



IN-HOME SUPPORTIVE SERVICES

NUTS AND BOLTS

IN HOME SUPPORTIVE SERVICES
Nuts and Bolts

**SERVICE RIGHTS AND ENTITLEMENT PROGRAMS
AFFECTING CALIFORNIANS WITH DISABILITIES**

Disability Rights California

Toll Free: 1-800-776-5746

May 2008

Introduction

Purpose of Publication

This publication is intended to help you represent yourself and others in fair hearings when there is a dispute about the number of In-Home Supportive Services (IHSS) hours you need. This information packet will also help you prepare for the County IHSS worker's initial intake assessment or the annual review. Doing a self assessment will help you figure out how many hours you think you need and what to point out to the worker who does the assessment.

This publication is also intended to explain many changes that have happened in the past year regarding how IHSS services are now administered in California. This revision includes changes in the IHSS program since Disability Rights California's IHSS Self-Assessment and Fair Hearing Packet was last updated in 2002. Some issues which existed even prior to the recent changes are now addressed here with the intent to provide a more comprehensive overview of the IHSS system.

References to "IHSS" in this publication generally will refer to all IHSS current programs: the Medi-Cal Personal Care Services Program (PCSP), the new Independence Plus Waiver (IPW) Program, and the original residual IHSS (IHSS-R) Program.

How the IHSS programs are Administered

IHSS is administered by the California Department of Social Services (CDSS). Eligibility for IHSS in each county is determined by the county welfare (or social services) departments (CWD). Medi-Cal is administered by the California Department of Health Care Services (DHCS). Eligibility for Medi-Cal (for individuals who do not receive SSI) is also determined by the CWD. However, separate units of the CWD determine IHSS and Medi-Cal eligibility at the county level. The CWD is also responsible for administering the provision of IHSS services, such as handling payroll transactions.

Where to Find the Applicable Laws

Statutes

The statutes governing the IHSS residual program are located at Cal. Welf. & Inst. Code §§ 12300 through 12317.2. The statute governing the PCSP is located at Cal. Welf. & Inst. Code § 14132.95. The statute governing the IPW is located at Cal. Welf. & Inst. Code § 14132.951. These statutes can be found at: <http://www.leginfo.ca.gov/calaw.html> and then check “Welfare and Institutions Code,” click “Search,” and click the set of code section numbers you wish to review.

Manual of Policies and Procedures

The State regulations for the IHSS and PCSP programs are called the Manual of Policies and Procedures (MPP.) The MPP sections covering the IHSS Residual and the IPW programs are at MPP §§ 30-700 through 30-776 are found here: http://www.dss.cahwnet.gov/ord/CDSSManual_240.htm

The MPP sections covering the PCSP Waiver are at MPP § 30-780 and can also be found at: http://www.dss.cahwnet.gov/ord/CDSSManual_240.htm

All County Welfare Directors’ Letters

In some of the sections below we refer to Department of Health Care Services (DHCS) All County Welfare Directors’ Letters (ACWDLs). The State Legislature has authorized DHCS to implement the new IPW program through the use of ACWDLs and similar publications instead of following the standard rulemaking process. Cal. Welf. & Inst. Code § 14132.951(h)(1). ACWDLs can be found at: <http://www.dhs.ca.gov/mcs/mcpd/MEB/ACLs/> and then click on “ACWDLs” and then the year.

All County Letters and All County Information Notices

We also refer to Department of Social Services (DSS) All County Letters (ACLs) and All-County Information Notices (ACINs). ACLs are informational and serve to provide explanatory materials for regulations, material of general interest, or interim procedural information and may also be used to trigger required responses by all counties when the basic authority for such is in regulation. (MPP § 17-001.4.) Those can be found at: <http://www.dss.cahwnet.gov/lettersnotices/default.htm> and then click “ACLs” or “ACINs” and then the year.

Availability of Applicable Laws for Non-Internet Users

One set of regulations and handbook materials (including ACLs) of the Department of Social Services, the Welfare and Institutions Code, the Health and Safety Code, and other laws relating to any form of public social service must be made available to the public during regular office hours in each central or district county office administering public social services and in each local or regional office of the department. Cal. Welf. & Inst. Code § 10608; MPP § 17-017.

Although this publication is an attempt to provide a more complete description of the IHSS system than prior Disability Rights California publications, this guide does not cover everything about how the IHSS program works. Please feel free to call us if you have more specific questions about what is covered here or questions about other areas this guide does not cover.

These materials are based on laws in effect at the time of publication. Federal and state law affecting the IHSS system can change at any time. If there is any question about the continued validity of any information in this publication, contact Disability Rights California.

Disability Rights California will monitor the development of conforming state law and regulations, so that revised state laws and regulations can be incorporated into later supplements and editions of this publication. For further information on the development of federal and state law and regulation, or clarification, please contact Disability Rights California.

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DISABILITY RIGHTS CALIFORNIA (DRC), is a private, nonprofit organization that protects the legal, civil and service rights of Californians who have developmental or mental disabilities. Disability Rights California provides a variety of advocacy services, including information and referral, technical assistance, and direct representation. For information or assistance with an immediate problem, call:

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Chapter 1 Overview of the Law and the System

Background

In Home Supportive Services (IHSS) is an alternative for individuals who might otherwise be placed in a facility when they are unable to care for themselves in their own home. Cal. Welf. & Inst. Code § 12300(a); MPP 30-701.1. IHSS provides basic services to individuals who cannot safely perform the services themselves due to physical or mental incapacity. MPP 30-756.32; 30-761.25. Personal care services, domestic services, and paramedical services are just a few of the types of services available under IHSS.

History and Funding of IHSS Programs

Changes have been made in how IHSS is funded. Most IHSS services were part of the Medi-Cal program with half paid by the federal government and half with State and county funds. However, some services and cases were only State and county funded. The recent changes brought under Medi-Cal most of the services and cases that before were only funded by State and County funds under the original residual IHSS program. Now half of the costs for those services and cases are federally funded. There are now *three* IHSS programs: (1) The original residual Program (very few people remaining under this program); (2) The Independence Plus Waiver; (3) Medi-Cal Personal Care Services Program.

Old State IHSS Program

IHSS provides a set of services to individuals who require assistance in activities of daily living and other services to remain safely in their own homes. These services include domestic services, services related to domestic services (related services), personal care services, paramedical services, and protective supervision. At some time in the distant past, none of these services were provided under Medi-Cal. They were provided under the old state IHSS program through only state and local funds.

Personal Care Services Program

In the early 1990's, the state shifted all of the services that it believed it could into the Medi-Cal program in order to receive federal financial participation for providing these services. The state called this new program the Personal Care Services Program (PCSP). The state could not shift all of the services at that time (or so it thought) because some of the services were: 1) non-medical such as protective supervision, domestic and related services that were not provided ancillary to personal care services, and the restaurant meals allowance; 2) provided by spouse or parent providers (federal Medicaid rules prohibit payment for

personal care services provided by relatives of a Medicaid beneficiary); 3) services in which payment for the services was made directly to the beneficiary, i.e. advance pay (federal Medicaid rules generally allow only medical vendor payments); and 4) provided to individuals with a share of cost (federal Medicaid rules generally require the same share of cost for all Medi-Cal beneficiaries--the IHSS program has a lower share of cost).

Therefore, the state shifted everything to PCSP except the following:

1. All protective supervision services
2. The restaurant meals allowance
3. All services for individuals who need domestic or related services only
4. All services for individuals who have spouse or parent providers
5. All services for individuals who receive payment in advance (advance pay)
6. All services for individuals who have a share of cost for Medi-Cal
7. All individuals who are not eligible for full-scope Medi-Cal

These seven categories continued to be funded under the old state IHSS program, which came to be called the IHSS Residual (IHSS-R) program. Some people could receive services under both PCSP and IHSS-R, for example people who received protective supervision but did not have a spouse or parent provider. These individuals received protective supervision under the IHSS-R program but received all other services under PCSP. These are called "split cases." By contrast, an individual who had a spouse or parent provider and received protective supervision would receive all services under the IHSS-R program.

Shortly after the PCSP program began, the state shifted individuals with a share of cost into the PCSP program by paying the difference between the Medi-Cal and the IHSS share of cost. This is called buy-in. Of course, an individual who did not qualify for PCSP for some other reason, e.g., the individual had a spouse or parent provider, remained in the IHSS-R program.

In 2004, the state was able to shift funding for everyone else who has full scope Medi-Cal from the IHSS-R program to the Medi-Cal program. It did this by shifting protective supervision and non-ancillary domestic and related services into the PCSP program. The other services that ordinarily cannot be funded under Medicaid because of relative provider and medical vendor payment rules were shifted into a new Medicaid waiver called the Independence Plus Waiver (IPW).

Independence Plus Waiver Program

Before, there were certain IHSS cases that could not be covered by Medi-Cal because of federal Medicaid rules. Those were cases where the provider was the parent of a child under age 18 or the spouse, where there was advance pay, or where someone got a meal allowance instead of time authorized for meal preparation and food shopping. These cases are now covered by Medi-Cal under the IPW.

All of the rules that apply to the original IHSS-R program also apply under the IPW. However, some program rules changed because of the switch to Medi-Cal:

(1) Some who paid a share of cost for IHSS no longer do so: Persons who qualify for Medi-Cal with no share of cost under the A&D FPL Program; children who qualify for Medi-Cal with no share of cost because the income of a stepparent is not counted under Medi-Cal as it was under the original IHSS-R program; persons who qualify for Medi-Cal without a share of cost under the Pickle program for persons who used to receive SSI but are not eligible now because their Social Security disability or retirement income went up faster than the SSI grant.

(2) Children and spouses who qualify for Medi-Cal through institutional deeming under a home and community based waiver (like the waiver administered by regional centers) also can qualify for IHSS services provided by a parent or spouse, including protective supervision services where authorized.

In addition, the provider income received by the spouse or parent will not count under any Medi-Cal program. The parent's provider income remains Medi-Cal exempt until the child reaches age 21. However, there are no longer split cases because of requirements under the IPW. That means that no more than 195 hours a month total can be authorized for a non-severely impaired IHSS recipient who receives services from both a spouse and someone else or from both the parent of a minor and someone else. DHS ACWDLs 05-21, 05-26, 05-29, 06-04, 06-19; DSS ACLs 05-05, 05-05E; DSS ACIN 1-28-06.

The IPW program is a Social Security Act section 1115 demonstration program. The type of waiver is an "Independence Plus" waiver. This is a type of waiver that CMS has come up with recently to assist in implementing the Olmstead decision. The Section 1115 waiver category is a broad category that allows for waiver of program requirements in a number of Social Security Act programs, including Medicaid. This is somewhat different from the Social Security Act section 1915

waivers, which allow for waiver of freedom of choice requirements (i.e. managed care waivers), or provide for Home and Community Based Services (HCBS). Statutory authority for Section 1115 waivers is very broad, but CMS has developed a number of administrative limitations on waiver authority, such as the requirement that a Medicaid beneficiary can be in only one Section 1115 waiver. This is why individuals cannot be in both the IPW and the Senior Care Action Network (SCAN) waiver, but can be in the IPW and an HCBS waiver. (See ACIN No. 1-28-06, Question 1.)

All IHSS services for individuals with spouse and parent providers will be provided under the IPW. (See ACIN No. 1-28-06, Question 4.) This includes protective supervision, which can still be provided by parent providers just as under the old system. (See ACIN No. 1-28-06, Question 9.) However, all services, including protective supervision, will now be funded under Medi-Cal through the IPW, rather than under the IHSS-R program. All of the old restrictions on spouse and parent providers apply, such as restrictions on working outside of the home. (See ACIN No. 1-28-06, Question 6, 8.) All of the non-restrictions also apply. (See ACIN No. 1-28-06, Question 12, 13.)

A person who is eligible for the IPW will no longer be eligible to receive services under the IHSS-R program to the extent those services are available under the IPW program. A person will not be eligible to receive services under the IPW to the extent those services are available under the PCSP program.

IHSS Residual Program

Individuals who are not eligible for full scope Medi-Cal (and therefore cannot receive services under PCSP or IPW) continue to receive services under the IHSS-R program. (See ACIN No. 1-28-06, Question 1.) They can receive limited-scope Medi-Cal. (Id.)

Recipients who remain in the IHSS-R program are those who have been determined eligible for IHSS-R services, but who are not eligible for federally funded full-scope Medi-Cal, such as non-citizens under the five year ban. Recipients in the IHSS-R program are eligible for Medi-Cal only if they have had a Medi-Cal eligibility determination by a Medi-Cal eligibility worker and meet Medi-Cal eligibility criteria for coverage under one of the Medi-Cal programs appropriate for their status.

IHSS-R, IPW, and PCSP Programs

IHSS-R, IPW and PCSP operate as a single program. The Medi-Cal statutes that cover IPW and Medi-Cal personal care services says that original IHSS residual program rules are to be followed when authorizing services. (Welf. & Inst. Code § 14132.951(e); Welf. & Inst. Code § 14132.95(i). When people say “IHSS” they usually are referring to all three programs. Most people’s services are covered by the Medi-Cal PCSP where the federal government pays for half the cost of services under regular Medicaid program rules– just as the federal government pays for half the cost of other Medi-Cal services. If the services are being provided by the spouse or the parent of a minor, or if there is advance pay or restaurant meal allowances, *and* the recipient is an unrestricted Medi-Cal beneficiary, then the services are covered under the IPW because of federal Medicaid rules. Persons not eligible for unrestricted Medi-Cal must receive their IHSS services under the IHSS-R Program. Protective supervision used to be covered only under the former IHSS residual program but is now available under all three programs.

Recent Changes

The changes in IHSS funding have resulted in some positive and some negative changes in eligibility for IHSS services, and calculation of maximum hours. These changes are described below.

Protective Supervision Services and Cases Where Only Domestic and Related Services are Authorized are Now Covered Under Medi-Cal.

Before, cases where only domestic and related services were authorized were covered under the original residual IHSS program. Hours authorized for protective supervision also were only covered under the original residual IHSS program. During the approval process of the IPW program, California also sought and obtained federal approval to amendments in its State Plan to include protective supervision and cases where only domestic and related services are authorized. Now, funding for these cases is available under PCSP in addition to the IPW and IHSS-R programs. The change is retroactive to May of 2004.

Home and Community Based Services (HCBS) Waivers Now Provide Access to All IHSS Services

The Developmental Disabilities (DD) HCBS waiver, as well as other HCBS waivers provide for something called institutional deeming. Although this may seem counterintuitive, institutional deeming is a good thing. This is because institutional deeming provides that income of a spouse or parent of a child under age 18 will not be deemed to a Medi-Cal beneficiary who is in an institution. Community deeming provides that income of a spouse or parent of a child under age 18 will be deemed to a Medi-Cal beneficiary who is living in the same

household as the spouse or parent. Community deeming often made it impossible for an individual to live at home because the deemed income of the spouse or parent often made the individual ineligible for Medi-Cal. The individual would qualify for Medi-Cal only if placed in an institution.

Under the old IHSS system, if someone received Medi-Cal under an HCBS waiver, such as the DD waiver, and they also received PCSP, they would receive all of the Medi-Cal benefits, including PCSP, with zero share of cost. However, if the individual needed protective supervision, there would be a share of cost for protective supervision. This is because protective supervision was only available under the IHSS-R program and there was no institutional deeming under that program. Community deeming was always applied.

Under the new system, all people with full-scope Medi-Cal will receive services under the Medi-Cal program. This means that institutional deeming will apply across the board. This is true both for people who receive their services under PCSP and under IPW. (See ACIN No. 1-28-06, Question 10.) Community deeming will continue to be applied to people who continue to receive services under the IHSS-R program.

Parent and Spouse Providers of HCBS Waiver Recipients Now Permitted

Before, if someone qualified for Medi-Cal under one of the Nursing Facility Waivers or under the Waiver for Persons with Developmental Disabilities, that person would not qualify for services provided by a spouse or, if a minor, a parent. Now that individual may receive IHSS services with a parent or spouse provider under the IPW.

Advance Pay/ HCBS Nursing Facility Waiver Cases Grandfathered

HCBS waiver budgets of enrollees who used to receive residual IHSS will not be reduced by the IPW Program. The California Department of Health Services (DHS) authorized “Grandfather” protection for persons who were enrolled on December 1, 2004, in one of the Home and Community Based Services (HCBS) waivers administered by the DHS’ In-Home Operations (IHO) and who were also receiving In-Home Supportive Services (IHSS). Waiver enrollees are subject to an individual cost-effective cap that counts all Medi-Cal services including HCBS waiver Medi-Cal services. Not counted against the individual cost effectiveness budget were IHSS services not covered under Medi-Cal: advance pay, parent or spouse provider services, and protective supervision. Under the IPW and clarification of services coverable under Medi-Cal outside the demonstration waiver, all of these services are now covered under Medi-Cal. So that HCBS

waiver enrollees would not have their IHSS services count against their individual budgets thereby reducing what could be covered as waiver services, DHS agreed to “grandfather” or freeze HCBS enrollees’ budgets.

No More Share of Cost for Some Medi-Cal Beneficiaries

In the past, if someone had income too high to qualify for SSI but could qualify for Medi-Cal with no share of cost under the Aged & Disabled Federal Poverty Level (A & D FPL) Program or as a “Pickle”, that person probably would have had a share of cost if he or she elected to receive advance pay. Now that individual may receive IHSS services with advance pay without a share of cost under the IPW.

Interplay of Protective Supervision between IHSS Programs

The Medi-Cal program distinguishes between severely and non-severely impaired when authorizing protective supervision hours¹. If you are non-severely impaired, you cannot be authorized more than 195 protective supervision hours in a month. The total maximum amount of hours you can receive for all services is 283 hours in a month whether you are severely or non-severely impaired. If you are non-severely impaired and receiving services under PCSP, you will be authorized 195 hours for protective supervision plus the other hours authorized or the difference between your other hours authorized and 283, whichever is less.

Example: The county determines you need protective supervision. The county authorizes 70 hours for services other than protective supervision and determines that you are non-severely impaired. You would be authorized a total of 265 hours – 70 hours plus 195 protective supervision hours. If you instead had been authorized 100 hours for services other than protective supervision, then the total hours you would be authorized is 283 because that is the maximum number of hours that can be authorized in a month.

If you are non-severely impaired and receiving services either under the IPW or IHSS-R programs, you will be authorized up to 195 hours maximum, regardless of your protective supervision and additional personal care services needs. In this situation, it may be worth the effort trying to establish severely impaired status through the self-assessment process covered in Chapter 4 to obtain more hours if you are being served under the IPW or IHSS-R programs. Otherwise, if you are an IPW recipient, you may want to consider changing the conditions in which you

¹ To figure out if you are a “severely impaired” or a “non-severely impaired” recipient, please refer to the section entitled “Monthly Hours-Severely vs. Non-Severely Impaired” in Chapter 2 explaining how those categories are determined under IHSS law.

receive services in order to gain eligibility under PCSP to obtain additional hours. The ways in which to do so are discussed below.

Hourly Cap under PCSP for Protective Supervision Only Cases

The change provides that for non-severely-impaired individuals, protective supervision hours are limited to 195 hours, while non-protective supervision hours may be provided in addition up to a combined maximum of 283. (See ACIN No. 1-28-06, Question 15.) This seems to be designed to treat former split case beneficiaries who are non-severely impaired and now receive all services including protective supervision under the PCSP program the same way they were under the Residual program. However, there is no authority in the law for limiting protective supervision hours to 195 hours because there is no such limitation under the PCSP program.

Welfare and Institutions Code section 14132.95(g), which governs the PCSP program, provides: "The maximum number of hours available under the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3, Section 14132.951, and this section, combined, shall be 283 hours per month."

Since protective supervision is provided based on a 24-hour need for the services it must be provided up to the maximum available hours. This is 283 for the PCSP program.

Elimination of Split Cases

There are no more "split cases," i.e., non-severely disabled people who receive services under both the Residual and PCSP programs. People will receive all services under either PCSP, IPW, or the IHSS-R program. Full-scope Medi-Cal beneficiaries who have spouse or parent providers, receive advance pay, or receive the restaurant meals allowance will receive all services under the IPW. All other full-scope Medi-Cal beneficiaries will receive all services under the PCSP program. All limited-scope Medi-Cal beneficiaries, and beneficiaries who are not eligible for Medi-Cal, will receive all services under the IHSS-R program.

This is bad because it may result in a reduction in the maximum hours that some individuals can receive. Under the IHSS-R program there is a limitation of 283 hours per month for individuals who are "severely impaired," i.e. who need 20 hours or more per week of personal care services and/or meal preparation, and 195 hours per month for individuals who are "non-severely impaired," i.e., who need less than 20 hours per week of those services. Under the PCSP program, there is

no distinction between individuals who are severely or non-severely impaired. The 283 hour limit applies to both groups. Protective supervision hours under the Residual program were limited to 195 hours per month, but additional non-protective supervision hours could be provided under the PCSP program for a combined total hours up to 283 per month.

Therefore, a non-severely impaired individual who had both a spouse or parent provider and a non-spouse or parent provider would receive services from the spouse/parent provider under the Residual program and from the non-spouse/parent provider under the PCSP program. Also an individual who did not have a spouse or parent provider, and who needed protective supervision, would receive protective supervision under the Residual program and other IHSS services under the PCSP program. In both cases, the non-severely impaired individual could receive IHSS-R program benefits up to a maximum of 195 and additional PCSP program benefits up to a combined maximum of 283.

This does not make a difference for "split cases" transferred to the PCSP; the 283 maximum under PCSP continues to apply. This also does not make a difference for individuals who have only a spouse or parent provider. Those individuals were limited to 195 hours under the IHSS-R program if non-severely impaired. The same rules apply under IPW. However, this does make a difference for "split cases" transferred to the IPW, namely individuals who have both a parent/spouse and non-parent/spouse provider. (See ACIN No. 1-28-06, Question 5, 15.) These individuals will have their maximum hours reduced to 195.

How to Deal with the Split Cases Elimination

The limitation on split cases is not an issue for advance pay beneficiaries. An individual must be severely impaired in order to receive advance pay. Therefore, maximum hours were 283 for severely-impaired beneficiaries under the IHSS-R program and continue to be 283 for severely-impaired beneficiaries under the IPW.

The limitation on split cases may be an issue for individuals who receive the restaurant meals allowance. Individuals with the restaurant meals allowance who receive the maximum grant of 195 hours (if there is anyone in that category) may want to give up the restaurant meals allowance and receive hours for meals so that they can be transferred to the PCSP program. They may also want to consider disconnecting their stove so that they can qualify for the restaurant meals allowance under the SSI program if they want to continue to have restaurant meals rather than meal services under IHSS.

It also may be possible to qualify an IPW beneficiary for PCSP by having a non-spouse/parent provider only.

It may be possible to increase the maximum hours by qualifying someone as severely impaired. Therefore, look carefully at the hours assessed for personal care and meal preparation. Very often counties assess this at 19.5, or some other figure close to 20, for the purpose of denying the severely-impaired maximum hours. If these hours are increased to 20 per week, the individual qualifies for 283 hours per month under the PCSP, IPW or IHSS-R programs.

If you are faced with a reduction due to the program change, please contact DISABILITY RIGHTS CALIFORNIA or OCRA. Here are some questions that will give us the information that we need to evaluate these cases:

1. Did you get a notice of action?
2. What is the date of the notice?
3. When did you get the notice?
4. Is there a reduction in your hours?
5. What are the old hours and what are the new hours?
6. Does the notice say you need hours for personal care and meal preparation? How many hours?
7. Do you have a spouse or parent provider?
8. Do you receive protective supervision?
9. Do you receive Medi-Cal?
10. Do you receive a restaurant meals allowance from IHSS? (It will say on the notice.)

Chapter 2 Services Under the IHSS Programs

Descriptions of IHSS Services

A. Domestic Services

Sweeping, vacuuming, and washing/waxing floors; washing kitchen counters and sinks; cleaning the bathroom; storing food and supplies; taking out garbage; dusting and picking up; cleaning oven and stove; cleaning and defrosting refrigerator; bringing in fuel for heating or cooking purposes from a fuel bin in the yard; changing bed linen; changing light bulbs, and wheelchair cleaning and changing/recharging wheelchair batteries. (MPP 30-757.11; ACL 06-34E, Appendix B)

B. Related Services

Laundry

Gaining access to machines; sorting laundry; manipulating soap containers; reaching into machines; handling wet laundry; operating machine controls; hanging laundry to dry; folding and sorting laundry; mending and ironing. (renumbered as MPP 30-757.134; ACL 06-34E, Appendix B)

Shopping and Errands

Compiling a list; bending, reaching, lifting, and managing cart or basket; identifying items needed; transferring items to home and putting items away; telephoning in and picking up prescriptions; and buying clothing. (renumbered as MPP 30-757.135; ACL 06-34E, Appendix B)

Meal Preparation

Meal preparation includes such tasks as planning menus; removing food from refrigerator or pantry; washing/drying hands before and after meal preparation; washing, peeling, and slicing vegetables; opening packages, cans and bags; measuring and mixing ingredients; lifting pots and pots; trimming meat; reheating food; cooking and safely operating stove; setting the table; serving the meals; puréeing food; and cutting the food into bite-size pieces. (MPP 30-757.131; ACL 06-34E, Appendix B)

Meal Cleanup

Meal cleanup includes loading and unloading dishwasher; washing, rinsing, and drying dishes, pots, pans, utensils, and culinary appliances and putting them away; storing/ putting away leftover foods/liquids; wiping up tables, counters,

stoves/ovens, and sinks; and washing/drying hands. (MPP 30-757, 132; ACL 06-34E, Appendix B)

Note: Meal cleanup does not include general cleaning of the refrigerator, stove/oven, or counters and sinks. These services are assessed under “domestic services.”

(MPP 30-757.132; ACL 06-34E, Attachment B)

C. Personal Care Services

Ambulation

Assisting the recipient with walking or moving from place to place inside the home, including to and from the bathroom; climbing or descending stairs; moving and retrieving assistive devices, such as a cane, walker, or wheelchair, etc. and washing/drying hands before and after performing these tasks. “Ambulation” also includes assistance to/from the front door to the car (**including getting in and out of the car**) for medical accompaniment and/or alternative resource travel. (MPP 30-757.14(k); ACL 06-34E, Appendix B)

Bathing, Oral Hygiene, and Grooming/Routine Bed Bath

Bathing

Bathing (Bath/Shower) includes cleaning the body in a tub or shower; obtaining water/supplies and putting them away; turning on/off faucets and adjusting water temperature; assisting with getting in/out of tub or shower; assistance with reaching all parts of the body for washing, rinsing, drying, and applying lotion, powder, deodorant; and washing/drying hands. (MPP 30-757.14(e); ACL 06-34E, Appendix B)

Oral Hygiene

Oral Hygiene includes applying toothpaste, brushing teeth, rinsing mouth, caring for dentures, flossing, and washing drying hands. (MPP 30-757.14(e); ACL 06-34E, Appendix B)

Grooming

Grooming includes combing/brushing hair; hair trimming when the recipient cannot get to the barber/salon; shampooing, applying conditioner, and drying hair; shaving; fingernail/toenail care when these services are not assessed as “paramedical” services for the recipient; and washing/drying hands. (MPP 30-757.14(e); ACL 06-34E, Appendix B)

Note: Bathing, oral hygiene, and grooming does not include getting to/from the bathroom. These tasks are assessed as mobility under “ambulation services.” (MPP 30-757.14(e); ACL 06-34E, Appendix B)

Routine Bed Bath

Routine Bed Bath includes cleaning basin or other materials used for bed sponge baths and putting them away; obtaining water and supplies; washing, rinsing, and drying body; applying lotion, powder, and deodorant; and washing/drying hands before and after bathing. (MPP 30-757.14(d); ACL 06-34E, Appendix B)

Dressing

Washing/drying of hands; putting on/taking off, fastening/unfastening, buttoning/unbuttoning, zipping/unzipping, and tying/untying of garments, undergarments, corsets, elastic stockings, and braces; changing soiled clothing; and bringing tools to the recipient to assist with independent dressing. (MPP 30-757.14(f); ACL 06-34E, Appendix B)

Care and Assistance with Prosthetic Devices

Assisting with the self-administration of medication; taking off/putting on, maintaining, and cleaning prosthetic devices, vision/hearing aids; and washing/drying hands before and after performing these tasks. (A MPP 30-757.14(i); CL 06-34E, Appendix B)

Bowel and Bladder Care

Assisting with using, emptying, and cleaning bedpans/bedside commodes, urinals, ostomy, enema, and/or catheter receptacles; application of diapers; positioning for diaper changes; managing clothing; changing disposable barrier pads; putting on/taking off disposable gloves; wiping and cleaning recipient; assisting with getting on/off commode or toilet; and washing/drying hands.

Note: This does not include insertion of enemas, catheters, suppositories, digital stimulation as part of a bowel program, or colostomy irrigation. These tasks are assessed as “paramedical” services. (MPP 30-757.14(a); ACL 06-34E, Appendix B)

Menstrual Care

Menstrual care is limited to the external application of sanitary napkins and external cleaning and positioning for sanitary napkin changes, using and/or

disposing of barrier pads, managing clothing, wiping and cleaning, and washing/drying hands.

Note: In assessing “menstrual care,” it may be necessary to assess additional time in other service categories such as “laundry,” “dressing,” “domestic,” “bathing, oral hygiene, and grooming.” Also, if a recipient wears diapers, time for menstrual care should not be necessary. This would be assessed as part of “bowel and bladder care.”

(MPP 30-757.14(j); ACL 06-34E, Attachment B)

Transfer

Assisting from standing, sitting, or prone position to another position and/or from one piece of equipment or furniture to another. This includes transfer from a bed, chair, coach, wheelchair, walker, or other assistive device generally occurring within the same room.

Note: Transfer does not include assistance on/off toilet. This task is assessed as part of “bowel and bladder” care. Changing position to prevent breakdown and promote circulation is assessed as “repositioning/rubbing skin.”

(MPP 30-757.14(h); ACL 06-34E, Appendix B)

Repositioning/Rubbing Skin

Rubbing skin to promote circulation and/or prevent skin breakdown; turning in bed and other types of repositioning; and range of motion exercises which meet the criteria of MPP 30-757.14(g)(1)(2)(A); ACL 06-34E, Appendix B)

Note: Repositioning and rubbing skin does not include care of pressure sores (skin and wound care). This task is assessed as part of “paramedical” services.

Ultraviolet treatment (set up and monitor equipment) for pressure sores and/or application of medicated creams to the skin is assessed as part of “care and assistance with prosthetic devices.”

(MPP 30-757.14(g); ACL 06-34E, Appendix B)

Feeding

Assisting with consumption of food and assurance of adequate fluid intake consisting of eating or related assistance to recipients who cannot feed themselves or require other assistance with special devices in order to feed themselves or to drink adequate liquids. Eating task includes assistance with reaching for, picking up, and grasping utensils and cup; cleaning face and hands; and washing/drying hands.

Note: This does not include cutting food into bite-size pieces or puréeing foods, as these tasks are assessed in “meal preparation services.”
(MPP 30-757.14(c); ACL 06-34E, Appendix B)

Respiration

Respiration is limited to non-medical services such as assistance with self-administration of oxygen and cleaning oxygen equipment and IPBB machines.
(MPP 30-757.14(b); ACL 06-34E, Appendix B)

D. Protective Supervision

Protective supervision is watching people with severe mental impairments so they don't hurt themselves living at home. An IHSS provider may be paid to watch a disabled child or adult to prevent injuries or accidents, when the person needs 24-hour supervision and can remain safely at home if it is provided. It is available for monitoring the behavior of nonself-directing, confused, mentally impaired, or mentally ill persons. MPP 30-757.17.

Protective supervision does not include friendly visiting or other social activities. This service is not available when the need is caused by a medical condition and the form of supervision required is medical. It is not available in the anticipation of a medical emergency. Protective supervision is also not available to prevent anti-social or aggressive recipient behavior. MPP 30-757.172.

Protective supervision may be authorized when the social worker determines that a twenty-four hour need exists and whether you can remain safely in your own home. Social workers also determine that the entire twenty-four hour need for protective supervision can be met through a combination of IHSS, alternative resources. MPP 30-757.172.

The regulations require IHSS workers to discuss with you, or your guardian, conservator, or parent if you are a minor, the appropriateness of out-of-home care as an alternative to protective supervision. MPP 30-757.173.

E. Paramedical Services

Paramedical services are activities that recipients would normally provide for themselves but for their limitations. These services are activities which, due to the recipient's physical or mental condition, are necessary to maintain the recipient's health. These services are provided when ordered by a licensed health care

professional and provided under the direction of the licensed health care professional. The time allowed is based on time indicated by the health care professional. Cal. Welf. & Inst. Code § 12300.1; MPP 30-757.19.

Paramedical services include administration of medications, puncturing the skin, 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. Tube feeding, tracheostomy care and suctioning, catheter insertion, ostomy irrigation and bowel program are considered to be paramedical. MPP 30-757.19(c); 30-756.4; 30-780.1(a)(9); 30-780.2(g). These services are provided by persons who ordinarily provide IHSS and at the same rate of pay as regular IHSS services. MPP 30-757.195.

In order to provide paramedical services, the county must have a signed and dated order from a licensed health care professional. The order must include a signed statement of informed consent saying that the individual has been informed of the potential risks arising from the recipient of the services. MPP 30-757.196; 30-780.2(e); Appendix F – Paramedical Form

F. Transportation Services

Payment is available for the accompaniment by a provider when the recipient's presence is required at a destination and assistance is needed to accomplish the travel. Travel is limited to transportation to and from appointments with doctors, dentists and other health practitioners and for fittings for health related appliances/devices and special clothing where Medi-Cal will not provide transportation. It also includes transportation to sites where the individual receives in-home supportive services from alternative resources in lieu of IHSS. Cal. Welf. & Inst. Code 12300(b); MPP 30-757.15; 30-780.1(b)(5).

G. Restaurant and Meal Allowances²

A person who has adequate cooking facilities at home but whose disabilities prevent their use has an option to receive a restaurant meal allowance in lieu of meal planning, meal preparation, and meal clean up. A recipient who receives a

² This benefit is only available through the IHSS-R and IPW programs. The restaurant and meal allowances benefit is not available under PCSP. Under limited circumstances, you may be able to increase your monthly hours by electing to waive this benefit, which would effectively transfer you from the IPW to the PCSP for more hours. This option is not available if you receive restaurant meal allowances through the IHSS-R program because you are ineligible to receive services under the PCSP due to your limited scope Medi-Cal status.

restaurant meal allowance as part of his/her SSP grant cannot receive a restaurant meal allowance from IHSS. (renumbered as MPP 30-757.133.)

