



United Domestic Workers of America Budget Report – July 27, 2009



OVERVIEW OF THE REVISED FY 09/10 STATE BUDGET FOR IHSS & SSI/SSP

(adopted by the Legislature on July 24, 2009)

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IHSS BUDGET OVERVIEW

On July 24, the legislature approved a 27-bill package to revise the FY 09-10 state budget to close the state's \$23.1 billion budget shortfall. The final budget package contains \$226 million in cuts to the IHSS program, establishes a new Anti-Fraud Initiative and reduces SSI/SSP grants.



SERVICE & ELIGIBILITY REDUCTIONS

Share-of-Cost Buy-Out

- Estimated Savings = \$41 million

While most IHSS recipients receive Medi-Cal services at no personal cost because of their low income, some IHSS recipients with higher family income may also be eligible by paying a share-of-cost (SOC) for the services. The original share of cost (SOC) buyout was enacted in 1998 and was designed to allow people with very low incomes to receive IHSS without any out-of-pocket expense for the program. Under current law, when an IHSS recipient is determined to have a SOC, the State "buys out" or funds the difference between the IHSS SOC and the higher Medi-Cal SOC. The State initiated this buyout to prevent negative hardship to recipients. In the February 2009 budget package, the SOC caseload was capped as of July 1, 2009 at 9,277 consumers and the buyout was eliminated for new clients after this date. The average monthly buyout is \$427 per month.

The final budget package eliminates the SOC buy-out completely on October 1, 2009.

Enabling legislation: ABX4 4; Welfare & Institutions Code § 12305.1

Eligibility Reductions

- Estimated Savings = \$53.2 million

Domestic & Related Services

The budget package eliminates Domestic and Related services for consumers with Functional Index (FI) ranking below 4 for the particular service category, except for recipients with paramedical services, protective supervision, or who are receiving 120 overall hours or more on a monthly basis effective September 1, 2009. The functional index ranking provides a measure of the consumer's independence and need for human assistance for performance of IHSS tasks. "Domestic and related services" include preparing food, doing laundry, cleaning, dusting, changing linens, taking out garbage, grocery shopping, planning menus, setting a table and washing and putting dishes away.

Budget documents indicate that approximately 84,517 consumers, or 20% of IHSS recipients, would see their monthly hours of IHSS services reduced by 21.7 hours – a reduction of approximately 30% in homecare services to these consumers. This measure would eliminate the service for anyone assessed or ranked with a Functional Index rank below four for these categories of domestic and related activities. For example, an individual who has a Rank 2 in Housekeeping and a Rank 4 in Meal Preparation and Clean-Up, Food Shopping, and Shopping/Errands would only lose Housekeeping services.

The measure requires the Notice of Action (NOA) to be modified no later than September 1, 2009 for individuals whose hours are reduced or for whom eligibility is eliminated to add the individual's FI rank and FI score to the NOA.

Enabling legislation: ABX4 4; Welfare & Institutions Code § 12309 (e) and 12309.2

Eliminates Consumers Below FI Score of 2

The budget package also eliminated all IHSS services for recipients with Functional Index (FI) scores below 2 except for consumers with paramedical services, protective supervision, or who are receiving 120 overall hours or more on a monthly basis effective on September 1, 2009. The measure requires the Notice of Action (NOA) to be modified no later than



September 1, 2009 for individuals whose hours are reduced or for whom eligibility is eliminated to add the individual's FI rank and FI score to the NOA.

Current program requirements already do not allow for individuals in Rank 1, who are considered independent, to receive these services; individuals at Rank 2 typically require direction or encouragement to perform an activity; individuals at Rank 3 require some physical assistance from another person for some chores. Individuals at Rank 4 require substantial physical assistance for most chores and individuals at Rank 5 cannot perform the specified activity with or without assistance.

The Legislative Analyst's Office has estimated this reduction would affect approximately 9.3% of all consumers (about 41,320 individuals) who would lose all services. The estimate does not discount for consumers who would not be affected by this cut who receive paramedical services, protective supervision or are receiving more than 120 hours per month.

Enabling legislation: ABX4 4; Welfare & Institutions Code § 12309 (e) and 12309.2

ANTI-FRAUD INITIATIVE

Governor Schwarzenegger alleged that the IHSS program "is riddled with fraud" and proposed very aggressive Anti-Fraud measures, most of which were adopted by the legislature.

