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ALL COUNTY LETTER 16-01

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS  
IHSS PROGRAM MANAGERS  
IN-HOME OPERATIONS COORDINATORS

SUBJECT: **REINSTATEMENT OF IMPLEMENTATION OF PROVISIONS OF SENATE BILLS 855 AND 873 (CHAPTERS 29 AND 685, STATUTES OF 2014) RELATING TO THE IHSS AND WAIVER PERSONAL CARE SERVICES PROGRAMS**

REFERENCE: *HOME CARE ASSOCIATION OF AMERICA V. DAVID WEIL* (AUGUST 21, 2015) 799 F.3d 1084; *HOME CARE ASSOCIATION OF AMERICA V. DAVID WEIL* (DECEMBER 22, 2014) 76 F. Supp. Ed 128; *HOME CARE ASSOCIATION OF AMERICA V. DAVID WEIL* (JANUARY 14, 2015) 78 F. Supp. 3d 123; [ACL 12-19 \(APRIL 11, 2012\)](#); [ACL 12-55 \(NOVEMBER 1, 2012\)](#); [ACL 14-76 \(OCTOBER 8, 2014\)](#); [ACL 14-82 \(NOVEMBER 25, 2014\)](#); [ACL 14-102 \(DECEMBER 31, 2014\)](#); [ACIN I-73-14 \(JANUARY 5, 2015\)](#); [ACL 15-10 \(JANUARY 23, 2015\)](#); [ACL 15-97 \(DECEMBER 1, 2015\)](#); SENATE BILLS [855](#) AND [873](#);

This All-County Letter (ACL) provides counties with information and instructions for implementing the provisions of Senate Bill (SB) 855 and SB 873 that established limits on the number of authorized hours providers in the In-Home Supportive Services (IHSS) and Waiver Personal Care Services (WPCS) programs are permitted to work in a workweek. In addition, it provides information and instructions for implementing policies requiring that IHSS and WPCS providers receive compensation for travel time and wait time under certain circumstances. Finally, this ACL transmits new and revised forms and notices to be used by counties in the implementation of the provider workweek limits and travel time compensation policies.

The information provided in this ACL supersedes the information contained in ACL 14-76 (October 8, 2014) and ACL 15-10 (January 23, 2015).

## **BACKGROUND**

On October 1, 2013, the United States Department of Labor (DOL) published the Final Rule on the Application of the Fair Labor Standards Act (FLSA) to Domestic Service (RIN 1235-AA05). The Final Rule extends the protections of the FLSA to domestic service workers by effectively removing the ability of “third party” agencies to claim an exemption for personal care workers from minimum wage and overtime pay as providers of “companionship services” or as live-in providers. In addition, the federal rules relating to pay for travel time under FLSA are made applicable to IHSS providers, including compensation for providers traveling between multiple recipients, and the federal rules relating to pay for wait time in certain circumstances under FLSA are made applicable to IHSS providers whose recipients are authorized for medical accompaniment services. The Final Rule was scheduled to go into effect on January 1, 2015.

In response to the new federal regulations, two bills, SB 855 and SB 873, were chaptered in California on June 20, 2014, and September 27, 2014, respectively. These bills relate to overtime and travel time compensation for IHSS providers. The provisions of these bills are documented in ACL 14-76 (October 8, 2014).

On December 22, 2014 and January 14, 2015, the United States District Court for the District of Columbia vacated the Final Rule insofar as it 1) precluded third-party employers from claiming applicable wage and overtime exemptions for services provided by live-in providers and employees performing companionship services and 2) revised the definition of companionship services (*Home Care Association of America v. David Weil* (2014) 76 F. Supp. 3d 128 and *Home Care Association of America v. David Weil* (2015) 78 F. Supp. 3d 123). As a result of the District Court’s decision, on January 15, 2015, California Department of Social Services (CDSS) announced a halt to the implementation of the changes related to workweek, overtime, and travel time requirements for all IHSS providers which had been initially scheduled to go into effect on January 1, 2015, pursuant to the requirements of SB 855 and SB 873.

On August 21, 2015, the Appellate Court for the District of Columbia Circuit reversed the District Court’s decisions (*Home Care Association of America v. David Weil* (2015) 799 F. 3d 1084). This decision effectively reinstated the final rule described above adopted by DOL. As a result of this reversal, CDSS is reinstating implementation of the workweek, overtime, and travel time requirements for IHSS providers in the State of California.

On November 6, 2015, the State announced that the payment of overtime, travel time, and wait time compensation to providers of IHSS and WPCS would be implemented as of February 1, 2016. On November 19, 2015, the NAHC filed a Writ of Certiorari with the U.S. Supreme Court to request the Court to review the appeal.

The Supreme Court review of the appeal is entirely discretionary, and no announcement has yet been made on the Court's decision to review the case.

### **IMPLEMENTATION OF OVERTIME AND WAIT TIME COMPENSATION**

As of February 1, 2016, IHSS/WPCS providers will be paid overtime, at a rate equal to one and one-half times the regular rate of hourly pay, when their time worked exceeds 40 hours per workweek. The term "workweek" is defined in statute as the period beginning at 12:00 a.m. on Sunday and including the next consecutive 168 hours, terminating at 11:59 p.m. the following Saturday.

Likewise, as of February 1, 2016, IHSS providers will be paid for travel time when the provider works for multiple recipients and is required to travel from one job site directly to another job site during the same workday. A provider will not be compensated for travel to and from his/her home to any IHSS recipient's location.

Additionally, as of February 1, 2016, IHSS providers may be paid for certain periods of wait time. The DOL provides two definitions for the different types of wait time: time spent engaged to wait and time spent waiting to be engaged.

- "Engaged to wait" means that the provider is not performing work duties but he/she is unable to use the time effectively for his/her own purposes. These periods of time are generally unpredictable and usually of short duration. The wait time is an integral part of the job; it belongs to and is controlled by the recipient.
- "Waiting to be engaged" means that the provider is completely relieved from performing work duties and he/she has enough time to enable him/her to use the time effectively for his/her own purposes. The provider must be informed in advance that he/she may leave the job and that he/she will not have to resume work until a specified time.

**The FLSA rules require employers to pay an employee for time he/she spends "engaged to wait"; however, an employee is not required to be compensated for time he/she spends "waiting to be engaged."** In order to better comprehend these terms within the ACL, the term "engaged to wait" will hereafter be referred to as "Wait Time—On Duty," and the term "waiting to be engaged" will hereafter be referred to as "Wait Time—Off Duty."

In the IHSS program wait time associated with medical accompaniment may be eligible for compensation as "Wait Time—On Duty." This will be discussed in reference to medical accompaniment services later in this ACL.

Although compensation for overtime, travel time, and wait time will be implemented on February 1, 2016, assessment of violations and penalties for violating workweek and travel time limits will not be enforced until May 1, 2016. Information regarding violations and the county review process will be discussed in a forthcoming ACL.

### **Calculation Of Maximum Weekly Hours And Overtime Workweek Requirements**

Welfare and Institutions Code (WIC) section 12300.4 limits how many hours an IHSS provider may work in any workweek. WIC section 12301.1 further requires each IHSS recipient to have their monthly authorized hours converted into a maximum number of weekly hours that can be distributed to his/her provider(s). Effective February 1, 2016, this maximum number of weekly hours will be calculated by dividing the total number of the recipient's monthly authorized hours by four (4). This calculation was designated because it was determined to be the most efficient method to ensure that the IHSS recipient would receive all of his/her authorized monthly hours regardless of the number of days within the month itself.

This calculation is merely a guideline to inform the recipient the maximum number of hours his/her provider(s) can work in a workweek which will assist the recipient in effectively budgeting his/her service hours to ensure all of his/her monthly hours are received. However, since most months are slightly longer than four weeks, the recipient will need to allocate his/her authorized monthly hours throughout the month to ensure he/she has enough hours to cover his/her authorized services until the end of the month. This allocation does not represent a change in the current process insofar as recipients are currently required to properly allocate their monthly authorized hours throughout the month to ensure that they receive all of their authorized services, regardless of the number of days or weeks within the month. This means that for most months, the recipient will not use their entire maximum weekly hours allocation each week. The weekly hours calculation is most critical for those recipients whose maximum weekly hours exceed 40 hours in the workweek as this will determine that the recipient's workweek schedule has the potential to include overtime hours for his/her provider(s).

The maximum number of hours an IHSS provider can claim on his/her timesheet depends on the number of recipients for whom the provider works. In no case can a provider claim more hours working for a recipient than that recipient is authorized in a month. Some scenarios follow:

- **Single provider working for a single recipient:** The maximum hours the provider may work in a workweek is the recipient's maximum weekly hours (if a recipient is authorized to receive the maximum number of hours per month allowed in the IHSS program (283 hours), his/her provider would be able to work maximum weekly hours of 70.75 hours. (283 divided by 4 = 70.75)).

*Example: Jack works for Sarah. He is working for no other recipients, and she has no other providers working for her. Sarah has 156 authorized monthly hours which, when divided by four, equal 39 weekly hours. Therefore, the maximum hours Jack may work in a workweek is 39 hours, Sarah's maximum weekly hours. Sarah will budget all of her hours regardless of the number of days in the month to ensure complete coverage of her authorized hours and services throughout the month.*

- **Multiple providers working for a single recipient:** The maximum weekly hours may be divided amongst the providers in any manner the recipient sees fit as long as the total hours of all providers combined in a week do not exceed the recipient's maximum weekly hours (if a recipient is authorized to receive the maximum number of hours per month allowed in the IHSS program (283 hours), the total amount of time all of his/her providers would be able to work combined is the maximum weekly hours of 70.75 hours).

*Example: Recipient Nicole has two providers working for her: Steve and Kelly. Nicole has 220 authorized monthly hours which, when divided by four, equal 55 weekly hours. Nicole may divide those total weekly hours between Steve and Kelly in any way she sees fit. For example, Nicole may decide to give Steve 30 hours per week and give Kelly 25 hours per week. Nicole will budget all of her hours regardless of the number of days in the month to ensure complete coverage of her authorized hours and services throughout the month.*

- **Single provider working for multiple recipients:** The maximum number of hours that the provider may claim in a workweek for all of the time he/she works for his/her recipients combined is 66 hours.

*Example: David works as a provider for Peter and Denise. Peter has 100 authorized monthly hours which, when divided by four, equal 25 weekly hours. Denise has 200 authorized monthly hours which, when divided by four, equal 50 weekly hours. Since David works for two recipients, he can only work a maximum of 66 hours per workweek. Since Peter and Denise's maximum weekly hours equal 75 hours, David can only work 66 of those hours and another provider will have to be hired to work the additional 9 weekly hours. Peter and Denise will budget all of their hours regardless of the number of days in the month to ensure complete coverage of their authorized hours and services throughout the month.*

There is no change in the process for how a provider completes a recipient's monthly authorized hours if a month begins or ends in the middle of a workweek. When the new month begins in the middle of the week, the provider may finish working the authorized monthly hours in the first month. When the next month begins, the recipient's hours

reset and the provider can begin providing authorized services for that month. The hours worked in the week between the two months must be worked in accordance with the recipient's maximum weekly hours and the workweek agreement discussed below.

### **Workweek Agreements**

Welfare and Institutions Code section 12300.4(b)(4)(A) requires that a provider inform each of his/her recipients of the number of hours he/she is available to work for that recipient. CDSS has created the IHSS Program Recipient and Provider Workweek Agreement (SOC 2256) to serve as a tool to assist those recipients with multiple providers to establish a work schedule that complies with the recipient's maximum weekly hours. Additionally, the workweek agreement ensures that there will be a sufficient number of providers to serve the recipient's authorized monthly hours. The SOC 2256 is only necessary if a recipient has multiple providers and must be completed and signed by the recipient and each of his/her providers. It will document the number of hours each provider will provide authorized services for the recipient each workweek. The total number of hours in the workweek agreement must correspond to the recipient's maximum weekly hours. It should be noted that the workweek agreement is a guideline and a recipient may choose to have his/her providers work different hours within the week as long as the providers stay within the recipient's maximum weekly hours and under 66 hours if the provider works for multiple recipients.

Additionally, CDSS has created the IHSS Program Provider Workweek and Travel Agreement (SOC 2255) to assist IHSS providers who work for multiple recipients on the same day with establishing a work schedule in order to stay within the maximum workweek limit of 66 hours. Providers who work for multiple recipients on the same day and travel between locations to provide IHSS to those recipients should be advised that the SOC 2255 must be completed in order for him/her to be compensated for his/her travel time. The SOC 2255 includes the travel time section in Part B, which requires the provider to indicate the names of the recipients he/she is providing services to, as well as the addresses and the estimated travel time. Without this information, payment for travel time cannot be processed. If the SOC 2255 form is not completed and submitted to the county IHSS office for processing, the provider will not be paid for any travel time he/she may be compensated for until after the form is submitted.

Once the SOC 2255 or SOC 2256 is completed and submitted to the county, it is not necessary to update the form whenever the work schedule needs to be temporarily adjusted due to a change in circumstances. The SOC 2255 only needs to be updated and resubmitted when a change in providers and/or circumstances cause a permanent change in any provider's work schedule. The county should work with the recipient to obtain the SOC 2256 whenever a permanent change in any of the information contained on the form is needed and may be able to coordinate the receipt of the corrected SOC 2256 at reassessment.

## **Notification Of Maximum Weekly Hours (Soc 2271 And Soc 2271a)**

In order to assist a recipient to schedule his/her provider(s)'s weekly hours, he/she will receive the IHSS Program Recipient Notice of Maximum Weekly Hours (SOC 2271A) which will inform the recipient of his/her maximum weekly hours. Each provider of an IHSS recipient will be informed of his/her recipient's maximum weekly hours and the services he/she may provide via the IHSS Program Provider Notice of Recipient Authorized Hours and Services (SOC 2271). Both of these documents will be issued beginning February 1, 2016, and will be used by both the recipient and provider to aid in establishing the weekly work schedule of the provider(s). Recipients and providers will receive these notifications whenever there is a change in the recipient's authorized monthly hours, coinciding with the release of the Notice of Action informing the recipient of the change in hours and/or whenever a new service is added or a service is eliminated.