H. Heavy Cleaning

Heavy cleaning involves thorough cleaning of the home to remove hazardous debris or dirt. Generally, this service may only be authorized at the time IHSS is initially granted or where there has been a lapse in IHSS eligibility for over 12 months and services are re-established. Heavy cleaning may also be authorized when living conditions result in a threat to the recipient's health or safety or result in the risk of eviction for failure to prepare one's home for fumigation as required by statute or ordinance. MPP 30-757.121; MPP 30-780.1(b)(6).

I. Yard Hazard Abatement

Yard hazard abatement is light work in the yard which may be authorized for removal of high grass or weeds, and rubbish when this constitutes a fire hazard. This service is also available for the removal of ice, snow or other hazardous substances from entrances and essential walkways when access to the home is hazardous. MPP 30-757.161-2; MPP 30-780.1(b)(7).

J. Teaching and Demonstration

Teaching and demonstration services are 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 covered under the domestic, related, personal care, and yard hazard abatement services categories. Teaching and demonstration services shall be authorized for no more than three months and only when there is a reasonable expectation that there will be a reduction in the need for a specified IHSS service as a result of these services. MPP 30-757.181-4.

K. Respite

Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation. California Welfare and Institutions Code section 12300(f). When the recipient is under eighteen years of age and is living with the recipient's parent(s), IHSS may be purchased from a provider other than the parent(s) for up to eight hours per week for periods when the parent(s) must be absent from because of employment, education or vocational training, unable to perform services because of physical and/or mental reasons or when the parent is absent from the home because of ongoing medical, detail or other health related treatment.. MPP 30-763.444.

Things You Should Know

1. Monthly Limits- Severely v. Non-Severely Disabled

If you are severely impaired, you are entitled to (a) secure your own IHSS or Medi-Cal Personal Care Services provider even in contract agency counties and (b) advance payment so that you may pay your workers rather than waiting for the state computer to pay them afterwards.

To determine whether you qualify as a "severely impaired" recipient, add up the "essential" service categories labeled on the worksheet with an asterisk (See Appendix C). If they total 20 hours or more a week (including services not provided through IHSS)³ you qualify as severely impaired. If you have been determined to need protective supervision, how many protective supervision hours you receive will depend on whether or not you are "severely impaired."

If you are determined *non-severely* impaired and you receive services under the PCSP, you will receive up to 195 hours of protective supervision a month plus any Medi-Cal personal care services up to a maximum of 283 hours per month for all services. If you are not eligible for services under the PCSP program because your provider is your spouse, your parent if you are a minor, you receive advance pay, restaurant meal allowance, then your total hours cannot exceed 195 hours a month under the IPW or IHSS-R programs.

If you are determined to be severely impaired, then your protective supervision hours will be 283 hours per month regardless of whether you are under PCSP, IPW, or the residual IHSS program.

2. Unmet Need

The needs assessment form filled out by the IHSS worker must indicate, among other things, any unmet need for IHSS. (MPP 30-761.274; Appendix G – Needs Assessment Fact Sheet) Unmet need is the difference between the total number of hours for which services are needed and the maximum number of hours for that person. For example, a person needing 12 hours of IHSS-type services per day and who is assessed at 283 hours per month has a total of 77 hours per month of unmet

³ A proper assessment identifies services also provided through alternate resources — such as assistance with bowel and bladder care provided at a day program or school. To determine whether or not someone qualifies as severely impaired, you count both the service hours to be paid through IHSS and service hours provided at no cost to the IHSS program.

needs. (12 hours x 30 days = 360 hours needed per month. 360 hours needed – 283 hours assessed = 77 hours of unmet need.)

In 1992, the State passed a law authorizing a 12 percent across-the-board cut in IHSS services to all recipients which remained in effect for several months. For recipients who had documented unmet needs, the reduction was applied first against the unmet need.

If you have considerable unmet IHSS needs and you are enrolled in one of the Home and Community–Based Services waiver programs administered by DHCS’ In-Home Operations, you have the option of receiving waiver personal care services (WPCS) to help reduce that unmet need. For more information on WPCS, see the section on these services in Chapter 3.

3. Shared Living Arrangements

When you live with a roommate or attendant, the need for domestic, related, and certain other services may be prorated. MPP 30-763.3. The main exceptions are able and available spouses and children recipients under 18 years living with their parents. These exceptions are addressed more specifically in Chapter 3. The following guidelines are used for prorating services based on shared living arrangements:

Domestic Services and Heavy Cleaning

The living area in the house is divided into areas only you use, areas used in common with others, and areas not used by you. No need will be assessed for areas you do not use. The need for services in common living areas shall be prorated to all housemates, with your need being your prorated share. For areas used only by you, the assessment shall be based on your individual need. MPP 30-763.31.

Related Services

When your need is being met in common with other housemates, the need will be prorated to all housemates involved, and your need is your prorated share. When the service is not being provided by a housemate, and is being provided separately to you, the assessment shall be based on your individual need. MPP 30-763.32.

Protective Supervision

The need for protective supervision will be assessed based on your individual need except when you live with one or more IHSS recipients and you both require protective supervision. In that case, the need will be treated as a common need and

prorated. However, if prorating results in one recipient's assessed need going over the maximum hours, the apportionment of need will be adjusted between the recipients so that all, or as much of the common need for protective supervision may be met within the payment and hourly maximums.

No need for protective supervision exists during periods when a provider is in the home to provide other services. MPP 30-763.33.

Teaching and Demonstration

The need for teaching and demonstration services will be assessed based on your individual need, except that when you live with one or more IHSS recipients and you both have a common need, the need will be met in common when feasible. MPP 30-763.34.

Yard Hazard Abatement

The need for yard hazard abatement will not be assessed in shared living arrangements, except when all housemates fall into one or more of the following categories: (1) other IHSS recipients are unable to provide such services; (2) other persons are physically or mentally unable to provide such services, or (3) the other housemates are children under 14 years. MPP 30-763.352.

Transportation, Paramedical, and Personal Care Services must be based your individual need. MPP 30-763.351.

4. Payment for Services

If you are receiving personal care or paramedical services, or are severely impaired, you are not required to accept services from any specific person, unless your guardian, conservator, or parents--if you are a minor—has chosen the provider. Preference is to be given to the provider chosen by you. Cal. Welf. & Inst. § 12304.1; MPP 30-767.3; 30-767.5(a); 30-769.735.

5. Payment Methods

An IHSS provider may be paid by one of four ways: (1) from the state by submission of a timesheet to the county IHSS office; (2) directly from you if you receive advance payment; (3) from an agency contracted by the county; or (4) from the county as a county employee.

Timesheets

IHSS pays providers twice a month. Pay periods run from the 1st of the month to the 15th, and from the 16th to the end of the month.

Timesheets for individual providers are submitted twice a month, on the 15th of the month and at the end of each month. Payment to the provider is usually made within 10 days. Timesheets that are not appropriately signed and dated will be returned to the recipient, which could delay payment to the provider.

Providers for persons receiving advance payment must submit a time sheet only at the end of each month. In each case, you are responsible for signing the time sheet and assuring that the hours and services claimed are what were received during that pay period. If you are unable to sign the timesheet, a person authorized by you can sign on your behalf.

Advance Pay

Advance payment is not available to you if you receive services through PCSP because of federal Medicaid law restricting payment in advance of services being provided.

Under the IHSS Residual and IPW programs, if you are assessed as severely disabled, you have the right to receive advance payment for IHSS services. The county is required to inform, in writing, any potentially eligible person about advance payment. Any amounts advanced will be minus all required employee deductions. After one year of IHSS services, you may choose to receive this payment through electronic transfer. Cal. Welf. & Inst. § 12304(a), (c); 12304.3; MPP 30-701(d)(3); 30-769.73. However, given recent rule changes, you will not be able to receive direct deposit and will also experience a delay in payment if you have a share of cost. ACL 06-13. For further information, see Chapter 6.

The county has a right to stop advance payment to you if you: (1) are using your payment for other than the purchase of authorized services; (2) have not submitted timesheets at the end of each month; or (3) have not paid your providers timely. MPP 30-767.133.

6. Hiring/Firing Providers

If service is provided through a nonprofit consortium contracting with a county or by a public authority established by the county, you retain the right to hire, fire and supervise the work of your IHSS provider. Cal. Welf. & Inst. § 12301.6(c)(1); 12301.6(h).

Attached at the end of this publication as Appendix A is a copy of a DSS publication explaining the process of hiring and firing your IHSS provider. (PUB 104).

7. Rate of Pay

Generally, the rate of pay for an individual provider is the California minimum wage rate, although a county may set a higher rate.

[Cal. Welf. & Inst. Code §12300(h)(2); 12301.6(c)(3); 14132.95(j); MPP 30-765.2]

Payment of a supplement to increase the hourly rate is prohibited.

[Cal. Welf. & Inst. Code §12300(h)(2); 141342.95; 141342.951(g); 42 CFR 447.15] However, if you are receiving the maximum hours, additional help may be paid directly to the provider to address your unmet need. The provider may also be paid directly for time in-between tasks. Others are permitted to pay the provider directly to spenddown your share of cost.

Additionally, persons receiving IHSS hours may often need further assistance in types of services that are not provided by IHSS. These may be in community services, activities outside of the home, learning to ride the bus, facilitating medical appointments, etc. You establish the rate for non-IHSS hours.

Chapter 3 Eligibility for IHSS

Who Is Eligible for IHSS?

A person is eligible for IHSS who is a California resident who is living in his or her own home, and who meets one of the following conditions:

- (1) Currently receives SSI/SSP benefits at the individual rate⁴.
- (2) Medically needy aged, blind or disabled. Cal. Welf. & Inst. Code §14132.95.
- (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 continued to have the physical or mental impairments which were the basis of the disability determination
 - (c) The individual requires assistance in one or more of the areas specified under the definition of "severely impaired individual" Cal. Welf. & Inst. Code §12305.5

(MPP 30-755.1)

- (5) Is participating in one of California's HCBS Waivers through institutional deeming.

Eligibility is determined at the time of application, at twelve month intervals, and anytime information is received about changes in the individual's situation. MPP 30-755.21. An IHSS recipient has responsibility to report any change of eligibility status to the county IHSS office within 10 calendar days of any change. MPP 30-760.14.

⁴ A person who receives the SSI out-of-home board and care rate does not qualify for IHSS. This is considered to be nonmedical out-of-home care. The SSI board and care rate includes care and supervision for that individual. MPP 30-701(o)(2); MPP 30-763.72.

What are the Income and Resources Eligibility Requirements?

You meet the financial eligibility requirements for IHSS if you receive SSI. If your income is too high to be eligible for any SSI, you are still eligible for IHSS with a share of cost representing the difference between your other income less \$20 and the applicable SSI grant level. Please refer to Chapter 6 for more information about meeting your share of cost.

Also, it may be possible for you to be eligible for zero share of cost Medi-Cal (and thus, zero share of cost IHSS) under the A & D FPL program. For more information about the A & D FPL program, go to: <http://www.pai-ca.org/pubs/524401.pdf> and <http://www.pai-ca.org/PUBS/545001.pdf>.

Your personal property may not exceed \$2,000 for an individual or \$3,000 for a couple. Personal property that is not considered in determining your resources includes the home you own and in which you live and one automobile needed for transportation to medical appointments or work.

Am I Eligible for IHSS as an Immigrant?

If an applicant is an alien permanently residing legally in the U.S., he or she may be eligible for IHSS to the extent permitted by federal law. An alien is eligible for services only if he or she has been lawfully admitted for permanent residence, or is otherwise permanently residing in the United States under color of law (PRUCOL). No aid will be paid unless evidence as to eligible alien status is presented. [Cal. Welf. & Inst. Code §§ 11104, 12305.6; MPP 30-770.41; 20 CFR 416.1615(a); 20 CFR 416.1618(b)-(e).]

I Plan on Leaving the State for Some Time. Can I Continue to Receive IHSS?

If a person receiving IHSS is absent from the state for 30 days or longer, it is considered to be a possible change of residence that will affect eligibility. If a person leaves or is leaving the state for 30 days or longer, the county IHSS office must be notified. In some instances eligibility may continue until his or her return, or payment for IHSS may be made out of state. MPP 30-770.42.

Is it Possible to Begin Receiving IHSS Immediately?

If you meet the presumptive eligibility criteria, and you meet the other eligibility criteria, you can receive IHSS under PCSP or the IPW program immediately on an interim basis if you have yet to establish Medi-Cal eligibility. The presumptive eligibility means you do not have to wait until a final decision is made on your Medi-Cal eligibility before your IHSS can start. If, after you start receiving presumptive Medi-Cal, you are told you are not eligible, you can appeal and

continue receiving IHSS (and Medi-Cal) during your appeal. The presumptive eligibility criteria for Medi-Cal are the same as those for SSI⁵.

Under the IHSS-R, a disabled applicant's eligibility for IHSS may be presumed if the applicant is not employed and has no expectation of employment within the next 45 days, and if in the county's judgment the person appears to have a mental or physical impairment that will last for at least one year or end in death. MPP 30-759.31, MPP 30-759.8; MPP 30-761.11.

Am I Automatically Eligible for Medi-Cal if I Become Eligible to Receive IHSS?

No. Not any longer. Under the old system, if you applied for IHSS and were found eligible under the IHSS-R program, you automatically were found eligible for Medi-Cal. Now if you are one of the few people only eligible for IHSS under the original residual IHSS program, you will separately apply for Medi-Cal. The application will be handled by a County Medi-Cal eligibility worker, not by a County IHSS social worker.

If you applied for IHSS covered by Medi-Cal and you were not already a Medi-Cal recipient, the County IHSS social worker would handle both your application for IHSS and your application for Medi-Cal. Now Medi-Cal applications are only handled by County Medi-Cal eligibility workers.

If you qualified for IHSS with a share of cost you received only one notice of action about your share of cost under the IHSS program. Now you will receive two notices of action: one notice of action will come from the Medi-Cal program to tell you your share of cost under the Medi-Cal ABD MN program; another notice of action will come from the IHSS program to tell you your share of cost as a recipient of IHSS. The IHSS share of cost is the amount you have to pay (or incur an obligation to pay) after the state pays the difference between the Medi-Cal maintenance need level and the higher applicable SSI/SSP grant level. DHS ACL 05-21; DSS ACL 05-05.

⁵ Cal. Code Regs. 22 § 50167(a)(1)(C). Cancer which is expected to be terminal despite treatment; paraplegia or hemiplegia; severe mental retardation with an I.Q. less than 50; absence of more than one limb or amputation of a leg at the hip; total blindness or deafness; hemiplegia due to a stroke more than three months ago; cerebral palsy, muscular dystrophy or muscle atrophy with marked difficulty in walking requiring the use of two crutches or a walker or a wheelchair; diabetes with the amputation of one foot; Down's Syndrome with an I.Q. of 59 or below; end stage renal disease requiring chronic dialysis or transplant; or AIDS.

Once I am Eligible, How Far Back Can I Bill Medi-Cal For IHSS Services Already Provided?

Medi-Cal program rules allow applicants to request Medi-Cal coverage for the three months prior to the month of application, if the applicant incurred a cost for a covered health care service in that retroactive month.

One of the requirements of Medi-Cal's three-month retroactivity provisions [22 CCR §50197, §50148] is that the recipient actually receives health care services in the retroactive month. This requirement means the services must have been actually received. An unmet need supported by a subsequent assessment would not qualify for Medi-Cal reimbursement. In addition, because the PCSP program reimburses recipients directly for services received and paid for, proof of payment must be provided in the form of cancelled checks or such similar proof as DHS may require. No reimbursement will be made unless the recipient provides a statement of necessity from a medical provider.

Although it has not yet been made explicit, there is a presumption that the three month retroactive eligibility rule also applies to the IPW program because it too is a Medi-Cal program. Retroactive eligibility under the IHSS-R program is limited to the date of the application for IHSS services.

I Have Just Been Cut Off of SSI Due To Excess Income? Will I Lose My IHSS Too?

IHSS recipients under both the PCSP and IPW programs must not have their cases terminated solely because the recipient is terminated from SSI/SSP. Medi-Cal benefits may not be terminated for recipients if their termination is based upon the discontinuance of their SSI/SSP eligibility (other than individuals discontinued due to death or incarceration.) The law requires, except in certain cases, that the counties evaluate every Medi-Cal case set for termination for possible eligibility on any other basis before any action to terminate Medi-Cal eligibility is taken. *Craig v. Bonta* (ACL 03-03)

This law is inapplicable to persons receiving services under the IHSS-R Program because those individuals would not be eligible for SSI/SSP in the first place.

What Does the State Mean by "Own Home?"

A person's "own home" is defined as the place in which an individual chooses to reside. An individual's "own home" does not include an acute care facility, skilled nursing facility/intermediate care facility, community care facility, or board and

care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his or her own home. MPP 30-701(o)(2).

I Want to Live with My Best Friend who will be My Attendant but My Application Was Denied Due to “Licensing Restrictions.” Should I Appeal?

Yes. Under the Community Care Facilities Act, any facility, place, or building that provides care and supervision or that accepts residents who demonstrate a need for care and supervision must be licensed. Cal. Health and Safety Code § 1500 *et seq.* The Act recognizes that family members who care for physically disabled relatives do not fall within the purview of the Act. Cal. Health and Safety Code § 1505(k). The licensing process is also not required if the housing and “care and supervision is provided by a “close friend” or “significant other.” Grimes v. State Department of Social Services. 70 Cal.App.4th 1065, 1073-4. An otherwise eligible person may not be disqualified for IHSS because he or she chooses to live in the home a friend.

I am Married. Can My Spouse be My Attendant?

If the person with a disability is living with a spouse, the spouse or anyone else may be the paid IHSS provider of non-medical personal care services (see category 4 on the enclosed worksheet form) and paramedical services. If the spouse leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and, as a result, there is a risk of inappropriate, out-of-home placement or inadequate care, the spouse also may be paid to provide protective supervision and to accompany the disabled recipient as necessary to medical appointments. If the spouse is not able or available, these and the other IHSS services may be provided by others. "Not available" includes time when the spouse is out of the home because of work or for other necessary reasons, or when the spouse is sleeping or meeting the needs of other family members.

IHSS FOR CHILDREN

1. Which IHSS Services May Children Receive?

- a. Personal care services (bathing, toileting, dressing, feeding, assistance with ambulation, etc.).
- b. Related services (meal preparation, planning and cleanup, laundry, food shopping).
- c. Paramedical services if prescribed by a doctor (injections, catheters, tube feeding, suctioning).

- d. Protective Supervision (24-hour monitoring and supervision to prevent injury). *See* Chapter 5 for further information.
 - Not routine child care or supervision.
 - Must show difference between disabled child and other children of same age.
- e. No Domestic Services
- f. Theoretically, if the parents are not IHSS providers, they can be authorized at least 8 hours per week of respite when parents are shopping, doing errands, or doing other things for the family.

2. When May Children Receive IHSS?

- a. When disabled and low-income (receipt of SSI means automatic eligibility)
- b. If income too high for SSI, may qualify with share of cost⁶.
- c. If parents are out of the house working, school, training⁷.
- d. If parents are unable to provide care due to disability or illness.
- e. If parents are sleeping or caring for other family members.

3(a). When Can a Parent be Paid as an IHSS provider?

- a. If the parent quit job or can't get a job because he or she must care for the disabled child, AND
- b. If no other suitable care provider is available (willing and able), AND
- c. If the child is at risk of out-of-home placement or inadequate care.
- d. If both the parents live in the home, one parent may get paid when the other parent is working, in school, sleeping, or disabled.

⁶ See if the child would be eligible for zero share of cost Medi-Cal under the A & D FPL program or through institutional deeming under one of the state's HCBS Waiver programs, particularly the DD Waiver if the child is a regional center client.

⁷ *Exception:* Under PCSP, a non-parent provider may provide services to an institutionally deemed child even if the parent is present in the home. (ACL 00-83; ACIN I-28-06.) This is not possible under the IPW, unless the parent of the institutionally deemed child is physically or mentally unable to perform services. MPP 30-763.44; ACIN I-28-06. However, there would be very few (if any) cases of non-parent providers of minor recipients under the IPW as advance payment election would be the only basis for the minor recipient falling within that category.

3(b) What about Parent Providers with Two Parent Households?

IHSS regulations impose additional requirements on parent providers for minors when there are two parents in the household. MPP 30-763.454. Under the regulations, a parent may receive a payment for as an IHSS provider under a two parent household only when all of the following conditions are met:

- (1) the parent provider leaves, or is prevented from obtaining, full-time employment because no other suitable provider is available and the inability of the parent provider to provide services may result in inappropriate placement or inadequate care,
- (2) the non-provider parent is unable to provide the services because he/she is absent because of employment or in order to secure education, or is physically or mentally unable to provide the services, and
- (3) if the non-provider parent is unable to provide the services due to employment or educational purposes, payment shall be made to the parent provider only for services which are normally provided during the periods of the non-provider parent's absence as indicated above.

There have been reported cases where this regulation has been ruled invalid because it exceeds the scope of the statute, which only requires that rule (1) above be met. The cases reason that if the legislature intended to deny payment for services to a child to a parent in a two-parent family, the legislature would have inserted language so providing.

4. I was Told that my Child does not Qualify for IHSS Services Because He is Too Young. Is this True?

No. Age cannot be a controlling factor in determining whether a particular personal care or related service should be authorized. The sole IHSS service limited in this respect is protective supervision, where it is authorized "only as needed because of the functional limitations of the child." Cal. Welf. & Inst. Code § 12300(d)(4). Had the Legislature sought to extend this limitation to personal care and related services for children, it would have included this limiting language as part of those services' descriptions under the statute.

"The starting point for interpretation of a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." Kaiser Aluminum & Chemical Corp. v. Bonjorno, 494 U.S. 827, 835 (1990). Therefore, children are entitled to be

evaluated for personal care and related services just like any other applicant, irrespective of age, under MPP § 30-756.1.

5. I was Told that My Child does not Qualify for Related Services. Is this True?

No. The only limitations regarding IHSS provision for individuals under 18 years old are found at MPP § 30-763.454. While this regulation does, indeed, omit domestic services, it specifically includes provision of related services at subsection (a). Perhaps the county is confusing its actual term “services related to domestic services” under the statute (Cal. Welf. & Inst. Code § 12300(e)(1)) outright with “domestic services” itself.

6. I was Told that My Child does not Qualify for Services Because it is My Responsibility as a Parent to Provide these Services to my Child. Is this True?

Only if your circumstances fall within the description of what the legislature defined as the expected parental responsibility towards the care of a child with IHSS needs. That definition requires parents to care for their children unless the parent provider leaves, or is prevented from obtaining, full-time employment because no other suitable provider is available and the inability of the parent provider to provide services may result in inappropriate placement or inadequate care. Cal. Welf & Inst. Code § 12300(e).

7. Will the Payments A Parent Receives for Providing IHSS Affect the Child’s SSI or the Family’s Medi-Cal?

No. Payments will not affect a child’s SSI because this is considered exempt income under SSI rules. POMS SI 01320.175. When IHSS rules changed to allow Medi-Cal funding for parent providers under the IPW, these payments became income and property exempt under all of the State’s Medi-Cal programs for IHSS provided to children under 21. (ACWDL 05-29, 06-04, 06-19). However, receiving these payments still may affect the family’s welfare grant.

8. Can I Get IHSS and Still Get Respite From the Regional Center?

Yes. Respite services from the regional center are different from IHSS. You should be able to receive IHSS, including protective supervision, without losing any respite hours. Call DISABILITY RIGHTS CALIFORNIA if the regional center tries to cut your respite because you receive IHSS.

IHSS FOR PEOPLE WITH PSYCHIATRIC DISABILITIES

1. Can People with Psychiatric Disabilities Get IHSS?

Yes. IHSS is not just for people with physical or developmental disabilities. People with psychiatric disabilities may also qualify if they need help in order to live in their own home¹ or in the home of a relative.

2. How Can I Show that IHSS is Needed?

Here are some of the reasons why a person with a disability may need help through IHSS or personal care services in order to live in their own home or in the home of a relative or friend:

- a. Need for “prompts”² to get up in the morning and go through tasks such as bathing, grooming, dressing, taking medication, eating. Prompts and assistance in sequencing are terms to describe the help people need in starting a task and in going from one step to another. Because of a person’s disability or the side effects of medication, the person may not be able to do that consistently without someone present to step them through the process.
- b. Similarly, “prompts” may be needed to assist the person in going through the various tasks leading to going to bed at night.
- c. Preparation of meals which a person may not be able to do consistently and safely alone.
- d. Reminders to eat and drink water.
- e. Shopping, cleaning, laundry, menu planning.
- f. Accompaniment to medical and mental health appointments because the person cannot safely drive due to the disability or side-effects of medication, or because the person has problems following through on appointments without assistance.

¹ “Home” may include an apartment you share with other people or a hotel room. You are not eligible for IHSS or personal care services if you live in a board and care or residential facility. *However*, these services may help you move from a board and care to your own apartment or hotel room.

² “Prompts” and “Cuing” and “sequencing” are physical and verbal interventions to overcome a disability barrier to beginning a task, to going through the steps necessary to complete a task, to following the correct sequence in completing tasks or a task. Functional limitations that provide a basis for finding a mental impairment for purposes of qualifying for SSI include “[d]eficiencies of concentration, persistence or pace resulting in frequent failure to complete tasks in a timely manner. . . .” This is from one of the “B” criteria under mental impairment listings 12.01, Appendix 1, Subpart P, 20 CFR Part 404. Other “B” criteria include “[m]arked restriction of activities of daily living” and “...deterioration of adaptive behaviors.”

- g. Need for monitoring and intervention as “protective supervision” because a person may see a harmless, benign situation as one which is personally threatening and one which the person believes requires a response which could cause self injury. In such a case the person may need his attention diverted or redirected, help to see there is no threat, or action to prevent injury.

3. How Can I Document the Need for IHSS?

Workers from the County Welfare Department who process applications for IHSS or personal care services work primarily with people with physical disabilities (in a wheelchair or can't do things because of severe arthritis) or cognitive disabilities (mental retardation or a senior with Alzheimer's). They are not used to applications from people with psychiatric disabilities. That means the county worker will need more help from you and the people helping you in order to understand why you need attendant care help in your home. You will need a letter from your psychiatrist or the social worker at the clinic you go to or the psychologist you see or your case manager -- or anyone else who helps you and knows your needs. The letter should explain the following:

- a. The things you need help with and the kind of help you need.
- b. Why you need that help because of your disability. For instance, the psychiatrist or social worker or psychologist you see can explain that your medications plus your disability make it hard for you to get up on time and go through the other morning steps without help.
- c. How not getting the help you need could mean you are not able to continue living on your own in your own home or hotel room or apartment.
- d. How not getting the help you need could make your condition worse. For instance, without help in getting up regularly every day and in keeping your apartment in order, your day-to-day life could feel chaotic and lead you into a crisis. Without help in providing structure and order in your life, you are at risk of a crisis which could even mean a visit to the emergency room.

4. Where Can I Go for Help Getting IHSS?

If you or the people helping you run into problems getting the attendant care services you need, call Protection & Advocacy at 1-800-776-5746. Ask for an appointment with an Advocate. The right of people with psychiatric disabilities to get the IHSS or personal care services they need to live in their own home is a priority with us.

What are Alternative Resources?

Social services staff must explore alternative IHSS which may be available from other agencies and programs to meet the needs of the recipient. MPP §30-763.61.

While counties may offset the total number of hours authorized to you due to alternative resources, counties are required to consider your alternative resources when assessing your overall need. MPP §30-763.273. This could make a difference in you being categorized as “severely impaired” instead of “non-severely impaired.”

What are Voluntary Services?

If a need for services is assessed and authorized, then with certain exceptions, an individual can legally be paid to perform the services. Any individual who could legally be paid to provide IHSS services can volunteer not to be paid to provide those services. Regulations require counties to obtain a signed Voluntary Services Certification Form from individuals who agree to render voluntarily any compensable services. (ACL 00-28)

If an organization provides a portion of the authorized service, it must be considered as an Alternative Resource rather than a provider. Organizations are funded by other sources and therefore, cannot be paid via the receipt of IHSS funds.

Are Regional Centers & Supportive Living Arrangements considered Alternative Resources?

No. Regional center clients may not be denied IHSS because they receive supported living or independent living services funded by the regional center. Regional center funded services that support consumers in their own homes, such as supported living and independent living services, which are different from or in addition to IHSS, cannot be used as a basis to deny eligibility for or reduce the number of hours of IHSS at any time. (ACLs 98-53 & 98-79.)

The county may not deny eligibility for or reduce the number of hours for IHSS to regional center consumers who receive interim emergency regional center funded services, which are similar to IHSS, on the grounds that the regional center services are “alternative resources,” if the regional center reports that the regional center funded services are being provided until IHSS begins, and the interim regional center services will end when the county begins funding IHSS. The

county must fund IHSS back to the date of application, unless the interim services have been provided at no cost to the consumer.

Both IPP's and ISP's should clearly state which services are interim emergency services that the regional center will fund until IHSS begins and which are supported living or independent living services that the regional center will continue to fund.

Is EPSDT an Alternative Resource?

No, EPSDT should not be considered an alternative resource, and IHSS/PSCP authorized recipient hours should not be reduced because the recipient receives EPSDT services. EPSDT provides supplemental services that are prescribed by medical professionals who established the medical necessity of the services, which is considered distinct from IHSS/PSCP services. (ACL 02-43E.)

Can I Get Multipurpose Senior Services Program (MSSP) Services if I Am Getting IHSS?

Yes. You can get both. If you are currently getting the maximum number of IHSS hours, these hours cannot be reduced if you get some in-home help through MSSP. If you are not getting the maximum number of IHSS hours, any in-home help through MSSP will not affect your IHSS hours. (ACL 03-11.)

Can I Get Services under the Office of Aids' Medi-Cal Waiver Program (MCWP) and Case Management Program (CMP) if I Am Getting IHSS?

Yes. You can be served under all three programs. If you are currently getting the maximum number of IHSS hours, these hours cannot be reduced if you get some in-home help through MCWP and CMP. If you are not getting the maximum number of IHSS hours, any in-home help through MCWP or CMP will not affect your IHSS hours. (ACL 04-16.)

Are Foster Care Payments Considered an Alternative Resource?

Maybe. There have been reported cases where counties have denied eligibility for IHSS because the recipient is receiving a specialized foster care rate payment. The case decisions require the county social workers to conduct needs assessments of the clients and then determine what services the basic and specialized foster care rates benefits are intended to cover before reducing or denying IHSS services based on alternative resources.

Are Adoption Assistance Program (AAP) Benefits Considered an Alternative Resource?

AAP provides a cash benefit to families that adopt special needs children. The purpose of AAP is to remove financial barriers to adoption of children who would not otherwise have the security and stability of permanent homes, while simultaneously achieving substantial savings to the state in foster care costs by reducing foster home care. The amount of the cash benefit is based upon the needs of the child and the circumstances of the family. The latter term includes “the family’s ability to incorporate the child into the household in relation to the lifestyle, standard of living, and . . . the overall capacity to meet the immediate and future plans and needs, including education, of the child.” But AAP benefits are not earmarked to pay for any specific service. Welf. & Inst. Code § 16119(d)(1) and (2). Because AAP funds are not designated for any particular purpose, adoptive parents have broad discretion to spend or retain the funds. In fact, California Code of Regulations, title 22, section 35333, subdivision (f)(2), provides that once the adoption is final, “the adoptive parents shall have the right to use the AAP benefit to meet the child’s needs as they deem appropriate without further agency approval.” Therefore, counties should not consider AAP benefits an alternative resource when authorizing IHSS services.

What about Veterans’ Administration Aid and Attendance Payments?

Pursuant to a court order, VA Aid and Attendance payments cannot be counted as income or treated as an alternative resource. (*Clift v. McMahan*)

Can I receive IHSS in the Workplace?

Yes. All IHSS recipients are eligible to transfer a portion of their current authorized service hours to the workplace if they choose to do so. This includes recipients in all three modes of service delivery for IHSS Residual/PCSP/IPW.

The personal care services are limited to those that are currently authorized for you in your home and those services are to be utilized by you at your place of employment to enable you to obtain, retain, or return to, work. Authorized services you use at your work must be services that are relevant and necessary in supporting and maintaining your employment. Work place services shall not replace any reasonable accommodations required of your employer by the Americans with Disabilities Act or other legal entitlements or third-party obligations. Cal. Welf. & Inst. Code § 14132.955(a); 12300(d).

In addition, income and resource limits under all IHSS programs have not changed, so income you make could affect your program eligibility. If your earnings affect your eligibility or cause you to have a share of cost, counties should evaluate your eligibility for the Medi-Cal 250% Working Disabled Program (WDP) or other

Medi-Cal coverage. The 250% WDP allows an individual to retain income up to 250% of the federal poverty level while still maintaining eligibility for Medi-Cal benefits. (ACL 04-43.) For more information about the 250% WDP, please refer to: <http://www.healthconsumer.org/cs032WorkingDisabled.pdf>

What are Waiver Personal Care Services (WPCS)?

Additional IHSS hours may be authorized under a Home & Community Based Waiver for persons who would otherwise qualify for care in a nursing facility or subacute nursing facility. If you qualify, you can receive more IHSS hours even if you are already receiving the maximum 283 per month to reduce your unmet need. Also, you do not need to be authorized for the maximum amount of hours (195 or 283) in order to receive WPCS.

You may receive WPCS if:

- (1) You have been approved by DHS to receive services through a HCBS Waiver for persons who would otherwise require care in a nursing facility;
- (2) You have doctor's orders that specify that you require waiver personal care services in order to remain in your home;
- (3) You choose to receive waiver personal care services in order to remain in your home.
- (4) Your waiver personal care services and all other waiver services do not exceed the fiscal limit established under the HCBS Waiver.

(ACL 03-24)

For more information about qualifying for supplemental waiver personal care services, go here: <http://www.pai-ca.org/pubs/539201.htm>. If you are temporarily in a hospital or nursing facility, your providers of supplemental waiver services will be paid for up to 7 days.

Chapter 4 Applying for IHSS and the Self-Assessment

When should I apply for IHSS?

If you are moving into a new home, apply on the first day you are in your own home, or as soon as you know where you will be living. Otherwise, apply as soon as there is a need for services provided by IHSS. If you are not already living in your own home, start preparing for the IHSS application when you first decide to move into your own home.

Because receipt of or eligibility for SSI/SSP is often essential to receiving IHSS without a share of cost, now is the time to apply for SSI/SSP if you are not already receiving it. However, if it is more important for you to receive IHSS quickly, apply first for Medi-Cal with your local County Welfare Office. You have a right to a Medi-Cal decision within 90 days but the time limit is often exceeded. If you apply for SSI at the same time you applied for Medi-Cal, the state will not develop the Medi-Cal case but rather will wait for the SSI determination to be made. If the SSI application is denied, the State will automatically deny the Medi-Cal application because at that point the State is prohibited from making a disability determination.

