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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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EDMUND G. BROWN JR.
GOVERNOR

January 24, 2013

COUNTY FISCAL LETTER (CFL) NO. 12/13-28

TO: COUNTY WELFARE DIRECTORS
COUNTY WELFARE FISCAL OFFICERS

SUBJECT: PRELIMINARY FISCAL YEAR (FY) 2012-13 MAINTENANCE OF EFFORT (MOE) REQUIREMENT FOR THE IN-HOME SUPPORTIVE SERVICES (IHSS) PROGRAM

REFERENCE: SENATE BILL (SB) 1036 (CHAPTER 45, STATUTES OF 2012)
ASSEMBLY BILL (AB) 1471 (CHAPTER 439, STATUTES OF 2012)
CFL NO. 11/12-19, DATED SEPTEMBER 16, 2011
ALL COUNTY LETTER (ACL) NO. 11-56, DATED JULY 29, 2011

This letter notifies counties of the implementation and administration of the IHSS MOE requirement per SB 1036 and amended by AB 1471. This CFL includes preliminary IHSS MOE base calculation amounts for county planning purposes. A subsequent CFL will be issued when FY 2011-12 expenditures are finalized.

Commencing July 1, 2012, counties have a MOE requirement in lieu of paying a share of the non-federal costs for IHSS services and IHSS and Public Authority (PA) administration. Expenditures for these three components will be tracked against a total MOE level. County costs that exceed the total MOE level will be shifted to 100 percent General Fund (GF). As the IHSS MOE implements for the first time in FY 2012-13, future modification to the MOE base for certain counties may be necessary because of individual county variables. Attachment I provides a display of each county's MOE level based on the following three components:

- FY 2011-12 IHSS Administration - County Share Allocation[1]
- FY 2011-12 PA Administration - County Share Allocation[1]
- FY 2011-12 IHSS Services - Actual County Expenditures

In consultation with the California State Association of Counties, the County Welfare Directors Association and the California Association of Public Authorities, the individual components of the IHSS MOE and the allocation methodologies have been developed as follows:

Administration – IHSS and PA

The preliminary IHSS and PA Administrative amounts for most counties are based on each county's FY 2011-12 county share allocations as displayed within CFL No. 11/12-19 and ACL No. 11-56. For the 15 selected small counties, defined as counties with a 2011 population of 50,000 or less, the preliminary IHSS and PA Administrative allocations will be either the county's FY 2011-12 county share allocations as displayed in the county letters listed above or the county's FY 2011-12 county expenditures, whichever is lower. The reason for the variance in methodology for the smallest counties is to provide an equitable MOE as small counties historically have not met nor exceeded their administrative allocations.

IHSS Services

The IHSS services calculation was based on expenditures from PA health benefits, PA non-health benefits, IHSS individual provider payroll and taxes, IHSS homemaker mode, IHSS contracts (state level), IHSS county contractor mode and payments to the State Compensation Insurance Fund.

On August 31, 2012, the federal government approved the Community First Choice Option state plan amendment for enhanced benefits, retroactive to December 1, 2011. An amount equal to the additional federal funds attributable to each county for the period of December 1, 2011 through June 30, 2012 was deducted from each county's base year MOE expenditures to reflect this savings.

Claiming

Counties will continue to claim expenditures for IHSS activities using the current invoice and County Expense Claim (CEC) process.

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[1] For the 15 selected small counties, preliminary IHSS and PA Administrative amounts will be either the county's FY 2011-12 county share allocations as displayed in the county letters or the county's FY 2011-12 county expenditures, whichever is lower.

Billing and Reconciliation

The new process to bill counties for their share of IHSS MOE is as follows:

For billing purposes, the county's total MOE amount will be spread equally in 12 installments that will be billed to the counties at the beginning of each month. Since counties will be billed once a month based on the total MOE amount, State Use Only Code 792 has been established to transfer the county share of the IHSS administrative costs to the General Fund.

Counties will be reimbursed for administrative costs in excess of their MOE requirement, notwithstanding counties' annual allocation for IHSS administration. A similar process will be implemented for the PA and Contractor Mode components claimed through SOC 432 and SOC 448 to shift county share to the GF. As a result, counties will be reimbursed for 100 percent of costs claimed through these invoices and the CEC.

