

IN-HOME SUPPORT SERVICES 2008-2009 Grand Jury Report

REASON FOR INVESTIGATION

The 2008-2009 Solano County Grand Jury elected to investigate the manner in which Solano County implements and maintains the In-Home Support Services program.

GRAND JURY ACTIONS

- Interviewed Director, Solano County Health & Social Services
- Interviewed Managers and Staff of Solano County In-Home Support Services program
- Requested and reviewed information from the State of California Department of Social Services regarding In-Home Support Services
- Reviewed information from the Solano County Health & Social Services Department regarding In-Home Support Services
- Reviewed information from other California counties with similar populations and similar In-Home Support Services case load levels
- Toured Solano County Health & Social Services Department and observed procedures for inputting provider timesheets
- Reviewed previous Solano County Grand Jury Reports regarding the In-Home Support Services program

BACKGROUND AND SUMMARY

The In-Home Support Services (IHSS) program targets low-income residents who are over the age of 65, or who have disabilities. The program provides them with in-home personal care. This allows people to remain at home who might otherwise be required to reside in assisted-living or in nursing facilities. IHSS contracts with providers who assist clients. Annual payments to providers of IHSS in Solano County total approximately \$33,000,000. Funding for IHSS comes from Federal, State and County agencies.

Eligibility for IHSS is based on client needs and Medi-Cal eligibility. Recipient assets are limited to:

- \$2,000 in personal property for an individual (\$3,000 for a couple)
- One home
- One car used to get to medical appointments
- Life insurance with a combined face value under \$1,500

A social worker from the County makes the assessment of eligibility and assigns a total number of hours of service to be provided, not to exceed 283 per month, based on client needs. In some unusual circumstances (for example, when a client is considered “severely disabled” and requires 20 or more hours per week of personal care services), the State can pay the client directly in advance and it is the client’s responsibility to pay the provider.

Some of the services provided are: basic housekeeping, wheelchair maintenance, personal care (bathing, feeding, grooming), assistance with medications, transportation to medical appointments and other activities of daily living. Each client can select a provider or ask the County for a list of approved care providers. Providers selected by clients are often family members or friends.

Each provider reports hours worked for an individual client on a timesheet (State-designed form provided by IHSS [See Attachment A]) that the client and provider must sign before the provider can submit the timesheet for payment. The timesheet is specific to an individual client. Providers who service more than one client will submit multiple timesheets. Hourly rates for providers vary from county to county.

To qualify for IHSS services at no cost, the client's monthly income cannot exceed the Supplemental Security Income level (currently \$907 for individuals or \$1,579 for a couple in California). If client income exceeds this level, services may still be provided if the client meets all the other criteria. However, the client must first pay the amount that exceeds the Supplemental Security Income level, known as "share of cost." For example, an individual whose monthly income is \$1,000 would be required to pay the difference of \$93 (\$1,000 - \$907).

When a new client applies for enrollment, and meets Medi-Cal standards, an eligibility appointment is arranged. A County IHSS intake social worker visits the home to determine the level of need of the potential client, as well as the safety and adequacy of the living situation. If needs are identified and all criteria are met, the client is provided instructions explaining how to utilize the program, select a provider and initiate service. The intake social worker then passes the case to an IHSS social worker responsible for ongoing oversight and annual review of continuing needs.

Annual Reviews

Once a client is deemed eligible for IHSS services, the State requires the County to reassess client needs annually. A social worker visits the client's home and determines whether the level of services currently provided continues to meet the client's needs. The number of service hours provided to the client may be modified at this time. Annual reviews are then submitted to the California Department of Social Services.

All cases open for 12 months or more require annual reassessment in order to achieve compliance with State Department of Social Services standards. While 100% compliance is the desired level for cases requiring reassessment, the State has established a *minimum* compliance level of 90%. Counties with a compliance level below 90% are monitored by the State Department of Social Services *monthly* throughout the subsequent fiscal year. In addition, the State requires counties with a compliance level below 80% to submit a Quality Improvement Action Plan (QIAP) outlining a specific strategy for reaching at least 90% compliance before the end of the fiscal year.

The State has identified 11 counties in California that are comparable to Solano County in IHSS caseload.

