

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, California 95814



February 6, 1997

ALL COUNTY LETTER 97-07

TO: ALL COUNTY WELFARE DIRECTORS

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: Releasing information to the State Compensation Insurance Fund

REFERENCE: W&IC, Sections 10850 and 12302.2(a), MPP, Division 19

The California Department of Social Services (CDSS) is required by law to provide workers' compensation to the In-Home Supportive Services (IHSS) individual providers (IPs). The State Compensation Insurance Fund (SCIF) is the insurance carrier that represents the recipient/employer to provide workers' compensation coverage. The workers' compensation contract between CDSS and SCIF contains a stipulation to ensure that employees of SCIF comply with the provisions of Welfare and Institutions Code (W&IC), Section 10850 and Division 19 of the CDSS Manual of Policies and Procedures (MPP) regarding confidentiality.

The SCIF, acting for the CDSS, examines and evaluates all IHSS workers' compensation claims filed by IPs of IHSS. As part of the evaluation process, SCIF claims adjusters must determine if, and to what extent, an injured IP is medically precluded from engaging in his/her IHSS work related activities. As the service needs of IHSS recipients vary, so do the physical work demands placed upon each IP. Therefore, to accurately assess IP job duties, SCIF needs to determine the exact work related activities authorized to be performed by the IP.

According to the W&IC, Section 12302.2(a), "If the state or a county makes or provides for direct payment to a provider chosen by a recipient or to the recipient for the purchase of In-Home Supportive Services, the department shall perform or assure the performance of all rights, duties and obligations of the recipient relating to such services as required for purposes of unemployment compensation, unemployment compensation disability benefits, workers' compensation...."

The W&IC, Section 10850 and the IHSS MPP, Division 19 were clearly created to protect public social services applicants and recipients against identification, exploitation or embarrassment that could result from the release of information identifying them as having applied for or having received public assistance. However, this section does not prohibit the release of such information to public agencies to verify eligibility or for other purposes directly connected with the administration of public social services.

Since SCIF administers the department's workers' compensation contract and is, by contract, acting for and under the direction of CDSS, requests made by SCIF for the purpose of determining eligibility for and evaluation of IHSS workers' compensation benefits should be considered requests for information by the Department. The requests should address only information available in county IHSS records or to which the interviewee has personal knowledge. Counties are instructed to release the information accordingly. The majority of requests will be made in writing by SCIF. However, due to time constraints, it may be necessary for SCIF to request information by telephone. In these circumstances, counties should release necessary information to SCIF verbally. SCIF will provide written confirmation to the counties of any such requests as well as counties responses for file documentation.

For the purpose of investigating claims, SCIF may contract with private investigators, who act as their agents, for discovery purposes pertaining to liability and compensability. The investigators' reports are submitted to SCIF's attorneys. This work product is considered to be subject to the attorney/client privilege, but may be subject to disclosure if utilized to defend the claim. Investigators subject to hire by SCIF are screened prior to hire and are advised of any confidentiality provisions which may exist. Requests by these investigators should be considered requests by SCIF. Information should be released accordingly.

Please contact Sherland Jordan, Chief, Adult Services Management Branch at (916) 229-4586 if you have any questions regarding this letter.



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