



COMMUNITY SERVICES AGENCY

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**STANISLAUS COUNTY
IHSS ADVISORY COMMITTEE MEETING
MINUTES**

04/25/03

Committee Members Present:	Jeffrey Lambaren Connie Muller Linda White Madelyn Amaral	Kenny Brown Ora Scruggs Dwight Bateman	Jose Acosta Christine Munoz George Sharp
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Committee Members Absent: Rose Martin

IHSS Staff Present:	Paul Birmingham	Jan Holden	Larry Baptista
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CSA Staff Present: BJ Swearingen

OPENING REMARKS by CHAIRMAN JEFFREY LAMBAREN

- Meeting called to order at 1:04p.m.
- Announcement made for public comment.

PUBLIC COMMENT

- No public comments were presented.

ACCEPTANCE OF MINUTES

- April 11, 2003 minutes: Motion M/S/A to accept minutes with no corrections.

BUDGET UPDATE

- Paul said that realignment of the IHSS program appeared to be off the table.
- He said there is nothing new to report on.
- He suspects that the Budget won't be settled until much later in the year.



CUSTOMER SURVEY PRESENTATION by GINA DONAHUE

- Gina Donahue from Strategic Marketing distributed a packet explaining her company and the process for completing a customer survey.
- She gave a brief presentation and answered questions from the committee members.
- A sub-committee was formed to work on the survey. The sub-committee consists of IHSS Advisory Committee members Dwight Bateman, Ora Scruggs, George Sharp, Kenny Brown, Jeff Lambaren, and one member of CSA staff.
- The sub-committee would be charged with getting a survey together that targets providers and recipients, demographics, survey options and questions.
- Jan Holden said that there are approximately 4,600 recipients and 3,700 providers within Stanislaus County.

MEETINGS IN THE COMMUNITY

- Larry Baptista said he had not contacted United Samaritans Foundation to look at their facility, but will make contact in the upcoming week.
- Ora Scruggs suggested having a future meeting in Modesto at the King Kennedy Center.
- Dwight asked to have CSA staff look at senior services program sites in the surrounding towns as possible meeting places.

PROCESS/UNION ORGANIZATION

- Jan Holden said that CSA provided an unduplicated provider list to the union. She said that once the list was provided to the union, then the time period for organizing begins.
- Dwight asked Jan if the list was available to give out to the committee members and she said that she would check with Gina Leguria.
- There is a PERB hearing set for July 1 – 3, 2003.
- Jan said that the IHSS budget contains an allocation for legal fees.

OLMSTEAD UPDATE

- George Sharp said that the Olmstead plan is at a standstill and the legislature is still interpreting data.
- Dwight said that the State is out of compliance with Federal regulation and there might be a Federal penalty charged to the State.
- Dwight Bateman said that the Federal Bill “Mi Casa” which will loosen up Medicaid dollars and disperse them within the community, will be introduced to the legislature at the end of next week and he will provide the committee with a bill number at the next meeting.

CASH AND COUNSELING PROGRAM

- Reviewed handout and discussed at George Sharp’s request.
- Program is tested in Arkansas and it allows the consumers more control in choosing their providers.

HOMEMAKER MODE UPDATE by Jan Holden

- Jan Holden has sent off her request to fill the positions but she still needs the CEO’s signature on the memo.
- Jan had a short meeting with Joann Waters from Center for Senior Employment about their training program. Jan would like the new hires to go through their 3-day training program.
- There will be a job flyer and ads in the paper regarding the Homemaker positions.
- Salary will be around \$10.00/hr. with benefits. Hours will be standard 8am-5pm 40hrs per week, with possibility of overtime and on-call.

PUBLIC AUTHORITY UPDATE

- Reviewed County comparison matrix handouts, explained and discussed.

250% WORKING DISABLED MEDI-CAL PROGRAM/IHSS IN THE WORKPLACE

- Reviewed and discussed handout.
- Dwight suggested CSA staff could put together a brief presentation regarding the program for the committee at a future meeting.

DISCUSSION OF ADVISORY COMMITTEE'S 1ST ANNUAL REPORT

- None were presented.
- Committee will discuss at next meeting.

AGENDA ITEMS FOR NEXT MEETING

- Budget Update
- Customer Survey
- Meetings in the Community
- Process/Union Organization
- Olmstead Update
- Discuss AB 784
- Homemaker Mode Update
- Public Authority Update: Santa Clara County Public Authority Workshop Review by Kenny Brown
- Discussion of Advisory Committee's 1st Annual Report

Meeting adjourned @ 3:15p.m.
Larry Baptista, Recorder

STRATEGIC
marketing + communications

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▶ advertising
& corporate
communications

▶ Service
Excellence®
training &
consulting

▶ employee &
customer
satisfaction
assessments

ABOUT OUR FIRM

Gina Donahue is the owner and Executive Director of Strategic Marketing + Communications. Along with an MBA, she brings over 20 years experience in marketing, management and university instruction to the firm. Based in Turlock, California, she and her firm assist various national and local clients in optimizing the loyalty and value of their customers through improved communications, research and training.

Our professional services include assisting clients with their **external communications** and promotions. Our vision was to establish a team of professionals that would offer clients more than advertising, but rather comprehensive communication strategies and tools developed with a strong marketing and customer-focused foundation. With this approach, we produce smarter, more effective products for clients that generate greater promotional and financial efficiency.

Our promotional services include:

- innovative logos
- business systems
- corporate packages
- promotional planning
- customer satisfaction surveys
- multi-media advertising:
 - print
 - broadcast
 - direct mail
 - outdoor

Our **internal communications** services center around consulting and training in our Service Excellence© program -- a comprehensive, interactive approach for developing effective customer service skills, systems, strategies and tools. Through our proven five-step approach, we develop customized training experiences for leaders, managers and frontline personnel that focus on Five-star service, teambuilding and mission development. Gina has become well known for her instructional and inspirational approach and her ability to motivate people towards improved performance and excellence.

Our Service Excellence© support services include:

- consulting
- customized training
- service standard creation
- new employee orientation
- customer satisfaction surveys
- employee satisfaction surveys
- focus groups
- mystery shop programs

For the past ten years, Strategic Marketing + Communications has experienced consistent growth and profitability due to the success of their promotional communications and popularity of their Service Excellence© approach to customer service. The firm has found by working with - and not just for - their clients, they have been able to share their client's vision and generate the kind of results that produce success in the immediate present, even as they lay down the groundwork for future triumphs.

Strategic Marketing + Communications is proud to have established relationships with such firms as United Rentals, Royal Robbins, Bank of America, Guaranty Federal Bank, Emanuel Medical Center, Diablo Grande, Prudential California Realty, JKB Homes, Prime Shine Express, CSU Stanislaus, various Chambers of Commerce & Small Business Development Centers and several departments of Stanislaus County including the CEO Department, Library, Public Works, Health Services Agency, Probation, Parks & Recreation & the Community Services Agency.

CREATING EFFECTIVE ASSESSMENT TOOLS OUR 5-PHASE APPROACH

Feedback is life and death sustenance to any organization. Whether this critical intelligence comes from your external customers or internal customers, Strategic Marketing can help you open the lines of communication and improve the way you do business.

One opportunity to obtain this type of feedback is with the use of "satisfaction" or "assessment" surveys. We've developed a proven **5-Phase Approach** in which YOU work with us to structure a survey tailored to meet your specific objectives; thus you benefit by "ownership" of project underpinnings.

1. INVESTIGATION

- identify research objectives
- establish working sub-committee
- review existing data / info
- determine information needs
- identify segment/s to be surveyed
- validate desired information
- discuss project timeline

2. PARTICIPATIVE DESIGN

- define the performance criteria and dimensions to be assessed
- determine how the survey will be analyzed (demographics, metrics, benchmarking)
- determine the distribution methodology (and incentive plans if any)
- review sample surveys for further ideas
- define the structure and components of survey:
 - questions and sequence
 - closed-ended
 - wording
 - open-ended
 - length
 - ranking scales
- review completion instructions and cover letter

3. DEVELOPMENT

- rough draft/s of the survey instrument are designed
- any pre-testing and survey adjustments are completed
- management signs off on the final proof
- surveys are sent to press

4. IMPLEMENTATION

For "paper & pencil" surveys:

- pre-survey communications are conducted (letters, e-mails, posters, etc.)
- client will distribute surveys to participants (or have mailed directly to them)
- a self-addressed, stamped envelope will be included (or receptacle is provided)
- all completed surveys are returned directly to Strategic Marketing

For phone surveys:

- staff is trained (phone script and data entry)
- list of contact names and phone numbers is generated
- phone surveys are conducted

5. TABULATION & PRESENTATION OF RESULTS

- tabulation of all open-ended and closed-ended questions are compiled
- summary results are presented to management (and employees)

↳ **CREATING AN EXTERNAL CUSTOMER ASSESSMENT
TYPICAL PROJECT TIMELINE**

<u>Week/s:</u>	<u>Proposed Activities:</u>
Week 1	Δ meeting with Leadership Team to discuss project objectives
Weeks 2-3	Δ SM+C Proposal of Services is delivered and approved Δ participants for the survey sub-committee are selected Δ start collecting preliminary information on comparable surveys from other agencies or industries (if necessary)
Week 4-5	Δ <u>first</u> 2.0 hour meeting with survey sub-committee Δ sub-committee members begin identifying information needs and potential survey questions (and conduct any other research)
Week 6	Δ <u>second</u> 2.0 hour meeting with survey sub-committee
Week 7-8	Δ "pretest survey" questions are designed and faxed to sub-committee in preparation for third and final meeting
Week 9	Δ <u>third</u> 2.0 hour meeting with survey sub-committee Δ pretest survey questions are approved
Week 10	Δ Spanish translations are completed on surveys Δ pretest surveys are created and reproduced Δ pretest surveys are administered via mail, in-person or by phone
Weeks 11-12	Δ receipt window for pretest survey return
Weeks 13-15	Δ surveys are collected by SM+C and analysis is performed
Week 16	Δ 1.5 hour meeting to discuss pretest results and deliver proposed questions for final survey
Week 17	Δ final survey questions are approved Δ pre-survey communications are sent to participants (where appropriate)
Week 18	Δ surveys are administered: *paper and pencil surveys are delivered to client and then distributed *phone surveys are conducted (which may occur over several weeks depending on the nature of the survey objectives)
Weeks 19-20	Δ receipt window for all surveys to be returned/completed
Weeks 21-24	Δ analysis of data and preparation of Summary Report
Week 25	Δ delivery of final Summary Report to management

↳ PRELIMINARY WORKSHEET OF INFORMATION

Identifying your Research Objectives

1. Who will be surveyed and how many potential respondents are there?
2. Why do you want to implement a survey with them? What end do you hope to achieve? (Are these goals/objectives consistent with your mission?)
3. What is it you want to know from each of your target segments? Their needs? Their level of satisfaction? What are your overall, specific and demographic information needs?
4. How will obtaining this information benefit the organization and the way you manage or make decisions?
5. Will one survey meet all of your target segments' needs? Or will you need multiple versions?
6. How long should the survey take to complete?
7. How many survey questions (closed-ended & open-ended) are anticipated?
8. How often do you hope to implement the survey? Quarterly? Annually?
9. What methodology will you use to administer the survey and why?
10. Will the information be grouped and analyzed by using some demographic variables or will everyone just be grouped together?
11. Are you wanting to trend the data over time? At what intervals?
12. Do you require the development and reporting of a metric for balanced scorecard purposes?
13. Will you need to secure outside benchmark data from comparable agencies or industries in order to compare your results?
14. Once the final survey is created, will your people be able to perform the "implementation" and "tabulation" phases of the project? Or will Strategic Marketing be handling all five phases?
15. What's the proposed timeline on the project?

PUBLIC AUTHORITY RATE PACKAGES

PA Rates Approved

County	Effective Date	PA Rate	Wage Rate	Admin	Taxes	Benefits
Butte	September 1, 2002	\$ 7.90	\$ 7.11	\$ 0.15	\$ 0.64	\$ -
Del Norte	April 1, 2003	\$ 7.98	\$ 6.75	\$ 0.62	\$ 0.61	\$ -
El Dorado	February 1, 2003	\$ 8.13	\$ 6.75	\$ 0.77	\$ 0.61	\$ -
Glenn	March 1, 2003	\$ 8.55	\$ 7.11	\$ 0.78	\$ 0.66	\$ -
Humboldt	January 1, 2003	\$ 7.52	\$ 6.75	\$ 0.24	\$ 0.53	\$ -
Kern	January 1, 2003	\$ 7.49	\$ 6.75	\$ 0.12	\$ 0.62	\$ -
Kings	November 1, 2002	\$ 7.55	\$ 6.75	\$ 0.23	\$ 0.57	\$ -
Madera	January 1, 2003	\$ 7.73	\$ 7.36	\$ 0.37	\$ 0.61	\$ -
Merced	December 1, 2002	\$ 8.24	\$ 6.95	\$ 0.24	\$ 1.05	\$ -
Placer	December 1, 2002	\$ 7.76	\$ 6.75	\$ 0.40	\$ 0.61	\$ -
Siskiyou	January 1, 2003	\$ 7.82	\$ 6.75	\$ 0.46	\$ 0.61	\$ -
Tehama	February 1, 2003	\$ 7.55	\$ 6.75	\$ 0.37	\$ 0.43	\$ -
Tulare	January 1, 2003	\$ 7.63	\$ 6.75	\$ 0.23	\$ 0.65	\$ -
Ventura	January 1, 2003	\$ 8.89	\$ 7.11	\$ 0.47	\$ 0.71	\$ 0.60

PA Rate Changes

County	Effective date	PA Rate	Wage Rate	Admin	Taxes	Benefits
Alameda	February 1, 2003	\$ 11.12	\$ 9.50	\$ 0.12	\$ 0.90	\$ 0.60
Monterey	April 1, 2003	\$ 10.74	\$ 9.10	\$ 0.21	\$ 0.83	\$ 0.60
San Bernardino	February 1, 2003	\$ 9.68	\$ 8.50	\$ 0.18	\$ 0.62	\$ 0.38
San Diego	March 1, 2003	\$ (9.85)	\$ 8.50	\$ 0.14	\$ 0.61	\$ 0.60
Solano	January 1, 2003	\$ 11.19	\$ 9.50	\$ 0.23	\$ 0.86	\$ 0.60

Calaveras	Under Review					
Colusa	Under Review					
Lake	Under Review					

COUNTY COMPARISON

March 2003 IHSS Statistics

County	2002 Population	Authorized Cases	Total Paid Hrs. per Month	Monthly Expense per month	Avg. Auth. Hrs. per Case	Avg. Paid Hrs. per Case	Avg. Paid \$ per Case
Monterey	409,600	2,491	231,406.50	\$ 2,104,361.36	97.20	89.60	\$ 815.64
San Joaquin	596,000	5,102	401,038.50	\$ 3,108,148.93	80.90	76.70	\$ 595.09
Solano	405,800	2,254	234,017.15	\$ 2,381,515.28	108.70	100.50	\$ 1,022.99
Sonoma	471,000	3,030	273,345.60	\$ 2,773,934.86	96.70	90.00	\$ 914.28
Stanislaus	469,500	4,467	329,498.00	\$ 2,474,442.71	78.30	75.10	\$ 564.68
Tulare	379,200	2,421	153,336.40	\$ 1,105,982.46	64.20	61.10	\$ 441.43

DEMOGRAPHICS

County	2002 Population	Pop. Change 1990 - 2000	2000 Population by Age (65+)
California (State)	35,037,000	15.4%	3,712,721
Monterey	409,600	12.3%	40,036
San Joaquin	596,000	17.9%	65,296
Solano	405,800	17.5%	35,644
Sonoma	471,000	15.9%	59,213
Stanislaus	469,500	19.1%	48,758
Tulare	379,200	18.0%	39,136

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**AN ORDINANCE RELATING TO THE DESIGNATION OF
THE PUBLIC AUTHORITY FOR IN-HOME SUPPORTIVE SERVICES**

The Board of Supervisors of the County of Butte ordains as follows:

SECTION 1. PUBLIC AUTHORITY CREATED. The Board of Supervisors hereby establishes a public authority whose powers and authority are derived from and consistent with the provision of Welfare and Institutions Code Sections 12300 *et seq.* The public authority shall be known as the Butte County In-Home Supportive Services Public Authority and shall hereafter be referred to as the "Authority."

