

# Important Information for the In-Home Supportive Services (IHSS) Provider

A recent change to state law affects IHSS recipients and providers. (Welfare and Institutions Code sections 12300.4, 12300.41 and 12301.1).

**The authorization of recipient hours will not change, so your recipient(s) will continue to get the same number of monthly authorized service hours he/she gets now.** Your recipient(s) will continue to work with you to make sure he/she receives all his/her necessary services throughout the entire month.

**WHEN DO THE CHANGES GO INTO EFFECT:** The changes go into effect February 1, 2016.

## **WHAT HAS CHANGED?**

This law says that IHSS providers will be paid overtime within certain limits and will be paid for their travel time between recipients within limits.

### **1. Limit on How Many Hours You Can Work in a Workweek (Maximum Weekly Hours)**

Beginning February 1, 2016, each IHSS recipient's monthly authorized hours will be divided by 4 to determine their maximum weekly hours. The maximum weekly hours amount is a guideline telling you the highest number of hours you can work in a workweek so your recipient can budget his/her service hours in the month to ensure all his/her monthly service hours are received.

**Both you and your recipient will get a notification telling you how many authorized service hours he/she gets each month and each week. However, your recipient may also be able to adjust his/her maximum weekly hours under certain conditions. See the section on ADJUSTING HOURS.**

- If you work for just one recipient, the maximum number of hours that you may claim in a workweek is your recipient's monthly authorized hours divided by 4.
  - o *Example 1: Each month, your recipient receives 100 monthly authorized hours. The maximum weekly hours you can work for your recipient is 25 hours, which is the 100 monthly authorized hours divided by 4.*

However, since most months are slightly longer than 4 weeks, you will need to work with your recipient to spread his/her hours throughout the month in order to make sure he/she has enough hours at the end of the month.

- o *In the month of December, there are 31 days. Your recipient receives 100 monthly authorized hours. The maximum weekly hours are 25 hours (100 monthly authorized hours divided by 4). However, since December is actually 4-and-a-half weeks, your recipient would need to decide how many hours to take away from each of the first four weeks in order to have enough hours left over for the last few days at the end of the month. Your recipient could, for example, set up a work schedule for you to work 22 hours per week for the first four weeks which would leave him/her with 12 authorized service hours left over for the final few days of the month (22 hours multiplied by 4 equals 88 hours; 88 hours plus 12 hours equals 100 hours).*
- If you work for one recipient and that recipient has other providers, your recipient must make a work schedule for you and the other providers to determine how many hours each of you will work. Your recipient may divide his/her total authorized hours among his/her providers as he/she sees fit.
- If you work for more than one recipient, the maximum number of hours that you may claim in a workweek for all of the time you work for your recipients combined is 66 hours. **Each of your recipients must make a work schedule for you to determine how many hours you will be working for each of them so you can make sure you do not work more than 66 hours per workweek.**
  - o *Example 2: You are working for two recipients and each has 100 monthly authorized hours. The maximum weekly hours each recipient has is 25 hours (100 hours divided by 4) and the combined total is 50 hours (25 hours for the first recipient plus 25 hours for the second recipient). You will be able to work for the two recipients because the combined total does not exceed 66 hours in the workweek.*
  - o *Example 3: You are working for two recipients. The first recipient has maximum weekly hours of 25 hours. The second recipient has maximum weekly hours of 50 hours. Between the two recipients, the total maximum weekly hours are 75 hours. However, as a provider who works for more than one recipient, you cannot work more than 66 hours. You will need to inform the recipients that you cannot work 75 hours and then work with one or both of them to create work schedules to make sure you are working no more than 66 hours per workweek. Depending on the work schedule, one or both of the recipients will need to use or hire another provider to work the additional nine hours per workweek.*

## **2. Overtime Pay**

You will get overtime pay rate for hours you work over 40 hours in a workweek. The overtime pay rate is one and a half times the regular pay rate.

For example, if you earn \$10 per hour and you work 45 hours in a workweek, you will get paid \$10 per hour for the first 40 hours ( $40 \times \$10 = \$400$ ), and \$15 ( $1.5 \times \$10 = \$15$ ) per hour for the five hours you work over 40 hours in the workweek ( $5 \times \$15 = \$75$ ), for a total of \$475.

The workweek begins at midnight (12:00 a.m.) on Sunday and ends just before midnight (11:59 p.m.) the following Saturday.

