



New Program Requirements 2016



Welcome Participants

Introduction As everyone here knows, California's In-Home Supportive Services Program, or IHSS, makes it possible for qualified aged, blind, and/or disabled individuals to remain safely in their own homes, where they can enjoy personal freedom and independence, and continue being a part of their community. We are here today to provide you with the necessary tools and educational materials that will help you to understand and follow the new Fair Labor Standards Act (FLSA) requirements affecting the IHSS program.

Most recipients and providers will not be impacted at all, as overtime and travel time does not apply in their individual situation. The real impact applies to providers who work more than 40 hours each workweek, providers who work for multiple recipients, or providers who travel directly from providing services to one recipient to providing services to another recipient on the same day.

Trainer Introductions & Facilitate Participant Introductions (time permitting)

Purpose/Objectives HO: FLSA Participant Agenda

By the end of today's training, participants will:

- Have a clear understanding of California's IHSS implementation of FLSA requirements for overtime and travel time pay.
- Be familiar with tools and information available to assist them in following new FLSA requirements.
- Know which forms must be completed and returned by when.
- Be able to correctly complete and mail their timesheets and travel claim forms.
- Understand how to avoid violations.

Agenda

- Overview of FLSA Requirements
- Tools and Information
- Key Terms
- Revised and New Forms
- Provider and Recipient Responsibilities
- Questions and Answers/Wrap Up



Go over housekeeping

Refer to: **HO: FLSA Participant Agenda**

Go over key topics that will be covered, and flow of time together.

Go over materials in participant packet:

- Right Pocket:
 - Agenda
 - FLSA Worksheets to Extend Learning
- Left Pocket:
 - FLSA Handbook for Recipients & Providers
 - FLSA Wallet Card



FLSA Overview

We would like to begin with the “big picture”, or overview of FLSA requirements.

As a quick background, on October 1, 2013, the United States Department of Labor published the Final Rule on applying the Fair Labor Standards Act to domestic service to go into effect on January 1, 2015. Leading up to this Final Rule, domestic service was considered exempt from minimum wage and overtime pay.

In response to the new federal regulations, two bills, Senate Bill (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 that was released on October 8, 2014.

However, on December 22, 2014 and January 14, 2015, appeals were filed and there were two court orders from the U.S. District Court, invalidating and vacating the U.S. Department of Labor’s changes to its rules regarding home care workers because 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.

As a result of the District Court’s decision, on January 15, 2015, CDSS announced a halt to the implementation of the changes related to overtime and travel time compensation 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 and effectively reinstated the final rule adopted by the Department of Labor. As a result of this reversal, CDSS is reinstating implementation of the overtime and travel time policies for IHSS providers in the State of California.

On September 28, 2015, a lawsuit was filed for a stay on the appeals.

On October 13, 2015, a stay on the appeals was not granted so federal regulations for overtime would be in effect in mid-November.

On November 6, 2015, the State announced that the payment of overtime and travel time compensation would be implemented as of February 1, 2016.

This training will explain changes to the IHSS program that may impact recipients and providers regarding overtime, travel time pay, and wait time, and will also present general information on the new Federal Labor Standards Act, or FLSA, requirements and how they will be applied in California.

Note:

- Most recipients and providers will not be impacted at all, as overtime and travel time does not apply in their individual situation.
- The real impact applies to providers who work more than 40 hours in a workweek, providers who work for multiple recipients, or to providers who travel directly from one recipient’s home to another on the same day.
- There may also be violations with consequences when the FLSA requirements are not correctly followed.

New FLSA Requirements for IHSS

Overtime Pay: under certain conditions

Travel Time Pay: within specific limitations

New and Revised Forms: must be completed

Violations: should be avoided

As we get started, we want to provide a high-level overview of the topics you see here. Afterwards we will go into detail on each topic with activities to extend learning.

Overtime and Travel Time Pay

Changes to California state law now require paid overtime and travel time compensation for providers, under certain conditions and within specific limits.

These changes became effective on February 1st, 2016.

New and Revised Forms

CDSS has made a concerted effort to inform IHSS recipients and providers of IHSS program changes resulting from implementation of the new requirements of the FLSA. We will review these forms shortly.

Violations

As noted, there may also be violations, with consequences, when these laws are not correctly followed. The consequences for violations will become effective May 1st, 2016.

To allow for everyone to get used to the changes, violations will not be enforced during the 3-month period between February 1st, 2016 and April 30th, 2016.

We hope this training will help recipients and providers better understand and answer any questions they may have regarding the changes to IHSS related to overtime and travel time pay.

FLSA Recipient Notices and Forms for IHSS

TEMP 3002

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

SOC 2271A

IHSS Program Recipient Notice of Maximum Weekly Hours

No action required.

SOC 2256

IHSS Program Recipient & Provider Workweek Agreement

Must be postmarked to the County by March 15, 2016.

Trainer Notes:

Tools and Information (Overview)

- CDSS is committed to assisting recipients and providers to understand and follow FLSA requirements. The Department has developed fact sheets and notices; developed forms (or revised existing forms as indicated); posted a 27 minute informational video; and developed and published the FLSA Handbook with worksheets to extend learning that are all in your packet.
- In the video, the new and revised forms appear in a different order, going back and forth from recipient to provider. In this training we will first describe all the forms that pertain to recipients, then all the forms that are for providers.

