



IHSS Coalition

QUALITY CARE BEGINS AT HOME

September 24, 2009

California Department of Social Services
Adult Programs Policy Bureau
744 P Street
Sacramento, CA 95814
Randy Shiroy, Chief via email at Randy.Shiroy@dss.ca.gov

RE: IHSS Draft All-County Letters on Budget Implementation Issues

Dear Randy:

The IHSS Coalition is a group comprised of many member organizations representing a wide spectrum of people involved in California's homecare system. Our common goals are (1) to ensure that sufficient funding for In-Home Supportive Services and its interrelated aspects is met, (2) to develop potential improvements for the program and, (3) to disseminate information on homecare issues through public events and our website.

Other coalition partners are submitting individual responses to CDSS that feature the perspectives of their individual organizations. We support the points they have represented, and would like to augment them with the following:

REACHING OUT TO STAKEHOLDERS: The 450,000 IHSS program consumers are without a doubt the largest group of stakeholders. Their lives and their ability to live with dignity and maximum independence will be significantly affected by the IHSS cuts. Yet the vast majority of them will learn of these changes in service eligibility and provider requirements the hard way. Despite the great efforts of coalition partners like Disability Rights California and the California Foundation of Independent Living Centers, it is simply impossible on this accelerated schedule of implementation to provide the training and information for all those who need it.

Sending out draft ACLs to groups and organizations for feedback is appreciated. However, the service change letter and the provider enrollment letter are twenty-nine and thirty-one pages long, respectively. Some effort should be made by CDSS to develop clear, concise fact sheets on both issues so they may be distributed to consumers and providers as soon as possible. These should be produced in a other

languages (in addition to English) in order to reach all consumers. This would enable advocacy groups and service organizations (most operating with limited resources) to distribute this crucial information to more people in the abbreviated timeline imposed on us. The failure of CDSS to make a good-faith effort to develop and distribute understandable information for those whose lives and livelihoods are most affected is unacceptable. Such a hastily implemented policy change, driven by legislation that is itself based on questionable presumptions, shows a process that is neither accessible to nor representative of those who are affected most.

FOCUS ON THE FUNCTIONAL INDEX SCORE: Uniformity of service between counties was a positive goal that stakeholders supported; however, the Hourly Task Guidelines that were implemented were a throwback to a tool utilized during experiments with privatization. Giving social workers another numerical scale to use in assessment did not eliminate their subjectivity. It created a false sense of standardization, and objectivity, when in fact it had faults in that it weighted issues surrounding physical disability with higher values than those affecting persons with cognitive disability or what a need for paramedical services. The arbitrary decision to use the Functional Index Score is an inappropriate device to impose cuts on IHSS consumers.

The resulting FI scores were not provided to consumers. This weakness became particularly obvious last winter when the first legislative attempt was made to limit service based on the FI score. Suddenly a number which had never been available to consumers was being used to justify reduction or elimination of their homecare. Although dropped after the first extraordinary budget session, this concept reappeared in the latest budget-driven legislation that marginalizes the quality of life for thousands of Californians.

Despite the administration's presumptions that Quality Assurances' (QA) would result in positive outcomes on the IHSS program, the results have not met expectations. The predominant question among stakeholders was *could potential savings and efficiencies ever balance the cost of QA implementation?* The state's report on QA from earlier this year gave no indication it met that goal. For consumers who struggle to receive the care their limitations require, it generated yet another depersonalizing number to reference them by. To many, the FI score seemed to encourage the standardizing of lowest-common-denominator homecare rather than focusing on individual need. Now that it has been utilized as justification for legislation that is inequitable for both homecare consumers and providers, our concerns have been validated.

CONSUMER CHOICE: Our state's social model homecare program has always strived for maximum control being placed in the hands of consumers. Instead of being part of a continuum, as it is in other states, in California, in part because of both Paramedical and Protective Supervision, it parallels all levels of institutional care. The program is responsible for low usage of California's Medi-Cal home health care services compared to other states and for lack of growth of Medi-Cal nursing facility beds. It has been a cost-effective model for other states, and has been the cornerstone of the independent living movement. The key component of consumer choice is control in the selection,

training, hiring and firing of care providers. The allotment of a monthly block of hours for authorized services has allowed consumers to meet their specific needs and has given them the flexibility to deal with variables such as fluctuations in their health or care provider schedules. Most elected state officials understand that consumers knew their own unique needs best; this knowledge has resulted in numerous improvements in IHSS over the years.