Due to the late implementation of the new process for FY 2012-13, effective January 1, 2013, the IHSS MOE for FY 2012-13 will be offset by the county share claimed through the CEC for the September 2012 quarter IHSS administration, the county share claimed through SOC 432 and SOC 448 processed through December 31, 2012, and the accumulated expenditures billed for IHSS services (including IHSS Plus Option adjustments) from July 1, 2012 through December 31, 2012. The CDSS will discontinue billing for monthly IHSS payroll advances. The remaining county IHSS MOE amount will be spread equally over the remaining six months of FY 2012-13 and the counties will be billed at the beginning of each month.

Please see Attachment II, the Department of Finance county MOE letter dated November 2, 2012, for more information regarding the IHSS MOE. If you have any questions regarding this CFL, please direct them to the Fiscal Systems Bureau at Fiscal.systems@dss.ca.gov.

Sincerely,

Original Document Signed By:

FRAN MUELLER
Deputy Director
Administration Division

Attachments

County	FY 2012-13 IN-HOME SUPPORTIVE SERVICES MAINTENANCE OF EFFORT REQUIREMENT			
	IHSS Administrative	PA Administrative	IHSS Services	TOTAL IHSS MOE
ALAMEDA	$2,473,362	$167,793	$46,878,525	$49,519,680
ALPINE	$37,001	$0	$41,106	$78,107
AMADOR	$34,248	$17,376	$232,905	$284,529
BUTTE	$466,982	$36,742	$6,133,893	$6,637,617
CALAVERAS	$76,652	$32,479	$497,862	$606,993
COLUSA	$45,587	$10,089	$86,103	$141,779
CONTRA COSTA	$1,244,619	$171,081	$16,337,111	$17,752,811
DEL NORTE	$57,309	$4,355	$682,440	$744,104
EL DORADO	$152,467	$49,037	$1,619,332	$1,820,836
FRESNO	$1,546,730	$128,287	$26,274,437	$27,949,454
GLENN	$89,574	$32,179	$785,867	$907,620
HUMBOLDT	$359,664	$29,546	$2,250,425	$2,639,635
IMPERIAL	$515,115	$34,931	$7,331,607	$7,881,653
INYO	$42,042	$14,630	$157,184	$213,856
KERN	$692,243	$58,520	$6,648,580	$7,399,343
KINGS	$193,057	$47,846	$2,537,726	$2,778,629
LAKE	$179,024	$52,992	$4,233,157	$4,465,173
LASSEN	$64,564	$7,544	$222,065	$294,173
LOS ANGELES	$18,891,315	$678,226	$304,734,803	$324,304,344
MADERA	$187,444	$23,542	$2,910,363	$3,121,349
MARIN	$397,077	$62,237	$4,029,206	$4,488,520
MARIPOSA	$86,306	$25,224	$328,583	$440,113
MENDOCINO	$424,494	$48,560	$3,081,018	$3,554,072
MERCED	$381,751	$45,082	$3,705,287	$4,132,120
MODOC	$30,864	$11,681	$131,790	$174,335
MONO	$17,223	$14,644	$47,378	$79,245
MONTEREY	$629,067	$56,948	$8,298,890	$8,984,905
NAPA	$193,240	$28,879	$2,461,903	$2,684,022
NEVADA	$153,463	$82,603	$1,180,551	$1,416,617
ORANGE	$1,891,841	$120,758	$29,238,686	$31,251,285
PLACER	$267,786	$65,144	$4,558,435	$4,891,365
PLUMAS	$38,431	$14,819	$262,820	$316,070
RIVERSIDE	$1,837,830	$274,588	$40,332,810	$42,445,228
SACRAMENTO	$3,380,319	$219,404	$46,314,721	$49,914,444
SAN BENITO	$83,206	$30,070	$960,238	$1,073,514
SAN BERNARDINO	$2,717,151	$239,943	$37,725,466	$40,682,560
SAN DIEGO	$2,783,819	$369,326	$42,370,060	$45,523,205
SAN FRANCISCO	$2,879,743	$258,481	$65,111,248	$68,249,472
SAN JOAQUIN	$870,811	$104,126	$9,804,728	$10,779,665
SAN LUIS OBISPO	$401,607	$38,696	$3,514,314	$3,954,617
SAN MATEO	$607,359	$60,617	$9,137,861	$9,805,837
SANTA BARBARA	$393,190	$96,835	$5,345,446	$5,835,471
SANTA CLARA	$2,178,032	$134,721	$45,712,000	$48,024,753
SANTA CRUZ	$484,168	$62,857	$5,073,733	$5,620,758
SHASTA	$346,461	$60,712	$4,706,254	$5,113,427
SIERRA	$31,634	$2,174	$38,417	$72,225
SISKIYOU	$88,886	$0	$621,227	$710,113
SOLANO	$646,511	$72,769	$7,591,358	$8,310,638
SONOMA	$781,065	$122,044	$12,636,655	$13,539,764
STANSLAUS	$856,447	$126,905	$8,707,205	$9,690,557
SUTTER	$97,440	$34,502	$1,572,380	$1,704,322
TEHAMA	$151,963	$31,119	$1,270,929	$1,454,011
TRINITY	$35,342	$130	$171,133	$206,605
TULARE	$358,120	$58,663	$3,303,122	$3,719,905
TUOLUMNE	$151,194	$0	$304,652	$455,846
VENTURA	$585,953	$66,193	$7,540,156	$8,192,302
YOLO	$282,415	$48,751	$3,821,019	$4,152,185
YUBA	$170,139	$17,442	$1,401,890	$1,589,471
Total	**$55,061,347**	**$4,704,842**	**$853,009,060**	**$912,775,249**

DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

EDMUND G. BROWN JR. ▪ GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

November 2, 2012

TO ALL COUNTY BOARD OF SUPERVISOR CHAIRS, COUNTY ADMINISTRATIVE OFFICERS, AND COUNTY WELFARE DIRECTORS:

In-Home Supportive Services Maintenance of Effort

The Coordinated Care Initiative (CCI) was enacted as part of the Budget Act of 2012 via Chapter 33, Statutes of 2012 (SB 1008) and Chapter 45, Statutes of 2012 (SB 1036). The CCI is effective in eight counties (Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara) beginning as early as March 1, 2013, pending federal approval. The CCI is intended to enhance health outcomes and beneficiary satisfaction for low-income seniors and persons with disabilities, while achieving substantial savings from rebalancing service delivery away from institutional care and into the home and community. It is intended (as reflected in SB 1008) that the CCI be implemented statewide within three years of initial implementation.

As it relates to the In-Home Supportive Services (IHSS) program, the CCI seeks to enhance the program's ability to help people avoid unnecessary hospital and nursing home admissions, to better support beneficiaries in coordinating their care, and to preserve the recipients' right to self-direct their care. Under CCI, IHSS continues to be an entitlement program and serves as the core for home- and community-based services. County social workers will continue to determine IHSS hours. The current fair hearing process for IHSS will remain in effect in the initial years of the CCI. Consumer direction and continuity of care are, and will remain, key aspects of the beneficiary protections.

Among other changes, SB 1036 shifts the responsibility of collective bargaining functions (wages, benefits, and other economic terms and conditions) for IHSS individual providers from county public authorities to a Statewide Authority. This shift will occur for a given county only after CCI is implemented and the transition to managed care is complete within that county. Additionally, SB 1036 changes the funding requirements for counties from a share of the nonfederal costs to a County IHSS Maintenance of Effort (MOE). This MOE applies to all 58 counties effective July 1, 2012, regardless of when the county will begin participating in the CCI.

The IHSS MOE represents a fundamental modification to the funding structure for IHSS. To address potential questions and concerns, a walkthrough of the MOE provisions is included in the attachment. As detailed in the attachment, the IHSS MOE is based on factors unique to each county. A County Fiscal Letter will be issued soon containing each county's preliminary MOE amount for the 2011-12 state fiscal year, as well as an explanation of how claiming, tracking, and reconciliation of the IHSS MOE will work.

