

**IN HOME SUPPORTIVE SERVICES:
ANALYSIS OF THE IMPACTS OF THE 2004
QUALITY ASSURANCE INITIATIVE**

**PREPARED BY THE SENATE OFFICE OF
OVERSIGHT AND OUTCOMES**

MARCH 2009

TABLE OF CONTENTS

IHSS Primer	1
Background and History	
IHSS Care vs. Nursing Homes	
Unique Characteristics	
Funding and Organization	
Quality Assurance Legislation of 2004 –SB 1104	
IHSS by the Numbers	
SB 1104: Quality Assurance in IHSS	7
Hourly Task Guidelines	
Training	
Verification of Receipt of Services	
Tightening Up IHSS Timecards	
Consumer Redirection of Authorized Tasks	
SB 1104: Assuring IHSS Program Integrity	25
Detecting Fraud	
Mandatory Error-Rate Studies	
IHSS and Data Matches	
Alternative Models	35
The “Cash and Counseling” Model	
The “Agency” Model	

IHSS Primer

Background and History

California's In-Home Supportive Services (IHSS) is the largest personal care system in the nation. Now a \$5.4 billion program with 444,000 recipients, IHSS has modest roots that go back 50 years, when the state gave cash grants to eligible blind, disabled and elderly Californians for hiring their own caregivers. Twenty years later, a "homemaker" program was added to the mix, with counties employing and dispatching helpers to perform domestic chores for recipients.

The precursor of today's IHSS was born in 1973, when the Legislature acted to combine the cash grant and homemaker programs. This hybrid identified the elderly or disabled recipient as the employer, while the state eventually handled payroll – two elements that still define the program. Then as now, the overarching goal was to help people remain safely in their own homes and avoid more expensive and less desirable institutional care.

Under legislation passed in 1999, county "public authorities" were designated as the IHSS "employers of record" for collective bargaining purposes. Before that, all service providers statewide were paid minimum wage. Today, hourly pay varies, ranging from \$8 in a dozen rural counties to \$14.68 in Santa Clara. The state pays up to \$12.10 an hour, including 60 cents for benefits. Counties must pick up the difference if they negotiate a higher wage.

To qualify for IHSS, recipients must be disabled, blind, or elderly (65 or older). Their total assets must be less than \$2,000, excluding their house and car. Based on income, some recipients pay a share of their providers' salaries -- but most do not. IHSS, in practice, has been treated as an entitlement program -- meaning anyone who meets the criteria is served.

Participation in IHSS has doubled in the past decade and continues to grow more quickly than other California public assistance programs. The Legislative Analyst's Office, which analyzed caseload growth and provider wage increases, projects annual increases of 7.9 percent in IHSS program costs through 2014.

IHSS Care vs. Nursing Homes

Allowing people to avoid institutionalization and remain safely in their own homes is a humane goal. This policy also has fiscal implications.

On average the state spends \$60,000 a year for each Medi-Cal nursing home resident, compared to an average of \$10,000 a year for each IHSS client. (This is not a direct dollar-for-dollar comparison, since IHSS clients typically receive other government aid that nursing home patients would not need.) The actual amount that IHSS saves taxpayers by reducing nursing home costs is not known, but there is another relevant measurement. At a time when the elderly population is growing, the utilization of nursing home beds in California has remained relatively flat.

Unique Characteristics

- ✓ IHSS is based on a social worker's assessment, rather than a doctor's evaluation. Social workers are supposed to return every 12 to 18 months to reassess a recipient's needs.
- ✓ The social worker focuses on the needs of daily living, with an eye to helping the recipient remain safely at home.
- ✓ To meet these domestic needs, 376,000 workers across California provide non-medical, in-home help with such tasks as shopping, cleaning, bathing, dressing and getting to doctor's appointments.
- ✓ IHSS is *consumer-driven*, i.e., the consumer hires, fires and directs service providers.

Funding and Organization

IHSS is funded by a combination of federal, state and county dollars. Currently, the federal share is about 50 percent (\$2.7 billion), while the state's share is 32 percent (\$1.8 billion annually), and the counties pay 18 percent (nearly \$1 billion).

The program involves six major players:

1. **The federal government**, which provides funding and imposes mandates.
2. **The California Department of Social Services**, which helps to fund, regulate and operate the program.
3. **The California Department of Health Care Services**, which interacts with the federal government through Medi-Cal and conducts fraud investigations.
4. **The counties**, which pay some costs and manage the program at the local level, usually through a combination of county human service employees and public authorities (see below).
5. **Independent service providers**, the workers who provide care and receive hourly income.

6. **IHSS consumers**, who receive services under the program and serve as the *actual employers* of their caregivers for some purposes.

There is no single employer in the IHSS program. The recipient is responsible for hiring a worker and day-to-day management of that worker, while the public authority bargains wages and the state handles payroll, workers' compensation and benefits.

Today, all but two counties use the public authority model. These authorities bargain with the workers' unions to set wages and compile a list of potential workers for IHSS recipients who need to hire a caretaker. When asked by a consumer, these authorities also check the criminal background of potential workers; however, not many IHSS participants use the public authorities for either referrals or background checks. A growing majority of consumers hire their own family members as service providers. The share of IHSS recipients with relative providers has grown from 43 percent in 2000 to 62 percent today, according to the Department of Social Services.

Quality Assurance Legislation of 2004 – SB 1104

By 2004, the number of people enrolled in IHSS was escalating. The average number of hours of care they got was also on the rise.

Officials within the administration pointed to the significant differences in how counties administered the program and estimated that 10 percent of all paid services may not be needed or have not been provided. The questions social workers asked in the assessment process and the hours they authorized varied across counties. In many places, a video was all social workers received as training on how to assess a consumer's needs.

Together, state and county IHSS administrators drafted trailer-bill language to make sure that people with similar impairments would get the equivalent care whether they lived in Shasta or San Bernardino County. The legislation led to detailed "hourly task guidelines" and extensive training for social workers, who act as IHSS gatekeepers.

In 2004, as part of a budget trailer bill, SB 1104, the Legislature adopted this language with the aim of assuring quality, cost controls and program integrity. The language became part of the IHSS provisions of the Welfare and Institutions Code (sections 12300, *et seq.*). It was a legislative acknowledgment that IHSS lacked certain internal controls needed for a massive human services program, said Frank Mecca, executive director of the County Welfare Directors Association, which supported the legislation. In addition to quality and integrity controls, the administration expected the new law to save the state

\$246 million a year in general fund dollars. Five years later, the anticipated savings have not materialized.

SB 1104 imposed a number of mandatory duties upon the Department of Social Services and the counties, some of which include:

- ✓ Each county was required to create a “quality assurance” unit within its IHSS program to “ensure quality assurance and program integrity, including fraud detection and prevention.”
- ✓ The department was required to create statewide hourly task guidelines to give counties a standard tool for authorizing hours of service.
- ✓ The department and counties were required to teach social workers, on an ongoing basis, how to use the hourly task guidelines for determining how much time a recipient gets for bathing, shopping, food preparation, etc.
- ✓ The department (in consultation with the Department of Health Care Services) was required to perform an annual error rate study to estimate the extent of payment and service authorization errors and fraud in the provision of supportive services. The error rate studies, which were to involve payroll records, were to be used to “prioritize and direct state and county fraud detection and quality improvement efforts.” Also, the state was required to check the IHSS program rolls against Medi-Cal claim payment and death records and inform the public about a fraud hotline. Counties were required to refer all cases of alleged fraud to state investigators.
- ✓ The department was required to “develop methods for verifying the receipt of supportive services” by consumers.
- ✓ SB1104 carefully defined and distinguished the terms *fraud* and *overpayment*. The term fraud, as used in the statute, was limited to traditional prosecutable acts of intentional misrepresentation. On the other hand, the term overpayment was defined broadly to include all instances, fraudulent or not, in which providers are paid in excess of the amount for authorized services. SB 1104 concerned itself with both fraud *and* overpayment.

