

OFFICE OF PATIENTS' RIGHTS

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M E M O R A N D U M

TO: Patients' Rights Advocates

FROM: Office of Patients' Rights

RE: In Home Support Services (IHSS)

DATE: October 9, 2001

WHAT IS IN HOME SUPPORT SERVICES (IHSS)?

The In Home Support Services Program is designed to provide patients with disabilities with the supports they need in order to remain in their own home. Obtaining IHSS services can provide individuals with psychiatric disabilities the services they need to remain in the community and/or return to their own home following placement in a facility. Individuals maybe eligible for up to 238 hours of services each month.

WHAT SERVICES CAN IHSS PROVIDE?

IHSS pays (at the minimum wage) for workers to provide services individuals can not do themselves because of his/her disability. The IHSS program can provide a wide range of services and groups services under the following categories:

- Domestic (e.g. vacuuming, cleaning, taking out garbage)
- Related Services (e.g. preparing meals, laundry shopping for food)
- Heavy Cleaning
- Non Medical/Personal Services (e.g. grooming, dressing, feeding, bowel/bladder care)
- Medical Transportation (e.g. transportation to medical appointments)

Yard Hazard Abatement

Protective Supervision (e.g. watching a person with a severe mental impairment so they do not hurt themselves living at home)

Paramedical Services (e.g. injections, catheterization)

Each of these services is described in greater detail in this packet.

IHSS AND PERSONS WITH PSYCHIATRIC DISABILITIES

Individuals with psychiatric disabilities may qualify for IHSS if they need help in order to live in their own home, the home of a relative, a home or an apartment that is shared with others, or a hotel room. IHSS is not available to individuals in a board and care home or residential facility. However, because workers from County Welfare Department who process IHSS applications primarily work with patients with physical disabilities, they are not familiar with applications or justifications from individuals with psychiatric disabilities. This means the county worker may need more help in understanding why a patient with a psychiatric disability needs help in his/her home. The kind of information that should be provided is:

1. Need for “prompts” to get up in the morning and go through tasks such as bathing, grooming, dressing, taking medication, eating. Prompts and assistance in sequencing are terms to describe the help people need in starting a task and in going from one step to another. Because of a person’s disability or the side effects of medication, the person may not be able to do that consistently without someone present to step them through the process.
2. Similarly, reminders may be needed to assist the person in going through the various tasks leading to going to bed at night.
3. Preparation of meals which a person may not be able to do consistently and safely alone.
4. Reminders to eat and drink water.
5. Shopping, cleaning, laundry, menu planning.
6. Need for intervention because a person may see a harmless, benign situation as one which is personally threatening and one which the person believes requires a response which could cause self injury. In such a case the person may need his

attention diverted, guidance to realize there is no threat, or action by another to prevent injury.

Letters from a physician, social worker or case manager can help support an IHSS application. A letter should explain the following:

- (a) The things you need help with and the kind of help you need.
- (b) Why you need that help because of your disability. For instance, the psychiatrist or social worker or psychologist you see can explain that your medications plus your disability make it hard for you to get up on time and go through the other morning steps without help.
- (c) How not getting the help you need could mean you are not able to continue living on your own in your own home or hotel room or apartment.
- (d) How not getting the help you need could make your condition worse. For instance, without help in getting up regularly every day and in keeping your apartment in order, your day-to-day life could feel chaotic and lead you into a crisis. Without help in providing structure and order in your life, you are at risk of a crisis which could even mean a visit to the emergency room.

TIPS FOR ADVOCATES

At Certification Review Hearings, ask questions about whether the client receives IHSS services. If so, this can be used to show that your client is not gravely disabled.

Provide training to hospital discharge planners and mental health case workers about how they can assist individuals in accessing IHSS services.

Provide information to residents of board and care homes and other facilities about how they can access the IHSS program.

Assist individual clients in obtaining IHSS services and/or technical assistance to caseworkers who are helping clients access services.

