



CDSS

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DEPARTMENT OF SOCIAL SERVICES

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EDMUND G. BROWN JR.
GOVERNOR

Date

ALL-COUNTY INFORMATION NOTICE (ACIN) NO.14-XX

<u>REASON FOR THIS TRANSMITTAL</u>
<input type="checkbox"/> State Law Change
<input type="checkbox"/> Federal Law or Regulation Change
<input type="checkbox"/> Court Order
<input type="checkbox"/> Clarification Requested by One or More Counties
<input checked="" type="checkbox"/> Initiated by CDSS

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

SUBJECT: **ACCOMPANIMENT TO MEDICAL APPOINTMENTS AND ALTERNATIVE RESOURCES**

REFERENCE: ALL-COUNTY LETTER NO. 14-XX, dated October XX, 2014.
MANUAL OF POLICY AND PROCEDURES (MPP) 30-757.15

PURPOSE

The purpose of this ACIN is to provide guidance to counties on assessing and authorizing wait times at medical appointments associated with medical accompaniment and alternative resource sites. Compensation for wait times at medical appointments/alternative resources sites, under certain circumstances, is now allowable in the IHSS program. IHSS social workers may obtain the required information on IHSS recipients' medical appointments, including the type of medical appointment, the frequency, duration and type of assistance that may be needed while at the appointment in order to assess accompaniment to medical appointments. To aid the counties in collecting the needed wait time information from the Licensed Health Care Professional (LHCP) and gather the information necessary to appropriately authorize wait time, the California Department of Social Services (CDSS) developed the "In-Home Supportive Services (IHSS) Program Accompaniment to Medical Appointment" form (SOC 2263).

BACKGROUND

On October 1, 2013, the United States Department of Labor (DOL) published the Final Rule on the Application of the Fair Labor Standards Act (FLSA) to Domestic Service which are scheduled to take effect on January 1, 2015. Under the revised FLSA rules, employers are required to pay employees for certain periods of time when they are not actively engaged in the performance of work. The federal rules relating to pay for wait time are now applicable to IHSS providers, which means that providers will now be

compensated for “wait time” that is associated with accompaniment to medical appointments and alternative resource sites.

Welfare and Institutions Code section 12300(b) specifies that, “Supportive services shall include...accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites”. The Manual of Policies and Procedures (MPP) section 30-757.15 further defines this service and states:

“Assistance by the provider is available for transportation when the recipient's presence is required at the destination and such assistance is necessary to accomplish the travel, limited to:

- .151 Transportation to and from appointments with physicians, dentists and other health practitioners.
- .152 Transportation necessary for fitting health related appliances/devices and special clothing.
- .153 Transportation under .151 and .152 above shall be authorized only after social service staff have determined that Medi-Cal will not provide transportation in the specific case.
- .154 Transportation to the site where alternative resources provide in-home supportive services to the recipient in lieu of IHSS.”

The DOL provides two definitions of wait time: time spent engaged to wait and time spent waiting to be engaged.

- “Engaged to wait” means that the employee is not performing work duties but he/she is unable to use the time effectively for his own purposes. These periods of time are generally unpredictable and usually of short duration. The wait time is an integral part of the job; it belongs to and is controlled by the employer.
- “Waiting to be engaged” means that the employee is completely relieved from performing work duties and he/she has enough time to enable him/her to use the time effectively for his/her own purposes. The employee must be informed in advance that he/she may leave the job and that he/she will not have to resume work until a specified time.

Under current IHSS regulations wait time is included in the authorization of hours in three specific service categories: (1) out-of-home laundry services (when laundry facilities are not available on the premises), MPP 30-757.134(b); (2) food shopping, MPP 30-757.135(b); and (3) other shopping/errands, MPP 30-757.135(c). Therefore, no additional wait time should be authorized under medical accompaniment for these three service categories. Accompaniment to medical appointments and alternative resource sites is the only IHSS service category in which wait time is not included in the authorization of hours.

The FLSA requires employers to pay an employee for compensable wait time. When a recipient is authorized for medical accompaniment, if all of the following conditions are met, his/her provider will be considered to be waiting to be engaged, which is not compensable:

- The duration of the recipient's appointment is known in advance;
- The appointment is scheduled to last longer than 30 minutes; and
- The provider is not required or able to perform any other authorized service, e.g. food shopping, other shopping/errands, during the duration of the appointment.

The following are examples of the two types of wait time that counties may encounter:

Example 1: "Waiting to be engaged" would occur when a provider accompanies his/her recipient to a dialysis treatment that is scheduled to last two or more hours. The provider is not required to remain on the premises but must return at a designated time to retrieve the recipient. The provider can effectively use the time on his/her own to engage in personal activities, either on the premises or not, such as reading a book, etc.

Example 2: "Engaged to wait" would be when a provider accompanies his/her recipient to a routine medical appointment of known duration of 30 minutes or less and the provider is required to remain at the doctor's office because at any moment he/she may be called upon to assist the recipient with authorized IHSS services or with the travel back home.

IHSS MEDICAL APPOINTMENTS AND ALTERNATIVE RESOURCES CERTIFICATION FORM SOC 2263

The intent of the SOC 2263 is to collect additional information directly from the LHCP. LHCPs may include, but are not limited to: physicians, physician assistants, specialists including oncologists, occupational therapists, physical therapists, psychiatrists, dentists, phlebotomists and other medical professionals responsible to provide treatment/care.

The SOC 2263 includes a cover page that explains to the LHCP what information the social worker needs to authorize wait time. The LHCP is required to provide appointment information which includes the purpose of the appointment, frequency of appointments per year, typical length/duration and type of assistance needed during the appointment. Completion of the SOC 2263 by the LHCP may assist the Social Worker in determining:

1. If the IHSS provider is needed to perform IHSS services at the appointment,
2. If the appointment time is of a long enough duration for the IHSS provider to be relieved from providing IHSS services until completion of the appointment, which would be considered "waiting to be engaged" and is not compensable and

therefore should not be included in the wait time authorized under medical accompaniment, and

3. If the appointment time is of a short duration, 30 minutes or less, to which the IHSS provider cannot perform any other authorized service or handle any personal business and will need to stay close by to assist the IHSS recipient with needed services, which would be considered “engaged to wait” and is compensable and should be included in the wait time authorized under medical accompaniment.

COUNTY RESPONSIBILITY

Counties should follow their standard operational procedures in reassessing cases for the authorization of wait time. Counties may make telephone contact with the IHSS recipient or utilize the SOC 2263 to obtain the required information from the LHCP to appropriately authorize the wait time. As stated in ACL 14-XX, counties shall complete their review of impacted IHSS cases as soon as administratively feasible, but no later than the next regularly scheduled reassessment. To assist counties in this effort, CDSS will provide each county with a report that includes the cases with authorized hours for accompaniment to medical appointments and alternative resource sites.

Should you have questions regarding about this ACIN or the SOC 2263, please contact the Adult Programs Policy and Operations Bureau at (916) 651-5350.

Sincerely,

Original Document Signed By:

EILEEN CARROLL
Deputy Director
Adult Programs Division

Attachments