

**SHD Paraphrased Regulations - Social Services**  
**610 In Home Supportive Services General**

610-0 REVISED 1/15

The term IHSS is often used to refer generally to four distinct state/county programs which provided in-home services to disabled populations. These programs are the following:

- PCSP (Personal Care Services Program) is a program funded through Medi-Cal and provides services to individuals who otherwise qualify for Medi-Cal and have a chronic disabling condition. Eligibility is fully based on Medi-Cal eligibility. PCSP is unavailable to individuals whose provider is their spouse or to minor individuals whose parent is the provider. It is also unavailable if the provider is receiving advance payment or the recipient is receiving a restaurant meal allowance. See, generally, Welfare and Institutions Code 14132.95
- IHSS Plus Option (IPO) is a program funded through Medi-Cal, which provides services for federally eligible Medi-Cal recipients who do not qualify for the PCSP Program. Such recipients often include individuals where the spouse is the provider or minors when the parent is the provider. Eligibility is fully based on Medi-Cal eligibility. See, generally, Welfare and Institutions Code 14132.97.
- Community First Choice Option (CFCO) is a program that provides services for federally eligible Medi-Cal recipients who meet IPO requirements and in addition require 195 hours over service or meet certain other levels of severity of need. See, generally, All County Letter 14-60, August 29, 2014.
- IHSS Residual (IHSS-R) is a program limited to disabled individuals who do not qualify for federal Medi-Cal program participation, primarily legal aliens. Eligibility is based on linkage to the SSI/SSP program. See, generally, Welfare and Institutions Code 12300 et. seq.
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610-0A ADDED

1/15 All CFCO participants must be eligible for Full-Scope, Federal Financial Participation Medi-Cal and be eligible based on one of the following criteria:

- 1) Have a total assessed need (excluding heavy cleaning and yard hazard abatement) of 195 or more IHSS hours per month.
- 2) Have a total assessed need (excluding heavy cleaning and yard hazard abatement) under 195 IHSS hours per month and:

Have 3 or more of the following services with the designated Functional Index (FI) Ranks:

- Eating, FI Rank of 3-6
- Bowel and bladder/menstrual care, FI Rank of 3-6
- Bathing/grooming, FI Rank of 4-5
- Dressing, FI Rank of 4-5
- Mobility inside, FI Rank of 4-5
- Transfer, FI Rank of 4-5

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- Respiration, FI Rank of 5-6
- Paramedical, (FI Rank not applicable)

OR

Have a combined FI Rank of 6 or higher in mental functioning (memory, orientation, and judgment). FI Ranks for mental functioning can be either 1, 2, or 5.

3) Have a combined "Individual Assessed Need" total of 20 hours or more per week in one or more of the following services:

- Preparation of meals
- Meal clean-up (if preparation of meals and feeding are assessed needs)
- Respiration
- Bowel and bladder care
- Feeding
- Routine bed baths
- Dressing
- Menstrual care
- Ambulation
- Transfer
- Bathing, oral hygiene, grooming
- Repositioning and rubbing skin
- Care and assistance with prosthesis
- Paramedical services

(All County Letter No. 14-60, August 29, 2014)

**610-0B**

To qualify for PCSP, individuals not receiving SSI/SSP or Medi-Cal-linked to a cash-based program must be determined eligible for federally funded full-scope Medi-Cal by a Medi-Cal EW and be found in need of personal care services through a needs assessment. Effective May 1, 2004, the Medi-Cal State Plan regarding personal care services was expanded to include the following services as federally funded personal care services:

- Ancillary services, including domestic and related services, under W & I Code, Section 14132.95 (d)(2), **not** provided by a spouse or parent of a minor child; and
- Protective supervision **not** provided by a spouse or parent of a minor child.

(ACWDL 05-21, June 13, 2005)

**610-0C**

To qualify for the IHSS Plus Waiver, Medi-Cal eligibility is required. Individuals not receiving Supplemental Security Income/State Supplementary Payments (SSI/SSP) or other Medi-Cal linked cash-based programs (e.g., CalWORKs) must be determined eligible for federally funded full-scope Medi-Cal by a Medi-Cal eligibility worker (EW). Individuals must also qualify for in-home services through a needs assessment, completed by an IHSS social worker (SW).

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Individuals receiving at least one of the IHSS Plus Waiver services are considered to be IHSS PLUS WAIVER participants.

Those IHSS PLUS WAIVER services are:

- Personal care; protective supervision; domestic and related services; heavy cleaning; accompaniment to medical appointments and alternative resources; removal of grass, weeds, rubbish, ice and snow; and teaching and demonstration, when they are provided by a spouse or parent of a minor child as allowed under IHSS Regulations Manual of Policies and Procedures (MPP), Section 30.763.41 and 30.763.45;
- Restaurant meal allowance; and/or
- Advance payment for in-home care services (ACWDL 05-21, June 13, 2005)

**610-0D**

IHSS Residual program services will be available to individuals eligible under current IHSS regulations, but who are not eligible for federally funded full-scope Medi-Cal. The services available under the IHSS Residual program have not changed. (ACWDL 05-21, June 13, 2005)

**610-0E**

The Personal Care Services Program (PCSP) provides personal care services to eligible Medi-Cal beneficiaries pursuant to Welfare and Institutions Code §14132.95 and Title 22, California Code of Regulations and is subject to all other provisions of Medi-Cal statutes and regulations. The program is operated pursuant to Manual of Policies and Procedures (MPP) Division 30. (MPP §30-700.2)

**610-0F** ADDED 8/05

Medi-Cal eligibility determinations and redeterminations are to be performed on all applications received by the county requesting in-home services and existing in-home service for persons who are not also eligible for SSI/SSP or other Medi-Cal linked cash-based assistance. These determinations/redeterminations are to be performed by Medi-Cal eligibility workers using Medi-Cal rules, Medi-Cal forms, and notices of action.

Individuals must be determined eligible for whatever Medi-Cal program is appropriate (e.g., Section 1931(b), Aged and Disabled Federal Poverty Level, Pickle, Medically Needy, 250 percent Working Disabled, etc) before a referral is forwarded to the IHSS unit for a needs assessment.

(All County Welfare Director's Letter 05-21. June 13, 2005).

