	\$27,054	\$15,125	\$11,929	\$0
El Dorado	\$27,054	\$15,125	\$11,929	\$0
Fresno	\$27,054	\$15,125	\$11,929	\$0
Glenn	\$27,054	\$15,125	\$11,929	\$0
Humboldt	\$27,054	\$15,125	\$11,929	\$0
Imperial	\$27,054	\$15,125	\$11,929	\$0
Inyo	\$27,054	\$15,125	\$11,929	\$0
Kern	\$27,054	\$15,125	\$11,929	\$0
Kings	\$27,054	\$15,125	\$11,929	\$0
Lake	\$27,054	\$15,125	\$11,929	\$0
Lassen	\$27,054	\$15,125	\$11,929	\$0
Los Angeles	\$27,054	\$15,125	\$11,929	\$0
Madera	\$27,054	\$15,125	\$11,929	\$0
Marin	\$27,054	\$15,125	\$11,929	\$0
Mariposa	\$27,054	\$15,125	\$11,929	\$0
Mendocino	\$27,054	\$15,125	\$11,929	\$0
Merced	\$27,054	\$15,125	\$11,929	\$0
Modoc	\$27,054	\$15,125	\$11,929	\$0
Mono	\$27,054	\$15,125	\$11,929	\$0
Monterey	\$27,054	\$15,125	\$11,929	\$0
Napa	\$27,054	\$15,125	\$11,929	\$0
Nevada	\$27,054	\$15,125	\$11,929	\$0
Orange	\$27,054	\$15,125	\$11,929	\$0
Placer	\$27,054	\$15,125	\$11,929	\$0
Plumas	\$27,054	\$15,125	\$11,929	\$0
Riverside	\$27,054	\$15,125	\$11,929	\$0
Sacramento	\$27,054	\$15,125	\$11,929	\$0
San Benito	\$27,054	\$15,125	\$11,929	\$0
San Bernardino	\$27,054	\$15,125	\$11,929	\$0
San Diego	\$0	\$0	\$0	\$0
San Francisco	\$27,054	\$15,125	\$11,929	\$0
San Joaquin	\$27,054	\$15,125	\$11,929	\$0
San Luis Obispo	\$27,054	\$15,125	\$11,929	\$0
San Mateo	\$27,054	\$15,125	\$11,929	\$0
Santa Barbara	\$27,054	\$15,125	\$11,929	\$0
Santa Clara	\$27,054	\$15,125	\$11,929	\$0
Santa Cruz	\$27,054	\$15,125	\$11,929	\$0
Shasta	\$27,054	\$15,125	\$11,929	\$0
Sierra	\$27,054	\$15,125	\$11,929	\$0
Siskiyou	\$27,054	\$15,125	\$11,929	\$0
Solano	\$27,054	\$15,125	\$11,929	\$0
Sonoma	\$27,054	\$15,125	\$11,929	\$0
Stanislaus	\$27,054	\$15,125	\$11,929	\$0
Sutter	\$0	\$0	\$0	\$0
Tehama	\$27,054	\$15,125	\$11,929	\$0
Trinity	\$27,054	\$15,125	\$11,929	\$0
Tulare	\$27,054	\$15,125	\$11,929	\$0
Tuolumne	\$27,054	\$15,125	\$11,929	\$0
Ventura	\$27,054	\$15,125	\$11,929	\$0
Yolo	\$27,054	\$15,125	\$11,929	\$0
Yuba	\$27,054	\$15,125	\$11,929	\$0
Total	\$1,515,000	\$847,000	\$668,000	\$0

REVISED FY 2000/01  
IN-HOME SUPPORTIVE SERVICES (IHSS) ADMINISTRATIVE ALLOCATION

COUNTY	FY 2000/01 REVISED IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July 99-March 00 IHSS HR Usnge Rate
ALAMEDA	\$7,293,317	\$3,221,568	\$2,853,803	\$1,217,946	87.36%
ALPINE	\$89,624	\$15,125	\$55,728	\$18,771	0.00%
AMADOR	\$105,518	\$54,621	\$39,207	\$11,690	99.65%
BUTTE	\$1,200,804	\$580,739	\$437,624	\$182,441	95.40%
CALAVERAS	\$182,794	\$90,295	\$68,328	\$24,171	95.55%
COLUSA	\$214,184	\$77,001	\$99,607	\$37,576	65.46%
CONTRA COSTA	\$3,831,805	\$1,749,622	\$1,461,107	\$621,076	90.25%
DEL NORTE	\$141,938	\$68,677	\$54,861	\$18,400	92.28%
EL DORADO	\$317,928	\$134,490	\$131,985	\$51,453	81.24%
FRESNO	\$5,456,699	\$2,339,794	\$2,185,412	\$931,493	84.76%
GLENN	\$280,016	\$125,920	\$111,446	\$42,650	86.71%
HUMBOLDT	\$1,488,416	\$737,276	\$529,377	\$221,763	97.83%
IMPERIAL	\$1,578,130	\$683,831	\$629,588	\$264,711	85.35%
INYO	\$127,512	\$62,627	\$48,998	\$15,887	93.62%
KERN	\$3,903,050	\$1,853,361	\$1,438,361	\$611,328	93.89%
KINGS	\$533,738	\$263,638	\$192,649	\$77,451	97.10%
LAKE	\$771,621	\$391,222	\$269,858	\$110,541	100.00%
LASSEN	\$124,393	\$57,298	\$50,545	\$16,550	85.78%
LOS ANGELES	\$71,227,338	\$33,692,832	\$26,277,333	\$11,257,173	93.64%
MADERA	\$420,025	\$210,807	\$150,031	\$59,187	98.58%
MARIN	\$1,039,755	\$477,664	\$397,042	\$165,049	90.42%
MARIPOSA	\$101,695	\$49,579	\$40,060	\$12,056	91.38%
MENDOCINO	\$1,636,941	\$781,234	\$602,574	\$253,133	94.21%
MERCED	\$827,582	\$401,863	\$301,582	\$124,137	95.64%
MODOC	\$112,573	\$58,321	\$41,555	\$12,697	100.00%
MONO	\$88,159	\$33,993	\$41,495	\$12,671	61.14%
MONTEREY	\$1,992,969	\$971,120	\$718,873	\$302,976	96.27%
NAPA	\$436,202	\$211,363	\$160,966	\$63,873	94.95%
NEVADA	\$320,014	\$161,078	\$114,834	\$44,102	98.63%
ORANGE	\$3,896,707	\$1,790,347	\$1,478,031	\$628,329	90.82%
PLACER	\$702,107	\$326,275	\$266,661	\$109,171	91.25%
PLUMAS	\$126,936	\$62,881	\$48,417	\$15,638	94.66%
RIVERSIDE	\$4,708,735	\$2,243,750	\$1,729,068	\$735,917	94.24%
SACRAMENTO	\$7,435,006	\$3,493,263	\$2,762,799	\$1,178,944	92.95%
SAN BENITO	\$126,947	\$50,381	\$57,175	\$19,391	69.88%
SAN BERNARDINO	\$9,740,962	\$4,886,053	\$3,402,015	\$1,452,894	99.27%
SAN DIEGO	\$9,761,075	\$4,504,564	\$3,679,558	\$1,576,953	91.36%
SAN FRANCISCO	\$8,367,552	\$4,031,799	\$3,038,606	\$1,297,147	95.34%
SAN JOAQUIN	\$2,649,986	\$1,252,458	\$981,848	\$415,680	93.39%
SAN LUIS OBISPO	\$946,209	\$466,973	\$339,044	\$140,192	97.32%
SAN MATEO	\$1,722,440	\$681,048	\$732,553	\$308,839	77.76%
SANTA BARBARA	\$969,669	\$403,893	\$399,622	\$166,154	81.65%
SANTA CLARA	\$4,045,019	\$1,879,294	\$1,519,586	\$646,139	91.85%
SANTA CRUZ	\$990,668	\$476,272	\$363,656	\$150,740	94.74%
SHASTA	\$958,500	\$461,865	\$351,223	\$145,412	94.95%
SIERRA	\$69,829	\$30,874	\$30,847	\$8,108	72.88%
SISKIYOU	\$181,876	\$89,387	\$68,321	\$24,168	94.96%
SOLANO	\$1,919,567	\$955,502	\$678,424	\$285,641	98.37%
SONOMA	\$2,809,026	\$1,383,693	\$1,001,312	\$424,021	97.39%
STANSLAUS	\$2,678,277	\$1,280,666	\$981,906	\$415,705	94.50%
SUTTER	\$231,238	\$116,672	\$80,196	\$34,370	99.89%
TEHAMA	\$373,825	\$148,128	\$161,567	\$64,130	75.93%
TRINITY	\$108,878	\$35,999	\$54,594	\$18,285	50.50%
TULARE	\$1,386,940	\$690,290	\$491,234	\$205,416	98.29%
TUOLUMNE	\$231,698	\$118,495	\$82,821	\$30,382	100.00%
VENTURA	\$1,441,348	\$708,872	\$516,312	\$216,164	97.11%
YOLO	\$772,349	\$381,693	\$277,038	\$113,618	97.37%
YUBA	\$386,915	\$196,646	\$136,767	\$53,502	99.86%
TOTAL	\$175,585,000	\$82,769,922	\$65,216,006	\$27,664,002	93.07%

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



December 22, 2000

COUNTY FISCAL LETTER (CFL) No. 00/01-48

TO: COUNTY WELFARE DIRECTORS  
COUNTY FISCAL OFFICERS  
COUNTY AUDITOR CONTROLLERS  
COUNTY PROBATION OFFICERS

SUBJECT: COUNTY WELFARE DEPARTMENT (CWD) COUNTY EXPENSE  
CLAIM (CEC) FOR THE JANUARY-MARCH 2001 QUARTER TIME  
STUDY AND CLAIMING INSTRUCTIONS

This CFL provides time study and claiming instructions for the January through March 2001 quarter and includes information pertaining to the following program areas:

<u>General</u>	Page 2
<u>In-Home Supportive Services (IHSS)</u>	Page 2
<u>In-Home Supportive Services Tyler v. Anderson</u>	Page 3
<u>Child Welfare Services (CWS) - Live Scan/California Law Enforcement Telecommunications System (CLETS) Background Checks</u>	Page 4
<u>Non-Emergency Assistance-Emergency Response (Non-EA-ER) Referrals</u>	Page 5
<u>California Work Opportunity and Responsibility to Kids (CalWORKs) Information and Referral</u>	Page 6
<u>CalWORKs Transitional Services, Nonfederal</u>	Page 6
<u>Workforce Investment Act</u>	Page 6
<u>Two-Parent Families</u>	Page 7
<u>Supportive Services Outreach</u>	Page 8
<u>Job Training and Partnership Act</u>	Page 9

The Program Code Descriptions (PCDs) and Support Staff Time Reporting Instructions for use during the March quarter is as follows:

Social Services	3/01
CalWORKs	3/01
Other Public Welfare Programs	3/01
Child Care	3/01
Non-Welfare	3/01
Staff Development	3/01
Electronic Data Processing	3/01
Support Staff Time Reporting Instructions	3/01
General Time Study Instructions	3/01

Attached are copies of the March 2001 PCDs for the Social Services, CalWORKs, Other Public Welfare Programs, Child Care, Non-Welfare, Staff Development, Electronic Data Processing, Support Staff Time Report Instructions and the General Time Study Instructions.

## I. GENERAL

In order to increase the effectiveness and timeliness of when the audited claims are returned to the counties, we will return the audited claims via e-mail beginning with the September 2000 quarter. This information was shared with the counties via an e-mail message sent on November 20, 2000 asking for their correct county contact person's e-mail address. If you have any updates to this, please e-mail us at [cec@dss.ca.gov](mailto:cec@dss.ca.gov). Counties will continue to send all completed quarterly and supplemental claims to [csystems@dss.ca.gov](mailto:csystems@dss.ca.gov).

## II. SOCIAL SERVICES

### A. In-Home Supportive Services (IHSS)

Time Study:  
None

Claiming Instructions:

Assembly Bill 1682 (Chapter 90, Statutes of 1999) requires each county to establish an Advisory Committee to provide recommendations on modes of service to be used in the county for IHSS.

Retroactive to the September 2000 quarter, the following Program Code (PC) and Program Identifier Number (PIN) have been established to capture costs associated with the IHSS Advisory Committees.

These costs may include but are not limited to: stipends, travel, training, mileage, conference fees, and supplies. Advisory Committees in the Public Authority counties will submit claims for expenses in the same manner as the Non-Public Authority counties.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
023	023068	IHSS Advisory Committee-Direct Costs

The sharing ratio will be 0/53/47/0 (Federal/State/Health/County). Expenditures will be controlled to the IHSS administration allocation (Refer to CFL #00/01-33, dated October 27, 2000). Advisory Committee costs that were incurred and paid between July and September 2000 may be submitted on a supplemental claim.

Costs incurred by the County Welfare Department (CWD) for supporting the IHSS Advisory Committee are not allowable for reimbursement under these codes. Any CWD costs for providing support activities for the IHSS Advisory Committee should be charged to the appropriate IHSS/PCSP claim codes on the County Expense Claim (CEC).

#### **B. In-Home Supportive Services (IHSS) – Tyler v. Anderson**

##### Time Study:

Effective with the March 2001 quarter, all activities related to the Tyler v. Anderson class action lawsuit should be reported to Time Study Code (TSC) 1042, IHSS – NON HR/NON PCSP. The Tyler v. Anderson lawsuit relates to Range of Motion (ROM) exercises provided to IHSS recipients between June 17, 1990 and March 31, 1994. No revisions are being made to the current Program Code Description for TSC 1042 since the existing language already includes implementation activities for court cases. Counties should time study all of their Tyler vs. Anderson activities to this code.

Please refer to All-County Information Notice No. I-99-99, dated December 22, 1999, for program implementation instructions.

##### Claiming Instructions:

Please reference CFL 92/93-46, dated June 7, 1993, for claiming instructions.

### C. CWS – Live Scan/ CLETS Background Checks

As outlined in CFL 99/00-55, dated March 30, 2000, Senate Bill (SB) 645 appropriated funds to reimburse counties for costs associated with conducting background checks of relatives, prospective guardians, or other persons who are not licensed or certified foster parents. Counties were to use the California Law Enforcement Telecommunications System (CLETS) or Child Abuse Index for these background checks and charge the associated processing fees to PC 359, CWS Background Checks.

SB 2161, Chapter 421, Statutes of 2000 updates the previous statutory requirements regarding the use of the CLETS as a means of assessing the appropriateness of a foster care placement. CWDs now have statutory authority to access full criminal background information via the CLETS. This legislation also requires CWS placement agencies to follow up a CLETS or Child Abuse Index background check with a fingerprint check within five judicial days, which can be done by using an automated mobile and fixed location fingerprint identification system (Live Scan).

As a result of the above changes, the Budget Act of 2000 appropriated \$6,075,000 for the purchase and maintenance of Live Scan equipment that is to be used specifically for the background check/fingerprinting associated with CWS relative/guardian or other non-licensed/certified foster parent placement assessments. As outlined in CFL 00/01-43, dated November 13, 2000, the Live Scan and CWS Background Check funds were combined into one allocation and as outlined below, both the costs will be claimed to PC 359.

#### Time Study:

Time Study Code (TSC) 3591, CWS Live Scan/CLETS Background Checks, has been established to capture staff activities associated with using the Live Scan equipment to fingerprint foster parents and transfer information to the Child Abuse Index, Federal Bureau of Investigation and Department of Justice for a background check.

<u>TSC</u>	<u>Description</u>
3591	CWS Live Scan/CLETS Background Checks

#### Claiming Instructions:

To accommodate the combined allocation/claiming of the Live Scan and background check costs, retroactive to the September 2000 quarter, the title for PC 359, CWS Background Checks has been changed to CWS Live Scan/CLETS Background Checks. PIN 359031, Contracted Services has been established to

capture the costs of purchasing Live Scan equipment, the associated implementation fees, and ongoing equipment Maintenance and Operation (M&O) costs. All CWS background check fees will continue to be claimed to 359068. CWS Live Scan/CLETS Background Checks - Direct Costs.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
359	359031	CWS-Live Scan/CLETS Background Checks-Contracted Services
	359068	CWS-Live Scan/CLETS Background Checks-Direct

#### D. Non-EA-ER Referrals

##### Time Study:

Effective retroactively to the December 2000 quarter, TSC 1101, Non-EA-ER Referrals, has been established to capture time spent on Non-EA-ER Referral cases that do not meet the EA criteria (i.e., more than one episode in a 12-month period). The Fiscal Policy Bureau issued a reminder (CFL No. 99/00-55) to CWDs to query the Assistance to Children in Emergency (ACE) System for prior EA episodes to determine when a child is an EA case or not. Workers should use TSC 1101 at the point in time when it becomes known that the case is not EA eligible.

The Social Services Program Code Descriptions (PCDs), have been updated to include the following Non-EA-ER Referral activities; time spent receiving emergency referrals, confirming whether the referral is a child welfare services referral, completing the ER protocol, and investigating the emergency allegations, including the collateral contacts. This includes time spent closing those cases in which the allegations are unfounded. For those cases in which the allegations are founded, it includes investigation activities, reporting to the Department of Justice, and notifying the parents regarding the temporary custody of the child.

##### Claiming Instructions:

PC 110, Non-EA-ER, has been established retroactive to the December 2000 quarter to claim the costs of Non-EA-ER cases that do not meet the EA criteria.

<u>PC</u>	<u>PIN</u>	<u>Description</u>
110	110088-91	Support Operating Costs (Codes Available)
	110092	Casework OT/CTO Costs
	110093	Support Staff OT/CTO Costs
	110094	Start Up/Nonrecurring Costs

Non-EA-ER is funded with Federal Title IV-E funds 50/35/0/15 (Federal Welfare/State Welfare/ Health/County) for those costs that are federally eligible.



The Title IV-E non-federal discount ratio will be applied to costs reported on PC 110 and the non-federal portion shifted to PC 146.

### III. CalWORKs

#### A. Information and Referral

It has come to our attention that a code has not been established for County Welfare Departments (CWDs) to claim costs associated with contracted services for Information and Referral activities. Retroactive to the September 2000 quarter, the direct cost PIN code for PC 664 has been established to capture these costs, based on the final TANF regulations and new reporting requirements associated with CalWORKs Information and Referral services. The sharing ratio is 100/0/0/0 (Federal/State/Health/County).

Time Study:

None.

Claiming Instructions:

The following direct cost PIN has been established for PC 664:

<u>PIN</u>	<u>Description</u>
664032	Information and Referral-Contracted Services (Non-assistance).

#### B. CalWORKs Transitional Services, Nonfederal

Time Study:

Effective with the March 2001 quarter, the program description listed under TSC 6481, CalWORKs Transitional Services, Nonfederal, has been amended to include activities associated with Two-Parent Families. This activity was overlooked during the implementation of the State Only Two-Parent Family program.

Claiming Instructions:

None.

#### C. Workforce Investment Act

Time Study:

Subsequent to review and discussions between the California Department of Social Services (CDSS) and County Welfare Directors Association (CWDA) and retroactive to the September 2000 quarter, costs associated with the provision of services under the Workforce Investment Act (WIA) will be captured under the following TSCs:

<u>TSC</u>	<u>Description</u>
8201	WIA Dislocated Worker Program
8211	WIA Adult Program Activities
8221	WIA Youth Program Activities
8231	WIA Rapid Response Activities
8241	WIA Formula Grant Activities
8251	WIA Retention Activities
8261	WIA WtW Grant 30%-70% Activities
8271	WIA Other Activities

Claiming Instructions:

Retroactive to the September 2000 quarter, costs associated with the provisions of services under the Workforce Investment Act (WIA) will be captured under the following PC's. The sharing ratios for these programs are 0/0/100 (Federal/State/County).

<u>PC</u>	<u>PIN</u>	<u>Description</u>
820	820068	WIA Dislocated Worker Program-Direct Costs
821	821068	WIA Adult Program Activities-Direct Costs
822	822068	WIA Youth Program Activities-Direct Costs
823	823068	WIA Rapid Response Activities-Direct Costs
824	824068	WIA Formula Grant Activities-Direct Costs
825	825068	WIA Retention Activities-Direct Costs
826	826068	WIA WtW Grant 30%-70% Activities-Direct Costs
827	827068	WIA Other Activities-Direct Costs

Support staff performing direct-to-program activities associated with the provision of services under WIA will time study to B-46, Workforce Investment Act Activities.

**D. Two-Parent Families**

Time Study:

Per CFL No. 00/01-04, counties will time study all CalWORKs eligibility activities, including Two-Parent Family, to TSC 6141, CalWORKs Eligibility and TSC 6631, CalWORKs Case Management. This program code is subject to the Two-Parent Family Caseload shift. The PCD has been corrected to reflect these activities.

Claiming Instructions:

None.

### E. Supportive Services Outreach Expanded Activities

#### Time Study:

As outlined in CFL 00/01-44, dated November 14, 2000, counties were provided with a \$3 million augmentation to their FY 00/01 Single Allocation for Supportive Services Outreach. Expenditure of these funds is being captured separately. Therefore, retroactive to the December 2000 quarter, TSC 2571, Supportive Services Outreach and Direct to Program Support Staff Code B56 have been established to capture costs associated with the expansion of existing county outreach efforts, and to develop and implement new outreach strategies.

Only those counties that have received the augmentation may use this TSC. In addition, only those counties who have directed staff to separately capture expanded outreach activities may report their time to these codes for the December 2000 quarter.

#### Claiming Instructions:

Retroactive to the December 2000 quarter, PC 257, Supportive Services Outreach, has been established to capture costs associated with the expansion of existing county outreach efforts, and to develop and implement new outreach strategies. This PC is available only to those counties that received an allocation in CFL 00/01-44.

This expanded outreach activity is to ensure current and former CalWORKs participants, as well as other low income individuals, are made aware of and have access to available income-support services. Outreach services may be provided through a contract or directly by county staff. These services may include, but are not limited to, information on:

- Earned Income Tax Credit (EITC)
- Health coverage
- Food and nutrition programs

The sharing ratio for this program is 100/0/0/0 (Federal/State/County/Health).

The following PINs have been established for PC 257:

<u>PC</u>	<u>PIN</u>	<u>Description</u>
257	257032	Contracted Services, Non-Assistance
	257088-91	Support Operating Costs (Codes Available)
	257092	Casework OT/CTO Costs
	257093	Support Staff OT/CTO Costs
	257094	Start Up/Nonrecurring Costs

#### IV. NONWELFARE

##### A. Job Training and Partnership Act

Time Study:

Effective with the March 2001 quarter, the reference to activities associated with the Job Training and Partnership Act (JTPA) has been deleted. This program has been replaced by the Workforce Investment Act (WIA) effective July 2000. Program codes have been established under the CalWORKs function to capture the costs associated with WIA.

Claiming Instructions:

None.

If you have any questions regarding this CFL, please contact your Fiscal Policy Bureau Analyst at (916) 657-3440.

Sincerely,

*Original Document Signed by  
Mary Jane Archer on 12/22/00*

MARY JANE ARCHER, Chief  
Fiscal Systems and Accounting Branch

C: CWDA

Attachments

CFL No. 00/01-48 attachments omitted.

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



February 16, 2001

COUNTY FISCAL LETTER (CFL) NO. 00/01-61

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORSSUBJECT: PLANNING AUGMENTATION TO FISCAL YEAR (FY) 2000/01  
IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM  
ADMINISTRATIVE ALLOCATION

REFERENCE: CFL No. 00/01-14, CFL No. 00/01-33, CFL No. 00/01-48

The purpose of this letter is to provide counties with a planning allocation augmentation of \$10.5 million in Federal, State, and County funds for the administration of the IHSS Program in FY 2000/01. CFL No. 00/01-33 dated October 27, 2000, allocated \$175 million for FY 2000/01 IHSS Administration. This planning allocation includes augmentations for the Basic Administrative allocation, the Advisory Committee component, and funding for the implementation/administration of the Tyler v. Anderson court case judgement.

**IHSS Basic**

The augmentation of \$6,592,000 in State, Federal, and County funds was distributed based on the following:

- Each county's actual average monthly paid cases for the period covering May 1999 through April 2000. Caseload was obtained from the IHSS Management Statistics Summary Report.
- Each county's revised FY 1998/99 actual IHSS unit cost adjusted for the cost of doing business (1.84%) for both FY 1999/00 and FY 2000/01.
- Each county's actual Title XIX usage rate based on FY 1999/00 expenditures.

Please reference CFL No. 00/01-14 for claiming codes and instructions.

### IHSS Advisory Committee

CFL No. 00/01-33 allocated \$1,515,000 in State and Federal funds for the establishment or continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682, Chapter 90 statutes of 1999. This allocation includes an augmentation of \$1,452,000 in State and Federal funds for the current year Advisory Committee allocation. The available funds were distributed equally to participating counties.

In CFL No. 00/01-48, dated December 22, 2000, Program Code 023 was established retroactive to the September 2000 claiming quarter in order to capture costs related to the Advisory Committees. Please reference CFL No. 00/01-48 for specific claiming guidelines.

### Tyler v. Anderson

A total of \$2,519,000 in State and County funds is being allocated for costs associated with Tyler v. Anderson claim settlement activities. With the exception of Amador, Calaveras, Fresno, Los Angeles, San Bernardino, and Tehama counties, the available funds are being distributed based upon a percent to total of each county's actual average monthly paid cases for the period covering May 1999 through April 2000. The counties listed above were excluded from the original Tyler v. Anderson lawsuit; however, there will still be some workload associated with the settlement activities. Therefore, each of those excluded counties is being allocated \$1,000 per number of locations where Tyler v. Anderson information will be displayed.

ACL 08-01, dated January 22, 2001, provides counties with program implementation guidelines. In addition ACIN No. I-99-99, dated December 22, 1999, provides background information on this settlement. Staff time related to the administration of this program should be charged to Time Study Code 1042 (IHSS -NON HR/NON-PCSP).

