

FACE SHEET  
FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11320.1)

RECEIVED FOR FILING

APR 1 1980

Office of Administrative Hearings

ENDORSED

APPROVED FOR FILING  
GOV. CODE 11320.1

APR 1 1980

Office of Administrative Hearings

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Department of Social Services

(Agency)

Date of adoption, amendment, or repeal:

APR 0 1 1980

By:

Mahesh West

Director

(Title)

ENDORSED FILED  
IN THE OFFICE OF

APR 1 3 33 PM 1980

MARSHY FONGLE  
SECRETARY OF STATE  
OF CALIFORNIA

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The attached regulations which are being adopted, amended or repealed are contained in Title \_\_\_\_\_ of the California Administrative Code.

(Optional): Division, Part, Chapter, etc., affected by this order: \_\_\_\_\_

(Check as applicable):  
TYPE OF ORDER:  
 Emergency  
 Certificate of Compliance  
 Certificate of Non-Compliance  
 Regular  
 Procedural and Organizational

(Check One):  
EFFECTIVE DATE:  
 On filing with Secretary of State  
 On \_\_\_\_\_ (Designated effective date)  
 On \_\_\_\_\_ as specified by Statutes  
 On 10th day after filing

(Check all):  
CHECKLIST OF MANDATORY REQUIREMENTS

- Eight copies of order or Certificate attached.
- Original signature on at least one copy.
- Regulation Summary (Form 690 or equivalent) attached (1 copy).
- Publication date (in Notice Register) of notice for attached order or Certificate of Compliance is \_\_\_\_\_
- Authority and reference citation placed beneath each section in attached order.

(Check one):  
REIMBURSABLE COSTS:

- These are "no cost" regulations under Revenue and Taxation Code Section 2231, and State Administrative Manual Section 6052.1.
- These are "disclaimable cost" regulations under Revenue and Taxation Code Section 2231. A clarifying disclaimer statement is attached, pursuant to State Administrative Manual Section 6052.2.
- These are "cost" regulations under Revenue and Taxation Code Section 2231. This agency has followed the provisions of State Administrative Manual Section 6052.3.

(Check one):  
BUILDING STANDARDS

- These regulations contain no building standards under Health and Safety Code Sections 18900-18915.
- These regulations do contain building standards under Health and Safety Code Sections 18900-18915. The date of approval by the Building Standards Commission is \_\_\_\_\_

(Check one if attached are Conflict of Interest Regulations)  
CONFLICT OF INTEREST

- The attached Conflict of Interest Regulations contain the FPEC approval stamp and:
  - Are to be published in full in the Administrative Code.
  - Are to be codified by appropriate reference in the Administrative Code, and include a statement as to where the full text may be obtained.

(Check if emergency Campaign Disclosure Regulations)  
CAMPAIGN DISCLOSURES

- These are emergency regulations pertaining to campaign disclosure law and were adopted by unanimous vote of all board or commission members present at the regulation adoption proceeding.

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his agency certifies the attached orders are necessary for the immediate reservation of the public peace, health and safety or general welfare. The specific facts constituting the need for immediate action are: attach continuation sheet, if necessary)

(Check if applicable:)

These emergency regulations are a readoption of a previous emergency order which has not yet been certified or it is substantially equivalent to a previous emergency order which has not yet been certified. Approval of the Governor was obtained on:

Under the provisions of W&I Code Section 12302.2, the Dept. of Social Services is required to perform or assure the performance of all rights, duties and obligations for the direct pay IHSS recipients regarding unemployment compensation, unemployment compensation disability benefits, workers' compensation, federal and state income tax and federal old-age survivors and disability insurance benefits. Prior to this legislation, the state and counties were not required to perform or assure performance of these responsibilities.

Three methods are provided in W&I Code Section 12302.2 for the counties to deliver In-Home Supportive Services. The direct pay method is to allow the IHSS recipient to hire his/her own in-home supportive services provider. W&I Code Section 12302.2 applies only in the direct pay method.

It is necessary for the immediate preservation of the public peace, health, and safety or general welfare that these regulations be adopted on an emergency basis so as not to delay the implementation of the payrolling system. The statewide payrolling contract was only recently procured and it went into effect January 1, 1980.

The blanket citation of authority and reference for this emergency action is: Authority: Welfare and Institutions Code Section 10553.

Reference: Welfare and Institutions Code Section 12302.2.

