



county of Santa Cruz

HUMAN RESOURCES AGENCY

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Agenda: March 7, 2000

BOARD OF SUPERVISORS

County of Santa Cruz

701 Ocean Street

Santa Cruz, CA 95060

IMPLICATIONS OF NEW REGULATIONS FOR IN-HOME SUPPORTIVE SERVICES (IHSS)

Dear Members of the Board:

The Human Resources Agency (HRA) regularly reports to your Board regarding the delivery of In-Home Supportive Services (IHSS) to the elderly, blind, and disabled. In July 1999, the governor signed bills into law that may significantly affect the administration, methods of service delivery, and costs of the IHSS program.

In order to assist your Board in making decisions about the implementation of laws affecting IHSS, this letter provides background information and describes current issues facing IHSS clients. In addition, requirements of the legislation are outlined and a **timeline** for implementing these requirements is proposed.

IHSS OVERVIEW

Created in 1973, the IHSS program serves eligible elderly, blind, or disabled individuals who are not able to remain safely in their homes without assistance. Eligibility for IHSS is determined by income and need. Services are provided without cost to Supplemental Security Income and/or State Supplemental Payment (SSI/SSP) recipients and those with very low income. Those with higher income are still eligible for the program, however, they pay a share of the cost for services.

The County is responsible for assessing eligibility for service and determining the amount of service hours needed.

The intent of IHSS is to assist clients in living safely at home rather than in costly and less desirable out-of-home placements, such as residential care facilities. Clients receive a variety of basic services, including domestic assistance such as housecleaning, meal preparation, laundry, and shopping; personal care, such as feeding and bathing; transportation; protective supervision; and certain paramedical services ordered by a physician.

56

In Santa Cruz County, IHSS is delivered through two primary mechanisms, either through Independent Providers (IP) or through Contract Care (CC). If an IHSS recipient is able, he or she may hire, fire, and supervise an IP. In this case, the recipient is considered the IP's employer.

The County collects timecards and processes payments. Independent Providers are paid the minimum wage and the State pays for unemployment insurance and disability.

If a recipient is not willing or able to act as an employer, then the Human Resources Agency contracts with a private, for-profit agency to provide care to the recipient. CC is also used to provide services to recipients with more complex cases. In this mode, the contracted agency is considered the provider's employer. The contract is awarded through a bidding process. Agencies competing for the contract negotiate provider wages and benefits with local unions. The current contract expires on June 30, 2000 and a proposal for a new bid will be presented to your Board this spring.

A few recipients use a combination of IP and CC and are referred to as mixed mode recipients.

The IHSS program receives Federal payment for a percentage of the cost of services for eligible clients. Federal payment is through the Personal Care Services Program (PCSP). PCSP is for all clients except the following: domestic services only cases, protective supervision tasks, spousal independent providers, parent independent providers for minor children, income eligibles, advance pay recipients, and recipients covered by third party insurance.

For PCSP eligible clients using any mode of service, the Federal government pays 51.64 percent of costs. The remaining costs are divided between the State (65%) and the County (35%). If a county elects to pay more than the minimum wage for IP, then the county pays 100 percent of non-Federal costs.

Demographics of IHSS clients (July 1999) are as follows:

Gender		Age		Ethnicity	
Female	69%	0-6	1%	White	68%
Male	31%	7-18	5%	Hispanic	25%
		19-44	19%	Black	3%
		45-64	26%	Other	4%
		65-79	27%		
		80+	22%		

As mentioned, the County assesses all recipients to determine their eligibility and their need for services. Social workers use a standard assessment tool to determine the type of services and number of authorized hours per client. Then the client chooses whether to use IP, CC, or mixed mode. The IHSS caseload is made up of clients authorized to receive services. In November 1999, IHSS carried 1,280 authorized clients. The following chart provides information about the number of authorized clients with claims paid in IP and CC modes and the number of hours paid during the month of November 1999. The number of clients eligible for Federal payment for a portion of costs through PCSP is also indicated.