First, FLSA Notices and Forms for IHSS Recipients:

- In December 2015, all IHSS recipients received a Temp 3002 informing them about changes to the IHSS Program resulting from the FLSA new requirements.
- Each IHSS recipient will receive an SOC 2271A informing them of their Maximum Weekly Hours (Mailing began February 1st, 2016). No action is required.
- Recipients will also receive an SOC 2256 which is the IHSS Program Recipient & Provider Workweek Agreement. We will say more about what this form is and how to complete it later, but want you to be aware it must be completed and returned postmarked by March 15, 2016. (This is for recipients with more than one provider.)
- If recipients do not return this form by March 15th, counties may send the SOC 2270 notice informing recipients that they have not submitted the form and may be terminated from the IHSS program. ([ACL 16-01, p. 18](#))

FLSA Provider Notices and Forms for IHSS

TEMP 3001

Important Information for the In-Home Supportive Services (IHSS) Provider **(No Action Required)**

SOC 846

IHSS Program Provider Enrollment Agreement
Due to the County by April 15, 2016.

SOC 2255

IHSS Program Provider Workweek & Travel Agreement

SOC 2271

IHSS Program Provider Notification of Recipient Authorized Hours & Services and Maximum Weekly Hours
No Action Required

Trainer Notes:

Next, FLSA Notices and Forms for IHSS Providers

- In December 2015, all IHSS providers received a Temp 3001 informing them about changes to the IHSS Program resulting from the new FLSA requirements. Note, all IHSS recipients received a similar notice.
- 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 ([ACL 16-01, page 19](#)).
 - Revisions include overtime policy and maximum hour limits. We will discuss further in the “Revised and New Forms” section.
- If a provider fails to submit the SOC 2255 to the county, the provider will not be eligible to receive compensation for travel time until the form is submitted to the county IHSS office ([ACL 16-01, page 18](#)).
- Finally, IHSS Providers will receive an SOC 2271 informing them of their recipient’s monthly authorized hours and maximum weekly hours. (Mailing began February 1st, 2016). No action is required.



FLSA Provider Notices and Forms for IHSS

Providers will be terminated
from the IHSS program on May 1, 2016,
if the SOC 846 is not returned to the county.

It is important to note that the SOC 846 (Provider Enrollment Agreement) must be returned by April 15, 2016. Providers who fail to do so risk being terminated from the IHSS program on May 1, 2016 ([ACL 16-01, page 19](#)).

If providers did not receive this form in the mail, they may access the form by contacting their local County IHSS office.

Refer participants to HO: FLSA Handbook, pages 5 & 6

The FLSA Handbook will be a valuable tool for recipients and providers going forward. Please turn to page 5. This is where recipients and providers will find reminders about the purpose of the forms, how to complete them, and when they must be returned.

Recipient and Provider Responsibilities

Recipient

Understand requirements and limitations

Complete and mail required forms

Accurately record hours worked by provider

Verify hours worked by provider and sign timesheet

Provider

Understand requirements and limitations

Complete and mail required forms

Accurately record hours worked for recipient

Properly complete timesheet and travel claim form (if applicable)

To recap, this is an overview of the steps recipients and providers must follow.

Trainer Note: These bullets will float together to reflect coordinated activities on the part of recipients and providers.

Recipients must:

- Understand requirements and limitations
- Complete and mail required forms
- Keep track of hours worked by provider
- Confirm hours worked by provider by signing timesheet

Providers must:

- Likewise understand requirements and limitations
- Complete and mail required forms
- Keep track of hours worked for recipient
- Properly complete timesheet and travel claim form (if applicable)



KEY TERMS

- Monthly Authorized Hours
- Maximum Weekly Hours
- IHSS Workweek
- Overtime
- Travel Time
- Violations

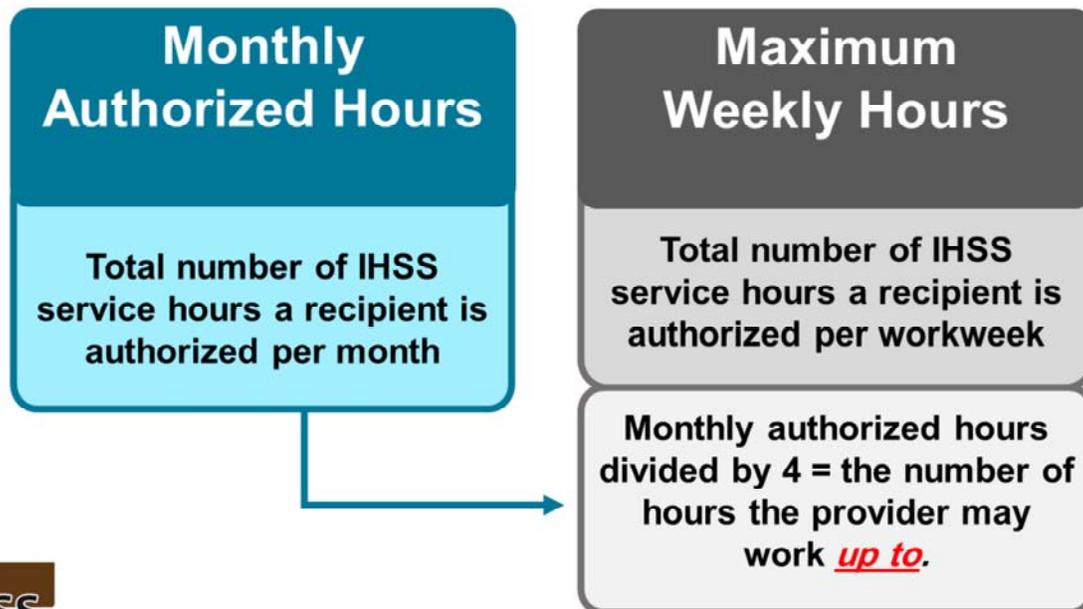


Key Terms

Before we review the specific changes, there are some key terms recipients and providers will need to know:

- Monthly Authorized Hours
- Workweek
- Maximum Weekly Hours
- Overtime
- Travel Time, and
- Violations.

