



COMMUNITY SERVICES AGENCY

Larry B. Poaster, Ph.D.
Interim Director

251 E. Hackett Road
P.O. Box 42, Modesto, CA 95353-0042

Phone: 209.558.2500 Fax: 209.558.2558

**STANISLAUS COUNTY
IHSS ADVISORY COMMITTEE MEETING
MINUTES**

5/10/02

| | | | |
|----------------------------|-------------------------------|------------------------------|----------------------------|
| Committee Members Present: | Jeff Lambaren Jose Acosta | Kenny Brown Connie Muller | Ora Scruggs Rose Martin |
| Committee Members Absent: | Dwight Bateman Toni Hector | Madelyn Amaral | Bonnie Cyphers |
| IHSS Staff Present: | Jan Holden | Paul Birmingham | Larry Baptista |
| CSA Staff Present: | Doreen Ott | | |

OPENING REMARKS by CHAIRMAN JEFF LAMBAREN

- Meeting called to order at 1:06 p.m.
- Announcement made allowing for public comment.

PUBLIC COMMENT

- No public comment presented.

ACCEPTANCE OF MINUTES

- April 26, 2002 minutes: Motion M/S/A to accept minutes with no corrections.

MEMBERSHIP UPDATE – Jeff Lambaren

- Board accepted three new members (Ora Scruggs, Rose Martin, and Toni Hector) and they were welcomed onto the IHSS Advisory Committee.

INTRODUCTION OF GUESTS

- Alan Stolmack, Chief of Adult Programs Branch, California Department of Social Services
- Carrie Stephens, County Counsel
- Ed Fenton, Risk Management



PRESENTATION BY ALAN STOLMACK, CHIEF OF ADULT PROGRAMS BRANCH, CDSS

- Handed out copies of questions for Alan Stolmack to answer regarding AB 1682.
- Alan Stolmack gave an informative presentation on AB 1682 discussing different modes, liability, and wages.
- Presented the committee with a binder on AB 1682.

BUDGET UPDATE by Jan Holden

- County has an 8% growth, so costs are growing.
- Paul Birmingham hasn't seen the preliminary budget numbers. Expects to receive budget update on 5/14/02.
- Plan to have budget update at 5/24/02 meeting.

COMMUNITY FOCUS GROUPS – Jan Holden

- Passed out 4 different layouts of the community forum flyers.
- The committee discussed and agreed upon the layout and wording of the purple flyer and printing it out on a rainbow of different colored paper.
- Other community forums will be held in Oakdale on June 13 at 3 p.m. and in Patterson on June 20 at 6 p.m.
- Passed out draft letter to Board of Supervisors inviting them to each community forum.
- Committee approved the letter and Jeff Lambaren signed.
- Handed out IHSS fact sheet and fact sheet on AB 1682 background and legislation to be passed out at the forums. Jan Holden will have the fact sheets translated into Spanish.
- Made some additions and corrections to the fact sheets.
- Larry Baptista is researching advertising format for the community forums in local newspapers, TV broadcast, and radio.
- Discussed an outline of information that the committee will present at the forums and what committee members will be present.
- Transportation will be provided to the forums for committee members only.
- Ora Scruggs suggested having a sign in sheet present at the forums.
- Jeff Lambaren asked that the committee narrow down and simplify each mode to present to the public.

REVIEW OF THANK YOU LETTER FOR San Francisco PUBLIC AUTHORITY

- Handed out draft letter thanking the Public Authority for hosting the committee's visit.
- Committee approved the wording and Jeff Lambaren signed the letter.

SUB-COMMITTEES/INCREASED MEETINGS OF THE COMMITTEE/REVIEW MEETING

- Jan Holden spoke with Carrie Stephens about sub-committee and she was advised that they would still need to have a posted agenda. The committee didn't see any advantage to having sub-committees.
- Motion M/S/A to have committee meetings every week starting Friday, May 17, 2002 until July 2002 to meet the recommendation deadline.

