

CHAPTER 7.4

IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY

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Sec. 7.4-10. Creation of public authority

Pursuant to Welfare and Institutions Code section 12301.6, the Solano County Board of Supervisors establishes a public authority to be the employer of providers of in-home service to the aged, blind and disabled of Solano County. The public authority shall be known as the Solano County In-Home Supportive Services Public Authority and shall be referred to as the "Authority." The Authority shall continue to exist as an independent public entity until such time as the Board of Supervisors acts to terminate the Authority by repealing this chapter.

Sec. 7.4-11. Purpose of public authority

The public authority shall serve as the employer of providers of in-home supportive services to the aged, blind and disabled of Solano County for purposes of the Meyers-Milias-Brown Act.

Sec. 7.4-12. Definitions

For purposes of this Section, the following definitions apply:

Authority means the Solano County In-Home Supportive Services Public Authority.

Provider means a person who provides in-home supportive services that are authorized by state law.

Recipient means a person eligible for and authorized to receive in-home supportive services.

IHSS means the Solano County In-Home Supportive Services Program.

County means Solano County.

Directors means the governing body of the Authority.

Sec. 7.13. Governing body

The governing body of the Authority shall be the Solano County Board of Supervisors.

Sec. 7.4-14. Advisory committee

The County's In-Home Supportive Services (IHSS) Advisory Committee established pursuant to Welfare and Institutions Code section 12301.3 by the Solano County Board of Supervisors on April 11, 2000, shall serve as the advisory committee to the Authority and fulfill the roles and responsibilities as required under Welfare and Institutions Code section 12301.6.

(a) The IHSS Advisory Committee shall be composed of eleven (11) members. Ten (10) of the members shall be appointed by the Board of Supervisors. One (1) member shall be appointed by the Director of the Health and Social Services Department.

(b) The IHSS Advisory Committee shall include the following members:

(1) Six (6) members who are current or previous users of personal assistance services paid for through public or private funds who are representative of the Solano County IHSS caseload. Of those six members, two (2) must be from the elderly population.

(2) Two (2) members who are current or former IHSS providers.

(3) Three (3) members at large.

(c) The IHSS Advisory Committee shall provide ongoing advice and recommendations regarding in-home supportive services to the County Board of Supervisors, any administrative body in the County that is related to the delivery and administration of in-home supportive services, and the Directors and administrative agency of the Authority.

Sec. 7.4-15. Duties

The duties and responsibilities of the Authority shall be as follows:

(a) To implement the goals and objectives of Welfare and Institutions Code section 12301.6, including, but not limited to:

(1) The provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a registry;

- (2) The investigation of the qualifications and background of potential in-home supportive services personnel;
 - (3) The establishment of a referral system under which in-home supportive services personnel shall be referred to recipients;
 - (4) The promotion of training for providers and recipients;
 - (5) The performance of any other functions related to the delivery of in-home supportive services; and
 - (6) The assurance that the requirements of the personal care option pursuant to Subchapter 19 (commencing with section 1396) of Chapter 7 of Title 42 of the United States Code are met.
- (b) To exercise all powers, duties and functions as are prescribed by law and policy.
 - (c) Notwithstanding subdivision (a)(4), the Authority shall not be obligated to provide direct training, to pay for training provided privately or in the community, to pay for the providers' time spent in training, to accompany recipients to training, to pay for transportation to training or to pay for any materials required by the training. The Authority shall not be obligated to ensure that any provider or recipient attend or complete any training.
 - (d) The Authority *shall not* be responsible for:
 - (1) Authorizing services for an IHSS recipient;
 - (2) Determining a recipient's need for IHSS, the level and quality of services required, and the eligibility of individuals to be served;
 - (3) Conducting the initial or any subsequent assessment of need for services; or
 - (4) Terminating the recipient's participation in the IHSS program.

The above-referenced services and functions shall be the exclusive responsibility of the County of Solano.

Sec. 7.4-16. Powers

- (a) The Authority shall be an entity separate from the County of Solano and shall file the Statement of Fact for the Roster of Public Agencies required by Government Code section 53051.

(b) The Authority shall be a corporate public body, exercising public and essential governmental functions with all powers necessary and convenient to carry out the powers conferred upon it by Welfare and Institutions Code sections 12300 et seq. and this chapter, including the power to contract for services pursuant to Welfare and Institutions Code sections 12302 and 12302.1, subject to any limitations set forth in this chapter.

(c) The Authority shall have the power in its own name to do any of the following:

(1) To contract for the services of planners, financial consultants, and other experts and to employ or contract with such other persons as it deems necessary.

(2) to sue and be sued in its own name.

(3) to incur debts, liabilities or obligations subject to any limitations set forth in this chapter.

(4) to apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any agency of the United States of America, or of the State of California necessary for the Authority's full exercise of its powers.

(5) to perform all acts necessary and proper to carry out fully the purpose of this chapter and not inconsistent with Welfare and Institutions Code sections 12300 et seq. or this chapter.

(d) To promote administrative efficiencies and to avoid unintended duplication of resources prior to initiating delivery of services through the Authority, as described in this chapter, the County and the Authority shall enter into an agreement specifying the purposes, scope or nature of the agreement, the roles and responsibilities of each party including provisions that promote compliance with all applicable federal, State and County labor laws, and compliance with all statutory and regulatory provisions applicable to the delivery of in-home supportive services.

(e) The Authority shall be deemed to be the employer of IHSS providers within the meaning of Chapter 10 (commencing with section 3500) of Division 4 of Title 1 of the Government Code, commonly known as the Meyers-Milias-Brown Act. Nothing in these enumerated powers shall be construed to limit or interfere with the rights of IHSS recipients to hire, fire and supervise the work of any worker providing services to them.

