



## **APPEAL RIGHTS**

Your hearing decision is attached to this letter.

### **Compliance Information**

If there is an order for the agency or health plan to do something:

- They have to report to State Hearings what work they are doing to carry out the decision. This report is due 30 calendar days after the decision.
- Managed care plans (including Mental Health, Dental, and Substance Use Disorder plans) must carry out the decision within 72 hours.
- If the agency or Plan has not carried out or are not carrying out the decision, call 800-743-8525. We will follow up with the agency or health plan. You will be told the result.

### **If You Disagree with Your Hearing Decision**

There are two ways to appeal. You can ask for a rehearing and you can also go to court. You may wish to call your local Legal Aid office. They may be able to help with your appeal. A list of Legal Aid organizations is on the State Hearings website. You may also call 411 and ask for the phone number of your local free Legal Aid organization.

### **Review of Your Hearing Decision (all except Covered California cases)**

You can ask for a review of your decision. This is called a rehearing.

You must ask for a rehearing within 30 calendar days after you get the hearing decision. If you show a good reason for not asking for a rehearing within 30 calendar days, your time limit may be up to 180 days. In some cases, the time limit to ask for a rehearing may be longer.

In your rehearing request:

- List the date you got the decision

- Explain why a rehearing should be granted
- If you want us to review new evidence:
  - describe the new evidence
  - explain why you did not give it to the judge during the hearing or during any extra time given to turn in evidence
  - tell us how you think that evidence would change the decision
  - if you can, send us a copy of the new evidence

If your case is **not** a Covered California case, send a written request to the State Hearings Rehearing Unit. This can be done by:

- **Online Appeals Account:** <https://acms.dss.ca.gov/acms/>
- **Email:** SHDRehearings@dss.ca.gov
- **Fax number:** 833-281-0902
- **Mail to: (Allow at least 5 days for mailing. Keep your originals.)**

State Hearings Division

PO Box 944243, MS 9-16-431, Sacramento, CA 94244-2430

### **Review of Covered California Hearing Decisions**

If you disagree with your hearing decision about Covered California, you may appeal in writing to Health Insurance Marketplace. This includes:

- Any decision regarding Covered California Health Plan eligibility and enrollment
- Advanced Payments of Premium Tax Credits
- Cost Sharing Reductions

You must do this within 30 calendar days after you get the decision. Your appeal may still be reviewed after 30 calendar days if you have a good reason for sending it in late. Explain the reason for the late appeal.

Send this request to: Health Insurance Marketplace, 465 Industrial Blvd., London, KY 40750-0061.

You can also fax in your appeal request. Include any copies of documents you think help your case. Fax to: 1-877-369-0130.

You have a right to get free help and information about your Covered California appeal.

Call 1-800-318-2596 for help in your language.

### **Court Review**

For all decisions you can go to court without asking for a rehearing. You can also go to court after asking for a rehearing. You must ask for court review within one year of the date you got the decision. To ask for court review, you must file a "petition" in Superior Court. The law about this is found at California Code of Civil Procedure section 1094.5. You will not have to pay court filing fees. If you win in court, and had a lawyer represent you, you may be able to get reasonable attorney's fees and costs.

California Department of Social Services  
Department of Health Care Services

# DECISION

**Hearing No. 105072660**

*In the Matter of Claimant(s):*

**Yang Xiong**  
**9582 VILLAGE TREE DR,**  
**ELK GROVE, CA 95758-1198**  
**yangcounty@gmail.com**

Pursuant to the authority of the Director, I adopt the attached final decision.



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**Angelika Oliver**  
Administrative Law Judge

Adopt Date: **January 02, 2025**

## **Hearing Information**

*Hearing Date:* December 19, 2024 10:00 AM

*Release Date:* January 2, 2025

*Aid Pending:* No

*Issue Codes:* 615-1

*Language:* ENGLISH

*Responsible Agency:* Sacramento County

Attendees

<b>Attendee Type</b>	<b>Attendee</b>
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<i>Hearing Rep:</i>	Yolanda Lewis, Sacramento County
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## **SUMMARY**

Sacramento County (county) incorrectly authorized the child's In-Home Supportive Services (IHSS) benefits at 195 hours per month, effective August 1, 2023, as the child requires 227:16 (hours: minutes) per month of IHSS benefits, effective August 1, 2023, to remain safely at home, under the Community First Choice Option (CFCO) program.

