



# CCWRO Welfare News 2017-03

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## In Brief

- At a December county appeal representative meeting with DSS State Hearings Division, counties posed the following questions. While we don't know how DSS responded, CCWRO provides answers to the questions:

1. Who is responsible for obtaining an interpreter at the hearings?

CCWRO ANSWER: DSS State Hearings Division.

2. Is there a mandate that a Statement of Position (SOP) must be made available to the claimant in a language other than English?

CCWRO ANSWER: The Statement of Position should be made available in accordance with the Civil Rights rules as should the decision. At this point, the State Hearing Division's computer system does not have the capacity to provide an interpreted hearing decision. Moreover, counties have not been providing claimants language complaint SOPs.

3. Clarification on whether a written authorization is required following a temporary verbal authorization.

CCWRO ANSWER: MPP §19-005.22. Telephone authorizations may be accepted in lieu of a written authorization where the circumstances insure that the applicant or recipient has adequately identified himself or herself to the county. A telephone authorization is temporary and should be followed up by a written authorization.

4. Is there a process in place that if Covered California denies a request a county can escalate the request for a secondary review?

CCWRO ANSWER: What legal basis allows counties to conduct unlawful ex-parte communications with Covered California regarding filed state hearings?

- DSS plans to have their annual CalWORKs conference in December 2017 in Sacramento. The registration cost is \$400 per person and \$450 for late registrants. More information to come at [ccwro.org](http://ccwro.org) – advocate meetings and legislative hearings.

- Work Number – the state will continue to hold the contract for the next 3 years with an option to extend it for the 4th year. The contract limits the number of requests they process. Any request above the limit incurs a charge. DSS will cover the costs of any excess usage by counties for the work number usage. See ACL 16-43 for more information. <http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2016/16-43.pdf>

- The State Save Workgroup reports that “United States Immigration and Citizenship Immigration Service (USCIS) will not accept paper G845 – document verification request forms for Systematic Alien Verification for Entitlements (SAVE) results after 5/20/18”.

- DSS announced at the 3/2/17 CWDA CalWORKs Policy Committee (CPC) that it is establishing a “Translation Workgroup” and will invite select counties. Spanish is a priority but other languages will be discussed.

- Some counties, through CWDA, have opined that Housing Support Program beneficiaries should not be entitled to a state hearing. Instead, they should only be able to get a county hearing. The CWDA self-sufficiency committee has decided that they need a “...county legal perspective.” Counties do not have to go very far for a legal opinion. Look at MPP §11-501.3 and a long line of ACL emanating from this section, such as ACL 98-58 and 00-08.

- CWDA is proposing to convene a county welfare director level workgroup to discuss possible outcomes and accountability structure for CalWORKs. The structure may be needed in order to secure an additional \$200 million dollars for the county single allocation (block grant) which otherwise will be lost in 2017-2018 because of the reduction of the CalWORKs caseload. During the last 10 years CalWORKs recipients lost 12% of their fixed incomes and only got back 6.38%. Where is the workgroup for California's impoverished families with children who, in 2017, live

on an average fixed income of 31% of the federal poverty level or \$514 for a family of three?

- DSS has released the CF 296 reports that show the October and November 2016 CalFresh applications disposed, approved and denied are identical.

The CF 296 reports also reveal that Alameda County has failed to report since July 2016. Alameda County always receives their CalFresh single allocation payment for 2016-2017, even when they failed to submit the required report forms from DSS. That was very nice of DSS to overlook the fact that Alameda County was refusing to submit required CalWIN reports when all other CalWIN counties turned in their CF 296 reports.

	10/16	11/16	12/16	Total
Applications acted upon	135094	135094	127696	397884
Applications approved	89142	89142	87125	265409
Applications denied	40674	40674	35840	117188
Applications withdrawn	5278	5278	4731	15287

## CalFresh Treatment of Gift Cards

A recent policy guidance, FNS AN 17-09, announces policy for treatment of gift cards. The policy divides gift cards in two categories: (1) gift cards limited to certain establishments, such as Sears Gift Card for Amazon, JC Penney, Best Buy, etc., are not counted as income or a resource; (2) gift cards like American Express, VISA or MasterCard which have unlimited usage are countable resources. If the gift card in category two (2) is provided regularly that can be reasonably anticipated, then it would also count as income.

