

Date of Hearing: March 22, 2022

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Lisa Calderon, Chair
AB 2262 (Calderon) – As Introduced February 16, 2022

SUBJECT: In-home supportive services: needs assessment

SUMMARY: Requires the California Department of Social Services (CDSS) to establish an alternative annual reassessment process for a recipient of the In-Home Supportive Services (IHSS) program who meets specific criteria; additionally, requires the department to provide implementation instructions to counties on the alternative assessment process on or before October 1, 2023. Specifically, **this bill:**

- 1) Clarifies that a county welfare department may conduct an IHSS recipient assessment as a full assessment or an alternative annual reassessment, as specified.
- 2) Makes provisions regarding the alternative annual reassessment process inoperative on January 1, 2024, or when automation to support the alternative annual reassessment process is available through the Case Management Information and Payrolling System (CMIPS).
- 3) Requires CDSS, with input from counties and stakeholders, to establish an alternative annual reassessment process for a recipient with stable needs. Additionally, requires CDSS to provide counties with instructions and forms on the alternative annual reassessment process on or before October 1, 2023. Further, requires counties to implement the alternative annual reassessment process beginning January 1, 2024, or when automation to support the process is available through CMIPS.
- 4) Defines "a recipient with stable needs" as a recipient who is 18 years of age or older, has at least one active provider, had at least one initial in-person assessment and one in-person reassessment, and whose most recent reassessment did not indicate an assessed need that changed more than 25% from the prior assessment.
- 5) Requires an annual reassessment to be conducted through the alternative annual reassessment process unless the recipient requests a full assessment, as specified, and provides that an alternative annual reassessment may be conducted by telephone, video, or in-person, at the choice of the recipient.
- 6) Requires the alternative annual reassessment process to include all of the following:
 - a) A pre-populated form that includes basic identifying information about the recipient, the number of authorized hours, any alternative resources, and household composition;
 - b) A simple questionnaire that will be used to collect information during the alternative annual reassessment that includes, but is not limited to, questions regarding all of the following:
 - i) Changes in medication or health care providers;
 - ii) Changes in IHSS providers or caregiver supports;

- iii) Any new alternative resources or changes in alternative resources;
 - iv) Changes in household composition; and,
 - v) Changes in needs and whether current needs are being met.
- 7) Requires the county welfare department to send the pre-populated form and questionnaire in advance of the scheduled recipient reassessment and distribute the documents in all Medi-Cal threshold languages.
- 8) Requires CDSS to document the responses collected from the questionnaire during the alternative annual reassessment in CMIPS.
- 9) Allows a county social worker to trigger an in-person reassessment if certain factors are present, including the following:
- a) The recipient has been referred to the adult protective services program within the last 12 months, or an investigation is being conducted concerning the recipient if known;
 - b) The recipient has been referred to the district attorney or the department for allegations of fraud within the last 12 months, or an investigation is being conducted concerning fraud by the recipient, if known;
 - c) The recipient is under a conservatorship or public guardianship; or,
 - d) Other factors that indicate the recipient would benefit from an in-person home visit as defined by local county policy including but not limited to significant changes in the recipient's memory, orientation, or judgment.
- 10) Provides an IHSS recipient with the right to refuse the alternative annual reassessment and choose a full reassessment. Further, requires the county welfare department to establish a process to safeguard the recipient's choice of reassessment and document the requested choice.
- 11) Permits a recipient who is qualified to receive an alternative annual reassessment to receive the alternative annual reassessment for two consecutive years and requires that a recipient receive a full reassessment every third year.
- 12) Requires CDSS to consult with the County Welfare Directors Association of California and counties regarding the automation necessary to support the implementation of the alternative assessment.
- 13) Requires CDSS to conduct ongoing evaluation and oversight of the alternative annual reassessment process to ensure the process adequately assesses recipients' needs and that the process is equitably available to recipients based on county residence, race, ethnicity, language, age, disability, sexual orientation, and gender identity. Further, requires data pertaining to the utilization of the alternative annual reassessment process to be made public by the department.

14) Makes technical changes.

EXISTING LAW:

- 1) Establishes the IHSS program to provide supportive services, including domestic, protective supervision, personal care, and paramedical services as specified, to individuals who are aged, blind, or living with disabilities, and who are unable to perform the services themselves or remain safely in their homes without receiving these services. (Welfare and Institutions Code Section [WIC] 12300 *et seq.*)
- 2) Requires an IHSS applicant to, as a condition of receiving IHSS, obtain certification from a licensed health care professional that contains certain information, including a description of any condition or functional limitation that has contributed to or resulted in the individual's need for assistance; declares the applicant's or recipient's inability to independently perform some activities of daily living; and states that, without services to assist them with such activities, the applicant or recipient is at risk of placement in out-of-home care. Further, requires the county to consider the medical certification as one indicator of a need for IHSS but prohibits the certification from being the sole determining factor. (WIC 12309.1)
- 3) Requires CDSS to adopt regulations establishing a uniform range of services available to all eligible IHSS recipients based on individual needs. (WIC 12301.1 (a))
- 4) Requires the IHSS program to assess each recipient's continuing monthly need for services at varying intervals as necessary, but at least once every 12 months, except as specified. (WIC 12301.1 (b))
- 5) Permits the county to extend the annual assessment, on a case-by-case basis, for up to six months beyond the regular 12-month period, provided that the county documents that all of the following conditions exist:
 - a) The recipient has had at least one reassessment since the initial program intake assessment;
 - b) The recipient's living arrangement has not changed since the last annual reassessment, and the recipient lives with others or has regular, meaningful contact with persons other than his or her service provider;
 - c) The recipient or, if the recipient is a minor, his or her parent or legal guardian, or if incompetent, his or her conservator, is able to satisfactorily direct the recipient's care;
 - d) There has not been a known change in the recipient's supportive service needs within the previous 24 months;
 - e) A report has not been made to, and there has been no involvement of, an adult protective services agency or agencies since the county last assessed the recipient;
 - f) The recipient has not had a change in provider or providers for at least six months;
 - g) The recipient has not reported a change in his or her need for supportive services that requires a reassessment; and,