## **Adjusting Recipient's Maximum Weekly Hours**

On occasion, it may be necessary for a recipient to authorize his/her provider to work more than the recipient's maximum weekly hours as identified on the SOC 2271A. The recipient may make such an authorization without requesting approval from the county as long as the hours worked:

- **Do not result in the provider working more than 40 hours in a workweek when the recipient is authorized 40 hours or less in a workweek; or**

*Example: Provider Steve works 30 weekly hours providing services for his recipient Nicole. One week Nicole gets sick and requires Steve to remain for an extra two hours to assist her. Because the increase in hours will only increase his weekly hours (for that week) to 32 hours and does not result in hours over 40, Nicole does not need to request approval from the county to adjust Steve's schedule.*

- **Do not result in the provider receiving more overtime hours than he/she normally works in a calendar month;**

*Example: Provider Jack works 45 weekly hours providing services for his recipient Sarah (a total of 20 hours overtime in the month). One week Sarah requests Jack to work an additional two hours to assist her. She tells him that she will adjust his work schedule in the next week so that he works two less hours that week to make up the time and to keep him from working over her monthly authorized hours. Jack normally has 10 overtime hours in the two week period. By increasing Jack's hours in the first week to 47 and reducing his hours down in the following week to 43 and having Jack work his regular schedule for*

*the remainder of the month, Sarah maintains Jack's overtime hours to 10 hours for the two week period. Therefore, Sarah does not need to request approval from the county to adjust Jack's schedule.*

*However, if Sarah requests Jack to work an additional fifteen hours in the first week for a total of 60 hours and adjusts his work schedule in the following weeks so that he works 43 hours in the 2<sup>nd</sup> week and then 37 hours and 40 hours in the remaining weeks, then Jack would work 3 hours more overtime than he normally works in a calendar month. Therefore, Sarah would need to call the county for approval because Jack would be working 23 hours of overtime when he normally works 20 overtime hours in the calendar month.*

- **And do not result in a provider working for multiple recipients working more than the maximum weekly limit of 66 hours.**

*Example: David works a total of 65 hours providing services for his recipients Peter and Denise. In one week, Denise needs David to work an additional hour and tells him she will adjust his weekly hours the following week so that he works 1 hour less for her. Since David works for 2 recipients, the maximum number of hours he can work per week is 66 hours. Denise's request will not exceed the 66 hour limit; therefore, Denise does not need to request approval from the county to adjust David's schedule. However, David will have to work one less hour in another week to ensure that he does not work more overtime than he normally does in a calendar month.*

In a situation in which a recipient has more than one provider and one of the providers becomes ill or is otherwise unable to work in a given week, the recipient can assign some or all of his/her weekly hours to the other provider, even if this would cause that provider to work overtime. This recipient may do so without requesting approval from the county as long as the hours worked by the single provider do not cause him/her to work more than the recipient's maximum weekly hours or, if the provider works for more than one recipient, causes him/her to work in excess of 66 hours in the workweek.

*Example: Recipient Nicole has two providers working for her: Nicole has 220 authorized monthly hours which, when divided by four, equal 55 weekly hours. Normally, Steve works 30 hours per week for Nicole and Kelly works 25 hours a week for Nicole. However, one week, Kelly gets sick and cannot work. Nicole assigns Kelly's 25 hours to Steve, raising his weekly work hours to 55. Because Steve's temporary 55-hour workweek does not exceed Nicole's maximum weekly hours of 55 hours, Nicole does not need to request permission from the county to temporarily increase Steve's weekly work hours in this way. However, if Steve works for another recipient, he will only be able to accept the additional hours from Nicole if he works 11 hours or less for*



*his other recipient. If he works more than 11 hours for his other recipient, Steve will have to decline the additional hours (causing Nicole to have to hire another temporary provider to work Kelly's hours until she is able to return to work) or he will have to reduce the number of hours he works for his other recipient to keep his weekly work hours at 66 hours or less.*

As required under statute, and consistent with current recipient practice, a recipient is assessed for his/her needs and then authorized a monthly service amount based on this need. As such, a recipient can never authorize any provider to work more than his/her total authorized monthly services hours. Therefore, when a recipient authorizes a provider to work extra hours during a week, he/she must have that provider work fewer hours in the other week(s) of the same calendar month to ensure that the provider does not work more than his/her authorized monthly service hours.

### **Overtime Approval/Exception Process**

Effective February 1, 2016, if a recipient needs his/her provider to work more than the recipient's maximum weekly hours and the work performed will not meet one of the criteria in the previous section, the recipient will be required to contact the county to obtain a one-time exception to allow the provider to work the additional overtime hours.

An exception thus is defined as a request by an IHSS recipient to a county to allow the recipient to adjust his/her maximum weekly hours to allow his/her provider to work additional hours during a particular workweek, which may cause the provider to work and be compensated for additional overtime hours within a calendar month.

Counties shall utilize the following criteria to determine whether to approve an exception request:

- a) The additional hours must be necessary to meet an unanticipated need;
- b) The additional hours must be related to an immediate need that cannot be postponed until the arrival of a back-up provider as designated on the IHSS Program Individual Emergency Back-Up Plan (SOC 827) form; and
- c) The additional hours must be related to a need that would have a direct impact on the IHSS recipient and would be needed to ensure his/her health and/or safety.

If the exception request meets all of the above criteria, the county shall approve the request; otherwise, the county shall deny it. WIC section 12301.1(b)(1)(C) states that the county, "...shall not unreasonably withhold approval..." of an exception request.

Examples of an acceptable exception request include, but are not limited to:

- An unforeseen situation (such as an illness) occurs which requires the provider to furnish more of an authorized service to the recipient than would otherwise be required during a typical workweek (for example, extra laundry services to clean soiled linen or clothing; extra bowel and bladder care; etc.);
- Malfunctioning of a piece of medical equipment (such as a mechanical wheelchair, breathing apparatus, etc.) requires the provider to drive to a medical office to get the equipment repaired or replaced, increasing his/her authorized hours for shopping/other errands.

Examples of an exception request that does not meet all of the above referenced criteria include, but are not limited to:

- The provider wants to work additional hours during a given week in order to take time off for personal business or vacation the following week;
- The recipient requests the provider to work additional hours to complete an authorized service during a particular workweek rather than in another workweek for a reason which does not concern a medical necessity and will have no impact on the health and/or safety of the recipient (for example, the recipient wants all of the vacuuming and dusting done in one week rather than spread over two weeks with no medical necessity for doing so).

An IHSS recipient seeking an exception must make the request either prior to the event which caused the need for the exception request or as soon as safely possible afterwards in order to avoid endangering the health and safety of the recipient. Counties should advise recipients to make the request prior to the submission of the timesheet for the pay period in which the adjusted workweek occurred to ensure the provider is paid appropriately and timely.

In the event an IHSS recipient who has an authorized representative is unable to contact the county IHSS office, the recipient's authorized representative may contact the county to initiate the exception request. However, if the recipient's authorized representative is the provider for whom the exception is being requested, he/she is not permitted to contact the county on behalf of the recipient to make the exception request unless he/she is the parent, guardian, or person having legal custody of a minor recipient or the conservator, spouse, or registered domestic partner of an adult recipient. Documentation of the relationship between the recipient and the provider can be established by referring to the information entered in the Provider's Relationship to Recipient field (item #8) on the IHSS Program Recipient Designation of Provider form (SOC 426A). This is consistent with the statutory requirements related to providers

acting as authorized representatives for their recipients being unable to sign individual waivers to allow the providers to work for the recipients despite disqualifying felony convictions (as stated in ACL 12-19, dated April 11, 2012).

An IHSS recipient seeking an exception may contact the county to make the request via telephone or written correspondence. If the request is made via telephone, the county IHSS staff may approve or deny the exception request immediately while speaking with the recipient. Regardless of the method employed, the county IHSS staff must document the exception request in the Case Management, Information, and Payrolling System II (CMIPS II). An automatic approval/denial response letter will be generated that will be sent to both the recipient and the provider(s) within ten calendar days of the receipt of the exception request.

If the county approves the exception request, the recipient will be sent the IHSS Program Notice to Recipient Approval of Exception to Exceed Weekly Hours (SOC 2266) and the provider(s) will receive the IHSS Program Notice to Provider Approval of Exception to Exceed Weekly Hours (SOC 2266A). Each of these notices will remind the recipient and provider(s) that the provider(s) will need to adjust their hours before the end of the calendar month to avoid exceeding the recipient's monthly authorized hours.

If the county denies the exception request, the recipient will be sent the IHSS Program Notice to Recipient Denial of Exception to Exceed Weekly Hours (SOC 2267), and the provider(s) will be sent the IHSS Program Notice to Provider Denial of Exception to Exceed Weekly Hours (SOC 2267A). The SOC 2267 will provide details for the recipient explaining why the exception request was denied. The notices also inform both the recipient and the provider(s) that if the hours have already been worked and documented on the provider's timesheet that the hours will be paid but a violation will be assessed against the provider. Like the SOC 2266/2266A, these notices also remind the provider(s) and recipient that the hours claimed by one or more providers (if the denied exception hours were worked) will need to be adjusted later in the same calendar month to avoid exceeding the recipient's monthly authorized hours.

If the recipient or his/her authorized representative did not seek approval and the provider worked extra hours and documented the hours on his/her timesheet, when the timesheet is submitted for processing and payment to the Timesheet Processing Facility (TPF), the payment will be processed. However, CMIPS II will be triggered to send a notification to the county IHSS office informing that office of the additional hours worked by the provider. Within five business days after receiving the notification from the TPF, the county IHSS office has the option to review the circumstances and to determine whether or not county approval of the adjustment was necessary and, if county approval was needed, to contact the recipient to discuss the reason the additional hours were worked to determine whether or not it meets the criteria for an exception.

If the additional hours were worked and claimed on the Part A timesheet (covering the first fifteen days of the month), the county has the option of waiting until the submission of the Part B timesheet (covering the time period from the 16<sup>th</sup> day of the month until the final day of the month) to determine if the excess hours claimed in the Part A timesheet were properly adjusted during the second half of the month.

If the county chooses to review the circumstances that led to the additional hours being worked and determines that the circumstances warrant approval of the exception, the county can manually grant the exception request in the CMIPS II system and cancel the processing of the violation.

If the county chooses not to review or is unable to determine the circumstances that led to the additional hours being worked, after five days from when the notification was sent by the TPF, a violation will be automatically sent to the provider and an informational notice regarding the violation will be sent to the recipient. At that time, the provider may contact the county IHSS office within ten calendar days of the date on the violation notification to request an official county review of the circumstances and the subsequent violation. If the county determines that the circumstances warrant an exception, the violation against the provider will be rescinded.

If the recipient or his/her authorized representative did seek approval for the extra hours and the approval was denied but the provider worked the hours and documented them on his/her timesheet, when the timesheet is submitted for processing for payment to the TPF, the payment will be processed and a violation notice will be automatically sent to the provider and an informational notice regarding the violation will be sent to the recipient.

Policies and procedures regarding violations, including the county dispute and state administrative review process will be addressed in a forthcoming ACL.

### **Approval For Recurring Needs**

Pursuant to WIC section 12301.1(b)(1)(A), a county IHSS office may adjust the weekly hours of a recipient for any particular week for known recurring or periodic needs of the recipient. Effective February 1, 2016, in situations in which the county becomes aware during a recipient's assessment, or any time thereafter, of a recipient's recurring need that requires an adjustment of his/her weekly hours, the county can adjust the recipient's weekly hours and issue an IHSS Notice to Recipient Approval for Provider to Work Alternate Schedule Due to Recurring Event notice (SOC 2268) which will detail the adjustment to his/her weekly hours. A similar notice, the IHSS Program Notice to Provider Approval to Work Alternate Schedule Due to Recurring Event (SOC 2269) will be sent to the provider(s) informing him/her of the adjustment in the recipient's weekly

hours. Counties are advised to annotate the recipient case file to indicate the reason for the recurring need that requires the adjustment of the weekly hours. Additionally, the county should set forth a date as to when an evaluation may be necessary to determine if the recipient's needs have changed and the exception is no longer warranted.

### **Travel Time**

Beginning February 1, 2016, if a provider works for more than one recipient at different locations on the same day, he/she will be eligible to be paid for time spent traveling between the two recipients, up to seven hours per workweek.

Travel time payment covers the time it takes the provider to travel directly from the location where he/she provides services for one recipient to another location where he/she provides services for a different recipient on the same day. Travel time does not include the time it takes the provider to travel from his/her own home to the location where he/she provides services for a recipient or back home after the work is completed. However, if the provider provides services to a recipient in the provider's own home and then travels to another location to provide services to another recipient, the provider can claim travel time for the time it takes to travel from his/her home to the second location where he/she provides services. However, the provider will not be compensated for the time it takes to travel from the second recipient's home back to his own home after the services have been provided.

*Example: David lives with his brother Peter and provides both Peter and their sister Denise with services as their provider. Denise lives in her own home 45 minutes from David and Peter's home. Since David provides services to both Peter and Denise each day, he may claim 5 hours, 15 minutes (45 minutes per day), of travel time each week for traveling from his own home (where he provides services to Peter) to Denise's home (where he provides services to her).*

The provider will get paid for actual travel time regardless of the method of travel used (driving a car, taking public transit, walking, riding a bicycle). The cost of the travel (gas, bus fare, etc.) is not compensable.

The provider is responsible for keeping track of his/her travel time each week so that he/she can report it on the travel claim form. The time spent traveling between recipient locations does not count toward the provider's maximum weekly hours of 66 hours or the recipient's maximum weekly hours and is not deducted from any recipient's monthly authorized hours.

To calculate the wage rate when traveling from a recipient in one county to a recipient in another county, the provider must indicate on the travel claim form which recipient

he/she is traveling to since the wage rate for that travel will be determined by the destination county.

*Example: David works for two recipients, Peter and Denise, each day. Peter lives in Tulare County (with a wage rate of \$9.00 per hour), and Denise lives in Fresno County (with a wage rate of \$10.25). It takes him 45 minutes a day to drive from Peter's house to Denise's house. Because David is traveling to Fresno County from Tulare County, David gets the Fresno County wage rate of \$10.25 when determining the travel wage rate.*

If the provider's claimed travel time adds up to more than seven hours per workweek, the county is required to work with the provider to rearrange the provider's work schedule to ensure his/her claimed travel time is no more than seven hours per workweek. If the provider submits a travel claim form claiming travel time of more than seven hours in a workweek, he/she will get paid for the travel time claimed but will be assessed a violation.

Once the SOC 2255 has been received by the county IHSS office and entered into CMIPS II, if information from "Part B. Travel Time" has been entered, the system will automatically generate a request for a Travel Claim Form to be sent to the provider from the Centralized Print Vendor at the Employment Development Department (EDD). After that point, each time a timesheet is sent to the provider, it will be accompanied by a Travel Claim Form. The timesheet and Travel Claim Form must be sent in a single envelope to the TPF.

Once received, the Travel Claim Form will be evaluated to ensure it conforms with the information provided by the provider in the "Part B. Travel Time" section of the SOC 2255. Payment of travel time will be made, as applicable, beginning February 1, 2016.

### **Wait Time**

Providers will be eligible as of February 1, 2016, to receive payment for wait time associated with medical accompaniment. In order to determine whether wait time is compensable, a distinction will need to be made whether the provider is using "Wait Time—On Duty" or he/she is using "Wait Time—Off Duty."

