



*California's Protection & Advocacy System  
Toll-Free (800) 776-5746*

## 8% Across-the-Board Cut to IHSS

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### **I got a notice saying that my IHSS will be cut by 8%. Does this cut apply to everyone on IHSS?**

Yes. This is an 8% across-the-board cut for everyone on IHSS.

### **Is this a new cut?**

Not entirely. Part of the cut is new. Part of the cut is already in effect. 3.6% of the cut has been in effect since about July 2011. All IHSS recipients have had this 3.6% cut since then. The new cut raises the 3.6% cut to a total cut of 8%. This is an increase of 4.4%. (3.6% + 4.4% = 8%.)

### **Is this cut permanent?**

No. The 8% cut will last for one year. Around the middle of next year (2014) the cut will go down to 7% total. Around the middle of the year after that (2015), the cut is supposed to end.

DRC will post information on its website if things change. Check the DRC website from time to time for updates, or contact us for more information. Here's a link to the DRC website:

<http://www.disabilityrightscalifornia.org/>. You can reach us at the following telephone numbers: Toll Free 1-800-776-5746 / TTY 1-800-719-5798.

## **Can I appeal the 8% cut?**

No, you cannot appeal the 8% cut unless there was a math mistake or the county did not deduct the cut from your “unmet need” first (see below).

If you appeal the 8% cut before it goes into effect you may be able to stop the cut until you have your IHSS fair hearing. This is called “aid paid pending” the hearing. **You can get aid paid pending only if you are appealing a math mistake or the county did not deduct the cut from your “unmet need” first (see below). You cannot get aid paid pending if you are appealing only the 8% cut itself.** The reason is that the 8% cut is an automatic cut that is required by law and applies to everyone.

## **My needs have changed. I need more hours. What can I do to get more hours?**

The budget law says there are no exceptions to the 8% cut. However, if you need more hours, you can always ask the county for more hours. The county will then decide whether or not you need more hours. This is called a reassessment.

You can ask the county for more hours if your circumstances change. (You can also ask the county for more hours if the county made a mistake and did not give you enough hours in the first place.) An example of a change in circumstances would be a change in your medical condition that causes you to need more help. This can be a temporary change or a permanent change in your medical condition.

After the county does the reassessment you can appeal if you still don't think the county gave you enough hours. You can appeal by requesting an IHSS fair hearing. If the county refuses to give you a reassessment, you can request an IHSS fair hearing as well.

## **Do I need to get a note from my doctor to show that my circumstances have changed?**

No. You don't need to give the county a note or certification from your doctor that your medical condition has changed. You can get a

reassessment without a note from your doctor. However, a note from your doctor might help you to show the county that you need more hours.

### **If my IHSS hours go up or down, will the 8% cut still apply?**

Yes. The 8% cut will be applied to whatever hours you have at any given time. If your hours are increased after the reassessment, the 8% cut will apply to the increased number of hours. Likewise, if your hours are reduced, the 8% cut will apply to the reduced number of hours. In any case, the county is required at all times to give you the amount of hours you actually need. The 8% cut is then applied to those hours.

### **What if I have an unmet need for IHSS that is documented?**

The 8% cut is subtracted from your total need for IHSS. This includes any unmet need. Unmet need is a need for more hours than IHSS can pay for. IHSS cannot pay for more than 283 hours per month. If you need more than 283 hours per month, you have an unmet need. The 8% is subtracted from your unmet need first, then from the hours that IHSS can pay for.

The county will be able to deduct the 8% cut from your unmet need only if the county has documented your unmet need. This means that the county must have documented that you need more than 283 hours of IHSS per month. If you need more hours than IHSS can pay for and the county has not documented your need for the additional hours, ask the county to do it.

**Note:** Under the budget law, protective supervision is not considered “unmet need” for purposes of making the 8% cut. If any of your protective supervision hours are paid for by IHSS, the 8% cut has to be subtracted from the 283 hours (or 195 hours in some cases) that IHSS actually pays for. The 8% cannot be subtracted from your unmet need for protective supervision. If you have questions, call DRC.

## **What is an example of unmet need?**

You can find out if the county has found that you have unmet need by looking at the bottom of your notices of action. If it is not there, you can ask your case worker about your unmet need hours. Any notice you got before the original 3.6% reduction should list your actual unmet need. Some notices you got after the original 3.6% reduction will list an unmet need of 295 hours. Even though the 295 hours is not accurate, the IHSS computer should have the correct unmet need amount in it.

For example, if the county has authorized payment for 283 hours a month and has also recognized an additional 47 hours of unmet need, then the 8% cut will be taken first from the 47 hours of unmet need. The rest of the 8% cut will be taken from the hours that IHSS can pay for.

## **What should I do if I think I have unmet need for IHSS?**

If you are authorized to receive 283 hours a month by the county for services other than protective supervision and you believe the county should have also documented unmet need, you can ask for a reassessment to determine your unmet need. If you disagree with the reassessment or the county refuses to reassess you, you can appeal by requesting an IHSS fair hearing.

## **What if I get additional IHSS hours under the Medi-Cal Home and Community–Based Services Nursing Facility/Acute Hospital or In-Home Operations waiver?**

If your IHSS hours are reduced by the county, your IHSS hours under the waiver can be increased by the same amount. Contact your State Medi-Cal case manager with In-Home Operations.

## **Which IHSS services will get cut?**

The 8% cut is a cut in the total number of IHSS hours. It is up to you to decide how the 8% cut will be applied to the various services you get from IHSS. The county does not decide this for you. You need to tell your provider or providers about the cuts and tell them which activities will be cut.

### **What if I qualify for IHSS with a share of cost?**

Because of special rules that apply only to people who qualify for Medi-Cal funded IHSS with a share of cost, you may not be affected by the 8% reduction. Call us and say you qualify for IHSS with a share of cost and want to talk to an advocate about the 8% reduction.

### **Some time ago I heard something about “20% cuts” and “functional index cuts.” What’s happening with that?**

None of those cuts are going to happen. The laws that required those cuts are going to be repealed. Those cuts would have been much larger than the 8% cuts (7% in 2014) that are going into effect. The plaintiffs in the Oster lawsuit agreed to the smaller 8% (7% in 2014) cut in order to stop those bigger cuts.

### **Where can I get more information about the 8% and 7% cut?**

You can contact Disability Rights California. Here’s a link to the DRC website: <http://www.disabilityrightsca.org/>. You can reach us at the following telephone numbers: Toll Free 1-800-776-5746 / TTY 1-800-719-5798.

### **How can I get help with my IHSS?**

You can contact DRC at the website and telephone numbers listed above.

You can also contact your local legal services office.

*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*