Bylaws
California In-Home Supportive Services Authority

ARTICLE I

Authority

The California In-Home Supportive Services (IHSS) Authority, established pursuant to Government Code section 6531.5, hereafter referred to as the IHSS Statewide Authority, is a joint powers authority.

ARTICLE II

Purpose

The IHSS Statewide Authority will serve as the employer of record of individual IHSS providers, for collective bargaining purposes only, in Coordinated Care Initiative demonstration counties (Government Code section 6531.5 and 110006; Welfare and Institutions Code section 12300.7).

ARTICLE III

Powers and Duties

3.1. The IHSS Statewide Authority is authorized to meet and confer in good faith regarding wages, benefits, and other terms and conditions of employment, in accordance with Title 23 (commencing with section 110000) of the Government Code, with representatives of recognized employee organizations for any individual provider who is employed by a recipient of IHSS described in section 12300 of the Welfare and Institutions Code.

3.2. The IHSS Statewide Authority shall be a public entity separate and apart from the parties that have appointing power to the IHSS Statewide Authority or the employers of those individuals so appointed.

3.3. The authority of the IHSS Statewide Authority shall commence in a county upon the county implementation date described in section 12300.7, subdivision (a), of the Welfare and Institutions Code.

3.4. The IHSS Statewide Authority and the Department of Human Resources and other state departments may enter into a memorandum of understanding or other agreement to have the Department of Human Resources, on behalf of the IHSS Statewide Authority, meet and confer in accordance with subsection 3.1, or to provide the IHSS Statewide Authority with other services, including, but not limited to, administrative and legal services.

3.5. The IHSS Statewide Authority shall appoint an advisory committee known as the IHSS Stakeholder Advisory Committee that shall be comprised of not more than 13 individuals.

3.5.1. The IHSS Statewide Authority shall designate a Department of Social Services employee to provide ongoing advice and support to the advisory committee.

3.5.2 The IHSS Statewide Authority shall solicit recommendations for qualified members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations.

ARTICLE IV

Disclaimers

4.1 The IHSS Statewide Authority shall, for the sole and limited purpose of collective bargaining for wages, benefits, and other terms and conditions of employment, be deemed the employer of record of individual providers of IHSS pursuant to Government Code section 110023.

4.2 The IHSS Statewide Authority shall not be deemed to be the employer of any individual provider who is employed by a recipient of IHSS, as described in Division 9, Part 3, Chapter 3, Article 7 (commencing with section 12300) of the Welfare and Institutions Code and sections 14132.95, 14132.952, and 14132.956 of the Welfare and Institutions Code, for purposes of liability due to the negligence or intentional torts of the individual provider.

4.3 The IHSS recipient shall be the employer of an individual provider with the unconditional and exclusive right to hire, fire, and supervise his or her provider.

4.4 Any collective bargaining agreement between the IHSS Statewide Authority and any recognized employee organization(s) representing individual providers shall not be binding, but presented in a jointly prepared written memorandum of understanding to the Legislature for a determination by majority vote.

4.5. The IHSS Statewide Authority shall not be responsible for the payment of wages and benefits to individual providers.

4.6 The IHSS Statewide Authority shall not be the employer of record of individual providers of IHSS who provide services pursuant to the county-employed homemaker mode or the contractor mode, as authorized in section 12302 of the Welfare and Institutions Code. The IHSS Statewide Authority shall not be the employer of record of individual providers of IHSS who provide services under a Cash and Counseling model.

ARTICLE V

Members

5.1 The IHSS Statewide Authority shall consist of the following five members:

5.1.1 Two members shall be county officials who are appointed by, and who serve at the pleasure of, the Governor;

5.1.2 Three members shall be the Director of Social Services, the Director of Health Care Services and the Director of Finance, in their ex officio capacities or their duly appointed representatives.

5.2 The members of the IHSS Statewide Authority shall serve without compensation, but will be provided reimbursement for travel and other necessary expenses while engaged in the performance of official IHSS Statewide Authority duties.

5.3 IHSS Statewide Authority members shall file statements of economic interest as required by the Political Reform Act. The terms of the standard Conflict of Interest Code (set forth in California Code of Regulations, Title 2, section 18730) adopted by the Fair Political Practices Commission and as may be amended, are incorporated by reference and constitute the Conflict of Interest Code of the IHSS Statewide Authority.

ARTICLE VI

Office Location

The IHSS Statewide Authority shall have its principal office in the city of Sacramento.