During periods when the provider is using "Wait Time—On Duty," he/she may not be actively performing authorized services but he/she cannot effectively use the time for his/her own purposes because the time is unpredictable and of unknown duration. The provider must be paid for time he/she spends in "Wait Time—On Duty." An example of time spent in "Wait Time—On Duty" would be when a provider accompanies a recipient

to a medical appointment of unknown duration and the provider is required to remain at the medical office because, at any moment, he/she may be called upon to assist the recipient with returning to his/her home.

However, if the provider is informed in advance that he/she is relieved from performing work duties for a specified and generally longer period of time during which he/she is free to engage in his/her own personal business, he/she is considered to be using "Wait Time—Off Duty." Time spent in "Wait Time—Off Duty" is not compensable. An example of time spent in "Wait Time—Off Duty" would be when a provider accompanies a recipient to a hemodialysis treatment that is scheduled to last for three hours. In such a case, the provider would be informed that he/she is not required to remain on the premises and that he/she need not return to retrieve the recipient until the designated time. He/she could use the time to conduct his/her own personal business or engage in personal activities, and this time would not be considered work hours for which he/she would be required to be compensated.

When a recipient is authorized for medical accompaniment, if all of the following conditions are met, his/her provider will be considered to be **"Wait Time—Off Duty" (which means the time spent waiting will not be compensable and time will not be added to the service of medical accompaniment to account for this):**

- The duration of the recipient's appointment is known in advance which would allow the provider ample notification that he/she will not be needed to provide services for a specific period of time which can then be used for his/her own purposes;
- The appointment is scheduled to last a sufficient length of time for the provider to engage in personal business or activities; and
- The provider is not required to perform any other authorized service, e.g., food shopping, other shopping/errands, during the duration of the appointment.

If these conditions are met, the provider must be informed by the recipient that he/she is relieved of his/her duties until a specified time when he/she is to return to accompany the recipient home. He/she will not be paid for this time. If all of the above conditions are not met, the provider will be considered to be participating in "Wait Time—On Duty," and he/she must be paid for the time he/she spends waiting for the recipient.

Further guidelines for the authorization of wait time during authorized medical accompaniment have been set forth in ACL 14-82 (November 25, 2014). The processes and procedures outlined in that ACL must continue to be utilized by the county when authorizing wait time.

As directed in ACL 14-82, to authorize wait time, the county Social Worker will assess the recipient by phone or in person by asking how frequently he/she has medical or

other health-related appointments, the purpose of the appointments, and if accompaniment by an IHSS provider is needed during travel to or from the appointments.

In order to assist the county Social Worker in collecting information needed for the authorization of medical accompaniment and wait time, counties must use the procedures established in ACL 14-82 to make telephone contact with the recipient directly or may utilize the IHSS Program Accompaniment to Medical Appointment form (SOC 2274) to obtain the required information from the recipient's Licensed Healthcare Practitioner by phone, fax, or mail. The SOC 2274 can be obtained through the CDSS website at <http://www.dss.cahwnet.gov/cdssweb/PG183.htm>.

Counties currently are in the process of reviewing IHSS cases with medical accompaniment and counties should complete the evaluation of the cases as soon as administratively feasible. As cases are reassessed and wait time is authorized under medical accompaniment, counties will be responsible for ensuring that time is authorized in compliance with the statutory maximum of 283 hours per month and that the weekly maximum limits are not exceeded.

### **COUNTY RESPONSIBILITIES**

As of February 1, 2016, counties will be responsible for implementing and enforcing the workweek, overtime, and travel time requirements. The counties are also required to provide recipients and providers with the necessary information so that they understand their responsibility to not schedule or perform authorized IHSS work for more than the weekly maximum hours and to not exceed the limits on travel time between recipients on the same day. While consequences for violating overtime and travel time limits do not become effective until May 1, 2016, counties will need to review circumstances in which recipients and providers exceed the overtime and travel time limits and counsel recipients and providers as necessary so they can make adjustments to their workweek schedules to prevent any further occurrences. Counties must also develop a process to assist recipients and providers in preparing the workweek agreement and completing the workweek agreement forms (SOC 2255 and SOC 2256). Further, pursuant to WIC sections 12300.4(f)(5) and 12301.1(b)(2)(D), counties must provide technical assistance to recipients and providers to ensure that providers do not exceed the seven-hour per week limit on travel time and must discuss changes to the workweek agreement at reassessment and as necessary. County IHSS offices will have the capability to enter information from those forms into the CMIPS II system beginning January 25, 2016.

### **Required Recipient Form**

Counties must establish procedures to ensure that each current recipient understands the new workweek, overtime, and travel time requirements and submits an IHSS



Program Overtime and Workweek Requirements Recipient Declaration (TEMP 3000) to that effect.

Counties are required to obtain the signed TEMP 3000 as soon as administratively feasible, but no later than the next regularly scheduled reassessment after the implementation date of February 1, 2016. Counties must provide the recipient with a copy of the signed TEMP 3000 form for his/her own records and retain the original in the recipient's case file.

Newly eligible recipients will instead complete and sign the revised IHSS Program Recipient Designation of Provider (SOC 426A) form which includes information about the new workweek, overtime, and travel time requirements similar to the TEMP 3000.

### **Required Provider Form**

Counties must establish procedures to ensure that each currently-enrolled provider submits a newly signed Provider Enrollment Agreement (SOC 846) form. The county must provide a copy of the signed SOC 846 form to the provider for his/her own records and retain the original in the provider's file. The ability of the county IHSS office to indicate in the CMIPS II system that the SOC 846 has been received will be available on January 25, 2016.

If a currently-enrolled provider fails to submit the SOC 846 to the county postmarked by April 15, 2016, the provider shall be automatically terminated by CMIPS II effective May 1, 2016. The provider will be notified of this termination via the IHSS Notice to Applicant Provider of Provider Ineligibility, Incomplete Provider Process (SOC 851, Rev. 1/11), and the recipient will be notified via the IHSS Notice to Recipient of Provider Ineligibility, Incomplete Provider Process (SOC 855, Rev. 1/11).

A currently-enrolled provider terminated for failing to submit a newly signed SOC 846 may be reinstated if he/she submits the completed and signed form within 30 calendar days of the termination date (May 1, 2016), and he/she can be paid retroactively for any authorized services he/she provided to eligible recipients during that period he/she was terminated.

If a terminated provider submits the signed SOC 846 on or after June 1, 2016, he/she may be reinstated but will not be eligible for retroactive pay and will be paid only for authorized services provided on or after the date received.

### **Technical Support for Recipients with Multiple Providers and for Providers with Multiple Recipients**

Counties must follow-up with recipients who employ multiple providers who fail to submit the SOC 2256 timely to determine whether these individuals understand the new workweek limits and provide any needed assistance in negotiating workweek agreements with their providers. If the recipient has failed to complete and submit the SOC 2256 to the county by March 15, 2016, he/she will be sent the IHSS Program Notice to Recipient Failure to Complete Workweek Agreement (SOC 2270) to inform him/her of the necessity to complete and submit the document to the county IHSS office. When the SOC 2256 is received, counties must provide copies of the signed form to the recipient and each of the providers.

Counties must establish procedures to ensure that each provider with multiple recipients submits the SOC 2255. The county must provide a copy of the signed SOC 2255 form to the provider for his/her own records and retain the original in the provider's file. The county must review the SOC 2255 to ensure that it has been completed and signed by the provider. The county may use a web-based mapping service application (e.g., Google Maps, Bing Maps, MapQuest, etc.) and/or other methods (e.g., public transit schedules/timetables) to determine whether the travel times the provider has provided for travel between service locations are reasonable. In making this determination, the county must take into consideration the mode of transit being used; traffic patterns; seasonal issues affecting road conditions, such as snow/ice; and any other factors that may impact the amount of time required to travel between the service locations. If the county review determines that the travel time documented by the provider in the SOC 2255 will be in excess of seven hours per workweek or is not reasonable given the circumstances associated with the travel, the county should discuss alternatives with the provider to reduce his/her weekly travel time below seven hours. If a provider fails to submit the SOC 2255 to the county, the provider shall not be eligible to receive compensation for travel time until the form is submitted to the county IHSS office. If, after the SOC 2255 has been accepted by the county, a provider, on multiple occasions, submits travel time claim forms reporting actual travel times that exceed the estimated travel time he/she provided on the SOC 2255, the county must contact the provider to determine the reason the provider is claiming more travel time than he/she estimated. If, in discussing the issue with the provider, the county determines that the circumstances the provider based his/her estimated travel time on have changed, the county must require the provider to complete a new SOC 2255 with the corrected travel time information.

## **STATE RESPONSIBILITIES**

### **Informing Notices to Providers**

CDSS developed informational notices to provide the new workweek, overtime and travel time requirements to all current IHSS providers and recipients via an informative notice (TEMP 3001 for Providers and TEMP 3002 for Recipients). The mailing of these notices to providers and recipients began on December 5, 2015.

The TEMP 3001 included the SOC 846 and instructed providers that they must sign the revised SOC 846 and submit it to the IHSS county office for processing no later than April 15, 2016. Providers who fail to return the signed SOC 846 to the county (postmarked by April 15, 2016) will be terminated as of May 1, 2016.

The State also will be responsible for sending out the SOC 2255 and SOC 2256 notices to the appropriate providers with multiple recipients and recipients with multiple providers. These notices will be sent out with the accompanying Notifications of Maximum Weekly Hours (SOC 2271 and SOC 2271A) at the beginning of February 2016.

### **New and Revised Forms and Notices**

CDSS has revised existing forms and developed new forms and notices for use by counties in implementing the new workweek, overtime, and travel time requirements. The attached table provides the numbers, titles and intended uses of the new and revised forms and notices.

Counties should begin using the new and revised forms as of the date of this ACL. The new and revised forms, which are designated as "Required – No Substitutes Permitted," are available in camera-ready format on the CDSS Forms/Brochures web page at:

<http://www.dss.cahwnet.gov/cdssweb/PG183.htm>

Upon completion of translations, CDSS will post Armenian, Chinese and Spanish versions of the forms on the Translated Forms and Publications web page at:

[http://www.dss.cahwnet.gov/cdssweb/FormsandPu\\_274.htm](http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm)

The designated Forms Coordinator for your county must distribute translated forms to each program and location. Each county shall provide bilingual/interpretive services and written translations to non-English or limited-English proficient populations, as required by the Dymally-Alatorre Bilingual Services Act (California Government Code

section 7290 et seq.) and by state regulation (CDSS Manual of Policies and Procedures Division 21, Civil Rights Nondiscrimination, section 115).

Questions about accessing the forms may be directed to the Forms Management Unit at [fmudss@dss.ca.gov](mailto:fmudss@dss.ca.gov). Questions about translations may be directed to the Language Services Unit at [LTS@dss.ca.gov](mailto:LTS@dss.ca.gov).

### **FORTHCOMING ACLs/ACINs**

This ACL is the second in a series of ACLs and ACINs that will be transmitted to provide additional information and instructions for implementing the new overtime and travel time compensation policies. In the coming months, CDSS will release ACLs/ACINs to address the following issues:

- Changes to CMIPS II system functionality
- Further guidance on implementation and tracking of violations for exceeding workweek and travel time limitations
- Release of new recipient and provider training materials, including an informational video and workbook, in addition to revised Provider Orientation materials.

Questions or requests for clarification regarding the information in this letter should be directed to the Policy and Operations Bureau, Adult Programs Division at (916) 651-5350.

Sincerely,

### ***Original Document Signed By:***

EILEEN CARROLL  
Deputy Director  
Adult Programs Division

Attachments

c: CWDA

**REVISED AND NEW IN-HOME SUPPORTIVE SERVICES (IHSS) FORMS AND NOTICES  
FOR USE IN IMPLEMENTING SENATE BILL (SB) 855 AND SB 873**

NUMBER	TITLE	INTENDED PURPOSE
<b>REVISED FORMS &amp; NOTICES</b>		
SOC 426A	IHSS Program Recipient Designation of Provider	Recipient's designation of provider.
SOC 846	IHSS Program Provider Enrollment Agreement	The Provider Enrollment Agreement is given to the provider at time of orientation. Revisions include overtime policy and maximum hour limits. (Current enrolled providers will be requested to read and re-sign the SOC 846.)
<b>NEW FORMS &amp; NOTICES</b>		
SOC 2255	IHSS Program Provider Workweek And Travel Agreement	To be completed by the provider serving multiple recipients to document how many hours the provider will work for each recipient and how much travel, if any, the provider will engage in.
SOC 2256	IHSS Program Recipient and Provider Workweek Agreement	To allow the recipient and their providers to agree on a workweek schedule.
SOC 2266	IHSS Program Notice to Recipient, Approval of Exception to Exceed Weekly Hours	To inform recipient of the approval of exception to exceed overtime weekly hours and to inform the recipient he/she must adjust the provider(s) work hours the following week(s) to accommodate any increase and avoid a violation
SOC 2266A	IHSS Program Notice to Provider, Approval of Exception to Exceed Weekly Hours	To inform the provider of the approval of exception to exceed overtime weekly hours and to inform provider he/she must adjust his/her work hours the following week(s) to accommodate any increase or risk a provider violation.
SOC 2267	IHSS Program Notice to Recipient, Denial of Exception to Exceed Weekly Hours	To inform the recipient of the denial of exception to exceed overtime weekly hours, the reason for this denial, and to inform provider he or she must adjust the provider's work hours the following week(s) to accommodate any increase or risk a provider violation.
SOC 2267A	IHSS Program Notice to Provider, Denial of Exception to Exceed Weekly Hours	To inform the provider of the denial of exception to exceed overtime weekly hours and to inform the provider he/she must adjust his /her work hours the following week(s) to accommodate any increase or risk a provider violation..