**610-0G**

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CDSS has stated that state regulations provide that a PCSP eligible recipient cannot refuse personal care under PCSP and still receive ancillary services from IHSS. The regulation cited by the CDSS provides in pertinent part:

"A person who is eligible for a personal care service provided pursuant to the PCSP shall not be eligible for that personal care service through IHSS." [emphasis added] (§30-757.1, cited in All-County Letter No. 99-25, April 19, 1999)

610-0H ADDED 4/10

To be eligible for PCSP or IHSS Plus Waiver, an individual must be eligible for full scope FFP Medi-Cal. The California Department of Health Care Services (DHCS) has sole responsibility for determining who is eligible for full scope FFP Medi-Cal.

Counties must determine IHSS-R eligibility for applicants or recipients who are not eligible for full scope FFP Medi-Cal.

(ACIN I-18-08, March 12, 2008)

610-0I REVISED 8/05

A personal care services provider is that individual, county employee or county contracted agency authorized by the Department of Health Services to provide personal care services to eligible beneficiaries. An individual provider shall not be the parent of a minor child or a spouse. (§51181; see also Manual of Policies and Procedures (MPP) Handbook §30-767.3)

A child means a person under the age of 21, except for those considered adults per §50014. (§50030(a)) An unborn is considered a child for Medi-Cal purposes (§50030(b))

610-0J ADDED 5/05

It is the intent of the Legislature that the State Department of Health Services seek approval of a Medicaid waiver under the federal Social Security Act in order that the services available under Article 7 (commencing with Section 12300) of Chapter 3, known as the In-Home Supportive Services program, may be provided as a Medi-Cal benefit under this chapter, to the extent federal financial participation is available. The waiver shall be known as the "IHSS Plus waiver."

(Welfare and Institutions Code (W&IC) 14132.951(a))

The US Department of Health Care Services, Centers for Medicare and Medicaid Services (CMS) approved a Social Security Act § 1915(j) Self-Directed Personal Assistance Services State Plan Option program for California. This program is known as the IHSS Plus Option (IPO) and became effective October 1, 2009. Individuals eligible for the IHSS Plus Waiver (IPW) program were transitioned into the IPO program.

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The IPW was limited to five years with a possibility of renewal; however, during that time, CMS initiated new options to allow recipients in the IPW to be served in a State Plan Option program. The new IPO program continues federal funding for the IPW population. The program criteria will continue to be the same as for the IPW.

(ACIN I-33-10, April 21, 2010)

610-0K ADDED 5/05

To the extent feasible, the IHSS Plus waiver described in subdivision (a) shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program as it exists on the effective date of this section. The director shall have discretion to modify eligibility requirements, benefits, and operational requirements as needed to secure approval of the Medicaid waiver.

(Welfare and Institutions Code (W&IC) 14132.951(b))

The US Department of Health Care Services, Centers for Medicare and Medicaid Services (CMS) approved a Social Security Act § 1915(j) Self-Directed Personal Assistance Services State Plan Option program for California. This program is known as the IHSS Plus Option (IPO) and became effective October 1, 2009. Individuals eligible for the IHSS Plus Waiver (IPW) program were transitioned into the IPO program.

The IPW was limited to five years with a possibility of renewal; however, during that time, CMS initiated new options to allow recipients in the IPW to be served in a State Plan Option program. The new IPO program continues federal funding for the IPW population. The program criteria will continue to be the same as for the IPW.

(ACIN I-33-10, April 21, 2010)

610-0L ADDED 5/05

Upon implementation of the IHSS Plus waiver, and to the extent federal financial participation is available, the services available through the In-Home Supportive Services program shall be furnished as benefits of the Medi-Cal program through the IHSS Plus waiver to persons who meet the eligibility requirements of the IHSS Plus waiver. The benefits shall be limited by the terms and conditions of the IHSS Plus waiver and by the availability of federal financial participation.

Upon implementation of the IHSS Plus waiver:(1) A person who is eligible for the IHSS Plus waiver shall no longer be eligible to receive services under the In-Home Supportive Services program to the extent those services are available through the IHSS Plus waiver.

(2) A person shall not be eligible to receive services pursuant to the IHSS Plus waiver to the extent those services are available pursuant to Section 14132.95.

(W&IC §14132.951(c) and (d))

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The US Department of Health Care Services, Centers for Medicare and Medicaid Services (CMS) approved a Social Security Act § 1915(j) Self-Directed Personal Assistance Services State Plan Option program for California. This program is known as the IHSS Plus Option (IPO) and became effective October 1, 2009. Individuals eligible for the IHSS Plus Waiver (IPW) program were transitioned into the IPO program.

The IPW was limited to five years with a possibility of renewal; however, during that time, CMS initiated new options to allow recipients in the IPW to be served in a State Plan Option program. The new IPO program continues federal funding for the IPW population. The program criteria will continue to be the same as for the IPW.

(ACIN I-33-10, April 21, 2010)

610-0M ADDED 11/05

Services provided under the IHSS Plus Waiver shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home Supportive Services program. (W&IC §14132.951(e))

610-0N ADDED 8/05

Medi-Cal eligibility determinations and redeterminations are to be performed on all applications received by the county requesting in-home services and existing in-home service for persons who are not also eligible for SSI/SSP or other Medi-Cal linked cash-based assistance. These determinations/redeterminations are to be performed by Medi-Cal eligibility workers using Medi-Cal rules, Medi-Cal forms, and notices of action.

Individuals must be determined eligible for whatever Medi-Cal program is appropriate (e.g., Section 1931(b), Aged and Disabled Federal Poverty Level, Pickle, Medically Needy, 250 percent Working Disabled, etc) before a referral is forwarded to the IHSS unit for a needs assessment.

(All County Welfare Director's Letter 05-21. June 13, 2005).

610-0P ADDED 4/10

To be eligible for PCSP or IHSS Plus Waiver (replaced by IPO), an individual must be eligible for full scope FFP Medi-Cal. The California Department of Health Care Services (DHCS) has sole responsibility for determining who is eligible for full scope FFP Medi-Cal.

Counties must determine IHSS-R eligibility for applicants or recipients who are not eligible for full scope FFP Medi-Cal.

