



## IHSS STAKEHOLDER ADVISORY COMMITTEE

### MEETING HIGHLIGHTS

January 15, 2016

**Members Present:** Margaret Belton, Michael Condon, Deborah Doctor, Lonny Lewis, Kristine Loomis, Sharon Matson, Kim Selfon, Anna Vo, and Brandi Wolf

**Members Participating by Phone:** Charles Bean, Marcia Cracker, and Michelle Rousey

**Members Absent:** Yvonne Olivares-Maldonado

The second meeting of the In-Home Supportive Services (IHSS) Stakeholder Advisory Committee (SAC) was held on January 15, 2016 in San Diego. The primary objectives of the meeting were to: (1) Adopt operational guidelines; (2) Finalize and prioritize goals for 2016; (3) Discuss first goal and develop preliminary recommendations; and (4) Identify potential agenda items for future meetings.

#### WELCOME AND ADMINISTRATIVE OFFICER UPDATE

Facilitator Lori Clark kicked off the meeting by welcoming all participants, reviewing the meeting objectives and agenda and inviting SAC members to introduce themselves. After introductions, Statewide Authority Administrative Officer, Karol Swartzlander, provided a brief update on Statewide Authority and SAC activities. To date, six counties have transitioned to the Statewide Authority: Los Angeles, Riverside, San Bernardino, San Diego, San Mateo and Santa Clara. Since the October 21, 2015 meeting, SAC members had participated in a series of two-person subcommittee meetings to continue working on Committee goals and the Committee Charter.

Lori Clark called for any corrections to the October 21, 2016 Meeting Highlights. There were none. **Motion/Action:** Maggie Belton moved to approve the Highlights. Lonny Lewis seconded the motion. **Vote:** Motion was approved by unanimous vote.

**Members:** Charles Bean | Margaret Belton | Michael Condon | Marcia Cracker | Deborah Doctor | Dr. Lonny Lewis | Kristine Loomis | Sharon Matson | William Reed, Ph.D. | Michelle Rousey | Kim Selfon | Anna Vo | Brandi Wolf

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## REVIEW AND DISCUSS COMMITTEE CHARTER

Karol Swartzlander reviewed the draft Committee Charter and opened the floor for discussion. Michelle Rousey suggested removing the requirement that members attend the biannual meetings “in person” and instead also be allowed to participate in meetings by conference call. Some members noted that frequency of two meetings per year seemed insufficient.

**Motion/Action:** Lonny Lewis moved to approve the Charter with the removal of “in person” as suggested. Anna Vo seconded the motion. **Vote:** Motion was approved by unanimous vote.

## DISCUSSION OF GOAL ONE

Prior to discussing and formulating recommendations, four SAC members provided overviews of the suggested program and policy areas:

- FLSA Implementation, Michael Condon
- FLSA Exemptions, Brandi Wolf and Deborah Doctor
- Share-of-Cost Buy Out Program, Deborah Doctor
- IHSS Assessment Prior to Nursing Facility and Hospital Discharge, Kim Selfon

**GOAL 1**  
**The In-Home Supportive Services (IHSS) Stakeholder Advisory Committee will make high priority recommendations on IHSS program and policy areas such as:**  
• **Federal Labor Standard Act (FLSA) Implementation; FLSA Exemptions; Share-of-Cost Buy Out Program; and IHSS Assessment Prior to Nursing Facility and Hospital Discharge**

After each presentation, Eileen Carroll, Deputy Director, and Charissa Miguelino, Chief, Policy and Operations Bureau, Adult Program Division, California Department of Social Services, provided additional background and information from the State perspective.

### **Federal Labor Standard Act (FLSA) Implementation**

Michael Condon provided an overview of FLSA, which is a federal regulation that allows IHSS providers to receive overtime, travel time and wait time. He noted

the State is implementing FLSA via Senate Bills (SB) 855 and 873. Beginning on February 1, 2016, providers in a one-on-one relationship can work for a maximum of 70.75 hours per week and provider to multiple recipients can work up to a maximum of 66 hours per week. Mr. Condon believed stakeholders were concerned and didn't understand the violations and appeals process.

Eileen Carroll then specified that mailers were distributed to recipients and providers, beginning on December 5, 2015 and completed on January 15, 2016. An [All County Letter \(ACL\)](#) was released on January 7, 2016 providing instructions on the implementation of SB 855 and SB 873.

### **FLSA Exemptions**

Brandi Wolf and Deborah Doctor gave an overview of two proposed exemption processes. Proposed Exemption One, Live-in Family Care Providers, allows a provider who provides services to two or more recipients, lives with the recipients and is a parent, adoptive parent, step-parent, grandparent or legal guardian of the recipients to work up to 90 hours per week or 360 per month. Proposed Exemption Two, Extraordinary Circumstances, was still under development but would allow a provider to work up to 90 hours per week or 360 per month when there are exceptional circumstances that would put a recipient at risk of institutional care. Ms. Doctor expressed concern that the exemption categories weren't expansive enough and recipients may encounter challenges securing additional providers.

