

July 6, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 20-75

The purpose of this All County Letter (ACL) is to provide counties with guidance regarding the extension of Coronavirus (COVID-19) related exceptions to IHSS rules and requirements.



KIM JOHNSON
DIRECTOR

GAVIN NEWSOM
GOVERNOR

July 6, 2020

ALL COUNTY LETTER NO. 20-75

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

SUBJECT: **EXTENSION OF COVID-19 RELATED EXCEPTIONS TO IHSS
REGULATIONS**

REFERENCE: [HOUSE RESOLUTION 6201: THE FAMILIES FIRST
CORONAVIRUS RESPONSE ACT \(FFCRA\), PROCLAMATION
ON DECLARING A NATIONAL EMERGENCY CONCERNING THE
NOVEL CORONAVIRUS DISEASE \(COVID-19\) OUTBREAK,
ASSEMBLY BILL \(AB\) 79 \(CHAPTER 11, STATUTES OF 2020\),
ALL COUNTY INFORMATION NOTICE \(ACIN\) I-28-20
\(MARCH 30, 2020\), ALL COUNTY LETTER \(ACL\) 20-26
\(MARCH 24, 2020\), ACL 20-29 \(MARCH 30, 2020\), ACL 20-32
\(APRIL 10, 2020\), ACL 20-40 \(APRIL 14, 2020\), ACL 20-42 \(APRIL
16, 2020\), ACL 20-49 \(APRIL 23, 2020\),
EXECUTIVE ORDER \(EO\) N-47-20, EO N-68-20, EO N-71-20](#)

The purpose of this All County Letter (ACL) is to provide counties with guidance regarding the extension of COVID-19 related exceptions to IHSS rules and requirements.

BACKGROUND

On March 4, 2020, a State of Emergency was proclaimed by the state of California in response to COVID-19. On April 7, 2020, Governor Gavin Newsom signed Executive Order 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 Executive Order 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, specifies that effective August 4, 2020, the previous EO waivers regarding IHSS program requirements are

replaced with narrow language allowing in-home initial assessment to be conducted via videoconference under certain circumstances.

In addition to the executive orders issued by the Governor, Assembly Bill (AB) 79, the Human Services Omnibus, signed by Governor Newsome on June 29, 2020, also provides State authority to implement other program changes detailed in this ACL. Specifically, the requirement that counties coordinate the scheduling of provider orientations with recognized employee labor organizations.

Federally, the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (“National Emergency”) 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 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 reassessments be conducted in-person, to ensure IHSS recipients served through the Personal Care Services Program, IHSS Plus Option Program, and the Community First Choice Option program to continue to be adequately served during California’s COVID-19 response.

Exceptions included in this ACL will expire upon the date indicated unless additional guidance is issued to extend them.

COVID-19 EXCEPTIONS TO IHSS REGULATIONS

Initial Assessments

Pursuant to EO N-71-20, the provisions of [Welfare and Institutions Code \(WIC\) Sections 12301.1, 12301.2, and 12309](#) are suspended to the extent necessary to permit in-home initial assessments of IHSS applicants who have known exposure to, present symptoms of, or test positive for COVID-19 to be conducted by video-conferencing, to the extent permitted under federal law, effective August 4, 2020. Accordingly, from August 4, 2020 until the end of the National Emergency, the use of video-conferencing is allowed only to the extent that anyone in the applicant’s household has been infected with COVID-19, has symptoms of COVID-19, or has been exposed to COVID-19 within the previous two weeks. Prior to these changes becoming effective on August 4, 2020, counties may continue to utilize videoconferencing to conduct initial assessments as needed pursuant to ACL 20-42.

Before scheduling an initial assessment, counties should reach out to IHSS applicants to determine if anyone in the household has been infected with COVID-19, has symptoms of COVID-19, or has been exposed to COVID-19 within the past two weeks.

If a recipient reports that they or a household member meets one of these criteria, the county may conduct an initial assessment by videoconference using the process detailed in ACL 20-42. Counties must continue take appropriate measures to comply with applicable confidentiality and privacy laws when contacting and/or conducting assessments via videoconference.

Reassessments

Counties may no longer suspend reassessments as permitted by ACL 20-26 and must immediately begin conducting reassessments. Counties that chose to suspend reassessments pursuant to ACL 20-26 are required to complete all outstanding reassessments which were suspended by December 31, 2020. Upon completion of the reassessment, counties shall proceed with any required actions and determinations resulting from the outcome of the reassessment.

Until the end of the National Emergency, reassessments may be conducted by telephone or videoconference (such as Skype or FaceTime) to ensure that any unnecessary in-person contact is eliminated during the COVID-19 response. However, counties may continue to conduct face-to-face reassessments when appropriate. Counties must continue take appropriate measures to comply with applicable confidentiality and privacy laws when contacting and/or conducting assessments via telephone or videoconference.

If the county chooses to conduct face-to-face reassessments, the social workers should minimize the amount of assessment time spent in the recipient's home by collecting all relevant information possible over the phone before the home visit. Social workers should also follow public health guidelines regarding health and safety precautions.

IHSS Forms Required for Application, Initial Assessment

Until December 31, 2020, when assessments and reassessments are conducted via telephone or videoconference, county staff may accept self-attestations from applicants and recipients and/or their authorized representatives in lieu of original signatures on most required forms normally signed during assessments and reassessments. However, this does not apply to the following IHSS forms which still require an original signature:

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

When an applicant or recipient and/or their authorized representative self-attest in lieu of an original signature, the social worker must document and list all forms discussed and self-attested to in the recipient's assessment in the case notes. Additionally, for any forms that have been self-attested to by the recipient or the recipient's authorized representative, counties must request signed forms be submitted to the county at the recipient's next annual reassessment.

