



**COMMUNITY SERVICES AGENCY**

**Larry B. Poaster, Ph.D.**  
Interim Director

251 E. Hackett Road  
P.O. Box 42, Modesto, CA 95353-0042

Phone: 209.558.2500 Fax: 209.558.2558

**STANISLAUS COUNTY  
IHSS ADVISORY COMMITTEE MEETING  
MINUTES**

**4/26/02**

Committee Members Present:	Madelyn Amaral Jose Acosta	Bonnie Cyphers Connie Muller	Jeff Lambaren Dwight Bateman
Committee Members Absent:	Kenny Brown		
IHSS Staff Present:	Jan Holden	Paul Birmingham	Larry Baptista
CSA Staff Present:			

**OPENING REMARKS by CHAIRMAN JEFF LAMBAREN**

- Meeting called to order at 1:07 p.m.
- Announcement made allowing for public comment.

**PUBLIC COMMENT**

- Brenda Collins – United Domestic Worker Labor Organizer
  - Attended meeting to hear and discuss how the committee’s field trip to San Francisco to visit a Public Authority went.

**ACCEPTANCE OF MINUTES**

- March 22, 2002 minutes: Motion M/S/A to accept minutes with no corrections.

**MEMBERSHIP UPDATE – Jan Holden**

- Board Agenda item for three new members (Ora Scruggs, Rose Martin, and Toni Hector) to be presented for IHSS Advisory Committee acceptance on Tuesday, April 30, 2002.

**FIELD TRIP TO SAN FRANCISCO PUBLIC AUTHORITY**

- Roundtable discussion about field trip. Committee members opinions and comments.



### **COUNTY ADMINISTERED IP PROGRAM by Jan Holden**

- Copies of the County Administration of the IP Mode were handed out.
- Jan Holden read and explained the handout. Jan also discussed the attached “Employer of Record – Cost Comparison” graph with the handout.
- Jeff Lambaren asked if this option was chosen, would the county cover the liability insurance? Jan answered that if this mode were selected than the county would probably take out extra liability coverage to specifically cover the providers on the registry.
- Jeff Lambaren asked if the Public Authority has some incentive to provide more flexibility with wages. Jan Holden responded and said the State is participating in wage rates up to 9.10/hr in PA counties but will only participate in wage rates up to \$7.11/hr. in non-PA/NPC counties.

### **BUDGET UPDATE by Paul Birmingham**

- Paul hasn’t seen the preliminary budget numbers.
- Passed out Cost Comparison charts for the fiscal year. Jan Holden reviewed and explained each chart for the committee

### **CLARIFICATION OF TIMELINE TO IMPLEMENT AB1682 by Jan Holden**

- Passed out copies of All-County Information Notice No. I27-02, Implementation Timeline Compliance Q&A handout.
- Handout clarified what counties are required to have in place to be in compliance by January 1, 2003.
- Jan Holden noted that to be in compliance with AB1682 by January 1, 2003, a Public Authority county has to have established the P.A. by local ordinance, fully executed the agreement between the county and the P.A.; be staffed and operational.
- County Counsel states it takes 60-90 days to get an ordinance passed.
- Jan Holden made a suggestion that either the committee meet more often or consider sub-committees. The committee agreed to discuss it on next meetings agenda.
- Motion M/S/A to direct staff to talk to county counsel and find out options about what exactly sub-committees are? Public meetings? Working sessions?
- To meet the deadline of January 1, 2003 the committee needs to make their recommendation in July 2002.

### **COMMUNITY FOCUS GROUPS**

- Passed out copies of Turlock Community Forums handout.
- Larry Baptista presented to the committee two options available for the Turlock Community Forums.
- The committee agreed to have the first community forum in Turlock at the TID building on Thursday, May 30, 2002 between 6-9pm.
- Advertising format for the community forum was discussed. Flyers, Local TV broadcast (Charter Communications), newspapers, and radio.
- Committee suggested having a presentation available to present the different modes that the committee is reviewing.
- Public accommodation statements to be included in flyers and advertisements.
- Arrange for social workers and interpreters.
- Next meetings agenda to confirm form and structure of forum:
  - Purpose of IHSS Advisory committee
  - Explanation of “Employer of Record and “Wage & Benefits”.
  - Which committee members will attend and which will facilitate?
- Committee suggested having two more community forums. Directed staff to look into having one forum in Oakdale 3-6pm and one in Patterson 6-9pm and look into availability for locations. Dates considered were June 13, 20, and 27.

