
THIRD READING

Bill No: AB 2387
Author: Grayson (D)
Amended: 8/24/20 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 7-0, 8/10/20
AYES: Hurtado, Jones, Beall, Jackson, Melendez, Pan, Wiener

ASSEMBLY FLOOR: 75-0, 6/11/20 - See last page for vote

SUBJECT: In-home supportive services: needs assessment

SOURCE: Contra Costa County

DIGEST: This bill authorizes counties to perform the In-Home Supportive Services (IHSS) reassessment using telehealth, including video conference or telephone, if certain conditions are met, including that the recipient has had at least one in-person assessment since the initial program intake and has had at least one in-person assessment in the past 12 months. This bill also provides the recipient the option to have an in-person assessment.

Senate Floor Amendments of 8/24/20 add video conferencing as a telehealth option for conducting reassessment of IHSS recipients. The amendments conform with other provisions of this bill and with action taken in AB 79 (Committee on Budget, Chapter 11, Statutes of 2020), which was the human services budget bill of 2020.

ANALYSIS:

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. (*WIC 12300 et seq.*)

- 2) Requires the California Department of Social Services (CDSS) to adopt regulations establishing a uniform range of services available to all eligible IHSS recipients based on individual needs. (*WIC 12301.1(a)*)
- 3) Requires the county welfare department 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)*)
- 4) 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)*)
- 5) 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 representative 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 health care professional that the recipient's medical condition is unlikely to change. (*WIC 12301.1(c)(2)*)

- 6) Authorizes a county to reassess a recipient's need for services at a time interval of less 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)(A)*)
- 7) Permits IHSS reassessments to be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, through December 31, 2020. (*WIC 10004(b)*)
- 8) Requires, to ensure that IHSS is delivered in all counties in a consistent manner, each needs assessment is conducted using a uniform tool, as specified. (*WIC 12309*)

This bill:

- 1) Permits re-assessments of IHSS recipients to be conducted remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, if all of the following conditions are met:
 - a) The recipient has had at least one in-person assessment since the initial program intake for determination of eligibility and scope of services;
 - b) The recipient has had at least one in-person assessment in the past 12 months;
 - c) 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 their service provider;
 - d) The recipient or, if the recipient is a minor, their parent or legal guardian, or if incompetent, their conservator, is able to satisfactorily direct the recipient's care;
 - e) There has not been a known change in the recipient's supportive service needs within the previous 24 months;
 - f) 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;

- g) The recipient has not had a change in provider or providers for at least six months;
 - h) The recipient has not reported a change in their need for supportive services that requires a reassessment; and
 - i) The recipient has not been hospitalized within the last three months.
- 2) Requires the county to address the same issues in an assessment conducted remotely using telehealth, including by video conference or telephone that would be addressed in an in-person assessment. Also requires the county to notify recipients within 30 days of a proposed assessment by video conference or telephone, and provide the recipient with the option to have an in-person assessment.

Background

This bill will allow county social workers to conduct reassessments of existing IHSS clients that meet specified criteria via the telephone or video conference, instead of in person. According to the author, “AB 2387 will provide greater flexibility and efficiency for IHSS clients and county social workers alike,” which will “reduce delays and difficulties in scheduling” of reassessments. “With the increasing demand for IHSS and with the current situation revolving around COVID-19, the introduction of telephonic assessments will be able to ensure efficient access to services while also protecting vulnerable IHSS clients and essential county social workers,” the author states.

In-Home Supportive Services

IHSS is a Medi-Cal based program that is funded by county, state, and federal dollars. The IHSS program provides in-home services for qualified low-income Californians who are at least 65 years of age, blind or living with a disability with assistance in performing activities of daily living to enable them to live in their own homes. IHSS is administered at the state level by CDSS and at the local level by counties. About 570,000 Californians receive in-home care through IHSS, 98.5 percent of whom receive it as a Medi-Cal benefit.

The program pays care providers 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. IHSS services may also include accompaniment to medical appointments, protective supervision for recipients who have a mental impairment and may place

themselves at risk of injury, hazard or accident and paramedical services, when directed by a physician.

Applicants for IHSS services must undergo a needs assessment, which includes a home visit. 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 eligibility of the applicant is determined using a combination of the face-to-face assessment and medical certification. Upon determining that an individual is eligible for IHSS services, the county social worker will notify the recipient of the monthly maximum authorized hours of care.

