

**The Check is in the Mail: The State's Cumbersome IHSS Payroll Process is
Unresponsive to Needs of IHSS Providers and Recipients**

**Senate Human Services Committee
Oversight Hearing**

November 1, 2016
9:30 a.m. – 12:00 p.m.

Los Angeles City Hall
200 North Spring Street
Board of Public Works Hearing Room
Los Angeles, CA

Background Paper

Summary

The In Home Support Services (IHSS) program facilitates in-home care for qualified low-income people who are over 65 years of age, blind and/or disabled. As the name indicates, the IHSS program allows recipients who might otherwise live in an institutional setting to remain in their homes. The program is designed to help vulnerable people who are physically unable to perform certain activities of daily living and health-related tasks, and meet strict financial tests.

IHSS services may include domestic services, heavy cleaning, personal care services, paramedical services, protective supervision, and yard hazard abatement. IHSS services do not include medical or mental health care.

With 448,650 people providing IHSS services, the IHSS program is a major employer of California's low income work force and the program is likely to grow in the coming years. The Department of Finance projects the number of California's who are 65 years of age and older will double from 4.3 million in 2010 to over 8.6 million in 2030.

While IHSS providers deliver services that are arranged by the counties and work under the supervision of their client recipients, IHSS payroll is processed by the California Department of Social Service (CDSS). More than 1 million IHSS timesheets are processed every month. The vast majority are processed in a timely manner and without any special handling. According to data recently provided by CDSS, about 14,000 of those timesheets contain errors that require "human action" to correct. These timesheets are returned to the county of origin so that the errors can be corrected and a timesheet is re-submitted for payment. IHSS timesheets for the next pay period are issued at about the same time the IHSS paychecks are issued. Therefore, not only does a timesheet error delay a paycheck, but it also delays issuance of a timesheet for the next pay period. This system design can create a cascading effect resulting in multiple late payments. The most extreme example was in late May 2015 when roughly 40,000 IHSS provider timesheets from Los Angeles went missing. CDSS was unaware of the problem until thousands of IHSS providers started asking authorities about their paychecks and it was determined that the timesheets had not been received. It turned out the US postal service misplaced a truckload of timesheets for almost two weeks. More than 40,000 IHSS providers did not get paid for weeks.

This is a program that provides essential services to some of the state’s most vulnerable residents, and it pays at or just above minimum wage for those services. Recruiting and retaining qualified providers is a constant challenge. Yet providers whose time sheets are lost or have errors find the system unresponsive to their needs, a problem that compounds when a mishandled timesheet prevents the issuance of the next pay period’s timesheet. This hearing is focused on ensuring the well-being of those 14,000 providers per month whose paychecks are delayed, and the IHSS consumers who rely on their care.

Background

About IHSS

The IHSS program provides in-home services for low-income individuals who are at least 65 years of age, blind and/or disabled who cannot safely remain in their homes unless IHSS services are provided. In order to be eligible to receive IHSS services, a recipient must meet the following asset and income requirements:

- Live at home or an abode of one’s own choosing. Persons living in acute care hospitals, long-term care facilities, and licensed community care facilities do not qualify for IHSS.
- Personal property may not exceed \$2,000 for an individual or \$3,000 for a couple. Additionally, a recipient may own the home owned they live in, one automobile needed for transportation to medical appointments or work, and all life insurance policies if the combined face value is \$1,500 or less are not considered personal property for purposes of IHSS eligibility.
- Persons who meet financial eligibility requirements for SSI/SSP are eligible for IHSS. A person whose income is too high to be eligible for SSI/SSP, may be eligible for IHSS as long as they pay a portion of the IHSS benefit (share of cost).

In California, the IHSS program serves about 540,000 recipients. More than half of the recipients (56 percent) are 65 years or older. The remaining 44 percent of recipients are under 65 and qualify for IHSS due to a disability or blindness. About 12,000 IHSS recipients are blind; 500 of these individuals are children under 18 years old.

