



Legislation Text

File #: 11-0115, **Version:** 2

Acting as the Governing Board of the In-Home Supportive Services Public Authority:

Health and Human Services Agency recommending the Board authorize the Chair to sign a second Amendment to Interagency Agreement 384-O1111 between the County of El Dorado and the El Dorado County IHSS Public Authority that defines the responsibilities of the parties relative to the administration of the In-Home Supportive Services Program and adds language regarding the allowable waiver process for employing individual providers with certain criminal convictions.

FUNDING: 85% Federal/State In-Home Supportive Services Public Authority Funds with 15% required County General Fund Match.

Fiscal Impact/Change to Net County Cost: No change. The County's financial obligation under this agreement is determined annually during the County budgeting process. Services provided by County departments is paid on a fee-for-service basis and is limited to the current Governing Board approved IHSS PA budget.

Background: Each County in California is required to operate an In-Home Supportive Service (IHSS) program to provide in-home personal care and domestic services to aged, blind or disabled individuals. The purpose of the program is to allow individuals who are recipients of these services to live safely at home rather than in a costly and less desirable out-of-home placement facility. The individual recipient of services is not only the consumer of the services, but is also the actual employer of each individual provider, holding all powers and responsibilities of employers with the exception of determining the total number of hours that may be worked each week and the salary and benefit levels. Pursuant to Welfare and Institutions Code (WIC) Section 12302.25, enacted in 1999, each county was required to establish, on or before January 1, 2003, an employer of record for IHSS care providers. The Board of Supervisors acts as the Governing Board for the IHSS Public Authority (IHSS PA) and on June 10, 2002 established by ordinance an IHSS Public Authority for the purpose of serving as employer of record for individual providers of services. On November 5, 2002 an Interagency Agreement was executed between the County of El Dorado and the El Dorado County IHSS Public Authority to establish the responsibilities of the parties in regards to the administration of the IHSS program. On August 17, 2004 the Board approved the amended Interagency Agreement to facilitate staffing of the IHSS PA with County staff, to clarify personnel-related accounting issues and address additional administrative responsibilities.

On February 15, 2011 a second Amendment to Interagency Agreement 384-O1111 was brought before the Board for execution. On that date the Board directed County Counsel to ask State Legislative Counsel the ramifications of the Board not approving the inclusion of the waiver process in the agreement.

Reason for Recommendation: Legislation enacted in October 2010 allows IHSS recipients to employ care providers who have been convicted of certain criminal offenses that would otherwise be

cause for exclusion from IHSS employment. Further legislation enacted in July 2011 prohibits the provider from signing the waiver as the recipient's authorized representative except if that provider is a parent, guardian, conservator, spouse, or registered domestic partner of the recipient.

This amended Interagency Agreement 384-O1111 adds language relative to the waiver process under which an IHSS recipient may employ a care provider with a criminal conviction(s) and the county, state and IHSS PA's immunity of liability resulting from granting such a waiver and makes other minor language changes. At County Counsel's recommendation the Interagency Agreement has been further amended to include language that prohibits a provider applicant from signing the waiver as the recipient's authorized representative unless that provider is the parent, guardian, spouse, conservator or registered domestic partner of the recipient.

County Counsel's staff report on the subject is attached.

Action to be taken following Board approval:

1. Chair to sign two (2) originals of Amended Interagency Agreement 384-O1111.
2. Board Clerk's Office to return one (1) original Agreement to Health and Human Services at 3057 Briw Road
3. Health and Human Services to distribute as appropriate

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Concurrences: County Counsel