

January 2016

Department of Adult and Aging---In Home Supportive Services Division “It’s the New Law – Overtime Compensation for IHSS Providers”

The In-Home Supportive Service (IHSS) program is a Medi-Cal program that enables a person that is age 65 or older, blind or disabled to be able to live safely in their home. IHSS allows an eligible program participant (recipient) to hire a caregiver (chore provider) to assist them with daily care. The types of services which can be authorized through IHSS are housecleaning, meal preparation, laundry, grocery shopping, personal care services (such as bowel and bladder care, bathing, grooming and paramedical services), accompaniment to medical appointments, and protective supervision for the mentally impaired.

On October 6th 2015, the Supreme Court made a ruling that allowed the Federal Department of Labor to remove an exemption established by Congress in the 1970’s. Until this Supreme Court decision, under the Fair Labor Standards Act (FLSA), home care workers, which include California IHSS providers, were exempt from Overtime (OT) pay for work beyond 40 hours a week. Beginning the 1st of February 2016 IHSS providers in California will now receive OT pay, in addition to pay for wait time for medical accompaniment & travel time for those providers who have to travel from one recipient’s home to another.

This document was created to answer some of the questions that both IHSS recipients and chore providers might have. This is not meant to answer all questions, but it will provide a better understanding of some of the new requirements.. As the State of California makes further decisions about implementation, this document will be updated accordingly.

Please continue to check our website for further updates:

www.alamedasocialservices.org/public/services/elders_and_disabled_adults/in_home_Supportive_services.cfm

or Call our Hotline at 510-577-3560 for recorded information

Frequently Asked Questions

Q. Where do recipients and/or providers mail or return their forms?

A. Providers must *complete and return* (by mail or in person) all new forms *as soon as possible*.

Mail forms to: 6955 Foothill Blvd, 3rd Floor, Oakland CA. 94605

Q. When I first enrolled as a provider, I signed the IHSS Program Provider Enrollment Agreement (SOC 846); do I have to sign another one?

A. Yes, although you previously completed a SOC 846, you must **read and sign** the new SOC 846 mailed to you. Your signature confirms that you understand the new workweek and travel time limits. **You must complete and return the SOC 846 (by mail or in person) by April 15, 2016. Failure to return the form by the due date will result in your termination as an IHSS provider effective May 1, 2016.**

Q. Who is eligible to get overtime and how does the overtime work?

A. Providers will be paid overtime when they work more than 40 hours in one week. When you work more than 40 hours in one workweek, your pay will be 1 ½ times your hourly wage for every hour beyond the 40. There are limitations to the number of hours a provider can work in a week (see below).

Q. What are the workweek limitations?

A. There are limitations to the number of hours a provider can work in a week. Beginning February 1, 2016, the recipient's **monthly authorized hours** will be divided by 4 to determine the maximum number of weekly hours that the provider can work. For example, if the recipient is authorized to receive 125 hours of service monthly, then the weekly hours are determined by 125 hours ÷ 4 = 31 hours and 15 minutes. (4 represents the number of weeks in the month.) The maximum number of **weekly hours** serves as a guide to letting the provider know how many hours you can work in a workweek. It is important that both the provider and recipient know the maximum weekly hours.

- If you **work for one recipient** there may be several months where there are more than 4 weeks in the month. The provider and recipient will need to work out a schedule where the service hours are spread throughout the month.
- If you work for just one recipient and **the recipient has other providers** then the recipient must make a work schedule for each provider to determine how many hours each will work. The recipient divides their total authorized hours among their providers as they see fit.

Q. What if I work for more than one recipient and I have more than 40 hours in one workweek?

A. The maximum number of hours that the provider may claim in a workweek is 66 hours total.

Q. I am the recipient. What if I have more than one chore provider or my chore provider works with other recipients?

A. The maximum number of hours that the provider 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 they will be working for you each week. If your provider cannot work all the authorized hours without going over their maximum of 66 combined for all recipients, you will need to hire another provider. The Alameda County Public Authority manages the Provider Registry that can provide you a personalized list of available providers. They can be reached at 510-577-1980.

Q. What is travel time?

A. *If a provider works for more than one recipient at different locations on the same day, and travels directly from one recipient to the next to provide services, he/she will be eligible to be paid for time spent traveling between the two recipients, up to 7 hours per workweek. **In order to be considered for travel time you must complete and return (by mail or in person) the SOC 2255.***

Q. I am the recipient. I need to hire another provider, who do I call or what do I do?

A. *The Alameda County Public Authority manages the Provider Registry that can make you a personalized list of available providers. They can be reached at 510-577-1980.*

Q. I am the recipient. Sometimes I need my provider to work more hours, what do I need to do?

A. *On occasion you may need your provider to work more than your **weekly** maximum **hours**. Please keep in mind that as a recipient you can never authorize your provider to work more than your total authorized monthly hours. 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.*

Q. I am the provider, how can I get my hours adjusted when necessary?

A. Only a recipient or an authorized representative can ask the social worker for approval to adjust their maximum weekly hours at the time adjustment is needed or as soon as possible afterwards. They can make a one-time adjustment request or if they know that you will need an adjustment based on future events such as surgery, they can request adjustment in hours for that pending event.

Q. If I still have questions about forms or overtime requirements, who do I contact?

A: For **Recipients** who have questions, please **call our pre-recorded information line at: 510-577-3560**. For **Providers** who have questions, **call Payroll at: 510-577-1877**.

IHSS will provide training sessions for providers and recipients.

See the attached schedule below. Space is limited.

Seating is first come-first served.