

INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 30-701(a)(4), (c)(4), (p)(6), (t)(1) and (t)(2)

Specific Purpose:

This "Special Definitions" section is amended to include definitions for the following terms used in these regulations: "applicant provider," "county," "prospective provider," "Tier 1 disqualifying crime," and "Tier 2 disqualifying crime." These definitions are adopted to ensure that the meaning of these terms, as they are used in these regulations, is clear and consistent and to prevent any possible misinterpretation when the terms are used. Current Sections 30-701(c)(4) and (5), (p)(6) and (7), and (t)(1) are renumbered to 30-701(c)(5) and (6), (p)(7) and (8), and (t)(3) respectively to accommodate the adoption of these definitions.

Factual Basis:

The definition of the term "applicant provider" is necessary to clarify that an applicant provider means an individual seeking to become a provider but who has not yet completed any of the provider enrollment requirements.

The definition of the term "county" is necessary to clarify that, only for the purposes of the provider enrollment requirements, as specified in Section 30-776, county means the county In-Home Supportive Services (IHSS) program office or any other organization or agency designated by the county to perform provider enrollment functions.

The definition of the term "prospective provider" is necessary to clarify that a prospective provider means an individual seeking to become a provider who has completed at least one, but not all, of the provider enrollment requirements.

The definition of the term "Tier 1 disqualifying crime" is necessary to clarify that a Tier 1 disqualifying means any one of the crimes specified in Welfare and Institutions Code (WIC) Sections 12305.81(a)(1) and 12305.81(a)(2), namely: fraud against a government health care or supportive services program; a violation of subdivision (a) of Section 273a of the Penal Code (PC); a violation of Section 368 of the PC; or violations similar to PC 273a(a) or PC 368 in another jurisdiction.

The definition of the term "Tier 2 disqualifying crime" is necessary to clarify that a Tier 2 disqualifying means any one of the crimes specified in WIC Sections 12305.87(b)(1), 12305.87(b)(2), or 12305.87(b)(3), namely: a violent or serious felony, as specified in PC Sections 667.5(c) and 1192.7(c); a felony offense for which a person is required to register

as a sex offender pursuant to PC Section 290(c), or a felony offense for fraud against a public social services program, as defined in WIC Sections 10980(c)(2) or 10980(g)(2).

Sections 30-776.1 through .122 (Repeal)

Specific Purpose/Factual Basis:

These sections are repealed and are being replaced by a more extensive section which will now include the enrollment requirements to become an In-Home Supportive Services (IHSS) provider.

Section 30-776.1

Specific Purpose:

This section is adopted to specify that an individual seeking to be a provider in the IHSS program must complete certain requirements before he/she can be enrolled as a provider or receive payment for providing services for an IHSS recipient.

Factual Basis:

This section is necessary to comply with the following WIC Sections: §12305.81(a) – which requires that an individual seeking to be a provider complete, sign and submit in-person to the county a provider enrollment form; §12301.24(a) – which requires that an individual attend a provider orientation; §12301.24(b) – which requires that an individual sign a statement agreeing to certain conditions; and §12305.86 – which requires that an individual undergo a criminal background check conducted by the Department of Justice (DOJ). Each of these individual requirements is addressed in greater detail in subsequent sections.

Sections 30-776.2 through 30-776.211(b)

Specific Purpose:

These sections are adopted to specify: 1) that an individual shall have a maximum of 90 calendar days to complete the provider enrollment requirements; 2) that an individual who fails to complete all of the requirements within 90 calendar days shall be determined ineligible to be an IHSS provider; and, 3) the actions that shall determine when the 90-calendar-day period has been initiated.

Factual Basis:

These sections are necessary to establish a standard time frame for completing the provider enrollment requirements that is not open-ended. Currently, there is no time limit for completing the requirements and this presents an operational difficulty for counties. An individual may complete one or more of the requirements, but not all of them, and the

county is not able to determine whether the individual intends to complete the other requirements or has withdrawn from the process. Ninety (90) calendar days was established because it is a reasonable amount of time for an individual to complete the requirements. The 90-day period begins either when an individual completes any one of the requirements or when a recipient designates the individual as the person who he/she wants to provide his/her services.

Sections 30-776.22 through 30-776.222

Specific Purpose:

These sections are adopted to specify that, at least 15 days prior to finding an individual who has failed to complete the provider enrollment requirements within the 90-calendar-day period ineligible to be a provider, the county shall provide notice to the individual to inform him/her of: 1) which requirement(s) remain to be completed, 2) the date by which the requirement(s) must be completed, and 3) that if the requirements are not completed by that date, he/she will be determined to be ineligible to be a provider.

Factual Basis:

These sections are necessary to establish informing notice requirements counties must comply with before they can determine an individual to be ineligible to be a provider based on failure to complete the provider enrollment requirements in a timely manner. Before an individual is determined ineligible for failing to complete the requirements, he/she should be informed of which requirements he/she has yet to complete and be given the opportunity to complete them before being determined ineligible.

Sections 30-776.3 through 30-776.332(b)

Specific Purpose:

These sections are adopted to establish the policy that, under certain conditions, an individual can be paid retroactively for services he/she provided to an eligible IHSS recipient before the individual completed the provider enrollment requirements, as long as the services provided were authorized services and the individual was ultimately found eligible to be enrolled as a provider.

These sections also specify that in such circumstances, the individual may not be paid for services provided more than 90 days before the individual completes the provider enrollment requirements, unless there has been a delay that is not the fault of the individual, namely a county error, or a delay in the receipt of the criminal background check response from the DOJ.

In addition, these sections specify that when an IHSS recipient designates as his/her provider an individual who has not completed the provider enrollment requirements, the county must inform the IHSS recipient of the conditions and limitation on retroactive

payment for those services provided before the individual completes the requirements. The county must inform the recipient that he/she will be financially responsible for paying for services provided if the individual is ultimately found ineligible to be a provider, or when the individual is found eligible, for any services provided more than 90 days back from the date the individual completed the provider enrollment requirements.

Factual Basis:

These sections are necessary to establish clear and reasonable policy that addresses a common situation that occurs in the IHSS program wherein an individual provides services for a recipient prior to completing the provider enrollment requirements. One of the central principles of the IHSS program is provider choice; that is, the recipient may choose who he/she wishes to be his/her service provider. It is a regular occurrence that the person the recipient chooses, whether it is a relative, neighbor, or acquaintance, has not yet begun – much less completed – the provider enrollment requirements.

Establishing the policy that an individual may be paid retroactively for authorized services he/she provides to an eligible recipient before the individual completes the provider enrollment requirement ensures that the recipient does not go without services he/she needs to remain safely in his/her own home because the individual he/she has chosen to be his/her provider is not yet enrolled. Limiting the length of time that an individual has to complete the enrollment requirements to 90 days allows sufficient time for the requirements to be completed but at the same time encourages individuals to complete the requirements promptly. Prompt completion of the enrollment requirements limits the amount of time that a recipient is exposed to an individual who could potentially present a safety or security risk to the recipient because the individual may ultimately be determined ineligible to be a provider due to failure to pass the criminal background check.

Limiting the length of time for which an individual can receive retroactive payment from the IHSS program for authorized services provided to an eligible recipient before he/she completed the provider enrollment requirements limits the financial responsibility placed on the recipient should the individual ultimately be found ineligible to be an IHSS provider. The policy allows for circumstances in which the individual does not complete the requirements timely through no fault of his/her own. In such cases, retroactive payment may be made for services provided beyond the 90 day limit.

Handbook Section 30-776.34

Specific Purpose/Factual Basis:

This handbook section is included to provide an example using hypothetical dates to illustrate how the 90-day limit on retroactive payment from the IHSS program for authorized services that an individual provided to an eligible recipient before the individual completed the provider enrollment requirements would be applied.

Sections 30-776.4 and .41

Specific Purpose:

These sections are adopted to specify that one of the requirements an individual must fulfill prior to being enrolled as a provider or receiving payment for providing supportive services is the completion of a provider enrollment form.

Factual Basis:

This section is necessary to comply with WIC Section 12305.81(a) which provides that each person seeking to become an IHSS provider be required to complete a provider enrollment form.

Sections 30-776.411 and .411(a)

Specific Purpose:

These sections are adopted to specify that the provider enrollment form includes statements indicating that an individual who has been convicted of, or incarcerated following conviction for, certain crimes within the last 10 years is not eligible to be enrolled as a provider or to receive payment for providing supportive services. These sections also specify which crimes are considered disqualifying and explain that, for ease of reference, the disqualifying crimes are categorized as either Tier 1 or Tier 2 crimes.

