

OVERVIEW: IHSS IMPLEMENTATION OF NEW FLSA & SB 855 REQUIREMENTS



July 28, 2014

CDSS Adult Programs Division

Agenda

- Opening Remarks
- New FLSA Requirements & Summary of Prior Discussions with Stakeholders
- SB 855 IHSS Program Requirements and CDSS Implementation Approach
- DHCS Waiver—FLSA Implications
- IHSS Operational and Policy Considerations
- Wrap Up

Purpose & Objectives

- Review new FLSA & SB 855 requirements
- Understand implementation going forward



Opening Remarks

Eileen Carroll

*Deputy Director,
Adult Programs
Division, CDSS*




New FLSA Requirements and Summary of Prior Stakeholder Discussions



Lori Clarke
Facilitator


New FLSA Requirements



- Overtime compensation when working more than 40 hours in a week (not to exceed the consumer authorized hours or weekly cap)



- Defined 7-day workweek to claim overtime



- Payment for travel time when traveling directly between different recipients on the same day

Prior Stakeholder Discussion

Date	Activities
3/03/14	IHSS Stakeholder Meeting
3/21/14	IHSS Stakeholder Meeting
5/06/14	IHSS Stakeholder Meeting
March - Present	Rapid Response Team Meetings
June 2014	Provider Focus Groups





SB 855 IHSS Requirements & CDSS Implementation

Eileen Carroll

*Deputy Director,
Adult Programs
Division, CDSS*

SB 855—IHSS Program

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- Allows for paid overtime in the IHSS program

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- Allows for a 3 month grace period:
Jan 1, 2015 – March 31, 2015

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- Full implementation begins April 1, 2015

SB 855—IHSS Program, cont.

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- Defines a 7 day workweek: Sunday thru Saturday

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- Paid travel (7 hours/week) for providers working with multiple recipients on same day

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- New county assistance to providers and recipients who have multiple relationships

SB 855—IHSS Program, cont.

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- Flexibility to adjust recipients weekly hours

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- Specifies recipient responsibilities to manage provider's work schedules and hire additional providers as needed

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- Providers will need to submit timesheets within 2 weeks of end of work period for timely payment

SB 855—IHSS Program, cont.

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- Requires the state to inform consumers and providers of new requirements

