



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

DATE: May XX, 2017

ALL COUNTY LETTER NO.: 17-XX

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY IHSS PROGRAM MANAGERS

SUBJECT: CDSS REVIEW PROCESS FOR OVERTIME VIOLATIONS

REFERENCES:

This All County Letter (ACL) provides counties with information and direction regarding the California Department of Social Services (CDSS) Violation Review Process and required county contact points during the violation processes. This ACL will guide the counties in the process by which counties can request that CDSS inactivate a Violation that was given to a Provider in error. This ACL will review:

- Process Overview
- The Timeline for this Process and Justification Needed
- Request Form

Additionally, this ACL will provide direction to counties regarding action they need to take when a violation is triggered.

**BACKGROUND**

As of February 1, 2016, CDSS implemented the provisions of SB 855 and SB 873 which among other items, limited both the number of authorized IHSS and WPCS hours a provider is permitted to work in a workweek and the number of hours they are allowed to travel in a workweek. As a part of implementing these statutes CDSS established escalating consequences for violating these limits and a process for providers to dispute these violations. When a violation is issued for exceeding any of the established limits, a notice and the violation dispute form are issued to the provider. To dispute a violation, the provider must submit the dispute form and it must be received by the county within ten (10) calendar days of the notice. The county must then enter the date the dispute form was received into the Case Management, Information and Payrolling System (CMIPS) within ten

**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

(10) business days of the notice in order to have the violation considered for removal. Due to these strict timeframes there may be occasions when the dispute received date is not entered into CMIPS by the tenth business day from the notice date. Therefore, CDSS has established a process for counties to request CDSS remove a violation. A county may only request CDSS remove a violation when, due to an administrative error or other error beyond the control of the provider, the county was unable to enter the violation dispute date into CMIPS within 10 business days of the violation notice date, and the county has determined that the violation should be removed based on the circumstances reported on the violation dispute form.

As a part of implementation of these new requirements, counties are also responsible for the on-going outreach and education of providers and recipients to ensure they understand these requirements including: the workweek limits, the escalating consequences for violating the limits and the provider dispute process for violations.

### **Requests for Violation Removal**

This CDSS Violation Removal Process will only be used for those Violations when **both of the following conditions are met:**

- An administrative or other error beyond the control of the provider is clearly identified, AND,
- The Violation was disputed and would have been overridden by the County following the Policy guidelines of health and safety, unanticipated need, and immediate need.

Due to the violation timelines that must be considered, CDSS can only inactivate the latest Violation a Provider has received.

### **Process Overview**

1. The county requests a CDSS Violation Removal via an e-mail. The county must include the Violation Removal Request Form (see attachment) and a detailed justification in their request.
2. CDSS will review the evidence and, if valid, take the action to remove the violation.
3. Once an action is taken, an e-mail will be sent to the county of the decision made by CDSS for county records.
4. If the action taken was to override Violation 3 or 4 after the Provider was suspended, the Provider will be automatically made eligible by the system. However, the County must mail the SOC 2263 and SOC 2264 forms rescinding the violation and assign the Provider to a Recipient per normal business process.

### **Timeline and Evidence Needed**

Due to the strict timelines associated with the Violation process, Counties have **10 business days** from the end of the Dispute period to contact CDSS with the request to remove the violation.

Before contacting CDSS, the County must have made the determination that the provider violation dispute met the criteria for override, but due to circumstances beyond the control of the provider, the county was unable to take timely action in CMIPS to override the violation. The email request must include the attached request form with an explanation of why the dispute document was filed or the date received was not entered into CMIPS timely.

**Note: This process is not to be used in lieu of the counties responsibility to do timely processing of violation disputes. Additionally, these requests may only be made by counties. They may not be made by providers.**

### **How To Submit the Request**

Counties must submit the request for CDSS Violation Removal via the following box:

[FLSAViolationReview@dss.ca.gov](mailto:FLSAViolationReview@dss.ca.gov)

Requests will not be accepted via fax, postal mail or from Providers/Recipients. Requests must come from the county only and have a supervisor's signature. Please note that requests will not automatically be granted. CDSS will review each request and inform the County of the decision. Also, please note that the e-mail box is for requests only. No questions will be answered via this e-mail box.

### **County Outreach and Education:**

Counties are responsible for the on-going outreach and education of providers and recipients to ensure they understand the workweek limits, the escalating consequences for violating the limits and the provider dispute process for violations. Education should occur at the initial and annual assessment of recipients, provider orientation and if a violation(s) occur throughout that process.

Attached to this ACL is an overview of County actions and contact points that must occur during the violation process.

If you have questions or comments regarding this ACL, please contact the Adult Programs Division, CMIPS II Systems Operations Unit at (916) 551-1003 or via e-mail at: [CMIPSII-Requests@dss.ca.gov](mailto:CMIPSII-Requests@dss.ca.gov).