In-Home Supportive Services Program By the Numbers

Number of people served by IHSS in 1999: 230,000
Number of people served by IHSS program today: 444,000
Forecasted IHSS caseload for 2013-14: 600,000

Average annual increase in IHSS costs in last 10 years: 13%
Average annual increase in number of recipients in last 10 years: 7.4%

Number of California nursing home beds in 2001: 105,504
Number of California nursing home beds in 2006: 113,527

Occupancy rate of California nursing homes in 2001: 84.9%
Occupancy rate of California nursing homes in 2006: 85.6%

Increase in California nursing home beds from 2001 to 2006: 7.6%
Increase in nursing home beds nationwide in same period: 5.8%

Amount IHSS saves taxpayers in avoided nursing home costs: Not measured

Maximum state share of hourly IHSS wages in 2004: \$10.10
Maximum state share of hourly IHSS wages today: \$12.10

Growth in number of Californians 65 or older between 2000 and 2007: 11%
Growth of California population 85 or older between 2000 and 2007: 37%
Growth in IHSS cases in same period: 66%

Number of state investigators dedicated to IHSS fraud in January: 2
State backlog of IHSS fraud allegation cases at that time: Roughly 1,000

Total IHSS program costs in 2008: \$5.42 billion
(costs shared 50% federal, 32% state, 18% county)

Portion of IHSS recipients in 2000 whose provider was a relative: 43%
Portion of IHSS recipients in 2008 whose provider was a relative: 62%

Portion of IHSS providers who are spouse, child or parent of recipient: 45%
Portion of IHSS providers who live with recipient: 48%

Portion of IHSS recipients who were aged (65 and over) in 2000: 47%
Portion of IHSS recipients aged today: 42%

Portion of IHSS recipients who were disabled (under 65) in 2000: 50%
Portion of IHSS recipients who are disabled today: 55%

Sources of information:

- California Association of Public Authorities
- California Department of Finance
- California Department of Health Care Services
- California Department of Social Services
- California State Association of Counties
- California Welfare and Institutions Code Sections 12305.7-12305.72
- County Welfare Directors Association
- “Inside California’s Nursing Homes,” February 2009, by Michelle Baass, Senate Office of Research
- Karen Keeslar, Keeslar & Associates
- Legislative Analyst’s Office
- SB 1104 (2004) by the Senate Committee on Budget and Fiscal Review
- U.S. Census Bureau

SB 1104: Quality Assurance in IHSS

Hourly Task Guidelines

In 2004, new statutes adopted as a result of SB 1104 set in motion a statewide effort to standardize the way that IHSS hours are authorized by social workers. The result was the hourly task guidelines, which were devised over a two-year period with input from a wide array of IHSS administrators and stakeholders. The counties started applying the task guidelines in September 2006.

Although there is controversy over whether the state has ensured that the guidelines have been adhered to by consumers and providers, there seems to be a consensus among stakeholders that the task guidelines themselves have been positively received. (For issues pertaining to adherence to the task guidelines, see the sections on *Verification of Receipt of Services* and *Consumer Redirection of Authorized Tasks*.)

The guidelines allot hours and fractions of hours for the completion of specific tasks, ranging from the domestic (meal preparation) to the personal (shaving, bathing, rubbing skin). Social workers use the guidelines when authorizing total hours to IHSS recipients. The social worker can still use individual judgment about the appropriate authorization – but must justify in writing if the hours vary from the guidelines.

The statutory basis for the guidelines is found in Welfare & Institutions Code section 12301.2. The goal, according to the statute, is “to provide counties with a standard tool for consistently and accurately assessing service needs and authorizing service hours to meet those needs.”

For the administration, there was another goal, as well. The administration hoped to achieve savings by standardizing assessments across the counties. The belief was that county social workers were sometimes too generous in allotting hours and that a statewide standard would reduce overall hours of service. The governor’s 2004-05 budget speculated that up to 25 percent of IHSS hours “may be over-assessed.” In a Spring 2004 budget change proposal, the Department of Finance estimated that IHSS was paying for as many as 2.7 million hours of “unnecessary services” per month, at a total annual cost of \$246 million.

These dual goals – standardization and savings – have produced distinct outcomes.

Frank Mecca, executive director of the County Welfare Directors Association, said that the various stakeholders approached the creation of the hourly task guidelines from their own perspectives.

“Lots of people had different notions about what they wanted to achieve,” Mecca said. “Actually, we never believed the administration’s estimate of cost savings from the new guidelines. We sought the changes separate and apart from the need to save money – our goal was to reinforce these processes so they are rational and defensible. To do that, you take away some of the subjectivity of the process. From the standpoint of consistency, my folks think they have achieved the results they were looking for. The gripe I hear is that it’s a lot of work, and it’s more work than it used to be. This goes back to the question of whether we have enough time to actually use them.”

On standardization, counties report that they have integrated the new guidelines into their IHSS programs. More than 14,000 people have been trained to use them.

In field interviews, several social workers spoke positively about the impact the guidelines have had on their own work with clients.

A Sacramento County social worker said he found the hourly task guidelines – and the state training on how to use them – helpful. “They taught me to be fair and firm in my assessments,” said Daniel Feygin. “They make it easier for me to be consistent.”

Feygin, who works with Sacramento’s Russian community, gave an example: “One thing we ask is how often they bathe. ‘Every day!’ comes the answer. And then I ask how long they spend in the bath. ‘Two hours!’ is the answer. And I smile and say: ‘Maybe you enjoy the bath for two hours, but I can only pay your caregiver for 30 minutes.’”

In Los Angeles County, social worker Shannon Gannons systematically works her way through the authorized tasks as she assesses a new client.

“I use the hourly task guidelines when I’m writing up the case,” said Gannons, who handles intake of IHSS applicants. “It can be hard to turn people down when they want more hours, but we tell them: It’s time-for-task. We stick to the guidelines.”

Assessing a new recipient in Whittier, Gannons was friendly and efficient. “We only authorize the time for the task to perform services you can’t do for yourself,” she explained to the woman and her care provider. “We total up all the minutes and that is your monthly allotment of hours. The state only pays for the tasks we approve.”

When SB 1104 was adopted in 2004, advocates for persons with disabilities were skeptical about the hourly task guidelines concept, according to Deborah Doctor of Disability Rights California. She was active in the development of the actual standards.

“I went to every meeting on the hourly task guidelines,” she said. “Our main worry was that counties would be reluctant to grant exceptions to the guidelines. That problem hasn’t materialized. And the guidelines have provided more uniformity.”

Despite the standardized guidelines, there is still variation from county to county in the average numbers of hours allotted, an analysis by this office found. The analysis looked at a sample of 12 counties, including the 10 largest by population and a smaller county from each end of the state.

One snapshot from the data:

- In January 2006, before the adoption of the guidelines, the monthly averages ranged from 72.1 hours in Orange County to 116.1 hours in Butte County, a spread of 44 hours. (The statewide average was 85.4 hours.)
- In January 2009, with the guidelines in effect for two years, the monthly averages ranged from 74.5 hours in Orange County to 111.9 hours in Butte, a spread of 37.4 hours. (The statewide average was 87.5 hours.)
- While the range in hours is significant, the difference between the highest and lowest counties has steadily narrowed since the guidelines were adopted.

The \$246 million in savings the administration expected to realize did not materialize, according to officials at the Department of Social Services. It is important to ask whether this lack of program savings reflects the state’s failure to enforce the guidelines after they were set, or proof that the IHSS program contained little or no waste to be reduced by the task guidelines.

A 2008 study analyzing the guidelines’ first year found that they shaved only 1 minute a week on average in authorizations for recipients new to IHSS. For reassessments of continuing IHSS recipients, the average decrease was 7 minutes a week. The study, by the Institute for Social Research at California State University, Sacramento, made this conclusion: “Finally, the (guidelines) do appear to have achieved the desired impact of bringing greater consistency to the assessment process without having sacrificed the individuality needed during that process.”