Health Care Certification Form (SOC 873)

To ensure IHSS applicants are not penalized for delays in their ability to complete an [SOC 873](#), until December 31, 2020, the California Department of Social Services will allow the county to consider all new IHSS applicants who are unable to obtain a SOC 873 from his/her licensed health care provider due to the redirection efforts to address the COVID-19 pandemic, to be at imminent risk of out of home placement. Thus, as specified by ACIN I-28-20 counties may continue to authorize services to applicants prior to receipt of the SOC 873 pursuant to WIC Section 12309.1(a)(2)(B) and MPP Section 30-754.62 until December 31, 2020. In addition, because these applicants have a substantial and compelling reason beyond their control which prevents them from submitting the [SOC 873](#) within 45 days, until December 31, 2020, they should be determined to have "good cause" for the delay and be granted an additional 45 days, from the date it is requested by the county, to submit their SOC 873.

Paid Parent Provider Reevaluations

Counties may continue to delay the reduction of authorized hours to minor recipients whose parent(s) no longer qualify to be paid IHSS providers as set forth in ACL 20-49. This delay shall end effective August 3, 2020, with the expiration of the broad authority granted to CDSS by Executive Orders N-47-20 and N-68-20.

Emergency COVID-19 Related Paid Sick Leave for IHSS/WPCS Providers

As set forth in ACL 20-40, the Families First Coronavirus Response Act (FFCRA) provided for COVID-19 related paid sick leave to IHSS and WPCS providers. The FFCRA became effective on April 2, 2020 and remains in effect through December 31, 2020. As part of the State effort to alleviate concerns regarding IHSS recipient health and safety during the COVID-19 pandemic, CDSS released ACL 20-29 which required each county to work with the county IHSS Public Authority to implement a back-up provider system for recipients when their provider can no longer work due to COVID-19 related impacts. ACL 20-29 provided for a salary differential of two dollars above the current county hourly wage rate for those IHSS providers assigned to provide emergency back-up services because of circumstances related to COVID-19. To

maintain consistency with the FFCRA, these policies will remain in effect through December 31, 2020.

IHSS Provider Enrollment Requirements

As set forth in ACL 20-32 the provider enrollment requirements of attendance at an in-person IHSS provider orientation and the associated signing of the IHSS Program Provider Enrollment Agreement (SOC 846) were temporarily waived. The temporary waiver of provider enrollment requirements are extended through August 31, 2020.

Counties and Public Authorities shall resume requiring and conducting IHSS provider orientations as a part of the provider enrollment process effective September 1, 2020, at which time the orientations can be conducted either in-person or, for those counties capable of providing on-line orientations and have agreement from their local labor organization, remotely. The September 1st date will allow counties and Public Authorities sufficient time to establish procedures for in-person orientations in a manner consistent with federal and State public health guidelines and safety measures, and for those counties wishing to engage in on-line or other forms of remote orientation, to ascertain agreement from their local labor organization and put in place the technological resources needed to provide remote orientations.

Pursuant to AB 79's amendments to WIC §12301.24, prior to a provider orientation, the county/Public Authority must provide the recognized employee labor organization in the county with not less than ten days advance notice of the planned date, time, and location of the orientation. If, within three business days of receiving that notice, the recognized employee labor organization notifies the county of its unavailability for the planned orientation, the county shall make reasonable efforts to schedule the orientation so that representatives of the recognized employee labor organization can attend, so long as rescheduling the orientation does not delay the enrollment of the prospective providers attending the orientation by more than ten business days. The requirement to make reasonable efforts to reschedule may be waived, as necessary, due to a natural disaster or other declared state of emergency, or by mutual agreement between the county and the recognized employee labor organization.

Representatives of the recognized employee labor organization shall continue to be permitted to make a presentation of up to thirty minutes at the beginning of the orientation, and the county shall not discourage prospective providers from attending, participating, or listening to the recognized employee labor organization's presentation. However, prospective providers, of their own accord, can choose not to participate in the recognized employee labor organization presentation. If the county schedules a remote orientation, the recognized employee labor organization must be provided the same right to make their presentation, the same advance notice of scheduling, and the

same information regarding the applicants, providers, or prospective providers who will attend the orientation, just as if it were an in-person, onsite orientation.

Once counties begin conducting in-person or remote orientations on September 1, 2020, those 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 must complete both the provider orientation and the signing of the SOC 846 by December 31, 2020. If they do not complete these requirements by that date, they will be determined ineligible to continue to work as IHSS providers and be paid by the IHSS program until such requirements are completed.

Further, as stated in ACL 20-32, presentation and photocopying of original documentation (state-issued Driver's License or other government issued photo identification and social security card as required under the Manual of Policies and Procedures section 30-776.414) verifying the identity of an applicant to serve as an IHSS provider at the county IHSS office at the time of submission of the IHSS Provider Enrollment Application (SOC 426) was also temporarily waived. The waiving of the presentation of the original documentation at the time of submission of the SOC 426 will continue through December 31, 2020. During this time period, however, the county can accept a mailed-in photocopy or facsimile copy of the original documentation. Applicant providers who provide the photocopies of their documentation during the waiver period will not be required to present their original documentation on or after January 1, 2021. However, any new applicants seeking to enroll to be eligible to work as IHSS providers in the IHSS program on or after January 1, 2021, will need to present the original documentation at the county office at the time of SOC 426 submission.

Questions or requests for clarification regarding the information in this letter should be directed to the Adult Programs Division, Policy and Quality Assurance Branch, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By

DEBBI THOMSON
Deputy Director
Adult Programs Division