



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
**C-8**

For the meeting of: April 5, 2016

Date: March 23, 2016

To: Board of Supervisors

From: Connie Beck, Director *CB*  
Department of Health and Human Services

Subject: Allocate one Social Services Aide and one Social Worker III in Budget Unit 511.

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the allocation of one (1.0 FTE) Social Services Aide (job class 0708, salary range 287) position in budget unit 511; and
2. Approve the allocation of one (1.0 FTE) Social Worker III (job class 0727, salary range 382) position in budget unit 511; effective immediately upon Board approval.

SOURCE OF FUNDING:

Social Services Fund

DISCUSSION:

On October 1, 2013 the United States Department of Labor published the Final Rule on the Application of the Fair Labor Standards Act (FLSA). The Final Rule extends the protections of FLSA to In-Home Supportive Services (IHSS) care providers and removes a longstanding exemption from overtime pay. As of February 1, 2016, California Department of Social Services (CDSS) implemented the provisions of SB 855 and SB 873. This legislation implements FLSA by establishing new authorized tasks, pay for travel time and limits on the number of authorized hours and overtime hours care providers in the IHSS and Waiver Personal Care Services (WPCS) programs are permitted to work.

Prepared by Yvonne Winter, Deputy Director – ES

CAO Approval *Cashier Hayes*

REVIEW: Auditor *MSM* County Counsel \_\_\_\_\_ Personnel *df* Risk Manager \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
Upon motion of Supervisor *Fennell* Seconded by Supervisor *Bass*  
Ayes *Sundberg, Fennell, Lovelace, Bohm, Bass*  
Nays \_\_\_\_\_  
Abstain \_\_\_\_\_  
Absent \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:

Board Order No. \_\_\_\_\_

Meeting of: \_\_\_\_\_

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *April 5, 2016*  
By: *Kathy Hayes*  
Kathy Hayes, Clerk of the Board

Implementation has had significant impact on programs across the state and has greatly increased workload. On December 1, 2015 All County Letter (ACL) 15-97 required counties to hire additional staff to support all operational/administrative activities to effectively implement the new statute and indicated that funding had been made available to support hiring. The initial burden of FLSA implementation in Humboldt County and in counties across the state is being felt in clerical and payroll divisions with the development of new complex documentation and fielding increased calls from some of the community's most vulnerable members. Ongoing impacts include increased workloads to meet state mandates for training to thousands of IHSS care providers and recipients and new casework, assessment and authorization are being required in ongoing cases. To adequately provide the increased services the IHSS program will need a Fiscal Assistant, Office Assistant, Social Services Aide and Social Worker III. Current vacancies are being assigned for the Fiscal Assistant and Office Assistant, however; there is no vacancy for the Social Services Aide or Social Worker III position. During the 2016-17 budget process an assessment of the impact to Social Services due to the redirection of vacancies to FLSA will be considered.

Therefore, Humboldt County Department of Health and Human Services is requesting two new staff positions. The addition of a Social Services Aide and Social Worker III will allow the program to continue to provide excellent service to the community and comply with FLSA requirements.

FINANCIAL IMPACT:

The annual salary and benefits associated with the request to allocate one (1.0 FTE) Social Services Aide (job class 0708, salary range 287) ranges between \$47,408 (1A step) and \$57,229 (E step) and one (1.0 FTE) Social Worker III (job class 0727, salary range 382) ranges between \$68,426 (1A step) and \$83,989 (E step). There is sufficient appropriation to cover the estimated three (3) month increased cost of \$28,959 request due to unanticipated vacancies during the fiscal year in fund 1160, budget unit 511-Administration. This position will be 100% funded through IHSS. Costs associated with the two (1.0) FTE's will be included in the proposed budget for fiscal year 2016-17. There is no impact to the County General Fund.

This request supports the Board's Strategic Framework by protecting and creating opportunities for improved safety and health for vulnerable populations.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

None are recommended

ATTACHMENTS:

CDSS All County Letter NO. 15-97  
Merit Systems Services Letter



WILL LIGHTBOURNE  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



EDMUND G. BROWN JR.  
GOVERNOR

December 1, 2015

ALL COUNTY LETTER 15-97

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS  
IN-HOME SUPPORTIVE SERVICES PROGRAM MANAGERS  
PUBLIC AUTHORITY EXECUTIVE DIRECTORS

SUBJECT: IMPLEMENTATION OF PROVISIONS OF SENATE BILLS 855  
AND 873 (CHAPTERS 29 AND 685, STATUTES OF 2014)  
RELATING TO THE IHSS AND WAIVER PERSONAL CARE  
SERVICES PROGRAMS

REFERENCE: SB 855; SB 873; ACL 14-76; ACL 14-35; ACL 13-66; ACL 12-19;  
ACL 12-55.