### **3. Travel Time Pay**

Beginning February 1, 2016, if you work for more than one recipient at different locations on the same day, you will be eligible to be paid for traveling between the two recipients, up to 7 hours per workweek.

Travel time payment covers the time it takes to travel directly from the location where you provide services for one recipient to another location where you provide services for a different recipient on the same day. Travel time does not include the time it takes you to travel from your own home to the location where you provide services for a recipient or back home after your work is completed.

You will get paid for travel time regardless of your method of travel (driving a car, taking public transit, walking, riding a bicycle).

You must keep track of your travel time each week so that you can report it on your travel claim form which you will receive from the county IHSS office. **Your time spent traveling between recipient locations does not count toward the maximum weekly hours of 66 hours and is not deducted from any recipient's monthly authorized hours.**

#### **Travel Time Pay Between Counties**

To calculate your wage rate when traveling from a recipient in one county to a recipient in another county, you will have to state which recipient you are traveling to on your travel claim form since the wage rate for that travel will be determined by the county you are traveling to.

#### **Limits on Travel Time**

The maximum amount of time providers will be allowed to claim for travel during a workweek is 7 hours.

- If your travel time is going to be more than 7 hours per workweek, you will have to rearrange your work schedule with your recipients to make sure your claimed travel time is no more than 7 hours per workweek.
- If you submit a travel claim form claiming travel time of more than 7 hours in a workweek, you will get paid for the travel time claimed but you will get a violation.

#### **ADJUSTING HOURS**

A recipient may be able to adjust hours, allowing a provider to work more than the usual maximum weekly hours.

#### **For Providers Working for Only One Recipient (With No Other Providers) – Working More Than Your Recipient's Maximum Weekly Hours**

Your recipient can ask you to work more than his/her maximum weekly hours. In that case, you would have to make sure to balance out those additional hours by working fewer hours in another week of the month in order to avoid going over your recipient's monthly authorized hours.

Your recipient can authorize you to work more than his/her weekly authorized hours without asking the county for approval as long as the authorization does not cause you to work:

- More overtime hours in the month than you would normally work;

*Example: Your recipient's maximum weekly hours are 45 hours per workweek. One week during the month, your recipient needs you to work 55 hours. He/she tells you he/she will adjust your work hours downward by 10 hours the following week, so you will only be working 35 hours during that week.*

*This adjustment would cause you to work 15 hours of overtime in that two week period instead of the 10 hours of overtime you would normally work. Because this adjustment would cause you to work an additional five hours of overtime in the month, your recipient must ask the county for approval for this adjustment in your work schedule.*

- More than 40 hours for your recipient in a workweek if his/her maximum weekly hours are 40 hours or less in a workweek.

*Example: Your recipient's maximum weekly hours are 40 hours per workweek. One week during the month, your recipient needs you to work 42 hours, two hours over his/her maximum weekly hours. Your recipient would need to request county approval for this adjustment.*

### **For Providers Working for More Than One Recipient – Working More Than Your Recipient's Maximum Weekly Hours**

One of your recipients can authorize you to work more than his/her weekly authorized hours without asking the county for approval as long as the authorization does not cause you to work:

- More than 40 hours for your recipient in a workweek if his/her maximum weekly hours are 40 hours or less in a workweek.

*Example: You work 40 hours a workweek for one of your recipients whose maximum weekly hours of 40 hours per workweek. One week during the month, this recipient needs you to work 42 hours, two hours over his/her maximum weekly hours. Your recipient would need to request county approval for this adjustment.*

- More overtime hours in the month than you would normally work;

*Example: Your recipient's maximum weekly hours are 45 hours per workweek. One week during the month, your recipient needs you to work 55 hours. He/she tells you he/she will adjust your work hours downward by 10 hours the following week, so you will only be working 35 hours during that week.*

*This adjustment would cause you to work 15 hours of overtime in that two week period instead of the 10 hours of overtime you would normally work. Because this adjustment would create an additional five hours of overtime in the month, your recipient must ask the county for approval for this adjustment in his/her hours.*

- More than 66 hours per workweek.

*Example: You work for two recipients, Recipient A who has maximum weekly hours of 36 hours per workweek and Recipient B who has maximum weekly hours of 30 hours per week. One week during the month, Recipient A needs you to work 37 hours in the workweek. Since doing so would cause you to work 67 hours for that workweek, one more than your maximum weekly hours of 66 hours, you cannot work the extra hour.*

If you work the maximum weekly hours of 66 hours per workweek combined and one of your recipients asks for you to work additional hours for him/her, you can only do so if you can reduce the hours you work for one of your other recipients. Otherwise, you will have to tell the recipient that he/she will have to get another IHSS provider to work the additional hours.