**REVISED AND NEW IN-HOME SUPPORTIVE SERVICES (IHSS) FORMS AND NOTICES  
FOR USE IN IMPLEMENTING SENATE BILL (SB) 855 AND SB 873**

NUMBER	TITLE	INTENDED PURPOSE
SOC 2268	IHSS Program Notice to Recipient, Approval for Provider to Work Alternate Schedule Due to Recurring Event	To inform the recipient that their provider is approved to work flexible hours, due to a recurring event.
SOC 2268A	IHSS Program Notice to Provider, Approval to Work Alternate Schedule Due to Recurring Event	To inform the provider that they are approved to work flexible hours for a particular recipient, due to a recurring event.
SOC 2269	IHSS Program Notice to Recipient, Cancellation of Alternate Schedule Due to Recurring Event	To inform the recipient of cancellation of alternate schedule due to recurring event.
SOC 2269A	IHSS Program Notice to Provider, Cancellation of Alternate Schedule Due to Recurring Event	To inform the provider of cancellation of alternate schedule due to recurring event.
SOC 2270	IHSS Program Notice to Recipient, Failure to Complete Workweek Agreement (SOC 2256)	To inform the recipient that SOC 2256 has not been completed and submitted to the county.
SOC 2270A	IHSS Program Notice to Provider, Failure to Complete Workweek and Travel Time Agreement (SOC 846)	To inform the provider that SOC 2255 has not been completed and submitted to the county.
SOC 2271	IHSS Program Provider Notification of Recipient Authorized Hours and Services and Maximum Weekly Hours	To inform the provider of his or her recipient's monthly and weekly authorized hours and of the services the provider is allowed to perform for the recipient.
SOC 2271A	IHSS Program Recipient Notice of Maximum Weekly Hours	To inform the recipient of his or her weekly authorized hours.
TEMP 3000	IHSS Program Overtime and Workweek Requirements Recipient Declaration	To provide the recipient information about overtime and workweek requirements as mandated by state law for the IHSS program.

**REVISED AND NEW IN-HOME SUPPORTIVE SERVICES (IHSS) FORMS AND NOTICES  
FOR USE IN IMPLEMENTING SENATE BILL (SB) 855 AND SB 873**

NUMBER	TITLE	INTENDED PURPOSE
<b>INFORMING NOTICES</b>		
TEMP 3001	Informing Notice to Providers	To inform the provider of the changes in legislation, to provide him/her with the SOC 2255 if applicable, and instruct him or her to work with his/ her recipient(s) to complete the SOC 426A.
TEMP 3002	Informing Notice to Recipients	To inform the recipient of the changes in legislation and to provide him/her with the SOC 426A. Also, if applicable, to provide him/ her the SOC 2256 to complete.

## IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM RECIPIENT DESIGNATION OF PROVIDER

### INSTRUCTIONS:

- Use black or blue ink. Print information clearly.
- You (or your authorized representative) must complete PART A of this form to let the county know who you have chosen to provide your authorized services.
- If you have multiple providers, you must fill out a separate form for each person who will be providing authorized services for you.
- You must sign the acknowledgement in PART C of this form.
- Please return this completed and signed form to the county. The county will keep the original form and give you a copy.

### PART A. RECIPIENT DESIGNATION OF PROVIDER

1. Recipient's Name:	
2. County IHSS Case #:	
3. Provider's Name:	
4. Provider's Address:	
City, State, ZIP Code:	
5. Provider's Telephone Number:	
6. Provider's Date of Birth	
7. Provider's Social Security #*:	
8. Provider's Gender (check box):	<input type="checkbox"/> Male <input type="checkbox"/> Female
9. Provider's Relationship to Recipient (if any):	<input type="checkbox"/> Parent <input type="checkbox"/> Child <input type="checkbox"/> Spouse/Domestic Partner <input type="checkbox"/> Conservator <input type="checkbox"/> Guardian <input type="checkbox"/> Other _____
10. Provider's Start Date:	

\*NOTE: The collection of the Social Security Number is required by the Immigration Reform and Control Act of 1986, Public Law 99-603 (8 USC 1324a), for the purposes of verifying the individual's identity and authorization to work in the United States.

I choose the person listed above to be my IHSS provider. This person will provide some or all of the services authorized by the county.



**PART B. RECIPIENT AGREEMENT****I UNDERSTAND AND AGREE THAT:**

- The person I have chosen to be my provider cannot be paid federal and/or state money for providing services to me until he/she completes all of the provider enrollment requirements. These requirements include completing, signing, and returning (in person) the Provider Enrollment Form (SOC 426), submitting fingerprints and being cleared of disqualifying crimes through a criminal background check, completing a provider orientation, and returning a signed Provider Enrollment Agreement (SOC 846).
- The county will send me a notice telling me if the person I have chosen as my provider does not complete the provider enrollment requirements or if he/she is not eligible to be an IHSS provider.
- If I choose to have this person provide services for me before he/she is enrolled as an IHSS provider, and the county sends me a notice telling me that he/she is not eligible to be an IHSS provider, I will have to pay him/her with my own money for the services that he/she provided before he/she was determined ineligible to be a provider and for any services he/she provides after the county notifies me that he/she is ineligible.
- Neither the county nor the State will be held responsible for any claims and/or losses caused by the above-named person I choose to hire as my IHSS provider. I agree to hold harmless the State and county, their officers, agents, and employees, and to take responsibility for any and all claims and/or losses to any person caused by the named person I choose to hire as my IHSS provider.
- The county can provide information about my authorized services and service hours to the person I have chosen as my provider. The county will send my provider the IHSS Provider Notice of Recipient Authorized Hours and Services (SOC 2271).
- My total monthly authorized hours will be divided by 4 to determine my maximum weekly hours. The maximum weekly hours is a guideline telling me the highest number of hours my provider(s) will be able to work for me during a workweek. However, since most months are slightly longer than 4 weeks, I will work with my provider(s) to spread his/her hours throughout the month in order to make sure I have all the service hours I need for the month.
- Sometimes I may need my provider to work more than my maximum weekly hours. I must ask for county approval to adjust my maximum weekly hours only if the change requires my provider to work:
  1. More overtime hours in the month than he/she would normally work.

- 2. More than 40 hours for me in a workweek if my maximum weekly hours are 40 hours or less in a workweek.
- If I do not get an approved exception, my provider will get a violation for working more than my maximum weekly hours.
- I can **never** authorize my provider to work more than my total authorized monthly service hours. Therefore, when I authorize my provider to work extra hours in one week, I must have the provider work fewer hours in the other week(s) of the month.
- If my provider works for another recipient, the maximum number of hours that he/she may claim in a workweek for all of the time he/she works for his/her recipients combined is 66 hours. **I must make a work schedule for my provider to determine how many hours he/she will be working for me each week to make sure he/she does not work more than 66 hours per workweek.** I will get a Recipient Notification of Maximum Weekly Hours (SOC 2271A) which will include information on my maximum weekly hours so I can use it to make the work schedule for my provider(s). In order to make the schedule, my provider must tell me how many hours he/she is available to work for me each workweek. If my provider cannot work all of my authorized hours, I will need to hire additional provider(s). **If I need help finding and hiring another provider(s), I can call my county IHSS Public Authority to obtain a provider from the registry or my county IHSS office.**
- The county will send me a notice each time my provider gets a violation. If my provider gets three violations, he/she will be suspended from providing IHSS for three months. If he/she gets another violation after being reinstated from the three-month suspension, he/she will be terminated as a provider for one year.

**PART C. RECIPIENT ACKNOWLEDGMENT**

**I understand and agree to follow all of the requirements listed in this form.**

RECIPIENT'S SIGNATURE:	DATE:
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PRINTED NAME:
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AUTHORIZED REPRESENTATIVE'S SIGNATURE:	DATE:
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PRINTED NAME:
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**FOR COUNTY USE ONLY**

WORKER NAME:	DATE:
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# IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM PROVIDER ENROLLMENT AGREEMENT

PROVIDER NUMBER

PROVIDER NAME (FIRST, MIDDLE, LAST)
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1. I attended the required provider enrollment orientation for IHSS providers and I understand and agree to the following:
  - I was given information about being a provider in the IHSS program.
  - I was informed of my responsibilities as an IHSS provider.
  - I was informed of the consequences of committing fraud in the IHSS program.
  - I was given the Medi-Cal toll-free telephone fraud hotline number, 1-800-822-6222 and web site, <http://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx> for reporting suspected fraud or abuse in the IHSS program.
  
2. I understand the following:
  - The only hours I am allowed to report on my timesheet are the hours I worked providing authorized services for the recipient.
  - By signing my timesheet I am saying that the information I reported on it is true and correct.
  - I must submit my timesheet (signed by both my recipient and me) within two weeks after the end of each pay period. If I submit my timesheet on time, and it is properly completed, I will get paid within 10 days of the day it is received at the timesheet processing facility. If I do not submit my timesheet within two weeks after the end of the pay period, my pay will be delayed.
  - If I am convicted of fraudulently reporting information on my timesheet, in addition to any program or criminal penalties, I may be required to pay back any overpayment I received and to pay civil penalties of at least \$500, and not more than \$1,000, for each act of fraud.
  
3. I received information regarding the maximum weekly hour and travel time requirements. This information included the following topics:

## Overtime Pay

- Beginning February 1, 2016, IHSS providers will get paid overtime (one and a half times the regular pay rate) when they work more than 40 hours in a workweek. The workweek begins at 12:00 a.m. (midnight) on Sunday and ends at 11:59 p.m. on the following Saturday.

PROVIDER NUMBER

## What Does My Recipient's "Authorized Weekly Hours" Mean?

My recipient's authorized weekly hours mean his/her monthly authorized hours divided by four. For example, if my recipient is authorized to receive 125 hours of service monthly, my recipient's authorized weekly hours are  $125 \div 4 = 31$  hours, 15 minutes.

## Maximum Weekly Hours

The maximum weekly hours amount is a guideline that tells me the highest number of hours I can work in a workweek so my recipient can budget his/her service hours in the month to ensure all his/her monthly service hours are received.

- If I work for just one recipient, the maximum hours that I may work in a workweek is my recipient's monthly authorized hours divided by 4. However, since most months are slightly longer than 4 weeks, I will work with my recipient to spread his/her hours throughout the month to make sure he/she has enough hours of service at the end of the month.

*For example:* There are 31 days in the month of December. If I work for just one recipient, and she receives 100 monthly authorized hours, my maximum weekly hours are 25 hours (100 monthly authorized hours divided by 4). However, since December is actually 4½ weeks, my recipient would need to decide how many hours to take away from each of the first four weeks in order to have enough hours left for the last few days at the end of the month. My recipient could, for example, set up a schedule for me to work 22 hours in each of the first four weeks of December, which would leave her with 12 authorized service hours left over for the final few days of the month (22 X 4 = 88 hours; 88 hours + 12 hours = 100 hours).

- If I work for just one recipient and he or she has other providers, my recipient must make a work schedule for me and the other providers to determine how many hours each of us will work. My recipient may divide his/her total authorized hours among his/her providers as he/she sees fit.
- If I work for more than one recipient, the maximum number of hours that I may claim in a workweek for all of the time I work for all my recipients combined is 66 hours. **Each of my recipients must make a work schedule for me to determine how many hours I will be working for each of them so I can make sure that I do not work more than 66 hours per workweek.**

## Changing the Number of Hours I Work Each Week: What My Recipients Can and Cannot Do

### *Switching hours*

- If my recipient has one or more other providers, I may "switch" some of my hours with another provider in a particular workweek in order to ensure that the recipient

PROVIDER NUMBER _____
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receives all the hours to which he or she is entitled for the week. This means that another one of the recipient's providers may work any of my hours while I work any of his/her hours for the particular week. As long as no provider works more than my recipient's weekly authorized hours, this will not cause a violation even if the other provider usually works overtime and I usually don't (so for this one week, I will have overtime).

*If I am asked to work more than **my** maximum weekly hours:*

- If I work for more than one recipient, my recipients cannot ask me to work more than my 66 maximum weekly hours. If a recipient wants me to work more hours and doing so would put me over 66 hours, he/she will have to get another IHSS provider to work those additional hours.
- If I work for only one recipient, my recipient can ask me to work more than my maximum weekly hours. In that case, I would have to make sure to balance out these additional hours by working fewer hours in another week of the month in order to avoid exceeding my recipient's monthly authorized hours.

*If I am asked to work more than **my recipient's** authorized weekly hours:*

- A recipient can authorize me to work more than his/her weekly authorized hours without asking the county for approval as long as the authorization does not cause me to work:
  - More than 40 hours for him/her in a workweek when he/she is authorized 40 hours or less in a workweek; or
  - More overtime hours in the month than I normally would, based on the total overtime I work for all of my recipients.
- If my recipient gets county approval, he/she can authorize me to work more than his/her weekly authorized hours even if it does not meet the above criteria. My recipient may ask for county approval either before or after I work the extra hours.

### **Limit on Travel Time**

- Also beginning February 1, 2016, the maximum amount of time I will be allowed to travel during a workweek is seven hours. Travel time means the time I spend on the same workday traveling directly from one location where I provide authorized services for a recipient to another location where I provide authorized services for a different recipient.
- Travel time will not be counted as part of the maximum weekly hours I can work in a workweek.
- Travel time that occurs after I have worked more than 40 hours in a workweek will be paid at the overtime rate of time and a half.

PROVIDER NUMBER _____
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## Violations for Going Over Workweek & Travel Time Limits

- Beginning May 1, 2016, if I submit a timesheet reporting hours that go over the maximum weekly hours or travel time limits, I will get a violation.
- Each time I do any of the following, I will get a violation:
  - I work more than 40 hours in a workweek for a recipient without the recipient getting approval from the county (when the recipient is authorized to receive 40 hours or less per workweek); or
  - I work more hours than my recipient is authorized to receive in a workweek without getting approval by the county, and this causes me to work more overtime hours in the month than I normally would; or
  - I work for multiple recipients and I work more than 66 hours in a workweek; or
  - I claim more than seven hours travel time in a workweek.
- If I get more than one violation during a particular month, it will only count as one violation.

For each violation I receive, there will be a consequence:

First Violation	<ul style="list-style-type: none"> <li>• My recipient(s) and I will get a notice of the violation with appeal rights information.</li> </ul>
Second Violation	<ul style="list-style-type: none"> <li>• My recipient(s) and I will get a notice of the second violation with appeal rights information, and I will have the choice of completing a one-time training about the workweek and travel time limits. If I choose to complete this training, I will avoid getting a second violation. However, <u>if I choose not to complete the training within 14 calendar days of the date of my notice, I will</u> get a second violation.</li> </ul>
Third Violation	<ul style="list-style-type: none"> <li>• My recipient(s) and I will get a notice of the third violation with appeal rights information.</li> <li>• I will be <u>suspended</u> as a provider with the IHSS program for <u>three months</u>.</li> </ul>
Fourth Violation	<ul style="list-style-type: none"> <li>• My recipient(s) and I will get a notice of the fourth violation with appeal rights information.</li> <li>• I will be <u>terminated</u> as a provider with the IHSS program for <u>one year</u>.</li> </ul>

PROVIDER NUMBER _____
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- Once I have received a violation, the violation will remain on my record. However, after one year, if I do not receive another violation, the number of violations I have received will be reduced by one. As long as I do not receive any additional violations, each year after the last violation, my number of violations will be reduced by one.
  - If I receive a fourth violation and I am terminated as a provider for one year, when the year is up and I apply again to be an IHSS provider, my violations count will be reset to zero.
  - If I am terminated as an IHSS provider because I get multiple violations, I can reapply to be an IHSS provider when the one year termination ends and I will have to complete all of the provider enrollment requirements again, including the criminal background check, the provider orientation, and completing all required forms before I can be reinstated.
4. I understand that I am required to complete the Employment and Eligibility Verification form (Form I-9), which is kept on file by the recipient. That form states that I have the legal right to work in the United States.
  5. I understand that I have the option to submit an Employee's Withholding Allowance Certification (Form W-4) to request federal income tax withholding and/or California Employee's Withholding Allowance Certification (Form DE 4) to request state income tax withholding from my wages. I understand that if I do not submit Form W-4 and/or DE 4, federal and state income taxes will not be withheld from my wages.
  6. I understand that authorized IHSS services cannot be performed when the recipient is away from his/her home unless my recipient gets approval for such services from his/her social worker.
  7. I understand that, in the future, I will receive the IHSS Program Notification Of Recipient Authorized Hours and Services and Maximum Weekly Hours (SOC 2271), that names my recipient(s) and the services I am authorized to perform for each recipient to whom I provide services.
  8. I will cooperate with state or county staff to provide requested information related to the evaluation of a recipient's IHSS case.