Can I apply for IHSS if I am transitioning from a facility to my home?

Yes, County IHSS workers **MUST** complete an assessment while you are still in a hospital or skilled nursing facility. Otherwise eligible applicants, currently institutionalized, who wish to live in their own homes and who are capable of safely doing so if IHSS is provided, shall upon application receive IHSS based on a needs assessment. MPP 30-755.12

Service delivery will start upon your return home, except that heavy cleaning may be authorized and used in advance to prepare for your return home.

The Department of Social Services issued an All County Letter reminding county welfare departments of their responsibility to conduct assessments of applicants ready for discharge from medical facilities and non-medical out-of-home placements. (ACL 02-68.) This means that the person with a disability and the provider will know from the first day home that the provider will be paid for the services authorized.

If the county says it cannot assess you or take your application while you are in a facility, a fair hearing should be requested. We also believe that if the county refuses to follow the IHSS regulations to assist an individual with a disability move

from an institution to the home, then the county violates the Americans with Disabilities Act. You may file a civil rights complaint with your county welfare department. Call a main or administrative office telephone number and say you want to file a civil rights complaint. Or you may file an ADA complaint by a letter to:

Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118

How do I Apply?

To apply for IHSS, complete an application and submit it to the local county welfare office. To find your local office, look for the closest county welfare office listed under the County Government Section in the telephone book. An application form may be obtained online at: <http://www.dss.cahwnet.gov/pdf/SOC295.pdf>

The application may be done in writing or by telephone either by the individual or through another person on his or her behalf. If done by telephone, a county social services staff member may be given authorization to sign the application. Be sure to state that you are making an application for IHSS and document the date, person you spoke to, etc., in case follow-up is needed. The county is required to accept an application once they are told the purpose of the call or contact. MPP 30-009.22.

The following information is needed when making the initial call:

- (1) Full name of the individual
- (2) Sex
- (3) Social Security Number. If the person is an alien with no social security number, see the *Eligibility Section*
- (4) Telephone number
- (5) Address where the person is living or will be living. This must be the home where the person will receive services
- (6) Date the individual moved in or plans to move in
- (7) Date of birth
- (8) Age
- (9) Ethnicity MPP 30-759.1
- (10) Primary language MPP 30-759.1
- (11) Spouse's name (if married)

- (12) Spouse's social security number
- (13) The name and relationship of any other person that will live in the home⁸.
- (14) Whether others living in the home will apply for or are already receiving IHSS.
- (15) Medical insurance information, Medi-Cal number or other insurance number.

And confirmation of:

- (1) The individual receiving SSI/SSP; *or*
- (2) Eligibility for SSI/SSP, but not receiving SSI/SSP; *or*
- (3) Meeting SSI/SSP eligibility except for excess income.

The county IHSS worker may ask to see confirmation at the time of the home visit. Confirmation may be established by a current SSI/SSP Notice of Determination; a current SSI/SSP benefit check; a current Medi-Cal card; or by IHSS staff verification with the Social Security District Office, or Medi-Cal Eligibility Data System or State Data Exchange screens. MPP 30-755.22

Confirmation of disability and income may be required along with other information. Regional Center case file information may meet some of these requirements. If SSI/SSP has been applied for, some of that information may be used. MPP 30-755.26

Once the application is filed, a home visit will be scheduled for the assessment.

How Long will the Application Process Take?

The application must be processed within 30 days following the application. This includes eligibility determination, the needs assessment and the notice of action.

An exception to the 30-day requirement may be made when a disability determination has not been received within the 30-day period, or the person has not moved into his or her own home. MPP 30-759.2

⁸ A housemate means a person who shares a living unit with a recipient. Live-in provider means a provider who is not related to the recipient and who lives in the home expressly for the purpose of providing IHSS-funded services. Do not call a live-in provider/attendant a roommate as this may cause an error in the assessment of authorized hours for some services. MPP 30-701(h)(2); 30-763.47; 30-701(l)(3).

There have been reports of counties delaying the application process beyond 30 days with no exceptions being present. Some of the delays reported allege that certain counties are claiming that the initial phone call is not part of the application process and that there is a waiting list backlogged for months to apply for IHSS. If you have attempted to apply for IHSS and were told something along these lines by your county, please contact DISABILITY RIGHTS CALIFORNIA as we are interested in hearing from you regarding this matter.

Can I Receive Emergency Services?

Emergency services may be authorized to aged, blind or disabled persons prior to completion of a needs assessment pending a final determination of eligibility if the applicant's needs warrant immediate provision of services. Please refer to the Presumptive Eligibility section in Chapter 3 to see if you would qualify for emergency services. MPP 30-759.8

I am Currently Receiving IHSS. What Will Happen if I Move To Another County?

When an IHSS recipient moves from one county to another, the County Welfare/Social Services Office of each county is responsible for transfer of the case to the new county. It is important to notify the local IHSS office before the move when moving to a different county so the intercounty transfer process can start. There should be no break in funding during this period. MPP 30-701(i); MPP 30-759.9

General Self-Assessment Documentation Principles

A. The assessment

When you first apply for IHSS, at least once per year, and any time you request it, you will have a county assessment. The county worker will come to your home and determine which IHSS services you are eligible for and how many hours you will receive per month. The county must do the assessment within 30 days of your request.

1. How to Measure IHSS Need

e. Statutory and Regulatory Standard

The general standard for measuring individual need for IHSS services (assuming the person with a disability is unable to perform the needed services because of his or her disability)⁹ is set out in Welfare and Institutions Code Section 12300. The

⁹ You are unable to perform the needed services if the performance causes pain.

person with a disability is entitled to receive the services needed to enable him or her (1) to remain safely in his or her own home or in the abode of his or her own choosing, and/or (2) to establish and maintain an independent living arrangement. The time that will be authorized is based on the time it takes your provider to do the tasks authorized. No time will be authorized for services that are solely for the "comfort" of the IHSS recipient. The maximum number of hours is 283 per month.

f. State Time-for-Task Guidelines

There are certain state "time-for-task" guidelines predating the recent changes in IHSS that apply to domestic services and some related services:

- i.* domestic services, 6 hours a month; MPP 30-757-11(k)(1)
- ii.* laundry if facilities are in the building, 1 hour per week; MPP 30-757.134(c)
- iii.* laundry if you have to go outside the building, 1-1/2 hours per week; MPP 30-757.134(d)
- iv.* grocery shopping, 1 hour per week; MPP 30-757.135(g)
- v.* other errands, 30 minutes per week. MPP 30-757.135(e)

Typically, these time-for-task guideline will be reduced if there is more than one person in the household. For instance, in a family of four the disabled person's pro rata share of the domestic services would be 1.5 hours per month.

The regulations recognize that time-for-task guidelines may be used only if appropriate for meeting a recipient's individual circumstance. Below are illustrations about when the guidelines are not appropriate because of individual circumstances.

Newly Expanded Time Per Task Guidelines and Role of Functional Assessments

New regulations effective September 1, 2006, establish guideline ranges of time that may be authorized for personal care tasks and for meal preparation and cleanup unless there is a reason for authorizing more – or less – and the reason is documented in the file. Prior to these regulations, county IHSS social workers did a home visit and determined how many hours a person needed for meal preparation and clean-up and for personal care tasks. Most counties used to use some sort of guidelines for determining the number of hours to authorize for meal preparation and clean up and for personal care tasks even though those guidelines were illegal. Now the county social workers will be using the regulation guidelines and how you are ranked in the functional assessment as a guide when determining the number of hours to authorize for particular tasks. Now if a county social worker determines

you need more – or fewer – hours than those listed in the guideline range, the county social worker is instructed to reevaluate his or her assessment of time needed. If the hours are still outside the range, the social worker must document in the case file why the consumer needs hours outside the range.

Because county IHSS social workers generally have caseloads of 300-500 consumers (depending on the county), the incentive is not to find an IHSS recipient needs more time than that provided in the guideline regulations. It is therefore ***extremely important*** that the consumers and their providers write down in detail the care provided for at least two weeks if possible before the county IHSS social worker comes to make an initial assessment or a reassessment.

With the diary log setting out in detail your daily care needs, you will be able to identify any task where you need more time than that provided in the guidelines and you will be prepared to explain why. If the next visit by the county IHSS social worker is for a reassessment, review the number of hours currently authorized for particular tasks. If the time authorized is outside the range for any task, be prepared to explain your need. Further, some of the time authorized in a particular category may be time that should be assigned to another category. For instance, the time for assistance to and from the bathroom should be included under ambulation but may have been included under “bowel and bladder care.”

The guideline ranges vary by how the person is ranked in terms of the functional assessment. See DSS ACL 06-34E, Appendix B. The guideline range is not expressed in minutes but 10ths of an hour with 30 minutes shown as .50 of an hour. The guideline ranges cover a week so to get the daily amount allowed, divide by 7.

The existing guidelines for domestic services, laundry services, food shopping and other errands are unchanged (though regulation numbers changed) except that the task of wheelchair cleaning and battery recharging was added to “miscellaneous domestic.”

Guideline ranges were adopted for the following services:

- (1) Meal Preparation – 3.02 to 7.00, MPP 30-757.131.
- (2) Meal Cleanup – 1.17 to 3.50, MPP 30-757.132. Meal cleanup does not include general cleaning of the refrigerator, stove, oven, counters, sink which is covered under “domestic services.”

- (3) Bowel and bladder care - .58 to 8.00, MPP 30-757.14(a). Help getting to and from the bathroom is covered under ambulation; to and from commode in same room covered under transfer; enemas, catheters, suppositories, digital stimulation, colostomy and similar tasks are covered under paramedical.
 - (4) Feeding - .70 to 9.33, MPP 30-757.14(c). Cutting up or pureeing food is covered under meal preparation.
 - (5) Routine bed baths - .50 to 3.50, MPP 30-757.14(d).
 - (6) Bathing, oral hygiene and grooming - .50 to 5.10, MPP 30-757.14(e).
 - (7) Dressing & undressing - .56 to 3.50, MPP 30-757.14(f).
 - (8) Repositioning & rubbing of skin including turning in bed - .75 to 2.80, MPP 30-757.14(g). Excludes care for pressure sores (decubiti) which is covered under paramedical services.
 - (9) Transfer including help going from standing, sitting, prone to another position or to or from bed, chair/stairglide/walker, couch, etc., in the same room - .50 to 3.50, MPP 30-757.14(h). Help on or off commode is covered under “bowel and bladder.”
 - (10) Care of and assistance with prosthetic devices (brace, hearing aid, glasses) and assistance with self-administration of medications - .47 to 1.12, MPP 30-757.14(i).
 - (11) Routine menstrual care - .28 to .80, MPP 30-757.14(j).
 - (12) Ambulation including moving from place to place within home, moving or retrieving assistive devices like a walker, cane, wheelchair, assistance from front door to vehicle and from vehicle to medical appointment or alternative resource - .58 to 3.50, MPP.30-757.14(k).
- DSS ACLs 06-34, 06-34E (use updated Attach. B, C, D from 06-34E).

Mental Functioning

Mental functioning is the extent to which the recipient's cognitive and emotional impairment (if any) impacts his or her functioning to perform the physical IHSS tasks. The applicant's mental functioning is evaluated in the functions of memory, orientation and judgment. See Appendix B ACL 06-34E. These factors are also used to determine the need for protective supervision.

Memory

Recalling learned behaviors and information from distant and recent past.

Orientation

Awareness of time, place, self, and other individuals in one's environment.

Judgment

Making decisions so as not to put self or property in danger. Recipient demonstrates safely around stove. Recipient has capacity to respond to changes in the environment (e.g., fire, cold, house.) Recipient understands alternatives and risks involved and accepts consequences of decisions.

g. Diary Log

A key part of preparing for a fair hearing or for an evaluation by the County IHSS worker is a diary log of just what is done each day and how long each task takes. We find that people often do not realize all the tasks involved in care and the length of time the tasks take. For instance, if there are bathroom accidents, the clean-up time (which is part of bowel and bladder care) is not just the time for cleaning, but also the time it takes to take out the cleaning supplies and put them away again. If bodily fluids or bowel movements are involved, you need to include the extra time involved in complying with universal precautions. Further, the time involved in certain tasks may vary from day to day. For instance, it may take twice as long one day to dress a person with spastic quadriplegia cerebral palsy as it does the next day because of differences in limb flexibility. The IHSS authorization will be based on an average time, so it is important to know the range of time a task may take.

2. Doing Your Own Assessment

Before the hearing, complete the IHSS worksheet in Appendix C. The worksheet, like the County assessment form, is based on a one-week period except for the entry for domestic services which is for a month. Hours are calculated in 10ths:

| | | |
|------------------|------------------|-------------------|
| .05 = 03 minutes | .40 = 24 minutes | .80 = 48 minutes |
| .08 = 05 minutes | .42 = 25 minutes | .83 = 50 minutes |
| .10 = 06 minutes | .45 = 27 minutes | .85 = 51 minutes |
| .15 = 09 minutes | .50 = 30 minutes | .90 = 54 minutes |
| .17 = 10 minutes | .55 = 33 minutes | .92 = 55 minutes |
| .20 = 12 minutes | .58 = 35 minutes | .95 = 57 minutes |
| .25 = 15 minutes | .60 = 36 minutes | 1.00 =60 minutes |
| .30 = 18 minutes | .65 = 39 minutes | 2.00 =120 minutes |
| .33 = 20 minutes | .70 = 42 minutes | 3.00 =180 minutes |
| .35 = 21 minutes | .75 = 45 minutes | 4.00 =240 minutes |

$$5.00 = 300 \text{ minutes}$$

We find it easier to do the calculations if you count by minutes and then translate the hours and minutes into tenths. For instance, if the time assisting on and off the commode and holding while on the commode to prevent falls, plus related tasks such as hand washing, averages 6 minutes each time, and the usual frequency is 5 times a day on weekdays when away at school or at training program and 7 times a day on weekends, the weekly time would be $(5 \times 6 \text{ min.} \times 5 \text{ days}) + (7 \times 6 \text{ min.} \times 2 \text{ days}) = 234 \text{ minutes} = 3 \text{ hours } 54 \text{ minutes} = 3.9 \text{ hours}$.

Finally, on a separate piece of paper you need to write down the reasons why you believe you need more IHSS time. To help you, below is a listing of "Reasons Why More IHSS Time Is Needed" that we have seen in individual cases. Some of these reasons may apply in your case.

3. Getting Ready for the County Assessment

The County worker's purpose for the home visit is to determine what an IHSS recipient or applicant can or cannot do for himself or herself and, therefore, what services are needed and the time necessary to perform those services. Your job is to help the County worker understand all your care problems and special care needs and what they mean in terms of time. It is important to be frank and open. Do not minimize your disability problems and care needs because you may end up not getting the hours you need. Even though you may feel embarrassed doing so, it is important to explain things fully so that the County worker understands your situation.

Before the County IHSS worker arrives, we recommend that you fill in the IHSS worksheet in Appendix C with the hours you think you need. Remember, the County is going to authorize only what you really need and will not allow extra time for "comfort" services. An example of a comfort service is extra dusting to make things look nice. You should be prepared to explain your worksheet hours: what tasks are performed, how you determined the time each takes, what special factors need to be taken into consideration, and, if relevant, why the state time-for-task guidelines are not appropriate for your circumstances. You may wish to make a list so that you will not forget anything.

You should be prepared to explain how you determined the hours needed, particularly if there are differences between what the County authorized before and what you believe you need now.

As part of the County's evaluation process, your treating physician will be sent a form asking for information about your capacity for self-care, your functional abilities/disabilities, and — relevant to a determination of the need for protective supervision — your mental condition. If you need paramedical services, a paramedical form will be sent to the treating physician. You should alert the clinic or physician's office that it is coming so that you can participate in the form completion. Preparing for the assessment of protective supervision and paramedical services needs is discussed more thoroughly in Chapter 5.

4. Documenting Special Needs

Get documentation verifying special needs — for instance, a note from your physician explaining that you need a dust-free environment because of allergies or pulmonary/respiratory problems, a note verifying bowel and bladder problems, or a need to have bed linens changed more than twice a month. If you need range-of-motion exercises or other physical therapy, or shots, or catheterization, or suctioning, etc., get the forms from your County IHSS worker for doctor/therapist verification of need and authorization for paramedical services. Have your doctor fill out the Paramedical Consent form at Appendix F.

5. Getting Help

If you need help applying or completing the self-assessment, you should ask a family member, friend, or current provider to assist you if possible. If you are a regional center consumer, you should request that the regional center assist you, or hire someone to assist you, in applying and completing the self-assessment. Such assistance is consistent with the regional center's obligations to provide targeted case management to help you gain access to needed services and to fulfill its requirements under the Lanterman Act in helping you to achieve your goal of living as independently as possible in your own home.

FACTORS OR REASONS INDICATING WHY MORE IHSS HOURS ARE NEEDED¹⁰

1. Domestic Services (see page 1 of the worksheet in Appendix B)

State regulations generally allow only 6 hours per month **per household** for domestic services. When the regulations were issued, the state explained that the 6 hours per month allowance was based on receiving domestic services twice a month.

¹⁰ Thanks to Jennifer Pittam of C.H.O.I.C.E.S.S. for compiling many of these factors.

If four people live in the home, the total IHSS hours allowed for the recipient will be 1.5 hours per month. (If a recipient's roommate lives there only as a live-in attendant, domestic services should not be pro-rated.) The county should pro-rate hours only for common areas of the home - the recipient's own room and/or bathroom should be authorized separately. If the recipient needs more time for domestic services in order to remain safely at home, the county should allow an exception to the 6 hours per month time-for-task guideline. For instance:

- h. Allergy or pulmonary respiration problem indicates a need for a dust-free environment and a need for frequent dusting and vacuuming.
- i. Trash needs to be removed daily, or more frequently than twice a month, because of roach or other vermin problems.
- j. Because the IHSS recipient spills things, frequent cleaning is required, particularly if there are roach or vermin problems.
- k. Incontinence results in a need to spot clean floor, furniture, etc., frequently.
- l. Trash bin is located through a couple of double locked doors at the rear of the building and it takes 10 minutes to get there and back.
- m. Recipient eats in bed. Bed must be vacuumed and remade three times a day to remove crumbs. Bed linens must be changed more frequently because of spills.
- n. Because of recipient's incontinence/accidents, bed linen must be changed more often than twice a month (daily, three times a week, once a week, etc.)
- o. Because of recipient's skin fragility and risk of bed sores or decubiti, sheets need to be kept smooth to prevent the development of hot spots; need to insure that nothing in the bedding rubs or irritates the skin.
- p. Because IHSS recipient drops things, more picking up is required.
- q. Since seal on refrigerator worn out, more time is needed for cleaning and defrosting refrigerator.
- r. Because IHSS recipient spends most of his/her time in bed or because of sweating, sheets need to be changed more frequently than twice a month.
- s. Building-wide roach spraying requires, on a one-time basis, that everything be removed from kitchen and shelves washed and, after spraying, returned. (Time for this is justifiable not only for health and safety, reasons, but also as necessary for establishing and maintaining an

independent living situation since failure to comply may put the recipient at risk of eviction.)

2. Personal Care Services

Personal care services must be assessed on an individual basis. Be sure to count the time for the entire task, from beginning to end.

- t. Bathroom is inaccessible to a wheelchair. This means additional time is required in bathing and other personal care/grooming activities.
- u. Accidents in bathroom requiring extra clean-up in bowel and bladder care.
- v. Recipient is sensitive to pain — even combing hair is very painful. Personal care services have to be performed slowly and carefully.
- w. Recipient eats and chews slowly and has to be coaxed or the jaw manually manipulated. Each meal may take up to 45 minutes for feeding.
- x. Although recipient can feed self, needs attendant available to help lift things, and because of choking problems.
- y. Need to be bathed more than twice per week because of spilling, incontinence, skin problems.
- z. Skin fragile and vulnerable to hot spots which can become bedsores or decubiti; need to insure that nothing is rubbing or irritating skin such as clothing, how placed in wheelchair, etc.
- aa. Need to be shampooed more than once a week due to dandruff, getting food, etc., in hair.
- bb. Need for extra time for communication with IHSS provider (as for a person with cerebral palsy, who must use word and alphabet board).
- cc. Susceptible to respiratory infections so hair must be dried after shampoo.

3. Related Services

- a. Extra time needed in meal preparation and/or menu planning because:
 - i. Recipient needs a special diet — i.e., a diet excluding salt and sugar or requiring fresh foods;
 - ii. Recipient needs to have food cut up or pureed;
 - iii. IHSS recipient needs between-meal liquids and/or snacks.
 - iv. Diet and eating patterns differ from rest of family so meals are prepared separately.
- b. Recipient needs two to three times as much food because of cerebral palsy

with spasticity and therefore needs more time for meal preparation, menu planning and clean-up, shopping and feeding.

- c. Extra time in meal clean-up to clean table, wheelchair, and floor due to spilling.
- d. Extra time is needed for laundry because:
 - i. Extra bed linen and clothing changes are necessary due to incontinence, spilling and the need to rinse before washing.
 - ii. Extra time needed to comply with universal precautions when bodily fluids involved (urine, feces, blood, saliva, mucous, vomit) - i.e.: rinsing, separating from other laundry and washing separately.
 - iii. Need to stay with laundry during wash and dry because of theft.
 - iv. Need to put clothing through an extra rinse cycle because of skin sensitivity.
- e. Extra time is needed for shopping, errands, because of:
 - i. Distance to primary market.
 - ii. Need to go to market more frequently or to go to more than one place because of special diet, need for fresh food.
 - iii. Frequent need to get medication because of Medi-Cal limitations on prescription size, because all medication needs cannot be met at one place.
 - iv. Living in a low-income area, markets are fewer and more crowded meaning a longer wait in line.
 - v. Need to use public transportation and taxis.

4. Transportation Accompaniment

As stated above, the time involved in certain tasks may vary from day to day. The IHSS authorization will be based on an average time, so it is important to know the range of time a task may take. With this in mind, you will want to count your transportation time so as to factor in those times when traffic has been particularly congested on your way to necessary medical appointments and other places where alternative resources to IHSS will be provided.

Further, if you require accompaniment in the waiting room for your medical appointments, that time should also be factored in. IHSS will pay for transportation time to get you there and back but usually not the time while at the

doctor's or clinic. When IHSS does not cover wait time, then IHSS should cover the transportation time for 4 trips: there and back to drop off; there and back to pick up.

Documentation Should Reflect Your Personal Schedule

Historically, time was assessed and guidelines have been based on county contract IHSS providers who do not provide services over the weekend. Of course, you need and are entitled to receive services over the weekend regardless of what it says in the contract between the county and the attendant/homemaker chore agency. Your self-assessment should reflect your individual schedule, including any extra time required on weekends due to a greater presence in your own home during that period.

Similarly, because the assessment is intended to cover your IHSS needs over the course of a year, you should factor in any holiday or seasonal breaks that are observed at alternative resource sites you otherwise attend which will result in more care provided to you in your home during those periods.

Documentation Should Include Alternative Resources

It is important to remember that in developing its needs assessment, the county must include IHSS-type services provided voluntarily or through other sources, including the source and amounts of those services. MPP 30-761.273. Therefore, you should document your self-assessment in the same way. Such careful documentation may help to establish you as a "severely impaired" recipient, which may result in more hours and provide you with the option to elect advance payment if you so choose.

Reassessments

A reassessment is a review of past assessments and the current situation of the person. It may be requested by the recipient, service provider, regional center, family member, or other entity. A reassessment will also be done if the county receives information that the situation of the person has changed.

If the person's situation has changed or shows a need for more or fewer IHSS services than authorized and he or she is not receiving the maximum IHSS hours (195 or 283), document the need and request a reassessment.

Once an individual has been found eligible for IHSS hours based on an assessment of his or her needs, the county has the burden of showing a change in circumstances or medical improvement which justifies a reduction in the previously assessed hours. At a hearing to challenge the reduction, the prior

determination of need would give rise to a rebuttable presumption that the claimant continued to need attendant care services, based on the County's earlier determination. The State through its agent County would have the burden of justifying any reduction based on changed circumstances or medical improvement. If the hearing officer incorrectly imposes the burden of proof on the claimant, this is an effective denial of a fair hearing. Call DISABILITY RIGHTS CALIFORNIA to receive a copy of a memo describing the county's burden.

Chapter 5 Assessing Protective Supervision and Paramedical Services

IHSS PROTECTIVE SUPERVISION

1. What is Protective Supervision?

Protective supervision is watching people with severe mental impairments so they don't hurt themselves living at home. An IHSS provider may be paid to watch a disabled child or adult to prevent injuries or accidents, when the person needs 24-hour supervision and can remain safely at home if it is provided.

2. Why is Protective Supervision Important?

People eligible for protective supervision are always given the maximum number of monthly hours - at least 195 for non-severely impaired individuals and 283 for people who are "severely impaired." They get the maximum even if a county cuts their hours for some other IHSS service.

3. What are the Eligibility Conditions?

- a. A person shows some severe mental impairment; poor judgment (making bad decisions about health or safety), confusion/disorientation (wandering off, getting lost, mixing up people, days or times) or bad memory (forgetting to start or finish something). Such impairments may occur with mental retardation, autism, Alzheimer's and dementias, psychiatric disabilities. *Tip: The best way to show severe impairment is by examples of what the person does that may cause injuries. Get supporting statements from anyone who looks after the person.*
- b. A person may get hurt if left home alone (i.e., wandering out of the house, letting strangers in, turning gas on a stove, lighting fires, leaving water running, eating wrong foods or inedible things, head banging, self-biting, scratching, using knives or other sharp household objects). *Tip: Keep a log to describe all the potential accidents that would happen if the person were not supervised.*
- c. A person must be supervised 24-hours a day (friends or relatives living at home, teachers in school or day program, and drivers of car or bus). *Tip: Keeping a daily log will show that the dangerous behaviors can occur at any time of day or night. It will also show when the caregiver provided protective supervision to prevent injuries or accidents.*

- d. Protective supervision is not available:
 - i. For friendly visiting or social activities.
 - ii. When the need is caused by a medical condition *and* the person needs medical supervision.
 - iii. In anticipation of a medical emergency.
 - iv. To control anti-social or aggressive behavior.

4. Can Children Get Protective Supervision?

Yes, but the child must need supervision due to his or her disability, not routine childcare. The child must need closer supervision than other children of the same age. Counties are required to follow specific procedures when assessing a child’s need for protective supervision. For further discussion, see section below on “Assessing Protective Supervision for Children.”

5. How Can I Show that a Person Needs Protective Supervision?

- a. Make a list of every accident or near accident in the past six months.
- b. Keep a log for two weeks that describes every action the person takes that might cause injury, and how often it happens (i.e., walks into the street without looking, turns on the stove, and forgets to turn it off.)
- c. Get doctors' letters and help from the regional center to discuss the person's age and equivalent functioning level, and describe how the person has poor memory, judgment, confusion, or disorientation.
- d. Show how the house can't be made completely safe for a person.

6. County Excuses and How to Answer Them.

Counties come up with many common excuses for telling someone they are not eligible. Here is a list and some ways to refute them.

| County excuse | Some responses |
|---|--|
| Is there a severe mental impairment? | |
| Severe mental impairments not observed on home visit. | Your daily log, doctor's statement, regional center records; home visit too short, observed behavior and didn't answer guidelines questions; Form SOC 293, Line H shows 5 for one mental |

| County excuse | Some responses |
|---|---|
| | impairment. |
| Needs protective supervision because of physical impairment, not mental impairment. | Because of mental impairment does not understand physical impairments, does not understand or appreciate consequences of actions on physical impairments - i.e., tries to get up or walk without assistance when cannot do so without risk of injury, will eat sweets even though risks injury because of diabetes, will try to remove bandage or tubing or brace because it hurts or is irritating, etc. |
| Physical impairments cause dangerous behavior. | Mental impairments also cause it; not required to show mental is only cause. |
| Is there dangerous behavior at home? | |
| Formal diagnosis of mental condition doesn't prove need. | Doctor's statement of typical behavior for person with that diagnosis. |
| No injuries in the recent past. | Recipient was well supervised. |
| No evidence of dangerous behavior on county worker's home visit. | Frequency not hourly; missed day before and after; can't generalize from one hour to 24 hours in a day. |
| "Complete" physical paralysis prevents recipient from doing anything dangerous. | Any purposeful action that is dangerous, pulling out catheter, G-tube, etc. |
| Aggressive and antisocial if hits someone or destroys property. | <p>In adults: self-injurious acts like biting oneself, head banging, destroying property causes self-injury, are common for psychiatric or mental condition.</p> <p>In children: normal behavior is often aggressive and anti-social.</p> |

| County excuse | Some responses |
|--|---|
| Is 24-hour supervision needed and received? | |
| Doesn't need 24 hours because unsupervised - like on the bus, in a car. | Always supervised, bus/car are controlled settings with adult driver. |
| Recipient is sometimes left alone so not supervised 24 hours. | Can't afford it, someone looking in, lucky no accidents, recipient's condition has worsened. |
| Needs physical redirection, not just watching or verbal command. | Supervision includes redirection, some intervention. |
| Family discourages independence overprotective of mildly retarded. | More independence caused injuries or near accidents in the past; others (regional center doctor) recommend 24-hour supervision. |
| Change environment to remove risks: knobs off stove, lock up tools; brace wheelchair, strapping in wheelchair; knobs off hot water; higher bed rails against night wandering; bolt down furniture. | Can't make all changes; others turn home into a nursing home or jail cell; the older the recipient, the less change possible without losing distinctive features of home. |
| Child plays outside with no adult supervision. | Fenced in yard; can't climb out; no hazards in yard. |
| Children always need to be supervised by an adult. | Parents not always physically within sight of children without mental disability; child needs much more supervision than child of same age. The younger the child, the more severe the behavior must be. Most difficult for children under 2. |
| Go to a behavior parenting class. | Won't solve underlying behavior, have gone and unsuccessful, will go but need it until proven. |

| County excuse | Some responses |
|--|---|
| Other Issues Is the recipient no longer eligible? | |
| County improperly granted protective supervision; reassessment shows no eligibility termination notice. | No change in SOC 293, Line H, on mental function rankings; no change in recipient's home or physical condition, appeal immediately to keep IHSS until decision. |
| Is the parent eligible as a provider (able and available)? | |
| Parent can work full time (40 hrs/wk) by putting child in after school daycare (able and available parent rule). | No suitable day care, can't hire baby-sitter for minimum wage, child needs special stimulation from parent. |
| Parent works less than 40 hours but can work full time. | Frequent trips to doctor, other emergencies, stress, prevent full time work, lost prior full time jobs. |

Assessing Protective Supervision for Children

As a result of a court settlement, all counties are required to assess children for protective supervision according to specific procedures. (ACL 98-87.) Among the procedures, the settlement requires that:

- (1) County social workers must advise parents or guardians of a minor with a mental impairment of the conditions for receiving protective supervision.
- (2) County social workers must advise parents or guardians of the availability of protective supervision. A parent or guardian does not have to specifically request this information.

In assessing the minor's need for protective supervision, if the minor has a mental impairment the county must:

- (1) Request that the parent or guardian obtain available information or documentation about the minor's mental impairment, including records from regional centers;

- (2) Determine whether a minor needs more supervision because of his/her mental impairment than a minor of the same age without such impairment;
- (3) Not deny protective supervision based solely on the minor's age;
- (4) Not deny protective supervision based solely on the fact that the minor had no injuries at home due to the mental impairment so long as the minor has the potential for injury by having the physical ability to move about the house (i.e. is not bedridden);
- (5) Not deny protective supervision solely because the parent (or guardian) leaves the child alone for some fixed period, like five minutes;
- (6) Consider factors such as age, lack of injuries and parental absence, together with all other facts, in determining whether a minor needs protective supervision.

If you applied for IHSS on behalf of your child and were not authorized protective supervision and the county social worker did not follow all of these procedures despite your child's mental impairment, you should appeal the county's decision.

Protective Supervision Forms

New forms have been put out by State to be filled out by the doctor or psychologist or therapist to verify need for protective supervision and that the need for protective supervision is because of a mental impairment. These forms are located at Appendix C and D at the end of this publication¹¹.

Appendix C is SOC 821 (3/06). The explanation after the address block is confusing so make certain the doctor is not confused regarding section (1), the risk of injury may be related to a physical condition such as hemiplegia from a stroke but the need for protective supervision is because the mental impairment means the IHSS recipient does not understand what he can or cannot do. Without protective supervision the recipient would be at risk of injury from trying to do things beyond his capabilities. Regarding section (3), an IHSS recipient may need protective supervision because of a medical condition (Alzheimer Syndrome, stroke, brain injury), and is entitled to get it unless the intervention is medical – i.e., something that would be done only by a nurse if in a medical facility.

¹¹ All IHSS forms can be found at http://www.dss.cahwnet.gov/cdssweb/FormsandPu_271.htm. The forms can be filled out on line and then printed (even though the filled in version cannot be saved on line.)

Appendix D is SOC 825 (6/06). This form is to be filled out to show how the around-the-clock protective supervision will be provided. Note that the regulations say protective supervision may be met in part by a “reassurance phone service when feasible and appropriate.” *But see* next section.

Recent “Emergency Regulations” Threaten to Change How Protective Supervision will be Provided in the Future

DSS recently instituted “emergency” regulations that amend the existing protective supervision regulations, including the definition of the service itself. If ultimately implemented, these regulations will cause multiple changes in the way protective supervision has been authorized for many years. Some of the main concerns regarding the changes include:

- (1) The definition of protective supervision replaces “monitoring” with “observing” and “intervening as appropriate.”
- (2) Protective supervision no longer may be provided in part with reassurance phone calls when feasible and appropriate.
- (3) Protective supervision will not be available “to guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself.”
- (4) The new SOC 821 form can only be signed by a medical professional with a “medical specialty or scope of practice in the areas of memory, orientation, and judgment.”
- (5) In determining whether a 24-hour need exists for protective supervision, the sources of information the county social worker may draw upon in determining the need does not explicitly include consumer testimony and family and provider observations.

DISABILITY RIGHTS CALIFORNIA and other legal organizations are strongly opposed to DSS’ attempt to change these rules without meaningful public input. Generally, when a government agency seeks to propose changes to its regulations, it must follow a specific procedure that allows the public enough time to review and provide comment on the proposed changes, unless the changes are required due to an “emergency” situation. DISABILITY RIGHTS CALIFORNIA and others believe DSS has exceeded its authority in declaring these changes to be of an emergency nature while treating all the other recent changes under IHSS in a non-emergency nature, which allowed for meaningful input from stakeholders on how those rules were finalized.