If you have any questions concerning this allocation, please contact your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

*Original Document Signed by  
DOUGLAS D. PARK on 2/16/01*

DOUGLAS D. PARK, Chief  
Financial Planning Branch

Attachment

c: CWDA

FINAL REVISED FY 2000/01 IHSS ADMINISTRATIVE ALLOCATION

COUNTIES	FY 2000/01 INITIAL IHSS ALLOCATIONS	FY 2000/01 PLANNING AUGMENTATION	TOTAL	FEDERAL SHARE	STATE SHARE	COUNTY SHARE
<i>CPL 00/01-14 &amp; 00/01-13</i>						
ALAMEDA	\$7,293,317	\$502,550	\$7,795,866	\$3,389,833	\$3,092,564	\$1,313,470
ALPINE	\$89,624	\$30,218	\$119,841	\$25,107	\$74,676	\$20,058
AMADOR	\$105,518	\$31,176	\$136,693	\$66,557	\$57,458	\$12,678
BUTTE	\$1,200,804	\$116,879	\$1,317,682	\$619,632	\$496,992	\$201,058
CALAVERAS	\$182,794	\$34,670	\$217,463	\$103,609	\$88,060	\$25,794
COLUSA	\$214,184	\$31,870	\$246,053	\$88,447	\$118,686	\$38,920
CONTRA COSTA	\$3,831,805	\$254,658	\$4,086,463	\$1,832,554	\$1,586,087	\$667,821
DEL NORTE	\$141,938	\$37,149	\$179,087	\$81,499	\$76,673	\$20,915
EL DORADO	\$317,928	\$46,725	\$364,652	\$150,284	\$158,419	\$55,950
FRESNO	\$5,456,699	\$269,280	\$5,725,978	\$2,467,523	\$2,289,279	\$969,176
GLENN	\$280,016	\$39,277	\$319,292	\$139,534	\$134,193	\$45,565
HUMBOLDT	\$1,488,416	\$95,459	\$1,583,874	\$768,510	\$579,113	\$236,251
IMPERIAL	\$1,578,130	\$112,264	\$1,690,394	\$716,089	\$690,370	\$283,934
INYO	\$127,512	\$32,177	\$159,689	\$75,118	\$67,561	\$17,009
KERN	\$3,903,050	\$189,297	\$4,092,347	\$1,913,074	\$1,533,844	\$645,428
KINGS	\$533,738	\$64,276	\$598,014	\$284,315	\$227,949	\$85,749
LAKE	\$771,621	\$89,393	\$861,014	\$420,011	\$317,060	\$123,942
LASSEN	\$124,393	\$31,822	\$156,215	\$68,915	\$69,471	\$17,828
LOS ANGELES	\$71,227,338	\$3,036,373	\$74,263,711	\$35,372,741	\$27,231,630	\$11,659,339
MADERA	\$420,025	\$61,160	\$481,184	\$230,323	\$183,963	\$66,898
MARIN	\$1,039,755	\$63,604	\$1,103,359	\$500,186	\$430,581	\$172,591
MARIPOSA	\$101,695	\$31,670	\$133,365	\$61,027	\$58,998	\$13,339
MENDOCINO	\$1,636,941	\$97,539	\$1,734,480	\$818,242	\$649,726	\$266,512
MERCED	\$827,582	\$93,552	\$921,134	\$431,401	\$351,171	\$138,562
MODOC	\$112,573	\$30,600	\$143,173	\$70,039	\$59,556	\$13,578
MONO	\$88,159	\$38,819	\$116,977	\$44,836	\$58,861	\$13,280
MONTEREY	\$1,992,969	\$132,036	\$2,125,004	\$1,018,164	\$783,145	\$323,695
NAPA	\$436,202	\$46,870	\$483,072	\$228,586	\$186,501	\$67,984
NEVADA	\$320,014	\$49,962	\$369,976	\$178,151	\$142,638	\$49,187
ORANGE	\$3,896,707	\$302,656	\$4,199,362	\$1,887,182	\$1,626,874	\$685,306
PLACER	\$702,107	\$56,710	\$758,816	\$344,071	\$298,682	\$116,064
PLUMAS	\$126,936	\$31,567	\$158,503	\$73,847	\$67,621	\$17,034
RIVERSIDE	\$4,708,735	\$368,536	\$5,077,270	\$2,362,573	\$1,908,632	\$806,065
SACRAMENTO	\$7,435,006	\$542,341	\$7,977,346	\$3,679,018	\$3,017,168	\$1,281,161
SAN BENITO	\$126,947	\$33,163	\$160,109	\$61,849	\$77,145	\$21,115
SAN BERNARDINO	\$9,740,962	\$302,084	\$10,043,045	\$5,046,768	\$3,505,752	\$1,490,525
SAN DIEGO	\$9,761,075	\$703,744	\$10,464,819	\$4,723,309	\$4,019,021	\$1,722,490
SAN FRANCISCO	\$8,367,552	\$561,550	\$8,929,102	\$4,241,013	\$3,290,001	\$1,398,088
SAN JOAQUIN	\$2,649,986	\$210,891	\$2,860,876	\$1,326,063	\$1,082,722	\$452,091
SAN LUIS OBISPO	\$946,209	\$75,467	\$1,021,676	\$493,959	\$377,762	\$149,955
SAN MATEO	\$1,722,440	\$140,545	\$1,862,984	\$724,034	\$805,622	\$333,328
SANTA BARBARA	\$969,669	\$98,866	\$1,068,535	\$433,121	\$453,148	\$182,266
SANTA CLARA	\$4,045,019	\$283,332	\$4,328,351	\$1,980,106	\$1,652,122	\$696,122
SANTA CRUZ	\$990,668	\$86,504	\$1,077,172	\$505,670	\$408,411	\$163,091
SHASTA	\$958,500	\$92,467	\$1,050,967	\$491,420	\$400,041	\$159,505
SIERRA	\$69,829	\$29,018	\$98,847	\$41,757	\$48,325	\$8,765
SISKIYOU	\$181,876	\$38,963	\$220,839	\$103,071	\$90,799	\$26,969
SOLANO	\$1,919,567	\$130,192	\$2,049,759	\$1,001,408	\$742,202	\$306,148
SONOMA	\$2,809,026	\$140,655	\$2,949,680	\$1,433,681	\$1,069,556	\$446,443
STANISLAUS	\$2,678,277	\$187,598	\$2,865,874	\$1,345,466	\$1,072,639	\$447,769
SUTTER	\$231,238	\$13,077	\$244,315	\$120,450	\$86,705	\$37,160
TEHAMA	\$373,825	\$43,812	\$417,636	\$164,389	\$185,636	\$67,611
TRINITY	\$108,878	\$31,930	\$140,808	\$47,083	\$73,969	\$19,755
TULARE	\$1,386,940	\$132,225	\$1,519,164	\$733,582	\$558,264	\$227,318
TUOLUMNE	\$231,698	\$32,985	\$264,682	\$130,149	\$102,535	\$31,998
VENTURA	\$1,441,348	\$112,007	\$1,553,355	\$748,481	\$571,769	\$233,105
YOLO	\$772,349	\$56,105	\$828,453	\$400,527	\$307,909	\$120,017
YUBA	\$386,915	\$42,689	\$429,604	\$206,628	\$164,444	\$58,532
<b>TOTAL</b>	<b>\$175,585,000</b>	<b>\$10,563,000</b>	<b>\$186,148,000</b>	<b>\$87,014,990</b>	<b>\$69,860,702</b>	<b>\$29,272,308</b>



**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



July 18, 2001

COUNTY FISCAL LETTER (CFL) NO. 01/02-12

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORSSUBJECT: FISCAL YEAR (FY) 2001/02 IN-HOME SUPPORTIVE SERVICES  
(IHSS) PROGRAM ADMINISTRATIVE PLANNING ALLOCATION

Contingent upon approval of the State Budget, the amounts identified on the enclosed attachment are your planning allocations for the IHSS program. It is anticipated that a total of \$195 million in Federal, State, and County Funds will be made available upon approval of the FY 2001/02 Budget Act. This planning allocation includes funding for costs associated with Personal Care Services Program (PCSP) activities, Supported Individual Providers (SIP), nurses, and denials of assistance.

**IHSS Basic**

The IHSS planning allocation was developed using the following factors to best model each county's program size for FY 2001/02:

- Each county's actual average monthly paid cases for the period covering May 2000 through April 2001.
- Each county's FY 1999/00 actual IHSS unit cost adjusted for the cost of doing business (5.40%) for FY 2000/01.
- Each county's actual Title XIX usage rate based on expenditures through the first three-quarters of FY 2000/01.
- Each county was guaranteed to receive a minimum planning allocation of 90% of their prior four quarters expenditures.

The caseload information used in this allocation was obtained from the In Home Supportive Services Management Statistics Summary Report. The allocation methodology used assumes that each IHSS/PCSP case takes 11.5 hours to process. The cases were multiplied by the 11.5-hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalents for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.

Counties that operate with SIPs were allocated additional funds included in the FY 2001/02 Budget Act for this activity based on a percent to total of the SIP amount included in the FY 2000/01 allocation. These additional funds were added to the initial base planning allocation.

The IHSS health-related (HR) usage rate was applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP and the residual program. The State General Fund (SGF) share was calculated at 70% of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes 102 (IHSS-Skilled Professional Medical Personnel), 103 (IHSS-PCSP/HR), 104 (IHSS-Non HR/NonPCSP) and 330 (IHSS - Fraud) on the County Expense Claim will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only share through State Use Only Program Code 193. Consistent with prior policy, IHSS surplus funds will be redistributed to counties that are deficit during the closeout process.

#### IHSS Advisory Committee

Contingent upon approval of the State Budget, \$3 million in federal and state funds for continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682 will be made available. The SGF portion of \$1,589,000 has been distributed equally to the participating counties and has been included in your total allocation on the attachment. Program Code 023 has been established to capture costs associated with the IHSS Advisory Committees. Program Code 023 is tracked against the total IHSS allocation.

#### Tyler vs. Anderson

Contingent upon approval of the State Budget, a total of \$115,000 in SGF will be made available to cover costs associated with Tyler vs. Anderson claim settlement activities. At this time, the funds will not be allocated, but rather held in reserve to be distributed during the close out process.

If you have any questions concerning this allocation, please call your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

*Original Document Signed By*

GLORIA MERK  
Deputy Director  
Administration Division

Attachment  
c: CWDA

FY 2001/02 IN-HOME SUPPORTIVE SERVICES (IHSS) & ADVISORY COMMITTEE PLANNING ALLOCATION

COUNTIES	FY 2001/02 IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July 00-March 01 IHSS HR Usage Rate
ALAMEDA	\$8,326,111	\$4,046,707	\$3,003,946	\$1,275,458	49.47%
ALPINE	\$124,045	\$25,105	\$77,621	\$21,319	0.00%
AMADOR	\$128,289	\$61,919	\$54,822	\$11,548	49.75%
BUTTE	\$1,427,556	\$698,289	\$518,850	\$210,417	49.84%
CALAVERAS	\$210,056	\$101,012	\$84,694	\$24,350	49.18%
COLUSA	\$220,734	\$107,671	\$87,507	\$25,556	50.09%
CONTRA COSTA	\$4,561,118	\$2,245,323	\$1,629,420	\$686,375	50.12%
DEL NORTE	\$209,176	\$93,757	\$89,156	\$26,263	44.73%
EL DORADO	\$428,077	\$175,116	\$185,436	\$67,525	40.70%
FRESNO	\$6,707,227	\$2,763,480	\$2,768,986	\$1,174,761	41.88%
GLENN	\$295,560	\$140,282	\$117,058	\$38,220	48.32%
HUMBOLDT	\$1,222,507	\$595,684	\$447,139	\$179,684	49.65%
IMPERIAL	\$1,502,061	\$626,703	\$621,114	\$254,244	42.25%
INYO	\$155,996	\$71,942	\$67,201	\$16,853	46.27%
KERN	\$2,658,662	\$1,216,973	\$1,017,545	\$424,144	46.55%
KINGS	\$535,986	\$256,003	\$204,351	\$75,632	48.65%
LAKE	\$816,922	\$400,438	\$299,902	\$116,582	50.00%
LASSEN	\$172,594	\$77,031	\$75,257	\$20,306	44.18%
LOS ANGELES	\$84,290,886	\$40,253,362	\$30,834,528	\$13,202,996	48.60%
MADERA	\$446,016	\$213,572	\$171,074	\$61,370	48.80%
MARIN	\$1,166,551	\$564,337	\$429,913	\$172,301	49.28%
MARIPOSA	\$135,690	\$62,059	\$59,905	\$13,726	45.47%
MENDOCINO	\$1,422,919	\$688,210	\$522,659	\$212,050	49.26%
MERCED	\$949,672	\$453,765	\$355,498	\$140,409	48.65%
MODOC	\$164,336	\$79,815	\$67,528	\$16,993	50.00%
MONO	\$134,106	\$43,663	\$71,673	\$18,770	23.28%
MONTEREY	\$1,805,129	\$857,892	\$671,429	\$275,808	48.37%
NAPA	\$427,573	\$195,969	\$170,486	\$61,118	46.42%
NEVADA	\$337,047	\$164,670	\$129,027	\$43,350	50.00%
ORANGE	\$4,055,273	\$1,749,615	\$1,622,324	\$683,334	43.85%
PLACER	\$605,039	\$284,186	\$232,960	\$87,893	47.76%
PLUMAS	\$152,497	\$71,827	\$64,832	\$15,838	47.78%
RIVERSIDE	\$5,854,356	\$2,732,306	\$2,193,798	\$928,252	47.49%
SACRAMENTO	\$9,805,017	\$4,910,306	\$3,434,661	\$1,460,050	50.98%
SAN BENITO	\$224,112	\$97,278	\$97,147	\$29,687	42.92%
SAN BERNARDINO	\$8,674,925	\$4,299,295	\$3,071,304	\$1,304,326	50.45%
SAN DIEGO	\$8,902,605	\$4,014,418	\$3,421,731	\$1,466,456	45.89%
SAN FRANCISCO	\$8,749,684	\$4,167,153	\$3,216,135	\$1,366,396	48.47%
SAN JOAQUIN	\$2,864,283	\$1,376,772	\$1,049,621	\$437,890	48.93%
SAN LUIS OBISPO	\$894,663	\$415,392	\$343,853	\$135,418	47.19%
SAN MATEO	\$2,055,603	\$842,342	\$857,646	\$355,615	41.53%
SANTA BARBARA	\$1,269,604	\$577,179	\$493,061	\$199,364	46.18%
SANTA CLARA	\$4,396,682	\$2,079,402	\$1,630,459	\$686,821	48.13%
SANTA CRUZ	\$1,123,938	\$518,235	\$432,355	\$173,348	46.86%
SHASTA	\$896,256	\$418,535	\$342,768	\$134,953	47.48%
SIERRA	\$113,466	\$45,152	\$56,183	\$12,131	33.73%
SISKIYOU	\$219,164	\$102,311	\$90,160	\$26,693	47.28%
SOLANO	\$2,118,699	\$1,026,822	\$772,677	\$319,200	49.35%
SONOMA	\$2,883,533	\$1,381,022	\$1,060,121	\$442,390	48.75%
STANSLAUS	\$2,617,683	\$1,300,546	\$930,359	\$386,778	50.61%
SUTTER	\$265,311	\$129,424	\$103,484	\$32,403	50.00%
TEHAMA	\$439,532	\$162,491	\$202,292	\$74,749	36.17%
TRINITY	\$151,370	\$62,036	\$70,897	\$18,437	38.20%
TULARE	\$1,349,850	\$681,259	\$476,377	\$192,214	51.49%
TUOLUMNE	\$280,691	\$136,981	\$108,960	\$34,750	50.00%
VENTURA	\$1,492,830	\$744,121	\$532,459	\$216,250	50.82%
YOLO	\$805,680	\$389,072	\$299,989	\$116,619	49.21%
YUBA	\$399,455	\$200,472	\$147,651	\$51,332	51.51%
<b>TOTAL</b>	<b>\$194,644,429</b>	<b>\$92,196,714</b>	<b>\$72,190,000</b>	<b>\$30,257,715</b>	<b>48.16%</b>

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



September 24, 2002

COUNTY FISCAL LETTER (CFL) NO. 02/03-28

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORSSUBJECT: FISCAL YEAR (FY) 2002/03 IN-HOME SUPPORTIVE SERVICES  
(IHSS) PROGRAM ADMINISTRATIVE ALLOCATION

The purpose of this letter is to provide counties with their IHSS allocation. As approved in the Budget Act of 2002, a total of \$217 million in Federal, State, and County Funds will be made available for costs associated with Personal Care Services Program (PCSP) activities, Supported Individual Providers (SIP), nurses, and denials of assistance.

**IHSS Basic**

The IHSS allocation was developed in conjunction with the County Welfare Directors Association and uses the following factors:

- Each county's actual average monthly paid cases for the period May 2001 through July 2002.
- Each county's FY 2000/01 actual IHSS unit cost.
- Each county's actual Title XIX usage rate based on expenditures for FY 2001/02.
- Each county was guaranteed to receive a minimum allocation of 100% of their prior four quarters expenditures (FY 2001/02).
- The 20 small counties each received \$130,000 above their base allocation for development of their Public Authority.

The caseload information used in this allocation was obtained from the In Home Supportive Services Management Statistics Summary Report. The allocation methodology used assumes that each IHSS/PCSP case takes 11.5 hours to process. The cases were multiplied by the 11.5-hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalents for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.

Counties that operate with SIPs were allocated additional funds included in the Budget Act of 2002 based on a percent to total of the SIP amount included in the FY 2001/02 allocation. These additional funds were added to the initial base allocation.

The IHSS health-related (HR) usage rate was applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP and the residual program. The State General Fund (SGF) share was calculated at 70% of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes (PC) 102, IHSS-Skilled Professional Medical Personnel; 103, IHSS-PCSP/HR; 104 IHSS-Non-HR/NonPCSP; and 330 IHSS - Fraud, on the County Expense Claim will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only through State Use Only PC 193, State Use Only-IHSS.

### IHSS Advisory Committee

Three million in Federal and State funds is available for continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682 (Chapter 90, Statutes of 1999). The SGF portion of \$1,601,000 has been distributed equally to the participating counties and has been included in your total allocation on the attachment. PC 023 captures costs associated with the IHSS Advisory Committees. PC 023 is tracked against the total IHSS allocation.

If you have any questions concerning this allocation, please call your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

*Original Document*

*Signed By*

GLORIA MERK  
Deputy Director  
Administration Division

Attachment

c: CWDA

FY 2002/03 IN-HOME SUPPORTIVE SERVICES (IHSS) & ADVISORY COMMITTEE ALLOCATION

COUNTIES	FY 2002/03 IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July 01-June 02 IHSS HR Usage Rate	Distribution of FY 02/03 SIP Allocation
						<i>Display only</i>
ALAMEDA	\$9,276,045	\$4,586,285	\$3,291,259	\$1,398,502	49.70%	\$0
ALPINE	\$234,431	\$24,895	\$155,102	\$54,435	0.00%	\$0
AMADOR	\$348,878	\$171,322	\$132,716	\$44,841	47.48%	\$0
BUTTE	\$1,541,847	\$746,542	\$565,141	\$230,165	47.84%	\$0
CALA VERAS	\$400,073	\$191,329	\$154,548	\$54,197	45.18%	\$0
COLUSA	\$411,825	\$207,695	\$151,318	\$52,813	46.83%	\$74,097
CONTRA COSTA	\$6,772,378	\$3,366,145	\$2,392,790	\$1,013,444	49.75%	\$0
DEL NORTE	\$431,712	\$182,002	\$183,224	\$66,487	42.04%	\$0
EL DORADO	\$587,380	\$239,015	\$252,283	\$96,083	39.34%	\$0
FRESNO	\$6,896,488	\$2,993,365	\$2,740,613	\$1,162,511	43.39%	\$74,990
GLENN	\$501,178	\$250,979	\$183,566	\$66,634	48.19%	\$70,115
HUMBOLDT	\$1,319,915	\$616,369	\$500,909	\$202,638	46.30%	\$430,750
IMPERIAL	\$1,694,911	\$628,605	\$754,841	\$311,466	38.24%	\$352,696
INYO	\$279,636	\$129,603	\$113,450	\$36,584	46.61%	\$0
KERN	\$3,551,432	\$1,621,552	\$1,359,343	\$570,538	45.82%	\$1,255,178
KINGS	\$614,983	\$295,110	\$232,338	\$87,536	49.71%	\$47,442
LAKE	\$921,072	\$435,532	\$348,305	\$137,236	48.07%	\$0
LASSEN	\$289,091	\$139,665	\$113,025	\$36,402	40.16%	\$0
LOS ANGELES	\$81,601,854	\$39,803,289	\$29,267,427	\$12,531,139	49.40%	\$0
MADERA	\$535,885	\$248,031	\$209,925	\$77,930	46.12%	\$0
MARIN	\$1,555,443	\$759,720	\$565,433	\$230,291	48.96%	\$0
MARIPOSA	\$259,849	\$96,029	\$123,101	\$40,720	33.10%	\$0
MENDOCINO	\$1,971,007	\$976,348	\$704,688	\$289,972	50.07%	\$363,369
MERCED	\$1,250,212	\$605,307	\$459,861	\$185,045	47.68%	\$0
MODOC	\$269,689	\$132,892	\$104,185	\$32,613	50.00%	\$0
MONO	\$253,471	\$65,000	\$140,357	\$48,115	19.94%	\$0
MONTEREY	\$2,355,444	\$1,081,911	\$899,900	\$373,634	46.12%	\$290,406
NAPA	\$476,457	\$188,451	\$210,031	\$77,976	39.39%	\$78,212
NEVADA	\$645,102	\$304,139	\$246,961	\$93,803	45.94%	\$0
ORANGE	\$5,695,064	\$2,460,984	\$2,272,283	\$961,798	43.72%	\$0
PLACER	\$930,502	\$446,639	\$347,131	\$136,733	47.19%	\$0
PLUMAS	\$386,336	\$178,530	\$153,891	\$53,916	44.34%	\$0
RIVERSIDE	\$6,495,250	\$3,045,343	\$2,423,362	\$1,026,546	47.27%	\$0
SACRAMENTO	\$11,261,735	\$5,711,334	\$3,893,708	\$1,656,694	50.86%	\$1,091,304
SAN BENITO	\$333,593	\$128,966	\$151,666	\$52,962	34.66%	\$0
SAN BERNARDINO	\$10,153,262	\$5,187,237	\$3,484,645	\$1,481,381	51.29%	\$2,833,628
SAN DIEGO	\$9,900,338	\$4,653,600	\$3,672,717	\$1,574,021	47.32%	\$0
SAN FRANCISCO	\$10,893,749	\$5,276,132	\$3,940,759	\$1,676,859	48.88%	\$0
SAN JOAQUIN	\$3,370,225	\$1,663,499	\$1,203,135	\$503,592	49.74%	\$0
SAN LUIS OBISPO	\$1,518,343	\$657,595	\$610,951	\$249,798	44.15%	\$154,300
SAN MATEO	\$2,409,155	\$1,006,762	\$990,102	\$412,292	41.78%	\$61,053
SANTA BARBARA	\$1,611,104	\$738,025	\$619,582	\$253,498	45.08%	\$0
SANTA CLARA	\$6,076,555	\$2,919,882	\$2,218,098	\$938,576	48.18%	\$0
SANTA CRUZ	\$1,602,433	\$778,070	\$585,481	\$238,883	49.35%	\$0
SHASTA	\$1,060,304	\$500,390	\$400,367	\$159,548	47.68%	\$66,795
SIERRA	\$315,373	\$140,777	\$130,644	\$43,953	44.90%	\$0
SISKIYOU	\$437,098	\$194,804	\$178,033	\$64,262	44.04%	\$0
SOLANO	\$2,559,403	\$1,235,500	\$935,159	\$388,745	48.93%	\$318,741
SONOMA	\$2,964,568	\$1,431,487	\$1,081,584	\$451,498	48.23%	\$304,458
STANISLAUS	\$3,172,912	\$1,595,264	\$1,112,781	\$464,868	50.41%	\$300,874
SUTTER	\$277,783	\$131,547	\$110,792	\$35,445	47.16%	\$57,097
TEHAMA	\$736,248	\$297,708	\$315,405	\$123,136	39.45%	\$0
TRINITY	\$338,928	\$134,535	\$151,502	\$52,892	40.86%	\$0
TULARE	\$1,409,978	\$712,111	\$496,934	\$200,934	51.16%	\$0
TUOLUMNE	\$452,516	\$222,092	\$169,724	\$60,701	49.60%	\$102,229
VENTURA	\$1,892,067	\$989,064	\$640,529	\$262,475	52.72%	\$180,194
YOLO	\$1,025,785	\$486,809	\$385,710	\$153,267	48.05%	\$231,290
YUBA	\$559,108	\$281,815	\$202,532	\$74,762	50.81%	\$110,284
<b>TOTAL</b>	<b>\$217,087,429</b>	<b>\$104,293,813</b>	<b>\$79,435,831</b>	<b>\$33,357,785</b>	<b>48.49%</b>	<b>\$8,849,502</b>

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



June 30, 2003

**COUNTY FISCAL LETTER (CFL) NO. 02/03-73**

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: PLANNING FISCAL YEAR (FY) 2003/04 IN-HOME SUPPORTIVE  
SERVICES (IHSS) PROGRAM ADMINISTRATIVE ALLOCATION

Contingent upon approval of the State Budget and outcomes of the Realignment proposal, the amounts identified on Attachment I are your planning allocation for the administrative costs associated with In Home Supportive Services (IHSS) activities, Supported Individual Providers (SIP), nurses, and denials of assistance. It is anticipated that a total of \$86.1 million in State General Fund will be available upon approval of the FY 2003/04 Budget Act.

**IHSS Basic**

The IHSS allocation methodology uses the following factors:

- Each county's actual average monthly paid cases for the period July 2002 through March 2003.
- Each county's FY 2001/02 actual IHSS unit cost.
- Each county's actual Title XIX usage rate based on expenditures for FY June 2002 through March 2003.
- Each county was guaranteed to receive a minimum allocation of 100% of their prior four quarters expenditures (June 2002 through March 2003).

The caseload information used in this allocation was obtained from the IHSS Management Statistics Summary Report. The allocation methodology used assumes that each IHSS/PCSP case takes 11.5 hours to process. The cases were multiplied by the 11.5-hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalent for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.

Attachment I also displays the IHSS health-related (HR) usage rate that is applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP and the residual program. The State General Fund (SGF) share was calculated at 70% of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes (PC) 102, IHSS-Skilled Professional Medical Personnel; 103, IHSS-PCSP/HR; 104, IHSS-Non HR/NonPCSP; and 330 IHSS - Fraud, on the County Expense Claim will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only through State Use Only PC 193, State-Use Only-IHSS.

Attachment II displays the Supportive Individual Providers (SIP) allocation. Counties that operate with SIPs were allocated additional funds based on a percent to total of the SIP amount included in the FY 2002/03 allocation. These additional funds were added to the initial base allocation.

### **IHSS Advisory Committee**

Attachment II displays three million in Federal and State funds that is available for continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682 (Chapter 90, Statutes of 1999). The SGF portion of \$1,601,000 has been distributed equally to the participating counties and has been included in your total allocation. PC 023 captures costs associated with the IHSS Advisory Committees. PC 023 is tracked against the total IHSS allocation. Please refer to CFL 00/01-48 dated December 22, 2000 for additional information related to IHSS Advisory Committee costs.

### **IHSS County Employer of Record**

This premise, also included in Attachment II, reflects the cost of administrative activities necessary for counties to act as the employer of record for IHSS providers under Welfare and Institutions Code Section 12302.25. The estimated funding need for each of the participating counties was determined based on data received from the counties by the Department of Social Services Disability and Adult Programs Branch in conjunction with the Estimates Branch. This funding has been included in the total allocation for appropriate counties.

If you have any questions concerning this allocation, please call your county analyst in the County Financial Analysis Bureau at (916) 657-3806.

**Original Signed by Doug Park  
for Gloria Merk  
on June 30, 2003**

GLORIA MERK  
Deputy Director  
Administration Division  
Attachment  
c: CWDA



ATTACHMENT I  
CFL 02/03-73

PLANNING FY 2003/04 IN-HOME SUPPORTIVE SERVICES (IHSS) & ADVISORY COMMITTEE ALLOCATION

COUNTIES	FY 2003/04 IHSS ALLOCATION	FEDERAL SHARE	STATE SHARE	COUNTY SHARE	July 01-June 02 IHSS HR Usage Rate
ALAMEDA	\$11,113,327	\$5,537,792	\$3,911,614	\$1,663,920	49.39%
ALPINE	\$299,730	\$107,375	\$142,936	\$49,419	0.00%
AMADOR	\$261,711	\$117,280	\$109,392	\$35,039	43.87%
BUTTE	\$1,789,626	\$887,720	\$639,688	\$262,218	49.23%
CALAVERAS	\$309,815	\$131,112	\$133,386	\$45,317	41.00%
COLUSA	\$325,715	\$138,740	\$139,176	\$47,798	41.38%
CONTRA COSTA	\$6,026,208	\$3,026,909	\$2,108,036	\$891,263	49.80%
DEL NORTE	\$292,529	\$111,923	\$134,718	\$45,888	36.04%
EL DORADO	\$446,844	\$180,958	\$194,421	\$71,465	39.28%
FRESNO	\$8,030,479	\$3,551,908	\$3,143,650	\$1,334,922	43.81%
GLENN	\$384,541	\$160,386	\$165,206	\$58,949	40.51%
HUMBOLDT	\$1,406,543	\$622,763	\$556,990	\$226,790	43.77%
IMPERIAL	\$2,115,724	\$763,583	\$954,890	\$397,252	35.49%
INYO	\$218,501	\$103,138	\$89,042	\$26,320	46.84%
KERN	\$3,599,270	\$1,681,902	\$1,350,595	\$566,773	46.30%
KINGS	\$669,786	\$336,161	\$241,844	\$91,781	50.00%
LAKE	\$921,922	\$435,295	\$348,958	\$137,669	46.80%
LASSEN	\$178,360	\$71,597	\$83,022	\$23,741	36.98%
LOS ANGELES	\$84,301,076	\$41,847,143	\$29,729,547	\$12,724,386	49.19%
MADERA	\$664,881	\$306,412	\$259,237	\$99,232	45.59%
MARIN	\$2,104,322	\$1,036,405	\$755,909	\$312,008	48.86%
MARIPOSA	\$755,579	\$344,675	\$295,922	\$114,982	32.41%
MENDOCINO	\$2,279,879	\$1,147,701	\$800,897	\$331,281	49.96%
MERCED	\$1,398,458	\$678,570	\$512,260	\$207,628	48.14%
MODOC	\$163,749	\$65,806	\$76,847	\$21,096	36.68%
MONO	\$169,791	\$39,779	\$99,298	\$30,714	12.89%
MONTEREY	\$2,518,519	\$1,151,779	\$965,110	\$401,630	45.29%
NAPA	\$488,199	\$226,531	\$191,468	\$70,200	45.91%
NEVADA	\$611,329	\$288,095	\$234,570	\$88,665	46.71%
ORANGE	\$6,433,223	\$2,852,163	\$2,515,318	\$1,065,743	43.91%
PLACER	\$897,645	\$412,992	\$347,576	\$137,077	45.53%
PLUMAS	\$295,111	\$136,581	\$119,263	\$39,267	45.71%
RIVERSIDE	\$7,844,200	\$3,804,543	\$2,836,374	\$1,203,284	48.07%
SACRAMENTO	\$15,851,471	\$7,829,298	\$5,624,464	\$2,397,709	48.95%
SAN BENITO	\$322,618	\$119,864	\$150,224	\$52,531	34.94%
SAN BERNARDINO	\$11,696,944	\$5,988,513	\$4,004,654	\$1,703,778	50.75%
SAN DIEGO	\$10,976,378	\$5,232,503	\$4,029,467	\$1,714,408	47.24%
SAN FRANCISCO	\$12,985,907	\$6,520,753	\$4,534,421	\$1,930,732	49.77%
SAN JOAQUIN	\$3,885,026	\$1,914,060	\$1,388,118	\$582,848	48.85%
SAN LUIS OBISPO	\$1,588,462	\$763,591	\$585,757	\$239,114	47.67%
SAN MATEO	\$2,204,837	\$892,395	\$927,098	\$385,345	39.95%
SANTA BARBARA	\$1,698,930	\$813,243	\$628,333	\$257,354	47.46%
SANTA CLARA	\$7,603,561	\$3,756,392	\$2,701,615	\$1,145,553	48.97%
SANTA CRUZ	\$1,860,185	\$941,023	\$651,768	\$267,394	50.23%
SHASTA	\$1,454,729	\$695,716	\$539,651	\$219,362	47.42%
SIERRA	\$168,745	\$77,982	\$71,821	\$18,943	45.45%
SISKIYOU	\$320,623	\$128,781	\$142,584	\$49,258	38.49%
SOLANO	\$2,699,076	\$1,351,843	\$951,454	\$395,780	49.69%
SONOMA	\$2,990,556	\$1,487,037	\$1,060,866	\$442,652	49.32%
STANISLAUS	\$3,925,866	\$1,975,617	\$1,373,589	\$576,661	50.21%
SUTTER	\$297,839	\$140,344	\$118,538	\$38,957	46.72%
TEHAMA	\$609,529	\$237,796	\$268,523	\$103,210	37.92%
TRINITY	\$203,674	\$89,367	\$88,303	\$26,004	42.42%
TULARE	\$1,624,371	\$840,209	\$557,257	\$226,905	51.41%
TUOLUMNE	\$598,387	\$297,109	\$219,191	\$82,087	49.96%
VENTURA	\$2,221,269	\$1,166,092	\$746,990	\$308,187	52.15%
YOLO	\$1,065,714	\$528,168	\$384,605	\$152,940	49.24%
YUBA	\$669,002	\$335,141	\$242,010	\$91,852	49.90%
<b>TOTAL</b>	<b>\$238,840,293</b>	<b>\$116,428,555</b>	<b>\$86,178,456</b>	<b>\$36,233,282</b>	<b>48.34%</b>