Administration officials say the studies’ findings reflect an “evening” of hours under the guidelines, with the counties that reduced hours balanced by the counties that added hours.

“When we embarked on this initiative, there were assumptions of savings,” said Eva Lopez, deputy director of the department. “But when the results came in, we realized what was happening: The assessments were consistent and accurate. And the savings assumptions were overstated. The benefits of the Quality Assurance initiative are not so much in dollars, but in benefits to the program.”

Sources of information:

- Budget Change Proposal for In-Home Supportive Services Quality Assurance Initiative. California Department of Finance. Spring Finance Letter for 2004-05
- Eva Lopez, deputy director, California Department of Social Services
- Deborah Doctor, legislative advocate for Disability Rights California
- Shannon Gannons, IHSS intake social worker, Los Angeles County
- Danil Feygin, IHSS social worker, Sacramento County
- Frank Mecca, executive director, County Welfare Directors Association
- “Hourly Task Guidelines Implementation Analysis: First Year of Implementation.” Institute for Social Research, California State University, Sacramento. January 2008. “Hourly Task Guidelines Regulations.” All-County Letter No. 06-34, California Department of Social Services; August 31, 2006

Training

SB 1104 required the Department of Social Services to work with counties and interested parties to establish an ongoing, statewide training program for social workers and others involved in administering the In-Home Supportive Services program.

As of December 2008, 14,080 people have been trained on various provisions of SB 1104 through a “social worker academy” operated through a contract with the California State University, Sacramento, College of Continuing Education. The academy began in 2005.

The department has rolled out four phases of its Training Academy so far. Go to www.cdss.ca.gov/agedblinddisabled/PG1214.htm to see the detailed curriculum. Phase 1 focused on the Quality Assurance Initiative overall, Phase 2 taught the use of the Hourly Task Guidelines and focused on applying IHSS to children and the mentally ill, Phase 3 again taught the task guidelines as well as dealing with challenging situations, and Phase 4 dealt with fair hearings and program integrity, among other topics. Trainings last as long as three days and are scheduled in dozens of cities around the state.

The state “quality assurance” staff work with counties to come up with ideas for trainings, including children in IHSS and use of protective supervision. Some of the training programs are now available on-line, and all are expected to be available electronically eventually, according to DSS officials.

Social workers and county officials have lauded the training as a helpful improvement.

Sources of information:

- Eileen Carroll, chief, Adult Programs Branch, Department of Social Services
- Janine Johnson, chief, Quality Assurance Bureau, Department of Social Services
- Ernie Ruoff, Adult Programs Operations Bureau, Department of Social Services

Verification of Receipt of Services

One of the tasks the Legislature gave the Department of Social Services in SB 1104 was to “develop methods” to make certain that the authorized level of care was actually being delivered to people enrolled in the In-Home Supportive Services program.

At the broadest level, administration officials insist it is up to each IHSS enrollee to determine whether they are getting authorized and sufficient services, because they are considered employers, with the ability to hire, fire and direct the workers who are paid by taxpayers to shop, cook, clean and provide personal care. By signing each time sheet, a client is presumed to be confirming that a provider worked the claimed hours on the authorized tasks. Recipients can fire workers who perform poorly, DSS officials say. But that is not necessarily simple when a worker is a relative – 62 percent of IHSS cases involve a family caregiver -- or when the recipient is vulnerable or incapacitated.

Short of an investigation, the IHSS program works on an “honor system” basis, without measurable methods of validation. SB 1104 was written, in part, to provide an additional level of oversight. How can the state validate whether authorized services are being delivered? The administration relies primarily on counties -- and requirements imposed on the counties through SB 1104 – to fulfill this mandate.

SB 1104 required each county to create a team of “quality assurance” workers to double-check the paperwork filed by social workers and to visit a sample of IHSS recipients to make certain they were granted the proper level of care.

According to the department, the state pays for 113 “QA” positions at the county level and distributes the positions based on county size (large counties get three positions, small counties get one and the smallest get a half-time position). Some counties bolster their quality assurance units with county funds. In Los Angeles County, with 180,000 IHSS cases, there are five social workers and one supervisor responsible for checking the work of 700 other social workers. The department has directed that each quality assurance worker review the paperwork of at least 250 cases each year and visit the homes of at least 50 of those recipients. Small counties are not bound by that requirement.

Each county has submitted, as required, a quality assurance plan. And each submits quarterly updates on its quality assurance activities, according to the Department of Social Services, which has a staff of 16 people – at an annual cost to the state general fund of \$836,000 -- to oversee the counties' quality assurance efforts. The state QA staff, until recent budget cuts, visited each county each year and accompanied staff on home visits to offer oversight and guidance.

Quality assurance workers choose which cases to review, although the administration has directed that each batch of 250 desk reviews and 50 home visits include cases from all districts, from each social worker and of applicants who have been denied. In the desk reviews, quality assurance workers check that all required paperwork is present, complete and signed. They also examine documentation of how the authorized hours were determined by the social worker. In short, the desk reviews are not intended to verify that the services identified by the social workers were actually received by consumers. With home visits, quality assurance staff validate the information in the case file and ascertain whether clients were authorized the level of service needed to keep them safely in their homes. The QA staff use discretion in picking home visit cases. They may choose those that appear problematic in a desk review, for example, or decide to focus on certain populations, such as children getting protective supervision under IHSS.

In 2007, counties conducted 19,940 desk reviews and 3,883 home visits, according to the latest information compiled by the department (See Attachment A). Of the total, 557 cases were referred to the Department of Health Care Services for fraud investigation and 3,622 cases resulted in a change in the number of hours of service authorized. The reviews identified 16 cases of neglect and 27 cases of abuse.

What is unclear from the DSS report on these reviews is the sample from which the statistics are drawn. While the counties, based on limited samples, found thousands of cases requiring further review, it is not clear which of those cases were uncovered by a desk review and which by a home visit. The information the administration gathers from counties is aggregated. According to administration officials, it is unknown whether any desk review alone discovered serious overpayments, underpayments or fraud referrals.

The Department of Social Services relies on these case reviews by QA workers to fulfill the Legislature's requirement that it find a way to verify delivery of services. The department's IHSS manual instructs counties to have their QA workers check three months' worth of timesheets before visiting a home, then ask clients about how frequently their worker shows up and how much work they do. When timesheets don't match a client's description of service, according to the manual, "the consumer may be at risk" and "further follow-up is required."

The state manual cautions social workers to take a recipient's cognitive function into account before asking questions, but it does not address how social workers should verify receipt of services when a person's memory or judgment is impaired. Nor does the manual tell social workers how to confirm that a provider is doing his or her job when the provider lives with the client.

To comply with the Legislature's direction to come up with ways to verify that services are being delivered, the state in 2005 convened a work group including county staff, advocates for IHSS recipients, disability rights advocates, union representatives, IHSS workers and district attorneys.

According to agendas and notes compiled by the work group, the following ideas, among others, were considered as ways to better oversee the delivery of services: 1) Have providers mark a grid listing tasks they are supposed to perform, 2) have social workers make unannounced visits, 3) print a short message about fraud on the back of IHSS paychecks and 4) notify people about the IHSS fraud and abuse hotline through mailings and postings, such as at medical centers.

Some of the work group suggestions were embodied in a January 2006 DSS letter to county IHSS officials. The guidance in that letter – which was not mandatory – included having county social workers ask clients about the quality of care they receive when they visit once a year. The department also suggested that counties ask IHSS workers to mark a task grid, give providers and consumers brochures describing their roles and responsibilities and “conduct pilot projects to test new innovative approaches to verify receipt of services.”

The department's letter noted that “approaches to verify receipt of services are suggestions and are not mandated activities.”

A random survey last year of 6,500 IHSS consumers found widespread satisfaction with the program. The Institute for Social Research at California State University, Sacramento analyzed 707 responses and found that 81 percent reported that the program met their needs. Nineteen percent said that it did not. For each of a dozen tasks, including meal cleanup and grooming, a majority of respondents indicated that the hours authorized for each task was “about right.” Less than 1 percent reported having too many authorized hours.