The name and phone number of the agency officer to whom inquiries about the emergency order may be directed are:

NAME Louis Lee

Phone (916) 445-0313

Complete one:)

(Complete one:)

These regulations involve no costs or savings to local, state or federal government under Government Code Section 11421.

These regulations do involve costs or savings to local, state or federal government under Government Code Section 11421. An estimate of these costs or savings is attached to this order.

To fulfill Government Code Section 11421, attached is an informational digest, providing a clear and concise summary of existing laws and regulations, if any, related directly to the proposed action, and the effect of the proposed action.

To fulfill Government Code Section 11421, express terms of the emergency are attached.

**FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

**INFORMATIVE DIGEST**

Chapter 30-450, 30-460, Services Program No. 9, In-Home Supportive Services. The proposed regulations to Division 30 implement, interpret and make specific provisions of W&I Code Section 12302.2 (AB 3028, Chapter 463, Statutes of 1978). Under the provisions of W&I Code Section 12302.2, the Department of Social Services is required to perform or assure the performance of all rights, duties and obligations for the direct pay IHSS recipients regarding unemployment compensation, unemployment compensation disability benefits, workers' compensation, federal and state income tax and federal old age survivors and disability insurance benefits. Prior to this legislation, the state and counties were not required to perform or assure performance of these responsibilities.

The regulations being proposed will: 1) establish a payroll system. A payroll contractor will issue paychecks to individual providers, except those hired by recipients who are entitled by law to receive cash grants and pay providers directly. Advance paid recipients will continue issuing paychecks, less taxes, directly to their providers. The payroll system will perform the duties specified in W&I Code Section 12302.2, except workers' compensation, for all direct pay recipients including advance paid recipients by computing tax amounts, withholding funds and filing returns. At this time state and federal tax amounts will not be withheld, but will be reported as income; 2) describe the responsibilities of the counties and recipients under the new payroll system. Primarily the counties will authorize payments and supply specified data to the payroll contractor; 3) describe the role of the providers. Primarily the provider will be supplying specified data to the county; 4) specify that existing labor standards are applicable to provider compensation and work scheduling; 5) provide new terminology for the payroll system, and; 6) renumber some existing regulations in Division 30.

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The following is a cost breakdown of the budgeted costs and the estimated maximum employers' share of RSDHI. The 1979-80 costs are for six months, assuming a January 1, 1980 implementation date.

	<u>Federal</u>	<u>State</u>	<u>County</u>
1979-80 Budgeted Amount for IHSS Payrolling System	-0-	5,014,800	-0-
Maximum Additional Estimate for RSDHI	-0-	127,400	-0-
1980-81 Budgeted Amount for IHSS Payrolling System	-0-	10,275,900	-0-
Maximum Additional Estimate for RSDHI	-0-	7,977,400	-0-

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Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this regulation because there are savings as well as cost in this program which, in the aggregate, do not result in significant cost changes to local government.

JOINT FILING ADMINISTRATIVE REGULATIONS  
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 (Pursuant to Government Code Section 11380.1)

Amend Section 30-453 to read:

30-453 SPECIAL DEFINITIONS

30-453

Following are definitions of terms used in these regulations listed in alphabetical order:

Base Rate - The amount of payment per unit of work before any premium is applied for overtime or related extraordinary payments.

CRT - Cathode Ray Tube - A device commonly referred to as a terminal which is used to enter data into the IHSS payrolling system.

CRT County - A county in which one or more CRT's have been located allowing the county to enter its data directly into the payrolling system.

Direct Payment - Payment made directly to a severely impaired recipient at the beginning of each authorized service month.

Employee - The individual provider of IHSS or a business other than a contract agency providing IHSS on an individual basis such as a cleaning firm.

Employer - The recipient of IHSS when such services are purchased from an individual or a business other than a contract agency.

Hours Worked - The time during which the provider is subject to the control of the recipient, and includes all the time the provider is required or permitted to work, exclusive of time spent by the provider traveling to and from work.

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30-453 SPECIAL DEFINITIONS (Continued)

30-453

**Housemate** — A person who shares a living unit with a recipient. A live-in provider is not considered a housemate.

**Landlord/Tenant Living Arrangement** — This shared living arrangement is considered to exist when one housemate (landlord) allows another (tenant) to share housing facilities in return for a monetary or in-kind payment for the purpose of augmenting the landlord's income. A landlord/tenant arrangement for the purposes of these regulations is not considered to exist between a recipient and his live-in provider. Where housemates share living quarters for the purposes of sharing mortgage, rental, and other expenses, a landlord/tenant relation does not exist, though one housemate may customarily collect the payment(s) of the other housemate(s) in order to pay mortgage/rental payments in a lump sum.

