

Date of Hearing: February 26, 2019

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Eloise Gómez Reyes, Chair

AB 229 (Nazarian) – As Introduced January 17, 2019

SUBJECT: In-home supportive services: written content translation

SUMMARY: Requires the California Department of Social Services (CDSS) to offer certain materials for in-home supportive services (IHSS) providers in state-level threshold languages. Specifically, **this bill:**

- 1) Defines, for purposes of the provisions of this bill, “written content” to include, but not be limited to, any required informational notice, notice of action, timesheet, or form intended for IHSS providers, as specified.
- 2) Requires CDSS to, for all written content to be mailed to or electronically viewed by IHSS providers, provide translations of the content in state-level threshold languages, as specified.
- 3) Authorizes CDSS to work with counties and the County Welfare Directors Association (CWDA) to repurpose existing county-produced translations of written context.

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 Institutes Code [WIC] 12300 *et seq*)
- 2) Authorizes counties to choose to contract with a nonprofit consortium or establish a public authority for the provision of IHSS services. Requires nonprofit consortia and public authorities to, among other things, establish a registry to assist recipients in locating IHSS providers, and to investigate the background and qualifications of potential providers, as specified. (WIC 12301.6)
- 3) Maintains an IHSS recipient’s right to hire, fire, and supervise the work of any IHSS provider, regardless of the employer responsibilities of a public authority or nonprofit consortium, as specified. (WIC 12301.6 (c))
- 4) Requires an IHSS provider to submit a signed payroll timesheet within two weeks after the end of each bimonthly payroll period and stipulates information related to the veracity of the information provided that must be included on the standardized provider timesheet, as specified. (WIC 12300.4, 12301.25)
- 5) Requires all prospective IHSS providers, at the time of enrollment, to complete an orientation developed by CDSS in consultation with counties, and stipulates items that must be included in the orientation, including, among other things, a description of the IHSS program and the requirements, rules, regulations, policies, and procedures related to being an IHSS provider. (WIC 12301.24)

- 6) Requires any oral presentation and written materials provided at the orientation for prospective IHSS providers to be translated into all IHSS threshold languages in the county. (WIC 12301.24 (e))
- 7) Establishes the Dymally-Alatorre Bilingual Services Act to provide for effective communication between all levels of government in California and the people of the state who are prevented from utilizing public services due to language barriers. (Government Code [GOV] 7290 *et seq*)
- 8) Defines “substantial number of non-English-speaking people” to mean members of a group who are unable to effectively communicate in English and who make up 5% or more of the people served by the jurisdiction or entity in question, as specified. Further, requires every state agency that serves a substantial number of non-English-speaking people to provide any materials it provides in English, and notice regarding those materials, in any non-English language spoken by the a substantial number of the public served by the agency. (GOV 7296.2, 7295.2)

FISCAL EFFECT: Unknown

COMMENTS:

In-home supportive services: Eligible low-income individuals in California who are at least 65 years old, living with disabilities, or blind may access services through the IHSS program that enable them to remain in their own homes. IHSS program providers are paid to assist with personal care services (such as bathing, toileting, and grooming), domestic and related services (meal preparation, housecleaning, and the like), paramedical services, and protective supervision. There are currently over 593,000 Californians who receive IHSS; over 98% of these individuals receive IHSS services as a Medicaid benefit.

CDSS oversees the IHSS program, but it is administered at the county level. Once individuals apply for IHSS, they are assessed by a county social worker for eligibility and need. If an individual is determined to be eligible for IHSS, they are authorized for certain services and for a specified number of hours of care. IHSS recipients are responsible for selecting, hiring, firing, directing, and supervising their IHSS workers, and for certain administrative duties, such as scheduling and signing timesheets – however, the state handles payroll. There are currently almost 507,000 IHSS providers in California; 71.6% of these providers are relatives and 53.3% of these providers live in the same residence as the recipient. Providers are required to complete an enrollment process that includes providing fingerprint images and submitting to a criminal background check. Prospective IHSS providers are also required to participate in an on-site orientation developed by CDSS and the counties prior to receiving payment for services.