[615-1]

## **FACTS**

By Notice of Action dated October 6, 2023, Sacramento County (county) approved IHSS for the child (the recipient) effective August 1, 2023. The county authorized IHSS for 6:04 (hours: minutes) per month and denied Protective Supervision effective August 1, 2023.

Pursuant to SHN 105019726, which was heard on July 29, 2024, and the rehearing decision adopted on September 3, 2024, the ALJ determined the child eligible for Protective Supervision. The county issued the Notice of Action dated September 11, 2024, authorizing the child 195 hours per month effective August 1, 2023.

By Notice of Action dated September 20, 2024, the county authorized the child 227:16 (hours: minutes) per month effective October 1, 2024, an increase of 32:16 (hours: minutes) per month from the prior authorization for services. The notice placed the child in the CFCO program.

On September 24, 2024, the county authorized a special transaction check for the difference between 227:16 (hours: minutes) per month and the 195 hours per month that was originally paid out for that period from August 1, 2023, to August 31, 2024.

On October 3, 2024, the claimant, who is the child's father, requested a hearing to dispute that the county properly complied with the order from SHN 105019726.

A noticed hearing was held on December 27, 2024. The county representative, claimant, and the claimant's wife/ the child's mother appeared by phone.

### Documentary Evidence Submitted:

Prior to the hearing, the county representative submitted a Statement of Position setting forth the county's arguments, which included the following attachments: Notice of Actions, dated September 11, 2024, and September 20, 2024; Timesheet/ Payment from August 1, 2023, through August 31, 2023, and a special transaction check dated September 26, 2024.

Prior to the hearing, the claimant a statement of position and a rebuttal to the county's evidence which included the following additional documents not already included above:

State Hearing Decision SHN 105019726; emails between the claimant and the county; and 26 pages of timesheets.

The claimant's request for a hearing (Hearing Request Summary dated October 3, 2024) was also submitted.

The documents were marked and admitted into evidence. No other documentary evidence was submitted, and the record was closed. All documentary and testimonial evidence was carefully considered.

#### County's Position

The county's statement of position states that the County correctly complied with the order of State Hearing Decision in SHN 105019726 in which the claim was granted to authorize the child for Protective Supervision effective August 1, 2023. The county stated that the funding source was not changed when Protective Supervision was authorized by the September 11, 2024 Notice of Action.

The county contends that they are unable to repay the differential between the special transaction amount and the amount that would have been received had Protective Supervision been authorized initially in the CPCO program because they are not permitted to pay overtime.

#### Claimant's Position

The claimant testified that that the county made a mistake from the beginning when the child was not placed in the correct program so the time he was assessed to need, including Protective Supervision, was not correctly authorized. The claimant disagrees that the county cannot pay the difference. He testified that the regulations do not state that overtime cannot be authorized. The claimant testified that the county did not comply with the state decision for SHN 105019726.

#### IHSS Program and Maximum Hours

The decision for SHN 105019726 did not order that the child be placed into any particular IHSS program. Therefore, the County was not prevented from placing the child into any other program that he was eligible for, effective August 1, 2023.

The County appeals representative does not dispute that the child became eligible for the Community First Choice Option (CFCO) program as of August 1, 2023, pursuant to the eligibility requirements of All County Letter 16-40 because there is no dispute that the child is eligible for full-scope Medi-Cal the child has a total assessed need of 195 hours per month or more as the decision for SHN 105019726 authorized the child Protective Supervision, effective August 1, 2023.

As there is no dispute that the child became eligible for CFCO effective August 1, 2023, pursuant to the decision in SHN 105019726, the child is eligible for CFCO, effective August 1, 2023. As the child is eligible for CFCO, effective August 1, 2023, the child is eligible for up to 283 hours per month, effective August 1, 2023.

### **LAW**

Hearings are to be conducted in accordance with regulations and procedures set forth by the California Department of Social Services (CDSS). Those regulations are set forth in Division 22 of the Manual of Policies and Procedures (MPP) issued by the CDSS. (Title 22, California Code of Regulations (CCR) § 50953.)

