CDSS Implementation of Sick Leave Requirements – SB 3

Public Stakeholder Discussion/Webinar

California Department of Social Services
Adult Programs Division
Policy & Quality Assurance Branch

March 23, 2017
Agenda

» Welcome and Introductions
» Sick Leave Earning
» Sick Leave Usage
» Sick Leave Request and Documentation

Objective: To describe a potential approach to IHSS provider sick leave usage and earning requirements and to provide opportunity for stakeholder discussion.
Senate Bill (SB) 3 (Chapter 4, Statutes of 2016) grants paid sick leave to In-Home Supportive Services (IHSS) providers effective July 1, 2018.

SB 3 allows IHSS providers to use paid sick leave for themselves or for specific family members:

- Child (biological, adopted, or foster; stepchild; legal ward; child to whom the provider stands in place of the parent);
- Parent (biological, adoptive, or foster; stepparent; legal guardian of the provider or the provider’s spouse or registered domestic partner; person who stood in place of the parent when the provider was a minor child);
- Spouse or registered domestic partner;
- Grandparent or grandchild;
- Sibling
Beginning July 1, 2018, an IHSS provider who works 30 calendar days within one year from the implementation date or the commencement of employment (whichever is later) as an IHSS provider will earn eight (8) hours of paid sick leave. [Labor Code (LC) section 246(a)(2)]

> Providers will earn sick leave after 30 calendar days from date of hire by the recipient

> For existing providers, this means they will earn the 8 hours of paid sick leave on July 31, 2018.
Sick Leave Earning/Increases

The number of paid sick leave hours an IHSS provider earns is provided for in statute and coincides with increases in the minimum wage. If there is no increase in the minimum wage, there will be no increase in sick leave hours.
Sick Leave Earning/Increases

The amount of paid sick leave earned is the full amount of leave each provider will receive for the year. Because of this, there will be no carryover of paid sick leave from year to year.

» **July 1, 2018—December 31, 2019**: IHSS providers earn eight (8) hours of paid sick leave per year. [LC section 264(e)(1)]

» **January 1, 2020—December 31, 2021**: IHSS providers earn sixteen (16) hours of paid sick leave per year when the minimum wage has reached $13 per hour. [LC section 264(e)(2)]

» **January 1, 2022**: IHSS providers earn twenty-four (24) hours of paid sick leave per year when the minimum wage has reached $15 per hour. [LC section 264(e)(3)]
IHSS providers who have met the 30 calendar day requirement as described above will receive their full amount of earned paid sick leave at the start of each fiscal year (July 1).
Example 1: On July 1, 2018, John begins working for his recipient Frank.

- On July 31, 2018, 30 days after the commencement of his employment, John earns eight hours of paid sick leave.
- Any remaining sick leave John has at the end of FY 2018 will be lost.
- John will earn eight hours of paid sick leave again at the beginning of the next fiscal year—July 1, 2019.
Example 2: Cathy began working for her recipient Nancy on January 1, 2018.

- On July 31, 2018, 30 days after implementation of paid sick leave, Cathy earns eight hours of paid sick leave.

- Any remaining sick leave Cathy has at the end of FY 2018 will be lost.

- Cathy will earn eight hours of paid sick leave again at the beginning of the next fiscal year—July 1, 2018.
Example 3: Nick begins working for his recipient Samantha on October 1, 2018.

» On October 31, 2018, 30 days after the commencement of his employment, Nick earns eight hours of paid sick leave.

» Any remaining sick leave Nick has at the end of FY 2018 will be lost

» Nick will earn eight hours of paid sick leave again at the beginning of the next fiscal year—July 1, 2018.
IHSS providers may begin using paid sick leave after they have worked for an IHSS recipient for 90 calendar days of work from the commencement of their employment. [LC section 246(c)]

> Providers can begin using paid sick leave after 90 calendar days from the date of hire by the recipient.

> For existing providers on July 1, 2018, this means they would be eligible to begin using paid sick leave on September 28, 2018, which is 90 calendar days after the July 1, 2018, implementation date.
However, if a provider begins employment later in the fiscal year (after April 2), he/she will earn paid sick leave that he/she may not be able to use before the end of the fiscal year. This is because the 90 calendar day period will not be completed until after June 30.
**Sick Leave Usage**

**Example:** Mary begins working for her recipient on April 15, 2019.

» On May 14, 2019, 30 days from her hire date, Mary earns eight hours of paid sick leave.

» However, Mary cannot use her paid sick leave until July 13, 2019, which is 90 days after the date of her hire.

» Because the last day of the fiscal year ends on June 30, Mary cannot use any of the sick leave she earned in the 2018-2019 fiscal year.

» Mary will earn eight hours of paid sick leave on July 1, 2019, which she can begin using as of July 13, 2019.
How Much Sick Leave Can Be Used at a Time?

The employee determines how much paid sick leave he/she will need to use, provided that the employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave. [LC section 246(k)]

» A minimum increment of 2 hours shall be established for use of paid sick leave.

» If the provider has accrued 8 hours of sick leave, he/she can use all 8 hours if needed.
If the need for paid sick leave is foreseeable (i.e. a medical appointment):

» Reasonable advance notice is needed. [LC section 246(m)]

> Reasonable advance notice shall be at least 48 hours (2 days) prior to the use of sick leave.
Sick Leave Request

If the need for paid sick leave is unforeseeable (i.e. an illness or other medical emergency):

» Notice of the need for sick leave must be provided as soon as possible. [LC section 246(m)]
  
  » The provider must contact each of his/her recipient(s) immediately, or at least two hours prior to the expected start of the workday.

» This allows the recipient the time to prepare for what he/she needs to do to ensure his/her authorized services for the day are received.
Sick Leave Documentation

Informing the IHSS Provider of the Sick Leave

The provider must receive a written notice setting forth the amount of paid sick leave available to him/her on either the employee’s itemized wage statement or in a separate writing. [LC section 246(i)]

> Plan is to modify the existing pay stub to capture the used and remaining paid sick leave hours for the provider.

> Development of a written notification, which will be sent to all providers on an annual basis in June of each year, will indicate the amount of paid sick leave the provider is due to earn on July 1 of that year.
Sick Leave Documentation

In order to document and validate a provider’s usage of paid sick leave, a Provider Sick Leave Request form will be used. This form would provide:

» Verification by both the recipient and the provider of the use of the paid sick leave.

» Documentation of the paid sick leave usage for appropriate tracking of the sick leave hours used and the sick leave hours remaining.
Sick Leave Tracking

Plan is to track sick leave through the Case Management, Information, and Payrolling System II (CMIPS II).

Adult Programs Division Systems Bureau will design and develop the requirements to track sick leave within the system.

Stakeholders will be involved in the process as it moves forward.
Questions?