

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



**T**his notice is regarding a **recent change in state law that affects IHSS recipients and providers.** (Welfare and Institutions Code sections 12300.4, 12300.41 and 12301.1) The new law says that IHSS **providers will be paid overtime** within certain limits, and **will be paid for their travel time** between recipients, within limits.

You must return the signed IHSS Program Overtime and Workweek Requirements Recipient Declaration (TEMP 3000) to the county **no later than December 15, 2014.** If you do not return the signed Declaration to

the county by this date, the county will contact you to ask for it. The county will send you a copy of the signed Declaration for your records so you can refer back to it as needed.

## When the Changes Go Into Effect

**The changes go into effect January 1, 2015.** At that time, you will have a **new timesheet** (please see attached sample). Training on how to complete the new timesheet will be available prior to January 1, 2015, and ongoing. The workweek and travel time limits will not be enforced for the first three months after the changes go into effect. This means that your provider will not receive a violation for claiming more hours than the workweek limit and/or more than the weekly travel time limit until after **March 31, 2015.**

**After April 1, 2015,** if your provider submits a timesheet reporting hours over the workweek and travel time limits, he/she will get a violation.

**This notice gives you information about the workweek and travel time limits and the violations for exceeding the limits.**

## Weekly Authorized Number of Hours

You will continue to get the same number of monthly authorized service hours you get now.

Your current total authorized monthly hours will be divided by 4.33, which is the average number of weeks in a month, to determine your weekly authorized number of hours.

<p>For example, if you get 144 monthly authorized service hours, your weekly authorized number of hours will be <b>33.26</b></p>	$4.33 \text{ weeks/month} \left  \frac{144 \text{ hours/month}}{4.33} \right. = \mathbf{33.26 \text{ hours/week}^*}$ <p>* or <b>33 hours and 16 minutes per week</b></p>
<p>Under state law, the maximum total number of weekly authorized hours in the IHSS program is 283 hours per month, which, divided by 4.33 weeks, equals 66 hours per week.</p>	$4.33 \text{ weeks/month} \left  \frac{283 \text{ hours/month}}{4.33} \right. = \mathbf{66 \text{ hours/week}}$
<p>Because of the current 7% reduction, for those recipients who receive the maximum number of hours, their hours will be 66 minus 7% = 61 hours.</p>	$\begin{array}{r} 66 \text{ hours/week} \\ - 5 \text{ hours (7\% reduction)} \\ \hline \mathbf{61 \text{ hours/week}} \end{array}$

There may be some IHSS recipients who, because of a documented unmet need, may receive authorized weekly hours up to 66 authorized hours a week.

- A documented unmet need means that during the assessment it was noted that a recipient's need for IHSS service hours was more than the 283 hours allowed under state law.

IHSS recipients who do not have a documented unmet need can get up to 61 weekly authorized hours.

Both you and your provider(s) will get a notice telling you, your weekly authorized hours of service.

# What Has Changed?

## Limit on the Provider Workweek

**The maximum number of hours your IHSS provider will be allowed to work in a workweek will be between 61 and 66, based upon the authorized weekly hours available to his/her recipient(s).**

The exact number of hours your provider will be allowed to work will depend on:

1. How many hours of authorized services you get each week.
2. Whether you have multiple providers.
3. Whether your provider also works for other recipients.

Generally, your provider will be able to work up to your weekly authorized number of hours.

If your provider works for other recipients in addition to you, he/she may not be able to work all of your weekly authorized hours. Your provider must tell you how many hours he/she is available to work for you each workweek. If your provider cannot work all the hours you need, you may need to have your back-up provider provide needed services or you may have to hire another provider(s).

If you need help finding and hiring another provider(s), you can call the county IHSS office or the county IHSS Public Authority.

If your provider submits a timesheet(s) reporting that he/she worked more hours than the workweek limit or traveled more than the travel time limit, he/she will get a violation.

***More information on the Provider Violations for Going Over Workweek & Travel Time Limits section is on page 8.***

## Overtime Pay

Your IHSS provider will get paid the overtime pay rate when you work more than 40 hours in a workweek.