County	2008 Population	2007-2008 Caseload	2007-2008 Compliance
San Luis Obispo	267,154	1,761	97%
Tulare	435,254	2,654	96%
San Mateo	734,453	2,753	95%
Ventura	831,587	3,370	92%
Placer	333,401	1,747	90%
Santa Cruz	265,183	2,090	90%
Merced	255,250	3,020	89%
Santa Barbara	425,710	2,740	85%
Butte	220,407	3,208	83%
Monterey	428,549	3,289	81%
Shasta	181,380	2,601	79%
SOLANO	423,970	2,746	69%

During fiscal year 2007-2008, Solano County IHSS had a caseload of 2,746 clients. The percentage of required annual reviews completed was only 69%.

Over the last few years the Solano County IHSS case level has averaged about 2,800 and has not had significant fluctuation. Of the total caseload, approximately 1,200 cases that have been opened during the year will not require annual reviews until the subsequent year. A corresponding number of cases leave the program during the year for various reasons. This means that Solano County is required to complete approximately 1,600 annual reviews per year (2,800 - 1,200 = 1,600). At the time of this report, Solano County IHSS had 13 social workers who were responsible for completing annual reviews. In order to achieve 100% compliance, each social worker would have to complete approximately 10 reviews each month. At the 69% compliance level, an average of seven reviews are being completed per social worker per month. According to the manager of the IHSS program, annual review and corresponding paperwork takes a *maximum* of one full work day to complete: half a day for the home visit and half a day to complete the paperwork. The average month has 22 work days.

Some issues noted in the 2007 QIAP submitted by Solano County are paraphrased as follows:

- The IHSS department has experienced staffing shortages due to long-term illnesses; currently, four social workers assigned to manage IHSS caseloads are on disability
- There has been an increase in case load since 2001 without an increase in funding for staff to accommodate caseload growth
- 50% of IHSS staff, including the Interim Deputy Director, have been in their current positions three years or less; this turn-over, coupled with a learning curve of up to a year, results in renewals not being processed quickly
- There has not been an increase in funding to purchase equipment, such as laptop computers for use in the field, which would help to streamline processing
- Staff time was used to develop and implement a new assessment tool to capture the new hourly task guideline requirements

- State regulations regarding annual Medi-Cal renewals have resulted in more follow-up work for the social worker

Consequences of delinquent annual reviews include: inappropriate assessment of hours of service provided to clients (e.g., health level could have improved, necessitating fewer provider hours) and unreported death of client. Both situations allow for potential fraud by the provider. If annual reviews are not performed when scheduled, in the event that a client's health level has declined, there may be an unreported need for an increase in provider hours. If a client's health has improved, a provider could continue to claim the allocated number of hours worked, even if that work was not performed. If a client dies and the IHSS staff are not aware (although they state they check the Obituary section of the newspaper with regularity), a provider could continue to claim work hours. There are sanctions for these situations, if discovered by the IHSS program. At the time of this report, Solano County is pursuing fewer than ten fraud cases.

The Grand Jury contacted counties comparable to Solano County in IHSS caseload level who also had a compliance level below 90%. We requested information regarding the number of social workers assigned to perform annual reviews of IHSS cases. We also requested information on what, if any, other major work responsibilities they may have. Two counties responded: Shasta and Merced.

Shasta County indicated they have approximately 2,600 IHSS recipients and 14 social worker positions assigned to this program. Three of the positions are currently vacant as a result of funding restrictions. Shasta County's priority has been to shift staff into their Intake Unit in order to ensure timely processing of intake cases. They also indicated that social workers do not use laptop or notebook computers during field visits. According to the California Department of Social Services review of their 2008 QIAP, their initial and annual assessments were highly detailed and exemplary. Their 2007-2008 compliance level was 79%.

Merced County indicated they have 3,114 IHSS recipients and 10 social workers assigned. Social workers carry a continuing workload of 346 cases and are also assigned to complete intake cases each month. They receive an average of 115 intake cases each month. The social workers do not use laptop or notebook computers. Their 2007-2008 compliance level was 89%.

Solano County has approximately 2,800 IHSS recipients and 16 social workers assigned to perform annual reassessments. Two of the social workers are assigned on a half-time basis to perform annual reassessments. One is assigned half-time to the Intake Desk and one is assigned half time to the Quality Assurance Program. Three of the other social workers also process intake cases in addition to conducting annual reviews. Their 2007-2008 compliance level was 69%.