(ACIN I-18-08, March 12, 2008)

610-1

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Counties are responsible for informing IHSS recipients of their rights and responsibilities in relation to eligibility and need for services and for assisting recipients as needed in establishing their eligibility and need for service. Counties are also responsible for complying with administrative standards to insure timely processing of recipient requests for service. (§30-760.2)

611-1

An individual shall be considered to be disabled for purposes of IHSS-R if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months. The regulation makes reference to the disability criteria set forth in 20 Code of Federal Regulations §416, Subpart 1. (§§30-771.3 and .4)

611-1A

Individuals eligible to receive PCSP payments must have a chronic disabling condition expected to last 12 months or end in death. Personal care services may be provided only to a categorically needy beneficiary as defined in W&IC §14050.1. (§51350(b));

611-1B ADDED 12/06

In the IHSS Plus Waiver (replaced by IPO) process, presumptive disability is determined in accordance with Medi-Cal regulations located at Title 22, CCR, Division 3, Section 50167(a)(1)(C).

Additionally, for those not already determined eligible for full-scope federally funded Medi-Cal, a determination for Medi-Cal eligibility must be completed before final eligibility for the IHSS Plus Waiver can be established.

(§30-785(g)(2) and (3))

611-2

A person is eligible for IHSS-R who is living in his/her own home and who meets all SSI/SSP eligibility criteria, except for income in excess of SSI/SSP eligibility standards. (§30-755.113)

611-2A ADDED 9/08

A non-citizen victim of human trafficking, domestic violence and other serious crime as defined in the Trafficking and Crime Victims Assistance Program is eligible for IHSS-Residual if all other eligibility criteria are met. (30-770.51)

611-3

IHSS-R shall be authorized only in cases where the recipient would not be able to remain safely in his/her home without authorized In-Home Supportive Services. (§30-700.1) This regulation is based on Welfare and Institutions Code (W&IC) §12300.

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611-4

An application for services shall be in writing on a form prescribed or approved by the Department. If the request for services is received by telephone or letter, a social service staff member, with the express authorization of the applicant, may sign the application. However, such an application does not meet the requirements of 30-009.23 for establishing eligibility. Eligibility information must be verified or the applicant must sign the application statement during a face-to-face contact. (§30-009.22)

611-5

IHSS payment shall be made for authorizable services received on or after the date of application or of the request for services. (§30-759.4)

611-6

In order to be eligible for IHSS, an individual shall be a U.S. citizen, or an eligible alien pursuant to Welfare and Institutions Code (W&IC) §11104. (§30-770.41)

State law provides that:

"Aliens shall be eligible for aid only to the extent permitted by federal law. Aliens shall only be eligible for aid if the alien has been lawfully admitted for permanent residence, or is otherwise permanently residing in the United States under color of law. No aid shall be paid unless evidence as to eligible alien status is present." (W&IC §11104)

611-6A ADDED 4/10

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (PL) 104-193, as a general rule, restricts eligibility for non-citizens for all federal public benefits and bars most non-citizens from Supplemental Security Income/State Supplementary Payment (SSI/SSP), but there are a number of exceptions. PL 104-193 (as amended, and reflected in Title 8, U.S. Code (8 USC), Section 1641(b)) also established the definition for "Qualified Alien" and the New Affidavit of Support for individuals who sponsor immigrants into this country..

Non-citizens who are not Qualified Aliens are not eligible for federally funded public benefits (8 USC, Sec. 1611). Full scope Medi-Cal with federal financial participation (FFP) is one of the federal public benefits barred under these provisions.

Some non-citizens who are Qualified Aliens and entered the United States on or after August 22, 1996, are also barred from federal public benefits for five years (8 USC, Sec. 1613). Exemptions from this ban include refugees and asylees, and those who qualify for the U.S. military veteran or active duty exception.

(ACIN I-18-08, March 12, 2008)

611-6B ADDED 4/10



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Recipients who remain in the IHSS-R program are those who have been determined eligible for IHSS-R services, but who are not eligible for federally funded full-scope Medi-Cal , such as citizens under the five-year ban. (ACIN I-28-06, answer #2)

611-6C ADDED 4/10

Counties must determine IHSS-R eligibility for applicants and recipients who are not eligible for full scope Federal Financial Participation (FFP) and thus not potentially eligible for PCSP or IHSS Plus Waiver.

Welfare and Institutions Code (WIC) Section 12305.6 states that non-citizens who would be eligible for SSI/SSP but for the provisions of PL 104-193, continue to be eligible for IHSS-R. This means that any non-citizen who meets the immigration status criteria as they existed for SSI/SSP on August 21, 1996 (before enactment of PL 104-193), is potentially eligible for IHSS-R.

(ACIN I-18-08, March 12, 2008)

611-6D ADDED 4/10

Under former SSI/SSP rules, any non-citizen who was lawfully admitted for permanent residence (LAPR) or considered to be Permanently Residing Under Color of Law (PRUCOL) meets the immigration status criteria for SSI/SSP eligibility, and is potentially eligible for IHSS-R. The PRUCOL categories and verification requirements can be found in 20 CFR 416.1618 WIC Section 12305.6 makes all Qualified Aliens and SSI/SSP PRUCOLs potentially eligible for IHSS-R regardless of entry date or length of U.S. residence. Some of the former SSI/SSP PRUCOL categories now meet the current definition of Qualified Alien.

Counties may accept the following Medi-Cal “Ref/Alien Ind” codes as proof of non-citizen status that meets the former SSI/SSP criteria:

C Conditional entrant  
D Deportation Withheld  
E, F, R Refugees  
K Lawful Permanent Resident  
L Asylee

In addition, Senate Bill 1569 (Chapter 672, Statutes of 2006) made certain victims of human trafficking, domestic violence and other serious crimes potentially eligible for IHSS-R. Examples of non-citizens who would be ineligible for IHSS-R because they do not meet one of the PRUCOL definitions include:

- Non-immigrants, such as students or visitors on temporary 6 month visas
- Undocumented non-citizens
- Applicants for a status other than lawful permanent residence, such as those with a pending application for asylum.

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(ACIN I-18-08, March 12, 2008)

611-6E ADDED 4/10

For IHSS-R, non-citizens are subject to the SSI/SSP sponsor deeming provisions.

Most, but not all, lawfully admitted for permanent residence (LAPRs) have a sponsor. For SSI/SSP and IHSS-R, the length of the sponsor deeming period depends on the type of Affidavit signed. Under the Old Affidavit (I-134), sponsor deeming lasts for three years from the date of lawful admission. Under the New Affidavit (I-864), sponsor deeming lasts until the immigrant naturalizes or can be credited with 40 quarters of work. The I-864 was introduced on December 19, 1997, but the Old Affidavit was still used for some immigrants lawfully admitted after that date. Sponsor deeming makes most, but not all immigrants ineligible for IHSS-R due to excess income or resources.

