



CDSS

JOHN A. WAGNER
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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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ARNOLD SCHWARZENEGGER
GOVERNOR

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

October 22, 2009

ALL-COUNTY LETTER NO. 09-61

TO: ALL COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

SUBJECT: V.L., et al., v. JOHN A. WAGNER, et al.,
COURT INJUNCTION STOPPING REDUCTIONS OF
IN-HOME SUPPORTIVE SERVICES (IHSS)

REFERENCE: ALL-COUNTY LETTER 09-56
ELECTRONIC BULLETIN BOARD POSTING 09-011

The purpose of this All-County Letter (ACL) is to provide counties with instructions and information regarding the court injunction issued in the case of V.L., et al. v. John A. Wagner, et al., which halted the reduction of IHSS services that were scheduled to go into effect on November 1, 2009. On October 19, 2009, the United States District Court for the Northern District of California issued a preliminary injunction that directed the California Department of Social Services (CDSS) to halt implementation of the IHSS service reduction provisions (Welfare and Institutions Code sections 12309 (e) and 12309.2) of Assembly Bill (ABX) 4 4 (Chapter 4, Assembly Extraordinary Session 4).

Although the court has not yet issued an order as to how the injunction is to be implemented, CDSS must implement the injunction as soon as possible. Prior to the court's injunction, the Case Management, Information and Payrolling System (CMIPS) had been modified to make the changes that were to take place under ABX4 4 effective November 1, 2009. Therefore, to comply with the court's injunction, those changes to CMIPS must be reversed as soon as possible and, if possible, prior to November 1, 2009.

CDSS has looked into having vendor Electronic Data Systems (EDS) restore the changes to CMIPS related to the reductions.

However, after consultation with EDS, it is clear that it would take approximately five weeks to modify CMIPS to remove the edits related to the reductions, and to develop code, test and install an automated process to restore the changes made to the approximately 120,000 impacted cases this could result in disruptions to payments to IHSS providers of the impacted recipients. This would also erase all changes to CMIPS that have been made since October 9, 2009, thereby requiring the counties to re-enter any changes to CMIPS that have been made since October 9, 2009.

Accordingly, to implement this change as soon as possible prior to November 1:

- Counties must manually rescind the terminations on terminated cases and restore reduced hours on reduced cases; and
- CDSS will notify recipients that their services will continue uninterrupted and at the same authorized hours.

Only county staff have direct access to the recipient case files, so the only way to effectuate these court-directed changes rapidly and efficiently prior to the next payroll cycle is for counties to manually restore the hours or cases.

On October 9, 2009 new edits were installed in CMIPS in conjunction with the implementation of the ABX 4 4 mandates. These edits prohibited the entry of hours for Domestic & Related Services if the Functional Index (FI) Rank corresponding to the task was less than rank 4. Additional new edits prohibited the authorization of services to recipients whose Functional Index (FI) Score was less than 2.00. Modifications restoring CMIPS to the functionality that existed October 8, 2009 have been completed and counties must begin entering the appropriate case data to restore case authorizations on that date.

Counties should use the information contained on the five reports sent to them by Federal Express on October 14, 2009, to identify recipients and their providers whose hours need to be restored. Those reports are:

1. Discontinuance of Services for FI Score less than 2.00 – Contains information on cases that received a Terminated (T) status in CMIPS with an end date of 10/31/2009.
2. Discontinuance of Services for FI Score less than 2.00 – Associated Providers – Contains information on all providers associated with cases terminated for an FI Score less than 2.00
3. Recipient with Domestic & Related Cutback Hours – Contains information on all cases receiving Domestic & Related Services hours cutback.
4. Recipient with Domestic & Related Cutback Hours – Associated Providers – Contains information on all providers associated with cases receiving Domestic & Related Services hours cutback.

5. Domestic & Related Cutback Hours – Provider Update Required – Reports active providers associated with Domestic & Related Services cutbacks who did not receive an update in CMIPS during the batch run. (There is likely no action necessary on this report because of the injunction unless a county has already worked this report and manually updated these records.)

INSTRUCTIONS FOR RESTORING CASES AND HOURS IN CMIPS

The actions taken by the county to restore terminated cases or reduced hours are the same as those the county would take in the normal course of business to rescind a termination or to change hours to a case after a reassessment. Following is a generalized description of the process for accomplishing these actions.