SECTION 2. GOVERNING BODY. The governing body of the Authority shall be the Butte County Board of Supervisors.

SECTION 3. ADVISORY COMMITTEE. The In-Home Supportive Services (IHSS) Advisory Committee established by the Butte County Board of Supervisors on December 19, 2000, by Resolution No. 00-161, in accordance with the requirements of Welfare and Institutions Code Section 12301.6(b)(C), (D) shall serve as the advisory committee to the Authority and shall fulfill the roles and responsibilities required by Welfare and Institutions Code Section 12301.6. It shall report directly to the Authority's governing body.

SECTION 4. AUTHORITY DUTIES. The duties and responsibilities of the Authority shall be as follows:

- (a) to implement the goals and objectives of Welfare and Institutions Code Sections 12300 *et seq.* including, but not limited to 1) the provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry; 2) the investigation of the qualifications and background of potential in-home supportive services personnel; 3) the establishment of a referral system under which in-home supportive services personnel shall be referred to recipients; 4) provision for training for providers and recipients; 5) the performance of any other functions related to the delivery of in-home supportive services; and 6) the assurance that the requirements of the personal care option pursuant to Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code are met;
- (b) to adopt a budget for the Authority;
- (c) to exercise all powers, duties and functions as are prescribed by statute, the Board of Supervisors and the Authority.
- (d) The Authority shall not be responsible for 1) authorizing services for an IHSS recipient; 2) determining a recipient's need for IHSS, the level and quality of services required, and the eligibility of individuals to be served; 3) conducting the initial or any subsequent assessment of need for services; or 4) terminating the recipient's participation in the IHSS program. The above-referenced services and functions shall be the exclusive responsibility of the Department of Employment and Social Services.

SECTION 5. POWERS. (a) The Authority shall be an entity separate from the County of Butte and shall file the Statement of Fact for the Roster of Public Agencies required by Government Code Section 53051.

SECTION 7. LABOR RELATIONS PROGRAM. The Authority shall adopt rules and regulations for administration of employer-employee relations. Only those employee organizations recognized in accordance with the Authority's labor relations resolution shall be entitled to negotiate with the Authority on matters within the scope of representation and such other rights that may be granted to recognized employee organizations pursuant to Sections 3500 through 3511 of the Government Code.

SECTION 8. FISCAL PROVISIONS. (a) In adopting this Chapter, the Board of Supervisor's recognizes that the funding of IHSS is the product of a complex relationship of federal, state and County financing and the ability of the Authority to operate and to negotiate the wages and benefits of the IHSS providers is contingent upon the availability of adequate funding from all sources. Nothing in this Chapter is intended to require the County to appropriate any funds for the operation of the Authority or for payment of wages or benefits to IHSS providers.

- (b) The Authority shall provide the County with the information necessary for the County to bill the California Department of Social Services for the State and Federal share of the Authority costs.
- (c) The Authority shall assist the County in developing and submitting the information and documentation necessary to obtain approval from the California Department of Social Services and the Department of Health Services for the Authority's reimbursement rate and any rate adjustment. *(Does this beg the question of whether or not the PA is operational before submission of the rate plan? And would it matter anyway?)*
- (d) Payment for all services provided pursuant to this Chapter is contingent upon the availability of county, state and federal funds for the purpose of providing IHSS.

SECTION 9. RECORDS. The Authority shall maintain all records pertaining to service delivery and fiscal administrative controls for a minimum of five years after final payment for a given fiscal year, or until all pending county, state and federal audits have been completed, whichever is later. The Authority shall make any of the retained records available to all authorized county, state and federal representatives.

SECTION 10. TERMINATION. By repeal of this Chapter, the Board of Supervisors may abolish the Authority.

SECTION 11. DISCLAIMER. By establishing the Authority, the County is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

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PUBLIC AUTHORITY FOR IN-HOME SUPPORTIVE SERVICES

EMPLOYER-EMPLOYEE RELATIONS POLICY

SECTION 1. GENERAL PROVISIONS

1.0 Statement of Purpose.

The Butte County Board of Supervisors has established a public authority for delivery of In-Home Supportive Services (hereinafter "IHSS Authority" or "Authority") pursuant to Welfare & Institutions Code §12301.6(a)(2). Pursuant to §12301.6(c)(1), the Authority is deemed the employer of In-Home Supportive Services personnel within the meaning of Government Code §§3500, et. seq. (Meyers-Miliias-Brown Act, hereinafter "MMBA").

This Policy is enacted pursuant to the MMBA, for the purpose of establishing orderly procedures to promote full communication between the Authority and its employees, by providing a reasonable method of conducting business and resolving disputes between the Authority, its employees, and employee organizations which represent such In-Home Supportive Services personnel in their employment relationship(s) with the Authority. Nothing contained herein shall be deemed to supersede the provisions of existing state law, as amended from time to time, and the ordinances, resolutions, and rules that establish and regulate or provide for the administration of employer-employee relations. This Policy is intended, instead, to promote and strengthen the administration of employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the Authority.

1.1 Management Rights.

Nothing in this Policy shall be construed to limit the Authority's right to determine its mission; to maintain the efficiency of the Authority's operations; to set standards of service; to determine the procedures and standards of selection for employment, to direct its employees; to take disciplinary action; to relieve its employees from duty because of lack of work or for other lawful reasons; to determine the methods, means, and personnel by which the Authority's delivery of In-Home Supportive Services will be carried out; to take all necessary action to carry out its mission in emergencies; to make reasonable rules and regulations pertaining to its employees consistent with this Policy, and to exercise complete control over its organization and the technology of performing its work.

1.2 Management Agents' Responsibilities.

The Authority's Individual Providers and all other employees of the Authority shall comply with any and all confidentiality requirements concerning delivery of In-Home Supportive Services in accordance with the provisions of all state and federal laws including, but not limited to, those contained in the Welfare & Institutions Code, all other statutes, California Code of Regulations' provisions, all other regulations, and practices of federal, state, and local government.

interpretation, suggestion, and advice in reconciling a dispute regarding terms and conditions of employment which is subject to the meet and confer provisions of the MMBA.

(m) "Meet and Confer" or "meet and confer in good faith" means consulting, upon the request of either the representative(s) of the Authority or the representative(s) of the recognized employee organization(s), for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

(n) "Memorandum of Understanding" or "MOU" means a written document incorporating all matters within the scope of representation which have been agreed upon through meeting and conferring between representative(s) of the Authority and representative(s) of a recognized employee organization, which has thereafter been approved by the governing body of the Authority.

(o) "Public Authority" means the In-Home Supportive Services Public Authority of Butte County, California.

(p) "Recognized Employee Organization" means an employee organization which has been formally acknowledged by the Authority as an employee organization that represents employees/Individual Providers of the Authority.

(q) "Scope of Representation" means matters relating to the wages, hours, and other terms and conditions of employment relevant to the respective employee group, as defined by Government Code §3505, but subject to the limitations set forth in the Welfare & Institutions Code §12301.6. The scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order, or those matters reserved to management as set forth in Section 1.1, above.

(r) "Supervisory Employee" means any employee of the Authority who is authorized to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or who has the responsibility to direct them, or to adjust their grievances, or effectively to recommend such actions, if such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

SECTION 2. RECOGNITION PROCEEDINGS

2.1 Filing of Recognition Petition by Employee Organization.

An employee organization that seeks to be acknowledged as the recognized employee organization for a designated representation unit for which no recognized employee organization

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization submitting it.

2.2 Response of Public Authority.

Upon receipt of the Petition, the Employee Relations Director shall determine whether the following have been satisfied:

- (a) That the Petition complies with all requirements of the listed in Section 2.1; and
- (b) That the proposed representation unit is an appropriate unit in accordance with Section 4.

Upon determining that both (a) and (b) are satisfied, the Employee Relations Director shall so inform the petitioning employee organization; and the Employee Relations Director shall give written notice of the Petition to the employees/Independent Providers in the unit, to any employee organization currently certified as the representative of the unit, and to any other employee organization that has filed a written request for such notice.

If either (a) or (b) are not satisfied, the Employee Relations Director shall so inform the petitioning employee organization in writing, and provide the reasons for rejection of the Petition. The petitioning employee organization may appeal such determination in accordance with Section 5.

2.3 Open Period for Filing Challenging Petition.

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be acknowledged as the recognized exclusive employee organization of the employees in the same or in an overlapping unit (i.e., one which corresponds with respect to some but not all the classifications or titles set forth in the recognition petition being challenged), by filing a petition that meets the requirements of Section 2.1.

If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Director shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time each of the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Director shall determine the appropriate unit or units in accordance with the standards in Section 4. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Director to amend their petitions to conform to such determination or to appeal determination pursuant to Section 5.

SECTION 3. DECERTIFICATION

3.1 Time for Filing of Decertification Petition.

~~A decertification petition alleging that the incumbent recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Director only:~~

~~(a) Three (3) full years after an employee organization was acknowledged as the recognized employee organization for an appropriate unit if no Memorandum of Understanding exists; or~~

~~(b) During the month September, except that in a multi-year Memorandum of Understanding, only during the month of September in the last year of the then current MOU.~~

A Decertification Petition alleging that the incumbent Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of January of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred eighty (180) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later.

3.2 Contents of Decertification Petition.

A decertification petition may be filed with the Employee Relations Director by any employee(s) or by an employee organization. The petition shall contain the following:

(a) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information; and

(b) The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representative of that unit; and

(c) An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts; and

(d) Proof that at least thirty percent (30%) of the employees in the unit no longer desire to be represented by the incumbent recognized employee organization. Such proof shall be submitted to the Employee Relations Director within the time limits set forth in Section 3.1.

4.2 Standards for Determining Appropriate Units.

Factors to be considered shall be:

(a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

(b) History of representation in the Authority and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

(c) Consistency with the organizational patterns of the Authority, and the effect of the proposed unit on the Authority's job classification structure.

(d) The number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units. The analysis of this factor shall include the internal and occupational community of interest among the employees including, but not limited to:

- i) the extent to which they perform functionally related services and/or work toward established common goals;
- ii) the extent to which the employees have common skills, working conditions, job duties and/or training requirements;
- iii) the extent to which the employees constitute a traditional craft; and
- iv) the extent to which the employees have common supervision or work-related interchange.

(e) The effect on the classification structure, as well as the impact on the stability of the employer-employee relationship, of dividing a single or related classifications between two or more units.

(f) For purposes of determining appropriate units, a unit comprised of all Authority Individual Providers may be considered an appropriate unit.

4.3 Managerial, Supervisory, and Confidential Employees.

Managerial, supervisory, and confidential employees, as defined in Section 1.2 of this Policy, are determinative factors in establishing appropriate units hereunder, and therefore managerial, supervisory, and confidential employees may only be included in a unit consisting solely of managerial, supervisory, or confidential employees respectively. Managerial, supervisory, and confidential employees may not be represented by any employee organization that represents other employees. (This section was included in Sacramento, San Diego and various other counties in the event that the PA employees themselves organized to be represented by a union. That is why all the discussion regarding how to determine appropriate units etc. In Butte, only the IHSS providers anticipated to be represented by union and ALL providers

governing body of the Public Authority for final decision within fifteen (15) days of notice of the Employee Relations Director's determination or the termination of proceedings pursuant to Government Code §§3507.1 and 3507.3, whichever is later.

5.2 Appeals from Recognition and Decertification Determination.

An employee organization aggrieved by a determination of the Employee Relations Director that a Recognition Petition, Challenging Petition, or Decertification of Recognition Petition has not been filed in compliance with the applicable provisions of the Policy, may, within fifteen (15) days of notice of such determination, appeal the determination to the governing body of the Authority for final decision.

An employee aggrieved by a determination of the Employee Relations Director that a Decertification of Recognition Petition has not been filed in compliance with the applicable provisions of the Policy may also be appealed in the same manner set forth in the preceding paragraph.

5.3 Other Procedural Requirements Involving Appeals.

Appeals under this Section made to the governing body of the Public Authority shall be filed in writing, and a copy thereof served on the Employee Relations Director. The Authority's Board shall commence consideration of the matter within thirty (30) days of the filing of such appeal. The Authority's Board may, within its sole discretion, refer the dispute to a third party hearing process. Any such decision by the Authority's Board regarding the use of such procedure, and/or any decision determining the substance of the dispute shall be final and binding.

In the event the appeal is referred to a third party hearing officer, at the conclusion of the hearing, the hearing officer shall prepare a summary record of the proceedings, recommended findings on all relevant issues, conclusions and decision, and shall submit a copy thereof to the Authority's Board. Within thirty (30) days of such submittal, the Board shall adopt such recommended findings, conclusions and decision, or shall modify or reject the recommendations of the hearing officer and adopt its own findings, conclusions and decision in the matter after a review of the record by Board members. The decision of the Board shall be final and binding on the parties.