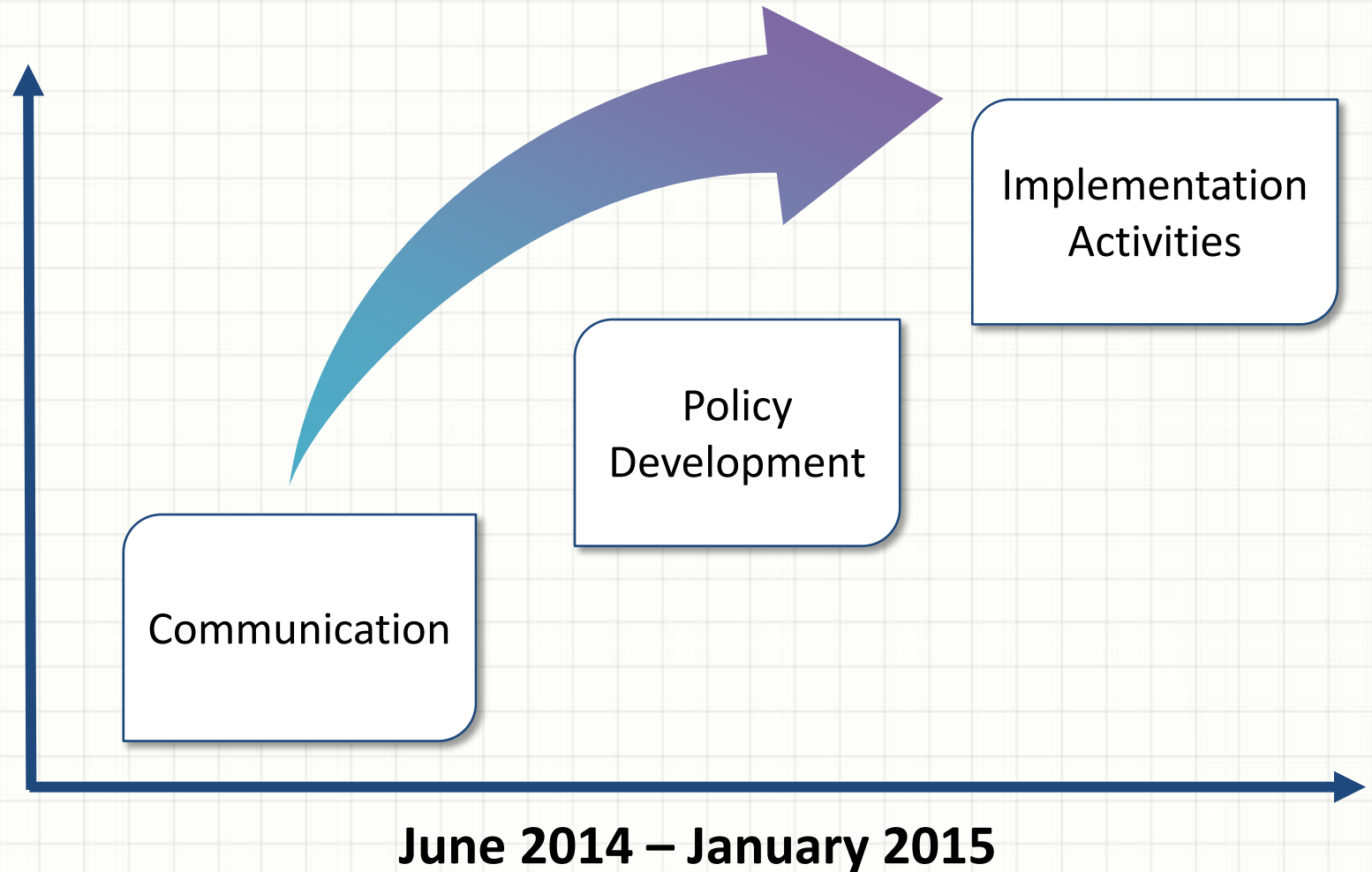
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- Allows CDSS to terminate providers who abuse overtime – new procedures

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- Requires CDSS to conduct a 24 month overtime study on implementation and impact

Implementation Schedule



Implementation Schedule for IHSS FLSA and Overtime

June 14	July 14	Aug 14	Sept 14	Oct 14	Nov 14	Dec 14	Jan 15	Feb 15	Mar 15
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Communications

- *Conference call discussion on SB 855 with counties and CAPA – 6/25, 26
- * Stakeholder Meetings continue from original meetings – as well as small group Rapid Response Teams (RRTs) continued efforts – 7/10, 17, 23, 29
- Full Stakeholder Meetings Series – July 28, 29, and August 15, 2014
- *Information Letter to Recipients and Providers – Fall 2014
- *Other targeted mailings – Winter 2014

June 2014 – Jan 2015

Policy Development

- All requirements, application, operations and implementation related to: overtime, cap, travel, timesheets, provider terminations, county support and technical assistance, county and recipient adjustments, workweek agreements, defining “reasonable” for adjustments – etc.
- *Coordinated with all Stakeholder Activity – June-Sept. 2014
 - *Implementation ACL release of all activities – Fall 2014

Jan – Nov 2014

IHSS System Activities for Implementation

- *New Timesheet 14 pt font
- *Testing for new Timesheet (pilot county test) – Fall 2014
- *New Timesheet Processing Implemented – Dec. 2014
- *System options developed for county adjustment process – Fall 2014 -Testing and Implementation of options/solutions –by Jan. 2015 - *New reconciliation processes for provider payroll due to adjustments – by Jan. 2015
- *System design, testing and implementation of policy changes due to stakeholders and ACLs, etc.