Numerous factors have contributed to the growth of the IHSS caseload and program costs. Certainly the increasing proportion of seniors in the population is a primary reason. Wage increases necessary to improve and maintain a stable, viable pool of care providers have been another component. Regardless, the higher profile of IHSS has made it a more inviting target in the state's increasingly volatile budget battles.

For more than thirty years, our state's homecare system has been socially progressive, cost efficient, and has provided maximized choice and control for a group of people who often have little of that in their lives. This year's budget progress has sadly changed all of that. Any good will, sensitivity, or respect for the 400,000+ consumers of IHSS and those who care for them has seemed to evaporate.

The ultimate consequence is legislation that eliminates or reduces care for tens of thousands, puts an equal number of care providers on unemployment, reduces consumers' choices of who can or will provide care, increases nursing-home placement at five times the cost to taxpayers, reduces funding for public authorities that provide valuable auxiliary services, and spends millions of dollars on fraud prevention based on hyped and unsubstantiated estimates.

ISSUES WITH UNSPECIFIED FELONIES MISDEMEANORS PREVENTING PROVIDER EMPLOYMENT: Too much is still left to speculation with the initial draft offered as it fails to enumerate which felony and misdemeanor conviction will rule out current and potential providers from the program. The Administration does NOT have any authority to unilaterally impose a list of non-exempt crimes (beyond those contained in Welfare and Institutions Code 12305.81 (a)) that would bar any individual from serving and being paid as an IHSS provider. Current law only restricts consumers from hiring an individual who has been convicted within the past 10 years for fraud against a government health care or supportive services program and/or felony child, elder and dependent adult abuse.

PROBLEMS WITH THE FRAUD ORIENTATION PROCESS SET FORTH BY THE LEGISLATURE: With simultaneous elimination of large portions of funding for Public Authorities as well as significant workload increase placed upon each county with no funding attached to it, many counties may not be able to cope with the demands from training of the entire IHSS workforce prior to the deadline. With the assumption that all providers current and future involved in the program will be afforded the opportunity to participate in new orientation training, provider enrollment and fingerprinting and background checks, care providers and their clients will suffer grave consequences should they fail to complete the newly mandated tasks. There is no appeal process

should counties fail to make reasonable efforts to make these required protocols and training available to care-providers, simply a discontinuation of their ability to receive pay for care effective July 2010.

MORE CLARITY NEEDED IN APPEALS PROCESS: The timeframe from notification to termination of services or eligibility is critically important and will cause great harm to what is anticipated to be up to 25% of stakeholders. In large part stakeholders are not schooled or practiced in the appeals process and advocacy agencies may well be pressed to offer hands on personal assistance to those who have not the income or resources available to them to learn the process. Many providers and care recipients lack internet access that may be helpful if seeking out self-help. People will be left in situations where they might already lose all services and then have to appeal after services have been terminated, because they are not familiar with the process.

Sincerely,

John Wilkins, IHSS Coalition Chair (Fresno IHSS Consumer)
AARP-California
ACLU of Southern California
California Alliance for Retired Americans (CARA)
California Association of Public Authorities for IHSS (CAPA)
Californians for Disability Rights, Inc. (CDR)
California Disability Community Action Network (CDCAN)
California Foundation for Independent Living Centers (CFILC)
California In-Home Supportive Services Consumer Alliance (CICA)
California Senior Legislature
California United Homecare Workers (CUHW)
Congress of California Seniors
Disability Rights California
Gray Panthers California
IHSS Public Authority of Marin County
Independent Living Services of Northern California
Marin Center for Independent Living
National Senior Citizens Law Center
Nevada Sierra Regional IHSS Public Authority
Northern California ADAPT
Older Women's League California (OWL)
Personal Assistance Services Council of Los Angeles County
Quality Homecare Coalition
Resources for Independent Living
San Francisco IHSS Public Authority
Service Employees International Union – State Council
SEIU United Long Term Care Workers
SEIU United Healthcare Workers West
SEIU Local 521
Silicon Valley Independent Living Center (SVILC)
United Domestic Workers of America/AFSCME

cc: Myesha Jackson, Office of the President Pro Tempore
Gail Gronert, Special Assistant, Assemblywoman Speaker Bass
Nicole Vazquez, Consultant, Assembly Budget Committee
Jennifer Troia, Consultant, Senate Budget Committee