The calculation of deemed income and resources from a sponsor for IHSS-R follows the methodology used for the SSI/SSP program and can be found in 20 CFR 416.1166a and 416.1204. These rules are reflected on the State form SOC 811 that should be used to calculate income and resources deemed from a sponsor. A sponsor's income is not subject to any of the regular or deemed income exclusions. When an immigrant is subject to sponsor deeming, the county must obtain a statement of facts regarding the sponsor's income and resources.

(ACIN I-18-08, March 12, 2008)

611-6F ADDED 4/10

Institutionally deemed persons may not qualify for the IHSS-R program because the income and resources of the parent or spouse must be considered in determining eligibility. (ACL 00-83)

611-7

Federal regulations explain how to prove a person is lawfully admitted for permanent residence in the United States. Persons can provide:

1. An Alien Registration Receipt Card (Immigration and Naturalization (INS) Form I-151 or I-551, including temporary I-551s which are stamped in a passport or on INS Form I-94 (Arrival-Departure Record) for aliens admitted under §§204, 206, or 245 of the Immigration and Nationality Act (INA), and the earlier version INS Form AR-3 or AR-3a).
2. A reentry permit.
3. An alien identification card showing admission to the Northern Mariana Islands for permanent residence.
4. INS Form 688 showing a grant of lawful temporary resident status under §210 or 210A of the INA.

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(20 Code of Federal Regulations (CFR) §416.1615(a))

Federal regulations provide that individuals are permanently residing in the United States under color of law (PRUCOL) if they are aliens residing in the United States with the knowledge and permission of the INS and the agency does not contemplate enforcing departure of the alien. Types of verification of PRUCOL status are set forth in 20 CFR §416.1618(b)-(e). (20 CFR §416.1618(a))

611-8

Persons applying for IHSS-R who do not receive SSI shall meet the SSI/SSP eligibility standards except as modified in §30-755.1. (§30-770.1)

Detailed eligibility standards shall be those located in 20 Code of Federal Regulations §416, except as modified by IHSS regulations beginning with §30-750. (§30-770.2)

611-9

It is the CDSS position that "since SSI/SSP law and regulations govern IHSS-R income eligibility, these [SSI/SSP] changes also affect IHSS-R." (emphasis added)

On this basis, and without changing any state regulations, the CDSS issued an All-County Letter (ACL) which changes resource evaluations. Under this ACL, the county could impose up to a 36-month penalty, effective December 14, 1999, for resources which were transferred for less than fair market value, whether or not the individual was notified of this rule in accord with §30-760.2. This ACL also states that effective December 14, 1999, assets held in certain trusts may be counted as resources.

(ACL No. 00-35, May 19, 2000)

611-10 ADDED 9/08

To be eligible for PCSP or IPW, an individual must be eligible for full scope FFP Medi-Cal. The California Department of Health Care Services (DHCS) has sole responsibility for determining who is eligible for full scope FFP Medi-Cal.

Welfare and Institutions Code (WIC) Section 12305.6 states that non-citizens who would be eligible for SSI/SSP but for the provisions of Public Law 104-193, continue to be eligible for IHSS-Residual (R). This means that any non-citizen who meets the immigration status criteria as they existed for SSI/SSP on August 21, 1996 (before enactment of PL 104-193), is potentially eligible for IHSS-R.

Under those former SSI/SSP rules, any non-citizen who was lawfully admitted for permanent residence (LAPR) or considered to be Permanently Residing Under Color of Law (PRUCOL) meets the immigration status criteria for SSI/SSP eligibility, and is potentially eligible for IHSS-R. The PRUCOL categories and verification requirements can be found in 20 CFR 416.1618.

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(ACIN I-18-08, March 12, 2008)

**612-0 MODIFIED**

12/15 Under PCSP and CFCO, there is no Non-Severely Impaired (NSI)/Severely Impaired (SI) distinction; all cases are eligible for a maximum of 283 hours, with the following PS exception. If the PCSP/CFCO recipient is NSI and eligible for PS, a maximum of 195 hours can be authorized for protective supervision, the remaining service needs may be authorized, up to a maximum of 283 hours, for other PCSP/CFCO services.

(ACIN I-28-06, April 11, 2006, answer to question 15, All-County Letter No. 14-60, August 29, 2014)

**612-1**

A "severely impaired" individual is a recipient with a total assessed need for 20 or more hours per week in one or more of the following areas:

1. Nonmedical personal services, listed in §30-757.14:
  - (a) bowel and bladder care
  - (b) respiration
  - (c) consumption of food (feeding)
  - (d) routine bed baths
  - (e) bathing, oral hygiene and grooming
  - (f) dressing
  - (g) rubbing of skin to promote circulation, etc.
  - (h) moving into and out of bed
  - (i) care of and assistance with prosthesis and assistance with self-administration of medicines
  - (j) routine menstrual care
  - (k) ambulation
2. Meal Preparation
3. Meal cleanup when preparation of meals and feeding are required.
4. Paramedical services.

(§30-701(s)(1))

**612-2 REVISED 7/06**

The maximum IHSS hours which may be authorized for a recipient who is severely impaired are 283 hours per month. Effective April 14, 2000, the CDSS repealed Handbook §30-765.112, which contained the maximum allowable dollar payments.

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A severely impaired person is someone who needs 20 or more hours of service per week in the areas specified in §30-701(s)(1).

(§30-765.11 and .111 Handbook;)

612-3

Severely impaired recipients (as defined in §30-753(s)(1) shall have the option of choosing to directly receive their payment at the beginning of each authorized month. Such payment shall be the net amount exclusive of the appropriate withholdings. It shall be the responsibility of the recipient who receives payment in advance to submit his/her provider's timesheets at the end of each authorized service month to the appropriate county social services office. (§30-769.73)

612-4 REVISED 7/06

The maximum monthly IHSS authorization for a nonseverely impaired individual is 195 hours. Effective April 14, 2000, the CDSS repealed Handbook §30-765.122, which contained the maximum allowable dollar payments. (§30-765.12 and .121 Handbook)

612-5 ADDED 7/06

Under IHSS-R, .Non-Severely Impaired (NSI) recipients may receive up to a total of 195 hours, including any needed protective supervision. (WIC 12303.4(a), MPP 30-765.12). The entire 195 hours can be for protective supervision if no other needed services are paid for by IHSS.

Severely Impaired (SI) recipients may receive up to a total of 283 hours, including any needed protective supervision. (WIC 12303.4(b), MPP 30-765.11).

