

Response to Ventura County 2005-2006 Grand Jury Report
In-House [Home] Support Services Department

Summary Response

The 2005-2006 Grand Jury report titled, *In-House [Home] Support Services Department* contains two broad recommendations:

1. Conduct nationwide DOJ background checks for all service providers, whether obtained through the In-Home Support Services Public Authority (IHSS PA) registry or selected by the clients themselves.
2. Take responsibility for ensuring that all service providers have a legal right to work in the United States by completing and maintaining I-9 forms, acting as the client's agent.

The In-Home Support Services division of the Human Services Agency (IHSS) and IHSS PA agree with the recommendations and are beginning to implement them. Currently, IHSS PA provides background checks on registry providers only; client obtained providers do not receive one. The background checks are performed by the Ventura County Sheriff's Department and contain information regarding activities done in Ventura County only. IHSS and IHSS PA had some initial reservations about implementing the recommendations for fear that taking a more active role in employee-employer related issues could increase the County's liability in case of lawsuits arising from provider negligence or other issues. However, County Counsel has advised that the Welfare & Institutions Code provides broad authority and protections to the County (e.g. W&I 12301.6, subd. (f)(3)), and we have determined that the benefits of implementing the recommendations outweigh any additional risk to the County.

IHSS & IHSS PA Remediation

Background Checks:

IHSS PA begin performing background checks on all service providers. The net cost for each background check is \$26, calculated as follows: DOJ charges \$32, Sheriff fingerprinting \$10, however 50% (\$16) of DOJ charges are federally reimbursable, reducing the net unit cost to \$26. Performing background checks on all current and future providers is estimated to cost:

Current IHSS PA Providers (500 x \$26 each)	\$13,000
Current Client Obtained Providers (2200 x \$26 each)	\$57,200
Future IHSS PA Providers - Annual Ongoing (240 x \$26 each)	\$ 6,240
Future Client Obtained Providers (200 x \$26 each)	<u>\$ 5,200</u>
Total For All Providers	\$81,640

IHSS PA will make every effort to provide the background checks within its adopted budget and will work with the CEO's office to make appropriation adjustments if necessary. It will

take time for IHSS PA staff to process approximately 3000 DOJ background checks. IHSS PA does not have a reliable estimate at this time.

Legal Right to Work in the US (I-9):

IHSS PA will begin taking responsibility for completing, processing and maintaining I-9 forms for all providers. IHSS PA currently processes I-9 forms for IHSS PA providers, so the new policy will only affect client obtained providers. An estimated 2200 I-9 forms will be received from clients and processed. IHSS PA will need until December 31, 2007 to obtain and process the I-9s because of the large number of forms and the impact on staff. Obtaining and processing the I-9 forms will be added to the annual renewal process, spreading out the work and minimizing the impact on staff, providers, and clients alike. Providers who cannot verify their legal right to work in the United States will be removed from the program.

Response to Individual Findings and Recommendations

HSA's response to each Finding and Recommendation as required by Penal Code sec. 933.05 (a) through (c) is shown below.

Findings:

IHSS PA agrees with the Grand Jury's findings.

Recommendations:

R-01: The proposal by the Authority to perform complete background checks on IHSS providers added to the Registry should be implemented. The services offered by the California Department of Justice under W&IC§ 15660 should be utilized for this purpose.

Response: IHSS PA will begin performing DOJ background checks on all service providers.

R-02: As a normal part of entering a provider into the CMIPPS, the Authority should request a criminal background report from the California Department of Justice under W&IC§ 15660 as soon as an IHSS client informs the Authority that he or she has employed a provider who is not on the Registry. In order to comply with W&IC §12305.81, this should be done for all such providers, not merely when requested by the client. This must be done before any non-registry provider can be paid.

Response: IHSS PA will request a criminal background report from the California Department of Justice for all providers.

R-03: The Authority should develop a plan and schedule to obtain background reports from the California Department of Justice under W&IC§ 15660 for all current IHSS providers in order to comply with the W&IC §12305.81.

Response: IHSS PA has developed procedures to request and obtain background reports from the California Department of Justice.

R-04: The Authority should develop procedures that promptly remove from IHSS employment an provider who is ineligible under W&IC§12305.81 according to a report from the California Department of Justice under W&IC§ 15660.

Response: IHSS PA has developed procedures to promptly remove any provider who is determined to be ineligible under W & IC §. 12305.81.

R-05: Once the Authority obtains an initial background report on an IHSS provider from the California Department of Justice, the Department will notify the Authority regarding subsequent arrests of that provider. The authority should develop procedures to monitor the progress of criminal cases filed so that a person who becomes ineligible to be a provider under W&IC§12305.81 because of a criminal conviction is promptly removed from IHSS employment.

Response: IHSS PA is developing procedures to monitor the progress of criminal cases after receiving notification from the California Department of Justice that the provider was arrested.

R-06: A report on an IHSS provider received from the California Department of Justice under W&IC §15660 should be provided by the Authority to any client who employs that provider. This includes not only a report that shows the provider is eligible under W&IC§12305.81 but also follow-up reports of subsequent arrest of the provider.

Response: IHSS PA will not provide a copy of the California Department of Justice's report to clients when the report indicates any type of criminal activity. Rather, the IHSS PA will notify the client that his/her provider is ineligible because he/she did not pass the required background check and cannot participate in the program. Providing recipients with a copy of the report would not serve any purpose after the disqualified provider has been barred from the program. Section 15660 (a) (1) of the W & I Code does not mandate that IHSS PA give clients a copy of DOJ background reports.

R-08: When a person applies to be placed on the Registry as an IHSS provider, the Authority should complete a Form I-9 for that person as a normal part of processing the application in accordance with federal law.

Response: IHSS PA will complete and maintain an I-9 form for each potential provider that applies to be placed on the registry.

R-09: When an IHSS client informs the Authority that he or she has employed a provider not on the Registry, the Authority should complete a Form I-9 for that provider as a normal part of entering the provider into the CMIPPS in accordance with federal law.

Response: IHSS staff will complete and maintain an I-9 form for each new client obtained service provider.

R-10: The Authority should develop a plan and schedule to complete Form I-9 for all current IHSS providers.

Response: IHSS staff will complete and maintain an I-9 form for each new client obtained service provider.

R-11: The Authority should develop procedures to maintain files of Form I-9 for all providers either on the Registry or entered into CMIPPS. These procedures must include retaining a Form I-9 for a provider in accordance with federal law. The procedures must also provide for supplying copies of the Form I-9 to an IHSS client for each provider the clients employs.

Response: IHSS and IHSS PA will develop procedures to maintain I-9 forms for all new providers and provide clients copies upon request.