According to the researchers, when the survey takers were asked what would help make the IHSS program better meet their needs, the most common response was praise and gratitude for the program. The second-most common response was a request for more hours of paid care, followed by complaints about the difficulty of reaching social workers, the need for better pay for workers and complaints that married recipients get fewer authorized hours.

Sources of information:

- Agendas and minutes of In-Home Supportive Services Quality Assurance Initiative, Fraud/Data Evaluation Workgroup, April – August 2005
- Analysis of Statewide CDSS In-Home Supportive Services 2008 Consumer Survey, by Ernest L. Cowles, director and principal investigator, Institute for Social Research, California State University, Sacramento
- Eileen Carroll, chief, Adult Programs Branch, Department of Social Services
- Department of Social Services All-County Information Notice 1-24-05
- Department of Social Services All-County Information Notice 1-04-06
- Department of Social Services In-Home Supportive Services Quality Assurance/Quality Improvement Procedures Manual, September 2006
- In-Home Supportive Services/Personal Care Services Program Quality Assurance/Quality Improvement Monitoring Activities Report, May 7, 2008
- Janine Johnson, chief, Quality Assurance Bureau, Adult Programs Division, Department of Social Services
- Ron Price, acting chief, IHSS division, Los Angeles County Department of Public Social Services
- Carrie Stone, manager, QA Monitoring Unit, Adult Programs Branch, Department of Social Services

Tightening Up IHSS Timecards

Twice each month, more than 400,000 paper time cards from IHSS providers are submitted and are manually entered by county workers across California. The cards require the signature of both the IHSS recipient and the provider and are supposed to reflect the actual hours worked in a two-week period. There is no indication on the timecards regarding actual tasks performed or other details of the services provided. County IHSS administrators report that many cards are illegible or inaccurate and some could be fabricated.

The Senate Office of Oversight and Outcomes gathered two main suggestions for tightening up the payroll system.

Suggestion #1: Improve the Timecard

One identified problem is that the time cards merely display daily totals of hours over a two-week period (See Attachment B). A provider may report “6 hours” for a day, but is not required to specify that the services were provided between 8 a.m. and 2 p.m., for example. This imprecision makes oversight difficult and could lead to exaggerated hours, according to Ron Spaulding, an IHSS fraud investigator with the Fresno County District Attorney’s Office. That view is shared by IHSS administrators in Sacramento and Los Angeles counties.

The Legislative Analyst’s Office also identified imprecise time cards as a problem in its 2009-10 budget analysis. The LAO recommended that legislation be enacted to require providers to document the actual hours they work each day.

Spaulding also contends that every IHSS document, including time cards, should be signed “under penalty of perjury.” He sees this as a powerful fraud deterrent and tool for prosecutors. (See Attachment E.)

Time cards came under scrutiny by the Los Angeles County Civil Grand Jury in its lengthy 2007-08 report on IHSS. The report stated: “The acceptance of scrawled or absent signatures on the timesheet does not constitute good management of a multi-billion-dollar program such as IHSS.” As one way of authenticating the signatures, the Grand Jury recommended that the state require a fingerprint of both the recipient and the provider on each time card.

Suggestion #2: Automate the System

An Alameda County official recommends an automated payroll system that allows providers to submit their time cards by phone or computer.

The county has had good results with a similar system it devised to get payments to foster parents, said Stewart Smith, Alameda's Director of Adult and Aging Services. His staff believes the system would be readily adaptable to IHSS. Smith proposed a pilot project to the state Department of Social Services. (See Attachment H.)

"Right now, we have 32,000 of these little pieces of paper that come into my office every month," Smith said. "I have 22 payroll specialists who enter all that data into CMIPS (the state IHSS payroll system.) They work as fast as they can, and still they have a backlog. So we decided to come up with an alternative system we think will be a great improvement."

Under Alameda's proposal, IHSS providers would get a unique PIN for each two-week pay period. That PIN, together with their Social Security number, would get them access to a telephonic or online payroll system. (The provider and the care recipient would still sign a paper time card to be kept for future audit purposes – similar to taxpayers holding onto a receipt.)

The concept has won the support of the providers' union and the county's IHSS Public Authority, according to Smith. Here's how it would work:

- First, the automatic system asks if the timesheet is signed by both the recipient and the provider. If the answer is yes, the provider can proceed.
- "Next they would input their hours into the system," according to Smith. "The system will check instantly to see if those hours are authorized – there's a daily and a weekly limit on the hours. On the spot, they'll be notified if they're over the limit. Right now, we get time cards all the time that are way over the limit."
- The system totals the hours, eliminating math errors, Smith noted. And it tags a statistically valid number for a follow-up audit each month. If audited, the provider would have to bring the signed paper time cards to the agency office.

"The audit portion is important," Smith said. "Every provider will know they can be audited at any time. That will be a big deterrent to fraud."

This system could also improve accountability by requiring the provider to affirm that only authorized tasks were performed.

In February 2008, Alameda County sent a proposal to the state for a pilot project that would test handling IHSS time cards telephonically. The county offered to cover any costs. It asked the state for access to the CMIPS payroll system and permission to use a PIN instead of a “wet” signature. In November, Smith said, he was surprised when the Department of Social Services turned him down.

Response: Department of Social Services

The use of telephonic time cards will be considered eventually, according to Eva Lopez, deputy director of the Department of Social Services. But she said no changes will occur until after 2011, when the department rolls out CMIPS II – the next-generation IHSS payroll system which has been under development for a decade. (See Attachment G.)

“We have requested that Alameda County provide us additional information to assist us in how CMIPS II might incorporate a telephonic time card for IHSS,” said Lopez. “However, we did advise the county that the telephonic time cards for IHSS would not be considered for CMIPS I.”

CMIPS II will still use paper time cards, at least in its initial phase. But instead of being manually entered by county workers, all the cards would be automatically scanned and processed at a central facility in Chico.

If county administrators hope CMIPS II will gather more information on IHSS time cards, they likely will be disappointed. (See Attachment B.) The \$251-million system will still use a card that reports only the daily total of hours worked. There will be no room for reporting the “time of day” or “tasks accomplished,” according to Lopez.

“In our initial phase, we’re abiding by our mandate and regulations,” she said. “Adding information to our time card is not what we’re doing.” She said changing the cards would increase the cost of CMIPS II.

Educating people to use a new time card would be a major undertaking, according to Eileen Carroll, chief of the Adult Program Division at the Department of Social Services.

“Adding start and stop times would double the amount of information required --and that doubles the opportunity for error,” Carroll said. As for reporting which tasks were performed, Carroll said: “The recipient is the employer, and it is the employer’s obligation to see the work is being done.”

Sources of information:

- Eva Lopez, deputy chief, California Department of Social Services
- Eileen Carroll, chief, Adult Program Division, Department of Social Services
- Stewart Smith, director, Adult and Aging Services, Alameda County
- Ron Spaulding, IHSS fraud investigator, Fresno County District Attorney's Office
- "IHSS Time Card Reforms." 2000-10 Budget Analysis, Legislative Analyst's Office
- "In-Home Supportive Services Fraud: Problems and Opportunities," 2007-2008 Los Angeles County Civil Grand Jury Final Report
- "Automated IHSS Payroll System," Alameda County Social Services Agency, February 2008

Consumer Redirection of Authorized Tasks

Overview

The Hourly Task Guidelines established by SB 1104 and state law provide that a recipient's supportive services be assessed and paid for based on the consumer's need for specific tasks.

- County welfare departments are required to assess and periodically assess "each recipient's continuing need for supporting services at varying intervals as necessary, but at least once every 12 months." (WIC section 12301.1(b))
- The State and the counties "shall establish and implement statewide hourly task guidelines" to "consistently and accurately assess service needs." (WIC section 12301.2(a))
- "Whenever task times outside the range provided in the guidelines are authorized the county shall document the need for the authorized service level." (WIC section 12301.2(c))
- Where payments by the state in excess of authorized services are made, state law defines such payments as "overpayments." (WIC section 12305.8(b))

Numerous documents provided to recipients and providers indicate that services should be limited to authorized tasks.