SECTION 6. ADMINISTRATIVE RULES AND PROCEDURES

The Employee Relations Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of these rules after consultation with affected employee organizations.

SECTION 7. EMPLOYEE RIGHTS

7.1 Employees of the Authority shall have the right to form, join and participate in the activities of employee organizations of their own choosing pursuant to the provisions of

directly or indirectly, and strike, sick out, or other total or partial stoppage or slowdown of work. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination and may be deemed to have abandoned their employment; and employee organizations may thereby forfeit all rights accorded them under this resolution and other County law for a period up to (1) one year from commencement of such activity.

SECTION 11. IMPASSE PROCEDURES

11.1 Mediation.

Upon declaration of impasse, if both parties expressly agree, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendations, nor take any public position at any time concerning the issues.

11.2 If the parties are unable to agree on a mediator after a reasonable period of time, they shall select the mediator from a list of three (3) names to be provided by the California State Mediation & Conciliation Service, or if that body for any reason shall fail to provide such list, then by the American Arbitration Association's San Francisco Office. The recognized employee organization shall first strike one name, the Employee Relations Director shall then strike one name, and the name remaining shall be the mediator.

11.3 If the parties have failed to resolve all their disputes through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the parties may agree to submit the remaining issues in dispute directly to the Authority's governing board. In that event, the Board shall finally determine the issues after conducting a public hearing thereon and after such further investigation of the relevant facts as it may deem appropriate, within its sole discretion, under the facts and circumstances.

11.4 Fact-Finding.

If the parties fail to agree to submit the remaining unresolved issues of their dispute directly to the Authority's Board, those disputed issues shall instead be submitted to fact-finding.

11.5 The parties may agree on the appointment of one or more fact-finders. If they fail to so agree, a fact-finding panel of three (3) shall be appointed in the following manner: a panel member shall be appointed by the Employee Relations Director; a second member shall be appointed by the recognized employee organization(s); and those two shall name a third panel member, who shall serve as Chairperson. If they are unable to agree upon a third, they shall select the third member from a list of five (5) names to be provided by the California State Mediation & Conciliation Service, or if that body for any reason shall fail to provide such list, then by the American Arbitration Association's San Francisco Office, to be determined by the alternate striking of names, with the party who is to strike first determined by a coin toss.

If any provision of this Policy, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Policy, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Butte PA EERP 11/4/01

DRAFT (2)**NEVADA COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY
EMPLOYER-EMPLOYEE RELATIONS POLICY****SECTION 1. GENERAL PROVISIONS****1.0 Statement of Purpose.**

The Nevada County Board of Supervisors has established a public authority for delivery of In-Home Supportive Services (hereinafter "IHSS Authority" or "Authority") pursuant to Welfare & Institutions Code §12301.6(a)(2). Pursuant to §12301.6(c)(1), the Authority is deemed the employer of In-Home Supportive Services personnel within the meaning of Government Code §§3500, et. seq. (Meyers-Milias-Brown Act, hereinafter "MMBA").

This Policy is enacted pursuant to the MMBA, for the purpose of establishing orderly procedures to promote full communication between the Authority and its employees, by providing a reasonable method of conducting business and resolving disputes between the Authority, its employees, and employee organizations which represent such In-Home Supportive Services personnel in their employment relationship(s) with the Authority. Nothing contained herein shall be deemed to supersede the provisions of existing state law, as amended from time to time, and the ordinances, resolutions, and rules that establish and regulate or provide for the administration of employer-employee relations. This Policy is intended, instead, to promote and strengthen the administration of employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the Authority.

1.1 Management Rights.

Nothing in this Policy shall be construed to limit the Authority's right to determine its mission; to maintain the efficiency of the Authority's operations; to set standards of service; to determine the procedures and standards of selection for employment, to direct its employees; to take disciplinary action; to relieve its employees from duty because of lack of work or for other lawful reasons; to determine the methods, means, and personnel by which the Authority's delivery of In-Home Supportive Services will be carried out; to take all necessary action to carry out its mission in emergencies; to make reasonable rules and regulations pertaining to its employees consistent with this Policy, and to exercise complete control over its organization and the technology of performing its work.

1.2 Management Agents' Responsibilities.

The Authority's Individual Providers and all other employees of the Authority shall comply with any and all confidentiality requirements concerning delivery of In-Home Supportive Services in accordance with the provisions of all state and federal laws including, but not limited to, those contained in the Welfare & Institutions Code, all other statutes, California Code of Regulations' provisions, all other regulations, and practices of federal, state, and local government.

1.3 Definitions.

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As used in this Policy, the following terms shall have the meanings indicated:

- (a) "**Board**" means the Authority's Board of Directors.
- (b) "**Confidential Employee**" means an employee who, in the course of his or her duties, has access to information relating to the Authority's administration of employer-employee relations.
- (c) "**Consult**" means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- (d) "**Consumer**" or "**Recipient**" means any person who receives In-Home Supportive Services.
- (e) "**Day**" means calendar day.
- (f) "**Employee Organization**" means any organization which includes employees of a public agency, and which has as one of its primary purposes the representation of those employees in their relations with the Public Authority.
- (g) "**Employee Relations Director**" means the individual(s) designated by the Authority to handle labor relations for the Public Authority. The Employee Relations Director may also serve in other administrative capacities.
- (h) "**Impasse**" means that the representatives of the Authority and representatives of a recognized employee organization have reached a point in meeting and conferring on a dispute over matters within the scope of representation at which their differences in positions are so substantial or prolonged that future meetings would be futile.
- (i) "**Public Authority Provider**" or "**Individual Provider**" means any Individual Provider selected by a consumer(s) of In-Home Supportive Services for whom the Authority is the employer of record, as provided by Welfare & Institutions Code §12301.6(a)(2).
- (j) "**Management Employee**" means an employee having the responsibility for formulating, administering and/or managing the implementation of Authority policies or programs.
- (k) "**Mediation**" means an effort by an impartial third party to assist through interpretation, suggestion, and advice in reconciling a dispute regarding terms and conditions of employment which is subject to the meet and confer provisions of the MMBA.

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(l) **"Meet and Confer"** or **"meet and confer in good faith"** means consulting, upon the request of either the representative(s) of the Authority or the representative(s) of the recognized employee organization(s), for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

(m) **"Memorandum of Understanding"** or **"MOU"** means a written document incorporating all matters within the scope of representation which have been agreed upon through meeting and conferring between representative(s) of the Authority and representative(s) of a recognized employee organization, which has thereafter been approved by the governing body of the Authority.

(n) **"Public Authority"** means the In-Home Supportive Services Public Authority of Nevada County, California.

(o) **"Recognized Employee Organization"** means an employee organization which has been formally acknowledged by the Authority as an employee organization that represents employees/Individual Providers of the Authority.

(p) **"Scope of Representation"** means matters relating to the wages, hours, and other terms and conditions of employment relevant to the respective employee group, as defined by Government Code §3505, but subject to the limitations set forth in the Welfare & Institutions Code §12301.6. The scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order, or those matters reserved to management as set forth in Section 1.1, above.

(q) **"Supervisory Employee"** means any employee of the Authority who is authorized to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or who has the responsibility to direct them, or to adjust their grievances, or effectively to recommend such actions, if such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

SECTION 2. RECOGNITION PROCEEDINGS

2.1 Filing of Recognition Petition by Employee Organization.

An employee organization that seeks to be acknowledged as the recognized employee organization for a designated representation unit for which no recognized employee organization has been acknowledged shall file with the Employee Relations Director a Petition containing the following information and documentation:

- (a) The name and address of the employee organization; and

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(b) The objectives of the organization and its charter and/or bylaws, including a statement that the employee organization has, as one of its primary purposes, the representation of employees in their employment relations with the Authority; and

(c) The names and titles of its officers; and

(d) The names of employee organization representative(s) who are authorized to speak on behalf of the organization; and

(e) A designation of those persons, not exceeding two (2) in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice to the employee organization for any purpose; and

(f) A statement that the organization does not discriminate or restrict membership or participation based on race, color, creed, national origin, religion, sex, marital status, sexual orientation, age, or disability; and

(g) The job classifications or titles of employee in the unit claimed to be appropriate, and the approximate number of member employees therein; and

(h) A certified copy of the dues structure or proposed dues structure for the unit claimed to be appropriate. This statement shall be kept current by the employee organization; and

1. (i) A statement that the employee organization has in its possession proof of employee support to establish that at least twenty percent (20%) of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the Authority. *All proof of support documents shall be signed and dated no later than one hundred eighty (180) days prior to the time the petition is filed. The following shall constitute acceptable proof of support: an authorization card signed and personally dated by the employee; or a verified authorization petition or petitions signed and personally dated by the employees; or an employee's membership dues deduction, as verified by the payroll register for the State of California for the two most recently available months immediately prior to the date the petition is filed but no later than one hundred eighty (180) days. Such written proof shall be submitted for confirmation to the Employee Relations Director; and*

2. (j) A request that the Employee Relations Director acknowledge the petitioner as the recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization submitting it.

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2.2 Response of Public Authority.

Upon receipt of the Petition, the Employee Relations Director shall determine whether the following have been satisfied:

- (a) That the Petition complies with all requirements of the listed in Section 2.1; and
- (b) That the proposed representation unit is an appropriate unit in accordance with Section 4.

Upon determining that both (a) and (b) are satisfied, the Employee Relations Director shall so inform the petitioning employee organization; and the Employee Relations Director shall give written notice of the Petition to the employees/Independent Providers in the unit, to any employee organization currently certified as the representative of the unit, and to any other employee organization that has filed a written request for such notice.

If either (a) or (b) are not satisfied, the Employee Relations Director shall so inform the petitioning employee organization in writing, and provide the reasons for rejection of the Petition. The petitioning employee organization may appeal such determination in accordance with Section 5.

2.3 Open Period for Filing Challenging Petition.

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be acknowledged as the recognized exclusive employee organization of the employees in the same or in an overlapping unit (i.e., one which corresponds with respect to some but not all the classifications or titles set forth in the recognition petition being challenged), by filing a petition that meets the requirements of Section 2.1.

If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Director shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time each of the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Director shall determine the appropriate unit or units in accordance with the standards in Section 4. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Director to amend their petitions to conform to such determination or to appeal determination pursuant to Section 5.

2.4 Election.

(a) The Employee Relations Director shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Director and the concerned employee organization(s). In the event that the parties are unable to agree on a third party to conduct an

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election, the election shall be conducted by the California State Mediation & Conciliation Service.

(b) All employee organizations that have duly submitted petitions, which have been approved under Section 2.2, shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons in the representation unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date on which the election commences.

(c) There shall be no more than one valid election under this Policy pursuant to any petition in a twelve (12) month period affecting the same unit.

(d) Costs of conducting elections shall be borne equally by by the Public Authority and by each employee organization appearing on the ballot.

2.5 Recognition.

- 3. (a) An employee organization shall be acknowledged by the Employee Relations Director as the Recognized Employee Organization for the designated appropriate unit if that
- 4. employee organization received a numerical majority of all valid votes cast in the election. ✓

In an election involving three or more choices, where none of the choices receives a majority of the ballot votes cast, a run-off election shall be conducted between the two choices receiving the largest number of ballot votes cast.

(b) Recognized employee organizations shall annually, on or before the anniversary date of recognition, file a written statement with the Employee Relations Director indicating any changes in the items listed in Section 2.1. The statement shall be signed by the duly authorized officers of the recognized employee organization.

2.6 Exclusive Representation.

A recognized employee organization shall be the exclusive bargaining representative of all the employees in the unit for which it has been certified.

SECTION 3. DECERTIFICATION

3.1 Time for Filing of Decertification Petition.

A decertification petition alleging that the incumbent recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Director only:

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- (a) Three (3) full years after an employee organization was acknowledged as the recognized employee organization for an appropriate unit if no Memorandum of Understanding exists; or
- (b) During the month September; except that in a multi-year Memorandum of Understanding, only during the month of September in the last year of the then-current MOU.

3.2 Contents of Decertification Petition.

A decertification petition may be filed with the Employee Relations Director by any employee(s) or by an employee organization. The petition shall contain the following:

- (a) The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information; and
- (b) The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representative of that unit; and
- (c) An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts; and
- (d) Proof that at least thirty percent (30%) of the employees in the unit no longer desire to be represented by the incumbent recognized employee organization. Such proof shall be submitted to the Employee Relations Director within the time limits set forth in Section 3.1.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization submitting it.

3.3 Response of Public Authority.

The Employee-Relations Director shall initially determine whether the decertification petition meets the requirement set forth in Section 3.1 and Section 3.2. If the petition does not meet the requirements of Section 3.1 and Section 3.2, the Employee Relations Director shall so inform the petitioner(s) in writing of the reasons why the petition was rejected. The petitioners may appeal the rejection in accordance with Section 5.

If the petition does meet the requirements set forth in Section 3.1 and Section 3.2, or if the initial rejection is reversed on appeal, the Employee Relations Director shall give notice of the decertification petition to the incumbent recognized employee organization and to unit employees.

3.4 Election.

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Upon providing the required notice under Section 3.3 to the recognized employee organization and the unit employees of the filing of an approved decertification petition, the Employee Relations Director shall arrange for a secret ballot election in accordance with Section 2.4.

SECTION 4. APPROPRIATE UNITS

4.1 Policy for Determining Appropriate Units.

The Policy objectives to be used in determining the appropriateness of units shall be the effect of a proposed unit on:

(a) The efficient operations of the Authority and its compatibility with the primary responsibility of the Authority and its employees to effectively and economically serve the public, and

(b) Providing employees with effective representation based on recognized community of interest considerations.

4.2 Standards for Determining Appropriate Units.

Factors to be considered shall be:

(a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

(b) History of representation in the Authority and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

(c) Consistency with the organizational patterns of the Authority, and the effect of the proposed unit on the Authority's job classification structure.

(d) The number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units. The analysis of this factor shall include the internal and occupational community of interest among the employees including, but not limited to:

- i) the extent to which they perform functionally related services and/or work toward established common goals;
- ii) the extent to which the employees have common skills, working conditions, job duties and/or training requirements;
- iii) the extent to which the employees constitute a traditional craft; and
- iv) the extent to which the employees have common supervision or work-related interchange.

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(e) The effect on the classification structure, as well as the impact on the stability of the employer-employee relationship, of dividing a single or related classifications between two or more units.

(f) For purposes of determining appropriate units, a unit comprised of all Authority Individual Providers may be considered an appropriate unit.

