

July 19, 2021

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 21-79

This All-County Letter (ACL) provides information to counties regarding changes being made to the In-Home Supportive Services (IHSS) Program policies and procedures which were put into place due to the COVID-19 pandemic. These changes are being implemented to be consistent with the revised California Division of Occupational Safety and Health (CAL-OHSA) COVID-19 Emergency Temporary Standards which were approved by Governor Newsom and took immediate effect through the issuance of Executive Order (EO) N-09-21 on June 17, 2021.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

July 19, 2021

ALL COUNTY LETTER NO. 21-79

TO: ALL COUNTY WELFARE DIRECTORS
ALL IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM
MANAGERS

SUBJECT: **CHANGES IN IHSS PROGRAM POLICIES & PROCEDURES
REGARDING COVID-19 PANDEMIC**

REFERENCE: [ASSEMBLY BILL \(AB\) 135 \(CHAPTER 85, STATUTES OF 2021\);](#)
[ALL-COUNTY LETTER \(ACL\) 20-29 \(MARCH 30, 2020\);](#)
[ACL 20-32 \(APRIL 10, 2020\);](#) [ACL 20-42 \(APRIL 16, 2020\);](#)
[ACL 20-75 \(JULY 6, 2020\);](#) [ACL 20-139 \(DECEMBER 17, 2020\);](#)
[ALL-COUNTY INFORMATION NOTICE I-28-20 \(MARCH 30,](#)
[2020\);](#)
[MANUAL OF POLICIES AND PROCEDURES SECTIONS 30-754,](#)
[30-754.62, 30-754.641, 30-761.13, 30-776.13, AND 30-776.414;](#)
[EXECUTIVE ORDER N-47-20, N-55-20, N-68-20, N-71-20,](#)
[N-09-21;](#)
[WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS](#)
[12305.71, 12309.1, AND 12309.1\(a\)\(2\)\(B\);](#) [PROCLAMATION ON](#)
[DECLARING A NATIONAL EMERGENCY CONCERNING THE](#)
[NOVEL CORONAVIRUS DISEASE \(COVID-19\) OUTBREAK;](#)
[CALIFORNIA BLUEPRINT FOR A SAFER ECONOMY;](#) [CAL-OSHA](#)
[COVID-19 EMERGENCY TEMPORARY STANDARDS](#)

This All-County Letter (ACL) provides information to counties regarding changes being made to the In-Home Supportive Services (IHSS) Program policies and procedures which were put into place due to the COVID-19 pandemic. These changes are being implemented to be consistent with the revised California Division of Occupational Safety and Health (CAL-OHSA) COVID-19 Emergency Temporary Standards which were approved by Governor Newsom and took immediate effect through the issuance of Executive Order (EO) N-09-21 on June 17, 2021.

BACKGROUND

On March 4, 2020, Governor Gavin Newsom declared a state of emergency in the state of California due to the COVID-19 pandemic. On April 7, 2020, Governor Newsom signed EO N-47-20 which authorized CDSS broad authority to waive IHSS requirements for up to 60 days, to the extent necessary to facilitate the continued provision of IHSS during the COVID-19 pandemic. Subsequently, on June 5, 2020, Governor Newsom signed EO N-68-20, which extended this broad flexibility for an additional 60 days, until August 3, 2020. Governor Newsom's most recent executive order impacting IHSS, EO N-71-20, signed June 30, 2020, specified that effective August 4, 2020, the previous EO waivers regarding IHSS program requirements were replaced with narrower language allowing in-home initial assessments to be conducted via videoconference under certain circumstances.

On August 28, 2020, Governor Newsom unveiled the Blueprint for a Safer Economy, which outlined the State's colored tier system for determining the severity of the COVID-19 viral outbreak on a county-by-county basis. In the tiered system, each county receives a color designation based on the level of outbreak in that county. Each color corresponds to the level of severity of transmission and determines the activities and restrictions that are required to be in place for the individual county.

