



Humboldt County In-Home Supportive Services Advisory Board

808 "E" Street, Eureka, CA 95501

ChairpersonXXXXXXXXXXXXXXXXX EMAIL

April 9, 2014

Subject: Oppose Governor Brown's 40-hour Work Limit Per Week

Dear Chairman ,

On Sept. 17, 2013, the U.S. Department of Labor issued final regulations, effective January 1, 2015, that apply the federal minimum wage and overtime protections of the Fair Labor Standards Act (FLSA) to most of the two million-plus homecare workers in the United States. This new regulation will require In-Home Supportive Services (IHSS) Care Providers to be eligible for overtime. Governor Brown's proposal addresses this new rule by prohibiting all IHSS Care Providers from working more than forty (40) hours per week for one or a combined number of recipients. Currently, this group of Care Providers may work more than 40-hours a week, depending on the need of the Recipients, and they are paid straight-time, not overtime.

The Humboldt County In-Home Supportive Services Advisory Board (IHSS-AB) wants to provide the Board of Supervisors with information on the impact of this proposal on local IHSS Recipients and Care Providers.

Issues and Impacts

- **63% of Care Providers receive their only income through their work as an IHSS Care Provider.** The Governor's proposal would drastically reduce IHSS provider income, by capping the hours they can work each week, especially those caring for family members. IHSS providers who are living near or below the poverty level will be severely impacted by these limited hours.
- **Increased burden placed on IHSS Recipients to find and train additional Care Providers.** Humboldt County currently has approximately 1500 IHSS Recipients; of these, 240 Recipients have hours that exceed the 40-hour per week

limit. Recipients will be forced to hire and train new Care Providers to cover any hours over the 40-hour a week maximum. This can be a huge burden on the

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recipients, especially for those living in rural parts of the County.

Under the Governor's proposal, Care Providers who work more than 40 hours per week will receive a warning. If they work more than 40-hours per week a second time, they will be terminated from employment. Termination will be effective for one-year, meaning the Care Provider will not be able to seek employment in the present County or elsewhere within the State of California as an IHSS Care Provider during this time.

- **Care recipients who currently depend on family caregivers will have to hire total strangers.** Consumer choice is a cornerstone of the IHSS Program. IHSS Care Providers are not interchangeable. Personal care is very private to the individual. Consumers, seniors and individuals with disabilities, have strong preferences and needs when it comes to the people who are Care Providers. Some will not accept care from anyone other than a spouse or family member or other trusted provider. Parents of children with significant disabilities, who have been the sole Care Provider for years or decades, will lose income; this is also true for individuals caring for other family members. One goal of IHSS is to provide an income for individuals so they could stay at home and care for family members who may need assistance. Under the Governor's proposal, these Family Care Providers will need to find other work while leaving their child, parent or other relative in the hands of a stranger.
- **Availability of workforce.** The Governor's proposal assumes that people who are not now IHSS home Care Providers will be willing and available to do this work. There is no factual basis for this assumption. In rural California, often the only available person to provide care is a family member.
- **The Governor's "Care Provider Back-Up" System Discourages Workers.** The governor's budget assumes the construction of a new system of back-up Care Providers, who would be available, on short notice, to fill any unexpected needs of consumers who are unable to have their regular provider perform the needed work. The challenges to the Recipient, Care Provider, and County Staff and expense of such a system are underestimated; nowhere has such a service been successfully created on the scale required under the Governor's proposal. (It is almost as if the Governor is trying to create a nursing home atmosphere in the privacy of the home.) There is little evidence to support the idea that a "Care Provider Back-Up" system will be able to address the increased need this will cause.

The 40 hour a week cap will result in more Care Providers needed to care for the same number of Recipients currently receiving IHSS. The proposal includes a “back-up registry” of available Care Providers who would be available to recipients when their care givers have completed their 40 hours that week. It is Page 3 - Oppose Governor Brown’s 40-hour Limit Per Work Week – 4/9/14

questionable if there will be sufficient Care Providers who are willing to work only five to ten hours per week to make up the difference between a Recipient's need for over 40 hours of care per week and the 40 hour limitation on the primary Care Provider.

Potential Costs to County Government

- **Workweek arrangements** – Funding for County IHSS administrative costs for social workers to respond to questions from consumers and providers about the new overtime policy and work-week arrangement may be understated. Counties and Public Authorities experienced a high volume of calls and walk-ins by consumers and providers with problems and questions about the new timesheet for CMIPS II even after weeks of preparing Recipients and Care Providers for the changes coming with CMIPS II prior to its implementation. The budget proposal assumes implementation of the 40-hour per week limit for all 58 counties on January 1, 2015 – and there won’t be any pilot process to develop best practices. Hence, the workload may be much higher than anticipated by the administration to explain the new overtime policy and establish workweek arrangements between consumers and providers.
- **Mandated Reporting of Abuse or Neglect** - IHSS Care Providers are mandated elder and dependent adult abuse reporters. If they are unable to provide the needed care and there is no back-up Care Provider System in place, this may put the recipient in danger resulting in a mandated call to Adult Protective Services (APS). The possibility that the County would need to use APS, or other private agencies, to provide care to recipients who have no alternative care provider available, is very real and could be costly to our County.

While it is difficult to predict the additional financial costs that will result from the Governor's proposal, the human costs to IHSS Recipients and Care Providers may be significant. We encourage the Board of Supervisors to look closely at the impact Governor Brown’s proposal will have on the residents of Humboldt County.

We respectfully request the Board of Supervisors to write a letter opposing the Governor’s proposal prohibiting IHSS Care Providers from working more than 40-hours per week.

Sincerely,

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IHSS-AB Chairperson

EXAMPLE ONLY