OTHER INFORMATION IN THIS PACKET

THE ASSESSMENT AND FAIR HEARING PROCESS

The Assessment

When you first apply for IHSS, at least once per year and anytime you request it, you will have a county assessment. The county worker will come to your home and determine which IHSS services you are eligible for and how many hours you will receive per month. The county should do the assessment within 30 days of your request.

How to Measure IHSS Need

Statutory and Regulatory Standard

The general standard for measuring individual need for IHSS services (assuming the disabled person is unable to perform the needed services because of his or her disability) is set out in Welfare and Institutions Code, Section 12300. The disabled person is entitled to receive the services needed to enable him or her (1) to remain safely in his or her own home or in the abode of his or her own choosing, and/or (2) to establish and maintain an independent living arrangement. The time that will be authorized is based on the time it would take an average minimum wage worker to do the tasks authorized. No time will be authorized for services that are solely for the "comfort" of the IHSS recipient. The maximum number of hours is 283 per month.

State "Time-for-Task" Guidelines

There are certain state "time-for-task" guidelines:

- i.* domestic services, 6 hours a month;
- ii.* laundry if facilities are in the building, 1 hour per week;
- iii.* laundry if you have to go outside the building, 1-1/2 hours per week;
- iv.* grocery shopping, 1 hour per week;
- v.* other errands, 30 minutes per week.

Typically, the time-for-task guideline will be reduced if there is more than one person in the household. For instance, in a family of four the disabled person's pro rata share of the domestic services would be 1.5 hours per month.

The regulations recognize that time-for-task guidelines may be used only if appropriate for meeting a recipient's individual circumstance.

Part II of this packet provides illustrations about when the guidelines are not appropriate because of individual circumstances.

Daily Log

A key part of preparing for a fair hearing or for an evaluation by the County IHSS worker is a daily log of just what is done each day and how long each task takes. We find that people often do not realize all the tasks involved in care and the length of time the tasks take. For instance, if there are bathroom accidents, the clean-up time (which is part of bowel and bladder care) is not just the time for cleaning, but also the time it takes to take out the cleaning supplies and put them away again. If bodily fluids or bowel movements are involved, you need to include the extra time involved in complying with universal precautions. Further, the time involved in certain tasks may vary from day to day. For instance, it may take twice as long one day to dress a person with spastic quadriplegia cerebral palsy as it does the next day because of differences in limb flexibility. The IHSS authorization will be based on an average time, so it is important to know the range of time a task may take.

Doing Your Own Assessment

Before the hearing, complete the IHSS worksheet in section IV. The worksheet, like the County assessment form, is based on a one-week period. Hours are calculated in 10ths:

.05 = 03 minutes	.58 = 35 minutes
.08 = 05 minutes	.60 = 36 minutes
.10 = 06 minutes	.65 = 39 minutes
.15 = 09 minutes	.70 = 42 minutes
.17 = 10 minutes	.75 = 45 minutes
.20 = 12 minutes	.80 = 48 minutes
.25 = 15 minutes	.83 = 50 minutes
.30 = 18 minutes	.85 = 51 minutes
.33 = 20 minutes	.90 = 54 minutes
.35 = 21 minutes	.92 = 55 minutes
.40 = 24 minutes	.95 = 57 minutes

.42 = 25 minutes

.45 = 27 minutes

.50 = 30 minutes

.55 = 33 minutes

1.00 = 60 minutes

2.00 = 120 minutes

3.00 = 180 minutes

4.00 = 240 minutes

5.00 = 300 minutes

We find it easier to do the calculations to get to the weekly time figures in minutes and then translate the hours and minutes into tenths. For instance, if the time assisting on and off the commode and holding while on the commode to prevent falls, plus related tasks such as hand washing, averages 6 minutes each time, and the usual frequency is 5 times a day on weekdays when away at school or at training program and 7 times a day on weekends, the weekly time would be $(5 \times 6 \text{ min.} \times 5 \text{ days}) + (7 \times 6 \text{ min.} \times 2 \text{ days}) = 234 \text{ minutes} = 3 \text{ hours } 54 \text{ minutes} = 3.9 \text{ hours}$.