COUNTIES	Distribution of FY 03/04 Advisory Committee	Distribution of FY 03/04 SIP Allocation	Employer of Record Allocation
	Fed/State/County	Fed/State/County	Fed/State/County
ALAMEDA	\$52,069	\$0	\$0
ALPINE	\$52,069	\$0	\$170,000
AMADOR	\$52,069	\$0	\$0
BUTTE	\$52,069	\$0	\$0
CALAVERAS	\$52,069	\$0	\$0
COLUSA	\$52,069	\$57,354	\$0
CONTRA COSTA	\$52,069	\$0	\$0
DEL NORTE	\$52,069	\$0	\$0
EL DORADO	\$52,069	\$0	\$0
FRESNO	\$52,069	\$58,045	\$0
GLENN	\$52,069	\$54,271	\$0
HUMBOLDT	\$52,069	\$333,416	\$0
IMPERIAL	\$52,069	\$272,999	\$0
INYO	\$52,069	\$0	\$0
KERN	\$52,069	\$971,553	\$0
KINGS	\$52,069	\$36,722	\$0
LAKE	\$52,069	\$0	\$0
LASSEN	\$52,069	\$0	\$0
LOS ANGELES	\$52,069	\$0	\$0
MADERA	\$52,069	\$0	\$0
MARIN	\$52,069	\$0	\$0
MARIPOSA	\$52,069	\$0	\$560,988
MENDOCINO	\$52,069	\$281,261	\$0
MERCED	\$52,069	\$0	\$0
MODOC	\$52,069	\$0	\$0
MONO	\$52,069	\$0	\$0
MONTEREY	\$52,069	\$224,785	\$0
NAPA	\$52,069	\$60,539	\$0
NEVADA	\$52,069	\$0	\$0
ORANGE	\$52,069	\$0	\$0
PLACER	\$52,069	\$0	\$0
PLUMAS	\$52,069	\$0	\$0
RIVERSIDE	\$52,069	\$0	\$0
SACRAMENTO	\$52,069	\$844,709	\$0
SAN BENITO	\$52,069	\$0	\$0
SAN BERNARDINO	\$52,069	\$2,193,331	\$0
SAN DIEGO	\$52,069	\$0	\$0
SAN FRANCISCO	\$52,069	\$0	\$0
SAN JOAQUIN	\$52,069	\$0	\$0
SAN LUIS OBISPO	\$52,069	\$119,434	\$0
SAN MATEO	\$52,069	\$47,257	\$0
SANTA BARBARA	\$52,069	\$0	\$0
SANTA CLARA	\$52,069	\$0	\$0
SANTA CRUZ	\$52,069	\$0	\$0
SHASTA	\$52,069	\$51,702	\$0
SIERRA	\$52,069	\$0	\$0
SISKIYOU	\$52,069	\$0	\$0
SOLANO	\$52,069	\$246,717	\$0
SONOMA	\$52,069	\$235,662	\$0
STANSLAUS	\$52,069	\$232,888	\$617,809
SUTTER	\$52,069	\$44,195	\$0
TEHAMA	\$52,069	\$0	\$0
TRINITY	\$52,069	\$0	\$0
TULARE	\$52,069	\$0	\$0
TUOLUMNE	\$52,069	\$79,129	\$170,000
VENTURA	\$52,069	\$139,476	\$0
YOLO	\$52,069	\$179,027	\$0
YUBA	\$52,069	\$85,363	\$0
TOTAL	\$3,020,000	\$6,849,835	\$1,518,797

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



February 5, 2004

COUNTY FISCAL LETTER (CFL) NO. 03/04-46

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORSSUBJECT: FISCAL YEAR (FY) 2003/04 AUGMENTATION TO IN-HOME  
SUPPORTIVE SERVICES (IHSS) PROGRAM ADMINISTRATIVE  
ALLOCATION

REFERENCE: CFL NO. 02/03-73, DATED JUNE 30, 2003.

Contingent upon Legislative approval of the appropriate FY 2003/04 budget documents, the amounts identified on the enclosed attachments are your FY 2003/04 IHSS Administrative allocation planning augmentations.

An additional \$1,304,000 in State General Fund (SGF) is being provided for the following components of the IHSS Administrative Allocation: IHSS Basic Cost, County Employer of Record (AB 2235) and Advisory Committee.

The IHSS Administrative Basic Cost is adjusted by \$948,000 in SGF due to updated caseload counts. These funds are distributed to the counties using the same methodology as the original IHSS Administrative Basic Cost Allocation. Please see CFL 02/03-73 dated June 30, 2003 for specific details of this methodology.

Additional County Employer of Record funding includes \$329,000 in SGF for the estimated costs of Imperial, Lassen and San Benito County to act as employer of record for IHSS providers within the county. In addition \$27,000 in SGF was allocated to San Diego County as reimbursement for prior advisory committee costs.

Upon approval of the appropriate budget documents, counties will be notified that the figures in the provided attachment are final. If you have any questions, please contact the County Allocations Unit at (916) 657-3806.

Sincerely,

*Original Document Signed By:*DOUGLAS D. PARK, Chief  
Financial Management & Contracts BranchAttachment  
c: CWDA

FY 2003/04  
IHSS Basic Augmentation Allocation

Attachment I

Counties	Total	Federal	State	County
Alameda	\$91,947	\$23,292	\$48,534	\$20,120
Alpine	\$629	\$0	\$444	\$184
Amador	\$676	\$152	\$371	\$154
Butte	\$14,066	\$3,552	\$7,433	\$3,081
Calaveras	\$1,549	\$326	\$864	\$358
Colusa	\$778	\$165	\$433	\$180
Contra Costa	\$41,081	\$10,493	\$21,624	\$8,964
Del Norte	\$1,325	\$245	\$763	\$317
El Dorado	\$3,117	\$628	\$1,759	\$729
Fresno	\$64,832	\$14,568	\$35,534	\$14,731
Glenn	\$1,562	\$325	\$875	\$363
Humboldt	\$8,295	\$1,862	\$4,548	\$1,885
Imperial	\$97,594	\$42,499	\$38,654	\$16,441
Inyo	\$391	\$94	\$210	\$87
Kern	\$21,412	\$5,085	\$11,542	\$4,785
Kings	\$4,694	\$1,204	\$2,467	\$1,023
Lake	\$7,557	\$1,814	\$4,060	\$1,683
Lassen	\$113,823	\$54,751	\$41,355	\$17,717
Los Angeles	\$677,606	\$170,957	\$358,169	\$148,481
Madera	\$4,998	\$1,169	\$2,708	\$1,122
Marin	\$7,470	\$1,872	\$3,958	\$1,641
Mariposa	\$842	\$140	\$496	\$206
Mendocino	\$8,758	\$2,244	\$4,605	\$1,909
Merced	\$10,984	\$2,712	\$5,847	\$2,424
Modoc	\$640	\$120	\$368	\$152
Mono	\$564	\$37	\$373	\$154
Monterey	\$17,716	\$4,115	\$9,615	\$3,986
Napa	\$2,782	\$655	\$1,504	\$623
Nevada	\$3,780	\$906	\$2,032	\$842
Orange	\$50,482	\$11,369	\$27,650	\$11,463
Placer	\$5,314	\$1,241	\$2,879	\$1,194
Plumas	\$1,946	\$456	\$1,053	\$437
Riverside	\$63,568	\$15,673	\$33,859	\$14,036
Sacramento	\$123,669	\$31,049	\$65,476	\$27,144
San Benito	\$715,237	\$344,965	\$259,199	\$111,073
San Bernardino	\$78,428	\$20,415	\$41,011	\$17,002
San Diego	\$139,084	\$46,100	\$73,647	\$19,338
San Francisco	\$103,495	\$26,419	\$54,488	\$22,588
San Joaquin	\$31,251	\$7,830	\$16,557	\$6,864
San Luis Obispo	\$9,288	\$2,271	\$4,961	\$2,056
San Mateo	\$16,635	\$3,409	\$9,351	\$3,876
Santa Barbara	\$13,148	\$3,201	\$7,032	\$2,915
Santa Clara	\$60,373	\$15,164	\$31,961	\$13,249
Santa Cruz	\$7,941	\$2,046	\$4,168	\$1,728
Shasta	\$11,258	\$2,738	\$6,023	\$2,497
Sierra	\$436	\$102	\$236	\$98
Siskiyou	\$2,161	\$427	\$1,226	\$508
Solano	\$14,746	\$3,758	\$7,767	\$3,220
Sonoma	\$18,649	\$4,717	\$9,849	\$4,083
Stanislaus	\$23,814	\$6,133	\$12,500	\$5,182
Sutter	\$1,487	\$356	\$799	\$331
Tehama	\$4,393	\$854	\$2,502	\$1,037
Trinity	\$813	\$177	\$449	\$186
Tulare	\$12,663	\$3,339	\$6,592	\$2,733
Tuolumne	\$1,388	\$356	\$730	\$303
Ventura	\$11,784	\$3,152	\$6,102	\$2,530
Yolo	\$5,849	\$1,477	\$3,090	\$1,281
Yuba	\$3,232	\$827	\$1,700	\$705
Total	\$2,744,000	\$906,000	\$1,304,000	\$534,000

Included in Basic  
For Display Only

Counties	Distribution of FY 03/04 Advisory Committee Augmentation	Distribution of FY 03/04 County Employer-of Record Augmentation
	Fed & State	Fed/State/County
Alameda	\$0	\$0
Alpine	\$0	\$0
Amador	\$0	\$0
Butte	\$0	\$0
Calaveras	\$0	\$0
Colusa	\$0	\$0
Contra Costa	\$0	\$0
Del Norte	\$0	\$0
El Dorado	\$0	\$0
Fresno	\$0	\$0
Glenn	\$0	\$0
Humboldt	\$0	\$0
Imperial	\$0	\$82,195
Inyo	\$0	\$0
Kern	\$0	\$0
Kings	\$0	\$0
Lake	\$0	\$0
Lassen	\$0	\$113,074
Los Angeles	\$0	\$0
Madera	\$0	\$0
Marin	\$0	\$0
Mariposa	\$0	\$0
Mendocino	\$0	\$0
Merced	\$0	\$0
Modoc	\$0	\$0
Mono	\$0	\$0
Monterey	\$0	\$0
Napa	\$0	\$0
Nevada	\$0	\$0
Orange	\$0	\$0
Placer	\$0	\$0
Plumas	\$0	\$0
Riverside	\$0	\$0
Sacramento	\$0	\$0
San Benito	\$0	\$713,731
San Bernardino	\$0	\$0
San Diego	\$52,000	\$0
San Francisco	\$0	\$0
San Joaquin	\$0	\$0
San Luis Obispo	\$0	\$0
San Mateo	\$0	\$0
Santa Barbara	\$0	\$0
Santa Clara	\$0	\$0
Santa Cruz	\$0	\$0
Shasta	\$0	\$0
Sierra	\$0	\$0
Siskiyou	\$0	\$0
Solano	\$0	\$0
Sonoma	\$0	\$0
Stanislaus	\$0	\$0
Sutter	\$0	\$0
Tehama	\$0	\$0
Trinity	\$0	\$0
Tulare	\$0	\$0
Tuolumne	\$0	\$0
Ventura	\$0	\$0
Yolo	\$0	\$0
Yuba	\$0	\$0
<b>Total</b>	<b>\$52,000</b>	<b>\$909,000</b>

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



April 22, 2004

**COUNTY FISCAL LETTER (CFL) NO. 03/04-51**

**TO:** ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY WELFARE FISCAL OFFICERS

**SUBJECT:** APPROVAL OF ALLOCATION AUGMENTATIONS FOR FISCAL YEAR  
(FY) 2003/04

The purpose of this letter is to inform counties that funding has been approved for the augmentations to the following programs:

Kinship Guardianship Assistance Program	CFL 03/04-42	January 26, 2004
Non-Assistance Food Stamps (NAFS)	CFL 03/04-44	February 9, 2004
Revised CalWORKs Single Allocation	CFL 03/04-45	February 10, 2004
In Home Support Services (IHSS)	CFL 03-04-46	February 5, 2004
Child Welfare Services (CWS)	CFL 03/04-47	February 4, 2004
Emergency Assistance (EA) Foster Care	CFL 03/04-48	February 17, 2004

Please refer to the attachments in the CFLs listed above for your county's allocation. Questions concerning these allocations should be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

**Original Document Signed By:**

DOUGLAS D. PARK, Chief  
Financial Management and Contracts Branch

c: CWDA  
CSAC

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, Sacramento, CA 95814



August 27, 2004

COUNTY FISCAL LETTER (CFL) NO. 04/05-16

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: FISCAL YEAR (FY) 2004/05 IN-HOME SUPPORTIVE SERVICES (IHSS)  
PROGRAM ADMINISTRATIVE ALLOCATION

The purpose of this letter is to provide counties with their FY 2004/05 IHSS allocations for the administrative costs associated with IHSS activities, nurses, and denials of assistance. A total of \$101.8 million in State General Fund (SGF) has been made available with the approval of the FY 2004/05 Budget Act.

The individual components within the IHSS Administrative Allocation and their allocation methodologies are as follows:

#### IHSS Basic

The IHSS Basic allocation methodology uses the following factors:

- Each county's actual average monthly paid cases for the period of July 2003 through March 2004.
- Each county's FY 2001/02 actual IHSS unit cost.
- Each county's actual Title XIX usage rate based on expenditures for June 2003 through March 2004.
- Each county was guaranteed to receive a minimum allocation of 100 percent of their prior four quarters of expenditures (June 2003 through March 2004).

The caseload information used in this allocation was obtained from the IHSS Case Management Information and Payrolling System (CMIPS) Management Statistics Summary Report. The allocation methodology assumes that each IHSS/Personal Care Services Program (PCSP) case takes 11.5 hours to process. The cases were multiplied by the 11.5 hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalents for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.

Also displayed with the IHSS Basic allocation is the IHSS Health-Related (HR) usage rate that is applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP and the Residual Program. The SGF share was calculated at 70% of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes (PC) 102 - IHSS-Skilled Professional Medical Personnel; PC 103 - IHSS-PCSP/HR; PC 104 - IHSS-Non HR/NonPCSP; and PC 330 - IHSS-Fraud, on the County Expense Claim (CEC) will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only through PC 193 - State Use Only IHSS.

### **Quality Assurance**

This premise reflects the cost of hiring County Quality Assurance staff that will conduct legally required county IHSS/PCSP quality assurance and program integrity functions and work with State staff on the following tasks: development of statewide assessment guidelines; social worker training on the IHSS/PCSP assessment process and other related projects with the goals of improving and streamlining the service needs assessment process and reducing the cost of the IHSS program. The \$7.5 million SGF portion has been included in your total allocation and was distributed based on a percentage to total of each counties average monthly paid cases.

### **PCSP Three-Month Retroactive Benefits**

This premise reflects the estimated administrative costs associated with implementing a Medi-Cal rule that provides reimbursement for eligible IHSS Personal Care services rendered up to three months prior to the application. The \$35,000 in SGF was distributed to counties based on the percent to total of their average monthly paid cases and has been included in your total allocation.

### **IHSS Advisory Committee**

This premise reflects the \$3.0 million in Federal and State funds that are available for continued operation of the county Advisory Committee required by Assembly Bill (AB) 1682 (Chapter 90, Statutes of 1999). The \$1.6 million SGF share has been distributed equally to the participating counties and has been included in your total allocation. PC 023 captures costs associated with the IHSS Advisory Committees and is tracked against the total IHSS allocation. Please refer to CFL 00/01-48 dated December 22, 2000, for additional information related to IHSS Advisory Committee costs.

### **IHSS County Employer of Record**

This premise reflects the cost of administrative activities necessary for counties to act as the employer of record for IHSS providers under Welfare and Institutions Code Section 12302.25. The estimated funding need for each of the participating counties was determined based on data received from the counties by the Department of Social



Services Disability and Adult Programs Branch in conjunction with the Estimates Branch. This funding has been included in the total allocation for appropriate counties.

Any questions concerning this letter should be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

Sincerely,

*Original signed by Gloria Merk  
on August 27, 2004*

GLORIA MERK  
Deputy Director  
Administration Division

Attachment  
c: CWDA

County	NET IHSS FINAL ALLOCATION				IHSS HR Usage Rate
	TOTAL Funds	Federal Funds	State Share	County Share	
Alameda	\$13,450,849	\$6,539,539	\$4,837,615	\$2,073,695	49.27%
Alpine	\$223,627	\$107,824	\$89,452	\$26,351	0.00%
Amador	\$283,449	\$136,971	\$110,814	\$35,664	47.26%
Butte	\$2,227,354	\$1,082,163	\$808,458	\$336,734	49.95%
Calaveras	\$271,630	\$131,221	\$106,546	\$33,864	40.06%
Colusa	\$275,377	\$133,046	\$107,914	\$34,417	41.31%
Contra Costa	\$6,730,612	\$3,271,866	\$2,425,217	\$1,033,530	50.47%
Del Norte	\$241,853	\$116,740	\$95,842	\$29,271	47.85%
El Dorado	\$563,455	\$273,119	\$211,311	\$79,026	44.75%
Fresno	\$8,325,045	\$4,047,060	\$2,996,760	\$1,281,225	44.16%
Glenn	\$559,947	\$271,416	\$210,074	\$78,457	46.23%
Humboldt	\$1,345,573	\$653,407	\$491,965	\$200,201	39.92%
Imperial	\$1,844,309	\$895,885	\$670,727	\$277,698	36.94%
Inyo	\$288,850	\$139,600	\$112,770	\$36,480	48.77%
Kern	\$3,146,207	\$1,528,940	\$1,138,225	\$479,042	47.11%
Kings	\$777,365	\$377,119	\$287,993	\$112,254	49.61%
Lake	\$972,960	\$472,221	\$358,159	\$142,581	45.96%
Lassen	\$311,175	\$150,411	\$120,825	\$39,939	48.65%
Los Angeles	\$104,997,828	\$51,051,556	\$37,697,544	\$16,248,729	49.47%
Madera	\$854,310	\$414,535	\$315,626	\$124,149	49.65%
Marin	\$1,821,210	\$884,705	\$662,912	\$273,594	47.15%
Mariposa	\$917,868	\$445,283	\$338,934	\$133,652	40.06%
Mendocino	\$2,461,311	\$1,195,959	\$892,774	\$372,578	50.00%
Merced	\$1,657,874	\$805,255	\$604,017	\$248,602	46.45%
Modoc	\$204,788	\$98,723	\$82,575	\$23,491	36.07%
Mono	\$166,458	\$80,086	\$68,821	\$17,552	31.69%
Monterey	\$2,632,986	\$1,279,413	\$954,201	\$399,373	47.59%
Napa	\$546,830	\$265,035	\$205,342	\$76,453	44.64%
Nevada	\$927,110	\$449,948	\$341,896	\$135,266	49.14%
Orange	\$7,410,660	\$3,602,475	\$2,668,781	\$1,139,404	44.39%
Placer	\$1,001,726	\$486,222	\$368,619	\$146,886	49.13%
Plumas	\$339,819	\$164,379	\$131,038	\$44,403	51.47%
Riverside	\$8,847,309	\$4,301,053	\$3,184,660	\$1,361,596	47.46%
Sacramento	\$18,169,255	\$8,833,876	\$6,531,793	\$2,803,587	49.77%
San Benito	\$294,254	\$142,223	\$114,678	\$37,353	34.64%
San Bernardino	\$13,411,407	\$6,520,312	\$4,823,010	\$2,068,086	49.76%
San Diego	\$13,389,193	\$6,509,436	\$4,814,346	\$2,065,411	46.16%
San Francisco	\$15,256,364	\$7,417,454	\$5,485,698	\$2,353,212	49.21%
San Joaquin	\$4,532,309	\$2,202,926	\$1,635,826	\$693,557	47.99%
San Luis Obispo	\$1,686,391	\$819,146	\$614,480	\$252,766	47.69%
San Mateo	\$2,310,713	\$1,122,705	\$838,466	\$349,542	41.49%
Santa Barbara	\$2,131,360	\$1,035,498	\$774,105	\$321,758	48.39%
Santa Clara	\$10,079,620	\$4,900,314	\$3,627,560	\$1,551,747	49.68%
Santa Cruz	\$2,036,152	\$989,218	\$740,066	\$306,868	50.56%
Shasta	\$1,596,338	\$775,336	\$581,948	\$239,055	45.14%
Sierra	\$141,459	\$67,930	\$59,842	\$13,688	44.14%
Siskiyou	\$379,745	\$183,789	\$145,348	\$50,609	40.34%
Solano	\$3,308,567	\$1,607,927	\$1,196,881	\$503,759	49.88%
Sonoma	\$3,756,690	\$1,825,817	\$1,357,676	\$573,197	49.88%
Stanislaus	\$4,532,809	\$2,202,981	\$1,636,523	\$693,305	51.46%
Sutter	\$309,122	\$149,449	\$119,987	\$39,687	38.55%
Tehama	\$598,822	\$290,303	\$223,897	\$84,623	39.43%
Trinity	\$240,053	\$115,870	\$95,234	\$28,950	35.62%
Tulare	\$1,775,087	\$862,251	\$646,112	\$266,724	49.30%
Tuolumne	\$749,213	\$363,391	\$278,172	\$107,651	48.80%
Ventura	\$2,945,490	\$1,431,373	\$1,066,451	\$447,666	52.13%
Yolo	\$1,269,449	\$616,404	\$464,755	\$188,290	48.81%
Yuba	\$805,315	\$390,722	\$298,141	\$116,452	47.85%
<b>Total</b>	<b>\$282,332,900</b>	<b>\$137,229,800</b>	<b>\$101,869,400</b>	<b>\$43,233,700</b>	<b>48.48%</b>

County	IHSS BASIC			
	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$12,570,411	\$6,112,527	\$4,514,712	\$1,943,172
Alpine	\$0	\$0	\$0	\$0
Amador	\$218,733	\$106,362	\$78,559	\$33,812
Butte	\$1,980,915	\$963,246	\$711,453	\$306,216
Calaveras	\$198,732	\$96,636	\$71,375	\$30,721
Colusa	\$210,528	\$102,372	\$75,612	\$32,544
Contra Costa	\$6,272,000	\$3,049,842	\$2,252,613	\$969,545
Del Norte	\$165,653	\$80,551	\$59,495	\$25,607
El Dorado	\$474,651	\$230,805	\$170,473	\$73,373
Fresno	\$7,478,754	\$3,636,642	\$2,686,024	\$1,156,088
Glenn	\$479,522	\$233,174	\$172,222	\$74,126
Humboldt	\$1,170,342	\$569,094	\$420,333	\$180,915
Imperial	\$1,541,908	\$749,773	\$553,782	\$238,353
Inyo	\$230,272	\$111,973	\$82,703	\$35,596
Kern	\$2,814,565	\$1,368,619	\$1,010,862	\$435,084
Kings	\$637,740	\$310,109	\$229,047	\$98,584
Lake	\$804,162	\$391,034	\$288,818	\$124,310
Lassen	\$130,521	\$63,468	\$46,877	\$20,176
Los Angeles	\$96,045,864	\$46,702,145	\$34,498,694	\$14,845,025
Madera	\$714,154	\$347,267	\$256,491	\$110,396
Marin	\$1,687,817	\$820,723	\$606,186	\$260,908
Mariposa	\$349,513	\$169,955	\$125,529	\$54,029
Mendocino	\$2,316,581	\$1,126,468	\$832,009	\$358,104
Merced	\$1,442,927	\$701,642	\$518,233	\$223,052
Modoc	\$144,626	\$70,326	\$51,943	\$22,357
Mono	\$110,521	\$53,742	\$39,694	\$17,085
Monterey	\$2,407,100	\$1,170,484	\$864,519	\$372,097
Napa	\$458,751	\$223,074	\$164,762	\$70,915
Nevada	\$830,318	\$403,753	\$298,212	\$128,353
Orange	\$6,714,083	\$3,264,811	\$2,411,389	\$1,037,883
Placer	\$878,013	\$426,945	\$315,342	\$135,726
Plumas	\$267,711	\$130,178	\$96,149	\$41,384
Riverside	\$8,115,724	\$3,946,377	\$2,914,794	\$1,254,553
Sacramento	\$17,128,696	\$8,329,052	\$6,151,838	\$2,647,806
San Benito	\$223,862	\$108,856	\$80,401	\$34,605
San Bernardino	\$12,376,550	\$6,018,259	\$4,445,086	\$1,913,205
San Diego	\$12,113,453	\$5,890,325	\$4,350,594	\$1,872,534
San Francisco	\$14,244,380	\$6,926,516	\$5,115,925	\$2,201,939
San Joaquin	\$4,122,098	\$2,004,424	\$1,480,468	\$637,206
San Luis Obispo	\$1,549,088	\$753,264	\$556,361	\$239,463
San Mateo	\$2,088,871	\$1,015,741	\$750,226	\$322,904
Santa Barbara	\$1,928,347	\$937,684	\$692,573	\$298,090
Santa Clara	\$9,457,105	\$4,598,641	\$3,396,556	\$1,461,908
Santa Cruz	\$1,887,575	\$917,858	\$677,930	\$291,787
Shasta	\$1,392,666	\$677,202	\$500,181	\$215,283
Sierra	\$85,390	\$41,522	\$30,668	\$13,200
Siskiyou	\$296,945	\$144,393	\$106,649	\$45,903
Solano	\$3,097,663	\$1,506,279	\$1,112,538	\$478,846
Sonoma	\$3,493,076	\$1,698,554	\$1,254,552	\$539,970
Stanislaus	\$3,572,827	\$1,737,334	\$1,283,195	\$552,298
Sutter	\$227,708	\$110,726	\$81,782	\$35,200
Tehama	\$469,010	\$228,062	\$168,447	\$72,501
Trinity	\$177,450	\$86,287	\$63,732	\$27,431
Tulare	\$1,559,345	\$758,252	\$560,045	\$241,048
Tuolumne	\$508,756	\$247,389	\$182,722	\$78,645
Ventura	\$2,724,046	\$1,324,603	\$978,352	\$421,091
Yolo	\$1,139,570	\$554,131	\$409,281	\$176,158
Yuba	\$704,412	\$342,529	\$252,992	\$108,890
Total	\$256,432,000	\$124,692,000	\$92,102,000	\$39,638,000

