



California's protection and advocacy system
www.disabilityrightscalifornia.org
Toll Free: (800) 776-5746
TTY: (800) 719-5798

#8: Fact Sheet on California's Budget Cuts to Developmental Disability Services & Programs - July 28, 2009

In-Home Supportive Services (IHSS)¹

The State Legislature required the Department of Developmental Services (DDS) to reduce the DD Budget by 334 million dollars. As a result, there are changes to the types and amounts of services that regional centers can purchase. This fact sheet describes changes involving In-Home Supportive Services, any exceptions to those changes, and what will happen if the regional center wants to change your services.

Every county has an In-Home Supportive Services (IHSS) program where services are provided to help people stay in their homes. These are services that persons cannot perform by themselves. The county must determine that you need the services to stay safely in your home. The county pays another person to provide IHSS services for you.

How the Law Changed

The new law changes your ability to receive some kinds of services from your regional center in the following way:

- a. Unless you meet an exemption, the regional center cannot pay for services that are available through the county's IHSS program

¹ The changes are part of the Budget Trailer Bill (TBL) ABx4 9. You may find the law at http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx4_9_bill_20090728_chaptered.pdf. The changes affecting In-Home Supportive Services are found in Welfare & Institutions Code, Section 4689.05.

- when you meet the criteria to receive IHSS services but you decline to apply for it;
- b. The regional center can pay for supportive services between the time you apply for IHSS and the time it is approved but the rate the regional center pays for the services it purchases cannot be greater than the IHSS hourly rate for the county in which you live.
 - c. Regional centers are required to use generic services to meet your needs before the regional center purchases services.² IHSS is a generic service and therefore, the regional center cannot purchase supported living services to replace IHSS services.

Exemption

The regional center executive director may make an exception to the rule and pay for services even if you decline to apply for IHSS, if there is an “extraordinary circumstance” that warrants making an exception and it is documented in your Individual Program Plan (IPP).

What Should You Do If You Think You Qualify For An Exemption

If you think you qualify for an exemption, you should contact your service coordinator and request an IPP meeting. An IPP meeting must be held within 30 days of your request.³ At the meeting, the IPP team should discuss the exemption criteria and whether the exemption applies to you.

For example, if you meet the criteria for IHSS services but you do not want to apply for it but you want the regional center to pay for such services, you should discuss the extraordinary circumstance that would prevent you from applying for IHSS. If you and the regional center do not agree as to whether you qualify for an exemption, the regional center will provide you with a notice. If you disagree, you can request a hearing. Follow the procedures outlined below.

What Will Happen If the Regional Center Wants to Change Your Services?

If your regional center wants to change your services, it must either hold an IPP meeting and reach agreement with you about the change or give you a

² Welfare & Institutions Code Section 4648

³ Welfare & Institutions Code Section 4646.5(b)

written notice.⁴ The notice must be given 30 days before the change begins.⁵ The notice must give you the following information:

- the action the regional center is taking;
- the basic facts about why the regional center is making its decision;
- the reason for the action;
- the effective date; and
- the specific law, regulation or policy that supports the action.⁶

If you are already receiving the service and you disagree with the regional center's decision and want to continue to receive it, you must request a fair hearing within 10 days of receiving the notice.⁷ Otherwise, the request must be made within 30 days.⁸ If you think you meet an exemption, remember to additionally put "I meet an exemption" into your fair hearing request.

For more important information on how to appeal decisions by the regional center, read our fact sheet, Due Process and Hearing Rights.

⁴ Usually, decisions about the services you need must be decided by an IPP team. Welfare & Institutions Code Section 4646.4(a)-(c). However, the law says if a regional center wants to reduce, end or change a service in your IPP without your consent, it has to give you a 30 day notice first. Welfare & Institutions Code Section 4710.

⁵ Welfare & Institutions Code Section 4710

⁶ Welfare & Institutions Code Section 4701. The information must also be in the language you understand.

⁷ Welfare & Institutions Code Section 4715

⁸ Welfare & Institutions Code Section 4710.5 (a)