PROVIDER NUMBER \_\_\_\_\_

**I UNDERSTAND THE IHSS PROGRAM RULES EXPLAINED AT THE PROVIDER ORIENTATION OR INFORMATION GIVEN TO ME BY THE COUNTY IHSS OFFICE. I ACCEPT THE RESPONSIBILITY TO FOLLOW THE INFORMATION PROVIDED BY THE COUNTY. I UNDERSTAND THAT MY FAILURE TO FOLLOW THE REQUIREMENTS PROVIDED TO ME MAY RESULT IN MY TERMINATION AS AN IHSS PROVIDER.**

\_\_\_\_\_  
IHSS PROVIDER'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PROVIDER NAME (FIRST MIDDLE LAST)



PROVIDER NUMBER \_\_\_\_\_

## IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM PROVIDER WORKWEEK & TRAVEL TIME AGREEMENT

*(To be completed by a provider who provides authorized services to multiple recipients)*

PROVIDER NAME:

PROVIDER NUMBER:

### PART A. WORKWEEK SCHEDULE

#### PROVIDER REQUIREMENTS:

- State law (Welfare and Institutions Code section 12300.4) limits providers in the IHSS and Waiver Personal Care Services (WPCS) programs to working a maximum weekly number of hours providing IHSS and WPCS. A provider who works for multiple recipients is limited to providing 66 hours per workweek.
- The maximum weekly workweek does not include travel time as described in Part B of this form. The workweek starts on Sunday at 12:00 a.m. (midnight) and ends at 11:59 p.m. on the following Saturday.
- Recipients are authorized services on a monthly basis and, based on state law, are limited to receiving a set amount of those services on a weekly basis. You will get a notice telling you how many authorized service hours each of your recipients gets weekly and monthly. You may never work more than a recipient's monthly authorized hours for that recipient. However, you may work more than a recipient's weekly authorized hours in certain circumstances. A recipient may adjust his or her weekly authorized hours, but he/she must get approval from the county if the adjustment will result in either a provider working more overtime hours in the month than the provider would normally work or working over 40 hours in any workweek for him/her (when, he/she is authorized to receive 40 hours or less in services in a workweek).
- It is your responsibility as a provider to:
  - Make sure that the total combined hours you work providing authorized services for all the recipients you work for in one workweek do not total more than the 66 hours in a workweek.
  - Make sure that the hours you work providing services to any one of your recipients are not more than that recipient's weekly authorized hours, unless the hours are correctly adjusted.

PROVIDER NUMBER \_\_\_\_\_

- Make sure that if one of your recipients adjusts their weekly authorized hours to have you work more than the usual authorized amount, that you work less hours in a previous or later week to make sure you are not working more than his/her authorized monthly hours or working more overtime in the month than you normally would.
- If you submit a timesheet in which you violate the workweek schedule in any of the following ways, you will receive a violation:
  - You work more than 40 hours in a workweek without county approval for a recipient if he/she is authorized 40 hours or less in a workweek;
  - You work more hours for a recipient than he/she is authorized in a workweek, without county approval and it causes you to work more overtime hours in the month than you normally would;
  - You work for multiple recipients and work more than the 66 hours in a workweek;
  - You claim more than seven hours of travel time (see Part B of this agreement).
- If you violate the workweek schedule in any of the ways described above, you will receive the following:

First Violation	<ul style="list-style-type: none"> <li>• You and your recipient(s) will get a notice of the violation with appeal rights information.</li> </ul>
Second Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the violation, and you will have a choice to complete a one-time training about the workweek and travel time limits. If you choose to complete the training, you will avoid a second violation</li> <li>• If you choose not to complete the training within 14 calendar days of the date of the notice, you will be sent a notice of your second violation with the appeal rights information.</li> </ul>
Third Violation	<ul style="list-style-type: none"> <li>• You and your recipient(s) will get a notice of the third violation with appeal rights information.</li> <li>• You will be suspended as an IHSS provider with the IHSS program for three months.</li> </ul>
Fourth Violation	<ul style="list-style-type: none"> <li>• You and your recipient(s) will get a notice of the fourth violation with appeal rights information.</li> <li>• You will be terminated as an IHSS provider with the IHSS program for one year.</li> </ul>

PROVIDER NUMBER \_\_\_\_\_

**INSTRUCTIONS:** You must complete the chart below to help you plan your workweek schedule. Your schedule must include services provided to all recipients you work for and must not be more than 66 hours in one workweek. You will be notified of each of your recipients' total maximum weekly hours in the Provider Notification of Recipient Authorized Hours and Services, (form SOC 2271).

1. In Column A, write the **name** of each recipient you provide authorized IHSS services for.
2. In Column B, write the **case number** of each recipient listed in Column A.
3. In Column C, write the **address** of each recipient listed in Column A.
4. In Column D, write the total number of hours per day (for each day of the week) you work or plan to work providing authorized IHSS services for each recipient listed in Column A.
5. For Column E, add the total number of hours from each day in Column D that you work or plan to work providing authorized IHSS services for each recipient listed in Column A and write the total number of hours for the week for each recipient in Column E.
6. At the bottom of Column E, add the total number of hours you work or plan to work providing authorized IHSS for all of your recipients each week.

A	B	C			D							E
Recipient's Name	Recipient Case #	Recipient's Address			Total Number of Hours I Work or Plan to Work							Total Hours
		Street Address	City	Zip Code	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	

**TOTAL HOURS I WORK OR PLAN TO WORK PROVIDING AUTHORIZED SERVICES FOR ALL RECIPIENTS:**

PROVIDER NUMBER \_\_\_\_\_

**PART B. TRAVEL TIME****PROVIDER REQUIREMENTS:**

- If you travel from one recipient's location to another recipient's location on the same workday in order to provide IHSS services to both recipients, you can get paid for that travel time, but that time cannot be more than seven hours per workweek. These seven hours are in addition to the 66 hours.
- To get paid for that travel time, you must travel directly from one recipient's location to the other recipient's location without stopping. If you make only a brief stop on your way to the second recipient's location, such as to fill your gas tank at a service station, you are still considered to be traveling directly. However, if you stop to conduct personal business or if you return to your own home, you can only be paid for the time that it would have taken to travel between the two locations where services are provided without the personal stops.
- If your total estimated weekly travel time will be more than seven hours, you will need to adjust your work schedule so that your travel time is less than seven hours.

**Do you plan to travel from a location where you provide authorized services to another location where you provide authorized services to another recipient on the same day?**

YES    NO

*If you answer NO, you do not need to complete PART B, go directly to PART C.*

**PART B INSTRUCTIONS:** You must complete this section to help you plan the travel time that you can be paid for so that your total weekly travel time is not more than 7 hours. Because you are traveling, it may be necessary for you to provide proof of time and mileage.

1. In Column A below, write the name(s) of the recipient(s) you will be traveling from.
2. In Column B below, write the name(s) of the recipient(s) you will be traveling to.

---

**PROVIDER NUMBER** \_\_\_\_\_

3. In Column C below, write how far (in miles) it takes to travel directly from one recipient's location to the next recipient's location.
4. In Column D below, write how long (in minutes) you estimate it takes to travel directly from one recipient's location to the next recipient's location.
5. In Column E below, write how many days each workweek you plan to travel from one recipient's location to another recipient's location on the same day?
6. In Column F, multiply the amount of time you estimate it takes to travel directly from one recipient's location to the next recipient's location (Column D) by the number of days you will travel between recipients' locations each workweek (Column E) to indicate your total travel time between the two recipients' locations (Column A and B).
7. Add up the total of all the time listed on the lines in Column F and write the total at the bottom of Column F.

PROVIDER NUMBER \_\_\_\_\_

**PART B. TRAVEL TIME**

A		B		C	D	E	F
Names of the Recipients You Will Be Traveling Between				Distance Between Recipients' Locations (in miles)	Estimated Travel Time Between Recipients' Locations (in minutes)	Number of Days You Will Travel Between Recipients' Locations Each Workweek	Total Estimated Travel Time Between Recipients' Locations Each Workweek (Col. D x Col. E)
From	To						
<b>TOTAL ESTIMATED TRAVEL TIME EACH WORKWEEK:</b>							

How will you travel between recipients' locations?

- CAR\*   
  PUBLIC TRANSIT   
  OTHER Specify: \_\_\_\_\_

***\* If you will be driving yourself to travel between recipients, you must have a valid California driver's license and proof of insurance, and your vehicle must have current registration. If you do not have a valid California driver's license, proof of insurance, or current vehicle registration, you are not legally allowed to drive your vehicle for the purpose of providing IHSS. You must choose a different form of transportation, such as public transit. If you have chosen to drive yourself and there is a negative change to the status of your legal right to drive your vehicle (i.e., your California driver's license, auto insurance, or vehicle registration expires or is no longer valid), you must inform the county and select a different form of transportation. If you fail to inform the county of this change in status, you will be considered in violation of IHSS program requirements and may be terminated.***

PROVIDER NUMBER \_\_\_\_\_

**PART C. PROVIDER AGREEMENT**

**I declare that I have read and understood the requirements as stated in this document and I agree to comply with these requirements. I further declare that all of the information I have provided on this form is true and correct to the best of knowledge.** I agree to notify the county within 10 calendar days if any of the information I have provided in this Provider Workweek and Travel time Agreement changes, and depending on what information has changed, I may be required to complete a new SOC 2255.

PROVIDER SIGNATURE:

DATE:

PROVIDER'S PRINTED NAME:

**FOR COUNTY USE ONLY**

WORKER NAME:

DATE:

ESTIMATED TRAVEL TIME REVIEWED:

SOURCE USED TO VERIFY TRAVEL TIME:

YES  NO 

NOTES:

# IN-HOME SUPPORTIVE SERVICES PROGRAM

## RECIPIENT AND PROVIDER

### WORKWEEK AGREEMENT

IHSS RECIPIENT CASE NUMBER
----------------------------

RECIPIENT NAME (FIRST, MIDDLE, LAST)
--------------------------------------

My total authorized hours are \_\_\_\_\_.

My total monthly authorized hours will now be divided by 4 to determine my maximum weekly hours. My maximum weekly hours are \_\_\_\_\_. Under certain circumstances, I may be able to adjust my weekly authorized hours which will allow me to give more hours in one week than I normally give to use, as long as I use less hours in another week.

I understand that this form is a tool to help me schedule hours for my provider(s). This schedule helps me to ensure that my provider(s) stay(s) within my monthly authorized hours.

#### INSTRUCTIONS:

1. In Column A below, enter the names of all the providers you wish to receive services from.
2. In Column B below, enter the provider number of each of your providers. (The number is located on the timesheet.)
3. In Column C below, enter the total maximum hours assigned per week to each of your providers.
4. The TOTAL maximum weekly hours for all of your providers (Column C) must add up to your total weekly maximum service hours.

<b>A</b>	<b>B</b>	<b>C</b>
PROVIDER NAME (FIRST, MIDDLE, LAST)	PROVIDER NUMBER	HOURS ASSIGNED PER WEEK
1.		
2.		
3.		
4.		
5.		
<b>RECIPIENT'S TOTAL MAXIMUM WEEKLY HOURS</b>		<b>PER WEEK:</b>



**RECIPIENT ACKNOWLEDGMENT:**

- I understand that by completing and submitting this form to the county In-Home Supportive Services (IHSS) program, I am scheduling authorized hours to the named provider(s).
- I understand that it is my responsibility to make a schedule for each provider so that the total hours worked by all of my providers do not exceed my maximum weekly hours or monthly authorized hours.
- I understand that in certain circumstances I can adjust my authorized weekly hours but that my monthly authorized hours do not change unless I receive a new Notice of Action with a new authorization by the county.
- I understand that my providers will not be paid by the IHSS program for any excess hours if the number of hours they provide services for me exceeds my monthly authorized hours. If my providers work more than my monthly authorized hours or provide services not authorized by the IHSS program, it is my responsibility to pay for those additional hours or services.
- I understand that if I want the weekly assigned hours of my provider(s) to stay the same and the timesheets of my provider(s) to always be processed for the hours I have assigned to him/her, I will request and complete a Recipient Assignment of Authorized Hours to Providers (SOC 838) form and submit it to the county.

RECIPIENT SIGNATURE		DATE
RECIPIENT NAME (FIRST, MIDDLE, LAST)		
AUTHORIZED REPRESENTATIVE (IF RECIPIENT CANNOT SIGN ON THEIR OWN BEHALF)	RELATIONSHIP TO RECIPIENT	TELEPHONE NUMBER
SIGNATURE OF AUTHORIZED REPRESENTATIVE		DATE

**PROVIDER ACKNOWLEDGMENT:**

- I understand that by signing this form I agree to the work schedule and work no more for the recipient than the hours assigned to me, unless he/she adjusts the schedule of hours.
- I understand that if more than the recipient's authorized monthly hours are worked, those services are not considered IHSS and it will not be paid by the IHSS program. It is the responsibility of my recipient to provide payment for those additional hours. The IHSS program only pays for IHSS program authorized hours and services.
- I understand that I must follow the program requirements that are stated on the Provider Enrollment Agreement (SOC 846).

1. PROVIDER SIGNATURE	DATE
PROVIDER #1 PRINTED NAME AND PROVIDER NUMBER	TELEPHONE NUMBER
2. PROVIDER SIGNATURE	DATE
PROVIDER #2 PRINTED NAME AND PROVIDER NUMBER	TELEPHONE NUMBER
3. PROVIDER SIGNATURE	DATE
PROVIDER #3 PRINTED NAME AND PROVIDER NUMBER	TELEPHONE NUMBER
4. PROVIDER SIGNATURE	DATE
PROVIDER #4 PRINTED NAME AND PROVIDER NUMBER	TELEPHONE NUMBER
5. PROVIDER SIGNATURE	DATE
PROVIDER #5 PRINTED NAME AND PROVIDER NUMBER	TELEPHONE NUMBER

**FOR COUNTY USE ONLY**

WORKER NAME (FIRST MIDDLE LAST):	WORKER PHONE:

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO RECIPIENT  
APPROVAL OF EXCEPTION TO EXCEED WEEKLY HOURS**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Recipient Name: \_\_\_\_\_

Recipient Case Number: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Recipient

This notice is to inform you that your request for an exception to exceed your maximum weekly hours has been approved for the service month of \_\_\_\_\_ MONTH. You may have your provider(s) work these additional hours.