IHSS Recipient Gender		
Female	328,131	61%
Male	209,037	39%
IHSS Recipient Age		
Under 18 (blind and/or disabled)	32,860	6%
18 – 64 years of age (blind and/or disabled)	203,593	38%
65 years and older (aged, blind and/or disabled)	300,715	56%
Total IHSS Recipients	537,168	

IHSS services may include domestic and related tasks such as housework, meal preparation, laundry and shopping; personal care services; accompaniment to medical appointments;

protective supervision for recipients who may place themselves at risk for injury; and hazard or accident and paramedical services when directed by a physician.

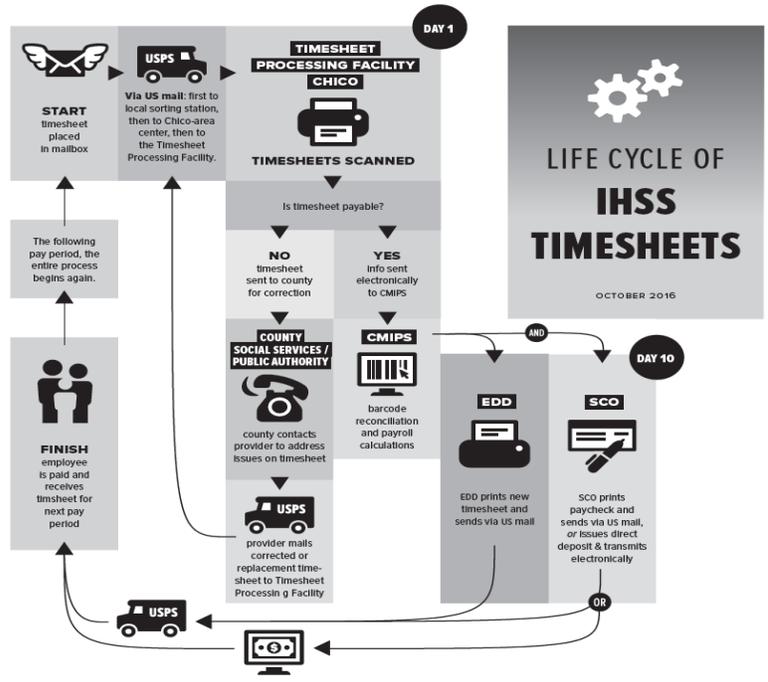
Approximately 448,650 people provide IHSS services. About half of the providers live with their IHSS recipient and 71 percent of providers are family members of the recipient.

IHSS Provider Gender		
Female	340,465	76%
Male	108,185	24%
IHSS Provider Age		
Under 18 to 44 years old	168,516	38%
45-64 years old	230,543	51%
65 years and older	49,591	11%
Total IHSS Providers	448,650	

IHSS Payroll Process

After an IHSS provider completes the timesheet and obtains a signature from the IHSS recipient, the provider mails the document to the Timesheet Processing Facility in Chico, California.

As the graphic below shows, multiple state agencies have a role in processing IHSS timesheets and issuing payroll. After the Timesheet Processing Facility scans and analyzes the timesheets, the information is transferred electronically to CDSS’s statewide database and central processing system that supports the IHSS program, which is called Case Management, Information and Payrolling System (CMIPS). CMIPS performs program analyses and calculations then transfers the information electronically to the Employment Development Department and the State Controller’s Office. EDD prints and mails a timesheet for the next pay period. The Controller’s office issues the payment to the IHSS provider. Paychecks may be mailed to the provider or submitted via direct deposit.



IHSS Timesheet “Exceptions”

Every month, thousands of IHSS timesheets require some sort of special handling before the provider can be paid. CDSS calls these cases “exceptions.” CDSS has a list of more than 30 error codes that will cause a timesheet to be “exceptioned,” such as missing signatures, or submitting the timesheet before the end of the pay period.