Continuing eligibility for IHSS services must be reassessed every 12 months, which requires face-to-face home visits. Counties have the ability to extend this reassessment to 18 months if the recipient meets specific criteria. Additionally, IHSS recipients may request reassessment of their needs at any time, based on their changing needs. County social workers may also reassess recipients 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. During states of emergency or at other times deemed necessary by CDSS, such as during the COVID-19 pandemic in early 2020, CDSS has released All County Letters (ACL) to provide counties temporary flexibility in regards to conducting these assessments.

Growing Need for IHSS

IHSS is one of the fastest growing social services programs in the state. According to the Legislative Analyst's Office (LAO) report on the Fiscal Year (FY) 2020-21 budget dated February 24, 2020, the average monthly caseload for IHSS increased 30 percent over the past ten years, from about 430,000 in FY 2009-10 to an estimated 560,000 in FY 2019-20. The FY 2020-21 budget projects that IHSS caseload will increase to 586,000—4.5 percent above 2019-20 caseload estimates. According to the LAO, the reasons for the steady caseload growth in recent years are not completely understood, but could be related to the growth in California's senior population (adults aged 65 and older). The Department of Aging projects the population over age 60 to increase by 166 percent between 2010 and 2060. With the increasing numbers of older adults, it is anticipated that demand for IHSS will also continue to increase.

In-Home Assessments

The purpose of in-home assessments under the IHSS program is to determine

initial and ongoing program eligibility. This includes making a determination whether recipients would be able to remain safely in their own homes without IHSS services and whether the recipients' performance of those services would constitute such a threat to their health and safety that they would be unable to remain in their own home. The in-person assessments also allow county social workers to engage with the recipient and observe the living conditions of the recipient. The in-person visit also allows the social worker to observe the recipient interacting with other members of the household. This personal interaction is a valuable tool for determining the level of ongoing need for IHSS and, in some cases, potential abuse or neglect of the recipient that might go unnoticed during a phone call or video conference.

In light of the COVID-19 pandemic, and resulting efforts to limit exposure to the virus, CDSS permitted counties to conduct reassessment of IHSS recipients via telephone (see ACL 20-26) through June 30, 2020. That authority was extended in the FY 2020-21 human services budget bill (*AB 79, Committee on Budget, Chapter 11, Statutes of 2020*), which authorized counties to conduct IHSS reassessments remotely using telehealth, including by video conference or telephone, subject to continuing federal approval, through December 31, 2020. This assures recipients will continue to receive services without potential exposure to the COVID-19 virus during visits from county social workers.

Current law also permits the county to extend the reassessment period from 12 to 18 months under specified circumstances that would indicate the recipient's living situation is stable. The circumstances under which a telephone or video conferencing reassessment would be permitted under this bill mirror those in existing law. For example, the recipient must live with others, or have regular meaningful contact with persons other than their service provider. This and other criteria are in place to assure a recipient who might be in a vulnerable situation will benefit from a visit from a county social worker.

Related/Prior Legislation

AB 79 (Committee on Budget, Chapter 11, Statutes of 2020), which was 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 for the completion of 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 8/25/20)

Contra Costa County (source)
Association of Regional Center Agencies
California Association of Public Authorities for In-Home Supportive Services
State Council on Developmental Disabilities

OPPOSITION: (Verified 8/25/20)

California Commission on Aging
California Department of Social Services

ARGUMENTS IN SUPPORT: Contra Costa County, sponsor of this bill, writes the following in support, “Allowing telephonic IHSS reassessments for certain clients would have minimal fiscal effects, as the technology already exists in many counties. Minor savings may be realized in counties with a large number of overdue assessments, as social workers would have less travel needs and may be able to assess more clients each day. Additionally, the option of telephonic reassessments will allow counties to improve its response and better focus its limited and scarce resources. It will allow county agencies to improve its quality of engagement on IHSS recipients who have greater needs.”

ARGUMENTS IN OPPOSITION: The California Department of Social Services writes the following in opposition, “By conducting a reassessment over the telephone or by video conference, the social worker is unable to directly observe the recipient’s abilities, functional limitations, and living conditions, potentially resulting in inaccurate assessments which would not meet the recipient’s needs. Furthermore, it is appropriate that individuals who are receiving services in the IHSS program not only be assessed for ongoing need within the program, but also to assess the individual’s health and safety.”

ASSEMBLY FLOOR: 75-0, 6/11/20

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau,

Chen, Chiu, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Waldron, Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Choi, Obernolte, Quirk, Voepel

Prepared by: Taryn Smith / HUMAN S. /
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**** END ****