It is our intent to make implementation of the MOE as administratively efficient as possible, for both the counties and the state Department of Social Services (DSS). To that end, the same

process previously used for payment of the county share of IHSS costs will be used by counties to submit their MOE payments to the DSS. As this is the first year of implementation for the MOE and, more broadly, for the CCI, it is possible changes will need to be made to address unforeseen issues. The Administration will remain flexible in this process to ensure a successful transition for counties from a fixed share of IHSS costs to the IHSS MOE.

If you have any questions or need additional information regarding this matter, please call Jay Kapoor, Principal Program Budget Analyst, at (916) 445-6423.

ANA J. MATOSANTOS
Director
By:

MICHAEL COHEN
Chief Deputy Director

Attachment

cc: Ms. Kelly Brooks, Senior Legislative Representative, Health and Human Services, California State Association of Counties
Ms. Eileen Cubanski, Senior Fiscal and Policy Analyst, County Welfare Directors Association
Ms. Karen Keeslar, Executive Director, California Association of Public Authorities
Mr. Michael Wilkening, Undersecretary, Program and Fiscal Affairs, Health and Human Services Agency
Ms. Pat Leary, Chief Deputy Director, Department of Social Services
Ms. Fran Mueller, Deputy Director, Administration Division, Department of Social Services
Mr. Brian Dougherty, Chief, Financial Management and Contracts Branch, Department of Social Services

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Pursuant to Chapter 45, Statutes of 2012 (SB 1036) as amended by Chapter 439, Statutes of 2012 (AB 1471), each county has a County In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) requirement effective July 1, 2012. This letter provides information regarding the implementation and administration of the Coordinated Care Initiative's (CCI's) County IHSS MOE requirement. The specific statutory requirements, pursuant to Welfare and Institutions Code section 12306.15, are listed in italics below, followed by an explanation of the provisions:

Establishment of the County IHSS MOE:

> *12306.15. (a) Commencing July 1, 2012, all counties shall have a County IHSS Maintenance of Effort (MOE). In lieu of paying the nonfederal share of IHSS costs as specified in Sections 10101.1, 12306, and 12306.1, counties shall pay the County IHSS MOE.*
>
> *(b)(1) The County IHSS MOE base year shall be the 2011-12 state fiscal year. The County IHSS MOE base shall be defined as the amount actually expended by each county on IHSS services and administration in the County IHSS MOE base year, as reported by each county to the department, except that for administration, the County IHSS MOE base shall include no more or no less than the full match for the county's allocation from the state.*
>
> *(2) Administration expenditures shall include both county administration and public authority administration. The County IHSS MOE base shall be unique to each individual county.*

These provisions establish that, beginning with state fiscal year 2012-13, counties shall be responsible for an MOE funding level for the IHSS program in lieu of the state/county cost-sharing ratios specified in state law. The MOE will be established for each county and is the sum of (1) the county's actual IHSS services expenditures in state fiscal year 2011-12 and (2) the county's 2011-12 allocations from the state for county administration and public authority administration. The MOE base will be different for each county.

Please be advised that, due to enhanced federal participation resulting from the Community First Choice Option, each county's services expenditures for 2011-12 will be adjusted downward to reflect seven months of savings. The federal government recently approved the state's plan for the enhanced benefit, retroactive to December, 2011. The enhanced federal funds will begin being claimed soon, and the additional federal funds attributable to each county for the period of December 1, 2011 through June 30, 2012 will be accrued back to the 2011-12 fiscal year; each county's base year MOE expenditures will be reduced accordingly.

Shasta County MOE Adjustment:

> *(b)(3) For a county that made 14 months of health benefit payments for IHSS providers in the 2011-12 fiscal year, the Department of Finance shall adjust that county's County IHSS MOE base calculation.*

This provision, which applies only to Shasta County, requires the Department of Finance (Finance) to exclude from the MOE base the portion of health benefit payments made by Shasta in 2011-12 but accrued to a different year.

MOE as It Relates to 1991-92 Realignment:

> *(b)(4) The County IHSS MOE base for each county shall be no less than each county's 2011-12 expenditures for the Personal Care Services Program and IHSS used in the caseload growth calculation pursuant to Section 17605.*

This provision ensures that the IHSS MOE base for a given county is not less than the combined IHSS expenditures reported by that county for purposes of 1991-92 State-Local Realignment caseload growth.