KEY TERMS



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Let's start with **Monthly Authorized Hours**.

We want you to be clear about this number because it has a lot to do with what recipients can ask of their providers and what providers can claim regular and overtime pay for.

These monthly authorized hours are the total number of IHSS service hours a recipient is authorized per month. The number of authorized hours for each recipient is established through the county IHSS assessment process.

We also have **Maximum Weekly Hours** which are the number of service hours that a recipient is authorized per workweek. This number is calculated by dividing the recipient's monthly authorized hours by four which equals the number of hours the provider may work **up to** per workweek.

KEY TERMS

Maximum Weekly Hours

Total number of IHSS service hours a recipient is authorized per workweek

A recipient's monthly authorized hours must be spread throughout the month to ensure that the recipient receives services during the entire month.

Monthly authorized hours divided by 4 = the number of hours the provider may work up to.



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Notes:

- Reinforce maximum weekly hours definition.
- Providers may work up to this weekly max.
- **A recipient's monthly authorized hours must be spread throughout the month to ensure that the recipient receives services during the entire month.**

KEY TERMS

Maximum Weekly Hours Example

200 Monthly Authorized Hours

÷ 4

50 Maximum Weekly Hours



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This calculation is a guideline to inform recipients of the maximum number of hours their providers can work in a workweek.

For example; a recipient with 200 monthly authorized hours divides the number by four to determine they have "up to" 50 maximum weekly hours available.

The "up to" is important, because each month varies in length.

Note:

- Recipients and providers do not need to do calculations because notices containing this information (SOC 2271A for recipients and SOC 2271 for providers) were mailed beginning February 1, 2016, and thereafter, each time there is a change in the recipients' monthly authorized hours. [[SOC 2271](#), [SOC 2271\(A\)](#), [ACL 16-01](#)]

KEY TERMS

IHSS Workweek

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
12:00 a.m.						11:59 p.m.

Workweek begins:

- Sunday at 12:00 a.m.

Workweek ends:

- Saturday at 11:59 p.m.



Next, we have the IHSS workweek which begins at 12 a.m. on Sunday, and ends at 11:59 p.m. the following Saturday.

Getting clear on when the workweek begins and ends will help recipients and providers track how many authorized hours are planned, how many were actually worked, and whether a provider is eligible for overtime compensation.

KEY TERMS



The calculation works evenly for the month of February, which has 28 days and divides equally into 4 standard 7-day weeks.

However, since most months are slightly longer than four weeks, the maximum weekly hours won't always equal the actual hours worked in a week.

Note:

- Acknowledge that 2016 February has 29 days and that recipients need to allocate their monthly authorized hours throughout the month to ensure they have enough hours to cover their authorized services until the end of the month.

KEY TERMS



The calculation for the month of December does not divide equally into 4 standard 7-day weeks; therefore, it is especially important in those months with 30 and 31 days that there are enough hours remaining for recipients' providers to work and continuing providing care to them.

KEY TERMS



Recipient with 1 Provider



**Provider does not work
for any other recipients**

Monthly Authorized Hours ÷ 4 = Maximum Weekly Hours



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There are two other points we would like to make with regard to maximum weekly hours.

For a recipient with only one provider, and that provider does not work for other recipients, the maximum weekly hours will be their monthly authorized hours divided by 4.

Note:

- Just a reminder that recipients and provider do not need to calculate the maximum weekly hours. CDSS began mailing notices to all recipients/providers informing them of the maximum weekly hours and monthly authorized hours. ([SOC 2271](#), [SOC 2271A](#), and [ACL 16-01](#))

KEY TERMS



**Provider with multiple
Recipients**



Maximum Weekly Hours = 66



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For a provider who works for more than one recipient, that provider cannot work more than a total of 66 hours per workweek. We will say more about this later in the presentation.

OVERTIME

All hours worked over 40 hours in one workweek.



Now let's define a few more terms before moving on.

Overtime

Overtime is defined as all hours worked over 40 hours in one workweek. The overtime pay rate is calculated at one and a half times the regular pay rate. Providers will be paid at the overtime rate for all hours worked over 40 hours in a workweek. However, there is a limit on how much overtime will be paid. We'll discuss these limitations later in this training.

TRAVEL TIME

Up to 7 hours per week when traveling directly from one recipient to another on the same day.



Travel time

Providers who work for more than one recipient will be paid up to 7 hours per workweek when traveling directly from providing service to one recipient to providing services to another recipient on the same day. A provider may not exceed a total of 7 hours of travel time per workweek.

KEY TERMS



Travel Time

Travel Time is the time it takes for a provider to travel directly from providing services to one recipient to providing services for another recipient on the same day.



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To illustrate, travel time is the time it takes for a provider to travel directly from providing services to one recipient to providing services for another recipient on the same workday.

Travel time paid to providers will not be deducted from their recipients' monthly authorized hours.

VIOLATIONS

**Consequences of not following
overtime and travel time
limitations.**



Violations

Violations are consequences of not following overtime and travel time limitations.

Beginning May 1st, 2016, any provider who submits a timesheet reporting hours that go over the workweek or travel time limits will receive a violation with a notice of how to request a County review.

It is important that providers follow all of the overtime and travel time limitations to avoid receiving a violation.