**Live-In Employee** - A live-in provider, a compensated housemate who is providing services, but not a personal attendant.

**Live-In Provider** - A provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS funded services.

**Minor** - Any person under the age of eighteen.

**Net Nonexempt Income** — Income remaining after allowing all applicable income disregards and exemptions.

**Own Home** — The place in which an individual chooses to reside. For purposes of these regulations, an individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility. A person receiving an SSI/SSP payment for nonmedical out-of-home living arrangement, is not considered to be living in his/her own home.

**Paper County** - A county which sends its data in paper document form for entry into the payrolling system to the IHSS payrolling contractor.

**Payment Period** - The time period for which wages are paid. There are two payment periods per month corresponding to the first of the month thru the fifteenth of the month and the sixteenth of the month thru the end of the month.

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30-453 SPECIAL DEFINITIONS (Continued)

30-453

Payroll Cycle - The cycle of processing timesheets, not previously processed, five times a month to issue checks.

Payrolling System - A service contracted for by the state with a vendor to issue paychecks to individual providers of IHSS, to withhold the appropriate employee taxes from the providers wages, to calculate the employer's taxes, and to prepare and file the appropriate tax return.

Personal Attendant - A provider who is employed by the recipient and, as defined by 29 CFR 552.6, who spends at least eighty percent of his/her time in the recipient's employ performing the following services:

- a. Preparation of meals (as provided in 30-457.31)
- b. Meal clean-up (as provided in 30-457.32)
- c. Planning of menus (as provided in 30-457.33)
- d. Consumption of food (as provided in 30-457.4c)
- e. Routine bed baths (as provided in 30-457.4d)
- f. Bathing, oral hygiene and grooming (30-457.4e)
- g. Dressing (30-457.4f)
- h. Protective supervision (30-457.7)

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30-453 SPECIAL DEFINITIONS (Continued)

30-453

**Recipient** — A recipient is a person receiving IHSS. This includes applicants for IHSS when clearly implied by the context of the regulations.

**Severely Impaired Individual** — An individual with a total assessed need (see 30-463.25) for twenty hours or more per week of service in one or more of the following areas:

(a) Routine bodily functions limited to: -

1. Bowel and bladder care, limited to nonmedical services such as assistance with enemas, emptying of catheter and ostomy bags, assistance with bed pans, application of diapers, changing rubber sheets, and assistance with getting on and off commode or toilet (see 30-457.4a).
2. Respiration, limited to nonmedical services such as assistance with self-administration of oxygen and cleaning an Intermittent Positive Pressure Breathing (IPPB) machine (see 30-457.4b).
3. Routine menstrual care, limited to application of sanitary napkins and external cleaning (see 30-457 j).

(b) Dressing (see 30-457.4 f).

(c) Meal preparation (see 30-457.31).

(d) Consumption of food (see 30-457.4 c).

(e) Moving into and out of bed (see 30-457.4 h).

(f) Routine bed bath (see 30-457.4 d).

(g) Ambulation (see 30-457.4 k).

**Shared Living Arrangement** — A situation in which one or more recipients reside in the same living unit with one or more other persons.

**Social Worker** — Social service staff who have an MSW or its equivalent in education and experience as certified by the State Personnel Board. A county which is unable to meet these qualification requirements shall document such inability in a written statement to the Department at the beginning of each program year. The Department may grant a waiver of such requirement for that program year.

**Split Shift** - A work schedule which is interrupted by nonpaid nonworking periods established by the recipient (or social services staff for payment computation purposes), other than bona fide rest or meal periods.

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30-453 SPECIAL DEFINITIONS (Continued)

30-453

SSI/SSP — The Supplemental Security Income and State Supplementary Program administered by the Social Security Administration of the United States Department of Health, Education and Welfare in California.

Substantial Gainful Activity — Work activity that is considered to be substantial gainful activity under the applicable regulations of the Social Security Administration, 20 CFR 416.932 through 416.934. Generally, this means that the work activity must be both substantial and gainful. Substantial work activity involves the performance of significant physical or mental duties, or a combination of both, productive in nature. Gainful work activity is activity for remuneration or profit (or intended for profit, whether or not profit is realized) to the individual performing it or to the persons, if any, for whom it is performed, or of a nature generally performed for remuneration or profit.