Provider Hours

The providers complete a State-designed timesheet that requires a client signature. Each timesheet covers a half month of service. The provider is expected to report which days of the month they provided care and the number of service hours. At the end of each half month, the client verifies and signs the timesheet and the provider submits it to IHSS for payment.

The State-provided timesheet and computer payroll system was designed to record hours worked by one provider for one client. However, some clients require multiple providers and many providers serve more than one client. It is up to the client to validate the number of hours of service reported. Many clients are elderly and/or disabled and may not have the ability to

accurately recall the number of hours of service actually provided. Also, some providers care for more than one person on a particular day. This could lead to a claim of more than 24 hours worked per day. The Deputy Director of Older & Disabled Adults Services informed the Grand Jury that there have been cases discovered where the client is no longer alive and/or the provider has ended his relationship with the client but has continued to report hours worked.

When a provider claims 300 hours or more worked in a month, the submitted timesheet triggers a review by the social worker (300 hours would mean 10 hours worked each day for 30 days). However, some providers have more than one client and the State-provided payroll program does not track total hours per day claimed by each provider on multiple timesheets. A County staff member is assigned to input timesheet data. This employee stated the current system is unable to correlate hours reported by providers who have multiple clients and who have submitted multiple timesheets. As an example, it is possible for a provider who has multiple clients to claim a total of more than 24 hours work for the same calendar day and the system would not capture the discrepancy.

The 2006-2007 Solano County Grand Jury IHSS report found that a potential for fraud existed. Examples of potential fraud cited in the Solano County Health & Social Service policies and procedures include:

- Reporting hours that were not worked
- Forging recipient's signature on time sheets
- Changing hours after recipient had signed time sheet
- Providing more than one identity to gain multiple payments
- Provider claiming hours not worked and recipient signing the time sheet; then recipient and provider splitting the check

The 2006-2007 Solano County Grand Jury made two recommendations:

- A task force be formed to deal with perceived fraud
- Unannounced home visits by IHSS staff to observe provider performance

At a December 2008 meeting with the Director of Health & Social Services, the Grand Jury learned that as a result of the 2006-2007 Grand Jury report, a pilot project Fraud Prevention Task Force had been created. Of the approximately 2,800 ongoing cases, the Task Force reviewed 163. Eleven (approximately 6%) of these cases warranted IHSS follow-up due to suspected fraud:

- Five recipients had died
- Four recipients had moved
- One had moved to Assisted Living in another County
- One was living with a daughter at another address

The Solano County District Attorney informed the Grand Jury:

- IHSS fraud cases are referred by the State Bureau of Medi-Cal Fraud and Elder Abuse
- Since 2005 the District Attorney's Office has filed five cases involving IHSS fraud
- Neither the District Attorney nor the State Bureau was able to determine if any IHSS fraud cases submitted for filing were rejected for prosecution

Details of the five cases filed:

1. Seven counts of felony grand theft and false claim -- Plea to felony grand theft
2. Two counts of felony grand theft and false claim -- Plea to felony false claim
3. Two counts of felony grand theft and false claim -- Plea to felony grand theft
4. Three counts of felony grand theft and false claim -- Dismissed
5. Five counts of felony grand theft by false pretense, perjury, attempted grand theft, attempted theft by false pretense -- Currently pending in court

In response to the 2006-2007 Grand Jury recommendations cited above, the April 2008 Final Report of the Fraud Prevention Pilot Project claimed that (1) due to the relatively low level of fraud discovered, the establishment of a permanent fraud prevention task force was not warranted and (2) due to the current backlog of annual reviews, unannounced home visits are impractical at this time.

FINDINGS AND RECOMMENDATIONS

Finding Ia - According to California Department of Health & Social Services standards, Solano County is seriously deficient in its monitoring of In-Home Support Services. The absence of annual reassessments of a significant proportion of In-Home Support Services cases may lead to problems such as clients not receiving reported services and other undetected fraud.