4.3 Managerial, Supervisory, and Confidential Employees.

Managerial, supervisory, and confidential employees, as defined in Section 1.2 of this Policy, are determinative factors in establishing appropriate units hereunder, and therefore managerial, supervisory, and confidential employees may only be included in a unit consisting solely of managerial, supervisory, or confidential employees respectively. Managerial, supervisory, and confidential employees may not be represented by any employee organization that represents other employees.

4.4 Procedure for Modification of Established Appropriate Units

(a) Modification by Employee Organization. Requests for modifications of established appropriate units by a registered or recognized employee organization may be considered by the Employee Relations Director only during the period specified in Section 3.1. Any such request shall be submitted in the form of a Recognition Petition, and, in addition to the information required by Section 2.1 of this Policy, shall contain a complete statement of all relevant facts and citations which support the proposed modified unit in terms of the policies and standards set forth in Sections 4.1 and 4.2. The Petition shall list the classifications to be included in the modified unit, and the number of employees in each classification. The Petition shall be accompanied by proof that petitioner represents more than fifty percent (50%) of the employees within the requested modified representation unit. The Employee Relations Director shall process such petitions in the same manner as other Recognition Petitions under this Policy. If any required element is not satisfied, the Employee Relations Director shall so inform the petitioning employee organization in writing, and provide the reason(s) for rejection of the Petition. The petitioning employee organization may amend or correct the Petition within the required window period.

(b) Modification by Employee Relations Director. The Employee Relations Director may on his/her own motion propose during the period specified in Section 3 of this Policy, that an established unit be modified. The Employee Relations Director shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the Employee Relations Director shall determine the composition of the appropriate unit in accordance with Section 4 of this Policy, and shall give written notice of such determination to the affected employee organization(s). The Employee Relations Director's determination may be appealed as provided in Section 5 of this Policy.

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SECTION 5. APPEALS

5.1 Appeals from Appropriate Unit Determination.

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Director under this Policy may, within ten (10) days of notice thereof, request the intervention of the California State Mediation & Conciliation Service pursuant to Government Code §§3507.1 and 3507.3, or may, in lieu thereof or thereafter appeal such determination to the governing body of the Public Authority for final decision within fifteen (15) days of notice of the Employee Relations Director's determination or the termination of proceedings pursuant to Government Code §§3507.1 and 3507.3, whichever is later.

5.2 Appeals from Recognition and Decertification Determination.

An employee organization aggrieved by a determination of the Employee Relations Director that a Recognition Petition, Challenging Petition, or Decertification of Recognition Petition has not been filed in compliance with the applicable provisions of the Policy, may, within fifteen (15) days of notice of such determination, appeal the determination to the governing body of the Authority for final decision.

An employee aggrieved by a determination of the Employee Relations Director that a Decertification of Recognition Petition has not been filed in compliance with the applicable provisions of the Policy may also be appealed in the same manner set forth in the preceding paragraph.

5.3 Other Procedural Requirements Involving Appeals.

Appeals under this Section made to the governing body of the Public Authority shall be filed in writing, and a copy thereof served on the Employee Relations Director. The Authority's Board shall commence consideration of the matter within thirty (30) days of the filing of such appeal. The Authority's Board may, within its sole discretion, refer the dispute to a third party hearing process. Any such decision by the Authority's Board regarding the use of such procedure, and/or any decision determining the substance of the dispute shall be final and binding.

In the event the appeal is referred to a third party hearing officer, at the conclusion of the hearing, the hearing officer shall prepare a summary record of the proceedings, recommended findings on all relevant issues, conclusions and decision, and shall submit a copy thereof to the Authority's Board. Within thirty (30) days of such submittal, the Board shall adopt such recommended findings, conclusions and decision, or shall modify or reject the recommendations of the hearing officer and adopt its own findings, conclusions and decision in the matter after a review of the record by Board members. The decision of the Board shall be final and binding on the parties.

SECTION 6. EMPLOYEE RIGHTS

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6.1 Employees of the Authority shall have the right to form, join and participate in the activities of employee organizations of their own choosing pursuant to the provisions of this Policy for the purpose of representation on matters of employee relations other than those excluded herein. Authority employees shall also have the right to refuse to join or participate in the activities of employee organizations.

SECTION 7. THE AUTHORITY AND CONSUMER RIGHTS

7.1 Responsibility for management of the Authority and direction of its work force is vested in Authority officials and department heads whose powers and duties are specified by law or otherwise. In order to fulfill this responsibility it is the Authority's mission and right to set standards for services to be offered to the public, and to exercise control and discretion over its organization and operation and to take any and all actions necessary in emergencies.

7.2 Consumers retain the right to select, terminate, train and direct the work of any Authority service provider. Consumers also retain the right to maintain and manage their home without interference from the Authority and/or recognized employee organization(s).

SECTION 8. MEETING AND CONFERRING IN GOOD FAITH

8.1 Within the limitations imposed by law, authorized management representative(s) shall meet and confer in good faith with authorized representative(s) of recognized employee organization(s) regarding all matters relating to wages, hours, and other terms and conditions of employment relevant to the respective employee bargaining unit, including any other matters agreed upon by the parties as a subject of bargaining. However, meeting and conferring shall not be required on any subject preempted by federal or state law, or implementing rule or regulation issued pursuant thereto; nor shall meeting and conferring be required on matters defined in Section 7 "The Authority and Consumer Rights." If agreement is reached by management and a recognized employee, organization they shall jointly prepare a memorandum of understanding describing such agreement and present it to the Authority's governing body for determination.

SECTION 9. NO STRIKE/NO LOCKOUT

9.1 The Authority shall not lockout independent providers. The employee organization(s) shall not engage in, authorize, sanction or support any strike, slowdown or stoppage of work, or refusal to perform customary duties. The no strike/no lockout provisions of this Section shall continue in full force and effect at least one (1) year beyond the other provisions of any and all collective bargaining agreement(s).

SECTION 10. IMPASSE PROCEDURES

10.1 Mediation.

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Upon declaration of impasse, if both parties expressly agree, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendations, nor take any public position at any time concerning the issues.

- 10.2** If the parties are unable to agree on a mediator after a reasonable period of time, they shall select the mediator from a list of three (3) names to be provided by the California State Mediation & Conciliation Service, or if that body for any reason shall fail to provide such list, then by the American Arbitration Association's San Francisco Office. The recognized employee organization shall first strike one name, the Employee Relations Director shall then strike one name, and the name remaining shall be the mediator.
- 10.3** If the parties have failed to resolve all their disputes through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the parties may agree to submit the remaining issues in dispute directly to the Authority's governing board. In that event, the Board shall finally determine the issues after conducting a public hearing thereon and after such further investigation of the relevant facts as it may deem appropriate, within its sole discretion, under the facts and circumstances.

10.4 Fact-Finding.

If the parties fail to agree to submit the remaining unresolved issues of their dispute directly to the Authority's Board, those disputed issues shall instead be submitted to fact-finding.

- 10.5** The parties may agree on the appointment of one or more fact-finders. If they fail to so agree, a fact-finding panel of three (3) shall be appointed in the following manner: a panel member shall be appointed by the Employee Relations Director; a second member shall be appointed by the recognized employee organization(s); and those two shall name a third panel member, who shall serve as Chairperson. If they are unable to agree upon a third, they shall select the third member from a list of five (5) names to be provided by the California State Mediation & Conciliation Service, or if that body for any reason shall fail to provide such list, then by the American Arbitration Association's San Francisco Office, to be determined by the alternate striking of names, with the party who is to strike first determined by a coin toss.
- 10.6** The following constitute the jurisdictional and procedural requirements for fact-finding:
- (a) Fact-finders shall not have served as a mediator in the same impasse under subparagraph 10.2, and shall not be employees or officers of the Authority or officers, employees or members of any of the recognized employee organization(s).
 - (b) Fact-finding is authorized hereunder in connection with all disputed issues that are

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within the scope of representation.

(c) The fact-finder(s) shall make written findings of fact and recommendations for the resolution of the issues in dispute. The fact-finder or Chairperson of the fact-finding panel shall serve such findings and recommendations on the Employee Relations Director and the designated representative(s) of the recognized employee organization(s). If these parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the fact-finder or the Chairperson of the fact-finding panel shall submit them to the Authority's governing board for its consideration. The Board will then take such action as it deems appropriate in the public interest. Any action by the Board on the impasse shall be final and binding on all parties.

(d) Costs of mediation and fact-finding shall be divided one-half to the Authority and one-half to the recognized employee organization(s) involved in the mediation and fact-finding.

SECTION 11. ADMINISTRATION

11.1 Administrative Rules and Procedures.

The Executive Director or other designated official is authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Policy after consultation with affected employee organization(s). A like procedure shall be followed with respect to any changes in the provisions of this Policy.

SECTION 12. MISCELLANEOUS PROVISIONS

12.1 Severability.

If any provision of this Policy, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Policy, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

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**BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA**

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10 In the matter of) Ordinance No. _____
11 AN ORDINANCE ADDING CHAPTER)
12 2.80 OF TITLE 2 OF THE FRESNO)
13 COUNTY ORDINANCE CODE.)
14)
15)
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17
18 AN ORDINANCE AMENDING THE ORDINANCE CODE OF THE COUNTY OF
19 FRESNO BY ADDING CHAPTER 2.80 OF TITLE 2 THEREOF, ESTABLISHING THE
20 FRESNO COUNTY IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY.

21
22 The Fresno County Board of Supervisors ordains as follows:

23
24 **Section 1:** The Ordinance Code of the County of Fresno is hereby amended by adding
25 Chapter 2.80 of Title 2, thereof to read in its entirety as follows:

2.80.010 Findings and Purpose

As required by Welfare and Institutions Code Section 12302.25, the Board of Supervisors of Fresno County determines that the establishment of a Public Authority whose powers are derived from and consistent with the provisions of Welfare and Institutions Code Section 12301.6 is necessary for the public health and welfare. The Public Authority shall serve as the employer of providers of in-home supportive services for purposes of the Meyers-Millas-Brown Act.

2.80.020 Definitions

For purposes of this Article, the following definitions apply:

A. "Authority" means the Fresno County In-Home Supportive Services Public

1 Authority.

2 B. "Provider" means a person who provides authorized in-home supportive services
3 to a recipient.

4 C. "Recipient" means a person eligible and authorized to receive in-home
5 supportive services.

6 D. "IHSS" means in-home supportive services as described in Welfare and
7 Institutions Code Section 12300 et seq..

8 E. "County" means the County of Fresno.

9 F. "Directors" means the Fresno County Board of Supervisors serving as the
10 governing body of the Public Authority.

11 **2.80.030 Public Authority Created**

12 The Board of Supervisors establishes a Public Authority whose powers and authority
13 are derived from and consistent with the provisions of Welfare and Institutions Code
14 Sections 12300 et seq. The Public Authority shall be known as the Fresno County In-
15 Home Supportive Services Public Authority and shall be referred to as the "Authority."

16 **2.80.040 Governing Body**

17 The governing body of the Authority shall be the Fresno County Board of Supervisors.

18 **2.80.050 Authority Duties**

19 A. The duties and responsibilities of the Authority shall be as follows:

- 20 1. To implement the goals and objectives of Welfare and Institutions Code
21 Section 12301.6, including, but not limited to (a) the provision of
22 assistance to recipients in finding in-home supportive services personnel
23 through the establishment of a registry; (b) the investigation of the
24 qualifications and background of potential in-home supportive services
25 personnel; (c) the establishment of a referral system under which in-home

1 supportive services personnel shall be referred to recipients; (d) the
2 provision for training for providers and recipients; (e) the performance of
3 any other functions related to the delivery of in-home supportive services;
4 and, (f) the assurance that the requirements of the personal care option
5 pursuant to Subchapter 19 (commencing with section 1396) of Chapter 7
6 of Title 42 of the United States Code are met.

- 7 2. To adopt a budget for the Authority;
- 8 3. To exercise all powers, duties and functions as are prescribed by statute,
9 Ordinance of the Board of Supervisors and the Authority.
- 10 4. Notwithstanding subdivision 1(d), the Authority shall not be obligated to
11 provide training directly, to pay for training provided privately or in the
12 community, to pay for the providers' time spent in training, to accompany
13 recipients to training, to pay for transportation to training or to pay for any
14 materials required by the training. The Authority shall not be obligated to
15 ensure that any provider or recipient attend or complete any training.
- 16 5. The Authority shall not be responsible for (a) authorizing services for an
17 IHSS recipient; (b) determining a recipient's need for IHSS, the level and
18 type of services required, and the eligibility of individuals to be served; (c)
19 conducting the initial or any subsequent assessment of need for services;
20 or (d) terminating the recipient's participation in the IHSS program. The
21 above-referenced services and functions shall be the exclusive
22 responsibility of the County of Fresno.

23 **2.80.060 Powers**

- 24 A. The Authority shall be an entity separate from the County of Fresno and shall file
25 the Statement of Fact for the Roster of Public Agencies required by Government

1 Code Section 53051.

2 B. To promote administrative efficiencies and to avoid unintended duplication of
3 resources prior to initiating delivery of IHSS through the Authority, as described
4 in this Article, the County and the Authority shall enter into an agreement
5 specifying the purposes, scope or nature of the agreement, the roles and
6 responsibilities of each party including provisions that further compliance with all
7 applicable County, state and federal labor laws, and compliance with all statutory
8 and regulatory provisions applicable to the delivery of IHSS.

9 C. The Authority shall be a corporate public body, exercising public and essential
10 governmental functions with all powers necessary and convenient to carry out
11 the powers conferred upon it by Welfare and Institutions Code Sections 12300 et
12 seq. and this Chapter, including the power to contract for services pursuant to
13 Welfare and Institutions Code Sections 12302 and 12302.1, subject to any
14 limitations set forth in this Article.

15 D. The Authority shall have the power in its own name to do any of the following:

- 16 1. Contract for the services of planners, financial consultants, and other
17 experts and, separate and apart therefrom, to employ such other persons
18 as it deems necessary.
- 19 2. Sue and be sued in its own name.
- 20 3. Incur debts, liabilities or obligations subject to any limitations herein set
21 forth.
- 22 4. Apply for, accept and receive state, federal or local licenses, permits,
23 grants, loans or other aid from any agency of the United States of
24 America, or of the State of California necessary for the Authority's full
25 exercise of its powers.

1 5. Perform all acts necessary and proper to carry out fully the purpose of this
2 Article and not inconsistent with Welfare and Institutions Code Sections
3 12300 et seq. or this Article.