IHSS PARAMEDICAL SERVICES

1. What are Paramedical Services?

Paramedical services are prescribed by a doctor for a person's health and require some training and judgment to perform. Common services are injections, colostomy irrigation, catheter insertion/care, suctioning, G and NG tube feeding, ventilator and oxygen care, fecal impaction, range of motion to improve function, wound/decubitus ulcer care and other services requiring sterile procedures.

Biggest problem: Providers don't ask for enough time to complete the entire service, from preparation to clean up. Providers don't ask for the extra time that may be required for record keeping – such as for diabetes testing and administration of injections.

2. Why are Paramedical Services Important?

People who need complex medical care can stay at home instead of going into nursing homes. Only doctors decide what services the county must provide and how many hours it must pay for. The county can't cut the services hours ordered by the doctor. Providers don't need any special license to perform the services.

3. What are the Eligibility Conditions?

- a. The doctor completes and signs an order for services with hours required: The recipient's doctor decides on all the eligibility conditions by signing the order prescribing the services and hours.
- b. The person can't perform the service at all: Some mental or physical impairment prevents the person from doing the service, like giving an injection or changing a catheter.
- c. The service requires training and judgment to perform: The provider gets training from the doctor or other health professional in what steps to take and how to do each one to complete the service. The steps require careful observation of the recipient to avoid mistakes.

4. How Should I Apply for Paramedical Services?

First talk with the treating doctor or the health professionals that work with the doctor about what services are needed and each and every step to perform them properly. If available, the doctor's plan of treatment may also be a good source for listing what paramedical services you may require. Then keep a daily log for a week about how often each service is performed and how long it takes to complete, from the preparation through cleanup. Give the hours information to the doctor to complete Form SOC 321.

When your doctor's office fills out paramedical form SOC 321 (11/99), make certain the time allowed includes preparation, cleanup and compliance with universal precautions. Universal precautions include the hand washing and/or use of gloves or mask whenever you touch bodily fluids and waste (urine, feces, blood, vaginal secretions, semen, pus, saliva) or handle laundry or clothing or other things soiled with bodily fluids or waste. MPP 30-757.1(a)(1)(A)1. Form SOC 321 is attached here as Appendix E.

5. County Tactics and How to Respond to Them.

Counties use several tactics to deny or change the services doctors have authorized. There are ways to stop them from working.

| County tactics | How to respond |
|--|---|
| County tells you that some service may not be allowed as a paramedical service. | Discuss the service with doctor. Explain that any service billed as skilled nursing under Medi-Cal/Medicare qualifies. Doctors generally know what these are. |
| County tries to persuade doctor to change the order for services or hours. | Consult with doctor first and get approval of hours based on your log, discuss your conditions and the need to preserve the doctor-patient relationship from outside interference. Explain that the doctor's decision on a signed Form 321 is final and the county must comply. |
| County nurse observes one day and bases lower hours on her observations and calls doctor. | Log shows that time varies; average time greater than day of observation. |
| Home health agency will provide, apply there first. | Not alternate resource since home health agency provides time-limited services. |
| Range of motion is a personal care service for which county decides eligibility and hours. | When the doctor prescribes range of motion to also improve and maintain function at the same time, it is a paramedical service. |
| County denies monitoring for providing some specific paramedical service. | Doctor prescribes monitoring in order to provide the service. To date the state has never allowed monitoring (continuous |

| County tactics | How to respond |
|-----------------------|--|
| | <p>skilled observation) as a paramedical service. For help, call DISABILITY RIGHTS CALIFORNIA for its 12/30/94 memo on the subject. If the interventions to provide the service are frequent, the total hours may equal the maximum hours (283).</p> |

Chapter 6 Share of Cost Rules

What is a Share of Cost?

If you are eligible for SSI/SSP except for excess income and the total income is insufficient to provide for the cost of care you need, you qualify for IHSS but your excess income is the your share of cost (SOC) if you also do not qualify under the A & D FPL program. Non-payment of your SOC will cause you to become ineligible for IHSS.

For IHSS recipients whose countable income after allowable deductions is above the A&D FPL ceiling¹² and who therefore qualify for Medi-Cal under the ABD MN program, the State pays part of the share of cost so that IHSS recipients pay down to the SSI/SSP grant level rather than down to the lower maintenance need allowance (\$600 for individuals and \$934 for couples) under the ABD MN program. Before, the State would pay for part of the share of cost only if you met your share of cost by paying your IHSS providers. That has changed so that now you can pay (or incur an obligation to pay) for any needed service including health plan premiums and services that may not be available under Medi-Cal (like extra physical therapy). At the time the provider is to be paid for the first half of the month, your records will be checked so that any unused share of cost will be counted then. Both you and the provider will get a notice about that month's share of cost, if any. DSS ACL 06-13; DHS ACL 05-21. This process is explained more thoroughly below.

A Recap of the IHSS Programs

Individuals are eligible for IHSS services under one of the following three programs if they meet the listed eligibility requirements:

1. PCSP (Personal Care Services Program)

Eligible for Federal Financial Participation (FFP) Medi-Cal, and

1. Does not receive advance pay;
2. Does not receive the restaurant meals allowance; and
3. Does not have a spouse provider, or (if under age 18) a parent provider.

¹² That ceiling in 2006 is \$1047 and goes up in April of each year. For more information about the A&D FPL program: <http://www.disabilityrightsca.org/pubs/545001.pdf>

2. IPW (Independence Plus Waiver)

Eligible for FFP Medi-Cal, and

1. Receives advance pay;
2. Receives the restaurant meals allowance; or
3. Has a spouse provider, or (if under age 18) a parent provider.

3. IHSS-R (IHSS Residual Program)

Not eligible for federally-funded Medi-Cal. but meets all other IHSS program requirements.

The IHSS program that an individual is assigned to depends on the availability of FFP for the services under the Medi-Cal program. (FFP for services that meet federal requirements is usually about 50% in California.) Full FFP is available for PCSP services because PCSP services meet all federal requirements for FFP. FFP is also available under the IPW. This is because the following federal rules that ordinarily prohibit FFP have been waived:

1. Ordinarily only medical vendor payments are allowed—payments cannot be made directly to beneficiaries.
2. Payments for food, clothing or shelter cannot be made for individuals who are not in the hospital or a medical institution.
3. Payments cannot be made for personal care services if the provider is a relative of the beneficiary.

FFP is not available for IHSS-R services because IHSS-R recipients are not eligible for federally-funded Medi-Cal.

The services provided under each of the three programs are the same except for some differences under the PCSP program. The most important difference under the PCSP program is that a non-severely impaired individual can receive up to 283 hours per month of services under the PCSP program, rather than the maximum 195 hours per month of services allowed under the IPW and IHSS-R programs for a non-severely impaired individual. However, payment for protective supervision has been limited to 195 hours per month for non-severely impaired individuals under all three programs. (There is no legal authority for limiting protective supervision to 195 hours under the PCSP program.)

Eligibility for IHSS is determined according to W&IC § 12300, et seq., W&IC § 14132.96, and MPP § 30-750, et seq. (all programs); W&IC §§ 14132.95, 14132.955, and MPP § 30-780 (PCSP); and W&IC 14132.951 (IPW). (Note: The MPP 30-780 provisions are somewhat out of date now that individuals who meet PCSP eligibility standards can also receive, under the PCSP program, protective supervision, and domestic and related services only.)

Medi-Cal Share of Cost

Medi-Cal SOC is the monthly amount Medi-Cal requires you to pay each month, or requires you to agree to pay in the future, for medical goods and services before Medi-Cal begins to pay. You may meet your SOC by paying for, or by agreeing to pay for, medical goods and services. You may meet your SOC by paying an old bill, or by presenting an old bill you are obligated to pay. You can meet your SOC by paying for or agreeing to pay for services and equipment Medi-Cal would not cover if Medi-Cal were paying.

Medi-Cal is designed to be an income-maintenance program as well as a medical care reimbursement program. It is designed to pay for medical expenses so that beneficiaries can use the income that they have for food, clothing and shelter. The program does this by providing Medi-Cal without a SOC to individuals who receive SSI/SSP. People who have incomes in excess of the SSI/SSP benefit payment level (BPL) can still receive Medi-Cal but they have a SOC. People have to incur their SOC for MRE or Medi-Cal Recognized Expenses (medical expenses that are covered or not covered by Medi-Cal, and that are paid or obligated by the beneficiary) before Medi-Cal will begin to pay for medical expenses.

The monthly SOC for Medi-Cal is called “Spendedown.” This is the amount a beneficiary has to spend for medical care before Medi-Cal will begin to pay. The term “spendedown” is also used to describe spending down of excess countable resources (\$2,000 for an individual and \$3,000 for a couple) in order to qualify for Medi-Cal. It is important not to confuse income spendedown and resource spendedown.

You might think that beneficiaries who have a SOC for Medi-Cal would only have to spend down to the SSI/SSP BPL in order to obtain Medi-Cal coverage. After all, this would leave non-SSI/SSP recipients the same amount of money for food, clothing and shelter that SSI/SSP recipients have.

However, Medi-Cal SOC does not work that way. Medi-Cal has a uniform method for determining share of cost that is based on a percentage of the old AFDC amounts. This means that beneficiaries with a Medi-Cal SOC have to spend down *below* the SSI/SSP level before Medi-Cal will begin to pay for medical expenses.

The amount that Medi-Cal beneficiaries with a SOC have to spend down to is \$600 per month for an individual. This is the MNIL or Medically Needy Income Level. (For purposes of this publication, we will ignore various exclusions and deductions from income in order to simplify calculations.) The SSI/SSP BPL is approximately \$800 per month, which is approximately \$200 per month higher than the MNIL. (For purposes of this publication, we treat it as being \$800 per month in order to simplify calculations.) Therefore, a Medi-Cal beneficiary with a SOC will have \$200 less in monthly income for food, clothing, shelter and other expenses than an SSI/SSP recipient, if the beneficiary meets his or her Medi-Cal SOC for the month. This is because the Medi-Cal MNIL is \$200 less than the SSI/SSP BPL.

IHSS Share of Cost

Under the IHSS-R program, individuals have an IHSS SOC that requires them to spend down only to the SSI/SSP BPL. However, all of this amount must be paid to the IHSS provider and none of it can be used for incurred medical expenses. These individuals are then supposed to receive state-only Medi-Cal with zero share of cost. Therefore, IHSS-R recipients have a lower share of cost than other Medi-Cal beneficiaries and are supposed to avoid a double share of cost for both IHSS and Medi-Cal.

This system was reversed for FFP Medi-Cal beneficiaries when the PCSP program came on line and Medi-Cal began paying for some IHSS services. When some IHSS services were moved into the PCSP program so that FFP could be obtained, individuals had to qualify for Medi-Cal before they could qualify for IHSS. These individuals had to meet the higher Medi-Cal share of cost rather than the IHSS share of cost.

Buy-Out

In order to equalize the SOC for all IHSS recipients, DSS and DHS came up with something they call “Buy-Out.” Buy-Out means that DSS pays DHS the difference between the Medi-Cal and the IHSS SOC every month so that

PCSP beneficiaries will have the same SOC under Medi-Cal that IHSS recipients have under the IHSS-R program.

Using the example of a MNIL of \$600 and an SSI/SSP BPL of \$800, the Buy-Out amount would be \$200. If an individual has monthly income of \$900, they would have a Medi-Cal share of cost of \$300 (\$900 minus the MNIL of \$600) or an IHSS-R share of cost of \$100 (\$900 minus the SSI/SSP BPL of \$800). If DSS pays DHS \$200 at the beginning of the month towards the beneficiary's Medi-Cal SOC, the remaining Medi-Cal SOC is \$100—the same as the IHSS-R SOC. Therefore, the Buy-Out amount is designed to equalize the Medi-Cal and the IHSS-R SOC by making an up-front payment of about \$200 per month toward the Medi-Cal SOC.

In order to implement the Buy-Out system, the CWD will send two eligibility notices of action to the beneficiary. One will be a Medi-Cal eligibility notice of action showing the Medi-Cal SOC. The other will be an IHSS notice of action showing the IHSS SOC. If the IHSS SOC is less than the Medi-Cal SOC, the difference between the SOC's will be the Buy-Out amount.

New Share of Cost System

The new SOC process is described in ACLs 05-35, and 06-13. The new system is more complicated than the old system because share of cost for IHSS services for recipients who also receive federally-funded Medi-Cal (PCSP and IPW) must be combined with other Medi-Cal recognized expenses.

The counties do this by using the IHSS computer system as a point-of-service (POS) system for inputting IHSS share of cost information in much the same way that a doctor or pharmacist providing Medi-Cal services inputs Medi-Cal share of cost information.

The new system is mostly positive because:

1. Medi-Cal recognized expenses (MRE), in addition to IHSS provider wages, can now be used to incur Medi-Cal share of cost for IHSS recipients.
2. If other MRE (other than IHSS provider wages) are used to meet share of cost for Medi-Cal, the IHSS recipient can receive a full IHSS payment notwithstanding the IHSS share of cost.

Under the old IHSS SOC system, the IHSS SOC was calculated and deducted from the check to the provider. The IHSS recipient was then responsible for payment of the SOC to the provider.

This system is still in place, but it is more complicated because other Medi-Cal MRE in addition to IHSS provider wages can now be used to reduce SOC. Therefore, the SOC payable to the provider may be less than the total IHSS SOC but it will never be more.

Another way of putting this is that there is now only a single Medi-Cal SOC for PCSP and IPW beneficiaries rather than a single IHSS SOC. Wages paid to the IHSS provider are a Medi-Cal MRE the same as a payment to any other provider such as a pharmacist or doctor. Therefore, wages paid to an IHSS provider are added together with payments to doctors, pharmacists and other Medi-Cal or non-Medi-Cal providers, for MRE, in order to determine if the Medi-Cal SOC has been incurred (paid or obligated). Once the total Medi-Cal SOC has been incurred, the beneficiary can receive Medi-Cal (and IHSS) with no SOC.

How the New Share of Cost System Works

Acronyms and terms you need to know:

MEDS (Medi-Cal Eligibility Data System)

AEVS (Medi-Cal Automated Eligibility Verification System)

The way this unified Medi-Cal SOC works is that all providers (except the IHSS providers) input SOC data into MEDS to show that SOC has been paid or obligated. Ordinarily, a provider will swipe the Medi-Cal beneficiary's BIC card in order to look up SOC data on a system called AEVS. This system tells the Medi-Cal provider how much the total SOC is, and how much of the SOC has not yet been paid or obligated (remaining SOC). The Medi-Cal provider then knows whether to bill the beneficiary or bill Medi-Cal for the service. If the Medi-Cal provider bills the beneficiary, the amount billed is input and shows up in MEDS as part of the incurred SOC.

If a Medi-Cal beneficiary receives MRE from a non-Medi-Cal provider, or receives MRE that are not reimbursable by Medi-Cal, the beneficiary must take receipts to the County Welfare Department (CWD) Medi-Cal eligibility

worker and have the information entered into MEDS. This part of the process has not changed.

Obviously, the CWD cannot swipe the BIC card in order to determine how much SOC remains and must therefore be paid by the IHSS recipient to the IHSS provider. Instead, the CWD looks up the remaining SOC in the MEDS system when processing the timesheet. This remaining SOC is then deducted from the check to the provider instead of the full IHSS SOC, as was done under the old system.

Therefore, under the new system, the SOC deducted from the check to the provider can be less than the full IHSS SOC depending on what the MEDS system shows. If the IHSS recipient has not paid or obligated any SOC, the deduction from the provider check will be the full amount of the SOC (prorated because of two monthly IHSS payments). If the IHSS recipient has paid or obligated SOC for MRE, the SOC deduction from the check will be the remaining SOC.

When the CWD determines the actual IHSS SOC and deducts that amount from the check, the system generates two notices of action. One notice is sent to the IHSS provider telling the IHSS provider how much to collect from the IHSS recipient. The other notice is to the IHSS recipient telling the IHSS recipient how much the IHSS recipient must pay directly to the IHSS provider.

Potential Problems with New Share of Cost Rules

No Apparent Retroactive Processing of Buy-Out Amounts

The main problem with this system is that there may be a delay in Medi-Cal provider MRE information showing up in the MEDS system. If the IHSS SOC is deducted from the paycheck before the other MRE information shows up in the system, the beneficiary will have to pay more than his or her Medi-Cal SOC for both Medi-Cal MRE and IHSS services. Apparently, there will be no retroactive SOC adjustments to correct this. Buy-Out information will be processed between the 24th and 28th of the month. If there is a glitch in the system so that the Buy-Out is not processed, the beneficiary will be responsible for the entire Medi-Cal SOC for the month.

No Proration of Share of Cost Deductions among Multiple Providers' Checks

Under the new system, the first timesheet processed will result in the SOC deduction from that provider's check. If you have more than one provider, SOC will not be prorated among the various provider checks.

Delays and Elimination of Direct Deposit In Advance Payment

Under the new system, advance pay with SOC checks will be processed manually. Processing must be done on or after the first of the month. Therefore, there will be a delay in receiving the advance pay check. Direct deposit will no longer be available for advance pay checks.

Possible Ways to Avoid a Share of Cost

One thing to consider in all of this is that Medi-Cal beneficiaries who qualify for the A&D FPL Medi-Cal program will not have a SOC for Medi-Cal. Individuals currently qualify for the A&D FPL program if they have incomes of less than approximately \$1,047 per month. Therefore, only individuals with incomes of more than \$1,047 per month must spenddown to \$600 per month in order to qualify for Medi-Cal! For more information about the A & D FPL program, go to: <http://www.pai-ca.org/pubs/524401.pdf> and <http://www.pai-ca.org/PUBS/545001.pdf>.

If you have a SOC due to community deeming rules based on your spouse's or parents' income if you are minor, you should see whether you can qualify for a HCBS Waiver, such as the DD Waiver, under institutional deeming rules. Once you are eligible for participation in a HCBS Waiver, you will automatically have zero share of cost.

If your earnings cause you to have a share of cost, you may wish to have your Medi-Cal program converted from the ABD MN to the 250% Working Disabled Program (WDP). The 250% WDP allows an individual to retain income up to 250% of the federal poverty level while still maintaining eligibility for Medi-Cal benefits. You will have a monthly premium based on your income but it will be considerably less than your monthly SOC if you remain in the ABD MN program. For more information about the 250% WDP, please refer to: <http://www.healthconsumer.org/cs032WorkingDisabled.pdf>

Potential Problems with IHSS and Medi-Cal Co-Administration

Acronyms and terms you need to know:

CMIPS (IHSS Case Management, Information, and Payrolling System)
SCI (Statewide Client Index)

IHSS is administered by the California Department of Social Services (DSS). Eligibility for IHSS in each county is determined by the county welfare (or social services) departments (CWD). Medi-Cal is administered by the California Department of Health Services (DHS). Eligibility for Medi-Cal (for individuals who do not receive SSI) is also administered by the CWD. However, separate units of the CWD determine IHSS and Medi-Cal eligibility at the county level. The CWD is also responsible for administering the provision of IHSS services, such as handling payrolling transactions. Provision of Medi-Cal services is administered by DHS in most cases and not the CWD.

DSS and the CWDs use the CMIPS computer system to administer the IHSS program, including PCSP and IPW. CMIPS contains IHSS eligibility information and payroll information. When a person first becomes eligible for IHSS the CWD inputs the hours of need and provider information, and generates a timesheet. When the timesheet is returned after the close of the pay period (the 15th and 30th of the month for non-advance pay recipients) the system generates a paycheck, which is sent directly to the provider. The paycheck arrives 10 days after the close of the pay period—the 25th for pay periods ending on the 15th and the 10th for pay periods ending on the 30th. The paycheck has a timesheet attached, which is then submitted at the close of the current pay period. This generates a paycheck with a new timesheet attached, and so on and so on and so on.

DHS and CWDs use the MEDS system for Medi-Cal eligibility. DHS also uses the MEDS computer system for Medi-Cal billing by Medi-Cal providers, such as doctors and pharmacists. When a Medi-Cal beneficiary presents for service, the doctor or pharmacist swipes the beneficiary's Medi-Cal BIC card to determine if the beneficiary has a share of cost for Medi-Cal, and, if so, how much. If the beneficiary does not have a share of cost, the provider bills Medi-Cal for the service. If the beneficiary has a share of cost, the provider bills the beneficiary for the service and enters the billing

information into MEDS to show that the beneficiary has paid or obligated some or all of his or her share of cost. This transaction reduces the beneficiary's remaining share of cost.

Now that the CWD has to input IHSS share of cost transactions into the MEDS system in much the same way that doctors and pharmacists do, the CMIPS and MEDS systems must interface and reconcile various transactions. This is done through the CALWIN system (CalWORKs Information Network). The CALWIN system is the case management system for the CalWORKs program. County IHSS workers often are not familiar with the CALWIN system and must learn it. This may cause problems with delays and improper or incomplete data entry.

Potential Eligibility Delays Arising From Erroneous Data Entries

One problem that can come up at the initial eligibility stages is an incorrect interface between CMIPS and MEDS caused by multiple entries into the system, incorrect date of birth or Social Security number in one or both systems, and inaccuracies in other identifying information. Counties are supposed to minimize this kind of problem by pulling basic eligibility information into both the CMIPS and MEDS systems from something called the SCI (Statewide Client Index). This is the first type of problem that is likely to occur with the interface between CMIPS and MEDS and is the first thing to watch out for with newly-eligible IHSS recipients.

Potential Medi-Cal Eligibility/Share of Cost Problems Arising with New IHSS Cases Pending Full-Scope Medi-Cal Eligibility

Another problem is that for all new IHSS cases, the individual will be input into the CMIPS system as an IHSS-R recipient until the Medi-Cal eligibility information is pulled into CMIPS. These individuals should have state-only zero share of cost Medi-Cal as long as they are IHSS-R recipients. However, the state does not seem to be providing zero SOC Medi-Cal to IHSS-R recipients, even though the state is legally required to do so. This will result either in no Medi-Cal for IHSS-R recipients, or a double SOC for both Medi-Cal and IHSS until the individual is coded from IHSS-R to either PCSP or IPW.

New System's Use of Aid Codes May Not Accurately Identify Some Zero Share of Cost Cases

You may need to know that Medi-Cal and IHSS use the following aid codes to identify whether or not an individual has a share of cost for Medi-Cal and

whether or not the individual receives IHSS and, if so, under which IHSS program:

SSI recipients—no share of cost

Aid code 10—over age 65

Aid code 20—individual with a disability

Aid code 60—individual who is blind

IHSS recipients (secondary Medi-Cal aid code)

Aid code 2L—IPW recipient

Aid code 2M—PCSP recipient

Aid code 2N—IHSS-R recipient

This second set of aid codes identifies the IHSS program that the individual is in. It is used together with another Medi-Cal aid code such as one of the SSI recipient aid codes listed above, or some other Medi-Cal aid code, which may include aid codes for the A&D FPL program, Pickle eligibility, Craig v. Bonta (SB87) eligibility, etc.

In addition, the CMIPS system uses the following discontinued Medi-Cal aid codes for IHSS tracking purposes only:

Aid code 18—over age 65 and does not receive SSI

Aid code 28—individual with a disability and does not receive SSI

Aid code 68—individual who is blind and does not receive SSI

There are two problems with these discontinued aid codes: First, the use of one of these aid codes does not mean that the IHSS recipient necessarily has a share of cost for Medi-Cal or IHSS. For example, an individual who has A&D FPL Medi-Cal does not receive SSI but does not have a share of cost for Medi-Cal either. Second, these aid codes were used in the past to provide zero share of cost Medi-Cal to IHSS-R recipients. If Medi-Cal has discontinued the use of those aid codes for that purpose, then Medi-Cal is no longer providing zero share of cost Medi-Cal to IHSS-R recipients, which is a violation of the law.

Chapter 7 Quality Assurance

State law now requires that the State and counties take steps to monitor quality of services including through home visits to see if the services authorized are being provided, if any of the services authorized are not needed, and if there are needs for which hours were not authorized. *See* ACL 06-35. Some of the Quality Assurance features include:

Routine Reviews

Counties must perform routine scheduled reviews of IHSS cases to ensure that caseworkers are appropriately and accurately applying the rules and policies for assessing a recipient's need for services as reflected in his or her authorization hours. This process will include home visits, desk reviews on documentation and calculations, and optional telephone validations.

Targeted Reviews

Targeted reviews will focus on one issue that may affect key populations or what the county perceives to be a problematic program area. Counties will have the discretion to address any issue it believes will lead to overall improvement of the quality of the IHSS program. The State's suggestions include reviews where the frequency of a particular county's authorization of a certain IHSS service exceeds the authorization of that service on a statewide basis.

Verification of Recipient Receipt of Services

Counties will ask the recipients questions during home visits and telephone validations regarding the frequency of their provider's provision of services and compare those reports with what is authorized. Over and under-estimations may warrant further investigation for fraud and potential overpayment, although the State advises counties to take the recipient's mental functioning into account during the interview process.

If You are Selected for a Reassessment

As stated in Chapter 4, a reassessment is a review of past assessments and the current situation of the person. A reassessment will be done if the county receives information that the situation of the person has changed.

Remember, once an individual has been found eligible for IHSS hours based on an assessment of his or her needs, the county has the burden of showing a change in circumstances or medical improvement which justifies a reduction

in the previously assessed hours. At a hearing to challenge the reduction, the prior determination of need would give rise to a rebuttable presumption that the claimant continued to need attendant care services, based on the County's earlier determination. The State through its agent County would have the burden of justifying any reduction based on changed circumstances or medical improvement. If the hearing officer incorrectly imposes the burden of proof on the claimant, this constitutes an effective denial of a fair hearing.

If the county is seeking to reduce your hours or to eliminate a service (such as protective supervision), the county has the burden of showing how you have improved or how changed circumstances mean you need fewer hours. Call DISABILITY RIGHTS CALIFORNIA to receive a copy of a memo describing the county's burden.

Fraud Detection

Counties must monitor the delivery of IHSS to detect and prevent potential fraud by providers, consumers, and others and to maximize the recovery of overpayments.

Among the things the County will be doing to detect fraud is reviewing Medi-Cal charges to see if providers were paid for days the IHSS recipient was in a hospital or nursing facility. (While you are not eligible for IHSS – except for waiver personal care services authorized under a nursing facility waiver - for days you are in a medical facility, some time should be authorized for the day you go in and the day you come out.)

The State instruction materials also suggests targeting providers working more than 300 hours a month when providing services to more than one IHSS recipient to see whether the provider is working all the hours authorized, whether claiming the same hours for two IHSS recipients, and whether the quality of the services is compromised in light of the total number of hours worked. The State acknowledges that working over 300 hours a month – not uncommon for a live-in provider with two or more IHSS recipients – is not illegal. Once it has been established that there is no fraud, that the IHSS recipients' needs are fully and appropriately met, that the hours authorized are being delivered, and that there is no duplication in the hours authorized, then the county should move on to someone else.

If the County suspects fraud, it will either coordinate with DHS in its own fraud investigation if protocols are in place, or refer the case to DHS' Investigations Branch. DHS is required to notify DSS, the county, and the county's public authority or non-profit consortium of any DHS conclusion of reliable evidence of fraud by a provider.

A person is precluded from providing or receiving payment for IHSS for ten years; following a conviction for, or incarceration following a conviction for, fraud against government health care or supportive services program. DHS will notify the public authority or non-profit consortium of the provider's ineligibility to provide services and requires the public authority or non-profit consortium to exclude providers from their IHSS Registry upon notice from DHS. (ACIN I-04-06.)

Overpayments

Counties will recover overpayments made to an IHSS provider to the extent permissible under existing labor laws and/or by offsetting future provider payments, executing a repayment agreement with the provider, by civil court actions, or by offsetting five or ten percent of the warrants under certain conditions.

IHSS and Third Party Liability

The Medi-Cal program is intended to be the payer of last resort; that is, all other available third party resources must meet their legal obligation to pay claims before the Medi-Cal program pays for the care of a Medi-Cal beneficiary.

New law requires that counties implement procedures to identify and report potential sources of third-party liability for IHSS services. Examples of third-party liability resources include Workers' Compensation insurance, Long-Term Care insurance, Victim Compensation Program payments, and civil judgments/pending litigations.

The notion is that these resources may be available to cover the costs of services, create ineligibility for Medi-Cal due to excess resources, or result in creating, or provide an increase in, a share of cost to the IHSS recipient.

However, at least with respect to civil judgments/pending litigation, the State is limited to reimbursement from only that portion of a judgment, award or settlement that represents payment for medical expenses arising

from an injury for which another is liable. States are now prohibited from seeking reimbursement for Medicaid costs from litigation proceeds that were intended to cover items other than medical expenses, such as pain and suffering and wage loss. The U.S. Supreme Court recently held that the federal Medicaid anti-lien statute prevents states from attaching or encumbering the non-medical portion of the settlement or judgment. Arkansas Dept. of Health and Human Services v. Ahlborn, 126 S. Ct. 1752 (2006).

When the State imposes a lien in this context, it must send an itemized billing of Medi-Cal benefits that were paid while the lawsuit was pending. It is important to review the billing to see if the lien amount exceeds what was earmarked for medical care in your settlement, award, or judgment and, if that is the case, contact the State's collection representative to modify the lien amount accordingly.

IHSS and Estate Recovery¹³

When the State files an estate claim, it is also required to send an itemized billing of Medi-Cal benefits paid over your lifetime. It is important to review the billing to see if there are any errors. As of September 1, 2000, the State ceased collecting for the amount of IHSS paid. (ACL 02-35.) This policy was reinforced in new regulations that became effective in 2006 and payments made for services under IHSS are exempt from recovery. California Code of Regulations, tit. 22, § 50961(c). Thus, if IHSS services are included in the itemized billing, the State's collection representative should delete this from the billing.

¹³ Although technically Estate Recovery stands alone and is not a component of the new Quality Assurance law, it is mentioned here given the similarity in approach one would take when confronted with improper State billings under Estate Recovery to that of improper State billings under Third Party Liability, which is a component of Quality Assurance.

Chapter 8 Appeals Process

When to Appeal

If you are challenging a reduction in hours or a termination of services, you must request a fair hearing within the 10 days, before the notice of action is effective, in order to continue receiving all your hours until the hearing is over.

If you believe you have not been allowed enough hours, you may challenge the county's decision at any time. However, the Administrative Law Judge (ALJ) may only give you an increase in hours for up to the three months prior to your hearing request. If you ask for a hearing April 15, the ALJ can go back to January 1. MPP 22-009.12. (You always have the right to ask your county worker to reassess you to see if he or she agrees you need more hours. If your county worker agrees, then you do not need to go to a hearing.)

Notice of Action to Deny or Change Benefits

If the county denies or intends to change your IHSS services, it must give you a written notice. The notice must include the following:

- (1) The action the county intends to take,
- (2) The reasons for that action,
- (3) The specific regulations supporting the action,
- (4) An explanation of the right to request a hearing, and, if appropriate,
- (5) The circumstances under which aid will be continued if a hearing is requested.

Generally, the notice of action must be mailed to you at least 10 days before the effective date of the action. The 10 days does not include the date of mailing or the date that the action is to take effect. MPP 22-001(a)(1); 22-001(t); 22-071; 22-072; 30-009.236

What are the Timelines for Appeal?

If you are already receiving IHSS services, file the request for appeal during the 10 calendar days BEFORE the Notice of Action is effective. If the request is filed within this 10-day period, your benefits will not change until there is a hearing and a decision issued. *See Aid Paid Pending* section below. MPP 22-072.5

A request for hearing **MUST** be filed *within 90 calendar days* after the date of the county action or inaction. However, if the request is filed after the 10-day period mentioned above, the benefits will **NOT** continue pending the hearing. If you win at hearing, the judge may order back payment. The date of action is the date the notice of action was mailed by the county. MPP 22-009.1.

Note: the date of the action is different than the effective date of the notice.

How to Request an Appeal

To request a hearing:

Fill out the back of the notice of action form and send to the address indicated, or

Send a letter to:

IHSS Fair Hearing
State Hearings Division
Department of Social Services
744 P Street, Mail Stop 9-17-37
Sacramento, CA 95814

Give your name and state identification number and say that you want a fair hearing because you do not believe you have been allowed the hours you need. If you need the hearing to be held in your home, include that in your request. If you need an interpreter or if you need an interpreter for someone who will be testifying (such as your IHSS worker), include that also in your request.

If asked, the county must furnish a duplicate copy of the Notice of Action if the back of that form is used to request a hearing. MPP 22-004; 22-071.5

The written request is filed with the CWD. The address is on the Notice of Action form with the information about the right to request a hearing. For record keeping purposes, it is best to file a written request. MPP 22-004.2
You can fax the letter (in addition to mailing it) to 916-651-5210
or 916-651-2789.

OR

Call the toll free number at 800-743-8525 to request a fair hearing.

Remember to keep the county informed of any change of address during the appeal process so notices for the hearing are received. *And, remember the deadlines for filing.*

What is Aid Paid Pending?

Except under limited conditions, when a timely request for a state hearing is filed within the 10 calendar days before the notice of action is effective, IHSS will continue at the same level the person would have received if the county had not taken the action. This aid paid pending the decision is not to be considered an overpayment even if the decision is in favor of the county. MPP 22-072; 22-073; 30-768.111

If adequate notice was not given to you as required and aid was discontinued, suspended, canceled, terminated or reduced then the CWD must reinstate the benefits retroactively. MPP 22-049.523

Aid paid pending will stop when you withdrawal or abandon the request for a state hearing.

Scheduling Hearings

The State Hearings Division will mail or deliver to you and the county a written notice of the time and place of the hearing not less than ten days prior to the hearing. You may waive the 10-day requirement and accept a shorter time period. MPP 22-045.3

State hearing requests involving issues of urgency that DSS State Hearings Division deems necessary may be scheduled on an expedited basis. (All County Appeals Letter, January 19, 2004.)

If you are unable to attend the hearing at the hearing location because of poor health, the hearing may be held in your home or in another place agreed to by the county and you. A hearing may also be conducted by telephone or video conference instead of an in-person hearing if you agree. MPP 22-045.1

County Appeals Worker

After you file an appeal, you will receive from the state information about your hearing rights and telling you the address and phone number of the County appeals worker, the person who will represent the County at the

hearing. Your IHSS file is in that office. Many appeals workers try to resolve a dispute without a hearing. The appeals workers are often more experienced and knowledgeable than the people you've dealt with in the local office. The appeals worker may call you about a "conditional withdrawal" so that a new assessment can be done. If you agree to a conditional withdrawal of your appeal, you have a right to have the hearing rescheduled if you disagree with the new assessment or a decision not to authorize retroactive benefits.

Make clear to the appeals worker during the conditional withdrawal process that the effective date of any retroactive benefits will be based on the effective date relating to the original appeal. Get this assurance in writing as part of the conditional withdrawal. This concern is based on the State Hearings Division's recent policy to treat appeals of redeterminations following conditional withdrawals as new hearings requests. (Training Bureau Note, Item 05-07-01A, July 6, 2005.)