You will need to adjust your providers' work hours by reducing an amount equal to the number of approved exception hours before the end of the month to make sure your monthly authorized hours are not exceeded. If you do not adjust your providers' work hours before the end of the month, your provider(s) will not be paid for the excess hours by the IHSS program, and you will be responsible for the payment of any service hours beyond your authorized monthly hours.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO PROVIDER  
APPROVAL OF EXCEPTION TO EXCEED WEEKLY HOURS**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Provider Name: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Provider

This notice is to inform you that your recipient's request for an exception to exceed his/her maximum weekly hours has been approved for the service month of \_\_\_\_\_ MONTH.

Your recipient will authorize you or any other of his/her providers to work these hours. Do not work these hours without first obtaining permission from your recipient.

Your recipient will need to adjust your work hours by reducing an amount equal to the number of approved exception hours before the end of the month. This is to make sure you, and any other providers the recipient may have, do not exceed his/her monthly authorized hours. If your recipient does not adjust your work hours before the end of the month, you will not be paid for the excess hours by the IHSS program. Instead, your recipient will be responsible for the payment of any service hours you work beyond his/her authorized monthly hours.

Also, please note that if you work for more than one recipient, you cannot work more than 66 hours in a workweek. Therefore, if the adjustment to your recipient's maximum weekly hours would result in you working more than 66 hours in a workweek, you will not be able to work those additional hours or you may have to adjust the hours you work for another recipient.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO RECIPIENT  
DENIAL OF EXCEPTION TO EXCEED WEEKLY HOURS**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Recipient Name: \_\_\_\_\_

Recipient Case Number: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Recipient

This notice is to inform you that your request for an exception to exceed your maximum weekly hours has been denied for the service month of \_\_\_\_\_. You may not have your provider(s) work these additional hours. The reason for this denial is:

MONTH

- The need for the additional hours could have been anticipated.
- The need for the additional hours was not for a service that needed to be completed immediately and could have been postponed until the arrival of your backup provider.
- The need for the additional hours did not put your health and safety in danger.

If your provider(s) has already worked these hours, he/she will be paid for the time worked, but will receive a violation notice. The penalty for the violation will be based on the number of violations he/she has received. You will receive a notice informing you of the provider violation and any penalty given.

Further, if your provider(s) worked these hours, you will need to adjust your work hours by reducing an amount equal to the exception hours that was not approved, before the end of the month to make sure your monthly authorized hours are not exceeded. If you do not adjust your provider's work hours before the end of the month, your provider(s) will not be paid for the excess hours by the IHSS program and you will be responsible for the payment of any service hours worked beyond your authorized monthly hours.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO PROVIDER  
DENIAL OF EXCEPTION TO EXCEED WEEKLY HOURS**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Provider Name: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Provider

This notice is to inform you that your recipient’s request for an exception to exceed his/her maximum weekly hours has been denied for the service month of \_\_\_\_\_  
MONTH. Therefore, do not work these additional hours.

If you have already worked these additional hours, you will be paid for the time worked, but you will receive a violation. The penalty for this violation will be based on the number of violations you have received. You will receive a notification informing you of the violation and any penalty given. You will also receive information about how you can request a county review of your violation.

Further, if you already worked these hours, your recipient will need to adjust your work hours, before the end of the month, by the number of exception hours worked, but not approved. This is to make sure you and any other provider(s) that the recipient may have, do not exceed his/her monthly authorized hours. If your recipient does not adjust your work hours before the end of the month, you will not be paid for the excess hours by the IHSS Program. Instead, your recipient will be responsible for the payment of any service hours you work beyond his/her authorized monthly hours.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO RECIPIENT APPROVAL FOR  
PROVIDER TO WORK ALTERNATE SCHEDULE DUE TO RECURRING EVENT**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Recipient Name: \_\_\_\_\_

Recipient Case Number: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Recipient

This notice is to inform you that your request to adjust your maximum weekly hours for a specified week of each month due to the monthly recurring event, has been approved. You may have your provider work the additional hours during the specified week of each month.

This means that your maximum weekly hours for one week of the month will be different from the other weeks of the month. Your provider(s) may continue to work this weekly schedule in all later months as long as you continue to have the need for the adjustment due to a recurring event. You must notify the county immediately if the situation changes and you no longer have the need for this adjustment.

Further, if your provider(s) worked these hours, you will need to adjust your work hours by reducing an amount equal to the exception hours approved, before the end of the month to make sure your monthly authorized hours are not exceeded. If you do not adjust your provider's work hours before the end of the month, your provider(s) will not be paid for the excess hours by the IHSS program and you will be responsible for the payment of any service hours worked beyond your authorized monthly hours.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO PROVIDER  
APPROVAL TO WORK ALTERNATE SCHEDULE DUE TO RECURRING EVENT**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Provider Name: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Provider

This notice is to inform you that your recipient’s request to adjust his/her maximum weekly hours for a specified week of the month due to a monthly recurring event has been approved. You may work the additional hours during the specified week of each month. Do not work these hours without first obtaining permission from your recipient.

This means that your maximum weekly hours for one week of each month will be different from the other weeks of the month.

You may continue to work this weekly schedule in all later months as long as your recipient continues to have the need for the adjustment resulting from a recurring event. Your recipient must notify the county immediately if the situation changes and he/she no longer has the need for this adjustment.

Also, please note that if you work for more than one recipient, you cannot work more than 66 hours in a workweek. Therefore, if the adjustment to your recipient’s maximum weekly hours would result in you working more than 66 hours in a workweek, you will not be able to work those additional hours or you may have to adjust the hours you work for another recipient.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.



**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO RECIPIENT  
CANCELLATION OF ALTERNATE SCHEDULE DUE TO RECURRING EVENT**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Recipient Name: \_\_\_\_\_

Recipient Case Number: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Recipient

This notice is to inform you that your request to adjust your maximum weekly hours for a specified week of each month due to a monthly recurring event has been cancelled. As of \_\_\_\_\_, your provider may not work additional hours during the specified week of each month.  
CANCELLATION DATE

This means that your maximum weekly hours will now be the same for each week of the month.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO PROVIDER  
CANCELLATION OF ALTERNATE SCHEDULE DUE TO RECURRING EVENT**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Provider Name: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Provider

This notice is to inform you that your recipient’s request to adjust his/her maximum weekly hours for a specified week of each month due to a monthly recurring event has been cancelled. As of \_\_\_\_\_, you may no longer work additional hours during the specified week of each month.  
CANCELLATION DATE

This means that your recipient’s maximum weekly hours will now be the same for each week of the month.

If you have any further questions about this notice, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO RECIPIENT/PROVIDER  
FAILURE TO COMPLETE WORKWEEK AGREEMENT (SOC 2256)**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Recipient Name: \_\_\_\_\_

Recipient Case Number: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Recipient

You have been identified as a recipient who has or needs more than one IHSS provider. Therefore, you are required to complete an IHSS Program Recipient/Provider Workweek Agreement (SOC 2256) form. Our records indicate that you have not yet completed this form. This form must be completed, signed by you and each of the providers working for you, and returned to the county IHSS office listed above.

If you have any further questions about this notice or need assistance in completing the SOC 2256 form, you may contact your county IHSS office at the phone number above.

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**IN-HOME SUPPORTIVE SERVICES PROGRAM  
NOTICE TO PROVIDER  
FAILURE TO COMPLETE WORKWEEK AND TRAVEL AGREEMENT (SOC 2255)**

(ADDRESSEE)

County of: \_\_\_\_\_

Notice Date: \_\_\_\_\_

Provider Name: \_\_\_\_\_

IHSS Office Address: \_\_\_\_\_

IHSS Office Telephone Number: \_\_\_\_\_

To: In-Home Supportive Services (IHSS) Provider

You have been identified as a provider who works for more than one IHSS program recipient and has the potential to travel between two or more recipients during a single work day. Therefore, you must complete or resubmit an IHSS Provider Workweek and Travel Agreement (SOC 2255) form.

You are receiving this notice for the following reason(s):

- The county has not yet received a completed form SOC 2255 from you. This form must be completed, signed by you and returned to the county IHSS office listed above in order to verify your workweek and travel information if applicable.
- The form was submitted to the county IHSS office incomplete. All information contained in the form must be completed for the county to fully evaluate and verify your workweek and travel information if applicable.
- The travel information you provided in Part B. Travel Time indicates that your total estimated travel time each workweek will exceed seven (7.0) hours. The maximum amount of time you can spend each workweek traveling between recipient locations is seven (7.0) hours.

If you only work for a single recipient, it is not necessary for you to complete the form SOC 2255. Please contact the county IHSS office immediately to inform the office of this, so that appropriate changes can be made to our records.

If you have any further questions about this notice or need assistance in completing this form, you may contact your county IHSS office at the phone number above.

**IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM  
PROVIDER NOTIFICATION OF RECIPIENT AUTHORIZED HOURS AND SERVICES  
AND MAXIMUM WEEKLY HOURS**

Notification Date: \_\_\_\_\_

Provider Name: \_\_\_\_\_

You are receiving this notice because you are a provider of IHSS for \_\_\_\_\_  
\_\_\_\_\_.

This notification is to inform you of your recipient's monthly authorized hours and the services you are allowed to perform for your recipient.

Your recipient's monthly authorized hours are \_\_\_\_\_.

Your recipient's maximum weekly hours are his/her monthly authorized hours divided by 4.0, \_\_\_\_\_.

The chart on page 2 lists the services that have been authorized for your recipient (which have been marked with an X), along with a brief description of the types of work that may be performed as part of each service. You will only be paid for providing the authorized services that have been marked.

Your recipient is responsible for creating a work schedule with you to accommodate his or her maximum weekly hours and monthly authorized hours. Please note, if your recipient has more than one provider, you may be limited in the amount of the services you provide as your recipient may schedule other providers for these services. The total hours worked by all the providers cannot be more than the recipient's maximum weekly hours and authorized monthly hours. You will not be paid by the IHSS program for any hours that exceed your recipient's authorized monthly hours.

If you are working for more than one recipient, you will be able to work up to 66 hours per week. You are responsible for informing each of your recipients of the hours you will be available to work for him/her, taking into account hours you may be working for other recipients to make sure you do not exceed the 66 hours per week. If you work more than your recipient's authorized weekly hours without your recipient receiving county approval, you may incur a violation. However, your recipient may adjust the weekly authorized hours in specific circumstances without county approval.

If you are the only provider for your recipient, you will be able to work up to your recipient's maximum weekly hours and monthly hours.

<b>Auth</b>	<b>Service Types</b>	<b>Description of Services</b>
	Domestic Services	Household chores to maintain the cleanliness of the home including sweeping, vacuuming, washing and waxing of floor surfaces, dusting, and picking up. MPP 30-757.11
	Meal Preparation	Planning menus, preparing food, cooking and serving meals. MPP 30-757.131
	Meal Clean-Up	Cleaning up the cooking area and washing, drying and putting away cookware, dishes and utensils. MPP 30-757.132
	Laundry	Washing, drying, folding and putting away clothes and linens. If in-home laundry facilities are not available, this service will include travel to an out-of-home laundromat. MPP 30-757.134
	Shopping for Food	Making a grocery list, traveling to/from the store, shopping, loading, unloading and storing food purchased. MPP 30-757.135(b)
	Other Shopping and Errands	Includes, 1) Shopping for other necessary supplies, and 2) Performing small and necessary errands, e.g., picking up prescription. MPP 30-757.135(c)
	Respiration Assistance	Assisting recipient with nonmedical breathing related services such as self-administration of oxygen and cleaning breathing machines. MPP 30-757.14(b)
	Bowel and/or Bladder Care	Assisting the recipient with using the toilet, bed pans/bedside commode or urinal; emptying/cleaning ostomy, enema and/or catheter receptacles; applying diapers, disposable undergarments and disposable barrier pads, wiping/cleaning recipients; washing/drying recipient's hands. MPP 30-757.14(a)
	Feeding	Assisting the recipient to eat meals, including cleaning his/her face and hands before and after meals. MPP 30.757.14(c)
	Routine Bed Baths	Giving a recipient who is confined to bed a routine sponge bath. MPP 30-757.14(d)
	Dressing	Assisting the recipient to put on and take off his/her clothes as necessary. MPP 30-757.14(f)
	Menstrual Care	Assistance with the external placement of sanitary napkins and barrier pads. MPP 30-757.14(j)
	Ambulation	Assisting the recipient with walking or moving about the home, including to/from the bathroom and to/from and into/out of the car for transporting to medical appointments and/or alternative resources. MPP 30-757-14(k)
	Transfer	Assisting recipient from standing, sitting, or prone position to another position and/or from one piece of furniture or equipment to another. MPP 30-757.14(h)
	Bathing, Oral Hygiene and Grooming	Assisting the recipient with: bathing or showering, brushing teeth, flossing, and cleaning dentures; shampooing, drying, combing/brushing hair; shaving; applying lotion, powder and deodorant. MPP 30-757.14(e)
	Rubbing Skin and Repositioning	Rubbing skin to promote circulation and/or prevent skin breakdown; turning in bed and other types of repositioning; and supervising range of motion exercises. MPP 30-757.14(g)
	Care and Assistance w/Prosthetics & Medication	Taking off/putting on and maintaining and cleaning prosthetic devices, including vision/hearing aids; reminding the recipient to take prescribed and/or over-the-counter medications, and setting up medi-sets. MPP 30-757.14(i)
	Accompaniment to Medical Appointments	Accompanying the recipient during necessary travel to and from health related appointments. If you are required to stay to provide authorized services for your recipient during the appointment, you will be paid for the time that you are "engaged to wait" for the services that must be provided. MPP 30-757.151
	Accompaniment to Alternative Resources	Accompanying the recipient during necessary travel to and from alternative resources. MPP 30-757.154
	Heavy Cleaning	Thorough cleaning of the home to remove hazardous debris and dirt. (One time only) MPP 30-757.12
	Yard Hazard Abatement	Light work in the yard to remove high grass or weeds, and rubbish when these materials pose a fire hazard. MPP 30-757.16
	Removal of Ice and Snow	Light work in the yard to remove ice and snow or other hazardous substances from entrances and essential walkways when these materials make access to the home hazardous. MPP 30-757.162
	Protective Supervision	Observing the behavior of a non-self-directing, confused, mentally impaired or mentally ill recipient and intervening as appropriate to safeguard the recipient against injury, hazard or accident. MPP 30-757.17
	Teaching and Demonstration	Teaching and demonstrating services handled by the IHSS provider to help the recipient perform these services on his or her own. MPP 30-757.18
	Paramedical Services	Services meeting the following conditions: 1) Activities which recipients would normally perform themselves if they did not have functional limitations, 2) Activities which, due to the recipient's physical or mental condition, are necessary to maintain the recipient's health, and 3) Activities which include the administration of medications, puncturing the skin, or inserting a medical device into a body orifice, activities requiring sterile procedures, or requiring judgment based on training given by a licensed health care professional. MPP 30-757.19

