In Home Supportive Services (IHSS) for Children

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LEGAL AID SOCIETY OF SAN MATEO COUNTY

NATIONAL HEALTH LAW PROGRAM

About the National Health Law Program

- National non-profit law firm committed to improving health care access, equity, and quality for underserved individuals and families State & Local Partners:
  - Disability rights advocates – 50 states + DC
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- Offices: CA, DC, NC
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Health equity is achieved when a person's characteristics and circumstances — including race and ethnicity, sex, gender identity, sexual orientation, age, income, class, disability, health, immigration status, nationality, religious beliefs, language proficiency, or geographic location — do not predict their health outcomes.

https://healthlaw.org/equity-stance/

About Legal Aid Society of San Mateo County

- Providing Free Legal Services to San Mateo County Since 1959
- We believe our entire community is stronger when everyone has a home, economic security, and essential public services. We use the law to make the social safety net work for everyone. Our work makes San Mateo County a more just and equitable place to live.
- We envision a San Mateo County with equitable access to resources for all; strong legal representation that helps people obtain stable housing, health care, education, economic security, immigration status, protection from abuse, and family stability; and laws, policies, and practices that ensure lasting social justice.

Resources

- The Advocate's Guide to the Medicaid Program
- Advocates' Guide to Medi-Cal Services
- Protect Medi-Cal Issue Brief Series
- NHeLP's Resource Library
- IHSS Advocates Manual

Changes to Medi-Cal for Immigrants

- Health Care Practice Tip Medi-Cal Immigrant Eligibility Changes in 2026
- https://www.dhcs.ca.gov/immigration-status-and-changes-to-medi-cal-eligibility/

What We'll Cover Today

- Brief Introduction of IHSS 1:00-1:05
- Hourly Task Guidelines & Ranking Functional Limitations 1:05-1:10
- Introduction of Protective Supervision 1:10-1:20
- Protective Supervision Tips 1:20-1:25
- IHSS Assessment Tips 1:25-1:30
- Working with your County 1:30-1:40
- Pre-Hearing, Hearing, and Post-Hearing 1:40-1:50
- Questions 1:50-2:00

In Home Supportive Services Basics

What is IHSS?

- Statewide Medi-Cal personal attendant care program for adults and children with disabilities to remain safely in their own homes
- Provides basic services to individuals who cannot safely perform the tasks themselves as an alternative to out-of-home placement
- Administered by each County under the direction of the California Department of Social Services (CDSS)

IHSS Eligibility

- Applicants must:
  - Be a California resident and live in the county they are applying in
  - Have Medi-Cal
  - Have a disability that impairs their ability to remain safe at home without assistance
- Children up to 18 are eligible if they have Medi-Cal, no matter their immigration status
  - However, parents must have valid work authorization to become a paid caregiver.

IHSS and Other Benefits

- IHSS does not impact SSI benefits.
- IHSS does not impact most section 8 and housing voucher programs.
- IHSS does not impact a parent provider's or a child's receipt of Medi-Cal
- IHSS *does* impact CalWORKs and CalFresh - people may lose these benefits depending on how much IHSS they receive.

Four IHSS Programs

- IHSS Community First Choices Option (see **ACL 14-60**)
- Personal Care Services Program (PCSP)
  - Cannot have a parent provider in PCSP—see ACL 23-106
- IHSS Plus Option (IPO)
- Residual
- Total Hours available: 195 or 283 depending on program and whether or not child qualifies as severely impaired.
  - https://www.disabilityrightsca.org/publications/understanding-the-maximum-amount-of-hours-available-calculating-hours

IHSS Services for Children

An eligible child with a disability can get any or a combination of the following services:

(1) Services related to domestic services.

(2) Personal care services.

(3) Accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites.(https://www.cdss.ca.gov/Portals/9/ACL/2017/17-42.pdf?ver=2017-06-26-111014-097)

(4) Protective supervision

(5) Paramedical services.

How are IHSS Hours Assessed?
--Functional Limitations—Ranked on Six Point Scale

One: Independent: Able to perform function without human assistance.

Two: Able to perform a function but needs verbal assistance such as reminding, guidance, or encouragement.

Three: Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.

Four: Can perform a function but only with substantial human assistance.

Five: Cannot perform the function, with or without human assistance.

Six: Paramedical Services

Special Considerations in Ranking

- **Mental Functioning**

Mental functioning must be considered in determining the rank for each function. Memory, Orientation and Judgment are evaluated on three-point scale of 1, 2 & 5 and are used to determine the need for protective supervision.

- **Paramedical Services**

Eating, Meal Preparation/Meal Cleanup and Respiration are ranked as one or six when paramedical services are required.