Sincerely,

### ***Original Signed By:***

DEBBI THOMSON  
Deputy Director  
Adult Programs Division

c: CWDA  
bc:  
ec:

## IN-HOME SUPPORTIVE SERVICES (IHSS) AND WAIVER PERSONAL CARE SERVICES (WPCS) REQUEST FOR CDSS VIOLATION REMOVAL

Provider Name: \_\_\_\_\_ Provider Number: \_\_\_\_\_

Violation Count Number: \_\_\_\_\_ Violation Number: \_\_\_\_\_

Dispute/Training Material Deadline: \_\_\_\_\_

### **Reason for Override Request:**

Training Document not filed / entered Timely – Explain:

Violation Dispute Document not filed / entered Timely – Explain:

Request By: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Request Date: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

### **CDSS Response**

<input type="checkbox"/> Denied Date: _____	<input type="checkbox"/> Approved Date: _____
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### **Violation 3 or 4 County Action**

Provider Reinstated  
Date: \_\_\_\_\_

Mailed SOC 2263 IHSS Notice to Provider Rescinding Violation  
Date: \_\_\_\_\_

Mailed SOC 2264 IHSS Notice to Recipient Rescinding Violation  
Date: \_\_\_\_\_

### **IHSS Violations – Initial County Contact Points**

<b>Violation 1</b>	<p><b>Recipients</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2257A, <i>IHSS Program Notice to Recipient of First/Second Violation for Exceeding Workweek and/or Travel Time Limits</i></li> </ul>	<p><b>Providers</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2257, <i>IHSS Program Notice to Provider of First/Second Violation for Exceeding Workweek and/or Travel Time Limits</i></li> <li>• SOC 2272, <i>IHSS Program Notice to Provider of Right to Dispute Violation for Exceeding Workweek or Travel Time Limits</i></li> </ul>
<b>Violation 2A – With Training</b>	<p><b>Recipients</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2257A, <i>IHSS Program Notice to Recipient of First/Second Violation for Exceeding Workweek and/or Travel Time Limits</i></li> </ul>	<p><b>Providers</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2257, <i>IHSS Program Notice to Provider of First/Second Violation for Exceeding Workweek and/or Travel Time Limits</i></li> <li>• SOC 2272, <i>IHSS Program Notice to Provider of Right to Dispute Violation for Exceeding Workweek or Travel Time Limits</i></li> <li>• Training Materials, <i>IHSS Program Certification for Instructional Material Review</i>, are provided to allow the provider to remove the violation by completing the optional training.</li> </ul>
<b>Violation 2B</b>	<p><b>Recipients</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2257A, <i>IHSS Program Notice to Recipient of First/Second Violation for Exceeding Workweek and/or Travel Time Limits</i></li> </ul>	<p><b>Providers</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2257, <i>IHSS Program Notice to Provider of First/Second Violation for Exceeding Workweek and/or Travel Time Limits</i></li> <li>• SOC 2272, <i>IHSS Program Notice to Provider of Right to Dispute Violation for Exceeding Workweek or Travel Time Limits</i></li> <li>• <b>County contacts provider to educate them on rules and informs them the next violation will result in 3-month ineligibility</b></li> </ul>
<b>Violation 3</b>	<p><b>Recipients</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2258A, <i>IHSS Notice to Recipient of Provider’s Third Violation (90-day Suspension of Eligibility) for Exceeding Workweek or Travel Time Limits</i></li> <li>• County contacts the recipient to inform them of the need to find a new provider for the suspension period.</li> </ul>	<p><b>Providers</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2258, <i>IHSS Notice to Provider of Third Violation (90-day Suspension of Eligibility) for Exceeding Workweek or Travel Time Limits</i></li> <li>• SOC 2272, <i>IHSS Program Notice to Provider of Right to Dispute Violation for Exceeding Workweek or Travel Time Limits</i></li> <li>• If the county upholds the third violation the provider will receive SOC 2273, <i>IHSS Program State Administrative Review Request of Third or Fourth Violation for Exceeding Workweek and/or Travel Time Limits</i></li> </ul>
<b>Violation 4</b>	<p><b>Recipients</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2259A, <i>IHSS Program Notice to Recipient of Provider’s Fourth Violation (One-Year Period of Ineligibility) for Exceeding Workweek and/or Travel Time Limits</i></li> <li>• County contacts the recipient to inform them of the need to find a new provider for the suspension period.</li> </ul>	<p><b>Providers</b> receive the following:</p> <ul style="list-style-type: none"> <li>• SOC 2259, <i>IHSS Program Notice to Provider of Fourth Violation (One-Year Period of Ineligibility) for Exceeding Workweek and/or Travel Time Limits</i></li> <li>• SOC 2272, <i>IHSS Program Notice to Provider of Right to Dispute Violation for Exceeding Workweek or Travel Time Limits</i></li> <li>• If the county upholds the third violation the provider will receive SOC 2273, <i>IHSS Program State Administrative Review Request of Third or Fourth Violation for Exceeding Workweek and/or Travel Time Limits</i></li> </ul>