	INDEPENDENT PROVIDER (IP)	CONTRACT CARE (CC)	TOTAL
Paid Clients	818	403	1,221
Hours	73,216	13,447	86,663
Percent of Hours	84%	16%	100%
Hourly Rate	\$5.75	\$12.69	
Total Monthly Cost	\$436,784	\$165,542	\$602,326
County Share of Cost	\$98,484	\$38,109	\$136,593
Percent of County Share of Cost	72%	28%	100%
Clients Eligible for Federal Payment (PCSP)	541	183	724
Hours Eligible for Federal Payment (PCSP)	48,858	8,706	57,564
Federal Share of Cost (PCSP)	\$155,401	\$56,658	\$211,059

It is noteworthy that only 16 percent of paid hours are allocated to clients using CC. However, CC represents 28 percent of the County's monthly costs for IHSS.

The following chart provides information about Federal, State, and County share of costs for IHSS (non-administrative) during FY 98-99.

SUMMARY: FY98-99 SHARE OF IHSS ASSISTANCE PAYMENTS

	INDEPENDENT PROVIDER (IP)	CONTRACT CARE (CC)	TOTAL
Federal Share	1,519,595	648,804	2,168,399
State Share	2,316,442	874,933	3,191,374
County Share	1,247,315	471,118	1,718,432
TOTAL	\$5,083,351	\$1,994,854	\$7,078,206

The State share does not include the cost of unemployment insurance and disability insurance, which the State pays for independent providers.

There are a number of problems associated with the current modes of IHSS delivery. As the population of frail elderly increases, there is a greater need for IHSS. Simultaneously, the region is experiencing unprecedented economic success. This success translates to a low unemployment rate, which results in difficulties recruiting IHSS providers. Fewer people are choosing to become an IP for the minimum wage. Thus, more recipients are unable to hire an IP and must be authorized to receive care through CC. There is a noticeable increase in hours being assigned to the more costly CC mode rather than IP. The current contractor is experiencing similar difficulties recruiting providers with a beginning wage of \$6.35 per hour. The strong economy also negatively impacts the quality of care for recipients, because providers are leaving IHSS to

56

enter fields with higher wages, benefits, career ladders, and training. In summary, there is a greater need for IHSS and there are less trained, competent providers available to offer care.

LEGISLATIVE ANALYSIS

Two bills, **AB 1682** and **SB710**, will have a significant impact on how the County manages the IHSS program. Both bills became laws on July 12, 1999 and, because both bills included urgency clauses, became effective immediately.

By January 1, 2003, the fundamental provisions of **AB 1682** require the County to act as, or establish, an employer of record for IHSS individual providers for employee relations purposes. In addition, **AB 1682** deleted a provision of the law that required Counties to fund the entire cost of wage and benefit increases. As mentioned, the Federal government pays for 51.64 percent of eligible IHSS. An **AB 1682** provision requires the State and County to share the non-Federal costs of wage and benefit increases with a split of 65 percent State and 35 percent County.

The ink barely dried on **AB 1682** when **SB 710** was signed, amending the cost sharing provision of **AB 1682** for the current fiscal year (1999-2000). The new provision is to share the non-Federal costs of the first \$.50 over the hourly statewide minimum wage in a ratio of 80 percent State and 20 percent County. However, this sharing ratio is only for FY 1999-2000, so most counties, including Santa Cruz, will not be able to take advantage of this sharing ratio, because implementation of **AB 1682** need not be completed until 2003.

Specifications for an employer of record are loosely defined in **AB 1682**. An employer of record may be a contractual employer, a Public Authority, a non-profit consortium, the County itself, or some combination of these modes. A Public Authority is either governed by the Board of Supervisors or governed by Board appointees. The relationship between the Public Authority and the Board is created through an interagency agreement. Generally, the Public Authority role is to establish a registry of providers, investigate the qualifications and background of potential personnel, establish a referral system, provide training for providers and recipients, and perform other functions related to the delivery of IHSS. Under a Public Authority, the County continues to determine eligibility, assess clients, and authorize services. The County is responsible for provider payroll functions, monitoring agreements between your Board and the Public Authority, and paying the Public Authority. Under a Public Authority, consumers act as the employer of their provider.