- **Children's Rankings**

FUNCTIONAL INDEX RANKING FOR MINOR CHILDREN IN IHSS
AGE APPROPRIATE GUIDELINE TOOL

Age	Housework	Laundry	Shopping and Errands	Meal Prep and Cleanup	Ambulation	Bathing/Oral Hygiene/ Grooming	Dressing	Bowel and Bladder	Feeding	Transfer	Respiration
0-1	1	1	1	1	1	1	1	1	1	1	1 or 5
2	1	1	1	1	1	1	1	1	1	1-5	1 or 5
3	1	1	1	1	1	1	1	1	1	1-5	1 or 5
4	1	1	1	1	1	1	1	1-5	1	1-5	1 or 5
5	1	1	1	1	1-5	1	1-5	1-5	1	1-5	1 or 5
6	1	1	1	1	1-5	1	1-5	1-5	1	1-5	1 or 5
7	1	1	1	1	1-5	1	1-5	1-5	1	1-5	1 or 5
8	1	1	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
9	1	1	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
10	1	1	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
11	1	1	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
12	1	1	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
13	1	1	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
14	1	1, 4 or 5	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
15	1	1, 4 or 5	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
16	1	1, 4 or 5	1	1	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5
17	1	1, 4 or 5	1, 3 or 5	1-5	1-5	1-5	1-5	1-5	1-5	1-5	1 or 5

Notes:

- All minors should be assessed a Functional Level of 1 when identified above.
- For areas with ranges, the social worker should utilize the Annotated Assessment Criteria and Developmental Guide to determine the appropriate Functional Level.
- Memory, Orientation and Judgment - FI Ranks of 1, 2 or 5 should be assessed. The county staff must review a minor's mental functioning on an individualized basis and must not presume a minor of any age has a mental functioning score of "1". (ACL 98-87, MPP 30-756.372; WIC 12301(a), 12301.1.)
- The FI ranks listed above reflect the age at which a minor may be expected to complete all tasks within a service category independently and are based on the Vineland Social Maturity Scale (copy attached). These rankings are provided as a guideline only. Each child must be assessed individually.
- Domestic applies only when minor is living with parent.

How are IHSS Hours Assessed?

Hourly Task Guidelines

1: Low – less time needed than typical based on the applicant's/recipient's functional abilities/limitations within the range of that rank in a service category.

2. Middle – typical time needed (i.e., average level of need for assistance) based on the applicant's/recipient's functional abilities/limitations within the range of that rank in a service category.

3. High – more time needed than typical based on the applicant's/recipient's functional abilities/limitations within the range of that rank in a service category

See, https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACINs/2020/I-97_20.pdf

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ATTACHMENT A

IHSS IN-HOME SUPPORTIVE SERVICES

Hourly Task Guidelines

Social workers also use Hourly Task Guidelines (HTGs) as specified in State regulations to determine the appropriate time needed on a weekly basis in each service category. **Regulatory Authority:** Manual of Policies and Procedures (MPP) section 30-757.11 through 30-757.14(k).

NOTE: This tool does not invalidate current HTG regulations.

Service Category	Rank 2 (Low)	Rank 2 (High)	Rank 3 (Low)	Rank 3 (High)	Rank 4 (Low)	Rank 4 (High)	Rank 5 (Low)	Rank 5 (High)
Preparation of Meals **	3:01	7:00	3:30	7:00	5:15	7:00	7:00	7:00
Meal Clean-up **	1:10	3:30	1:45	3:30	1:45	3:30	2:20	3:30
Bowel and Bladder Care	0:35	2:00	1:10	3:20	2:55	5:50	4:05	8:00
Feeding	0:42	2:18	1:10	3:30	3:30	7:00	5:15	9:20
Routine Bed Baths	0:30	1:45	1:00	2:20	1:10	3:30	1:45	3:30
Dressing	0:34	1:12	1:00	1:52	1:30	2:20	1:54	3:30
Ambulation	0:35	1:45	1:00	2:06	1:45	3:30	1:45	3:30
Transfer	0:30	1:10	0:35	1:24	1:06	2:20	1:10	3:30
Bathing, Oral Hygiene, and Grooming	0:30	1:55	1:16	3:09	2:21	4:05	3:00	5:06

Service Category	Low (Time Guidelines)	High (Time Guidelines)
Menstrual Care	0:17	0:48
Repositioning and Rubbing Skin	0:45	2:48
Care of and Assistance with Prosthetic Devices	0:28	1:07

Services with Time Guidelines:

Service Category	Time Guidelines
Domestic Services	6:00 total maximum per month per household unless adjustments* apply; Prorations may apply**
Shopping for Food	1:00 per week per household unless adjustments* apply; Prorations may apply **
Other Shopping/Errands	0:30 per week unless adjustments* apply; Prorations may apply **
Laundry	1:00 per week (facilities within home); 1:30 per week (facilities out of home); per household; Prorations may apply **

* Adjustments refer to a need met in common with housemates.

** When prorating Domestic Services, the natural or adoptive children of the recipient who are under 14 are not considered (MPP section 30-763.46). Other children in the household (i.e., grandchildren, nieces, nephews, etc.) under 14 are considered.

Updated 5/29/2019

NOTE: Current MPP regulations define the HTGs in decimal format, e.g., **1.50 hours.** To align service assessment/authorization with the Case Management, Information, and Payrolling System (CMIPS) data entry, time allocations are re-formatted to **hours:minutes.** This change in format does not contradict current program regulation and reduces confusion regarding the entry of time into CMIPS [MPP sections 30-757.11 through 30-757.14(k)].