Substitute Payee - An individual who acts as an agent for the recipient.

Turnaround Timesheet - A three-part document issued by the state payrolling contractor and used by the payrolling system which is the paycheck, the statement of earnings, and the timesheet to be submitted for the next pay period.

Workday - Any consecutive 24 hour period beginning at the same time each calendar day.

Workperiod - Any unit of time during which work is continuously performed, unbroken by periods off duty, except for compensated rest periods and on duty meals.

Workweek - Any seven consecutive days starting with the same calendar day each week. A workweek is a fixed and regularly recurring period of 168 hours, seven consecutive 24 hour periods.

**Authority:** Section 10553 of the Welfare and Institutions Code.

**Reference:** Sections 12302, and 12302.2 of the Welfare and Institutions Code. Section 11550, Title 8 of the California Administrative Code.

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ADOPT NEW SECTION 30-464 TO READ:

30-464 Individual Provider Compensation

30-464

This section incorporates federal and state statutes and regulations applicable for standards of compensation, work scheduling, and working conditions as they apply to IHSS individual providers (30-467.13). These regulations are not meant to be exhaustive. In adopting this section, it is not intended for the county to assume responsibility for enforcement authority delegated to other state and federal agencies.

.1 Computation of Payment.

.11 Social service staff shall determine the amount of the IHSS payment required to purchase services to meet the IHSS adjusted need (as described in 30-463.33).

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30-464 INDIVIDUAL PROVIDER COMPENSATION(Continued) 30-464

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- .12 If the services needed do not require a specific work schedule, the IHSS payment shall be determined by multiplying the monthly adjusted need for IHSS hours by the base payment rate established by the county, except as provided in .14. The work schedule shall be determined by the recipient and provider, subject to the restrictions below.
- .13 If the services needed require a specific schedule of delivery, (e.g., paramedical services, and protective supervision) the IHSS payment shall be determined in accordance with .2, except as provided in .14 and .15.
- .14 The hours and rate of compensation available for personal attendant providers, shall be determined by county social services staff. The base rate shall be the minimum necessary to obtain adequate service to meet the authorized service needs of the recipient. These providers are not covered by .2
- .15 The hours and rates of compensation for providers who are the parents, spouses, or natural or adopted children of the recipient shall be determined in accordance with .3.
- .2 Scheduling Work and Provider Compensation  
Recipients shall schedule and compensate work based on the following standards except when the provider is a personal attendant or the parent, spouse, natural or adopted child of the employer.

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30-464 INDIVIDUAL PROVIDER COMPENSATION (Continued)

30-464

.21 Live-In Employees

.211 The live-in employee on any workday shall spend no more than 12 hours on duty and shall have at least 12 consecutive hours off duty.

.212 The provider shall have three nonconsecutive off duty hours during the twelve hour span of work. The schedule for these periods shall be set by agreement between the recipient and the provider, but consistent with the schedule on which the recipient's needed services must be performed.

.213 If the provider is permitted or required to work during scheduled off duty periods, he/she shall be compensated at one and one-half times the base rate.

.214 Live-in providers shall not be required to work more than five days in a workweek without a day off except in an emergency. In such an emergency, the provider shall be compensated at one and one-half times the base rate for the first nine hours worked on the sixth and seventh days in the workweek and at two times the base rate for every additional hour on these days.

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30-464 INDIVIDUAL PROVIDER COMPENSATION (Continued) 30-464

.22 Non Live-In Employees

.221 Services provided during any eight hour period per day, not to exceed forty hours per workweek, nor to be provided more than six days in the workweek shall be compensated at the base rate, except that:

a. When the provider is required to work a split-shift, one hour's pay shall be paid at the minimum wage in addition to the time actually worked.

.222 In the event that the provider is required to provide more than eight hours service in any day, more than forty hours service in any workweek, or to provide services more than six days in the workweek, the provider shall be compensated at a rate of one and one-half times the base rate for each hour, or fraction thereof, in excess of any of these three standards, except that:

a. For every hour or fraction thereof, worked in excess of eight hours on the seventh day worked during a workweek, the provider shall be compensated at two times the base rate.