- The IHSS "Provider Handbook" describes non-mandatory "job agreements" that include a mutual promise to discuss duties and authorized hours. (See Attachment C.)
- The same Handbook recommends (but does not require) the worker to use a "task grid" which summarizes "the tasks a consumer has been authorized to receive." Furthermore, the Handbook very specifically warns providers that: "A consumer should only ask you to perform services that the social worker has authorized."

Several counties also make clear to both consumers and providers that only authorized tasks should be provided and charged to the state.

Actual Practice

Despite this statutory and informal advice by the state and counties, the actual practice is quite different. According to every source contacted for this analysis, recipients and providers adjust scheduled tasks. For example, an

hour may be authorized weekly for laundry, but on some days bedding may have to be changed frequently, requiring more time for laundry.

There are no strong guarantees in the IHSS program that authorized duties will be performed:

- Consumers are not required to inform providers of the tasks that have been authorized. Thus, workers may be assigned tasks and be unaware that the tasks are not authorized.
- Providers and consumers are not required to enter into job agreements describing tasks or mutual responsibilities.
- Providers are not required to assert that they have performed the authorized services -- or when.
- The state and counties, therefore, have no mechanism for documenting that consumers are actually receiving those supportive services authorized by social workers. Nor can they document that the state is not paying for tasks outside the authorized tasks.

LAO Report

This issue was flagged for the Legislature by the Legislative Analyst's Office as part of its analysis of the 2007-08 budget bill. The LAO wrote:

“Program design and documents imply that hours should be used as they were allocated ... However, because there is no explicit prohibition on reallocating hours across tasks or weeks, recipients and providers may not be aware that the intent of the program is to have them use their hours as assigned by the social worker. In other words, recipients may believe that the hours they receive are flexible and reallocate them amongst tasks, thereby treating them as a block grant of hours....This practice could result in either inadequate or unneeded care.” (Underlining added.)

The LAO, therefore, was concerned that the practice of tolerating an unauthorized redirection of services could create either a failure to deliver crucial services (inadequate care) or overpayments (unauthorized care). The overarching goal of IHSS is to help people remain safely in their homes and avoid institutionalization. Inadequate care could put the recipient in jeopardy of being placed in a nursing home. Unneeded care, on the other hand, could cost the state in overpayments.

The LAO's report suggested that identified needed tasks should be performed only as authorized in order to prevent inadequate care and/or overpayments. The LAO's report also pointed out: “Ultimately, however, this expectation may be unclear to recipients and providers.”

The LAO made three recommendations:

- Clarify expectations in statute by prohibiting the reallocation of hours without social worker approval.
- Modify the employer checklist that recipients sign to inform them that they are required to use services as authorized by their social worker. Require recipients to sign the checklist.
- Require consumers to notify providers of the authorized tasks and to direct that only authorized tasks be done. (This could be accomplished by making the voluntary “job agreements” mandatory.)

The recommendations reflect a major inconsistency in the IHSS program. The provider – the person actually performing the work – is expected by the state to perform only the tasks that are authorized, but there is no requirement that providers be informed of those tasks.

To remedy this, the LAO also recommended the enactment of legislation further clarifying that the provider be given a copy of the Notice of Action (or a similar document) which identifies the approved tasks and the hours. In addition, the LAO recommended that: “The provider would have to indicate in writing he/she has seen the authorized hours by task, and understands that service hours are to be delivered as authorized.”

The Policy Debate

Tightening up conformance with the task guidelines is not a reform embraced by all. In fact, numerous advocates for disabled and social workers recommend that consumers be allowed to redirect services so long as the hourly allotments are not exceeded.

Some social workers say that the task guidelines are a useful tool in assessing needs, but the state should not strictly require IHSS providers to perform only these tasks – so long as the provider stays within hourly allotments.

Thus, the policy question is: *Should the state pay for the performance of tasks that are not authorized under its task guidelines?*

Some stakeholders contend that the task guidelines are simply a tool for determining the total amount of aid required. Under this premise, the recipient should have the flexibility to divert the care provider to other, unauthorized tasks, so long as the total allotted hours are not exceeded. As noted, this approach reflects the practical reality for many IHSS households, according to local IHSS administrators and IHSS consumer advocates.

Daniel Brzovic of Disability Rights California summed up that position:

“The assessment process measures functional limitations, and there is a good relationship between the total assessment and the total hours granted. Payment is for the assessed hours. The statute doesn’t require that the actual hours worked exactly reflect the assessment.”

His colleague at Disability Rights, Deborah Doctor, pointed out that IHSS recipients are the direct employers of their providers and as such are empowered to redirect the work. *“They’re grownups and they know what they need each day,”* she said.

On the other hand, Bernadette Lynch, director of the IHSS Public Authority for Sacramento County, said she supports tightening up practices. She said:

“There’s this dichotomy, where the provider doesn’t necessarily know what’s been authorized but still is expected to perform the authorized tasks. It is important for providers to know what is authorized. Sometimes the recipients have more than one provider. Advocates argue that they shouldn’t have to share their Notice of Action with multiple providers. But the majority of people have one provider, and most providers have one client.”

Still, Lynch argues for allowing recipients some flexibility in deciding which tasks they need and when they need them. She believes a middle ground can be reached and believes social workers should be granted common sense discretion in reassessing needs.

The Position of the Department of Social Services

In a recent interview, representatives of the department said that mandating that providers be notified of the authorized tasks would require a change in statute. Such a reform is not a priority, said Deputy Director Eva Lopez, because it would cost money.

“Bottom line, in terms of the department’s position, anything that could potentially increase general fund expenditures is not something we’re looking at. We won’t go out and seek this change.”

It should be noted that while the department may be correct that task guideline compliance would potentially increase general fund expenditures, as opposed to creating savings for overpayments, this position has not been the subject of fiscal analysis.

Nor is it clear that any statutory changes would be required in order to adopt the LAO's recommendations. As noted above, the current statute defines payment for unauthorized services as an "overpayment."

Sources of information:

- *Analysis of the 2007-08 Budget Bill*, Report from Legislative Analyst's Office to the Joint Legislative Budget Committee; In-Home Supportive Services, C-137 – C-152
- Daniel Brzovic, associate managing attorney, Disability Rights California
- Deborah Doctor, legislative advocate, Disability Rights California
- IHSS "Provider Handbook," California Department of Social Services
- Eva Lopez, deputy director, California Department of Social Services
- Bernadette Lynch, executive director of the IHSS Public Authority, Sacramento County

SB 1104: Assuring IHSS Program Integrity

Detecting Fraud

The Legislature's 2004 In-Home Supportive Services program quality assurance initiative had three main goals, according to the Department of Social Services: To make the assessments of the needs of IHSS applicants more consistent, strengthen the quality of the program and ensure its integrity.

In accordance with that last goal, the Legislature instructed DSS and county welfare departments to work together to "detect and prevent potential fraud by providers, recipients, and others and maximize the recovery of overpayments from providers or recipients."

In a manual advising counties how to fulfill those requirements, the Department of Social Services gives latitude to counties to write their own fraud prevention and detection policies. The manual does advise counties, however, that to prevent internal fraud, social workers should be banned from handling the IHSS cases of people they know and from recommending caregivers.

In a fundamental change to a system in which counties investigated IHSS fraud on their own or not at all, a provision of SB 1104 dictated that counties should refer all cases of alleged IHSS fraud to the state Department of Health Care Services.

The Senate Office of Oversight and Outcomes found that actual practice does not match that aspect of the statute.

County Efforts

Some counties do refer all cases to the state and conduct no investigations of their own. These counties include Los Angeles, home to 41 percent of the IHSS caseload.