Federally, the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak ("National Emergency"), signed by President Trump, allowed states to apply for a waiver of certain Medicare and Medicaid requirements pursuant to Section 1135 of the Social Security Act (Section 1135 Waiver), in order to help beneficiaries access care during national emergencies. On March 23, 2020, the California Department of Health Care Services (DHCS) was granted a Section 1135 Waiver which waives certain requirements of the IHSS State Plans, including the requirement that assessments and reassessments be conducted in-person. The purpose of the waiver was to ensure IHSS recipients served through the Personal Care Services Program, IHSS Plus Option Program, and the Community First Choice Option program continued to be adequately served during California's COVID-19 response. On April 22, 2020, Governor Newsom signed EO N-55-20, which specifies that any provision of state law is suspended to the extent it imposes any requirement equivalent to federal law which has been waived by the federal Centers for Medicare and Medicaid Services in connection with COVID-19.

On April 6, 2021, Governor Newsom announced that the color-tier system for determining the severity of the COVID-19 outbreak in each county as outlined in the Blueprint for a Safer Economy would end on June 15, 2021, provided that:

- There is enough COVID-19 vaccine supply for all Californians 16 years and older to be vaccinated; and
- Hospitalization rates related to COVID-19 remained stable and low, especially among fully vaccinated Californians.

Additionally, Governor Newsom announced on May 15, 2021, that the State would eliminate the mandate that all individuals congregating in a public location must wear a face mask to slow down the spread of the COVID-19 virus as of June 15, 2021.

On June 15, 2021, Governor Newsom declared the State be reopened for all commerce and public gatherings.

On June 17, 2021, the California Division of Occupational Safety and Health (CAL-OSHA) updated the COVID-19 Emergency Temporary Standards which included updates on social distancing and the use of face coverings during public gatherings. Further, on June 17, 2021, Governor Newsom signed EO N-09-21 which made the revised CAL-OSHA guidelines effective immediately.

UPDATING OF COVID-19 EXCEPTIONS TO IHSS REQUIREMENTS

Due to the updated CAL-OSHA COVID-19 Emergency Temporary Standards and their approval by the Governor in EO N-09-21 on June 17, 2021, the CDSS has implemented updates to the previous exceptions/flexibilities that remained in place through the issuance of ACL 20-139 (December 17, 2020).

Initial Assessments & Reassessments

Previously, as stated in ACL 20-139, IHSS county staff in Purple- and Red-tiered counties were allowed to conduct initial assessments via video-conferencing instead of in-home visits. In Orange- and Yellow-tiered counties, the use of video-conferencing was only permitted in situations in which it was determined that the applicant or someone in his/her household had been infected with COVID-19, had symptoms of COVID-19, or had been exposed to someone with COVID-19 within the previous two weeks. All county staff in Orange- and Yellow-tiered counties were required to contact IHSS applicants who were scheduled for an initial assessment to determine if the applicant or anyone in his/her household met one of the criteria which would allow an initial assessment to be conducted via video-conferencing. If so, the county was advised to conduct the initial assessment via video-conference using the process detailed in ACL 20-42 (April 16, 2020). For annual reassessments, as stated in ACL 20-137, county IHSS staff, regardless of the county's color-tiered status, were required to continue to conduct in-person home visit reassessments as required under Manual of

Policies and Procedures (MPP) section 30-761.13. However, reassessments in all counties could be conducted via telephone or video-conferencing when necessary.

At the current time, counties should continue to use the guidance stated in ACL-139 as it relates to the conducting of initial assessments. Although the county color tier system ended on June 15, 2021, counties should continue to use video-conferencing for IHSS initial assessments in situations where the applicant or someone in his/her household has been infected with COVID-19, has symptoms of COVID-19, or has been exposed to COVID-19 in the two weeks prior to the initial assessment. County staff should contact the applicant or his/her authorized representative to enquire as to the COVID-19 status of the applicant or anyone living in his/her household before the assessment. In situations where there is no danger of COVID-19 infection, the initial assessment should be conducted via an in-person home visit as required under MPP section 30-776.13. This policy will continue until the end of the State of Emergency in California.

Further, pursuant to ACL 20-139, counties were allowed to conduct annual reassessments via telephone or video-conferencing regardless of the county's color-tiered designation. As the color-tiered county designations were discontinued pursuant to Governor Newsom's June 15, 2021, proclamation, counties should begin the transition back to in-person assessments but may continue to use telephone or videoconferencing to conduct annual reassessments rather than in-person home reassessments as needed until the end of the State of Emergency in California. Counties also continue to have the option to collect as much information regarding the case as possible over the phone before the home visit.