## IHSS Violates Privacy of the Poor Aged, Blind & Disabled

Ms. T.I. applied for IHSS. She is a Russian-speaking 76-year old woman who suffered religious persecution in the former Soviet Union and is a former refugee. A social worker came to her house, interviewed her and had her sign a host of English language forms.

She was approved for IHSS. Her daughter contacted

an advocate to make sure Ms. T.I. was receiving the hours for which she was eligible. A review of the case revealed that the county had short-changed her. She was not authorized for paramedical services, even though she needed paramedical services. The advocate gave Ms. T.I. the state paramedical form (SOC 321). Ms. T.I. took the form and gave it to the doctor. The doctor completed the form and she gave it to the county.

The county then called the doctor asking why he completed the form? Why did he give it to his patient and not fax it the county? The doctor was also told that he could be investigated for fraud by the district attorney's office. The doctor was disturbed for being forced to take time away from his patients and being harangued by the county IHSS fraud officials.

The doctor was also concerned that he was violating HIPPA laws by talking to the county fraud people, but did not want to be challenging the "government". He then called Ms. T.I. and told her that he was dropping her as a patient.

During January 10 through 13th, DSS conducted a Quality Assurance (QA) review of Madera County. On March 3, 2017, DSS mailed a letter to Madera County welfare director Kelly Woodard. The letter stated that "...Of the 15 cases reviewed with Paramedical Services authorized, 10 cases had authorized hours that did not match the hours the licensed health care professional indicated on the SOC 321." DSS continues, "If the county determines that the Paramedical tasks take more or less time than the time indicated on the SOC 321, the county should contact the health care professional that signed the form to discuss concerns." DSS also made the same unlawful suggestion to Yuba County welfare director Jennifer Vasquez in a March 22, 2017 letter regarding the DSS January 25 through 27, 2017 DSS QA review.

What is the law?

MPP § 19-0071.11 "If the applicant or recipient does not wish the county to contact a private or public source in order to determine eligibility, the applicant or recipient shall have the opportunity to obtain the desired information or verification himself or herself." This policy is also reflected in ACIN -I-91-88. It is just amazing how in the DSS Adult Services Division and IHSS cases workers are so willing to help get the paramedical and protective supervision forms for IHSS beneficiaries, but they would not lift a finger to help anyone get a the SOC 873 form – the certificate of need form to establish initial eligibility for IHSS. DSS instructs the county to simply mail the form to the IHSS

applicant and if not received in 30 days to deny the case. The form is mostly provided in English.

## IHSS Medical Appointment Accompaniment Compensable Wait Time

ACL 16-01 provides guidance for medical appointment compensable wait time guidelines. There are two (2) categories of “wait time”. The compensable wait time occurs when the provider is on duty while waiting.

If the IHSS worker is informed in advance that he or she is relieved from performing any work duties for a specified or generally longer period of time during which the provider is free to engage in his/her own personal business, then “...he/she is considered to be using “wait Time-Off Duty which is not compensable.”

Thus, if the IHSS provider is “on-duty” while waiting to see the doctor, then the provider will be paid. If the provider is not on duty, then no pay for waiting.

## USDA Research Projects in the Pipeline for 2017

•**Technology Modernization for SNAP Benefit Redemption** – This is a study to determine the feasibility of redeeming SNAP benefits on-line.

•**Designing a Pilot to Measure the Impact of Restricting SNAP purchases** - Many in the public health community argue that SNAP could more effectively support healthy food choices if restrictions were placed on the use of benefits for less healthy foods, especially sugar-sweetened beverages. Others claim that such restrictions would be administratively burdensome, overly paternalistic, potentially stigmatizing, and likely ineffective. Many aspects of this debate can best be addressed with empirical evidence. This study will help FNS better understand the requirements for operating and evaluating expanded SNAP food restrictions, preparing the agency in the event that a demonstration or broader implementation is directed in the future. It will include

an evaluation strategy and pilot test with sufficient rigor and scale to provide that evidence base, including a methodology for capturing food purchases made by a SNAP household in a cash-only transaction.