4 E. To promote administrative efficiencies and to avoid unintended duplication of
5 resources prior to initiating delivery of IHSS through the Authority, as described
6 in this Article, the County and the Authority shall enter into an agreement
7 specifying the purposes, scope or nature of the agreement, the roles and
8 responsibilities of each party including provisions that further compliance with all
9 applicable County, state and federal labor laws, and compliance with all statutory
10 and regulatory provisions applicable to the delivery of IHSS.

11 F. The Authority shall be deemed to be the employer of IHSS providers within the
12 meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of
13 the Government Code, commonly known as the Meyers-Milias-Brown Act.
14 Nothing in these enumerated powers shall be construed to limit or interfere with
15 the rights of IHSS recipients to hire, fire and supervise the work of any worker
16 providing services to them.

17 G. Nothing in these enumerated powers shall be construed to alter, require the
18 alteration of, or interfere with the State's payroll system and other provisions of
19 Welfare and Institutions Code Section 12302.2 for independent providers of
20 IHSS, or to affect the State's responsibilities with respect to unemployment
21 insurance, or workers' compensation for providers of IHSS.

22 **2.80.070 Liability of Authority**

23 A. Any obligation or legal liability of the Authority, whether statutory, contractual or
24 otherwise, shall be the obligation or liability solely of the Authority and shall not
25 be the obligation or liability of the County of Fresno.

- 1 B. All contracts, leases, or other agreements of any nature, including collective
2 bargaining agreements, between the Authority and any party, except those with
3 the County, shall contain the following statement: "The Authority is an
4 independent legal entity, separate and apart from the County of Fresno. The
5 Authority has no power to bind the County to any contractual or legal obligations.
6 Nor may the obligees of the Authority seek recourse against the County of
7 Fresno for any financial or legal obligation of the Authority."
- 8 C. The Authority shall not be deemed to be the employer of IHSS providers for
9 purposes of liability because of the negligence or intentional torts of the IHSS
10 providers. Employees of the Authority shall not be employees of the County for
11 any purpose.
- 12 D. The County shall be immune from any liability resulting from its implementation of
13 Welfare and Institutions Code Sections 12301.6 et seq. in the administration of
14 the In-Home Supportive Services program. Any obligation of the Authority,
15 whether statutory, contractual, or otherwise, shall be the obligation solely of the
16 Authority, and shall not be the obligation of the County.
- 17 E. The Authority shall maintain all insurance coverage necessary in an amount to
18 be determined adequate by the Directors. If the Authority purchases its own
19 insurance, the limits of liability shall be in an amount acceptable to the Directors
20 and shall name the County as an additional insured.
- 21 F. The Authority shall indemnify, defend and hold harmless the County, its elected
22 and appointed officers, employees and agents from and against any and all
23 liability, including defense costs and legal fees, resulting from claims for
24 damages of any nature whatsoever, including but not limited to personal injury or
25 property damages arising from or connected with any act or omission of any

1 officer, employee or agent of the Authority.

2 G. The Authority shall require all third parties with whom it contracts, other than the
3 County of Fresno, to indemnify the Authority, to provide the Authority with written
4 acknowledgment of such indemnification and to maintain adequate levels of
5 insurance naming the Authority as an additional insured.

6 **2.80.080 Staffing**

7 A. The Directors of the Authority shall appoint and/or contract for a Public Authority
8 Executive Director and shall provide broad general supervision and policy
9 direction to that individual. The Public Authority Executive Director shall appoint
10 and/or contract for subordinate staff necessary for the administration and
11 operation of the Authority, within parameters set forth by the Directors.

12 B. The Authority may utilize County employees/departments/services to assist in
13 carrying out its duties. County employees/departments/services utilized by the
14 Authority may include, but not be limited to, the following County departments:
15 (a) Auditor-Controller/Treasurer-Tax Collector for financial services, including
16 those of the Treasurer and Auditor; (b) Human Services System Financial
17 Services Office and Department of Adult Services for fiscal, administrative and
18 clerical support functions; (c) Department of Personnel Services for the provision
19 of labor relations consultation, personnel related services and risk management
20 services; and, (d) County Counsel shall act as the legal advisor for the Authority.

21 **2.80.090 County Costs**

22 The costs and expenses of Fresno County to provide administration, legal, labor
23 relations and other services, and to make payment to or provide benefits for in-home
24 support services providers, shall be charged against the funds of the Public Authority.

25 Payment for services rendered by County employees shall be made to the County and

1 shall be an administrative expense charged against the Authority budget. Payment to
2 the County by the Authority for such services shall be made based upon invoices
3 received from the County.

4 **2.80.100 Labor Relations Program**

5 A. Purpose - It is the purpose of these procedures to provide for the orderly and
6 systematic consideration of labor relations matters regarding wages, hours and
7 other terms and conditions of employment between the Authority, providers and
8 their recognized labor organizations. It is also the purpose of these procedures
9 to promote the improvement of personnel management and labor relations within
10 the Authority by providing a uniform basis for recognizing the right of providers to
11 join labor organizations of their own choice and to be represented by such
12 organizations in their labor relationship with the Authority including, but not
13 limited to, hours, wages and other terms and conditions of employment (subject
14 to the regulations of the Welfare and Institutions Code Section 12301.6).

15 B. Definitions - Except where the context otherwise requires, the definitions given in
16 this section govern the construction of the procedures.

17 1. "Certified labor organization" means a labor organization or its duly
18 authorized representative that has been certified by the State Department
19 of Mediation and Conciliation Services as representing the majority of
20 providers.

21 2. "Day" means calendar day. If the particular day a notice is due, or action
22 under this resolution is required, occurs on a day when the Authority is not
23 open for business, then the next succeeding day the Authority is open for
24 business shall be the day originally required.

25 3. "Impasse" means a deadlock in the meet and confer process between a

1 certified labor organization and the Authority over any matters concerning
2 which they are required to meet and confer in good faith, or over the
3 scope of such subject matter.

4 4. "Labor organization" means any organization which has as one of its
5 primary purposes representation of providers in their labor relationships
6 with the Authority.

7 5. "Labor relations" means the labor relationship between the Authority and
8 providers and their labor organizations.

9 6. "Labor representative" means a person who is authorized and designated
10 in writing by a certified labor organization to represent the organization in
11 dealing with the Authority.

12 7. "Management employee" means any employee having significant
13 responsibility for formulating, administering or managing the
14 implementation of IHSS policies or programs or having responsibility for
15 directing the work of subordinates through lower level supervision as
16 designated by the Authority's Executive Director.

17 8. "Management representative" means the Authority's Executive Director or
18 any person or persons designated by him or her to meet with
19 representatives of certified labor organizations.

20 9. "Mediation" means efforts by an impartial third party or parties to assist as
21 intermediaries through interpretation, suggestions and advice in
22 reconciling disputes regarding wages, hours and other terms and
23 conditions of employment between the Authority's management
24 representatives and the labor representatives of the certified labor
25 organization.

- 1 10. "Meet and confer in good faith" means the process through which the
2 Authority, or such representatives as it may delegate, and labor
3 representatives of certified labor organizations are mutually obligated to
4 personally meet and confer in order to freely exchange information,
5 opinions and proposals on matters within the scope of representation; and
6 to endeavor to reach agreement on matters within their authority or on a
7 joint recommendation to the governing board on matters within the board's
8 decision making authority.
- 9 11. "Memorandum of Agreement" means a written memorandum incorporating
10 matters on which agreement is reached in the meeting and conferring
11 process between the Authority's management representative and
12 representatives of certified labor organizations. The memorandum shall
13 be presented to the governing board of the Authority for determination.
- 14 12. "Proof of provider approval" shall have the meaning which is ascribed to
15 that term in Provision F(2) of these procedures.
- 16 13. "Provider" means a person hired by recipients of IHSS to provide services
17 to recipients. The term "provider" shall not include employee.
- 18 14. "Public Authority" means an entity established by Fresno County
19 Ordinance to serve as the employer of record for purposes of collective
20 bargaining over wages, hours and other conditions of employment for
21 IHSS providers and to carry out the mandated functions of Section
22 12301.6(a)(2) of the Welfare and Institutions Code.
- 23 15. "Recipient" means individuals who are served by IHSS providers.
24 Recipients have the right to hire, terminate without cause, and supervise
25 the work of providers who provide these services.

1 C. Strike or Work Stoppage - Due to the special and critical health-care services
2 provided through the IHSS program, the Board of Supervisors finds that any
3 interruption of such services would pose an imminent threat to the health and
4 safety of the recipients of IHSS services and to the community. Therefore, no
5 provider or labor organization, its representatives or members shall cause,
6 engage, or participate in, instigate or encourage a strike or work stoppage or any
7 other concerted actions adverse to the recipients and the Authority. Participation
8 by a provider in a strike or work stoppage shall subject the provider to disciplinary
9 action, up to and including removal from his assignment.

10 D. Provider Rights - Providers shall have the right to form, join and participate in the
11 activities of labor organizations of their own choosing for the purpose of
12 representation on all matters of labor relations. Providers also shall have the
13 right to refuse to join or participate in the activities of labor organizations. It shall
14 be an additional right of the provider to represent themselves individually in their
15 labor relations with the Authority. Neither the Authority nor the certified labor
16 organizations shall interfere with, intimidate, restrain, coerce or discriminate
17 against providers because of the exercise of their rights under this section.

18 E. Authority Rights - It is the exclusive right of the Authority to make all decisions of
19 a managerial or administrative character including, but not limited to:

- 20 1. The nature and extent of services performed;
- 21 2. The methods, means and personnel by which the Authority operations are
22 to be conducted; and such other decisions as may be necessary to
23 organize and operate the Authority in the most efficient manner and in the
24 best interest of recipients.

1 F. Provider Labor Organization - Certification Petition

2 1. A labor organization which seeks to become a certified labor organization
3 shall file a petition for certification accompanied by proof of provider
4 approval of at least fifteen percent, who desire the petitioning labor
5 organization to be their sole representative.

6 2. Proof of provider approval means that the labor organization submitting a
7 petition to the Executive Director or designee has demonstrated proof of
8 approval by the provider whom it claims to represent by means of any one
9 or any combination of the following:

10 a) Signed and dated signatures on a petition;

11 b) Signed and dated authorization cards; provided, however, that no
12 petition or authorization card may be used as proof of provider
13 approval unless it specifically provides that the intent of the signer
14 is to secure certification for the labor organization named therein.

15 For purposes of subdivision a) of this subsection, only signatures
16 executed within ninety calendar days prior to the date the petition
17 for certification is filed shall be accepted as proof of provider
18 approval. In the instance of a provider designating more than one
19 labor representative through either of the above mechanisms, a
20 written notice shall be sent to that provider by the Executive
21 Director or designee requesting that the provider designate only
22 one labor organization within ten calendar days.

23 3. Upon the receipt and validation of certification petition, the Executive
24 Director or designee shall post a thirty-day notice with the Central Labor
25 Council of Fresno and Madera Counties and published at least once in the

1 legal section of the Fresno Bee.

2 4. If proof of employee approval is validated, the Executive Director or
3 designee shall arrange for a secret ballot election, to be conducted in
4 accordance with the rules of the State Mediation and Conciliation Service.
5 Only those providers who were employed in such capacity at least fifteen
6 days preceding the date of the secret ballot election shall be entitled to
7 vote.

8 G. Election: Organizations on Ballot - In an election, the names of the petitioning
9 labor organization and of any other labor organizations which submit proof of
10 provider approval of at least ten percent shall appear on the ballot together with
11 the choice of "No Labor Organization".

12 H. Election: Cost - The cost of conducting a certification election shall be borne
13 equally by the Authority and petitioning labor organization.

14 I. Certification Following Election - State mediation shall certify as a certified labor
15 organization, that organization, if any, receiving a majority of ballots cast in a
16 valid election. In the event that a majority of such ballots cast is for no labor
17 organization, state mediation shall certify that no certified labor organization
18 represents the providers. If none of the choices on the ballot receives a majority
19 of the ballots cast, a runoff election shall be held between the choices receiving
20 the two highest numbers of votes. State mediation shall certify as the certified
21 labor organization the choice receiving the majority vote in a valid runoff election
22 or shall certify that no certified labor organization represents the providers.

23 J. Unfair Election Practices - Unfair practices charges made during an election shall
24 be submitted to the Public Employment Relations Board for resolution.

25 K. Certified Labor Organization - Upon request, a certified labor organization shall

1 have the right to meet and confer in good faith with the Executive Director or
2 designee regarding wages, hours and other terms and conditions of employment
3 within the scope of representation.

4 L. Scope of Representation - The scope of representation shall include all matters
5 relating to labor relations including, but not limited to, wages, hours and other
6 terms and conditions of employment, except, however, that the scope of
7 representation shall not include the consideration of the areas enumerated as
8 exclusive Authority rights. The certified labor organization shall have the right to
9 represent all providers. The certified labor organization shall be given the
10 opportunity to be represented at formal discussions between the Authority and
11 providers concerning grievances, personnel policies and practices, or other
12 matters affecting working conditions of providers. Nothing in this section affects
13 the right of recipients to hire, terminate without cause and supervise the work of
14 any provider who performs services for them.

15 M. Advance Notice: Proposed Actions - Except in cases of emergency, each
16 certified labor organization affected shall be given reasonable written notice of
17 any rule, resolution or regulation directly relating to matters within the scope of
18 representation proposed to be adopted by the Authority and shall be given the
19 opportunity to meet with the appropriate management representatives prior to
20 adoption. For the purposes of such notification, the published agenda of the
21 governing board will suffice for notice of proposed actions by this body. This
22 form of notification, however, will not be deemed sufficient where the agenda
23 item is so phrased as to not indicate the full and true nature of the matter to be
24 considered. In cases of emergency when the Executive Director or designee
25 determines that a rule, resolution or regulation must be adopted immediately

1 without prior notice or meeting with the certified labor organization, the Executive
2 Director or designee shall provide such notice and opportunity to meet at the
3 earliest practical time following the adoption of such a measure. It is the
4 obligation of the certified labor organization to provide the Executive Director or
5 designee with the name and mailing address of the organization's representative
6 who is to receive all notices together with the local street address to which
7 notices may be delivered.

8 N. Decertification - A request for decertification of a certified labor organization or for
9 certification of a labor organization other than that organization currently certified,
10 must be accompanied by proof of provider approval of at least fifteen percent.
11 The Executive Director or designee may also initiate a decertification proceeding
12 because of substantial changes in Authority functions or organizational structure.
13 Proceedings under this section shall not be instituted sooner than one year
14 following certification of a labor organization. Thereafter, such petitions may only
15 be filed during a one calendar month period beginning seven full calendar
16 months prior to the expiration date of the provider's memorandum of agreement,
17 or during the period where the memorandum of agreement has expired and there
18 is no successor memorandum or agreed-to extension of the current
19 memorandum.

