

IN HOME SUPPORTIVE SERVICES: A VALUED PROGRAM WITH DECLINING SUPPORT

SUMMARY

In San Luis Obispo County the In-Home Supportive Services Program (hereafter IHSS) assists about 1775 aged, blind and disabled persons of low income, to reside in their homes where they receive domestic and non-medical personal services. Otherwise many if not most of them would be in nursing homes or similar institutional facilities at public expense. Each IHSS client hires and is the employer of record for his or her caregiver; public funds pay for the approved care. Taxpayers benefit, because the program costs much less than nursing home or similar care. Clients benefit because they are able to remain in their (owned or rented) homes. Those hired caregivers (about 1400 in SLO County) are frequently relatives. By taking this job, a provider is able to meet the personal needs of the loved one and simultaneously earn perhaps \$1,000 a month. Almost all the clients are frail or fragile, and agency supervision of caregivers is limited. So abuses can go undetected. The Grand Jury concluded that while IHSS in San Luis Obispo County generally runs well, funding is tight and getting worse.

METHOD

To complete this inquiry, Grand Jurors interviewed IHSS program staff and managers. We reviewed relevant documents including policy statements, reports, handbooks for clients and providers, budgetary materials etc. In timely response to our queries, DSS personnel provided to the Grand Jury helpful narrative and statistical information on assorted aspects of the IHSS program.¹

¹Authority for Grand Jury investigation of the In Home Supportive Services program is found in Section 925 of the California Penal Code.

NARRATIVE

Program Services

Via the In-Home Supportive Services program an elderly, blind or disabled person of very low income is allowed to employ another individual to provide care. The goal is to enable such persons to remain in their own homes rather than be placed in a nursing home or similar and expensive facility at public expense. By one estimate it costs the taxpayers about \$60,000 per person per year to provide care in such institutions but less than half that amount to care for those same persons via IHSS.

The program operates within the County of San Luis Obispo's Department of Social Services (hereafter, DSS). Social workers are responsible for (1) determining whether individuals are eligible for the program and if so (2) what specific assistance they require. The State of California has defined those services that the Social Worker is permitted to authorize. Four general types of support that may be approved:

1. **Domestic or household chores** such as cleaning, meal preparation and cleanup, laundry and shopping for food.
2. **Personal Care** such as helping the disabled to get dressed, move about and eat.
3. **Services directed by a health care professional** (e.g. administer medicines).
4. **Miscellaneous services** such as making medical appointments or removing hazardous weeds from the yard.

Personal services that can not legally be funded include caring for pets, paying the client's bills, routine gardening or moving heavy furniture, boxes etc.

Care-providers and Clients

Statewide, the Grand Jury learned, about 43% of the providers are relatives of the client they care for (usually a parent, child or spouse). Local program staff opined the percentage for SLO County would be similar, but did not provide exact figures. We learned that at any given time there are about 1,400 providers in San Luis Obispo County serving 1700 to 1800 clients. In all cases it is the client who hires his or her care provider, but it is the taxpayers that meet the

payroll. By statutory formula 50% of wage costs are paid by the Federal Government, 32.5% comes from the State and 17.5% is county money. Caregivers earn \$10 per hour, and the annual payroll in San Luis Obispo County exceeds \$18 million; that total some \$3 million is contributed by the county.

Some clients engage providers via the “Registry” maintained by the IHSS “Public Authority,” a unit of the Department of Social Services. (During the fall of 2008 there were 230 names on the Registry, some of whom were not currently employed by IHSS clients.) To qualify for the Registry caregivers in San Luis Obispo County must:

1. Have a Social Security Card or provide other evidence that they are legally entitled to work in the USA.
2. Possess a valid drivers license or government-issued photo identification.
3. Provide three references including two from past employers.
4. Pass a basic criminal background check that is conducted by a private vendor;
5. Complete an application.
6. Have an interview with a Registry Social Worker and attend an orientation.

Applicants for the Registry are not finger printed, but Social Worker Supervisors told us they thought doing so would be wise. The Grand Jury quizzed DSS staff on the advisability of requiring criminal background checks and the finger printing of all provider applicants, not just those on the Registry.² We learned that neither the state nor county would pay for that procedure. Consequently, if that safety measure were to be required, the expense, burdensome for most, would fall on the client and/or provider. Inasmuch as, about half or more of hired providers are relatives or friends of the client to begin with, the usefulness of such a requirement in those cases is problematic.

