

**County of Orange Social Services Agency
Family Self-Sufficiency & Adult Services Division**

Program/Area: Adult Services/In-Home Supportive Services
Title: Minor Child Policy
Number: 1016 **Status:** Revised
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Approved: Signature on file

PURPOSE To provide In-Home Supportive Services (IHSS) staff information regarding minor child regulations.

POLICY Minor child regulations outline the rules for assessing IHSS eligibility for applicants/recipients who are under 18 years old. IHSS services are available to disabled minor children to ensure they remain safely in their own homes. IHSS services for disabled minor children are not authorized for routine childcare needs. IHSS case funding sources determine whether minor recipients can have a parent or non-parent provider.

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BACKGROUND In California, Welfare and Institutions Codes (WIC) Section 12300(e) provides the legal framework and regulations for administering the IHSS program, including eligibility criteria, services, and policies. WIC Section 12301 and WIC Section 12300.4 guide provider eligibility and payment for services.

Before the passage of Assembly Bill (AB) 120, the IHSS minor recipient provider eligibility requirements were implemented statewide following WIC Section 12300(e), WIC Section 14132.95(f), and Manual of Policies and Procedures (MPP) Sections 30-763.44 through MPP 30-763.457. These rules required social workers to assess parental ability and availability to provide IHSS care to their minor child.

The passage of AB 120 (Chapter 43, Statutes of 2023) eliminated provider eligibility requirements for minor recipients in the IHSS program by amending WIC Section 12300(e). Per the statutory change, effective February 19, 2024, MPP Sections 30-763.44 through MPP 30-763.455 are no longer in effect. WIC Section 14132.95(f) and MPP Sections 30-763.456 and MPP 30-763.457 remain in effect, establishing provider reimbursement requirements and prohibiting parent providers in the Personal Care Services Program (PCSP).

DEFINITIONS

Age-appropriate behavior

Typical activities of a child of any age.

Extraordinary Need

Need beyond what would normally be expected for a minor of that age.

Funding Source

The budget source for the IHSS program may come from the Federal, State, or local government or a combination of two or more.

Guardian

An adult, not the child's parent, who is legally responsible for a child's care.

Minor Child

Any person under 18 years of age who is not emancipated by marriage or other legal action.

Needs Assessment

A review of an applicant's/recipient's functional impairment (abilities and limitations) to authorize the appropriate level of IHSS services that allow a recipient to remain safely in their own home.

Own Home

The place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility.

Parent

Under California Family Code Section 3900, a natural or adoptive parent has a duty to care for their minor child.

Provider

Any person (parent or non-parent) willing, able, and available to provide IHSS services has been approved by Public Authority (PA) to be an IHSS provider.

NEEDS ASSESSMENT

In addition to meeting all IHSS eligibility requirements, an in-person needs assessment is completed for a minor applicant/recipient and will include the following:

- 1.) Documentation of extraordinary need **and**
- 2.) An assessment of age-appropriate behaviors.

IHSS services are not authorized:

- 1.) If a child's care needs are what is expected for a minor of that age.
- 2.) If they engage in activities typically expected for a minor of that age.
- 3.) For routine childcare.

IHSS SERVICE TASKS

IHSS minor child regulations allow compensation for the following services:

- Related Services
- Personal Care Services
- Accompaniment to Health-related Appointments or Alternative Resource Sites
- Protective Supervision
- Paramedical

IHSS minor child regulations do **not** allow compensation for the following services:

- Domestic Services
- Heavy Cleaning
- Yard Hazard Abatement
- Teaching and Demonstration

These services are considered met by individuals who have a legal duty to care for the minor recipients regardless of:

- Whether the minor recipient lives with a parent or non-parent caretaker(s).
- Whether the minor recipient has extraordinary needs.

FUNDING SOURCES AND TYPES OF PROVIDERS

The IHSS program is funded through four (4) subprograms:

- CFCO - Community First Choice Option
- PCSP - Personal Care Services Program
- IPO - IHSS Plus Option
- IHSS-R - IHSS-Residual

Minor recipients in the IHSS-R, IPO, and CFCO programs may choose parent(s) or non-parent provider(s).

Minor recipients in the PCSP program are prohibited from choosing their parent(s) to be a provider(s). However, they may select any non-parent provider(s) if they meet the provider eligibility requirements.

PARENT PROVIDER ELIGIBILITY

A minor recipient's parent(s) or guardian(s) can choose to enroll as the IHSS provider(s) if the parent(s) or guardian(s) have completed the provider enrollment process through Public Authority and the case funding source is either CFCO, IPO, or IHSS-R.

The provider enrollment requirements include the following:

- Complete the IHSS Provider Enrollment form (SOC 426).
- Present a State or Federal government-issued photo identification and Social Security card.
- Complete an in-person provider orientation.
- Sign and submit the Provider Enrollment Agreement (SOC 846).
- Complete a criminal background check.

Parents Not Authorized to Work in the United States (U.S.)

Section 274a.12 of Chapter 8 of the Federal Code of Regulations (CFR) states that undocumented individuals are not authorized to legally work and, therefore, ineligible to be IHSS providers. However, minor recipients' undocumented parent(s) can hire non-parent provider(s). The minor recipient's chosen provider must complete the provider enrollment process to become a paid provider.

Parent(s) Convicted of Tier 1 Offenses

A minor recipient's parent(s) cannot choose to be a provider if the parent(s) have been convicted of a Tier 1 offense. However, a minor recipient's parent(s) can hire a non-parent provider(s). The minor recipient's chosen provider must complete the provider enrollment process to be a paid provider.

Tier 1 offenses include:

- Specified abuse of a child, abuse of an elder or dependent adult.
- Fraud against a government health care or supportive services program.

Shared Parental Custody

When parents are living separately and share custody of a minor recipient, both parents may become parent providers if the following conditions are met:

- The case's funding source is CFCO, IPO, or IHSS-R.
- They provide IHSS services to the minor recipient while the minor recipient resides in their home.
- They complete the provider enrollment process through Public Authority.

If both parents are approved as providers, hours will be assigned to each parent based on the minor recipient's need when the minor recipient is in each home.

When parents live in different counties, the county with the active Medi-Cal case is considered the primary county. The primary county is responsible for all case-related activities, including assessments and payroll.

REFERENCES

All County Information Notice (ACIN) I-82-17 – In-Home Supportive Services (IHSS) Assessment Clarifications and New or Updated Tools

All County Letter (ACL) 17-42 - Clarification on the Authorization of Medical Accompaniment in the In-Home Supportive Services Program

All County Letter (ACL) 19-02 - Clarification of Regulations Regarding Minor Recipients Living with Parent(S)

All County Letter No. 23-106 - Elimination of Provider Eligibility Requirements for Minor Recipients in the IHSS Program

CDSS Manual of Policies and Procedures MPP 30-701(m)

CDSS Manual of Policies and Procedures MPP 30-760.1

CDSS Manual of Policies and Procedures MPP 30-763.44 through MPP 30-763.45

Judicial Branch of California-Definition of Guardian

Welfare and Institution Codes Section 12300(e)

Welfare and Institution Codes Section 12300.4

Welfare and Institution Codes Section 14132.95(f)

ATTACHMENTS IHSS Provider Enrollment form (SOC 426)
Provider Enrollment Agreement (SOC 846)