ARTICLE VII

Officers and Duties

7.1 The IHSS Statewide Authority shall elect a Chair and a Vice-Chair. The term of the Chair shall be no longer than one year and the Chair will hold office until his or her successor is duly elected. The term of the Vice-Chair shall be no longer than one year and the Vice-Chair will hold office until his or her successor is duly elected.

7.2 The Chair shall be the executive head of the IHSS Statewide Authority organization and shall preside at all meetings. The Chair is authorized to represent the IHSS Statewide Authority before all public bodies, sign papers on behalf of the IHSS Statewide Authority and perform such other duties as the IHSS Statewide Authority may from time to time assign. The Vice-Chair serves as Chair in the absence of the Chair or when a motion involving the Chair is being discussed.

7.2.1 In the event that both the Chair and Vice-Chair cannot attend a meeting, the Chair shall designate another IHSS Statewide Authority member to serve as the Chair during his or her absence and the absence of the Vice-Chair.

7.3 The IHSS Statewide Authority may appoint an Administrative Officer, who shall act under the authority of, and in accordance with, the direction of the IHSS Statewide Authority. The Administrative Officer shall manage the operations of the IHSS Statewide Authority, coordinate communications, provide support to the IHSS Stakeholder Advisory Committee, and perform all duties delegated by the IHSS Statewide Authority.

7.4 The IHSS Statewide Authority may appoint, retain and remove staff for the purposes of carrying out the functions of the IHSS Statewide Authority. As necessary, the Administrative Officer shall appoint, retain and remove all nonexempt staff as necessary and, where applicable, in accordance with civil service rules.

ARTICLE VIII

Meetings

8.1 IHSS Statewide Authority meetings shall be held on a regular basis at a time and place to be specified by a vote of the IHSS Statewide Authority.

8.2 All meetings of the IHSS Statewide Authority, except those closed sessions permitted by law, shall be open and public. All meetings shall conform to the Bagley-Keene Open Meeting Act, including requirements for notice of meetings, preparation and distribution of agendas and written materials, inspection of public records, closed sessions and emergency meetings, maintenance of records, and disruption of a public meeting, subject to the exemptions pursuant to Government Code section 110034.5. Those provisions of law which govern the conduct of meetings of the IHSS Statewide Authority are hereby incorporated by reference into these Bylaws.

8.3 The following proceedings are exempt from the Bagley-Keene Open Meeting Act, pursuant to Government Code section 110034.5:

8.3.1 Any meeting, negotiation or discussion between the IHSS Statewide Authority or its designated representative and a recognized or certified employee organization.

8.3.2 Any meeting of a mediator with either party or both parties to the meeting and negotiation process described in 8.3.1.

8.3.3 Any hearing, meeting or investigation conducted by a factfinder or arbitrator in connection with the activities described in 8.3.1.

8.3.4 Any executive session of the IHSS Statewide Authority or between the IHSS Statewide Authority and its designated representative, including, but not limited to, the Department of Human Resources, for the purpose of discussing its position regarding any matter within the scope of representation and its designated representatives.

8.4 Notice of each regular meeting subject to the Bagley-Keene Open Meeting Act shall be posted at least 10 days prior to the day of the meeting and shall include the time, date, and place of the meeting and a copy of the meeting agenda. Notice of any meeting of the IHSS Statewide Authority shall be given to any person so requesting. Upon written request, individuals and organizations wishing to receive notice of meetings of the IHSS Statewide Authority will be included on the distribution list for notice of regular meetings.

8.5 Special meetings may be called by the Chair if compliance with the 10-day notice would impose a substantial hardship on the IHSS Statewide Authority or if immediate action is required to protect the public interest, subject to the provisions of the Bagley-Keene Open Meeting Act.

8.6 In furtherance of Government Code section 11125.7, the IHSS Statewide Authority shall provide an opportunity for members of the public to directly address the IHSS Statewide Authority on each public session agenda item following the IHSS Statewide Authority's discussion or consideration of the item. This opportunity may not, at the IHSS Statewide Authority's discretion, apply to an agenda item that has already been considered by a committee composed exclusively of IHSS Statewide Authority members at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, unless the item has been substantially changed, as determined by the IHSS Statewide Authority, since the committee heard the item. The opportunity to comment shall not apply to sessions as authorized under Government Code sections 11120 et. seq. and 110034.5.

8.7 As necessary to ensure that the open session of a meeting is conducted in orderly fashion and in accordance with the timeframes noted in a published agenda for that meeting, the IHSS Statewide Authority may impose limitations on the total amount of time allocated for public comment on particular issues and for each individual speaker. Such time limitations shall be announced by the Chair at the beginning of each open session meeting.

