

CCWRO Welfare News

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NEW SACRAMENTO COUNTY GRAND JURY REPORT TAKES AIM AT IMAGINARY RAMPANT FRAUD IN THE IN-HOME SUPPORTIVE SERVICES PROGRAM.

The March 23, 2009 Sacramento County Grand Jury Report focused on the Sacramento County In-Home Supportive Services (IHSS) Program. The Jury noted that “[T]he lack of fiscal controls and oversight at IHSS has made it an easy target for those who are greedy” and allowed “rampant abuses” to occur. The Jury described the IHSS program as: “At best, it is dysfunctional plagued by upper management who refuse to make meaningful changes or even to look into matters that will be beneficial to the truly needy people it is pledged to help.

The Jury interviewed such fraud propagandists as District Attorney staff, the County Sheriff, County fraud investigators and State Department of Justice representative. Also testifying were current and former IHSS social workers, the IHSS Director, and DSS representatives and the Executive Director of the CWDA.

The Jury reviewed such “credible” and “pertinent” documents as unidentified news articles, unidentified policy reports, unidentified research studies, past Grand Jury reports from other counties, a Little Hoover Commission Report, State IHSS legislation, Legislative Analyst’s Office reports and “a published news report that the Governor’s Office estimates the Statewide fraud rate for IHSS is 25%”.

Sacramento County created an IHSS Registry as a Public Authority with the five-member county Board of Supervisors as the governing authority. The Registry investigates the qualification and background of potential providers, provides 12-week training courses pertaining to tax preparation, nutrition, hospice, coping with grief and loss and administration of medication for recipients and provides and performs other functions related to delivery of IHSS services. Unlike most counties where 50-70% of the IHSS providers are hired from the Registry list, only 1% of IHSS providers are from Sacramento County’s Registry list.

Costs (In Millions)	03-04	07-08	%
IHSS Payments	\$44.4	\$65.4	32%
IHSS Admin.	\$11.8	\$24.2	51%
IHSS Registry Admin	\$1.07	\$1.56	46%

The Jury compared the IHSS program and operating costs:

The Jury did not acknowledge that while IHSS services increased by 32%, the bureaucracy grew by 51%. The Grand Jury showed that for the 2004-2005 fiscal year administrative costs increased by 1.1 million while IHSS services decreased by \$600,000. However, the sense is that fraud caused the program costs to be out of control because IHSS is an easy target for those who are greedy” and allowed “rampant abuses” to occur.

The Jury noted that IHSS providers who are family members or acquaintances get paid at \$10.40 per hour, while the median starting hourly rate for a Registry provider is \$9.25 per hour. Unlike Registry hires, family members and acquaintances do not require a criminal background check, an assessment of the provider’s ability to provide care, a tuberculosis test or training. The Jury also noted that more than 3,400 providers who work over 85 hours per month receive Medi-Cal and dental benefits.

Although some of the Jury’s fraud concerns were proper, e.g., claims submitted by incarcerated providers or claims by providers of deceased recipients, the spurious “fraud allegations” overwhelmed legitimate concerns. In concluding that fraud was rampant, the Jury’s Report relies on anecdotal instances of fraud that were unsubstantiated by actual cases. The Jury is gravely concerned with the following types of rampant fraud:

- Claims inflated by “under the table” check-splitting between recipient and provider.
- Recipients with conditions of severe forgetfulness, asthma or restricted mobility going to Indian casinos for six to ten hours, several days a week.
- Claims of mental illness “stage-managed” by using magic words such as “he wanders” or “acts strange and is disoriented.”
- Claims of Medi-Cal conditions unverified by Medi-Cal professionals.
- Fraud by “able and available” spouse.
- Fraud by social worker.
- Service not given by IHSS providers as required.
- Use of false Social Security numbers by recipients or providers. (Tax fraud)

-False representation of need by recipients

-Payment to providers when recipient is in nursing facility or hospital.

Currently, Sacramento Fraud investigations are based on reports of suspected fraud by the public and on IHSS social worker referrals. Cases of fraud of \$1,500 or greater are accepted by the District Attorney's Office for prosecution, other the cases are referred to County Collections.