The conditional withdrawal agreement must be in writing and signed by both the county and the complainant. The agreement is required to provide that the actions of both parties will be completed within 30 days from the date the agreement is signed by both parties and received by the county. MPP 22-054.211(b)(3).

Preparing for the Appeal

Accessing the Contents of your File

Upon request, the County Welfare Department (CWD) must allow you to examine the case record during regular working hours. You have this right both prior to and during the hearing. MPP 22-051.1; .2 Also, when requested, the county is required to give copies of specific policy materials, including regulations, necessary for you or to determine whether a state hearing should be requested or to prepare for a state hearing. These copies must be without charge or at a charge related to the cost of reproduction. MPP 22-051.3

Get together information about how the County IHSS worker determined the hours you were authorized.

- f. Ask your worker for a copy of the latest needs assessment forms. These county forms will include notes about why hours were or were not authorized. Also ask for a copy of the most recent SOC

293 form. The SOC 293 forms include information on the functional ranking about what you can and cannot do. If you are challenging a reduction, ask for copies of both your new and your old county assessment forms and your new and old SOC 293 forms.

- v. Ask for a copy of the sheets in your file where notes were made about contacts and visits with you over the last year.
- vi. Ask your IHSS worker for a copy of the County's time-for-task guidelines. Remember, time-for-task guidelines may not be used for personal care tasks.
- vii. Ask your worker for copies of any doctor or medical reports in your file and for copies of any paramedical forms.



Note: Welf. & Inst. Code § 10850(c) authorizes DSS to issue regulations concerning access to case files, including access to case files by applicants and recipients. The DSS regulations are in the Manual of Policies and Procedures. These regulations are in Divisions 19 (confidentiality) and 22 (state hearings) and are available on the internet at www.dss.cahwnet.gov/ord/CDSSManual_240.htm. These regulations also apply when the services you receive or seek are covered under the Medi-Cal personal care services program. Welf. & Inst. Code § 14100.2; Cal. Code Regs., tit. 22 § 50111. The state access regulations supersede any more restrictive County regulations. Welf. & Inst. Code §§ 10850(c) and 14100.2(f). If you run into problems accessing your case file, call Protection & Advocacy.

Manual of Policy & Procedures DSS Manual § 19-005.1 says any recipient or applicant, or his or her authorized representative, may review the file “made or kept by the county welfare department in connection with the administration of the public assistance program.” You can review medical records in your file. DSS Manual § 19-006 note. The only records you cannot see are those covered by a specific “privilege” such as the lawyer-client privilege that does not belong to you. DSS Manual § 19-006. See, also, the state hearing regulations at DSS Manual § 22-051. The county welfare department must copy for you any statutes, policy materials, or regulations needed to prepare for a hearing. DSS Manual § 22-051.3.



- viii. If IHSS reduced your hours, ask your IHSS worker for copies

of the regulations listed on your reduction notice.

- ix. The IHSS regulations are in the Department of Social Services' Manual of Policy and Procedures. If you have access to the Internet, you can find the IHSS regulations at www.dss.cahwnet.gov/ord/CDSSManual_240.htm. There are four entries for the Division 30 regulations. Skip the first entry. The IHSS regulations start about 5 pages into the second entry, continue through the third entry, and finish up in the fourth entry. You also can get the All-County letters at www.dss.cahwnet.gov/lettersnotices/AllCountyL_542.htm. All-county letters are directives the state Department of Social Services sends to the counties. The letters cover a lot of programs; only a few of the letters will be about IHSS.

County's Position Statement

The County's position statement summarizes the facts of the case and the regulatory justification for the CWD action. It also includes copies of documentary evidence and a list of witnesses which the county intends to use during the hearing.

You are entitled to the County's statement of position two business days before the hearing. If your hearing is on Friday, you are entitled to the position statement Wednesday morning. (You are entitled to look at your file at any time whether or not you have a hearing pending. See the note above under paragraph 2.)

The County's statement of position will help you identify other evidence and witnesses you may need. If you do not get a copy until just before the hearing, you can ask to have the record left open to submit additional evidence (such as letters or statements) to respond to any statement in the County's position paper. Even if you get the County's statement of position in time, you may still ask to have the hearing record left open so that you may submit additional evidence.

Drafting your Position Statement

Although it is not necessary for you to have your own position statement at hearing, our experience has shown that this level of preparation will enable you to present a stronger case. Attached as F of this publication is a sample

position statement involving IHSS services that you may wish to draw upon as guidance in drafting your position statement.

Postponements

Postponements are granted under limited conditions. The ALJ may postpone a hearing at any time before the hearing or at the request of the county at the hearing. Reasons that establish *good cause* for a postponement by you include:

- (1) Death in the family.
- (2) Personal illness or injury.
- (3) Sudden and unexpected emergencies which prevent you or your authorized representative from appearing.
- (4) A conflicting court appearance which cannot be postponed.
- (5) When the county, when required, does not make a position statement available to you not less than two working days before the date of the scheduled hearing.
- (6) When the county has modified the position statement after providing the statement to you *and* you waive the 90-day period within which a decision must be issued. MPP 22-053.1; 14; 16; 22-073.253

Failure of you or your authorized representative to receive the hearing notice is not good cause *if* the reason is because the CWD or DSS was not notified of a change of address. MPP 22-054.222(a)(1)

The Hearing

The County goes first and says why your hours were cut or why you should not have the additional hours you believe are needed.

The hearing will involve the presentation of evidence (testimony by witnesses, letters, diary log, medical reports) about your needs in the service category areas where you and the county disagree. The evidence should explain what you need, how long it takes to provide the service, the reason you need more time than that set out in the assessment or the County guidelines, and what risks you may be exposed to if you do not receive the level of services requested. IHSS fair hearings are informal. The important thing is to explain why more time is needed. The best evidence is from the people who provide you care and who kept a diary record of the time it takes.

Witnesses may include — in addition to the IHSS recipient — past and present IHSS providers, regional center counselor, friends and family, etc. For each witness, list the points you want that witness to make and cross off each point as it is made.

You should be prepared to submit whatever documentary evidence you wish the judge to consider at the hearing. Also, you should prepare in advance a list of questions to answers you want the judge to hear from your and the county's witnesses. Although not necessary, we recommend that you also prepare in advance opening and closing statements to make at the hearing.

A copy of all documents submitted by either you or the county at the hearing is required to be made available to both parties. Be sure to have copies of all your documents for the hearing officer and the CWD. The CWD is required to provide copies of all documents to you free of charge. MPP 22-049.8

Compliance with the Decision

As soon as the county receives the decision, it must start action to comply with the decision. MPP 22-078.1. You may contact DSS, orally or in writing, you are dissatisfied with the compliance. DSS must take appropriate action to ensure compliance with the decision. MPP 22-078.4.

Getting Help with your Hearing

For more help, call the regional center (if the IHSS recipient is a client), an independent living center, a legal aid program, senior advocacy program, the DISABILITY RIGHTS CALIFORNIA toll free number (800) 776-5746, or the Western Law Center for Disability Rights (213) 736-1031. To find out the telephone number of the senior advocacy program in your area, call your county office on aging or the State Department of Aging at (800) 510-2020.

If the county is seeking to reduce your hours or to eliminate a service (such as protective supervision), the county has the burden of showing how you have improved or how changed living circumstances mean you need fewer hours. Call DISABILITY RIGHTS CALIFORNIA to receive a copy of a memo describing the county's burden.

For more information about the hearing process, visit the website of the State Hearings Division at www.dss.cahwnet.gov/shd/default.htm.

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LIST OF APPENDICES

Appendix A DSS PUB 104

<http://www.dss.cahwnet.gov/Forms/English/PUB/04.pdf>

Appendix B ACL 06-34 Errata & Attachment B

Appendix C IHSS Self-Assessment Worksheet

Appendix D Protective Supervision Form SOC 821

<http://www.dss.cahwnet.gov/pdf/SOC821.PDF>

Appendix E Protective Supervision Form SOC 825

<http://www.dss.cahwnet.gov/pdf/soc825.pdf>

Appendix F Paramedical Services Form SOC 321

<http://www.dss.cahwnet.gov/pdf/SOC321.pdf>

Appendix G Needs Assessment – Fact Sheet SOC 293

Appendix H Sample Hearing Position Statement

Appendix I Acronyms Used in this Publication

Appendix J IHSS Programs Chart

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| SERVICES | DAYS | | | | | | | WEEKLY TOTAL |
|---|--------|---------|-----------|----------|--------|----------|--------|-----------------|
| | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY | SUNDAY | |
| <p>* Domestic Services: For adults only. Children are not eligible to receive domestic service hours. Domestic services are usually limited to 6 hours per month per household and divided by the number of people in the household. If you need more hours of domestic services because of the recipient's disability (e.g., more frequent bathroom cleaning due to incontinence, frequent dusting due to asthma, etc.), then mark the time needed in the columns below. See section II of the Fair Hearing and Self-Assessment Packet for more information.</p> | | | | | | | | |
| <u>1. DOMESTIC SERVICES</u> | | | | | | | | |
| a. Sweeping and Vacuuming | | | | | | | | |
| b. Washing kitchen counters | | | | | | | | |
| c. Cleaning oven and stove | | | | | | | | |
| d. Cleaning and defrosting refrigerator | | | | | | | | |
| e. Cleaning bathroom | | | | | | | | |
| f. Storing food and supplies | | | | | | | | |
| g. Taking out garbage | | | | | | | | |
| h. Dusting and picking up | | | | | | | | |
| i. Bringing in fuel for heating or cooking purposes from a fuel bin in yard, miscellaneous | | | | | | | | |
| j. Changing bed linens | | | | | | | | |
| k. Miscellaneous | | | | | | | | |
| Total Domestic Services | | | | | | | | |

| SERVICES | DAYS | | | | | | | WEEKLY TOTAL |
|--|--------|---------|-----------|----------|--------|----------|--------|--------------|
| <p>*** If you need more than the time allowed for these services due to the recipient's disability (i.e., daily shopping for fresh food, frequent laundry due to spilling food, etc.), then mark the time needed in the columns.</p> | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY | SUNDAY | |
| <u>2. RELATED SERVICES</u> | | | | | | | | |
| a. Preparing meals, serving meals, cutting up food * | | | | | | | | |
| 1. Breakfast | | | | | | | | |
| 2. Lunch | | | | | | | | |
| 3. Dinner | | | | | | | | |
| 4. Snacks ~ tally throughout day Enter daily total | | | | | | | | |
| b. Meal clean up and menu planning ** | | | | | | | | |
| 1. Breakfast | | | | | | | | |
| 2. Lunch | | | | | | | | |
| 3. Dinner | | | | | | | | |
| 4. Snacks ~ tally throughout day Enter daily total | | | | | | | | |
| c. Laundry, mending, ironing, sorting, folding and putting away clothes (60 minutes per week allowed if in-home, 90 minutes per week if laundry is out-of-home) *** | | | | | | | | |
| d. Shopping for food (60 minutes per week maximum) *** | | | | | | | | |
| e. Other errands (30 minutes per week maximum) *** | | | | | | | | |
| Total Related Services | | | | | | | | |

| SERVICES | DAYS | | | | | | | WEEKLY TOTAL |
|--|--------|---------|-----------|----------|--------|----------|--------|--------------|
| | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY | SUNDAY | |
| <u>3. HEAVY CLEANING</u> | | | | | | | | |
| <u>4. NONMEDICAL PERSONAL SERVICES</u> | | | | | | | | |
| a. Respiration | | | | | | | | |
| b. Bowel/bladder care (including help on/off commode) * | | | | | | | | |
| c. Feeding and drinking * | | | | | | | | |
| d. Bed baths * | | | | | | | | |
| e. Dressing * | | | | | | | | |
| f. Menstrual care * | | | | | | | | |
| g. Ambulation * | | | | | | | | |
| h. Moving into and out of bed * | | | | | | | | |
| i. Grooming, bathing, hair care, teeth and fingernails * | | | | | | | | |
| j. Rubbing skin to aid circulation, turning in bed, repositioning in wheelchair, help in and out of vehicles * | | | | | | | | |
| k. Care and help with prosthesis (including wheelchair) * | | | | | | | | |
| Total Personal Care Services | | | | | | | | |

| SERVICES | DAYS | | | | | | | WEEKLY TOTAL |
|---|--------|---------|-----------|----------|--------|----------|--------|-----------------|
| | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY | SUNDAY | |
| <u>5. MEDICAL TRANSPORTATION</u> | | | | | | | | |
| a. To medical appointments | | | | | | | | |
| b. To alternative resources | | | | | | | | |
| <u>6. YARD HAZARD ABATEMENT</u> | | | | | | | | |
| <u>7. PROTECTIVE SUPERVISION</u> | | | | | | | | |
| <u>8. TEACHING AND DEMONSTRATION</u> | | | | | | | | |
| <u>9. PARAMEDICAL SERVICES</u> * (i.e., catheterization, injections, range of motion exercises, etc., specify) | | | | | | | | |
| a. | | | | | | | | |
| b. | | | | | | | | |
| Total Weekly Services (<i>Everything except Domestic Services</i>) | | | | | | | | |
| Multiply by 4.33 to get monthly total | | | | | | | | |
| Plus Domestic Services (6 hours per month maximum unless more needed hours can be shown on page 1 above) | | | | | | | | |
| TOTAL MONTHLY SERVICES | | | | | | | | |

* If asterisked hours equal 20 or more hours a week, recipient qualifies as “severely impaired.”

** Meal clean-up hours are included in determining whether severely impaired if IHSS assistance with meal preparation and consumption are necessary.

IHSS will pay for transportation time to get you there and back but usually not the time while at the doctor’s office or clinic. When IHSS does not cover wait time, then IHSS should cover the transportation time for 4 trips: there and back to drop off; there and back to pick up.

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



September 5, 2006

ERRATA

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

**SUBJECT: CORRECTION TO ALL-COUNTY LETTER (ACL) 06-34, DATED
AUGUST 31, 2006, HOURLY TASK GUIDELINES REGULATIONS
FOR IN-HOME SUPPORTIVE SERVICES/PERSONAL CARE
SERVICES PROGRAM/INDEPENDENCE PLUS WAIVER
(IHSS/PCSP/IPW) PROGRAMS**

The purpose of this Errata is to transmit corrections to ACL 06-34 released August 31, 2006, which clarify and correct the following items:

On Page 5 of the ACL, under "HTGs Quick Reference Task Tool," the last two sentences stating:

"Since the tool mirrors the HTGs Regulations, their use is not mandated. They are an optional aid that can be utilized in applying the regulations."

To be replaced with:

"Since the tool mirrors the HTGs regulations pertaining to time ranges, the use of the tool is not mandated. The tool is an optional aid that can be utilized in applying the regulations."

Additionally, this Errata replaces Attachments B, C, and D of the ACL due to grammatical errors/inconsistencies noted throughout Attachment B; a few typos on Attachment C; and minor language changes for clarity on the one-page flow chart, Attachment D.

If you have further questions, please contact the Quality Assurance Bureau at (916) 229-3494.

Attachments

ATTACHMENT B

ANNOTATED ASSESSMENT CRITERIA

Annotated Assessment Criteria is designed to assist you in the application of rankings specified in Manual of Policies and Procedures (MPP) Section 30-756 which are applied to evaluate a recipient's capacity to perform certain In-Home Supportive Services (IHSS) tasks safely. The Annotated Assessment Criteria describes each functional rank in more detail as it applies to an individual's capacity to perform certain types of tasks specified in MPP Section 30-757, and it provides sample observations you might make for each ranking, characteristics of a recipient who might be ranked at each level, and questions which might elicit the information needed to determine the appropriate rank. These samples are lists of possible indicators, not definitive standards.

General

Following are general questions that may be asked of applicants to help determine whether need exists:

- * How frequently have you been seen by a doctor?
- * Has the doctor limited your activities?
- * When does your family come to see you and how do they feel about your condition?
- * What can family/friends/neighbors do to help you?
- * Who has been helping you up to this point?
- * Why are you asking for help now?
- * How have circumstances changed?
- * How long have you been having difficulty?
- * What is limiting your activities?
- * How do you feel about the status of your health?
- * How long do you think you will need this service?
- * How would you manage if your provider called in sick one day?

Information to be given and reinforced periodically:

- * A clear explanation of the recipient's responsibilities in the county's delivery system.
- * IHSS is a program which provides only those services necessary for the recipient's safety which the recipient is unable to perform.

Observations

A number of observations are applicable to all functions. These involve observing the recipient getting up from a chair, ambulating, standing, reaching, grasping, bending, and carrying; and observing the recipient's endurance and mental activity. In the following text, the first eight observable behaviors above are referred to as "movement." All of these functions can usually be

ATTACHMENT B

observed by noting how the recipient admitted you into the housing unit and shaking his/her hand when arriving; asking the recipient to show you the housing unit; asking the recipient to show you all his/her medications; asking him/her to get his/her Medi-Cal card for you; and asking him/her to sign the application. If the above-listed functions have not been adequately demonstrated in the course of the interview, it is sometimes helpful to ask the recipient for a glass of water. Since the ranking of functioning is hierarchical, observations and questions in a lower rank are likely to apply to a higher one. Observations lead to a general assumption as to the appropriate level of functioning, and follow-up questions elicit information as to what assistance is necessary for the level of functioning observed. This listing is not all-inclusive, nor does the presence of one behavior on the list necessarily create the basis for the ranking. All your senses are involved in gaining cues to determine the recipient's functioning as a whole. Quite often, it is important to get a medical report to verify that there is a basis for observed behaviors.

General

The following are general regulatory standards that apply to all functions. The standards for each function are defined in more detail in individual scales that follow.

Rank 1: Independent: Able to perform function without human assistance although the recipient may have difficulty in performing the function, but the completion of the function, with or without a device or mobility aid, poses no substantial risk to his/her safety. A recipient who ranks a "1" in any function shall not be authorized the correlated service activity.

Rank 2: Able to perform a function but needs verbal assistance such as reminding, guidance, or encouragement.

Rank 3: Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.

Rank 4: Can perform a function but only with substantial human assistance.

Rank 5: Cannot perform the function with or without human assistance.

Rank 6: Paramedical Services needed.

Variable Functioning

If the recipient's functioning varies throughout the month, the functional rank should reflect the functioning on reoccurring bad days. It is not solely based on a "worst" day scenario (e.g., a recipient who suffers from arthritis will have days when pain is significant and days when pain is mild; therefore, in this case you would rank a recipient based on the reoccurring days where the frequency of pain is significant).

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DEFINITION OF SERVICES LISTED ON THE SOC 293 "H" LINE

Domestic Services

Sweeping, vacuuming, and washing/waxing floors; washing kitchen counters and sinks; cleaning the bathroom; storing food and supplies; taking out garbage; dusting and picking up; cleaning oven and stove; cleaning and defrosting refrigerator; bringing in fuel for heating or cooking purposes from a fuel bin in the yard; changing bed linen; changing light bulbs; and wheelchair cleaning and changing/recharging wheelchair batteries.

The following is the application of functional rank specific to Domestic Services with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Able to perform all domestic chores without a risk to health or safety.

Recipient is able to do all chores though s/he might have to do a few things every day so that s/he doesn't overexert her/himself.

- * **Observations:** Observe if the home is neat and tidy. Observe if the recipient's movement is unimpaired.
- * **Example:** Recipient with no signs of impairment moves easily about a neat room, bending to pick up items and reaching to take items from shelves.
- * **Question:** Are you able to do all the household chores yourself, including taking out the garbage?

Rank 2: Able to perform tasks but needs direction or encouragement from another person.

Recipient is able to perform chores if someone makes him/her a list or reminds him/her.

- * **Observations:** Observe if the recipient seems confused or forgetful and has no observable physical impairment severe enough to seem to limit his/her ability to do housework; if there is incongruity in what you observe, such as dirty dishes in cupboard.
- * **Example:** Young man apparently physically healthy, but obviously confused and forgetful, is being reminded that it is time for him to sweep and vacuum.
- * **Questions:** How do you manage to keep your apartment clean? Has anyone been helping you up to this time?

Rank 3: Requires physical assistance from another person for some chores (e.g., has a limited endurance or limitations in bending, stooping, reaching, etc.).

- * **Observations:** Observe if the recipient has some movement problems as described above; has limited endurance; is easily fatigued; or has severely limited eyesight. Observe if the home is generally tidy, but needs a good cleaning; if it is apparent that the recipient has made attempts to clean it, but was unable to.
- * **Example:** Small frail woman answers apartment door. Apartment has some debris scattered on carpet and quite-full trashcan is sitting in kitchen area. The remainder of apartment is neat.

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- * **Questions:** Have you been doing the housework yourself? What have you been doing about getting your housework done up until now?

Rank 4: Although able to perform a few chores (e.g., dust furniture or wipe counters) help from another person is needed for most chores.

- * **Observations:** Observe if the recipient has limited strength and impaired range of motion. Observe if the house needs heavy cleaning.
- * **Example:** Recipient walking with a cane is breathing heavily in cluttered living room. The bathtub and toilet are in need of cleansing. The recipient's activities are limited because of shortness of breath and dizziness.
- * **Questions:** What household tasks are you able to perform? Has your doctor limited your activities?

Rank 5: Totally dependent upon others for all domestic chores.

- * **Observations:** Observe if dust/debris is apparent; if there is garbage can odor; if the bathroom needs scouring; if household chores have obviously been unattended for some time. Observe if the recipient has obviously very limited mobility or mental capacity.
- * **Examples:** Bed-bound recipient is able to respond to questions and has no movement in arms or legs. Frail elderly man is recovering from heart surgery and forbidden by doctor to perform any household chores.
- * **Questions:** Are there any household tasks you are able to perform? What is limiting your activities? Who has been helping you to this point?

Laundry

Gaining access to machines, sorting laundry, manipulating soap containers, reaching into machines, handling wet laundry, operating machine controls, hanging laundry to dry, folding and sorting laundry, mending and ironing. (Note: Ranks 2 and 3 are not applicable to determining functionality for this task.)

The following is the application of functional rank specific to Laundry with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Able to perform all chores.

- * **Observations:** Observe if the recipient's movement seems unimpaired; if s/he seems able to ambulate, grasp, bend, lift, and stand adequately; if s/he is wearing clean clothes.
- * **Example:** Recipient is apparently physically fit. The recipient's movements during interview indicate that s/he has no difficulty with reaching, bending, or lifting.
- * **Questions:** Are you able to wash and dry your own clothes? Are you also able to fold and put them away?

Rank 4: Requires assistance with most tasks. May be able to do some laundry tasks (e.g., hand wash underwear, fold and/or store clothing by self or under supervision).

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- * **Observations:** Observe if the recipient has some impairment in movement, is nodding, displays forgetfulness, or has severely limited eyesight; if the recipient's clothing is stained or spotted.
- * **Example:** Frail woman is unable to transfer wet wash to the dryer, particularly, sheets and towels. Housemate encourages her to help with sorting and folding, etc.
- * **Questions:** Are you able to lift and transfer wet articles in the laundry? How have you handled this laundry up to now? Who has been doing your laundry for you up to this time? Has the doctor suggested that you do some simple tasks with your arms and hands?

Rank 5: Cannot perform any task, is totally dependent on assistance from another person.

- * **Observations:** Observe if there are severe restrictions of movement.
- * **Example:** Quadriplegic recipient is seated in wheelchair, obviously unable to perform laundry activities.
- * **Questions:** Who does your laundry now? What has changed in your circumstances that resulted in your asking for help now?

Shopping and Errands

Compiling list; bending, reaching, lifting, and managing cart or basket; identifying items needed; transferring items to home and putting items away; telephoning in and picking up prescriptions; and buying clothing. (Note: Ranks 2 and 4 are not applicable to determining functionality for this task.)

The following is the application of functional rank specific to Shopping and Errands with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Can perform all tasks without assistance.

- * **Observations:** Observe if movement seems unimpaired and the recipient seems oriented.
- * **Example:** Social worker questions elderly man whose responses indicate that he is able to do his own shopping and can put groceries and other items away. Although his movements are a little slow, it is evident that he is capable of performing this task.
- * **Question:** How do you take care of your shopping and errands?

Rank 3: Requires the assistance of another person for some tasks (e.g., recipient needs help with major shopping needed but can go to nearby store for small items, or the recipient needs direction or guidance).

- * **Observations:** Observe if the recipient's movement is somewhat impaired; if the recipient has poor endurance or is unable to lift heavy items; if s/he seems easily confused or has severely limited eyesight; if there is limited food on hand in refrigerator and cupboard.
- * **Example:** Recipient goes to corner market daily to get a few small items. Someone else makes a shopping list.

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- * **Questions:** Do you have difficulty shopping? What are the heaviest items you are able to lift? Do you usually buy the items you planned to purchase? Do you have any difficulty remembering what you wanted to purchase or making decisions on what to buy? (Ask recipient's significant other whether the recipient has difficulty making decision on what to buy or if recipient's mental functioning seems impaired.)

Rank 5: Unable to perform any tasks for self.

- * **Observations:** Observe if movement or mental functioning is severely limited.
- * **Example:** Neighbors help when they can. Teenaged boy comes to recipient's door and receives money and list from recipient to purchase a few groceries.
- * **Questions:** Has someone been shopping for you? How do you get your medications?

Meal Preparation/Meal Cleanup

Meal Preparation includes such tasks as planning menus; removing food from refrigerator or pantry; washing/drying hands before and after meal preparation; washing, peeling, and slicing vegetables; opening packages, cans, and bags; measuring and mixing ingredients; lifting pots and pans; trimming meat; reheating food; cooking and safely operating stove; setting the table; serving the meals; pureeing food; and cutting the food into bite-size pieces.

Meal Cleanup includes loading and unloading dishwasher; washing, rinsing, and drying dishes, pots, pans, utensils, and culinary appliances and putting them away; storing/putting away leftover foods/liquids; wiping up tables, counters, stoves/ovens, and sinks; and washing/drying hands.

Note: Meal Cleanup does not include general cleaning of the refrigerator, stove/oven, or counters and sinks. These services are assessed under "domestic services."

The following is the application of functional rank specific to Meal Preparation/Meal Cleanup with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Can plan, prepare, serve, and cleanup meals.

- * **Observations:** Observe if the recipient's movement seems unimpaired.
- * **Example:** Recipient cooks and freezes leftovers for reheating.
- * **Questions:** Are you able to cook your own meals and cleanup afterwards? Are you on a special diet? If yes, describe.

Rank 2: Needs only reminding or guidance in menu planning, meal preparation, and/or cleanup.

- * **Observations:** Recipient seems forgetful. There is rotten food, no food in refrigerator, or a stockpile of Twinkies®, only. Recipient's clothes are too large, indicating probable weight loss. There are no signs of cooking.

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- * **Example:** Elderly recipient is unable to plan balanced meals, has trouble knowing what to eat so eats a lot of desserts and snacks, sends granddaughter to purchase fast foods. Recipient leaves dishes near the sofa where s/he eats; s/he reuses dirty dishes if not reminded to wash and dry them.

- * **Question:** Are you able to prepare and cleanup your own meals?

Rank 3: Requires another person to prepare and cleanup main meal(s) on less than a daily basis (e.g., recipient can reheat food prepared by someone else, can prepare simple meals, and/or needs some help with cleanup but requires another person to prepare and cleanup with more complex meals which involve, peeling, cutting, etc., on less than a daily basis).

- * **Observations:** Observe if the recipient's movement is impaired; if s/he has poor strength and endurance or severely limited eyesight; if s/he appears adequately nourished and hydrated.
- * **Example:** Recipient can reheat meals, make a sandwich, and get snacks from the package. Recipient has arthritis that impairs her/his grasp; s/he is unable to wash dishes because s/he cannot hold on to dishes.
- * **Questions:** What type of meals are you able to prepare for yourself? Can you lift casserole dishes and pans? Can you reheat meals that were prepared for you ahead of time? Are you able to wash dishes? Can you wipe the counter and stove?

Rank 4: Requires another person to prepare meal(s) and cleanup on a daily basis.

- * **Observations:** Recipient has movement and endurance problems and has very limited strength of grip.
- * **Example:** Recipient is unable to stand for long periods of time. Recipient can get snacks from the refrigerator like fruit and cold drinks, can get cereal, or make toast for breakfast, etc.
- * **Questions:** Can you stand long enough to operate your stove, wash, dry, and put away dishes and/or load/unload the dishwasher?

Rank 5: Totally dependent on another person to prepare and cleanup all meals.

- * **Observations:** Observe if the recipient has severe movement problems or is totally disoriented and unsafe around the stove.
- * **Example:** Recipient has schizophrenia. Recipient believes that when s/he gets wet the water has the power to enable people to read her/his mind. Provider cuts up food in bite-sized portions and carries tray to bed-bound recipient.
- * **Questions:** Are you able to prepare anything to eat for yourself? Does your food and drink need to be handled in any special way? Can you wash dishes?

Rank 6: Is tube-fed. All aspects of tube feeding are evaluated as a "paramedical service."

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Ambulation

Assisting the recipient with walking or moving from place to place inside the home, including to and from the bathroom; climbing or descending stairs; moving and retrieving assistive devices, such as a cane, walker, or wheelchair, etc.; and washing/drying hands before and after performing these tasks. Ambulation also includes assistance to/from the front door to the car **(including getting in and out of the car)** for medical accompaniment and/or alternative resource travel.

The following is the application of functional rank specific to Ambulation with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Requires no physical assistance though recipient may experience some difficulty or discomfort. Completion of the task poses no risk to his/her safety.

- * **Observations:** Observe if the recipient is steady on feet, able to maneuver around furniture, etc. Observe if the recipient needs to grab furniture or walls for support. Have the recipient show you the home and observe ambulation.
- * **Questions:** Do you ever have any difficulty moving around? Have you ever had to use a cane or walker? Do you feel safe walking alone in your home?

Rank 2: Can move independently with only reminding or encouragement (e.g., needs reminding to lock a brace, unlock a wheelchair or to use a cane or walker).

- * **Observations:** Observe if the recipient can use his/her walker or cane of his/her own volition; if recipient can rely appropriately on an appliance; if there is an assistive device visible in a corner rather than right beside the recipient when s/he is sitting; how well the recipient is able to move about with an assistive device; if there is any modifications observable in the home such as grab bars, etc.
- * **Questions:** Do you ever have trouble handling your device? Are there times when you forget and get somewhere and need help getting back or do not wish to use your device? What happens then? Have you experienced any falls lately? Describe.

Rank 3: Requires physical assistance from another person for specific maneuvers (e.g., pushing wheelchair around sharp corner, negotiating stairs or moving on certain surfaces).

- * **Observations:** Observe if the recipient needs to ask you for assistance; if the recipient appears to be struggling with a maneuver that could put her/him at risk if unattended; if recipient appears strong enough to handle the device; if there are architectural barriers in the home.
- * **Questions:** Are there times when you need to rely on someone else to help you get around the house? What kind of help do you need and when? What happens when there is no one to help you? Are there certain times of day or night when movement is more difficult for you? Are all areas of your home accessible to you?

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Rank 4: Requires assistance from another person most of the time. Is at risk if unassisted.

- * **Observations:** Observe if the recipient is able to answer the door; get back safely to his/her seat; if there is clutter on the floor, scattered rugs, or stairs; if there is obvious fatigue or labored breathing; if there are bruises, scabs, bumps, or burns (signs of falls) on the recipient.
- * **Questions:** Is there someone in the home helping you now? If so, what is the level of assistance?

Rank 5: Totally dependent upon others for movement. Must be carried, lifted, or assisted into a wheelchair or gurney at all times.

- * **Observations:** Observe if the recipient appears to be immobile; if s/he appears to be uncomfortable or in pain; if s/he has any fears related to being moved; if s/he makes needs known.
- * **Questions:** Who is available to help you when you need to be moved? Do you feel s/he is able to do so without causing you undue pain or discomfort? Is there anything that needs to be changed to make you more comfortable?

Bathing, Oral Hygiene, and Grooming/Routine Bed Bath

Bathing (Bath/Shower) includes cleaning the body in a tub or shower; obtaining water/supplies and putting them away; turning on/off faucets and adjusting water temperature; assistance with getting in/out of tub or shower; assistance with reaching all parts of the body for washing, rinsing, drying, and applying lotion, powder, deodorant; and washing/drying hands.

Oral Hygiene includes applying toothpaste, brushing teeth, rinsing mouth, caring for dentures, flossing, and washing/drying hands.

Grooming includes combing/brushing hair; hair trimming when the recipient cannot get to the barber/salon; shampooing, applying conditioner, and drying hair; shaving; fingernail/toenail care when these services are not assessed as "paramedical services" for the recipient; and washing/drying hands.

Note: Bathing, oral hygiene, and grooming does not include getting to/from the bathroom. These tasks are assessed as mobility under "ambulation services."

Routine Bed Bath includes cleaning basin or other materials used for bed sponge baths and putting them away; obtaining water and supplies; washing, rinsing, and drying body; applying lotion, powder, and deodorant; and washing/drying hands before and after bathing.

The following is the application of functional rank specific to Bathing, Oral Hygiene, and Grooming/Routine Bed Baths with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Able to bathe, brush teeth, and groom self safely without help from another person.

- * **Observations:** Observe if the recipient's mobility is unimpaired; if the recipient is clean and well groomed; if there is assistive equipment in the bathroom.
- * **Questions:** Do you ever require any assistance with bathing, oral hygiene, or grooming? Are you able to get in and out of the tub or shower safely? Have you ever fallen?

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Rank 2: Able to bathe, brush teeth, and groom self with direction or intermittent monitoring. May need reminding to maintain personal hygiene.

- * **Observations:** Observe if the recipient has body odors, unwashed hair, dirt or grime on body, un-manicured fingernails; if the recipient is unshaven, displays a lack of oral hygiene or general poor grooming habits; if the recipient is unaware of his/her appearance.
- * **Questions:** Are there times when you forget to bathe, brush your teeth, and groom yourself, or it seems just too much bother? Does anyone help you organize your bath or shower?

Rank 3: Generally able to bathe and groom self, but needs assistance with some areas of body care (e.g., getting in and out of shower or tub, shampooing hair, or brushing teeth).

- * **Observations:** Observe if the recipient has weakness or pain in limbs or joints; difficulty raising arms over head, frailty, general weakness, unsteady gait indicating a safety risk; if the bathroom is not set up to meet the recipient's safety needs (e.g., grab bars, tub bench); if recipient's grooming indicates an unaddressed need.
- * **Example:** Recipient has fear associated with lack of movement.
- * **Questions:** Are there areas of bathing, oral hygiene, or grooming that you feel you need help with? What? When? How do you get into the shower or tub? Do you ever feel unsafe in the bathroom? Have you ever had an accident when bathing? What would you do if you did fall?