² The California Welfare and Institutions Code states that any individual who is convicted within the past 10 years of fraud against a government health care or supportive services program, violation of Penal Code Section 273a, or a violation of Penal Code 368 is ineligible to be enrolled as a provider, or to receive payment for providing supportive services.

Statewide IHSS serves about 375,000 disabled, blind or aged persons at a cost of some \$4 billion per year. During the second half of 2008, records indicate 1778 of these (less than half of one percent) were in SLO County. The Grand Jury was told that over half the cases in SLO County are disabled persons (including some children) under the age of 65. All clients are low income and most are living on some sort of public assistance, commonly Supplemental Security Income (SSI). IHSS recipients are automatically eligible for Medi-Cal for their medical/health care.

Before entering the program, the applicants for client status are interviewed in their residence and their needs are assessed by a Social Worker from DSS. Initial assessment interviews may take one or two hours. Until recently, the Social Worker then had to return to his or her office and transcribe all the information obtained to a case file. This year caseworkers were issued laptop computers; they take them to interviews where data can be entered as it is obtained from potential clients. Assuming the person qualifies, the social worker outlines the specific types of assistance (e.g. prepare meals, clean the apartment, change the bed) for which the client may hire a caregiver. The assessment also specifies the number of hours to be allocated to each service each week. On average clients receive 94 hours of care per month. No matter how severely disabled the client may be, no more than 283 hours per month (9.5 hours 7 days a week) is allowed. Individuals requiring “around the clock” care must obtain the balance in some other way (e.g. by a volunteer child or parent). When that is not possible, the otherwise qualified IHSS applicant may be institutionalized at public expense.

Each IHSS client interviews and hires her/his own provider to perform approved tasks. The client is thus the employer of record and as such has responsibility to supervise and, if necessary, admonish and/or terminate the caregiver when performance is unsatisfactory. Jointly the client and caregiver are expected to keep an accurate calendar or log book indicating time spent each day on each approved task. In SLO County, all IHSS care-providers are represented by the United Domestic Workers of America; under the contract their pay rate is \$10 per hour.³

³Under the current state budget, it is possible that the provider pay could be reduced to minimum wage. Whether or not that happens will depend on state revenues and the federal bailout funding.

Every two weeks both sign a time card that goes to a payroll clerk at DSS. After the time card is approved, the department forwards payroll instructions to the state agency for payment.

Approval of time cards is based mostly on completeness of information on the card (numbers of hours worked, signatures, etc.) and checking to see that the total time worked is within the limits set by the Social Worker's authorization.

Program Operations and Risks

Once the employer-employee relationship is established, county oversight is minimal. State law has required an annual visit by a social worker. In recent years, each IHSS social worker had a caseload of about 180. Typically each established client was visited only once or twice a year, unless someone, usually the client or provider, called to ask for a consultation. The client might want a reassessment of needs (e.g. because her/his condition has deteriorated and she/he now needs more help). This budget year, 2008-09, Social Worker caseloads increased due to state budget reductions. State budget cuts made in February 2009 imply that the time between staff visits to clients could be stretched 18 months rather than 12. The typical caseload has increased to about 300 because the number of Social Worker positions assigned to IHSS was reduced last fall. Additional staff reductions are possible.

Given how IHSS operates it is difficult for the social workers to know whether clients and providers are regularly behaving in ways that are consistent with the spirit and letter of the law. Assuming he or she does not live with the client, is the caregiver coming to work late or leaving work early? Is he or she performing and being paid for tasks not authorized? Suppose the caregiver is a substance-abusing adult child living with an elderly parent-client, how would the county ever find out care was unsatisfactory? Most likely that would happen only if the client called DSS or terminated his or her own (troubled) adult child. How often would that happen? No one really knows, but DSS staff interviewed by the Grand Jury acknowledged such possibilities.

In one case described for the Grand Jury by an experienced Social Worker, a drug abusing 20 year-old was caring for his seriously disabled father. The client had frequent bedsores, was not properly cleaned, etc. Staff from hospitals to which the client was taken complained to DSS because they believed the employed care provider was not giving his dad adequate assistance. Home health nurses finally refused to go the home because conditions were so bad. Adult Protective Services was called in; so too was the Sheriff's Department. The IHSS Social workers explained to the client that they could find for him a much better caregiver, but he refused to terminate his son. Instead he continued to sign time cards for his son as care provider. This tragic case ended only when the client, not yet sixty years of age, died. In the end it appeared that the man was a victim of a troubled son who was unable or unwilling to take care of his father.