- Estimated Savings = \$127.2 million

Mandatory Fingerprinting and Criminal Background Checks for Providers

Effective on October 1, 2009, counties are required to conduct criminal background checks through the Department of Justice for all individuals who are applying to become an IHSS provider. Criminal background checks must be completed by July 1, 2010 as a condition of the provider's continued enrollment in the IHSS program. This requirement applies to all providers – not just registry applicants.

- **Criminal background checks shall be conducted at the provider's expense.**

Grounds For Termination Or Denial To Serve As A Provider

Any IHSS provider who has been convicted within the past ten years of child abuse, elder abuse, or fraud against a government health care or supportive services program (including Medicare, Medi-Cal, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act) is ineligible to be enrolled as a provider or to receive payment for providing supportive services. IHSS Public Authorities may impose other restrictions on applicants to an IHSS Registry.

Provider Rights

Right to Appeal: The California Department of Social Services shall develop a written appeal process for current and prospective providers who are determined ineligible to receive payment for the provision of services due to the information contained in the criminal background check.

Right to Obtain Information in Criminal Background Check: If a provider is rejected as a result of the information in their criminal background check, the provider or applicant shall receive a copy of his/her own criminal history record from the Department of Justice and has the right to submit a formal challenge to the Department of Justice if the provider/applicant finds the information to be inaccurate or incomplete. Fees to obtain these records may be waived upon proof of indigency.



Enabling legislation: ABX4 19; Welfare & Institutions Code 12306.1(e) for registry applicants; Welfare & Institutions Code 12305.86 for prospective and current IHSS providers.

Mandatory Fingerprinting of IHSS Consumers

By April 1, 2010, the California Department of Social Services, in consultation with county welfare departments, shall develop protocols and procedures for obtaining fingerprint images of all individuals who are being assessed or reassessed to receive IHSS. An individual who is a minor or who is physically unable to provide fingerprints due to amputation or other physical limitations shall be exempt from any requirement to provide fingerprints.

For any recipient whose initial client assessment occurs on or after April 1, 2010, he or she shall be fingerprinted at the same time of initial assessment by a social worker, in the recipient's home, as specified in the protocols and procedures.

For any recipient already receiving IHSS on April 1, 2010, during the recipient's next reassessment, a social worker shall obtain fingerprint images for that recipient, in the recipient's home.

Fingerprint imaging information obtained from a recipient pursuant to this section shall remain confidential, and shall only be used for identification purposes directly connected with the provision of supportive services to that recipient and program integrity.

Enabling legislation: ABX4 19; Welfare & Institutions Code 12305.73

Notice of Action – Information to Providers

Effective January 1, 2010, the application for IHSS shall contain a notice to the recipient that his or her provider or providers will be given written notice of the consumer's authorized services and full number of services hours allotted to the individual. The application shall inform recipients of the Medi-Cal toll-free telephone fraud hotline and Internet Web site for reporting suspected fraud or abuse in the provision or receipt of supportive services.

By December 31, 2011, the Department of Social Services shall develop a process to notify providers of the approved duties to be performed for each consumer and a complete list of services available in the IHSS program.

Enabling legislation: ABX4 19; Welfare & Institutions Code § 12301.15 and 12301.22

Revised Provider Enrollment Form

A revised Provider Enrollment Form must be submitted in-person by all existing and prospective IHSS providers and must include a photocopy made by the county of the original documentation of the provider's identity. IHSS providers must use their physical residential address on the revised Provider Enrollment Form and shall not use a post office box address.

Enabling legislation: ABX4 4; Welfare & Institutions Code § 12305.81 (a) and 12305.85 (a).

Mandatory Provider Orientation

New and Prospective Provider Orientation:

As of November 1, 2009, all prospective IHSS providers must complete a provider orientation at the time of enrollment, as developed by the California Department of Social Services. The orientation must include, but is not limited to, all of the following:



- (1) The requirements to be an eligible IHSS provider.
- (2) A description of the IHSS program.
- (3) The rules, regulations, and provider-related processes and procedures, including timesheets.
- (4) The consequences of committing fraud in the IHSS program.
- (5) How to report suspected IHSS fraud or abuse.

Current Provider Orientation

Between November 1, 2009 and June 30, 2010, all current providers must receive the same orientation information that will be provided to prospective providers. The legislation does not specify how current providers will receive this information

Enabling legislation: ABX4 19; Welfare & Institutions Code § 12301.24 (a) and (c).