Timesheets exceptions are identified at the Timesheet Processing Facility when the document is scanned and analyzed. Errors include things like the provider not signing the timesheet, claiming hours when the recipient is not authorized any hours, sending a duplicate timesheet, unreadable writing, etc.

There are three different types of exceptions.

- *System remediated exceptions*, which are addressed without human intervention. For example, if a provider submitted a timesheet before the end of the pay period, the system would not process the paycheck until the end of the pay period. In another typical example, a provider claiming to have worked more than the authorized hours, CMIPS would reduce the number of hours paid to reflect the maximum authorized hours.¹
- *Soft exceptions*, which are generally held for quality control/audit measures, such as signature verification. Some soft exemptions are flagged and others are randomly selected. Soft exemptions are sent to the county for review and generally processed by the end of the next business day.
- *Hard exceptions*, which are sent to the county for research and or approval before being processed. These exceptions “require human action to pay” and must be resolved at the county level.

Monthly, about 14,000 timesheets with hard exceptions that “require human action to pay” are returned electronically to the county of origin and a caseworker works with the IHSS provider to remediate the problems. Once corrected, the timesheet is resubmitted to the Timesheet Processing Facility in Chico by US mail and the process, along with the ten-day wait time, starts all over again.

Every month, about 500 - 600 timesheets are physically altered or damaged and cannot be scanned and processed at the Timesheet Processing Facility. In those cases, an email is sent to the county, providing whatever details can be given, and the damaged paper timesheet is mailed back to the county the next morning.

According to data provided by CDSS, about 10,000 timesheets in the June 2016 pay periods that “required human action to pay” were resolved within ten working days. Almost 400 provider paychecks for the June 2016 pay periods were delayed by 11 - 30 working days. As of July 11, 2016, 1,772 timesheet exceptions were still waiting to be resolved.

¹ CMIPS will not process payments that exceed authorized hours.

According to a recent survey of 1,380 IHSS workers conducted by UDW, over half of the providers reported having their paycheck delayed at least twice in the previous three months, and 73 percent of providers reported having received their paycheck delayed at least once in the past three months. The same survey showed that 59 percent of providers were either very unsatisfied or unsatisfied with the current timesheet process.

In a survey of 500 IHSS recipients conducted by the Personal Assistance Services Council of Los Angeles, 99 recipients said that delays in provider pay “strongly affected” their quality of care. One hundred and eleven recipients said delays in provider payments “strongly affected” their sense of security.

Administration

Administering the IHSS program is a complicated endeavor that involves the federal government, and various state and local entities. Statewide policy for the IHSS program is set by CDSS based on state and federal laws. The department also administers the IT systems, such as CMIPS, and is responsible for processing IHSS payroll. CDSS additionally mans a help desk to provide assistance with timesheets and payroll issues.

County social services departments determine which services are approved for each IHSS recipient, how much time is authorized for each service, and the total authorized monthly hours. Counties provide training to IHSS workers and provide assistance with timesheet and payroll issues.

Public Authorities act as registries, matching IHSS consumers with pre-screened eligible providers, provide training, and are the employers of record for purposes of collective bargaining. They also provide assistance with timesheet and payroll issues. There are 56 Public Authorities - only Tuolumne and Alpine Counties do not have Public Authorities.

The IHSS Statewide Authority was created to serve as the employer of record for IHSS providers in the seven Coordinated Care Initiative (CCI) demonstration counties for collective bargaining purposes only. The seven CCI demonstration counties are Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo and Santa Clara.

Federal dollars and federal requirements drive certain elements of the IHSS program. For example, the Affordable Care Act established the Community First Choice Option (CFCO). Under the CFCO, states are required to provide home- and community-based services to Medicaid beneficiaries in order to enable beneficiaries to avoid institutionalization. In California, about 99 percent of recipients receive IHSS as a Medicaid benefit. States have some flexibility about how to provide these services. California elected adopt the “agency-provider model,” in which Medicaid beneficiaries rely on an agency to help them locate, select, and manage the services they need to stay in their homes.

