

ASSEMBLY BILL

No. 1801

Introduced by Assembly Member Yamada

February 10, 2010

An act to amend Section 12305.84 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1801, as introduced, Yamada. In-home supportive services: quality assurance and fraud prevention.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Existing law requires the State Department of Social Services, in collaboration with the State Department of Health Care Services, the California State Association of Counties, the County Welfare Directors Association, and stakeholders representing consumers and providers, to convene a workgroup to develop and issue a report evaluating the implementation of quality assurance and fraud prevention and detection activities enacted from 2004 to the present. Existing law requires the department to provide this report on or before December 31, 2010.

This bill would, in addition, require the department to continue to provide this report after December 31, 2010, on an annual basis.

This bill would also require the department, in consultation with the above-mentioned entities, to identify stable ongoing funding sources for IHSS services, solicit recommendations for improving the delivery of long-term care services, as described, and solicit recommendations regarding the role the IHSS program would have in accomplishing those

improvements. It would require the department to report these findings and recommendations gathered as a result of these efforts to the Legislature on or before May 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) On June 22, 1999, the United States Supreme Court issued
4 a decision in the case of *Olmstead v. L.C.* by Zimring (1999) 527
5 U.S. 581, finding that the unjustified institutional isolation of
6 people with disabilities is a violation of the Americans with
7 Disabilities Act (ADA). The *Olmstead* decision established the
8 responsibility of states to ensure that people with disabilities,
9 including seniors and children, receive care in the most integrated
10 setting.

11 (b) The In-Home Supportive Services (IHSS) program, which
12 is the cornerstone of California’s efforts to comply with the
13 *Olmstead* decision, is a statewide public program providing
14 essential personal care and domestic services to approximately
15 450,000 aged, blind, or disabled Californians who are unable to
16 remain safely in their own homes without assistance. There is
17 ample evidence that the IHSS program is successful at keeping
18 people out of more costly and less desirable out-of-home placement
19 in nursing homes or other institutions.

20 (c) IHSS is a complex program and has undergone substantial
21 change over the past five years. Mechanisms have been put in
22 place to improve IHSS program integrity with the enactment of
23 the IHSS Quality Assurance Initiative, in Senate Bill 1104 of the
24 2003–04 Regular Session, and the Anti-Fraud Initiative, in
25 Assembly Bill 19 of the 2009–10 Fourth Extraordinary Session.

26 (d) California faces challenges to meet the needs of seniors and
27 persons with disabilities to live independently in the setting of
28 their choice that is responsive to their gender, age, and cultural
29 and ethnic heritage. The challenges facing the IHSS program are
30 best viewed in the context of California’s changing demographics.
31 Currently, the state has 4,000,000 people over the age of 65, the
32 largest older adult population in the nation. This figure is projected

1 to increase by 172 percent over the next 40 years, with most of the
2 growth occurring in the next 20 years. As the population ages and
3 individuals become less able to care for themselves, there will be
4 an increasing demand for personal assistance services.

5 (e) These challenges must be addressed by identifying financial
6 and structural barriers to improve IHSS program integrity that
7 consistently promotes home-based care over institutional care.

8 SEC. 2. Section 12305.87 is added to the Welfare and
9 Institutions Code, to read:

10 12305.87. (a) The department, in consultation with the State
11 Department of Health Care Services, the California State
12 Association of Counties, the County Welfare Directors Association,
13 and stakeholder organizations representing consumers and
14 providers, shall do all of the following:

15 (1) Identify stable ongoing funding sources that would be
16 dedicated to IHSS services to meet the projected caseload
17 associated with the growing population of seniors and people with
18 disabilities in California.

19 (2) Solicit recommendations for improving the delivery of
20 long-term care services in a manner that reduces the overall costs
21 for long-term care and avoids placements in expensive and
22 inappropriate institutions.

23 (3) Solicit recommendations regarding the role the IHSS
24 program would have in accomplishing the improvements described
25 in paragraph (2).

26 (b) The department shall report the findings and
27 recommendations gathered pursuant to subdivision (a) to the
28 Legislature on or before May 1, 2011.

29 SEC. 3. Section 12305.84 of the Welfare and Institutions Code
30 is amended to read:

31 12305.84. (a) Upon enactment of this section, the department
32 shall convene a stakeholder group and begin a process with this
33 group to develop and issue a report evaluating the implementation
34 of the quality assurance and fraud prevention and detection
35 activities enacted from 2004 to the present. The department shall
36 include and collaborate with the State Department of Health Care
37 Services, the California State Association of Counties, the County
38 Welfare Directors Association, and stakeholders representing
39 consumers and providers.

- 1 (b) The department shall provide this report to the Legislature
- 2 on or before December 31, 2010, *and annually thereafter*.
- 3 (c) The stakeholder group shall *do all of the following*:
- 4 (1) Review the annual error reports issued and state-level quality
- 5 assurance activities to date required by Section 12305.7 and review
- 6 and evaluate the implementation of county quality assurance
- 7 activities required by Section 12305.71, including a review of the
- 8 number of instances, amounts, and causes of overpayments and
- 9 underpayments identified by quality assurance activity at the state
- 10 and county level from enactment to date.
- 11 (2) Review information available regarding prevention and early
- 12 detection of fraud, ~~the latter~~ as defined by Section ~~12305.81~~
- 13 *12305.8*.
- 14 (3) Collect and review information regarding referrals of
- 15 suspected fraud to the State Department of Health Care Services
- 16 pursuant to Section 12305.82, and subsequent investigative efforts,
- 17 including cost-benefit information regarding these efforts, as well
- 18 as the number of fraud cases handled locally.
- 19 (4) Collect and review information regarding final convictions
- 20 for fraud, including all of the following:
- 21 (A) The amount of funds involved in the conviction.
- 22 (B) The basis of the fraud conviction, including whether it
- 23 involved services not provided or falsified consumers or providers,
- 24 or both.
- 25 (C) Aggregate information regarding the number and source of
- 26 individuals responsible, including, but not limited to, state
- 27 employees, IHSS providers, consumers, county workers, or others.
- 28 (5) Provide recommendations on options for preventing errors
- 29 and fraud for both the state and county levels, and
- 30 recommendations for early detection strategies to combat fraud in
- 31 the program.