

GOVERNOR'S VETO

AB 2387 (Grayson)

As Enrolled September 1, 2020

2/3 vote

SUMMARY:

Authorizes counties to perform In-Home Supportive Services (IHSS) needs reassessments using telehealth if the recipient meets certain conditions, including, but not limited to, history of at least one in-person assessment since initial program intake and at least one in-person assessment in the last 12 months.

The Senate Amendments:

- 1) Delete language that permits counties to perform an IHSS assessment by telephone and instead, add language that allows reassessments for IHSS recipients to be conducted remotely using telehealth, including video conference or telephone, subject to continuing federal approval.
- 2) Make a number of changes to the list of conditions that must be met in order for a reassessment to be conducted remotely, including:
 - a) Add language that requires that the IHSS recipient has had at least one in-person assessment in the past 12 months.
 - b) Delete language that requires, since the previous assessment, the IHSS recipient to have not changed their residence, and, to the knowledge of the county, have no other circumstances change.
 - c) Add language that requires that the recipient's living arrangement has not changed since the last annual reassessment and requires that the recipient lives with others, or has regular, meaningful contact with persons other than their service provider.
 - d) Delete language that requires the IHSS recipient must not be seeking an increase in the number of authorized hours, or already be receiving the maximum number of authorized hours, and instead add language that requires that the recipient, or, if the recipient is a minor, their parent or legal guardian, or if incompetent, their conservator, can satisfactorily direct the recipient's care.
 - e) Delete language that requires the IHSS recipient must be unaware of any circumstances that would result in consideration of a reduction of current authorized services or hours, and instead add language that requires that there be no known change in the recipient's supportive service needs within the previous 24 months.
 - f) Delete language that requires there be no pending investigation or case with child protective services with respect to the IHSS recipient, and instead add language that requires there be no report made to or involvement of, an adult protective service agency or agencies since the county last assessed the recipient.
 - g) Add language that requires the recipient must not have had a change in provider or providers in at least six months.

- h) Add language that requires the IHSS recipient has not reported a change in their need for supportive services that necessitate a reassessment.
- i) Add language that requires the IHSS recipient has not been hospitalized within the last three months.

Governor's Veto Message:

This bill would authorize counties to perform the In-Home Supportive Services (IHSS) reassessment using telehealth, including video conference or telephone, subject to continuing federal approval, if certain conditions are met.

The California Department of Social Services has permitted counties and other entities to use video conference or telephone to perform duties that would otherwise be done in-person during the COVID-19 pandemic. This bill would extend flexibilities that were made in response to a public health emergency.

It is premature to make statutory changes to these policies until the Department has had the opportunity to assess their impact on customers and alignment with overall program goals and processes. Moreover, although this bill may provide counties greater case management flexibility, it may also impede social workers' ability to directly and accurately assess IHSS recipients' abilities, limitations, living conditions, health and safety.

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 and personal care services. To qualify for the state established program, an individual must be at least 65 years old, living with a disability, or blind. The California Department of Social Services (CDSS) oversees IHSS, and the program is administered at the county level.

IHSS Needs Assessments: An applicant for the IHSS program 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 eligibility of the applicant is then determined using a combination of the face-to-face assessment and a medical certification authorized by a physician. IHSS recipients have their circumstances and needs reassessed by a county social worker on at least an annual basis, but a county social worker may 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 (ACLs) to provide counties temporary flexibility for conducting these assessments.

Need for this bill: This bill seeks to allow counties the option to perform IHSS needs reassessments by telephone if the recipient meets certain conditions, as specified. Allowing program reassessments to be conducted over the phone may create greater flexibility, assisting with the caseload management for county social workers as the number of IHSS recipients grows.

According to the Author:

"This bill will provide greater flexibility and efficiency for IHSS clients and county social workers alike. Through the availability of telephonic assessments, annual reassessments for IHSS clients meeting specified criteria can be streamlined to ensure that annual reassessments reduce delays and difficulties in scheduling with county social workers managing several cases."

Arguments in Support:

Sponsor of this bill, Contra Costa County, states that "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:

An opponent of this bill, CDSS, states that "While we can appreciate that this bill may provide greater case management flexibility, the bill limits the interaction and direct communication with IHSS recipients that is necessary for accurately assessing and authorizing services. 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."

FISCAL COMMENTS:

None. This bill was keyed non-fiscal by the Legislative Counsel.

VOTES:**ASM HUMAN SERVICES: 8-0-0**

YES: Reyes, Mathis, Arambula, Flora, Friedman, Gipson, Maienschein, Mark Stone

ASSEMBLY FLOOR: 75-0-4

YES: 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

ABS, ABST OR NV: Choi, Obernolte, Quirk, Voepel

SENATE FLOOR: 29-0-11

YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

ABS, ABST OR NV: Bates, Borgeas, Chang, Dahle, Grove, Jones, Melendez, Moorlach, Morrell, Nielsen, Wilk

ASSEMBLY FLOOR: 75-0-4

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Flora, Fong, 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, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Waldron, Weber, Wood, Rendon
ABS, ABST OR NV: Eggman, Frazier, Voepel, Wicks

UPDATED:

VERSION: September 1, 2020

CONSULTANT: Emmalynn Mathis / HUM. S. / (916) 319-2089

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