•**Feasibility of Revising the SNAP Quality Control (QC) Review Process** – Currently, before the federal quality control (QC) workers look at the case, it is first reviewed by the state. The Inspector General has recommended that the selected cases be reviewed only by the federal QC reviewers. This feasibility study will assess the costs, staffing, and organization changes; system requirements; data-sharing agreements; and access to State or other databases that are needed to convert the current QC review process to a one-tier review process conducted by Federal reviewers.

•**Survey of SNAP and Work** - About one-third of SNAP households have earnings from employment, and improving the job prospects of SNAP participants is a major priority. But, little is known about the types of jobs held by these participants or the work histories of both the employed and those not currently working. This study will develop and conduct a nationally representative survey of SNAP participants (age 18 and older) to better understand their current and past work experience, education level, language skills, military service, and barriers to work (including disability). The survey will be designed with a large-enough sample to produce State-level estimates. Results will be used to provide data-driven responses to questions about SNAP and work, inform employment and training strategies, and help to ensure that SNAP customer service meets the needs of the working poor.

•**Assessment of Mandatory Employment & Training (E&T) Programs** - The study will collect data across mandatory E&T States to assess the success of mandatory programs in helping SNAP participants do the following: 1) gain skills, certificates, and credentials; 2) gain stable, well-paying employment; and 3) move toward economic self-sufficiency.

This study seeks to better understand why many mandatory E&T participants are sanctioned, with



particular attention to the role of initial referral and intake (or orientation) as a program leakage point that results in sanctions. In a limited number of States, a process evaluation will be conducted to understand the process for notifying participants and enrolling them in mandatory E&T programs.



## County Client Abuse Report

•**San Joaquin County IHSS** - Ms. 2016008225 is a thirty-three-year-old woman with congenital VATER anomalies, including respiratory failure, sleep apnea which requires twenty-four-hour oxygen administration via tracheostomy and, while she sleeps, with mechanical ventilation. VATER is an acronym for vertebral defects, anal atresia, tracheoesophageal fistula with esophageal atresia, and radial and renal anomalies. Ms. 2016008225 suffers from fatigue, anxiety, severe kyphoscoliosis, small stature, and muscle-wasting. The latter leaves her unable to fully open her right hand.

On October 12, 2015, the County issued a notice of action denying her May 22, 2015 application for IHSS on the basis that she is not sixty-five years old or older, blind or disabled, and on the basis that she does not need services to be able to remain safely in her home.

On January 6, 2016, Ms. 2016008225 filed a written request for state hearing to dispute the denial, stating: "I have a permanent trache which requires that I am ventilated at night. I am on 24-hour oxygen. I have an extensive medical routine that I cannot maintain alone & cannot care for my basic needs (food prep, cleaning, etc.). Without help I would be in a sub-acute facility."

At the hearing, Ms. 2016008225 testified that her main issue is that she gets shortness of breath and fatigues very quickly. She explained that she has the use of only 20% of her lungs due to the way her spine, from severe scoliosis, presses in on her lungs. She stated that her spine and the scar tissue she has from her surgeries are "essentially crushing" her lungs. She stated that she is not able to complete some tasks even when she tries to do them in moderation. She stated that being able to

get up and down and to bend does not reflect the way that fatigue affects her. The administrative law judge found that Ms. 2016008225 is eligible for IHSS.

•**Shasta County IHSS** - Mr. 2016027568, is a child and was denied protective supervision by Shasta County effective 2/1/16. He had been getting IHSS protective supervision since June 19, 2015.

On January 15, 2016, the County issued a notice of action to him that effective February 1, 2016, the Child's IHSS time was reduced by 234 hours and 28 minutes per month. Based on the December 29, 2015 reassessment he was entitled to 5 hours and 51 minutes per month.