TERM LIMITS

- Paul Birmingham and Jan Holden suggested that members holding a two and three year term limits. The term limits would be staggered so not all the same type of committee members are lost at the same time. That way the committee will maintain a mix of members.
- Motion M/S/A to set term limits on next meeting on 5/17/02.

QUESTIONS AND ANSWERS

- Jan Holden and Doreen Ott will create large charts including wages, liabilities, and costs for budget information on May 24, 2002.
- Also Jan Holden asked Doreen Ott to do new budget scenarios for an IP, county administered IP, and mixed mode showing costs for a public authority with a contract mode or a county homemaker mode attached to it.
- Jeff Lambaren asked if Doreen Ott could use the same wage scenario. The county is currently paying \$6.95/hr.
- Jeff Lambaren asked if accounting could present 3 different models. One model at the current rate (\$6.95), one at \$7.11/hr. and one at \$7.50/hr.

AGENDA ITEMS FOR NEXT MEETING

Meeting adjourned @ 3:11pm
Larry Baptista, Recorder

AB 1682
QUESTIONS FOR CDSS
FROM STANISLAUS COUNTY
5/10/02

W&I code section 12302.25(a) reads: "Each county may utilize a... county administration of the individual provider mode as authorized under Sections 12302 and 12302.2 for purposes of acting as, or providing an employer under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code." However the issue comes down to who would be considered the employer of record for all other purposes and does it conflict with the language of the immediately preceding sentence in section 12302.25 which reads: "...each county shall act as, or establish an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal law." With that issue in mind, we have the following questions:

- I. Can the County, pursuant to Wel & Inst. Code Section 12302.25, administer the IHSS program, but act as the employer of IHSS personnel for bargaining purposes only and satisfy AB 1682?

If yes:

- A. Who would be considered the employer for all other purposes other than collective bargaining? (This question is generally speaking and looking at the first sentence of 12302.25 that states the county shall establish an employer of record "for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal law.")
- B. Does the language of the first sentence of 12302.25 "...and other applicable state or federal law." Apply narrowly to collective bargaining law or broadly to mean that whoever is the employer of record that employer is the employer for all purposes? What is the basis for your opinion?
- C. Would the county be deemed to be the employer of IHSS personnel referred to recipients for the purposes of liability due to the negligence or intentional torts of the IHSS personnel? Why or why not?
(This is looking at the express limitation of liability under a public authority mode, Section 12301.6(f)(1))
- D. Must the county perform the same minimum functions as prescribed for a non-profit consortium or a public authority if established pursuant to Section 12301.6(e)(1-6)? What are the minimum functions, if any?

- E. Are there any express or implied limitations of liability for the county in its administration of the IHSS program should it adopt this mode of service?
- F. Would the individual providers be entitled to any additional rights or benefits (other than collective bargaining rights) under this mode of service?
- G. Would the county have any additional obligations to the IHSS independent providers under this mode created by the employer of record mandate?

If not:

- A. Why?
 - B. Could the county provide a mixed mode of service whereby it would have the county employees provide some services and then contract with individual IHSS providers (independent contractors) to provide other services? Or, would the county then be considered the employee of record for those "independent contractors" for all purposes by default for not expressly establishing an employer of record for those "independent contractors" pursuant to 12302.25(a)?
- II. Are there any restrictions or limitations on the county from changing its mode of IHSS service delivery at a later time?
 - III. If a county does not designate an employer of record by January 1, 2003, is the county then automatically the employer of record effective January 1, 2003?
 - IV. If there were state funds available to absorb administrative costs for Public Authority/Non Profit, why would a county not get the same consideration if they choose to be employer of record for bargaining purposes only?
 - V. If the county chose to be employer of record for bargaining purposes only for the IP's, is there any requirement that would mandate that the county provided the same services that a public authority is required to provide, such as training, background checks, etc.?
 - VI. Is your legal person willing to talk to our County Counsel?