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30-464 INDIVIDUAL PROVIDER COMPENSATION (Continued) 30-464

- .23 A provider, whether live-in or not, who is required to work seven consecutive days but whose hours worked do not exceed thirty hours per workweek and who does not work more than six hours per day, shall be paid the base rate.
- .24 No minor shall be employed more than eight hours in any workday, nor more than six days a workweek. A minor shall be paid one and one-half times the base rate for any time worked in excess of forty hours per workweek. Employment of minors must comply with other provisions of law, including Wage Order 15-80, particularly Section 3D.
- .25 On any day in which the provider was required to report to work and does report, and is not put to work or works less than half of the provider's usual or scheduled work period, the provider shall be paid for one half the usual or scheduled workday, but in no event less than for two hours work, at the rate of the provider's base pay.

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30-464 INDIVIDUAL PROVIDER COMPENSATION (Continued) 30-464

- .26 Except when the work period lasts six hours or less, a provider shall not be employed for more than five hours without a thirty minute meal period; unless, the meal period is considered on duty and shall be counted as time worked. On duty meal periods are allowable only when the nature of the work (e.g., protective supervision) prevents the employee from being relieved of all duty and only when there is a written agreement between the provider and the recipient to this effect.
- .27 If the provider works for the recipient six to eight hours per work day, the provider shall receive two ten-minute rest periods. If the provider works for the recipient four to six hours per work day, the provider shall receive one ten-minute rest period. If the provider works for the recipient less than three and a half hours, the provider is not entitled to receive a compensated rest period. The rest period shall occur as close to the middle of the work period as possible and shall be compensated, that is, shall not result in a reduction in pay.

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30-464 INDIVIDUAL PROVIDER COMPENSATION (Continued) 30-464

.3 Scheduling provider work and compensation when the provider is the parent, spouse, or natural or adopted child of the recipient.

.31 If the provider is a live-in employee, the provider shall be compensated at the base rate for any hours worked.

.311 Live-in employees who are the parent, spouse, or natural or adopted child of the recipient are not entitled to overtime compensation.

.312 In determining the provider's work schedule the recipient and the provider shall agree on when free periods shall occur including sleeping time, meal time, and other periods of complete freedom from work responsibilities. Free periods are those during which the provider may leave the premises or remain on the premises for purely personal pursuits. Such periods, in order to be disregarded for compensation purposes, must be sufficient in length so that the employee may make effective use of the time. If the provider is called upon to work during a free period, such as the sleeping period, the period on duty must be counted as time worked.

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30-464 INDIVIDUAL PROVIDER COMPENSATION (Continued) 30-464

.32 Non live-in employees shall be compensated at the base rate for the first forty hours worked during a workweek. Each hour, or fraction thereof, worked in excess of forty hours during a workweek shall be compensated at one and one-half times the base rate.

.4 Rate of Compensation

.41 The base rate of compensation, for the purposes of determining the IHSS payment, shall be determined by the county. The base rate shall be the minimum necessary to meet the authorized service needs of the recipient. In no event shall it be less than the legal minimum wage in effect at the time the work is performed except when personal attendants are employed.

.42 The recipient shall develop a work schedule which is designed so that it meets the recipient's authorized service hours at the county's base rate. If scheduling by county social services staff is necessary, the schedule shall be designed so that it meets the recipient's authorized service hours at the lowest IHSS cost. Any additional costs resulting from the recipient's action which alters the above schedules shall be borne by the recipient.

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30-464    INDIVIDUAL PROVIDER COMPENSATION (Continued)    30-464

.43    The base rate paid to the provider by the recipient shall be determined by the recipient, provided that:

.431    The recipient's base rate:

(a)    Shall not be less than the base rate established by the county for the authorized IHSS payment without prior notice to the county;

(b)    Shall be the base rate used for the purposes of .2 and .3.

(c)    Shall comply with applicable wage laws.

.432    Any cost due to an increase in the rate paid per unit of work or in total costs above the IHSS payment, which are due to actions or decisions by the recipient which are not based on IHSS authorized need shall be borne by the recipient.

.44    No adjustments in the IHSS payment shall be made for meals and lodging provided to the provider by the recipient (except as provided in 30-463). However, any income received by the recipient through this means is countable income for eligibility purposes (as provided in 30-453) and shall be reported as such by the recipient.

Authority: Section 10553 of the Welfare and Institutions Code.

Reference: Sections 12302 and 12302.2 of the Welfare and Institutions Code; Section 11550, Title 8, California Administrative Code, 29 Code of Federal Regulations (CFR) 552.