WAIT TIME

Compensation for wait times at medical appointments/alternative resources sites, under certain circumstances, is now allowable in the IHSS program.



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We did not include “wait time” under Key Terms because wait time is part of the Accompaniment to Medical Appointments and Alternative Resources service categories that is included in the IHSS assessment process.

- Under the new FLSA changes, compensation for wait times at medical appointments/alternative resources sites, under certain circumstances, is now allowable in the IHSS program.
- Counties will begin assessing and authorizing wait times for medical appointments associated with medical accompaniment and alternative resource sites.
- Additional training will be provided to county IHSS social workers to further explain this program benefit as it is currently included in the IHSS assessment process under the Accompaniment to Medical Appointments and Alternative Resources service categories. ([ACL 14-82](#))

Now let’s recap the key terms we just reviewed.



Key Terms Worksheet Refer participants to their FLSA Handbook page 4 and “Key Terms Worksheet” in their FLSA Handout Packet.

Instructions

Ask participants to review key terms on page 4 in their handbook. On the Key Terms worksheet, please write definitions in their own words and/or fill in missing words in blank spaces provided. (Participants who are unable to write may reflect on their responses without writing.)

Debrief

Ask for a few responses from participants and validate or clarify their definitions.



Revised and New Forms

Now that we have reviewed the key terms, let's talk about the new and revised forms resulting from the changes to the IHSS program.

We will review three important forms and their due dates;

- the revised IHSS Program Provider Enrollment Agreement, also known as the SOC 846,
- the IHSS Program Provider Workweek and Travel Time Agreement, also called the SOC 2255, and
- the IHSS Program Recipient and Provider Workweek Agreement, also known as the SOC 2256.

Providers should make sure to complete and submit all of the forms that apply to them.

Earlier we provided an overview of the forms and notices CDSS has provided to IHSS recipients and providers. We would now like to say a bit more about each form. We will go through all of the recipients notices and forms, and then the provider's.

Note: Full copies of the forms are available in the ACL 16-01 on FLSA Implementation.

HOs: [Tab 3, ACIN 16-01](#)

**IHSS RECIPIENT
FORMS/NOTICES**

IN-HOME SUPPORTIVE SERVICES PROGRAM RECIPIENT AND PROVIDER WORKWEEK AGREEMENT

IHSS RECIPIENT CASE NUMBER

RECIPIENT NAME (FIRST, MIDDLE, LAST)

My total monthly 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

SOC 2256

schedule helps me to ensure that my provider(s) stay(s) within my monthly authorized hours.

Recipients who have more than one provider must complete and submit the IHSS Program Recipient and Provider Workweek Agreement, or the SOC 2256.

This agreement lets the county know how many hours each provider will work for the recipient each workweek. Recipients must list all of their providers on this agreement. Recipients and each of their providers must sign the same form and return it to their local county IHSS office (postmarked by March 15, 2016). ([ACL 16-01, p. 18](#))

Recipients and providers must make sure to complete and submit all of the agreements that apply to them.

For more information, contact your local county IHSS office or IHSS Public Authority.

Notes:

- Counties have the option to send the **In-Home Supportive Services Program Notice to Recipient/Provider Failure to Complete Workweek Agreement (SOC 2256) [SOC 2270]** to recipients if this form is not received/postmarked by March 15, 2016. ([ACL 16-01, p. 18](#))
- Recipients receiving this form BUT only have one provider should contact their IHSS county office to update their information.
- A new form must be completed when there is a permanent change in provider(s).

**IHSS PROVIDER
FORMS/NOTICES**

IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM PROVIDER ENROLLMENT AGREEMENT

PROVIDER NUMBER

PROVIDER NAME (FIRST, MIDDLE, LAST)

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.

SOC 846

fraud or abuse in the IHSS program.

2. I understand the following:

- Although providers signed the SOC 846 when they first became an IHSS provider, they must read and sign the revised SOC 846 that was recently sent to them to show they understand the new workweek and travel time limits.
- The revised IHSS Program Provider Enrollment Agreement explains the new workweek limitations.

By signing this agreement, providers acknowledge that they have read and understand these new limits.

- ALL IHSS providers are required to complete, sign and return this agreement to the county by April 15, 2016.
- If providers do not return the signed agreement by April 15, 2016, they may be terminated as an IHSS provider as of May 1, 2016, and if terminated, they will not be paid as an IHSS provider.
 - However, the provider may be reinstated if he/she submits the completed and signed form within 30 calendar days of the termination date (May 1, 2016), and can be paid retroactively for any authorized services he/she provided to eligible recipients during that period he/she was terminated ([ACL 16-01, page 17](#)).
 - 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 ([ACL 16-01, p. 17](#)).

- New providers attending orientation after April 15, 2016, will need to complete and submit this agreement before they may receive timesheets.
- The capability of county IHSS offices to indicate in the CMIPS II system that the SOC 846 has been received became available on January 25, 2016 (ACL 16-01, p. 17).

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.

SOC 2255

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.)

Providers who work for more than one recipient will also need to fill out the IHSS Program Provider Workweek and Travel Time Agreement, or the SOC 2255.

This agreement explains the workweek, seven hour travel time limits, and includes sections for providers to plan workweek schedules and record the estimated travel time between recipients.

- Completing this agreement will help make sure that providers do not work or travel more than allowed for each workweek.
- Also, by submitting this agreement, providers can help make sure that they will receive a Travel Claim Form, which will be reviewed later.
- And remember, this agreement will also prevent possible delays in payment and help providers avoid violations.