Rank 4: Requires direct assistance with most aspects of bathing, oral hygiene, and grooming. Would be at risk if left alone.

- * **Observations:** Observe if the recipient requires assistance with transfer; has poor range of motion, weakness, poor balance, fatigue; skin problems (e.g., indications of a safety risk). Determine how accessible and modified the bathroom is to meet the recipient's needs.
- * **Questions:** How much help do you need in taking a bath and washing your hair? If there were no one to help you, what would be left undone? Do you experience any loss of sensation to your body? Do you have any fears related to bathing? Have you fallen when getting into or out of the tub or shower? What would you do if you did fall?

Rank 5: Totally dependent on others for bathing, oral hygiene, and grooming.

- * **Observations:** Observe if there is any voluntary movement and where; if the recipient exhibits good skin color, healthy, clean skin and hair; if bathing schedules/activities are appropriate for the recipient's specific disability/limitations.
- * **Questions:** Are you satisfied with your bathing, oral hygiene, and grooming routines? Does anything frighten or scare you when you are bathed?

Dressing/Care and Assistance with Prosthetic Devices

Dressing: Washing/drying of hands; putting on/taking off, fastening/unfastening,

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buttoning/unbuttoning, zipping/unzipping, and tying/untying of garments, undergarments, corsets, elastic stockings, and braces; changing soiled clothing; and bringing tools to the recipient to assist with independent dressing.

Care and Assistance with Prosthetic Devices: Assisting with the self-administration of medications; taking off/ putting on, maintaining, and cleaning prosthetic devices, vision/hearing aids, and washing/drying hands before and after performing these tasks.

The following is the application of functional rank specific to Dressing/Care and Assistance with Prosthetic Devices with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Able to put on, fasten and remove all clothing, special devices, prosthetic devices, and self-administer medication without assistance. Clothes self appropriately for health and safety.

- * **Observations:** Observe if the recipient is appropriately dressed; if clothing is buttoned, zipped, laced; if the recipient has no difficulty with small hand movements as demonstrated by his/her ability to sign the application or manipulate bottles of medication.
- * **Questions:** Do you ever have any difficulty getting dressed (e.g., buttoning or zipping clothing, etc.), putting on prosthetic devices, hearing aid, or self-administering medication?

Rank 2: Able to dress self; put on, fasten, and remove all special/prosthetic devices and/or hearing aid; and self-administer medication but requires reminding or direction.

- * **Observations:** Observe the appropriateness of the recipient's dress for room temperature or if the recipient's clothing is bizarre (e.g., wearing underwear outside of clothing); if the clothing is buttoned, zipped, laced; if the clothing is relatively clean, is mended if necessary, is the correct size for recipient; if the recipient is blind; if the recipient is alert and aware of his/her appearance.
- * **Questions:** Are there times when it seems just too much of a bother to get dressed for the day? Does anyone ever comment to you on how you are dressed? Are you warm enough or too warm? Could you use some help in getting your clothes and medications organized for the day?

Rank 3: Unable to dress self completely without the help of another person (e.g., tying shoes, buttoning, zipping, putting on hose, brace, hearing aid, etc.).

- * **Observations:** Observe if the recipient's clothes correctly fastened; if prosthetic devices and/or hearing aid are properly attached; if the recipient apologizes or seems embarrassed about the state of his/her dress; if the recipient asks you for any assistance; if the recipient is disabled in his/her dominant hand; if the recipient has impaired range of motion, grasping, small hand movement; if the recipient needs special clothing.
- * **Questions:** Are there any articles of clothing or devices you have difficulty putting on or fastening? Do you need help with clothing items before you feel properly dressed? Do you need to use a special device in order to get dressed? Do you use Velcro® fastening? Do you need help administering medication?

Rank 4: Unable to put on most clothing items, special/prosthetic devices, and/or hearing aid by

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self. Without assistance the recipient would be inappropriately or inadequately clothed.

- * **Observations:** Observe the recipient's range of motion and other movements impaired. Observe if the recipient has a hard time hearing; is dressed in bed clothes, robe and slippers rather than street clothes; if the recipient appears too cold or too warm for the room temperature; if the recipient seems willing to try to adapt to alternate methods of dressing; if medication bottles are full.
- * **Questions:** Do you feel unable to get out, or have people visit because you are unable to get adequately dressed? Do you ever feel too hot or too cold because you cannot put on or take off the necessary clothing to make you feel more comfortable? Has your health ever been affected because you have not been able to administer medication or dress appropriately for the weather or temperature?

Rank 5: Unable to dress self at all, requires complete assistance from another.

- * **Observations:** Observe if the recipient is capable of voluntary movement? If the recipient's clothing appears comfortable and clean; if the recipient appears satisfied with the degree of dress. Determine if the recipient would prefer a dress and shoes rather than a robe and slippers all of the time; if the recipient can support self without a body support/device.
- * **Questions:** How do you change your clothing? Do you ever feel too warmly or too coolly dressed? Is your clothing comfortable and clean enough? Do you get changed as often as you feel necessary?

Bowel, Bladder, and Menstrual Care

Bowel and Bladder Care: Assisting with using, emptying, and cleaning bedpans/bedside commodes, urinals, ostomy, enema, and/or catheter receptacles; application of diapers; positioning for diaper changes; managing clothing; changing disposable barrier pads; putting on/taking off disposable gloves; wiping and cleaning recipient; assisting with getting on/off commode or toilet; and washing/drying hands.

Note: This does not include insertion of enemas, catheters, suppositories, digital stimulation as part of a bowel program, or colostomy irrigation. These tasks are assessed as "paramedical services."

Menstrual Care: Menstrual care is limited to the external application of sanitary napkins and external cleaning and positioning for sanitary napkin changes, using and/or disposing of barrier pads, managing clothing, wiping and cleaning, and washing/drying hands.

Note: In assessing "menstrual care," it may be necessary to assess additional time in other service categories such as "laundry," "dressing," "domestic," "bathing, oral hygiene, and grooming." Also, if a recipient wears diapers, time for menstrual care should not be necessary. This would be assessed as part of "bowel and bladder care."

The following is the application of functional rank specific to Bowel, Bladder, and Menstrual Care with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Able to manage Bowel, Bladder, and Menstrual Care with no assistance from another person.

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- * **Observations:** Observe if recipient's movement is unimpaired; if the recipient has had colon cancer, observe if the recipient wears a colostomy or ostomy bag or if there are ostomy or colostomy bags present.
- * **Questions:** Do you need any help when you have to use the toilet? Do you also use a bedside commode, urinal, or bedpan? Do you have any problems getting to the bathroom on time? Do you need any help when you position and apply a sanitary napkin?

Rank 2: Requires reminding or direction only.

- * **Observations:** Observe if the recipient seems disoriented or confused; if urine smells are detectable; if furniture is covered with barrier pads or plastic; if adult diapers are in the recipient's bedroom or bathroom; if the recipient takes diuretics such as Lasix®; if the recipient's clothing is stained, indicating that there is an incontinence problem.
- * **Questions:** In the past month, have you had difficulty getting to the toilet/commode on time? If yes, how often? Does someone remind you? Do you have accidents when menstruating?

Rank 3: Requires minimal assistance with some activities but the constant presence of the provider is not necessary.

- * **Observations:** Observe if there are moderate movement impairments; if there is severe limitation of use of the recipient's hands; if the recipient needs a boost to transfer.
- * **Questions:** Do you have any problems using the bathroom or managing your clothes? Does anyone help you? If yes, what kind of assistance do you need and how often? Are you able to empty your urinal/commode (if used)? Do you menstruate? Regularly? Do you have accidents? How often do the accidents occur? Are you able to cleanup after them?

Rank 4: Unable to carry out most activities without assistance.

- * **Observations:** Observe the severity of the recipient's movement problems; if the recipient is unable to transfer unassisted; the recipient's or provider's statement as to the quantity or frequency of daily laundry and any indication that "hand" laundry is done daily. Observe if there is a large amount of unwashed laundry with the odor of urine, fecal matter, or stains due to menstruating. Observe if there are meds such as stool softeners visible.
- * **Questions:** Who helps you? How? Is s/he available every time you need help? Do you need more help at certain times of the day/night?

Rank 5: Requires physical assistance in all areas of care.

- * **Observations:** Observe if the recipient has any voluntary movement; if the recipient is bedfast or chair bound; if the recipient is able to make her/his needs known.

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- * **Questions:** Who helps you? What is your daily routine? Do you also need assistance with activities we classify as "paramedical services"?

Transfer, Repositioning/Rubbing Skin

Transfer: Assisting from standing, sitting, or prone position to another position and/or from one piece of equipment or furniture to another. This includes transfer from a bed, chair, coach, wheelchair, walker, or other assistive device generally occurring within the same room.

Note: Transfer does not include:

- Assistance on/off toilet. This task is assessed as part of "bowel and bladder care."
- Changing position to prevent breakdown and promote circulation. This task is assessed as "repositioning/rubbing skin."

Repositioning/Rubbing Skin: Rubbing skin to promote circulation and/or prevent skin breakdown; turning in bed and other types of repositioning; and range of motion exercises which meet the criteria of MPP 30-757.14(g)(1)(2)(A).

Note: Repositioning and Rubbing Skin does not include:

- Care of pressure sores (skin and wound care). This task is assessed as part of "paramedical services."
- Ultraviolet treatment (set up and monitor equipment) for pressure sores and/or application of medicated creams to the skin is assessed as part of "care and assistance with prosthetic devices."

The following is the application of functional rank specific to Transfer, Repositioning/Rubbing Skin with suggestions that may help inform the determination as to rank:

Rank 1: Independent: Able to do all transfers safely without assistance from another person though recipient may experience some difficulty or discomfort. Completion of task poses no risk to his/her safety.

- * **Observations:** Observe if the recipient's movement is unimpaired; if s/he is able to get out of a chair unassisted when s/he shows you the house; if s/he shifts weight while sitting.
- * **Questions:** Do you ever need a boost to get out of bed or out of the chair? When? How often? Do you ever have difficulty moving around?

Rank 2: Able to transfer and reposition, but needs encouragement or direction.

- * **Observations:** Observe if the recipient seems confused and has trouble getting out of a chair (probably more problematic in getting out of bed). Determine if the recipient is bed bound on bad days; if without prompting, s/he lies in bed without turning over or otherwise moving but will turn over if reminded every two or three hours during the day.
- * **Questions:** Does anyone help you get out of bed in the morning? How does s/he help you?

Rank 3: Requires some help from another person (e.g., routinely requires a boost or assistance with positioning).

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- * **Observations:** Observe the length of time it takes the recipient to answer door; the sounds heard as the recipient comes to door; if the recipient asks you for a boost when s/he gets up to get medications, or is shaky when using assistive device; if the recipient is obese and has a great deal of difficulty getting up; if there is a trapeze over the recipient's bed.
- * **Questions:** Do you always have difficulty getting out of a chair? Who helps you? How? How often? Do you also have trouble getting out of bed or repositioning yourself? What kind of help do you need? (Expressing interest in how the recipient has solved one problem usually encourages her/him to tell you ways s/he have solved other problems in order to manage self.)

Rank 4: Unable to complete most transfers or reposition without physical assistance. Would be at risk if unassisted.

- * **Observations:** Observe if the recipient uses an assistive device for mobility; if the recipient's joints are deformed from arthritis or some other disease; if the recipient is wearing a cast or brace; if someone in house assists the recipient to get up if s/he uses a walker or is in a wheelchair; if there are bruises, scabs, or bumps or burns on the recipient.
- * **Questions:** Who helps you? How? How often? Both in getting into and out of bed, in and out of chair/wheelchair? Do you require help with repositioning and rubbing skin? Do you need more help at certain times of the day/night?

Rank 5: Totally dependent upon another person for all transfers. Must be lifted or mechanically transferred. Must be repositioned often and have skin rubbed daily.

- * **Observations:** Observe if the recipient appears to be immobile; if s/he appears to be uncomfortable or in pain; if s/he experiences skin breakdown; if s/he has any fears related to being moved; if the recipient's position appears changed as often as necessary; if the recipient makes needs known.
- * **Questions:** Who is available to help you when you need to be moved? Do you feel they are able to do so without causing you undue pain or discomfort? Is there anything that needs to be changed to make you more comfortable?

Eating

Assisting with consumption of food and assurance of adequate fluid intake consisting of eating or related assistance to recipients who cannot feed themselves or who require other assistance with special devices in order to feed themselves or to drink adequate liquids. Eating task includes assistance with reaching for, picking up, and grasping utensils and cup; cleaning face and hands; and washing/drying hands.

Note: This does not include cutting food into bite-sized pieces or puréeing food, as these tasks are assessed in "meal preparation services."

The following is the application of functional rank specific to Eating with suggestions that may help inform the determination as to rank:

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Rank 1: Independent: Able to feed self.

- * **Observations:** Observe if there is no impairment in grasp indicated when the recipient signs the application or handles medicine bottles; if there is a cup or glass next to the recipient's chair. Observe how the recipient takes a drink.
- * **Questions:** Do you need any help eating? (Since deterioration usually occurs in a hierarchical manner and feeding oneself is the last function to lose, questions may not be necessary if the recipient is able to dress self and scores 1, 2, or 3 in "bowel and bladder care" except in cases where the recipient seems mentally impaired.)

Rank 2: Able to feed self, but needs verbal assistance such as reminding or encouragement to eat.

- * **Observations:** Observe if the recipient appears depressed, despondent, or disoriented; if the recipient's clothes seem large for the recipient, indicating possible recent weight loss; if there is rotten food, no food in refrigerator, or a stockpile of Twinkies®, only; if there are not any signs of cooking.
- * **Questions:** What have you eaten today? How many meals do you eat each day? Do you have trouble with a poor appetite? What is the difficulty? Are there times you forget to eat? Does it sometimes seem like it takes too much effort to eat? Do you have trouble deciding what to eat?

Rank 3: Assistance needed during the meal (e.g., to apply assistive device, fetch beverage or push more food within reach, etc.) but constant presence of another person is not required.

- * **Observations:** Observe if manual dexterity is impaired, particularly of dominant hand; if there are straws or cups with spill-proof lids; if the recipient has difficulty shaking hands; if s/he has severely limited eyesight.
- * **Questions:** Do you need help in feeding yourself? Do you need to use special utensils to feed yourself? Do you feel that you get enough to eat? Do you have difficulty reaching food on your plate or reaching your glass?

Rank 4: Able to feed self some foods, but cannot hold utensils, cups, glasses, etc., and requires constant presence of another person.

- * **Observations:** Food stains on clothing; shakiness of hands; deformity of hands with limitation in ability to grasp or hold trays, towels, bibs.
- * **Questions:** Does someone help you eat? How? How often? Do you eat with the rest of the family? Can you feed yourself finger foods? Are you able to use a fork or spoon? Do you have difficulty chewing or swallowing? If so, how do you deal with the problem?

Rank 5: Unable to feed self at all and is totally dependent upon assistance from another person.

- * **Observations:** Observe if the recipient has no use of upper extremities; if there are trays, towels, bibs, etc., near the recipient.
- * **Questions:** What is your daily routine for eating meals?

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Rank 6: Is tube fed. All aspects of tube feeding are evaluated as a “paramedical service.”

Respiration

Respiration is limited to non-medical services such as assistance with self-administration of oxygen and cleaning oxygen equipment and IPPB machines.

The following is the application of functional rank specific to Respiration with suggestions that may help inform the determination as to rank:

Rank 1: Does not use respirator or other oxygen equipment or is able to use and clean independently.

- * **Observations:** Observe the oxygen equipment present; if the recipient coughs or wheezes excessively or if breathing is labored.
- * **Question:** Are you able to clean and take care of the equipment yourself?

Rank 5: Needs help with self-administration and/or cleaning.

- * **Observations:** Observe the same things above and if when the recipient ambulates if s/he has difficulty with breathing or breathing is laborious. Observe the recipient’s meds; if the recipient has weakness or immobility in conjunction with breathing problems; if there is a referral from an oxygen supplier indicating the recipient is not taking care of the equipment properly.
- * **Questions:** Are you able to clean and take care of the equipment yourself? If not, how does it get done? How often do you use the equipment? Have you had difficulty administering your own oxygen or using your breathing machine? (If yes, refer for “paramedical service.”) Who cleans equipment after you use it?

Rank 6: Needs “paramedical service,” such as suctioning.

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MENTAL FUNCTIONING

Memory

Recalling learned behaviors and information from distant and recent past.

The following is the application of functional rank specific to Memory with suggestions that may help inform the determination as to rank:

Rank 1: No problem: Memory is clear. Recipient is able to give you accurate information about his/her medical history; is able to talk appropriately about comments made earlier in the conversation; has good recall of past events. The recipient is able to give you detailed information in response to your questions.

* **Observations:** Observe if recipient's responses to your questions indicate that s/he has good recall; knows his/her doctors' names; knows his/her own telephone number or the number of a close friend; is clear about sources of income and assets; knows who close relatives are and where they live. Observe if the recipient is mentally capable of following through on activities of daily living; if s/he has good social skills; if recipient's thought process seems clear and s/he is able to keep track during a conversation.

* **Example:** An elderly women living alone in her home responds quickly and confidently to your questions to establish her eligibility for IHSS and determine her need for services. The recipient is reasonably organized. His/her medications are in place. There are stamped bills in the mailbox. The trash appears to be picked up regularly. There is a grocery list ready for the IHSS provider.

* **Questions:** Who is your doctor? What medicine do you take regularly? What is your address and telephone number? When were you born? Where were you born? What is the date today? How long have you lived in this house? Where did you live before you lived here? What serious illnesses or surgeries have you had? How long ago was each illness or surgery?

Rank 2: Memory loss is moderate or intermittent: Recipient shows evidence of some memory impairment, but not to the extent where s/he is at risk. Recipient needs occasional reminding to do routine tasks or help recalling past events.

* **Observations:** Observe if the recipient appears forgetful and has some difficulty remembering names, dates, addresses, and telephone numbers; if the recipient's attention span and concentration are faulty; if the recipient fidgets, frowns, etc., possibly indicating a struggle to recall; if the recipient repeats statements and asks repetitive questions; if recipient occasionally forgets to take medication or cannot recall when s/he last took medication and if the problem is corrected with the use of a Medi-Set (pill distribution box) set up by someone else. Observe if the recipient may become bewildered or appears overwhelmed when asked about details; if the recipient's recall process aggravates mental confusion or causes intermittent memory loss; if the recipient becomes moderately confused when daily routine is altered.

* **Example:** Elderly man has to be prompted occasionally by his wife when he tries to respond to your questions. He apologizes for or tries to conceal memory lapses.

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- * **Questions:** What year were you born? How old are you now? How old were you when your first child was born? What medicines do you take? Tell me what you usually do during the day. Who telephones or comes to see you often? What do you have to eat for dinner tonight?

Rank 5: Severe memory deficit: Recipient forgets to start or finish activities of daily living that are important to his/her health and/or safety. Recipient cannot maintain much continuity of thought in conversation with you.

- * **Observations:** Observe if the recipient has a blank or benign look on her/his face most of the time; if s/he is continually placing and replacing objects in the room to avoid answering your questions; if s/he gives inappropriate responses to questions; if the recipient's voice and/or train of thought trails off in middle of conversations; if s/he starts an activity and forgets to finish it; if the recipient consistently forgets to take medications or takes them inappropriately, even with a Medi-Set. Determine if the recipient has a history of leaving stove burners on or the water running in the sink and/or tub causing overflows. Observe if the recipient cannot remember when s/he ate last or what s/he ate; if s/he is unable to remember names of close relatives; has loss of verbal ability; is impaired intellectually; displays abnormal and potentially dangerous behavior.
- * **Example:** Middle-aged man suffering from Alzheimer's disease is totally unable to respond to your questions. He becomes very agitated for no good reason; arises from chair as if to leave room and stares in bewilderment; needs to be led back to his chair. He seems unconcerned with events in daily life and cannot articulate his need for services. His daily routine follows a set, rigid pattern. He relates to the situation on a superficial basis.
- * **Questions:** What are the names and relationships of your closest relatives? Did you eat breakfast today? What did you eat? Can you tell me what I'm holding in my hand? How old are you? What is your birth date? Ask housemate: What happens when the recipient is left alone? Does s/he remember any events from the previous day, hour, or minute? Does s/he remember who you are? Does s/he remember how to operate the stove, shave self, or perform other tasks safely?

Orientation

Awareness of time, place, self, and other individuals in one's environment.

The following is the application of functional rank specific to Orientation with suggestions that may help inform the determination as to rank:

Rank 1: No problem: Orientation is clear. Recipient is aware of where s/he is and can give you reliable information when questioned about activities of daily living, family, etc.; is aware of passage of time during the day.

- * **Observations:** Observe if the recipient appears comfortable and familiar with his/her surroundings. Recipient makes and keeps good eye contact with you. His/her facial expression is alert and is appropriate to the situation. The recipient is spontaneous and direct. The recipient shows interest in maintaining a good personal appearance. The

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recipient is obviously in touch with reality; is aware of time and place; readily responds to questions about his/her living arrangement, family, etc.; is fully aware of the reason for your visit. Determine if the recipient is physically able to leave home unassisted and if the recipient can find his/her way back without getting lost and can get around using public transportation.

- * **Example:** Recipient is ready and waiting for your visit. S/he initiates social amenities such as offering coffee, a chair to sit on, etc. The recipient introduces family members and/or is able to identify family pictures when asked and has the documents ready that you asked him/her to locate.
- * **Questions:** Do you have relatives living close by? Why are you asking for help at this time? How have you managed to care for yourself until now? Do you have someone who helps around the home?

Rank 2: Occasional disorientation and confusion is apparent but recipient does not put self at risk: Recipient has general awareness of time of day; is able to provide limited information about family, friends, age, daily routine, etc.

- * **Observations:** Observe if the recipient appears disheveled and the surroundings are chaotic. Observe if objects are misplaced or located in inappropriate places; if there is moldy food in and out of kitchen; if the recipient does not notice that the home is over heated or under heated until you mention it; if the recipient appears to be less confused in familiar surroundings and with a few close friends; if the recipient is able to maintain only marginal or intermittent levels of social interaction; if the recipient is able to provide some information but is occasionally confused and vague; if the recipient is not always aware of time, surroundings and people; if the recipient is able to respond when redirected or reminded.
- * **Example:** Twice in the past year the recipient has called her daughter at 2:00 a.m. and was not aware that it was the middle of the night. When told what time it was, the recipient apologized and went back to bed. When you enter the recipient's apartment, the elderly woman asks, "Why are you here today? You said you'd be here Tuesday." You respond, "This is Tuesday." The recipient seems unprepared for your visit and has difficulty settling down for the interview. She participates with some difficulty. She is not comfortable outside of her immediate environment and rarely ventures out. Her mail is left unopened occasionally, and her clothing and some perishable food items are not properly stored.
- * **Questions:** What day is today? How many rooms do you have in your home? Where is the closest grocery store? Do you know who I am and why I am here? Do you go out alone? Do you ever get lost when you go out of the house alone? Do you know the name of the bus you take when you go to the store and where the bus stop is to go home? What month, year, season, holiday, etc.?

Rank 5: Severe disorientation which puts recipient at risk: Recipient wanders off; lacks awareness or concern for safety or well being; is unable to identify significant others or relate safely to environment or situation; has no sense of time of day.

- * **Observations:** Observe if the recipient shuffles aimlessly throughout house; if s/he

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exhibits inappropriate behaviors such as giggling or making comments that are irrelevant to the conversation; if s/he handles objects carelessly; appears unkempt, displays poor personal hygiene; has a manner of dress that is inappropriate or bizarre; if when the social worker attempted to shake the recipient's hand, s/he tried to bite social worker's hand. Observe if the recipient is very confused, unaware of time, place, and/or individuals; goes to the mailbox and cannot find her/his way back to the apartment; does not recognize the apartment manager when the manager tries to help the recipient find her/his way back to the apartment and the recipient becomes highly agitated. Observe if the recipient appears to be disoriented and experiences hallucinations and displays a dazed and confused state of mind; is unable to answer simple questions appropriately; if the recipient's sleep-wake cycle may be abnormal; if the recipient confuses immediate living relatives (son/daughter) with dead relatives (husband, etc); if emotional instability is present.

- * **Example:** Family member or friend must answer door, as recipient is unable to maneuver in home without wandering. The recipient must be directed to chair. The recipient exhibits no awareness of the purpose of the social worker's visit. The recipient is unable to concentrate; s/he either does not respond to questions or speaks unintelligibly.
- * **Questions:** What is your name? Where do you live? What is the date today? What year is it? Where are you? Where are you going? If the recipient is unable to respond or responds inappropriately, ask Housemate: What is the nature of ___'s mental problem? What can the recipient do for self? What does the recipient do if left alone?

Judgment

Making decisions so as not to put self or property in danger. Recipient demonstrates safety around stove. Recipient has capacity to respond to changes in the environment (e.g., fire, cold house). Recipient understands alternatives and risks involved and accepts consequences of decisions.

The following is the application of functional rank specific to Judgment with suggestions that may help inform the determination as to rank:

Rank 1: Judgment unimpaired: Able to evaluate environmental cues and respond appropriately.

- * **Observations:** Observe if home is properly maintained, and in safe repair; if recipient's responses show decision-making ability is intact; if recipient dresses appropriately for the weather; if recipient is able to form correct conclusions from knowledge acquired through experience; if recipient is capable of making independent decisions and is able to interact with others.
- * **Example:** Recipient takes pride in managing his/her own affairs and does so appropriately. The recipient has a list of numbers to call in case of emergency; takes measures to guard safety such as locking doors at night, not allowing strangers into home, etc.
- * **Questions:** Do you have a list of numbers to call in case of an emergency? Do you have friends or family who could help out in a crisis situation? What would you do if your provider were unable to come to work one day?

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Rank 2: Judgment mildly impaired: Shows lack of ability to plan for self; has difficulty deciding between alternatives, but is amenable to advice; social judgment is poor.

- * **Observations:** Observe if the home is in disrepair (leaking faucets, broken appliances, inadequate lighting, etc.); if debris has been allowed to accumulate in walk-way areas; if food in the home is of poor nutritional value; if the recipient is unable to recognize that there are alternatives or unable to select between them and is unable to plan or foresee consequences of decisions. Observe if the recipient is not capable of making decisions without advice from another, is able to understand options when explained, makes correct choices; knows enough to turn stove and heat on and off.
- * **Example:** Recipient wastes money on useless items while allowing needed repairs to go unattended. The recipient “makes do” with the condition of home even if it is inconvenient for the recipient. The recipient appears to be a “collector,” has difficulty throwing anything out even though access through home is limited. The recipient can’t decide which provider s/he wants. The grocery list to provider contains mostly junk food. The recipient stopped homebound meals when s/he decided they weren’t tasty rather than add salt. S/he refuses to use walker or cane.
- * **Questions:** Who would you call in case of emergency? If someone you did not know came to your door at night, what would you do? What are you able to do for yourself? Do you need anyone to help you? Who would you depend on to assist you if you needed a household repair done such as if your heater did not work?

Rank 5: Judgment severely impaired: Recipient fails to make decisions or makes decisions without regard to safety or well-being.

- * **Observations:** Observe if safety hazards are evident: clothing has burn holes; faulty wiring, leaking gas, burned cookware, etc. Observe if utilities may be shut off; food supply is inadequate or inedible. If the recipient is a pet owner, observe if there are animal feces in home. Observe if the recipient is obviously unaware of dangerous situations, not self-directing, mentally unable to engage in activities of daily living; goes outside with no clothing on; if neighbors saw smoke from apartment several times; if they entered and extinguished fires on stove; if someone from the community calls to report that the recipient is defecating or urinating on the front yard. Observe if the recipient cannot decide to eat, dress, or take medications; if the recipient seems preoccupied, confused, or frightened; if the recipient is unaware or too frail or feeble to make decisions to maintain self safely at home; if s/he takes a shower with clothes on; drinks spoiled milk, etc.
- * **Example:** Recipient has open access to home to anyone who approaches. The recipient seems unaffected by stench or odors due to garbage, feces, urine, etc; exhibits no concern over obvious safety hazards (e.g., debris piled on stove, papers scattered near heater, etc.); lets injuries such as burns go unattended. In the past year, the recipient has recurrently started dinner and fell asleep and awoke to a smoke-filled kitchen.
- * **Questions:** What would you do if you saw something on fire in your house? If you needed to get to the doctor what would you do? Ask Housemate: What happens when ___ is left alone? Can s/he recognize situations that would lead to danger? Is s/he capable of making rational decisions?

MPP 30-757.1(a):

- When assessing time for services (both within and outside the time guidelines), the time authorized shall be based on the recipient's individual level of need necessary to ensure his/her health, safety, and independence based on the scope of tasks identified for service.
- In determining the amount of time per task, the recipient's ability to perform the tasks based on his/her functional index ranking shall be a contributing factor, but not the sole factor. Other factors could include the recipient's living environment, and/or the recipient's fluctuation in needs due to daily variances in the recipient's functional capacity (e.g., "good days" and "bad days").
- In determining the amount of time per task, universal precautions should be considered. Universal precautions are protective practices necessary to ensure safety and prevent the spread of infectious diseases. Universal precautions should be followed by anyone providing a service, which may include contact with blood or body fluids such as saliva, mucus, vaginal secretions, semen, or other internal body fluids such as urine or feces. Universal precautions include the use of protective barriers such as gloves or facemask depending on the type and amount of exposure expected, and always washing hands before and after performing tasks. More information regarding universal precautions can be obtained by contacting the National Center for Disease Control.

| Task Definition | Grid | Factors/Exception Examples | | | | | | | | | | | | | | | |
|---|---|----------------------------|-----|------|--------|------|------|--------|------|------|--------|------|------|--------|------|------|--|
| <p>Meal Preparation (MPP 30-757.131) Preparation of meals which includes planning menus; removing food from refrigerator or pantry; washing/drying hands before and after meal preparation; washing, peeling, and slicing vegetables; opening packages, cans, and bags; measuring and mixing ingredients; lifting pots and pans; trimming meat; reheating food; cooking and safely operating stove; setting the table; serving the meals; pureeing food; and cutting the food into bite-size pieces.</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>3.02</td> <td>7.00</td> </tr> <tr> <td>Rank 3</td> <td>3.50</td> <td>7.00</td> </tr> <tr> <td>Rank 4</td> <td>5.25</td> <td>7.00</td> </tr> <tr> <td>Rank 5</td> <td>7.00</td> <td>7.00</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 3.02 | 7.00 | Rank 3 | 3.50 | 7.00 | Rank 4 | 5.25 | 7.00 | Rank 5 | 7.00 | 7.00 | <p>Factors For Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. ▪ Types of food the recipient usually eats for breakfast, lunch, dinner, and snacks and the amount of time needed to prepare the food (e.g., more cooked meals versus meals that do not require cooking). ▪ Whether the recipient is able to reheat meals prepared in advance and the types of food the recipient eats on days the provider does not work. ▪ The frequency the recipient eats. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the recipient must have meals pureed or cut into bite-sized pieces. ▪ If the recipient has special dietary requirements that require longer preparation times or preparation of more frequent meals. ▪ If the recipient eats meals that require less preparation time (e.g., toast and coffee for breakfast). |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 3.02 | 7.00 | | | | | | | | | | | | | | | |
| Rank 3 | 3.50 | 7.00 | | | | | | | | | | | | | | | |
| Rank 4 | 5.25 | 7.00 | | | | | | | | | | | | | | | |
| Rank 5 | 7.00 | 7.00 | | | | | | | | | | | | | | | |
| <p>Meal Cleanup (MPP 30-757.132) Loading and unloading dishwasher; washing, rinsing, and drying dishes, pots, pans, utensils, and culinary appliances and putting them away; storing/putting away leftover foods/liquids; wiping up tables, counters, stoves/ovens, and sinks; and washing/drying hands.</p> <p>Note: This does <u>not</u> include general cleaning of the refrigerator, stove/oven, or counters and sinks, as these IHSS services are assessed as "domestic services" (MPP 30-757.11).</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>1.17</td> <td>3.50</td> </tr> <tr> <td>Rank 3</td> <td>1.75</td> <td>3.50</td> </tr> <tr> <td>Rank 4</td> <td>1.75</td> <td>3.50</td> </tr> <tr> <td>Rank 5</td> <td>2.33</td> <td>3.50</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 1.17 | 3.50 | Rank 3 | 1.75 | 3.50 | Rank 4 | 1.75 | 3.50 | Rank 5 | 2.33 | 3.50 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. <ul style="list-style-type: none"> ○ EX: A recipient with a Rank 3 in "meal cleanup" who has been determined able to wash breakfast/lunch dishes and utensils and only needs the provider to clean up after dinner would require time based on the provider performing cleanup for the dinner meal only. ○ EX: A recipient who has less control of utensils and/or spills food frequently may require more time for cleanup. ▪ The types of meals requiring the cleanup. <ul style="list-style-type: none"> ○ EX: A recipient who chooses to eat eggs and bacon for breakfast would require more time for cleanup than a recipient who chooses to eat toast and coffee. ▪ If the recipient can rinse the dishes and leave them in the sink until provider can wash them. ▪ The frequency that meal cleanup is necessary. ▪ If there is a dishwasher appliance available. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the recipient must eat frequent meals which require additional time for cleanup. ▪ If the recipient eats light meals that require less time for cleanup. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 1.17 | 3.50 | | | | | | | | | | | | | | | |
| Rank 3 | 1.75 | 3.50 | | | | | | | | | | | | | | | |
| Rank 4 | 1.75 | 3.50 | | | | | | | | | | | | | | | |
| Rank 5 | 2.33 | 3.50 | | | | | | | | | | | | | | | |

| Task Definition | Grid | Factors/Exception Examples | | | | | | | | | | | | | | | |
|---|---|----------------------------|-----|------|--------|------|------|--------|------|------|--------|------|------|--------|------|------|---|
| <p>Bowel and Bladder Care (MPP 30-757.14(a)) Assistance with using, emptying, and cleaning bed pans/bedside commodes, urinals, ostomy, enema and/or catheter receptacles; application of diapers; positioning for diaper changes; managing clothing; changing disposable barrier pads; putting on/taking off disposable gloves; wiping and cleaning recipient; assistance with getting on/off commode or toilet; and washing/drying recipient's and provider's hands.</p> <p>Note: This does not include insertion of enemas, catheters, suppositories, digital stimulation as part of a bowel program or colostomy irrigation, as these are assessed as "paramedical services" (MPP 30-757.19).</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.58</td> <td>2.00</td> </tr> <tr> <td>Rank 3</td> <td>1.17</td> <td>3.33</td> </tr> <tr> <td>Rank 4</td> <td>2.91</td> <td>5.83</td> </tr> <tr> <td>Rank 5</td> <td>4.08</td> <td>8.00</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.58 | 2.00 | Rank 3 | 1.17 | 3.33 | Rank 4 | 2.91 | 5.83 | Rank 5 | 4.08 | 8.00 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. ▪ The frequency of the recipient's urination and/or bowel movements. ▪ If there are assistive devices available which result in decreased or increased need for assistance. <ul style="list-style-type: none"> ○ EX: Situations where elevated toilet seats and/or Hoyer lifts are available may result in less time needed for "bowel and bladder" care if the use of these devices results in decreased need for assistance by the recipient. ○ EX: Situations where a bathroom door is not wide enough to allow for easy wheelchair access may result in more time needed if its use results in an increased need. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the recipient has frequent urination or bowel movements. ▪ If the recipient has frequent bowel or bladder accidents. ▪ If the recipient has occasional bowel or bladder accidents that require assistance from another person. ▪ If the recipient's morbid obesity requires more time. ▪ If the recipient has spasticity or locked limbs. ▪ If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.58 | 2.00 | | | | | | | | | | | | | | | |
| Rank 3 | 1.17 | 3.33 | | | | | | | | | | | | | | | |
| Rank 4 | 2.91 | 5.83 | | | | | | | | | | | | | | | |
| Rank 5 | 4.08 | 8.00 | | | | | | | | | | | | | | | |
| <p>Feeding (MPP 30-757.14(c)) Includes assistance with consumption of food and assurance of adequate fluid intake consisting of feeding or related assistance to recipients who cannot feed themselves or who require other assistance with special devices in order to feed themselves or to drink adequate liquids.</p> <p>Includes assistance with reaching for, picking up, and grasping utensils and cup; cleaning recipient's face and hands; washing/drying hands before and after feeding.</p> <p>Note: This does not include cutting food into bite-sized pieces or puréeing food, as these are assessed as part of "meal preparation" (MPP 30-757.131).</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.70</td> <td>2.30</td> </tr> <tr> <td>Rank 3</td> <td>1.17</td> <td>3.50</td> </tr> <tr> <td>Rank 4</td> <td>3.50</td> <td>7.00</td> </tr> <tr> <td>Rank 5</td> <td>5.25</td> <td>9.33</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.70 | 2.30 | Rank 3 | 1.17 | 3.50 | Rank 4 | 3.50 | 7.00 | Rank 5 | 5.25 | 9.33 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. ▪ The amount of time it takes the recipient to eat meals. ▪ The type of food that will be consumed. ▪ The frequency of meals/liquids. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the constant presence of the provider is required due to the danger of choking or other medical issues. ▪ If the recipient is mentally impaired and only requires prompting for feeding him/herself. ▪ If the recipient requires frequent meals. ▪ If the recipient prefers to eat foods that he/she can manage without assistance. ▪ If the recipient must eat in bed. ▪ If food must be placed in the recipient's mouth in a special way due to difficulty swallowing or other reasons. ▪ If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.70 | 2.30 | | | | | | | | | | | | | | | |
| Rank 3 | 1.17 | 3.50 | | | | | | | | | | | | | | | |
| Rank 4 | 3.50 | 7.00 | | | | | | | | | | | | | | | |
| Rank 5 | 5.25 | 9.33 | | | | | | | | | | | | | | | |
| <p>Routine Bed Baths (MPP 30-757.14(d)) Cleaning basin or other materials used for bed/sponge baths and putting them away; obtaining water/supplies; washing, rinsing, and drying body; applying lotion, powder, and deodorant; and washing/drying hands before and after bathing.</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.50</td> <td>1.75</td> </tr> <tr> <td>Rank 3</td> <td>1.00</td> <td>2.33</td> </tr> <tr> <td>Rank 4</td> <td>1.17</td> <td>3.50</td> </tr> <tr> <td>Rank 5</td> <td>1.75</td> <td>3.50</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.50 | 1.75 | Rank 3 | 1.00 | 2.33 | Rank 4 | 1.17 | 3.50 | Rank 5 | 1.75 | 3.50 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. ▪ If the recipient is prevented from bathing in the tub/shower. ▪ If bed baths are needed in addition to baths in the tub/shower. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the recipient is confined to bed and sweats profusely requiring frequent bed baths. ▪ If the weight of the recipient requires more or less time. ▪ If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.50 | 1.75 | | | | | | | | | | | | | | | |
| Rank 3 | 1.00 | 2.33 | | | | | | | | | | | | | | | |
| Rank 4 | 1.17 | 3.50 | | | | | | | | | | | | | | | |
| Rank 5 | 1.75 | 3.50 | | | | | | | | | | | | | | | |

