

Information Brief



California's In-Home Supportive Services/Personal Care Services Program (IHSS/PCSP)*

Background

In-Home Supportive Services/Personal Care Services Program (IHSS/PCSP) is a federal-state health and social service program that provides *personal care* and *domestic services* for individuals who are aged, blind, or disabled and need the services. All 58 counties offer IHSS. Across the state, more than 360,000 individuals receive services, at an annual cost in excess of \$3 billion.

The recipient of service must (1) be a lawful resident of California with low income and limited resources; and (2) need personal assistance services to remain safely in his or her own home. In other words, avoiding out-of-home care is a fundamental objective of the IHSS program. "Own home" can be the family home or the person's own dwelling, such as a house or apartment, but not a place providing *board and care* (e.g., a group home, facility). Authorized hours can range to a maximum of 283 hours per month, depending on the needs of the individual.

Basic purpose

The basic purpose of the IHSS program is to enable an eligible person to remain safely in the person's home (not in a board-and-care home or facility). In determining need for IHSS, county workers must determine that (1) needed services are not available through alternative resources (e.g., at a day program), and (2) the individual would be unable to remain safely at home without the service.

* This Information Brief has been prepared for a series of workshops sponsored by *Tri-Counties Regional Center*. The author is John Shea, *Allen, Shea & Associates*, 1780 3rd Street, Napa, CA 94559. Ph: 707-258-1326. Email: allenshea@sbcglobal.net. Website: www.allenshea.com. Every attempt has been made to present accurate information. However, errors can creep in. Therefore, anyone reading this Brief should check (and double-check) their understanding of the material by talking with those who administer the program (County Social Services), or others who understand the program well.

Services

Services that can be authorized:

Allowable IHSS services include:

- Non-medical personal services (e.g., hygiene, dressing, grooming, helping the person eat or move about, etc.);
- Paramedical services under direction of health care professional (e.g., catheter care, injections, etc.).
- Domestic services (e.g., cleaning floors, kitchen counters, stove, refrigerator, bathroom; storing food, supplies; taking out the garbage; dusting, picking up, making the bed, etc.);
- Related services (e.g., menu planning, shopping for food, preparing meals and meal clean-up, routine laundry, other shopping, etc.);
- Essential transportation services (e.g., to/from doctor's appointments and alternative resources);
- *Protective supervision* to protect against risk of injury/accident (e.g., to watch and redirect if the person would walk out of the house into traffic, or burn themselves on the stove);
- Heavy cleaning services (one month only) due to special health problems or the like;
- Limited yard hazard clean-up (one month only); and
- Teaching and demonstration service (no more than 3 months), under the condition that the person will become more self-sufficient.

Protective supervision

Under IHSS regulations, *protective supervision* is only available to "non-self-directing, confused, mentally impaired, or mentally ill persons" to "safeguard the recipient against injury, hazard or accident." Regulations further stipulate that the need (1) may not be a medical condition and the form of supervision medical; or (2) be in anticipation of a medical emergency; or (3) be to prevent or to control anti-social or aggressive behavior. The key issue is [poor] *judgment, confusion, disorientation, or bad memory*.

How much support is possible?

Based on assessment of need, up to 283 hours per month, at or above the \$6.75 per hour minimum wage. To get close to 283 hours, *protective supervision* is generally involved. With legislation encouraging counties to establish *public authorities*, which has made it easier for IHSS workers to decide on representation by a union, rates of pay have increased over the past few years. The rate in some counties exceeds \$10.00 per hour.

Eligibility

The person must (1) be aged, blind, or disabled; (2) be Medi-Cal eligible (with some exceptions); (3) need assistance to live safely in one's own home; and (4) needed services are not available from other sources. "Own home" may be the parents' home, but the person cannot be receiving SSI at the board-and-care rate and be eligible for IHSS. If living with a relative (e.g., a grandparent) and receiving the higher SSI rate, the person may elect to waive the board-and-care rate and receive SSI at the individual rate, so as to also be eligible for IHSS.