**Important Things to Remember:**

- If you need any additional information regarding the services that have been authorized for your recipient and the work you must provide to him/her beyond what has been provided in the chart included in the previous page, you may view the Manual of Policies and Procedures (MPP) sections referenced in the chart on the CDSS website at <http://www.cdss.ca.gov/ord/PG310.htm> or contact your local county IHSS office.
- It is your responsibility to follow the workweek schedule created by your recipient.
- If your recipient's monthly hours change, you will receive another notification of your recipient's weekly authorized hours reflecting the change in hours.
- The hours you can claim on your timesheet will be reduced if you start or stop work in the middle of a month.
- It is the responsibility of the recipient to make payment to you of any share of cost deducted from your paycheck.
- **If more than the recipient's authorized monthly hours are worked, those services are not considered IHSS and it is the responsibility of your recipient to provide payment for those additional hours. The IHSS program only pays for IHSS program authorized hours and services.**
- Contact your county IHSS office immediately if your recipient is hospitalized or passes away. Without county approval, you cannot claim hours for work done while the recipient is hospitalized or after the date-of-death.
- Social Security taxes and State Disability are automatically deducted from your paycheck. To have State or Federal income tax withholding deducted from your paycheck, you must complete and turn in a W-4 and/or DE-4 to your county IHSS office.
- If the recipient for whom you work is your parent, spouse, or child, you may not be eligible for withholding of Social Security or Medicare taxes or unemployment taxes.
- If you are injured while providing IHSS services, contact your county IHSS or Public Authority office immediately.

Should you have any questions regarding any of the information provided on this notice or if you are no longer working as an IHSS provider, please contact your county IHSS office.

# IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM RECIPIENT NOTICE OF MAXIMUM WEEKLY HOURS

Notification Date: \_\_\_\_\_  
 Recipient Name: \_\_\_\_\_  
 Recipient Case Number: \_\_\_\_\_  
 Social Worker Name: \_\_\_\_\_  
 Social Worker Number: \_\_\_\_\_  
 Social Worker Telephone: \_\_\_\_\_  
 Social Worker Address: \_\_\_\_\_  
 \_\_\_\_\_

You are receiving this notification to inform you of your authorized maximum weekly hours.

You were sent a notice of action indicating, as of \_\_\_\_\_, your **monthly authorized hours** are \_\_\_\_\_.  
DATE

Your **maximum weekly hours** are your monthly authorized hours divided by 4.0  
\_\_\_\_\_.

If your monthly hours change, you will receive a notice of action of the change in your monthly authorized service hours. You will also receive another notification reflecting the change in weekly authorized hours.

Your provider(s) will not be paid by the IHSS program for any hours exceeding your maximum monthly hours. If you have your provider(s) work additional hours or provide services that are not allowed by IHSS, then you must pay the provider(s) for those additional hours or services.

As a recipient, you are responsible for creating a work schedule for your provider(s) to ensure that he/she does not work in excess of your maximum number of weekly hours and your monthly authorized hours. If your provider is working for more than one recipient, your provider will only be able to work up to 66 hours each week for you or total combined for you and the other recipients. Each provider is responsible for informing you of the hours he/she will be available to work for you.

Should you have any questions regarding this notification, please contact your IHSS social worker at the number listed on this notification.



Case Number : \_\_\_\_\_

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## IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM OVERTIME AND WORKWEEK REQUIREMENTS RECIPIENT DECLARATION

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This document provides information about overtime and workweek requirements as mandated by state law (Welfare and Institutions Code sections 12300.4 and 12301.1) for the IHSS program. I must read the information and sign this form to show that I understand and agree to follow these requirements.

- Under state law, the maximum amount of time an IHSS provider can work in a workweek providing authorized services is the maximum weekly hours. My total monthly authorized hours will now be divided by 4 to determine my maximum weekly hours. The workweek starts at 12:00 a.m. (midnight) on Sunday and ends at 11:59 p.m. on the following Saturday.
- I can authorize my provider to adjust his/her schedule to work more than his/her normal work hours during the workweek without asking the county for approval as long as it does not cause my provider to:
  1. Work more overtime hours in the month than he/she would normally work;
  2. Work more than 40 hours in a workweek if the maximum weekly hours are 40 hours or less in a workweek; and
  3. Work more than 66 hours in a workweek if my provider is working for multiple recipients.
- Each time my provider does any of the following, he/she will get a violation:
  1. My provider only has me as a recipient and works more than 40 hours in a workweek for me without getting approval from the county when my maximum weekly hours are 40 hours or less per workweek;
  2. My provider has more than one recipient, and he/she works more than 66 hours in a workweek;

Case Number : \_\_\_\_\_

3. My provider works more hours for me than my maximum weekly hours in a workweek without getting approval from the county, causing more overtime hours in the month than normal; or
  4. My provider's claimed travel time is more than seven hours in a workweek.
- Sometimes I may need my provider to work more than my weekly maximum hours. I must ask the county for approval to adjust my weekly maximum hours; even if the county approves my request for an exception, I will need to have my provider work less hours in the next workweek(s) of the month so that I don't go over my authorized monthly hours. The county will send me a notice to let me know whether my exception request was approved or denied.
  - The county will send me a notice when my provider gets a violation. If my provider gets three violations, he/she will be suspended from providing IHSS for three months. If he/she gets another violation after being reinstated from the three-month suspension, he/she will be terminated as a provider for one year.

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## RECIPIENT ACKNOWLEDGMENT

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**I understand and agree to follow all of the requirements listed in this form.**

RECIPIENT'S SIGNATURE:

DATE:

RECIPIENT'S PRINTED NAME:

AUTHORIZED REPRESENTATIVE'S SIGNATURE:

DATE:

AUTHORIZED REPRESENTATIVE'S PRINTED NAME:

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## FOR COUNTY USE ONLY

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WORKER NAME:

DATE:

# Important Information for the In-Home Supportive Services (IHSS) Provider

A recent change to state law affects IHSS recipients and providers. (Welfare and Institutions Code sections 12300.4, 12300.41 and 12301.1).

**The authorization of recipient hours will not change, so your recipient(s) will continue to get the same number of monthly authorized service hours he/she gets now.** Your recipient(s) will continue to work with you to make sure he/she receives all his/her necessary services throughout the entire month.

**WHEN DO THE CHANGES GO INTO EFFECT:** The changes go into effect February 1, 2016.

## **WHAT HAS CHANGED?**

This law says that IHSS providers will be paid overtime within certain limits and will be paid for their travel time between recipients within limits.

### **1. Limit on How Many Hours You Can Work in a Workweek (Maximum Weekly Hours)**

Beginning February 1, 2016, each IHSS recipient's monthly authorized hours will be divided by 4 to determine their maximum weekly hours. The maximum weekly hours amount is a guideline telling you the highest number of hours you can work in a workweek so your recipient can budget his/her service hours in the month to ensure all his/her monthly service hours are received.

**Both you and your recipient will get a notification telling you how many authorized service hours he/she gets each month and each week. However, your recipient may also be able to adjust his/her maximum weekly hours under certain conditions. See the section on ADJUSTING HOURS.**

- If you work for just one recipient, the maximum number of hours that you may claim in a workweek is your recipient's monthly authorized hours divided by 4.
  - o *Example 1: Each month, your recipient receives 100 monthly authorized hours. The maximum weekly hours you can work for your recipient is 25 hours, which is the 100 monthly authorized hours divided by 4.*

However, since most months are slightly longer than 4 weeks, you will need to work with your recipient to spread his/her hours throughout the month in order to make sure he/she has enough hours at the end of the month.

- o *In the month of December, there are 31 days. Your recipient receives 100 monthly authorized hours. The maximum weekly hours are 25 hours (100 monthly authorized hours divided by 4). However, since December is actually 4-and-a-half weeks, your recipient would need to decide how many hours to take away from each of the first four weeks in order to have enough hours left over for the last few days at the end of the month. Your recipient could, for example, set up a work schedule for you to work 22 hours per week for the first four weeks which would leave him/her with 12 authorized service hours left over for the final few days of the month (22 hours multiplied by 4 equals 88 hours; 88 hours plus 12 hours equals 100 hours).*
- If you work for one recipient and that recipient has other providers, your recipient must make a work schedule for you and the other providers to determine how many hours each of you will work. Your recipient may divide his/her total authorized hours among his/her providers as he/she sees fit.
- If you work for more than one recipient, the maximum number of hours that you may claim in a workweek for all of the time you work for your recipients combined is 66 hours. **Each of your recipients must make a work schedule for you to determine how many hours you will be working for each of them so you can make sure you do not work more than 66 hours per workweek.**
  - o *Example 2: You are working for two recipients and each has 100 monthly authorized hours. The maximum weekly hours each recipient has is 25 hours (100 hours divided by 4) and the combined total is 50 hours (25 hours for the first recipient plus 25 hours for the second recipient). You will be able to work for the two recipients because the combined total does not exceed 66 hours in the workweek.*
  - o *Example 3: You are working for two recipients. The first recipient has maximum weekly hours of 25 hours. The second recipient has maximum weekly hours of 50 hours. Between the two recipients, the total maximum weekly hours are 75 hours. However, as a provider who works for more than one recipient, you cannot work more than 66 hours. You will need to inform the recipients that you cannot work 75 hours and then work with one or both of them to create work schedules to make sure you are working no more than 66 hours per workweek. Depending on the work schedule, one or both of the recipients will need to use or hire another provider to work the additional nine hours per workweek.*

## **2. Overtime Pay**

You will get overtime pay rate for hours you work over 40 hours in a workweek. The overtime pay rate is one and a half times the regular pay rate.

For example, if you earn \$10 per hour and you work 45 hours in a workweek, you will get paid \$10 per hour for the first 40 hours ( $40 \times \$10 = \$400$ ), and \$15 ( $1.5 \times \$10 = \$15$ ) per hour for the five hours you work over 40 hours in the workweek ( $5 \times \$15 = \$75$ ), for a total of \$475.

The workweek begins at midnight (12:00 a.m.) on Sunday and ends just before midnight (11:59 p.m.) the following Saturday.

### **3. Travel Time Pay**

Beginning February 1, 2016, if you work for more than one recipient at different locations on the same day, you will be eligible to be paid for traveling between the two recipients, up to 7 hours per workweek.

Travel time payment covers the time it takes to travel directly from the location where you provide services for one recipient to another location where you provide services for a different recipient on the same day. Travel time does not include the time it takes you to travel from your own home to the location where you provide services for a recipient or back home after your work is completed.

You will get paid for travel time regardless of your method of travel (driving a car, taking public transit, walking, riding a bicycle).

You must keep track of your travel time each week so that you can report it on your travel claim form which you will receive from the county IHSS office. **Your time spent traveling between recipient locations does not count toward the maximum weekly hours of 66 hours and is not deducted from any recipient's monthly authorized hours.**

#### **Travel Time Pay Between Counties**

To calculate your wage rate when traveling from a recipient in one county to a recipient in another county, you will have to state which recipient you are traveling to on your travel claim form since the wage rate for that travel will be determined by the county you are traveling to.

#### **Limits on Travel Time**

The maximum amount of time providers will be allowed to claim for travel during a workweek is 7 hours.

- If your travel time is going to be more than 7 hours per workweek, you will have to rearrange your work schedule with your recipients to make sure your claimed travel time is no more than 7 hours per workweek.
- If you submit a travel claim form claiming travel time of more than 7 hours in a workweek, you will get paid for the travel time claimed but you will get a violation.

#### **ADJUSTING HOURS**

A recipient may be able to adjust hours, allowing a provider to work more than the usual maximum weekly hours.

#### **For Providers Working for Only One Recipient (With No Other Providers) – Working More Than Your Recipient's Maximum Weekly Hours**

Your recipient can ask you to work more than his/her maximum weekly hours. In that case, you would have to make sure to balance out those additional hours by working fewer hours in another week of the month in order to avoid going over your recipient's monthly authorized hours.

Your recipient can authorize you to work more than his/her weekly authorized hours without asking the county for approval as long as the authorization does not cause you to work:

- More overtime hours in the month than you would normally work;

*Example: Your recipient's maximum weekly hours are 45 hours per workweek. One week during the month, your recipient needs you to work 55 hours. He/she tells you he/she will adjust your work hours downward by 10 hours the following week, so you will only be working 35 hours during that week.*

*This adjustment would cause you to work 15 hours of overtime in that two week period instead of the 10 hours of overtime you would normally work. Because this adjustment would cause you to work an additional five hours of overtime in the month, your recipient must ask the county for approval for this adjustment in your work schedule.*

- More than 40 hours for your recipient in a workweek if his/her maximum weekly hours are 40 hours or less in a workweek.

*Example: Your recipient's maximum weekly hours are 40 hours per workweek. One week during the month, your recipient needs you to work 42 hours, two hours over his/her maximum weekly hours. Your recipient would need to request county approval for this adjustment.*

### **For Providers Working for More Than One Recipient – Working More Than Your Recipient's Maximum Weekly Hours**

One of your recipients can authorize you to work more than his/her weekly authorized hours without asking the county for approval as long as the authorization does not cause you to work:

- More than 40 hours for your recipient in a workweek if his/her maximum weekly hours are 40 hours or less in a workweek.

*Example: You work 40 hours a workweek for one of your recipients whose maximum weekly hours of 40 hours per workweek. One week during the month, this recipient needs you to work 42 hours, two hours over his/her maximum weekly hours. Your recipient would need to request county approval for this adjustment.*

- More overtime hours in the month than you would normally work;

*Example: Your recipient's maximum weekly hours are 45 hours per workweek. One week during the month, your recipient needs you to work 55 hours. He/she tells you he/she will adjust your work hours downward by 10 hours the following week, so you will only be working 35 hours during that week.*

*This adjustment would cause you to work 15 hours of overtime in that two week period instead of the 10 hours of overtime you would normally work. Because this adjustment would create an additional five hours of overtime in the month, your recipient must ask the county for approval for this adjustment in his/her hours.*

- More than 66 hours per workweek.

