

# In-Home Supportive Services

Presented by FEAT

This is not legal advice and should not be interpreted as such.

# What is IHSS (In-Home Supportive Services)?

IHSS IS...

- Medi-Cal program in California that pays for in-home care for people with disabilities including children, adults, and seniors.
- Provides services to Medi-Cal recipients “who are unable to perform the services themselves and who cannot safely remain in their homes...unless these services are provided”
- IHSS is the largest of CA’s home and community based services (HCBS) programs and can be used in conjunction with other HCBS services.

# Medi-Cal → IHSS

1. Medi-Cal eligible (over age 3 get a waiver from Regional Center)
2. Qualified immigration status
3. California resident
  - a. Not PRUCOL,
  - b. T Visa applicants pending certification
  - c. U Visa holders and applicants
4. Live in own home AND
5. Aged (65+), blind or disabled (18+= SSI,SSDI definition of disabled)
  - a. Child under 18 - “a medically determinable physical or mental impairment or combination of impairments that cause marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months”



# Acronyms

## (yep, you needed more of them in your life)

- Activities of Daily Living (ADL) basic tasks of everyday life - dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks
- Instrumental Activities of Daily Living (IADL)
- Notice of Action (NOA)
- Waiver Personal Care Services (WPCS)
- In-Home Supportive Services (IHSS)

# IHSS Language to Understand

- ★ Assessment - (yep, another one) written document that contains information relevant to the case situation and an assessment of case service needs
- ★ Consumer/Recipient - individual who is a current or past user of personal care services provided by an IHSS program
- ★ Eligible - entitled to receive IHSS services
- ★ Live-in Provider - a provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services
- ★ Institutional Deeming - an individual assessed for Medi-Cal eligibility as if they were living in a long term care facility. The income, property, and assets of the individual's spouse or parents are treated differently when determining the individual's Medi-Cal eligibility.

**BRACE YOURSELF**



makeameme.org

# Assessment (just like at school, it drives services)

What the heck do they assess?

Hours and Need

NEED "level of ability and dependence upon verbal or physical assistance by another for each service provided by IHSS"

- Needs assessment must include information about
  - Living environment
  - Alternative resources available to meet recipient's need
  - Recipient's functional abilities
- Face-to-Face home visit and
  - Statement of need by recipient
  - Available medical information
  - Other information that service staff considers necessary and appropriate
    - Yes, a copy of your child's IEP
    - List of doctors and their contact information as well as how often you see them

ALL reports should match (IEP, IPP, IHSS ect about daily living skills, supervision required)

# What to Hand your Social Worker

When you meet the Social Worker for the home assessment, have the following ready to share:

- ❖ Dangerous Behavior Log
- ❖ Completed SOC 821 form
- ❖ IEP with the items highlighted (school district)
- ❖ IPP with the items highlighted (regional center)
- ❖ Any other documents/assessments from professionals or other agencies that document the self harm/dangerous behavior

Tip: Always make a complete copy of everything that you give to IHSS so you know what information they are looking at. **ALL YOUR DOCUMENTS NEED TO SAY THE SAME THING** (ie supervision at school)

# What functions must be ranked?

A county social worker must rank your functioning in each of these areas:

1. Domestic Services (Housework)
2. Laundry
3. Shopping and Errands
4. Meal Preparation/Meal Cleanup
5. Ambulation (formerly Mobility Inside)
6. Bathing, Oral Hygiene and Grooming/Routine Bed Bath (Bathing and Grooming)
7. Dressing/Prosthetic Devices (Dressing)
8. Bowel and Bladder Care
9. Transfer (Repositioning)
10. Eating
11. Respiration
12. Memory
13. Orientation
14. Judgment

Memory, Orientation, and Judgment are used to determine the need for Protective Supervision only.

## Functional Index Rankings and Hourly Task Guidelines

As an In-Home Supportive Services (IHSS) applicant/recipient, it is helpful to know what IHSS Functional Index (FI) Rankings are and how they impact your assessment. The FI rankings range from 1-6 (see below description) and indicate the level of assistance you need to perform tasks safely. A county IHSS social worker will assign a rank to each service category to help determine the amount of assistance.