20 O. Impasse: Used When - Impasse procedures shall be used only when all other
21 attempts at reaching an agreement through meeting and conferring in good faith
22 have been unsuccessful. When an impasse has been reached, the parties may
23 mutually agree to request the assistance of a mediator from the State Mediation
24 and Conciliation Service or any other source mutually agreed upon. (Mediation
25 is not a mandatory impasse resolution procedure.) All mediation shall be private.

1 The mediator shall make no public recommendations or take any public position
2 concerning the issues.

3 P. Mediation: Cost - The cost of mediation shall be borne equally among all parties
4 involved.

5 Q. Unfair Labor Relations Practices: Authority - It shall be an unfair labor relations
6 practice for the Authority to:

- 7 1. Interfere with, restrain or coerce providers in the exercise of the rights
8 recognized or granted in this chapter;
- 9 2. Dominate or interfere with the formation of any labor organization or
10 contribute financial support to it provided that the Authority may permit the
11 use of Authority facilities, and permit providers who are officers or
12 representatives of employee organizations to confer with Authority during
13 working hours without loss of time or pay, subject to applicable
14 regulations;
- 15 3. Refuse to meet and confer with representatives of certified labor
16 organizations on matters within the scope of representation during the
17 periods prescribed by this chapter;
- 18 4. Refuse or fail to cooperate with any duly designated mediator;
- 19 5. Violate any section of this procedure.

20 R. Unfair Labor Relations Practices: Labor Organizations or Agents - It shall be an
21 unfair labor relations practice for providers or labor organizations or their agents
22 to:

- 23 1. Interfere with, restrain or coerce providers in the exercise of the rights
24 recognized or granted in this chapter;
- 25 2. Refuse to meet and confer with the Authority on matters within the scope

1 of representation when the labor organization involved has been
2 recognized as the certified representative;

- 3 3. Refuse or fail to cooperate with any duly designated mediator;
- 4 4. Engage in a strike, slow-down or work stoppage of any kind against the
5 Authority;
- 6 5. Violate any section of this chapter.

7 All unfair labor practice charges shall be filed with the Public Employment
8 Relations Board for resolution.

9 S. Administration - The Executive Director, or designee, is designated as the
10 Authority's management representative whose duty it shall be to meet and confer
11 in good faith regarding wages, hours and other terms and conditions of
12 employment in an attempt to reach agreement with representatives of certified
13 labor organizations.

14 T. Rules and Regulations - The Executive Director or designee is authorized to
15 establish rules and regulations to carry out the intent of these procedures. He or
16 she also has the authority for the administrative interpretation of this procedure.
17 Interpretations made by the Executive Director or designee are subject to appeal
18 to the governing board.

19 U. Meetings - No meetings, including those for organizing efforts and other internal
20 labor organization affairs, shall take place in the residence of an IHSS recipient
21 without the prior approval of the recipient and shall be conducted during hours in
22 which the provider is not working.

23 V. Use of Public Authority Resources - Access to Authority business locations and
24 the use of Authority paid time, facilities, equipment and other resources by labor
25 organizations and those representing them shall be authorized only to the extent

1 provided for in memoranda of agreement and/or Authority administration
2 procedures and shall be limited to lawful activities pertaining directly to the labor
3 relationship.

4 **W. Construction**

- 5 1. Nothing in these procedures shall be construed to deny any recipient,
6 provider or labor organization the rights granted by federal and state laws;
- 7 2. The rights, powers and authority of the governing board and the rights of
8 labor organizations in all matters, including the right to maintain any legal
9 action, shall not be modified or restricted by this provision.
- 10 3. The provisions of these procedures are not intended to conflict with, nor
11 shall they be construed in a manner inconsistent with, the provisions of
12 Chapter 10, Division 4, Title 1 of the Government Code of the state of
13 California (Sections 3500 et seq.) as amended.

14 **X. Severability** - If any provision of these procedure, or the application of such
15 provision to any person or circumstance, shall be held invalid, the remainder of
16 this policy or the application of such provision to persons or circumstances other
17 than those as to which it is held invalid, shall not be affected thereby.

18 **2.80.110 Budget**

19 The Authority shall adopt its budget under the same laws, rules and policies that control
20 the County budget process. The Authority will be maintained as a separate budget
21 entity. The budget will be submitted to and adopted through the Human Services
22 System to the Directors for approval.

23 **2.80.120 Fiscal Provisions**

24 **A.** In adopting this Article, the Board of Supervisors recognizes that the funding of
25 IHSS is the product of a complex relationship of federal, state and County

1 financing and that the ability of the Authority to operate and to negotiate the
2 wages and benefits of the IHSS providers is contingent upon the availability of
3 adequate funding from all sources. Nothing in this Article is intended to require
4 the County to appropriate any funds for the operation of the Authority or for the
5 payment of wages or benefits to IHSS providers.

6 B. The establishment and operation of the Public Authority or application of
7 Government Code Section 3500 et seq. shall not result in payments from the
8 County's general fund beyond the County's annual appropriation for the Public
9 Authority, if any, which shall be an absolute limit on County costs.

10 C. The Public Authority shall not have the authority to agree to or approve any
11 collective bargaining or other agreement that requires an increase in wages or
12 benefits unless there is the state or federal match for such increase. Services
13 shall not be reduced in order to fund the Authority or implementation of
14 Government Code Section 3500, et seq..

15 D. Intentionally left blank.

16 E. The Authority shall provide the County with the expenditure information
17 necessary for the County to report to the California Department of Social
18 Services in order to receive reimbursement for the State and Federal share of the
19 Authority costs.

20 F. The Authority shall assist the County in developing and submitting the
21 information and documentation necessary to obtain approval from the California
22 Department of Social Services and the Department of Health Services for the
23 Authority's reimbursement rate and any rate adjustment.

24 G. Payment for all services provided pursuant to this Article is contingent upon the
25 appropriation of County, state and federal funds for the purpose of providing IHSS.

1 **2.80.130 Records**

2 The Authority shall develop a record retention policy consistent with County, state, and
3 federal laws and policies. The Authority shall make any of the retained records
4 available to all authorized County, state and federal representatives.

5 **2.80.140 Termination**

6 By repeal of this Chapter, the Board of Supervisors may abolish the Authority.

7 **2.80.150 Advisory Committee**

8 A. The Board of Supervisors hereby establishes an IHSS Advisory Committee
9 whose powers are derived from and are consistent with the provisions of Welfare
10 and Institutions Code Sections 12301.4 and 12301.6.

11 B. Because the County's IHSS Advisory Committee established by the Board of
12 Supervisors on August 1, 2000 was established in compliance with the
13 requirements of Welfare and Institutions Code Section 12301.6, it meets the
14 hereinafter provided requirements and its members shall comprise the initial
15 members of the IHSS Advisory Committee provided by this section. The existing
16 IHSS Advisory Committee members shall complete their current terms pursuant
17 to this Section. All new appointments shall be made pursuant to this Section.

18 C. The 11-member Advisory Committee shall consist of the following persons:

19 Group 1. At all times, six (6) members or no fewer than fifty percent (50%) of
20 the Advisory Committee, shall be current or previous users of
21 personal assistance services paid for through public or private
22 funds who are representative of the Fresno County IHSS caseload.

23 Group 2. Two (2) members of the Advisory Committee shall be current or
24 former IHSS providers.

1 Group 3. Three (3) members of the Advisory Committee shall be persons
2 with experience in program development, administration, and fiscal
3 management who represent or advocate for home care service
4 delivery organizations and their consumers.

5 D. Each member of the Board of Supervisors shall nominate one member from
6 group (1) who shall be a resident from the nominating Board Member's district.
7 The board chair shall nominate an additional member who shall be a resident
8 from the board chair's district to be the sixth member from group (1). The board
9 may reject such nominees, whereupon the supervisor making the nomination
10 may nominate another person until one acceptable to the board is appointed.
11 The district representative appointee shall serve a term coterminous with the
12 terms of the respective member of the Board of Supervisors nominating them.

13 E. The Board of Supervisors shall appoint by majority vote the two members from
14 group (2) and the three members from group (3). The two members from group
15 (2) shall serve a three-year term and the three members from group (3) shall
16 serve a four-year term. These terms shall commence at noon on the first
17 Monday after January 1st of the calendar year appointed and end at noon on the
18 first Monday after January 1st following the third succeeding year for group (2)
19 and following the fourth succeeding year for group (3).

20 F. All members, including the district resident nominees, can be removed at any
21 time for any reason by a four-fifths vote of the Board of Supervisors. The person
22 appointed to fill a vacancy so created shall serve the remaining time for which the
23 person so removed was appointed. Each member shall, however, continue to
24 serve until a successor has been duly appointed and qualified, unless otherwise
25 removed by four-fifths vote of the Board of Supervisors.

1 G. Advisory Committee members may reapply to serve for an additional term, with
2 no limit on the number of terms to be served.

3 H. The IHSS Advisory Committee shall provide ongoing advice and
4 recommendations regarding in-home supportive services to the Fresno County
5 Board of Supervisors, the administrative body in the County that is related to the
6 delivery and administration of in-home supportive services, and the Directors and
7 administrative agency of the Authority.

8 I. The IHSS Advisory Committee shall have no veto or approval power over the
9 Authority actions.

10 J. Advisory Committee members shall not be compensated except that they shall
11 be reimbursed for reasonable expenses including, but not limited to travel,
12 mileage and childcare, for attending meetings and discharging other official
13 responsibilities as provided by the Board of Supervisors in the Fresno County
14 Salary Resolution.

15 K. The Advisory Committee shall develop by-laws, which shall be presented to the
16 Board of Supervisors for approval prior to adoption or amendment by the
17 Advisory Committee. The by-laws shall at a minimum provide for: meetings,
18 election of officers and terms served.

19 **Section 2:** If any section, subsection, sentence, clause or phrase of this ordinance is
20 for any reason held to be unconstitutional and invalid, such decision shall not affect the
21 validity of the remaining portion of this ordinance. The Board of Supervisors declares
22 that it would have passed this ordinance and every section, subsection, sentence,
23 clause or phrase, irrespective of the fact that any one or more sections, subsections,
24 sentences, clauses or phrases be declared unconstitutional or invalid.

25 **Section 3:** This ordinance shall be declared to be in full force and effect from and after

1 thirty (30) days after the date of its passage and shall be published once before the
2 expiration of fifteen (15) days after passage, with the names of the Supervisors voting
3 for or against, in *The Fresno Bee*, a newspaper of general circulation published in the
4 County of Fresno, State of California.

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1 THE FOREGOING was PASSED and ADOPTED by the following vote of the
2 Board of Supervisors of the County of Fresno this _____ day of _____, 2002, to-wit:

3 AYES: Supervisors

4 NOES:

5 ABSENT:

6

7

8

CHAIRMAN, BOARD OF SUPERVISORS

9

10 ATTEST:

11 SHARI GREENWOOD, CLERK
12 BOARD OF SUPERVISORS

13 By _____

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23 AGENDA # _____

24 ORDINANCE # _____

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Improving The Quality Of Medicaid Personal Assistance Through Consumer Direction

Findings from the Arkansas Cash and Counseling Demonstration suggest that giving consumers control over their personal care greatly increases their satisfaction and improves their outlook on life.

by **Leslie Foster, Randall Brown, Barbara Phillips, Jennifer Schore, and Barbara Lepidus Carlson**

ABSTRACT: As states seek to improve home and community-based services for people with disabilities, many are incorporating consumer-directed supportive services into their Medicaid programs. The national Cash and Counseling Demonstration uses a randomized design to compare an innovative model of consumer direction with the traditional agency-directed approach. This paper presents findings from the first demonstration program to be implemented, in Arkansas. Our survey of 1,739 elderly and nonelderly adults showed that relative to agency-directed services, Cash and Counseling greatly improved satisfaction and reduced most unmet needs. Moreover, contrary to some concerns, it did not adversely affect participants' health and safety.

MEDICAID BENEFICIARIES who have disabilities and receive supportive services from home care or case management agencies often report that they have little control over who provides their care, when they receive it, and how it is delivered. For some, this lack of control over basic, often intimate, assistance leads to dissatisfaction, unmet needs, and diminished quality of life.¹

Many states, aided by federal Systems Change grants and President George Bush's New Freedom Initiative, are considering expanding opportunities for Medicaid beneficiaries to direct their disability-related supportive services by letting them control the budget for their approved care. This could enable users to manage their care in ways that better meet their needs, without raising public costs. However, some fear that such options jeopardize consumers' health and safety.²

The national Cash and Counseling Demonstration is an innovative model of

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consumer direction designed to weigh the advantages and disadvantages of allowing consumers to assume more responsibility for their service arrangements. This paper presents estimates of the program's effects on consumer satisfaction, unmet needs, and health from the first of the three demonstrations to be implemented, IndependentChoices, in Arkansas. Previous research has assessed quality and related outcomes associated with other, usually more limited, opportunities for consumer direction in public programs. This is the first evaluation of such programs to use experimental design methods.

A New Model Of Medicaid Personal Assistance

About 1.2 million Medicaid beneficiaries receive disability-related supportive services in their homes.³ Most receive them from government-regulated agencies, whose professional staff arrange services and monitor quality, but a growing number manage their services themselves.⁴ As one model of consumer-directed supportive services, Cash and Counseling gives consumers a flexible monthly allowance to purchase disability-related goods and services (including hiring relatives as workers), provides counseling and financial assistance to help them plan and manage their responsibilities, and allows them to designate representatives (such as family members) to make decisions on their behalf. These features make the model adaptable to consumers of all ages and with all types of impairments.

■ **Cash and Counseling in Arkansas.** Arkansas designed IndependentChoices as a voluntary demonstration for people age eighteen or older who were eligible for Medicaid personal care services. Enrollment and random assignment began in December 1998 and continued until the evaluation target of 2,000 enrollees (about 11 percent of Arkansas users of personal care services) was met, in April 2001.

Prospective enrollees were told what their monthly allowance would be if they were assigned to the treatment group to direct their own personal care services. (The average allowance was \$320 per month, based on care plans recommending an average of about forty-seven hours of services.) Those who wanted to use a representative were asked to name one. Arkansas required all prospective enrollees to agree that they would use agency services should they be assigned to the control group. Enrollees completed a baseline telephone interview and were then randomly assigned to the treatment or control group.

After random assignment, control-group members continued relying on agency services or, if newly eligible for Medicaid personal care, received a list of home care agencies to contact for first-time services. Treatment-group members were contacted by an IndependentChoices counselor, who helped them develop acceptable written plans for spending their allowance.⁵ Arkansas consumers could use their allowance to hire workers (except spouses or representatives) and to purchase other services or goods related to their needs, such as supplies, assistive devices, and home modifications. They were required to keep receipts for all but incidental expenditures, which could not exceed 10 percent of the allowance.