Finding Ib - The State of California pays Solano County In-Home Support Services providers approximately \$33,000,000 annually through an In-Home Support Services system controlled and monitored by Solano County Health & Social Services. The State relies on Solano County for accurate reporting of monies due to providers of In-Home Support Services. The mechanism for reporting hours worked by In-Home Support Services providers is a California Department of Health & Social Services form filled in by the provider and validated by the client. While most In-Home Support Services providers may be scrupulously honest about reporting actual hours worked, the insufficient nature of the form and the lack of review provided by annual reassessments in a significant number of cases leaves the door wide open for fraudulent reporting. In any situation where monitoring is employed to ensure that laws and regulations are followed, monitoring is not intended for the vast majority of law-abiding citizens, it is intended for the people who will take undue advantage of weaknesses in the system. For example:

- Some providers have more than one client and the form contains no safeguards against duplicate reporting of hours because the reporting form is specific to a client and providers may have multiple clients, hence the submission of multiple forms
- In some cases, the client may not remember the specific days/hours worked by the provider and/or the client may be of advanced age and not be competent to keep track of such details
- In many cases the provider is a family member of the client, which may influence the validation process
- There have been cases discovered where the client is no longer alive or the provider has ended the relationship with the client but has continued to report hours worked

The State requires annual review of In-Home Support Services cases for a reason. If those reassessments are neglected by Solano County, abuses arising from the above circumstances may go undetected.

Finding 1c - The explanation for lack of In-Home Support Services annual reviews provided by Solano County Health & Social Services Department to the State do not appear, for the most part, to be specific to Solano County. They mainly address problems facing all California counties. However, when deficiencies in annual reviews in Solano County In-Home Support Services is compared to the deficiencies in annual reviews in comparable counties (with comparable caseloads and comparable numbers of staff assigned to perform annual reviews), Solano County stands out as having the worst level of performance.

Recommendation 1 - Solano County Health & Social Services needs to acknowledge that the problems it faces are also faced by other counties and that those counties are performing better and, in some cases, much better, in keeping up with required annual reassessments. Solano County In-Home Support Services needs to take a different approach, dig deeper and perhaps look in different directions to discover why they are deficient. Compliance with State standards may require more than just procedural changes and requests for more resources. It may require changes in management policy and a recognition of what is, and what is not acceptable in terms of levels of performance.

Finding 2 - Due to the inadequacy of the time sheet and the system for reporting provider hours, the County is not able to adequately track clients with more than one provider, nor can it determine the number of hours submitted by a provider for each calendar day. This leaves an opening for unscrupulous providers to claim more hours than actually worked. The mechanism in place that triggers a review when a provider claims 300 hours or more in any month may not be at the level necessary to detect excessive reporting of hours.

Recommendation 2 - Solano County Health & Social Services should work with the California Department of Health & Social Services to develop a tracking system that will help to prevent fraudulent reporting of hours. Improvements to the timesheet could allow for a more accurate tracking system. The computer payroll system should be able to cross-reference providers and clients in order to prevent overlapping reporting of hours. In addition, Solano County Health & Social Services should work with the California Department of Health & Social Services to readjust the level of reported hours triggering a review to a more realistic level. It would seem appropriate that a review would be in order if, for example, the provider reported more than 160 hours worked in a given month.

COMMENTS

A review of interim data submitted by Solano County Health & Social Services to the California Department of Social Services prior to March 5, 2009, indicated an 82% compliance level with annual review requirements. Some improvement is noted over the 69% compliance figure reported for 2007-2008. However, Solano County Health & Social Services is still deficient enough to require monthly monitoring and submission of Quality Improvement Action Plans to the State. The Grand Jury is not really in a position to make specific, detailed recommendations regarding the day-to-day operations of In-Home Support Services. Our main concern is with the poor performance of Solano County In-Home Support Services when compared with other counties who have similar caseloads and staff resources. We look to the management of Solano County In-Home Support Services to make what may be difficult management decisions in order to achieve compliance with State standards.

RESPONDING AND AFFECTED AGENCIES

Solano County Department of Health & Social Services

Solano County Department of Health & Social Services –

Deputy Director of Older & Disabled Adults Services

COURTESY COPY

Solano County Board of Supervisors

Solano County District Attorney

State of California Department of Social Services

Shasta County Health and Social Services Department

Merced County Health and Social Services Department