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DRAFT

May 10, 2002

San Francisco In-Home Supportive Services Public Authority
939 Market Street
Suite 550
San Francisco, CA 94103

Attention: Donna Calame, Executive Director

Dear Ms. Calame:

The Stanislaus County In-Home Supportive Services Advisory Committee would like to say thank you for hosting the Committee's visit to the San Francisco Public Authority.

All of our members appreciated the time and effort your staff extended in explaining and demonstrating how a Public Authority operates. The demonstration of consumer involvement in the operation of San Francisco's Public Authority was very appreciated.

Thank you for taking the time to host this is very informative tour. Everyone had a great time and learned something new.

Sincerely,

Jeff Lambaren
Chairman, Stanislaus County IHSS Advisory Committee





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May 10, 2002

Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, Ca 95354

Dear Chairman Mayfield,

On behalf of the In-Home Supportive Services Committee I would like to invite the Board of Supervisors to attend a Community Forum on Assembly Bill 1682 and the "Employer of Record" issue as it relates to the IHSS Program in Stanislaus County.

The Community Forums will be informational and a way for the community to become involved in this very important decision.

The following forums have been scheduled:

May 30, 2002 6 P. M. to 9 P. M.
TID Building
Council Board Room
333 E. Canal Drive
Turlock, CA

June 13, 2002 3 P. M. to 6 P.M.
Oakdale City Council Chamber
277 2nd Ave.
Oakdale, CA

June 20, 2002 6 P. M. to 9 P. M.
Patterson City Council Chamber
46 N. Salado Ave.
Patterson, CA

Yours truly,

Jeff Lambaren, Chairman
Stanislaus County
In-Home Supportive Services Advisory Committee



**IN HOME SUPPORTIVE SERVICES
FACT SHEET**

TOTAL CASES.....4,305
AVERAGE AUTHORIZED HOURS PER CASE.....77.3
CURRENT WAGE RATE.....\$6.95 PER HOUR
TOTAL HOURS SERVED PER YEAR.....3.5 MILLION
NUMBER OF PROVIDERS (APPROXIMATE).....3,000

.....
NO. OF IHSS SOCIAL WORKERS.....20
NO. OF SUPPORTIVE SERVICES COORDINATORS...6
NO. SW SUPERVISORS.....2
AVERAGE IHSS CASELOAD.....245 CONTINUING
AVERAGE INTAKE CASELOAD.....12 PER MONTH
AVERAGE MONTHLY TIME SHEET ACTIVITY.....7,877

.....
IHSS ADMIN COST...\$3,009,809
COUNTY SHARE OF ADMIN COST...\$451,471
IHSS PROGRAM COST...\$26,151,148
COUNTY SHARE OF PROGRAM COST...\$5,262,491
TOTAL COUNTY SHARE...\$ 5,713,963

COMMUNITY FORUM FACT SHEET
ASSEMBLY BILL 1682
“EMPLOYER OF RECORD” FOR THE IHSS PROGRAM

Background Information

The In-Home Supportive Services Program

In-Home Supportive Services (IHSS) is a State-mandated program providing services to more than 4,000 aged, blind and disabled low-income individuals in Stanislaus County. IHSS provides in-home assistance in order to prevent premature nursing home or board and care placement.

In Stanislaus County, IHSS is provided through the Individual Provider mode. In the Individual Provider mode, the IHSS recipient is considered the employer and is responsible for hiring, firing, supervising and training his/her own provider of service. Stanislaus County provides an enhancement to the Individual Provider mode through its Supported Individual Provider option. The Supported Individual Provider option provides for increased support to the IHSS recipient of services via a contract for a registry of available providers and county staff to assist recipients in interviewing and hiring providers.

Employer of Record Legislation

In July of 1999, the Governor signed AB 1682 (W&I Code 12301.3) which called for all counties to establish an employer of record for the IHSS program by January 2003. The law also required the formation of an IHSS advisory committee, which is to submit recommendations to the county board of supervisors on the preferred mode or modes of service to be used for IHSS. This advisory committee is also responsible for providing ongoing advice and recommendations regarding IHSS to the board of supervisors as well as to the administrative body responsible for IHSS.