County	QUALITY ASSURANCE				PCSP 3-MONTH RETROACTIVE PAYMENTS			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$823,674	\$400,216	\$293,505	\$129,953	\$3,798	\$1,899	\$1,329	\$570
Alpine	\$461	\$224	\$164	\$73	\$200	\$100	\$70	\$30
Amador	\$11,550	\$5,612	\$4,116	\$1,822	\$200	\$100	\$70	\$30
Butte	\$192,586	\$93,576	\$68,625	\$30,385	\$888	\$444	\$311	\$133
Calaveras	\$19,733	\$9,588	\$7,032	\$3,113	\$200	\$100	\$70	\$30
Colusa	\$11,683	\$5,677	\$4,163	\$1,843	\$200	\$100	\$70	\$30
Contra Costa	\$403,785	\$196,196	\$143,883	\$63,706	\$1,862	\$931	\$652	\$279
Del Norte	\$23,034	\$11,192	\$8,208	\$3,634	\$200	\$100	\$70	\$30
El Dorado	\$35,639	\$17,317	\$12,699	\$5,623	\$200	\$100	\$70	\$30
Fresno	\$789,685	\$383,701	\$281,393	\$124,591	\$3,640	\$1,820	\$1,274	\$546
Glenn	\$27,259	\$13,245	\$9,713	\$4,301	\$200	\$100	\$70	\$30
Humboldt	\$121,704	\$59,135	\$43,367	\$19,202	\$561	\$281	\$196	\$84
Imperial	\$248,290	\$120,642	\$88,475	\$39,173	\$1,146	\$573	\$401	\$172
Inyo	\$5,412	\$2,630	\$1,928	\$854	\$200	\$100	\$70	\$30
Kern	\$277,396	\$134,784	\$98,846	\$43,766	\$1,280	\$640	\$448	\$192
Kings	\$86,262	\$41,914	\$30,738	\$13,610	\$398	\$199	\$139	\$60
Lake	\$115,301	\$56,024	\$41,086	\$18,191	\$532	\$266	\$186	\$80
Lassen	\$14,388	\$6,991	\$5,127	\$2,270	\$200	\$100	\$70	\$30
Los Angeles	\$8,858,183	\$4,304,112	\$3,156,491	\$1,397,580	\$40,816	\$20,402	\$14,290	\$6,124
Madera	\$86,790	\$42,171	\$30,926	\$13,693	\$400	\$200	\$140	\$60
Marin	\$80,059	\$38,900	\$28,528	\$12,631	\$369	\$185	\$129	\$55
Mariposa	\$14,190	\$6,895	\$5,056	\$2,239	\$200	\$100	\$70	\$30
Mendocino	\$91,343	\$44,383	\$32,549	\$14,411	\$421	\$211	\$147	\$63
Merced	\$161,238	\$78,344	\$57,455	\$25,439	\$743	\$372	\$260	\$111
Modoc	\$6,997	\$3,400	\$2,493	\$1,104	\$200	\$100	\$70	\$30
Mono	\$2,772	\$1,347	\$988	\$437	\$200	\$100	\$70	\$30
Monterey	\$172,127	\$83,635	\$61,335	\$27,157	\$794	\$397	\$278	\$119
Napa	\$34,913	\$16,964	\$12,441	\$5,508	\$200	\$100	\$70	\$30
Nevada	\$43,625	\$21,197	\$15,545	\$6,883	\$201	\$101	\$70	\$30
Orange	\$640,657	\$311,290	\$228,289	\$101,078	\$2,954	\$1,477	\$1,034	\$443
Placer	\$70,422	\$34,217	\$25,094	\$11,111	\$326	\$163	\$114	\$49
Plumas	\$18,943	\$9,204	\$6,750	\$2,989	\$200	\$100	\$70	\$30
Riverside	\$675,505	\$328,222	\$240,707	\$106,576	\$3,114	\$1,557	\$1,090	\$467
Sacramento	\$983,062	\$477,661	\$350,300	\$155,101	\$4,532	\$2,266	\$1,586	\$680
San Benito	\$17,226	\$8,370	\$6,138	\$2,718	\$200	\$100	\$70	\$30
San Bernardino	\$977,386	\$474,903	\$348,278	\$154,205	\$4,506	\$2,253	\$1,577	\$676
San Diego	\$1,217,162	\$591,408	\$433,719	\$192,035	\$5,612	\$2,806	\$1,964	\$842
San Francisco	\$954,617	\$463,840	\$340,164	\$150,613	\$4,401	\$2,201	\$1,540	\$660
San Joaquin	\$355,605	\$172,785	\$126,715	\$56,105	\$1,640	\$820	\$574	\$246
San Luis Obispo	\$83,951	\$40,791	\$29,915	\$13,245	\$387	\$194	\$135	\$58
San Mateo	\$168,101	\$81,679	\$59,900	\$26,522	\$775	\$388	\$271	\$116
Santa Barbara	\$149,359	\$72,572	\$53,222	\$23,565	\$689	\$345	\$241	\$103
Santa Clara	\$566,936	\$275,469	\$202,020	\$89,447	\$2,614	\$1,307	\$915	\$392
Santa Cruz	\$95,171	\$46,243	\$33,913	\$15,015	\$440	\$220	\$154	\$66
Shasta	\$150,015	\$72,891	\$53,456	\$23,668	\$692	\$346	\$242	\$104
Sierra	\$2,904	\$1,411	\$1,035	\$458	\$200	\$100	\$70	\$30
Siskiyou	\$29,635	\$14,399	\$10,560	\$4,676	\$200	\$100	\$70	\$30
Solano	\$157,212	\$76,388	\$56,020	\$24,804	\$726	\$363	\$254	\$109
Sonoma	\$209,681	\$101,882	\$74,717	\$33,082	\$967	\$484	\$338	\$145
Stanislaus	\$287,889	\$139,883	\$102,585	\$45,421	\$1,327	\$664	\$464	\$199
Sutter	\$28,249	\$13,726	\$10,066	\$4,457	\$200	\$100	\$70	\$30
Tehama	\$76,493	\$37,167	\$27,257	\$12,069	\$354	\$177	\$124	\$53
Trinity	\$9,438	\$4,586	\$3,363	\$1,489	\$200	\$100	\$70	\$30
Tulare	\$162,029	\$78,728	\$57,737	\$25,564	\$747	\$374	\$261	\$112
Tuolumne	\$17,292	\$8,402	\$6,162	\$2,728	\$200	\$100	\$70	\$30
Ventura	\$167,704	\$81,486	\$59,759	\$26,459	\$774	\$387	\$271	\$116
Yolo	\$76,559	\$37,199	\$27,281	\$12,079	\$354	\$177	\$124	\$53
Yuba	\$47,718	\$23,186	\$17,003	\$7,529	\$220	\$110	\$77	\$33
<b>Total</b>	<b>\$21,157,000</b>	<b>\$10,280,000</b>	<b>\$7,539,000</b>	<b>\$3,338,000</b>	<b>\$100,000</b>	<b>\$50,000</b>	<b>\$35,000</b>	<b>\$15,000</b>

County	ADVISORY COMMITTEE				EMPLOYER OF RECORD			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Alpine	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$82,603	\$61,149	\$26,248
Amador	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Butte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Calaveras	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Colusa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Contra Costa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Del Norte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
El Dorado	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Fresno	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Glenn	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Humboldt	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Imperial	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Inyo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kern	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kings	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lake	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lassen	\$52,966	\$24,897	\$28,069	\$0	\$113,100	\$54,955	\$40,682	\$17,463
Los Angeles	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Madem	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Marin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mariposa	\$52,966	\$24,897	\$28,069	\$0	\$501,000	\$243,436	\$180,210	\$77,354
Mendocino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Merced	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Modoc	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mono	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Monterey	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Napa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Nevada	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Orange	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Placer	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Plumas	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Riverside	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sacramento	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Benito	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Bernardino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Diego	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Francisco	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Joaquin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Luis Obispo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Mateo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Barbara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Clara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Cruz	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Shasta	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sierra	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Siskiyou	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Solano	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sonoma	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Stanislaus	\$52,966	\$24,897	\$28,069	\$0	\$617,800	\$300,203	\$222,210	\$95,387
Sutter	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tehama	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Trinity	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tulare	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tuolumne	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$82,603	\$61,149	\$26,248
Ventura	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yolo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yuba	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$3,072,000</b>	<b>\$1,444,000</b>	<b>\$1,628,000</b>	<b>\$0</b>	<b>\$1,571,900</b>	<b>\$763,800</b>	<b>\$565,400</b>	<b>\$242,700</b>

## DEPARTMENT OF SOCIAL SERVICES



September 20, 2004

COUNTY FISCAL LETTER (CFL) NO. 04/05-22

TO: COUNTY WELFARE DIRECTORS  
COUNTY FISCAL OFFICERS

SUBJECT: REVISED FISCAL YEAR (FY) 2004/05 IN HOME SUPPORT SERVICES  
(IHSS) PROGRAM ADMINISTRATIVE ALLOCATION

REFERENCE: CFL No. 04/05-16, dated August 27, 2004

The purpose of this letter is to provide counties with a revised allocation for the administrative costs associated with IHSS for FY 2004/05.

In CFL No. 04/05-16, the funds associated with the Hold Harmless portion of the IHSS Basic methodology were not reflected properly in the IHSS Basic columns. The Hold Harmless portion of the methodology guarantees that each county receives a minimum allocation of 100 percent of their prior four quarters of expenditures.

The enclosed attachment provides you with the revised FY 04/05 IHSS Administrative allocation in which each county was assured a Hold Harmless minimum allocation equal to at least their prior four quarters expenditures.

Any questions concerning this allocation should be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

Sincerely,

*Original Document Signed By:*

KATHY FARMER, Chief  
Financial Management and Contracts Branch

Attachment  
c: CWDA

County	NET IHSS REVISED ALLOCATION				IHSS HR Usage Rate
	TOTAL Funds	Federal Funds	State Share	County Share	
Alameda	\$13,245,844	\$6,539,539	\$4,694,416	\$2,011,890	49.27%
Alpine	\$325,576	\$107,824	\$160,727	\$57,025	0.00%
Amador	\$289,099	\$136,971	\$114,766	\$37,362	47.26%
Butte	\$2,168,421	\$1,082,163	\$767,276	\$318,982	49.95%
Calaveras	\$313,275	\$131,221	\$135,663	\$46,391	40.06%
Colusa	\$311,768	\$133,046	\$133,358	\$45,365	41.31%
Contra Costa	\$6,481,754	\$3,271,866	\$2,251,297	\$958,592	50.47%
Del Norte	\$244,016	\$116,740	\$97,356	\$29,921	47.85%
El Dorado	\$602,924	\$273,119	\$238,909	\$90,897	44.75%
Fresno	\$9,054,420	\$4,047,060	\$3,506,754	\$1,500,606	44.16%
Glenn	\$583,205	\$271,416	\$226,339	\$85,450	46.23%
Humboldt	\$1,596,194	\$653,407	\$667,191	\$275,597	39.92%
Imperial	\$2,325,397	\$895,885	\$1,007,080	\$422,432	36.94%
Inyo	\$287,313	\$139,600	\$111,698	\$36,015	48.77%
Kern	\$3,227,216	\$1,528,940	\$1,194,888	\$503,389	47.11%
Kings	\$762,671	\$377,119	\$277,726	\$107,826	49.61%
Lake	\$1,016,871	\$472,221	\$388,866	\$155,785	45.96%
Lassen	\$310,661	\$150,411	\$120,467	\$39,783	48.65%
Los Angeles	\$103,046,784	\$51,051,556	\$36,331,948	\$15,663,281	49.47%
Madera	\$837,360	\$414,535	\$303,783	\$119,042	49.65%
Marin	\$1,868,324	\$884,705	\$695,867	\$287,753	47.15%
Mariposa	\$991,206	\$445,283	\$390,209	\$155,714	40.06%
Mendocino	\$2,390,380	\$1,195,959	\$843,208	\$351,213	50.00%
Merced	\$1,720,632	\$805,255	\$647,907	\$267,470	46.45%
Modoc	\$254,514	\$98,723	\$117,341	\$38,451	36.07%
Mono	\$224,959	\$80,086	\$109,721	\$35,152	31.69%
Monterey	\$2,677,349	\$1,279,413	\$985,240	\$412,697	47.59%
Napa	\$586,171	\$265,035	\$232,851	\$88,285	44.64%
Nevada	\$915,792	\$449,948	\$333,992	\$131,853	49.14%
Orange	\$8,027,209	\$3,602,475	\$3,099,889	\$1,324,846	44.39%
Placer	\$989,749	\$486,222	\$360,254	\$143,274	49.13%
Plumas	\$324,221	\$164,379	\$120,136	\$39,707	51.47%
Riverside	\$9,019,482	\$4,301,053	\$3,305,110	\$1,413,320	47.46%
Sacramento	\$17,720,804	\$8,833,876	\$6,218,441	\$2,668,488	49.77%
San Benito	\$383,464	\$142,223	\$177,049	\$64,193	34.64%
San Bernardino	\$13,089,614	\$6,520,312	\$4,598,160	\$1,971,142	49.76%
San Diego	\$13,994,573	\$6,509,436	\$5,237,699	\$2,247,438	46.16%
San Francisco	\$15,041,254	\$7,417,454	\$5,335,451	\$2,288,350	49.21%
San Joaquin	\$4,573,151	\$2,202,926	\$1,664,420	\$705,806	47.99%
San Luis Obispo	\$1,711,620	\$819,146	\$632,133	\$260,341	47.69%
San Mateo	\$2,661,976	\$1,122,705	\$1,084,062	\$455,209	41.49%
Santa Barbara	\$2,134,484	\$1,035,498	\$776,308	\$322,678	48.39%
Santa Clara	\$9,848,657	\$4,900,314	\$3,466,182	\$1,482,161	49.68%
Santa Cruz	\$1,958,027	\$989,218	\$685,466	\$283,344	50.56%
Shasta	\$1,699,039	\$775,336	\$653,762	\$269,941	45.14%
Sierra	\$149,970	\$67,930	\$65,793	\$16,248	44.14%
Siskiyou	\$439,479	\$183,789	\$187,112	\$68,578	40.34%
Solano	\$3,220,906	\$1,607,927	\$1,135,626	\$477,353	49.88%
Sonoma	\$3,657,802	\$1,825,817	\$1,288,576	\$543,410	49.88%
Stanislaus	\$4,325,006	\$2,202,981	\$1,491,279	\$630,747	51.46%
Sutter	\$367,584	\$149,449	\$160,861	\$57,275	38.55%
Tehama	\$706,413	\$290,303	\$299,120	\$116,990	39.43%
Trinity	\$304,183	\$115,870	\$140,070	\$48,243	35.62%
Tulare	\$1,748,640	\$862,251	\$627,638	\$258,752	49.30%
Tuolumne	\$745,825	\$363,391	\$275,808	\$106,626	48.80%
Ventura	\$2,753,965	\$1,431,373	\$932,579	\$390,014	52.13%
Yolo	\$1,261,334	\$616,404	\$459,093	\$185,837	48.81%
Yuba	\$814,374	\$390,722	\$304,481	\$119,171	47.85%
Total	\$282,332,900	\$137,229,800	\$101,869,400	\$43,233,700	48.48%

County	REVISED IHSS BASIC			
	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$12,365,407	\$6,112,527	\$4,371,513	\$1,881,367
Alpine	\$101,949	\$0	\$71,275	\$30,674
Amador	\$224,383	\$106,362	\$82,511	\$35,510
Butte	\$1,921,981	\$963,246	\$670,271	\$288,464
Calaveras	\$240,376	\$96,636	\$100,492	\$43,248
Colusa	\$246,920	\$102,372	\$101,056	\$43,492
Contra Costra	\$6,023,142	\$3,049,842	\$2,078,693	\$894,607
Del Norte	\$167,817	\$80,551	\$61,009	\$26,257
El Dorado	\$514,120	\$230,805	\$198,071	\$85,244
Fresno	\$8,208,129	\$3,636,642	\$3,196,018	\$1,375,469
Glenn	\$502,780	\$233,174	\$188,487	\$81,119
Humboldt	\$1,420,964	\$569,094	\$595,559	\$256,311
Imperial	\$2,022,995	\$749,773	\$890,135	\$383,087
Inyo	\$228,735	\$111,973	\$81,631	\$35,131
Kern	\$2,895,575	\$1,368,619	\$1,067,525	\$459,431
Kings	\$623,045	\$310,109	\$218,780	\$94,156
Lake	\$848,073	\$391,034	\$319,525	\$137,514
Lassen	\$130,007	\$63,468	\$46,519	\$20,020
Los Angeles	\$94,094,820	\$46,702,145	\$33,133,098	\$14,259,577
Madera	\$697,204	\$347,267	\$244,648	\$105,289
Marin	\$1,734,931	\$820,723	\$639,141	\$275,067
Mariposa	\$422,850	\$169,955	\$176,804	\$76,091
Mendocino	\$2,245,650	\$1,126,468	\$782,443	\$336,739
Merced	\$1,505,685	\$701,642	\$562,123	\$241,920
Modoc	\$194,352	\$70,326	\$86,709	\$37,317
Mono	\$169,021	\$53,742	\$80,594	\$34,685
Monterey	\$2,451,463	\$1,170,484	\$895,558	\$385,421
Napa	\$498,092	\$223,074	\$192,271	\$82,747
Nevada	\$819,001	\$403,753	\$290,308	\$124,940
Orange	\$7,330,633	\$3,264,811	\$2,842,497	\$1,223,325
Placer	\$866,036	\$426,945	\$306,977	\$132,114
Plumas	\$252,113	\$130,178	\$85,247	\$36,688
Riverside	\$8,287,898	\$3,946,377	\$3,035,244	\$1,306,277
Sacramento	\$16,680,245	\$8,329,052	\$5,838,486	\$2,512,707
San Benito	\$313,073	\$108,856	\$142,772	\$61,445
San Bernardino	\$12,054,756	\$6,018,259	\$4,220,236	\$1,816,261
San Diego	\$12,718,833	\$5,890,325	\$4,773,947	\$2,054,561
San Francisco	\$14,029,271	\$6,926,516	\$4,965,678	\$2,137,077
San Joaquin	\$4,162,941	\$2,004,424	\$1,509,062	\$649,455
San Luis Obispo	\$1,574,316	\$753,264	\$574,014	\$247,038
San Mateo	\$2,440,134	\$1,015,741	\$995,822	\$428,571
Santa Barbara	\$1,931,470	\$937,684	\$694,776	\$299,010
Santa Clara	\$9,226,141	\$4,598,641	\$3,235,178	\$1,392,322
Santa Cruz	\$1,809,451	\$917,858	\$623,330	\$268,263
Shasta	\$1,495,366	\$677,202	\$571,995	\$246,169
Sierra	\$93,901	\$41,522	\$36,619	\$15,760
Siskiyou	\$356,678	\$144,393	\$148,413	\$63,872
Solano	\$3,010,002	\$1,506,279	\$1,051,283	\$452,440
Sonoma	\$3,394,189	\$1,698,554	\$1,185,452	\$510,183
Stanislaus	\$3,365,025	\$1,737,334	\$1,137,951	\$489,740
Sutter	\$286,170	\$110,726	\$122,656	\$52,788
Tehama	\$576,600	\$228,062	\$243,670	\$104,868
Trinity	\$241,579	\$86,287	\$108,568	\$46,724
Tulare	\$1,532,899	\$758,252	\$541,571	\$233,076
Tuolumne	\$505,367	\$247,389	\$180,358	\$77,620
Ventura	\$2,532,522	\$1,324,603	\$844,480	\$363,439
Yolo	\$1,131,455	\$554,131	\$403,619	\$173,705
Yuba	\$713,471	\$342,529	\$259,332	\$111,609
<b>Total</b>	<b>\$256,432,000</b>	<b>\$124,692,000</b>	<b>\$92,102,000</b>	<b>\$39,638,000</b>



County	QUALITY ASSURANCE				PCSP 3-MONTH RETROACTIVE PAYMENTS			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$823,674	\$400,216	\$293,505	\$129,953	\$3,798	\$1,899	\$1,329	\$570
Alpine	\$461	\$224	\$164	\$73	\$200	\$100	\$70	\$30
Amador	\$11,550	\$5,612	\$4,116	\$1,822	\$200	\$100	\$70	\$30
Butte	\$192,586	\$93,576	\$68,625	\$30,385	\$888	\$444	\$311	\$133
Calaveras	\$19,733	\$9,588	\$7,032	\$3,113	\$200	\$100	\$70	\$30
Colusa	\$11,683	\$5,677	\$4,163	\$1,843	\$200	\$100	\$70	\$30
Contra Costa	\$403,785	\$196,196	\$143,883	\$63,706	\$1,862	\$931	\$652	\$279
Del Norte	\$23,034	\$11,192	\$8,208	\$3,634	\$200	\$100	\$70	\$30
El Dorado	\$35,639	\$17,317	\$12,699	\$5,623	\$200	\$100	\$70	\$30
Fresno	\$789,685	\$383,701	\$281,393	\$124,591	\$3,640	\$1,820	\$1,274	\$546
Glenn	\$27,259	\$13,245	\$9,713	\$4,301	\$200	\$100	\$70	\$30
Humboldt	\$121,704	\$59,135	\$43,367	\$19,202	\$561	\$281	\$196	\$84
Imperial	\$248,290	\$120,642	\$88,475	\$39,173	\$1,146	\$573	\$401	\$172
Inyo	\$5,412	\$2,630	\$1,928	\$854	\$200	\$100	\$70	\$30
Kern	\$277,396	\$134,784	\$98,846	\$43,766	\$1,280	\$640	\$448	\$192
Kings	\$86,262	\$41,914	\$30,738	\$13,610	\$398	\$199	\$139	\$60
Lake	\$115,301	\$56,024	\$41,086	\$18,191	\$532	\$266	\$186	\$80
Lassen	\$14,388	\$6,991	\$5,127	\$2,270	\$200	\$100	\$70	\$30
Los Angeles	\$8,858,183	\$4,304,112	\$3,156,491	\$1,397,580	\$40,816	\$20,402	\$14,290	\$6,124
Madem	\$86,790	\$42,171	\$30,926	\$13,693	\$400	\$200	\$140	\$60
Marin	\$80,059	\$38,900	\$28,528	\$12,631	\$369	\$185	\$129	\$55
Mariposa	\$14,190	\$6,895	\$5,056	\$2,239	\$200	\$100	\$70	\$30
Mendocino	\$91,343	\$44,383	\$32,549	\$14,411	\$421	\$211	\$147	\$63
Merced	\$161,238	\$78,344	\$57,455	\$25,439	\$743	\$372	\$260	\$111
Modoc	\$6,997	\$3,400	\$2,493	\$1,104	\$200	\$100	\$70	\$30
Mono	\$2,772	\$1,347	\$988	\$437	\$200	\$100	\$70	\$30
Monterey	\$172,127	\$83,635	\$61,335	\$27,157	\$794	\$397	\$278	\$119
Napa	\$34,913	\$16,964	\$12,441	\$5,508	\$200	\$100	\$70	\$30
Nevada	\$43,625	\$21,197	\$15,545	\$6,883	\$201	\$101	\$70	\$30
Orange	\$640,657	\$311,290	\$228,289	\$101,078	\$2,954	\$1,477	\$1,034	\$443
Placer	\$70,422	\$34,217	\$25,094	\$11,111	\$326	\$163	\$114	\$49
Plumas	\$18,943	\$9,204	\$6,750	\$2,989	\$200	\$100	\$70	\$30
Riverside	\$675,505	\$328,222	\$240,707	\$106,576	\$3,114	\$1,557	\$1,090	\$467
Sacramento	\$983,062	\$477,661	\$350,300	\$155,101	\$4,532	\$2,266	\$1,586	\$680
San Benito	\$17,226	\$8,370	\$6,138	\$2,718	\$200	\$100	\$70	\$30
San Bernardino	\$977,386	\$474,903	\$348,278	\$154,205	\$4,506	\$2,253	\$1,577	\$676
San Diego	\$1,217,162	\$591,408	\$433,719	\$192,035	\$5,612	\$2,806	\$1,964	\$842
San Francisco	\$954,617	\$463,840	\$340,164	\$150,613	\$4,401	\$2,201	\$1,540	\$660
San Joaquin	\$355,605	\$172,785	\$126,715	\$56,105	\$1,640	\$820	\$574	\$246
San Luis Obispo	\$83,951	\$40,791	\$29,915	\$13,245	\$387	\$194	\$135	\$58
San Mnteo	\$168,101	\$81,679	\$59,900	\$26,522	\$775	\$388	\$271	\$116
Santa Barbara	\$149,359	\$72,572	\$53,222	\$23,565	\$689	\$345	\$241	\$103
Santa Clara	\$566,936	\$275,469	\$202,020	\$89,447	\$2,614	\$1,307	\$915	\$392
Santa Cruz	\$95,171	\$46,243	\$33,913	\$15,015	\$440	\$220	\$154	\$66
Shasta	\$150,015	\$72,891	\$53,456	\$23,668	\$692	\$346	\$242	\$104
Sierra	\$2,904	\$1,411	\$1,035	\$458	\$200	\$100	\$70	\$30
Siskiyou	\$29,635	\$14,399	\$10,560	\$4,676	\$200	\$100	\$70	\$30
Solano	\$157,212	\$76,388	\$56,020	\$24,804	\$726	\$363	\$254	\$109
Sonoma	\$209,681	\$101,882	\$74,717	\$33,082	\$967	\$484	\$338	\$145
Stanislaus	\$287,889	\$139,883	\$102,585	\$45,421	\$1,327	\$664	\$464	\$199
Sutter	\$28,249	\$13,726	\$10,066	\$4,457	\$200	\$100	\$70	\$30
Tehama	\$76,493	\$37,167	\$27,257	\$12,069	\$354	\$177	\$124	\$53
Trinity	\$9,438	\$4,586	\$3,363	\$1,489	\$200	\$100	\$70	\$30
Tulare	\$162,029	\$78,728	\$57,737	\$25,564	\$747	\$374	\$261	\$112
Tuolumne	\$17,292	\$8,402	\$6,162	\$2,728	\$200	\$100	\$70	\$30
Ventura	\$167,704	\$81,486	\$59,759	\$26,459	\$774	\$387	\$271	\$116
Yolo	\$76,559	\$37,199	\$27,281	\$12,079	\$354	\$177	\$124	\$53
Yuba	\$47,718	\$23,186	\$17,003	\$7,529	\$220	\$110	\$77	\$33
Total	\$21,157,000	\$10,280,000	\$7,539,000	\$3,338,000	\$100,000	\$50,000	\$35,000	\$15,000

County	ADVISORY COMMITTEE				EMPLOYER OF RECORD			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Alpine	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$82,603	\$61,149	\$26,248
Amador	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Butte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Calaveras	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Colusa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Contra Costa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Del Norte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
El Dorado	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Fresno	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Glenn	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Humboldt	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Imperial	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Inyo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kern	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kings	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lake	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lassen	\$52,966	\$24,897	\$28,069	\$0	\$113,100	\$54,955	\$40,682	\$17,463
Los Angeles	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Madera	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Marin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mariposa	\$52,966	\$24,897	\$28,069	\$0	\$501,000	\$243,436	\$180,210	\$77,354
Mendocino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Merced	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Modoc	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mono	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Monterey	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Napa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Nevada	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Orange	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Placer	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Plumas	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Riverside	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sacramento	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Benito	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Bernardino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Diego	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Francisco	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Joaquin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Luis Obispo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Mateo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Barbara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Clara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Cruz	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Shasta	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sierra	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Siskiyou	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Solano	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sonoma	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Stanislaus	\$52,966	\$24,897	\$28,069	\$0	\$617,800	\$300,203	\$222,210	\$95,387
Sutter	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tehuma	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Trinity	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tulare	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tuolumne	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$82,603	\$61,149	\$26,248
Ventura	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yolo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yuba	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$3,072,000</b>	<b>\$1,444,000</b>	<b>\$1,628,000</b>	<b>\$0</b>	<b>\$1,571,900</b>	<b>\$763,800</b>	<b>\$565,400</b>	<b>\$242,700</b>

## DEPARTMENT OF SOCIAL SERVICES



October 7, 2004

COUNTY FISCAL LETTER (CFL) NO. 04/05-27

TO: COUNTY WELFARE DIRECTORS  
COUNTY FISCAL OFFICERS

SUBJECT: FISCAL YEAR (FY) 2004/05 IN HOME SUPPORT SERVICES (IHSS)  
PROGRAM ADMINISTRATIVE ALLOCATION – SECOND REVISION

REFERENCE: CFL No. 04/05-22, dated September 20, 2004

The purpose of this letter is to provide counties with a revised allocation for the administrative costs associated with IHSS for FY 2004/05.

In CFL No. 04/05-22, the funds associated with the Supportive Individual Providers (SIP) were incorrectly distributed to all counties as opposed to just the individual counties operating SIPs. Attachment II displays the SIP allocation which was distributed to SIP only counties on a percent to total basis of their FY 2003/04 allocation. These funds were added to the initial basic allocation.

Included in Attachment I is the redistribution of the \$7.4 million State General Fund (SGF) for the Quality Assurance (QA) premise. Originally, all QA funds were distributed based on a percent to total of paid IHSS cases. Per the request of the County Welfare Directors Association (CWDA), \$4.8 million in SGF was redistributed based on each county's proposed number of QA Social Workers multiplied by their FY 01/02 Unit Cost. The remaining \$2.6 million was distributed based on each county's paid IHSS cases.