Factual Basis:

These sections are necessary to comply with the following WIC Sections: §12305.81(a)(1), §12305.81(a)(2), §12305.87(h)(2), which (correspondingly) require that the provider enrollment form include statements to the effect that:

- An individual who, within the last 10 years, has been convicted of, or incarcerated following a conviction for, fraud against a government health care or supportive services program is not eligible to be enrolled as a provider or to receive payment for providing supportive services.
- An individual who, within the last 10 years, has been convicted of, or incarcerated following a conviction for, violation of subdivision (a) of Section 273a of the Penal Code (PC) or Section 368 of the PC, or similar violations in another jurisdiction, is not eligible to be enrolled as a provider or to receive payment for providing supportive services.
- An individual seeking to be a provider understands that if, within the last 10 years, he or she has been convicted, or incarcerated following conviction for: 1) a violent or serious felony, as specified in subdivision (c) of Section 667.5 of the PC and subdivision (c) of Section 1192.7 of the PC; or 2) a felony offense for which a person is

required to register as a sex offender under subdivision (c) of Section 290 of the PC; or 3) a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of Section 10980 of the WIC, and he/she has not received a certificate of rehabilitation or had the information or accusation dismissed pursuant to Section 1203.4 of the PC, he or she will only be authorized to receive payment for providing services under an individual waiver or general exception.

Section 30-776.411(b)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement informing the applicant provider that as part of the provider enrollment process he/she is required to submit his/her fingerprints and undergo a criminal background check.

Factual Basis:

This section is necessary so that the applicant provider is aware that, in accordance with WIC 12305.86(a), the county is required to investigate the background of any person who seeks to become a supportive services provider and that the investigation includes a criminal background check conducted by the Department of Justice pursuant to WIC Section 15660.

Section 30-776.411(c)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that if the individual's responses to questions on the provider enrollment form or the results of the criminal background check indicate that the individual has been convicted of, or incarcerated following a conviction for, a disqualifying crime within the last 10 years, he/she will not be eligible to be enrolled as a provider or to receive payment for providing services.

Factual Basis:

This section is necessary so that the applicant provider is aware that, pursuant to WIC Section 12305.81(a), he/she is not eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for any of the following crimes (which for ease of reference are designated Tier 1 crimes):

- 1) Fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act;
- 2) A violation of subdivision (a) of Section 273a of the PC;
- 3) A violation of Section 368 of the PC; or

- 4) A violation similar to those specified in 2) or 3) above, in another jurisdiction.

This section is also necessary so that the applicant provider is aware that, pursuant to WIC Section 12305.87(b), he/she is not eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for any of the following crimes (which for ease of reference are designated Tier 2 crimes):

- 1) A violent or serious felony, as specified in subdivision (c) of Section 667.5 of the PC and subdivision (c) of Section 1192.7 of the PC;
- 2) A felony offense for which a person is required to register under subdivision (c) of Section 290 of the PC; or
- 3) A felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of WIC Section 10980.

WIC Section 12305.86(b) requires that the criminal background check shall be conducted at the provider's expense. Because of this requirement, the Department believes that it is important for an applicant provider to understand, before he/she pays the costs of fingerprinting and the criminal background check, that a conviction for any of the specified crimes within the last 10 years would disqualify him/her from being a provider. Providing this information in advance permits an individual who knows that there is a disqualifying conviction in his/her criminal background to make a more informed decision about whether to proceed with the provider enrollment requirements before paying the background check costs.

Sections 30-776.411(d) and (d)(1)

Specific Purpose:

These sections are adopted to specify that the provider enrollment form includes a statement indicating that if an individual has been convicted of, or incarcerated following a conviction for, a Tier 2 disqualifying crime(s), he/she may be eligible to be enrolled as a provider in spite of the conviction/incarceration if he/she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the PC, or the information or accusation against him/her has been dismissed pursuant to Section 1203.4 of the PC.

Factual Basis:

These sections are necessary to ensure that the individual is aware that, pursuant to WIC Section 12307.87(c), an application to be a provider shall not be denied if the individual has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the PC or if the information or accusation against him or her has been dismissed pursuant to Section 1203.4 of the PC.

Section 30-776.411(d)(2)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that if an individual has been convicted of, or incarcerated following a conviction for, a Tier 2 disqualifying crime(s), he/she may be eligible to be enrolled as a provider in spite of the conviction/incarceration if a recipient, who has been informed of the Tier 2 disqualifying crime(s) for which he/she has been convicted/incarcerated, and who wishes to employ the individual in spite of his/her criminal background, submits to the county a waiver of the individual's exclusion.

Factual Basis:

This section is necessary to ensure that the individual is aware that, pursuant to WIC Section 12307.87(d)(1), a recipient of services who wishes to employ a provider applicant who has been convicted of a Tier 2 disqualifying crime may submit to the county an individual waiver of the exclusion.

Section 30-776.411(d)(3)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that if an individual has been convicted of, or incarcerated following a conviction for, a Tier 2 disqualifying crime(s), he/she may be eligible to be enrolled as a provider in spite of the conviction/incarceration if he/she has applied to the Department and has been granted a general exception of the exclusion.

Factual Basis:

This section is necessary to ensure that the individual is aware that, pursuant to WIC Section 12307.87(e)(1), an applicant who has been convicted of a Tier 2 disqualifying crime may seek from the department a general exception to the exclusion provided for in this section.

Section 30-776.411(e)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a brief explanation of the process that a recipient must follow to request a waiver of an individual's exclusion as a provider based on a Tier 2 disqualifying conviction/incarceration and rules and limitations pertaining to the provision of services under an individual waiver.

Factual Basis:

This section is necessary to make the applicant provider aware of the provisions of WIC Section 12305.87(d), which permit a recipient of services who wishes to employ a provider applicant who has been convicted of a Tier 2 disqualifying crime to submit to the county a waiver of the individual's exclusion as a provider.

Section 30-776.411(f)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a brief explanation of the process for applying for a general exception of an individual's exclusion as a provider based on a Tier 2 disqualifying conviction/incarceration.

Factual Basis:

This section is necessary to make the applicant provider aware of the provisions of WIC Section 12305.87(e), which permit an individual who has been convicted of a Tier 2 disqualifying crime to seek from the Department a general exception to his/her exclusion as a provider.

Section 30-776.411(g)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that completion of the provider enrollment form is one of the provider enrollment requirements and that an individual must complete all of the provider enrollment requirements before he/she can be enrolled as a provider and receive payment for providing services.

Factual Basis:

This section is necessary to make the provider aware of the requirements which, pursuant the following WIC Sections, an individual seeking to become a provider must complete before he/she can be enrolled as a provider and receive payment for providing services: §12305.81(a) – which requires that an individual seeking to be a provider complete, sign and submit in-person to the county a provider enrollment form; §12301.24(a) – which requires that an individual attend a provider orientation; §12301.24(b) – which requires that an individual sign a statement agreeing to certain conditions; and §12305.86 – which requires that an individual undergo a criminal background check conducted by the DOJ.

Section 30-776.411(h)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes fields for the individual to provide the following information: full name; date of birth; gender; home and mailing addresses; telephone number; Social Security number; driver's license or government-issued identification number, issuing state and expiration date; and primary spoken and written languages.

Factual Basis:

This section is necessary to make the applicant provider aware of the specific personal identifying information he/she will be required to provide when completing the provider enrollment form. The information that is collected is minimal and relatively standard and it is used to establish the person's identity, etc.

Section 30-776.411(i)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes questions asking whether the individual, in the last 10 years, has been convicted of, or incarcerated following a conviction for, a Tier 1 or Tier 2 disqualifying crime(s).

Factual Basis:

This section is necessary to comply with WIC Sections 12305.81(a) and 12305.87(b), which prohibit an individual who, within the last 10 years, has been convicted of, or incarcerated following a conviction for, a Tier 1 or Tier 2 disqualifying crime. WIC Section 12305.81(a) states that a person shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act or a violation of subdivision (a) of Section 273a of the PC, or Section 368 of the PC, or similar violations in another jurisdiction. For simplicity, the crimes specified in WIC Section 12305.81(a) are categorized as Tier 1 disqualifying crimes. WIC Section 12305.87(b) states that an applicant shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, a violent or serious felony, as specified in subdivision (c) of Section 667.5 of the PC and subdivision (c) of Section 1192.7 of the PC; a felony offense for which a person is required to register under subdivision (c) of Section 290 of the PC; or a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of Section 10980. For simplicity, the crimes specified in WIC Section 12305.87(b) are categorized as Tier 2 disqualifying crimes.

Section 30-776.411(j)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a question asking, if the individual has indicated that, within the last 10 years, he/she has been convicted of, or incarcerated following conviction for, a Tier 2 disqualifying crime, whether he/she has obtained a certificate of rehabilitation or expungement (dismissal pursuant to PC Section 1203.4) of the conviction. Also, the form includes a statement indicating that if the individual has obtained a certificate of rehabilitation or an expungement, he/she must provide the county with a copy of the documentation.

