

Introduced by Senator Liu

January 25, 2010

An act to amend Section 12309 of the Welfare and Institutions Code, relating to In-Home Supportive Services.

LEGISLATIVE COUNSEL'S DIGEST

SB 891, as introduced, Liu. In-Home Supportive Services: needs assessment.

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 home. Existing law requires the State Department of Social Services to develop a uniform assessment tool to ensure that IHSS services are delivered in all counties in a uniform manner.

Existing law requires counties to use the needs assessment tool to evaluate a recipient's functioning in various activities, as prescribed, and to quantify the recipient's functioning using a five-point scale to rank each function. Under existing law, a recipient is assigned a functional index score, which is a weighted average based on the recipient's individual rankings, that is used in the assessment of IHSS services.

This bill would require the department, commencing January 1, 2011, and every 3 years thereafter, to update the needs assessment tool.

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

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

SECTION 1. Section 12309 of the Welfare and Institutions Code is amended to read:

12309. (a) In order to ~~assure~~ *ensure* that in-home supportive services are delivered in all counties in a uniform manner, the department shall develop a uniform needs assessment tool. *Commencing January 1, 2011, and every three years thereafter, the department shall update the uniform needs assessment tool.*

(b) (1) Each county shall, in administering this article, use the uniform needs assessment tool developed pursuant to subdivision (a) in collecting and evaluating information.

(2) For purposes of paragraph (1), “information” includes, but is not limited to, all of the following:

(A) The recipient’s living environment.

(B) Alternative resources.

(C) The recipient’s functional abilities.

(c) (1) The uniform needs assessment tool developed pursuant to subdivision (a) shall evaluate the recipient’s functioning in activities of daily living and instrumental activities of daily living.

(2) The recipient’s functioning shall be quantified, using the general hierarchical five-point scale for ranking each function, as specified in subdivision (d).

(d) The recipient’s functioning ranks shall be as follows:

(1) Rank one. A recipient’s functioning shall be classified as rank one if his or her functioning is independent, and he or she is able to perform the function without human assistance, although the recipient may have difficulty in performing the function, but the completion of the function, with or without a device or mobility aid, poses no substantial risk to his or her safety.

(2) Rank two. A recipient’s functioning shall be classified as rank two if he or she is able to perform ~~a~~ *the* function, but needs verbal assistance, such as reminding, guidance, or encouragement.

(3) Rank three. A recipient’s functioning shall be classified as rank three if he or she can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.

(4) Rank four. A recipient’s functioning shall be classified as rank four if he or she can perform ~~a~~ *the* function, but only with substantial human assistance.

1 (5) Rank five. A recipient's functioning shall be classified as
2 rank five if he or she cannot perform the function, with or without
3 human assistance.

4 (e) (1) Notwithstanding any other law, and effective September
5 1, 2009, individuals shall be eligible for each domestic or related
6 service only if assessed at a rank four or five, as defined in
7 subdivision (d), in the activity of daily living relating to that
8 service. The activities of daily living that relate to domestic and
9 related services are defined in regulations and include housework,
10 laundry, shopping and errands, meal preparation, and meal cleanup.
11 The rank for each domestic and related service shall be determined
12 based on an assessment of need for supportive services by the
13 county, in accordance with this section and the hourly task
14 guidelines as defined by Section 12301.2. This paragraph does not
15 apply to individuals meeting one of the conditions specified in
16 paragraph (2).

17 (2) Paragraph (1) shall not apply to individuals authorized to
18 receive either protective supervision pursuant to subdivision (b)
19 of Section 12300 and Section 12301.21 or paramedical services
20 pursuant to Section 12300.1, or to individuals authorized to receive
21 over 120 hours of services per month.

22 (3) To the extent necessary to maintain federal financial
23 participation, the director may waive any or all of the provisions
24 of paragraph (2), after consultation with the State Department of
25 Health Care Services.

26 (f) A recipient shall be assigned a functional index score. The
27 functional index score for a recipient shall be a weighted average
28 based on the individual functional index rankings, as described in
29 subdivision (d), to provide a single measure of a recipient's relative
30 dependence on human assistance for performance of activities of
31 daily living that are used in the assessment of services provided
32 pursuant to this article.

33 (g) (1) Notwithstanding the rulemaking provisions of the
34 Administrative Procedure Act (Chapter 3.5 (commencing with
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
36 Code) the department may implement and administer this section
37 through all-county letters or similar instruction from the department
38 until regulations are adopted. The department shall adopt
39 emergency regulations implementing this section no later than July
40 1, 2010. The department may readopt any emergency regulation

1 authorized by this section that is the same as or substantially
2 equivalent to an emergency regulation previously adopted under
3 this section.

4 (2) The initial adoption of emergency regulations implementing
5 this section and one readoption of emergency regulations shall be
6 deemed an emergency and necessary for the immediate
7 preservation of the public peace, health, safety, or general welfare.
8 Initial emergency regulations and the one readoption of emergency
9 regulations authorized by this subdivision shall be exempt from
10 review and approval by the Office of Administrative Law. The
11 initial emergency regulations and the one readoption of emergency
12 regulations authorized by this subdivision shall be submitted to
13 the Office of Administrative Law for filing with the Secretary of
14 State and each shall remain in effect for no more than 180 days,
15 by which time final regulations may be adopted.

16 (h) Subdivisions (e), (f), and (g) shall become operative on
17 September 1, 2009.