612-6

State law gives the CDSS the authority, to the extent permitted by federal law, to waive regulations and general policies and make resources available which are necessary for the administration of Welfare & Institutions Code (W&IC) §9560 and following. (W&IC §9562(b))

Pursuant to this authority, the CDSS has authorized the MSSP to supplement their clients' IHSS awards as follows:

(a) For cases authorized to receive the statutory maxima, there will be no reduction in the authorization of services when the MSSP grants an additional level of services above the IHSS maxima.

(b) For cases assessed at a level less than the maxima, additional hours authorized by the MSSP will not be considered an alternative resource, and IHSS will be authorized at the previously determined need level.

(All-County Letter No. 00-34, May 19, 2000)

612-7

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Personal care services shall not exceed 283 hours in a calendar month. (§51350(b); see also Manual of Policies and Procedures Handbook §30-780.2(b))

There is no dollar maximum limit. (All-County Letter No. 95-42, August 11, 1995)

**612-8 REVISED**

1/15

Under PCSP and CFCO, there is no Non-Severely Impaired (NSI)/Severely Impaired (SI) distinction; all cases are eligible for a maximum of 283 hours. If 195 hours are authorized for protective supervision, the remaining service needs may be authorized, up to a maximum of 283 hours, for other PCSP services.

(ACIN I-28-06, April 11, 2006, answer to question 15, All-County Letter No. 14-60, August 29, 2014)

**612-9 ADDED 7/06**

Under the IHSS Plus Waiver, Non- Severely Impaired recipients may receive up to a total of 195 hours, including any needed protective supervision. (WIC 12303.4(a), MPP 30-765.12). The entire 195 hours can be for protective supervision if no other needed services are paid for by IHSS.

Severely Impaired recipients may receive up to a total of 283 hours, including any needed protective supervision. (WIC 12303.4(b), MPP 30-765.11)

(ACIN I-28-06, April 11, 2006, answer to question 15)

**613-1**

Prior to March 27, 2000, a person's "own home" was defined in state regulations as the place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, Skilled Nursing Facility/Intermediate Care Facility, community care facility, or board and care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his or her own home. (§30-701(o)(2)), renumbered from §30-753(o)(2), November 14, 1998; revised March 27, 2000)

The regulations cited above were revised but then reinstated because the amended regulations had been issued without meeting the requirements of the Administrative Procedures Act. (Lubahn v. Saenz, Preliminary Injunction, Sacramento Superior Court, June 2, 2000)

**613-1A**

Under state law, the purpose of the IHSS Program is to provide those supportive services to Aged, Blind and Disabled (ABD) persons who are unable to perform the services themselves and "who cannot safely remain in their homes or abodes of their own choosing unless these services are provided." (W&IC §12300(a))

**613-1B**

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In a case involving whether a California veteran should have a particular piece of property treated as the veteran's home, the Court of Appeals discussed the issue in the following manner:

"The word 'home' is defined in the dictionary as:

"(T)he house and grounds with their appurtenances habitually occupied by a family; one's principal place of residence; DOMICILE." (Webster's Third New International Dict. (1971), G. & C. Merriam Co.) "Home", def. 1a, p. 1082.) The word home is '[a] relative term, whose meaning must often necessarily depend on the intent as determined by the context; and which may be, and is, often used in different sense...., a dwelling house, or dwelling place; a household; the house in which one lives, especially the house in which one lives with his family; the habitual abode of one's family; the place of constant or permanent residence; the place in which, when weary, one can go and rest; the place where one and his family habitually dwell, which they may leave for temporary purposes, and to which they return when the occasion for absence no longer exists; the place where one permanently resides, and to which he intends to return when away from it; residence; some permanent abode or residence where the person residing intends to remain.' (40 C.J.S. "Home," pp. 415-419, footnotes omitted.) The concept of a home has traditionally meant the place of constant residence; the seat of one's family life. (See Estate of Baird (1924) 193, Cal, 225, 285, 223 P. 974.) 'Home is the place where a person dwells and which is the center of his domestic, social and civil life.' (Rest. 2d Conf. Of Laws, §12.)"

(Nadler v. California Veterans Board (1984) 152 Cal. App. 3d 707, 199 Cal. Rptr. 546)

The word "abode" is defined as a place in which a person resides; residence; dwelling; home; or an extended stay in a place; sojourn. (Random House Websters College Dictionary, 1996 Edition)

#### 613-1D

On June 2, 2000, the Sacramento County Superior Court stayed, enjoined and prohibited the CDSS "from implementing the emergency regulations denying eligibility for In-Home Supportive Services to people who are homeless, including people who live in homeless shelters, transitional housing, and welfare motels as provided for in regulation package ORD #0300-07, including but not limited to new Manual of Policy and Procedure §30-701(o) until such time as these regulations are promulgated in accordance with the requirements of the California Administrative Procedures Act, Gov. Code §§11340 et seq., including the opportunity for public review and comment." (Lubahn v. Saenz, Preliminary Injunction, Case No. 00C500726, Sacramento County Superior Court, June 2, 2000)

#### 613-1F

The CDHS has defined a "home" as real or personal property, fixed or mobile, located on land or water, in which a person or family lives. (§50044)

#### 613-2

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A "shared living arrangement" is a situation in which one or more recipient(s) resides in the same living unit with one or more persons. A shared living arrangement does not exist if a recipient is residing only with his or her able and available spouse. (§30-701(s)(2), renumbered from §30-753(s)(2), November 14, 1998)

613-3

A "housemate" is defined as a person who shares a living unit with a recipient. An able and available spouse or live-in provider is not considered a housemate. (§30-701(h)(2), renumbered from §30-753(h)(2), November 14, 1998)

613-4

A "landlord/tenant living arrangement" exists when there is a shared living arrangement and one housemate (the landlord) allows another housemate (the tenant) to share housing facilities in return for monetary or in-kind payments. The landlord/tenant arrangement is not considered to exist between a recipient and his/her live-in provider. (§30-701(l)(6), renumbered from §30-753(l)(6), November 14, 1998)

613-5

A "live-in provider" is defined as an individual who is not related to the IHSS recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services. (§30-701(l)(3), renumbered from §30-753(l)(3), November 14, 1998)

613-6

Related services (meal preparation and cleanup, menu planning, laundry, and shopping and errands) shall be prorated to all the housemates involved when the need is being met in common with other housemates. When the service is not being provided by a housemate, and is being provided separately to the recipient, the assessment shall be based on the recipient's individual need. (§30-763.32)

613-6A ADDED 6/08

If an IHSS recipient chooses to eat meals separately from other family members residing in the home, must the IHSS recipient's needs be prorated unless the recipient has a health and safety need requiring his/her meals to be prepared separately?