Factual Basis:

This section is necessary so that an individual completing the provider enrollment form who has indicated that, within the last 10 years, he/she has been convicted of, or incarcerated following a conviction for a Tier 2 disqualifying crime, can indicate whether or not he/she has obtained a certificate of rehabilitation or expungement (dismissal pursuant to PC Section 1203.4) of the conviction. WIC Section 12305.87(c) states that when an individual, within the last 10 years, has been convicted of, or incarcerated following a conviction for, a Tier 2 disqualifying crime, his/her application to be an IHSS provider shall not be denied if he/she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the PC or if the information or accusation against him or her has been dismissed pursuant to Section 1203.4 of the PC.

Sections 30-776.411(k) and (k)(1)

Specific Purpose:

These sections are adopted to specify that the provider enrollment form includes a statement indicating that, by signing the form, the individual declares that he/she understands and agrees that he/she cannot receive IHSS program funds as payment for authorized services he/she provides to any eligible recipient of IHSS until he/she has completed the entire provider enrollment process and has been officially enrolled as a provider by the county.

Factual Basis:

These sections are necessary to ensure that the individual understands that, pursuant to the following WIC Sections, he/she must successfully complete all steps of the enrollment process before he/she is eligible to receive payment from the IHSS program for providing authorized services to an eligible recipient: §12305.81(a) – which requires that an individual seeking to be a provider complete, sign and submit in-person to the county a provider enrollment form; §12301.24(a) – which requires that an individual attend a provider orientation; §12301.24(b) – which requires that an individual sign a statement agreeing to certain conditions; and §12305.86 – which requires that an individual undergo a criminal background check conducted by DOJ.

Section 30-776.411(k)(2)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that, by signing the form, the individual declares that he/she understands and agrees that completion and submittal of the provider enrollment form is one of the requirements of the provider enrollment process.

Factual Basis:

This section is necessary to ensure that the applicant provider understands and agrees that, pursuant to WIC Section 12305.81(a), each person seeking to provide supportive services is required to complete, sign under penalty of perjury, and submit to the county a provider enrollment form.

Sections 30-776.411(k)(2)(A) through (k)(2)(C)

Specific Purpose:

These sections are adopted to specify that the provider enrollment form includes a statement indicating that, by signing the form, the individual declares that he/she understands and agrees that: he/she must complete all of the provider enrollment requirements within 90 calendar days; that the 90 calendar day period begins either when he/she completes the first enrollment requirement or when a recipient designates the individual as his/her provider; and that if he/she begins providing authorized services for an eligible recipient before he/she completes the provider enrollment requirements, and he/she is ultimately determined eligible to be enrolled as a provider, he/she will be eligible to be paid retroactively for services he/she provided before completing the requirements no more than 90 calendar days before he/she completed the provider enrollment requirements and was determined eligible to be a provider.

Factual Basis:

These sections are necessary to ensure that the individual understands and agrees with the policies that have been established which limit to 90 calendar days the amount of time an individual has to complete the provider enrollment requirements and the amount of time he/she can be paid retroactively for services he/she provided before completing enrollment requirements. These policies have been established to address a common situation that occurs in the IHSS program wherein an individual provides services for a recipient prior to completing the provider enrollment requirements. Establishing the policy that an individual may be paid retroactively for authorized services he/she provides to an eligible recipient before the individual completes the provider enrollment requirements ensures that the recipient does not go without services he/she needs to remain safely in his/her own home because the individual he/she has chosen to be his/her provider is not yet enrolled. Limiting the length of time that an individual has to complete the enrollment requirements to 90 days

allows sufficient time for the requirements to be completed but at the same time encourages individuals to complete the requirements promptly. Prompt completion of the enrollment requirements limits the amount of time that a recipient is exposed to an individual who could potentially present a safety or security risk to the recipient because the individual may ultimately be determined ineligible to be a provider due to failure to pass the criminal background check. Limiting the length of time for which an individual can receive retroactive payment from the IHSS program for authorized services provided to an eligible recipient before he/she completed the provider enrollment requirements limits the financial responsibility placed on the recipient should the individual ultimately be found ineligible to be an IHSS provider.

Section 30-776.411(k)(3)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a declaration indicating that, by signing the form, the applicant provider understands and agrees that, as part of the provider enrollment process, he/she must provide fingerprints and undergo a criminal background check, and that he/she is responsible for paying the cost of fingerprinting and the background check.

Factual Basis:

This section is necessary to ensure that the applicant provider understands and agrees that, pursuant to WIC Section 12305.86(a), he/she is required to undergo a criminal background check conducted by the DOJ, and pursuant to WIC Section 12305.86(b), that the criminal background checks shall be conducted at the provider's expense.

Section 30-776.411(k)(4)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a declaration indicating that the individual understands and agrees that, if it is found, either through the individual's responses on the form, the results of the criminal background check, or some other means, that within the past 10 years, he/she has been convicted of or incarcerated following a conviction for a Tier 1 exclusionary crime, he/she will not be eligible to be an IHSS provider, and the recipient who wished to hire him/her will be informed that he/she is ineligible to be a provider because of a disqualifying criminal conviction which will not be specified.

Factual Basis:

This section is necessary to ensure that the individual understands and agrees that, pursuant to the following WIC Sections, if it is found, either through the individual's responses on the form, the results of the criminal background check, or some other means, that within the

past 10 years, he/she has been convicted of or incarcerated following a conviction for a Tier 1 exclusionary crime, he/she will not be eligible to be an IHSS provider, and the recipient who wished to hire him/her will be informed that he/she is ineligible to be a provider because of a disqualifying criminal conviction which will not be specified:

- § 12305.81(a), which specifies that a person shall not be eligible to provide or receive payment for providing supportive services for 10 years following a conviction for, or incarceration following a conviction for, fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act or a violation of subdivision (a) of Section 273a of the Penal Code, or Section 368 of the Penal Code, or similar violations in another jurisdiction;
- § 12305.86(a), which specifies that a county shall investigate the background of a person who seeks to become a supportive services provider and that the investigation shall include criminal background checks conducted by DOJ pursuant to Section 15660;
- § 12305.86(c)(1), which specifies that upon notice from DOJ that a prospective or current provider has been convicted of a criminal offense specified in Section 12305.81, the county shall deny or terminate the applicant's request to become a provider of supportive services to any recipient of the In-Home Supportive Services program; and
- § 12305.87(d)(1), which specifies that a recipient shall not be allowed to submit an individual waiver with respect to a conviction or convictions for offenses specified in Section 12305.81.

Sections 30-776.411(k)(5) and (k)(5)(A)

Specific Purpose:

These sections are adopted to specify that the provider enrollment form includes a statement indicating that, by signing the form, the individual declares that he/she understands and agrees that, if it is found, either through the individual's responses on the form, the results of the criminal background check, or some other means, that within the past 10 years, he/she has been convicted of or incarcerated following a conviction for a Tier 2 exclusionary crime, and he/she has not received a certificate of rehabilitation or had the conviction expunged, he/she will not be eligible to be an IHSS provider, unless an IHSS recipient who wishes to hire him/her to provide services, requests an individual waiver, or he/she applies for and is granted a general exception.

Factual Basis:

This section is necessary to comply with WIC Section 12305.87(h)(2), which specifies that the provider enrollment form shall include a statement that the individual understands that if

he/she has been convicted, or incarcerated following conviction for a Tier 2 disqualifying crime in the last 10 years, and has not received a certificate of rehabilitation or had the information or accusation dismissed, he/she shall only be authorized to receive payment for providing services under an individual waiver or general exception, and upon meeting all other applicable criteria for enrollment as a provider in the program.

Section 30-776.411(k)(5)(B)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that, by signing the form, the individual declares that he/she understands and agrees that, if it is found, either through the individual's responses on the form, the results of the criminal background check, or some other means, that within the past 10 years, he/she has been convicted of or incarcerated following a conviction for a Tier 2 exclusionary crime, and he/she has not received a certificate of rehabilitation or had the conviction expunged, the IHSS recipient who wishes to hire him/her as a provider will be informed of his/her conviction and the types of crimes for which he/she was convicted, and the recipient will be directed to keep the information confidential.

Factual Basis:

This section is necessary to comply with WIC Section 12305.87(d)(2) which requires the county notify a recipient who wishes to hire a person who is applying to be a provider and who has been convicted of a Tier 2 disqualifying crime of that individual's Tier 2 disqualifying convictions.

Section 30-776.411(k)(6)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a declaration indicating that, by signing the form, the provider applicant understands and agrees that if he/she is ultimately enrolled by the county as an IHSS provider, and the person for whom he/she provides services receives IHSS through the Medi-Cal program, he/she will be considered to be a Medi-Cal provider of personal care services, and therefore, he/she will be required to comply with all Medi-Cal program rules relating to the provision of services.

Factual Basis:

This section is necessary to comply with WIC Sections 12305.81(a), which states that the provider enrollment form shall be considered as an application to render services under the Medi-Cal program consistent with subdivision (c) of WIC Section 14043.1. This is because a majority of recipients receive IHSS as a benefit of the Medi-Cal program.

Section 30-776.411(k)(7)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a declaration indicating that, by signing the form, the applicant provider understands and agrees that payment for the authorized services he/she provides to an IHSS recipient will be from federal, state and/or county IHSS funds, and any false statement he/she provides, including false entries on a timesheet or withholding of information, may be prosecuted under federal and/or state laws.

Factual Basis:

This section is necessary to ensure that the applicant provider understands the consequences of committing fraud in the IHSS program. Specifically, he/she agrees that, pursuant to WIC Section 12301.25(b), a person who is convicted of fraud resulting from intentional deception or misrepresentation in the provision of timesheet information will be subject to criminal and/or civil penalties.

Section 30-776.411(k)(8)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a declaration indicating that, by signing the form, the provider applicant understand and agrees that he/she will be required to reimburse the state for any overpayment paid to him/her, and that the amount of any overpayment, individually or in the aggregate, may be deducted from any future warrant to him/her for services provided to any recipient.

Factual Basis:

This section is necessary to comply with WIC Section 12305.81(a)(5), which requires that the provider enrollment form include a statement to the effect that the individual seeking to be a provider agrees to reimburse the state for any overpayment paid to him/her, and that the amount of any overpayment, individually or in the aggregate, may be deducted from any future warrant to him/her for services provided to any recipient.

Section 30-776.411(k)(9)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a declaration indicating that, by signing the form, the applicant provider understands and agrees that he/she will be required to provide services without discrimination based on race, color, national or ethnic origin, religion, gender, age, sexual orientation, or physical or mental disability.

Factual Basis:

This section is necessary to comply with applicable federal and state laws and their implementing regulations to ensure that no person shall, because of race, color, national or ethnic origin, religion, gender, age, marital status, political affiliation, sexual orientation, or physical or mental disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal or state financial assistance.

Section 30-776.411(l)

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes the actual text of the PC and WIC Sections which define the disqualifying Tier 1 and Tier 2 crimes.

Factual Basis:

This section is necessary to comply with WIC Section 12305.81(b) which requires the provider enrollment form to include the text of subdivision (a) of Section 273a of the PC, and Section 368 of the PC.

This section is also necessary to comply with WIC Section 12305.87(h)(1) which requires the provider enrollment form to include the text of subdivision (c) of Section 290 of the PC, subdivision (c) of Section 667.5 of the PC, subdivision (c) of Section 1192.7 of the PC, and paragraph (2) of subdivisions (c) and (g) of Section 10980 of the WIC.

Section 30-776.412

Specific Purpose:

This section is adopted to specify that the provider enrollment form includes a statement indicating that, by signing the provider enrollment form under penalty of perjury, the individual declares that the information he/she has provided on the form is true and correct to the best of his/her knowledge.

Factual Basis:

This section is necessary to comply with WIC section 12305.81(a) which requires that each person seeking to become a provider shall sign a provider enrollment form under penalty of perjury.

Section 30-776.413

Specific Purpose:

This section is adopted to specify that the completed and signed provider enrollment form must be submitted to the county in-person by the individual seeking to become a provider.

Factual Basis:

This section is necessary to comply with WIC section 12305.81(a) which requires that the person seeking to become a provider submit the provider enrollment form to the county in-person.

Sections 30-776.414 through 30-776.414(b)(2)(A)

Specific Purpose:

These sections are adopted to: 1) specify that when the individual seeking to become provider submits the provider enrollment form to the county in-person, he/she must present and allow the county to photocopy, documents verifying his/her identity, and 2) specify the identifying documents required and which forms of identification may be accepted.

Factual Basis:

This section is necessary to comply with WIC section 12305.81(a) which states that submission of the provider enrollment form shall include the photocopying by the county of original documentation verifying the provider's identity.

Sections 30-776.415 through 30-776.416

Specific Purpose:

These sections are adopted to specify: 1) that the completed and signed provider enrollment form and copies of the individual's identifying documents must be retained in the provider's file, 2) the length of time that the documents must be retained depending on whether or not the individual is enrolled as a provider, and 3) that the individual must be provided a copy of the completed and signed provider enrollment form for his/her records.

Factual Basis:

These sections are necessary to comply with WIC section 12305.81(a) which states that the county shall retain the provider enrollment form and a copy of the identification documentation in the file of the provider. The establishment of a reasonable retention schedule for the documents under differing circumstances is necessary to promote efficient and consistent information management practices statewide. The requirement that the individual be provided with a copy of the completed and signed provider enrollment form is

established so that, if needed at a later date, the individual may refer to the information he/she provided and statements he/she agreed to under penalty of perjury.

Sections 30-776.42 through 30-776.421(e)

Specific Purpose:

These sections are adopted to specify: 1) that one of the requirements an individual seeking to be a provider must fulfill is an in-person attendance at a provider orientation, and 2) the information at minimum that must be presented at the provider orientation.

Factual Basis:

These sections are necessary to comply with WIC section 12301.24(a) which requires that all prospective providers must complete a provider orientation at the time of enrollment. Additionally, subparagraphs (1) through (5) of WIC section 12301.24(a) require that the provider orientation shall include, but not be limited to, the following information: the requirements to be an eligible IHSS provider; a description of the IHSS program; the rules, regulations, and provider-related processes and procedures, including timesheets; the consequences of committing fraud in the IHSS program; and, the Medi-Cal toll-free telephone fraud hotline and internet web site for reporting suspected fraud or abuse in the provision or receipt of supportive services.

Section 30-776.43

Specific Purpose:

This section is adopted to specify that, at the conclusion of the provider orientation, the individual seeking to be a provider shall sign a provider enrollment agreement.

Factual Basis:

This section is necessary to comply with WIC Section 12301.24(b) which requires that, at the conclusion of the provider orientation, the individual seeking to become a provider shall sign a statement agreeing that he/she understands the program rules and his/her responsibilities as a provider as they have been conveyed to him/her in the provider orientation.

Sections 30-776.431 and .431(a)

Specific Purpose:

These sections are adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands and agrees that attendance at the provider orientation and signing of the provider enrollment agreement are requirements of

the provider enrollment process, and he/she must complete all of the requirements before he/she can be enrolled as provider and receive payment for providing services.

Factual Basis:

These sections are necessary to comply with WIC sections 12301.24(a) and (b) which require that an individual seeking to become a provider shall complete a provider orientation, and, in order to complete provider enrollment, at the conclusion of the provider orientation, he/she shall sign a statement specifying that he/she agrees to comply with program rules and requirements.

Sections 30-776.431(a)(1) through (a)(3)

Specific Purpose:

These sections are adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands and agrees that he/she must complete all of the provider enrollment requirements within 90 calendar days; that the 90 calendar day period begins either when he/she completes the first enrollment requirement or when a recipient designates the individual as his/her provider; and that if he/she begins providing authorized services for an eligible recipient before he/she completes the provider enrollment requirements, and he/she is ultimately determined eligible to be enrolled as a provider, he/she will be eligible to be paid retroactively for services he/she provided before completing the requirements no more than 90 calendar days before he/she completed the provider enrollment requirements and was determined eligible to be a provider.

Factual Basis:

These sections are necessary to ensure that the individual understands and agrees with the policies that have been established which limit to 90 calendar days the amount of time an individual has to complete the provider enrollment requirements and the amount of time he/she can be paid retroactively for services he/she provided before completing enrollment requirements. These policies have been established to address a common situation that occurs in the IHSS program wherein an individual provides services for a recipient prior to completing the provider enrollment requirements. Establishing the policy that an individual may be paid retroactively for authorized services he/she provides to an eligible recipient before the individual completes the provider enrollment requirements ensures that the recipient does not go without services he/she needs to remain safely in his/her own home because the individual he/she has chosen to be his/her provider is not yet enrolled. Limiting the length of time that an individual has to complete the enrollment requirements to 90 days allows sufficient time for the requirements to be completed but at the same time encourages individuals to complete the requirements promptly. Prompt completion of the enrollment requirements limits the amount of time that a recipient is exposed to an individual who could potentially present a safety or security risk to the recipient because the individual may ultimately be determined ineligible to be a provider due to failure to pass the criminal background check. Limiting the length of time for which an individual can receive

retroactive payment from the IHSS program for authorized services provided to an eligible recipient before he/she completed the provider enrollment requirements limits the financial responsibility placed on the recipient should the individual ultimately be found ineligible to be an IHSS provider.

Section 30-776.431(b)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual acknowledges that he/she was given a description of the IHSS program and information about the requirements for and responsibilities of being provider, the consequences of committing fraud and instructions for reporting suspected fraud or abuse in the program.

Factual Basis:

This section is necessary to comply with WIC section 12301.24(b)(4) which requires that the individual seeking to become a provider shall sign a statement specifying that he/she understands and agrees to program expectations and is aware of the measures that the state or county may take to enforce program integrity.

Section 30-776.431(c)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual acknowledges that he/she received instruction and/or a demonstration of how to complete a timesheet and that he/she understands that only time worked to perform authorized services should be reported on the timesheet, that by signing the timesheet, he/she is certifying that the information reported on it is true and correct, that if he/she is convicted of fraudulently reporting information on the timesheet, in addition to any criminal penalties, he/she may be required to pay civil penalties of at least \$500, and not more than \$1,000, for each instance of fraud.

Factual Basis:

This section is necessary to comply with WIC section 12301.24(b)(2) which requires that the individual seeking to become a provider shall sign a statement specifying that he/she has received a demonstration of, and understands, timesheet requirements. Pursuant to WIC section 12301.25(b), the timesheet is required to include information indicating that an individual convicted of fraud for providing false information on the timesheet is subject to specified civil penalties. This section is necessary to ensure that the individual is aware of and understands the consequences of committing fraud in the IHSS program.

Section 30-776.431(d)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands that he/she is required to complete the U.S. Citizenship and Immigration Services' (USCIS) Employment Eligibility Verification (Form I-9) to verify that he/she has a legal right to work in the U.S., and that the recipient(s) for whom he/she provides services will retain a copy of the completed form.

Factual Basis:

This section is necessary to ensure that the applicant provider is aware that, pursuant to the Immigration Reform and Control Act of 1986 (Public Law 99-603 [8 U.S. Code 1324a]), all employees (citizens and noncitizens) hired after November 6, 1986, must verify that he/she is legally authorized to work in the U.S. The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), requires that all employees hired after November 6, 1986, must complete the Employment Eligibility Verification Form (I-9). Employers must complete Section 2 of the I-9 by examining evidence of identity and employment authorization within 3 business days of the date employment begins, and signs and dates the certification in Section 2.

In the IHSS program, the recipient is considered to be the employer of the individual who provides his/her services, in that the recipient hires, trains, supervises and, if necessary, fires his/her provider. As the employer, the recipient is the person responsible for obtaining the completed Form I-9 from the individual seeking to be his/her provider, examining the documentation presented by the individual, and signing and dating the certification. The recipient is also responsible for retaining the Form I-9 in accordance with USCIS' requirements.

Section 30-776.431(e)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands that he/she has the option to submit Internal Revenue Services' Employee Withholding Allowance Certificate (Form W-4) to request federal income tax withholding and/or California Employment Development Department's Employee Withholding Allowance Certificate (Form DE 4) to request state income tax withholding from my wages, but if he/she does not submit Form W-4 and/or DE 4, no there will be no taxes withheld from his/her wages.

Factual Basis:

This section is necessary to ensure that the applicant provider is aware that, pursuant to Internal Revenue Code Section 3402 (26 USC Section 3402), and Section 31.3402(f)(2)-

1(a) of the Employment Tax Regulations (26 CFR Section 31.3402(f)(2)-1(a)), on or before the date on which an individual begins employment with an employer, the individual shall furnish the employer with a signed withholding exemption certificate relating to the employee's marital status and the number of withholding exemptions which the employee claims. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate, such employee shall be considered as a single person claiming no withholding exemptions. Also, pursuant to Unemployment Insurance Code Sections 13040 and 13041, an employer shall use the exemption certificate filed by the employee with the employer for determining the number of withholding exemptions to be allowed in computing the tax required to be deducted and withheld, and if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

Section 30-776.431(f)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands that he/she cannot be paid for authorized services performed when the recipient is away from his/her home, for example, when the recipient is in the hospital or away on vacation, and that he/she must contact the recipient's social worker for approval of any services that may be performed when the recipient is away from the home.

Factual Basis:

This section is necessary to ensure that the individual understands that, pursuant to WIC Section 12300, under most circumstances, services must be provided in the recipient's home as the purpose of the program is to provide supportive services to aged, blind, or disabled persons who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided. To ensure that the individual does not perform services for which he/she cannot be paid, it is critical that he/she understands that he/she must seek approval from the recipient's social worker for any services he/she is asked to provide when the recipient is away from home.

Section 30-776.431(g)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands that he/she will receive a notice informing him/her of the services he/she is authorized to perform for each recipient(s).

Factual Basis:

This section is necessary to comply with WIC section 12301.24(b)(1) which requires that the individual seeking to become a provider shall sign a statement specifying that he/she agrees that he/she will provide to a recipient authorized services. Also, this section is adopted to ensure that an individual is aware and understands that, pursuant to WIC 12301.22, he/she shall receive a list specifying the approved duties to be performed for each recipient under the provider's care and a complete list of supportive service tasks available under the IHSS program. This will help to ensure that the provider is not asked by the recipient to perform duties/services that the recipient is not authorized to receive and, consequently, for which the provider cannot receive payment.

Section 30-776.431(h)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that the individual understands that he/she must cooperate with state or county staff to provide requested information related to the evaluation of a recipient's case.

Factual Basis:

This section is necessary to comply with WIC section 12301.24(b)(3) which requires that the individual seeking to become a provider shall sign a statement specifying that he/she agrees that he/she shall cooperate with state or county staff to provide any information necessary for assessment or evaluation of a case.

Section 30-776.431(i)

Specific Purpose:

This section is adopted to specify that the provider enrollment agreement shall include a statement indicating that, by signing the form, the individual accepts the responsibility to follow all program rules and requirements explained at the provider orientation, and that failure to follow the program rules and requirements may result in being terminated as a provider.

Factual Basis:

This section is necessary to comply with WIC section 12301.24(b)(5) which requires that all applicants shall sign a statement specifying that he/she agrees that he/she has attended the provider orientation and understands that failure to comply with program rules and requirements may result in his/her being terminated from providing services through the IHSS program.

Sections 30-776.432 through 30-776.433

Specific Purpose:

These sections are adopted to specify that the county must: 1) indefinitely retain the signed provider enrollment agreement in the provider's file, and that the document may be retained in an electronic format, and 2) provide the individual seeking to be a provider with a copy of the signed document for his/her records.

Factual Basis:

These sections are necessary to comply with WIC section 12301.24(d) which require that the county shall indefinitely retain this statement in the provider's file. Government Code section 12168.7 authorizes the storing of documents in electronic media. The requirement that the individual be provided with a copy of the signed document is established so that, if needed at a later date, the individual may refer to the statements with which he/she agreed to conform.

Section 30-776.44

Specific Purpose:

This section is adopted to specify that an individual seeking to become an IHSS provider must undergo a criminal background check conducted by the Department of Justice (DOJ).

Factual Basis:

This section is necessary to comply with WIC section 12305.86 which requires that the county shall investigate the background of a person who seeks to become a supportive services provider, and that the investigation shall include criminal background checks conducted by the DOJ pursuant to WIC section 15660.

Section 30-776.441 and Handbook Section 30-776.441(a)

Specific Purpose:

These sections are adopted to specify: 1) that the purpose of the criminal background check is to establish whether, within the last 10 years, an individual seeking to become a provider has been convicted of, or incarcerated following a conviction, for a crime that disqualifies the individual from being a provider, and 2) which criminal convictions are disqualifying.

Factual Basis:

These sections are necessary to comply with the following WIC sections which prohibit individuals convicted of, or incarcerated following a conviction for, certain crimes from becoming an IHSS provider:

- Pursuant to §12305.86(c)(1) - upon notice from DOJ that an individual has been convicted of, or incarcerated following a conviction for fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act, or a violation of subdivision (a) of section 273a of the PC, or section 368 of the PC, or similar violations in another jurisdiction, the county shall deny the individual's request to become an IHSS provider; and
- Pursuant to §12305.86(c)(2) - upon notice from DOJ that, within the last 10 years, an individual has been convicted of, or incarcerated following conviction for, a violent or serious felony, as specified in subdivision (c) of section 667.5 of the PC and subdivision (c) of section 1192.7 of the PC; a felony offense for which a person is required to register under subdivision (c) of section 290 of the PC; or a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of section 10980 of the WIC, the county shall deny the individual's request to become an IHSS provider.

Sections 30-776.441(b) through (b)(2)

Specific Purpose:

These sections are adopted to specify that an individual who has certain disqualifying convictions on his/her criminal background, but who has received a certificate of rehabilitation or had the information or accusation against him/her dismissed pursuant to section 1203.4 of the PC, is not prohibited from being an IHSS provider.

Factual Basis:

These sections are necessary to comply with WIC Section 12305.87(c) which provides that enrollment as an IHSS provider shall not be denied if an individual who has been convicted of a violent or serious felony, as specified in subdivision (c) of section 667.5 of the PC and subdivision (c) of section 1192.7 of the PC; a felony offense for which a person is required to register under subdivision (c) of section 290 of the PC; or a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of section 10980 of the WIC, has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the PC or if the information or accusation against him/her has been dismissed pursuant to section 1203.4 of the PC.