## **QUESTIONS AND ANSWERS**

- Handed out copies of the survey sent by the California Department of Social Services (CDSS) to Stanislaus County regarding progress on implementing AB1682.
- Dwight Bateman asked if handouts could be supplied to committee members prior to the meeting to give them time to review the information.
- Jeff Lambaren asked that the committee send a letter to the San Francisco Public Authority thanking them for their generosity in hosting the committee's visit.

## **AGENDA ITEMS FOR NEXT MEETING**

- Schedule a review meeting.
- Presentation by Alan Stolmack, Chief of Adult Programs Branch.

Meeting adjourned @ 3:00pm  
Larry Baptista, Recorder

# IHSS ADVISORY COMMITTEE

## TURLOCK COMMUNITY FORUMS

<u>WHERE</u>	<u>DATES AVAILABLE</u>	<u>TIME</u>	<u>SEATING CAPACITY</u>
TID BUILDING 333 E. CANAL DR TURLOCK	FRIDAY, MAY 17 <sup>th</sup> or THURS., MAY 30 <sup>th</sup>	6pm – 9pm 6pm – 9pm	100 PERSONS
COMMUNITY CONTINUUM COLLEGE 1731 COLORADO AVE. TURLOCK	THURS., MAY 30 <sup>th</sup>	6pm – 9pm	150 PERSONS

**Employer of Record**  
**Cost Comparison**

PROJECTED YEAR 2002/2003  
COUNTY ADMINISTERED I.P. PROGRAM

Individual Provider (IP) Mode - Current IHSS Costs for 02/03	Title	County Administered IP Mode 02/03 I.P. Wages @ \$7.11
\$3,294,018	A. Admin. Costs	\$3,544,018
\$494,103	B. County Share of Admin. Costs	\$531,603
\$29,681,368	C. Program Costs	\$30,345,250
\$5,977,828	D. County Share of Prog. Costs	\$6,111,533
\$6,471,930	E. Total County Share (Total of rows B+D)	\$6,643,136
	F. Less Current County Share	\$6,471,930
	G. Increase to County Share	\$171,206

# IHSS Cost Comparison

Year 2001/2002  
Revised Post Midyear

Individual Provider (IP) Mode - Current IHSS Costs for 01/02 Midyear	Title	Individual Provider (IP) Mode - Current IHSS Costs for 01/02 Revised Post Midyear
\$3,009,809	A. Admin. Costs	\$3,009,809
\$451,471	B. County Share of Admin. Costs	\$451,471
\$25,747,487	C. Program Costs	\$26,151,148
\$5,185,813	D. County Share of Prog. Costs	\$5,262,491
\$5,637,284	E. Total County Share (Total of rows B+D)	\$5,713,963
	F. Less Current County Share	\$5,637,284
	G. Increase to County Share	\$76,679

# Employer of Record Cost Comparison

CURRENT IHSS COSTS/PROJECTED IHSS COSTS  
Year 2002/2003

Individual Provider (IP) Mode - Current IHSS Costs for 01/02 Revised Post Midyear	Title	Individual Provider (IP) Mode - Projected Current IHSS Costs for 02/03
\$3,009,809	A. Admin. Costs	\$3,294,018
\$451,471	B. County Share of Admin. Costs	\$494,103
\$26,151,148	C. Program Costs	\$29,681,368
\$5,262,491	D. County Share of Prog. Costs	\$5,977,828
\$5,713,963	E. Total County Share (Total of rows B+D)	\$6,471,930
	F. Less Current County Share	\$5,713,963
	G. Increase to County Share	\$757,967

# Employer of Record Cost Comparison

PROJECTED YEAR 2002/03 COSTS  
OVER THE CURRENT 01/02 REVISED POST MID-YEAR COSTS

Projected Current Individual Provider (IP) Mode - Costs for 02/03	Title	Contract Mode*		County Homemaker Mode*		Public Authority/Non-Profit Consortium		County Administered IP Mode	
		Max. allowable contract rate = \$14.00/hr	**100% of Caseload	20% of Caseload, Contract & 80% Caseload, IP	**100% of Providers as County Employees	10 County Homemaker's (County Employee's)	IP Wages @ \$7.50		IP Wages @ \$8.00
\$3,294,018	A. Admin. Costs	\$3,294,018			\$3,294,018				
\$494,103	B. Admin. Costs	\$494,103			\$494,103				
\$29,681,368	C. Program Costs	\$54,672,612			\$57,005,836				\$30,345,250
\$5,977,828	D. County Share of Prog. Costs	\$11,011,064			\$11,480,975				\$6,111,533
\$6,471,930	E. Total County Share (Total of rows B+D)	\$11,505,167			\$11,975,078				\$6,643,136
\$5,713,963	F. Less Current 01/02 Revised post Mid-Year County Share	\$5,713,963							\$5,713,963
\$757,967	G. Increase to County Share***	\$5,791,204			\$6,261,115				\$929,173

\*This mode, by itself, does not meet the "Employer of Record" requirement under AB 1682.