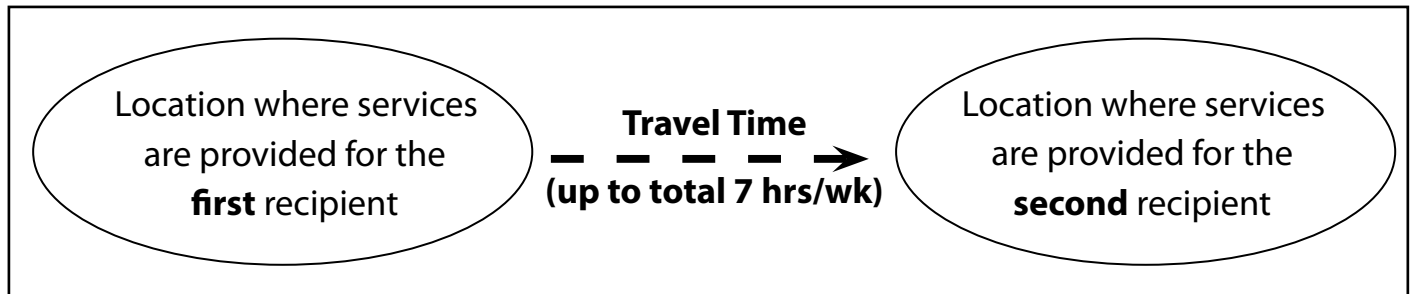
The workweek begins at midnight (12:00 a.m.) on Sunday and ends just before midnight (11:59 p.m.) the following Saturday.

The overtime pay rate is one and a half times the regular pay rate.

## Travel Time Pay

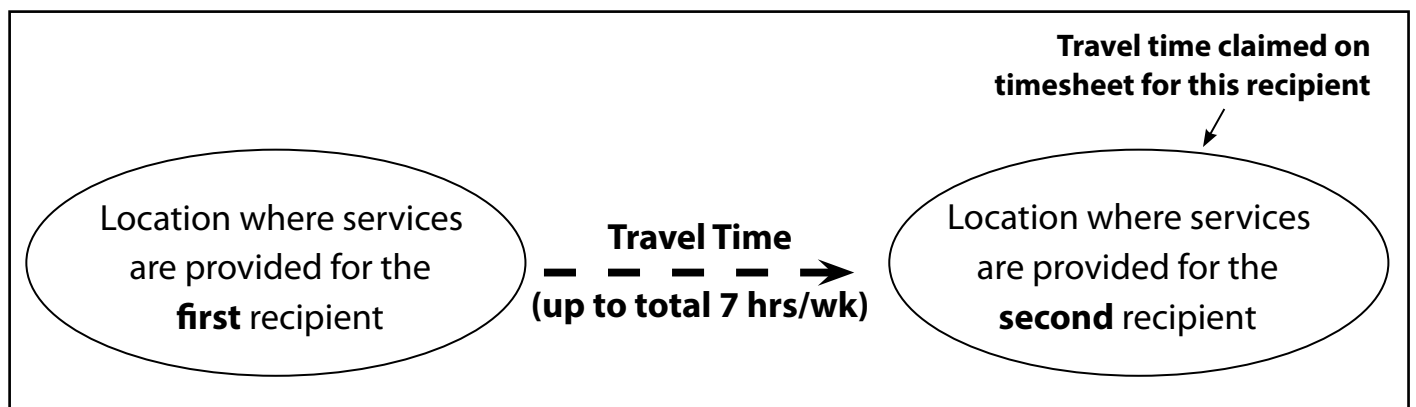
**Beginning January 1, 2015, IHSS providers who must sign a travel agreement which says they cannot travel more than 7 hours per week.**

They will get paid for the time it takes to travel directly from the location where services are provided for the first recipient to the location where services are provided for the second recipient, up to a total of 7 hours per week.



New timesheets will have a space to enter travel time. Your provider will include their travel time on the timesheet of the recipient they are travelling to.

- If your provider travels from another recipient's location to your location where you need services, the timesheet related to you will include travel.