Other counties, including Fresno, Sacramento and San Diego, do not refer suspected fraud cases to the state. These counties disregard a 2008 amendment to statute that permitted counties to investigate IHSS fraud allegations involving \$500 or less. Instead, these counties conduct and pay for their own investigations, regardless of the amount of money involved.

An IHSS official at one county said they do not refer alleged fraud to the state because it is “a black hole.” Until recently, two full-time positions at DHCS were devoted to investigating alleged IHSS fraud. The backlog of cases was roughly 1,000, with most referrals coming from Southern California, according to Frank Vanacore, deputy director of the audits and investigations branch of DHCS.

According to DHCS, counties gave state investigators 275 potential fraud cases in the first half of 2008 involving overpayments of \$1.03 million. Of that amount, counties recovered about \$8,000; the exact amount is unknown because counties do not always tell the state when they recover money. Though the low incomes of workers and recipients make recouping money in IHSS fraud cases difficult, investigators say the deterrent effect is valuable. They add that catching fraud early prevents further losses.

Some individual counties handle more alleged fraud cases than DHCS, according to the most recent data collected from counties and compiled by the department. Between March and June 2007, for example, Fresno County reviewed 639 cases of alleged IHSS fraud, 58 of which were sent to the district attorney, with \$106,000 recouped. In the same time period, Sacramento County considered 298 IHSS fraud referrals and substantiated fraud in seven of those cases. Two were sent to the district attorney and no overpayments were recovered. According to DHCS data, 22 counties initiated no IHSS fraud cases in the same three-month period.

Some county officials suggest deleting the statute that requires referral of all \$500-plus alleged IHSS fraud cases to the state. DHCS officials say a “multi-jurisdictional approach” works best.

Solid data on the number and disposition of IHSS fraud cases is difficult to find. By law, the Department of Health Care Services must notify counties about the status of the IHSS cases it investigates. The reverse is not true; counties are not required to report to the state about their fraud investigations. DHCS officials say they will soon send a survey to counties to try to capture more up-to-date information from around the state.

State Efforts

In January, DHCS asked the Legislature for roughly \$500,000 to fund five additional IHSS fraud investigators and an analyst because “limited resources are not sufficient to address IHSS fraud and abuse which has been increasing dramatically over the years,” according to the request submitted by DHCS. The 2009-10 budget includes that money, but the positions have not been authorized and the Legislature may revisit the issue through the budget subcommittee process in coming months.

Starting in February, the Department of Health Care Services redirected 22 investigators, including those who were working on alleged Medi-Cal fraud, to work on IHSS cases in Los Angeles County. The targeted effort is scheduled to last until the end of March. Vanacore said the intensive IHSS focus should give state investigators a better handle on the extent of fraud in a county where the subject has garnered much attention lately.

In January, the Department of Health Care Services announced the arrest of three people in Los Angeles County – including an IHSS social worker – for allegedly defrauding IHSS of nearly \$77,000.

Last June, the Los Angeles County Civil Grand Jury concluded that the IHSS program is based on “trust” and needs better controls, including fingerprinting and photographing of all recipients and caregivers.

Last July, the Los Angeles County District Attorney announced criminal filings against 21 people for defrauding government assistance programs of more than \$2 million; IHSS accounted for \$843,000 of the total. Each defendant was accused of cheating the IHSS program, while some were also charged with bilking the Los Angeles County Housing Authority, the Social Security Administration and Medi-Cal. One IHSS recipient from Palmdale was sentenced to four years in prison.

IHSS investigators around the state list as examples of fraud they’ve handled: 1) providers getting paid but not performing work; 2) clients with fictitious providers; 3) workers who continue submitting time cards after their client is in the hospital, jail or deceased; 4) clients and providers who conspire to boost the number of hours of service authorized then split the pay; and 5) county IHSS workers who create fictitious clients and collect pay.

Bolstering Anti-Fraud Efforts

Several IHSS experts, including County Welfare Directors Association executive director Frank Mecca, suggest hiring more social workers as a good fraud prevention tool. The cost of putting a social worker on the street has risen considerably since 2001, said Mecca, but the state’s formula for calculating how much money it gives to counties to administer IHSS hasn’t changed since then. In some counties, social workers handle 300 or more IHSS cases at a time. With lower caseloads, said Mecca, social workers could spend more time assessing a client’s needs, overseeing the delivery of care and keeping an eye out for potential fraud.

The state’s IHSS manual describes social workers and their supervisors as “key components” in detecting, preventing and reporting fraud. County

investigators say social workers are their greatest source of tips on alleged IHSS fraud.

The Legislature's quality assurance initiative allowed counties to re-assess certain IHSS recipients every 18 months, rather than yearly. But Los Angeles County officials rejected the opportunity to make fewer visits, in part because of the fraud-prevention value of those visits, said Hortensia Diaz, manager of the Los Angeles County IHSS program.

State and county officials say program integrity will be improved next year with the adoption statewide of a new provider enrollment form. The new, longer form will require IHSS workers to show photo identification, show a Social Security card and attest that they have not been convicted of fraud against a government health care or supportive services program in the last 10 years. Providers must also attest on the form that they have not been convicted of child or elder abuse or endangerment. (Such people are ineligible to participate in IHSS).

Philip Browning, director of the Department of Public Social Services for Los Angeles County, contends that one way to improve program integrity is to require providers to meet social workers in person. He said such meetings would allow social workers to make sure that providers in fact exist. As incentive for these meetings, Browning suggested the Legislature give counties the latitude to deny IHSS aid to recipients whose providers fail to meet the social workers. (See Attachment D.)

Sources of information:

- Bert Bettis, division manager, Senior and Adult Services, Sacramento County Department of Health and Human Services
- Philip Browning, director, Los Angeles County Department of Public Social Services.
- Chuck Conley, assistant chief, investigations branch, Department of Health Care Services
- Department of Social Services, In-Home Supportive Services, Quality Assurance/Quality Improvement Procedures Manual
- Department of Finance, Budget Change Proposal for Fiscal Year 2009-10, Department of Health Care Services request, December 2008
- Department of Health Care Services, spreadsheet, IHSS stats through June 30, 2007
- Hortensia Diaz, Los Angeles County Department of Public Social Services, IHSS program manager

- Elizabeth Egan, Fresno County District Attorney
- Michael Estrada, chief investigator, Department of Health Care Services
- “In-Home Supportive Services Fraud: Problems and Opportunities,”
2007-2008 Los Angeles County Civil Grand Jury Investigative Committee
- Janine Johnson, chief, Quality Assurance Bureau, Department of Social Services Adult Programs Division
- Guy Howard Klopp, manager, Quality Assurance & In-Home Supportive Services, Senior & Adult Services Division, Sacramento County
Department of Health and Human Services
- Los Angeles County District Attorney’s Office
- Rod Spaulding, IHSS/Welfare Fraud Investigator, Fresno County District Attorney
- Frank G. Vanacore, deputy director, Department of Health Care Services, audits and investigations

Mandatory Error-Rate Studies

Another section of SB 1104 requires the Department of Social Services to consult with the Department of Health Care Services and counties to conduct an annual “error-rate study” of the In-Home Supportive Services program in order to “estimate the extent of payment and service authorization errors and fraud in the provision of supportive services.” The studies, according to the Legislature’s direction, “shall be used to prioritize and direct state and county fraud detection and quality improvement efforts.”

The Legislature directed DDS to get technical guidance on error-rate studies from the Department of Health Care Services, which uses sophisticated risk analysis tools to spot fraud in the Medi-Cal program. DHCS publishes an extensive error-rate study annually that estimates potential Medi-Cal fraud and indicates where payment errors are greatest – such as in pharmacy, dental or physician services. DHCS officials call their report crucial to guiding their fraud-prevention efforts.

By comparison, error-rate studies on IHSS are limited and unsophisticated. Despite the SB 1104 mandate that a study be conducted each year, only two error-rate studies have been finished in the past five years. Department of Social Services officials said they did not consult with DHCS on the studies.