CONTINUATION SHEET  
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Amend Section 30-467 to read:

30-467 SERVICE DELIVERY METHODS

30-467

.1 The county shall arrange for the provision of IHSS through one or more of the methods listed below. Preference shall be given to the selection of providers who are recipients of public assistance or other low income persons.

.11 County Employment

.111 The county may hire service providers in accordance with established county civil service requirements or merit system requirements. Such providers may be considered temporary employees if approved by the appropriate civil service system.

.112 The county shall ensure that each service provider is capable of and is providing the services authorized.

.12 Purchase of Service from an Agency

.121 The county may contract with an agency to provide service in accordance with the requirements of Division 10.

.122 The county shall ensure that the contractor guarantees the continuity and reliability of service to recipients, supervision of service providers, that each service provider is capable of and is providing the service authorized and complies with the requirements of Division 21 (Civil Rights).

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30-467 SERVICE DELIVERY METHODS (Continued)

30-467

.13 Purchase of Service From An Individual

.131 Payment under this delivery method may be made by the county through direct payment or to the individual provider.

.132 The county shall make payment under this delivery method through the payrolling system as described in 30-469.

.133 The county shall make a reasonable effort to assist the client to obtain a service provider when the client is unable to obtain one individually.

.134 If the county determines that a recipient is using his/her direct payment in a manner substantially different from that provided in the applicable Notice of Action, the county shall have the right to institute a different form of service delivery or service provider payment.

Authority: Section 10553 of the Welfare and Institutions Code.

Reference: Section 12302.2 of the Welfare and Institutions Code.

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Adopt new Section 30-469 to read:

30-469 PAYROLLING FOR INDIVIDUAL PROVIDERS

30-469

.1 This section governs the procedures that shall be followed by counties making payments under the delivery method in 30-467.13. The counties shall immediately take steps at the lowest possible cost to cancel contracts or portions of contracts providing payrolling services to IHSS individual providers for authorized services prior to January 1, 1980. Counties shall not enter into any agreements or contracts to make payment to individual providers:

.12 For the purposes of these regulations the county shall follow 10-202.2, regarding receipt for service payment, whether payment is made to a severely impaired recipient in advance or to providers in arrears.

.2 County Responsibility

.21 The CRT counties shall directly input required data and initiate transactions into the system via terminals located in the county.

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30-469 PAYROLLING FOR INDIVIDUAL PROVIDERS (Continued) 30-469

.22 The Paper counties shall input required data and initiate trans-  
actions on prescribed forms and submit those forms to the payrolling  
contractor.

.221 Exception: Special preauthorized transactions may be  
initiated by phone to the payrolling contractor. The  
prescribed document shall subsequently be sent from the  
payrolling contractor to the county confirming the  
transaction.

.23 For the purposes of the payrolling system, the six-month authori-  
zation period begins in the calendar month in which the first day  
of authorization occurs and ending on the last day of the sixth  
calendar month.

.24 General Process

The counties shall:

.241 Enter prescribed data on all recipients and providers, as  
defined in 30-467.13, into the payrolling system.

.242 Change data as necessary to ensure correct payment to the  
correct individual.

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(Pursuant to Government Code Section 11380.1)

30-469 PAYROLLING FOR INDIVIDUAL PROVIDERS (Continued) 30-469

.243 Authorize the disbursement of all funds paid by the pay-  
rolling contractor by:

a. Reviewing all timesheets prior to entry of timesheet  
data into the system to ensure consistency between  
hours reported and hours authorized.

b. Resolving any discrepancies between hours reported and  
hours authorized.

c. Initiating special transactions as described in .25.

.244 Provide timesheets for:

a. New providers.

b. Replacement of lost or destroyed timesheets.

c. Severely impaired recipients receiving payment in  
advance with more than one provider.

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.245 Retain completed timesheets for a period of three years from the end of each fiscal year, or as otherwise required by 23-353.

.246 Respond to and resolve payment inquiries from recipients and providers. The payrolling contractor will provide all necessary information.

.25 Special Transaction

.251 Special transactions are used to handle situations which fall outside the normal payroll process. Counties shall be held responsible for closely monitoring and controlling the use of the following transactions.

.252 Emergency/Supplemental checks shall be mailed from the payrolling contractor within thirty-six (36) hours after notification from the county. The county shall initiate emergency/supplemental checks for:

- a. Payments resulting from retroactive fair hearing decisions.
- b. Payments resulting from prior underpayments.