*Example: You work for two recipients, Recipient A who has maximum weekly hours of 36 hours per workweek and Recipient B who has maximum weekly hours of 30 hours per week. One week during the month, Recipient A needs you to work 37 hours in the workweek. Since doing so would cause you to work 67 hours for that workweek, one more than your maximum weekly hours of 66 hours, you cannot work the extra hour.*

If you work the maximum weekly hours of 66 hours per workweek combined and one of your recipients asks for you to work additional hours for him/her, you can only do so if you can reduce the hours you work for one of your other recipients. Otherwise, you will have to tell the recipient that he/she will have to get another IHSS provider to work the additional hours.

### **Submitting Your Timesheet**

When the new workweek and travel time rules go into effect on **February 1, 2016**, you will report all of the service hours you work for your recipient on your timesheet like you do now.

You must submit your timesheet (signed by both you and your recipient) within two weeks after the end of each pay period.

- If you submit your timesheet on time, your payment for the hours you worked will be issued within 10 days of the day it is received at the timesheet processing facility.
- If you do not submit your timesheet on time, it may take up to 30 days from the day your timesheet is received at the timesheet processing facility for you to get paid for the recipient service hours you worked.

### **Direct Deposit**

**If you would like assistance with getting your wage payments quicker, please call 1 866 376 7066 to get information about Direct Deposit.**

### **Submitting Your Travel Claim Form**

If you are traveling between locations where you provide services for different recipients on the same day, you will report your travel time on your travel claim form. The travel claim form will include instructions on how to complete it and where to submit the form for processing.

### **IHSS Provider Enrollment Agreement (SOC 846)**

Although you signed the SOC 846 when you first became an IHSS provider, you must read and sign the attached SOC 846 form to show that you understand the new workweek and travel time limits explained in this notice. **You must return the signed SOC 846 form to the county by April 15, 2016. If you do not return the signed SOC 846 by April 15, 2016, you will be terminated as an IHSS provider as of May 1, 2016.**

The county will send you a photocopy of your signed SOC 846 form for your records.

### **Violations for Going Over Workweek & Travel Time Limits**

**Beginning May 1, 2016**, if you submit a timesheet reporting hours that go over the workweek or travel time limits, you will get a violation with a notification of how to appeal. Each time you do any of the following, you will get a violation:

- You work more than 40 hours in a workweek for a recipient without your recipient getting approval from the county when that recipient is authorized less than 40 hours in a workweek;
- You work more hours for your recipient than he/she is authorized for in a workweek, and this causes you to work more overtime hours in the month than you normally would;
- You work for more than one recipient and you work more than 66 hours in a workweek; or
- Your claimed travel time is more than seven hours in a workweek.

For each violation you receive, there will be a consequence:

First Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the violation with appeal rights information.</li> </ul>
Second Violation	<ul style="list-style-type: none"> <li>• Your recipients) and you will get a notice of the violation, and you will have a choice to complete a one-time training about the workweek and travel time limits. If you choose to complete the training, you will avoid a second violation</li> <li>• If you choose <u>not to complete the training</u> within 14 calendar days of the date of the notice, you will be sent a <u>notice of your second violation</u> with the appeal rights information.</li> </ul>
Third Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the third violation with appeal rights information.</li> <li>• You will be <u>suspended</u> as an IHSS provider with the IHSS program for <u>three months</u>.</li> </ul>
Fourth Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the fourth violation with appeal rights information.</li> <li>• You will be <u>terminated</u> as an IHSS provider with the IHSS program for <u>one year</u>.</li> </ul>

If more than one violation occurs during a single month, regardless of how many occur on individual weeks in the month, it will only count as one violation.

Whenever you receive a violation of any type, you have ten calendar days from the date of the violation notice to contact the county and request a county review of the violation. Once the county receives the request for review, it has ten calendar days to review the violation and to send you a notice stating the outcome of the review.

For the third and fourth violations, if the county does not remove the violation, you may request a review of the violation by the California Department of Social Services Adult Programs Division's Appeals Unit. The county notice will explain how you may request the state review.



Once you have received a violation, the violation will remain on your record. However, after one year, if you do not receive another violation, the number of violations you have received will be reduced by one. As long as you do not receive any additional violations, each year after the last violation, your number of violations will be reduced by one.

If you receive a fourth violation and are terminated as a provider for one year, when the year is up and you apply again to be an IHSS provider, your violations count will be reset to zero.

If you get terminated because you received a fourth violation, when the one-year termination ends, you will have to complete all of the provider enrollment requirements again before you can work as an IHSS provider, including the criminal background check, provider orientation, and all required forms.

**If you do not understand the information in this notice or if you have any questions about it, call the county IHSS Office or the county IHSS Public Authority.**

# Important Information for the In-Home Supportive Services (IHSS) Recipient

A recent change to state law which affects IHSS recipients and providers. (Welfare and Institutions Code sections 12300.4, 12300.41 and 12301.1).

**The authorization of recipient hours will not change, so you will continue to get the same number of monthly authorized service hours you get now.** You will continue to work with your provider(s) to make sure that you receive all your necessary services throughout the entire month.

**When Do the Changes Go Into Effect:** The changes go into effect **February 1, 2016**.

## **What Has Changed?**

This law says that IHSS providers will be paid overtime within certain limits and will be paid for their travel time between recipients within limits.

### **1. Weekly Calculation of Authorized Hours**

Your current total monthly authorized hours will now be divided by 4 to determine your maximum weekly hours. The maximum weekly hours amount is a guideline telling you the highest number of hours your provider(s) will be able to work for you during a workweek.

*Example: You receive 100 monthly authorized hours. The system will divide those 100 hours by 4 to get the maximum weekly hours amount of 25 hours.*

However, since most months are slightly longer than 4 weeks, you will need to work with your provider(s) to spread your hours throughout the month in order to make sure you have all your service hours you need for the month.

*In the month of December, there are 31 days. You receive 100 monthly authorized hours. The maximum weekly hours are 25 hours (100 monthly authorized hours divided by 4). However, since December is actually 4-and-a-half weeks long, you would need to decide how many hours to take away from each week in order to have enough hours left over for the last few days at the end of the month. You could, for example, set up a work schedule for your provider to work 22 hours per week for the first four weeks which would leave you with 12 authorized service hours left over for the final few days of the month (22 hours multiplied by 4 equals 88 hours; 88 hours plus 12 hours equals 100 hours).*

However, you may be able to adjust your maximum weekly hours under certain conditions. See the section on **ADJUSTING HOURS**.

## **2. Limits on the Provider Workweek**

Providers will now have a limit on how many hours they can work in a workweek. This will depend upon if he/she works for one recipient or more than one recipient.

If you have only one provider and he/she does not work as a provider for another recipient, the maximum number of hours he/she may claim in a workweek is your maximum weekly hours.

If your provider works for another recipient, the maximum number of hours that he/she may claim in a workweek for all of the time he/she works for his/her recipients combined is 66 hours. **You must make a work schedule for your provider to determine how many hours he/she will be working for you each week to make sure he/she does not work more than 66 hours per workweek.** At the beginning of February 2016, you will get a **Recipient Notification of Maximum Weekly Hours (SOC 2271A)** which will include information on your maximum weekly hours so you can use it to make the work schedule for your provider(s). In order to make the schedule, your provider must tell you how many hours he/she is available to work for you each workweek. If your provider cannot work all of your authorized hours, you will need to hire additional provider(s). **If you need help finding and hiring another provider(s), you can call your county IHSS Public Authority to obtain a provider from the registry or your county IHSS office.**

### **Overtime Pay**

**Your IHSS provider will get paid the overtime pay rate when he/she works more than 40 hours in a workweek.** The overtime pay rate is one and a half times the regular pay rate.

The workweek begins at midnight (12:00 a.m.) on Sunday and ends just before midnight (11:59 p.m.) the following Saturday.

### **Travel Time Pay**

**Beginning February 1, 2016, IHSS providers who work for more than one recipient at different locations on the same day must get paid for travel time. The provider must complete and sign a travel agreement which says he/she cannot travel more than 7 hours per week.**

They will get paid for the time it takes to travel directly from the location where services are provided for the first recipient to the location where services are provided for the second recipient, up to a total of seven hours per week. Providers will document their travel time on a travel claim form.

**A provider's time spent traveling is not counted towards the maximum weekly hours of 66 hours and is not deducted from any recipient's monthly authorized hours.**

## **Travel Time Pay Between Counties**

For those providers traveling from a recipient in one county to a recipient in another county, the providers will have to indicate which recipient they are traveling to on their travel claim form. The wage rate for that travel will be determined by the county the provider is traveling to.

## **ADJUSTING HOURS**

### **Authorizing Your Provider to Work More Hours**

Sometimes you may need your provider to work more than your weekly maximum hours. You must ask your county for approval to adjust your weekly maximum hours only if the change requires your provider to work:

- More overtime hours in the month than he/she would normally work.

*Example: You are authorized 180 hours per month. Your normal weekly hours are 45 hours per workweek (180 hours divided by 4). One week during that month, however, you need him/her to work 55 hours. You plan to adjust his/her hours downward by 10 hours the following week, so he/she will only be working 35 hours during that week.*

*This adjustment would cause your provider to work 15 hours of overtime in that two week period instead of the normal 10 hours of overtime he/she would normally work. Because this adjustment would cause your provider to work an additional five hours of overtime in the month, you must ask the county for approval for this adjustment to your authorized workweek.*

- More than 40 hours for you in a workweek if your maximum weekly hours are 40 hours or less in a workweek.

*Example: You are authorized 160 hours per month. By dividing the 160 hours by 4, it is determined that your provider would normally work 40 hours per workweek. One week during that month, however, you need him/her to work 42 hours.*

*Because this adjustment would cause your provider to work over 40 hours in a workweek when you are authorized 40 hours or less, you need to ask the county for approval for this adjustment in your authorized workweek.*

### **Keep in mind that:**

- You can **never** authorize your provider to work more than your total authorized monthly service hours. Therefore, when you authorize your provider to work extra hours in one week, you must have the provider work fewer hours in the other week(s) of the month
- If your provider works for other recipient(s), his/her weekly hours **cannot** add up to **more than 66 hours**. If you need your provider to work more hours in a workweek and he/she is not able to because it would cause his/her weekly hours to be more than 66 hours for the week, you must hire another provider(s) to work the extra hours.

## **For Recipients with Only One Provider – Authorizing Your Provider to Work More Than His/Her Maximum Weekly Hours**

In addition to authorizing a provider to work more than your maximum weekly hours, you can authorize your provider to work more than his/her maximum weekly hours, without county approval, as long as:

- You do not have any other providers working for you;
- Your provider does not work for any other recipients; and
- Your provider adjusts his/her weekly work schedule by working fewer hours for you the other week(s) to make sure he/she does not work more than your monthly authorized hours and does not work more overtime for you than he/she normally would in a month.

## **How to Ask the County for Approval to Adjust Authorized Weekly Hours When Necessary**

You can ask the county for approval to adjust your maximum weekly hours either at the time an adjustment is needed or as soon as possible afterwards. You can make a one-time request or you can request future changes to meet a need you know you will have. The new law says the county shall not unreasonably withhold approval of your request. You should contact the county for approval prior to submitting the timesheet so the county has the correct information to pay your provider the correct wages.

The county will review your request to determine if all of the following conditions exist that support your request for an adjustment:

- Does (did) your provider need to work more hours because you have (had) a sudden need for services that you did not expect?
- Is (was) your need immediate and cannot be (could not have been) delayed until a back-up provider arrives (arrived)?
- Do (did) you need the services because you believed your health and/or safety were in danger?

If the adjustment request meets all of these conditions, the county will approve it. Otherwise, the county will deny the request.

If possible, the county will inform you of their decision regarding your adjustment request and will enter it into CMIPS at the time of your call. Within 10 calendar days of the call requesting an adjustment, the county will mail a notice that confirms whether your request for an adjustment was approved or denied. If the request is denied, the notice will tell you why the county denied it and the consequences resulting from the denial.

If you have a monthly recurring need that requires a change in your weekly hours, you may request an ongoing recurring adjustment from the county.

## **Provider Violations for Going Over Workweek & Travel Time Limits**

**Beginning May 1, 2016**, if your provider submits a timesheet reporting hours that go over the workweek or travel time limits, he/she will get a violation. Each time he/she does any of the following, he/she will get a violation:

- Your provider works more than 40 hours in a workweek for you without you getting approval from the county when you are authorized less than 40 hours in a workweek;
- Your provider works more hours for you than you are authorized in a workweek without getting approval from the county, causing more overtime hours in the month than normal;
- Your provider has more than one recipient, and he/she works more than 66 hours in a workweek; or
- Your provider’s claimed travel time is more than seven hours in a workweek.

For each violation your provider receives, there will be a consequence:

First Violation	Your provider and you will get a notice of the violation with the appeal rights information.
Second Violation	Your provider and you will get a notice of the violation, and your provider will have a choice to complete <u>a one-time training</u> about the workweek and travel time limits. Those choosing to complete the training will avoid a second violation.  If your provider chooses not to complete the training within 14 calendar days of the date of the notice, he/she will receive notice of the second violation with the appeal rights information.
Third Violation	Your provider and you will get a notice of the third violation with the appeal rights information.  Your provider will be <u>suspended</u> as an IHSS provider with the IHSS program for <u>three</u> months.
Fourth Violation	Your provider and you will get a notice of the fourth violation with the appeal rights information.  Your provider will be <u>terminated</u> as an IHSS provider with the IHSS program for <u>one</u> year.

If your provider gets more than one violation during a single month period, it will only count as one violation.

Whenever your provider receives a violation of any type, he/she has ten calendar days from the date of the violation notice to request a county review of the violation. Once the county receives the request for review, it has ten calendar days to review and investigate the violation and to send your provider a notice stating the outcome of the review.

For the third and fourth violations, if the county does not remove the violation, your provider may request a review of the violation by the California Department of Social

Services Adult Programs Division's Appeals Unit within ten calendar days of the date of the county notice. The county notice will explain how your provider may request the state review.

Once your provider has received a violation, the violation will remain on his/her record. However, after one year, if he/she does not receive another violation, the number of violations he/she has received will be reduced by one. As long as he/she does not receive any additional violations, each year after the last violation, his/her number of violations will be reduced by one.

If your provider receives a fourth violation and is terminated as a provider for one year, when the year is up and he/she applies again to be an IHSS provider, his/her violations count will be reset to zero.

If your provider gets terminated because he/she received a fourth violation, when the one-year termination ends, he/she will have to complete all of the provider enrollment requirements again before he/she can work as an IHSS provider, including the criminal background check, provider orientation and all required forms.

**If you do not understand the information in this notice or if you have any questions about it, call the county IHSS Office or IHSS Public Authority.**