Finally, on a separate piece of paper you need to write down the reasons why you believe you need more IHSS time. To help you, section II of this packet is a listing of "Reasons Why More IHSS Time Is Needed" that we have seen in individual cases. Some of these reasons may apply in your case.

Getting Ready for the County Assessment

The County worker's purpose for the home visit is to determine what an IHSS recipient or applicant can or cannot do for himself or herself and, therefore, what services are needed and the time necessary to perform those services. Your job is to help the County worker understand all your care problems and special care needs and what they mean in terms of time. It is important to be frank and open. Do not minimize your disability problems and care needs because you may end up not getting the hours you need. Even though you may feel embarrassed doing so, it is important to explain things fully so that the County worker understands your situation. Before the County IHSS worker arrives, we recommend that you fill in the IHSS worksheet in section IV with the hours you think you need. (Remember that the County is going to authorize only what you really need and will not allow extra time for "comfort" services. An example of a comfort service is extra dusting to make things look nice.) You should be prepared to explain your worksheet hours: what tasks are performed, how you determined the time each takes, what special factors need to be taken into consideration, and, if relevant, why the state time-for-task guidelines are not appropriate for your circumstances. You may wish to make a list so that you will not forget anything. You should be prepared to explain how you determined the hours needed, particularly if there are differences

between what the County authorized before and what you believe you need now. As part of the County's evaluation process, your treating physician will be sent a form asking for information about your capacity for self-care, your functional abilities/disabilities, and -- relevant to a determination of the need for protective supervision -- your mental condition. If you need paramedical services, a paramedical form will be sent to the treating physician. You should alert the clinic or physician's office that it is coming so that you can participate in the form completion.

"Severely Impaired"

To determine whether you qualify as a "severely impaired" recipient, add up the "essential" service categories labeled on the worksheet with an asterisk (*). If they total 20 hours or more a week (including services not provided through IHSS) you qualify as severely impaired. If you are severely impaired, you are entitled to (a) secure your own IHSS provider even in contract agency counties and (b) advance payment so that you may pay your workers rather than waiting for the state computer to pay them afterwards.

Documenting Special Needs

Get documentation verifying special needs--for instance, a note from your physician explaining that you need a dust-free environment because of allergies or pulmonary/respiratory problems, a note verifying bowel and bladder problems, or a need to have bed linens changed more than twice a month. If you need range-of-motion exercises or other physical therapy, or shots, or catheterization, or suctioning, etc., get the forms from your County IHSS worker for doctor/therapist verification of need and authorization for **paramedical** services.

When the Disabled Person Is Married

If the disabled person is living with a spouse, the spouse or anyone else may be the paid IHSS provider of non-medical personal services (see category 4 on the enclosed worksheet form) and paramedical services. If the spouse leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and, as a result, there is a risk of inappropriate, out-of-home placement or inadequate care, the spouse also may be paid to provide protective supervision and to accompany the disabled recipient as necessary to medical appointments. If the spouse is not able or available, these and the other IHSS services may be provided by others. "Not available" includes time when the

spouse is out of the home because of work or for other necessary reasons, or when the spouse is sleeping or meeting the needs of other family members. A proper assessment identifies services provided through alternate resources -- such as assistance with bowel and bladder care provided at a day program. To determine whether or not someone qualifies as severely impaired, you count both the service hours to be paid through IHSS and service hours provided at no cost to the IHSS program.

IV. IHSS WORKSHEET

IN-HOME SUPPORTIVE SERVICES SELF-ASSESSMENT WORKSHEET

SERVICES	DAYS							WEEKLY TOTAL
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
<u>DOMESTIC SERVICES</u>	Domestic Services: For Adults only. Children are not eligible to receive domestic services hours. Domestic services are usually limited to 6 hours per month per household and divided by the number of people in the household. If you need more hours of domestic services because of the recipient's disability (e.g. more frequent bathroom cleaning due to incontinence, frequent dusting due to asthma, etc.), then mark the time needed in the columns below.							
a. Sweeping and vacuuming								
b. Washing kitchen counters								
c. Cleaning oven and stove								
d. Cleaning and defrosting refrigerator								
e. Cleaning bathroom								
f. Storing food and supplies								
g. Taking out garbage								
h. Dusting and picking up								
i. Bringing in fuel for heating or cooking purposes from a fuel bin yard, miscellaneous								
j. Changing bed linens								
k. Miscellaneous								
TOTAL DOMESTIC SERVICES								