Assessment of need

From the regional center's perspective, IHSS is a *generic* service, and therefore potentially eligible regional center clients living outside of board-and-care settings are expected try to get such services before the regional center will fund similar services. Regional centers can pay for similar services, if their client's needs are not fully met through IHSS.

A county social worker (or, Nurse) will do an initial assessment of need for IHSS services, and annually reevaluate that need. The initial assessment is a very important step, and should reveal all the types (and amounts) of assistance needed. Quality assessments are built on *good data* taken over a period of time, indicating how much time is needed (at an ordinary pace) for various tasks involved in the person's life. It is often important to have a support person with the individual with a disability during the initial assessment to help express the level of need. The county worker may write down *time-for-task norms* (or, *standards*) in areas other than personal care, meal preparation, meal clean up, and paramedical services.

Take *domestic services* and "related services" of *laundry*, and *shopping*, for example. *Domestic services* includes "Clean floors, wash kitchen counters, stoves, refrigerators, bathroom; store food, supplies; take out garbage; dust, pick up; bring in fuel; change and make bed and miscellaneous." Unless you indicate (and can support) a need for more than six hours of *domestic service* per month per household, this number of hours will be written down. If the person is allergic to dust, house cleaning may have to be more often than the *norm*. Regarding *laundry*, if there are special circumstances – such as frequent incontinence requiring more frequent change in sheets, more laundry -- this

should be indicated to the county worker. If the person has a special diet, grocery shopping may involve more than one store.

As for *personal care* services, more bathing than twice a week, slowness in chewing, and other factors need to be mentioned. Be sure to bring these to the county worker's attention. The person is entitled to services on weekends and in the evening if needed. Be sure to ask for a *paramedical form* if you need help with injections, tracheotomy suctioning, range-of-motion, or other assistance.

The county worker will fill out forms known as "SOC 293" and "SOC 293a," which will set out how much time per week you have been allowed for service. Your county worker must give you a copy of these forms if you ask for them. They provide more information than notices sent by the County.

If you need more than 20 hours per week in *personal care* services, meal preparation and cooking (and clean-up, if getting help to eat), and paramedical services, you will be classified as *severely impaired*, even if some of the help comes from a family member or friend who is not paid through IHSS, or takes place away from home (e.g., at a day program). If you need less time, you will be categorized as *non-severely impaired*. If you are *severely impaired*, you are eligible for up to 283 hours of service per month, assuming you will be hiring your own IHSS worker(s). If you are *non-severely impaired*, the monthly maximum is 195 hours. Typically, persons needing the maximum hours (283) require protective supervision.

Time-for-task guidelines are for entire households, and when you share a dwelling with others the number of hours authorized for some activities may be less. Domestic services, typically set at six hours per month, is an example. If three people occupy the dwelling, your personal allowance may be two hours per month. The six-hour guideline was based on someone providing domestic services twice a month. You may be able to show that the person needs to come more often -- say, because sheets need to be changed more frequently, or trash taken out more than twice a month. Individual differences in need, and health and safety issues, typically guide. *Time-for-task* standards may not be used in determining personal care needs, meal preparation and meal clean-up, or paramedical services. In these areas, it is important to *take data* over a period of time, while a personal assistant is doing the task at a typical (neither slow, nor fast) pace.

How IHSS is organized, delivered, and paid for

Services are coordinated through county Departments of Social Services. Most counties administer their own programs. Increasingly, county boards of supervisors have established *public authorities* to manage the program in tandem with county social workers. Some public authorities offer training. All (or, nearly all) have established *registries* to bring service users together with potential providers (IHSS workers). Some public authorities are equipped to provide on-call, emergency workers when needed.

The IHSS Program

Consortiums and contractors (e.g., a managed care firm) can be used, as well. Leaders in the disability rights (and independent living) movements generally recommend that the person receiving in-home supportive services be the employer, whenever possible. Where not possible or wanted, there should be an agency mode, so that the recipient of services has a choice.

