



# The Care Giver Extra October '09

United Domestic Workers of America

Toll Free 800/621-5016

[www.udwa.org](http://www.udwa.org)

October 2009

## CUTS TO THE IHSS PROGRAM TO BE IMPLEMENTED NOVEMBER 1, 2009

### **READ THIS IMPORTANT INFORMATION NOW!**

During the last few weeks in October your client or loved one may receive a **NOTICE OF ACTION (NOA)** from the California Department of Social Services (approximately 130,000 IHSS recipients are affected by these cuts). These cuts are based on your client's Functional Index Rankings and Score. If an NOA is received, one of two things will happen:

1. Your client will lose all hours and will no longer be eligible to receive any services or hours paid through IHSS. You will also receive information from the state terminating you as a provider.
2. Your client will lose some or all domestic and related services (housework, laundry, shopping and errands, meal prep and meal clean up) and the associated authorized hours.

YOUR CLIENT HAS THE RIGHT TO REQUEST A STATE  
HEARING TO APPEAL THESE DECISIONS &  
PROVIDERS CAN CONTINUE SERVICES WITH FULL PAYMENT  
UNTIL THE HEARING

**BUT YOU MUST ACT NOW**

## IN-HOME SUPPORTIVE SERVICES (IHSS) STATE FAIR HEARING PROCESS

### I. Requesting a State Fair Hearing

If your client decides to appeal the reduction in hours or services, he/she should request a fair hearing. This request must be made before the effective date of the NOA. (The effective date for these NOA's is November 1, 2009.) If the client requests a hearing before this date and requests "**Aid Paid Pending**", you will be able to continue to provide services and be paid. Even if the appeal is lost, neither you nor the client is responsible for any payment for services.

- Verbal request for a hearing:  
Call 800/952-5253 (TDD 800/952-8349)
- Written request for a hearing:  
Complete the form on the back of the NOA and do one of the following:
  1. Fax to 916/229-4410 (get a fax receipt)
  2. Send registered mail to the address on the NOA
  3. Send registered mail to:  
California Department of Social Services – State Hearing Division  
P O Box 944243, Mail Station 19-37  
Sacramento, CA 94244-2430

This is what the client is to state whether verbally or in writing:

**"I disagree with my notice of action. I want a hearing and aid paid pending.**

DOCUMENT THE DATE YOU MADE THE CALL AND WHO YOU SPOKE TO  
MAKE SURE YOU KEEP COPIES OF BOTH SIDES OF THE NOA AND HAVE A FAX  
RECEIPT OR REGISTERED MAIL RECEIPT

### **Know why the client needs to file an appeal**

The determination of whether clients are dropped from IHSS or have their services reduced is based upon what clients can do for themselves, as opposed to how much assistance you have to provide for domestic and related services tasks (housework, laundry, shopping and errands, meal prep and meal clean up). During a hearing the client (or authorized representative) will need to explain to the judge why the client disagrees with the determination.

Examples of why the client is appealing might include:

- The client's needs have changed since the last assessment
- The last assessment was more than 12 months ago
- The client feels that the needs have been underestimated by the Social Worker
- The client should be exempt from the cuts because he/she receives *protective supervision or paramedical services*
- Since the last assessment, the client now needs protective supervision or has paramedical services

## II. Preparing for the Fair Hearing

When preparing for the hearing, the client should gather any documentation that will be helpful to his/her case. Such documentation should include:

- Doctor's statements explaining the client's condition and physical limitations
- A copy of the last two county assessments and SOC 293 forms\*
- Copies of any paramedical forms or doctor's report that are in the client's case file\*
- A copy of the county's Position Statement\*

*\* The client will be sent a notice with the name and contact information of the county appeals representative assigned to your client's case. All county documents related to his/her case can be obtained from this individual.*

The client may also bring to the hearing any evidence or witnesses to prove his/her need for services, including:

- Current and past providers who can testify about how much time is required to perform the services that have been cut
- A time-for-task schedule that shows how long it takes you to perform the tasks that have been cut
- A worksheet that describes the client's ability to perform the cut tasks

## III. The Hearing Process

The appeals representative may try to resolve the dispute before the hearing and may ask the client to consider a "conditional withdrawal" so that a new assessment can be done. (Before the client agrees to a "condition withdrawal" inquire as to whether "Aid Paid Pending" will continue – each case is different.) If the client agrees, he/she still has the right to have the hearing rescheduled if the client is not satisfied with the results of the new assessment.