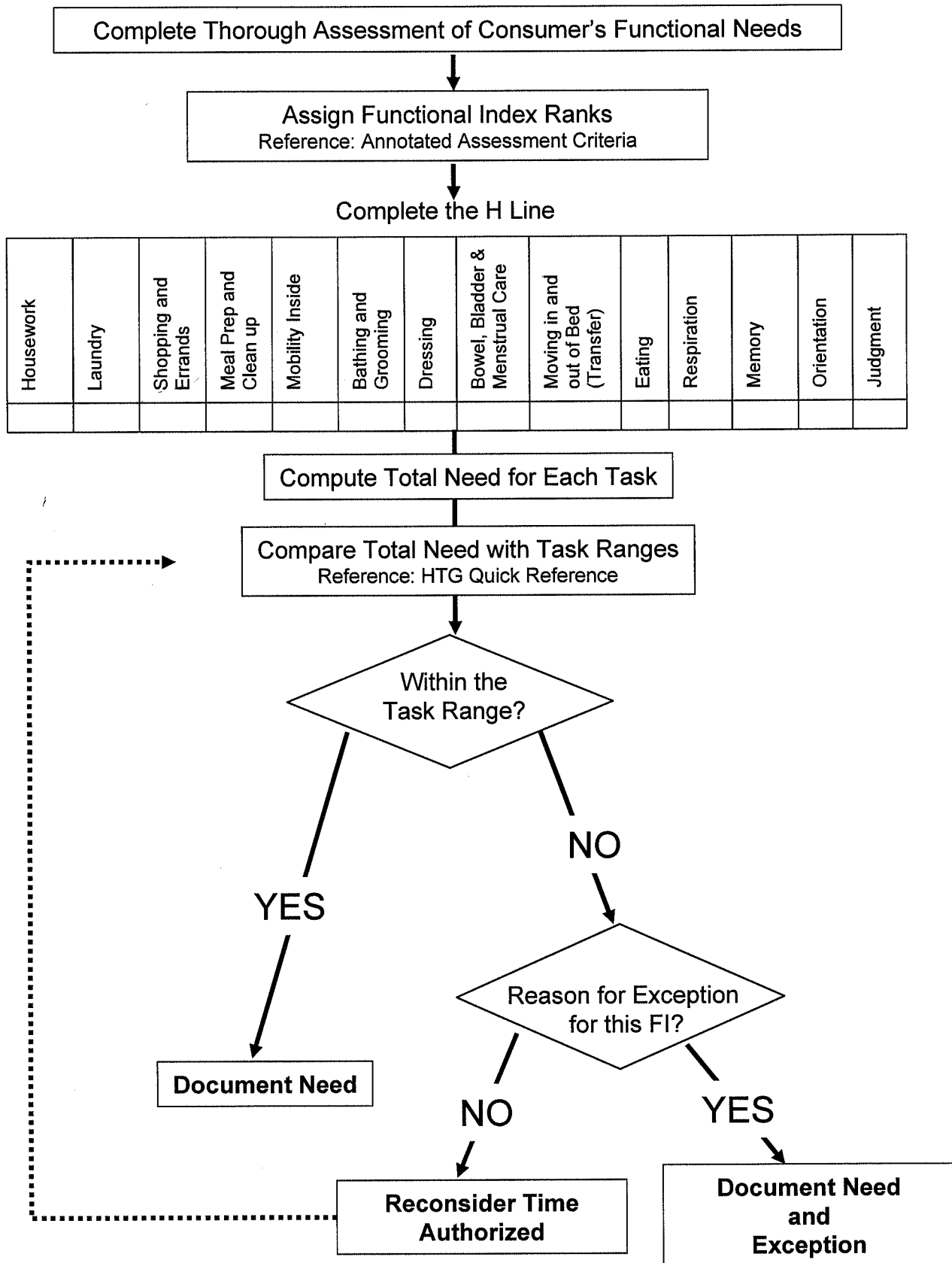
| Task Definition | Grid | Factors/Exception Examples | | | | | | | | | | | | | | | |
|--|---|----------------------------|-----|------|---------------------------------|------|------|--|------|------|--------|------|------|--------|------|------|--|
| <p>Dressing (MPP 30-757.14(f)) Washing/drying of hands; putting on/taking off, fastening/unfastening, buttoning/unbuttoning, zipping/unzipping, and tying/untying of garments, undergarments, corsets, elastic stockings, and braces; changing soiled clothing; and bringing tools to the recipient to assist with independent dressing.</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.56</td> <td>1.20</td> </tr> <tr> <td>Rank 3</td> <td>1.00</td> <td>1.86</td> </tr> <tr> <td>Rank 4</td> <td>1.50</td> <td>2.33</td> </tr> <tr> <td>Rank 5</td> <td>1.90</td> <td>3.50</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.56 | 1.20 | Rank 3 | 1.00 | 1.86 | Rank 4 | 1.50 | 2.33 | Rank 5 | 1.90 | 3.50 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> The extent to which the recipient can assist or perform tasks safely. The type of clothing/garments the recipient wears. If the recipient prefers other types of clothing/garments. The weather conditions. Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> If the recipient frequently leaves his/her home, requiring additional dressing/undressing. If the recipient frequently bathes and requires additional dressing or soils clothing, requiring frequent changes of clothing. If the recipient has spasticity or locked limbs. If the recipient is immobile. If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.56 | 1.20 | | | | | | | | | | | | | | | |
| Rank 3 | 1.00 | 1.86 | | | | | | | | | | | | | | | |
| Rank 4 | 1.50 | 2.33 | | | | | | | | | | | | | | | |
| Rank 5 | 1.90 | 3.50 | | | | | | | | | | | | | | | |
| <p>Menstrual Care (MPP 30-757-14(j)) Menstrual care is limited to external application of sanitary napkins and external cleaning and positioning for sanitary napkin changes, using, and/or disposing of barrier pads, managing clothing, wiping and cleaning, and washing/drying hands before and after performing these tasks.</p> <p>EX: In assessing menstrual care, it may be necessary to assess additional time in other service categories such as "laundry," "dressing," "domestic," "bathing, oral hygiene, and grooming" (MPP 30-757).</p> <p>EX: In assessing menstrual care if the recipient wears diapers, time for menstrual care would not be necessary. This time would be assessed as part of "bowel and bladder" care.</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>*Functional rank does not apply</td> <td>0.28</td> <td>0.80</td> </tr> </tbody> </table> | | Low | High | *Functional rank does not apply | 0.28 | 0.80 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> The extent to which the recipient can assist or perform tasks safely. If the recipient has a menstrual cycle. The duration of the recipient's menstrual cycle. If there are medical issues that necessitate additional time. Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> If the recipient has spasticity or locked limbs. If the recipient is combative. | | | | | | | | | |
| | Low | High | | | | | | | | | | | | | | | |
| *Functional rank does not apply | 0.28 | 0.80 | | | | | | | | | | | | | | | |
| <p>Ambulation (MPP 30-757.14(k)) Assisting a recipient with walking or moving from place to place inside the home, including to and from the bathroom; climbing or descending stairs; moving/retrieving assistive devices, such as a cane, walker, or wheelchair, etc., and washing/drying hands before and after performing these tasks. "Ambulation" also includes assistance to/from the front door to the car (including getting in and out of the car) for medical accompaniment and/or alternative resource travel.</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.58</td> <td>1.75</td> </tr> <tr> <td>Rank 3</td> <td>1.00</td> <td>2.10</td> </tr> <tr> <td>Rank 4</td> <td>1.75</td> <td>3.50</td> </tr> <tr> <td>Rank 5</td> <td>1.75</td> <td>3.50</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.58 | 1.75 | Rank 3 | 1.00 | 2.10 | Rank 4 | 1.75 | 3.50 | Rank 5 | 1.75 | 3.50 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> The extent to which the recipient can assist or perform tasks safely. The distance the recipient must move inside the home. The speed of the recipient's ambulation. Any barriers that impede the recipient's ambulation. Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> If the recipient's home is large or small. If the recipient requires frequent help getting to/from the bathroom. If the recipient has a mobility device, such as a wheelchair that results in a decreased need. If the recipient has spasticity or locked limbs. If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.58 | 1.75 | | | | | | | | | | | | | | | |
| Rank 3 | 1.00 | 2.10 | | | | | | | | | | | | | | | |
| Rank 4 | 1.75 | 3.50 | | | | | | | | | | | | | | | |
| Rank 5 | 1.75 | 3.50 | | | | | | | | | | | | | | | |
| <p>Moving in and out of Bed - Renamed to Transfer (MPP 30-757.14(h)) Assisting from standing, sitting, or prone position to another position and/or from one piece of equipment or furniture to another. This includes transfer from a bed, chair, couch, wheelchair, walker, or other assistive device generally occurring within the same room.</p> <p>Note: Transfer does not include:</p> <ul style="list-style-type: none"> Assistance on/off toilet, as this is evaluated, as "bowel and bladder" care specified at MPP 30-757.14(a). Changing the recipient's position to prevent skin breakdown and to promote circulation. This task is assessed as part of "repositioning/rubbing skin" at section MPP 30-757.14(g). | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.50</td> <td>1.17</td> </tr> <tr> <td>Rank 3</td> <td>0.58</td> <td>1.40</td> </tr> <tr> <td>Rank 4</td> <td>1.10</td> <td>2.33</td> </tr> <tr> <td>Rank 5</td> <td>1.17</td> <td>3.50</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.50 | 1.17 | Rank 3 | 0.58 | 1.40 | Rank 4 | 1.10 | 2.33 | Rank 5 | 1.17 | 3.50 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> The extent to which the recipient can assist or perform tasks safely. The amount of assistance required. The availability of equipment, such as a Hoyer lift. Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> If the recipient gets in and out of bed frequently during the day or night due to naps or use of the bathroom. If the weight of the recipient and/or condition of his/her bones requires more careful, slow transfer. If the recipient has spasticity or locked limbs. If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.50 | 1.17 | | | | | | | | | | | | | | | |
| Rank 3 | 0.58 | 1.40 | | | | | | | | | | | | | | | |
| Rank 4 | 1.10 | 2.33 | | | | | | | | | | | | | | | |
| Rank 5 | 1.17 | 3.50 | | | | | | | | | | | | | | | |

| Task Definition | Grid | Factors/Exception Examples | | | | | | | | | | | | | | | |
|---|---|----------------------------|-----|------|---------------------------------|------|------|--|------|------|--------|------|------|--------|------|------|---|
| <p>Bathing, Oral Hygiene, and Grooming (MPP 30-757.14 (e))</p> <p>Bathing (Bath/Shower) includes cleaning the body in a tub or shower; obtaining water/supplies and putting them away; turning on/off faucets and adjusting water temperature; assistance with getting in/out of a tub or shower; assistance with reaching all parts of the body for washing, rinsing, and drying and applying lotion, powder, deodorant; and washing/drying hands.</p> <p>Oral Hygiene includes applying toothpaste, brushing teeth, rinsing mouth, caring for dentures, flossing, and washing/drying hands.</p> <p>Grooming includes hair combing/brushing; hair trimming when recipient cannot get to the barber/salon; shampooing, applying conditioner, and drying hair; shaving; fingernail/toenail care when these services are not assessed as "paramedical services" for the recipient; and washing/drying hands.</p> <p>Note: This does not include getting to/from the bathroom. These tasks are assessed as mobility under "ambulation" (MPP 30-757.14(k)).</p> | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Rank 2</td> <td>0.50</td> <td>1.92</td> </tr> <tr> <td>Rank 3</td> <td>1.27</td> <td>3.15</td> </tr> <tr> <td>Rank 4</td> <td>2.35</td> <td>4.08</td> </tr> <tr> <td>Rank 5</td> <td>3.00</td> <td>5.10</td> </tr> </tbody> </table> | | Low | High | Rank 2 | 0.50 | 1.92 | Rank 3 | 1.27 | 3.15 | Rank 4 | 2.35 | 4.08 | Rank 5 | 3.00 | 5.10 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. ▪ The number of times the recipient may need help to bathe. ▪ If the recipient requires assistance in/out of tub/shower. ▪ If the recipient needs assistance with supplies. ▪ If the recipient requires assistance washing his/her body. ▪ If the provider must be present while the recipient bathes. ▪ If the recipient requires assistance drying his/her body and/or putting on lotion/powder after bathing. ▪ If the recipient showers in a wheelchair. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the provider's constant presence is required. ▪ If the weight of the recipient requires more or less time. ▪ If the recipient has spasticity or locked limbs. ▪ If a roll-in shower is available. ▪ If the recipient is combative. |
| | Low | High | | | | | | | | | | | | | | | |
| Rank 2 | 0.50 | 1.92 | | | | | | | | | | | | | | | |
| Rank 3 | 1.27 | 3.15 | | | | | | | | | | | | | | | |
| Rank 4 | 2.35 | 4.08 | | | | | | | | | | | | | | | |
| Rank 5 | 3.00 | 5.10 | | | | | | | | | | | | | | | |
| <p>Repositioning/Rubbing Skin (MPP 30-757.14(g))</p> <p>Includes rubbing skin to promote circulation and/or prevent skin breakdown; turning in bed and other types of repositioning; and range of motion exercises which are limited to:</p> <ul style="list-style-type: none"> ▪ General supervision of exercises which have been taught to the recipient by a licensed therapist or other health care professional to restore mobility restricted because of injury, disuse, or disease. ▪ Maintenance therapy when the specialized knowledge and judgment of a qualified therapist is not required and the exercises are consistent the patient's capacity and tolerance. <ul style="list-style-type: none"> ○ Such exercises include carrying out of maintenance programs (e.g., the performance of repetitive exercises required to maintain function, improve gait, maintain strength, or endurance; passive exercises to maintain a range of motion in paralyzed extremities; and assistive walking). <p>Note: "Repositioning and rubbing skin" does not include:</p> <ul style="list-style-type: none"> ▪ Care of pressure sores (skin and wound care). This is assessed as part of "paramedical" specified at MPP 30-757.19. ▪ Ultraviolet treatment (set up and monitor equipment) for pressure sores and/or application of medicated creams to skin. These tasks are assessed as part of "assistance with prosthetic devices" at MPP 30-757.14(i). | <table border="1"> <thead> <tr> <th></th> <th>Low</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>*Functional rank does not apply</td> <td>0.75</td> <td>2.80</td> </tr> </tbody> </table> | | Low | High | *Functional rank does not apply | 0.75 | 2.80 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient can assist or perform tasks safely. ▪ If the recipient's movement is limited while in the seating position and/or in bed, and the amount of time the recipient spends in the seating position and/or in bed. ▪ If the recipient has circulatory problems. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the recipient has a condition that makes him/her confined to bed. ▪ If the recipient has spasticity or locked limbs. ▪ If the recipient has or is at risk of having decubitus ulcers which require the need to turn the recipient frequently. ▪ If the recipient is combative. | | | | | | | | | |
| | Low | High | | | | | | | | | | | | | | | |
| *Functional rank does not apply | 0.75 | 2.80 | | | | | | | | | | | | | | | |

| Task Definition | Grid | | Factors/Exception Examples | | | | | | |
|---|---|------|----------------------------|-----|------|---------------------------------|------|------|--|
| <p>Care and Assistance with Prosthetic Devices and Assistance with Self-Administration of Medications (MPP 30-757.14(i)) Assistance with taking off/putting on, maintaining, and cleaning prosthetic devices, vision/hearing aids, and washing/drying hands before and after performing these tasks.</p> <p>Also includes assistance with the self-administration of medications consisting of reminding the recipient to take prescribed and/or over-the-counter medications when they are to be taken, setting up Medi-sets and distributing medications.</p> | <table border="1"> <thead> <tr> <th data-bbox="591 240 711 283"></th> <th data-bbox="711 240 834 283">Low</th> <th data-bbox="834 240 958 283">High</th> </tr> </thead> <tbody> <tr> <td data-bbox="591 283 711 389">*Functional rank does not apply</td> <td data-bbox="711 283 834 389">0.47</td> <td data-bbox="834 283 958 389">1.12</td> </tr> </tbody> </table> | | | Low | High | *Functional rank does not apply | 0.47 | 1.12 | <p>Factors for Consideration Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ The extent to which the recipient is able to manage medications and/or prosthesis independently and safely. ▪ The amount of medications prescribed for the recipient. ▪ If the recipient requires special preparation to distribute medications (e.g., cutting tablets, putting medications into Medi-sets, etc.). ▪ If the recipient has cognitive difficulties that contribute to the need for assistance with medications and/or prosthetic devices. ▪ Time for universal precautions, as appropriate. <p>Exceptions Include, But Not Limited To:</p> <ul style="list-style-type: none"> ▪ If the recipient takes medications several times a day. ▪ If the pharmacy sets up medications in bubble wraps or Medi-sets for the recipient. ▪ If the recipient has multiple prosthetic devices. ▪ If the recipient is combative. |
| | Low | High | | | | | | | |
| *Functional rank does not apply | 0.47 | 1.12 | | | | | | | |

ATTACHMENT D

Utilization of New HTGs – Process



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**WELCOME TO YOUR JOB AS
AN IN-HOME SUPPORTIVE
SERVICES (IHSS)
INDIVIDUAL PROVIDER**

This notice briefly describes benefits that may be available to you and your income tax responsibilities. Please read this pamphlet carefully. Also, remember that your employer is the IHSS recipient that hired you, not the State of California nor the County Welfare Department (CWD). The State of California issues this pamphlet and your paychecks on behalf of your employer and the CWD handles all the paper work.

Please contact the CWD whenever you have any questions about your paycheck or timesheet. Always sign and date your timesheet after the pay period ends (not before), also have your employer sign and date it, then mail your timesheet to the CWD address that appears in the lower right-hand corner of the timesheet to avoid any delay in receiving your paycheck. Remember: always keep the CWD notified of any change to your address and/or telephone number.

My County Service Worker is:

Name _____

Address _____

Phone: _____

County of: _____

For information about IHSS
call the local
county welfare department



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

PUB 104 (12/06)

5470AppC.01

**IN-HOME
SUPPORTIVE
SERVICES**

**INDIVIDUAL
PROVIDER
BENEFITS
AND
SERVICES
INFORMATION**



SOCIAL SECURITY

Social Security benefits are available to individual providers who are 18 years old or older and not the parent of the employer/recipient. The benefits are available if you become totally disabled or retire and meet certain eligibility requirements. There is a deduction from your paycheck for Social Security (FICA). The benefits include monthly retirement or disability payments to you or your dependents. You should contact your local Social Security Administration Office for information and/or to apply for Social Security. The telephone number and address of this office are listed in the white pages of your telephone book under "United States Government, Social Security Administration."

MEDICARE TAX

Medicare is the health and medical benefits received as part of the total Social Security benefits package. In the past, the Medicare tax deduction was a part of the Social Security (FICA) tax deduction. Federal law now requires that the tax and the amount deducted be reported separately. Questions regarding the Medicare tax should be directed to the Social Security Administration.

STATE DISABILITY INSURANCE (SDI)

State Disability Insurance benefits are available to you if you become disabled and are prevented from doing your regular work and you meet certain eligibility requirements. There is a deduction from your paycheck for SDI. State Disability Insurance benefits are available for a maximum of 52 weeks. You should contact your local California Employment Development Department (EDD) office for information and/or to apply for State Disability Insurance. The telephone number and address of this office are listed in the white pages of your telephone book under "California State of, Employment Development Department."

If you are the parent, spouse or child of the person you are providing services to you may choose to participate in the SDI program by applying for Elective State Disability Insurance. The forms for Elective SDI coverage are available from the county social services worker. If you want this optional coverage, the cost will be deducted from your paycheck. All other Individual Providers are automatically covered for SDI if they have IHSS quarterly wages in excess of \$750.

UNEMPLOYMENT INSURANCE (UI)

Unemployment Insurance (UI) benefits may be available to you if you are not the parent or spouse of your employer/recipient and become unemployed, able and available to work and you meet certain eligibility requirements. There is no deduction from your paycheck for UI. Unemployment Insurance benefits are available for a maximum of 26 weeks. You should contact your local California Employment Development Department office for information and/or to apply for Unemployment Insurance. The telephone number and address of this office are listed in the white pages of your telephone book under "California State of, Employment Development Department."

WORKERS' COMPENSATION

Workers' Compensation benefits are available to you if you are injured on the job or become ill due to your job, and you meet certain eligibility requirements. There is no deduction from your paycheck for Workers' Compensation. If you are injured on the job, you should seek medical attention immediately and then notify your employer/recipient's county social services worker. Claim forms to apply for Workers' Compensation are available from the county social services worker and should be returned to the County Welfare Department when completed. For more information about Workers' Compensation, you may call an Information and Assistance Officer at 1-800-736-7401.

INCOME TAX WITHHOLDING

You may have state and federal income tax withheld from your paycheck if you apply and you meet certain eligibility requirements. Income tax withholding for individual providers is strictly voluntary. If you wish to have state and federal income tax withheld from your paycheck please complete the Income Tax Withholding Form (W-4) and mail it to your county welfare department. If you do not have state and/or federal income tax withheld from your paycheck, you are still required to file a tax return at the end of the year and possibly pay taxes on your earnings. You should contact your employer/recipient's county social service worker if you require additional W-4s, need to change your withholding, or need to determine the status of your withholding.

You should contact your local California Franchise Tax Board (FTB) office for information about state income tax withholding. The telephone number and address of this office are listed in the white pages of your telephone book under "California, State of, Franchise Tax Board." You should contact your local Internal Revenue Service (IRS) office for information about federal income tax withholding. The telephone number and address of this office are listed in the white pages of your telephone book under "United States Government, Internal Revenue Service."

EARNED INCOME CREDIT (EIC)

You may be eligible for the Earned Income Credit (EIC). To find out about EIC and if you are eligible, carefully read the instructions for completing a form W-5 (Earned Income Credit Advance Payment Certificate). If you are eligible for EIC you can choose to get the credit in advance with your pay instead of waiting until you file your tax return. You should contact your local Internal Revenue Service office or your tax consultant for information about EIC.

ASSESSMENT OF NEED FOR PROTECTIVE SUPERVISION FOR IN-HOME SUPPORTIVE SERVICES PROGRAM

Release of Information Attached

| | | |
|--|-----------------------------|--------------------|
| Attending Physician's / Medical Professional's mailing address | PATIENT'S NAME: | PATIENT'S DOB: / / |
| | MEDICAL ID#: (IF AVAILABLE) | COUNTY ID#: |
| | IHSS SOCIAL WORKER'S NAME: | |
| | COUNTY CONTACT TELEPHONE #: | COUNTY FAX #: |

Your patient is an applicant/recipient of **In-Home Supportive Services (IHSS)** and is being assessed for the need for Protective Supervision. Protective Supervision is available to safeguard against accident or hazard by observing and/or monitoring the behavior of non self-directing, confused, mentally impaired or mentally ill persons. This service is not available in the following instances:

- (1) When the need for protective supervision is caused by a physical condition rather than a mental impairment;
- (2) For friendly visitation or other social activities;
- (3) When the need for supervision is caused by a medical condition and the form of supervision required is medical;
- (4) In anticipation of a medical emergency (such as seizures, etc.);
- (5) To prevent or control antisocial or aggressive recipient behavior.

Please complete this form and return it promptly. Thank you for your assisting us in determining eligibility for Protective Supervision. (Welfare and Institutions Code §12301.21)

| | |
|--------------------------------|---|
| DATE PATIENT LAST SEEN BY YOU: | LENGTH OF TIME YOU HAVE TREATED PATIENT: |
| DIAGNOSIS/MENTAL CONDITION: | PROGNOSIS: <input type="checkbox"/> Permanent <input type="checkbox"/> Temporary - Timeframe: _____ |

PLEASE CHECK THE APPROPRIATE BOXES

MEMORY

- No deficit problem Moderate or intermittent deficit (explain below) Severe memory deficit (explain below)

Explanation: _____

ORIENTATION

- No disorientation Moderate disorientation/confusion (explain below) Severe disorientation (explain below)

Explanation: _____

JUDGMENT

- Unimpaired Mildly Impaired (explain below) Severely Impaired (explain below)

Explanation: _____

- Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? Yes No
If Yes, please specify: _____
- Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes No
- Do you have any additional information or comments? _____

CERTIFICATION

I certify that I am licensed to practice in the State of California and that the information provided above is correct.

| | | |
|---|--------------------|----------------|
| SIGNATURE OF PHYSICIAN OR MEDICAL PROFESSIONAL: | MEDICAL SPECIALTY: | DATE: |
| ADDRESS: | LICENSE NO.: | TELEPHONE: () |

RETURN THIS FORM TO: COUNTY'S MAILING ADDRESS, CITY, CA.: ATTN: SW-NAME

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**PROTECTIVE SUPERVISION
24-HOURS-A-DAY COVERAGE PLAN**

PLEASE PRINT

| | |
|--------------------------------------|--------------------------|
| NAME OF IHSS RECIPIENT: | RECIPIENT'S TELEPHONE #: |
| ADDRESS OF IHSS RECIPIENT: | |
| NAME OF PRIMARY CONTACT RESPONSIBLE: | CONTACT'S TELEPHONE #: |
| RELATIONSHIP TO RECIPIENT: | |

As the primary contact for arranging the 24-hour-a-day coverage plan for the above named Recipient, I acknowledge my understanding of the following:

- A 24-hour-a-day coverage plan has been arranged and is in place.
The continuous 24-hour-a-day coverage plan can be met regardless of paid In-Home Supportive Service (IHSS) hours along with various alternate resources (i.e.; Adult or Child Day Care Centers, community resource centers, Senior Centers, respite centers, etc.)
- The 24-hour-a-day coverage plan will be provided at all times.
- If there is any change to the 24-hour-a-day coverage plan (i.e. hospitalization, attendance in day-care programs, travel, etc.) I will immediately **notify the IHSS social worker.**
- The above name Recipient has an established need for 24-hour-a-day Protective Supervision if he/she is to remain safely in the home. The IHSS social worker has also discussed with me the appropriateness of out-of-home care as an alternative to 24-hour-a-day Protective Supervision.

| | |
|----------------------------|------------------|
| NAME OF CARE PROVIDER (1): | CONTACT PHONE #: |
| NAME OF CARE PROVIDER (2): | CONTACT PHONE #: |
| NAME OF CARE PROVIDER (3): | CONTACT PHONE #: |

Describe the implementation of the Protective Supervision 24-Hour-A-Day Coverage Plan:

| | |
|---|------------------|
| SIGNATURE OF PRIMARY CONTACT RESPONSIBLE: | DATE: |
| SIGNATURE OF IHSS SOCIAL WORKER: | CONTACT PHONE #: |

State of California – Health and Human Services Agency
IN-HOME SUPPORTIVE SERVICES (IHSS)
PROTECTIVE SUPERVISION
24-HOURS-A-DAY COVERAGE PLAN (SOC 825)

INSTRUCTIONS

The IHSS Protective Supervision 24-Hours-A-Day Coverage Plan (SOC 825) is an optional form for County use. The SOC 825 is intended to ensure that recipients who need Protective Supervision have the 24-hours of care needed for their health and safety 24 hours a day. The recipient's social service worker and the IHSS care provider(s), whether a family member, friend, or no relation at all, should discuss together a plan or schedule of 24 hours a day of coverage for the recipient.

NAME OF IHSS RECIPIENT: Enter the full name of the IHSS recipient.

RECIPIENT'S TELEPHONE NUMBER: Enter the contact telephone number for the recipient.

ADDRESS OF IHSS RECIPIENT: Enter the recipient's home address where the majority of the 24-hours-a-day coverage will be performed.

NAME OF PRIMARY CONTACT RESPONSIBLE: Enter the name of the person with primary responsibility for coordinating the recipient's 24-Hours-A-Day Coverage Plan.

PRIMARY CONTACT'S TELEPHONE NUMBER: Enter the telephone number for the primary contact responsible.

RELATIONSHIP TO RECIPIENT: Enter the relationship of the primary contact to the recipient, (i.e., family member, IHSS care provider, friend, etc.).

NAME OF CARE PROVIDER(S) (1), (2), (3), and CONTACT TELEPHONE NUMBER(S): Enter the name(s) of each care provider responsible for the recipient's care during the 24 hours a day of coverage. Enter a contact telephone number for each care provider.

If more than three (3) care providers are responsible for this recipient, an additional sheet of paper can be attached with name(s) and contact telephone number(s).

Describe the implementation of the Protective Supervision 24-Hours-A-Day Coverage Plan:

Enter the planned schedule, or explanation of the plan in which the above provider(s) will ensure the recipient is cared for the entire 24-hour period. An additional sheet of paper can be attached if more space is needed to describe the 24-Hours-A-Day Coverage Plan.

SIGNATURE OF PRIMARY CONTACT RESPONSIBLE and DATE: Once the 24-Hours-A-Day Coverage Plan is developed, the primary contact responsible will sign and date the form when the Plan is discussed with the social worker authorizing the need for Protective Supervision.

SIGNATURE OF IHSS SOCIAL WORKER and CONTACT TELEPHONE NUMBER: When the 24-Hours-A-Day Coverage Plan is discussed and signed and dated by the primary contact, the county social service worker will sign the form and add their contact telephone number.

A copy of the form is to be provided to the primary contact and retained in the County case file.

**PROTECTIVE SUPERVISION
24-HOURS-A-DAY COVERAGE PLAN**

PLEASE PRINT

| | |
|--------------------------------------|--------------------------|
| NAME OF IHSS RECIPIENT: | RECIPIENT'S TELEPHONE #: |
| ADDRESS OF IHSS RECIPIENT: | |
| NAME OF PRIMARY CONTACT RESPONSIBLE: | CONTACT'S TELEPHONE #: |
| RELATIONSHIP TO RECIPIENT: | |

As the primary contact for arranging the 24-hour-a-day coverage plan for the above named Recipient, I acknowledge my understanding of the following:

- A 24-hour-a-day coverage plan has been arranged and is in place.

The continuous 24-hour-a-day coverage plan can be met regardless of paid In-Home Supportive Service (IHSS) hours along with various alternate resources (i.e.; Adult or Child Day Care Centers, community resource centers, Senior Centers, respite centers, etc.)