SERVICES	DAYS																				WEEKLY TOTAL	
	Monday			Tuesday			Wednesday			Thursday			Friday			Saturday			Sunday			
<u>RELATED SERVICES</u>	B	L	D	B	L	D	B	L	D	B	L	D	B	L	D	B	L	D	B	L	D	
a. Preparing meals, serving meals, cutting up food*																						
b. Meal Clean up and menu planning**																						
c. Laundry, mending, ironing, sorting, folding and putting away clothes (60 minutes per week allowed if in-home, 90 minutes per week if laundry is out-of-home)***																						
d. Shopping for food (60 minutes per week maximum)**																						
e. Other errands (30 minutes per week maximum)**																						
TOTAL RELATED SERVICES																						

****If you need more than the time allowed for these services due to the recipient’s disability (i.e., daily shopping for fresh food, frequent laundry due to spilling foods, etc.), then mark the time needed in the columns.

SERVICES	DAYS							WEEKLY TOTAL
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
HEAVY CLEANING								
NONMEDICAL PERSONAL SERVICES								
a. Respiration*								
b. Bowel/bladder care (including help on/off commode)*								
c. Feeding and drinking*								
d. Bed baths*								
e. Dressing*								
f. Menstrual care*								
g. Ambulation*								
h. Moving into and out of bed*								
i. Grooming bathing, hair care, teeth and fingernails*								
j. Rubbing skin to aid circulation, turning in bed, repositioning in wheelchair, help and out of vehicles*								
k. Care and help with prosthesis (including wheelchair)*								
TOTAL PERSONAL CARE SERVICES								

SERVICES	DAYS							WEEKLY TOTAL
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	
MEDICAL TRANSPORTATION								
a. To medical appointments								
b. To alternative resources								
YARD HAZARD ABATEMENT								
PROTECTIVE SUPERVISION								
TEACHING SUPERVISION								
PARAMEDICAL SERVICES* (i.e.catheterization, injections, range of motion exercises, etc., specify)								
a.								
b.								
TOTAL WEEKLY SERVICES (Everything except Domestic Services)								
Multiply by 4.33 to get monthly total								
Plus Domestic Services (6 hours per month maximum unless more needed hours can be shown on page 1 above)								
TOTAL MONTHLY SERVICES								

* If asterisked hours equal 20 or more hours a week, recipient qualifies as “severely impaired.”

** Meal clean-up hours are included in determining whether severely impaired if IHSS assistance with meal preparation and consumption are necessary. IHSS will pay for transportation time to get you there and back but usually not the time while at the doctor’s or clinic. When IHSS does not cover wait time, then IHSS should cover the transportation time for 4 trips; there and back to drop off; there and back to pick up.

Description of IHSS Services

DOMESTIC SERVICES

State regulations generally allow only 6 hours per month **per household** for domestic services. That means that if 4 people live in the home, the total IHSS hours allowed for the recipient will be 1.5 hours per month. (If a recipient's roommate lives there only as a live-in attendant, domestic services should not be pro-rated.) The county should pro-rate hours only for common areas of the home - the recipient's own room and/or bathroom should be authorized separately. If the recipient needs more time for domestic services in order to remain safely at home, the county should allow an exception to the 6 hours per month time-for-task guideline. For instance:

- a. Allergy or pulmonary respiration problem indicates a need for a dust-free environment and a need for frequent dusting and vacuuming.
- b. Trash needs to be removed daily, or more frequently than twice a month, because of roach or other vermin problems.
- c. Because the IHSS recipient spills things, frequent cleaning is required, particularly if there are roach or vermin problems.
- d. Incontinence results in a need to spot clean floor, furniture, etc., frequently.
- e. Trash bin is located through a couple of double locked doors at the rear of the building and it takes 10 minutes to get there and back.
- f. Recipient eats in bed. Bed must be vacuumed and remade three times a day to remove crumbs. Bed linens must be changed more frequently because of spills.
- g. Because of recipient's incontinence/accidents, bed linen must be changed more often than twice a month (daily, three times a week, once a week, etc.)
- h. Because IHSS recipient drops things, more picking up is required.
- i. Since seal on refrigerator worn out, more time is needed for cleaning and defrosting refrigerator.
- j. Because IHSS recipient spends most of his/her time in bed or because of sweating, sheets need to be changed more frequently than twice a month.
- k. Building-wide roach spraying requires, on a one-time basis, that everything be removed from kitchen and shelves washed and, after spraying, returned. (Time for this is justifiable not only for health and safety, reasons, but also as necessary for establishing and maintaining an independent living situation since failure to comply may put the recipient at risk of eviction.)

PERSONAL CARE SERVICES

Personal care services must be assessed on an individual basis. Be sure to count the time for the entire task, from beginning to end.

- a. Bathroom is inaccessible to a wheelchair. This means additional time is required in bathing and other personal care/grooming activities.
- b. Accidents in bathroom requiring extra clean up in bowel and bladder care.
- c. Recipient is sensitive to pain -- even combing hair is very painful. Personal care services have to be performed slowly and carefully.
- d. Recipient eats and chews slowly and has to be coaxed or the jaw manually manipulated. Each meal may take up to 45 minutes for feeding and because of choking problems.
- f. Need to be bathed more than twice per week because of spilling, incontinence, skin problems.
- g. Need to be shampooed more than once a week due to dandruff, getting food, etc., in hair.
- h. Need for extra time for communication with IHSS provider (as for a person with cerebral palsy, who must use word and alphabet board).
- i. Susceptible to respiratory infections so hair must be dried after shampoo.

RELATED SERVICES

- a. Extra time needed in meal preparation and/or menu planning because:
 - i. Recipient needs a special diet i.e., a diet excluding salt and sugar or requiring fresh foods;
 - ii. Recipient needs to have food cut up or pureed;
 - iii. IHSS recipient needs between-meal liquids and/or snacks.
 - iv. Diet and eating patterns differ from rest of family so meals are prepared separately.
- b. Recipient needs two to three times as much food because of cerebral palsy with spastically and therefore needs more time for meal preparation, menu planning and clean-up, shopping and feeding.
- c. Extra time in meal clean up to clean table, wheelchair, and floor due to spilling.
- d. Extra time is needed for laundry because:
 - i. Extra bed linen and clothing changes are necessary due to incontinence,

- spilling and the need to rinse before washing.
- ii. Extra time needed to comply with universal precautions when bodily fluids involved (urine, feces, blood, saliva, vomit) - i.e.: rinsing, separating from other laundry and washing separately.
 - iii. Need to stay with laundry during wash and dry because of theft.
 - iv. Need to put clothing through an extra rinse cycle because of skin Sensitivity.
- e. Extra time is needed for shopping, errands, because of:
- i. Distance to primary market.
 - ii. Need to go to market more frequently or to go to more than one place because of special diet, need for fresh food.
 - iii. Frequent need to get medication because of Medi-Cal limitations on prescription size, because all medication needs cannot be met at one place.
 - iv. Living in a low-income area, markets are fewer and more crowded meaning a longer wait in line.
 - v. Need to use public transportation and taxis.

IHSS PROTECTIVE SUPERVISION

WHAT IS PROTECTIVE SUPERVISION?

Protective supervision is watching people with severe mental impairments so they don't hurt themselves living at home. An IHSS provider may be paid to watch a disabled child or adult to prevent injuries or accidents, when the person needs 24-hour supervision and can remain safely at home if it is provided.

WHY IS PROTECTIVE SUPERVISION IMPORTANT?

People eligible for protective supervision are always given the maximum number of monthly hours - at least 195 for non-severely impaired individuals and 283 for people who are severely impaired. They get the maximum even if a county cuts their hours for some other IHSS service.