Note:

- If the form is not received by April 15, 2016, providers will not receive the Travel Claim Form until the SOC 2255 is inputted into CMIPS by the county.

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

Notification Date: _____
Provider Name: _____

SOC 2271

services you are allowed to perform for your recipient.

Your recipient's monthly authorized hours are

Providers will also receive a separate notification in the mail showing the maximum weekly hours for each recipient they work for and the services they may provide during those hours.

This notification is called the IHSS Program Provider Notification of Recipient Hours and Services and Maximum Weekly Hours, also known as the SOC 2271.



Claiming Hours



Claiming Hours

Let's discuss workweek limitations in more detail so recipients and providers will know how to properly claim hours without receiving a violation

As we pointed out, recipients are authorized a certain number of hours per month.

When we introduced the term, "Maximum Weekly Hours," we explained that recipients will receive an informational notice in the mail beginning February 1, 2016, showing their maximum weekly hours based on how many service hours they are authorized each month.

Within certain limits and depending on recipients' health-related needs, they may authorize their providers to work more or less than their maximum weekly hours.

Recipient and Provider Situations

**One Recipient/
One Provider**



**Multiple Recipients/
One Provider**



**Multiple Providers/
One Recipient**



There are three types of situations that describe recipients and providers working together:

1. One recipient with one provider, also referred to as a one-to-one recipient-provider relationship.

We also have situations where there are multiple relationships where we have:

1. More than one recipient served by the same provider.
2. Multiple providers serving the same recipient.

Ask recipients and providers to identify their situation.

-For multiples, ask how many.

-Also ask if they have previously been served in a different situation other than the one they are in now.

Note:

- Let participants know we are going over all of the information with everyone, because situations can and do change. This way they will be prepared for them. We encourage trainers to tailor this presentation to their specific audiences.

Recipient and Provider Situations

One Recipient | One Provider



Requirement:

The maximum number of hours that providers may work in a workweek is the recipient's monthly authorized hours divided by 4.

In this specific situation where one recipient employs only one provider AND receives the maximum hours of 283, the provider may work up to 70:45 maximum weekly hours ($283/4=70:45$).

- Recipients who have only ONE provider working for them need to remember that their maximum weekly hours will be their monthly authorized hours divided by 4.
- As a reminder, recipient and providers do not need to calculate their maximum weekly hours; both recipients and providers will receive notification SOC 2271 and SOC 2271A providing them with this information.
- If the recipient receives the maximum hours of 283 in this situation, his/her provider may work up to 70 hours, 45 minutes each workweek.

Recipient and Provider Situations

Multiple Recipients | One Provider



Requirement:

The maximum number of combined hours that a provider may work in a workweek is 66 hours.

Recipients must complete a work schedule for the provider to determine how many hours s/he will work before working for each of them. This schedule will ensure that the provider will not work more than 66 hours per workweek.

For a provider who works for more than one recipient, that provider cannot work more than a total of 66 hours per workweek.

Go over recipient and provider responsibilities.

Note:

- If the provider works for more than one recipient in the same workday, s/he is eligible for Travel Time pay by completing a Travel Claim Form. However, providers will not receive the Travel Claim Form until the SOC 2255 is inputted into CMIPS by the county.

Recipient and Provider Situations

One Recipient | Multiple Providers



Requirement:

The recipient must make a work schedule for all of their providers to determine how many hours each of them may work.

Recipients may move hours from week to week as long as their providers do not work more than the monthly authorized hours or the approved overtime hours.

Note:

- In this situation, recipients must remember to submit a completed SOC 2256 to their county IHSS office. The completed SOC 2255 must be submitted (postmarked no later than March 15, 2016) to their county IHSS office.

Claiming Hours

How many maximum weekly authorized hours may a provider with multiple recipients claim?

Recipient	Total Monthly Hours Assigned to Provider	Maximum Weekly Hours
Ada	88 hours per month	22 hours per week
Ron	120 hours per month	30 hours per week
Louise	56 hours per month	14 hours per week
Total Weekly Authorized Hours:		66 hours per week



Go over the above illustration of one situation.

Adjusting Hours



Adjusting Hours

In some cases, recipients may adjust the hours worked by their provider, but need to get county approval first. In other cases, recipients may adjust their providers' hours without getting county approval. Let's discuss this further.

It's important that recipients and providers know when it's necessary to get county approval.

When is county approval needed to adjust hours?

Recipients must get county approval to adjust their providers' weekly work hours when the change requires the providers to work:

- **More than 40 hours in a workweek if the recipient's maximum weekly hours are 40 hours or less, or**
- **More overtime hours in the month than they would normally work.**

Recipients must get county approval to adjust their providers' weekly work hours when the change requires the providers to work:

- More than 40 hours in a workweek if the recipient's maximum weekly hours are 40 hours or less, or
- More overtime hours in the month than they would normally work.

Do I Need County Approval?



Increasing work hours to more than 40 hours in a workweek will require county approval.

Remember, if the maximum weekly hours are 40 or less, then there are no approved overtime hours and any changes resulting in the provider working more than 40 hours in a workweek will require county approval.

For example, if a recipient's maximum weekly hours are 36 and s/he needs the provider to work 38 hours in that workweek, the recipient can adjust these hours without county approval.

However, recipients may authorize an adjustment to their providers' weekly work hours without county approval when all three of the following conditions are met:

- There is only one provider;
- The provider doesn't work for any other recipients; and
- The provider's weekly work schedule is adjusted in the remaining workweeks of that month to make sure they don't work more than the monthly authorized hours or the approved overtime hours.

When can the Recipient adjust hours without county approval?