A: No, these services do not have to be prorated. The regulation does not require that there be a health and safety reason for the recipient to eat meals separately. Consequently, the recipient may have meals provided separately in this situation solely because he/she chooses to eat separately. (All County Letter 08-18, April 23, 2008, question and answer 11)

613-7

To assess need for IHSS recipients who live in shared living arrangements the following procedures are used for domestic services and heavy cleaning: No need shall be assessed for areas not used by the recipient. In common living areas, the recipient's need shall be his/her



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prorated share. For areas used solely by the recipient, the assessment shall be based on his/her individual need. (§30-763.31)

613-8

When the IHSS recipient is a parent living with his or her child(ren) who is under 14 years of age and which child(ren) is not eligible or does not need IHSS, the recipient's need for domestic and heavy cleaning services in common living areas, and for related services, shall be assessed as if the child(ren) did not live in the home. (§30-763.46)

613-9 ADDED 6/13

:When two (or more) IHSS recipients are living together and both require protective supervision, the need shall be treated as a common need and prorated accordingly. In the event that proration results in one recipient's assessed need exceeding the payment and hourly maximums provided in Section 30-765, the apportionment of need shall be adjusted between the recipients so that all, or as much as possible of the total common need for protective supervision may be met within the payment and hourly maximums. ( MPP 30-763.331)

614-1 REVISED

7/15

When the recipient is under eighteen years of age and is living with the recipient's parent(s), who has a legal duty pursuant to the Family Code to provide for the care of his/her child, IHSS may be purchased from a provider other than the parent(s) when no parent is able and available to provide the IHSS services for any of the following reasons, and services must be provided during the inability or unavailability of the parent(s):

- 1) When the parent(s) is unavailable because of employment or is enrolled in an educational or vocational training program.
- 2) If the parent(s) is physically or mentally unable to provide the needed IHSS services.
- 3) When the parent is unavailable because of on-going medical, dental or other health-related treatment
- 4) When the parent(s) must be unavailable to perform shopping and errands essential to the family, search for employment, or for essential purposes related to the care of the recipient's minor siblings

IHSS may be purchased from a provider other than the parent(s) for up to eight hours per week to perform IHSS tasks necessary during the unavailability of the parent(s).  
(§30-763.44)

614-2

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REVISED

7/16 When the recipient is under eighteen years of age and is living with the recipient's parent(s), who has a legal duty under the Family Code to provide for the care of his/her child, the IHSS specified in Section 30-763.456 may be purchased from a parent under the following condition when:

- 1) the parent has left full-time employment or is prevented from obtaining full-time employment because of the need to provide IHSS to the child;
- 2) no other suitable provider is available; and
- 3) the inability of the parent to perform supportive services may result in inappropriate placement or inadequate care.

A parent provider who meets the requirements in Section 30-763.451 shall be paid for performing authorized services regardless of the presence of the other parent in the home, including non-work hours, weekends, and holidays.

Full-time employment means working an average of 40 or more hours per week regardless of worksite location. A parent providing IHSS-funded care to his/her own child is not full-time employment.

A suitable provider is any person who is willing, able, and available to provide the needed IHSS. A suitable provider who is a person having a duty pursuant to the Family Code need only be able and available to provide the needed IHSS; the person is only considered to be unavailable if that unavailability occurs during a time the recipient must receive a specific service, for the following reasons: employment, enrollment in an educational or vocational training program, or employment searches.

(§30-763.45)

614-3 ADDED

7/15 Former MPP Section 30-763.453(c) prohibited payment for the provision of IHSS to a provider parent when a non-provider parent was present in the home. The Director determined that this provision was beyond the scope of Welfare and Institutions Code Section 12300(e) and issued new regulations effective January 1, 2015 which removed this restriction. (ACL 15-45, May 1, 2015)

614-3A MODIFIED

12/15 Where supportive services are provided by a person having the legal duty pursuant to the Family Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves

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full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

These providers shall be paid only for the following:

- (1) Services related to domestic services.
- (2) Personal care services.
- (3) Accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites.
- (4) Protective supervision only as needed because of the functional limitations of the child.

(Welfare and Institutions Code (W&IC) §12300 (e))

Within the meaning of the above statute, "services related to domestic services" are distinct from domestic services themselves. (Welfare and Institutions Code (W&IC) §12300 (b))

614-4 ADDED 6/08

A parent can be paid to provide the following services:

- (a) Related services, as specified in Section 30-757.13
- (b) Personal care services, as specified in Section 30-757.14
- (c) Assistance with travel, as specified in Section 30-757.15
- (d) Paramedical services, as specified in Section 30-757.19
- (e) Protective supervision, as specified in Section 30-757.17, limited to that needed because of the functional limitations of the recipient. This service shall not include routine child care of supervision.

(§30-763.454)

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614-5 ADDED 6/08

All services authorized for minors, regardless if performed by a parent or a non-parent provider, must be assessed based upon disability, and not upon their age. (W&IC §12300(a) and ACIN #I-28-06.)

614-6

When an IHSS recipient lives with a non-IHSS recipient spouse, the following rules apply:

(a) When an IHSS recipient has a spouse who does not receive IHSS, the spouse shall be presumed able to perform certain specified tasks unless he/she provides medical verification of his/her inability to do so.

(b) An able spouse of an IHSS recipient shall be presumed available to perform certain specified tasks except during those times he/she is out of the home for employment, health or for other unavoidable reasons and the service must be provided during his/her absence.

(c) When the recipient has an able and available spouse there shall be no payment to the spouse or any other provider for the following services as described in 30-757:

- (1) Domestic
- (2) Related Services
- (3) Yard Hazard Abatement
- (4) Teaching and Demonstration
- (5) Heavy Cleaning

(d) When the able spouse is not available because of employment, health, or other unavoidable reasons, a provider may be paid for the following services only if they must be provided during the spouse's absence:

- (1) Meal Preparation
- (2) Transportation
- (3) Protective Supervision

(e) An able and available spouse or other provider may be paid for providing:

- (1) Personal Care Services
- (2) Paramedical Service

(f) In addition to those services listed in (e) above, a spouse may be paid to provide the following services when he/she leaves full-time employment or wishes to seek employment but is prevented from doing so because no other suitable provider is available:

- (1) Transportation
- (2) Protective Supervision

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(§30-763.41)

614-6A REVISED 9/09

Q. Are Common Law Spouses considered spouses for purposes of IHSS?

A: For purposes of determining Personal Care Services Program (PCSP) and Independence Plus Waiver (IPW) eligibility, MPP Section 30-701(s)(4) defines a spouse as a person legally married under the laws of the state of the couple's permanent home at the time they lived together.