Any questions concerning this allocation should be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

Sincerely,

**Original Document Signed By:**

KATHY FARMER, Chief  
Financial Management and Contracts Branch

Attachment  
c: CWDA

County	NET IHSS ALLOCATION				IHSS HR Usage Rate
	TOTAL Funds	Federal Funds	State Share	County Share	
Alameda	\$13,019,964	\$6,428,967	\$4,613,770	\$1,977,227	49.27%
Alpine	\$483,619	\$186,845	\$216,042	\$80,732	0.00%
Amador	\$366,565	\$175,704	\$141,879	\$48,982	47.26%
Butte	\$2,300,461	\$1,148,296	\$813,428	\$338,738	49.95%
Calaveras	\$397,797	\$173,482	\$165,245	\$59,070	40.06%
Colusa	\$402,011	\$178,168	\$164,943	\$58,901	41.31%
Contra Costra	\$6,636,043	\$3,349,757	\$2,304,776	\$981,510	50.47%
Del Norte	\$309,522	\$149,620	\$120,195	\$39,708	47.85%
El Dorado	\$841,061	\$392,312	\$322,170	\$126,579	44.75%
Fresno	\$8,769,735	\$3,910,429	\$3,403,159	\$1,456,147	44.16%
Glenn	\$663,617	\$311,747	\$254,396	\$97,474	46.23%
Humboldt	\$1,703,904	\$706,088	\$705,705	\$292,112	39.92%
Imperial	\$2,550,947	\$981,336	\$1,105,032	\$464,579	36.94%
Inyo	\$382,256	\$187,071	\$144,928	\$50,257	48.77%
Kern	\$4,125,507	\$1,957,386	\$1,523,423	\$644,698	47.11%
Kings	\$871,233	\$431,385	\$315,726	\$124,123	49.61%
Lake	\$1,010,266	\$469,414	\$386,212	\$154,641	45.96%
Lassen	\$395,439	\$192,800	\$150,139	\$52,500	48.65%
Los Angeles	\$96,166,835	\$47,629,106	\$33,912,511	\$14,625,218	49.47%
Madera	\$928,143	\$460,082	\$335,453	\$132,609	49.65%
Marin	\$2,084,409	\$992,996	\$771,322	\$320,091	47.15%
Mariposa	\$1,087,817	\$493,588	\$424,023	\$170,206	40.06%
Mendocino	\$2,575,378	\$1,288,833	\$907,695	\$378,851	50.00%
Merced	\$1,863,964	\$878,127	\$697,242	\$288,595	46.45%
Modoc	\$330,514	\$136,723	\$143,941	\$49,851	36.07%
Mono	\$365,023	\$150,118	\$158,743	\$56,162	31.69%
Monterey	\$3,125,180	\$1,500,420	\$1,143,951	\$480,810	47.59%
Napa	\$796,685	\$370,292	\$306,531	\$119,862	44.64%
Nevada	\$1,006,110	\$495,231	\$365,516	\$145,364	49.14%
Orange	\$7,833,125	\$3,512,780	\$3,026,876	\$1,293,470	44.39%
Placer	\$1,166,493	\$574,595	\$422,114	\$169,785	49.13%
Plumas	\$551,797	\$278,093	\$199,841	\$73,864	51.47%
Riverside	\$8,840,006	\$4,215,082	\$3,239,711	\$1,385,213	47.46%
Sacramento	\$18,073,161	\$9,011,873	\$6,340,287	\$2,721,002	49.77%
San Benito	\$466,920	\$183,951	\$206,259	\$76,711	34.64%
San Bernardino	\$13,895,017	\$6,923,699	\$4,879,084	\$2,092,235	49.76%
San Diego	\$13,497,680	\$6,262,487	\$5,062,739	\$2,172,454	46.16%
San Francisco	\$14,651,291	\$7,225,512	\$5,196,932	\$2,228,847	49.21%
San Joaquin	\$4,633,663	\$2,234,747	\$1,684,533	\$714,383	47.99%
San Luis Obispo	\$1,948,774	\$937,848	\$715,049	\$295,878	47.69%
San Mateo	\$2,813,384	\$1,198,658	\$1,136,881	\$477,845	41.49%
Santa Barbara	\$2,258,195	\$1,098,072	\$819,119	\$341,004	48.39%
Santa Clara	\$9,831,636	\$4,893,151	\$3,459,344	\$1,479,141	49.68%
Santa Cruz	\$2,145,427	\$1,083,167	\$750,882	\$311,379	50.56%
Shasta	\$1,826,595	\$838,176	\$699,052	\$289,368	45.14%
Sierra	\$257,772	\$121,956	\$103,436	\$32,380	44.14%
Siskiyou	\$510,704	\$219,401	\$212,041	\$79,262	40.34%
Solano	\$3,488,919	\$1,742,308	\$1,229,169	\$517,443	49.88%
Sonoma	\$3,781,007	\$1,887,919	\$1,331,348	\$561,741	49.88%
Stanislaus	\$4,538,430	\$2,311,203	\$1,564,892	\$662,336	51.46%
Sutter	\$568,612	\$246,327	\$233,749	\$88,537	38.55%
Tehama	\$723,245	\$300,088	\$304,059	\$119,098	39.43%
Trinity	\$400,342	\$164,075	\$173,638	\$62,630	35.62%
Tulare	\$1,895,557	\$935,997	\$678,870	\$280,691	49.30%
Tuolumne	\$821,797	\$401,503	\$302,310	\$117,985	48.80%
Ventura	\$2,986,172	\$1,547,726	\$1,013,677	\$424,769	52.13%
Yolo	\$1,421,420	\$696,572	\$515,036	\$209,813	48.81%
Yuba	\$945,755	\$456,537	\$350,378	\$138,839	47.85%
Total	\$282,332,900	\$137,229,800	\$101,869,400	\$43,233,700	48.48%

County	IHSS BASIC			
	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$12,210,790	\$6,037,587	\$4,315,810	\$1,857,393
Alpine	\$101,949	\$0	\$71,275	\$30,674
Amador	\$224,383	\$106,362	\$82,511	\$35,510
Butte	\$1,885,346	\$945,041	\$657,386	\$282,919
Calaveras	\$240,376	\$96,636	\$100,492	\$43,248
Colusa	\$246,920	\$102,372	\$101,056	\$43,492
Contra Costa	\$6,023,142	\$3,050,590	\$2,078,171	\$894,381
Del Norte	\$165,068	\$79,304	\$59,959	\$25,805
El Dorado	\$514,120	\$230,930	\$197,984	\$85,206
Fresno	\$8,123,636	\$3,600,107	\$3,162,490	\$1,361,039
Glenn	\$502,780	\$233,299	\$188,400	\$81,081
Humboldt	\$1,434,535	\$574,705	\$601,124	\$258,706
Imperial	\$2,235,253	\$828,578	\$983,435	\$423,240
Inyo	\$228,735	\$111,973	\$81,631	\$35,131
Kern	\$3,664,927	\$1,732,595	\$1,350,932	\$581,400
Kings	\$640,533	\$318,837	\$224,904	\$96,792
Lake	\$837,856	\$386,421	\$315,607	\$135,828
Lassen	\$130,007	\$63,468	\$46,519	\$20,020
Los Angeles	\$92,289,385	\$45,816,955	\$32,489,737	\$13,982,693
Madera	\$687,668	\$342,654	\$241,206	\$103,808
Marin	\$1,734,931	\$820,972	\$638,967	\$274,992
Mariposa	\$422,850	\$169,955	\$176,804	\$76,091
Mendocino	\$2,245,650	\$1,126,842	\$782,181	\$336,627
Merced	\$1,478,335	\$689,173	\$551,719	\$237,443
Modoc	\$194,352	\$70,326	\$86,709	\$37,317
Mono	\$169,021	\$53,742	\$80,594	\$34,685
Monterey	\$2,594,190	\$1,238,940	\$947,482	\$407,768
Napa	\$498,092	\$223,074	\$192,271	\$82,747
Nevada	\$819,001	\$403,877	\$290,221	\$124,903
Orange	\$7,210,198	\$3,211,941	\$2,795,261	\$1,202,996
Placer	\$866,036	\$426,945	\$306,977	\$132,114
Plumas	\$247,276	\$127,685	\$83,608	\$35,983
Riverside	\$8,170,635	\$3,891,513	\$2,991,620	\$1,287,502
Sacramento	\$17,152,931	\$8,567,213	\$6,002,447	\$2,583,271
San Benito	\$313,073	\$108,856	\$142,772	\$61,445
San Bernardino	\$13,164,892	\$6,574,012	\$4,607,816	\$1,983,064
San Diego	\$12,718,833	\$5,891,822	\$4,772,900	\$2,054,111
San Francisco	\$13,816,450	\$6,823,146	\$4,889,159	\$2,104,145
San Joaquin	\$4,099,211	\$1,974,124	\$1,485,691	\$639,396
San Luis Obispo	\$1,574,316	\$753,389	\$573,926	\$247,001
San Mateo	\$2,440,134	\$1,015,990	\$995,648	\$428,496
Santa Barbara	\$1,898,612	\$921,973	\$682,788	\$293,851
Santa Clara	\$9,085,537	\$4,529,686	\$3,185,087	\$1,370,764
Santa Cruz	\$1,809,451	\$918,107	\$623,156	\$268,188
Shasta	\$1,518,938	\$688,050	\$580,890	\$249,998
Sierra	\$93,901	\$41,647	\$36,532	\$15,722
Siskiyou	\$356,678	\$144,393	\$148,413	\$63,872
Solano	\$3,010,002	\$1,506,653	\$1,051,021	\$452,328
Sonoma	\$3,394,189	\$1,699,053	\$1,185,103	\$510,033
Stanislaus	\$3,434,325	\$1,773,494	\$1,161,120	\$499,711
Sutter	\$318,630	\$123,320	\$136,545	\$58,765
Tehama	\$564,634	\$223,448	\$238,530	\$102,656
Trinity	\$241,579	\$86,412	\$108,480	\$46,687
Tulare	\$1,504,894	\$744,536	\$531,581	\$228,777
Tuolumne	\$505,367	\$247,514	\$180,270	\$77,583
Ventura	\$2,532,522	\$1,324,853	\$844,306	\$363,363
Yolo	\$1,131,455	\$554,256	\$403,531	\$173,668
Yuba	\$713,471	\$342,654	\$259,245	\$111,571
Total	\$256,432,000	\$124,692,000	\$92,102,000	\$39,638,000

County	QUALITY ASSURANCE				PCSP 3-MONTH RETROACTIVE PAYMENTS			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$752,410	\$364,584	\$268,562	\$119,264	\$3,798	\$1,899	\$1,329	\$570
Alpine	\$158,504	\$79,245	\$55,479	\$23,780	\$200	\$100	\$70	\$30
Amador	\$89,016	\$44,345	\$31,229	\$13,442	\$200	\$100	\$70	\$30
Butte	\$361,262	\$177,914	\$127,662	\$55,686	\$888	\$444	\$311	\$133
Calaveras	\$104,255	\$51,849	\$36,614	\$15,792	\$200	\$100	\$70	\$30
Colusa	\$101,926	\$50,799	\$35,748	\$15,379	\$200	\$100	\$70	\$30
Contra Costa	\$558,073	\$273,339	\$197,884	\$86,850	\$1,862	\$931	\$652	\$279
Del Norte	\$91,289	\$45,319	\$32,097	\$13,873	\$200	\$100	\$70	\$30
El Dorado	\$273,775	\$136,385	\$96,047	\$41,343	\$200	\$100	\$70	\$30
Fresno	\$589,493	\$283,605	\$211,326	\$94,562	\$3,640	\$1,820	\$1,274	\$546
Glenn	\$107,671	\$53,451	\$37,857	\$16,363	\$200	\$100	\$70	\$30
Humboldt	\$215,843	\$106,205	\$76,316	\$33,322	\$561	\$281	\$196	\$84
Imperial	\$261,582	\$127,288	\$93,127	\$41,167	\$1,146	\$573	\$401	\$172
Inyo	\$100,355	\$50,101	\$35,158	\$15,096	\$200	\$100	\$70	\$30
Kern	\$406,334	\$199,254	\$143,974	\$63,106	\$1,280	\$640	\$448	\$192
Kings	\$177,337	\$87,452	\$62,614	\$27,271	\$398	\$199	\$139	\$60
Lake	\$118,913	\$57,830	\$42,350	\$18,733	\$532	\$266	\$186	\$80
Lassen	\$99,166	\$49,380	\$34,799	\$14,987	\$200	\$100	\$70	\$30
Los Angeles	\$3,783,668	\$1,766,852	\$1,380,415	\$636,401	\$40,816	\$20,402	\$14,290	\$6,124
Madera	\$187,110	\$92,331	\$66,038	\$28,741	\$400	\$200	\$140	\$60
Marin	\$296,143	\$146,942	\$104,157	\$45,044	\$369	\$185	\$129	\$55
Mariposa	\$110,801	\$55,200	\$38,870	\$16,731	\$200	\$100	\$70	\$30
Mendocino	\$276,342	\$136,883	\$97,298	\$42,161	\$421	\$211	\$147	\$63
Merced	\$331,920	\$163,685	\$117,194	\$51,041	\$743	\$372	\$260	\$111
Modoc	\$82,997	\$41,400	\$29,093	\$12,504	\$200	\$100	\$70	\$30
Mono	\$142,836	\$71,379	\$50,010	\$21,447	\$200	\$100	\$70	\$30
Monterey	\$477,231	\$236,186	\$168,122	\$72,923	\$794	\$397	\$278	\$119
Napa	\$245,427	\$122,221	\$86,121	\$37,085	\$200	\$100	\$70	\$30
Nevada	\$133,943	\$66,356	\$47,156	\$20,431	\$201	\$101	\$70	\$30
Orange	\$567,008	\$274,465	\$202,512	\$90,031	\$2,954	\$1,477	\$1,034	\$443
Placer	\$247,166	\$122,590	\$86,954	\$37,622	\$326	\$163	\$114	\$49
Plumas	\$251,356	\$125,411	\$88,094	\$37,851	\$200	\$100	\$70	\$30
Riverside	\$613,291	\$297,115	\$218,932	\$97,244	\$3,114	\$1,557	\$1,090	\$467
Sacramento	\$862,733	\$417,497	\$308,185	\$137,051	\$4,532	\$2,266	\$1,586	\$680
San Benito	\$100,682	\$50,098	\$35,348	\$15,236	\$200	\$100	\$70	\$30
San Bernardino	\$672,654	\$322,537	\$241,622	\$108,495	\$4,506	\$2,253	\$1,577	\$676
San Diego	\$720,269	\$342,962	\$259,806	\$117,501	\$5,612	\$2,806	\$1,964	\$842
San Francisco	\$777,474	\$375,268	\$278,164	\$124,042	\$4,401	\$2,201	\$1,540	\$660
San Joaquin	\$479,846	\$234,906	\$170,199	\$74,741	\$1,640	\$820	\$574	\$246
San Luis Obispo	\$321,106	\$159,368	\$112,919	\$48,819	\$387	\$194	\$135	\$58
San Mateo	\$319,509	\$157,383	\$112,893	\$49,233	\$775	\$388	\$271	\$116
Santa Barbara	\$305,928	\$150,857	\$108,021	\$47,050	\$689	\$345	\$241	\$103
Santa Clara	\$690,519	\$337,261	\$245,273	\$107,985	\$2,614	\$1,307	\$915	\$392
Santa Cruz	\$282,571	\$139,943	\$99,503	\$43,125	\$440	\$220	\$154	\$66
Shasta	\$254,000	\$124,883	\$89,851	\$39,266	\$692	\$346	\$242	\$104
Sierra	\$110,705	\$55,312	\$38,765	\$16,628	\$200	\$100	\$70	\$30
Siskiyou	\$100,860	\$50,011	\$35,489	\$15,360	\$200	\$100	\$70	\$30
Solano	\$425,226	\$210,395	\$149,825	\$65,006	\$726	\$363	\$254	\$109
Sonoma	\$332,886	\$163,485	\$117,838	\$51,563	\$967	\$484	\$338	\$145
Stanislaus	\$432,013	\$211,945	\$153,029	\$67,039	\$1,327	\$664	\$464	\$199
Sutter	\$196,817	\$98,010	\$69,065	\$29,742	\$200	\$100	\$70	\$30
Tehama	\$105,291	\$51,566	\$37,336	\$16,389	\$354	\$177	\$124	\$53
Trinity	\$105,598	\$52,666	\$37,019	\$15,913	\$200	\$100	\$70	\$30
Tulare	\$336,951	\$166,190	\$118,959	\$51,802	\$747	\$374	\$261	\$112
Tuolumne	\$93,265	\$46,389	\$32,752	\$14,124	\$200	\$100	\$70	\$30
Ventura	\$399,910	\$197,589	\$141,031	\$61,290	\$774	\$387	\$271	\$116
Yolo	\$236,646	\$117,242	\$83,312	\$36,092	\$354	\$177	\$124	\$53
Yuba	\$179,098	\$88,876	\$62,987	\$27,235	\$220	\$110	\$77	\$33
Total	\$21,157,000	\$10,280,000	\$7,539,000	\$3,338,000	\$100,000	\$50,000	\$35,000	\$15,000

County	ADVISORY COMMITTEE				EMPLOYER OF RECORD			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Alpine	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$82,603	\$61,149	\$26,248
Amador	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Butte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Calaveras	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Colusa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Contra Costa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Del Norte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
El Dorado	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Fresno	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Glenn	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Humboldt	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Imperial	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Inyo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kern	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kings	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lake	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lassen	\$52,966	\$24,897	\$28,069	\$0	\$113,100	\$54,955	\$40,682	\$17,463
Los Angeles	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Madera	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Marin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mariposa	\$52,966	\$24,897	\$28,069	\$0	\$501,000	\$243,436	\$180,210	\$77,354
Mendocino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Merced	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Modoc	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mono	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Monterey	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Napa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Nevada	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Orange	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Placer	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Plumas	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Riverside	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sacramento	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Benito	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Bernardino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Diego	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Francisco	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Joaquin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Luis Obispo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Mateo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Barbara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Clara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Cruz	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Shasta	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sierra	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Siskiyou	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Solano	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sonoma	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Stanislaus	\$52,966	\$24,897	\$28,069	\$0	\$617,800	\$300,203	\$222,210	\$95,387
Sutter	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tehama	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Trinity	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tulare	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tuolumne	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$82,603	\$61,149	\$26,248
Ventura	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yolo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yuba	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Total	\$3,072,000	\$1,444,000	\$1,628,000	\$0	\$1,571,900	\$763,800	\$565,400	\$242,700

For Display Only

County	FY 04/05
	SIP ALLOCATION Fed / State / Co
Alameda	\$0
Alpine	\$0
Amador	\$0
Butte	\$0
Calaveras	\$0
Colusa	\$62,543
Contra Costa	\$0
Del Norte	\$0
El Dorado	\$0
Fresno	\$63,297
Glenn	\$59,182
Humboldt	\$363,584
Imperial	\$297,700
Inyo	\$0
Kern	\$1,059,460
Kings	\$40,045
Lake	\$0
Lassen	\$0
Los Angeles	\$0
Madera	\$0
Marin	\$0
Mariposa	\$0
Mendocino	\$306,710
Merced	\$0
Modoc	\$0
Mono	\$0
Monterey	\$245,124
Napa	\$66,016
Nevada	\$0
Orange	\$0
Placer	\$0
Plumas	\$0
Riverside	\$0
Sacramento	\$921,139
San Benito	\$0
San Bernardino	\$2,391,785
San Diego	\$0
San Francisco	\$0
San Joaquin	\$0
San Luis Obispo	\$130,240
San Mateo	\$51,533
Santa Barbara	\$0
Santa Clara	\$0
Santa Cruz	\$0
Shasta	\$56,380
Sierra	\$0
Siskiyou	\$0
Solano	\$269,040
Sonoma	\$256,985
Stanislaus	\$253,960
Sutter	\$48,194
Tehama	\$0
Trinity	\$0
Tulare	\$0
Tuolumne	\$86,289
Ventura	\$152,096
Yolo	\$195,226
Yuba	\$93,087
Total	\$7,469,615



**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



July 27, 2005

COUNTY FISCAL LETTER (CFL) NO. 05/06-10

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: FISCAL YEAR (FY) 2005/06 IN-HOME SUPPORTIVE SERVICES (IHSS)  
PROGRAM ADMINISTRATIVE ALLOCATION

The purpose of this letter is to provide counties with their FY 2005/06 IHSS allocations for the administrative costs associated with IHSS activities, nurses, and denials of assistance. A total of \$110 million in State General Fund (SGF) has been made available with the approval of the FY 2005/06 Budget Act.

The individual components within the IHSS Administrative Allocation and their allocation methodologies are as follows:

**IHSS Basic**

In consultation with the County Welfare Directors Association, it was agreed that small counties would receive the greater of either their calculated FY 2005/06 IHSS Basic allocation or their FY 04/05 IHSS Basic allocation:

The IHSS Basic allocation methodology uses the following factors:

- Each county's actual average monthly paid cases for the period of March 2004 through February 2005.
- Each county's FY 2001/02 actual IHSS unit cost.
- Each county's actual Title XIX usage rate based on expenditures for June 2004 through March 2005.
- Each county is guaranteed a minimum allocation of 100 percent of their prior four quarters of expenditures (June 2004 through March 2005).

The caseload information used in this allocation was obtained from the IHSS Case Management Information and Payrolling System (CMIPS) Management Statistics Summary Report. The allocation methodology assumes that each IHSS/Personal Care Services Program (PCSP) case takes 11.5 hours to process. The cases were multiplied by the 11.5 hour standard and then divided by 1,778 hours available per worker to arrive at the Full Time Equivalents for each county. An adjustment was made to provide all counties with a minimum of one-half social worker.

Also displayed with the IHSS Basic allocation is the IHSS Health-Related (HR) usage rate that is applied to the total program level to identify potential Title XIX Federal funds for those activities in both PCSP/Waiver and the Residual Program. The SGF share was calculated at 70 percent of the non-federal share of the program.

The State share of administrative costs for IHSS activities claimed to Program Codes (PC) 102 - IHSS-Skilled Professional Medical Personnel; PC 103 - IHSS-PCSP/Waiver; PC 104 - IHSS-Non HR/ Non PCSP/Non Waiver; and PC 330 - IHSS Fraud, on the County Expense Claim (CEC) will be charged against this allocation. Expenditures that exceed the State allocation will be transferred to county-only through PC 193 - State Use Only IHSS.

Attachment II displays the Supportive Individual Providers (SIP) allocation. Counties that operate with SIPs were allocated additional funds based on a percent to total of the SIP amount included in the FY 2004/05 allocation. These additional funds were added to the initial base allocation.

### Quality Assurance

This premise reflects the cost of hiring County Quality Assurance (QA) staff that will conduct legally required county IHSS/PCSP quality assurance and program integrity functions and work with State staff on the following tasks: development of statewide assessment guidelines; social worker training on the IHSS/PCSP assessment process and other related projects with the goals of improving and streamlining the service needs assessment process and reducing the cost of the IHSS program. The \$11.6 million SGF share was distributed as follows: \$4.6 million in SGF was distributed based on each county's proposed number of QA Social Workers multiplied by their FY 01/02 Unit Cost. The remaining \$7 million was distributed based on each county's paid IHSS cases. PC 003 captures costs associated with QA activities and is tracked against the total IHSS allocation.

### IHSS Advisory Committee

This premise reflects the \$3 million in Federal and State funds that are available for continued operation of the county Advisory Committee. The \$1.6 million SGF share has been distributed equally to the participating counties and has been included in your total allocation. PC 023 captures costs associated with the IHSS Advisory Committees and is tracked against the total IHSS allocation. Please refer to CFL 00/01-48 dated December 22, 2000, for additional information related to IHSS Advisory Committee costs.

**IHSS County Employer of Record**

This premise reflects the cost of administrative activities necessary for counties to act as the employer of record for IHSS providers under Welfare and Institutions Code Section 12302.25. The estimated funding need for each of the participating counties was determined based on data received from the counties by the Department of Social Services Disability and Adult Programs Branch in conjunction with the Estimates Branch. This funding has been included in the total allocation for appropriate counties.

Any questions concerning this letter should be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

Sincerely,

*Original Document Signed By*

*Eric Fujii for:*

GLORIA MERK

Deputy Director

Administration Division

Attachment

c: CWDA

County	NET IHSS ALLOCATION				IHSS HR Usage Rate
	TOTAL Funds	Federal Funds	State Share	County Share	
Alameda	\$13,179,936	\$6,446,981	\$4,720,073	\$2,012,882	48.36%
Alpine	\$490,756	\$189,491	\$219,282	\$81,983	2.17%
Amador	\$371,549	\$184,728	\$139,170	\$47,651	49.74%
Butte	\$2,427,985	\$1,158,164	\$897,049	\$372,773	46.91%
Calaveras	\$441,228	\$213,259	\$167,966	\$60,003	47.45%
Colusa	\$482,164	\$236,785	\$180,148	\$65,232	48.64%
Contra Costra	\$6,895,660	\$3,479,618	\$2,398,954	\$1,017,089	50.07%
Del Norte	\$356,434	\$172,015	\$137,490	\$46,930	47.33%
El Dorado	\$836,530	\$409,391	\$307,360	\$119,780	48.07%
Fresno	\$8,968,918	\$3,797,198	\$3,627,544	\$1,544,177	41.03%
Glenn	\$697,644	\$349,813	\$251,843	\$95,989	49.99%
Humboldt	\$2,182,215	\$939,323	\$878,196	\$364,696	41.50%
Imperial	\$2,717,621	\$1,075,447	\$1,157,615	\$484,560	37.25%
Inyo	\$355,877	\$173,050	\$136,376	\$46,452	47.82%
Kern	\$4,208,180	\$1,989,099	\$1,561,333	\$657,748	46.43%
Kings	\$1,020,232	\$488,192	\$380,758	\$151,282	46.91%
Lake	\$1,043,522	\$503,202	\$386,547	\$153,774	47.59%
Lassen	\$535,274	\$251,862	\$206,776	\$76,637	44.73%
Los Angeles	\$106,569,534	\$52,378,275	\$37,930,725	\$16,260,534	48.66%
Madera	\$949,046	\$472,262	\$342,092	\$134,692	49.54%
Marin	\$2,258,290	\$1,007,950	\$883,416	\$366,924	43.14%
Mariposa	\$1,057,736	\$489,436	\$406,179	\$162,121	41.51%
Mendocino	\$2,482,785	\$1,251,152	\$870,323	\$361,311	50.01%
Merced	\$1,895,481	\$941,128	\$676,290	\$278,064	49.27%
Modoc	\$316,907	\$148,866	\$126,028	\$42,013	45.00%
Mono	\$326,716	\$158,754	\$125,979	\$41,984	47.14%
Monterey	\$3,051,992	\$1,465,496	\$1,118,657	\$467,840	47.26%
Napa	\$1,035,027	\$489,850	\$389,956	\$155,222	45.90%
Nevada	\$940,281	\$456,267	\$347,144	\$136,871	47.85%
Orange	\$8,961,195	\$4,071,405	\$3,430,257	\$1,459,534	44.49%
Placer	\$1,387,111	\$701,934	\$487,926	\$197,252	50.48%
Plumas	\$423,215	\$201,370	\$163,684	\$58,162	45.85%
Riverside	\$9,557,349	\$4,610,567	\$3,470,142	\$1,476,640	47.62%
Sacramento	\$18,632,164	\$9,318,953	\$6,525,681	\$2,787,530	49.54%
San Benito	\$469,547	\$233,447	\$173,656	\$62,444	49.60%
San Bernardino	\$15,040,368	\$7,575,487	\$5,232,254	\$2,232,628	49.95%
San Diego	\$15,564,589	\$7,614,005	\$5,572,153	\$2,378,432	48.40%
San Francisco	\$15,743,293	\$8,007,672	\$5,421,721	\$2,313,900	50.48%
San Joaquin	\$4,928,081	\$2,421,067	\$1,762,834	\$744,181	48.59%
San Luis Obispo	\$2,382,976	\$1,172,911	\$855,236	\$354,830	48.63%
San Mateo	\$3,352,379	\$1,528,448	\$1,284,803	\$539,129	44.52%
Santa Barbara	\$2,252,787	\$1,087,292	\$824,048	\$341,447	47.51%
Santa Clara	\$11,033,895	\$5,381,596	\$3,963,848	\$1,688,451	48.19%
Santa Cruz	\$2,661,828	\$1,365,132	\$915,854	\$380,843	51.05%
Shasta	\$1,965,317	\$889,043	\$761,608	\$314,667	43.80%
Sierra	\$273,640	\$133,577	\$106,452	\$33,611	47.94%
Siskiyou	\$502,552	\$245,629	\$188,228	\$68,696	48.36%
Solano	\$3,557,878	\$1,793,626	\$1,243,054	\$521,198	50.04%
Sonoma	\$4,128,111	\$2,031,092	\$1,475,907	\$621,112	48.66%
Stanislaus	\$4,495,476	\$2,280,622	\$1,558,367	\$656,488	50.40%
Sutter	\$585,555	\$262,948	\$234,203	\$88,404	40.74%
Tehama	\$749,048	\$327,920	\$303,135	\$117,993	41.62%
Trinity	\$376,883	\$167,375	\$155,047	\$54,461	40.45%
Tulare	\$2,019,975	\$1,000,409	\$721,935	\$297,632	49.08%
Tuolumne	\$883,352	\$410,151	\$339,591	\$133,610	44.57%
Ventura	\$2,884,314	\$1,482,117	\$989,684	\$412,513	51.20%
Yolo	\$1,386,741	\$693,058	\$493,877	\$199,807	49.66%
Yuba	\$1,045,860	\$524,119	\$373,548	\$148,193	49.86%
Total	\$305,341,000	\$148,850,000	\$110,000,000	\$46,491,000	48.23%