Mr. 201627568 asked for a hearing. The judge found that Mr. 201627586 is, and has been since at least the time of his assessment on June 19, 2015, diagnosed with developmental delays, which include an Intellectual Disability, and with Bipolar Disorder and has the ability and mobility to engage in behaviors which have the potential to cause him injury or harm. This finding was based on the testimony so stating (the parent of the child), the hospital and medical records listing these diagnoses, and the statements in the record as to the Child's medications, which include medications for AD/HD and for psychoses.

Due to the child's mental impairments, he has the cognitive abilities of a child of the age of about 8 years. The April 7, 2016 Triennial Evaluation Psycho-Educational Report, in which the school psychologist states that on previous intellectual development tests, the Child scored in the Very Low range across all domains, and that his intellectual development in the Very Low range is thought to have remained consistent over time. The school psychologist's statements revealed that the Child's academic achievement scores are in the Very Low to Borderline range, and that he can read fluently and comprehend at the third-grade level, can write basic sentences and do "simple functional math," but "struggles" with learning and adapting to further concepts.

The judge found Mr. 201627568 has the propensity to engage in, and does engage in, behaviors which cause him, or but for human intervention, would cause him, injury or harm, and these behaviors include running away, fighting, hitting, kicking, punching people and walls, throwing objects, breaking things, jumping from "anything," cutting and biting himself, headbanging, ignoring traffic, as well as other behaviors and reversed the county action.

• **Los Angeles County IHSS** - Los Angeles County Denied Protective Supervision - On January 29, 2016, Ms. 2016076057, who is 86 years old, was issued a notice of action that did not authorize protective supervision. Like most notices of action, this notice failed to explain the exact reasons for such denial. On March 14, 2016, the victim filed for a state hearing contesting the fact that Los Angeles County failed to authorize protective supervision.

The Los Angeles the social worker noted the following with respect to protective supervision:

- The claimant does not have a mental illness or mental impairment.
- The claimant does not require 24-hours-a-day supervision.

The social worker testified that other than forgetting things, the claimant does not have a mental illness or mental impairment.

The evidence showed that Ms. 2016076057 has a mental impairment which was caused by a stroke the claimant suffered. She also has a lack of cognitive ability that is a form of mental illness. Because of a stroke, Ms. 2016076057 cognitive abilities have regressed and she has lost memory and suffers from anxiety and depression. The evidence revealed that Ms. 2016076057 has anxiety, she flips her hands, hits herself on the body and face and is at times combative.

Ms. 2016076057's doctor said that she can not be left unattended or unsupervised. If left unattended, Ms. 2016076057 will leave her residence because of her poor judgment, tries to walk but because of balance issues, falls to the ground and potentially break bones due to the osteoporosis. The facts revealed that the family's main concern is that when Ms. 2016076057 leaves the home and the fact that she cannot read or write and she does not remember her phone number or address. Thus, she would be in danger if she gets lost. It was also revealed that Ms. 2016076057 tries to turn on the stove and either leaves it on or does not turn it off completely.

Ms. 2016076057's daughter testified that she had a stroke in 2011. Her daughter testified that in December 2015, she observed Ms. 2016076057 leave the oven on and that as a result the things in the oven were burned. She further testified that the Ms. 2016076057 tries to turn on the stove every day. She explained that Ms. 2016076057 goes to the kitchen and tries to cook even though she cannot do so.

Ms. 2016076057's daughter further testified that the claimant cannot measure space and that as a result

she hits herself against the wall or falls down. Her daughter stated that the claimant has locked herself in the bathroom and bedroom and that this started happening around February 2016.

Her daughter testified that around May 2016, the claimant started trying to leave the house and that the claimant has in fact left the house without notifying anyone. Her daughter stated that the claimant used to get the kitchen knives to try to cut things but that now they have put the knives in a drawer that the claimant cannot open.