**Rank 1:** Independent. Able to perform function without human assistance.

**Rank 2:** Able to perform a function but needs verbal assistance, such as reminding, guiding, or encouragement.

**Rank 3:** Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.

**Rank 4:** Can perform a function with only substantial human assistance.

**Rank 5:** Cannot perform the function, with or without human assistance.

**Prescribed by a licensed health care professional:**

**Rank 6:** Requires Paramedical Services.

After assigning a rank in each service category and taking into consideration your individual needs, the social worker will authorize time within or outside the Hourly Task Guidelines. If time is needed outside the guidelines, this is called an *exception*. If you need more or less time outside the guidelines for a specific rank within a service, your social worker will review whether exceptions are needed, as appropriate.

## Hourly Task Guidelines

Social workers also use Hourly Task Guidelines (HTGs) as specified in State regulations to determine the appropriate time needed on a weekly basis in each service category. **Regulatory Authority:** Manual of Policies and Procedures (MPP) section 30-757.11 through 30-757.14(k).

Service Category	Rank 2 (Low)	Rank 2 (High)	Rank 3 (Low)	Rank 3 (High)	Rank 4 (Low)	Rank 4 (High)	Rank 5 (Low)	Rank 5 (High)
<b>Preparation of Meals</b>	3:01	7:00	3:30	7:00	5:15	7:00	7:00	7:00
<b>Meal Clean-up</b>	1:10	3:30	1:45	3:30	1:45	3:30	2:20	3:30
<b>Bowel and Bladder Care</b>	0:35	2:00	1:10	3:20	2:55	5:50	4:05	8:00
<b>Feeding</b>	0:45	2:18	1:10	3:30	3:30	7:00	5:15	9:20
<b>Routine Bed Baths</b>	0:30	1:45	1:00	2:20	1:10	3:30	1:45	3:30
<b>Dressing</b>	0:34	1:12	1:00	1:52	1:30	2:20	1:54	3:30
<b>Ambulation</b>	0:35	1:45	1:00	2:06	1:45	3:30	1:45	3:30
<b>Transfer</b>	0:30	1:10	0:35	1:24	1:06	2:20	1:10	3:30
<b>Bathing, Oral Hygiene, and Grooming</b>	0:30	1:55	1:16	3:09	2:21	4:05	3:00	5:06
<b>Service Category</b>	<b>Low (Time Guidelines)</b>				<b>High (Time Guidelines)</b>			
<b>Menstrual Care</b>	0:17				0:48			
<b>Repositioning and Rubbing Skin</b>	0:45				2:48			
<b>Care of and Assistance with Prosthetic Devices</b>	0:28				1:07			

### Services with Time Guidelines:

Service Category	Time Guidelines
<b>Domestic Services</b>	6:00 total per month per household unless adjustments* apply
<b>Shopping for Food</b>	1:00 per week per household unless adjustments* apply

\*Adjustments refer to a need met in common with housemates.

NOTE: Current MPP regulations define the HTGs in decimal format, e.g., **1.50 hours**. To align service assessment/authorization with the Case Management, Information, and Payrolling System (CMIPS) data entry, time allocations are re-formatted to **hours:minutes**. This change in format does not contradict current program regulations and reduces confusion regarding the entry of time into CMIPS [MPP sections 30-757.11 through 30-757.14(k)].

Hello Doctor,

It's time for our annual review for IHSS. I have attached last years form as a reference.

We started seeing you in 2013. Our last office visit was June 18, 2018. We see you quarterly.

The request for medical information not much has changed but here's a quick overview of functional level.

Housekeeping-he does none

Meal Prep-none can't open wrappers on bars can't peel a banana or open a string cheese, can't pour milk, can't use the stove or microwave.

Laundry-can't do

Shopping- can not be unsupervised in a store not even to go to the next isle as he doesn't remember how to get back to where he was nor does he care to check back in with an adult.