- h) The recipient has not been hospitalized within the last three months. (WIC 12301.1(c)(1))
- 6) Authorizes a county to reassess a recipient's need for services at a time interval of fewer than 12 months from a recipient's initial intake or last reassessment if the county social worker has information indicating that the recipient's need for services is expected to decrease in under 12 months. (WIC 12301.1 (c)(3))
- 7) Permits the county to consider additional factors in determining whether an extended assessment interval is appropriate, including, but not limited to, involvement in the recipient's care of a social worker, case manager, or other similar representatives from another human services agency, such as a regional center or county mental health program, or communications, or other instructions from a physician or other licensed healthcare professional that the recipient's medical condition is unlikely to change. (WIC 12301.1(c)(2))
- 8) Requires that to ensure IHSS is delivered to all counties in a consistent manner, each needs assessment is conducted using a uniform tool, as specified. (WIC 12309 *et seq.*)
- 9) Authorizes IHSS reassessments, as specified, to be conducted remotely using telehealth, including by video conference or telephone, until January 1, 2024, subject to continuing federal approval. (WIC 10004)

FISCAL EFFECT: Unknown

COMMENTS:

In-Home Supportive Services Program: The IHSS program in California is available to eligible low-income individuals who need assistance with daily living tasks. To qualify for the state-established program, an individual must be at least 65 years old, living with a disability, or blind. IHSS providers are paid through the program to assist with personal care services (bathing, grooming, etc.), domestic and related services (food preparation, light housecleaning, etc.), protective supervision, and paramedical services. Recipients of IHSS are responsible for selecting, hiring, firing, directing, and supervising their provider—however, the state handles payroll. According to CDSS, at the end of January 2022, there were 569,710 IHSS providers throughout the state and 666,357 individuals enrolled in the program. Within the entire program, over 98% of recipients receive care as a Medicaid benefit. CDSS has oversight of the IHSS program, and the program is administered at the county level.

IHSS Needs Assessments: After applying for IHSS, an individual is assessed by a county social worker to determine eligibility and specific need. During this visit, the county social worker takes into consideration the mental and physical health of the applicant, their current living situation, and the time it takes to complete daily tasks. The applicant is also required to submit a Health Care Certification form completed by a physician or other licensed health care professional. The applicant's eligibility is then determined using a combination of the face-to-face assessment and medical certification.

If an individual is determined eligible to receive services, the county social worker is responsible for assessing the weekly hours of care they are authorized; however, a recipient may request a reassessment at any time if their needs change. IHSS recipients have their circumstances and

needs reassessed by a county social worker on at least an annual basis. A county social worker may also reassess a recipient, in an interval less than every 12 months, if they receive information that the need for services is expected to decrease in the next year. In times deemed necessary, such as the COVID-19 pandemic in early 2020, CDSS has released All County Letters to provide counties temporary flexibility for conducting these assessments.

Need for this bill: This bill seeks to streamline counties' ability to effectively reassess stable IHSS program recipient needs. According to a 2020 report from the Legislative Analyst's Office, the IHSS program caseload has steadily increased over the past 20 years. Using this data and the Department of Aging's projection that the 60+ population will increase 166% between 2010 and 2060, the state has swiftly prioritized the care and coordination of services for aging and disabled individuals through its Master Plan for Aging (MPA). As the state continues to implement policies from the MPA, the IHSS program remains one of the most accessible and affordable options for those seeking assistance with daily living tasks. These combined factors lead to a strained program structure that lacks the stable workforce necessary to meet the needs of the state. Allowing counties flexibility in program reassessment could assist with caseload management while also ensuring vulnerable IHSS recipients are not overburdened with program requirements if their needs remain stable.

According to the author, "[This bill] establishes an alternative annual reassessment process for IHSS recipients with stable needs. As California's population becomes demographically older, the already underfunded IHSS program is struggling to keep pace with a growing number of recipients and the proportion of those with higher acuity needs. Upon development by the Department of Social Services, the alternative annual reassessment process will enable IHSS social workers to conduct their annual reassessments by telephone, video, or in-person. This bill will increase efficiency while also enabling IHSS social workers to better treat the recipients with more complex needs."

RELATED AND PRIOR LEGISLATION:

AB 2387 (Grayson) of 2020, would have authorized counties to perform IHSS needs reassessments by telephone, given the recipient meets certain conditions. AB 2387 was vetoed by Governor Newsom.

AB 79 (Committee on Budget), Chapter 11, Statutes of 2020, the human services budget bill, permitted reassessments for IHSS recipients to be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, through December 31, 2020.

AB 426 (Maienschein), Chapter 424, Statutes of 2019, prohibited licensed health care professionals from charging a fee to complete the Health Care Certification form required as part of the IHSS recipient application.

AB 1021 (Baker), Chapter 146, Statutes of 2017, required each county to accept applications for IHSS benefits by telephone, through facsimile, in-person, or by other electronic means if the county is capable of accepting online applications or applications via email for benefits.

REGISTERED SUPPORT / OPPOSITION:

Support

County Welfare Directors Association of California (CWDA) (Co-Sponsor)
Justice in Aging (Co-Sponsor)
CANHR

Opposition

None on file

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