Depending on the recipients’ financial circumstances, a blend of personal, federal, state and county funds pay some or all of the IHSS workers’ salaries.

IHSS Timesheets

There are two IHSS pay periods every month:

- Part A pay period is the 1st through the 15th day of the month
- Part B pay period is the 16th through the last day of the month, which could be the 28th, 30th or 31st day of the month

The varying number of days in a month means the first and second pay periods do not always have the same number of days. This affects timesheet and payroll calculations and when paychecks are received and creates significant confusion among providers.

CDSS reports the IHSS Help Desk receives about 60,000 calls each month. Additionally, some of the state's larger counties receive more than 10,000 calls a month from IHSS providers. IHSS call centers report a spike in calls at the end of the each IHSS pay period. Providers and their advocates point to a number of factors that contribute to anxiety about timesheets and paychecks. Those factors include the history of lost timesheets, a complicated process for completing a timesheet, the process for correcting timesheet errors, new sanctions which can result in job suspension if there are multiple violations, and the controls on issuance of replacement timesheets. Additionally, because there is no set payday for IHSS providers, some providers expect that they should receive their paychecks within 10 days of the end of the pay period, however that is not always the case.

Compounding these issues are a number of factors.

Control over timesheet can create delays. Timesheets are mailed by the Employment Development Department (EDD) to providers *after* timesheets for past pay periods are processed. As a result, a late paycheck can lead to a late timesheet which leads to another delayed paycheck, etc., and it can take months to get caught up from the original delay. Timesheets can only be printed by the counties or by EDD. The timesheet scanner cannot read photocopied timesheets. Additionally, the timesheet scanner cannot read timesheets that have writing outside of the lines, were completed with the wrong color of ink.

Therefore, if a provider makes an error on a timesheet, or a timesheet is lost or damaged, the provider must request a replacement timesheet, which is printed and mailed by EDD or issued by the county welfare office. Some county offices will allow providers to obtain a replacement timesheets in person, but others only will mail replacement timesheets.

Postal Service adds time to payroll process. Reliance on the US Postal Service to mail paychecks and timesheets adds multiple days to the payroll process each pay period. Holidays also can affect timeliness because the Timesheet Processing Facility has not consistently adjusted its staffing schedule to accommodate loss of productivity during official holidays.

Low Participation in Direct Deposit. Compounding the length of time it takes for a provider to get paid is the fact that only about 30 percent of IHSS providers are signed up for direct deposit. In contrast, 70 percent of state employees receive their payroll via direct deposit. Providers are notified of direct deposit at time of enrollment, but they are not eligible for direct deposit until they have been in the program for 90 days. While the direct deposit enrollment form is easily

accessible on the CDSS website, providers are not proactively notified of the direct deposit option once they become eligible to participate. In some cases, providers may be offered the direct deposit option when they inquire into the status of a paycheck.

10-Day Wait Time. There is no universal understanding of when providers should expect to be paid and there is no set IHSS payday, therefore there is no consensus on when a check is “late.” The floating paydays may create an expectation on the part of providers that cannot be met.

CDSS refers to a 10-day wait period, but there is no consensus on what that 10-day wait time means. For example, CDSS instructions on completing a timesheet read, “After you have sent in your timesheet for processing, you should receive your paycheck within 10 working days of receipt by the Timesheet Processing Facility.” According to All County Letter 13-53, providers inquiring into the status of their check will be advised “the check should arrive within 10 business days of the issue date.” CDSS says it can take up to 10 days from the date the timesheet is received in the state’s Timesheet Processing Facility until the check is printed and mailed or submitted via direct deposit. For providers who receive their payment in the mail, this 10 days does not include any mail processing and transportation time. Additionally, some providers have been told they must wait 10 days to inquire about the status of their paycheck or request a replacement timesheet. In some cases, providers are instructed to call their benefits center if they “have been waiting for more than 10 business days (not including weekend days or legal holidays.”

