

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

Program/Area: Adult Services/In-Home Supportive Services
Title: Protective Supervision
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POLICY

Orange County IHSS social workers will evaluate the need for Protective Supervision for all IHSS applicants and recipients at each assessment, or when Protective Supervision has been requested.

Protective Supervision is available for *observing* the behavior of [nonself-directing](#), confused, mentally impaired/ill persons only; and *intervening* as appropriate in order to safeguard the recipient against injury, hazard, or accident.

Protective Supervision is defined by the Welfare Institutions Code and Manual of Policy and Procedures regulated by the State.

Under no circumstances may the hours authorized exceed the statutory maximums.

Cases	Non-Severely Impaired	Severely Impaired
PCSP (2M) or CFCO (2K)	195 hours monthly for Protective Supervision plus other IHSS services up to a total of 283 hours monthly	283 hours monthly
IHSS Residual (2N) or IPO	195 hours monthly	283 hours monthly

Eligibility

In addition to all other relevant eligibility criteria, the individual must be both mentally/ill and [nonself-directing](#) to be eligible for Protective Supervision. It is not enough for someone to only be mentally impaired/ill; there must also be evidence that he/she is [nonself-directing](#) to be eligible. Additionally, at the time of the assessment and request, there must be a need for 24-hours-a-day of supervision in order for the recipient to remain at home safely.

Protective Supervision is provided through the following, or combination of the following arrangements:

- 1) In-Home Supportive Services program;

- 2) Alternative resources such as adult or child day care centers, community resource centers, senior centers, respite centers; and/or,
- 3) Voluntary resources.

Protective Supervision will not be authorized:

- a) When the need for Protective Supervision is caused by a physical condition rather than a mental impairment;
- b) For friendly visiting or other social activities;
- c) When the need is caused by a medical condition and the form of the supervision required is medical;
- d) In anticipation of an environmental or medical emergency (such as exiting home during a fire; seizures, etc.);
- e) To prevent or control anti-social or aggressive recipient behavior; or,
- f) To guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself.

If a recipient displays self-injurious behavior(s) that would qualify for Protective Supervision, but also displays excluded behavior(s), he/she may still be eligible for Protective Supervision for the non-excluded behaviors.

Actual Injury vs. Propensity to Harm Self

A person does not have to suffer actual injury to be eligible for Protective Supervision, but only have a history of a propensity for placing him/herself 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 in order for this to be considered potentially hazardous behavior.

Other evidence of a propensity for placing him/herself in danger may come from doctor evaluations, Individualized Education Plans (IEP), Regional Center reports, and/or Multipurpose Senior Service Program (MSSP) reports, etc.

When reassessing for Protective Supervision, changes in a recipient's physical mobility may impact their eligibility for Protective Supervision. Also, changes in a recipient's behavior or condition which indicates that he/she no longer has the same propensity to engage in potentially dangerous activities may impact their eligibility for Protective Supervision.

Physical Ability to Engage in Potentially Dangerous Activities

The recipient must be physically capable of harming him/herself.

- A mentally impaired/ill individual who is bedridden, or in a wheelchair, is not necessarily incapable of engaging in dangerous behaviors (i.e., may still have physical ability to pull at their G-tube, requiring observation or intervention under Protective Supervision).

The recipient does not need to have had previous injury; at minimum, must have the potential for injury by having the physical ability to move about.

Fall Risk

The fall risk must be linked to the recipient's mental impairment/illness. Protective Supervision may not be authorized solely due to one's inability to ambulate safely, thereby creating an increased risk of fall.

Environmental Modifications

Environment modifications can be used, and should be encouraged by the IHSS social worker. Modifications can be things like removing knobs from the stove or adding safety latches. If the modification eliminates the safety hazard that puts the recipient at risk, then there is no longer a need for Protective Supervision; therefore, should not be authorized.

Environmental modifications are not required to eliminate the need for Protective Supervision.

Anti-Social and Aggressive Behaviors

A recipient's combative behavior will be evaluated by the willfulness of that behavior. As with all services, the recipient's age and specific behavior will be considered.

A recipient must have a mental impairment/illness and determined to be nonself-directing due to the mental impairment/illness in order to be eligible for Protective Supervision. The recipient would be considered nonself-directing if he/she is unable to assess danger and the risk of self-harm. A recipient who meets these criteria and displays self-destructive behaviors, such as head banging, as a manifestation of the mental impairment/illness, may be eligible for Protective Supervision. However, a recipient who has a mental impairment/illness 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 Protective Supervision.