- The 24-hour-a-day coverage plan will be provided at all times.
- If there is any change to the 24-hour-a-day coverage plan (i.e. hospitalization, attendance in day-care programs, travel, etc.) I will immediately **notify the IHSS social worker.**
- The above name Recipient has an established need for 24-hour-a-day Protective Supervision if he/she is to remain safely in the home. The IHSS social worker has also discussed with me the appropriateness of out-of-home care as an alternative to 24-hour-a-day Protective Supervision.

| | |
|----------------------------|------------------|
| NAME OF CARE PROVIDER (1): | CONTACT PHONE #: |
| NAME OF CARE PROVIDER (2): | CONTACT PHONE #: |
| NAME OF CARE PROVIDER (3): | CONTACT PHONE #: |

Describe the implementation of the Protective Supervision 24-Hour-A-Day Coverage Plan:

| | |
|---|------------------|
| SIGNATURE OF PRIMARY CONTACT RESPONSIBLE: | DATE: |
| SIGNATURE OF IHSS SOCIAL WORKER: | CONTACT PHONE #: |

State of California – Health and Human Services Agency
IN-HOME SUPPORTIVE SERVICES (IHSS)
PROTECTIVE SUPERVISION
24-HOURS-A-DAY COVERAGE PLAN (SOC 825)

INSTRUCTIONS

The IHSS Protective Supervision 24-Hours-A-Day Coverage Plan (SOC 825) is an optional form for County use. The SOC 825 is intended to ensure that recipients who need Protective Supervision have the 24-hours of care needed for their health and safety 24 hours a day. The recipient's social service worker and the IHSS care provider(s), whether a family member, friend, or no relation at all, should discuss together a plan or schedule of 24 hours a day of coverage for the recipient.

NAME OF IHSS RECIPIENT: Enter the full name of the IHSS recipient.

RECIPIENT'S TELEPHONE NUMBER: Enter the contact telephone number for the recipient.

ADDRESS OF IHSS RECIPIENT: Enter the recipient's home address where the majority of the 24-hours-a-day coverage will be performed.

NAME OF PRIMARY CONTACT RESPONSIBLE: Enter the name of the person with primary responsibility for coordinating the recipient's 24-Hours-A-Day Coverage Plan.

PRIMARY CONTACT'S TELEPHONE NUMBER: Enter the telephone number for the primary contact responsible.

RELATIONSHIP TO RECIPIENT: Enter the relationship of the primary contact to the recipient, (i.e., family member, IHSS care provider, friend, etc.).

NAME OF CARE PROVIDER(S) (1), (2), (3), and CONTACT TELEPHONE NUMBER(S): Enter the name(s) of each care provider responsible for the recipient's care during the 24 hours a day of coverage. Enter a contact telephone number for each care provider.

If more than three (3) care providers are responsible for this recipient, an additional sheet of paper can be attached with name(s) and contact telephone number(s).

Describe the implementation of the Protective Supervision 24-Hours-A-Day Coverage Plan:

Enter the planned schedule, or explanation of the plan in which the above provider(s) will ensure the recipient is cared for the entire 24-hour period. An additional sheet of paper can be attached if more space is needed to describe the 24-Hours-A-Day Coverage Plan.

SIGNATURE OF PRIMARY CONTACT RESPONSIBLE and DATE: Once the 24-Hours-A-Day Coverage Plan is developed, the primary contact responsible will sign and date the form when the Plan is discussed with the social worker authorizing the need for Protective Supervision.

SIGNATURE OF IHSS SOCIAL WORKER and CONTACT TELEPHONE NUMBER: When the 24-Hours-A-Day Coverage Plan is discussed and signed and dated by the primary contact, the county social service worker will sign the form and add their contact telephone number.

A copy of the form is to be provided to the primary contact and retained in the County case file.

REQUEST FOR ORDER AND CONSENT - PARAMEDICAL SERVICES

| |
|--------------------------------|
| PATIENT'S NAME |
| MEDI-CAL IDENTIFICATION NUMBER |

TO:

| | |
|--|--|
| | |
| | |

Dear Doctor:

This patient has applied for In-Home Supportive Services (IHSS) and stated that he/she needs certain paramedical services in order for him/her to remain at home. You are asked to indicate on this form what specific services are needed and what specific condition necessitates the services.

In-Home Supportive Services is authorized to fund the provision of paramedical services, if you order them for this patient. For the purpose of this program, paramedical services are activities which, due to the recipient's physical or mental condition, are necessary to maintain the recipient's health and which the recipient would perform for himself/herself were he/she not functionally impaired. These services will be provided by In-Home Supportive Services providers who are not licensed to practice a health care profession and will rarely be training in the provision of health care services. Should you order services, you will be responsible for directing the provision of the paramedical services.

Your examination of this patient is reimbursable through Medi-Cal as an office visit provided that all other applicable Medi-Cal requirements are met.

If you have any questions, please contact me.

| | | | |
|--------|-------|------------------|------|
| SIGNED | TITLE | TELEPHONE NUMBER | DATE |
|--------|-------|------------------|------|

TO BE COMPLETED BY LICENSED PROFESSIONAL

| | |
|-------------------------------|------------------|
| NAME OF LICENSED PROFESSIONAL | OFFICE TELEPHONE |
|-------------------------------|------------------|

OFFICE ADDRESS (IF NOT LISTED ABOVE)

TYPE OF PRACTICE

TYPE OF PRACTICE

Physician/Surgeon Podiatrist Dentist

CONTINUED ON BACK

RETURN TO: (COUNTY WELFARE DEPARTMENT)

| | |
|--|--|
| | |
| | |

Does the patient have a medical condition which results in a need for IHSS paramedical services?"
Is YES, list the condition(s) below:

YES NO

List the paramedical services which are needed and should be provided by IHSS in your professional judgement.

| TYPE OF SERVICE | TIME REQUIRED TO PERFORM THE SERVICE EACH TIME PERFORMED | FREQUENCY* | | HOW LONG SHOULD THIS SERVICE BE PROVIDED? |
|-----------------|--|------------|-------------|---|
| | | # OF TIMES | TIME PERIOD | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

* Indicate the number of times a service should be provided for a specific time period: (Example: two times daily, etc.)

Additional comments:

IF CONTINUED ON ANOTHER SHEET, CHECK HERE

CERTIFICATION

I certify that I am licensed to practice in the State of California as specified above and that this order falls within the scope of my practice. In my judgement the services which I have ordered are necessary to maintain the recipient's health and could be performed by the recipient for himself/herself were he/she not functionally impaired.

I shall provide such direction as is needed, in my judgement, in the provision of the ordered services.

I have informed the recipient of the risks associated with the provision of the ordered services by his/her IHSS provider.

SIGNATURE



DATE

PATIENT'S INFORMED CONSENT

I have been advised of risks associated with provision of the services listed above and consent to provision of these services by my In-Home Supportive Services provider.

SIGNATURE



DATE

IN-HOME SUPPORTIVE SERVICES NEEDS ASSESSMENT-FACE SHEET

A. RECIPIENT INFORMATION

| | | | | | | |
|--------------------------------------|--------|-----------|--|-------------------|------------------|-----------------------------|
| NAME: | | | CASE NO: | TELEPHONE: () | DOB (MO/DATE/YR) | SEX: (CIRCLE ONE) M F |
| ADDRESS (NUMBER, STREET): | | | IHSS COMPANION CASE(S), NAME(S) AND NUMBERS: | | | |
| CITY: | STATE: | ZIP CODE: | | | | |
| RECIPIENT'S STATEMENT OF NEED: | | | SPECIAL DIRECTIONS: | | | |
| EMERGENCY CONTACTS/INSTRUCTIONS: | | | ALTERNATE RESOURCES USED: (LIST SOURCE AND SERVICE PROVIDED) | | | |
| SPECIAL CONDITIONS/MEDICAL PROBLEMS: | | | | | | |

B. MEDICAL INFORMATION

| | | | | |
|----------------------|-------------------|------------|-------------------|--------------------------|
| DIAGNOSIS/PROGNOSIS: | | | | DATE OF MEDICAL REQUEST: |
| PHYSICIAN: | TELEPHONE: () | PHYSICIAN: | TELEPHONE: () | |
| PHYSICIAN: | TELEPHONE: () | PHYSICIAN: | TELEPHONE: () | |
| MEDICATIONS/PURPOSE | | | | |
| 1. | 4. | 7. | | |
| 2. | 5. | 8. | | |
| 3. | 6. | 9. | | |

C. OTHER PERSONS IN HOUSEHOLD

| NAME | AGE | RELATIONSHIP | RECEIVE IHSS | | HOURS AT SCHOOL/WORK | REASON PERSON CANNOT PROVIDE IHSS TO RECIPIENT |
|------|-----|--------------|--------------|----|----------------------|--|
| | | | YES | NO | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

COMMENTS:

| | | | |
|---------|-------------------|------------------|-------|
| WORKER: | TELEPHONE: () | DISTRICT OFFICE: | DATE: |
|---------|-------------------|------------------|-------|

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APPENDIX H
Sample Position Statement

May 20, XXXX

E.G.
920 XXXXX Blvd.
XXXX, CA

Dear Ms. G.:

You contacted the Office of Clients Rights Advocacy (OCRA) regarding the provision of your son's Personal Care Services Program (PCSP) services. Based on our discussions, and review of John's records, it appears that the Los Angeles County Department of Social Services (County) was in error when it determined the level of services for your son, John. Please feel free to submit this opinion letter, along with its attachments, as your position statement at your upcoming hearing against the County.

STATEMENT OF THE CASE

The County improperly determined your son, John G.'s need for services through the Personal Care Services Program (PCSP). The County underestimated John's personal care needs and improperly denied authorization of the ancillary services he requires. John requires 209.53 hours per month in personal care and ancillary services to remain safely in his home.

The County owes an underpayment to John for underestimating his personal care needs, as identified herein, back to January 1, 2003. Further, the County must be estopped from asserting that no state jurisdiction exists to address John's claim to retroactive payment for ancillary services arising from his 9/25/02 application. The County's written notice, dated 10/30/02, cites that John has alternative resources to provide for his ancillary service needs. Yet, the County never obtained a signed form from you or John's provider voluntarily relinquishing payment for these services nor apprised either of you of this option. Therefore, the County owes an underpayment to John for the ancillary services provided, as quantified below, back to 9/25/02.

PROCEDURAL HISTORY

Your son, John, is a nine year-old boy with Cerebral Palsy who resides with you, your husband, and your two other children. John receives supports and services from Westside Regional Center. John is on the Medicaid Home and Community Based Waiver for the Developmentally Disabled (DDS Waiver). As such, John is eligible to receive zero share of cost PCSP services.

On 9/25/02, you contacted the County and requested John to be assessed for PCSP services. On 10/24/02, Ms. C., the County social worker then assigned to John's intake, conducted a needs assessment of John. To facilitate the intake, Ms. C. had you and John's grandmother (your mother and John's provider), fill out several forms and provided you with all the copies you both signed. (Attachment 1.) On 10/30/02, Ms. C. issued a Notice of Action (NOA) authorizing John for 92.5 hours of services. (Attachment 2.)

The NOA states that John's "service assessment included consideration of alternative resources for domestic services, meal prep, meals clean up, laundry, food shopping, shopping/errand." The NOA also states that such action is supported by Manual of Policies and Procedures (MPP) § 30-763.6. On 1/2/03, the County issued another NOA authorizing services identical to those listed on John's 10/30/02 NOA. (Attachment 3.) Just like the 10/30/02 NOA, the 1/2/03 NOA also did not authorize any ancillary services for John. Unlike the 10/30/02 NOA, however, the 1/2/03 NOA provided no explanation as to why John would not receive ancillary services.

On or around April 25, 2003, you consulted with OCRA regarding the County's authorization of John's PCSP services. I asked you whether the County had ever informed either you or John's grandmother that any service authorized as necessary for John's in-home care but provided voluntarily as an alternative resource is optional. You stated that the County had not informed either of you of this. I asked whether you or John's grandmother have ever signed a voluntary services certification form electing not to receive payment for the specific services the County determined, per the 10/30/02 NOA, as being delivered through an alternative resource. You stated that you and your mother had not signed any forms of this nature.

Accordingly, per OCRA's recommendation, you filed an appeal on the County's authorizations of John's PCSP services. Per OCRA's instructions, you conducted your own needs assessment for John by timing the tasks necessary to keep John safely in his own home. You reported to OCRA the results your self-assessment. I

confirmed with you today, upon showing you the form, that neither you nor grandmother had signed the voluntary services certification form. (Attachment 4.) You stated that you would have had personal knowledge of any form your mother signed because she does not read English and would need your assistance in translating any forms requiring her signature. OCRA has prepared this opinion letter for you, detailing the assessment's findings and providing legal analysis of the circumstances in John's case based on the applicable law.

ARGUMENT

I. John Requires 209.53 Hours Per Month In Personal Care And Ancillary Services To Remain Safely In His Home.

Under the PCSP, John is entitled to receive both personal care *and* ancillary services. The only limitations regarding service provision for individuals under 18 years old are found at MPP § 30-763.454. (Attachment 5, p. 2.) While the regulation does, indeed, omit domestic services, it specifically includes provision of related services at subsection (a). Thus, John is entitled to be evaluated for personal care *and* related services, as ancillary services under the PCSP. What follows is your self-assessment of John that reflects the service hours necessary to meet his PCSP needs and the reasons for those services.

A. John Requires 183.98 Hours of Personal Care Services per Month to Meet His Needs

1. Personal Care Services- 42.49 Hours per Week

a. Bowel, Bladder Care - 4.66 Hours per Week

The County's 10/30/02 notice reflects 4.66 hours per week for this service. This is an accurate figure and therefore, not in dispute.

b. Feeding - 7.58 Hours per Week

The County's 10/30/02 notice allocates 4.08 hours for this service. This determination underestimates his feeding needs by 3.50 hours. John requires supervision and full assistance for each meal. (Attachment 6, p. 2.) This need, along with all others listed in this self-assessment, was present prior to John's September 25, 2002 application date. (Attachment 7.) He is unable to feed himself because he cannot independently utilize eating utensils. Therefore, it is necessary for his provider to help feed John. John's provider hand-over-hand feeds John. To feed John his meals, breakfast takes 10 minutes, lunch takes 25 minutes, and dinner takes 30 minutes each day. While John attends school each weekday, he eats his lunch at home.

Total Need: 10 minutes x 7 days per week = 70 minutes

25 minutes x 7 days per week = 175 minutes

30 minutes x 7 days per week = 210 minutes

Total Hours of Feeding per week: 455 minutes = 7.58 hours

c. Dressing – 6.95 Hours per Week

The County's 10/30/02 notice allocates 2.80 hours per week for this service. This determination underestimates John's dressing needs by 4.15 hours. John requires complete assistance in dressing. (Attachment 6, p. 2.) Due to the limited use of John's extremities, John cannot operate a buckle, button, or zipper and cannot tie his shoes. John's provider spends approximately 10 minutes getting John dressed in and out of his clothing. Because of John's constant drooling, the provider must change John's clothes, on average, 3 times daily. John is also unable to clean his eyeglasses, and therefore, his provider cleans John's glasses also 3 times daily, spending approximately 1 minute to perform this task. Further, John wears hand and leg braces and requires assistance fastening and removing them. (Attachment 8.) John's hand braces are applied once a day and require 4 minutes to put on and 1 minute to take off. John wears leg braces during the day that are placed on him twice a day, requiring 5 minutes to put on and 2 minutes to take off each time. John wears special leg braces during the night that require 7 minutes to put on and 4 minutes to take off.

Total Need: 11 minutes x 3 = 33 minutes daily

33 minutes x 7 days = 221 minutes per week

5 minutes x 7 days = 35 minutes per week

14 minutes x 7 days = 84 minutes per week

11 minutes x 7 days = 77 minutes per week

Total Dressing Hours per Week: 417 minutes = 6.95 hours

d. Ambulation - 3.00 Hours per Week

The County's 10/30/02 notice allocates 1.86 hours per week for this service. This determination underestimates John's dressing needs by 1.14 hours. John's therapist has recommended that John attempt to use his walker in order to use the muscles in his legs and feet. (Attachment 8.) Per the recommendations, John attempts to use his walker, with close supervision by his provider to guard against falls and to help John turn, due to his lack of coordination. These ambulation exercises are in 20-minute durations and occur once a day on weekdays and twice a day on weekends.

Total Need: 20 minutes x 5 = 100 minutes

40 minutes x 2 = 80 minutes

Total Ambulation Hours per Week: 180 minutes = 3.00 hours

e. Move In/Out of Bed- 1.86 Hours per Week

The County's 10/30/02 notice allocates 1.86 hours per week for this service. This is an accurate figure and therefore, not in dispute.

f. Bathing, Oral Hygiene, Grooming – 6.89 Hours per Week

The County's 10/30/02 notice allocates 4.13 hours per week for these services combined. This determination underestimates John's needs in these service areas by 2.76 hours.

(1) Bathing

John requires complete assistance with bathing. (Attachment 6, p. 2.) John has a bath daily, including shampooing his hair, which takes 35 minutes from start to finish. John's provider must situate him in a bathchair and strap him down. John is then cleaned with a sponge, shampooed, unstrapped from the bathchair, and then dried off. Additionally, John's provider must spend 2 minutes to clean John's nose with Ocean Nasal Spray daily because it gets very dry and bleeds. Further, John's provider cleans his ears 8 times a month, with each cleaning taking 2 minutes.

Total Need: 35 minutes x 7 days = 245 minutes per week

2 minutes x 7 days = 14 minutes per week

16 minutes/ per month = 4 minutes per week

Total Bathing Hours per Week: 263 minutes per week = 4.40 Hours

(2) Oral Hygiene

John requires assistance in accomplishing this task. (Attachment 6, p. 2.) John has his teeth brushed three times daily at 4 minutes per brushing. John also has his teeth flossed 1 time a day, which takes 4 minutes to accomplish.

Total Need: 12 minutes x 7 days = 84 minutes

4 minutes x 7 days = 28 minutes

Total Oral Hygiene Hours per Week: 112 minutes = 1.85 Hours

(3) Grooming

John is not able to comb his own hair. (Attachment 6, p. 2.) John's provider brushes his hair 2 times per day at 2 minutes per brushing. John's fingernails and toenails grow quickly so his provider must trim them once a week and spends 10 minutes per clipping for both.

Total Need: 4 minutes x 7 days = 28 minutes

10 minutes x 1 = 10 minutes

Total Grooming Hours per Week: 38 minutes = .64 Hours

Total Hours per Week for Bathing, Oral Hygiene and Grooming:

$$263 + 112 + 38 \text{ minutes} = 413 \text{ minutes} = 6.89 \text{ Hours}$$

g. Rubbing Skin, Repositioning, Help On/Off Seats, In/Out of Vehicle- 10.75 Hours Per Week

The County's 10/30/02 notice allocates 1.16 hours per week for these services. This determination underestimates John's needs in these service areas by 9.59 hours.

(1) Rubbing Skin

Because of John's cerebral palsy, his extremities are constantly in a clenched position. Per orthopedic instructions, John's provider rubs the skin of John's hands, arms, feet, legs, and back to promote better blood circulation and help reduce spasticity once a day for 20 minutes. (Attachment 8.) John also has dry skin and requires lotion to be applied to his skin once a day for 5 minutes.

Total Need: 20 minutes x 7 times per week = 140 minutes
 5 minutes x 7 times per week = 35 minutes

Total Hours Rubbing Skin per Week: 175 minutes = 2.92 Hours

(2) Repositioning

John requires assistance in moving from one sitting position to another. (Attachment 8.) John's provider repositions John approximately 4 times a day, taking 2 minutes each time. John also requires to be flipped over 3 times nightly, on average. (Attachment 6, p. 3.) Each episode takes 5 minutes.

Total Need: 8 minutes x 7 days = 56 minutes per Week
 15 minutes x 7 days = 105 minutes per week

Total Hours Repositioning per Week: 161 minutes = 2.70 Hours

(3) Help On/Off Seats

John requires assistance in getting in and out of his wheelchair. (Attachment 8.) John is placed in his wheelchair 5 times a day and each time takes 4 minutes. John is taken out of his wheelchair 5 times a day and this task takes 3 minutes to accomplish. Further, John is repositioned 5 times each night while asleep. Each nighttime repositioning takes 5 minutes.

Total Need: 20 minutes x 7 days = 140 minutes per week
 15 minutes x 7 days = 105 minutes per week

Total Hours Help On/Off Seats per Week: 245 minutes = 4.08 Hours

(4) In/Out of Vehicle

John requires assistance in getting in and out of a vehicle. (Attachment 8.) John is placed into the car seat once a day on the weekdays and twice a day on the

weekends at 4 minutes each time. John is removed from the car seat once per day on the weekdays and twice a day on the weekends at 3 minutes each time.

Total Need: 4 minutes x 9 times = 36 minutes

3 minutes x 9 times = 27 minutes

Total Hours In/Out of Vehicle per Week: 63 minutes = 1.05 Hours

Total Hours per Week for Rubbing Skin, Repositioning, Help On/Off Seats, In/Out of Vehicle: 175 + 161 + 245 + 63 minutes = 644 minutes = 10.75 Hours

h. Care/Assistance with Prosthesis and Administration of Medication-.80 Hours per Week

The County's 10/30/02 notice allocates .70 hours per week for this service. This determination underestimates John's needs in these service areas by .10 hours. As stated above, John constantly drools which, along with his food spillage, requires his wheelchair to be cleaned regularly. The cleaning process requires John's provider to take John's wheelchair apart, wash its parts and straps, and put it back together. The entire process takes 20 minutes to complete and is done on a weekly basis. Further, John requires assistance with administration of his medication, Tegratol, to control seizures. (Attachment 6, p. 4.) John must take Tegratol twice daily and each administration takes 2 minutes to complete.

Total Need: 20 minutes x 1 = 20 minutes

4 minutes x 7 days = 28 minutes

Total Hours per Week: 48 minutes = .80 Hours

B. John Requires 25.55 Hours of Ancillary Services per Month to Meet His Needs

1. Related Services 5.78 Hours per Week

a. Prepare Meals-2.92 Hours Per Week

There is no time allocated for this service in the County's 10/30/02 notice of action. John must have his food mashed in order for him to eat it. No other family member requires food to be mashed, and thus, this need is not met in common with the other household members. Therefore, this service cannot be prorated, but rather, authorized based upon John's individualized need. Breakfast takes 5 minutes to prepare. Lunch requires 10 minutes to prepare for John. John's dinner takes 10 minutes to prepare.

Total Need: 25 minutes x 7 days = 175 minutes

Total Meal Preparation Hours per Week: 175 minutes = 2.92 hours

b. Meal Clean Up- 1.86 Hours Per Week

The County's 10/30/02 Notice allows no time for this service. To clean up after John's meals, breakfast takes 2 minutes to clean up, lunch takes 5 minutes to clean up, and dinner takes 6 minutes to clean up. In addition to the cups, plates, bowls, and eating utensils John uses, John's bib must be cleaned and changed after each meal. John also has a tray that requires 1 minute of cleaning after each meal.

Total Need: 16 minutes x 7 days = 112 minutes per week

Total Meal Clean Up Hours per Week: 112 minutes = 1.86 Hours

c. Routine Laundry – .70 Hours Per Week

The County's 10/30/02 notice allows no time for this service. Laundry facilities are located on the premises. Because there are five people in John's family, his prorated share for the weekly laundry would be 12 minutes per week, assuming he had no further need for this service. But, as stated above, John constantly drools on his clothes and bed sheets. To avoid the onset of mildew, John's provider must do 2 extra loads of laundry per week. Loading, unloading, folding, and putting away these two extra loads take an additional 30 minutes.

Total Need: 42 minutes

Total Laundry Hours per Week: 42 minutes = .70 Hours

d. Shopping for Food – .20 Hour Per Week

The County's 10/30/02 Notice does not provide any time for this service. There being five people in the household, John's pro rata share of the household's food shopping needs is 12 minutes per week.

Total Food Shopping Hours per Week: 12 minutes = .20 Hour

e. Other Shopping and Errands – .10 Hour Per Week

The County's 10/30/02 Notice allows no time for this service. There being five people in the household, John's pro rata share of the household's other shopping needs is 6 minutes per week.

Total Errand Hours per Week: 6 minutes = .10 Hour

2. Transportation Services-.12 Hours per Week

The County's 10/30/02 Notice allows .12 hours per week for this service. This is an accurate figure and therefore, not in dispute.

II. The County Must Be Estopped From Asserting That No State Jurisdiction Exists To Address John's Claim Arising From His September 25, 2002

Application.

Estoppel may be asserted against the government where "justice and right require it." City of Los Angeles v. Cohn, 101 Cal. 373, 377 (1894). "Generally speaking,

four elements must be present in order apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury. [Citations]” Canfield v. Prod, 67 Cal. App. 3d 722, 730-731 (1977), quoting Driscoll v. City of Los Angeles, 67 Cal. 2d 297, 305 (1967).

Counties are responsible for informing IHSS recipients of their rights and responsibilities in relation to eligibility and need for services and for assisting recipients as needed in establishing their eligibility and need for service. Counties are also responsible for complying with administrative standards to insure timely processing of recipient requests for service. MPP § 30-760.2. (Attachment 9.)

Ms. C., as a social worker for the County, is responsible for following the MPPs, as promulgated. Ms. C. was familiar enough with MPP§ 30-763.6 to have cited it as a basis for precluding authorization for John’s ancillary services in the 10/30/02 NOA. As such, Ms. C. was either aware or should have been aware that she needed to properly inform you of the County’s requirement, per MPP§ 30-763.64, to obtain certification from John’s provider on voluntarily providing services without compensation. (Attachment 10.)

But Ms. C. only painted half the picture for you and John’s grandmother because she never produced the voluntary services certification form for John’s grandmother to sign, even though Ms. C. had John’s grandmother sign other forms during the intake process. Ms. C. intended for you to rely on her illegal denial of services, under the guise of “alternative resources,” because she cited it as her reason in the 10/30/02 NOA. Prior to your consultation with OCRA, neither you nor John’s grandmother were aware that the County was required to obtain a signed statement from the provider of record agreeing to provide any PCSP compensable service voluntarily, consistent with what MPP§ 30-763.64 and MPP§ 30-757.176 require. (Attachment 11.) You have detrimentally relied on the County’s illegal conduct to your injury because the improper denial on ancillary services has resulted in fewer compensable PCSP services for John, which, in turn, makes providers less willing to serve him given the magnitude of his needs.

Given these circumstances, the County must be estopped from asserting that no state jurisdiction exists to address John’s claim for retroactive payment for ancillary or “related services” arising from his September 25, 2002 application. Applying equitable estoppel here will not contravene any public policy because it

will simply place John in the correct position he would have been in had the County performed its duties consistent with what the regulations require.

Additionally, John's personal care services should be reauthorized as calculated above, as this assessment accurately reflects John's needs. Upon reauthorization, the County will owe retroactive payment for John's personal care services dating back to January 1, 2003. The County's "action" in this case, their authorization of 92.5 PCSP hours for John, is ongoing and not fixed to a particular NOA issuance date. "Where a request for a state hearing concerns the current amount of aid the request shall be filed within 90 days, but the period of review shall extend back to the first of the month in which the first day of the 90 day period occurred." MPP § 22-009.12. (Attachment 12.)

CONCLUSION

"There is no question that the obligation to pay aid to which an applicant is entitled is a debt due from the county as of the date the applicant was first entitled to receive aid and that the right to receive benefits vests in the recipient on the first date of his entitlement thereto." Canfield v. Prod, 67 Cal. App. 3d 722, 728 (1977), citing Tripp v. Swoap, 17 Cal. 3d 671, 682-683, 685; Bd. of Soc. Welfare v. County of L.A., 27 Cal.2d 81, 85-86 (1945); Leach v. Swoap, 35 Cal.App.3d 685, 689 (1973). The record and applicable law make clear that John requires 209.53 hours of PCSP services per month. John's 25.03 hours of monthly ancillary related services were wrongfully denied by the County on 10/30/02. The County must be estopped from barring John's recovery back to his September 25, 2002 application date for this service shortage. John is also entitled to difference between the level of personal care services he currently receives and the level of personal care services he requires, as described above, back to January 1, 2003, per MPP § 22-009.12.

If you have any questions or concerns, please do not hesitate to call me.

Sincerely,

XXXXX XXXXX
Clients' Rights Advocate

LIST OF ATTACHMENTS

| ATTACHMENT | DESCRIPTION | NO. OF PAGES |
|------------|---|--------------|
| 1 | Complete Copies of All Intake Forms Ms. C. Provided | 12 |
| 2 | County Notice of Action, 10/30/02 | 1 |
| 3 | County Notice of Action, 1/02/03 | 1 |
| 4 | SOC 450 Form, Voluntary Services Certification | 1 |
| 5 | MPP §§ 30-763.44 through 30-763.46 | 2 |
| 6 | Individual Program Plan, WRC, 1/28/03 | 7 |
| 7 | Individual Program Plan, WRC, 2/11/02 | 8 |
| 8 | Letter, S. L., Physical Therapist, 5/20/03 | 1 |
| 9 | MPP §§ 30-760.2 | 1 |
| 10 | MPP §§ 30-763.6 | 2 |
| 11 | MPP §§ 30-757.176 | 1 |
| 12 | MPP §§ 22-009.12 | 1 |

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APPENDIX I

ABBREVIATIONS AND ACRONYMS USED IN THIS MANUAL

| | |
|---------|---|
| A&D FPL | Aged & Disabled Federal Poverty Level |
| ABD MN | Aged-Blind-Disabled Medically Needy |
| ACIN | All County Information Notice |
| ACL | All County Letter |
| ACWDL | All County Welfare Directors' Letters |
| AEVS | Medi-Cal Automated Eligibility Verification System |
| ALJ | Administrative Law Judge |
| BPL | Benefit Payment Level |
| CALWIN | CalWORKs Information Network |
| CMIPS | Case Management, Information, and Payrolling System |
| CMS | Centers for Medicare and Medicaid Services |
| CWD | County Welfare Department |
| DD | Developmental Disabilities |
| DHS | California Department of Health Services |
| DRC | Disability Rights California (formerly Protection & Advocacy, Inc.) |
| DSS | California Department of Social Services |
| EPSDT | Early and Periodic Screening, Diagnosis and Treatment |
| FFP | Federal Financial Participation |

| | |
|--------|--|
| HCBS | Home and Community Based Services |
| IHO | In Home Operations |
| IHSS | In-Home Supportive Services |
| IHSS-R | In-Home Supportive Services Residual Program |
| IPW | Independence Plus Waiver |
| MPP | Manual of Policies and Procedures |
| MEDS | Medi-Cal Eligibility Data System |
| MNIL | Medically Needy Income Level |
| MRE | Medi-Cal Recognized Expenses |
| MSSP | Multipurpose Senior Services Program |
| OCRA | Office of Clients' Rights Advocacy |
| PCSP | Personal Care Services Program |
| POS | Medi-Cal Point of Service Device |
| PRUCOL | Persons Residing in the Unites States Under Color of Law |
| SCI | Statewide Client Index |
| SOC | Share of Cost |
| SSI | Supplemental Security Income |
| SSP | State Supplementary Payment |
| WDP | 250% Working Disabled Persons Program |
| WPCS | Waiver Personal Care Services |

**IN-HOME SUPPORTIVE SERVICES
IHSS PERSONAL CARE SERVICES PROGRAM (PCSP) * IHSS INDEPENDENCE PLUS WAIVER (IPW) *
IHSS RESIDUAL PROGRAM (IHSS-R)**

| <i>Note: Look first for eligibility under PCSP, then IPW, then IHSS-R</i> | IHSS Medi-Cal Personal Care Services Program (PCSP), Welf. & Inst. Code § 14132.95 | IHSS Independence Plus Waiver (IPW) Program, Welf. & Inst. Code § 14132.951 | IHSS Residual (IHSS-R) Program, Welf. & Inst. Code § 12300 et seq. |
|---|--|--|--|
| <i>Eligibility?</i> | Beneficiary receives full-scope Medi-Cal with federal financial participation (FFP). Includes SSI beneficiaries; 1619 SSI beneficiaries (people who work even though disabled); Pickles; other Medi-Cal programs including A&D FPL; or Working Disabled; DD Waiver & NF Waiver people. | Beneficiary receives full-scope Medi-Cal with federal financial participation (FFP) <i>but</i> is not eligible for PCSP because of: 1. advance pay, or 2. parent or spouse provider, or 3. receiving restaurant meal allowance. | Recipient does not receive full-scope Medi-Cal <i>or</i> Recipient does not receive Medi-Cal with FFP. Includes individuals who receive state-only Medi-Cal, primarily lawful permanent residents and persons residing in the United States under color of law (PRUCOL) who are <u>not</u> eligible for full-scope Medi-Cal with FFP |
| <i>Funding?</i> | Federal Medicaid 50%. Of remaining 50%, County pays 35% & State 65% | Federal Medicaid 50%. Of remaining 50%, County pays 35% & State 65% | County pays 35% & State 65% of total cost |
| <i>Services and Providers?</i> | <ul style="list-style-type: none"> • All Services except Restaurant Meal Allowance • All providers <u>except</u> spouses and parents of minor children. • No Advance Pay | <ul style="list-style-type: none"> • All Services including Restaurant Meal Allowance • All providers <u>including</u> spouses and parents of minor children. • Advance Pay | <ul style="list-style-type: none"> • All Services including Restaurant Meal Allowance • All providers <u>including</u> spouses and parents of minor children. • Advance Pay |
| <i>Severely/Nonseverely Impaired?</i> | Maximum 283 hours/month (except for Protective Supervision: 195 hours for nonseverely impaired, 283 hours for severely impaired) | 283 severely impaired for severely impaired (needs 20 or more hours/week for personal care, paramedical and meal prep) or 195 nonseverely impaired | 283 severely impaired for severely impaired (needs 20 or more hours/week for personal care, paramedical and meal prep) or 195 nonseverely impaired |
| <i>Can someone else supplement pay?</i> | No, but can pay for hours not covered such as time in between tasks if pay provider directly; others can pay provider directly for share of cost. | No, but can pay for hours not covered such as time in between tasks if pay provider directly; others can pay provider directly for share of cost. | Yes, if given directly to provider. |

| | | | |
|-----------------------------------|--|--|--|
| <i>Spouse provider?</i> | Not covered because relative spouse provider has a IHSS-R program, all the recipient's providers are paid under the IPW or IHSS-R program) | For nonmedical personal care services, paramedical services and, if prevented from working, protective supervision & transportation. | For nonmedical personal care services, paramedical services and, if prevented from working, protective supervision & transportation. |
| <i>Parent Provider for Minor?</i> | Not covered because relative parent provider has a IPW program, all the recipient's providers are paid under the IPW program) | All providers including spouses and parents of minor children. | Those eligible for full scope Medi-Cal but not with federal financial participation and therefore not eligible for IPW when the provider is spouse/parent. |