With few exceptions, consumers chose to have the program's fiscal agents maintain their accounts, write checks, withhold taxes, and file their tax returns. In addition to helping develop acceptable spending plans, program counselors could advise consumers about recruiting, training, and supervising workers. They also monitored satisfaction, safety, and use of funds through initial home visits; monthly telephone calls; semiannual reassessments; and reviews of spending plans, receipts, and workers' time sheets.

■ **Expected effects on quality.** By shifting control over personal care services from agencies to consumers, IndependentChoices was anticipated to bring about changes in the types, providers, and scheduling of those services. These changes, in turn, were expected to improve consumer satisfaction, reduce unmet needs, and enhance quality of life without unduly compromising the safety, competence, or amount of care.⁶ However, this shift in control could also have negative effects, if managing the allowance or supervising workers is difficult, the loss of nurse supervision is problematic, qualified workers cannot be found, or consumers purchase insufficient assistance. In addition, effects may differ for elderly and nonelderly consumers if they have differential ability to manage their care and need a different mix of services.

Study Methods

■ **Data collection.** Data for this analysis were drawn from two computer-assisted telephone surveys of enrollees.⁷ We constructed control variables from responses to the baseline survey and outcome variables from responses to a follow-up survey conducted nine months after each sample member's random assignment. The survey instruments used established measures and pretested questions.

The baseline survey, administered between December 1998 and April 2001, was completed by 2,008 people. The follow-up survey, administered between September 1999 and February 2002, was completed by 1,739 people (89 percent of the treatment group and 85 percent of the control group). Although we encouraged sample members to respond to the surveys themselves if possible, the use of proxy respondents was widespread. Proxies completed 71 percent of follow-up interviews for the elderly and 29 percent for the nonelderly. Sample members used proxies because of cognitive or physical impairments or because they wanted their representatives, who helped manage their care, to respond to the questions.

To mitigate bias in our analysis, we omitted questions about consumers' unmet needs, satisfaction, and paid caregiver performance if the proxy respondent was a paid caregiver. During analysis, we controlled for use of proxies at baseline and performed sensitivity tests to assess the effects of proxy responses on our findings.

■ **Estimation of program effects.** Our impact estimates measure the effects of having the opportunity to receive the monthly allowance (by virtue of being assigned to the treatment group), rather than of actually receiving it. Some treatment-group members were not receiving the allowance at the time of the nine-month sur-

vey (because they disenrolled from IndependentChoices or never developed an acceptable spending plan) and may have been receiving assistance from other paid sources. Around the time of that survey, 83 percent of treatment-group respondents were receiving help from paid caregivers. Fourteen percent of them (11 percent of the treatment group) had disenrolled. Thus, responses from these disenrollees pertained to care from home care agencies and other sources, rather than to care purchased with the IndependentChoices allowance.

We used binary logit models to estimate program impacts on our outcome measures, all of which were categorical.⁸ Although random assignment ensures that the treatment and control groups should be similar, restricting the sample to enrollees with available data on a given outcome could create differences between the two groups. Thus, we used the logit models to control for baseline measures of demographic characteristics, health and functioning, receipt of personal care, satisfaction with care and life, unmet needs, reasons for and month of enrollment, work and community activities, whether had a proxy respondent, and whether appointed a representative.

We derived many of the outcome measures from survey questions with four-point scales by converting each scale into two alternative binary measures—one for the most favorable rating (very satisfied) and one for an unfavorable rating (somewhat or very dissatisfied). We then estimated impacts on each measure so that readers could easily determine whether consumer direction increased the proportion giving the highest satisfaction rating, reduced dissatisfaction, or had both effects. For every outcome, we estimated the logit model separately for elderly (age sixty-five or older) and nonelderly (ages eighteen to sixty-four) sample members because impacts and the relationship of the outcomes to the control variables might differ for the two age groups.

We measured the impacts of IndependentChoices by using the estimated coefficients from the logit models to calculate the average predicted probabilities that the binary dependent variable took a value of 1, with each sample member first assumed to be a treatment-group member, and then a control-group member. The *p*-values of the estimated coefficients on the treatment status variable were used to assess the statistical significance of the impacts (in exhibits).⁹ The impact estimates are nearly always similar to treatment-control differences in means.¹⁰

With 473 nonelderly cases and 1,266 elderly cases in the analysis sample (each split roughly equally between the treatment and control groups), we have 80 percent power to detect impacts of 11.4 and 7.0 percentage points, respectively, for binary outcome variables with a mean of .50 (assuming two-tailed tests at the .05 significance level). Although smaller impacts on quality may not be detected, they are likely to be relatively unimportant to policymakers.

■ **Baseline characteristics of the analysis sample.** The analysis sample was predominantly white, female, and of limited education (Exhibit 1). Roughly one-third lived alone, and about two-thirds lived in areas that were either rural or urban

EXHIBIT 1
Selected Baseline Characteristics Of Respondents To The Follow-Up Interview Of The Cash And Counseling Study, By Age Group

Characteristic	Ages 18-64 (N = 473)	Age 65+ (N = 1,266)
Age (years)		
18-39	27.1%	-
40-64	72.9	-
65-79	-	49.9%
80+	-	50.1
Female	67.7	82.2
Race		
White	64.6	60.1
Black	29.5	34.0
Other	5.9	5.9
Lives alone	39.1	30.5
Did not graduate from high school	53.9	83.9
Area of residence		
Rural	36.7	40.4
Urban but high-crime or lacking adequate public transportation	33.8	26.4
In poor health relative to peers	52.6	47.1
Could not get in or out of bed without help in past week	61.1	66.9
Is not receiving publicly funded home care	40.1	20.6
Receives more than 12 hours of care per week in Medicaid personal care plan	48.0	34.7
Dissatisfied with overall care arrangements	36.3	14.7
Appointed a representative	27.3	48.6

SOURCES: Mathematica Policy Research baseline evaluation interview, December 1998–April 2001; and the IndependentChoices (Arkansas Cash and Counseling) program.

with high crime or poor public transportation—types of isolation that could make it difficult to recruit caregivers. Many sample members said that they were in poor health and had functional limitations. Half of the nonelderly and one-third of the elderly were allotted more than twelve hours of weekly care in their personal care plans. (The Arkansas maximum is sixteen hours weekly, unless an exception is granted.) About 40 percent of the nonelderly and 20 percent of the elderly were not receiving any publicly funded home care at baseline.

■ **Outcome measures and sample restrictions.** We asked many of the survey questions used in this analysis only of subsets of respondents. The five types of outcome measures, the observations to which they were restricted, and sample sizes were as follows: Unmet needs (669 treatments, 831 controls), excluded: (a) sample members with a proxy respondent who also was a paid caregiver. Satisfaction with overall care arrangements (625 treatments, 772 controls), excluded: group (a), plus (b) sample members who could not form opinions due to cognitive impairments and those whose proxy respondents were not comfortable assessing sample members' opinions. Satisfaction with paid caregivers (524 treatments, 523 controls), excluded:

groups (a) and (b), plus (c) sample members who did not receive any paid assistance during a two-week reference period shortly before the nine-month interview. Quality of life (548 treatments, 713 controls), excluded: groups (a) and (b), plus (d) the 136 sample members who had died. Adverse health events, general health, and self-care (808 treatments, 795 controls), excluded: only group (d).

Study Results

IndependentChoices generally operated smoothly.¹¹ Four-fifths of consumers received their allowance within three months of random assignment. The rest disenrolled, had not developed an acceptable spending plan, or wanted to hire a worker but could not. Almost all used the allowance to hire family members or friends, and some bought assistive equipment, personal care supplies, and medications. Nine months after random assignment, 15 percent of treatment-group members (130 out of 885) had chosen to stop participating in IndependentChoices. In addition, forty-nine had died, sixty-four were no longer eligible for Medicaid or the personal care benefit, and one had been disenrolled by program staff.

Another important consideration in interpreting our results is that 32 percent of nonelderly and 20 percent of elderly control-group members who were living in the community about nine months after random assignment were not receiving paid personal assistance. This was particularly common among control-group members who were not receiving publicly funded home care at baseline. In the treatment group, only 5 percent of each age group were not receiving paid care at follow-up.¹²

■ Satisfaction with paid caregivers' reliability, schedule, and performance.

Treatment-group members were much less likely than control-group members were to report that their paid caregivers performed poorly, and they were more likely to say that caregivers performed exceptionally well (Exhibit 2). Compared with their control-group counterparts, about 60 percent fewer treatment-group respondents in both age groups said that their paid caregivers failed to complete tasks (calculated as the estimated effect divided by the control-group mean: $-22.7/38.7 - .59$; $-20.9/36.2 - .58$). Similarly, the proportion of treatment-group members who said that their paid caregivers sometimes did not visit as scheduled was much lower than that of controls among nonelderly and elderly consumers. Treatment-group members in both age groups were much more satisfied with their caregivers' schedules. Among sample members in both age groups who recently received paid assistance, treatment-group members were much more likely to say that they were very satisfied with the way their paid caregivers performed their duties.¹³

■ **Satisfaction with paid caregivers' relationships and attitudes.** More than 90 percent of treatment-group members and roughly 80 percent of control-group members in both age groups said that they were very satisfied with their relationships with paid caregivers (Exhibit 3). However, IndependentChoices appears to have reduced the reported incidence of neglect by paid caregivers by 58 percent for

EXHIBIT 2
Estimated Effects Of Independent Choices On Satisfaction With Paid Caregivers' Reliability And Schedule, By Age Group

Outcome	Ages 18-64			Age 65+		
	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)
Completed tasks ^a						
Always	62.0%	36.8%	25.2% (<.001)	65.8%	47.2%	18.7% (<.001)
Usually/sometimes/rarely	16.0	38.7	-22.7 (<.001)	15.4	36.2	-20.9 (<.001)
Arrived late or left early						
Never	59.3	37.6	21.8 (<.001)	56.3	36.0	20.3 (<.001)
Often	11.4	25.0	-13.6 (.002)	9.4	19.3	-9.8 (<.001)
Did not come as scheduled ^b	7.7	28.5	-20.9 (<.001)	17.7	30.1	-12.4 (<.001)
Very satisfied with caregivers' schedule ^b	85.2	66.9	18.3 (<.001)	82.9	68.7	14.2 (<.001)
Could easily change schedule	53.5	41.6	11.8 (.046)	47.8	45.1	2.6 (.497)

SOURCE: Mathematica Policy Research nine-month follow-up evaluation interview, September 1999-February 2002.

NOTE: Means were predicted with logit models.

^aThis measure is derived from a survey question with a five-point scale. The binary variables shown here represent the most favorable rating (always) and a less favorable one (usually, sometimes, or rarely). The intermediate rating (almost always) is not presented.

^bEffects were estimated by pooling the two age groups and including an age-treatment status interaction term in the model.

consumers in both age groups. Nonelderly treatment-group members were about one-third as likely as nonelderly control-group members were to say that their paid caregivers had been rude or disrespectful. For the elderly, the reduction was statistically significant but less pronounced. Also, although only small percentages of both the treatment and control groups reported instances of theft, treatment-group members in both age groups were significantly less likely than their control-group counterparts were to report theft by paid caregivers.

■ **Unmet needs and satisfaction with care arrangements.** Treatment-group members were less likely than control-group members were to report unmet needs, which were measured regardless of whether sample members were receiving paid assistance around the time of the interview (Exhibit 4). A significantly lower percentage of nonelderly treatment-group members than control-group members had unmet needs for help with personal care, household activities, and transportation. In particular, the proportion of nonelderly consumers not receiving needed help with transportation was about 40 percent lower. Among elderly consumers, there were smaller, but significant, reductions in unmet needs for help with household activities and transportation. We saw no treatment-control differences in unmet needs

EXHIBIT 3
Estimated Effects Of Independent Choices On Satisfaction With Paid Caregivers' Relationships And Attitudes, By Age Group

Outcome	Ages 18-64			Age 65+		
	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)
Very satisfied with relationship ^a	95.0%	78.5%	.16.5% (< .001)	92.2%	82.8%	9.4% (< .001)
Paid caregivers Neglected client	14.1	33.5	-19.4 (< .001)	10.9	26.2	-15.3 (< .001)
Were rude or disrespectful	10.5	29.5	-18.9 (< .001)	11.8	16.4	-4.7 (.051)
Took something without asking ^a	1.7	4.4	-2.7 (.040)	4.1	7.7	-3.6 (.033)

SOURCE: Mathematica Policy Research nine-month follow-up evaluation interview, September 1999–February 2002.

NOTE: Means were predicted with logit models.

^a Effects were estimated by pooling the two age groups and including an age-treatment status interaction term in the model.

for help with routine health care for either age group.

Consumers' satisfaction with their overall arrangements for paid and unpaid care appears to have increased under Independent Choices (Exhibit 4). About one-third of nonelderly consumers in the control group were dissatisfied with their overall care, compared with only 6 percent for the treatment group. In addition to virtually eliminating dissatisfaction, Independent Choices increased the ranks of very satisfied consumers by twenty-nine percentage points. Elderly control-group members were much less dissatisfied than their nonelderly counterparts were, but the treatment-control difference was still significant and sizable for this age group, suggesting positive program effects.

■ **Adverse events, health problems, and general health status.** Under Independent Choices, care was at least as safe as agency-directed care, as reflected in reports of disability-related adverse events, health problems, and general health status (Exhibit 5). For most measures, treatment-group members had slightly better outcomes, but most treatment-control differences were not statistically significant.

Treatment-group members were no more likely than control-group members were to fall, see a doctor because of a fall, or sustain injuries while receiving paid help. Moreover, although only a small proportion of nonelderly control-group members saw a doctor because of a cut, burn, or scald, a significantly smaller proportion of nonelderly treatment-group members reported these accidents. Treatment-group members also were somewhat less likely than control-group members were to report certain kinds of health problems that might indicate they had received inferior or insufficiently frequent care. Independent Choices appears to

EXHIBIT 4
Estimated Effects Of Independent Choices On Unmet Needs And Satisfaction With Care Arrangements, By Age Group

Outcome	Ages 18-64			Age 65+		
	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)
Has an unmet need for help with						
Daily living activities ^a	25.8%	41.0%	-15.2% (.001)	35.9%	36.5%	-0.7% (.823)
Household activities ^b	41.3	56.0	-14.7 (.002)	38.1	47.2	-9.1 (.003)
Transportation ^c	27.0	47.2	-20.2 (<.001)	29.0	36.5	-7.5 (.009)
Routine health care ^d	26.6	32.3	-5.7 (.189)	29.2	32.3	-3.1 (.285)
Satisfaction with overall care arrangements ^e						
Very satisfied	71.0	41.9	29.2 (<.001)	68.3	54.0	14.3 (<.001)
Dissatisfied	6.0	31.4	-25.4 (<.001)	6.2	10.4	-4.3 (.026)

SOURCE: Mathematica Policy Research nine-month follow-up evaluation interview, September 1999–February 2002.

