

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



October 5, 1998

ALL COUNTY LETTER NO: 98-79

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 CDSS

SUBJECT: **INTERIM EMERGENCY REGIONAL CENTER FUNDED SERVICES ARE NOT ALTERNATIVE RESOURCES UNDER THE IN-HOME SUPPORTIVE SERVICES AND PERSONAL CARE SERVICES PROGRAMS**

This All-County Letter informs counties of changes in the In-Home Supportive Services (IHSS) Program which resulted from the settlements of the following court cases: Gordilla v. Anderson; Christensen v. Anderson; and Stone, et al. v. Anderson. Judgments were served on all three of these cases on July 2, 1998. Under the terms of these judgments, the receipt of interim, emergency regional center funded services, which are available under Welfare and Institutions Code (WIC) sections 12300(b) and (c), 12300.1 and 14132.95(d) and are provided pending an award of IHSS/Personal Care Services Program (PCSP) services, is not a basis for denying eligibility or granting reduced hours of IHSS/PCSP services. These Regional Center services are not alternative resources pursuant to WIC section 12301(a) when the person with the developmental disabilities or the regional center reports that: (1) the services are being provided on an interim basis pending a determination of the person's eligibility for IHSS/PCSP; and (2) the interim Regional Center funded supported living or in-home services will cease upon initiation of those services by the County IHSS/PCSP program. Please note that the consent of the recipient or their legal representative is currently required before recipient information can be shared with Regional Centers.

Regional Center funded services which support a consumer in his/her own home, and are not available under WIC sections 12300(b) and (c), 12300.1 and 14132.95(d), shall not be used as a basis to deny eligibility for or reduce the number of hours of IHSS/PCSP services at any time. As previously determined in the Arp v. Anderson judgment, which was communicated in All County Letter Number 98-53, IHSS/PCSP services must be granted as though no services are being provided through a Regional Center. IHSS/PCSP determination of services must be based strictly on the County Welfare Department's assessment of the applicant.

Consumers of regional center services who receive interim services are entitled to IHSS/PCSP benefits if they are found to be eligible. Payments will be made from the date of the IHSS/PCSP application. Duplicate payments are not allowed to any provider, applicant or recipient when services have been provided at no cost to the claimant. Since IHSS/PCSP has been determined the payer of first resort, it is the responsibility of regional centers not to duplicate IHSS/PCSP services.

For new applicants, these changes are effective as of the date of this letter. Any changes in services or benefits for existing IHSS/PCSP recipients will be made during their annual reassessment.

Please contact the Operations and Technical Assistance—North, at (916) 229-4596, or the Operations and Technical Assistance—South, at (916) 229-4036, if you have any questions regarding this All-County Letter.

Sincerely,

Original Document Signed By Leonard Tozier For Donna L. Mandelstam On 10/5/98

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division