

Important Information for the In-Home Supportive Services (IHSS) Recipient

A recent change to state law which affects IHSS recipients and providers. (Welfare and Institutions Code sections 12300.4, 12300.41 and 12301.1).

The authorization of recipient hours will not change, so you will continue to get the same number of monthly authorized service hours you get now. You will continue to work with your provider(s) to make sure that you receive all your necessary services throughout the entire month.

When Do the Changes Go Into Effect: The changes go into effect **February 1, 2016**.

What Has Changed?

This law says that IHSS providers will be paid overtime within certain limits and will be paid for their travel time between recipients within limits.

1. Weekly Calculation of Authorized Hours

Your current total monthly authorized hours will now be divided by 4 to determine your maximum weekly hours. The maximum weekly hours amount is a guideline telling you the highest number of hours your provider(s) will be able to work for you during a workweek.

Example: You receive 100 monthly authorized hours. The system will divide those 100 hours by 4 to get the maximum weekly hours amount of 25 hours.

However, since most months are slightly longer than 4 weeks, you will need to work with your provider(s) to spread your hours throughout the month in order to make sure you have all your service hours you need for the month.

In the month of December, there are 31 days. You receive 100 monthly authorized hours. The maximum weekly hours are 25 hours (100 monthly authorized hours divided by 4). However, since December is actually 4-and-a-half weeks long, you would need to decide how many hours to take away from each week in order to have enough hours left over for the last few days at the end of the month. You could, for example, set up a work schedule for your provider to work 22 hours per week for the first four weeks which would leave you with 12 authorized service hours left over for the final few days of the month (22 hours multiplied by 4 equals 88 hours; 88 hours plus 12 hours equals 100 hours).

However, you may be able to adjust your maximum weekly hours under certain conditions. See the section on **ADJUSTING HOURS**.

2. Limits on the Provider Workweek

Providers will now have a limit on how many hours they can work in a workweek. This will depend upon if he/she works for one recipient or more than one recipient.

If you have only one provider and he/she does not work as a provider for another recipient, the maximum number of hours he/she may claim in a workweek is your maximum weekly hours.

If your provider works for another recipient, the maximum number of hours that he/she may claim in a workweek for all of the time he/she works for his/her recipients combined is 66 hours. **You must make a work schedule for your provider to determine how many hours he/she will be working for you each week to make sure he/she does not work more than 66 hours per workweek.** At the beginning of February 2016, you will get a **Recipient Notification of Maximum Weekly Hours (SOC 2271A)** which will include information on your maximum weekly hours so you can use it to make the work schedule for your provider(s). In order to make the schedule, your provider must tell you how many hours he/she is available to work for you each workweek. If your provider cannot work all of your authorized hours, you will need to hire additional provider(s). **If you need help finding and hiring another provider(s), you can call your county IHSS Public Authority to obtain a provider from the registry or your county IHSS office.**

Overtime Pay

Your IHSS provider will get paid the overtime pay rate when he/she works more than 40 hours in a workweek. The overtime pay rate is one and a half times the regular pay rate.

The workweek begins at midnight (12:00 a.m.) on Sunday and ends just before midnight (11:59 p.m.) the following Saturday.

Travel Time Pay

Beginning February 1, 2016, IHSS providers who work for more than one recipient at different locations on the same day must get paid for travel time. The provider must complete and sign a travel agreement which says he/she cannot travel more than 7 hours per week.

They will get paid for the time it takes to travel directly from the location where services are provided for the first recipient to the location where services are provided for the second recipient, up to a total of seven hours per week. Providers will document their travel time on a travel claim form.

A provider's time spent traveling is not counted towards the maximum weekly hours of 66 hours and is not deducted from any recipient's monthly authorized hours.

Travel Time Pay Between Counties

For those providers traveling from a recipient in one county to a recipient in another county, the providers will have to indicate which recipient they are traveling to on their travel claim form. The wage rate for that travel will be determined by the county the provider is traveling to.

ADJUSTING HOURS

Authorizing Your Provider to Work More Hours

Sometimes you may need your provider to work more than your weekly maximum hours. You must ask your county for approval to adjust your weekly maximum hours only if the change requires your provider to work:

- More overtime hours in the month than he/she would normally work.

Example: You are authorized 180 hours per month. Your normal weekly hours are 45 hours per workweek (180 hours divided by 4). One week during that month, however, you need him/her to work 55 hours. You plan to adjust his/her hours downward by 10 hours the following week, so he/she will only be working 35 hours during that week.

This adjustment would cause your provider to work 15 hours of overtime in that two week period instead of the normal 10 hours of overtime he/she would normally work. Because this adjustment would cause your provider to work an additional five hours of overtime in the month, you must ask the county for approval for this adjustment to your authorized workweek.

- More than 40 hours for you in a workweek if your maximum weekly hours are 40 hours or less in a workweek.

Example: You are authorized 160 hours per month. By dividing the 160 hours by 4, it is determined that your provider would normally work 40 hours per workweek. One week during that month, however, you need him/her to work 42 hours.