A provider's time spent travelling is not counted towards the 61-66 hour workweek limitation and is not deducted from a recipient's monthly hours.

# Adjusting Hours

## Authorizing Your Provider to Work More Hours

Sometimes you may need your provider to work more than your authorized weekly hours. You may have to ask your county for approval to adjust your weekly authorized hours if changing your weekly hours causes your provider to work overtime.



See ***How to Ask the County for Approval to Adjust Authorized Weekly Hours When Necessary*** section of this notice below.

The recipient can authorize the provider to work more than your weekly hours without asking the county for approval as long as the authorization does not cause your provider to work:

- More than 40 hours for him/her in a workweek; and
- More than his/her total authorized monthly service hours

If your provider does not normally work more than 40 hours in a workweek, and you need him/her to work more than 40 hours in a workweek, you need to ask the county for approval to adjust authorized weekly hours.

Below are a few examples to show when a recipient does or does not need to ask the county for approval to authorize his/her provider to work more than the recipient's authorized weekly hours:

### Example 1

*Provider works for a recipient who gets 22 authorized weekly hours (95.3 monthly hours). One week the recipient needs the provider to work 26 hours, four more than his/her authorized weekly hours.*

*The recipient can authorize the provider to work the additional hours without asking the county for approval because working the additional hours does not cause the provider to work more than 40 hours in a workweek.*

## Example 2

*Provider works for a recipient, who gets 40 authorized weekly hours (173.2 monthly hours). One week the recipient needs the provider to work 42 hours, two more than his/her authorized weekly hours.*

*The recipient needs to ask the county for approval to have the provider work the additional hours because working the additional hours causes the provider to work more than 40 hours in a workweek. The recipient can ask the county for approval either before the provider works the additional hours or after he/she works them.*

## Example 3

*Provider works for a recipient who gets 47 authorized weekly hours (203.5 monthly hours). One week the recipient needs the provider to work 50 hours, three more than his/her authorized weekly hours. The provider will work three hours less another week in the same month.*

*The recipient does not need to ask the county for approval to have the provider work the additional hours because working the additional hours in one week does not cause the provider to work more than the amount of authorized overtime for the month.*

**Important: Whenever you authorize your provider to work extra hours in one week, you must have the provider work fewer hours the other week(s) of the month so that the provider does not work more than your total monthly service hours.**

### **Keep in mind that:**

You can never authorize your provider to work more than 61-66 hours during a workweek or more than your total authorized monthly service hours.

If your provider works for you and another recipient(s), the hours the provider works for you and the hours the provider works for the other recipient(s) cannot add up to more than 61-66 hours each workweek.

- This means that if you need your provider to work more hours in a workweek, he/she may not be able to work more because it would cause him/her to go over the 61-66 hour workweek limit.
- If you need your provider to work more hours in a workweek and he/she is not able to work more, you will need to have your back-up provider work the additional hours, or you may need to hire another provider(s).

If you need assistance hiring a regular or back-up provider, you can call the county IHSS office or the county IHSS Public Authority.

## For Recipients with “61 to 66 Weekly Authorized Hours and One Provider” – Authorizing Your Provider to Work More Hours

If you are an IHSS recipient who gets 61 to 66 weekly authorized service hours and you need your provider to work more than your weekly authorized hours of 61 or 66 hours, you can allow him/her to do so as long as:

- You do not have any other providers working for you.
- Your provider does not work for any other recipients.
- Your provider adjusts his/her weekly work schedule by working fewer hours for you the other week(s) to make sure he/she does not work more than your total authorized monthly service hours.

## How to Ask the County for Approval to Adjust Authorized Weekly Hours When Necessary

**You can ask the county for approval to adjust your authorized weekly hours either before or after you allow your provider to work more hours.**

To ask the county for approval for this adjustment you can call the county and request an adjustment.

If you have a monthly recurring need that requires a change in your weekly hours, you may request an adjustment from the county.