In the last two years only eight care-providers (perhaps 3% to 4%) were removed from the Public Authority's Registry for violation of departmental policies (for example, accepting a loan from the client) or outright criminal behavior (such as stealing a consumer's medicines). Of all IHSS providers, only about 10% to 15% are on the Registry and thus screened by DSS. We did not find out how many caregivers recruited directly by clients were terminated. Nor did we determine reasons why those providers were dismissed.

The Grand Jury did discover that caregiver performance is not the only potential problem area in IHSS. One social worker we interviewed recalled a case in which she had determined upon reassessment that a client no longer needed IHSS support and therefore sent a form to the client's physician asking what chores the client could do for herself. It came back saying she was capable for caring for herself. Consequently, care was terminated. The client then went back to the doctor and got second form. This time the physician "changed his whole thing saying she [the client] would need to be in a nursing facility if she did not get your (DSS's) help." The client appealed and then came to the "fair hearing" wearing a brace not previously in use or mentioned to the social worker at the time of reassessment.

The Grand Jury was assured such incidents are rare. Nevertheless, we worry that even occasional cases of this kind can discourage staff who would otherwise seek to curb abuse of a most worthy public program. DSS is a large department handling not only IHSS but also a broad range of other welfare programs (Homeless Services, Career Centers, Child Welfare Services, Adoption services, Foster Home Licensing, and Adult Protective Services). It serves thousands of clients, and its operating budget exceeds \$50 million a year. It employs 400 people of whom only one is a staff investigator although another is being sought. The District Attorney told us that most of the cases prosecuted for fraud, theft or mistreatment involve caregivers that clients hired via classified advertisements. Assuming this is true, clients who do not have solid first hand knowledge of a potential provider are well advised to employ a Registry candidate who was previously screened by the Public Authority.

FINDINGS

1. San Luis Obispo's In-Home Supportive Services program provides essential care for almost 1800 vulnerable (disabled, elderly or blind) and low-income citizens and does so at substantially less cost than institutional care.
2. In SLO County about 60% of clients are under age 65, all of those disabled in some way. In contrast statewide almost 60% of the clients are over 65. In this county about 8% of the caseload are children.
3. The program provides employment, at \$10 per hour, for caregivers who may be relatives or friends of the clients.
4. Staff social workers in IHSS are competent and experienced.
5. Recently, several Social Worker positions assigned to INSS were eliminated; as a result caseloads have increased dramatically as a direct result of budget reductions.
6. The equipping of social workers with laptop computers (2009) should allow them work more efficiently.
7. Once hired, IHSS caregivers are subject to minimal oversight by DSS staff.

8. Inherent strengths of the IHSS program (e.g. many care-providers are the devoted children, parents or spouses of clients, while others are long trusted friends or neighbors) simultaneously leave the IHSS clients open to undetected abuse.
9. “Registry” care-providers are subject to criminal investigation background screening, but not to finger printing.
10. Most care-providers, those not on the Registry, are subject neither to criminal background checks nor finger printing.

RECOMMENDATIONS

1. The county should conduct criminal background checks (and or finger printing) for all IHSS care providers who are not related to clients.
2. If recommendation #1 (above) is not implemented the county should facilitate a system by which clients and/or potential care providers could undergo those procedures at their own expense and then have the results of it entered into their IHSS records, where potential clients could consult those results.

REQUIRED RESPONSES

The Department of Social Services is required to respond to Findings 1-10 and Recommendations 1 and 2. The responses from the Department of Social Services shall be submitted to the Presiding Judge at the San Luis Obispo Superior court by **July 19, 2009**. Please provide a copy of all responses to the Grand Jury as well.

The San Luis Obispo County Board of Supervisors is required to respond to Findings 9 and 10 and Recommendations 1 and 2. The responses from the San Luis County Board of Supervisors shall be submitted to the Presiding Judge at the San Luis Obispo Superior court by **August 18, 2009**. Please provide a copy of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Martin Tangeman Superior Court of California 1035 Palm, Room 385 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403