

**Department of Health Care Services
Proposed May Revision Trailer Bill Language**

IHSS Plus

Section 14132.952 is added to the Welfare and Institutions Code, to read:

14132.952. (a) The department shall seek approval of an amendment to the Medicaid state plan pursuant to subsection (j) of Section 1396n of Title 42 of the United States Code to provide self-directed personal assistance services under the state plan in order that the services available under Article 7 (commencing with Section 12300) of Chapter 3, known as the In-Home Supportive Services program, may be provided as a Medi-Cal benefit under this chapter, to the extent that federal financial participation is available. This program shall be known as the "IHSS Plus option."

(b) To the extent feasible, the IHSS Plus option shall incorporate the eligibility requirements, benefits, and operational requirements of the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 as it exists on the effective date of this section. The director shall have the discretion to modify such eligibility requirements, benefits, and operational requirements to the extent necessary to secure federal approval of the Medicaid state plan amendment and to receive federal financial participation.

(c) The services available through the IHSS Plus waiver under Section 14132.951 shall be furnished as benefits under the IHSS Plus option to the extent that federal financial participation is available, to persons who meet the eligibility requirements of the IHSS Plus option. Upon implementation of the IHSS Plus option, a person who is eligible for services under the IHSS Plus option shall no longer be eligible to receive services under Section 14132.951.

(d) Upon implementation of the IHSS Plus option:

(1) A person who is eligible for the IHSS Plus option shall not be eligible to receive services under the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 to the extent those services are available through the IHSS Plus option.

(2) A person shall not be eligible to receive services pursuant to the IHSS Plus option to the extent those services are available pursuant to Section 14132.95.

(e) Services provided pursuant to this section shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home

Supportive Services program to the extent that federal financial participation is available.

(f) Services shall not be provided to residents of facilities licensed by the California Department of Public Health, and shall not be provided to residents of a community care facility or a residential care facility for the elderly licensed by the State Department of Social Services.

(g) To the extent permitted by federal law, reimbursement rates for services under the IHSS Plus option shall be equal to the rates in each county for the same mode of services in the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3.

(h)(1) Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section through all-county welfare director letters or similar publications. Actions taken to implement, interpret, or make specific this section shall not be subject to the Administrative Procedure Act or to the review and approval of the Office of Administrative Law. Upon request of the department, the Office of Administrative Law shall publish the regulations in the California Code of Regulations. All county welfare director letters or similar publications authorized pursuant to this section shall remain in effect for no more than 18 months.

(2) The department may also adopt emergency regulations implementing the provisions of this section. The adoption of regulations implementing this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. Any emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 18 months by which time final regulations shall be adopted. The department shall seek input from the entities listed in Section 12305.72 when developing the regulations, all county welfare director letters, or similar publications.

(i) The department shall not waive or modify the provisions of Section 12301.2, 12301.6, 12302.25, 12306.1, or 12309 except to the extent required to receive federal financial participation.