A recipient who displays intentional self-destructive behavior, with knowledge that the activity may cause self-harm, would not be eligible for Protective Supervision. This type of behavior may include tantrums or head banging as a way to achieve a desired result. In such instances, the recipient would be considered self-directing, as there is knowledge that the activity may cause self-harm; therefore, he/she would be ineligible for Protective Supervision.

Fluctuating/Episodic Behavior

Protective Supervision requires a 24/7 need, if the behavior in question is considered predictable, and the need for supervision is at certain times of the day, there is no Protective Supervision eligibility because there is not a 24-hour-a-day need. Alternatively, unpredictable episodic behavior does meet the 24/7 requirement, as the need for supervision is constant. The unpredictable

episodic behavior must be frequent and long enough that constant supervision is necessary.

Leaving a recipient alone for some fixed short period of time, is not, by itself, a reason to deny Protective Supervision.

When the county discontinues Protective Supervision, it must establish the factual basis for the discontinuance.

Assessment

The IHSS social worker will determine the need for services based on all of the following:

- The recipient's physical/mental condition or living/social situation;
- The recipient's statement of need;
- The available medical information;
- Other information the IHSS social worker consider necessary and appropriate to assess the recipient's needs.

The IHSS social worker is not required to independently obtain such information and documentation, but must request the applicant/recipient and/or his/her parent/legal guardian/conservator or authorized representative to do so.

Mental Functioning

The IHSS social worker must assess the recipient's mental functioning, regardless of age.

The mental functioning will be evaluated by the extent to which the recipient's cognitive and emotional impairment, if any, impacts his/her functioning in the 11 physical IHSS tasks. The level and type of human intervention needed will be reflected in the rank for each function.

The recipient's mental function is evaluated on a three-point scale in the functions of [memory](#), [orientation](#), and [judgment](#). This scale is used to determine the need for Protective Supervision. [See the State's Attachment B – Annotated Assessment Criteria - Mental Functioning.](#)

In the following three areas, it may be appropriate or necessary for the IHSS social worker to pay special attention to their observation and interaction, in addition to input from the recipient and others present at the assessment.

Functional Index Ranking:

Memory

Rank 1: No problem: [Memory](#) is clear. Recipient can give accurate information about his/her medical history; can talk appropriately about comments made earlier in the conversation; has good recall of past events. The recipient can give detailed information in response to questions.

Rank 2: [Memory](#) loss is moderate or intermittent: Recipient shows or reports evidence of some [memory](#) impairment, but not to the

extent where s/he is at risk. Recipient needs occasional reminding to do routine tasks or help recalling past events.

Rank 5: Severe [memory](#) deficit: Recipient forgets to start or finish activities of daily living that are important to his/her health and/or safety. Recipient cannot maintain much continuity of thought in conversation.

Orientation

Rank 1: No problem: [Orientation](#) is clear. Recipient is aware of where s/he is and can give you reliable information when questioned about activities of daily living, family, etc.; is aware of passage of time during the day.

Rank 2: Occasional disorientation and confusion is apparent but recipient does not put self at risk: Recipient has general awareness of time of day and can provide limited information about family, friends, age, daily routine, etc.

Rank 5: Severe disorientation which puts recipient at risk: Recipient wanders off; lacks awareness or concern for safety or well-being; is unable to identify significant others or relate safely to environment or situation; has no sense of time of day.

Judgment

Rank 1: [Judgment](#) unimpaired: Able to evaluate environmental cues and respond appropriately.

Rank 2: [Judgment](#) mildly impaired: Shows lack of ability to plan for self; has difficulty deciding among alternatives, but is amenable to advice; social judgment is poor

Rank 5: [Judgment](#) severely impaired: Recipient fails to make decisions or makes decisions without regard to safety or well-being.

Medical Information

The IHSS social worker will request the form [SOC 821 – Assessment of Need for Protective Supervision for In-Home Supportive Services Program](#) be completed by the recipient's physician or other appropriate [medical professional](#) to certify the need for Protective Supervision and returned to the county.

The form [SOC 821](#) will be used in combination with other pertinent information, such as an interview or report, to assess the recipient's need for Protective Supervision.