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 (ACL 16-01, page 8).

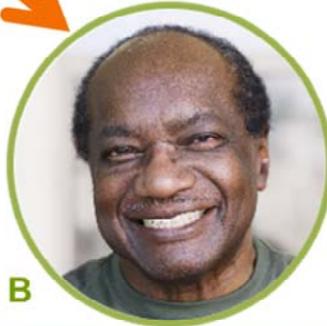
2 RECIPIENTS: 1 PROVIDER



40 hrs
↓
36 hrs

Recipient A

30 hrs
↑
26 hrs



Recipient B

If a provider works the 66 maximum weekly hours per workweek and one of their recipients asks them to work additional hours, the provider can only do so if they reduce the number of hours they work for another recipient.

If a provider works the maximum weekly hours of 66 hours per workweek and one of their recipients asks them to work additional hours, the provider can only do so if they reduce the number of hours they work for another recipient. Otherwise the provider will have to tell the recipient that they must get another provider to work the additional hours.

Do I Need County Approval?



Over the month there are a total of 40 hours of overtime available that the provider may work without the recipient seeking county approval.



Maximum Weekly Limit of 66 Hours

Let's look at the case of providers who work for more than one recipient. These providers can work up to a maximum weekly limit of 66 hours a week for all the time s/he works for his/her recipients (ACL 16-01, page 5).

2 RECIPIENTS: 1 PROVIDER



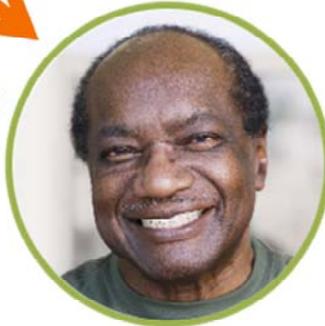
**40 hrs
for Recipient A**



Recipient A
160:00 Monthly
Authorized Hours

40:00 Maximum
Weekly Hours

**26 hrs
for Recipient B**



Recipient B
104:00 Monthly
Authorized Hours

26:00 Maximum
Weekly Hours

**Providers who work for
multiple recipients can only
work a maximum of 66
hours per workweek.**

For example, if a provider is assigned 40 hours per workweek from “Recipient A”, this provider can only be assigned a maximum of 26 hours per workweek from “Recipient B.”

The 66 hourly weekly maximum limitation only applies to providers who work for multiple recipients.

Approval to Adjust Weekly Authorized Hours

- The recipient must inform the County of the request to change as early as possible and prior to timesheet submission.
- The County will review the request to determine if all of the following conditions exist to support the request:

Is this an unexpected need?

Is the need immediate?

Can the need wait for a backup provider?

Is the recipient's health or safety in danger?

In order to properly adjust hours, the recipient must inform the county of the request as early as possible and prior to the provider submitting his or her timesheet.

When the county receives a request they will review it to determine whether **all** the conditions you see here apply.

Refer participants to [FLSA Wallet Card](#) in packet as a helpful reminder.

Here's a tip for providers when working with their recipients to adjust hours.

Ask this question, "Does this change increase the amount of overtime I'm paid beyond my recipient's approved overtime hours?"

Providers might answer: "If I work less than 40 hours, it won't have any impact so I don't need county approval."

Or, "If I work a lot of hours each month, like 283, shifting hours from one week to the next does not change my approved monthly number of overtime hours."

[FLSA Handbook pages 7 - 8](#)

[FLSA Worksheet page 6-10: Adjusting Hours](#)



Now let's turn our attention to timesheets and how to correctly fill them out.

As a rule, it's a good idea for each provider and recipient to keep a record of the hours and minutes worked each day. This will help ensure accurate completion of timesheets. Many recipients and providers keep a separate calendar for this purpose as you saw, or will see, in the video.

[Timesheet Completion Worksheets](#) Refer participants to their handout packet to locate their FLSA Handbook and "Timesheet Completion Worksheets".

Let's have a look at a sample timesheet. Regardless of which situation you identified, notice first that the timesheet form is arranged in four blocks, one for each workweek. Also notice that the blocks are labeled by date and day of the week beginning on Sunday and ending on Saturday.

Then ask participants to identify the recipient/provider situation they are in now, and complete that exercise **ONLY**. Allow 10 minutes. Go over correct responses.

Tips for Properly Completing Timesheets

- **Use only black ink and press firmly**
- **Both the recipient and the provider must sign and date the back of the timesheet**
- **Cut along the dotted line**
- **Do not fold the timesheet**
- **Only enter hours and minutes for each day worked on timesheets**
- **Only mail one timesheet per envelope**
- **Place the correct postage on the outside of the envelope**

[Timesheet Tips Worksheet](#) Refer participants to their handout packet to locate their FLSA Handbook and “Timesheet Tips Worksheet”.

The first rule when completing timesheets is to always use a standard ball point pen with black ink. Do not use a pencil, felt tip marker, or ink color other than black.

Again, using a black ball point pen, enter the number of hours and minutes worked each day in the spaces provided on the timesheet.

Be sure that all entries remain inside the boxes.

Add up the total number of hours and minutes worked per week and enter this number at the bottom of each workweek under the “Total” section.

Make sure the total hours don’t add up to more than the hours assigned by the recipient.

Once the hours are entered, both the recipient and provider must sign and date the back of the timesheet.

The last step is to mail the timesheet back in the envelope provided.

Do not fold or tear the timesheet. Instead, carefully cut the timesheet along the dotted line, place it into the envelope, add a stamp, and mail.