After the hearing, the judge will render a decision that will become effective immediately. If the client disagrees with the decision, he/she can request a rehearing by following the instructions on the State Hearing Decision papers.

## **UDW is here to help**

- UDW is holding meetings in every county to explain the appeals process and what you need to do to assist your client. Meetings are posted on our website, [www.udwa.org](http://www.udwa.org). You can also look for the green postcard meeting notice or call your local office or the UDW Member Communication Center toll free at 800/621-5016.
- If you are unable to attend a meeting, call your local office for assistance on the appeals process.
- Download a copy of the *IHSS Fair Hearing and Self Assessment Packet* by the Disability Rights California at [www.disabilityrightsca.org](http://www.disabilityrightsca.org) or call UDW toll free at 800/621-5016 and request a printed copy (available in English, Spanish, and Vietnamese).
- UDW and others have filed a lawsuit to stop the cuts effective November 1<sup>st</sup>. Read more in the "President's Report" and on the UDW website, [www.udwa.org](http://www.udwa.org).

### **THE PRESIDENT'S REPORT**

After our many rallies, letter–email–phone campaigns, and vigils, it was obviously a great disappointment that the governor and the legislature approved major cuts in the IHSS program. Nevertheless, UDW is fighting back in a number of ways:

We believe that legislators need to be held accountable for their actions. Therefore, we have asked state legislators who had pledged to support IHSS but voted in favor of the program cuts to attend UDW membership meetings in their districts to explain their votes.

UDW, along with Disability Rights California, Disability Rights Legal Center, National Senior Citizens Law Center, National Health Law Program, and four SEIU locals, has filed suit in Federal Court to block the IHSS cuts scheduled to take effect November 1st. We are also considering other legal action.

We have requested that the California Congressional delegation urge (Federal) Health and Human Services Secretary Kathleen Sebelius to declare that the California IHSS program cuts violate the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). Such a declaration would put a hold on more than \$11 billion in economic stimulus funds slated for California.

UDW is training members to help clients file for hearings and appeals based on the functional index ranking cuts. (*Elsewhere in this newsletter is important information on how clients can appeal.*) Many of your county's Chapter and Area Information Meetings agendas include this vital information – watch for the notice of the next meeting or check our web site: [www.udwa.org](http://www.udwa.org) and click on "Local Meetings" on the left side of the page.

But our struggle to overturn these cuts in IHSS cannot succeed without YOUR help. First, we encourage you to contact your legislators to express your disappointment about the IHSS cuts and to urge them to restore funding for the program immediately. You can find the names of your legislators at [http://www.udwa.org/write\\_lg.htm](http://www.udwa.org/write_lg.htm) or call your local office.

Second, the best way to hold legislators accountable for their actions will be at the ballot box in the 2010 elections. Remember how your State Senator and Assembly Member voted on these IHSS cuts and act accordingly. Next year, UDW will be supporting a worker-friendly candidate for governor and legislative candidates who will keep their promises.

Information changes frequently. Please stay in touch with us through this website or by contacting our [Member Communication Center](#) (toll free 800/621-5016) or [your county offices](#).

**In Solidarity,**  
***Laura M. Reyes, President***

**IMPORTANT INFORMATION  
ENCLOSED REGARDING THE  
CUTS TO THE IHSS PROGRAM  
STARTING**

**NOVEMBER 1, 2009**

**READ THIS MATERIAL IMMEDIATELY**



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