

California IHSS Consumer Alliance
Statewide Call
March 15, 2017 – 10 a.m.

Notes

Call: 1-800-309-2350

Pass: 9232015#

Roll: Karen Keesler, Lega Bet Tzeedek, Bonnie Newman, Mark Beckham, Louise Osejo, Carol Taylor, Randy Hicks, Rick Simonson, Cindy Calderon, Linda Roberts, Michele Geving, Brad Toy, Charlie Bean, Shih Wu, Janet Clark, Rosita Whitaker, Randi Bardeaux, Kristine Loomis, Mya Shone, Michael Condon, Joey Riley, Margaret Lewis, Teresa Stable, Sandy Hilton, Lena Berlove, Monika Vega, Janet Canterbury

Karen Keesler: Have 5 things to go over, as always appreciate our partnership with CICA.

First want to talk about the hearing held March 8th, having a short time to get a consumer and it was great to have CICA step up and provide representation there. It was great, the IHSS Coalition expansion of exemptions was passed through the Assembly Budget Sub-Committee. There were three things being asked for: Expand the criteria for receiving and exemption, provide notice to providers so they know more about the exemptions, and have an appeals process for the exemptions being applied for. This is now gone to the Senate Budget Sub-Committee and being left open for further information, but it is a step closer to becoming a reality if no road blocks are placed in front of it. Below is what was being requested by the IHSS Coalition in regards to the exemptions and was accepted:

The IHSS Coalition is composed of fifty organizations representing IHSS consumers, providers and advocates. The IHSS Coalition is proposing to address Exemption 2 concerns by: (1) modestly expanding the exemption criteria, (2) require notification to consumers and providers about the criteria and process to request an exemption, and (3) establish a fair and reasonable appeals process.

Regarding the exemption criteria, the Coalition states that protections are needed to allow for situations when a provider can work above the CDSS cap of 66 hours/week in certain, limited situations, including:

- *Providers who are the parent, step-parent, grandparent or legal guardian of two or more children (including providers approved after Jan 31, 2016);*
- *Spouses, domestic partners, adult children caring for parents, adult siblings, and adult grandchildren, when no other suitable provider is available; and*
- *Individual consumer situations when there is no other suitable provider is available, the recipient would be at risk of out-of-home placement, or the recipient's health (including physical, psychiatric or emotional) or safety would be at risk.*
- *In addition, statute should allow some providers to work over 90 hours/week in limited situations based on individual consumer needs when there is no other suitable provider is available, the recipient would be at risk of out-of-home placement, or the recipient's health (including physical, psychiatric or emotional) or safety would be at risk.*

The Coalition states that it anticipates that these changes will reduce harm to a relatively small group of IHSS consumers and providers as they try to comply with the new overtime rules. The state's estimated 5,000 providers could meet the specific criteria for this exemption and could be allowed to work up to 12 hours per day, or 90 hours per week, not to exceed 360 hours per month. Funding based on this estimate was included in the final 2016-17 state budget. However, as of December 29, 2016, there were 52 providers approved, 68 denied, and 11 pending for Exemption 2. The Coalition states that this data validates the observation that the criteria for Exemption 2 is too narrow.

Disability Rights California is working on this to add information to the Trailer Bill to improve the exemptions. Curtis Childs is working on and will be looking for individual letters from individuals who have applied for and denied for exemptions (*this has been distributed since the typing of these notes*). [Click here](#) to view the request.

There was concern about the overtime regulations being rescinded by the President, but the timeline for this to be done has passed. It does not seem to be a priority with this President. He has asked that CMS &

USD of Labor to do an evaluation on the overtime regulations affects from 5 states.

Finally, there has been a report about the FLSA prepared by the State on this. [Click here](#) for the 38 page report.

Late Provider Timesheets and Paychecks: Many of you know CAPA and others have pushed for an audit of the patrolling process. This is to be released tomorrow. Assemblymember Gonzalez/Fletcher has [AB 237](#) open so that if there are legislative requirements needed to meet the Auditor's Report requirements. [Click here](#) for the Audit.

[AB 432](#) sponsored by CAPA and unions to include waiver providers to be included for receiving health benefits (though little funds this); to bring equality to waiver providers as is with IHSS providers. This would move waiver providers into the bargaining units.

County financial concerns (MOE): The Governor having the authority to determinate the CCI; the counties will be hit hard with the additional cost of \$623 million. The Legislation has placed this on the agenda. Speaker Rendon and the Senate has not taken action and placed on hold till March 22 hearing. On page 13 "[ASSEMBLY BUDGET SUBCOMMITTEE NO. 1 ON HEALTH AND HUMAN SERVICES](#)" there is discussion and recommendations by the Staff for future funding.

The County and CSAC needed more time to look at the Speake's recommendations. The Department of Finance is in discussion with those involved to see how funding to meet the county's needs.

Janet: How many waiver providers do we have?

Karen: To be a waiver provider you must be an IHSS provider. The concern is when the IHSS hours are used the provider must then use waiver hours approved. There is about 700 waiver providers.

Brad: Does all this new legislature have to do with the FLSA and the Exemptions?

Karen: No, there is no legislature on the FLSA. These are separate items.

Joey: Will Waiver consumers bellowed to access the registry?

Karen: Yes, they will have access to the registry, so that waiver providers as IHSS providers will have access to the Registry. With the update, waiver providers will be able to see their criminal report and fix it if there is incorrect information, where before only IHSS providers could do this. AB 432 brings the waiver provider to equal footing with IHSS providers. If the IHSS providers receive a benefit, it is hoped AB 432 will do the same for waiver providers to have the same services and benefits.

Randy: What is the appeals process for the provider who receives the 3rd violation?

Karen: The Coalition is working on getting appeal rights for the exemptions, which at this time there is no appeal process. For the violations, they have been allowing providers to get a letter of warning for the first violation, take a short course for the second, and 3rd violation 3 months no work. The State and County have been working very hard for this not to happen, to verify that numbers are being read correctly and being sure providers and recipients are aware of the mistakes. Unions are also involved in getting this correct. Numbers are really low for those receiving violations, but there has been a solid effort by unions and providers in making sure no one loses their jobs or providers.

Kristine: Is about the MOE, can you give an overview of what is being proposed by the Legislature

Karen: The Speaker's plan can be found [here](#) page 13. The \$623 million covers services that the counties do not believe they should have been responsible for and were covered by the MOE. Covering IHSS is one thing, but there are other programs that will suffer because of future funding. Important to get it right to help all.

Monika Vega, Senior Outreach Coordinator, Harbage Consulting – Cal-Medi-Connect and CCI. They have a contract with the State to promote the programs throughout the State for community based health care. Monika will be using the slide presentation so please follow this ([click here](#)) to an online version.

Please following the recording from the 38 minute mark. Monika uses the slide as a presentation. The link above takes you to the online version. [Click here](#) for the slide presentation for you to download.