MOE Inflation Factor:

> *(c)(1) On July 1, 2014, the County IHSS MOE base shall be adjusted by an inflation factor of 3.5 percent.*
>
> *(2) Beginning on July 1, 2015, and annually thereafter, the County IHSS MOE from the previous year shall be adjusted by an inflation factor of 3.5 percent.*
>
> *(3) (A) Notwithstanding paragraphs (1) and (2), in fiscal years when the combined total of 1991 realignment revenues received pursuant to Sections 11001.5, 6051.2, and 6201.2 of the Revenue and Taxation Code, for the prior fiscal year is less than the combined total received for the next prior fiscal year, the inflation factor shall be zero.*
>
> *(B) The Department of Finance shall provide notification to the appropriate legislative fiscal committees and the California State Association of Counties by May 14 of each year whether the inflation factor will apply for the following fiscal year, based on the calculation in subparagraph (A).*

This inflation factor is intended to account for growth that would have occurred in IHSS absent the CCI. These provisions require the IHSS MOE base to be increased by 3.5 percent annually, beginning July 1, 2014, unless 1991-92 State-Local Realignment revenues received for the prior fiscal year are less than the revenues received the year before the prior year. Finance will determine whether or not this condition applies by comparing the statewide sum of sales tax revenue and VLF revenue pertaining to 1991-92 Realignment. This comparison will be performed each year, once final 1991-92 Realignment revenues (both sales tax and VLF) are known. These provisions also require Finance to notify the Legislature and counties by May 14 of each year whether or not the IHSS MOE base will be increased for the following fiscal year.

MOE Adjustments for Locally Negotiated Increases in Provider Wages/Health Benefits:

> *(d) In addition to the adjustment in subdivision (c), the County IHSS MOE shall be adjusted for the annualized cost of increases in provider wages or health benefits that are locally negotiated, mediated, or imposed before the Statewide Authority assumes the responsibilities set forth in Section 110011 of the Government Code for a given county as provided in Section 12300.7.*
>
> *(1)(A) If the department approves the rates and other economic terms for a locally negotiated, mediated, or imposed increase in the provider wages, health benefits, or other economic terms pursuant to Section 12306.1 and paragraph (3), the state shall pay 65 percent, and the affected county shall pay 35 percent, of the nonfederal share of the cost increase in accordance with subparagraph (B).*
>
> *(B) With respect to any increase in provider wages or health benefits approved after July 1, 2012, pursuant to subparagraph (A), the state shall participate in that increase as provided in subparagraph (A) up to the amount specified in subdivision (d) of Section 12306.1.*

(C) The county share of these expenditures shall be included in the County IHSS MOE, in addition to the amount established under subdivisions (b) and (c). For any increase in provider wages or health benefits that becomes effective on a date other than July 1, the Department of Finance shall adjust the county's County IHSS MOE to reflect the annualized cost of the county's share of the nonfederal cost of the wage or health benefit increase.

These provisions specify that each county's MOE will be adjusted to reflect increases in provider wages or health benefits that are negotiated before the Statewide Authority assumes collective bargaining responsibilities from the local public authority upon completion of the transition of the county's IHSS recipients to managed care. Any such increase would be in addition to the 3.5 percent growth described above.

Prior to the MOE, the state paid 65 percent of the nonfederal share of IHSS costs for provider wages and benefits, up to a combined $12.10 per hour. These provisions specify that the state will continue to participate up to this level for any increases in provider wages and benefits negotiated before the Statewide Authority assumes collective bargaining responsibilities, to the extent the California Department of Social Services (DSS) approves the increase.

The county's MOE will be increased by the estimated cost of the county's share of the increased expenditures beginning in the year in which the increase takes effect. To the extent the increase becomes effective on a day other than July 1, the MOE will be increased for the prorated mid-year county share of costs rather than a full-year increase. The MOE will subsequently be adjusted to include the estimated annualized county share of cost of the increase beginning with the following year. For increase that become effective on July 1 of a given year, the MOE will be adjusted to include the estimated annualized county share of cost of the increase beginning that year. The cost of any wage increase included in the MOE will be computed by Finance in consultation with DSS and the California State Association of Counties (CSAC). Finance will be working with DSS and CSAC to develop a methodology for prorating and annualizing costs.