ARTICLE IX

Quorum

Three of the appointed voting members of the IHSS Statewide Authority shall constitute a quorum of the Board. The IHSS Statewide Authority may act only upon the affirmative vote of at least three members.

ARTICLE X

Rules of Order

Discussion and proceedings before the IHSS Statewide Authority and between IHSS Statewide Authority members shall be conducted in accordance with Robert's Rules of Order (Newly Revised) when not in conflict with rules of the IHSS Statewide Authority and other statutory requirements.

ARTICLE XI

IHSS Stakeholder Advisory Committee

11.1 The IHSS Stakeholder Advisory Committee shall provide ongoing advice and recommendations regarding the IHSS program to the IHSS Statewide Authority and the California Departments of Social Services and Health Care Services.

11.2 No less than 50 percent of the 13-member Advisory Committee shall be individuals who are current or past users of personal assistance services paid for through public or private funds or recipients of IHSS.

11.2.1 At least two members of the Advisory Committee shall be current or former providers of IHSS.

11.2.2 Individuals who represent organizations that advocate for people with disabilities or older adults may be appointed to the Advisory Committee.

11.2.3 Individuals from each representative organization that are designated representatives of individual providers shall be appointed to the Advisory Committee.

11.3 The initial term of office for each member of the Advisory Committee shall be for one (1) or two (2) years, as determined by the IHSS Statewide Authority, to allow for staggered terms. Incumbents may be appointed to one additional two-year successive term. Members serve at the discretion of the IHSS Statewide Authority.

ARTICLE XII

Procedures for Conduct of Business

12.1 The IHSS Statewide Authority confers signature authority to the Administrative Officer and his or her designee for the purpose of executing all contracts and other legal documents on behalf of the IHSS Statewide Authority.

12.2 For all contracts valued at $50,000 or less, the IHSS Statewide Authority delegates its authority to enter into or amend contracts to the Administrative Officer.

12.3 For contracts in excess of $50,000, after the IHSS Statewide Authority has authorized expenditure for such contracts, the IHSS Statewide Authority delegates to the Administrative Officer and his or her designee the authority to award and enter into such contracts, subject to State Administrative Manual, commencing with Chapter 1200.

12.4 For all contracts of $10,000 or less, the IHSS Statewide Authority authorizes the Administrative Officer to delegate authority to his or her designee to enter into or amend contracts for the sole purpose of the procurement of goods, equipment, administrative and consultant service agreements necessary to carry out administrative operations of the IHSS Statewide Authority.

12.5 The Administrative Officer will provide a report on all executed contracts to the IHSS Statewide Authority at the next public meeting following execution of any contract.

12.6 The IHSS Statewide Authority delegates to the Administrative Officer the authority to establish administrative policy to ensure compliance with federal and state laws, regulations and policies governing government operations.

ARTICLE XIII

Termination

13.1 The authority of the IHSS Statewide Authority shall be terminated if the Coordinated Care Initiative becomes inoperative pursuant to Senate Bill 94, Chapter 37, Statutes of 2013(section 34 (d) (1)), except as follows:

13.1.1 For any agreement that has been negotiated and approved by the IHSS Statewide Authority, the Statewide Authority shall continue to retain its authority pursuant to section 6531.5 and Title 23 (commencing with section 110000) of the Government Code and sections 12300.5, 12300.6, 12300.7, and 12302.6 of the Welfare and Institutions Code, and shall remain, for the purposes of collective bargaining only, the employer of record for all individual providers covered by the agreement until the agreement expires or is subject to renegotiation, whereby the authority of the IHSS Statewide Authority shall terminate and the county shall be the employer of record in accordance with section 12302.25 of the Welfare and Institutions Code and may establish an employer of record pursuant to section 12301.6 of the Welfare and Institutions Code.

13.1.2 For an agreement that has been assumed by the IHSS Statewide Authority that was negotiated and approved by a predecessor agency, the IHSS Statewide Authority shall cease being the employer of record and the county shall be reestablished as the employer of record for purposes of collective bargaining and in accordance with section 12302.25 of the Welfare and Institutions Code, and may establish an employer of record pursuant to section 12301.6 of the Welfare and Institutions Code.

ARTICLE XIV

Amendments

These Bylaws may be amended or repealed by the IHSS Statewide Authority at any duly noticed regular or special meeting by a vote in accordance with Article 9 of the Bylaws.

ADOPTED: February 23, 2015

Chair, IHSS Statewide Authority