

# CHAPTER 7

## CONFIDENTIALITY

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### REGULATIONS & PUBLIC ASSISTANCE RECORDS

#### **Introduction**

Confidentiality of public records for applicants/recipients of public assistance is provided by the State Welfare and Institutions Code, Section 10850. Questions concerning confidentiality not covered in this chapter will be referred to the IHSS Program Manager. In addition to including the Welfare and Institutions (W&I) Code requirements for public assistance recipients, this section includes the confidentiality policy for employees.

#### **W&I Code**

“Applicant or recipient information can only be shared between County Welfare Departments and other public agencies if verifying eligibility, or for purposes directly connected with the administration of public social services.”

#### **Purpose Of Confidentiality**

The purpose of maintaining confidentiality is to protect applicants/recipients against identification, exploitation, or embarrassment that could result from having applied for or received In-Home Supportive Services (IHSS).

#### **General Rule**

All information and records obtained in the course of providing IHSS will be considered confidential and will be safeguarded. This includes:

- Acknowledgement by an employee that a person is receiving IHSS.
- Identifying or providing information about the client’s circumstances, whether written, oral, or electronically stored.

Clients must be afforded the opportunity to provide needed information or verifications without being identified as IHSS recipients, e.g., without using county letterheads or forms. The worker will ask if the client prefers to bring in the verifications, etc., or authorize the worker to obtain them, using County letterhead.

#### **Penalties**

Unauthorized disclosure of confidential information by a County employee is a misdemeanor, and may lead to criminal or civil liability for both the County employee and the County. The County may also take disciplinary action against the employee.

#### **Case Records**

Case records will not be removed from IHSS sites except when:

- Records are requested by other HHS divisions or programs.
- The Social Work Supervisor (SWS) approves their removal, e.g., use by an employee when telecommuting.
- IHSS case records designated confidential *will not* be removed from the office for telecommuting.

## **Social Worker Interactions**

### ***General Rule***

Confidential information may be released without the consent of the applicant/recipient only for purposes directly connected with the administration of public social services. Public social services are defined as aid or services administered or supervised by the California Department of Social Services (CDSS) or the California Department of Health Services (CDHS).

### ***Contractors***

Whenever a contract is entered into with a public or private agency that involves the release of confidential information, the contract will contain a provision ensuring that such information will be kept confidential in accordance with the Welfare and Institutions Codes. The IHSS contractor staff will sign an Oath of Confidentiality. IHSS staff will only release information to contract staff that directly relates to the provision of authorized services. (See Chapter 4 for additional information on Contracted services).

### ***Individual Providers (IPs)***

IHSS Social Workers (SWs) will share with Individual Providers (IPs) only the information needed by the IP so that he/she can provide appropriate care as it relates to authorized services. An IHSS SW will not share medical/diagnostic information with an IP. This information is to be provided to the IP by the recipient or the recipient's physician.

### ***Family Members***

No information is to be provided to family members of recipients without the express verbal or written consent of the recipient. The SW will document all verbal consents in the narrative section. SWs can receive information from family members; however, no reciprocal information /comments can be provided back to the family member.

### ***Home Health Agencies***

Frequently, the Social Worker will need to coordinate In-Home Supportive Services with other agencies such as meal services, nursing services, therapists, etc. If the other agency does not have a release of information to discuss the client's needs, the SW will obtain the client's verbal consent to discuss the need for services. The SW will narrate in the file the client's verbal consent.

### ***Regional Centers For The Developmentally Disabled***

If a Regional Center employee contacts an IHSS Social Worker for the purpose of requesting information regarding the IHSS services received by a mutual client, the IHSS Social Worker will release to the Regional Center employee a copy of the most recent Notice of Action reflecting the IHSS hours currently authorized for the mutual client. **However**, the IHSS Social Worker will not release this information until the IHSS Social Worker has received written consent for this release of information from either the IHSS recipient or his/her legal representative.

