

HUMAN SERVICES ADMINISTRATION



COUNTY OF SAN BERNARDINO

Linda Haugan
Assistant County Administrator

Reply to:
Human Services Administration
385 N. Arrowhead Avenue, 5th Floor
San Bernardino, CA 92415-0128
(909) 387-4717
(909) 387-5430 (Fax)

October 22, 2009

Eva Lopez, Deputy Director
Adult Programs Division
California Department of Social Services
744 P Street, MS 8-17-12
Sacramento, CA 95814-05512

Dear Ms. Lopez:

This letter expresses serious concerns raised by directives provided in All County Letter (ACL) 09-52, dated 10/1/09, which outlines new In-Home Supportive Services (IHSS) provider requirements mandated by legislation, to be implemented by counties effective November 1, 2009. These concerns are in regards to the short implementation timeframe established by the California Department of Social Services (CDSS), the lack of comprehensive information and instructions provided, and subsequent negative impacts to IHSS customers and their designated providers.

One of the major concerns is the requirement for providers to submit fingerprints and undergo criminal background checks. Due to the November 1 implementation date, there are no providers currently in compliance with the new mandates, and any new providers and current providers taking on new customers will need to be processed under the new guidelines. This will create a lag time in providing IHSS recipients with caregivers when needed, and could result in severely impaired recipients going without needed services.

The ACL states that felonies and serious misdemeanors are disqualifying factors for providers, but fails to define exactly what these felonies or serious misdemeanors are, and provides that "A subsequent ACL will provide more specific information about the misdemeanor crimes and licensure conditions that would make an individual ineligible to be an IHSS provider." Counties cannot implement new requirements without specific information about, and understanding of, what the requirements involve.

The lack of specific information about felonies and misdemeanors also makes counties unable to determine whether current background checks used by the Public Authority (PA) meet the new mandate, and whether the Criminal Offender Record Information (CORI) Reports provided by the Department of Justice (DOJ) can be used as a basis for determining the eligibility of providers under the new requirements. It is unclear whether the new disqualification conditions are included in the CORI Reports; if they are not included, there is no information as to when the adjustments/updates will be made and, if adjustments must be made in the future, counties need to know who will bear the expense of re-running background checks under the modified method.

Liability is also in question. If counties approve providers using current CORI Report information and adjustments are made later, who is responsible for recipients with providers who are subsequently

Mark Uffer
County Administrative Officer

Board of Supervisors
BRAD MITZELFELTFirst District
PAUL BIANE.....Second District
JOSIE GONZALES.....Fifth District
NEIL DERRY.....Third District
GARY C. OVITT.....Fourth District

disqualified? What if a county allows a provider to be used based on a background report that does not include the new requirement information and the recipient suffers harm?

The Provider Appeal Process ACL is still in draft; hence, the County does not have full direction on how to proceed if a provider contests a determination of ineligibility for enrollment due to the results of the new criminal background check requirement.

CDSS has not made the changes compliant with civil rights laws by making forms and orientation video available in translated languages for appropriate population groups. Informing notices were sent to recipients and providers in English only, with no other language available, and Provider Orientation materials have been provided in English only. 12% of the providers in San Bernardino County are Spanish speaking, and we have not been supplied with the tools to provide information to them in that language.

Additionally, the informing notices were sent prior to the County being notified. County staff was unprepared to manage the massive demand for answers to questions regarding changes/effects to services from the affected, worried population. Our lobbies are flooded, telephones ring continuously, and staff have insufficient information to provide answers; this has created a major disruption in the ability to provide service and perform necessary work.

There is also a logistics issue with the orientation information provided by CDSS. Information was issued on a Compact Disc (CD), which must be played on a computer with a projection screen and speakers. San Bernardino County has six orientation sites and only one is equipped for this, meaning the County will have an additional cost for equipment purchase and time will be needed to obtain equipment and set up appropriate sites.

Another concern is the requirement that the newly-created Provider Enrollment Agreement form (SOC 846) be completed, signed and processed to complete the enrollment process and allow a provider to receive payment, however, the form has not yet been made available to counties.

CDSS has placed the County in an untenable position by requiring changes be made and providing incomplete and inadequate directions for implementation. It is impossible for the County to provide responsible and thorough customer service to a critically important segment of our population under these circumstances.

The County is in urgent need of clarifications and answers regarding the unresolved issues stated in this letter in order to move forward with implementation.

In view of the potential harm to IHSS customers, the November 1, 2009 implementation date for the new provider requirements is unrealistic and unattainable. Counties cannot be expected to implement this magnitude of change without adequate time to plan and address the needs of our vulnerable customers.

I strongly urge CDSS to extend the implementation date and allow for flexibility in the new Provider Enrollment Process.

Sincerely,



Linda Haugan
Assistant County Administrator
San Bernardino Human Services

Cc: John Wagner
Randy Shiroy
CWDA