The county will review your request to determine if all of the following conditions exist that support your request for an adjustment:

- Does (did) your provider need to work more hours because you have (had) an unanticipated need?
- Is (was) your need immediate or can it be (could it have been) delayed until a back-up provider arrives (arrived)?
- Does (did) the request have a direct and significant impact on your health and/or safety?

If the adjustment request meets all of these conditions, the county will approve it. Otherwise, the county will deny the request.

Within 10 days of the call requesting an adjustment, the county will mail a notice to you and your provider that tells you whether your request for an adjustment was approved or denied. If the request is denied, the notice will tell you why the county denied it and you may contact the county for a review of the denial.

## **Overtime and Workweek Requirements Recipient Declaration** **(TEMP 3000)**

You must sign the attached IHSS Program Overtime and Workweek Requirements Recipient Declaration (TEMP 3000) to show that you understand and agree to the new workweek limits explained in this notice.

You must return the signed Declaration (TEMP 3000) to the county **no later than December 15, 2014**.

If you do not return the signed Declaration (TEMP 3000) to the county by this date, the county will contact you to ask for it.

The county will send you a copy of the signed Declaration (TEMP 3000) for your records so you can refer back to it as needed.

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

**Beginning on April 1, 2015, if your provider submits a timesheet reporting hours that go over the workweek or travel time limits, you and the provider will receive a notice of the provider's violation.**

Violations occur when your provider:

- Works more than your authorized weekly hours if your authorized weekly hours are less than 40 hours and you do not request or receive approval for an adjustment to those hours from the county, if required.
- Works more than a total of 61-66 hours in a workweek for you and/or any other recipient.
- Works more than the 7-hour limit on travel time.



For each violation your provider receives there will be a consequence:

<b>First Violation</b>	<ul style="list-style-type: none"> <li>• The provider will get a violation notice.</li> <li>• The recipient(s) will also be notified of the first violation.</li> </ul>
<b>Second Violation</b>	<ul style="list-style-type: none"> <li>• The provider will be sent another notice of the second violation, and the provider will have to complete special training about the workweek and travel time limits.</li> <li>• If the provider does not complete the training within 14 calendar days of receiving the second notice of violation, <b>the provider will automatically be sent a notice of their third violation.</b></li> <li>• The recipient(s) will also be notified of the second violation.</li> </ul>
<b>Third Violation</b>	<ul style="list-style-type: none"> <li>• The provider will be sent a notice of the violation, telling him/her that he/she will be suspended as an IHSS provider for 3 months.</li> <li>• The recipient(s) will also be notified of the suspension.</li> </ul>
<b>Fourth Violation (upon being reinstated after the three - month suspension)</b>	<ul style="list-style-type: none"> <li>• The provider will be sent a notice of the violation telling him/her that he/she will be terminated as an IHSS provider for one year.</li> <li>• The recipient(s) will also be notified of the termination.</li> </ul>

Once your provider has received a violation, the violation will remain on his/her record.

However, after one year, if your provider does not receive another violation, the number of violations he/she have received will be reduced by one.

- As long as the provider does not receive any additional violations, each year after the last violation, his/her number of violations will be reduced by one.
- If your provider receives a fourth violation and is terminated as a provider for one year, when the year is up and he/she applies again to be an IHSS provider, his/her violations count will be reset to zero.

If your provider gets terminated because he/she receive multiple violations, when the one-year termination ends, he/she will have to complete all of the provider enrollment requirements again before he/she can be reinstated, 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.**

**This page will only be sent to recipients that CMIPS II identifies as having or needing more than one provider.**

### **IHSS Recipient/Provider Workweek Agreement (SOC 2256)**

If you get authorized services from more than one provider, you and each of your providers must complete and sign the SOC 2256 form that will show the schedule of authorized hours each of your providers will work for you each week based on your agreement with each provider. **You and each of your providers must sign the same SOC 2256 form, and you must return it to the county by December 15, 2014. If you do not return the signed SOC 2256 form to the county by December 15, 2014, you will not be authorized to receive IHSS until the county has informed you that they have received the form.**

The county will send you and each of your providers a copy of the completed and signed SOC 2256 form for your records.