



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Social Services
Department No.: 044
For Agenda Of: 12/9/2014
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Daniel Nielson, Social Services Director
Director(s) (805) 346-7101
Contact Info: Devin Drake, Deputy Director, Adult and Children Services
(805) 346-8351
SUBJECT: Social Services Request to Add 11 Positions

County Counsel Concurrence

As to form: N/A

Other Concurrence: County Human Resources

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions: That the Board of Supervisors:

- 1) Adopt the attached Personnel Resolution, effective December 8, 2014, adding 11 positions to the Department of Social Services needed to facilitate the implementation of new legal mandates in the In-Home Supportive Services program (Attachment 1):
 - a. Five (5.0 FTE) Administrative Office Professional I/II (Class 7000/7001)
 - b. Six (6.0 FTE) Social Service Worker/Social Service Worker Sr/PSL for IHSS/ IHSS Fraud Prevention, QA and Fair Hearings (Class 7056/7057)

Summary Text:

The Department of Social Services (DSS) is requesting the addition of 11 positions necessary to meet new mandates in the In-Home Supportive Services (IHSS) program emanating from changes in application of the Fair Labor Standards Act (FLSA) to domestic service. This request reflects the Department's best estimate on the level of IHSS staffing need above and beyond the use of current filled positions and vacant positions allocated to this program. The County has a Maintenance of Effort (MOE), therefore the additional positions are 100% funded by State and Federal Funds and no additional County general funds are needed. The Department has sufficient space to house these additional positions.

Background:

Governed primarily by Federal and State mandates, DSS provides a range of services and programs critical to delivering a countywide system of safety, protection, and services for elderly and dependent adults. The IHSS program is a state mandated service that provides physical support to eligible low-income aged, blind, and disabled individuals who would not otherwise be able to safely remain in their homes. Significant program and regulation changes in the IHSS program have created an increase in workload that requires the addition of staff in order to implement and maintain the mandates effective January 1, 2015. The eleven additional staff is the Department's best estimate of the minimum necessary in order to ensure the frail and elderly IHSS recipients are not at risk of losing their trusted provider of service and/or receive assistance in selecting a new provider if necessary. Inadequate implementation of these new regulations can put critical IHSS services at risk.

On October 1, 2013, the United States Department of Labor (DOL) published the Final Rule on the Application of the Fair Labor Standards Act (FLSA) to Domestic Service (RIN 1235-AA05). The Final Rule extends the protections of the FLSA to these workers by effectively removing the ability of "third party" agencies to claim an exemption for personal care workers from minimum wage and overtime pay as providers of "companionship services" or as live-in providers. IHSS providers will now be required to be paid overtime, at a rate equal to one and one-half times the regular rate of hourly pay, when their time worked exceeds 40 authorized hours per workweek.

As a result of these changes, the State Department of Social Services has issued an All County Letter (ACL 14-76) on October 8, 2014, to provide counties with information and instructions for implementing and enforcing the provisions of Senate Bill (SB) 855 and SB 873 that **establish limits** on the number of authorized hours providers in the IHSS programs are permitted to work in a workweek, travel time and wait time compensation requirements. In addition, the letter states:

Counties will be required to hire additional staff to support all operational/administrative activities to effectively implement the new statute. These activities include, but are not limited to, providing outreach and additional assistance to recipients to ensure that they understand the implications of the new requirements and that they take all the necessary steps to successfully comply with statutes. Funding is available to support the hiring of additional staff for these new activities.

Currently, DSS administers the IHSS program for 3,000 recipients of service, and approximately 2,400 service providers.

New County responsibilities for IHSS Social Services Workers include but are not limited to:

- **Implementing and enforcing the workweek hours limitation**
 - Provide immediate and ongoing outreach and assistance to recipients to ensure they understand the significant implications of the new requirements, assist Recipients and Providers in completion of Recipient and Provider Workweek Agreements. The new requirements and hourly limits are confusing and we anticipate an increased call volume and additional time needed at home visits.
 - Failure to submit the newly required forms can lead to discontinuance from the program for both recipients and providers.

- Recipients can request hours of service be shifted from one week to another, but must seek approval from the social worker or risk denial of payment to their provider.
- **Implementation of new Wait/Travel Time for Medical Accompaniment and Travel Time between Recipients**
 - Certain time spent in “Medical Accompaniment” (e.g. waiting during a recipient’s doctor appointment) is a new IHSS-paid service. Social workers must review all recipient requests for Medical Accompaniment and make a determination, for each medical appointment, whether the provider is ‘engaged to wait’ or ‘waiting to be engaged’, and adjust recipients hours accordingly.

New County responsibilities for IHSS Administrative Office Professional staff include but are not limited to:

- **Implementation of policies on violations of workweek and travel agreements**
 - Provide outreach and assistance to providers to determine whether the travel times the provider has submitted for travel between service locations are reasonable taking into consideration the mode of travel being used and other factors impacting the time required to travel between service locations, and authorize accordingly.
 - Providers who do not adhere to the workweek and travel time guidelines are subject to four graduating levels of penalties, which can lead up to a three month and even one year suspension from the program. A proactive and educational approach to avoiding the most severe penalties will ensure recipients do not suffer a disruption of service. Staff must monitor and assess all violations of workweek and /or travel limits, administer mandated training for second violations, conduct county reviews upon provider request regarding circumstances that led to the violation, and determine if violation was correctly assessed against the provider, and enforce violations accordingly.

One additional Social Services Worker Senior staff will be needed to conduct neutral third party reviews of unresolved provider appeals and also to administer the anticipated increase in recipient state appeals. Additional duties will include supplementing current fraud prevention, quality assurance and program integrity efforts.

Without Board approval of this request, IHSS recipients are at risk of losing their trusted provider of services due to new penalties for workweek violations, and IHSS providers are at risk of losing gainful employment. Without Board approval of this request, the Department is at risk of audit exceptions, growing backlogs, inability to meet mandates, and failing to utilize the funding resources the State and Federal government has allocated to our County for these critical needs. With a solid foundation of adequate staffing leading into these changes, the County will be better positioned for successful implementation of these new mandates while continuing to provide critical services to the elderly and dependent adults we serve in the IHSS program.

Fiscal and Facilities Impacts: The Department currently has adequate facilities to house these 11 additional positions.

Budgeted: Yes

Fiscal Analysis:

| <u>Funding Sources</u> | <u>Current FY Cost:</u> | <u>Annualized On-going Cost:</u> | <u>Total One-Time Project Cost</u> |
|-------------------------------|--------------------------------|---|---|
| General Fund | \$ - | \$ - | |
| State/Federal | \$ 378,122 | \$ 821,959 | |
| Total | \$ 378,122 | \$ 821,959 | \$ - |

Narrative:

The 11 requested positions will be funded 100% with Federal and State funding. There will be no additional County general funds needed to fund these positions. Human Resources has reviewed and classified these new positions.

Staffing Impacts:

Legal Positions:

+11

FTEs:

+11

Special Instructions:

Please send one (1) copy of the Minute Order to:

Department of Social Services
Attn: Contracts Coordinator
2125 S. Centerpointe Parkway
Santa Maria, Ca 93455

Attachments: Attachment 1: Personnel Resolution

Authored by:

cc: