

SHD Paraphrased Regulations - Social Services

600 General

600-1

A "recipient" means a person receiving IHSS, including applicants for IHSS when clearly implied by the context of the regulations. (§30-701(r)(1), as renumbered November 14, 1998)

600-2

A "minor" for IHSS purposes means any person under the age of 18 who is not emancipated by marriage or other legal action. (§30-701(m), as renumbered November 14, 1998)

600-3

A "spouse" for IHSS purposes means a person legally married to the beneficiary under the laws of the state of the couple's permanent home at the time they lived together. (§30-701(s)(4), as renumbered November 14, 1998)

601-1

In the service programs, notices shall be mailed or otherwise provided in a timely manner. A Notice of Action reducing or discontinuing a service payment shall be mailed or released at least ten days in advance of the effective date of the intended action, and an approval or denial notice shall be provided within 30 days of the date the application is signed. (§10-116.3)

601-2

In the service programs, a written Notice of Action, containing information about the right to request a hearing, shall be provided to the applicant or client when:

- (1) An application is denied;
- (2) Approval action is taken which includes a service fee or an hourly or other limitation; or,
- (3) Existing authorization is adversely altered, discontinued, or reduced, or a service fee is changed.

(§10-116.1)

601-3

An approval notice shall inform the IHSS applicant of the effective date. (§10-116.41)

601-4

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A notice which denies, reduces, discontinues or suspends a service, or which increases a fee, shall include the information concerning the IHSS recipient's circumstances which has been used to make the determination and shall cite the regulations which support the action. (§10-116.42)

Notices which alter an existing service authorization shall indicate the circumstances under which the service will continue during the hearing process if a hearing is requested (§10-116.43)

601-5

The following persons do not have a right to a hearing under the Services provisions contained in §10-000 and following:

.41 Persons whose cost of service is not paid under Title XX provisions.

.42 Individual providers of service such as homemaker/chore workers, whether employed by the client or an agency.

.43 Persons whose ineligibility for services has been upheld in an existing fair hearing decision and who did not reapply for benefits.

.45 Emergency shelter parents.

(§10-117.4)

602-1

Each request or application for IHSS shall have been made in accordance with §30-009.22. (§30-759.1)

602-1A ADDED

1/16

The applicant or recipient shall be required to cooperate to the best of his or her ability in securing medical verification which evaluates his or her present condition, his or her ability to remain safely in his or her own home without IHSS, his or her need for either medical or nonmedical out-of-home care placement if IHSS were not provided, and the level of out-of-home care necessary if IHSS were not provided. Failure of the applicant to cooperate as required shall result in denial or termination of IHSS.

(§§30-763.11 and .12)

602-1B ADDED

1/16

The applicant or recipient, his or her conservator, and in the case of a minor his or her parents or guardian, shall be responsible for completing or participating in the completion of all

documents required in the determination of eligibility and need; making available to the county all documents in his or her possession or available to him or her needed to make the determination of eligibility and need; cooperating with the county fraud detection and prevention and quality assurance activities; reporting all known facts material to his or her eligibility and need; reporting within 10 calendar days of the occurrence any change in any of these facts; reporting all information necessary to assure timely and accurate payment to providers; and reporting within 10 calendar days when a change of residence places the recipient within the jurisdiction of another county.

(§30-760.1)

602-2

An "intercounty transfer" is the transfer of IHSS responsibility from the "transferring county" (i.e., the county authorizing IHSS) to the "receiving county" (i.e., the county to which the recipient has moved) when the recipient continues to be eligible for IHSS. (§30-701(i)(1)(A) and (B), effective August 1, 1999)

602-3

In an IHSS intercounty transfer, the "transfer period" means the period during which the transferring county remains responsible for payment of IHSS. The transfer period starts when the transferring county sends the documentation and records to the receiving county, and ends as soon as possible but not later than the first day of the month following 30 calendar days after notification to the receiving county. (§30-701(i)(1)(C) and (D), effective August 1, 1999)

602-4

In the IHSS program, an intercounty transfer shall be initiated by the transferring county after receiving notification from the recipient or person as described in §30-760.1 of his/her move to a new county. (§30-759.9)

There shall be no interruption or overlapping of services as the result of a recipient moving from one county to another. (§30-759.92)

The transferring county is responsible for authorizing and funding services until the transfer period expires, at which time the receiving county becomes responsible. (§30-759.921)

602-5

As part of the transfer process, the receiving county shall complete a face-to-face assessment with the recipient during the transfer period.

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.941 There shall be no change in the recipient's level of authorized hours/benefits taken or initiated by the transferring county during the transfer period unless there is a substantive change in living arrangements or other eligibility factors as verified by the receiving county.

(a) Some examples of what is considered a "substantive change in living arrangements" follow:

1. A change in the number of persons living in the household.
2. A change in the age(s) of persons living in the household.
3. A change in the layout or location of living areas.
4. A change in the number of rooms in the living space.
5. A change in the availability of cooking facilities.
6. A change in the availability of alternative resources.

(b) The receiving county should be notified immediately once appropriate action, including a notice of action (NOA) is taken.

(§30-759.94, as revised effective January 11, 2000)

602-6 REVISED 10/09

When services are discontinued or hours decreased for the IHSS recipient, and the recipient appeals the action, the transferring county is fully responsible, including initiating aid pending and representation at the hearing. If the recipient does not appeal the discontinuance or decrease, any reapplication shall be treated as a new application in the county in which the individual currently resides. (§30-759.96, effective August 1, 1999)

603-1

State law provides that the county is required to send a notice to each recipient regarding any assessment and the notice is to identify the hours allotted for each task and the difference from the hours previously authorized. (Welfare and Institutions Code §12300.2)

603-2

It is the position of the CDSS that if an "eligible recipient" (i.e., eligible, per CDHS, because the recipient receives a personal care service and the case is not in advance pay, receiving protective supervision, or the recipient has a spouse/parent provider) refuses to cooperate with the county by failing to complete the form SOC 426, or fails to provide information needed to determine his/her eligibility and need for service, the recipient cannot be authorized PCSP "and

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will not be eligible for the same services under the residual IHSS program", relying on Welfare & Institutions Code (W&I) §§12300(f) and 14132.95(a) and (p). The CDSS says that, as stated in §30-757.1, a "PCSP eligible recipient cannot refuse personal care [emphasis added] under PCSP and still receive ancillary services from residual IHSS." (All-County Welfare Directors Letter No. 99-13, March 29, 1999; All-County Letter (ACL) No. 99-25, April 19, 1999)

603-2A

CDSS has stated that state regulations provide that a PCSP eligible recipient cannot refuse personal care under PCSP and still receive ancillary services from IHSS. The regulation cited by the CDSS provides in pertinent part:

"A person who is eligible for a personal care service provided pursuant to the PCSP shall not be eligible for that personal care service through IHSS." [emphasis added] (§30-757.1, cited in All-County Letter No. 99-25, April 19, 1999)

603-3

IHSS recipients with an SOC who were "potentially eligible for PCSP" were sent form SOC 426, and asked to return these forms to the county social services worker within five days.

It is the position of the CDSS (i.e., there have been no regulations issued) that if a recipient understands his/her responsibility and fails to cooperate, the county should issue a courtesy notice of noncompliance, specifying that the recipient must submit the provider enrollment form to the county within fifteen calendar days or lose eligibility for both IHSS and PCSP. At the end of the fifteen-day period, recipients who have not submitted the form should be sent a notice of action informing them that services will be discontinued in 10 days.

(All-County Letter No. 99-25, April 19, 1999)

603-4

When services are discontinued or hours decreased for the IHSS recipient, and the recipient appeals the action, the transferring county is fully responsible, including initiating aid pending and representation at the hearing. If the recipient does not appeal the discontinuance or decrease, any reapplication shall be treated as a new application in the county in which the individual currently resides. (§30-759.95, effective August 1, 1999)

603-5

State regulations require the counties to make certain regulations, laws, and other policy material available to the public. The counties must do the following:

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.1 One set of the regulations and handbook materials (including All-County Letters) of the Department of Social Services, the Welfare and Institutions Code (W&IC), the Health and Safety Code, and other laws relating to any form of public social service must be made available to the public during regular office hours in each central or district county office administering public social services and in each local or regional office of the department. (W&IC §10608)

.2 These references shall be placed in the waiting or reception room or in a location available and convenient for public use.

.3 A sign shall be prominently posted in each waiting/room or reception room in appropriate languages as follows:

"Rules and regulations of the State Department of Social Services are available for your use. Please ask for the materials or manuals you wish to see."

.4 A signout book should be used to prevent loss of regulations or other materials for public use. The maintenance of the reference materials in a current and usable condition is a condition of compliance with the statute.

(Handbook §17-017)

603-6

The California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) sets forth various retention periods for public assistance (PA) records. Generally, the regulations require that all public assistance (§23-353), social service (§10-119.2), and administrative claiming (§25-815.38) records and their supporting documents be retained for three years from the date the State submits the last expenditure report to the Federal Department of Health and Human Services (HHS). Case record material must be retained for three years after the date the last State expenditure report has been made to HHS for the period the records were last used to document eligibility. The MPP sets forth the requirements for certain records which have retention periods which vary from the general rule. The regulations must be reviewed for a complete listing. (See §§23-353 through 23-356)

604-1

Persons administering aid under any public assistance program shall conduct themselves with courtesy, consideration and respect toward applicants for and recipients of aid under that program, and shall endeavor at all times to perform the duties in such a manner as to secure for every person the amount of aid to which he/she is entitled, without attempting to elicit any information not necessary to carry out the provisions of law applicable to the program, and without comment or criticism of any fact concerning applicants or recipients not directly related to the administration of the program. (W&IC §10500)

608-1

All civil rights laws, rules and regulations of Division 21 shall be complied with in administering IHSS program regulations. (§30-700.4, effective August 1, 1999)