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- c. Payments for overtime (as directed in 30-464.4) amounting to the difference between the county base rate and overtime rate times the authorized hours.
- d. Payments for severely impaired recipients in advance direct pay status who become eligible after the advance pay cycle is issued.
- e. Payments where the county finds that an immediate need situation exists, such as timesheets processed in a timely manner, but the system did not generate a check.
- f. Payments to counties for reimbursements of emergency checks as described in .26.
- g. Payments for other unusual situations not provided for by the regular payrolling process and where the county deems appropriate.

.253 Replacement checks shall be issued for lost, stolen, destroyed, unusable or incorrect checks which have not been honored by the contractor's bank. If the original check is not returned to the county or the payrolling contractor, the county shall require the payee to sign a verification or notarized statement that the payee did not negotiate the check or otherwise receive proceeds from it.

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30-469 PAYROLLING FOR INDIVIDUAL PROVIDERS (Continued) 30-469

.254 A void transaction shall be used:

- a. When a payroll check is returned to the payrolling contractor or county;
- b. When a payroll check is mutilated;
- c. When a payroll check is not in the possession of the county or the payrolling contractor.

.255 Adjustment transactions shall be used to make adjustments to tax records when any of the following occur:

- a. An overpayment;
- b. An underpayment;
- c. An incorrect deduction.

.26 County issued payments shall only be issued in cases of extreme emergency when the county finds that the emergency check procedure provided in .252 is not adequate.

.261 The county shall issue checks for an amount not to exceed ninety (90%) percent of the amount the recipient/provider should receive.

.262 The county shall be reimbursed for payments made under .261 by the payrolling contractor using the emergency/supplemental check transaction.

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.263 The county shall not receive reimbursement until an emergency/supplemental transaction has been initiated to pay the recipient/provider the remaining balance.

.264 The county shall receive a timesheet before the transaction in .261 or .263 above shall occur. Exception: The county may issue a check prior to receipt of a timesheet for a severely impaired recipient who opted for advance pay.

.27 The county shall enter authorized hours rounded up to the nearest tenth of an hour into the payrolling system.

.28 The counties shall be responsible for verifying eligibility of recipients for IHSS between January 1, 1978 and December 31, 1979 as needed for retroactive tax payments.

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30-469 PAYROLLING FOR INDIVIDUAL PROVIDERS (Continued) 30-469

.3 The county has the sole responsibility for determining and investigating fraud and forgery.

.31 The county shall, with no effect on current county procedures:

.311 Identify potential fraud cases

.312 Determine if actual fraud exists

.313 Take appropriate action as necessary

.32 The county will be notified by the payrolling contractor if an original check has already been cashed when a replacement check is requested. The payrolling contractor will forward the original check to the county as soon as it becomes available.

.321 The county shall:

a. Determine if the original check has been forged;

b. If forgery is determined, the county shall issue payment to the recipient/provider via the appropriate replacement check transaction and notify the payrolling contractor.

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.4 The county is responsible for determining and recovering overpayments. The county shall follow overpayment procedure described in 10-121 with the addition of the following:

.41 Cause of Overpayments

.411 Overpayments may occur where a severely impaired recipient as defined in 30-453, is receiving a cash payment or when a provider is receiving a cash payment to which the recipient was not eligible.

.412 When a recipient has authorized an incorrect amount of services rendered, or an incorrect amount of payment, the incorrect amount of payment shall be considered an overpayment to the recipient.

.413 A payrolling contractor error shall be treated as an administrative error as defined in 10-121.

Exception: The county shall not be fiscally liable for the payrolling contractor error.

.42 If the county determines that an overpayment has occurred and can be recovered as described in 10-121, the county shall leave the authorized hours unchanged and:

.421 Reduce the dollar amount, (i.e., county rate times the authorized hours) by the amount of the adjustment, and,

.422 Enter the adjusted amount into the payrolling system.

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.5 Return Check Procedures

.51 CRT counties who receive a returned check from a provider or recipient shall:

.511 Stamp the check void; and

.512 Enter a special transaction to void the check as described in .254; and

.513 Return the check to the payrolling contractor.

.52 Paper counties who receive a returned check from a provider or recipient shall:

.521 stamp the check void; and

.522 submit a special transaction, as described in .254, and the returned check to the payrolling contractor.