This All County Letter (ACL) notifies counties of the upcoming implementation of provisions that establish limits on the number of authorized hours providers in the In-Home Supportive Services (IHSS) and Waiver Personal Care Services (WPCS) programs are permitted to work in a workweek. This ACL also serves to notify counties of the responsibility to implement the overtime and travel compensation requirements effective February 1, 2016.

**Background**

On October 1, 2013, the United States Department of Labor (DOL) published the Final Rule on the Application of the Fair Labor Standards Act (FLSA) to Domestic Service (RIN 1235-AA05). The Final Rule extends the protections of the FLSA to these workers by effectively removing "third party" agencies from claiming an exemption for personal care workers from minimum wage and overtime pay as providers of "companionship services" or as live-in providers. The final rules additionally narrows the definition of "companionship services" to strictly "fellowship and protection" that may include

provision of care (i.e., assistance with Activities of Daily Living and Instrumental Activities of Daily Living only if the care is provided as part of the fellowship and protection and does not exceed twenty percent of the total hours worked per person and per workweek).”

Current requirements under FLSA remain the same and are now applicable to IHSS providers' travel time compensation when IHSS providers travel between recipients and wait time during medical accompaniment.

Senate Bill (SB) 855 added section 12300.4 to the Welfare and Institutions Code to specify that IHSS and/or WPCS providers are limited to working no more than a specified maximum number of hours in a workweek. This section also limits providers to travel no more than 7 hours each week when travel is utilized for providing services for multiple recipients on the same day. The term “workweek” is defined in statute as the period beginning at 12.00 a.m., on Sunday and including the next consecutive 168 hours terminating at 11:59 p.m., the following Saturday. SB 855 also requires that each recipient's monthly hours be divided into a weekly authorized number of hours.

### **State Responsibilities**

Beginning December 5, 2015, the California Department of Social Services (CDSS) will send out informational notifications, instructions and applicable forms to all IHSS recipients and providers to inform them of the overtime and travel time requirements. CDSS will also provide copies of samples of these documents to counties and provide guidance and instruction regarding the changes made to policies governing overtime and travel time via an All County Letter to be released in December. Funding has been made available for counties to support the hiring of additional staff for the implementation activities related to these new program requirements.

### **County Responsibilities**

It is imperative that counties are equipped with the necessary resources to ensure success of FLSA implementation. Counties will be responsible for implementing and enforcing the overtime requirements, travel time and wait time compensation limits. Counties will be required to hire additional staff to support all operational/administrative activities to effectively implement the new statute, including but not limited to:

- Familiarizing IHSS county staff with updated procedures and revised forms,
- Providing outreach and additional assistance to IHSS recipients to ensure that they understand the implications of the new requirements and that they take all the necessary steps to successfully comply with statutes,

ACL 15-97  
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- Ensuring IHSS providers understand their obligations under the workweek limitations, and
- Developing a process to assist recipients and providers in preparing the necessary forms.

The workweek limitation will represent a significant change for recipients, especially those accustomed to having all of their authorized services provided by a single individual, such as a relative provider, and who may now require multiple providers in order to remain within the new provider workweek limitations. Counties are expected to work with their public authorities to facilitate and complete outreach activities for the purpose of increasing the provider registries and hiring additional providers.

Counties are expected to destroy previously collected overtime forms and workweek agreements in a manner which protects the confidentiality of the information contained on the documents. Data which had been entered into the Case Management, Information and Payrolling System (CMIPS) pertaining to this information will be deleted.

Should you need further information, please direct all questions or requests for clarification regarding this notice to the Policy and Operations Bureau, Adult Programs Division at (916) 651-5350.

Sincerely,

***Original Document Signed By:***

EILEEN CARROLL  
Deputy Director  
Adult Programs Division



March 15, 2016

Connie Beck, Director of Health and Human Services  
Humboldt County Department of Health and Human Services  
929 Koster Street  
Eureka, CA 95501

Dear Director Beck:

This letter is in response to your department's request to add positions related to implementation of the AB855 and implementation of the new FLSA requirements for the In Home Supportive Services program.

Merit System Services (MSS) agrees with the following additions:

- 1 Fiscal Assistant I/II – MSS Classification Account Clerk I/II
- 1 Social Services Aide
- 1 Office Assistant I/II
- 1 Social Worker III

The County had originally requested the addition of a SW IV position, but based on the duties of the IHSS program, MSS recommends the county add a Social Worker III as the appropriate classification for these duties.

Once your department has approval from the Board of Supervisors to add this position, please provide MSS with the Board minutes. Once received, MSS will conduct a recruitment to fill this vacancy, at the county's request.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Tameka Usher". The signature is written in a cursive, flowing style.

Tameka Usher  
MSS Program Manager

Cc: Yvonne Winter, Humboldt County HHS  
Humboldt County Department of Human Resources  
Karen Rodriguez, MSS Consultant