While a Public Authority is established through an interagency agreement, a non-profit consortium is created through a competitive bidding process. Thus, the consortium is under contract with the County. The consortium role is to establish a registry of providers, investigate the qualifications and background of potential personnel, establish a referral system, provide training for providers and recipients, and perform other functions related to the delivery of IHSS. The County's role is similar to the one it would take on in the Public Authority mode. Under a consortium, the consumer is the provider's employer. The main difference between a Public Authority and a non-profit consortium is the process through which the entity is created.

56

In addition to the establishment of an employer of record, AB 1682 also requires that all counties currently without a Public Authority establish an IHSS Advisory Committee. The Committee must be comprised of not more than eleven individuals of whom at least 50 percent are consumers who are present or past users of personal assistance services paid for through public or private funds. The IHSS Advisory Committee's role is to submit recommendations to your Board on the preferred modes of IHSS and to provide ongoing advice and recommendations.

GOVERNOR'S BUDGET PROPOSALS

In his FY 2000-2001 budget proposal, Governor Gray Davis recognized that California has the fastest growing population in the country and that the fastest growing segment of California's population is persons age 85 and over. In 20 years, the number of people in California over 60 years of age will increase from 4.9 million to 9.0 million. As a result, the Governor proposed the Aging with Dignity Initiative, which commits \$271.5 million to help elderly people remain at home or with their families rather than in costly, less desirable nursing homes; increases the availability of community-based alternatives to nursing home care; and enhances nursing home quality.

Several proposals included in the Aging with Dignity Initiative may affect funding for IHSS. These proposals are:

1. Increase the State Share of Wages for Public Authority In-Home Supportive Services Providers

The Administration proposes to increase IHSS caregiver wages to \$8 per hour over five years, contingent upon growth in State General Fund revenues. This proposal will allow more seniors to live independently at home or with their families by enhancing the ability of public authorities to recruit and retain caregivers. This proposal is over and above the 35-cent per hour increase, to \$6.60 per hour, that is being implemented this fiscal year (1999-2000) in counties with a Public Authority.

2. Allow Low-Income Seniors to Keep More Income for At-Home Care

This proposal reduces the out-of-pocket payments many seniors contribute toward their own medical costs before Medi-Cal is available. The proposal extends "no-cost" Medi-Cal to approximately 13,000 elderly and disabled persons with income up to 100 percent of the Federal poverty level and maintains the share-of-cost for those above the poverty line. This will help more seniors remain at home.

3. Train Employees to Be Caregivers

This proposal includes \$15 million of Federal Workforce Investment Act funds to train current or prospective IHSS or nursing caregivers. The proposal also targets \$35 million of Welfare-to-Workfunds for recruitment, retention, and training of these same caregivers.

56

The Governor's budget proposals potentially affect the implementation of AB 1682 and SB 710. In addition, California Department of Social Services (CDSS) staff and county Adult Services managers from across the State met in Fall 1999 and identified 70 questions about implementation of the new laws. Questions touched on issues such as share of cost, availability of planning dollars, and definitions of employer of record. CDSS acknowledged that it must address the identified issues as a part of developing regulations.

Regulations for implementing the new law are not yet fully developed and many questions are outstanding. In such an environment of uncertainty, it is prudent to move slowly, reserving large decisions until more information about both State regulations and the new budget are available.

FISCAL IMPLICATIONS

To reiterate, for IP, CC, and mixed mode, the Federal government pays 5 1.64 percent of costs for eligible hours of service. The remaining costs and costs for services not eligible for Federal reimbursement are divided between the State (65%) and the County (35%). If a county elects to pay more than the minimum wage for IP, then the county pays 100 percent of non-Federal costs. Provisions in SB 710 for the current fiscal year (1999-2000) share the non-Federal costs of the first \$.50 over the hourly statewide minimum wage in a ratio of 80 percent State and 20 percent County. However, under current law, this increased State participation is only for FY 1999-2000 and will sunset on June 30, 2000.