The first error-rate study identified significant problems in the program. It examined cases in which an IHSS worker submitted time sheets while the client was hospitalized for five days or more. (Workers are not supposed to provide services when a client is hospitalized.) The study focused on four counties – Contra Costa, San Joaquin, San Mateo and Ventura – during nine months in 2005. (See Attachment F.)

The study identified 60 cases with overpayments of \$248,549 that were referred to state investigators. DSS officials said recently that they do not know the disposition of those cases.

The second error-rate study, released in March 2009, examined IHSS providers who had had at least two consecutive paychecks mailed to an out-of-state address from January 2005 through June 2006. (People who lived within 30 miles of their client were eliminated, even if their address was in Nevada, Oregon or Arizona.) The report shows 206 cases involving potential overpayments of \$38,546 were sent to counties to investigate. Of those, 56 cases have been referred to state investigators.

State officials repeated their examination of out-of-state payments in January, but have not yet compiled results.

DSS adult programs branch chief Eileen Carroll called the error-rate studies “baby steps,” and said they require a great deal of effort from already overloaded county IHSS workers. (Workers must manually pull time sheets, for example.) She said the department’s goal of eventually conducting a statewide error-rate study that will examine IHSS payments made during a client’s hospital stay will depend upon county resources. Several counties including San Joaquin and Los Angeles have expressed interest in participating.

The department’s ability to perform error-rate studies may improve once a new IHSS payroll system is installed in 2011. Currently, the payroll system software is incapable of checking Medi-Cal paid claims. But the new system is designed to check when an IHSS recipient is admitted to a hospital or nursing home and then alert social workers, so that they can make sure payments to IHSS providers are halted. (See Attachment G.)

Sources of information:

- Eileen Carroll, chief, Adult Programs Branch, Department of Social Services
- “In-Home Supportive Services Findings from Error Rate Studies,” Department of Social Services
- Jan English, chief, Medical Review Branch, Audits and Investigations, Department of Health Care Services
- Eva L. Lopez, deputy director, Adult Programs Division, Department of Social Services
- Karen Johnson, chief deputy director, Department of Health Care Services
- Janine Johnson, chief, Quality Assurance Bureau, Adult Programs Division, Department of Social Services
- “Medi-Cal Payment Error Study 2006,” Department of Health Care Services
- Ernie Ruoff, Adult Programs Operations Bureau, Department of Social Services

IHSS and Data Matches

The Legislature's 2004 IHSS quality assurance initiative requires state officials to "conduct automated data matches" to catch fraud, payment errors and identify other potential sources of recipient income. The frequency of these checks is not specified in the statute.

Statute directs the Department of Social Services and the Department of Health Care Services to check Medi-Cal payment records to find, for example, when an IHSS recipient was hospitalized and his or her worker continued to cash checks. Since the automated data match requirement was imposed in 2004, the DSS has performed only one such check as part of its first error-rate study in 2005. Department officials say they hope to perform a second Medi-Cal paid claims check in April or May as part of a new error-rate study.

Automated database checks will be routine in the IHSS program once a new payroll system is up and running, according to the Office of Systems Integration of the Health and Human Services Agency. CMIPS II, as the new payroll system is called, is expected to be capable of interacting with databases run by the Department of Health Care Services, so that social workers and their supervisors will be alerted when an IHSS recipient gets Medi-Cal approval for admission to a hospital, nursing home or adult day care. (See Attachment G.)

CMIPS II – in the works for 10 years, with a contract cost of \$251 million – is expected to be working statewide by 2011.

Another section of the 2004 quality assurance legislation, SB 1104, also instructs the departments to identify whether a recipient's care might be funded in ways other than the IHSS program, such as through long-term care insurance, workers' compensation insurance, civil judgments or victim compensation program payments.

Department of Social Services officials say these automated "third-party liability" checks are performed monthly, with results forwarded to counties.

In a January 2006 non-mandatory information notice to county IHSS officials on how to carry out SB 1104, the Department of Social Services listed these primary areas for automated checks:

- 1) Medi-Cal acute hospital and skilled nursing home payments;

- 2) Death match reports, in which the controller checks for IHSS providers who were paid after the death of their client;
- 3) A list generated by the IHSS payroll system of workers whose timesheets tally 300 or more hours per month; and
- 4) Other “ad hoc” reports generated by Electronic Data Systems, the contractor responsible for the IHSS payroll system.

Of those, county officials say they most commonly use death match and “300-hour” reports to screen for fraud.

Counties now get a paper death record match report once each quarter from DSS that indicates which IHSS providers may still be submitting timesheets after the death of a client. The report originates with the state controller, who checks Department of Public Health and Social Security Administration death records against the IHSS payroll. The controller sends stacks of physical records to DSS, where workers manually separate the data by county and eliminate invalid reports where possible. DSS mails the death record matches to counties, where workers are required to investigate each case and explain their findings in a report to the state. (The counties can submit this data electronically.)

State officials say they get some “push back” from counties because the death matches are labor intensive, but with nudging, the counties respond.

This sluggish, manual system means that a worker may cash checks for up to three months after the death of a client before a county official is alerted. Administration officials say their goal of achieving monthly death record checks is contingent upon installation of the new IHSS payroll system (expected in 2011) and an upgrade of the Department of Public Health death record database.

To fulfill the statute requiring automated data checks, the Department of Social Services has also instructed counties to flag workers who submit monthly timesheets of 300 hours or more – i.e., more than 10 hours a day, seven days a week. Nothing prohibits someone from working more than 300 hours a month as an IHSS caretaker, but social workers should check such cases, instructs the DSS manual.

A provider working so many hours may not be meeting consumer needs, according to the manual, and “there is also a possibility that the provider is claiming the same hours worked for more than one consumer.”

Some counties perform the 300-hour checks themselves on the IHSS payroll system. The state runs checks for other counties.

Sources of information:

- All-County Information Notice 1-24-05
- All-County Information Notice 1-04-06
- Bert Bettis, division manager, senior and adult services, Sacramento County Health and Human Services
- Eileen Carroll, chief, Adult Program Division, Department of Social Services
- Eva L. Lopez, deputy director, Department of Social Services, Adult Program Division
- Ron Price, acting chief, IHSS Division, Los Angeles County Department of Public Social Services
- Ernie Ruoff, Adult Programs Operations Bureau, Department of Social Services
- Veronica Sigala, CMIPS II Implementation Project, Los Angeles county Department of Public Social Services
- Stephen Zaretsky, CFO, Financial Operations Branch of California Health and Human Services Agency, Office of Systems Integration

Alternative Models

The “Cash and Counseling” Model

Elderly and disabled Californians who get help through the In-Home Supportive Services program have the authority to hire, fire and direct a worker.

Some states including New Mexico, Washington and Pennsylvania give consumers even greater control. Through a program called “cash and counseling,” they give elderly and disabled people a monthly sum, based on estimated need, and the authority to decide how to spend that money. A counselor helps the recipient (or their authorized representative) to craft a spending plan, and a financial manager writes checks and calculates payroll taxes.

Under such a block-grant approach, the client may use the money to hire a personal attendant, install a wheelchair ramp, buy a fold-up wheelchair, hire a taxi to get to medical appointments or install a washer and dryer to eliminate trips to a Laundromat. Participants also have the freedom to pay workers different wages. They may pay the person who cleans their house, for example, less per hour than the person who bathes them. In states where home healthcare workers are unionized, the bargained hourly rate becomes the minimum wage and cash and counseling participants are free to pay more.

Under the program, state and county workers check regularly to see that the client is getting good care and that money is spent only on authorized goods and services.

The U.S. Department of Health and Human Services and the Robert Wood Johnson Foundation tested cash and counseling in three states starting in 1998. In each case, a recipient’s monthly budget was based on what they would have received under an existing state program. Since 1998, a dozen other states have adopted cash and counseling for a small portion of the population that needs assistance at home.

Three-quarters of the people involved in a test pilot in Arkansas said it improved the quality of their lives, according to an evaluation done for the federal government. Health outcomes (such as the occurrence of bedsores) were as good as those for control group members. Federal rules require that cash and counseling programs cost no more than the in-home care service program they replace, and Arkansas has found a slight savings.