Upon completion of the assessment/reassessment, counties shall proceed with any required actions and determinations resulting from the outcome of the assessment/reassessment pursuant to IHSS program requirements.

IHSS Forms Required for Application, Initial Assessment/Reassessment

County staff may continue to accept self-attestation from applicants/recipients and/or their authorized representatives in lieu of original signatures on most required forms signed and collected during the assessment or reassessment process through September 30, 2021.

As stated in ACL 20-139, the following forms cannot be self-attested. These forms must contain original signatures and may be sent to the county IHSS office through the U.S. mail:

- Request for Order and Consent—Paramedical Services (SOC 321);
- IHSS Designation of Authorized Representative (SOC 839); and
- IHSS Recipient's Request for Provider Waiver (SOC 862).

Although the county will not be required to collect originally signed documents for self-attested documents collected during the time period the self-attestation was permitted,

beginning October 1, 2021 the county must require that new forms containing original signatures are collected and processed at the recipient's next annual in-person reassessment.

Health Care Certification Form (SOC 873)

As stated in All-County Information Notice I-28-20 (March 30, 2020), Welfare and Institutions Code (WIC) Section 12309.1 and MPP Section 30-754 specify that a recipient must submit an SOC 873 completed by a licensed health care provider prior to the authorization of IHSS services. However, an exception to this requirement may be made when the recipient is at imminent risk of out of home placement (WIC Section 12309.1(a)(2)(B) and MPP Section 30-754.62). Applicants who are granted this exception may be authorized IHSS pending the county's receipt of the SOC 873 and are permitted 45 days from the date of the county's request for the SOC 873 to submit the form. Applicants who receive the exception may be granted an additional 45 days to submit the SOC 873 if they have "good cause" to do so. The MPP Section 30-754.641 states that "good cause means a substantial and compelling reason beyond the control of the applicant who has been granted an exception."

As stated in ACL 20-139, during the state of emergency in California due to the COVID-19 pandemic, applicants were permitted to claim a "good cause" extension to the submission of the SOC 873 if they were unable to submit the SOC 873 within 45 days due to their health care provider being redirected in order to assist with patient care related to the pandemic or for other issues related to COVID-19. Counties may continue to allow the extension on this basis through September 30, 2021 and allow applicants to be granted the additional 45 days to submit the SOC 873.

Emergency Back-Up Provider System

As part of the State effort to alleviate concerns regarding IHSS recipient health and safety during the COVID-19 pandemic, as stated in ACL 20-29 (March 30, 2020), CDSS implemented a back-up provider system for IHSS recipients when their providers can no longer work due to COVID-19 related impacts. ACL 20-29 further provided for a salary differential of two dollars above the current county hourly rate for those IHSS providers assigned to provide emergency back-up services due to circumstances related to COVID-19. The back-up provider system and the pay differential were both due to expire on December 31, 2020; however, due to the continued impact of the COVID-19 pandemic, CDSS extended the expiration date for both the back-up provider system and the pay differential to June 30, 2021.

AB 135, which was signed by Governor Newsom on July 6, 2021, added WIC section 12300.5, which allows the CDSS, in consultation with stakeholders, to create the framework for a permanent provider backup system. However, WIC section 12300.5 states that the permanent provider backup system shall not be implemented or funded

until statutes are enacted to define the parameters of this services, including, but not limited to, the criteria and circumstances when those services may be approved for a recipient who is authorized to receive IHSS or Waiver Personal Care Services. Due to the enactment of AB 135, the expiration date of the current emergency provider backup system for IHSS recipients whose providers cannot work due to COVID-19 related impacts, as set forth in ACL 20-29 and ACL 20-139, including the two dollar per hour salary differential, has been extended from June 30, 2021, to December 31, 2021.