It is unclear how the new State budget (FY 2000-2001) will affect the implementation of new legislative requirements. There remain numerous questions about how the minimum wage will change during the next few years. As mentioned, it is difficult to recruit IHSS providers in this region. One possible method for addressing this difficulty is to increase wages and offer benefits to independent providers (IP mode). With no other changes in the law, if hourly wages increase from \$5.75 to \$8.00 per hour plus 20 percent benefits (\$1.60 per hour) for a total hourly cost of \$9.60, the County would be responsible for 100 percent of the non-Federal share of the increase. As a result, the County's share of cost for IP mode would change from \$98,484 to \$278,430 per month, an increase of \$179,946 per month. (The Federal share of costs for such an increase would be an additional \$94,613.) This wage change is in line with projections for an increase in the minimum wage. As previously mentioned, the legislation does not provide additional **funding** for this type of change. As you know, the legislation also does not include funds for implementing a new administrative structure for the IHSS program. With an unclear funding picture, a measured and deliberate decision making process is implied.

TIMELINES

AB 1682 added section 12302.25 to the Welfare and Institutions Code (WIC), which requires the State to develop an implementation timetable. To comply with this provision, All County Letter (ACL) 99-62 required that each County submit a report to the State detailing their preliminary implementation plan by January 1, 2000. Subsequent basic action steps required by the State are:

- January 1, 2001 Submit a progress report on the planning process and activities completed,
- January 1, 2002 Submit another progress report,

56

- July 1, 2002 Submit an action plan describing County's readiness for establishing an employer of record by January 1, 2003, and
- ♦ January 1, 2003 Submit certification that the County is in compliance with the law.

In order to meet State requirements, the table below outlines proposed timeframes to be followed by the County of Santa Cruz to fully implement AB1682.

MANDATE	ACTIONS	TIMEFRAME	GOAL
Establish an IHSS Advisory Committee	1. Adopt resolution 2. Public announcement 3. Public response and nominations 4. BOS appointments	9 months	Complete by September 30, 2000
Advisory Committee Recommendations Regarding Mode of Delivery	1. In-depth analysis of service delivery 2. Hold public meetings 3. Recommendation to BOS	9 months	Complete by June 30, 2001
Establish Service Delivery Mode	Varies greatly depending on which mode is selected	1 year	Complete by June 30, 2002
Implement New Program		3 months	Complete by December 31, 2002

CONCLUSION

As the elderly population in California increases, the number of people requiring IHSS in order to remain safely in their home will increase. In-Home Supportive Services are clearly less expensive and more desirable than out-of-home placements. The provision of IHSS is challenged by difficulties recruiting trained, competent providers. This problem is exacerbated by the strong economy. With a greater need for services and fewer providers available, the time is right to address the mechanism for delivering IHSS. Through passage of AB 1682 and SB 710, the State provided an initial framework for the further development of IHSS.

Implementation of AB 1682 and SB 710 is a complex process involving many stakeholders. It is important and required that IHSS consumers be an integral part of the process. This effort involves not only the County but also the entire community. Fully involving the community in the planning process for the future of IHSS will require time, but will ensure quality. The process of change should be deliberate and informed.

IT IS THEREFORE RECOMMENDED that your Board:

1. Accept and file this report on In-Home Supportive Services and Implications of New Regulations;
and
2. Direct the Human Resources Agency Administrator to report back to your Board by March 21, 2000
with recommendations and a resolution to establish an IHSS Planning Advisory Committee

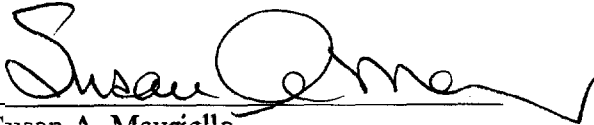
Very truly yours,



CECILIA ESPINOLA
Administrator

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RECOMMENDED:



Susan A. Mauriello
County Administrative Officer

cc: County Administrative Office
Santa Cruz County HomeCare Coalition
United Domestic Workers
Service Employees International Union
Long Term Care Interagency Commission
Human Services Commission
Seniors Commission
Addus HealthCare
Assisted Care, Inc.