Sections 30-776.441(c) through (d)(3)

Specific Purpose:

These sections are adopted to establish definitions of the terms, "the last 10 years" and "incarcerated," as they relate to the time period for which an individual who has been

convicted of, or incarcerated following a conviction for, a disqualifying crime is prohibited from being an IHSS provider.

Factual Basis:

These sections are necessary to establish clear and consistent definitions of the terms, "the last 10 years" and "incarcerated." Counties need clear definition of these terms so that they determine whether a conviction is disqualifying. Only convictions, or incarcerations following convictions, for specified crimes that occurred within 10 years are considered to be disqualifying; therefore, counties need to establish the dates and corrections statuses they must use to calculate the 10-year disqualification period.

Section 30-776.441(e)

Specific Purpose:

This section is adopted to specify the if the criminal background check established that individual seeking to become a provider has been convicted of, or incarcerated following a conviction for, a disqualifying crime within the last 10 years, he/she shall be deemed ineligible to be a provider.

Factual Basis:

This section is necessary to comply with the following WIC Sections which prohibit individuals convicted of, or incarcerated following a conviction for, certain crimes from becoming an IHSS provider:

- Pursuant to §12305.86(c)(1) - upon notice from DOJ that an individual has been convicted of, or incarcerated following a conviction for fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act, or a violation of subdivision (a) of section 273a of the PC, or section 368 of the PC, or similar violations in another jurisdiction, the county shall deny the individual's request to become an IHSS provider; and
- Pursuant to §12305.86(c)(2) - upon notice from DOJ that, within the last 10 years, an individual has been convicted of, or incarcerated following conviction for, a violent or serious felony, as specified in subdivision (c) of section 667.5 of the PC and subdivision (c) of section 1192.7 of the PC; a felony offense for which a person is required to register under subdivision (c) of section 290 of the PC; or a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of section 10980 of the WIC, the county shall deny the individual's request to become an IHSS provider.

Section 30-776.442

Specific Purpose:

This section is adopted to specify the individual seeking to become a provider is responsible for paying the costs of the criminal background check.

Factual Basis:

This section is necessary to comply with WIC section 12305.86(b) which provides that criminal background checks shall be conducted at the expense of the individual seeking to become a provider.

Section 30-776.45

Specific Purpose:

This section is adopted to specify that if an individual refuses or fails to complete any of the individual provider enrollment requirements, namely, the provider enrollment form, the provider orientation, the provider enrollment agreement or the criminal background check, the individual will be determined ineligible to be an IHSS provider.

Factual Basis:

This section is necessary to comply with WIC Section 12301.24(d) which provides that refusal of the provider to sign the statement specifying that he/she understands and agrees to comply with program rules and requirements shall result in the provider being ineligible to receive payment for the provision of services and participate as a provider in the IHSS program.

Sections 30-776.46 and .461

Specific Purpose:

These sections are adopted to: 1) specify that an individual who completes the provider enrollment requirements shall not have to complete the requirements again as long as he/she remains active and continuously enrolled as a provider, and 2) establish a definition for the term, "active."

Factual Basis:

These sections are necessary to clarify that it is not necessary for an individual to complete the enrollment requirements multiple times, e.g., each time he/she acquires a new recipient for whom he/she provides services, etc., unless more than a year has elapsed since the individual was providing services and submitting timesheets for services he/she provided. There is no statutory authority to require an individual to complete the enrollment

requirements more than once. Furthermore, statute provides that a county must accept a criminal background check clearance determination made by another county; therefore, in most circumstances, an individual would not be required to undergo the criminal background check more than once. However, once an individual has cleared his/her criminal background check and been enrolled as a provider, the county must continue to receive and evaluate subsequent arrest and disposition information from DOJ to determine if the individual is subsequently convicted of a disqualifying crime. DOJ requires that the county notify DOJ to discontinue sending subsequent arrest and disposition information when there is no longer a business need to receive the information, e.g., when an individual is no longer working. The one year inactivity period was established because one year is considered to be a reasonable time frame and because the Case Management, Information, and Payrolling System (CMIPS) is currently programmed to terminate individuals who have had no timesheet submittal activity for one year.

Sections 30-776.462 through 30-776.462(c)

Specific Purpose:

These sections are adopted to: 1) specify that as county shall accept a criminal background check clearance for an individual who has been deemed eligible by another county; 2) establish a definition for the term, "criminal background clearance;" 3) specify how the county can verify the existence of a clearance; and, 4) clarify that existence of a recipient's request for an individual waiver of an applicant/prospective provider's disqualification pursuant to Section 30-776.7 shall not constitute a criminal background clearance.

Factual Basis:

These sections are necessary to comply with WIC Section 12305.86(e) which provides that a county authorized to secure a criminal background check clearance shall accept a clearance for an individual who has been deemed eligible by another county with criminal background check authority, to receive payment for providing services, and that existence of a clearance shall be determined by verification through CMIPS that another county with criminal background check authority has deemed the individual to be eligible to receive payment for providing services.

These sections also clarify that in situations in which an individual has been found ineligible to be a provider on the basis of a Tier 2 disqualifying conviction but a recipient requests an individual waiver of that person's disqualification pursuant to Section 30-776.7, the county's acceptance of the waiver request and existence of the waiver shall not constitute a criminal background clearance.

Sections 30-776.463 through 30-776.463(a)(3)(A)1.

Specific Purpose:

These sections are adopted to establish procedures and processes for counties to follow in situations in which an individual provides services to a recipient(s) in a county other than the one in which he/she underwent the criminal background check, or when an individual provides services for recipients in more than one county. These sections establish the common term, "originating county" for the county in which the individual underwent his/her criminal background check. The sections also assign specific responsibilities for both the originating county and the other county(ies) in which an individual is providing services. These responsibilities include evaluation of subsequent arrests and disposition of information and providing notice to the provider and recipients when an individual becomes ineligible to continue to provide services based on a subsequent conviction for a disqualifying crime.

Factual Basis:

These sections are necessary to comply with WIC section 12305.86(e) which specifies that a county authorized to secure a criminal background check clearance shall accept a clearance for an individual who has been deemed eligible by another nonprofit consortium, public authority, or county with criminal background check authority, to receive payment for providing services. Existence of a clearance shall be determined by verification through CMIPS that another county with criminal background check authority has deemed the current or prospective provider to be eligible to receive payment for providing services.

The 3-day time frame for a county that receives information about a subsequent arrest and conviction for a disqualifying crime of an individual providing services in another county(ies) to notify that county(ies) of the individual's disqualification is established to ensure the safety and security of the recipient(s) for whom the disqualified individual is providing services in that county(ies). It is critical that the other county(ies) be informed promptly so that the county can send notice to the recipient(s) to inform them that the individual is no longer eligible to provide services due to a conviction for a disqualifying crime. The time frame for notification which has been established serves to limit the amount of time the recipient(s) will be exposed to a potentially unsafe individual in his/her home.

Sections 30-776.5 through 30-776.583(c)(2)

Specific Purpose:

These sections are adopted to establish standard procedures and processes for counties to follow to carry out the requirement that each individual seeking to become an IHSS provider undergo a criminal background check conducted by DOJ for the purpose of determining whether the individual has been convicted of, or incarcerated following a conviction for a disqualifying crime within the last 10 years.

These sections specify:

- 1) That the county must establish and maintain authorization with DOJ to receive criminal background check information, and comply with all DOJ rules for the receipt, handling, storage, dissemination and destruction of criminal background check information;
- 2) That the county must provide individuals seeking to become IHSS providers with information and instructions on how to submit fingerprints for the criminal background check;
- 3) The types of responses counties may receive in response to an individual's submission of his/her fingerprints;
- 4) What criminal background information DOJ is statutorily required to collect and disseminate on individuals seeking to become IHSS providers; and
- 5) How the county must evaluate the information received from DOJ, and what determination the county must make depending on the type and content of the response received.

Factual Basis:

These sections are necessary to comply with the following WIC sections:

- Pursuant to § 12305.86(a) – which specifies that a county shall investigate the background of a person who seeks to become a supportive services provider. The investigation shall include a criminal background check conducted by the DOJ pursuant to WIC §15660, which specifies that when a person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home, DOJ shall secure the criminal record of a person to determine whether the person has ever been convicted of a violation or attempted violation of specified crimes.
- Pursuant to § 12305.86(c)(1) – which specifies that, upon notice from the DOJ that a prospective or current provider has been convicted of a (Tier 1) crime, as specified in § 12305.81, the county shall deny or terminate the applicant's request to become a provider of supportive services to any recipient of the IHSS program.
- Pursuant to § 12305.86(c)(2) – which specifies that, upon notice from the DOJ, that an applicant has been convicted of, or incarcerated following conviction for, a (Tier 2) crime, as specified in § 12305.87(b)(1), (2) and (3), the county shall deny the applicant's request to become a provider of supportive services to any recipient of the IHSS program. Pursuant to § 12305.86(c)(4), the Department has developed a written appeal process for providers determined ineligible to receive payment for the provision of services.

