

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

Program/Area: Adult Services/In-Home Supportive Services
Title: Authorized Representative Policy
Number: 1003 **Status:** Revised
Effective Date: 8/1/2009 **Revision Date:** 12/11/2024
Approved: Signature on file

PURPOSE To provide In-Home Supportive Services (IHSS) staff information regarding Authorized Representative (AR) regulations.

POLICY An AR is an individual (18 years or older) designated by the applicant or recipient to accompany, assist, and represent them for specified purposes related to the IHSS program.

BOOKMARKS

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BACKGROUND On October 9, 2015, IHSS Authorized Representative Assembly Bill (AB) 1436 added section 12300.3 to the Welfare and Institution Code (WIC), requiring California Department of Social Services (CDSS) to develop a statewide standardized form and procedures for an IHSS applicant or recipient to designate an authorized representative for the IHSS program.

DEFINITIONS

Adult
Any person 18 years or older or a legally emancipated minor.

Caregiver Authorization Affidavit
A form used by someone caring for a minor who is not the parent or legal guardian.

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.

Parent

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

DESIGNATION OR CANCELLATION

An applicant or recipient may designate an AR by completing the IHSS Designation of Authorized Representative (SOC 839). An applicant or recipient may also designate an individual for signing Timesheets or other Provider-Related Documents (TPRD) by completing the IHSS Designation of Signatory for Timesheets and Other Provider-Related Documents (TPRD) (SOC 839A). In addition to timesheets, an individual designated using the SOC 839A can complete the following documents on behalf of the applicant/recipient:

- IHSS Program Recipient Designation of Provider (SOC 426A)
- IHSS Program Recipient Request for Provider Waiver (SOC 862)
- IHSS Program Recipient and Provider Workweek Agreement (SOC 2256)

An applicant or recipient may cancel the designation of an AR or TPRD by completing the IHSS Cancellation of Authorized Representative/Timesheet and Provider-Related Documents (TPRD) Signatory (SOC 839B).

An AR is responsible for acting in the applicant/recipient's best interest by representing, assisting, and accompanying for specified purposes related to the IHSS program. The SOC 839 outlines all IHSS-specific functions the AR may perform on the applicant/recipient's behalf. The SOC 839 is not intended for short-term appointments of individuals or legal services who engage in limited legal representation; however, they may complete the form. The applicant/recipient may designate multiple ARs to perform the different functions of an AR.

Even if an AR has been designated, County IHSS staff are still required to have access and engage with an applicant/recipient during an assessment by directly asking questions related to care needs and services.

LEGAL REPRESENTATIVE FOR A MINOR

A legal representative for a minor applicant/recipient is defined as the following:

- Parent (adoptive or biological).
- Court-appointed guardian.
- An individual(s) determined by the County Social Services Agency (SSA) to be a legally authorized decision-maker.

The County will request documentation to determine if an individual can be considered the legal representative for a minor. Documentation may include, but is not limited to:

- A custody order.
- Guardianship documentation.
- A Caregiver Authorization Affidavit.
- A signed statement issued by the parent(s) granting another person(s) power of attorney of the minor. The statement must be either notarized or signed by two witnesses who are not the parent(s) or the other person being granted power of attorney.

A parent or other person determined to be legally responsible for a minor applicant/recipient is not required to complete the SOC 839 but will be required to complete the SOC 839A.

LEGAL REPRESENTATIVE FOR AN ADULT

A court-appointed conservator is considered the legal representative of an adult applicant/recipient. The County will request court documentation for conserved adults.

A conservator is not required to complete the SOC 839 but will be required to complete the SOC 839A.

CRIMINAL CONVICTIONS AND AR ELIGIBILITY

Individuals are ineligible to serve as an AR if they have been convicted of or incarcerated following the conviction of certain crimes within the last 10 years. Below are the two categories of crimes:

- 1.) Tier 1 crimes, which include the following:
 - a. Specified abuse of a child (Penal Code [PC] section 273a[a])
 - b. Abuse of an elder or dependent adult (PC section 368); and
 - c. Fraud against a government health care or supportive services program.
- 2.) Tier 2 crimes, which include the following:
 - a. A violent or serious felony, as specified in PC section 667.5(c) and PC section 1192.7(c)
 - b. A felony offense for which a person is required to register as a sex offender pursuant to PC section 290(c); and
 - c. A felony offense for fraud against a public social services program, as defined in WIC sections 10980(c)(2) and 10980(g)(2).

A legal representative for a minor or adult with criminal convictions listed above is not prohibited from serving as an applicant/recipient's AR.

STATE ADMINISTRATIVE HEARINGS

The SOC 839 does not authorize an individual to represent an IHSS applicant/recipient for a state administrative hearing. An IHSS applicant/recipient may designate an AR for a state administrative hearing by completing the

Appointment of Authorized Representative (DPA 19). This form and information on filing a California State Hearing for IHSS can be found through the California Hearing Website at State Hearings or by calling 800-952-5253.

REFERENCES

All County Letter (ACL) 12-19 IHSS Program Providers Signing Individual Waiver Requests as Authorized Representatives for Recipients

All County Letter (ACL) 18-59 Implementation of Assembly Bill (AB) 1436- IHSS Authorized Representative

All County Letter (ACL) 23-77 New and Revised Forms for Designation of Authorized Representative

ATTACHMENTS

Appointment of Authorized Representative (DPA 19)

IHSS Cancellation of Authorized Representative/Timesheet and Provider-Related Documents (TPRD) Signatory (SOC 839B)

IHSS Designation of Signatory for Timesheets and Other Provider-Related Documents (TPRD) (SOC 839A)

IHSS Designation of Authorized Representative (SOC 839)

IHSS Program Recipient and Provider Workweek Agreement (SOC 2256)

IHSS Program Recipient Designation of Provider (SOC 426A)

IHSS Program Recipient Request for Provider Waiver (SOC 862)