Threshold languages: There are over 200 languages spoken in California. Over 40% of Californians over the age of 4 live in households where a language other than English is sometimes or always spoken. The Dymally-Alatorre Bilingual Services Act, enacted with the adoption of Chapter 1182, Statutes of 1973, states Legislative intent to “provide for effective communication between all levels of government in this state and the people of this state who are precluded from utilizing public services because of language barriers” (Government Code Section 7291.). The Dymally-Alatorre Bilingual Services Act requires state agencies that are directly engaged in providing information and/or services to a “substantial number” of non-English-speaking individuals to take certain steps to ensure that information and services are

provided in languages other than English. Among other things, these state agencies must translate certain materials into any non-English language spoken by a substantial number of the public served by the agency. The Dymally-Alatorre Bilingual Services Act defines a “substantial number of non-English-speaking people” to mean members of a group “who either do not speak English, or who are unable to effectively communicate in English because it is not their native language, and who comprise five percent or more of the people served by the statewide or any local office or facility of a state agency” (Government Code Section 7296.2).

“Threshold languages” refers to the languages in which materials and information must be provided to meet the standards of the Dymally-Alatorre Bilingual Services Act or similar requirements. At the statewide level for IHSS, the three threshold languages, aside from English, are Spanish, Chinese, and Armenian.

Data collected from a survey of 27 counties in January of 2018 by a co-sponsor of this bill, CWDA, indicate that a significant number of IHSS providers speak and write in languages other than English. For example, in San Bernardino County, 2,333 providers (10% of total providers in the county) communicate in Spanish. In Los Angeles County, 30,736 providers (18% of total providers in the county) communicate in Spanish; 9,114 (5%) in Chinese; 16,586 (10%) in Armenian; and 15,977 (9%) in other languages.

Per current law, certain notices must be provided to IHSS recipients in threshold languages. Additionally, CDSS’s Internet Web site features a number of materials – including various instructions and forms – in the three IHSS threshold languages plus English. SB 878 (Senate Committee on Budget and Fiscal Review), Chapter 689, Statutes of 2014, adopted a number of new requirements for the mandated orientation for prospective IHSS providers including, among other things, that presentations and materials must be translated into all IHSS threshold languages in a county.

Governor’s veto message: AB 1909 (Nazarian) of 2018 proposed language identical to this bill and was vetoed. The Governor’s veto message stated that: “This bill would require the Department of Social Services to translate all written documents and materials for providers in the in-home supportive services (IHSS [*sic*]) program. Materials in this program are translated by counties with the assistance of the department. I believe current arrangements are working reasonably well and should be continued.”

The author’s office and the sponsors of this bill contend that, while CDSS has begun translating written content for providers, there are resources that remain untranslated, including resources related to timesheets, paid sick leave, and violations. They state that, as the IHSS program evolves and new and complicated forms are created, a statutory change is necessary to support language access needs and that, by not formally acknowledging the needs of thousands of providers, beneficiaries are being placed at greater risk of not receiving necessary care. The author’s office and sponsors also argue that county budgets cannot support translating the many forms that are produced by CDSS and that a statutory change will benefit counties, thousands of providers, and IHSS recipients across the state.

Need for this bill: According to the author, “[This bill] simply extends language translation services IHSS recipients receive to IHSS providers. Language barriers prevent approximately 40 percent of providers across the state from understanding and completing program instructions, timesheets, tax notices, forms, and other important materials. If a provider is unable to

understand the already complicated IHSS rules, it may jeopardize their pay and, ultimately, their job. By ensuring that the same language translation rules for IHSS recipients also apply to providers, [this bill] will reduce duplicated workload, provide consistency across the state, and move IHSS toward equity for all providers.”

PRIOR LEGISLATION:

AB 1909 (Nazarian) of 2018 was identical to this bill. AB 1909 was vetoed by the Governor.

SB 878 (Senate Committee on Budget and Fiscal Review), Chapter 689, Statutes of 2014, required new components be included in the mandated orientation for prospective IHSS providers and adopted new requirements for the orientation, including, among other things, that oral presentations and written materials be translated into all IHSS threshold languages in a county.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees, AFL-CIO
California Association of Public Authorities for IHSS
California State Association of Counties
California State Council of Service Employees
County of San Diego
County of Ventura
County Welfare Directors Association of California
Disability Rights California
County of Los Angeles
United Domestic Workers of America-AFSCME Local 3930/AFL-CIO

Opposition

None on file

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