New Provider Requirement for Written Agreement

In order to complete provider enrollment, a written statement must be signed whereby the provider agrees:

- (1) He/she will provide to a recipient the authorized services.
- (2) He/she has received a demonstration of, and understands, timesheet requirements, including content, signature, and fingerprinting, when implemented.
- (3) He/she shall cooperate with state or county staff to provide any information necessary for assessment or evaluation of a case.
- (4) He/she understands and agrees to program expectations and is aware of the measures that the state or county may take to enforce program integrity.
- (5) He/she understands that failure to comply with program rules and requirements may result in the provider being terminated from providing services through the IHSS program.

Prospective providers must sign the statement after attending the required orientation. The county shall indefinitely retain this statement in the provider's file. Refusal of the provider to sign the statement shall result in the provider being ineligible to receive payment for the provision of services and participate as a provider in the IHSS program.

Enabling legislation: ABX4 19; Welfare & Institutions Code § 12301.24 (b) and (c).

Timesheet Changes – Fingerprinting, Civil Fines for Fraud & Use of P.O. Boxes

Time sheets must include a certification that the information is true and correct and that the provider or recipient may be subject to civil penalties if the information is not accurate. In addition to any criminal penalties, the measure establishes civil penalties for intentional deception or misrepresentation of a minimum of \$500 and not to exceed \$1,000 for each violation.

Effective July 1, 2011, timesheets will contain designated spaces for both the provider and the recipient to place their index fingerprint to be eligible for payment. Exceptions to this requirement are made for minors and individuals who are physically unable to provide an index finger due to amputation or other physical limitations. Documentation of any exemptions must be maintained by the county in the consumer or provider file, as applicable.

A paycheck for a provider shall not be mailed to a post office box unless the county approves a written or oral request from the provider, which shall include an explanation of the circumstances that make the use of a post office box appropriate or necessary. The county shall document an oral request received pursuant to this subdivision the provider's request and the county's approval or disapproval shall be retained in the provider's file.

Enabling legislation: ABX4 19; Welfare & Institutions Code § 12301.25. and 12305.85 (b).

Unannounced Home Visits

Counties are required to perform, "as appropriate, in targeted cases," unannounced home visits to verify that consumers are receiving services. The Department of Social Services, in consultation with county welfare departments, shall develop protocols for follow-up home visits and other actions if the consumer and provider are not at the consumer's home at the time of the initial home visit. These protocols, at a minimum, shall include: (1) information sent to the consumer's home regarding the goals of the home visit, including the county's objective to maintain program integrity by verifying the receipt of services; (2) additional attempted visits to the consumer's home; and (3) follow-up phone calls to both the consumer and provider if necessary.

Enabling legislation: ABX4 19; Welfare & Institutions Code 12305.71 (c)(3).

Targeted Mailings

The California Department of Social Services, in consultation with the county welfare departments and other stakeholders, as appropriate, shall develop protocols for the implementation of targeted mailings to providers, to convey program integrity concerns.

Enabling legislation: ABX4 19; Welfare & Institutions Code 12305.7 (h).

County Social Worker Anti-Fraud Training

On or before July 1, 2010, the California Department of Social Services shall ensure that a standardized curriculum and training materials for county social workers are developed for the purposes of preventing fraud within the IHSS program.

Enabling legislation: ABX4 19; Welfare & Institutions Code 12305.7 (e) (2).

New State Anti-Fraud Staff & County Funding

The California Department of Health Services received an augmentation of \$1.6 million for 13 new positions in the fraud detection unit in FY 09-10. The California Department of Social Services received an augmentation of \$1.4 million for 12 new positions in their IHSS program integrity unit.

The California Department of Health Services is slated to receive funding for 30 new positions in the fraud detection unit in FY 10-11. The California Department of Social Services is slated to receive funding for 12 new positions in their IHSS program integrity unit in FY 10-11.

The counties received an augmentation of \$10 million in FY 09-10 that is dedicated to county IHSS fraud investigations.

Enabling legislation: ABX4 1, SECTION 576, added Section 18.55 of the Budget Act

PUBLIC AUTHORITY ADMINISTRATIVE COSTS

The budget reduces Public Authority administration rates by 20 percent for a savings of \$4.6 million.

Enabling legislation: ABX4 1, SECTION 575, added Section 18.50 of the Budget Act



SSI/SSP GRANT REDUCTIONS

The budget adopts SSI/SSP grant reductions for the third time in 2009. The maximum grant for couples will be reduced to the minimum level required by federal law (\$1,407 per month) and the grant for individuals will be reduced by 0.6 percent, to \$845 per month. These cuts will take effect on October 1, 2009 for state savings of \$115.9 million in 2009-10. In addition, the budget permanently eliminates the statutory COLA for SSI/SSP grants starting January 1, 2011.

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