



CDSS

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Month XX, 2017

ALL COUNTY INFORMATION NOTICE NO. XX-XX

REASON FOR THIS TRANSMITTAL

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

To: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY IN-HOME SUPPORTIVE SERVICES PROGRAM MANAGERS

SUBJECT: **CLARIFICATION OF COUNTY REQUIREMENTS TO PROVIDE EQUAL COMMUNICATION ACCESS AND ACCESSIBILITY OF MATERIALS TO DEAF AND HARD-OF-HEARING IN-HOME SUPPORTIVE SERVICES APPLICANTS, RECIPIENTS AND PROVIDERS.**

REFERENCE: [CALIFORNIA GOVERNMENT CODE SECTION 7405](#); REHABILITATION ACT SECTION 508 ([29 U.S.C. 794\(d\)](#)); [AMERICANS WITH DISABILITIES ACT, TITLE II, SECTION 35.104](#); MANUAL OF POLICIES AND PROCEDURES SECTION (MPP) [21-111.14](#); MPP SECTION [21-115.41](#); MPP SECTION [21-115.42](#); MPP SECTION [21-115.43](#); MPP SECTION [21-116.3](#); ALL COUNTY INFORMATION NOTICE [NO. I-90-01](#); [CALIFORNIA GOVERNMENT CODE, SECTION 7290 ET SEQ.](#)

The purpose of this All County Information Notice (ACIN) is to remind counties of their ongoing responsibility to adhere to the provisions of Title II of the Americans with Disabilities Act (ADA), Rehabilitation Act and Nondiscrimination Regulations. These provisions mandate that counties be equipped to properly communicate with all In-Home Supportive Services (IHSS) program participants.

BACKGROUND

Counties are required to provide all possible guidance and assistance to ensure effective communication with all IHSS program participants, including those who are deaf or hard-of-hearing. California Government Code Section 7405 mandates

implementation of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794(d)), as amended in 1998, which requires agencies to eliminate barriers and provide individuals with disabilities, equal access to information and data, comparable to those who do not have disabilities.

CDSS would like to further clarify that the requirements for counties to provide program materials in alternative formats to IHSS consumers and providers who are deaf or hard-of-hearing should not be misconstrued with the requirements of the Dymally-Allatore Bilingual Services Act (California Government Code Section 7290 et seq.) in that the requirements to provide qualified interpreters or other auxiliary aids is contingent on the deaf or hard-of-hearing population being 5 percent or greater in the IHSS program. The Dymally-Alatorre Bilingual Services Act requires every state agency that furnishes information or renders services to a substantial number who do not speak English to provide certain bilingual services to ensure that non-English-speaking individuals are not excluded from receiving services because of a language barrier. The Dymally-Alatorre Bilingual Services Act defines "substantial number" as 5 percent or more of the people served by any local office or facility of a state agency of individuals for which state agencies must provide bilingual services (currently those languages are Spanish, Chinese and Armenian). Regardless of the deaf or hard-of-hearing population meeting this 5 percent threshold in the IHSS program, counties shall make available qualified interpreters, closed captioning and other auxiliary aids to consumers and providers who are deaf or hard of hearing as outlined in this letter.

COUNTY RESPONSIBILITY

Counties are required to be equipped to properly communicate with IHSS applicants/recipients who are deaf or hard-of-hearing during intake assessments, reassessments and when addressing inquiries and providing information. This requirement extends to IHSS providers who are deaf or hard-of-hearing to ensure effective communication of IHSS provider orientation information, IHSS program materials, and IHSS trainings. Pursuant to MPP Section 21-111.14, "Each county welfare department shall establish procedures to ensure that communications with applicants/recipients and members of the public with disabilities are as effective as communication with others."

These communications must be offered in a manner easily accessible to program participants, which may be met through the utilization of paid sign language interpreters, employees who are qualified sign language interpreters, and qualified employees of other agencies or community resources. The ADA (Title II, Section 35.104) defines a qualified interpreter as a person who "is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary...." These services shall be provided free of charge to IHSS applicants, recipients, and providers. As specified in MPP Section 21-115.41, "County Welfare Departments (CWD) shall provide auxiliary aids and services to persons who are deaf or hearing impaired, or persons with impaired speech, vision or manual skills where necessary to afford such persons an equal opportunity to participate in, and enjoy the benefits and services of programs or activities. Auxiliary aids and services may include

brailled material, taped text, qualified interpreters, large print materials, telecommunication devices for the deaf (TDDs) and other effective aids and services for persons with impaired hearing, speech, vision or manual skills..." As indicated by the ADA (Title II, Section 35.104), auxiliary aids also include assistive listening headsets, television captioning and decoders. Additionally, MPP Section 21-115.43 states, "When telephone contact is necessary, CWDs shall use a TDD, or equally effective telecommunications systems, to communicate with individuals with impaired hearing or speech".

It is the counties' responsibility to provide any necessary assistance upon request. Pursuant to MPP section 21-115.42, "CWDs shall provide an opportunity for individuals with disabilities to request auxiliary aids and services of their choice. CWDs shall give primary consideration to requests of individuals with disabilities". Furthermore, CWDs are reminded to adhere to the case documentation requirements of MPP 21-116.3 to identify that an applicant/recipient is disabled in the case record and to document in writing an applicant/recipient's request for auxiliary aids and services.

RESOURCES

The CDSS adheres to these requirements by including closed-captioning in training/educational videos designed for IHSS applicants, recipients and/or providers who are deaf or hard-of-hearing. To provide alternative formats for program participants, counties may utilize the Deaf Access Program (DAP) which provides communication services, such as, qualified sign language interpreters, real time captioning, and other auxiliary aids at industry standard fees, to meet the needs of a client or agency. When contacting the DAP or other service providers, counties may inquire which communication services have associated fees. The ACIN No. I-90-01 further addresses the services provided by the DAP, however, please refer to the attached document which provides the current contact list for DAP agencies. As specified in MPP Section 21-115.41, "...Compliance with this section can be accomplished through use of volunteer services from community organizations and individuals who are able to provide prompt effective services without undue delays using qualified interpreters."

Questions and/or requests for clarification on the information transmitted in this ACIN may be directed to the Adult Programs Division, Policy and Operations Bureau at (916) 651-5350.

Sincerely,

DEBBI THOMSON
Deputy Director
Adult Programs Division

Attachment