Because this adjustment would cause your provider to work over 40 hours in a workweek when you are authorized 40 hours or less, you need to ask the county for approval for this adjustment in your authorized workweek.

Keep in mind that:

- You can **never** authorize your provider to work more than your total authorized monthly service hours. Therefore, when you authorize your provider to work extra hours in one week, you must have the provider work fewer hours in the other week(s) of the month
- If your provider works for other recipient(s), his/her weekly hours **cannot** add up to **more than 66 hours**. If you need your provider to work more hours in a workweek and he/she is not able to because it would cause his/her weekly hours to be more than 66 hours for the week, you must hire another provider(s) to work the extra hours.

For Recipients with Only One Provider – Authorizing Your Provider to Work More Than His/Her Maximum Weekly Hours

In addition to authorizing a provider to work more than your maximum weekly hours, you can authorize your provider to work more than his/her maximum weekly hours, without county approval, as long as:

- You do not have any other providers working for you;
- Your provider does not work for any other recipients; and
- Your provider adjusts his/her weekly work schedule by working fewer hours for you the other week(s) to make sure he/she does not work more than your monthly authorized hours and does not work more overtime for you than he/she normally would in a month.

How to Ask the County for Approval to Adjust Authorized Weekly Hours When Necessary

You can ask the county for approval to adjust your maximum weekly hours either at the time an adjustment is needed or as soon as possible afterwards. You can make a one-time request or you can request future changes to meet a need you know you will have. The new law says the county shall not unreasonably withhold approval of your request. You should contact the county for approval prior to submitting the timesheet so the county has the correct information to pay your provider the correct wages.

The county will review your request to determine if all of the following conditions exist that support your request for an adjustment:

- Does (did) your provider need to work more hours because you have (had) a sudden need for services that you did not expect?
- Is (was) your need immediate and cannot be (could not have been) delayed until a back-up provider arrives (arrived)?
- Do (did) you need the services because you believed your health and/or safety were in danger?

If the adjustment request meets all of these conditions, the county will approve it. Otherwise, the county will deny the request.

If possible, the county will inform you of their decision regarding your adjustment request and will enter it into CMIPS at the time of your call. Within 10 calendar days of the call requesting an adjustment, the county will mail a notice that confirms whether your request for an adjustment was approved or denied. If the request is denied, the notice will tell you why the county denied it and the consequences resulting from the denial.

If you have a monthly recurring need that requires a change in your weekly hours, you may request an ongoing recurring adjustment from the county.

Provider Violations for Going Over Workweek & Travel Time Limits

Beginning May 1, 2016, if your provider submits a timesheet reporting hours that go over the workweek or travel time limits, he/she will get a violation. Each time he/she does any of the following, he/she will get a violation:

- Your provider works more than 40 hours in a workweek for you without you getting approval from the county when you are authorized less than 40 hours in a workweek;
- Your provider works more hours for you than you are authorized in a workweek without getting approval from the county, causing more overtime hours in the month than normal;
- Your provider has more than one recipient, and he/she works more than 66 hours in a workweek; or
- Your provider’s claimed travel time is more than seven hours in a workweek.

For each violation your provider receives, there will be a consequence:

First Violation	Your provider and you will get a notice of the violation with the appeal rights information.
Second Violation	Your provider and you will get a notice of the violation, and your provider will have a choice to complete <u>a one-time training</u> about the workweek and travel time limits. Those choosing to complete the training will avoid a second violation. If your provider chooses not to complete the training within 14 calendar days of the date of the notice, he/she will receive notice of the second violation with the appeal rights information.
Third Violation	Your provider and you will get a notice of the third violation with the appeal rights information. Your provider will be <u>suspended</u> as an IHSS provider with the IHSS program for <u>three</u> months.
Fourth Violation	Your provider and you will get a notice of the fourth violation with the appeal rights information. Your provider will be <u>terminated</u> as an IHSS provider with the IHSS program for <u>one</u> year.

If your provider gets more than one violation during a single month period, it will only count as one violation.

Whenever your provider receives a violation of any type, he/she has ten calendar days from the date of the violation notice to request a county review of the violation. Once the county receives the request for review, it has ten calendar days to review and investigate the violation and to send your provider a notice stating the outcome of the review.

For the third and fourth violations, if the county does not remove the violation, your provider may request a review of the violation by the California Department of Social

Services Adult Programs Division's Appeals Unit within ten calendar days of the date of the county notice. The county notice will explain how your provider may request the state review.

Once your provider has received a violation, the violation will remain on his/her record. However, after one year, if he/she does not receive another violation, the number of violations he/she has received will be reduced by one. As long as he/she does not receive any additional violations, each year after the last violation, his/her number of violations will be reduced by one.

If your provider receives a fourth violation and is terminated as a provider for one year, when the year is up and he/she applies again to be an IHSS provider, his/her violations count will be reset to zero.

If your provider gets terminated because he/she received a fourth violation, when the one-year termination ends, he/she will have to complete all of the provider enrollment requirements again before he/she can work as an IHSS provider, including the criminal background check, provider orientation and all required forms.

If you do not understand the information in this notice or if you have any questions about it, call the county IHSS Office or IHSS Public Authority.