Implications of Locally Negotiated Wage/Benefit Increases Not Approved by DSS:

(d)(2)(A) If the department does not approve the rates and other economic terms for a locally negotiated, mediated, or imposed increase in the provider wages, health benefits, or other economic terms pursuant to Section 12306.1 or paragraph (3), the county shall pay the entire nonfederal share of the cost increase.

(B) The county share of these expenditures shall be included in the County IHSS MOE, in addition to the amount established under subdivisions (b) and (c). For any increase in provider wages or health benefits that becomes effective on a date other than July 1, the Department of Finance shall adjust the county's County IHSS MOE to reflect the annualized cost of the county's share of the nonfederal cost of the wage or health benefit increase.

These provisions specify that the county is responsible for the entire increase in the nonfederal share of provider wages or health benefits if the DSS does not approve the negotiated increase, and that the annualized cost of the county share of such expenditures will be included in the county's MOE.

Rate Increase Approval Process for Counties Outside of Statewide Authority:

> *(d)(3) In addition to the rate approval requirements in Section 12306.1, it shall be presumed by the department that locally negotiated rates and other economic terms within the following limits are approved:*
> *(A) A net increase in the combined total of wages and health benefits of up to 10 percent per year above the current combined total of wages and health benefits paid in that county.*
> *(B) A cumulative total of up to 20 percent in the sum of the combined total of changes in wages or health benefits, or both, until the Statewide Authority assumes the responsibilities set forth in Section 110011 of the Government Code for a given county as provided in Section 12300.7.*

These provisions apply only to counties for which the Statewide Authority has not yet assumed collective bargaining responsibilities. This ensures that increases negotiated locally that meet the specified criteria will be approved by the DSS, as long as existing rate approval requirements (as specified in Section 12306.1) have also been met.

Limits on Adjusting County MOE:

> *(e) The County IHSS MOE shall only be adjusted pursuant to subdivisions (c) and (d).*

This provision ensures that, following computations of each county's MOE base, a county's MOE can only be adjusted for the inflation factor and, prior to the Statewide Authority assuming collective bargaining responsibilities in the county, the county's share of increases to provider wages or benefits.

Requirement for State to Work with CSAC:

> *(f) The Department of Finance shall consult with the California State Association of Counties to implement the County IHSS MOE, which shall include, but not be limited to, determining each county's County IHSS MOE base pursuant to subdivision (b), developing the computation for the annualized amount pursuant to subdivision (d), and the process by which it will be determined that each county has met its County IHSS MOE each year.*

This provision requires Finance to work with CSAC to implement the IHSS MOE.

Conditions Making MOE Inoperative:

> *(g) If the demonstration project and the responsibilities of the Statewide Authority become inoperative pursuant to Section 15, 16, or 17 of the act adding this section on a date other than July 1, this section shall become inoperative on the first day of the following state fiscal year.*

This provision would make the IHSS MOE inoperative to the extent the CCI demonstration project and responsibilities of the Statewide Authority become inoperative, which would occur if either of the following conditions are met:

- The state has not received, by February 1, 2013, federal approval of a mutual ratesetting process, shared federal savings, and a six-month enrollment period in CCI. Absent federal approval, statute allows for an alternate methodology to be utilized that results in the same level of ongoing savings as was reflected in the 2012 Budget Act and assumed for the 2013-14, 2014-15, and the 2015-16 fiscal years.

  OR

- The Director of the Department of Health Care Services determines that the quality of care for managed care beneficiaries, efficiency, or cost-effectiveness of the program would be jeopardized and therefore decides to entirely forego the provision of services under CCI. This could only occur after consulting with the Director of Finance, stakeholders, and the Legislature.

In the event either of the above conditions were met and the CCI became inoperative on a date other than July 1, the IHSS MOE would become inoperative on the first day of the following state fiscal year and the county shares of cost in effect on June 30, 2012 (pursuant to Welfare and Institutions Code sections 10101.1, 12306, and 12306.1) would again become effective. If either of the above conditions were met and the CCI became inoperative on July 1 of a given year, the IHSS MOE would become inoperative that day and the county shares of cost in effect on June 30, 2012 would immediately become effective.