\*\*Not a valid option. Under no circumstances would 100% of the caseload be contract cases nor would 100% of providers be County Employees.

\*\*\*This projection includes the base increase of \$757,967 plus the increase due to the cost of the AB1682 option.





**COUNTY ADMINISTRATION OF THE IP MODE**  
**APRIL 26, 2002**

**One of the options for the “Employer of Record” under AB 1682 is for the County to become the “Employer of Record “ of IHSS providers solely for the purpose of bargaining for wages and benefits. The County does not assume the role of the employer for any other purpose. This is distinctly different from the County Homemaker Mode.**

This option, County Administration of the IP Mode, is one of the 2 options that provide an “Employer of Record” for the IP mode. For the purposes of meeting the requirements of AB1682 a County with more than 500 cases must have as the “Employer of Record” either a PA/NPC or a County Administration of the IP Mode or a mixed mode containing one of the above.

AB 1682 is not specific in detailing what a County Administered IP Mode must provide beyond the continued operation of the Advisory Committee as established by AB 1682 and the responsibility of the County to bargain for wages and benefits with IP’s or the union that represents the IP’s.

Please note that most of the required services in AB 1682(maintain an IP registry and referral system, offer training to recipients and providers and do background checks on the providers on the registry) Stanislaus County currently provides through the Supported IP (SIP) enhancement to the IP Mode.

Under the County Administered IP Mode, the County would be responsible for designating an entity, either a County Department or a private company, to bargain with the union that represents the IP’s in Stanislaus County for wages and benefits.

The increased cost to the IP Program for bargaining, liaison services and liability insurance would be considered an Administrative cost and would be added to the administrative budget. Currently the County’s share of Administrative costs in the IP Program is 15%.

The increased cost for the IP Program for wages/benefits would be Program costs. Currently the County's overall share of Program costs is 20%.

Liability is one of the main issues in presenting the County Administered IP Mode as a viable option under AB 1682. AB 1682 restates the liability protection for the State and County found in All County Letter 98-20: the County or the State will not be responsible for any liability or obligation of a PA/NPC whether statutory, contractual or otherwise. The language in AB 1682 regarding liability for the County and the State has made counties hesitant to consider the County Administered IP Mode as a viable option.

Alan Stolmack, Chief of the Adult Programs Branch of the California Department of Social Services, stated at a meeting in Tuolumne County that he does not believe counties take on additional liability if they choose the County Administered IP Mode. The liability protection discussed in AB 1682 has never been tested in court.

Alan Stolmack will be making a presentation to our Committee regarding liability issues on May 10, 2002.

The other issue present in the County Administered IP Mode is wages. Currently for non-PA/NPC counties there is a wage cap of \$7.11 for wages and benefits. This means that the State will not participate in any wage/benefit increases above \$7.11 per hour. Any increase above \$ 7.11 per hour would be approximately 50 % County money for PCSP cases and 100% County money for Non PCSP cases.

**The recipient retains the right to hire, fire and to supervise their IHSS Provider.**

April 4, 2002

ALL-COUNTY INFORMATION NOTICE NO. 127-02

TO: ALL COUNTY WELFARE DIRECTORS  
IHSS PROGRAM MANAGERS

SUBJECT: ASSEMBLY BILL 1682, CHAPTER 90, STATUTES OF 1999 (AB 1682)  
IMPLEMENTATION TIMELINE COMPLIANCE QUESTIONS RAISED BY  
COUNTIES

<b>REASON FOR THIS TRANSMITTAL</b>	
<input type="checkbox"/>	State Law Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input type="checkbox"/>	Court Order
<input checked="" type="checkbox"/>	Clarification Requested by One or More Counties
<input type="checkbox"/>	Initiated by CDSS

In recent months counties have submitted a number of questions regarding the implementation requirements of AB 1682. The following information responds to those questions.

**Question 1. How is compliance with the AB 1682 deadline of January 1, 2003 defined?**

**Answer:** A county is in compliance with AB 1682 if the following conditions are met on or before January 1, 2003:

- i. The county has created and convened the Advisory Committee required by AB 1682.
- ii. The County Board of Supervisors has "officially" made the decision as to which option(s) the county will utilize to meet the employer/employee relations functions described in AB 1682 taking into account the advice and recommendations of the Advisory Committee.
- iii. The county can act as, or has established and has operational, an employer capable of fulfilling the requirements and functions set forth in Chapter 10 of the Government Code §3500 et seq., (Meyers, Milias, Brown Act) and other state and federal laws.