The federal Centers for Medicare and Medicaid Services (CMS) concluded this about the pilot projects: “. . . persons directing their personal care experienced fewer unnecessary institutional placements, experienced higher levels of satisfaction, had fewer unmet needs, experienced higher continuity of care because of less worker turnover, and maximized the efficient use of community services and supports.”

States have used different methods to calculate people’s budgets under their cash and counseling programs, said Kevin Mahoney, director of the non-profit Cash and Counseling National Program Office. Some multiply the hours of service needed to keep a person safely in their home by the going rate for home healthcare in a county. Others take that sum and deduct 10 percent on the assumption that not all care authorized is delivered. Florida tried to use an average sum based on a person’s care expenditures tracked over six months, but that approach does not work well for people with vacillating needs, said Mahoney. Ideally, he said, states would have years of data that would allow them to allot hours based on the average needs of a person with similar disabilities and circumstances.

California Department of Social Services officials did not express interest in adopting cash and counseling here, saying the IHSS program led the nation on providing self-directed services for people with disabilities. Advocates for IHSS recipients have not pursued the approach. One advocate said she didn’t have “the nerve” to seek more flexibility in IHSS, given a widespread perception that the program is lax. At least one union representative expressed concern about cash and counseling because it allows consumers to use the money on things other than wages.

Soon the federal government – which pays half the \$5.4 billion annual cost of IHSS -- must decide whether to continue to endorse California’s current program or ask for changes more akin to cash and counseling.

Here’s why: In 2004, the federal government granted California a waiver from Medicaid rules that made 75,000 IHSS recipients eligible for federal funding who had not been eligible previously. (Many had caregivers who were spouses or parents, and the federal government had refused to pay for such close family providers.)

That five-year Medicaid waiver expires in July, and federal officials have told California it will not be renewed. To keep federal dollars flowing, the state Department of Health Care Services has submitted a “state plan amendment” to qualify IHSS under section 1915(j) of the Social Security Act.

That section of the law is designed to foster cash and counseling programs. It allows the federal government to pay for home-based care programs that free beneficiaries, “through an approved self-directed services plan and budget, to

purchase personal assistance services,” according to the federal Medicare office.

It is not clear whether California’s existing IHSS program – which does not allow recipients to control a budget or spend money on anything but wages – will qualify.

DHCS officials say they discussed California’s draft “1915(j)” plan with federal officials on February 25 and submitted a state plan amendment in March. Such documents, said DHCS deputy legislative director Katie Trueworthy, are considered confidential and not shared until approved by the federal government.

Sources of information:

- Marietta Bobba, director, New Freedom Program, Washington Department of Social and Health Sciences
- Eileen Carroll, chief, Adult Programs Branch, California Department of Social Services
- Deborah Doctor, legislative advocate, Disability Rights California
- Pam Doty, senior policy analyst in Office of Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services
- Kevin Mahoney, director, Cash & Counseling National Program Office
- Tamara Rasberry, government relations advocate, Service Employees International Union
- Katie Trueworthy, deputy director, legislative and governmental affairs, Department of Health Care Services
- Centers for Medicare & Medicaid Services Final Rule on Self-Directed Personal Assistance Services Program State Plan Option
- “Lessons from the Implementation of Cash and Counseling in Arkansas, Florida and New Jersey,” Final Report, June 2003, by Mathematica Policy Research, Inc.

The “Agency” Model

The vast majority of the 440,000 disabled and elderly people enrolled in the California In-Home Supportive Services program hire the person -- known as an individual provider -- who helps them stay safely in their home. Less than one percent of IHSS recipients are served by a private home healthcare agency.

Many other states use private companies to provide in-home care. California law permits counties to hire agencies to provide care under the IHSS program. According to the January 2009 monthly IHSS report from the Department of Social Services, 3,373 IHSS recipients are served by private agencies in Butte, Riverside, San Francisco, San Joaquin and San Mateo counties.

The role of private agencies in California’s IHSS program is small for many reasons, according to some IHSS experts. The self-directed nature of the current California program does not lend itself to privatization. In California, the vast majority of IHSS recipients are expected to hire, fire, train and direct their worker, and an increasing majority – now more than 62 percent -- choose a relative, neighbor or friend to help with domestic chores and personal care.

Private companies are not necessarily needed for people who cannot hire a relative or friend. Since 1999, all but two counties have created entities known as “public authorities” to maintain registries of potential IHSS workers to assist recipients in hiring.

Officials with Addus HealthCare, the biggest IHSS agency provider in California, say use of agencies should be expanded in California. They argue that consumers who do not want the trouble of hiring and directing a worker have few options in the IHSS program. According to Addus, the ability of a single agency worker to serve several IHSS recipients -- even those with relatively few authorized hours of care -- would save counties money. They contend it would eliminate any tendency of social workers to maximize the hours of care they authorize in order to attract a worker. Addus officials note that the company trains workers, performs criminal background checks and gives employees vacation and mileage reimbursement.

Furthermore, Addus officials say counties can easily audit the company, and contracts include standards of care and penalties for workers who fail to show for work.

Frank Mecca, executive director of the County Welfare Directors’ Association, said use of agencies to supply IHSS workers is not more widespread because

agencies cost more, most consumers prefer to hire their own worker, and many IHSS recipients fear that the higher cost of agency care would increase pressure to minimize the hours of care authorized.

Advocates for people with disabilities also point to a 1992 demonstration project in Tulare County as a reason to be wary of using for-profit agencies to provide IHSS care. In that situation, the county allowed a private contractor to attempt to serve all the people enrolled in the IHSS program for a fixed price. The contractor, National Homecare Systems (later renamed Addus), claimed that it could deliver better service without increasing costs by training workers, centralizing administration and improving worker pay and benefits.

In 1995, the Institute for Social Research at California State University, Sacramento analyzed the demonstration project. Researchers concluded that after one year, the demonstration led to a 20 percent decline in the number of people served by IHSS in Tulare County, increased the monthly program cost per case from \$312 to \$365 and delivered quality of care on par with that of non-agency service in other counties.

A study by consultant A. Alan Post commissioned by National Homecare Systems concluded that the Tulare County demonstration project led to a reduction in the number of people placed in nursing homes and hospitals and saved the county an estimated \$2 million.

In those counties that contract with a private agency, officials say they perform an important, if small, role. Agencies reimburse their workers for mileage, which can help attract workers to remote, rural areas where the typical IHSS worker – who doesn't get paid mileage – will not want to go. Agencies also promise quick backup in case a worker fails to show, a factor that can be especially important to high-need clients. Agency workers are also used to help people who have just returned home from a hospital or nursing home and haven't had time to hire a helper.

Agencies charge counties several dollars more than the standard IHSS hourly rate, but the higher costs can pay off in certain cases by keeping high-need clients at home and out of county hospital emergency rooms, said George McHugh, executive director of the San Joaquin County IHSS Public Authority.

Sources of information:

- “Analysis of the Cost-Effectiveness and Quality of Service in the Tulare County Demonstration Project: A Review of Study Elements,” July 1995, by A. Alan Post
- Department of Social Services, In-Home Supportive Services, Management Statistics Summary, January 2009
- Darby Anderson, vice president of home care services, Addus Healthcare
- Deborah Doctor, legislative advocate, Disability Rights California
- Mark S. Heaney, chief executive officer, Addus Healthcare
- Karen Keeslar, Keeslar & Associates
- George McHugh, executive director, San Joaquin County IHSS Public Authority
- Frank Mecca, executive director, County Welfare Directors Association
- Robert Naylor, attorney, Nielsen, Merksamer, Parrinello, Mueller & Naylor
- “Privatization in California State Government: Implications of the Tulare County Demonstration Project” and “Tulare County IHSS Demonstration Project: An Evaluation of Managed Care, August 1995,” by Carole Wolff Barnes, Ph.D., director, Institute for Social Research, California State University, Sacramento