**Public Officials**

Certain public officials are entitled to review confidential information for the purpose of administering public social service programs. These include but are not limited to:

- The District Attorney/County Counsel when investigating or prosecuting welfare fraud, paternity or family support, employee fraud, or kidnapped children.
- The California Department of Social Services, the California Department of Health Services, the California Department of Health, Education and Welfare, and the County Welfare Departments within the State of California.
- County, State, and federal auditors, and some legislative audit committees

***Public Emergency***

The names and addresses of IHSS recipients may be issued to emergency personnel in a public safety emergency that might require evacuation.

***Legislative Bodies***

Disclosure by name and address of any recipient to a legislative body or committee without the written consent of the client is prohibited. This includes the United States Congress, the California State Senate or Assembly, City Councils, and the County Board of Supervisors.

**EXCEPTION:** A written request from a client to a State legislator is considered a release of information. (Also see exception below.)

***Board Of Supervisors***

Requests from the Board of Supervisors for information from a case record will be referred to the IHSS Program Manager for action. Client specific information will not be released without the client's written or verbal consent.

**EXCEPTION:** A verbal or written request from a client to a member of the Board of Supervisors is considered a release of information. The verbal consent will be narrated in the case file and a copy of the written request filed under the "Miscellaneous" tab.

**Law Enforcement Agencies*****Law Enforcement Officials***

A County welfare department may release certain information to any law enforcement agency, only upon receipt of a *written* request from the agency, specifying that an arrest warrant for a felony or misdemeanor has been issued to the applicant or recipient.

***Limitations Of Information Released***

Released information will be limited to name, address, telephone number, birthdate, social security number, physical description, and known location (if different than address). No copies will be made from case records, as case documents might include confidential information.

***Exception To Written Request***

If the head or authorized employee of a law enforcement agency requests identifying information on a deceased client by telephone, the information may be released over the telephone. The law enforcement agency must agree to submit the request in writing within five days of the telephone release. The worker providing the information will document the agreement, the date, and the name of the requestor in the case narrative. If the case is in the County Record Room, the Social Work Supervisor will request it, following procedures in this paragraph.

***Exception To Arrest Warrant***

When a law enforcement agency is investigating a crime committed by an applicant/recipient, in specific circumstances the law enforcement agency may be provided with the name, address and physical description of the applicant/recipient *only*. The circumstances under which this information may be released are when the alleged criminal activity took place:

- In a welfare office.
- Against a HHS employee when the employee was performing his/her job.
- Against any off-duty HHS employee in retaliation for an act performed as a job duty.

**Client Or Authorized Representative*****Policy***

Social Workers may release information contained in the case records to the client, or the client's authorized representative, with the following conditions:

- The information was provided solely by the client or authorized by the client.
- The client has given written or telephone authorization to the representative.
- "Privileged Communications" or "Third Party" information is restricted from view.

***Written Authorization***

Authorizations to release confidential information will be:

- Signed and dated by the client.
- Received by the Social Worker prior to the release of information (a fax is acceptable).
- In effect for one year from the date signed, unless limited for a shorter period by the client.
- Revocable by the client at any time.
- Specific as to the information requested and the name of the authorized representative.

IHSS staff will use Form ABCDM 228 (see attachments at the end of this chapter). This form is printed by the California Department of Social Services and can be obtained from the Forms Clerk in the South Bay IHSS District Office (619-476-6228), or directly from the California Department of Social Services web site at:

[http://www.dss.cahwnet.gov/cdssweb/On-lineFor\\_272.htm](http://www.dss.cahwnet.gov/cdssweb/On-lineFor_272.htm)

***Telephone Authorization***

Telephone authorization may be accepted in lieu of written authorization if the client:

- Identifies himself/herself by providing the case number or Social Security Number.
- Understands that a telephone authorization is temporary.
- Agrees to provide a *written* authorization.