Mobility inside the home-if things are left out of place or moved Collin will trip and fall. He also got stuck in the shower the other day as he used the shower with glass doors and couldn't push it hard enough to get out

Transfer-no issues

Repositioning-no issue

Bathing, Grooming, Oral Hygiene-Full assistance could burn himself with hot water, would never shower if he wasn't forced to. Teeth brushing is full assistance due to oral motor sensitivity. He can't cut his own nails nor notices when they need to be trimmed. Doesn't properly use soap to clean body and doesn't rub the shampoo into hair nor rinse it completely when showering "alone".

Dressing - can still not put on his own orthotics or shoes, He puts on his underwear and pants backwards at least 75% of the time. He needs FULL assistance in zipping buttoning or any fastener on clothing. If his shirt doesn't have a graphic it will be on backwards. He still fails to choose the right clothes for the weather.

Bowel and Bladder Care- Can not clean himself after a bowel movement. Doesn't pee into the water without a verbal reminder. Will leave restroom with underwear and pants not pulled over his private parts.

Feeding-needs constant reminders to slow down when eating not to shove food in to chew chew chew swallow put food down between bites. He does not feel when he has food all over his face has to be prompted though wiping his face. He makes a large mess all around him while eating that his is unable to clean up himself.

If you have any questions please feel free to contact me xxx-xxx-xxxx  
Thank you,

# How much time are we looking at??



30 days for you to have your eligibility determination, needs assessment, and your NOA (at least postmarked). Disability determination pending allows the county to extend 30-day timeline

# What you need to do to make it happen...

Well, here's what you have to do after the in-home assessment ...

RETURN the completed IHSS Health Care Certification form (SOC 873)

If your doc is a Medi-Cal provider, they have to fill out the form FREE OF CHARGE

Not a Medi-Cal doc, well then if they want to charge you ask someone else

So, you want paramedical services OR PROTECTIVE SUPERVISION...we have a form for that!

Soc 821 Protective Supervision

Soc 321 ParaMedical Services

You have to get these back within 45 days

# Protective Supervision

IHSS recipients eligible for Protective Supervision are “non-self-directing, confused, mentally impaired, or mentally ill persons only”

Recipient must have a mental impairment or illness **AND** be non-self-directing (Marshall v. McMahon, Calderon v. Anderson)

SOC 821 isn't enough alone social worker will evaluate the recipient's memory, judgement, and orientation on the three-point scale.

195 hrs for non-severely impaired 283 for severely impaired

Non-self-direction “an inability, due to a mental impairment/mental illness, for individuals to assess danger and the risk of harm, and therefore, the individuals would most likely engage in potentially dangerous activities that may cause self-harm.”

# Protective Supervision Is NOT

1. For friendly visiting or social activities;
2. When the need is caused by a medical condition and the person needs medical supervision;
3. In anticipation of a medical emergency;
4. To control anti-social or aggressive behavior
5. To guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intended to harm themselves.

ACL (All County Letter) 15-25 examples

If your child engages in any behaviors that put them at risk for harm or injury without awareness of consequences, you should pursue getting Protective Supervision.

## **Examples of Self-Harming Behaviors**

- Eloping or wandering away
- Climbing up high
- Banging their head on the floors, walls or people
- Punching or slapping themselves in the face
- Scratching themselves until they bleed
- Bolting out of an open door or gate
- Running into the street
- Chewing fingers
- Talking to or following strangers

# IHSS FOR CHILDREN In-Home Supportive Services – Frequently Asked Questions

Source: <http://www.disabilityrightsca.org/pubs/547001-Ch-03.pdf>

## 1. Which IHSS Services May Children Receive?

- a) Personal care services (bathing, toileting, dressing, feeding, assistance with ambulation, etc.).
- b) Related services (meal preparation, planning and cleanup, laundry, food shopping).
- c) Paramedical services if prescribed by a doctor (injections, catheters, tube feeding, suctioning).
- d) Protective Supervision (24-hour monitoring and supervision to prevent injury). See Chapter 5 for further information.
  - Not routine child care or supervision.
  - Must show difference between disabled child and other children of same age.
- e) Assistance with travel.

MPP 30-763.454

Theoretically, if the parents are not IHSS providers, they can be authorized at least 8 hours per week of respite when parents are shopping, doing errands, or doing other things for the family.