IHSS Fraud Case Referrals
Fiscal Year Referrals DHHS to DHA Investigations DHA to DA Prosecuted DA Cases Filed

2004-05	236	23	24
2005-06	341	16	15
2006-07	397	31	25
2007-08	N/A	28	24

The Jury argues that the small number of fraud prosecutions is not indicative of the magnitude of fraud actually occurring. There would be more fraud prosecutions if fraud prevention efforts were strengthened. Additional fraud problems include:

-Social workers' denials of requested IHSS services are routinely overturned on appeal.

-Fraud restitution is insignificant.

-Annual reassessments of recipients are seriously in arrears.

-Inability to track and identify physicians who routinely authorize IHSS services.

-Number of 'Registry-screened providers is less than 1% of the total County providers.

Now that we have covered the reasons that IHSS is allowing rampant fraud, we review the Jury's meaningful changes "that will be beneficial to the truly need people it is pledged to help." The Recommendations include:

-Requiring both recipient and provider thumbprints on the supplemental time sheets as well as to sign under penalty of perjury.

First, will the County provide every

IHSS recipient with an ink stamp for the prints. Second, what good are thumbprints if they are not run through the database. Third, does violation of IHSS statutes and regulations mean anything?

-Enforce the annual Recipient reassessment requirement.

Sacramento County does not have enough staff to conduct reassessments. They are laying off staff.

-Require unannounced home visits on a random basis to reduce "stage managed" reassessments.

Would the Grand Jury or social workers like unannounced home visits?

-Require that social workers inform recipients of their right to have criminal background checks conducted on their providers and require that all providers have and pay for a fingerprint-based criminal background check which will be given to the recipient.

Wouldn't recipients probably know that a family member or an acquaintance has been jailed? Who will run the background check? DOJ? The Sheriff's Office? Sacramento has over 19,000 providers, where is the staff to run these checks? Who gets the money for the criminal background check? What about justice? Served the time, still guilty?

Encourage the County Board of Supervisors to evaluate the Registry functions, workload and level of funding.

If IHSS recipients were "encouraged" to obtain Registry providers in excess of the current 1%, then millions of dollars would be required.

Require all providers to pass a tuberculosis test.

Who will pay for the TB test? Where in the law is this authorized? How often would the TB test be taken---once is not enough to achieve "their" goals.

Require all current providers to undergo a face-to-face meeting with an IHSS representative to verify identification, receive a program orientation that is verified by the provider's signature.

If Sacramento County does not have the time to complete annual assessments,

who will conduct the interview? Where in the law is this authorized.

Develop a fraud data management system capable of detecting fraud.

Give us a break. CalWIN has problems with issuing benefits even after Sacramento has paid millions to EDS.

Establish an independent pool of physician's to periodically review recipient files of Medi-Cal and mental conditions to provide both quality control and certification of claimed needs and services.

This is a fantastic deal for unemployed physician's who like to be paid without seeing patients, although there are no specific IHSS regulations to support this.

The Grand Jury charged that the Sacramento County IHSS Program is plagued by upper management who refuse to make meaningful changes. What the Jury failed to consider is that many, if not all, of these MEANINGFUL CHANGES VIOLATE THE LAW and cost REALLY BIG BUCKS either to implement or for continuing operations. For a copy of the Sacramento Grand Jury Report go to: <http://www.sac-grandjury.org/reports/08-09/Grand-Jury-Report-IHSS.pdf>

WHAT IS IT THAT THE GRAND JURY DID NOT LOOK AT?

The grand jury did not look at the fact that IHSS has become an ATM machine for denying the Sacramento impoverished elderly, disabled and blind of hours to which they are entitled by law.

This is a statewide trend. We have received calls from advocates of IHSS recipients who continuously go to a hearings and are able to prove that the county has cheated the impoverished elderly, disabled and blind out of thousands of hours. This amounts to stealing millions from the impoverished elderly, disabled and blind of California, including Sacramento. But stealing from the impoverished elderly, disabled and blind has never been a concern of the Grand Jury and the people who testify before the grand jury.