(f) Nothing in these enumerated powers shall be construed to alter, require the alteration of, or interfere with the State's payroll system and other provisions of Welfare and Institutions Code section 12302.2 for independent providers of IHSS, or to affect the State's responsibilities with respect to unemployment insurance, or workers' compensation for providers of IHSS.

Sec. 7.4-17. Liabilities

(a) Any obligation or legal liability of the Authority, whether statutory, contractual or otherwise, shall be the obligation or liability solely of the Authority and shall not be the obligation or liability of the County of Solano, or its agents, officers or employees.

(b) All contracts, leases, or other agreements of any nature, including collective bargaining agreements, between the Authority and any party, except those with the County, shall contain the following statement: "The Authority is an independent legal entity, separate and apart from the County of Solano. The Authority has no power to bind the County to any contractual or legal obligations. Nor may the obligees of the Authority seek recourse against the County of Solano for any financial or legal obligation of the Authority."

(c) The Authority shall not be deemed to be the employer of IHSS providers for purposes of liability because of the negligence or intentional torts of the IHSS providers. Employees of the Authority shall not be employees of the County for any purpose.

(d) The County shall be immune from any liability resulting from its implementation of Welfare and Institutions Code sections 12301.6 et seq. in the administration of the In-Home Supportive Services program.

(e) The Authority shall maintain all insurance coverage necessary in an amount to be determined adequate by the Directors. If the Authority purchases its own insurance, the limits of liability shall be in an amount acceptable to the Directors and shall name the County as an additional insured.

(f) The Authority shall indemnify, defend and hold harmless the County, its elected and appointed officers, employees and agents from and against any and all liability, including defense costs and legal fees, resulting from claims for damages of any nature whatsoever, including but not limited to personal injury or property damages arising from or connected with any act or omission of any officer, employee or agent of the Authority.

(g) The Authority shall require all third parties with whom it contracts, other than the County of Solano, to indemnify the Authority, to provide the Authority with written acknowledgment of such indemnification and to maintain adequate levels of insurance naming the Authority as an additional insured.

Sec. 7.4-18. Staffing

(a) The Authority shall appoint and/or contract for a Public Authority Manager and shall provide broad general supervision and policy direction to that individual. The Public Authority Manager shall appoint and/or contract for subordinate staff necessary for the administration and operation of the Authority, within parameters set forth by the Directors.

(b) In order to enable the Authority to take timely action to implement the IHSS program in accordance with this ordinance, Solano County staff shall initiate the necessary preliminary steps for the operation of the Public Authority. All such steps shall be consistent with statute and this chapter. The IHSS Advisory Board shall be informed of all action taken by the County staff. All action taken by County staff shall be reported to the Authority for review, approval, modification or ratification.

(c) County staff shall serve as support staff to the Authority pursuant to this chapter until the Authority takes action regarding administrative support for the Authority.

Sec. 7.4-19. Labor relations program

(a) Rules and regulations for the administration of Authority employer-employee and labor relations as adopted by the Solano County Board of Supervisors for the Authority shall be effective until the Authority acts to modify or change the rules and regulations. Only those employee organizations recognized in accordance with the employer-employee and labor relations rules and regulations for the Authority shall be entitled to negotiate with the Authority on matters within the scope of representation and such other rights that may be granted to recognized employee organizations pursuant to sections 3500 through 3511 of the Government Code.

(b) Due to the special and critical health-care services provided through the IHSS program, the Board of Supervisors finds that any interruption of such services would pose an imminent threat to the health and safety of the recipients of IHSS services and to the community. In order to minimize the likelihood of such interruption and thereby protect the health and safety of recipients and to promote harmony and productive labor relations between the Authority and any labor organization that seeks to represent or represents the providers of services to recipients of IHSS services:

(1) The Authority shall have a non-strike clause in any and all collective bargaining agreements with providers and personnel of the Authority. The non-strike clause shall continue at least one (1) year beyond the other provisions of any and all collective bargaining agreements; and

(2) The Authority shall take all legal action necessary to bar any strike or other concerted interruption of services to IHSS recipients.

Sec. 7.4-20. Budget

The Authority shall adopt its budget under the same laws, rules and policies that control the County budget process. The Authority will be maintained as a separate budget entity. The budget will be submitted to the Directors through the Health and Social Services Department.

Sec. 7.4-21. Fiscal provisions

- (a) In adopting this chapter, the Board of Supervisors recognizes that the funding of IHSS is the product of a complex relationship of federal, state and County financing and that the ability of the Authority to operate and to negotiate and pay the wages and benefits of the IHSS providers is contingent upon the availability of adequate funding from all sources. Nothing in this chapter is intended to require the County to appropriate any funds for the operation of the Authority or for the payment of wages or benefits to IHSS providers.
- (b) Payment for all services provided pursuant to this chapter is contingent upon the appropriation of county, state and federal funds for the purpose of providing IHSS.
- (c) The Authority shall provide the County with the expenditure information necessary for the County to report to the California Department of Social Services in order to receive reimbursement for the State and Federal share of the Authority costs and disbursements.
- (d) The Authority shall assist the County in developing and submitting the information and documentation necessary to obtain approval from the California Department of Social Services and the Department of Health Services for the Authority's reimbursement rate and any rate adjustment.

Sec. 7.4-22. Records

The Authority shall develop a records retention policy consistent with federal, state, and county laws, regulations and policies. The Authority shall make any of the retained records available to all authorized County, state and federal representatives.