Section 30-776.59

Specific Purpose:

This section is adopted to specify that if the county receives verifiable documentation, indicating that, within the last 10 years, an individual seeking to be an IHSS provider has been convicted of, or incarcerated following a conviction for, a crime(s) similar to specified abuse of a child or abuse of an elder or dependent adult, in another jurisdiction, the individual is prohibited from being enrolled as a provider or receiving payment for providing services for an IHSS recipient.

Factual Basis:

This section is necessary to comply with WIC Section 12305.81(a)(2) which provides that an individual who, in the last 10 years, has been convicted for, or incarcerated following conviction for, a violation of subdivision (a) of Section 273a of the PC or Section 368 of the PC, or similar violations in another jurisdiction, is not eligible to be enrolled as a provider or to receive payment for providing supportive services.

The statute requiring that an individual seeking to be an IHSS provider undergo a criminal background check does not require or authorize a Federal Bureau of Investigation criminal background check; rather, the statute specifies that the criminal background check be conducted by the state DOJ. The results of the DOJ-conducted criminal background check would generally only include convictions, or incarceration following convictions, which occurred in California. Therefore, in order to comply with the statutory provision that prohibits from being a provider, an individual who has been convicted of, or incarcerated following a conviction for, a violation(s) similar to those specified in PC section 273a(a) or PC section 368, but occurring in another jurisdiction, it is necessary to specify that if verifiable information is received indicating that an individual has been convicted of such a crime in another jurisdiction, that information would serve to disqualify the individual from being enrolled as a provider or receiving payment for providing services for an IHSS recipient.

Sections 30-776.6 through 30-776.633(b)

Specific Purpose:

These sections are adopted to establish a standard time frame by which notices must be sent to inform both the individual seeking to become a provider and any recipient(s) the individual is seeking to provide services for, when an individual has been determined by the county to be either eligible or ineligible to be enrolled as a provider or receive payment for providing services for an IHSS recipient. Also, these sections are adopted to establish standard content for the notices.

Factual Basis:

These sections are necessary so that an individual determined by the county to be either eligible or ineligible to be a provider, and any recipient(s) for whom the individual was seeking to provide services, receive timely and clear notice of the individual's eligibility or ineligibility to be a provider.

Proper notice of eligibility to both the individual seeking to be a provider and the recipient(s) is necessary so that both parties are aware that the enrollment requirements have been completed and that the individual has been enrolled as a provider and may begin providing services and receiving payment for services he/she provides for the recipient.

Proper notice of ineligibility to the individual seeking to be a provider is necessary so that the individual can take any necessary steps to resolve the issues that led to and/or appeal the determination of ineligibility.

Proper notice of ineligibility to the recipient(s) is necessary so that the individual(s) understands that if he/she can make alternate arrangements for the provision of his/her needed services, and that, if he/she chooses to receive (or continue to receive) services from the individual determined by the county to be ineligible, he/she will be financially responsible for paying for the services he/she receives from the ineligible individual.

The 20-day time frame that is established to allow a disqualified individual to continue to be paid for providing services strikes a balance between limiting the amount of time a recipient(s) is exposed to a potentially unsafe individual in his/her home and ensuring that the recipient does not go without needed services because his/her provider is immediately disqualified. The 20-day period allows approximately 5 days for the mailing of the notice, and approximately two weeks for the recipient to find and hire a new provider.

In addition, these sections are necessary to comply with the following WIC sections:

- Pursuant to WIC § 12305.86(c)(3) – which requires that when an individual is found ineligible to be a provider based on information included in his/her criminal offender record information (CORI) response as provided to the county by DOJ, along with the notice of ineligibility, the county shall provide the individual with:
 - 1) An unmodified/unaltered copy of his/her CORI response as provided to the county by DOJ; and
 - 2) Information in plain language on how he/she may contest the accuracy and completeness of, and refute any erroneous or inaccurate information in, his/her CORI.
- Pursuant to WIC § 12305.86(c)(4) – which requires that the Department shall develop a written appeal process for individuals who are determined ineligible to receive payment for the provision of services under the IHSS program. (no regs on appeal process yet)

Sections 30-776.7 through 30-776.72

Specific Purpose:

These sections are adopted to specify policies and procedures related to individual waivers of certain disqualifying convictions. These sections specify that a recipient is permitted to employ as his/her provider an individual who has been determined ineligible to be a provider based on a conviction(s) (or incarceration following a conviction(s)) for certain disqualifying crimes, if the recipient, after having been informed of the individual's disqualifying criminal conviction(s), requests an individual waiver of the individual's exclusion.

Factual Basis:

These sections are necessary to comply with WIC 12305.87(d)(1) which specifies that:

- A recipient who wishes to employ as his/her provider an individual who has been determined ineligible to be a provider based on a conviction(s) (or incarceration following a conviction(s)), within the last 10 years, for a violent or serious felony, as specified in subdivision (c) of section 667.5 of the PC and subdivision (c) of section 1192.7 of the PC; a felony offense for which a person is required to register under subdivision (c) of section 290 of the PC; or a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of section 10980 of the WIC, may submit to the county an individual waiver of the exclusion; and
- A recipient is not permitted to submit an individual waiver to employ as his/her provider an individual who has been determined ineligible to be a provider based on a conviction(s) (or incarceration following a conviction(s)), within the last 10 years, for fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act, or a violation of subdivision (a) of section 273a of the PC, or section 368 of the PC, or similar violations in another jurisdiction.

Sections 30-776.73 through 30-776.732(b)

Specific Purpose:

These sections are adopted to specify that when a recipient wishes to hire an individual who would otherwise be excluded from being a provider on the basis of a Tier 2 disqualifying conviction(s), the county must send a notice to the recipient informing him/her about the individual's disqualifying convictions and include, along with the notice, an individual waiver form. These sections also specify what information must be included on the individual waiver form.

Factual Basis:

These sections are necessary to comply with WIC sections 12305.87(d)(2) which specifies that the county must inform a recipient who wishes to hire a person who has been excluded as a provider based on a conviction for a Tier 2 disqualifying crime, of the individual's disqualifying convictions. These sections are also necessary to comply with WIC section 12305.87(d)(3) which specifies that the individual waiver form developed by the Department and used by all counties must include 1) a space for the county to include a reference to any PC sections and corresponding offense names or descriptions that describe in plain language the disqualifying conviction(s) that the individual has in his/her background; and 2) a statement that the recipient, or his/her authorized representative, if applicable, is aware of the individual's conviction(s), and that he/she agrees to waive the individual's exclusion as a provider based on the conviction(s) and employ the applicant as his/her service provider.

Sections 30-776.74 through 30-776.742

Specific Purpose:

These sections are adopted to specify that the individual waiver must be signed by the recipient or his/her authorized representative and returned to the county, and that the county must retain the waiver form and the CORI until the conviction(s) is no longer within the 10-year disqualification period. These sections also specify that, other than certain individuals, an individual acting as a recipient's authorized representative may not sign an individual waiver of his/her own disqualifying conviction(s). Furthermore, these sections specify that the county shall provide notice to the recipient acknowledging receipt of a valid or an invalid waiver. These sections also specify that, upon receipt of a valid waiver, the county shall provide notice to the individual seeking to be a provider informing him/her that he is eligible to provide services to the recipient who signed the waiver. Finally, these sections specify that if the individual began providing services before a valid waiver request was received by the county, he/she can receive payment for authorized services he/she provided no more than 90 days before the date the county acknowledged receipt of the valid waiver.

Factual Basis:

These sections are necessary to comply with WIC Section 12305.87(d)(4) which specifies that:

- The individual waiver form shall be signed by the recipient or by the recipient's authorized representative, if applicable, and returned to the county welfare department by mail or in person;
- Except for a parent, guardian, or person having legal custody of a minor recipient, a conservator of an adult recipient, or a spouse or registered domestic partner of a recipient, a provider applicant shall not sign his or her own individual waiver form as the recipient's authorized representative; and

- The county shall retain the waiver form and a copy of the provider applicant's CORI search response until the date that the conviction(s) that are the subject of the waiver request are no longer within the 10-year period disqualification period.

These sections are also necessary so that an individual determined by the county to be either eligible or ineligible to be a provider, and any recipient(s) for whom the individual was seeking to provide services, receive timely and clear notice of the individual's eligibility or ineligibility to be a provider.

Finally, the sections are necessary to establish a reasonable policy to address situation in which an individual begins providing services for a recipient before the individual is determined eligible to be a provider for that recipient on the basis of a recipient-requested waiver. Establishing the policy that an individual may be paid retroactively for authorized services he/she provides to an eligible recipient before the county acknowledges receipt of a waiver ensures that the recipient does not go without services he/she needs to remain safely in his/her own home and that he/she receives them from the provider of his/her choice. Limiting to 90 days the length of time for which an individual can receive retroactive payment from the IHSS program for authorized services provided to an eligible recipient before the county acknowledges receipt of a valid waiver is consistent with the policy established for retroactive payment when an individual has not completed the enrollment process.