Assessment of Need for Protective Supervision for IHHS Program (SOC 821) dated April 6, 2016, in which her doctor indicates that she is diagnosed with cognitive deficit due to late effect of stroke and also indicates that she has severe memory deficit, moderate disorientation, and is severely impaired in judgment. Under memory, the doctor notes the following: "need [sic] to be reminded when to eat or bathe. Poor short term memory, dependent on daughter for majority of activity of daily living." Under orientation, the doctor notes that the claimant is "confused about people who are family. May not remember family and certain location. When at home patient still able to recognize." Under judgment, the doctor notes the following: "medication and finances managed by daughter. Not able to do or remember. Unable to be left alone." The doctor notes that she is not aware of injury or accident that Ms. 2016076057 has suffered due to deficits in memory, orientation, and judgment. She also notes that Ms. 2016076057 retains the mobility or physical capacity to place herself in situations that would result in injury, hazard, or accident. The doctor further indicates that she has treated the claimant since March 2011.

In the letter, Dr. A.K. states that the claimant has multiple medical problems that have contributed to her cognitive difficulties including history of stroke with residual memory deficit. She further indicates that Ms. 2016076057 may have mixed dementia and that the claimant has had mood issues since her stroke which also may be affecting her cognitive function, and that these symptoms do not appear to be well controlled. She further states that, given the multiple factors affecting her cognitive function, Ms. 2016076057 has been referred for more detailed neuropsychological testing.

Based on this evidence, the administrative law judge found that this victim was indeed eligible for protective supervision.

• **Los Angeles County** - Mr. 2016078085 is a 12-year-old boy who resides with his Mother/Provider and one sibling. He has been diagnosed with

Down Syndrome, ADD, pulmonary problems, asthma and thyroid problems. His IHSS service hours are authorized under the IHSS Plus IPO Program.

Mr. 2016078085's doctor stated that he is diagnosed with Anxiety NOS and ADHD and has received treatment from this provider for 4 years. The prognosis is indicated as "permanent". He has "severe memory deficit" and many difficulties retaining and or processing information. Mr. 2016078085 has "Moderate disorientation/confusion" and stated, "At time [Recipient] becomes confused and is unable to execute multiple directives at one time." Mr. 2016078085 has "severely impaired" judgment and stated, "Mr. 2016078085 is impulsive and reacts prior to assessing risk or dangerous situation cause lots of concern and the need for constant supervision."

The protective supervision form SOC 821 completed by the doctor indicated that he is aware of injury or accidents that Mr. 2016078085 suffered due to deficits in memory, orientation or judgment, and stated, "Many physical injuries due to inability to process injurious situations".

In addition, Dr. RM, states in relevant part, "This letter is to verify that patient [Recipient] is a 12-year old child who is currently under my care. [Recipient] has a medical history of Down Syndrome, Attention Deficit Hyperactivity Disorder as he is becoming an adolescent his behavior has become out of control, he requires assistance with daily activities and supervision to be safe in the home. As his primary care physician I am recommending for his mother to be available as a caregiver after school hours for the best interest of the child."

The ALJ decision ruled that "It is undisputed that the Applicant is mentally impaired. It is undisputed that the Application retains the mobility or physical capacity to place himself in a situation which would result in injury hazard or accident. The record established that this minor's needs are in excess of those for a minor of the same age who does not suffer from the Application's impairments. This finding is based on the entire record, including but not limited to the IEP, the credible testimony of the Claimant and the Educational advocate. This finding takes into consideration the age of the child and the fact that all parents are responsible for supervising a 12 year old child. However, the record established that this minor's needs are in excess of those for a minor of the same age who does not possess the same disabilities. This finding is also based on the

SOC 821 form by the Recipient's psychotherapist, Dr. GF that determined that the Recipient has severely impaired memory and judgment and Moderate disorientation. This finding is made despite the Social Worker's assessment and determination that the Recipient was self-directed because the reassessment was made by telephone and because the County's determination on self direction did not explain how a basically nonverbal child who has to be reminded to wipe himself, is able to distinguish dangerous situations. The evidence established by a preponderance of the evidence that the Applicant needs 24-hour supervision to keep him safe."

Based on this evidence, the administrative law judge found that this victim was indeed eligible for protective supervision.

During April of 2017, 1.3 million SSI recipients will lose \$124 million in food stamps. Annually, there is a \$1.5 billion loss of federal money for California's food insecure SSI recipients. Thousands of SSI recipients endured food insecurity this April. This mean-spirited policy of not ending the SSI food stamps cashout could easily change by the Governor or California's Democratic Legislature.