County	IHSS BASIC			
	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$11,920,768	\$5,834,219	\$4,259,183	\$1,827,366
Alpine	\$108,713	\$2,388	\$74,403	\$31,922
Amador	\$223,075	\$112,293	\$77,522	\$33,260
Butte	\$2,008,634	\$953,582	\$738,293	\$316,759
Calaveras	\$275,610	\$132,350	\$100,249	\$43,011
Cólusa	\$320,132	\$157,585	\$113,745	\$48,802
Contra Costra	\$6,065,552	\$3,073,549	\$2,093,713	\$898,290
Del Norte	\$200,707	\$96,138	\$73,174	\$31,395
El Dorado	\$489,687	\$238,224	\$175,966	\$75,497
Fresno	\$7,924,974	\$3,290,725	\$3,242,907	\$1,391,342
Glenn	\$521,806	\$263,988	\$180,413	\$77,405
Humboldt	\$1,850,099	\$777,025	\$750,905	\$322,169
Imperial	\$2,250,528	\$848,405	\$981,163	\$420,960
Inyo	\$199,357	\$96,480	\$71,990	\$30,887
Kern	\$3,593,476	\$1,688,518	\$1,333,032	\$571,926
Kings	\$740,231	\$351,428	\$272,087	\$116,736
Lake	\$812,113	\$391,133	\$294,589	\$126,391
Lassen	\$261,290	\$118,281	\$100,073	\$42,936
Los Angeles	\$97,661,399	\$48,093,604	\$34,686,048	\$14,881,747
Madera	\$662,603	\$332,202	\$231,205	\$99,196
Marin	\$1,861,816	\$812,847	\$734,037	\$314,932
Mariposa	\$384,819	\$161,659	\$156,161	\$66,999
Mendocino	\$2,109,647	\$1,067,724	\$729,106	\$312,817
Merced	\$1,515,739	\$755,787	\$531,791	\$228,161
Modoc	\$176,091	\$80,194	\$67,106	\$28,791
Mono	\$129,864	\$61,954	\$47,521	\$20,389
Monterey	\$2,568,099	\$1,228,282	\$937,563	\$402,254
Napa	\$716,047	\$332,619	\$268,311	\$115,117
Nevada	\$729,690	\$353,356	\$263,347	\$112,987
Orange	\$7,931,459	\$3,571,147	\$3,051,214	\$1,309,098
Placer	\$1,044,143	\$533,422	\$357,387	\$153,334
Plumas	\$230,538	\$106,974	\$86,466	\$37,098
Riverside	\$8,493,149	\$4,093,082	\$3,079,034	\$1,321,033
Sacramento	\$17,143,636	\$8,595,105	\$5,982,003	\$2,566,528
San Benito	\$305,335	\$153,268	\$106,412	\$45,655
San Bernardino	\$13,741,686	\$6,946,527	\$4,755,046	\$2,040,113
San Diego	\$14,077,291	\$6,895,355	\$5,025,701	\$2,156,235
San Francisco	\$14,350,887	\$7,331,458	\$4,911,984	\$2,107,445
San Joaquin	\$4,187,954	\$2,059,402	\$1,489,496	\$639,056
San Luis Obispo	\$1,960,379	\$964,798	\$696,677	\$298,904
San Mateo	\$2,897,078	\$1,305,291	\$1,113,884	\$477,903
Santa Barbara	\$1,814,638	\$872,504	\$659,277	\$282,857
Santa Clara	\$9,917,522	\$4,836,735	\$3,555,381	\$1,525,406
Santa Cruz	\$2,266,552	\$1,170,991	\$766,640	\$328,921
Shasta	\$1,571,869	\$696,759	\$612,375	\$262,735
Sierra	\$108,917	\$52,843	\$39,239	\$16,835
Siskiyou	\$332,814	\$162,885	\$118,911	\$51,018
Solano	\$2,991,968	\$1,515,188	\$1,033,406	\$443,374
Sonoma	\$3,617,089	\$1,781,245	\$1,284,668	\$551,176
Stanislaus	\$3,960,317	\$2,020,007	\$1,357,770	\$582,540
Sutter	\$314,830	\$129,805	\$129,475	\$55,550
Tehoma	\$555,046	\$233,788	\$224,807	\$96,451
Trinity	\$212,975	\$87,185	\$88,024	\$37,766
Tulare	\$1,545,639	\$767,724	\$544,361	\$233,554
Tuolumne	\$558,049	\$251,713	\$214,365	\$91,971
Ventura	\$2,455,792	\$1,272,489	\$828,040	\$355,263
Yolo	\$1,053,852	\$529,638	\$366,829	\$157,385
Yuba	\$789,013	\$398,133	\$273,525	\$117,354
<b>Total</b>	<b>\$268,713,000</b>	<b>\$131,042,000</b>	<b>\$96,338,000</b>	<b>\$41,333,000</b>

County	QUALITY ASSURANCE				ADVISORY COMMITTEE			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$1,206,202	\$587,865	\$432,821	\$185,516	\$52,966	\$24,897	\$28,069	\$0
Alpine	\$159,077	\$79,523	\$55,688	\$23,866	\$52,966	\$24,897	\$28,069	\$0
Amador	\$95,508	\$47,538	\$33,579	\$14,391	\$52,966	\$24,897	\$28,069	\$0
Butte	\$366,386	\$179,685	\$130,687	\$56,014	\$52,966	\$24,897	\$28,069	\$0
Calaveras	\$112,652	\$56,012	\$39,648	\$16,992	\$52,966	\$24,897	\$28,069	\$0
Colusa	\$109,067	\$54,303	\$38,334	\$16,430	\$52,966	\$24,897	\$28,069	\$0
Contra Costa	\$777,143	\$381,172	\$277,172	\$118,799	\$52,966	\$24,897	\$28,069	\$0
Del Norte	\$102,762	\$50,980	\$36,247	\$15,535	\$52,966	\$24,897	\$28,069	\$0
El Dorado	\$293,878	\$146,270	\$103,325	\$44,283	\$52,966	\$24,897	\$28,069	\$0
Fresno	\$990,979	\$481,576	\$356,568	\$152,835	\$52,966	\$24,897	\$28,069	\$0
Glenn	\$122,873	\$60,928	\$43,361	\$18,584	\$52,966	\$24,897	\$28,069	\$0
Humboldt	\$279,150	\$137,401	\$99,222	\$42,527	\$52,966	\$24,897	\$28,069	\$0
Imperial	\$414,128	\$202,145	\$148,383	\$63,600	\$52,966	\$24,897	\$28,069	\$0
Inyo	\$103,555	\$51,673	\$36,317	\$15,565	\$52,966	\$24,897	\$28,069	\$0
Kern	\$561,738	\$275,684	\$200,232	\$85,822	\$52,966	\$24,897	\$28,069	\$0
Kings	\$227,015	\$111,867	\$80,602	\$34,546	\$52,966	\$24,897	\$28,069	\$0
Lake	\$178,444	\$87,172	\$63,889	\$27,383	\$52,966	\$24,897	\$28,069	\$0
Lassen	\$107,969	\$53,700	\$37,988	\$16,281	\$52,966	\$24,897	\$28,069	\$0
Los Angeles	\$8,855,169	\$4,259,774	\$3,216,608	\$1,378,787	\$52,966	\$24,897	\$28,069	\$0
Madera	\$233,477	\$115,163	\$82,818	\$35,496	\$52,966	\$24,897	\$28,069	\$0
Marin	\$343,508	\$170,206	\$121,310	\$51,992	\$52,966	\$24,897	\$28,069	\$0
Mariposa	\$119,001	\$59,230	\$41,839	\$17,932	\$52,966	\$24,897	\$28,069	\$0
Mendocino	\$320,173	\$158,531	\$113,148	\$48,494	\$52,966	\$24,897	\$28,069	\$0
Merced	\$326,777	\$160,444	\$116,430	\$49,903	\$52,966	\$24,897	\$28,069	\$0
Modoc	\$87,850	\$43,775	\$30,853	\$13,222	\$52,966	\$24,897	\$28,069	\$0
Mono	\$143,887	\$71,903	\$50,389	\$21,595	\$52,966	\$24,897	\$28,069	\$0
Monterey	\$430,928	\$212,317	\$153,025	\$65,586	\$52,966	\$24,897	\$28,069	\$0
Napa	\$266,015	\$132,334	\$93,576	\$40,105	\$52,966	\$24,897	\$28,069	\$0
Nevada	\$157,626	\$78,014	\$55,728	\$23,884	\$52,966	\$24,897	\$28,069	\$0
Orange	\$976,771	\$475,361	\$350,974	\$150,436	\$52,966	\$24,897	\$28,069	\$0
Placer	\$290,003	\$143,615	\$102,470	\$43,918	\$52,966	\$24,897	\$28,069	\$0
Plumas	\$139,712	\$69,499	\$49,149	\$21,064	\$52,966	\$24,897	\$28,069	\$0
Riverside	\$1,011,234	\$492,588	\$363,039	\$155,607	\$52,966	\$24,897	\$28,069	\$0
Sacramento	\$1,435,562	\$698,951	\$515,609	\$221,002	\$52,966	\$24,897	\$28,069	\$0
San Benito	\$111,246	\$55,282	\$39,175	\$16,789	\$52,966	\$24,897	\$28,069	\$0
San Bernardino	\$1,245,717	\$604,063	\$449,139	\$192,515	\$52,966	\$24,897	\$28,069	\$0
San Diego	\$1,434,333	\$693,753	\$518,383	\$222,197	\$52,966	\$24,897	\$28,069	\$0
San Francisco	\$1,339,440	\$651,317	\$481,668	\$206,455	\$52,966	\$24,897	\$28,069	\$0
San Joaquin	\$687,162	\$336,768	\$245,269	\$105,125	\$52,966	\$24,897	\$28,069	\$0
San Luis Obispo	\$369,632	\$183,216	\$130,490	\$55,926	\$52,966	\$24,897	\$28,069	\$0
San Mateo	\$402,336	\$198,260	\$142,850	\$61,226	\$52,966	\$24,897	\$28,069	\$0
Santa Barbara	\$385,183	\$189,891	\$136,702	\$58,590	\$52,966	\$24,897	\$28,069	\$0
Santa Clara	\$1,063,407	\$519,964	\$380,398	\$163,045	\$52,966	\$24,897	\$28,069	\$0
Santa Cruz	\$342,311	\$169,244	\$121,145	\$51,922	\$52,966	\$24,897	\$28,069	\$0
Shasta	\$340,483	\$167,387	\$121,164	\$51,932	\$52,966	\$24,897	\$28,069	\$0
Sierra	\$111,757	\$55,837	\$39,144	\$16,776	\$52,966	\$24,897	\$28,069	\$0
Siskiyou	\$116,773	\$57,847	\$41,248	\$17,678	\$52,966	\$24,897	\$28,069	\$0
Solano	\$512,944	\$253,541	\$181,579	\$77,824	\$52,966	\$24,897	\$28,069	\$0
Sonoma	\$458,056	\$224,950	\$163,170	\$69,936	\$52,966	\$24,897	\$28,069	\$0
Stanislaus	\$482,194	\$235,718	\$172,528	\$73,948	\$52,966	\$24,897	\$28,069	\$0
Sutter	\$217,759	\$108,246	\$76,659	\$32,854	\$52,966	\$24,897	\$28,069	\$0
Tehama	\$141,036	\$69,235	\$50,259	\$21,542	\$52,966	\$24,897	\$28,069	\$0
Trinity	\$110,942	\$55,293	\$38,954	\$16,695	\$52,966	\$24,897	\$28,069	\$0
Tulare	\$421,371	\$207,788	\$149,505	\$64,078	\$52,966	\$24,897	\$28,069	\$0
Tuolumne	\$102,337	\$50,858	\$36,035	\$15,444	\$52,966	\$24,897	\$28,069	\$0
Ventura	\$375,556	\$184,731	\$133,575	\$57,250	\$52,966	\$24,897	\$28,069	\$0
Yolo	\$279,924	\$138,523	\$98,979	\$42,422	\$52,966	\$24,897	\$28,069	\$0
Yuba	\$203,882	\$101,089	\$71,954	\$30,839	\$52,966	\$24,897	\$28,069	\$0
Total	\$32,602,000	\$15,900,000	\$11,691,000	\$5,011,000	\$3,072,000	\$1,444,000	\$1,628,000	\$0

County	EMPLOYER OF RECORD			
	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$0	\$0	\$0	\$0
Alpine	\$170,000	\$82,683	\$61,122	\$26,195
Amador	\$0	\$0	\$0	\$0
Butte	\$0	\$0	\$0	\$0
Calaveras	\$0	\$0	\$0	\$0
Colusa	\$0	\$0	\$0	\$0
Contra Costa	\$0	\$0	\$0	\$0
Del Norte	\$0	\$0	\$0	\$0
El Dorado	\$0	\$0	\$0	\$0
Fresno	\$0	\$0	\$0	\$0
Glenn	\$0	\$0	\$0	\$0
Humboldt	\$0	\$0	\$0	\$0
Imperial	\$0	\$0	\$0	\$0
Inyo	\$0	\$0	\$0	\$0
Kern	\$0	\$0	\$0	\$0
Kings	\$0	\$0	\$0	\$0
Lake	\$0	\$0	\$0	\$0
Lassen	\$113,050	\$54,984	\$40,646	\$17,420
Los Angeles	\$0	\$0	\$0	\$0
Madera	\$0	\$0	\$0	\$0
Marin	\$0	\$0	\$0	\$0
Mariposa	\$500,950	\$243,650	\$180,110	\$77,190
Mendocino	\$0	\$0	\$0	\$0
Merced	\$0	\$0	\$0	\$0
Modoc	\$0	\$0	\$0	\$0
Mono	\$0	\$0	\$0	\$0
Monterey	\$0	\$0	\$0	\$0
Napa	\$0	\$0	\$0	\$0
Nevada	\$0	\$0	\$0	\$0
Orange	\$0	\$0	\$0	\$0
Placer	\$0	\$0	\$0	\$0
Plumas	\$0	\$0	\$0	\$0
Riverside	\$0	\$0	\$0	\$0
Sacramento	\$0	\$0	\$0	\$0
San Benito	\$0	\$0	\$0	\$0
San Bernardino	\$0	\$0	\$0	\$0
San Diego	\$0	\$0	\$0	\$0
San Francisco	\$0	\$0	\$0	\$0
San Joaquin	\$0	\$0	\$0	\$0
San Luis Obispo	\$0	\$0	\$0	\$0
San Mateo	\$0	\$0	\$0	\$0
Santa Barbara	\$0	\$0	\$0	\$0
Santa Clara	\$0	\$0	\$0	\$0
Santa Cruz	\$0	\$0	\$0	\$0
Shasta	\$0	\$0	\$0	\$0
Sierra	\$0	\$0	\$0	\$0
Siskiyou	\$0	\$0	\$0	\$0
Solano	\$0	\$0	\$0	\$0
Sonoma	\$0	\$0	\$0	\$0
Stanislaus	\$0	\$0	\$0	\$0
Sutter	\$0	\$0	\$0	\$0
Tehama	\$0	\$0	\$0	\$0
Trinity	\$0	\$0	\$0	\$0
Tulare	\$0	\$0	\$0	\$0
Tuolumne	\$170,000	\$82,683	\$61,122	\$26,195
Ventura	\$0	\$0	\$0	\$0
Yolo	\$0	\$0	\$0	\$0
Yuba	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$954,000</b>	<b>\$464,000</b>	<b>\$343,000</b>	<b>\$147,000</b>

For Display Only

County	FY 05/06
	SIP ALLOCATION Fed / State / Co
Alameda	\$0
Alpine	\$0
Amador	\$0
Butte	\$0
Calaveras	\$0
Colusa	\$65,431
Contra Costa	\$0
Del Norte	\$0
El Dorado	\$0
Fresno	\$66,219
Glenn	\$61,914
Humboldt	\$380,370
Imperial	\$311,444
Inyo	\$0
Kern	\$1,108,373
Kings	\$41,894
Lake	\$0
Lassen	\$0
Los Angeles	\$0
Madera	\$0
Marin	\$0
Mariposa	\$0
Mendocino	\$320,870
Merced	\$0
Modoc	\$0
Mono	\$0
Monterey	\$256,440
Napa	\$69,063
Nevada	\$0
Orange	\$0
Placer	\$0
Plumas	\$0
Riverside	\$0
Sacramento	\$963,665
San Benito	\$0
San Bernardino	\$2,502,206
San Diego	\$0
San Francisco	\$0
San Joaquin	\$0
San Luis Obispo	\$136,253
San Mateo	\$53,912
Santa Barbara	\$0
Santa Clara	\$0
Santa Cruz	\$0
Shasta	\$58,983
Sierra	\$0
Siskiyou	\$0
Solano	\$281,461
Sonoma	\$268,849
Stanislaus	\$265,685
Sutter	\$50,419
Tehama	\$0
Trinity	\$0
Tulare	\$0
Tuolumne	\$90,273
Ventura	\$159,118
Yolo	\$204,239
Yuba	\$97,385
Total	\$7,814,466



**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



July 7, 2006

COUNTY FISCAL LETTER (CFL) NO. 06/07-02

TO: ALL COUNTY WELFARE FISCAL OFFICERS  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: FISCAL YEAR (FY) 2006/07 IN-HOME SUPPORTIVE SERVICES (IHSS)  
PROGRAM ADMINISTRATIVE ALLOCATION

The purpose of this letter is to provide counties with the allocations for the administrative costs associated with IHSS activities, nurses, and denials of assistance. A total of \$111 million State General Fund (SGF) was made available with the approval of the FY 2006/07 Budget Act.

The individual components of the IHSS Administrative Allocation and the allocation methodologies are as follows:

**IHSS Basic**

In consultation with the County Welfare Directors Association (CWDA), it was determined that the FY 2006/07 IHSS Basic allocation would be based on each county's FY 2005/06 IHSS Basic total funds allocation. The additional appropriated funds above the FY 2005/06 level were then distributed based on a percent to statewide total basis to those counties with an increase in expenditures as compared to those expenditures used in calculating the FY 2005/06 IHSS Basic allocation. Expenditure data consisted of the most recent available four quarters (June 2005 - March 2006).

Also displayed with the IHSS Basic allocation is the IHSS Health-Related (HR) usage rate that is applied to the total program level to identify potential federal Title XIX funds for those activities in both the Personal Care Services Program (PCSP)/Waiver and the Residual Program. Each county's actual Title XIX usage rate was based on the most recent four quarters of expenditures. The SGF share was calculated at 70 percent of the nonfederal share of the program.

The state share of administrative costs for IHSS activities are claimed to the following Program Codes (PCs): PC 102 - IHSS-Skilled Professional Medical Personnel, PC 103 - IHSS-PCSP/Waiver, PC 104 - IHSS-Non HR/ Non PCSP/Non Waiver, and PC 330 - IHSS Fraud on the County Expense Claim. Expenditures that exceed the state allocation will be transferred to county only through PC 193 - State Use Only IHSS.

Attachment II displays the Supportive Individual Providers (SIP) allocation. Counties that operate with SIPs were allocated additional funds based on a percent to total of the SIP amount included in the FY 2005/06 allocation. These additional funds were added to the initial base allocation.

### Quality Assurance

This premise reflects the cost of hiring county Quality Assurance (QA) staff that will conduct legally required county IHSS/PCSP quality assurance and program integrity functions and work with state staff on the following tasks: development of statewide assessment guidelines; social worker training on the IHSS/PCSP assessment process and other related projects with the goals of improving and streamlining the service needs assessment process and reducing the cost of the IHSS program. The \$11.6 million SGF share was distributed as follows: \$4.6 million SGF was distributed based on each county's proposed number of QA Social Workers multiplied by their FY 2001/02 Unit Cost. The remaining \$7 million SGF was distributed based on each county's paid IHSS cases. PC 003 captures costs associated with QA activities and is tracked against the total IHSS allocation.

### IHSS Advisory Committee

This premise reflects the federal and state funds that are available for continued operation of the county Advisory Committee. The \$1.6 million SGF share has been distributed equally to the participating counties and has been included in the total allocation. PC 023 captures costs associated with the IHSS Advisory Committees and is tracked against the total IHSS allocation. Please refer to CFL 00/01-48, dated December 22, 2000, for additional information related to IHSS Advisory Committee costs.

### IHSS County Employer of Record

This premise reflects the cost of administrative activities necessary for counties to act as the employer of record for IHSS providers under Welfare and Institutions Code Section 12302.25. The estimated funding need for each of the participating counties was determined based on data received from the counties by the Department of Social Services Disability and Adult Programs Branch in conjunction with the Estimates and Research Services Branch. A total of \$121,000 SGF has been included in the allocation for appropriate counties.

### PCSP Three-Month Retroactive Benefits

This premise reflects the estimated administrative costs associated with implementing a Medi-Cal rule that provides reimbursement for eligible IHSS Personal Care services rendered up to three months prior to the application. The \$238,000 SGF was distributed to counties based on the percent to total of their average monthly paid cases and has been included in the total allocation. Funds were adjusted to ensure a minimum allocation of \$1,000 and have been included in the total allocation.

**Forms Requirement for Waiver**

This premise reflects the estimated administrative costs associated with the implementation of a Medicaid (Medi-Cal) waiver and PCSP state plan amendment that allows IHSS Residual Program services to qualify for federal Title XIX funds. The \$681,000 SGF was distributed to counties based on the percent to total of their average monthly paid cases and has been included in the total allocation. Funds were adjusted to ensure a minimum allocation of \$500 and have been included in the total allocation.

Any questions regarding this letter should be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

ERIC FUJII  
Deputy Director  
Administration Division

Attachment

c: CWDA

County	NET IHSS ALLOCATION				IHSS HR Usnge Rate
	TOTAL Funds	Federal Funds	State Share	County Share	
Alameda	\$13,243,703	\$6,590,546	\$4,664,858	\$1,988,299	49.66%
Alpine	\$492,346	\$196,871	\$215,189	\$80,286	7.63%
Amador	\$378,143	\$182,869	\$145,097	\$50,178	47.87%
Butte	\$2,613,087	\$1,304,089	\$924,582	\$384,416	49.89%
Calaveras	\$450,359	\$213,241	\$174,384	\$62,734	46.26%
Colusa	\$485,504	\$239,644	\$180,502	\$65,358	49.39%
Contra Costa	\$7,049,358	\$3,549,203	\$2,458,134	\$1,042,021	50.32%
Del Norte	\$358,461	\$173,528	\$137,859	\$47,074	47.93%
El Dorado	\$852,717	\$415,615	\$314,358	\$122,744	48.10%
Fresno	\$9,019,512	\$4,243,952	\$3,350,767	\$1,424,793	46.63%
Glenn	\$696,482	\$341,082	\$257,167	\$98,233	48.81%
Humboldt	\$2,194,527	\$1,013,723	\$834,853	\$345,951	45.51%
Imperial	\$2,758,004	\$1,117,034	\$1,156,921	\$484,049	38.47%
Inyo	\$362,658	\$157,864	\$151,760	\$53,034	39.18%
Kern	\$4,248,845	\$1,996,585	\$1,584,754	\$667,506	46.43%
Kings	\$1,041,567	\$491,217	\$393,613	\$156,737	46.29%
Lake	\$1,045,353	\$502,861	\$388,109	\$154,383	47.76%
Lassen	\$422,687	\$193,291	\$168,978	\$60,418	43.61%
Los Angeles	\$108,089,937	\$53,492,850	\$38,219,948	\$16,377,139	49.39%
Madera	\$964,408	\$474,124	\$351,574	\$138,710	49.03%
Marin	\$2,301,793	\$1,031,768	\$897,302	\$372,724	43.71%
Mariposa	\$563,343	\$266,796	\$215,976	\$80,571	46.47%
Mendocino	\$2,546,354	\$1,291,186	\$886,901	\$368,268	50.76%
Merced	\$2,055,229	\$1,039,380	\$719,416	\$296,433	50.81%
Modoc	\$317,848	\$132,615	\$138,069	\$47,164	35.89%
Mono	\$333,963	\$164,554	\$126,999	\$42,411	49.22%
Monterey	\$3,294,569	\$1,647,994	\$1,160,853	\$485,723	49.99%
Napa	\$1,058,937	\$526,560	\$381,037	\$151,341	49.70%
Nevada	\$939,950	\$466,808	\$339,573	\$133,569	49.67%
Orange	\$9,209,312	\$4,094,576	\$3,588,149	\$1,526,588	43.68%
Placer	\$1,420,576	\$708,967	\$506,479	\$205,130	49.94%
Plumas	\$444,144	\$221,256	\$164,428	\$58,461	50.22%
Riverside	\$9,612,709	\$4,549,060	\$3,552,397	\$1,511,252	46.93%
Sacramento	\$18,753,910	\$9,707,210	\$6,340,048	\$2,706,653	51.82%
San Benito	\$481,879	\$231,640	\$183,568	\$66,672	47.46%
San Bernardino	\$15,431,793	\$7,747,893	\$5,386,248	\$2,297,652	50.15%
San Diego	\$15,841,729	\$7,706,390	\$5,702,211	\$2,433,128	48.45%
San Francisco	\$15,853,845	\$7,753,624	\$5,677,628	\$2,422,593	48.72%
San Joaquin	\$4,965,105	\$2,449,560	\$1,769,028	\$746,518	49.19%
San Luis Obispo	\$2,386,568	\$1,192,904	\$843,859	\$349,805	49.93%
San Mateo	\$3,433,454	\$1,649,734	\$1,256,824	\$526,896	47.69%
Santa Barbara	\$2,298,043	\$1,122,513	\$831,171	\$344,359	48.58%
Santa Clara	\$11,135,850	\$5,143,310	\$4,202,506	\$1,790,034	45.66%
Santa Cruz	\$2,737,101	\$1,396,777	\$946,502	\$393,822	51.15%
Shasta	\$1,973,011	\$914,897	\$748,991	\$309,123	45.51%
Sierra	\$274,776	\$134,660	\$106,495	\$33,621	48.80%
Siskiyou	\$526,796	\$274,332	\$185,126	\$67,339	53.42%
Solano	\$3,727,447	\$1,814,071	\$1,347,575	\$565,801	48.36%
Sonoma	\$4,213,294	\$2,162,393	\$1,443,822	\$607,079	51.45%
Stanislaus	\$4,759,229	\$2,456,190	\$1,620,294	\$682,745	51.82%
Sutter	\$520,009	\$236,848	\$206,610	\$76,552	43.60%
Tehama	\$793,619	\$384,061	\$295,071	\$114,488	48.11%
Trinity	\$385,372	\$176,512	\$154,607	\$54,253	43.26%
Tulare	\$2,073,434	\$1,074,223	\$707,771	\$291,440	52.38%
Tuolumne	\$917,657	\$451,961	\$334,320	\$131,377	49.21%
Ventura	\$3,096,091	\$1,568,392	\$1,077,651	\$450,048	50.77%
Yolo	\$1,443,353	\$722,279	\$513,101	\$207,974	50.11%
Yuba	\$1,081,259	\$538,943	\$387,989	\$154,327	49.87%
<b>Total</b>	<b>\$309,971,000</b>	<b>\$152,043,000</b>	<b>\$111,020,000</b>	<b>\$46,908,000</b>	<b>48.94%</b>

County	IHSS BASIC				QUALITY ASSURANCE			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$11,920,768	\$5,942,970	\$4,183,687	\$1,794,111	\$1,174,425	\$575,816	\$419,030	\$179,579
Alpine	\$109,104	\$8,358	\$70,509	\$30,237	\$158,776	\$79,381	\$55,576	\$23,819
Amador	\$228,980	\$110,041	\$83,242	\$35,697	\$94,269	\$46,985	\$33,098	\$14,186
Butte	\$2,093,052	\$1,048,302	\$731,190	\$313,560	\$446,543	\$220,823	\$158,004	\$67,716
Calaveras	\$284,084	\$131,930	\$106,488	\$45,666	\$110,950	\$55,257	\$38,985	\$16,708
Colusa	\$323,129	\$160,216	\$114,018	\$48,895	\$107,447	\$53,569	\$37,715	\$16,163
Contra Costa	\$6,194,253	\$3,129,121	\$2,145,197	\$919,935	\$756,452	\$372,776	\$268,575	\$115,101
Del Norte	\$203,036	\$97,694	\$73,726	\$31,616	\$99,803	\$49,635	\$35,117	\$15,051
El Dorado	\$504,949	\$243,829	\$182,750	\$78,370	\$290,832	\$144,942	\$102,123	\$43,767
Fresno	\$7,952,668	\$3,722,810	\$2,960,355	\$1,269,503	\$930,845	\$455,518	\$332,732	\$142,595
Glenn	\$521,806	\$255,688	\$186,248	\$79,870	\$118,658	\$59,000	\$41,761	\$17,897
Humboldt	\$1,863,328	\$851,312	\$708,281	\$303,735	\$265,796	\$131,414	\$94,068	\$40,314
Imperial	\$2,250,528	\$869,159	\$966,780	\$414,589	\$421,304	\$206,691	\$150,230	\$64,383
Inyo	\$204,134	\$80,293	\$86,673	\$37,168	\$104,002	\$51,911	\$36,463	\$15,628
Kern	\$3,593,476	\$1,674,966	\$1,342,710	\$575,800	\$567,630	\$279,667	\$201,575	\$86,388
Kings	\$755,716	\$351,187	\$283,118	\$121,411	\$222,719	\$110,147	\$78,801	\$33,771
Lake	\$812,113	\$389,379	\$295,859	\$126,875	\$168,222	\$82,674	\$59,884	\$25,664
Lassen	\$261,290	\$114,394	\$102,808	\$44,088	\$106,221	\$52,916	\$37,313	\$15,992
Los Angeles	\$98,100,163	\$48,640,884	\$34,615,048	\$14,844,231	\$8,839,256	\$4,288,713	\$3,185,424	\$1,365,119
Madera	\$671,996	\$330,767	\$238,816	\$102,413	\$229,641	\$113,651	\$81,193	\$34,797
Marin	\$1,900,958	\$834,154	\$746,625	\$320,179	\$338,413	\$168,079	\$119,235	\$51,099
Mariposa	\$390,653	\$182,246	\$145,858	\$62,549	\$117,552	\$58,588	\$41,274	\$17,690
Mendocino	\$2,170,253	\$1,105,922	\$744,894	\$319,437	\$313,805	\$155,790	\$110,611	\$47,404
Merced	\$1,566,631	\$799,114	\$537,163	\$230,354	\$416,644	\$206,056	\$147,412	\$63,176
Modoc	\$176,091	\$63,446	\$78,837	\$33,808	\$87,130	\$43,458	\$30,570	\$13,102
Mono	\$135,868	\$67,135	\$48,104	\$20,629	\$143,630	\$71,787	\$50,291	\$21,552
Monterey	\$2,653,144	\$1,331,486	\$924,990	\$396,668	\$568,127	\$281,638	\$200,543	\$85,946
Napa	\$737,219	\$367,829	\$258,525	\$110,865	\$264,538	\$131,767	\$92,940	\$39,831
Nevada	\$729,690	\$363,853	\$256,039	\$109,798	\$152,717	\$75,813	\$53,833	\$23,071
Orange	\$8,088,835	\$3,547,000	\$3,178,698	\$1,363,137	\$981,514	\$480,498	\$350,714	\$150,302
Placer	\$1,068,118	\$535,501	\$372,763	\$159,854	\$290,361	\$144,091	\$102,390	\$43,880
Plumas	\$250,740	\$126,413	\$87,013	\$37,314	\$137,882	\$68,692	\$48,434	\$20,756
Riverside	\$8,493,149	\$4,001,400	\$3,143,645	\$1,348,104	\$984,795	\$482,641	\$351,512	\$150,642
Sacramento	\$17,171,737	\$8,933,144	\$5,765,952	\$2,472,641	\$1,409,361	\$690,385	\$503,288	\$215,688
San Benito	\$315,558	\$150,348	\$115,626	\$49,584	\$110,744	\$55,114	\$38,941	\$16,689
San Bernardino	\$14,062,744	\$7,080,007	\$4,887,015	\$2,095,722	\$1,199,215	\$585,667	\$429,488	\$184,060
San Diego	\$14,268,841	\$6,940,251	\$5,129,068	\$2,199,522	\$1,374,582	\$669,954	\$493,245	\$211,383
San Francisco	\$14,362,796	\$7,024,881	\$5,135,594	\$2,202,321	\$1,320,099	\$645,976	\$471,890	\$202,233
San Joaquin	\$4,199,286	\$2,073,695	\$1,487,639	\$637,952	\$670,465	\$330,176	\$238,204	\$102,085
San Luis Obispo	\$1,960,379	\$982,640	\$684,291	\$293,448	\$363,559	\$180,627	\$128,053	\$54,879
San Mateo	\$2,977,604	\$1,425,565	\$1,086,227	\$465,812	\$386,041	\$191,011	\$136,521	\$58,509
Santa Barbara	\$1,848,608	\$901,561	\$662,811	\$284,236	\$379,538	\$187,750	\$134,253	\$57,535
Santa Clara	\$9,917,522	\$4,546,024	\$3,759,356	\$1,612,142	\$1,085,450	\$533,193	\$386,583	\$165,674
Santa Cruz	\$2,328,806	\$1,195,836	\$792,933	\$340,037	\$342,744	\$169,871	\$121,012	\$51,861
Shasta	\$1,571,869	\$718,151	\$597,492	\$256,226	\$330,786	\$163,319	\$117,228	\$50,239
Sierra	\$108,917	\$53,358	\$38,884	\$16,675	\$111,393	\$55,670	\$39,007	\$16,716
Siskiyou	\$356,341	\$191,101	\$115,647	\$49,593	\$114,124	\$56,683	\$40,209	\$17,232
Solano	\$3,150,434	\$1,529,500	\$1,134,445	\$486,489	\$505,806	\$250,727	\$178,556	\$76,523
Sonoma	\$3,678,488	\$1,899,973	\$1,244,731	\$533,784	\$455,466	\$224,587	\$161,617	\$69,262
Stanislaus	\$4,084,396	\$2,124,799	\$1,371,465	\$588,132	\$587,405	\$289,591	\$208,471	\$89,343
Sutter	\$337,360	\$147,664	\$132,763	\$56,933	\$125,374	\$62,173	\$44,241	\$18,960
Tehama	\$600,995	\$290,267	\$217,469	\$93,259	\$132,421	\$65,347	\$46,952	\$20,122
Trinity	\$219,620	\$95,379	\$86,953	\$37,288	\$110,923	\$55,323	\$38,920	\$16,680
Tulare	\$1,597,068	\$839,810	\$529,983	\$227,275	\$406,438	\$201,196	\$143,670	\$61,572
Tuolumne	\$590,919	\$291,927	\$209,256	\$89,736	\$101,359	\$50,453	\$35,634	\$15,272
Ventura	\$2,532,453	\$1,290,747	\$869,034	\$372,672	\$490,576	\$242,891	\$173,381	\$74,304
Yolo	\$1,103,024	\$554,884	\$383,627	\$164,513	\$278,173	\$137,990	\$98,128	\$42,055
Yuba	\$824,310	\$412,689	\$288,082	\$123,539	\$199,059	\$98,942	\$70,082	\$30,035
<b>Total</b>	<b>\$271,380,000</b>	<b>\$133,173,000</b>	<b>\$96,727,000</b>	<b>\$41,480,000</b>	<b>\$32,602,000</b>	<b>\$15,995,000</b>	<b>\$11,625,000</b>	<b>\$4,982,000</b>