Now that we've discussed timesheets, let's talk about travel time. Remind participants that providers are now eligible to receive up to 7 hours of travel time pay each workweek when they work for more than one recipient at different locations on the same day, and travel directly between the two recipients to provide services.

Travel time does not include the time it takes providers to travel from their own home to the location where they provide services for a recipient or back home after their work is completed.

A provider's time spent traveling between recipients' locations does not count toward the maximum weekly hours and is not deducted from any recipient's monthly authorized hours.

If providers claim more than 7 hours of travel time in a workweek, they will be paid for the excess hours, but will receive a violation.

Travel Time

Conditions

- For providers with multiple recipients.
- Must travel directly from one location where services are provided to another location where services are provided on the same day.
- Must have submitted a timesheet for service hours with corresponding dates.

Limits

- Travel time is limited to 7 hours per week and will not be deducted from the recipient's monthly authorized hours.
- Travel time is not included in the overtime limit of 66 hours/week.

Violations

- Travel time in excess of 7 hours will be paid but the provider will receive a violation.

Review the above.

Travel Time

Providers who have multiple recipients will be required to complete:

SOC 2255

IHSS Program Provider Workweek & Travel Time Agreement

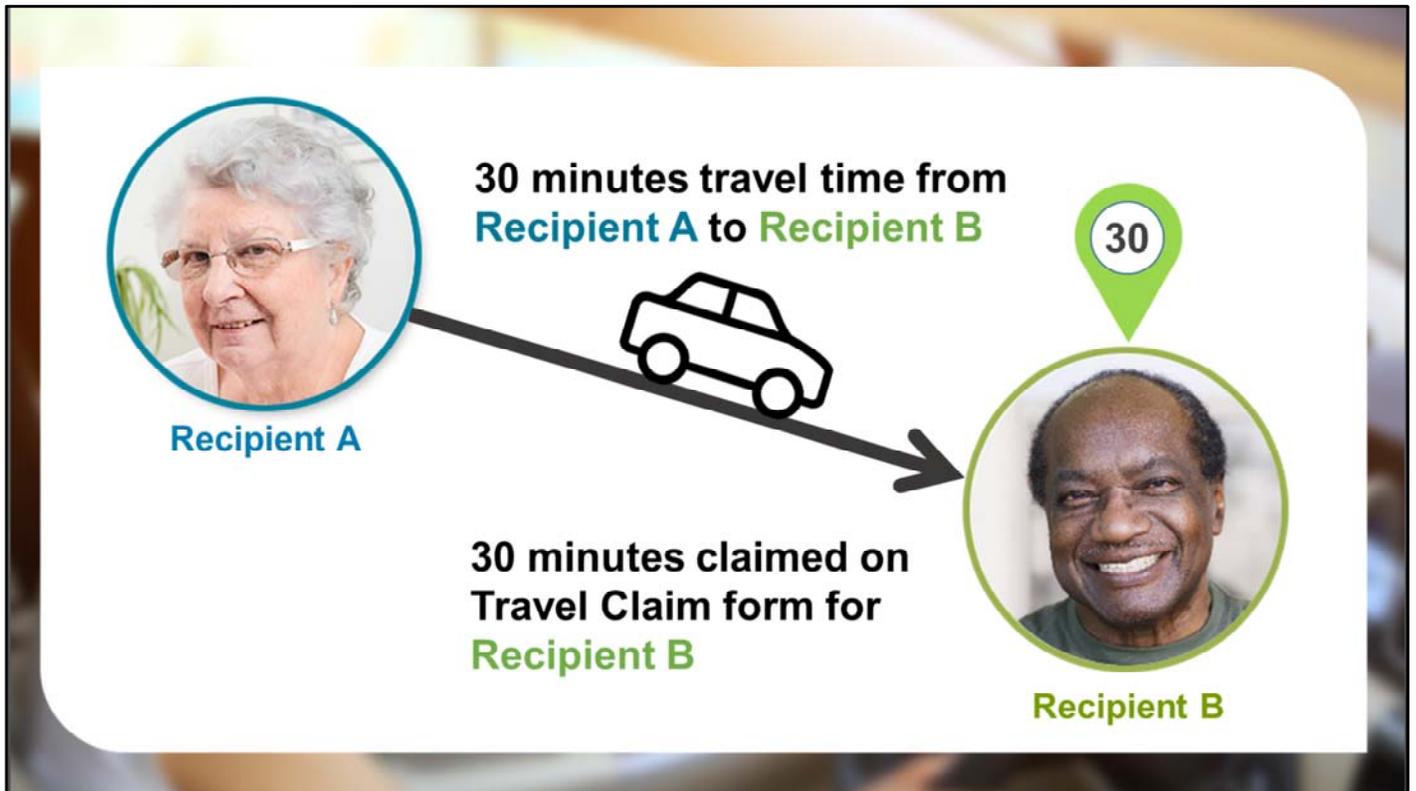
This completed form must be submitted and processed before providers are eligible to receive travel time compensation.

To claim travel time, providers will need to fill out a Travel Claim Form.

Providers who are eligible to receive paid travel time will be sent a Travel Claim Form in the same envelope with their timesheets for each recipient they work for.

In order for Travel Claim Forms to be paid, timesheets need to be processed first. Travel Claim Forms can either be submitted with the corresponding timesheet for the same pay period or after that pay period.

Make sure completed and signed Travel Claim Forms are mailed to the correct address.



Travel time is claimed on the Travel Claim Form of the recipient that providers are traveling to.

For example, if it takes the provider 30 minutes to travel from “Recipient A” to “Recipient B”, the provider would claim the 30 minutes of travel time on the Travel Claim Form for “Recipient B.”