WHAT ARE THE ELIGIBILITY CONDITIONS?

- A person shows some severe mental impairment; poor judgment (making bad
- decisions about health or safety), confusion/disorientation (wandering off,

getting lost, mixing up people, days or times) or bad memory (forgetting to start or finish something). Such impairments may occur with mental retardation, autism, Alzheimer's and dementia. *Tip: The best way to show severe impairment is by examples of what the person does that may cause injuries. Get supporting statements from anyone who looks after the person.*

- A person may get hurt if left home alone (i.e., wandering out of the house, letting strangers in, turning gas on a stove, lighting fires, leaving water running, eating wrong foods or inedible things, head banging, self-biting, scratching, using knives or other sharp household objects). *Tip: Keep a log to describe all the potential accidents that would happen if the person were not supervised.*
- A person must be supervised 24-hours a day (friends or relatives living at home, teachers in school or day program, and drivers of car or bus). *Tip: Keeping a daily log will show that the dangerous behaviors can occur at any time of day or night. It will also show when the caregiver provided protective supervision to prevent injuries or accidents.*

Protective supervision is not available:

- For friendly visiting or social activities.
- When the need is caused by a medical condition and the person needs medical supervision.
- In anticipation of a medical emergency.
- To control anti-social or aggressive behavior.

HOW CAN I SHOW THAT A PERSON NEEDS PROTECTIVE SUPERVISION?

- Make a list of every accident or near accident in the past six months.
- Keep a log for two weeks that describes every action the person takes that might cause injury, and how often it happens (i.e., walks into the street without looking, turns on the stove, and forgets to turn it off).
- Get doctors' letters and help from the regional center to discuss the person's age and equivalent functioning level, and describe how the person has poor memory, judgment, confusion, or disorientation.

- Show how the house can't be made completely safe for a person.

IHSS PARAMEDICAL SERVICES

WHAT ARE PARAMEDICAL SERVICES?

Paramedical services are prescribed by a doctor for a person's health and require some training and judgment to perform. Common services are injections, colostomy irrigation, catheter insertion/care, suctioning, G and NG tube feeding, ventilator and oxygen care, fecal impaction, range of motion to improve function, wound/decubitous ulcer care and other services requiring sterile procedures.

Biggest problem: Providers don't ask for enough time to complete the entire service, from preparation to clean up.

WHY ARE PARAMEDICAL SERVICES IMPORTANT?

People who need complex medical care can stay at home instead of going into nursing homes. Only doctors decide what services the county must provide and how many hours it must pay for. The county can't cut the services hours ordered by the doctor. Providers don't need any special license to perform the services.

WHAT ARE THE ELIGIBILITY CONDITIONS?

- a. The doctor completes and signs an order for services with hours required: The recipient's doctor decides on all the eligibility conditions by signing the order prescribing the services and hours.
- b. The person can't perform the service at all: Some mental or physical impairment prevents the person from doing the service, like giving an injection or changing a catheter.
- c. The service requires training and judgment to perform: The provider gets training from the doctor in what steps to take and how to do each one to complete the service. The steps require careful observation of the recipient to avoid mistakes.

HOW SHOULD I APPLY FOR PARAMEDICAL SERVICES?

First talk with the treating doctor about what services are needed and each and every step to perform them properly. Then keep a daily log for a week about how

often each service is performed and how long it takes to complete, from the preparation through cleanup.

Give the hours information to the doctor to complete Form SOC 321.

The Hearing Process

HOW TO ASK FOR A HEARING

If you are challenging a reduction in hours or a termination of services, you must request a fair hearing **within 10 days** of the date on the cutback notice, or before the reduction goes into effect, in order to continue receiving all your hours until the hearing is over. If you believe you have not been allowed enough hours, you may challenge the county's decision at any time. However, the hearing officer may only give you an increase in hours back to three months prior to your hearing request. (You always have the right to ask your worker to reassess you to see if he or she agrees you need more hours. If your worker agrees, then you do not need to go to a hearing.) To request a hearing:

- a. Fill out the back of the notice of action form and send to the address indicated,
OR
- b. Send a letter to:

IHSS Fair Hearing
State Hearing Office
Department of Social Services
744 P Street, Mail Stop 37-19
Sacramento, CA 95814

Give your name and state identification number and say that you want a fair hearing because you do not believe you have been allowed the hours you need. If you need the hearing to be held in your home, include that in your request. If you need an interpreter or if you need an interpreter for someone who will be testifying (such as your IHSS worker), include that also in your request. You can fax the letter in addition to mailing it at 916-229-4110.

