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February 25, 2020

The Honorable Joaquin Arambula, M.D.
Chair, Assembly Budget Subcommittee #1
State Capitol, Room 5155
Sacramento, CA 95814

Re: In-Home Supportive Services

Dear Assembly Member Arambula:

On behalf of the California State Association of Counties (CSAC), I am writing to share the county progress on the implementation of the new County In-Home Supportive Services (IHSS) Maintenance of Effort (MOE) that was enacted through Senate Bill 80 (Chapter 27, Statutes of 2019). In addition, CSAC is also writing to share our opposition to the proposals from the United Domestic Workers of America (UDW) related to county IHSS collective bargaining. Counties remain grateful to both the Governor and the Legislature for the enactment of the new MOE on July 1, 2019 that creates a more sustainable fiscal structure for counties to manage IHSS costs. CSAC has worked closely with the Administration on numerous aspects of implementation and counties have made significant progress on local collective bargaining agreements.

The IHSS program provides critical services to seniors and disabled individuals to help them remain in their own homes rather than in more expensive institutional care. Counties have proudly partnered with the state and administered the IHSS program since it was realigned in 1991. County social workers, Public Authority workers, and IHSS providers are the backbone of this social services program which has proven to reduce care costs and improve the well-being of residents.

Implementation of 2019-20 IHSS MOE

Prior to the enactment of the 2019-20 IHSS MOE, counties were facing Realignment shortfalls of several hundred millions of dollars in the coming years that would have negatively impacted social services, health, and mental health programs. The new IHSS MOE provides a more sustainable fiscal structure for counties to manage IHSS costs and was the result of two years of partnership by the Administration, the Legislature, counties, and other stakeholders. The Department of Finance's January 2019 1991 Realignment Report established the key tenants of this new structure, which include lowering the County IHSS MOE to \$1.56 billion, reducing the inflation factor from seven percent to four percent, ending the redirection of health and mental health Realignment growth funding to social services, returning to the original method for calculating IHSS caseload growth, and funding IHSS administrative costs through a General Fund allocation.

Since the enactment of the new MOE, CSAC has taken a number of significant actions to ensure successful implementation. These include:

- Convening a county workgroup to develop recommended county amounts of the new IHSS MOE for implementation by the Department of Finance and Department of Social Services;
- Working closely with the Department of Social Services on the programmatic and fiscal guidance to counties on aspects of the new MOE;
- Convening an all-day training for nearly 200 county staff to provide training on the fiscal and collective bargaining provisions of the new MOE; and
- Maintaining consistent and open communication with IHSS provider unions at the state level to ensure continued progress on county IHSS collective bargaining.

Opposition to Additional Collective Bargaining Provisions

Senate Bill 80 also included a provision to create a one-time 1991 Realignment withholding related to IHSS collective bargaining that could potentially apply to counties without a collective bargaining agreement in place. A county would be subject to the withholding only if all of the following four conditions are met: (1) A county and provider union have completed the full IHSS mediation and factfinding process; (2) the factfinding panel has issued recommended settlement terms that are more favorable to the union; (3) the county has an expired IHSS collective bargaining agreement; and (4) the county and union have not reached an agreement within 90 days after the release of the factfinding recommendations.

UDW has now proposed additional punitive measures related to IHSS collective bargaining. These include increasing the Realignment withholding amount from one percent of the county MOE to seven percent and requiring disclosure and spending limitations on the costs of contract consultants for IHSS negotiations. CSAC is strongly opposed to both of these proposals.

There are numerous reasons to oppose these new restrictions, but first and foremost is the fact that significant progress has been made on IHSS collective bargaining. Last year, the Legislature indicated a strong interest in seeing an increased number of collective bargaining agreements. This is exactly what has occurred in the eight months since the enactment of the new MOE. County Supervisors have demonstrated a commitment to the IHSS program and IHSS providers by reaching a number of new agreements or memorandums of understanding (MOUs) to increase wages. Please consider the following highlights:

1. **New agreements have been reached at a faster pace** – There are new agreements or tentative agreements in 14 counties in the first eight months since the new MOE was enacted on July 1, 2019. This is far above the pace of new agreements in prior years. In addition, there are still 20 current MOUs that were negotiated under a prior IHSS MOE.
2. **Counties are dedicating tens of millions of dollars for wage increases** – The estimated county share of costs for wage and benefit increases that are going into effect in 2019-20 is \$41.3 million. Counties may still make additional investments through agreements that may be reached in the final four months of the fiscal year. This follows up on county investments of \$72.4 million for wage and benefit increases in 2018-19. These are ongoing and sustained commitments of county funding for IHSS providers.
3. **Nearly 9 in 10 providers work in a county with an existing MOU** – Of the more than 500,000 IHSS providers in the state, the vast majority, more than 88%, work in a county that has a current MOU or tentative agreement.
4. **Agreements have been reached in counties that were without MOUs for years** – For the counties with expired MOUs that have now reached new agreements under the new

IHSS MOE, the average length of time that those counties had been without an agreement was 47 months.