IHSS Provider Enrollment Requirements

As set forth in ACL 20-75 (July 6, 2020), the provider enrollment requirement of attendance at an in-person or remote provider orientation and the associated signing of the IHSS Program Provider Enrollment Agreement (SOC 846) was reinstated on September 1, 2020, after being temporarily waived as set forth in ACL 20-32 (April 10, 2020). Providers enrolled in the IHSS program between April and August 2020 who had their provider orientation and SOC 846 requirements waived due to the COVID-19 pandemic were initially required to complete both the provider orientation and the submission of a signed SOC 846 by December 31, 2020. Per ACL 20-139, the deadline for completion of the provider orientation and SOC 846 was extended to June 30, 2021, and if a provider failed to complete these requirements by that date, they would automatically be terminated by the Case Management, Information, and Payrolling System (CMIPS). This policy is revised pursuant to this ACL. Providers who do not complete the provider orientation and sign the SOC 846 by June 30, 2021, will no longer be auto-terminated by CMIPS on July 1, 2021. Nevertheless, counties should continue to work with providers who have not yet completed the orientation and the SOC 846 to assist providers with compliance. Any provider who has not completed the requirements by September 30, 2021 will be auto-terminated by the CMIPS on October 1, 2021.

As a reminder, WIC section 12301.24(f) allows for remote orientations, provided that “[t]o the extent that the orientation is modified from an onsite and in-person orientation [as required by WIC section 12301.24(e)(1)], the recognized employee organization in the county shall be provided with the same right to make a presentation, the same advance notice of scheduling, and the same information regarding the applicants, providers, or prospective providers who will attend the orientation, as the organization would receive for an onsite orientation.” As set forth in ACL 20-75, counties and public authorities resumed requiring and conducting IHSS provider orientations as part of the provider enrollment process effective September 1, 2020, at which time the orientations could be conducted either in-person or, for those counties capable of providing on-line orientations and which have agreements with their local labor organization, remotely. Counties and public authorities that have been conducting orientations remotely due to COVID-19 precautions and that plan to continue doing so ongoing should work with recognized employee organization in the county to ensure statutory requirements are met.

Consistent with the CAL-OSHA's COVID-19 Emergency Temporary Standards, when the county conducts indoor public gatherings (such as the in-person IHSS provider orientation), the county no longer needs to require individuals participating in the orientation to maintain social distancing and no longer required to provide physical barriers between individuals except when required to do so by the local public health department. However, unvaccinated individuals participating in an indoor public gathering should still be required to use face coverings. Face coverings may be required for all individuals participating in the orientation if ordered by the local public health department.

Presentation of Original Documentation to Verify Identity

As of September 30, 2021, the waiving of the presentation and photocopying of original documentation (state-issued Driver's License or other government issued photo identification and social security card required by MPP Section 30-776.414) verifying the identity of an applicant to serve as an IHSS provider at the county IHSS office will end. On or after October 1, 2021, when an applicant provider submits his/her Provider Enrollment Application (SOC 426), the applicant provider will again be required to present original documentation verifying his/her identity at that time which will be photocopied by county IHSS or Public Authority staff and returned to the applicant provider.

All providers who provided photocopies of their identity verification documents during the waiver period will not be required to present original documentation to the county IHSS staff or Public Authority staff on or after October 1, 2021.

Quality Assurance/Program Integrity (QA/PI) Home Visits

The provision set forth in ACL 20-42 allowing for home visits required to be conducted by the county for purposes of QA/PI as set forth in WIC section 12305.71 to instead be conducted via telephone or video-conferencing will continue until the end of the State of Emergency in California. Counties should continue to use video-conferencing in situations where the applicant or someone in his/her household has been infected with COVID-19, has symptoms of COVID-19, or has been exposed to COVID-19 in the two weeks prior to the home visit. County staff should contact the applicant or his/her authorized representative to enquire as to the COVID-19 status of the applicant or anyone living in his/her household before the assessment. In situations where there is no danger of COVID-19 infection, the home visit can be conducted via an in-person.

Once the State of Emergency in California is lifted, all home visits required for purposes of QA/PI will need to be completed in-person.

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If you have any questions regarding the policy and requirements set forth in this ACL, you may direct them to the CDSS, Adult Programs Division, Policy & Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By:

DEBBI THOMSON
Deputy Director
Adult Programs Division

Attachment