

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



October 22, 2001

ALL-COUNTY LETTER NO.: 01-74

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS**REASON FOR THIS TRANSMITTAL**

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

SUBJECT: CARE AND SUPERVISION BY A CLOSE FRIEND
EXEMPTION FROM LICENSURE

The purpose of this All-County Letter is to inform counties of the effect of a Court of Appeals decision in Grimes vs. Anderson that can impact eligibility for the In-Home Supportive Services/Personal Care Services Program (IHSS/PCSP).

In this court decision it was determined that the Department's Community Care Licensing Division (CCLD) must exempt from licensing as a Residential Care Facility for the Elderly, or as an Adult Residential Facility, an arrangement where care and supervision of a person or persons from one family is provided by a close friend, if the close friend is not licensed. For your information, we have attached a CCLD Regional Managers/District Office Residential Managers letter that provides instructions to CCLD staff for investigating situations such as the Grimes case.

County Responsibilities:

When processing applications for IHSS/PCSP in situations that resemble the Grimes case where the applicant is living in the same residence with a close friend who is providing care and supervision for the applicant, the county IHSS/PCSP staff should refer these cases to a CCLD district office. The CCLD district office will then determine whether or not these living arrangements are subject to a CCLD license. We have attached a list of CCLD district offices for your information.

The CCLD will notify county IHSS/PCSP staff of their determination if they determine that the arrangements do not require a license. Then it becomes the responsibility of the county IHSS/PCSP staff to continue to process the recipient's application for program services. If CCLD determines that the arrangement does require a license,

Then CCLD will notify the county of their decision, and the county IHSS/PCSP staff will then notify the applicant that they are not eligible for IHSS/PCSP program services.

If you have questions regarding this letter, you may contact your operations and Technical Assistance Analyst at (916) 229-4000.

Sincerely,

Original Document signed by

Donna L. Mandelstam
Deputy Director
Disability and Adult Program Division

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

(916) 322-8097

September 23, 1999

TO: REGIONAL MANAGERS
DISTRICT OFFICE RESIDENTIAL MANAGERS

FROM: CAROLE JACOBI, Chief
Policy Development Bureau

**SUBJECT: CARE AND SUPERVISION BY A CLOSE FRIEND
EXEMPTION FROM LICENSURE**

The purpose of this memo is to provide information about a Court of Appeal decision against the Department that will impact future decisions regarding exemption from licensure. Based on the decision, amendments to the Residential Care Facilities for the Elderly (RCFE) and Adult Residential Facilities (ARF) regulations are being developed.

In this case, a disabled woman (Tracy Grimes), who had been living at a licensed adult residential facility in Los Angeles, moved into the rented home of a family she described as close, loving friends (the Hannas), who were providing her care and supervision. Grimes' application for In-Home Support Services was denied by Community Care Licensing based on the finding that Grimes was living in an unlicensed care facility. Toe Hannes' request for an exemption from licensure was denied by the Department, based on the lack of blood or legal relationship between the parties. The trial court affirmed the Department's decision denying the request for exemption. The Court of Appeal reversed the decision. Since the Grimes decision, the case has been cited as a caselaw precedent in similar cases in the Department's Hearings Division

The regulations being proposed will allow any arrangement for the care and supervision of a person or persons from only one family by a close friend who is not a licensee of an RCFE or an ARF, and whose friendship preexisted a provider/recipient relationship, as long as all of the following conditions are met

1. The care and supervision is provided in a home or residence chosen by the recipient, regardless of who owns the home or residence.
2. The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the; provider is only for the value of the services rendered.
3. The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being met

A definition of "close friend" is also being added to the RCFE and ARF regulations. This definition will describe a dose friend as a-person who is attached to another by feelings of personal regard as indicated by both parties involved.

Until the regulations are adopted, Licensing Program Analysts (LPAs) should use the criteria described above to determine whether the living arrangement is exempt from licensure. The determination of close friend will be established by asking both parties whether they consider their relationship to fit the definition of close friend. The LPA should document the response on the Detailed Supportive Information form, LIC 812. No other documentation or verification of the relationship is needed.

If you have any questions regarding this policy memo, please contact Sharon Anderson, Policy Analyst, at (916) 324-4170.

Attachment

[California Community Care Licensing Regional Offices](#)