In fact, the Help Desk, the counties and some Public Authorities, have access to CMIPS and can confirm if a timesheet has been received and if a paycheck has been issued at any point in the process. If providers believe they are not allowed to inquire about the status of their paycheck until after the 10-day window, it could create additional delays.

State labor code does not provide clear guidance. Labor Code section 204 requires employers to pay their employees within 10 days of the end of the pay period. However, Labor Code section 220 exempts the “payment of wages of employees directly employed by the State of California” and “payment of wages of employees directly employed by any county” from Section 204. While CDSS once issued All County Information Notices in the 1980s, notifying counties that they must pay employees according to Labor Section 204, it now states that the section does not apply to IHSS providers. CDSS currently cites the complex employment relationship for IHSS providers and points to the fact that the state cannot pay a provider until the signed timesheet is received. CDSS, however, has adopted that 10-day payment target, the department reports that 10 day pay period is a long established timeframe from the when CMIPS was first launched. According to CDSS, prior to CMIPS, the counties had committed to 10-day period from receipt of a timesheet to the pay warrant issued by the State Controller. It is unclear whether labor code provides a remedy for IHSS providers who are not paid in a timely manner.

Complicated timesheet calculations

Completing an IHSS timesheet is complicated. State-issued provider instructions are very detailed– they include “14 important steps” to avoid payment delays a list of 20 Dos and Don’ts for completing the timesheet.

In addition to the complex instructions for filling in a timesheet, providers are required to perform somewhat complicated mathematical calculations to convert recipients' monthly authorized hours into weekly hours and then into decimal equation. Written training materials provided by the CDSS for performing the timesheet calculation advise:

“The best way to perform the math on time is to first convert the entire hours and minutes into minutes, perform the math, then convert the results back into hours and minutes.

Let's assume the recipient is authorized 99:40 (ninety-nine hours and forty minutes) per month. We want to divide that by 4 to arrive at the maximum weekly hours that would be displayed on the SOC 2271A (this is a document that shows the recipient's maximum weekly hours).

Step 1: Convert entire time into minutes. There are 60 minutes in an hour, so $99 * 60 = 5,940$ plus the remaining 40 minutes give a total of 5,980 minutes.

Step 2: Divide the minutes by 4. $5,980 / 4 = 1,495$

Step 3: Convert the result back into hours and minutes. To do this, we need to determine how many FULL hours are in the result, and how many remaining minutes there are. Divide the total minutes by 60; $1,495 / 60 = 24.91667$. We keep the whole number (24) since that is the number of FULL hours. Now to find out how many minutes remain, we subtract the number of minutes represented by our whole number of hours from the total minutes. $24 * 60 = 1,440$, and $1,495 - 1,440 = 55$. Therefore, we have 24 whole hours and 55 minutes remaining. That means that $99:40 / 4 = 24:55$.”

Fair Labor Standards Act/Overtime Rules

Layered on top of the complicated timesheet calculations are new standards that providers must follow in order to claim overtime hours. Repeated violation of these new standards could result in a provider being suspended from the IHSS program for a year, which has created some anxiety among providers and their recipients who are unused to the threat of suspension from the program for timesheet errors.

These new standards were issued as a result of recently enacted federal rules which now authorize IHSS providers to receive paid overtime at a rate of 1.5 times their normal hourly wage. Additionally, providers can now be paid for some wait and travel time.

In response to these new federal rules, California passed Senate Bills 855 and 873 (*Chapters 29 and 685, statutes of 2014*) which establish caps on the number of authorized overtime hours for IHSS providers. CDSS issued a series of All County Letters that further refine and provide guidance to counties, Public Authorities, recipients, providers and other stakeholders. Under these new rules, providers who are found to have violated the new overtime rules three times could be terminated from the IHSS program for one year. CDSS also created two narrow carve outs for the overtime cap.