Generally speaking, it is considered good practice for the person with the disability to hire his or her own IHSS worker(s). Persons with *severe impairments* have a right to do this, even if the county uses a contract agency as the employer, and this approach is the only option for persons who are *non-severely impaired*. If you are in one category, but think you should be in the other, you may ask for a reevaluation. If there is a disagreement with the county worker that you cannot resolve, you may ask for a fair hearing.

The County (or, Public Authority) will pay the worker an hourly rate, when the IHSS person is hired by the person with a disability. IHSS workers are covered by workers' compensation if hurt on the job, and have state disability and unemployment insurance coverage. In some counties, through collective bargaining, IHSS workers have won health care coverage for themselves. The adult with a disability reviews and signs the IHSS worker's time card. The worker is then responsible to send in their time card for payment. In most cases, worker(s) get paid twice a month, on the 10th and 25th.

If the person receiving IHSS services is not in a position to be a good employer, several options may be considered. If the person is receiving ILS (*Independent Living Skills*) services, or SLS (*Supported Living Services*), an instructor/counselor or community support facilitator may be able to assist the person to be [or learn to be] a good employer. In some cases, a parent or other personal advocate, or other family member or close friend, may be able to help.

If a person lives in his or her own place (either buys or rents), a combination of IHSS, ILS or SLS funds, if accessible and used imaginatively, is likely to be the paid support service arrangement of choice for an adult with developmental disabilities. Coordination of services -- especially in complex cases where the individual needs lots of help -- can come from an interested agency, perhaps working with a family, a conservator, or a *circle of support* (a personal network or *team*).

IHSS benefits must be used for your case to stay active -- that is, to continue to demonstrate a need for hours of assistance. If there are big lapses in care, IHSS county workers may wonder whether the person really requires the allocated hours. Small changes typically are allowed for. Communicating with your IHSS county workers is helpful to keep the staffing and hours information current.

Where and when to apply

Where? County Department of Social Services. When? Living in one's own home (e.g., with parents; own apartment) or, while currently institutionalized, if the person wants to live in their own home and can do so safely with IHSS (alone or with additional services).

Some issues

In many areas of the state, rates of pay have improved over the past ten years. IHSS workers get at least \$6.75 per hour, the minimum wage. In some high-cost urban areas, wage rates exceed \$10.00 per hour. Where rates are comparatively low (and non-competitive), at times a deal may be struck wherein the IHSS worker claims (and is paid for) more hours than actually delivered. This is fraudulent and must be avoided. When a personal assistant is helping two IHSS recipients living in one household, it is also inappropriate to bill each person for an hour of IHSS, if only one hour went by. Sometimes, the service recipient will supplement the worker's pay, or pay for additional services. Anyone may pay for extra services. Most collective bargaining agreements stipulate that the worker may not ask the service recipient for more money. So long as the money goes directly to the IHSS worker, and does not go through the SSI recipient's hands, it will not be counted as income to the person with a disability, and therefore should not affect the person's entitlement to IHSS or SSI.

Unlike staffing provided by supported living agencies, IHSS workers are not held to the same training requirements to provide in-home services. In fact, IHSS workers are often signed up for employment over the telephone, and paperwork is sent to them at their home. IHSS workers are not fingerprinted or given background checks, as a general rule. Some workers are paid through IHSS (for some hours of service) and by supported living agencies (for other hours of service), and in this instance some of the drawbacks mentioned above (background checks, training) can be addressed.

Additional information and resources

Protection and Advocacy, Incorporated (PAI) and the Department of Developmental Services (DDS) have published booklets on the In-Home Supportive Services Program. The PAI website is: www.pai-ca.org. Click on "Publications," and look for publications by category. Under In-Home Supportive Services, one will find several useful documents. Of particular interest for many will be: *IHSS Fair Hearing & Self-Assessment Packet*, because it has worksheets for "time and frequency studies." The DDS website is: www.dds.cahwnet.gov. Click on "Publications and Other Resources," and you can download *What About IHSS?* In PDF format. The URL is <http://www.dds.cahwnet.gov/SupportSvcs/PDF/WhatAboutIHSS.pdf>