NOTE: Means were predicted with logit models.

^aDaily living activities include eating, dressing, using the toilet, transferring from bed to chair, and bathing.

^bHousehold activities include meal preparation, laundry, housework, and yard work.

^cTransportation includes trips to and from a doctor's office, shopping, school, work, and recreational activities.

^dRoutine health care includes help taking medications, monitoring blood pressure, and performing exercises.

^eIncludes arrangements for unpaid and paid help with daily living activities, activities around the house and community, routine health care, community services, and transportation and for use of care-related equipment.

have reduced the likelihood of nonelderly consumers' developing or experiencing worsened bedsores by more than half and their likelihood of having problems with shortness of breath by one-fourth. Elderly treatment-group members reported fewer problems with muscle contractures than elderly control-group members did.

■ **Satisfaction with life.** Treatment-group members in both age groups were nearly twenty percentage points more likely than control-group members were to say that they were very satisfied with the way they were spending their lives (Exhibit 6). There was an equally large treatment-control difference, in the opposite direction, in the percentage of nonelderly adults who were dissatisfied with their lives. The treatment-control difference in the percentage of elderly consumers who were dissatisfied was statistically significant but less pronounced.

Discussion

The Cash and Counseling approach of increasing Medicaid beneficiaries' choice and control over their personal assistance yielded very large, positive treatment-control differences on virtually all indicators of satisfaction and unmet

EXHIBIT 5
Estimated Effects Of Independent Choices On Adverse Events, Health Problems, And
General Health Status, By Age Group

Outcome	Ages 18-64			Age 65+		
	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)
Adverse events in past month						
Fell	28.4%	28.7%	-0.4% (.931)	19.0%	18.6%	0.4% (.869)
Saw doctor because of fall ^a	4.4	4.1	0.3 (.849)	5.4	4.6	0.7 (.587)
Saw doctor because of cut, burn, or scald ^b	1.3	4.0	-2.7 (.070)	1.4	1.9	-0.5 (.479)
Was injured while receiving paid help ^b	0.9	2.3	-1.4 (.221)	1.8	1.4	0.3 (.673)
Health problems in past month						
Shortness of breath developed or worsened						
	29.8	39.7	-10.0 (.016)	32.3	36.1	-3.8 (.161)
Had respiratory infection	31.4	32.1	-0.7 (.872)	23.3	25.3	-2.1 (.404)
Contractures developed or worsened						
	26.0	25.2	0.8 (.826)	15.9	19.7	-3.9 (.089)
Had urinary tract infection	19.4	21.6	-2.2 (.560)	18.2	21.0	-2.8 (.230)
Bedsores developed or worsened ^b						
	5.9	12.6	-6.7 (.012)	7.5	6.8	0.7 (.640)
General health status						
Current health poor relative to peers ^a						
	56.4	53.5	2.9 (.476)	48.0	50.0	-2.0 (.462)
Spent night in hospital or nursing home in past two months						
	16.6	15.9	0.7 (.842)	25.2	23.7	1.5 (.551)

SOURCE: Mathematica Policy Research nine-month follow-up evaluation interview, September 1999–February 2002.

NOTE: Means were predicted with logit models.

^a Effects were estimated by pooling the two age groups and including an age-treatment status interaction term in the model.

^b Impacts could not be estimated with the logit model. Results presented are the unadjusted means and treatment-control differences.

needs examined. Perhaps these large effects should not be surprising. Given their expressed preference for hiring their own workers, beneficiaries who were randomly selected to receive the allowance might be expected to report greater satisfaction with their care than those who wished to have this opportunity but were denied it. However, consumers' actual program experiences might have fallen short of expectations in many ways. Had expectations not been met, the treatment group might have reported lower satisfaction levels than the control group did.

Apparently, treatment-group members find that having intimate care, such as help with bathing and dressing, performed by a person of one's own choosing is

EXHIBIT 6
Estimated Effects Of IndependentChoices On Satisfaction With Life, By Age Group

Outcome	Ages 18-64			Age 65+		
	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)	Predicted treatment-group mean	Predicted control-group mean	Estimated effect (p-value)
Satisfaction with the way spending life these days						
Very satisfied	43.4%	22.9%	20.5% (<.001)	55.5%	37.0%	18.5 (<.001)
Dissatisfied	24.1	46.9	-22.7 (<.001)	17.0	25.3	-8.3 (.004)

SOURCE: Mathematica Policy Research nine-month follow-up evaluation interview, September 1999-February 2002.
NOTE: Means were predicted with logit models.

much more satisfactory than having it performed by a stranger. Furthermore, the ability to obtain this care at the times of day or week desired, rather than when an agency can deliver it, can be tremendously freeing (for example, someone who is an early riser would not have to wait in bed until an aide came and helped them).

The fact that treatment-group members were much more likely than control-group members were to say that their workers almost always showed up on their scheduled days, were punctual, and completed their tasks suggests that these personally selected workers were much more reliable than agency workers were. Furthermore, in interviews with some treatment-group members and their representatives, ethnographic researchers heard numerous stories about former agency workers doing few of their scheduled tasks during their visits.¹⁴ This improvement in performance is not surprising when one considers that workers in IndependentChoices are actually employed by care recipients and usually have close personal relationships with them. Some treatment-group members did fire people they had hired, including relatives, who did not work out. In contrast, control-group members could only complain to the agencies, which might not respond, especially if replacement workers were not available. In addition, treatment-group members always had the option of disenrolling and accepting agency care if self-direction was not working well for them.

Finally, treatment-group members could instruct their hired workers on how they wanted their care delivered, while many control-group members were reluctant or felt they lacked authority to do so with their agency workers. For example, some treatment-group members told ethnographic interviewers that they appreciated being able to hire someone who was able and willing to cook the ethnic foods they liked.

It is also important that the health of beneficiaries in the IndependentChoices group did not suffer and, by a few measures, may have improved. Program critics were concerned that untrained family members might be less able to prevent falls or might not periodically move the limbs of or rotate beneficiaries who are not

able to move on their own. The absence of periodic visits from nurses to oversee care also raised concerns. However, family members have always provided most of the care that beneficiaries receive, so those helping treatment-group members had ample preparation, if not formal training, to provide adequate care.

The positive impacts on unmet needs and on satisfaction with life, overall care arrangements, and transportation assistance were attributable in part to the higher proportion of treatment-group members receiving any assistance from paid caregivers at follow-up. However, even when the sample is restricted to people receiving paid care, the treatment group has significantly lower proportions with unmet needs and markedly higher proportions who were very satisfied with their lives, overall care, and transportation.

One might also be concerned that any dissatisfaction with IndependentChoices is underestimated because disenrollees were asked about their recent care, rather than about care received while enrolled. However, a sensitivity test in which we excluded treatment-group members who had disenrolled from IndependentChoices did not materially change the results. The fact that 96 percent of all treatment-group respondents, including disenrollees, said that they would recommend the program to others confirms that even disenrollees found IndependentChoices to be a desirable alternative to agency care.¹⁵

■ **Study limitations.** The high rate of proxy use may raise concerns that proxy respondents would respond more favorably than would the sample members in the case of the treatment group (but not the control group), because some proxies benefited from the program. To minimize this possibility, we did not allow proxy respondents who were paid caregivers to respond to questions on satisfaction, unmet needs, or quality of life. Nonetheless, responses from the other proxy respondents could lead to inflated impact estimates for these outcomes. However, sensitivity tests show positive and statistically significant effects on all of these outcomes for sample members who responded themselves. In addition, impacts on all outcomes except unmet needs were significant for sample members who had (nonhired) proxy respondents. Thus, impacts do not appear to be overestimated by the use of proxy respondents.

Consumers' demonstration experiences and survey responses might have been affected by their participation in Medicaid home and community-based waiver programs during the evaluation follow-up. Nearly two-thirds of elderly sample members were enrolled in the Arkansas ElderChoices waiver program for at least part of their follow-up period. ElderChoices provides up to forty-three hours per month of agency-delivered homemaker services to elders who qualify for nursing home-level care. The nurse supervision that agencies provide could have reduced the likelihood that elderly treatment-group members experienced adverse health effects. However, sensitivity tests for health-related outcomes showed that within the subgroup of elders who did not participate in ElderChoices, treatment-group members fared as well as or better than control-group members did.

In addition, because our findings are based on one (relatively new) consumer-directed care program in one state, they might not be broadly generalizable. For example, the potential impact of consumer-directed care could be lower in states whose Medicaid personal care benefits are more generous than those of Arkansas, because levels of dissatisfaction and unmet needs probably would also be lower in those states.

Our relatively short follow-up period also might have affected our findings. Some program effects might not persist over time, as consumers age or lose paid family caregivers. Moreover, consumers' experiences with personal assistance under consumer direction might have been unusually positive during the first nine months of the program because of the novelty of the service model. In that case, the strong effects could eventually diminish.

■ **Implications for policymakers.** The estimates presented here provide support from a quality-of-care standpoint for the October 2002 decision by Arkansas and federal Medicaid administrators to renew IndependentChoices after the initial demonstration period had ended. The results of this analysis also should be useful to states that are contemplating voluntary consumer-directed program options and to organizations that advocate for the elderly.

■ **Future analyses.** Although the quality and consumer satisfaction results suggest that the Cash and Counseling model, as implemented under IndependentChoices, may be good for recipients of disability-related supportive services, other factors must be examined before the desirability of consumer-directed care can be fully confirmed in Arkansas and elsewhere. Public costs could increase or decrease under IndependentChoices—a critical factor in times of state budget crises. Companion analyses will examine how IndependentChoices affected the use and cost of Medicaid personal care services, as well as the total cost to Medicaid and Medicare for acute and long-term care. We also will examine program effects on informal caregivers and on the experiences of workers hired by consumers, as well as implementation issues important to states. Finally, we will assess the robustness and generalizability of our findings by examining Cash and Counseling's impacts on adults in the two other study states (Florida and New Jersey) and on children (in Florida). If the results of these studies support the strongly positive effects found here, states can adopt the Cash and Counseling model of consumer-directed supportive services with confidence.

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NOTES

1. K.J. Mahoney, K. Simone, and L. Simon-Rusinowitz, "Early Lessons from the Cash and Counseling Demonstration and Evaluation," *Generations* (Fall 2000): 41-46.
2. A.E. Benjamin, R. Matthias, and T.M. Franke, "Comparing Consumer-Directed and Agency Models for Providing Supportive Services at Home," *Health Services Research* (April 2000): 351-366.
3. Includes 467,487 users of states' optional personal care benefits in 1998 and 1999. See A. LeBlanc, C. Tonner, and C. Harrington, "State Medicaid Programs Offering Personal Care Services," *Health Care Financing Review* (Summer 2001): 155-173. Also includes 688,152 users of home and community-based waiver program services in 1999. See M. Kitchener and C. Harrington, *Medicaid 1915(c) Home and Community Based Waivers: Program Data, 1992-1999* (San Francisco: University of California, San Francisco, August 2001). Because some people receive services from more than one program, the total number of users may be overestimated.
4. L. Velgouse and V. Dize, "A Review of State Initiatives in Consumer-Directed Long-Term Care," *Generations* (Fall 2000): 28-33.
5. J. Schore and B. Phillips, "Putting Consumer Direction into Practice: Implementing the Arkansas Independent Choices Program," Draft Report (Princeton, N.J.: Mathematica Policy Research Inc., December 2002).
6. B. Phillips et al., *Evaluation of the Cash and Counseling Demonstration: Design Report for Arkansas* (Princeton, N.J.: Mathematica Policy Research Inc., April 1997).
7. A more detailed description of research methods is available from the authors upon request. Send e-mail to Randall Brown, rbrown@mathematica-mpir.com.
8. We chose to measure impacts by estimating straightforward binary logit models on key individual outcome measures rather than to create and analyze indexes that combine the various measures for several reasons: (1) The meaning of what is being measured is clearer when actual survey questions are examined; (2) the magnitude of impacts is easier for nontechnical readers to grasp; (3) indexes use arbitrary weights for the components and treat ordinal measures as if they were cardinal; and (4) indexes sometimes mask important effects on component measures.
9. This approach provides a formal two-tailed test of whether the odds ratio is significantly different from 1.0. We present predicted mean probabilities for the treatment and control groups to give readers a more intuitive feel for the magnitude of the estimated effects.
10. For fifty-three of the sixty estimates in this paper, the estimated treatment-control differences from the logit models are within two percentage points of the simple difference in mean outcomes between the two groups (available from the authors on request). The statistical significance of the alternative estimates differed in only one instance. This similarity suggests that any compositional differences between the two groups introduced by survey nonresponse or necessary sample restrictions are relatively minor.
11. For a more extensive set of estimates and results of sensitivity tests, see L. Foster et al., *Does Consumer Direction Affect the Quality of Medicaid Personal Assistance in Arkansas?* (Princeton, N.J.: Mathematica Policy Research Inc., March 2003). Regarding early operation of Independent Choices, see Schore and Phillips, "Putting Consumer Direction into Practice"; and B. Phillips and B. Schneider, *Moving to Independent Choices: The Implementation of the Cash and Counseling Demonstration in Arkansas* (Princeton, N.J.: Mathematica Policy Research Inc., May 2002).
12. S. Dale et al., "The Effect of Consumer Direction on Personal Assistance Received in Arkansas," Draft Report (Princeton, N.J.: Mathematica Policy Research Inc., December 2002).
13. While the *p*-values on the individual coefficients may overstate the overall statistical significance of the estimates, given the multiple hypotheses being tested, jointly testing the hypotheses in this and other tables with the Bonferroni method would not change our assessment of significance. The great majority of the estimated coefficients on treatment status are significant at even the .001 level. The consistency of the estimates for the younger and older age groups also suggests that the results are robust.
14. J. Eckert, P.M. San Antonio, and K.B. Siegel, "The Cash and Counseling Qualitative Study: Stories from the Independent Choices Program in Arkansas," Draft Report (Baltimore: University of Maryland, Baltimore County, Department of Sociology/Anthropology, 2002).
15. Schore and Phillips, "Putting Consumer Direction into Practice."