Notes:

- All modes of transportation are permitted.
- Mileage and/or gas is not paid for.
- Only the amount of time it takes to travel is paid for, up to 7 hours per workweek.



Remember, it's important that recipients and providers follow all of the overtime and travel time limitations to prevent getting a violation. A violation could cause a provider to be suspended from the program or terminated as an IHSS provider.

Some of the actions that will cause providers to get a violation are:

- Working more than 40 hours in a workweek for their recipient whose “maximum weekly hours” are 40 hours or less, and therefore, has no approved overtime;
- Working more than a total of 66 hours in a workweek when they work for more than one recipient; or
- Claiming more than 7 hours of travel time in a workweek.

If the county determines that a provider has violated the weekly overtime and/or travel time limitations, the county will send the provider a violation notice with information on how to request a county review.

A notice will also be sent to all of the recipients that the provider works for informing them of their provider's violation and explaining why the provider received it.

[How to Prevent Violations Worksheet](#) Refer participants to their handout packet to locate their FLSA Handbook and “How to prevent violations Worksheet”.

Remind participants of their [HO: FLSA Wallet Card](#)

Violations			
1 st Violation	2 nd Violation	3 rd Violation	4 th Violation
Notice of violation with information on how to request a county review	Notice of violation with information on how to request a county review Complete one-time training, 2 nd violation avoided Does not complete one time training within 14 days of notice, 2 nd violation confirmed	Notice of violation with information on how to request a county review Optional: State appeal if the violation is upheld Suspended as an IHSS Provider for 3 months, or 90 days	Notice of violation with information on how to request a county Optional: State appeal if the violation is upheld Terminated as an IHSS Provider for one year, or 365 days

For each violation received by the provider, there will be a consequence:

- For the first violation, the provider and each of their recipients will get a notice of the violation with information on how to request a county review.
- If a second violation occurs, the provider will have a choice to complete a one-time training about the workweek and travel time limits within fourteen days of the date of the notice. If the provider chooses to complete the training, they will avoid receiving a second violation. If they do not complete this training, they will receive a second violation.
- If a third violation occurs, the provider will be suspended as an IHSS provider for three months. If the county upholds the violation, the provider may request an appeal with the State.
- If a fourth violation occurs, the provider will be terminated as an IHSS provider for one year. If the county upholds the violation, the provider may request an appeal with the State.

If providers receive a violation, they have ten days from the date of the violation notice to request a county review. Once the county receives the request for review, it has ten days to review and investigate the violation and send providers a notice stating whether the violation will remain or if it will be removed.

For the third and fourth violations, if the county doesn't remove the violation, providers may request a review by the California Department of Social Services, or CDSS, within 10 days of the date of receiving the county notice. The county notice will explain how providers may request a review by CDSS. Once providers have received a violation, the violation will remain on their IHSS record. However, after one year, if they don't receive another violation, the number of violations they have received will be reduced by one. As long as providers don't receive any additional violations, each year after the last violation was removed, the number of violations will be reduced by one, and If providers receive a fourth violation and are terminated as an IHSS provider for one year, when the year is up and they apply again to be an IHSS provider, they must:

- Re-submit an application; and
- Complete all of the provider enrollment requirements, including the criminal background check, provider orientation and all required forms.
- Also, their violations count will be reset to zero

Notes:

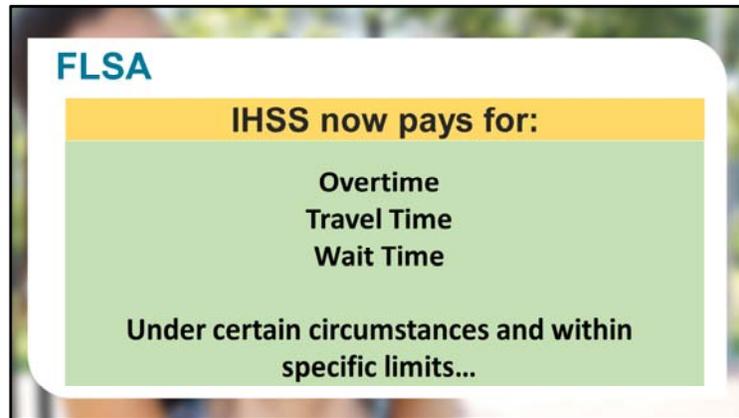
- Counties are responsible for outreach on coaching individuals before 05/01/16.
- “Aid-paid pending” is a recipient benefit and does not apply to providers. Further details are forthcoming to handle payment situation where the provider is going through a 3rd/4th appeal.
- “One-time” training means ONE time in the IHSS provider career.
- If providers work and submit the timesheet they will get paid. County will have 5 days to rescind the issued violation; otherwise the violation will stand. Then the provider can request a county review. During this time county staff can overturn the violation. County staff will assess situation case by case. Statute stipulates that counties can not reasonably withhold granting or denying an exception.

Violations

IMPORTANT TO REMEMBER:

If the provider's actions result in more than one violation during a calendar month, it will only count as one violation.

It's important to remember that if the provider's actions result in more than one violation during a calendar month, it will only count as one violation.



Remind participants of the positive program changes that now allow IHSS providers to be paid for overtime, travel time, and wait time, under certain circumstances and within specific limits.

Wrap Up

Additional questions/comments may be emailed to IHSS-Training@dss.ca.gov.

For more information related to FLSA, please visit the CDSS website at:

<http://www.cdss.ca.gov/agedblinddisabled/PG1296.htm>



Review the above information.

Thank participants for coming.