IHSS Protective Supervision Regulations (Updated 2024)

- Protective Supervision consists of observing behavior of nonself-directing recipients and intervening as appropriate, in order to safeguard the recipient against injury, hazard, or accident. MPP 30-757.17
- Nonself-directing individuals, for the purpose of Protective Supervision eligibility, are individuals who due to their cognitive impairment, mental health condition or other condition that impairs their cognitive ability to assess danger and risk of harm, are (A)unable to cognitively assess danger and the risk of harm, and (B) at risk of injury, hazard, or accident. MPP 30-701(n)(3)

IHSS Protective Supervision Regulations:

- Protective Supervision is only available for observing the behavior of individuals who are nonself-directing.
- Protective Supervision may be provided through the following, or combination of the following arrangements:
  - IHSS;
  - Alternative resources;
  - Voluntary resources.

IHSS Protective Supervision Regulations:

Protective Supervision is not:

- For friendly visiting or other social activities;
- When the need is caused by a medical condition and the form of the supervision required is medical;
- In anticipation of a medical emergency;
- To prevent or control anti-social or aggressive recipient behavior.
- To guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself.

Children and Protective Supervision

Four Step Process for Assessing Children:

- Is the minor nonself-directing due to the mental impairment/mental illness?
- If the minor is mentally impaired/mentally ill and nonself-directing, are they likely to engage in potentially dangerous activities?
- Does he/she also need more supervision than a minor of comparable age who is not mentally impaired/mentally ill?
- When it is found that "more supervision" is needed, is 24 hour-a-day supervision needed in order for the minor to remain at home safely

Protective Supervision Tips

- Closely following standards: nonself directing; likely to engage in dangerous behaviors; need more supervision; need 24-hour monitoring (24-hour care plan)
- Comparison child (siblings)
- Injury/Danger Log (recommend at least a two-week duration)
  - Record any injuries/near injuries
  - Note any home modifications
  - If the child has not had an accident or put himself/herself in a dangerous situation recently, explain why (e.g, child is watched 24-hours per day)
  - Explain the actions such as verbal redirection or other interventions caregivers and family members have had to take to prevent injury or accidents.

Examples of Behaviors

- Wandering from home and getting lost
- Eating non-food items
- Wandering into the street without checking for cars
- Attempting tasks beyond his/her/their physical and/or mental capability (and not understanding the risk of injury)
- Self-biting, scratching, head banging
- Touching stove/hot water

Preparing for the Assessment/Reassessment

Create a daily log of each IHSS task needed including:

- The amount of time it takes for each needed service
- Steps involved in the completion of each service;
- Compare the time you need to what the IHSS Hourly Task Guidelines recommend. If you need more time than what the Hourly Task Guidelines suggest, you must explain why more time is needed

Preparing for the Assessment/Reassessment

Work with your provider to fill out forms:

- Health Certification: https://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC873.pdf
- Protective Supervision: https://www.cdss.ca.gov/cdssweb/entres/forms/english/soc821.pdf
- Paramedical Services https://www.cdss.ca.gov/cdssweb/entres/forms/english/soc321.pdf
- Other documents: Individualized Education Plan (IEP, School); Individualized Program Plan (IPP, Regional Centers); neuropysch or other evaluations

Tips for Working with Your County

Pre-Hearing

- Appeal Notice of Action ** before effective date, request Aid Paid Pending* https://www.cdss.ca.gov/hearing-requests
- Contact County Appeals Worker
  - Can try to resolve dispute without going to hearing
- Review your IHSS case file (MPP § 22-051.1)
- Get updated information about child's functional limitations
  - Functional Limitations Assessment and Self-Assessment Worksheet
  - Obtain doctors' letters
  - Describe how your child's disability impacts their ability to complete tasks without assistance
  - Explain any changes in condition or varying conditions

Pre-Hearing

- County Statement of Position
  - At least 2 business days before hearing
  - Anticipate County's questions and prepare responses before hearing
- Draft your own Claimant Position Statement (optional)
  - Present your case
  - Support with credible evidence about why you need more hours
  - Identify other evidence or witnesses you may need

Hearing

- County goes first
  - Explains why hours were cut and/or why more time cannot be granted
- Present evidence about your needs in categories where you and the County disagree
  - i.e., Testimony by witnesses, doctors' letters, diary log, medical records
- Evidence must show:
  - What you need and why you need more time
  - How long it takes to complete a task
  - Safety risk(s) without a higher level of service
- Witnesses
  - Friends, family, school staff, regional center counselors, former care providers

Post-Hearing

- Hearing Decision is mailed to you and the County
- Request for Rehearing
  - Must request within 30 days of receiving the hearing decision
  - DISCRETIONARY
  - Submit additional evidence, can be part of record if a writ is filed
- Petition for Writ of Administrative Mandamus (CCP § 1094.5)
  - Request that a Superior Court review and reverse the final order
  - Must be filed within one year of the date of decision

Troubleshooting hearing issues:

- Assistance from RC Coordinator
- Teacher/IEP team
- Treating Professional
- Letters of Support

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