All regulations referred to herein are set forth in the Manual of Policies and Procedures (MPP) issued by the Department of Social Services unless otherwise specified. For purposes of this decision, W&IC is the abbreviation for the Welfare & Institutions Code.

A County action is one which requires adequate notice, as well as any other County action or inaction relating to the Claimant's application for or receipt of aid.

(MPP § 22-001(c)(5).)

A state hearing shall be available to a Claimant who is dissatisfied with a County action and requests a state hearing. (MPP § 22-003.1.)

The state hearing decision shall determine only those circumstances and issues existing at the time of the County action in dispute or otherwise agreed to by the parties. (MPP § 22-062.4.)

The issues at the hearing shall be limited to those issues which are reasonably related to the request for hearing or other issues identified by either the County or the Claimant which they have jointly agreed to discuss. (MPP § 22-049.5.)

The burden of proof is the obligation of a party to establish by evidence, a requisite degree of belief concerning a fact in the mind of the trier of fact or the court. Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence. (Cal. Evidence Code §115.)

The burden of producing evidence is the obligation of a party to produce evidence sufficient to avoid a ruling against him on the issue. (Cal. Evidence Code § 110)

The County has the burden of going forward in the state hearing to support its determination. (MPP § 22-073.36.)

### **IHSS Overview**

The term IHSS is often used to refer generally to four distinct state/County programs which provided in-home services to disabled populations. These programs are the following:

(1) Personal Care Services Program (PCSP) is a program funded through Medi-Cal and provides services to individuals who otherwise qualify for Medi-Cal and have a chronic disabling condition. Eligibility is fully based on Medi-Cal eligibility. PCSP is unavailable to individuals whose provider is their spouse or to minor individuals whose parent is the provider. It is also unavailable if the provider is receiving advance payment or the recipient is receiving a restaurant meal allowance. (See generally, W&IC § 14132.95.)

(2) IHSS Plus Option (IPO) is a program funded through Medi-Cal, which provides services for federally eligible Medi-Cal recipients who do not qualify for the PCSP Program. Such recipients often include individuals where the spouse is the provider or minors when the parent is the provider. Eligibility is fully based on Medi-Cal eligibility. (See generally, W&IC § 14132.97.)

(3) Community First Choice Option (CFCO) is a program that provides services for federally eligible Medi-Cal recipients who meet IPO requirements and in addition require 195 hours over service or meet certain other levels of severity of need. (See generally, All County Letter (ACL) No. 14-60, August 29, 2014.)

(4) IHSS Residual (IHSS-R) is a program limited to disabled individuals who do not qualify for federal Medi-Cal program participation, primarily legal aliens. Eligibility is based on linkage to the SSI/SSP program. (See generally, W&IC §§ 12300 et seq.)

### **CONCLUSION**

#### IHSS Needs Effective August 1, 2023

In this case Sacramento County (the county) authorized the child 227:16 (hours: minutes) per month of IHSS benefits effective October 1, 2024.

Based on the above findings of fact, the child is eligible for 227:16 (hours: minutes) per month of IHSS benefits in the CPCO program, effective August 1, 2023, according to the following chart:

<u>Service:</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Total</u>
Bowel and Bladder care:	4:23		
Transfers:	1:34		
Medical Transportation:	0:05		
Accompaniment to/from Places You Get Services in Place of IHSS:	1:25		
Protective Supervision:		195:00	
Total (weekly x 4.33):	32:16	195:00	227:16

Sacramento County's authorization for 227:16 (hours: minutes) per month of IHSS benefits effective October 1, 2024, is not sustained as the child requires 227:16 (hours:

minutes) per month of IHSS benefits, in the CPCO program effective August 1, 2023, to remain safely at home.

**ORDER**

The claim is granted in part.

Sacramento County shall rescind the September 11, 2024, and September 20, 2024 Notices of Action; authorize the child 227:16 (hours: minutes) per month, effective August 1, 2023; place the child in the CFCO program effective August 1, 2023; and aid the claimant and child as otherwise eligible.