.53 The payrolling contractor who receives a returned check shall:

.531 Stamp the check void; and

.532 Enter a void transaction, as described in .254; and

.533 Send a photocopy of the returned check to the county.

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.6 Refunds/Recoupment

.61 Counties who receive refunds or recoupments shall:

.611 Credit the initial check issued by an adjustment transaction, as described in .255, and

.612 Deposit the money received in a county account; and

.613 Send a check for the amount of refund/recoupment to the payrolling contractor.

.7 Recipient Responsibility

.71 It is the responsibility of the recipient to report to social services staff accurately and completely all information necessary to complete the SOC 311.

.72 The recipient, within his/her physical, emotional, educational or other limitations, shall:

.721 Designate the authorized hours per provider within the total of the recipient's authorized hours.

.722 Designate each provider(s) portion of the share of cost

.723 Sign and date the prescribed timesheet to:

a. Verify payment of the share of cost to the appropriate provider(s).

b. Verify services authorized were rendered by the appropriate provider.

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.724 Inform social services staff of any changes affecting the payrolling process.

.73 Payments for authorized services rendered shall be sent to the recipient's appropriate provider. The recipient shall not receive payment for services except as provided in .731, .732 and .733.

.731 Severely impaired recipients as defined under 30-453, 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.

.732 In direct payment cases, where a recipient is incapable of handling his/her financial and legal affairs and has a legal guardian or conservator, direct payment shall be made to the recipient's legal guardian or conservator at such person's request.

.733 Payment may be made to a recipient's guardian, conservator, substitute payee, or person designated by the recipient.

.734 If the recipient is severely impaired he/she shall be notified in writing of the right to hire and pay his/her own provider, and to receive his/her monthly cash payment in advance.

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.735 When direct payment is made to a recipient, guardian, conservator, or substitute payee, the provider shall be hired, supervised, and paid by such payee. In such cases, the recipient or the person authorized to act in the recipient's behalf shall insure that the services provider is capable of and is providing the services authorized.

.736 It shall be the responsibility of the severely impaired recipient, legal guardian or conservator to:

- a. Pay the provider twice a month in arrears; and
- b. Inform the provider(s) of the tax deductions; and
- c. Submit their provider's timesheets at the end of each authorized service month to the appropriate county social services office.

.737 When timesheets to reconcile outstanding direct payments are not received within ninety (90) days from the date of payment a rebuttable presumption is created that the unreconciled amount is an overpayment and shall be subject to procedures set forth in .4. The presumption may be rebutted by submission of the completed timesheets or equivalent evidence.

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.8 Provider Responsibilities

.81 It shall be the responsibility of the provider of IHSS services to report to social services staff accurately and completely all information necessary to complete the SOC 311.

.82 The provider of services shall:

.821 Record actual hours worked under the appropriate day of the month on the prescribed timesheet.

.822 Total the hours worked at the end of the pay period.

.823 Sign and date the prescribed timesheet to:

a. Verify receipt of any designated share of cost from the recipient and;

b. Verify that services authorized were rendered to the recipient.

.824 Except as provided in .824a, submit the completed timesheet twice a month to the appropriate county social services office.

a. Providers of severely impaired direct payment recipients shall return completed timesheets to the recipient.

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.825 Receive payment in arrears twice a month for hours worked.

.826 Receive payment for services only after submitting a completed timesheet.

.83 Employment agreements between individual providers and IHSS recipients shall include the responsibilities required in .81 and .82 above.

.9 Provider Benefits

.91 The department has elected to provide the worker's compensation coverage required by W&I Code 12302.2 through a single statewide insurance policy. Additional insurance coverage will not be reimbursed as an IHSS program cost.

.92 The department has elected to handle the payment of the unemployment insurance tax, unemployment disability insurance tax, and social security tax required by W&I Code 12302.2 through the payrolling system.

.93 The department has elected to require the payrolling contractor to deduct the employee's share of the following taxes from the payment to the provider or the recipient:

.931 Social security.

.932 State disability insurance.

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.9 Provider Benefits (Continued)

.94 The department has elected not to deduct and transmit the state and federal income taxes or withholdings due on the provider's earnings since it is not a responsibility of the recipient employer required by state or federal law.

Authority: Section 10553 of the Welfare and Institutions Code.

Reference: Sections 12302 and 12302.2 of the Welfare and Institutions Code.

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