The completed form [SOC 821](#) will not be determinative, but considered as one indicator of the need for Protective Supervision. In the event that the form [SOC 821](#) is not returned to the county, or is returned incomplete, the IHSS social worker will make its determination of need based upon other available information.

Other available information can include, but is not limited to, the following:

- A Public Health Nurse interview;
- Licensed health care professional reports;
- Police reports;
- Collaboration with Adult Protective Services, and/or other social service agencies;
- The IHSS social worker's own observations.

24-Hours-A-Day Supervision

The IHSS social worker will explain the availability of Protective Supervision and discuss the need for 24-hours-a-day supervision with the applicant/recipient and/or his/her parent/legal guardian/conservator or authorized representative, and the appropriateness of out-of-home care as an alternative to Protective Supervision, in the event 24-hour supervision of the recipient is not able to be met.

The form [SOC 825 – 24-Hours-A-Day Coverage Plan](#) is intended to ensure that recipients who need Protective Supervision have the 24-hours of care needed for their health and safety 24-hours a day. The IHSS social worker, care providers, applicant/recipient and/or his/her parent/legal guardian/conservator or authorized representative should discuss together a plan or schedule of 24-hours-a-day coverage for the recipient and document the following:

- A 24-hour-a-day coverage plan has been arranged and is in place.
- The continuous 24-hour-a-day coverage plan can be met regardless of paid IHSS hours along with various alternate resources (i.e. Adult Child Day Care Centers, community resource centers, senior centers, respite centers, etc.)
- The 24-hour-a-day coverage plan will be provided at all times.

Protective Supervision cannot be denied solely because the care provider leaves the recipient alone for a fixed period of time, such as 5 minutes.

Orange County uses an alternative form in lieu of the SOC 825 which is approved by CDSS.

Alternative Resources & Voluntary Services

The IHSS social worker will explore alternative in-home services supportive services, which may be available from other agencies or programs to meet the needs of the recipient as assessed. The IHSS social worker will arrange for the delivery of such alternative resources as necessary in lieu of IHSS program-funded services when they are available and result in no cost to the IHSS program or the recipient.

The IHSS social worker will explore with the recipient the willingness of relatives, housemates, friends or other appropriate persons to voluntarily provide some or all of the services required by the recipient.

Using the statement form [SOC 450 – Voluntary Services Certification](#), the IHSS social worker will obtain a signed statement from the provider(s) of record or any other person(s) who agrees to provide any IHSS service voluntarily. The

form will indicate that the provider knows of the right to compensated services, but voluntarily chooses not to accept any payment, or reduced payment, for the provision of services.

The [SOC 450 – Voluntary Services Certification](#) for IHSS will contain the following information at minimum:

- Recipient name
- Case number
- Services to be performed;
- Day(s) and/or hours per month service(s) will be performed;
- Provider of services;
- Provider's address and telephone number;
- Provider's signature and date signed;
- Name and signature of the IHSS Social Worker.

The IHSS program will not deliver services which have been made available to the recipient through alternative resources. The IHSS social worker will document the total need, which will then be reduced by any service available from an alternative resource. The remaining need for IHSS is the adjusted need.

Note: Due to waivers, Multipurpose Senior Service Program and Regional Center services are not considered alternative resources, and services will continue to be authorized at their assessed level of need.

Minors

In addition to all other relevant criteria for eligibility, the IHSS social worker must review a minor's mental functioning on an individualized basis and must not assume a minor of any age has a mental functioning rank of "1".

- The IHSS social worker must assess the minor's mental impairment/illness.
 - The IHSS social worker must request the parent/legal guardian/conservator or authorized representative to obtain available information and documentation about the existence of a minor's mental impairment/illness. (e.g., SSI & Regional Center eligibility).
 - The IHSS social worker is not required to independently obtain such information and documentation, but must ask the parent/legal guardian/conservator or authorized representative to do so.
- The IHSS social worker must determine whether the supervision required is above that of a child of same age without a mental illness/ impairment.
- The IHSS social worker must determine the supervision is not for routine child care.

Proration

When two, or more, IHSS recipients are living together and both require Protective Supervision, the need will be treated as a common need and proration will be applied.

The IHSS social worker will link the cases of recipients who reside in the same household. Case Management Information and Payrolling System II (CMIPSI) prorates services in linked cases, including service of Protective Supervision. Protective Supervision is prorated regardless of the number of providers working in the home.