## 2. When May Children Receive IHSS?

- b) When disabled and low-income (receipt of SSI means automatic eligibility)
- c) If income too high for SSI, may qualify with share of cost
- d) If parents are out of the house working, school, training
- e) If parents are unable to provide care due to disability or illness.
- f) If parents are sleeping or caring for other family members.

MPP 30-763.44

## 3(a) When Can a Parent be Paid as an IHSS provider?

- a) If the parent quit a full-time job or can't get a full-time job because he or she must care for the disabled child,  
**AND**
- b. If no other suitable care provider is available (willing and able), **AND**
- c. If services are not received, the child will be at risk of out-of-home placement or inadequate care.

MPP 30-763.451

### 3(b) What about Parent Providers with Two Parent Households?

IHSS regulations impose additional requirements on parent providers for minors when there are two parents in the household. MPP 30-763.453. Under the regulations, a parent may receive a payment for as an IHSS provider under a two parent household only when all of the following conditions are met:

- f) the parent provider leaves, or is prevented from obtaining, full-time employment because no other suitable provider is available and the inability of the parent provider to provide services may result in inappropriate placement or inadequate care,
- g) the non-provider parent is unable to provide the services because he/she is absent because of employment or in order to secure education, or is physically or mentally unable to provide the services, **AND**
- h) if the non-provider parent is unable to provide the services due to employment or educational purposes, payment shall be made to the parent provider only for services which are normally provided during the periods of the non-provider parent's absence as indicated above.

There have been reported cases where this regulation has been ruled invalid because it exceeds the scope of the statute, which only requires that rule (1) above be met. The cases reason that if the legislature intended to deny payment for services to a child to a parent in a two-parent family, the legislature would have inserted language so providing.

### 4. I was told that my Child does not Qualify for IHSS Services Because He is Too Young. Is this True?

No. Age cannot be a controlling factor in determining whether a particular personal care or related service should be authorized. The sole IHSS service limited in this respect is protective supervision, where it is authorized "only as needed

because of the functional limitations of the child." Cal. Welf. & Inst. Code § 12300(d)(4). Had the Legislature sought to extend this limitation to personal care and related services for children, it would have included this limiting language as part of those services' descriptions under the statute.

"The starting point for interpretation of a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." Kaiser Aluminum & Chemical Corp. v. Bonjorno, 494 U.S. 827, 835 (1990). Therefore, children are entitled to be evaluated for personal care and related services just like any other applicant, irrespective of age, under MPP § 30-756.1. 5.

## **I was Told that My Child does not Qualify for Related Services. Is this True?**

No. The only limitations regarding IHSS provision for individuals under 18 years old are found at MPP § 30-763.454. While this regulation does, indeed, omit domestic services, it specifically includes provision of related services at subsection (a). Perhaps the county is confusing its actual term “services related to domestic services” under the statute (Cal. Welf. & Inst. Code § 12300(e)(1)) outright with “domestic services” itself.

## **6.I was Told that My Child does not Qualify for Services Because it is My Responsibility as a Parent to Provide these Services to my Child. Is this True?**

Only if your circumstances fall within the description of what the legislature defined as the expected parental responsibility towards the care of a child with IHSS needs. That definition requires parents to care for their children

unless the parent provider leaves, or is prevented from obtaining, full-time employment because no other suitable provider is available and the inability of the parent provider to provide services may result in inappropriate placement or inadequate care. Cal. Welf & Inst. Code § 12300(e).

## **7.Will the Payments A Parent Receives for Providing IHSS Affect the Child’s SSI or the Family’s Medi-Cal?**

No. Payments will not affect a child’s SSI because this is considered exempt income under SSI rules. POMS SI 01320.175.

When IHSS rules changed to allow Medi-Cal funding for parent providers under the IPW, these payments became income and property exempt under all of the State’s Medi-Cal programs for IHSS provided to children under 21. (ACWDL 05-29, 06-04, 06-19). However, receiving these payments still may affect the family’s welfare grant.