### **Submitting Your Timesheet**

When the new workweek and travel time rules go into effect on **February 1, 2016**, you will report all of the service hours you work for your recipient on your timesheet like you do now.

You must submit your timesheet (signed by both you and your recipient) within two weeks after the end of each pay period.

- If you submit your timesheet on time, your payment for the hours you worked will be issued within 10 days of the day it is received at the timesheet processing facility.
- If you do not submit your timesheet on time, it may take up to 30 days from the day your timesheet is received at the timesheet processing facility for you to get paid for the recipient service hours you worked.

### **Direct Deposit**

**If you would like assistance with getting your wage payments quicker, please call 1 866 376 7066 to get information about Direct Deposit.**

### **Submitting Your Travel Claim Form**

If you are traveling between locations where you provide services for different recipients on the same day, you will report your travel time on your travel claim form. The travel claim form will include instructions on how to complete it and where to submit the form for processing.

### **IHSS Provider Enrollment Agreement (SOC 846)**

Although you signed the SOC 846 when you first became an IHSS provider, you must read and sign the attached SOC 846 form to show that you understand the new workweek and travel time limits explained in this notice. **You must return the signed SOC 846 form to the county by April 15, 2016. If you do not return the signed SOC 846 by April 15, 2016, you will be terminated as an IHSS provider as of May 1, 2016.**

The county will send you a photocopy of your signed SOC 846 form for your records.

### **Violations for Going Over Workweek & Travel Time Limits**

**Beginning May 1, 2016**, if you submit a timesheet reporting hours that go over the workweek or travel time limits, you will get a violation with a notification of how to appeal. Each time you do any of the following, you will get a violation:

- You work more than 40 hours in a workweek for a recipient without your recipient getting approval from the county when that recipient is authorized less than 40 hours in a workweek;
- You work more hours for your recipient than he/she is authorized for in a workweek, and this causes you to work more overtime hours in the month than you normally would;
- You work for more than one recipient and you work more than 66 hours in a workweek; or
- Your claimed travel time is more than seven hours in a workweek.

For each violation you receive, there will be a consequence:

First Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the violation with appeal rights information.</li> </ul>
Second Violation	<ul style="list-style-type: none"> <li>• Your recipients) and you will get a notice of the violation, and you will have a choice to complete a one-time training about the workweek and travel time limits. If you choose to complete the training, you will avoid a second violation</li> <li>• If you choose <u>not to complete the training</u> within 14 calendar days of the date of the notice, you will be sent a <u>notice of your second violation</u> with the appeal rights information.</li> </ul>
Third Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the third violation with appeal rights information.</li> <li>• You will be <u>suspended</u> as an IHSS provider with the IHSS program for <u>three months</u>.</li> </ul>
Fourth Violation	<ul style="list-style-type: none"> <li>• Your recipient(s) and you will get a notice of the fourth violation with appeal rights information.</li> <li>• You will be <u>terminated</u> as an IHSS provider with the IHSS program for <u>one year</u>.</li> </ul>

If more than one violation occurs during a single month, regardless of how many occur on individual weeks in the month, it will only count as one violation.

Whenever you receive a violation of any type, you have ten calendar days from the date of the violation notice to contact the county and request a county review of the violation. Once the county receives the request for review, it has ten calendar days to review the violation and to send you a notice stating the outcome of the review.

For the third and fourth violations, if the county does not remove the violation, you may request a review of the violation by the California Department of Social Services Adult Programs Division's Appeals Unit. The county notice will explain how you may request the state review.

Once you have received a violation, the violation will remain on your record. However, after one year, if you do not receive another violation, the number of violations you have received will be reduced by one. As long as you do not receive any additional violations, each year after the last violation, your number of violations will be reduced by one.

If you receive a fourth violation and are terminated as a provider for one year, when the year is up and you apply again to be an IHSS provider, your violations count will be reset to zero.

If you get terminated because you received a fourth violation, when the one-year termination ends, you will have to complete all of the provider enrollment requirements again before you can work as an IHSS provider, including the criminal background check, provider orientation, and all required forms.

**If you do not understand the information in this notice or if you have any questions about it, call the county IHSS Office or the county IHSS Public Authority.**