Notice of Action (NOA) Manual Codes

The recipient must be notified in writing of the IHSS social worker's assessment determination for their request for Protective Supervision.

The assessing IHSS social worker will select all NOA messages that apply to the Protective Supervision determination in CMIPSI II. The messages are not auto-generated; instead, must be manually selected to reflect the specific information for the recipient's assessment.

MPP 30-757.17 (No risk of injury, hazard, or accident)

PS07 NOA: You are not eligible for the services of Protective Supervision because you made changes to your home. These changes allow you to remain safely in your home when unsupervised. (MPP Section 30-757.17)

PS08 NOA: You are not eligible for the services of Protective Supervision because the case information shows you are not physically able to harm yourself. (MPP Section 30-757.17)

MPP 30-757.171 (Individual is self-directing, not mentally impaired nor mentally ill.)

PS09 NOA: You are not eligible for the services of Protective Supervision because you do not have a mental impairment or a mental illness. (MPP 30757.171)

PS10 NOA: You are not eligible for the services of Protective Supervision because your case information shows you are self-directed in that you can understand and assess dangerous situations and can stop yourself from doing things that may harm yourself. (MPP Section 30-757.171)

PS11 NOA: You are not eligible for the services of Protective Supervision because your behavior, which causes you the risk of injury, is not related to your mental impairment or mental illness. (MPP Section 30-757.171)

- PS12 NOA: You are not eligible for the services of Protective Supervision because the supervision you are requesting is for friendly visiting or social activities. [MPP Section 30-757.172(a)]
- PS13 NOA: You are not eligible for the services of Protective Supervision because your need for PS is caused by a medical condition and the assistance and supervision you need is medical in nature. [MPP Section 30-757.172(b)]
- PS14 NOA: You are not eligible for the services of Protective Supervision because the case information shows that, although you have fallen recently or have demonstrated a tendency to fall, it is not due to your mental impairment or mental illness. [MPP Section 30-757.172(c)]
- PS15 NOA: You are not eligible for the services of Protective Supervision because your risk of injury is in anticipation of a medical emergency; and Protective Supervision cannot be authorized to help monitor for medical emergencies that might happen. [MPP Section 30-757.172(c)]
- PS16 NOA: You are not eligible for the services of Protective Supervision because your behavior, which puts you at risk of injury, is aggressive or antisocial. Protective Supervision cannot be authorized to prevent or control antisocial or aggressive recipient behavior. [MPP Section 30-757.172(d)]
- PS17 NOA: You are not eligible for the services of Protective Supervision because the potentially dangerous activity you engage in is deliberate, self- destructive behavior where you knowingly and intentionally try to harm yourself. [MPP Section 30-757.172(e)]

MPP Section 30-763.456(d) (Routine Childcare)

- PS18 NOA: You are not eligible for the services of Protective Supervision because the case information shows the type of supervision needed is similar to routine childcare. [MPP Section 30-763.456(d)]

Garrett v. Anderson

- PS19 NOA: You are not eligible for the services of Protective Supervision because you do not need more supervision than a child of your same age without a mental impairment or mental illness. (Garrett v. Anderson)

MPP 30-757.173(a) (The individual does not have a 24/7 need for supervision to remain safely at home.)

PS20 NOA: You are not eligible for the services of Protective Supervision because the case information shows you do not need supervision 24-hours-a-day to remain safely at home. [MPP Section 30-757.173(a)]

PS21 NOA: You are not eligible for the services of Protective Supervision because the case information shows that your need for supervision is infrequent and episodic; therefore, supervision is not needed 24-hours-a-day. [MPP Section 30-757.173(a)]

PS22 NOA: You are not eligible for the services of Protective Supervision because the case information shows your need for supervision is at predictable times; therefore, supervision is not needed 24-hours-a-day. [MPP Section 30- 757.173(a)]

**Extraordinary
Circumstances
Exemption
(Exemption 2)**

Protective Supervision cases may be eligible for the Extraordinary Circumstances Exemption (Exemption 2). The IHSS social worker will inform the parent/legal guardian/conservator or authorized representative of this available exemption, if applicable.

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 under certain extraordinary circumstances.

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

- Have complex medical and/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 where available providers are limited and as a result the recipient is unable to hire another provider.
- Be unable to hire a provider who speaks his/her same language in order to direct his/her own care.

Refer to IHSS [Policy 1042 – Extraordinary Circumstances Exemption](#) for more information.