County	ADVISORY COMMITTEE				EMPLOYER OF RECORD			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Alpine	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$83,500	\$60,500	\$26,000
Amador	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Butte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Calaveras	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Colusa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Contra-Costa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Dél Norte	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
El Dorado	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Fresno	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Glenn	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Humboldt	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Imperial	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Inyo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kern	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Kings	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lake	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Lassen	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Los Angeles	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Madera	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Marin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mariposa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mendocino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Merced	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Modoc	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Mono	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Monterey	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Napa	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Nevada	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Orange	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Placer	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Plumas	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Riverside	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sacramento	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Benito	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Bernardino	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Diego	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Francisco	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Joaquin	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Luis Obispo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
San Mateo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Barbara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Clara	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Santa Cruz	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Shasta	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sierra	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Siskiyou	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Solano	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sonoma	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Stanislaus	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Sutter	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tehama	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Trinity	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tulare	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Tuolumne	\$52,966	\$24,897	\$28,069	\$0	\$170,000	\$83,500	\$60,500	\$26,000
Ventura	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yolo	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Yuba	\$52,966	\$24,897	\$28,069	\$0	\$0	\$0	\$0	\$0
Total	\$3,072,000	\$1,444,000	\$1,628,000	\$0	\$340,000	\$167,000	\$121,000	\$52,000

County	PCSP 3-MONTH RETROACTIVE PAYMENTS				FORMS REQUIREMENT FOR WAIVER			
	TOTAL Funds	Federal Funds	State Share	County Share	TOTAL Funds	Federal Funds	State Share	County Share
Alameda	\$24,449	\$1,986	\$8,724	\$3,739	\$71,095	\$34,877	\$25,348	\$10,870
Alpine	\$1,000	\$490	\$357	\$153	\$500	\$245	\$178	\$77
Amador	\$1,000	\$490	\$357	\$153	\$929	\$456	\$331	\$142
Butte	\$5,253	\$2,575	\$1,874	\$804	\$15,273	\$7,492	\$5,445	\$2,336
Calaveras	\$1,000	\$490	\$357	\$153	\$1,359	\$667	\$485	\$207
Colusa	\$1,000	\$490	\$357	\$153	\$962	\$472	\$343	\$147
Contra Costa	\$11,691	\$5,732	\$4,172	\$1,787	\$33,996	\$16,677	\$12,121	\$5,198
Del Norte	\$1,000	\$490	\$357	\$153	\$1,656	\$812	\$590	\$254
El Dorado	\$1,016	\$498	\$363	\$155	\$2,954	\$1,449	\$1,053	\$452
Fresno	\$21,248	\$10,417	\$7,582	\$3,249	\$61,785	\$30,310	\$22,029	\$9,446
Glenn	\$1,000	\$490	\$357	\$153	\$2,052	\$1,007	\$732	\$313
Humboldt	\$3,183	\$1,560	\$1,136	\$487	\$9,254	\$4,540	\$3,299	\$1,415
Imperial	\$8,497	\$4,166	\$3,032	\$1,299	\$24,709	\$12,121	\$8,810	\$3,778
Inyo	\$1,000	\$490	\$357	\$153	\$556	\$273	\$198	\$85
Kern	\$8,898	\$4,362	\$3,175	\$1,361	\$25,875	\$12,693	\$9,225	\$3,957
King	\$2,601	\$1,275	\$928	\$398	\$7,565	\$3,711	\$2,697	\$1,157
Lake	\$3,084	\$1,512	\$1,100	\$472	\$8,968	\$4,399	\$3,197	\$1,372
Lassen	\$1,000	\$490	\$357	\$153	\$1,210	\$594	\$431	\$185
Los Angeles	\$280,856	\$137,697	\$100,210	\$42,949	\$816,696	\$400,659	\$291,197	\$124,840
Madera	\$2,509	\$1,230	\$895	\$384	\$7,296	\$3,579	\$2,601	\$1,116
Marin	\$2,420	\$1,186	\$864	\$370	\$7,037	\$3,452	\$2,509	\$1,076
Mariposa	\$1,000	\$490	\$357	\$153	\$1,172	\$575	\$418	\$179
Mendocino	\$2,388	\$1,171	\$852	\$365	\$6,943	\$3,406	\$2,475	\$1,062
Merced	\$4,859	\$2,382	\$1,734	\$743	\$14,129	\$6,931	\$5,038	\$2,160
Modoc	\$1,000	\$490	\$357	\$153	\$661	\$324	\$236	\$101
Mono	\$1,000	\$490	\$357	\$153	\$500	\$245	\$178	\$77
Monterey	\$5,203	\$2,551	\$1,857	\$795	\$15,130	\$7,422	\$5,394	\$2,314
Napa	\$1,079	\$529	\$385	\$165	\$3,136	\$1,538	\$1,118	\$480
Nevada	\$1,171	\$574	\$418	\$179	\$3,406	\$1,671	\$1,214	\$521
Orange	\$22,006	\$10,788	\$7,852	\$3,366	\$63,992	\$31,393	\$22,816	\$9,783
Placer	\$2,336	\$1,145	\$834	\$357	\$6,795	\$3,333	\$2,423	\$1,039
Plumas	\$1,000	\$490	\$357	\$153	\$1,557	\$764	\$555	\$238
Riverside	\$20,932	\$10,262	\$7,469	\$3,201	\$60,867	\$29,860	\$21,702	\$9,305
Sacramento	\$30,668	\$15,035	\$10,943	\$4,690	\$89,179	\$43,749	\$31,796	\$13,634
San Benito	\$1,000	\$490	\$357	\$153	\$1,612	\$791	\$575	\$246
San Bernardino	\$29,906	\$14,661	\$10,671	\$4,574	\$86,962	\$42,661	\$31,005	\$13,296
San Diego	\$37,191	\$18,233	\$13,270	\$5,688	\$108,149	\$53,055	\$38,559	\$16,535
San Francisco	\$30,191	\$14,801	\$10,773	\$4,617	\$87,793	\$43,069	\$31,302	\$13,422
San Joaquin	\$10,847	\$5,318	\$3,870	\$1,659	\$31,542	\$15,474	\$11,246	\$4,822
San Luis Obispo	\$2,473	\$1,212	\$882	\$379	\$7,191	\$3,528	\$2,564	\$1,099
San Mateo	\$4,310	\$2,113	\$1,538	\$659	\$12,533	\$6,148	\$4,469	\$1,916
Santa Barbara	\$4,332	\$2,124	\$1,546	\$662	\$12,599	\$6,181	\$4,492	\$1,926
Santa Clara	\$20,449	\$10,025	\$7,297	\$3,127	\$59,463	\$29,171	\$21,201	\$9,091
Santa Cruz	\$3,220	\$1,579	\$1,149	\$492	\$9,365	\$4,594	\$3,339	\$1,432
Shasta	\$4,450	\$2,182	\$1,588	\$680	\$12,940	\$6,348	\$4,614	\$1,978
Sierra	\$1,000	\$490	\$357	\$153	\$500	\$245	\$178	\$77
Siskiyou	\$1,000	\$490	\$357	\$153	\$2,366	\$1,161	\$844	\$361
Solano	\$4,668	\$2,288	\$1,666	\$714	\$13,573	\$6,659	\$4,839	\$2,075
Sonoma	\$6,749	\$3,309	\$2,408	\$1,032	\$19,625	\$9,627	\$6,997	\$3,001
Stanislaus	\$8,818	\$4,323	\$3,146	\$1,349	\$25,644	\$12,580	\$9,143	\$3,921
Sutter	\$1,103	\$541	\$394	\$168	\$3,207	\$1,573	\$1,143	\$491
Tehama	\$1,852	\$908	\$661	\$283	\$5,386	\$2,642	\$1,920	\$824
Trinity	\$1,000	\$490	\$357	\$153	\$863	\$423	\$308	\$132
Tulare	\$4,340	\$2,128	\$1,549	\$663	\$12,622	\$6,192	\$4,500	\$1,930
Tuolumne	\$1,000	\$490	\$357	\$153	\$1,414	\$694	\$504	\$216
Ventura	\$5,142	\$2,521	\$1,835	\$786	\$14,954	\$7,336	\$5,332	\$2,286
Yolo	\$2,352	\$1,153	\$839	\$360	\$6,839	\$3,355	\$2,438	\$1,046
Yuba	\$1,260	\$618	\$450	\$192	\$3,664	\$1,797	\$1,306	\$561
<b>Total</b>	<b>\$667,000</b>	<b>\$327,000</b>	<b>\$238,000</b>	<b>\$102,000</b>	<b>\$1,910,000</b>	<b>\$937,000</b>	<b>\$681,000</b>	<b>\$292,000</b>

For Display Only

County	FY 06/07
	SIP ALLOCATION Fed / State / Co
Alameda	\$0
Alpine	\$0
Amador	\$0
Butte	\$0
Calaveras	\$0
Colusa	\$66,500
Contra Costa	\$0
Del Norte	\$0
El Dorado	\$0
Fresno	\$67,300
Glenn	\$62,925
Humboldt	\$386,580
Imperial	\$316,528
Inyo	\$0
Kern	\$1,126,467
Kings	\$42,578
Lake	\$0
Lassen	\$0
Los Angeles	\$0
Madera	\$0
Marin	\$0
Mariposa	\$0
Mendocino	\$326,108
Merced	\$0
Modoc	\$0
Mono	\$0
Monterey	\$260,627
Napa	\$70,190
Nevada	\$0
Orange	\$0
Placer	\$0
Plumas	\$0
Riverside	\$0
Sacramento	\$979,397
San Benito	\$0
San Bernardino	\$2,543,054
San Diego	\$0
San Francisco	\$0
San Joaquin	\$0
San Luis Obispo	\$138,477
San Mateo	\$54,792
Santa Barbara	\$0
Santa Clara	\$0
Santa Cruz	\$0
Shasta	\$59,946
Sierra	\$0
Siskiyou	\$0
Solano	\$286,055
Sonoma	\$273,238
Stanislaus	\$270,022
Sutter	\$51,242
Tehama	\$0
Trinity	\$0
Tulare	\$0
Tuolumne	\$91,746
Ventura	\$161,716
Yolo	\$207,573
Yuba	\$98,974
Total	\$7,942,035



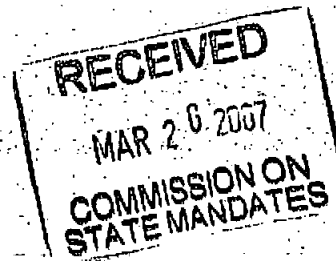
## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

EXHIBIT H

March 23, 2007

MS. PAULA HIGASHI  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA. 95814



And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE COMMENTS ON DRAFT STAFF ANALYSIS  
IN HOME SUPPORTIVE SERVICES, II, 00-TC-23  
Statutes of 2000, Chapter 445; Statutes of 1999, Chapter 90;  
Statutes of 1991, Chapter 91  
County of San Bernardino, Claimant

Dear Ms. Higashi:

Thank you for the opportunity to comment upon the Draft Staff Analysis developed in connection with this Test Claim. The California Department of Social Services' (CDSS) comments are as follows:

The Draft Staff Analysis concludes that the Test Claim statutes impose costs mandated by the state as meant by Government Code section 17514 for a series of specific new activities enumerated on pages 26 and 27 of the Analysis. CDSS disagrees with this conclusion.

The California department of Social Services' position continues to be that with respect to the establishment and operation of advisory committees pursuant to Welfare and Institutions Code Sections 12301.3 and 12301.4, revenue, specifically intended to fund the costs of the activities required of the advisory committees, and in an amount sufficient to cover those costs, has been available to the counties from the outset. Therefore, with regard to the following specific activities described on page 27 of the Analysis that are attributable to the advisory committees, CDSS disagrees that Government Code Section 17556(e) does not apply:

"The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, s 12301.3, Subd. (c))."

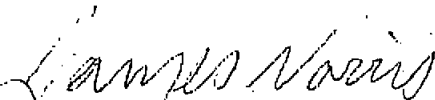
"One advisory committee formed pursuant to section 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive

services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code s 12301.4)",

All of the direct costs associated with these advisory committee activities are already fully provided for under the terms of the Test Claim statute itself at Welfare and Institutions Code Section 12301.4(b). Accordingly CDSS submits that in light of Government Code section 17556(e), the listed activities do not impose costs mandated by the state within the meaning of Government Code section 17514:

If you have questions please contact me at (916) 654-0843.

Sincerely,



JAMES NORRIS  
Senior Staff Counsel

DECLARATION OF SERVICE

I, Paula Hill, declare that I am employed in the County of Sacramento, State of California, that I am over the age of 18 years and am not a party to the within action, that my business address is 744 P Street, Sacramento, California 95814, that on March 23, 2007, I served the item(s) described in number 1, below, by the method described in number 2, below, to the person(s) and at the address(es) indicated in number 3, below.

1. ITEM(S) SERVED:

Letter dated March 23, 2007

RE: COMMENTS ON DRAFT STAFF ANALYSIS  
IN HOME SUPPORTIVE SERVICES, 11, 00-TC-23  
Statutes of 2000, Chapter 445; Statutes of 1999, Chapter 90;  
Statutes of 1991, Chapter 91  
County of San Bernardino Claimant

2. METHOD OF SERVICE:

**First Class Mail.** I declare that I placed a true copy of the item(s) in a sealed envelope, that I am readily familiar with this agency's practice for the collection and processing of correspondence for mailing with the United States Postal Service, that, pursuant to this agency's ordinary course of business, correspondence will be deposited with the United States Postal Service the same day that mail is placed for collection and mailing, and that, following ordinary business practices, I deposited the envelope(s) in the place at 744 P Street, Sacramento, California for collection and mailing.

**Certified Mail, Return Receipt Requested.** I declare that I placed a true copy of the item(s) in a sealed envelope with the designation "Certified Mail, Return Receipt Requested," that I am readily familiar with this agency's practice for the collection and processing of correspondence for mailing with the United States Postal Service, that, pursuant to this agency's ordinary course of business, correspondence will be deposited with the United States Postal Service the same day that mail is placed for collection and mailing, and that, following ordinary business practices, I deposited the envelope(s) in the place at 744 P Street, Sacramento, California for collection and mailing.

**Facsimile Transmittal.** I declare that on the date shown above at \_\_\_\_\_ am/pm, I sent by facsimile machine a true copy of the item(s) to the person(s) and at the facsimile machine number(s) indicated in number 3, below, that the telephone number of the sending machine is (916) \_\_\_\_\_, that the transmission was reported as complete and without error, and that the transmission report was properly issued by the sending machine. A true copy of the transmission report is attached to this declaration.

**Personal Service.** I declare that I handed a true copy of the item(s) to each person indicated in number 3, below.

**Golden State Overnight.** I declare that I caused a true copy of the items, enclosed in a sealed envelope, with delivery charges pre-paid, addressed as indicated in number 3, below, to be delivered to Golden State Overnight for delivery by next day air.

3. PERSON(S) SERVED:

MS. PAULA HIGASHI,  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Interested Parties and Affected State Agencies  
on attached Mailing List

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed at Sacramento, California.

DATED: March 23, 2007

SIGNED: Paula Hill  
Paula Hill

# Commission on State Mandates

Original List Date: 7/6/2001  
Last Updated: 7/7/2006  
List Print Date: 03/02/2007  
Claim Number: 00-TC-23  
Issue: In Home Supportive Services II

Mailing Information: Draft Staff Analysis

## Mailing List

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Sacramento, CA 95842

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# AUDITOR/CONTROLLER-RECORDER COUNTY CLERK

EXHIBIT I



AUDITOR/CONTROLLER • 222 West Hospitality Lane, Fourth Floor  
San Bernardino, CA 92415-0018 • (909) 387-8322 • Fax (909) 386-8830

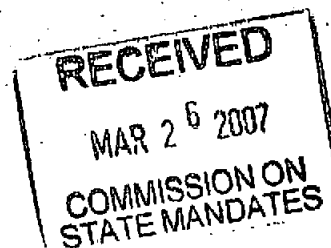
RECORDER • COUNTY CLERK • 222 West Hospitality Lane, First Floor  
San Bernardino, CA 92415-0022 • (909) 387-8906 • Fax (909) 386-8940

LARRY WALKER  
Auditor/Controller-Recorder  
County Clerk

ELIZABETH A. STARBUCK  
Assistant Auditor/Controller-Recorder  
Assistant County Clerk

March 26, 2007.

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814



*And Other Interested Parties (see Mailing List)*

RE: Response to Draft Staff Analysis  
In Home Supportive Services-II, 00-TC-23  
Statutes of 2000, Chapter 445; Statutes of 1999, Chapter 90;  
Statutes of 1991, Chapter 91  
County of San Bernardino, Claimant

Dear Ms. Higashi:

In the In-Home Supportive Services II test claim (IHSS-II), dated June 28, 2001, the County of San Bernardino (County) identified three requirements imposing a new state mandated program and cost:

- The establishment and ongoing activities of the advisory committee,
- The choice of one of a series of modalities for having an "employer of record," and
- The mandate of collective bargaining with providers of IHSS services, as well as the increased costs that will arise once collective bargaining has been instituted.

The County concurs with the staff on the following findings as identified in the conclusion of the Draft Staff Analysis (Analysis):

- On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers. This activity includes the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service.
- Counties with an IHSS caseload of more than 500 shall be required to offer an individual provider employer option upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers.

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
March 26, 2007  
Page 2

- Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article."
- Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):
  - In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.
  - A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee.
- Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interest persons and organizations.
- The county shall solicit recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services.
- The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services.
- Each county shall take into account the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis.
- One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees.



Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
March 26, 2007  
Page 3

You will note that in the first bullet point, the last sentence was omitted. The County disagrees with staff's exclusion of costs related to collective bargaining activities and increased wages or benefits that may be negotiated depending on the mode of service.

The Analysis, page 12, reads "Staff finds that the plain language of the test claim statute does not require collective bargaining, but rather confirms that the code section does not prohibit collective bargaining or other negotiations on wages and benefits." That statement and the subsequent discussion infer that collective bargaining is a result of the test claim legislation. The County position is that collective bargaining was an intent of the legislation, not a result. "The fundamental rule of statutory construction is that the court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. [Citations.]" *Select Base Materials v. Board of Equal.* (1959) 51 Cal.2d 640, 645. For Assembly Bill No 1682, the Legislative Counsel's Digest, paragraph eight reads "This bill would require each county to act as, or establish, an employer for in-home supportive service personnel for purposes of provisions of statutory law regarding employer-employee relations ..." (Italics added) Welfare and Institutions Code Section 6 12302.25(a) reads "On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (Commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal laws."

In the Analysis, Staff recognizes that the legislation requiring counties to act as or establish an employer for in-home supportive service providers is a new program or higher level of service. (Draft Staff Analysis, page 26, par. 1.) As a new program or higher level of service, the costs incurred as part of this new program, such as costs pertaining to collective bargaining, must be reimbursable.

In the Analysis, page 12, the Staff recognizes that counties may incur increased costs for higher wages and benefits as an indirect result of the requirement to act as or establish an employer of record. Staff goes on to say that increased costs are not determinative of whether the legislation imposes a reimbursable state-mandated program, citing three cases: *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46 [costs incurred as a result of providing increased level of workers' compensation benefits to employees of local agencies was not a higher level of service to the public]; *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478 [increase in PERS benefits not a higher level of service]; and *City of Richmond* (1998) 64 Cal.App.4th 1190 [requirement to provide death benefits for local safety officers under PERS and workers' compensation system not a higher level of service]. Staff then summarizes the cases in a quotation set forth at page 15 of the Draft Analysis: "...simply because a state law or order may increase the costs borne by local government in providing services, this does not necessarily establish that the law or order constitutes an increased or higher level of the [service]..." *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859, 876-877.

The Analysis misses the point on this issue. The County's test claim is based on far more than an increase in costs. The test claim is based on the actual new activity - that counties act as or establish an employer of record for in-home supportive service providers. Staff recognizes this activity as a new program or higher level of service. (Draft Staff Analysis, page 26, par. 1.) As

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
March 26, 2007  
Page 4

a new program or higher level of service, costs incurred as a part of that new activity, such as higher wages and benefits, must be reimbursable.

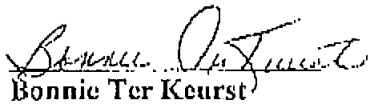
The County respectfully submits the above comments for your consideration.

Thank you,

#### CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 26<sup>th</sup> day of March, 2007, at San Bernardino, California, by:



Bonnie Ter Keurst  
Manager, Reimbursable Projects  
Office of the Auditor/Controller-Recorder  
County of San Bernardino  
(909) 386-8850

BT:wds

Attachment

## Select Base Materials v. Board of Equal., 51 Cal.2d 640

[L. A. No. 24742. In Bank. Feb. 20, 1959.]

SELECT BASE MATERIALS, INC. (a Corporation), Appellant, v. BOARD OF  
EQUALIZATION OF THE STATE OF CALIFORNIA, Respondent.

### COUNSEL

William J. Clark for Appellant.

Charles C. Stratton, Sterling S. Clayton, Trippet, Yoakum, Stearns & Ballantyne, Oscar  
A. Trippet and David Freeman as Amici Curiae on behalf of Appellant.

Edmund G. Brown, Attorney General, James E. Sabine, Assistant Attorney General, Dan  
Kaufman, Jay L. Shavelson and James C. Maupin, Deputy Attorneys General, for  
Respondent.

### OPINION

SPENCE, J.

Plaintiff sought to recover certain sales taxes paid under protest. The disputed taxes were based upon transportation charges made by plaintiff for materials delivered to its customers during the period from May 1, 1951, through September 30, 1953. Plaintiff claimed that by virtue of its method of doing business, the transportation costs were [51 Cal.2d 643] incurred after the sale and therefore should have been excluded from the computation of its gross receipts. The court ruled otherwise and accordingly entered judgment denying plaintiff any relief. We have concluded that such judgment must be affirmed.

During the period involved plaintiff was in the business of mining and selling decomposed granite from its lands. It did not stockpile any material but upon receiving an order, it mined the granite and placed it directly on trucks to be hauled to the place designated by the buyer. Plaintiff did not own any trucks but contracted with independent truckers. The hauling charges, which plaintiff paid, were those fixed by the Public Utilities Commission according to the delivery zone.

Practically all orders received by plaintiff were made by telephone. When a new customer called, he would ask the price and then after he gave the address for delivery of the materials, he would be quoted the "price of the granite plus the haul." With an old customer, there would be no discussion as to price but the order would be taken with notation of the place for delivery. No statement was made to any customer concerning who would do the hauling. The trucker's delivery ticket, a form prepared by plaintiff, contained the following notation: "Our drivers will make every effort to place materials

where customer designates, but the shipper assumes no responsibility for damages inside the curb line."

On its books plaintiff always segregated the charges so as to state separately the price for the material, the sales tax thereon, and the transportation cost. However, the invoices sent to the customers varied: some set forth the transportation cost as a separate item while others lumped the material price and hauling charge together, with the "tax on material only" shown separately. The transportation cost would be a matter of computation on the latter form. Plaintiff's office manager testified that the customers' sole concern was the cost of the load at the place designated for delivery, not "the cost of the freight [separate] from the cost of the granite." Defendant called several of plaintiff's customers as witnesses, all of whom agreed that the "delivered price" was the basis of their orders of plaintiff's materials.

The court found that all transportation charges made by plaintiff to its customers during the period involved were for transportation of materials prior to sale; that no sale took place until delivery to the customers; and that plaintiff's bills to its customers included a charge for both the materials [51 Cal.2d 644] and transportation. From these findings the court concluded that the transportation charges were part of the sales price of the property sold by plaintiff (Rev. & Tax. Code, § 6011) and were properly includable within plaintiff's gross receipts for sales tax purposes. (Rev. & Tax. Code, § 6012.) Plaintiff contends that the evidence does not support the findings.

Section 6051 of the Revenue and Taxation Code imposes a tax upon retailers for the privilege of selling tangible personal property at retail. The tax is measured by the retailer's gross receipts from sales. Section 6012 defines "gross receipts" as the total amount for which tangible personal property is sold, including the cost of transportation of property prior to its sale to the purchaser but excluding "transportation charges separately stated" if the transportation occurs after the sale of the property is made to the purchaser. Section 6011 similarly defines "sales price" as the total amount for which tangible personal property is sold, with like distinction for inclusion and exclusion of the transportation charges as part of the sale. Accordingly, the principal question here is whether the transportation occurred before or after the sale.

Under the Uniform Sales Act (Civ. Code, §§ 1721-1800), a sale is "an agreement whereby the seller transfers the property in goods to the buyer for a consideration called the price." (Civ. Code, § 1721.) Defendant maintains that since plaintiff's agreements with its customers cast upon it the obligation to deliver the granite to the points designated by the customers, the intent of the parties as to the time and place where title should pass is governed by section 1739, rule 5. It provides: "If the contract to sell requires the seller to deliver the goods to the buyer, or at a particular place, or to pay the freight or cost of transportation to the buyer, or to a particular place, the property does not pass until the goods have been delivered to the buyer or reach the place agreed upon." Plaintiff, on the other hand, maintains that the question of its tax liability on the transportation charges is governed by subdivision (b) of section 6006 of the Sales Tax Act. (Rev. & Tax. Code, §§ 6001-6095.) Under section 6006, a sale "means and includes:

(a) Any transfer of title or possession ... of tangible personal property for a consideration;  
(b) Any withdrawal ... of tangible personal property from the place where it is located for delivery to a point in this State for the purpose of the transfer of title or possession ... of the property for a consideration. ..." Plaintiff contends that all the transactions here in question fell within [51 Cal.2d 645] subdivision (b) of the above section, which was effective during the period here in question, excepting the last 15 days thereof. The trial court held this subdivision (b) to be inapplicable, and apparently resolved the parties' basic dispute under the Uniform Sales Act as coordinated with subdivision (a) of section 6006 and section 6012 of the Revenue and Taxation Code. Accordingly, it held that the evidence showed that the parties intended, as defendant argued, that the transfer of title to the granite should pass when it reached the place of delivery, rather than, as plaintiff argued, when it was placed upon the trucks of the independent carriers. The transportation charges therefore occurred prior to the sale and their inclusion in plaintiff's gross receipts for sales tax purposes was proper.