Terminated Cases

These cases will be displayed on the Discontinuance of Services for FI Score less than 2.00 report. Counties should use the normal process for rescinding an erroneous termination. Each case should be restored to Eligible (E) status and a new end date entered on the “M” line on the RELB screen. The worker should enter Worker Generated Notice of Action (NOA) message number 404.

404 – Your services were erroneously discontinued and have been restored.
MPP 30-755.1

Because the NOAs advising recipients of the discontinuance of their services were never mailed, there is no requirement for the counties to send a NOA notifying them that their services have been reactivated. At the county’s discretion the NOA may be suppressed or printed by the county and filed in the recipient case file. Do not mail the NOAs to the recipients.

As directed by the court, these recipients will receive a notification directly from CDSS advising them that their services are continuing uninterrupted. A copy of the messages being sent is attached to this ACL. The notifications will be printed in English, Spanish, Armenian, Chinese, Vietnamese and Russian. Additionally, CDSS will include the Notice of Language Services (GEN 1365) that advises recipients in seventeen languages that if they do not understand the notification to call their county worker to have interpreter services provided to them at no cost.

Further, counties should use the Discontinuance of Services for FI Score less than 2.00 – Associated Providers report to identify and re-establish Eligible (E) status for the providers associated with terminated recipients including removing the end date from the “F” line on the PELG screen.

Domestic & Related Services Reductions

Counties can use the Recipient with Domestic & Related Cutback Hours report to identify recipients would have experienced a reduction in some or all of their Domestic & Related Services areas. To identify what tasks and hours to enter on the RELC service grid, the counties may use CMIPS to access recipient assessment history or may use the case file to re-enter the deleted tasks and hours information from the most recent assessment. The "M" line should be modified to change the end date from October 31, 2009 back to the previously existing end date. The worker should enter Worker Generated Notice of Action (NOA) message number 404.

404 – Your services were erroneously discontinued and have been restored.
MPP 30-755.1

Because the NOAs advising recipients of the reduction of their services were never mailed, there is no requirement for the counties to send a NOA notifying them that their services have been reactivated. At the county's discretion the NOA may be suppressed or printed by the county and filed in the recipient case file. Do not mail the NOAs to the recipients.

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Counties should use the Recipient with Domestic & Related Cutback Hours – Associated Providers report to identify providers associated to those recipients whose Domestic & Related Services were reduced. In cases where the recipient/provider relationship is not "1:1", the hours the "F" line of the PELG screen should be updated to the amount shown before the reduction. Provider records in cases where the relationship of recipient to provider is indicated as a "1:1" relationship should update automatically with the change to the recipient record.

Denied Applications and Cases Approved or Changed Since October 8, 2009

Cases that have been denied, approved, or had a change in circumstance since October 8, 2009 must be reviewed to ensure no one has been denied services or any service based on the requirements of ABX 4 4.

Applicants that were denied because the applicant's FI Score was less than 2.00 must have the denial rescinded and services approved. Cases that were approved must be reviewed to ensure the appropriate Domestic & Related Services are authorized based on the FI Ranks determined during the assessment. Cases that had changes entered into CMIPS after October 8, 2009, for a period beginning November 1, 2009 or later, were not included in the reports identified above and must be reviewed to ensure the appropriate Domestic & Related Services are authorized based on FI Ranks shown in the case.

Please contact Randy Shiroy, Chief, Adult Programs Policy Bureau at (916) 229-4000 if you have any questions about the contents of this letter.

Sincerely,

Original Document Signed By:

EVA L. LOPEZ
Deputy Director
Adult Programs Division

Attachment

Attachment

NOTIFICATION TO RECIPIENTS

TO IHSS RECIPIENTS

A federal court has stopped cuts to In-Home Supportive Services (IHSS) that were supposed to happen on November 1, 2009. These cuts were based on something called a **functional index**. The court order means that you will keep getting the same number of IHSS hours that you get now.

The federal court order applies **only** to people who were going to lose some or all of their IHSS hours because of their functional index. If you get a Notice of Action about **other** changes in your IHSS benefits or hours, those changes will still happen unless you file an appeal.

Do you need help or a reasonable accommodation to understand this notice? Call the IHSS Social Worker at the number listed on your last Notice of Action.

You can also get more information about the IHSS court order on the Internet at <http://www.dss.cahwnet.gov>.