An employer of record is a formal entity that can negotiate with the designated labor union for increased wages, health care benefits as well as for other terms and conditions of employment. These additional terms might include access to training for providers, a grievance package, rights to family, medical and personal leave, premium pay for overtime, mileage reimbursement, paid time off for holidays and vacations, wage differentials for different levels of care and a pension plan.

The law provides counties with several options to implement the mandate for an employer of record, including the establishment of a Public Authority or Non-Profit Consortium, as well as use of the contract mode or county personnel.

Counties with more than 500 IHSS recipients are required to offer an individual provider employer option. This has been interpreted to mean that these larger counties must offer either a Public Authority/ Non-Profit Consortium or a county administered Individual Provider Program.

The IHSS Advisory Committee

On September 13, 2001 the Board of Supervisors established the IHSS Advisory Committee. By law, this committee must consist of no more than 11 individuals, with no less than 50% of the members being individuals who are current or past users of personal assistance services. The IHSS Advisory Committee began meeting in December 2001.

**THE STANISLAUS COUNTY
IN-HOME SUPPORTIVE SERVICES
ADVISORY COMMITTEE**

**INVITES THE PUBLIC TO
COMMUNITY FORUMS**

ON

ASSEMBLY BILL I682

AND

**THE "EMPLOYER OF RECORD" ISSUE
IN THE
IN-HOME SUPPORTIVE SERVICES PROGRAM**

**WHEN: THURSDAY, MAY 30, 2002
6 P. M. TO 9 P. M.**

**WHERE: TURLOCK CITY COUNCIL BOARD ROOM
333 E. CANAL DRIVE**

**WHEN: THURSDAY, JUNE 13, 2002
3 P. M. TO 6 P. M.**

**WHERE: OAKDALE CITY COUNCIL CHAMBER
277 N. 2ND AVE.**

**WHEN: THURSDAY, JUNE 20, 2002
6 P. M. TO 9 P. M.**

**WHERE: PATTERSON CITY COUNCIL CHAMBER
46 N. SALADO AVE.**

Members of the In-Home Supportive Services Advisory Committee will be available to hear your opinions regarding implementation of the law requiring Stanislaus County to name an "Employer of Record" for IHSS Providers. The "Employer of Record" will bargain for wages and benefits with the employee organization representing the Providers in Stanislaus County.

The In-Home Supportive Services Advisory Committee meets the 2nd and 4th Friday of every month from 1 P. M. to 4 P. M. at 1010 Tenth Street in Modesto. The meetings are open to the public and reasonable accommodations, in compliance with the Americans with Disability Act, are made for the attending public.

DRAFT

ATTENTION

**IN-HOME SUPPORTIVE
SERVICES
RECIPIENTS
AND PROVIDERS**

**A COMMUNITY FORUM TO DISCUSS AB 1682
AND
THE EMPLOYER OF RECORD ISSUE**

**WHEN: THURSDAY, MAY 30, 2002
6 P. M. TO 9 P. M.**

**WHERE: TID BUILDING
COUNCIL BOARD ROOM
333 E. CANAL DRIVE
TURLOCK, CA 95380**

REASONABLE ACCOMMODATIONS: In compliance with Americans with Disability Act, if you need special assistance to participate in this meeting, please contact Larry Baptista, Committee Clerk at (209) 558-3428. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting.

DRAFT

ATTENTION

**IN-HOME SUPPORTIVE
SERVICES RECIPIENTS
AND PROVIDERS**

**A COMMUNITY FORUM TO DISCUSS
ASSEMBLY BILL 1682
AND
“THE EMPLOYER OF RECORD” ISSUE
AS IT RELATES TO THE IHSS PROGRAM**

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*The forum gives you an opportunity to discuss the issues with
members of the In-Home Supportive Services Advisory Committee*

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