## **8. Can I Get IHSS and Still Get Respite From the Regional Center?**

Yes. Respite services from the regional center are different from IHSS. You should be able to receive IHSS, including protective supervision, without losing any respite hours. Call DISABILITY RIGHTS CALIFORNIA if the regional center tries to cut your respite because you receive IHSS.

# Annual ReAssessment

At least every 18 months or the county is out of compliance

Shorter if the county thinks your need for services has decreased

You do NOT have to do form SOC 873

You might have to do the SOC 812 (Protective Supervision)

New SOC 321 (Paramedical Services) if additional paramedical services that were not authorized by the previous form are needed

Change of Circumstance reassessments for functional needs, living arrangement or severity of their condition or disability but :( no timeline so at your next reassessment



## Monthly Limits

283 hours

# Monthly limits

- 283 hrs “severely impaired”
- 195 hrs “non-severely impaired”
- Protective supervision = maximum number of monthly hours
  - Non-severely impaired + protective supervision = 195 hrs of PS + hours for other services

## Severely Impaired as defined by IHSS

Total assessed need for 20 hours or more per week of services in one or more of the following areas: any personal care service, preparation of meals, meal clean up when meal preparation and consumption of food are required, or paramedical services.

MUST MEET ALL these criteria to be considered severely impaired

# UnMet Need...wth and why bother (it does matter)

But the Max is 283...well, they may not be authorized for payment through IHSS, but counties are required to indicate on all NOA and needs assessments the hours of unmet need.

A recipients total hours of non-protective supervision IHSS that are in excess of the statutory maximum (283)

Ex: Joe needs 12 hours per day (360 hours per month) of IHSS services, but you ONLY get the max **283**, so 77 hours per month of unmet need.

# But why the extra hassle??

1. If (hmmm...)/WHEN budget cuts and across-the-board hours reductions take effect, there may be language requiring the cuts to first come from unmet need. \*\*you end up not losing payable time \*\*
2. You MIGHT be entitled to additional assistance through an HCBS waiver program (and that's a whole other presentation, perhaps SLS & ILS )



# Inter-County Transfers

- Transferring county (county of origin) is responsible for initiation the intercounty transfer once **YOU have informed them of the move**
- Transferring county must send receiving county a notice of transfer and additional documents within 10 days of notification of the move
- Receiving county is responsible for completing and returning the notification of transfer within 30 days. Transferring county is responsible for following up.
- “Transfer period” shall end as soon as administratively possible but no later than the first day of the month following 30 calendar days after the notification of transfer was sent to receiving county.
- Shall not interrupt or cause an overlap of recipient’s IHSS services
  - Business as usual for recipient and worker
- FACE-to-FACE assessment with recipient during the transfer period with receiving county (sometimes receiving county disagree w/ transfer county assessment reducing hrs)

# Fun Facts, if you will...

- You must cooperate with the county to conduct in-home assessments
- CDSS (CA Dept. Social Services) has a protocol for *unannounced home visits (knock, knock, who's there? IHSS)*
- 30 days or longer of being physically absent from the STATE/county determines if its temporary or permanent
  - You don't have to affirmatively inform county of absent
  - MUST respond to inquiries about residency from county
    - MUST submit written statement detail the anticipated date of return to state, reason for absence from state, and info about their current location and household arrangements
    - IHSS recipient is absent from the state for more than 60 days, the state will presume that recipient intends to establish residency outside of CA (unless you submit evidence that they were prevented from returning)
- The county cannot require a family member or friend to provide services on a voluntary basis

# More Fun Facts

IHSS is considered a GENERIC RESOURCE for Regional Center services. As the payer of last resort, ALL generic resources must be exhausted before any services are funded by Regional Center.

Ex: If you have both Supported Living Services (SLS) and IHSS, IHSS hours must be counted before Supported Living Services.

A recipient's need for Personal Care Services, Paramedical Services, and Transportation Services must be assessed based on the recipients individual need and cannot be prorated because of shared living arrangement

Google Keep for pictures, video, notes

Vacation inside state of CA

Parent Provider Tax exempt SOC 2298 (Free \$\$ up front but no \$\$ on the back end - ie social security)

Union Dues -You do not have to be part. You have to resign in writing before your yearly anniversary. Ask your union to get medical benefits.