June 2014 – Jan 2015

Waiver Personal Care Services (WPCS) and FLSA Implications


John Shen

*Chief, Long-Term
Care Division, DHCS*




Department of Health Care Services

Waiver Personal Care Services (WPCS)


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- WPCS is covered under the Nursing Facility/Acute Hospital waiver for MediCal recipients living at home w/ high care needs

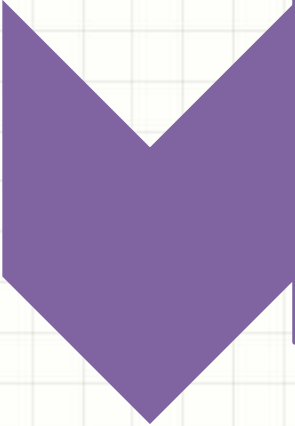
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- Includes additional supervision and personal care over and above IHSS authorized services

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- Used by approximately 1,350 participants
 - Average 430 hours (IHSS and WPCS)/participant /month

Department of Health Care Services


Waiver Personal Care Services (WPCS)

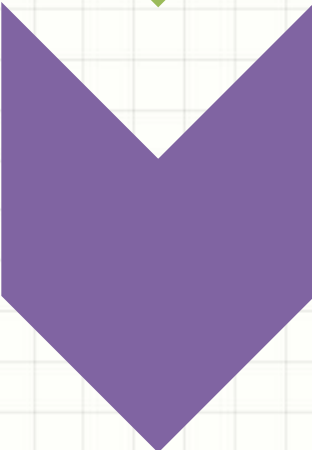
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- Waiver participants are required to identify multiple IHSS/WPCS providers to ensure that each provider does not exceed 12 hours work day (for quality of care)

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- To manage overtime under the new rules, waiver participants will:
 - Expand the number of IHSS/WPCS providers;
 - Establish work schedules among the providers;

Department of Health Care Services

Waiver Personal Care Services (WPCS)

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- Individual waiver participants who reach their annual waiver expenditure, a feature of this waiver, because of the implementation of FLSA rules, will not experience reduction of services that will put them at risk of health and safety or being institutionalized.

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- DHCS nurses will work with waiver participants and their families to ensure care needs are met while living at home.

SB 855

IHSS Operations & Policy Considerations



Hafida Habek
*Chief, Policy & Quality
Assurance Branch*

Flexibility

- Welfare and Institutions Code Section 12300.4(b)(4)
Allows a recipient, or his/her authorized representative, to authorize a provider to work more than the recipient's weekly authorized hours without county approval under certain circumstances:
- Welfare and Institutions Code Section 12301.1(b)
Allows a recipient or his/her authorized representative to request county approval to adjust the recipient's weekly authorized hours under certain circumstances.

CONSEQUENCES

Welfare and Institutions Code Section 12300.4(b)(5)

- Allows CDSS and the counties to terminate an IHSS provider for repeated violations of the workweek requirements:
 - ✓ First and Second Violation: Written warning
 - ✓ Third Violation: Six-month suspension
 - ✓ Fourth Violation: One-year suspension
- Violations are cumulative and will reset when a provider re-enrolls after a one-year suspension.

TECHNICAL SUPPORT

Senate Bill 855 requires CDSS to inform recipients and providers of the limitations and requirements of the new law. CDSS is also required to issue implementing guidance and processes to counties.

- **IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM PROVIDER WORKWEEK AND TRAVEL TIME AGREEMENT**

CDSS is developing a new form to ensure providers and recipients adhere to the work week and travel time requirements.

Thank you For your Participation

- Please send your questions and feedback to:

IHSS-training@DSS.CA.GOV

- For today's material and other FLSA related stakeholder meetings and information, please visit:

[http://www.cdss.ca.gov/agedblindddisabled/PG3486
.htm](http://www.cdss.ca.gov/agedblindddisabled/PG3486.htm)