OR

- c. Call the toll free number at 800-743-8525 to request a fair hearing.

INFORMATION YOU NEED TO GET STARTED

Get together information about how the County IHSS worker determined the hours you were authorized.

- a. Ask your worker for copies of the current assessment forms, which include the assessment face sheet (form 293A), the assessment standards worksheet (form PA729), and the assessment documentation worksheet (form PA1983). If you are challenging a reduction, ask for copies of both your new and your old assessment forms.
- b. Ask for a copy of the sheets in your file where notes were made about contacts and visits with you over the last year.
- c. Ask your IHSS worker for a copy of the County's time-for-task guidelines. Remember, time-for-task guidelines may not be used for personal care tasks.
- d. Ask your worker for copies of any doctor or medical reports in your file and for copies of any paramedical form.
- e. If IHSS reduced your hours, ask your IHSS worker for copies of the regulations listed on your reduction notice.
- f. If you have access to the Internet, you can find the IHSS regulations at www.dss.cahwnet.gov/getinfo/pdfSSMAN2.pdf. The IHSS regulations begin at page five of that web site. You also can get the all-county letters at www.dss.cahwnet.gov/getinfo/acl.html. All-county letters are directives the state Department of Social Services sends to the counties. The letters cover a lot of programs; only a few of the letters will be about IHSS.

COUNTY APPEALS WORKER

After you file an appeal, you will receive from the state information about your hearing rights and telling you the address and phone number of the County appeals worker, the person who will represent the County at the hearing. Your IHSS file is in that office. Many appeals workers try to resolve a dispute without a hearing. The appeals workers are often more experienced and knowledgeable than the people you've dealt with in the local office. The appeals worker may call you about a "conditional withdrawal" so that a new assessment can be done. If you agree to a conditional withdrawal of your appeal, you have a right to have the

hearing rescheduled if you disagree with the new assessment or a decision not to authorize retroactive benefits.

COUNTY STATEMENT OF POSITION

You are entitled to the County's statement of position two days in advance of the hearing. (You are entitled to look at your file at any time whether or not you have a hearing pending.) The County's statement of position will help you identify other evidence and witnesses you may need. If you do not get a copy until just before the hearing, you can ask to have the record left open to submit additional evidence (such as letters or statements) to respond to any statement in the County's position paper. Even if you get the County's statement of position in time, you may still ask to have the hearing record left open so that you may submit additional evidence.

AT THE HEARING

The County goes first and says why your hours were cut or why you should not have the additional hours you believe are needed. The hearing will involve the presentation of evidence (testimony by witnesses, letters, medical reports) about your needs in the service category areas where you and the county disagree. The evidence should explain what you need, how long it takes to provide the service, the reason you need more time than that set out in the assessment or the County guidelines, and what risks you may be exposed to if you do not receive the level of services requested. IHSS fair hearings are informal. The important thing is to explain why more time is needed. Witnesses may include _____ in addition to the IHSS recipient ____ past and present IHSS providers, regional center counselor, friends and family, etc. For each witness, list the points you want that witness to make and cross off each point as it is made.

GETTING HELP WITH THE HEARING

For more help, call the regional center (if the IHSS recipient is a client), an independent living center, a legal aid program, senior advocacy program, the PAI toll free number (800) 776-5746, or the Western Law Center for Disability Rights (213) 736-1031. To find out the telephone number of the senior advocacy program in your area, call your county office on aging. If the county is seeking to reduce your hours or to eliminate a service (such as protective supervision), the county has the burden of showing how you have improved or how changed living circumstances mean you need fewer hours.