

September 08, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 20-103**

This All-County Letter (ACL) provides information to counties regarding the reinstatement of In-Home Supportive Services (IHSS) violations for exceeding overtime and travel time limitations which were temporarily suspended due to the COVID-19 pandemic.



**KIM JOHNSON**  
DIRECTOR

**GAVIN NEWSOM**  
GOVERNOR

September 08, 2020

ALL COUNTY LETTER NO. 20-103

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

SUBJECT: **REINSTATEMENT OF IN-HOME SUPPORTIVE SERVICES  
VIOLATIONS FOR EXCEEDING OVERTIME AND TRAVEL TIME  
LIMITATIONS**

REFERENCE: ALL-COUNTY LETTER [\(ACL\) NO. 16-36 \(APRIL 21, 2016\)](#);  
[ACL 16-46 \(MAY 16, 2016\)](#); [ACL 20-32 \(APRIL 10, 2020\)](#)

This All-County Letter (ACL) provides information to counties regarding the reinstatement of In-Home Supportive Services (IHSS) violations for exceeding overtime and travel time limitations which were temporarily suspended due to the COVID-19 pandemic.

### **BACKGROUND**

On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in the State of California in response to the COVID-19 pandemic and the increase in the number of positive cases throughout the State. In response to the Governor's proclamation, the California Department of Social Services (CDSS) issued several ACLs designed to protect the health of vulnerable IHSS recipients and to allow for continued IHSS provider registrations and providing authorized IHSS during the COVID-19 pandemic.

ACL 20-32 was issued on April 10, 2020, which stated that, for situations in which IHSS providers will incur overtime or travel time violations while performing services that are in critical need during the State of Emergency, the CDSS would take all necessary actions to remove such violations until June 30, 2020. This deadline was extended to August 31, 2020.

## **REINSTATEMENT OF PROVIDER VIOLATIONS FOR EXCEEDING OVERTIME AND TRAVEL TIME LIMITATIONS**

As of September 1, 2020, the CDSS is reinstating provider violations for exceeding overtime and travel time limitations. Counties should use the existing processes to rescind violations, as documented in ACL 16-46 (May 16, 2016), for violations that occurred due to an IHSS provider performing critically needed services related to COVID-19.

As stated in ACL 16-46, a county may override an overtime violation if certain exception criteria are met. Those criteria are:

- The additional hours must have been necessary to meet an unanticipated need; and
- The additional hours must have been related to an immediate need that could not be postponed until the arrival of a back-up provider as designated on the IHSS Program Individual Emergency Back-Up Plan (SOC 827) and/or the IHSS Program Individualized Back-Up Plan and Risk Assessment (SOC 864); and
- The additional hours must have been related to a need that would have had a direct impact on the IHSS recipient and would have been needed to ensure his/her health and/or safety.

Given the current COVID-19 pandemic, there are situations in which an IHSS provider may need to work additional hours of overtime which exceed his/her current overtime limit due to an issue related to COVID-19. While working these additional hours would normally result in a violation, these additional hours may fall under the criteria set forth in ACL 16-46 and detailed in the previous paragraph. The county should consider such situations when determining whether to override a violation. For example, if a provider is required to work additional hours because another provider who works for the recipient is unable to work because he/she was exposed to or developed symptoms of COVID-19 or is required to remain at his/her home to care for a child whose school or daycare has been closed due to the COVID-19 pandemic, the county should override any violation assessed to the provider as the situation falls under the criteria set forth in ACL 16-46. As further stated in that ACL, it is critical that the county enter as much detailed information as possible into the Case Management, Information, and Payrolling System (CMIPS) on the Recipient Case Notes to document the necessity for the additional overtime hours and the justification for the rescinding of the provider violation.

All County Letter No. 20-103  
Page Three

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