Rollout of the new overtime policy was criticized by stakeholders as being confusing. In response, compensation for overtime, travel time, and wait time was implemented on February 1,

2016, but assessment of violations and penalties for violating the new rules were not enforced until July 2016. This four month grace period was intended to allow providers and recipients to become familiar with the new rules and adjust work schedules as necessary. It also allowed counties to identify IHSS providers who need help filling out their timesheets correctly to avoid future violations.

Who Can Help Resolve IHSS Timesheet and Payroll Issues?

If an IHSS provider has a question or concern regarding a timesheet or paycheck, he or she could call three different entities to seek assistance with figuring out the status of their paychecks and remediating any problems. As shown below, because they don't all have access to CMIPS, these entities cannot provide the same information and services to providers.

	Confirm Timesheet Received	Confirm Payroll Payment Issued	Confirm Timesheet was "Exceptioned"	Order/Print Replacement Timesheet	Manually Input Corrected Timesheet
County Social Services	Yes	Yes	Yes	Yes	Yes
Public Authority	Some	Some	Some	Some	Some
CDSS IHSS Provider Help Desk	Yes	Yes	Yes	No	No

CDSS operates a toll free IHSS Provider Help Desk. Callers to the Help Desk can find out the status of their timesheet and paycheck. While CDSS provides assistance via the Help Desk, the department asserts that it is the counties' responsibility to train and assist with timesheets. Service models differ by county.

The state and the counties have flexibility in implementing the program. With that flexibility comes a variety of program models. Some counties have set up their own IHSS payroll units. Other counties have entered into agreements with the Public Authorities to perform payroll processing functions. Chronic timesheet and payroll concerns have led some counties and Public Authorities to dedicate staff to work on IHSS timesheet issues, such as special "liaisons" set up to assist IHSS providers with timesheet problems. For example, the Personal Assistance Services Council of Los Angeles County (the IHSS Public Authority for Los Angeles County) has dedicated IHSS "Issues Solving Teams." Los Angeles County is also opening special IHSS customer service centers that will assist IHSS recipients and providers with any IHSS and payment related questions, including requests that timesheets and forms be mailed out.

Many of the Public Authorities have read-only access to payroll information via CMIPS, which allows them to tell providers if and when timesheets are processed and paychecks have been issued. However, at least three Public Authorities do not have access to any payroll information. These Public Authorities refer providers to county IHSS payroll staff.

Electronic Timesheets

In an effort to streamline timesheet processing, and in response to requests from IHSS stakeholders, CDSS has announced plans to implement optional online IHSS timesheets in June 2017. According to CDSS, the online timesheet system will use technology that is intuitive and easy to use on PCs, smartphones and tablets. Importantly, it will provide real-time data validation, which means timesheet errors can be corrected before the timesheet is submitted. With electronic timesheets, providers will be able to sign on with a confidential user name and password, enter hours worked, view timesheet history and payment details, view status of timesheets, and receive email notifications throughout the process. Providers and recipients will be able to submit electronic signatures, eliminating the need to place timesheets in the mail. If providers and recipients adopt this optional technology, it is expected to reduce timesheet errors and significantly reduce the time it takes to pay providers.

Pending Audit

An audit of the IHSS time sheet and payroll systems was approved by the Joint Legislative Audit Committee on May 25, 2016. The goal of the audit is to identify the cause of problems that result in payroll system delays, such as specific protocols, technologies, or gaps in communications, and to ensure a timeline for improvement. The audit request emphasizes that the CMIPS II contract expires in spring of 2018 and that by evaluating whether the current system is as reliable as IHSS providers need it to be, the audit would be beneficial for future contract design. The audit work is currently underway and the final report is scheduled to be released in February 2017. CDSS has already released an RFP for bids on the new contract. It is unclear if or how CDSS might incorporate audit findings into the new contract.