

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

Program/Area: Adult Services/In-Home Supportive Services
Title: Protective Supervision Policy
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Approved: Signature on file

PURPOSE To provide In-Home Supportive Services (IHSS) staff information regarding Protective Supervision (PS) regulations.

POLICY PS is available to adult and minor child IHSS recipients who are both nonself-directing and mentally impaired/mentally ill and require monitoring and intervention as appropriate to safeguard the recipient from injury, hazard, or accident.

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BACKGROUND PS regulations are based on the Welfare and Institution Code (WIC) 12300 (b) and the Manual of Policies and Procedures (MPP) 30-700.

PS is provided through the following or a combination of the following arrangements:

- 1.) IHSS
 - 2.) Alternative resources which include but are not limited to, adult or child day care centers, community resource centers, senior centers, and respite centers.
 - 3.) Voluntary resources.
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DEFINITIONS **Adult**
Any person 18 years or older or a legally emancipated minor.

Alternative Resources

IHSS services available from other agencies and programs that meet the recipient's needs.

Ambulate

To move or walk from place to place inside the home or assistance to/from the front door to the car for medical accompaniment and/or alternative resources travel.

Appropriate Medical Professional

Individuals with a medical specialty or scope of practice in the areas of memory, orientation, and/or judgment.

Episodic

Occurring occasionally and at irregular intervals.

Judgment

The ability to make independent decisions not to put oneself or property in danger and the capacity to respond to environmental changes. Additionally, the ability to comprehend different possibilities and risks when making independent decisions and accept the consequences of decisions.

Licensed Health Care Professional (LHCP)

Individuals licensed in the State of California whose primary responsibilities are to diagnose and/or provide treatment and care for physical or mental impairments that cause or contribute to an individual's functional limitations.

Memory

The ability to recall learned behaviors and current or past information.

Mental Illness

Health conditions involving changes in emotion, thinking, or behavior (or a combination of these).

Mental Impairment

Mental or psychological disorder such as an emotional or mental illness.

Minor Child

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

Nonself-directing

An inability due to mental impairment/mental illness for individuals to assess danger and the risk of harm.

Orientation

The individual's awareness of time, place, self, and other individuals in one's environment.

Propensity

A natural tendency to behave a certain way.

Voluntary Services

Unpaid IHSS services provided by relatives, housemates, friends, or other appropriate individuals.

REQUIREMENTS OF PROTECTIVE SUPERVISION SERVICES

PS services are available to IHSS recipients who are:

- 1.) Nonself-directing **and**
- 2.) Mentally Impaired or Mentally Ill **and**
- 3.) Physically capable of harming themselves **and**
- 4.) Require 24-hour-a-day supervision to remain safely at home.

Actual Injury vs. Propensity to Harm Self

A person does not have to suffer actual injury to be eligible for PS, just the propensity to put themselves in danger. For example, a person with a documented history of nonself-direction who has a tendency to open the front door and start walking away does not necessarily have to make it into the street for this to be considered potentially hazardous behavior.

Other evidence of a propensity to put themselves in danger may come from Licensed Health Care Professional (LHCP) evaluations, Individualized Education Plans (IEP), Regional Center of Orange County (RCOC) reports, or Multipurpose Senior Service Program (MSSP) reports.

Changes in a recipient's physical mobility, behavior, or condition that indicate the IHSS recipient no longer has the same propensity to engage in potentially dangerous activities may impact their eligibility for PS.

Physical Ability to Engage in Potentially Dangerous Activities

A person must be physically capable of harming themselves to be eligible for PS. Furthermore, a person does not need to have had a previous injury; they must have the ability to injure themselves. However, a mentally impaired or mentally ill individual who is bedridden or in a wheelchair is not necessarily incapable of engaging in activities that would require monitoring or intervention under PS. Individuals must be assessed based on their physical ability to engage in potentially dangerous activities.

For example, a mentally ill, bedridden individual may still have the physical ability to pull out their G-Tube, which may require monitoring or intervention under PS.

EXCLUDED NEEDS OR BEHAVIORS

PS services are not available for the following excluded needs or behaviors:

- 1.) Friendly visiting or other social activities.
- 2.) Environmental modifications/safety-proofing that eliminates the need for PS.
- 3.) Fluctuating/episodic behaviors.

- 4.) When the need is caused by a medical condition and the form of supervision required is medical.
- 5.) Anticipation of an environmental or medical emergency.
- 6.) Prevention or control of anti-social or aggressive recipient behavior towards others.
- 7.) To guard against deliberate self-destructive behavior.
- 8.) Routine childcare or supervision.

If a recipient displays self-injurious behavior(s) that would qualify for PS but also displays excluded behavior(s), they may still be eligible for PS for the non-excluded behaviors.

1.) Friendly Visiting/Social Activities

PS is not authorized for a friendly visit or engagement in social activity, such as a lonely person who wants a visitor.

2.) Environmental Modifications/Safety-Proofing

PS is not authorized when environmental modifications/safety-proofing has been made to the home that eliminates a hazard. Environmental modification/safety-proofing, such as removing knobs from the stove or adding safety latches, can be used and is encouraged to eliminate the need for PS. Environmental modifications/safety-proofing are not required to eliminate the need for PS.