5. **Counties throughout the state have reached new agreements** – The 14 counties with new agreements are El Dorado, Fresno, Humboldt, Mariposa, Mendocino, Merced, Nevada, Plumas, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, Sierra, and Yuba. This includes urban, suburban, and rural counties; inland and coastal counties; and Northern, Southern, and Central California counties.

Attached is the latest *County IHSS Collective Bargaining Chart* that shows the bargaining status and IHSS provider wage in every county as of February 1, 2020. There are 34 counties with current MOUs or tentative agreements. There are 15 counties that are currently negotiating and it is possible that a number of these counties may reach agreements before the end of the fiscal year. In the nine remaining counties, three counties are waiting for the union to respond to county outreach, four counties have had no contact from the union, and two counties are at impasse.

Regarding the use of contract consultants, there are numerous counties that have utilized contract consultants and successfully reached agreements with IHSS provider unions. Counties that utilize a contract consultant for IHSS negotiations have reached MOUs at roughly the same rate as the overall rate of agreements. It's also important to note that the majority of counties that utilize contract consultants for IHSS also use these same consultants for other labor negotiations. Counties are not hiring a consultant specifically for IHSS, but rather utilizing the existing partnership they have for labor negotiations throughout the county. The proposed disclosure and spending limitation provisions are unnecessary, inconsistent with requirements for other labor negotiations, and ignore the bargaining progress that has occurred.

CSAC recognizes that there are a few counties where it has been more difficult to reach agreements and where negotiations are at impasse or nearly at impasse. Last year, the Administration, Legislature, counties, and IHSS provider unions reached agreement on the new process involving impasse procedures and a potential Realignment withholding that would take place in these rare instances. All entities made a commitment to allow this process to be tested through December 31, 2020. That sunset date has not been reached and the process has not yet run its course in counties that have reached impasse under the new MOE. There are still several steps available to help the county and provider union reach agreement in the limited instances where this may occur. Finally, it should be noted that the requested penalty of seven percent is more than double the penalty of three percent that UDW advocated for just last year. This is not the time to make additional changes that are even more punitive than what was proposed last year, that ignore all of the bargaining progress that has occurred, and that would be inconsistent with the budget actions taken only eight months ago.

Thank you again for the significant investment of State General Fund and enactment of a new County IHSS MOE. All of this progress on collective bargaining is made possible by counties having this more sustainable IHSS fiscal structure. These new agreements are not the result of the threat of a penalty, but rather have been achieved because counties are no longer facing the looming Realignment shortfalls that would have occurred under the prior IHSS MOE. Counties have followed through and accomplished the very progress on IHSS collective bargaining that the Governor and Legislature asked for and have invested tens of millions of dollars to increase IHSS provider wages in counties that had been without an agreement for years.

CSAC respectfully requests that you reject the additional provisions that have been proposed by UDW related to county IHSS collective bargaining. Should you have any questions about our position, please do not hesitate to contact Justin Garrett, CSAC's Legislative Representative for Human Services, at (916) 650-8117 or jgarrett@counties.org. Thank you for your consideration.

Sincerely,



Darby Kernan
Deputy Executive Director of Legislative Affairs

cc: Honorable Members, Assembly Budget Subcommittee #1
The Honorable Phil Ting, Chair, Assembly Budget Committee
Nicole Vazquez, Consultant, Assembly Budget Committee
Cyndi Hillery, Assembly Republican Fiscal Office
Gail Gronert, Office of the Assembly Speaker
Mark Newton, Legislative Analyst's Office
Ginni Bella Navarre, Legislative Analyst's Office
Keely Bosler, Director, Department of Finance
Adam Dorsey, Department of Finance
Jay Kapoor, Department of Finance
Kim Johnson, Director, Department of Social Services
Tam Ma, Deputy Legislative Secretary, Office of Governor Newsom
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