The three options available to a county in complying with the statute are County Employment (Homemaker Mode), Contract Mode and Individual Provider Mode. A county may elect to use mixed modes of service consisting of any combination of the three available modes.

If a county chooses to offer the Individual Provider mode, the county can meet the AB 1682 "employer" requirements by serving in that capacity itself, creating a Public Authority (PA) or contracting with a Non-Profit Consortium.

**Question 2. Does the Board of Supervisors' adoption of the ordinance establishing a PA by January 1, 2003 meet the AB 1682 requirement that the Board designate an "employer" by that date?**

**Answer:** If a county chooses the PA option to meet the requirements of AB 1682, merely having the ordinance adopted by the county board of supervisors that creates the public authority is not sufficient to comply with AB 1682.

**Question 3. To be in compliance with AB 1682, what, in addition to adopting the ordinance, does a PA county have to have accomplished by January 1, 2003, that is, what legal infrastructure must be in place?**

**Answer:** For compliance with AB 1682 a PA must be:

- i. Established by the local ordinance.
- ii. Have the necessary agreement with the county fully executed.
- iii. Be staffed and operational to the extent that it can carry out the employer's responsibilities under the employer-employee relations statutes cited in the bill.

**Question 4. Does the California Department of Social Services or (the Department) have a time-line expectation and specific products for full implementation once the PA ordinance is passed, and the PA is created?**

**Answer:** The Department is evaluating the need for regulations regarding the implementation time frame(s) for PAs. At the present time, there are no established standards in this area. Since the county is contracting with the PA, it is the county's responsibility to ensure that the county's interagency agreement with the PA establishes explicit contractual requirements for the PA to fully implement the PA's statutory responsibilities to deliver services to recipients and providers. The county has a responsibility in executing its agreement with the PA to exercise due diligence to ensure that those services become available in accordance with a reasonable work plan and timeline established in the agreement.

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<sup>1</sup> "Employer" for purposes of this ACIN is the term designating the employer that meets the requirement of AB 1682 as articulated in W&I Code 12302.25. (a) On or before January 1, 2003, each county shall act as, or establish, an employer for in-home supportive service providers under Section 12302.2 for the purposes of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code and other applicable state or federal laws.

Pursuant to our existing regulations governing public authorities, there are minimum requirements the PA must meet. The services that a PA must provide are listed in the Manual of Policy and Procedures (MPP) at 30-767.23. It should be noted those same requirements apply to an NPC. One of the minimum requirements is to "Provide registry services to recipients..." MPP 30-767.231. A PA cannot be in compliance with the requirements of AB 1682 or even the prior existing statutes if it does not establish a functional registry.

**Question 5. What is the allowed time limit for establishing an Employer/Employee Relations Policy following adoption of the ordinance creating the PA?**

**Answer:** There is no express statutory requirement that an employer, under Government Code §3500 et seq., have a written Employer/Employee Relations Policy. Hence, there is no timeline requirement.

Government Code §3507 allows a public employer to establish reasonable rules and regulations for administering employer-employee relations, but only after consultation in good faith with representatives of an employee organization.

**Question 6. As a matter of practical application, if a county intends to establish a fully functional PA, and passes such an ordinance, but can't fulfill the employer function required by AB 1682 through the PA by January 1, 2003, must the county "act as" the "employer" in the interim? If the county takes no action is it automatically defaulted to act as the "employer"?**

**Answer:** A county does not become the AB 1682 "employer" by operation of law if it has not established its AB 1682 "employer" by January 1, 2003. The statute requires that counties act as or establish an "employer" on or before that date. If a county fails to do one or the other it will be out of compliance with the statute, and to that extent, it will be in violation of the law. Accordingly, a county may, but is not legally required to, "act as" the "employer" for purposes of compliance with AB 1682 until a PA created by a county becomes fully functional.

**Question 7. Can a county change its mode(s) of service and, consequently, its means of complying with AB 1682 after implementing its initial approach to AB 1682 compliance?**

**Answer:** There is no statutory prohibition against a county changing its IHSS mode(s) of service or changing methods of service delivery. Similarly, there is no legal bar to a county changing its method for complying with AB 1682. However, the County's Advisory Committee must be consulted as required by Welfare and Institutions Code (W&I Code) §12302.25 as to the modes and methods of service delivery before any changes are made.

If you have any questions regarding this letter, please contact Alan Stelmack,  
Chief, Adult Programs Branch at (916) 229-4582.

Sincerely,



DONNA L. MANDELSTAM  
Deputy Director  
Disability and Adult Programs Division