3.) Fluctuating/Episodic Behaviors

PS is not authorized when a behavior is considered predictable and the need for supervision occurs at certain times of the day. For example, a person tends to wander only at night. Additionally, PS is not authorized when a behavior is unpredictable or episodic since PS requires constant 24-hour-a-day supervision. For PS eligibility, the unpredictable or episodic behaviors must be frequent and long enough for constant supervision. Additionally, the California Department of Social Services (CDSS) All County Letter (ACL)15-25 states that leaving a recipient alone for a fixed short period of time is not in itself, a reason to deny PS.

4.) Medical Condition

PS is not authorized because of a medical condition, such as when a person needs someone to take their blood pressure to ensure it is not too high. Additionally, PS is not authorized due to an inability to ambulate safely, which increases the risk of falls. For PS eligibility, a person's fall risk must be related to the individual's mental impairment or illness. For example, PS would not be authorized for a provider to intervene in anticipation of an injury.

5.) Anticipation of an Environmental or Medical Emergency

PS is not authorized because of supervision related to an anticipated environmental or medical emergency, such as a person with heart disease

who needs someone to watch for signs of a heart attack or anticipation of an earthquake.

6.) Anti-Social/Aggressive Behavior

PS is not authorized to stop or control anti-social or aggressive behavior towards others, such as a person with a mental illness/impairment who tries to hurt other people (scratching, pulling hair, hitting, etc.) For PS eligibility, a recipient would be considered nonself-directing if they are unable to assess danger and the risk of self-harm. For example, a recipient who displays head-banging self-destructive behaviors because of their mental illness/impairment may be eligible for PS. However, a recipient who has a mental illness/impairment and is determined to be nonself-directing due to the mental impairment/illness but exhibits anti-social or aggressive behavior (e.g., pulling hair, scratching, hitting) directed to harm another individual would be ineligible for PS.

7.) Deliberate Self-Destructive Behavior

PS is not authorized to stop a recipient from intentionally hurting themselves, such as a person who tries to commit suicide or knowingly cuts themselves.

8.) Routine Childcare

PS is not authorized to provide routine childcare or supervision. For PS eligibility, the minor child must be determined to require more supervision due to their mental impairment/illness than a child of the same age. More supervision can mean more time, more intensity, or both. CDSS ACL 98-87 states that a minor cannot be denied PS solely because a parent leaves the child alone for a fixed period of time. Additionally, a minor cannot be denied PS solely based on age.

**NEEDS
ASSESSMENT**

An in-person needs assessment is completed to evaluate an applicant/recipient's mental illness/impairment and nonself-directing behavior and will include the following:

- 1.) Assessment of an applicant/recipient's memory, orientation, and judgment regardless of age.
- 2.) Exploring the level of human intervention needed in the eleven physical functions (housework, laundry, shopping and errands, meal preparation and cleanup, mobility inside, bathing and grooming, dressing, bowel/bladder/menstruation, repositioning, eating, and respiration).
- 3.) Requesting medical, school, or regional records. Parents or guardians of minor recipients will be asked to provide these documents as the County is not required to obtain such information or documentation independently.
- 4.) Review of other available information can include but is not limited to, a Public Health Nurse report, LHCP reports, police reports, Adult Protective Services (APS), or other social services agencies, and observations made at the IHSS needs assessment.

All IHSS applicants or recipients are evaluated for PS or when PS is requested.

Medical Information

When the need for PS is identified or requested, the SOC 821 – Assessment of Need for Protective Supervision for In-Home Supportive Services Program form will be requested for completion. The applicant/recipient's LHCP or other appropriate medical professional will complete the form to certify the need for PS. If the SOC 821 is not returned by the due date, PS eligibility will be determined based on all available information.

EXTRAORDINARY CIRCUMSTANCES EXEMPTION PS cases may be eligible for the Extraordinary Circumstances Exemption (Exemption 2). Under certain extraordinary circumstances, a provider who serves two or more recipients may be eligible for an exemption from the standard workweek limitations and may work up to 360 hours per month.

To qualify for Exemption 2, all recipients the provider works for must meet at least one of the following:

- Have complex medical or behavioral needs that must be met by a provider who lives in the same home as the recipient.
- Live in a rural or remote area with limited available providers, so the recipient cannot hire another provider.
- Be unable to hire a provider who speaks the recipient's language to direct their care.

Refer to IHSS 1042 Extraordinary Circumstance Exemption (Exemption 2) Policy for more information.

REFERENCES

American Psychiatric Association- Mental Illness

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

All County Letter (ACL) 15-25 – Protective Supervision Clarifications

All County Letter (ACL) 17-95 – Clarification of Protective Supervision Proration, Environmental Modifications, Fall Risk and Combative Behavior Issues.

All County Letter (ACL) 98-79 – Interim Emergency Regional Center Funded Services Are Not Alternative Resources Under the In-Home Supportive Services and Personal Care Services Programs

All County Letter (ACL) 98-87 – Clarifying Procedures for Assessing Minor's Need for Protective Supervision in the In-Home Supportive Services Program

All County Letter (ACL) 20-111- IHSS Protective Supervision Proration
Changes

CDSS Manual of Policies and Procedures MPP 30-700

- 30-756.3
- 30-757.17
- 30-761.26
- 30-763.1
- 30-763.456 (d)

U.S. Commission on Civil Rights- Mental Impairment

Welfare and Institution Codes Section 12300

Welfare and Institutions Code (WIC) section 12301.1

ATTACHMENTS SOC 821 – Assessment of Need for Protective Supervision for In-Home
Supportive Services Program