Sections 30-776.75 and 30-776.751(a)

Specific Purpose:

These sections are adopted to specify that an individual providing services to a recipient under an individual waiver may provide services only for the recipient who requested the waiver. In addition, these sections specify that the waiver only applies to the conviction(s) specified in the waiver, and that a new waiver would be required if the individual were subsequently convicted of another disqualifying Tier 2 crime(s).

Factual Basis:

These sections are necessary to comply with WIC section 12305.87(d)(5) which specifies that: a provider hired pursuant to an individual waiver may be employed only by the recipient who requested that waiver; the waiver shall only be valid with respect to convictions that are specified in that waiver; and, a new waiver shall be required if the provider is subsequently convicted of another Tier 2 disqualifying crime.

Section 30-776.76

Specific Purpose:

This section is adopted to specify that an individual who was disqualified from being a provider on the basis of a conviction for a Tier 2 crime but who is eligible to receive payment for services provided to a recipient because the recipient requested a waiver of the individual's exclusion, is permitted to provide services to an additional recipient(s) if the additional recipient(s) request an individual waiver of the individual's exclusion.

Factual Basis:

This section is necessary to comply with WIC section 12305.87(d)(6) which specifies that a provider who is eligible to receive payment for services provided pursuant to an individual waiver shall not be precluded from being eligible to receive payment for services provided to one or more additional recipients who obtain waivers.

Section 30-776.77

Specific Purpose:

This section is adopted to specify that an individual who is eligible to receive payment for services provided to a recipient under an individual waiver shall not be permitted to provide services to an additional recipient(s) in a county other than the originating county unless and until he/she undergoes another criminal background check in the county(ies) in which he/she wishes to provide services under a waiver.

Factual Basis:

This section is necessary to comply with WIC section 12305.87(d)(2) which provides that when an individual seeking to become an IHSS provider is determined to be ineligible to provide or receive payment for providing services on the basis of a Tier 2 disqualifying conviction, the county is required to send a notice informing the recipient(s) for whom the individual is seeking to provide services that the individual is ineligible to be a provider unless the recipient requests a waiver of the individual's disqualification. The notice, as well as the accompanying individual waiver form, must include specific information about the disqualifying conviction, i.e., PC section and offense name/description. This information may only be obtained from the CORI that the county in which the individual underwent his/her criminal background check received from DOJ. Other counties would not have access to this required information because, due to CORI confidentiality requirements, they are prohibited from sharing CORIs and/or information taken from CORIs with another entity, including other counties. Thus, in order for a county other than the originating county to comply with the notice requirements, the individual who wishes to provide services for a recipient under the conditions of a waiver must undergo another criminal background check in the county(ies) in which he/she wishes to provide services under a waiver.

Sections 30-776.8 through 30-776.832

Specific Purpose:

These sections are adopted to establish standard procedures for counties to follow when subsequent arrest and/or disposition information is received from DOJ on an individual who passed the initial criminal background check requirement. These sections provide guidelines for counties to evaluate the information received to determine whether an individual previously enrolled as a provider has since been convicted of a disqualifying crime.

Factual Basis:

These sections are necessary to comply with the following WIC sections which prohibit individuals who, within the last 10 years, have been convicted of, or incarcerated following a conviction for, the following crimes from being enrolled as a provider or receiving payment from the IHSS program for providing supportive services to a recipient:

- Pursuant to WIC § 12305.81(a) – Fraud against a government health care or supportive services program, including Medicare, Medicaid, or services provided under Title V, Title XX, or Title XXI of the federal Social Security Act, or a violation of subdivision (a) of section 273a of the PC, or section 368 of the PC, or similar violations in another jurisdiction; and
- Pursuant WIC § 12305.87(b) – A violent or serious felony, as specified in subdivision (c) of section 667.5 of the PC and subdivision (c) of section 1192.7 of the PC; a felony offense for which a person is required to register under subdivision (c) of section 290 of the PC; or a felony offense described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (g) of section 10980 of the WIC.

The criminal background check that an individual undergoes prior to being enrolled as an IHSS provider, establishes that, up to that point in time, the individual has not been convicted of any disqualifying crimes. In order to ensure that an individual is not convicted of a disqualifying crime after he/she has been enrolled as a provider, counties must request that DOJ send subsequent arrest and/or disposition information, and they must evaluate the information received from DOJ to determine whether there is cause to disqualify an individual. Although counties may receive both subsequent arrest and disposition information, counties may only disqualify an individual on the basis of a conviction for a disqualifying crime.

Sections 30-777.1 through 30-777.12

Specific Purpose:

These sections are adopted to establish responsibility for determining whether an individual seeking to be a provider for an IHSS recipient is authorized to work in the United States (U.S.).

Factual Basis:

These sections are necessary to comply with the Immigration Reform and Control Act of 1986 (Public Law 99-603 [8 U.S. Code 1324a]) which provides that it is unlawful for a person or other entity to hire for employment in the U.S. an individual knowing that he/she is an alien not lawfully admitted into the U.S. for permanent residence, or not otherwise authorized to be employed in the U.S.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), requires that all employees (citizens and noncitizens) hired after November 6, 1986, must complete the Employment Eligibility Verification Form (I-9). Employers must complete Section 2 of the I-9 by examining evidence of identity and employment authorization within 3 business days of the date employment begins, and sign and date the certification in Section 2.

In the IHSS program, the recipient is considered to be the employer of the individual who provides his/her services, in that the recipient hires, trains, supervises and, if necessary, fires his/her provider. As the employer, the recipient is the person responsible for obtaining the completed Form I-9 from the individual seeking to be his/her provider, examining the documentation presented by the individual, and signing and dating the certification. The recipient is also responsible for retaining the Form I-9 in accordance with USCIS' requirements.

b) Identification of Documents Upon Which Department Is Relying

- Senate Bill (SB) 1104 (Chapter 229, Statutes of 2004), Section 49
- Assembly Bill of the Fourth Extraordinary Session of 2009 (ABX4) 4 (Chapter 4, Statutes of 2009), Section 27
- ABX4 19 (Chapter 17, Statutes of 2009), Sections 3 and 11
- Assembly Bill (AB) 1612 (Chapter 725, Statutes of 2010), Sections 23 and 24
- AB 876 (Chapter 73, Statutes of 2011)
- 8 United States Code, Section 1324a
- 26 United States Code, Section 3402
- 26 Code of Federal Regulation, Section 31-3402(f)(2)-1(a)

c) Local Mandate Statement

These regulations do constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that require reimbursement, which is provided in the Budget Act to cover any costs that local agencies may incur.

d) Statement of Alternatives Considered

CDSS did not consider any other alternatives to the proposed regulatory action because the authorizing legislation specified that CDSS implement the provisions for which the regulations are proposed through All County Letters or similar instruction until regulations are adopted.

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made because the regulations only apply to individuals seeking to become IHSS providers and to the recipients for whom they seek to provide services.

f) Economic Impact Assessment

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The requirement, contained in these regulations, that individuals seeking to become IHSS providers undergo a criminal background check, could possibly impact businesses in the state that provide Live Scan fingerprinting services by increasing the number of individuals who seek such services. Although this will be an ongoing requirement for all individuals seeking to become IHSS providers, the bulk of the impact has already occurred because the requirement was implemented by All County Letter in November 2009, and the large number of individuals who were already IHSS providers at that time had until December 2010 (initially, June 2010) to comply with this requirement. Therefore, the ongoing impact, though difficult to predict, is likely to be insignificant.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows:

- The provider enrollment requirements promote safety and security of IHSS recipients while still allowing them to hire the provider of their choice by ensuring that the individuals seeking to become providers do not have a criminal background of disqualifying convictions. Additionally, the provider enrollment requirements promote program integrity by ensuring that providers understand and agree to comply with program rules and regulations.

The following documents were relied upon in proposing the regulatory action: SB 1104 (Ch. 229, Stats. of 2004); ABX4 4 (Ch. 4, Stats. of 2009); ABX4 19 (Ch. 17 Stats. of 2009); AB 1612 (Ch. 725, Stats. of 2010); and AB 876 (Ch. 73, Stats. of 2011).

g) Benefits Anticipated from Regulatory Action

The Department anticipates that these proposed regulations will benefit program stakeholders by consolidating the rules relating to IHSS provider enrollment requirements, which have to date been released via multiple ACLs, into single place, the Manual of Policies and Procedures. The provider enrollment requirements themselves promote safety and security of IHSS recipients while still allowing them to hire the provider of their choice by ensuring that the individuals seeking to become providers do not have a criminal background of disqualifying convictions, or if they do, recipients are made aware of the fact, and they may still elect to have these individuals as their providers (*by requesting a waiver*) in spite of it. Additionally, the provider enrollment requirements promote program integrity by ensuring that providers understand and agree to comply with program rules and regulations.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.