[1] The fundamental rule of statutory construction is that the court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. (California Toll Bridge Authority v. Kuchel, 40 Cal.2d 43, 53 [251 P.2d 4]; County of Alameda v. Kuchel, 32 Cal.2d 193, 199 [195 P.2d 17]; Dickey v. Raisin Proration Zone No. 1, 24 Cal.2d 796, 802 [151 P.2d 505, 157 A.L.R. 324]; 82 C.J.S., Statutes, § 321, p. 560; 45 Cal.Jur.2d, Statutes, § 126, p. 634.) [2] Moreover, "every statute should be construed with reference to the whole system of law of which it is a part so that all may be harmonized and have effect." (Stafford v. Los Angeles etc. Retirement Board, 42 Cal.2d 795, 799 [270 P.2d 12].) [3] If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose. (People v. Western Air Lines, Inc., 42 Cal.2d 621, 638 [268 P.2d 723].) [4] Such purpose will not be sacrificed to a literal construction of any part of the act. (People v. Ventura Refining Co., 204 Cal. 286, 292 [268 P. 347, 283 P. 60]; H. S. Mann Corp. v. Moody, 144 Cal.App.2d 310, 320 [301 P.2d 28]; 45 Cal.Jur.2d Statutes, § 130, p. 637.) Applying these principles, it must be concluded that plaintiff cannot prevail here.

[5] Subdivision (a) of section 6006 of the Revenue and Taxation Code sets forth the principal definition of "sale" as "any transfer of title ... of tangible personal property ... for a consideration." It coincides with the common-law definition of a "sale" and is substantially the same as that used in the Uniform Sales Act. (Civ. Code, § 1721; 77 C.J.S., Sales, § 4, pp. 587-588.) [6] It is reasonable to assume that the Legislature intended the basic definition of the word "sale" [51 Cal.2d 646] to govern its interpretation in connection with "gross receipts" for computation of the sales tax. (Rev. & Tax. Code, § 6012.) [7] As a further refinement for purposes of the Sales Tax Act, subdivision (b) of section 6006 declared a taxable event to take place when there is any "withdrawal ... of tangible personal property from the place where it is located for delivery to a point in this State for the purpose of the transfer of title ... of the property for a consideration." This provision was obviously engrafted into the Sales Tax Act in 1939 to enable the state to tax retail transactions that would not otherwise be taxable, as where goods were shipped from one point in this state for sale within territory which had been ceded by the state to the United States without reservation of the right of taxation, such as

the military reservation known as "The Presidio" in San Francisco. (See *Standard Oil Co. v. California*, 291 U.S. 242 [54 S.Ct. 381, 78 L.Ed. 775], decided in 1935.) Manifestly, there would be no necessity for such provision where delivery as well as withdrawal of the goods takes place within the state's boundaries, for title would pass and the sale would be determinable under subdivision (a). Subdivision (b), making the act of withdrawal "in this State" a taxable event, remained in effect until September 15, 1953, although by federal statute (4 U.S.C.A., § 105) the state was in 1940 granted authority to levy sales taxes in any federal area. While there was an extended delay in the elimination of the subdivision as part of the Sales Tax Act, its continuance as part of the law did no harm and the Legislature may have postponed its removal to cover the situation in the event that the cited federal legislation did not continue in effect. [8] At any rate, when subdivision (b) was repealed in 1953, subdivision (a) was left unchanged as expressing the basic definition of a "sale."

[9] Plaintiff argues that the language of subdivision (b) is clear and unambiguous so as not to permit the application of rules of construction for its interpretation. But section 6006, as it read at the time here involved, had seven subdivisions, with subdivision (a) containing the basic definition of "sale" and the succeeding six, (b) to (g), setting forth other specific transactions which would be taxable. These subdivisions must be coordinated and harmonized with section 6012 for the purpose of application of the Sales Tax Act. [10] If, as plaintiff contends, a taxable sale occurred the moment the granite was removed from the mine, constituting a "withdrawal" under subdivision (b), then all transportation [51 Cal.2d 647] must occur after the sale and sections 6011 and 6012 of the Revenue and Taxation Code, distinguishing between transportation costs before and after the sale for purposes of computing the sales tax, would become meaningless. [11] It is not to be presumed that the Legislature used language in a sense which would render nugatory important provisions of the statute. (*Clements v. T. R. Bechtel Co.*, 43 Cal.2d 227, 233 [273 P.2d 5].) Rather by confining subdivision (b) to its limited purpose as declaring a taxable event under prescribed conditions relating to the federal law, each part of the statute is given meaning.

[12] Since subdivision (a) thus becomes the applicable part of section 6006 in determining when the sale occurred in relation to the transfer of title to the goods, defendant properly relies on the record to sustain inclusion of the transportation charges in computing plaintiff's sales taxes. As appears from the evidence, plaintiff's customers were only interested in the "delivered price" of the granite, and plaintiff's agreements required it to deliver the granite to the places designated. The customers had no control over the independent truckers chosen by plaintiff for the hauling, and the truckers were paid by plaintiff. The fact that plaintiff elected to discharge its responsibility for delivery by the use of independent truckers and paid them according to the rates fixed by the Public Utilities Commission is immaterial. In view of the evidence reflecting the parties' intention that title to the granite would not pass until delivery, we conclude that the trial court properly held that the transportation charges preceded the transfer of title and were therefore correctly included as part of plaintiff's "gross receipts" for computation of the sales tax.

[13] In the administration of the Sales Tax Act, defendant has consistently taken the position that the transfer of title is the proper test for application of section 6012 of the Revenue and Taxation Code, and that the intent of the parties to the sale controls. (Sales and Use Tax Ruling No. 58, Cal. Admin. Code, tit. 18, § 2028.) While this contemporaneous administrative construction is not necessarily controlling, it "is entitled to great weight, and courts generally will not depart from such construction unless it is clearly erroneous or unauthorized." (Coca-Cola Co. v. State Board of Equalization, 25 Cal.2d 918, 921 [156 P.2d 1]; see also Richfield Oil Corp. v. Crawford, 39 Cal.2d 729, 736 [249 P.2d 600].) The same reasoning was employed in O'Kelley Eccles Co. v. State, [51 Cal.2d 648] 160 Cal.App.2d 60, 63-64 [324 P.2d 683], where the propriety of including delivery charges in the computation of the seller's gross receipts from sales for purposes of the sales tax was determined on the basis of "when title passed" in the sales involved (p. 63), and the "intent of the parties" (p. 64) was held to be governed by rule 5 of section 1739 of the Uniform Sales Act. (See also Meyer v. State Board of Equalization, 42 Cal.2d 376, 382 [267 P.2d 257].)

[14] Nor does it avail plaintiff to argue that double taxation will result if it is held liable for the transportation charges as part of its gross receipts from sales and the independent truckers employed by it are likewise required to include such charges in computing their gross receipts from trucking operations. (Rev. & Tax. Code, § 9606.) The sales tax and the trucking tax are excise and not property taxes. Each is a well-defined privilege tax: one for the privilege of selling tangible personal property at retail and the other for the privilege of using the public highways for hauling services. Though each tax is measured by gross receipts, separate and distinct privileges are involved. The imposition of such taxes therefore presents no problem of double taxation. (Cf. Douglas Aircraft Co., Inc. v. Johnson, 13 Cal.2d 545, 549 [90 P.2d 572].)

In view of the above conclusions, it becomes unnecessary to determine the parties' further dispute as to whether the transportation charges met the statutory requirement of separate statement in relation to the computation of gross receipts from sales. (Rev. & Tax. Code, § 6012.)

The judgment is affirmed.

Gibson, C.J., Shenk, J., Traynor, J., and Schauer, J., concurred.

McCOMB, J.

I dissent.

I would reverse the judgment for the reasons stated by Mr. Justice Nourse in the opinion prepared by him for the District Court of Appeal in Select Base Materials v. Board of Equalization (Cal.App.), 329 P.2d 65.

# AUDITOR/CONTROLLER-RECORDER COUNTY CLERK



COUNTY OF SAN BERNARDINO

**AUDITOR/CONTROLLER** • 222 West Hospitality Lane, Fourth Floor  
San Bernardino, CA 92415-0018 • (909) 387-8322 • Fax (909) 386-8830  
**RECORDER - COUNTY CLERK** • 222 West Hospitality Lane, First Floor  
San Bernardino, CA 92415-0022 • (909) 387-8306 • Fax (909) 386-8940

**LARRY WALKER**  
Auditor/Controller-Recorder  
County Clerk

**ELIZABETH A. STARBUCK**  
Assistant Auditor/Controller-Recorder  
Assistant County Clerk

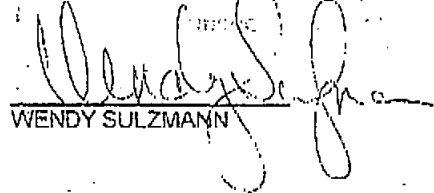
### PROOF OF SERVICE

I, the undersigned, declare as follows:

I am employed by the County of San Bernardino, State of California. My business address is 222 W. Hospitality Lane, San Bernardino, CA 92415. I am 18 years of age or older.

On March 26, 2007, I faxed and mailed the letter dated March 26, 2007 to the Commission on State Mandates re: Response to Draft Staff Analysis: In-Home Support Services II, 00-TC-23, Statutes of 2000, Chapter 445; Statutes of 1999, Chapter 90; Statutes of 1991, Chapter 91, County of San Bernardino Claimant. I faxed and/or mailed it also to the other parties listed on this mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 26, 2007 at San Bernardino, California.

  
WENDY SULZMANN



## Commission on State Mandates

Original List Date: 7/6/2001      Mailing Information: Draft Staff Analysis  
 Last Updated: 7/7/2006  
 List Print Date: 03/02/2007      **Mailing List**  
 Claim Number: 00-TC-23  
 Issue: In Home Supportive Services II

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Ms. Bonnie Ter Keurst County of San Bernardino Office of the Auditor/Controller-Recorder 222 West Hospitality Lane San Bernardino, CA 92415-0018	Claimant Tel: (909) 386-8850 Fax: (909) 386-8830
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Sacramento, CA 95814

Tel:  
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COUNTY OF SAN BERNARDINO  
AUDITOR/CONTROLLER-RECORDER

FACSIMILE TRANSMITTAL SHEET

TO: Paula Higashi, Executive Director	FROM: Wendy Sulzmann (909) 386-8821 On behalf of Bonnie Ter Keurst Manager, Reimbursable Projects Section
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COMPANY: Commission on State Mandates	DATE: 3/26/07
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FAX NUMBER: 916-445-0278	TOTAL NO. OF PAGES INCLUDING COVER: 14
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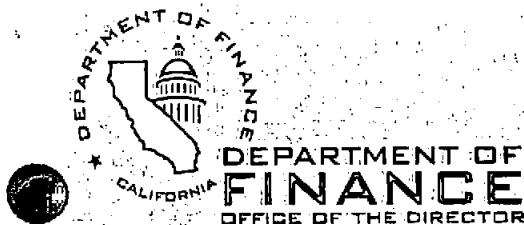
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
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RE: Response to Draft Staff Analysis In Home Supportive Services II, (00-TC-23)	YOUR REFERENCE NUMBER:
--	------------------------

URGENT   
  FOR REVIEW   
  PLEASE COMMENT   
  PLEASE REPLY   
  PLEASE RECYCLE

COPIES/COMMENTS:

222 W. HOSPITALITY LANE, SAN BERNARDINO, CA 92415-0018  
 FAX: (909) 386-8830

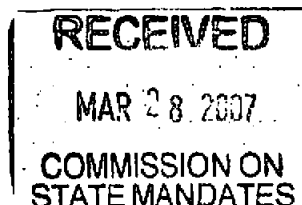


DEPARTMENT OF  
**FINANCE**  
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR  
STATE CAPITOL ◻ ROOM 1145 ◻ SACRAMENTO CA ◻ 95814-4998 ◻ WWW.DOF.CA.GOV

March 23, 2007

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814



Dear Ms. Higashi:

As requested in your letter of March 2, 2007, the Department of Finance (Finance) has reviewed the draft staff analysis of Test Claim No. CSM-00-TC-23 "In Home Supportive Services II" submitted by San Bernardino County (claimant). The claimant alleges that specified costs were incurred under Chapter 445, Statutes of 2000, Chapter 90, Statutes of 1999, and Chapter 91, Statutes of 1991.

The draft staff analysis identifies several reimbursable activities related to establishing the employer of record and the In Home Supportive Services (IHSS) advisory committee. Following are Finance's comments on some of the activities identified as reimbursable in the draft staff analysis.

Employer of Record

- "On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. It does not include mandate reimbursement for any increased wages or benefits that may be negotiated depending on the mode of service adopted, or any activities related to collective bargaining. (Welf. & Inst. Code, § 12302.25, subd. (a).)"

**Comments:** As noted in our comments dated March 6, 2002, and comments by the Department of Social Services (Social Services) dated November 8, 2001, the statute gives counties options on how to establish the employer of record. One option available to counties, the option to use the Contract Mode of service delivery, imposes no additional administrative costs since the costs here are associated with the delivery of in home support services only. We have not seen additional information detailing which counties were required to act as employer of record prior to 2003. Social Services notes in their Estimated Methodologies, that AB 2235 (Chapter 1135, Statutes of 2002) requires any county, not in compliance with the mandates of AB 1682 within a specified timeframe, to act as the employer of record for collective bargaining purposes. To comply, counties had to provide documentation, no later than January 15, 2003, in support of compliance, or detailed information in support of delayed compliance by March 31, 2003. Counties that did not provide required documentation, or meet the delayed compliance deadline, automatically defaulted to act as the employer of record. In 2007-08, the remaining counties requiring funds for acting as the employer of record are Alpine and Tuolumne. Lassen and Mariposa counties had received funding as recently as the 2005-06 fiscal year.

IHSS Advisory Committee

- "Each county that does not qualify for the exception provided in section 12301.3, subdivision (d), shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or as recipients of services under this article." (Welf. & Inst. Code, §§ 12301.3, subd. (a), 12302.25, subd. (d).)
- "Following the September 14, 2000 amendment by Statutes 2000, chapter 445, counties shall appoint membership of the advisory committee in compliance with Welfare and Institutions Code section 12301.3, subdivision (a)(1) and (a)(4):

In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services; in counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services.

A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Welf. & Inst. Code, § 12301.3, subd. (a).)

- "Prior to the appointment of members to a committee required by section 12301.3, subdivision (a), the county board of supervisors shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Welf. & Inst. Code, § 12301.3, subd. (b).)
- "The advisory committee shall submit recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Welf. & Inst. Code, § 12301.3, subd. (c).)
- "One advisory committee formed pursuant to sections 12301.3 or 12301.6, shall provide ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Welf. & Inst. Code, § 12301.4.)"

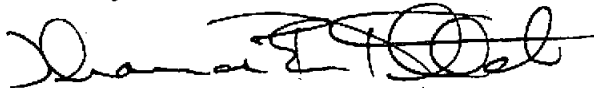
**Comments:** The test claim legislation does not impose costs mandated by the state for activities related to the establishment and ongoing operations of the IHSS advisory committees. State and federal funding has been available for IHSS advisory committee operations every year since inception of the program in 2000-01. The Estimates Branch of Social Services has provided data showing that the claimant, as well as every other county in the state, has received funding sufficient to fully cover the amount requested for advisory committee operations between 2000-01 and 2005-06, including initial startup costs (see Attachment B). Additionally, Social Services estimates costs for all 58 counties as noted in the posted methodology for estimating the costs of the advisory committees located on their website at: <http://www.dss.cahw.net/localassistanceest/2007/EstimatesMethodologies.pdf>. While the

state could fail to allocate such funds in any future budget year, as noted in the draft staff analysis on page 25 (note 59), for purposes of Government Code Section 17556, subdivision (e), funding has been provided in every fiscal year, including the proposed Budget Bill for 2007-08.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your March 2, 2007 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,



Thomas E. Dithridge  
Program Budget Manager

Attachments

County	IHSS Advisory Committee Expenditures PC Code 023 09/01 thru 09/01 Qtrs.					IHSS Advisory Committee Expenditures PC Code 023 09/01 thru 06/02 Qtrs.					IHSS Advisory Committee Expenditures PC Code 023 09/02 thru 06/03 Qtrs.					IHSS Advisory Committee Expenditures PC Code 023 09/03 thru 06/04 Qtrs.					IHSS Advisory Committee Expenditures PC Code 023 09/04 thru 06/05 Qtrs.					IHSS Advisory Committee Expenditures PC Code 023 09/05 thru 06/06 Qtrs.					
	Total	Federal	State	Health	County	Total	Federal	State	Health	County	Total	Federal	State	Health	County	Total	Federal	State	Health	County	Total	Federal	State	Health	County	Total	Federal	State	Health	County	
ALAMEDA	4,027	0	2,193	1,834	0	11,897	0	15,199	5,498	0	8,003	0	4,772	4,231	0	21,268	0	11,271	9,997	0	23,735	0	2,280	11,155	0	0	0	0	0		
ALPINE	10,751	0	5,885	5,054	0	13,771	0	7,289	6,479	0	405	0	214	191	0	244	0	129	113	0	20	0	3,363	1,150	0	0	0	0	0		
AMADOR	3,395	0	4,402	3,903	0	21,549	0	11,421	10,128	0	850	0	450	400	0	2,550	0	1,351	1,199	0	1,275	0	875	800	0	0	0	0	0		
BUTTE	30,039	0	15,821	4,118	0	708	0	374	332	0	0	0	0	0	0	897	0	475	422	0	11,589	0	894	794	0	0	0	0	0		
CALAVERAS	1,275	0	676	589	0	60,257	0	31,938	28,321	0	3,204	0	1,898	1,508	0	4,318	0	2,288	2,030	0	5,162	0	1,548	12,258	0	0	0	0	0		
COLUSA	21,280	0	11,268	8,992	0	34,028	0	18,034	15,992	0	0	0	0	0	0	600	0	318	282	0	2,578	0	1,968	10,819	0	0	0	0	0		
CONTRA COSTA	2,458	0	1,302	1,154	0	7,728	0	4,096	3,632	0	1,565	0	828	738	0	14,532	0	7,702	6,830	0	0	0	0	0	0	0	0	0	0		
DEL NORTE	27,978	0	14,826	13,149	0	58,987	0	30,294	26,783	0	0	0	0	0	0	35	0	3,799	3,367	0	10,690	0	5,885	5,025	0	0	0	0	0		
EL DORADO	36,905	0	19,028	16,876	0	31,546	0	16,719	14,827	0	3,182	0	1,687	1,495	0	7,165	0	15,129	13,416	0	63,164	0	33,488	29,696	0	0	0	0	0		
FRESNO	0	0	0	0	0	0	0	10	0	0	20,550	0	10,892	9,858	0	28,545	0	290	257	0	32	0	17	18	0	0	0	0	0		
GLENN	931	0	494	743	0	19,117	0	10,132	8,989	0	8,423	0	13,404	3,019	0	32,995	0	17,482	15,503	0	22,383	0	13,482	11,693	0	0	0	0	0	0	
HUMBOLDT	16,727	0	8,955	7,862	0	16,727	0	9,745	18,842	0	34,732	0	18,408	16,324	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
IMPERIAL	1,002	0	2,121	1,881	0	9,374	0	2,333	2,424	0	97,448	0	51,847	45,801	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
INYO	4,397	0	25,835	22,732	0	44,903	0	23,709	21,104	0	7,397	0	3,521	3,478	0	51,000	0	27,030	23,970	0	2,700	0	1,000	668	0	0	0	0	0	0	
KERN	4,586	0	2,799	2,481	0	465	0	247	218	0	1,259	0	667	582	0	4,037	0	2,139	1,898	0	1,889	0	1,000	668	0	0	0	0	0	0	
KINGS	11,737	0	5,910	5,027	0	16,739	0	8,871	7,868	0	32,227	0	17,080	15,147	0	2,136	0	1,132	1,004	0	1,889	0	1,000	668	0	0	0	0	0	0	
LAKE	1,002	0	2,121	1,881	0	11,502	0	5,096	5,406	0	60	0	28	24	0	1,249	0	661	589	0	5,182	0	2,725	24,187	0	0	0	0	0	0	
LASSEN	17,545	0	10,725	9,819	0	11,502	0	5,096	5,406	0	52,982	0	28,081	24,801	0	52,982	0	28,080	24,802	0	11,098	0	5,882	5,216	0	0	0	0	0	0	
LOS ANGELES	17,545	0	10,725	9,819	0	11,502	0	5,096	5,406	0	52,982	0	28,081	24,801	0	52,982	0	28,080	24,802	0	11,098	0	5,882	5,216	0	0	0	0	0	0	
MADERA	20,990	0	10,986	10,724	0	18,883	0	9,903	8,780	0	2,983	0	1,581	1,402	0	3,238	0	28,230	25,034	0	52,880	0	28,238	25,042	0	0	0	0	0	0	
MARIN	0	0	0	0	0	33,602	0	28,409	25,193	0	39,637	0	21,018	18,639	0	33,264	0	28,230	25,034	0	1,957	0	508	451	0	0	0	0	0	0	
MARIPOSA	1,275	0	676	589	0	0,519	0	5,045	4,474	0	4,673	0	2,477	2,198	0	0	0	0	0	0	1,523	0	2,387	2,126	0	0	0	0	0	0	
MENDOCINO	0	0	0	0	0	1,490	0	7,742	6,939	0	1,500	0	795	705	0	1,194	0	632	562	0	995	0	2,527	2,126	0	0	0	0	0	0	
MERCED	50,183	0	26,595	23,583	0	13,685	0	38,788	32,624	0	14,500	0	7,855	6,815	0	10,872	0	5,782	5,110	0	14,998	0	1,883	1,681	0	0	0	0	0	0	
MODOC	0	0	0	0	0	101,747	0	53,029	47,821	0	0	0	0	0	0	0	0	0	0	0	2,473	0	1,188	1,054	0	0	0	0	0	0	
MONO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
MONTESIE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
NAPA	49,070	0	26,007	23,063	0	15,953	0	8,455	7,498	0	38,995	0	20,667	18,328	0	33,006	0	17,494	15,512	0	78,985	0	12,774	12,214	0	0	0	0	0	0	
NEVADA	4,878	0	2,584	2,292	0	8,708	0	3,535	3,153	0	1,817	0	983	854	0	3,936	0	2,086	1,850	0	4,232	0	2,249	19,883	0	0	0	0	0	0	
ORANGE	14,243	0	7,548	6,895	0	11,464	0	6,078	5,388	0	10,929	0	5,792	5,137	0	20,790	0	11,018	9,772	0	6,302	0	1,340	2,982	0	0	0	0	0	0	
PLACER	41,038	0	21,750	19,288	0	71,129	0	35,898	5,231	0	773	0	409	364	0	2,600	0	1,379	1,221	0	1,083	0	1,110	4,983	0	0	0	0	0	0	
PLUMAS	25,546	0	13,639	12,007	0	8,174	0	4,331	3,843	0	1,740	0	922	818	0	852	0	451	401	0	0	0	0	0	0	0	0	0	0	0	
RIVERSIDE	3,038	0	1,606	1,427	0	20,762	0	11,003	9,759	0	17,933	0	9,466	8,392	0	852	0	451	401	0	0	0	0	0	0	0	0	0	0	0	
SACRAMENTO	127,992	0	67,836	60,158	0	149,088	0	77,415	68,651	0	138,300	0	73,299	65,001	0	42,132	0	22,330	19,802	0	48,807	0	22,782	22,845	0	0	0	0	0	0	0
SAN BENITO	18,088	0	8,518	7,532	0	17,958	0	37,929	33,632	0	79,594	0	42,185	37,409	0	19,451	0	8,374	7,319	0	11,687	0	5,374	36,319	0	0	0	0	0	0	0
SAN BERNARDINO	19,311	0	9,935	4,376	0	6,685	0	3,332	3,133	0	9,919	0	4,197	3,722	0	5,046	0	2,874	2,372	0	12,075	0	5,800	3,675	0	0	0	0	0	0	0
SAN DIEGO	18,148	0	11,891	11,084	0	3,288	0	1,725	1,531	0	6,625	0	4,609	4,088	0	4,523	0	2,397	2,126	0	57,904	0	30,889	17,218	0	0	0	0	0	0	0
SAN FRANCISCO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	48,048	0	23,875	21,173	0	57,904	0	30,889	17,218	0	0	0	0	0	0	0
SAN JOAQUIN	1,044	0	554	491	0	871	0	514	457	0	11,650	0	6,175	5,475	0	48,920	0	25,927	22,993	0	50,733	0	28,859	23,844	0	0	0	0	0	0	0
SAN LUIS OBISPO	1,350	0	19	16	0	0	0	0	150	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
SAN MATEO	2,510	0	1,331	1,178	0	11,093	0	5,879	5,214	0	1,008	0	534	474	0	686	0	384	322	0	15,226	0	6,220	7,297	0	0	0	0	0	0	0
SANTA BARBARA	45,850	0	24,300	21,550	0	6,259	0	3,318	2,941	0	7,875	0	4,173	3,702	0	8,114	0	28,072	24,894	0	52,966	0	28,071	24,895	0	0	0	0	0	0	0
SANTA CLARA	0	0	0	0	0	52,982	0	28,080	24,802	0	47,730	0	28,297	22,433	0	52,966	0	1,084	961	0	3,2074	0	11,699	1,908	0	0	0	0	0	0	0
SANTA CRUZ	14,457	0	2,382	2,095	0	1,240	0	1,657	583	0	3,408	0	1,806	1,602	0	2,045	0	1,084	961	0	3,590	0	29,594	25,358	0	0	0	0	0	0	0
SHASTA	1,488	0	779	690	0	5,300	0	2,809	2,491	0	747	0	396	351	0	13,819	0	7,358	6,523	0	27,550	0	14,760	13,050	0	0	0	0	0	0	0
SHERRO	1,275	0	676	589	0	1,532	0	781	771	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SISKIYOU	22,035	0	11,876	10,357	0	18,375	0	9,739	8,638	0	0	0	0	0	0	40,776	0	21,811	19,185	0	17,106	0	19,467	17,499	0	0	0	0	0	0	0
SOLANO	42,527	0	22,539	19,989	0	5,982	0	3,690	3,272	0	25,355	0	13,428	11,917	0	18,847	0	9,459	8,388	0	18,097	0	20,721	18,378	0	0	0	0			



Attachment A

DECLARATION OF CARLA CASTAÑEDA  
DEPARTMENT OF FINANCE  
CLAIM NO. CSM-00-TC-23

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

Maul 23, 2006  
at Sacramento, CA

Carla Castañeda  
Carla Castañeda

PROOF OF SERVICE

Test Claim Name: In Home Supportive Services II  
Test Claim Number: CSM-00-TC-23

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On March 23, 2007, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Facsimile No. 445-0278

Mr. Leonard Kaye, Esq.  
County of Los Angeles  
Auditor-Controller's Office  
500 w. Temple Street, Room 603  
Los Angeles, CA 90012

Mr. Allan Burdick  
MAXIMUS  
4320 Auburn Blvd., Suite 2000  
Sacramento, CA 95841

Mr. Mark Sigman  
Riverside County Sheriff's Office  
4095 Lemon Street  
P.O. Box 512  
Riverside, CA 9250

Mr. Steve Keil  
California State Association of Counties  
1100 K Street, Suite 101  
Sacramento, CA 95814-3941

B-08  
Mr. Jim Spano  
State Controller's Office/Division of Audits  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

Mr. David Wellhouse  
David Wellhouse & Associates, Inc.  
9175 Kiefer Blvd., Suite 121  
Sacramento, CA 95826

Mr. J. Bradley Burgess  
Public Resource Management Group  
1380 Lead Hill Boulevard, Suite #106  
Roseville, CA 95661

Ms. Bonnie ter Keurst  
County of San Bernardino  
Office of the Auditor/Controller-Recorder  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

Ms. Carla Castaneda  
Department of Finance  
915 L Street, 11<sup>th</sup> Floor  
Sacramento, CA 95814

Ms. Donna Ferebee  
Department of Finance  
915 L Street, 11<sup>th</sup> Floor  
Sacramento, CA 95814

Ms. Marianne O'Malley  
Legislative Analyst's Office  
925 L Street, Suite 1000  
Sacramento, CA 95814

B-08  
Ms. Ginny Brummels  
State Controller's Office  
Division of Accounting & Reporting  
3301 C. Street, Suite 500  
Sacramento, CA 95816

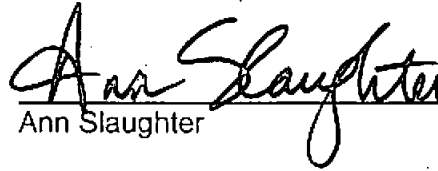
Ms. Beth Hunter  
Centration, Inc.  
8570 Utica Avenue, Suite 100  
Rancho Cucamonga, CA 91730

A-24  
Mr. Jim Norris  
Department of Social Services  
Legal Division  
744 P Street, M.S. 4-161  
Sacramento, CA 95814

Mr. Glen Everroad  
City of Newport Beach  
3300 Newport Blvd.  
P.O. Box 1768  
NewPort Beach, CA 92659-1

Mr. Geoffrey L. Graybill  
Office of the Attorney General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 23, 2007 at Sacramento, California.

  
Ann Slaughter