For purposes of SSI, a spouse is someone: (1) legally married under the laws of the state where the permanent home is located; (2) entitled to husband or wife's Social Security Insurance benefits as the spouse of the other; or (3) persons of the opposite sex living together in the same household holding themselves out to their community as husband and wife. Therefore, if any of the above circumstances apply, the person would be considered a spouse for purposes of IHSS-(Residual).

(All County Letter 08-18. April 23, 2008, question and answer 5)

The IHSS program has two parts to its definition for spouse found in the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Section 30-701(s)(4). The second part of the definition, "legally married under the laws of the state of the couple's permanent home at the time they lived together" (legally married criteria), is intended only to determine whether or not services are provided by a spouse. This determines which program is appropriate, the Personal Care Services Program (PCSP), which prohibits a recipient's spouse from acting as the provider, or the IHSS Plus Waiver (IPW), which does not.

For all other purposes, including the assessment of hours for services, especially when assessing hours for Domestic and Related services, all three sub-programs apply the IHSS Residual (IHSS-R) definition. The IHSS-R definition is the first part of MPP Section 30-701(s)(4), and defines a spouse as a "member of a married couple, or considered to be a member of a married couple for SSI/SSP purposes." The SSI/SSP definition can be found in Title 20 of the Code of Federal Regulations (20 CFR) 416.1806. It includes the holding out criteria, which is created when two unrelated people of the opposite sex are living together in the same household, and present themselves to the community (hold themselves out) as a married couple. When authorizing hours for services, an individual will be considered a spouse for the purposes of MPP Section 30-763.41 (Able and Available Spouse) whether the couple is legally married under the laws of the State, entitled to each other's Social Security insurance benefits as spouses, or a holding-out spousal relationship exists according to SSI/SSP rules.

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This is based in part on Welfare and Institutions Code Sections 14132.95(f), (i) and 14132.951(e), which indicate that determination of need and authorization for services for PCSP and IPW cases shall be performed in accordance with IHSS-R rules.

(ACL 09-30, June 30, 2009 clarifying the answer to ACL 08-18)

614-7 ADDED 7/10

“Whatever the phrase ‘full-time employment’ may mean, it does not mean, for purposes of section 12300(e), the full-time provision of IHSS-funded care by a parent.”

(Basden v Wagner, 181 Cal. Application. 4th, 929; 104 Cal. Rptr. 3d 394 (2010))

614-8 ADDED 9/07

When the recipient is an institutionally deemed child, a non-parent provider may provide PCSP services even if the parent is present in the home. (All County Letter 00-83, December 7, 2000.)

614-9 ADDED 7/06

Parents can work out of the home and still be an IHSS Plus Waiver (now IPO) provider as long as they are not working full-time. MPP 30-763.451(a) requires that to be a paid provider, the parent has left full-time employment or is prevented from obtaining full-time employment because of the need to provide in home supportive services to the child.

Two parents who both work full-time cannot be paid for services in the IPO during the hours they are home in the morning and evening. In order for parents to be paid providers, they must meet the criteria in MPP 30-763.45. MPP 30-763.451(a) requires that the parent has left full-time employment or is prevented from obtaining full-time employment because of the need to provide IHSS to the child.

(ACIN I-28-06, April 11, 2006, answers to questions 6 and 8)

614-10 ADDED 7/06

Institutional Deeming (ID) Waiver recipients are eligible for the IHSS Plus Waiver (IPW) 9 now IPO) as long as the recipient meets all IPW eligibility criteria. ID Waiver cases were previously served in the PCSP, as PCSP is a Medi-Cal benefit. With the implementation of the IPW (also a Medi-Cal benefit) on August 1, 2004, these cases may now be covered under either PCSP or the IPW, depending on the eligibility criteria. If ID Waiver cases meet IPO criteria (i.e. parent or spouse provider, receives advance pay or restaurant meal allowance), then the case would be served under the IPW. Spouses and parents of minor children, therefore, can be paid providers under the IPW, regardless of how the recipient qualified for federally funded full-scope Medi-Cal.

Parents of minor children whose Medi-Cal eligibility is through the ID Waiver are eligible to provide all authorized services, including Protective Supervision under the IPO. Persons whose Medi-Cal eligibility is through the ID Waiver are eligible to receive Protective Supervision under PCSP also, as long as the parent or spouse is not the provider.

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(ACIN I-28-06, April 11, 2006, answers to questions 10 and 11)

616-1

The county shall insure that contractors who provide IHSS guarantee the continuity and reliability of service to recipients, supervision of service providers, and that each service provider is capable of and is providing the service authorized. (§30-767.122)

616-2

IHSS can be obtained through the purchase of such services from individuals. The county is required to make a reasonable effort to assist the recipient to obtain a service provider when the recipient is unable to obtain one individually. (§30-767.13)

616-3

In the payrolling system for individual providers, the county is required to enter prescribed data on all recipients and providers into the payrolling system; change data as necessary to ensure correct payment to the payrolling contractor by reviewing and resolving discrepancies set forth on the timesheets; retain completed timesheets in such a manner that they are easily accessible for review; and respond to and resolve payment inquiries from recipients and providers. The payrolling contractor will provide all necessary information. The county has the authority for initiating emergency and supplemental checks when an emergency situation exists or in other unusual situations not provided by the regular payrolling process. (§§30-769.24 and .25)

616-4

To insure quality of service delivery, social service staff shall offer services appropriate to the needs of the individual or family. (§30-009.21)

616-5 ADDED 7/10

Assembly Bill, Fourth Extraordinary Legislative Session (ABX4) 19 (Chapter 17, Statutes of 2009), added various sections to Welfare and Institutions Code (W&IC) to establish additional enrollment requirements for all IHSS providers. Under these new provisions, in addition to completing the revised SOC 426, all current and prospective providers must:

- 1) Submit fingerprints and undergo a criminal background check by the California Department of Justice (DOJ);
- 2) Attend a provider orientation providing information about the rules, regulations and requirements for being an IHSS provider - (Other options for current providers to receive orientation information will also be available.); and 3) Sign a provider agreement stating that they understand and agree to the rules of the program and responsibilities of being a provider.