Ms. Carroll stated that the critical point from the State perspective is for recipients to continue to receive the full authorized hours. Providers in a one-to-one relationship can work 283, which affords significant flexibility to vast majority of recipients. Exemption One addresses the State's priority to ensure quality and stable care for children living with a parent, guardian, to grandparent. Ms. Carroll noted the Department would be engaging stakeholders, unions, counties, DRC on the development an exceptional exception.

Deborah Doctor provided a historical perspective on the IHSS Share of Cost Buy Out (SOC) and provided a [DRC document](#) outlining the history and issues.

Ms. Carroll then provided some historical context explaining that the shift to implement the 1115 waiver, which enabled the drawdown of federal matching funds, also required the State to comply with Medicaid eligibility rules consistently across Medicaid-funded programs.

Kim Selfon provided an overview of issues related to IHSS Assessment prior to nursing facility and hospital discharge. She noted that in her experience, it has been difficult to get IHSS to come to nursing facilities to conduct an assessment prior to discharge. Ms. Selfon thought that the counties may not want to conduct two assessments.

Charissa Miguelino indicated regulations exist (MPP Section 30-755.12) that require a preliminary assessment and thought it might be a training issue. Eileen Carroll recalled that the Department had worked with counties years ago to identify why certain activities weren't occurring and then issued an [information notice](#) directing counties to respond when a nursing facility contacts them.

## **FORMULATING RECOMMENDATIONS**

After vigorous discussion, the SAC formulated draft recommendations by issue area.

*The In-Home Supportive Services Stakeholder Advisory Committee recommends:*

### **A. FLSA Implementation**

1. The State simplify communication tools for FLSA to ensure requirements are clear and easily understood. (tie to communication/health literacy standards)
2. The State pay staff to work with individual providers and consumers to complete forms.
3. The State track whether consumers are harmed and/or go into institutional care as a result of FLSA implementation, i.e. a trend analysis

on authorized versus utilized hours and number of providers who lose their program eligibility status.

4. The State conduct a Cost Benefit Analysis that tracks data and analyzes costs related overtime payments, the cost of enforcing overtime rules; the cost of services versus administration costs.

## **B. FLSA Exemptions**

1. The State support and adopt an exemption policy that ensures that consumers will not be harmed by the implementation of the FLSA.
2. The State adopt an assessable and toll-free information line to receive calls, provide information and address complaints (similar to Cal Duals Ombudsman).
3. The State provide a State hearing process that would provide an appeals process for consumers and providers related to exemptions.
4. The State utilize the current state appeals process for the exemptions (due process) to support and help manage the exemptions.

## **C. Medi-Cal Share of Cost**

1. The State raise the medically-needy level to SSI level or, if that fails, reinstating the IHSS SOC buyout.

## **D. IHSS Assessment**

1. The State educate hospitals and other medical facilities about IHSS as a first option.
2. The State enforce the compliance of IHSS Assessment prior to hospital and nursing facility discharge.
3. CDSS issue another ACL to remind counties that they are required to conducted IHSS Assessment prior to discharge from a nursing facility or hospital.
  - clarify telephonic assessment is an option.

Given time constraints, the SAC elected to establish subcommittees to continue working on the recommendations prior to the July 15, 2016 meeting.

## **PRIORITIZATION**

The SAC prioritized the remaining goal areas. Goal Two will be discussed at the July 15, 2016 meeting. Goal Three will be addressed in late 2016 to early 2017.

2. The In-Home Supportive Services (IHSS) Stakeholder Advisory Committee will make recommendations to improve quality and consistency of IHSS statewide by identifying, recommending and disseminating both existing and emerging IHSS Best Practices.
  - Suggested examples include: emergency backup registry; consumer training; “eligibility” worker sensitivity training; wheelchair transportation; timeliness and accuracy of Notice of Actions to ensure clear communication with consumers and providers and consistency across notices.
  
3. The In-Home Supportive Services (IHSS) Stakeholder Advisory Committee will make recommendations on voluntary education and training to empower Recipients to achieve the highest quality of care through the IHSS Program.
  - Examples: establishing communication channels (with social workers, etc.); navigating the IHSS program chain of command; understanding allocation of IHSS hours; preparing for assessment; communication, training and directing your providers; time management; conflict resolution; understanding the appeals and State hearing process

Public comment themes included concerns about: a lack of knowledge of hospital social workers about the IHSS program and alternatives to nursing facilities and the cap on service hours while there is no cap on administrative costs.

The next SAC meeting will be held in Sacramento on July 15, 2016.