



CDSS

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EDMUND G. BROWN JR.
GOVERNOR

February XX, 2018

ALL- COUNTY LETTER (ACL) NO.: 18-XX

TO: ALL- COUNTY WELFARE DIRECTORS
ALL IHSS PROGRAM MANAGERS

SUBJECT: AVAILABILITY OF DEPARTMENT OF HEALTH CARE SERVICES (DHCS) STANDARDIZED IN-HOME SUPPORTIVE SERVICES (IHSS) FRAUD REFERRAL MEMORANDUM OF UNDERSTANDING (MOU) AND COUNTY IHSS OVERPAYMENT RECOVERY REQUIREMENTS

REFERENCE: [WELFARE AND INSTITUTIONS CODE \(WIC\) §§12305; MANUAL OF POLICIES AND PROCEDURES \(MPP\) § 30-768.321; ALL COUNTY LETTER \(ACL\) NO. 13-83, DATED SEPTEMBER 27, 2013; ALL COUNTY LETTER \(ACL\) NO. 13-110, DATED DECEMBER 31, 2013.](#)

REASON FOR THIS TRANSMITTAL

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

The purpose of this ACL is to inform counties of the availability of a standardized IHSS Fraud Referral MOU between counties and DHCS and to reiterate IHSS overpayment recovery requirements resulting from county fraud referrals.

BACKGROUND

Assembly Bill 19 fourth extraordinary session (ABX4 19), amended components of the California WIC, Sections 12305.7, 12305.71, and 12305.82, requiring the California Department of Social Services (CDSS) to develop protocols clarifying state and county roles and responsibilities for the implementation and execution of standardized program integrity measures in the IHSS program. In March 2013, the IHSS *Uniform Statewide Protocols for Program Integrity Activities* (USPs) were complete and implemented in September 2013 (released via ACL 13-83).

One of the measures included in the USPs is statewide communication and coordination for program integrity efforts between state and county offices. The purpose is to develop a coordinated and standardized process for IHSS fraud referrals and investigations that fosters collaborative working relationships across jurisdictions and to avoid duplication of program integrity efforts.

IHSS FRAUD REFERRAL PROCESS

As outlined in the USPs (ACL 13-83), counties are required to follow a standardized process for reviewing IHSS fraud complaints and, where appropriate, refer them for investigation. Per the USPs, counties without an MOU with DHCS shall send all IHSS fraud referrals over \$500 directly to DHCS for investigation. If a county receives a complaint which appears to be under \$500, and upon investigation is determined to involve over \$500 in fraud, the county should confer with DHCS to decide jurisdiction for continued investigation. Counties that enter into an MOU with DHCS should abide by the terms of the MOU. To better assist counties, a standardized IHSS MOU is now available. The newly standardized IHSS MOU will supersede earlier versions; counties that previously had an agreement with DHCS must refresh the agreement with this new format within 90 days of this communication, if they have not already done so.

AVAILABILITY OF STANDARDIZED IHSS FRAUD REFERRAL MOU

In collaboration with CDSS, DHCS has developed a standardized IHSS Fraud Referral MOU to assist counties with IHSS program integrity activities. The purpose of the MOU is to minimize duplication between agencies, ensure proper case tracking and reporting in instances where DHCS delegates a portion of its investigative responsibility to the county, and reduce exposure of IHSS recipients and providers to redundant interactions with multiple investigative entities. The MOU is intended to supplement the IHSS USPs and does not supersede any requirements contained therein.

The MOU is an agreement between county IHSS, DHCS and county investigative agencies (District Attorney or Special Investigation Unit) regarding the investigation of IHSS fraud referrals. The MOU is primarily designed for those counties that prefer to share jurisdiction with the State for investigating all IHSS fraud referral cases in their respective counties. However, per DHCS, the MOU can also be modified for counties where IHSS fraud referral investigations will be conducted solely by county agencies. CDSS will provide those counties with MOUs in which county agencies are investigating IHSS fraud with read-only access to the Case Management, Information and Payrolling System (CMIPS) for purposes of investigating fraud referrals. A sample of the MOU and instructions are enclosed.

COUNTY IHSS OVERPAYMENT RECOVERY REQUIREMENTS

Pursuant to WIC, Section 12305.83 (c)(1) and the requirements outlined in the IHSS Quality Assurance and Quality Improvement (QA/QI) Policy Manual (released via ACL 13-110), counties must take all appropriate actions to recover the full amount of identified IHSS overpayments in alignment with all state and county policies and procedures.

Thus, counties should attempt recovery for all identified overpayments regardless of whether the overpayment was initially identified by the county or by DHCS. As such, IHSS fraud cases investigated by DHCS that do not result in prosecution will be

returned to counties for overpayment recovery. Counties should continue collection efforts in accordance with MPP, Section 30-768.321 and pursue recovery of these overpayments using all available means, including civil litigation in small claims and/or Superior Court, if necessary.

For IHSS fraud cases that are prosecuted and result in an order of restitution (even if part of a plea agreement) that is less than the amount of the original overpayment, counties should continue to recover the remaining balance, as the order of restitution does not supersede the counties' ability to collect the total amount of the original overpayment. Counties receiving court-ordered restitution should process the payment as a Cash-In-Door recovery and enter the amount into CMIPS.

To ensure that overpayment recovery funds resulting from court-ordered restitution are appropriately routed, CDSS, in partnership with DHCS, has developed a memorandum instructing IHSS investigators, prosecutors and Superior Courts to return these funds back to the county where the original overpayment occurred. DHCS will distribute the memorandum as a means of assisting the counties with IHSS overpayment recovery efforts. A sample of this memorandum is also enclosed for your quick reference.

For questions regarding this ACL, please contact the Adult Programs Policy and Quality Assurance Branch, Program Integrity Unit at (916) 651-0554 or via e-mail at ihss-pi@dss.ca.gov.

Sincerely,

Original Document Signed By:

DEBBI THOMSON,
Deputy Director
Adult Programs Division

Enclosures

c: CWDA