ABX4 19 added a new requirement for CDSS to develop a written appeal process for the current and prospective providers who are determined ineligible to receive payment for the provision of services in the IHSS program. The provider may appeal any action at the following address (not the State Hearings Division):

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California Department of Social Services  
Adult Programs Branch  
IHSS Provider Enrollment Appeals, MS 19-04  
PO Box 944243  
Sacramento, CA 94244-2430

For further questions about your request for appeal, the provider may contact the IHSS Provider Enrollment Appeals Unit at 916/556-1156.

(ACL 09-52, October 1, 2009)

**616-6 ADDED**

1/15The county shall arrange for the provision of IHSS through one or more of the following methods in accordance with an approved county plan: 1. county employment of service providers in accordance with established county civil service requirements or merit system requirements; 2. county contract for purchase of services from an agency in accord with requirements established in the MPP; 3. purchase and payment of services from an individual through the statewide IHSS Case Management, Information and Payrolling System (CMIPS). (§30-767.1)

**616-7 ADDED**

1/15A personal care services provider is that individual, county employee, or county contracted agency authorized by DHCS to provide personal care services to eligible Medi-Cal beneficiaries. An individual provider shall not be a family member, which for purposes of this section means the parent of a minor child or a spouse. (22 CCR §51181)

**616-8**

All providers of personal care program services must be approved by the Department of Health Services (DHS) and shall sign the "Personal Care Program Provider/Enrollment Agreement" form designated by DHS, agreeing to comply with all applicable laws and regulations governing Medi-Cal and personal care service. (§§51483.1 and 51204)

**616-9**

PCSP beneficiaries shall be given a choice of service provider who meets personal care provider requirements. (51483.1)

The beneficiary, the beneficiary's personal representative or the legal parent or guardian (if the beneficiary is a minor) shall certify on the provider enrollment document that the provider is considered to be qualified to provide personal care. (§51204(a); see also Manual of Policies and Procedures Handbook §30-767.4)

**616-10**



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Contract agency personal care providers shall be selected in accord with Welfare and Institutions Code §12302.1. (§51204(b); see also Manual of Policies and Procedures Handbook §30-767.4(b))

616-11

A provider of personal care services who has a grievance or complaint may initiate an appeal within 90 days of the action precipitating the grievance or complaint to the county department. A provider who is dissatisfied with the decision of the county department may seek judicial remedy pursuant to W&IC 14104.5 (§51015.2; see also MPP Handbook §30-767.5)

616-12 ADDED

5/16An applicant provider shall not be required to complete the enrollment requirements specified in Sections 30-776.41, 30-776.42, 30-776.43, and 30-776.44 more than once, provided that he/she remains active and continuously enrolled as a provider. Active shall be defined as having submitted at least one (1) timesheet for providing services to any recipient statewide during a period of twelve (12) consecutive months.  
(§30-776.46)

616-13 ADDED

5/16Retroactive payment from the IHSS program for authorized services provided by an individual prior to completion of the enrollment requirements shall be limited to a maximum of 90 calendar days back from the date the individual completes the enrollment requirements and is enrolled as a provider by the county. (30-776.32)  
The county shall extend the period for which an individual may be paid retroactively by an additional 45 calendar days for "good cause," as specified in Section 30-776.23. (30-776.321)

617-1

The county shall have the right to change from one to another of the delivery of service methods or from payment in advance to payment in arrears when:

- (1) It has been determined that a recipient is using his/her payment for other than the purchase of authorized services;
- (2) The recipient has failed to submit time sheets within 90 days from the date of payment;  
or
- (3) The recipient has not provided timely payment to his/her providers.

(§30-767.133)

619-1

The California Court of Appeals has held that the county is required to issue retroactive benefits when IHSS benefits have been wrongfully denied. This remedy applies even if the claimant has

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not received services during the period of the wrongful denial. (Leach v. Swoap (1973) 35 Cal.App.3d 685, 110 Cal.Rptr. 62)

619-2

An overpayment in the IHSS Residual program occurs when IHSS Residual benefits were delivered in an amount to which the recipient was not entitled. Aid pending a state hearing is not an overpayment and cannot be recovered. (§30-768)

Note that If the case involves the IPO/PCSP program, Medi-Cal regulations apply as described in §30-768.5.

619-3

The repayment liability of the recipient shall be limited to the amount of liquid resources and income excluded or disregarded by SSI/SSP. (§30-768.311)

619-4

IHSS overpayments can be recovered using any one or a combination of the following methods:

- (a) Balancing it against a repayable underpayment. But if the underpayment is discovered and payable prior to the time that an overpayment is discovered and adjustable, it cannot be balanced against the overpayment.
- (b) Payment adjustment in which the county reduces payment for future authorized services to offset an overpayment. If the service payment is reduced to adjust for previous overpayments, the recipient shall be responsible for paying the current month's adjustment amount to the service provider in addition to any share of cost.
- (c) Voluntary cash recovery whereby repayment is voluntarily made to the county by a recipient who has incurred an overpayment.
- (d) Civil judgment. The county shall have the authority to demand repayment and file suit for restitution for any unadjusted portion of an overpayment.

(§30-768.32)

619-5

The Court of Appeal determined that Administrative Law Judges (ALJs) had the authority to award interest in conjunction with the issuance of retroactive benefits. (Knight v. McMahon (1994) 26 Cal.App. 4th 747)

On August 29, 1996 the California Supreme Court held that Unemployment Insurance ALJs did not have the authority to award interest. The Court held that those ALJs had no such authority. The Court specifically disapproved the Knight case, to the extent that it allowed CDSS ALJs to award interest. Thus, CDSS ALJs may no longer authorize interest payments when retroactive

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aid is ordered, effective September 29, 1996. (AFL and CIO v. Unemployment Insurance App. Bd. (1996) 13 Cal. 4th 1017, 56 Cal. Rptr. 2d 109; All-County Information Notice No. I-52-96, September 25, 1996)

619-6 ADDED 12/06

For purposes of determining overpayments, action on overpayments and demand for repayment for an IHSS Plus Waiver recipient, DHS regulation Sections 50781, 50786 and 50787 (MPP Handbook Sections 30-768.5, .6 and .7) shall apply.

(§30-785(o))