

California's protection and advocacy system

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# WHAT IN-HOME SUPPORTIVE SERVICES RECIPIENTS SHOULD KNOW ABOUT HOME VISITS

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1. Can county welfare department officials come to my home?

Yes.

2. When can county welfare department officials come to my home?

Home visits may be made during reasonable hours of normal family activity.

3. Do I have any rights when county welfare department officials come to my home?

Yes. County welfare department officials must identify themselves, show photo identification, and wear badges. You must be treated with courtesy and respect and with respect for your rights and the rights of all persons involved. Mass or indiscriminate home visits are prohibited. Any interviews with you or possible witnesses must be conducted without threats, duress, force, false showing of authority or other misrepresentation.

The county must conduct all investigations in compliance with due process of law. The county may not infringe upon your constitutional rights or the

constitutional rights of anyone else. Search of your home or removal of physical items of evidence of fraud is not allowed without either a valid search warrant or your permission after you have been fully advised of your rights.

#### 4. What can the county do if the county suspects fraud?

The county has to follow specific procedures related to fraud investigations. First, the county must refer the matter to the county special investigations unit or the district attorney for a full investigation.

#### 5. What is IHSS fraud?

State law defines "fraud" with respect to the IHSS program as the intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. Welfare and Institutions Code section 12305.8. Note that this definition does not include unintended actions or mistakes.

## 6. For what reasons, other than suspicion of fraud, will a county welfare department official come to my home?

A county welfare department official can come to your home for any of the following reasons:

- To determine your eligibility for IHSS when you first apply for IHSS, and every 12 to 18 months after that
- To determine your hours of need for IHSS when you first apply for IHSS, every 12 to 18 months after that, and when your needs change
- To verify that you are receiving the IHSS services that the county has authorized you to receive
- To verify the quality of services you are receiving
- To verify your well-being

These are not fraud investigations. They are administrative inspections. However, you have all of the rights listed above.

## 7. What if I'm not home, or my provider is not there and I want my provider to be there?

The county welfare department officials will have to come back later.

#### 8. What if I can't let the county official into my home when they first arrive?

The county welfare department officials will have to come back later, for example, if you are sick, still in bed, or not dressed.

## 9. Do I have to let county welfare department officials into my home at all? Can I ask them to leave if I let them in but then change my mind?

No, you do not have to let the county welfare department official into your home. Yes, you can change your mind and ask them to leave at any time. However, an officer with a valid search warrant can search your home.

## 10. What happens if I don't let the county officials into my home or ask them to leave?

The county welfare department official will leave. They will not come into your home without your consent. They will not stay without your consent. However, you could be denied services for failure to cooperate. But the county can deny services for non-cooperation only if the county cannot verify your eligibility, need for services, receipt of services, or receipt of quality services without information that it can get only from the home visit. Also, be aware that an officer with a valid search warrant can search your home.

#### 11. Can county employees search my home?

No. Only an officer with a valid search warrant can search your home.

## 12. Can county employees ask me to open drawers and closets or take pictures in my home?

Probably not. Any inspection of your home or your possessions has to be necessary for verifying your eligibility, need for services, receipt of services, or receipt of quality services. The need to inspect your home for these purposes is rare, if it exists at all.

## 13. Can the county look for fraud while they are visiting for another reason.

Yes. In fact, they are required to do that when they visit. However, they are limited to looking for fraud where it is in plain view. If the county suspects fraud, the county has to initiate a separate fraud investigation, as described above.

## 14. Can county officials carry firearms when they make a home visit?

No, unless they are fraud investigators from the county special investigations unit.

#### 15. Where can I file a complaint if my rights are violated?

You can file a civil rights complaint with the county. You can also file a civil rights complaint with the California Department of Social Services.

#### 16. What resources are available to me if I have further questions?

Disability Rights California provides free legal services, such as counsel and advice over the telephone, for people with disabilities. Call 1-800-776-5746.

IHSS provider unions can help providers who are being investigated.

The California Department of Social Services, which is the state agency that administers IHSS, has information about IHSS on its website:

General information about IHSS is available at <a href="http://www.cdss.ca.gov/agedblinddisabled/PG1817.htm">http://www.cdss.ca.gov/agedblinddisabled/PG1817.htm</a>.

Information about IHSS quality assurance is available at <a href="http://www.cdss.ca.gov/agedblinddisabled/PG1815.htm">http://www.cdss.ca.gov/agedblinddisabled/PG1815.htm</a>.

Information about confidentiality, fraud, and state hearings is available at <a href="http://www.dss.cahwnet.gov/ord/PG319.htm">http://www.dss.cahwnet.gov/ord/PG319.htm</a>.