



October 26, 2021

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Board of Supervisors
County of Marin
San Rafael, CA 94903

Re: IHSS Public Authority Labor Agreement and County Certification of Available Funding

RECOMMENDATIONS

It is recommended that your Board:

1. Appropriate \$326,000 to fund the FY 2021-22 County share of a multi-year In-Home Supportive Services (IHSS) Public Authority Labor Agreement with SEIU Local 2015 effective through December 31, 2023, and plan full fiscal year funding of \$653,000 in the FY 2022-23 Proposed Budget; and
2. Authorize County Administrator to certify available funding to support the multi-year labor agreement.

BACKGROUND

Given changes in the state's funding incentives to support IHSS wages, we are reporting to your Board a tentative agreement between the [IHSS Public Authority of Marin](#), the employer of record for Marin's approximately 1,800 IHSS Providers, and SEIU Local 2015, which represents Marin's providers. The agreement is not effective until the County certifies funding for the bargaining agreement between the IHSS Public Authority and SEIU Local 2015. Consistent with our existing agreements with the Authority, this certification is required because the County shares in the costs of wages paid to IHSS providers with the state and federal governments.

The IHSS Authority Agreement will increase IHSS provider wages by \$1.45 per hour, which will bring the hourly wage to \$16.85 starting January, 2022. The federal government funds 50 percent of costs, with the County currently sharing 35 percent of all non-federal costs and the state sharing the remaining 65 percent. In recent years, the IHSS Public Authority and SEIU Local 2015 have "rolled over" bargaining agreements because annual Living Wage Ordinance (LWO) COLA adjustments afforded continued wage increases for IHSS providers, even during lean County budget years. However, this year SEIU Local 2015 requested to bargain a new agreement with the IHSS Public Authority of Marin, and the Public Authority hired a labor negotiator who has been collaborating with County staff throughout the process.

IHSS Policy and State Budget Changes

In the 2018-2019 State budget, the state introduced two fiscal constructs to increase provider wages and benefits statewide by increasing state participation in the cost of payments to IHSS providers.

Wage Supplement Option

Counties with lower IHSS wages (at or close to the state minimum wage) have taken advantage of a recent tool called the "wage supplement" to increase IHSS hourly wages at a quicker pace to "catch up" with counties like Marin with additional state participation. A wage supplement is a specified amount that applies to the provider wage on future

dates relative to the state minimum wage without an adjustment to the County IHSS maintenance of effort (MOE) or any increase in cost to counties. Marin has not been able to take advantage of this tool because our hourly IHSS provider wage rate has been and currently is the County's living wage, which has always been much higher than the state's minimum wage. Therefore Marin has taken full advantage of an alternative tool called the "10 percent over three years" option, which was designed for counties with higher provider wages.

10 Percent Over 3 Years Option Offsets IHSS COLA Costs

The 2018-19 state budget included a provision for counties exceeding the then \$12.10 per hour state participation cap, in which the state would pay 65 percent of non-federal costs up to a maximum 10 percent increase in wages and benefits over a three-year period. Absent this new "10 percent option," counties above the state cap like Marin would have to absorb the entire non-federal cost of any increases. The provision also affords a second 10 percent option for an additional three years after application of the first. Marin has taken full advantage of this 10 percent option each year since 2018 and we are currently in its second three-year iteration, which significantly reduces County's costs for adjustments impacting IHSS providers.

Per [AB 135/SB 135](#) this year, the state human services trailer bill now also includes a CSAC-sponsored proposal to maintain the 10 percent option for use two additional times for three-year periods that begin on or after January 1, 2022, no matter how many times a county has utilized the tool prior to that date. This proposal was supported by your Board, and it would provide Marin two additional three-year iterations of the 10 percent tool beyond the current second iteration – or until 2029.

IHSS MOE Penalty

Of note, AB 135/SB 135 also includes a ten percent one-time fiscal penalty onto any counties that fail to reach an IHSS collective bargaining agreement after a mediation and fact-finding process. All four of the following conditions would need to be met for the penalty to be assessed:

- (1) A county and provider union have completed the full IHSS mediation and factfinding process;
- (2) the factfinding panel has issued recommended settlement terms that are more favorable to the union;
- (3) the county has an expired IHSS collective bargaining agreement; and
- (4) the county and union have not reached an agreement within 90 days after the release of the factfinding recommendations.

Such a penalty would consist of 7 percent of the County's 2020-21 IHSS MOE, or approximately \$609,000. This amount would be withheld through an adjustment to the County's Social Services Realignment base on a one-time bases, then restored in the following fiscal year.

IHSS Wages and the Marin County LWO Rate

Typically, we report regarding an update to the Living Wage Ordinance (LWO) every fall. The largest group which has directly benefited since inception of the LWO in 2002 has been IHSS providers. The IHSS Public Authority of Marin has consistently reported that these wage and benefit increases have improved recruitment and retention efforts for Marin's approximately 1,800 IHSS providers today.

The LWO requires an annual COLA increase based upon the April-to-April increase in the Bay Area Consumer Price Index (CPI), informed by a recommendation from the CAO

incorporating financial conditions. This past April 2020 to April 2021 CPI increase was 3.9 percent - leading to an expected LWO rate of \$16.00 per hour effective January 1, 2022 (a 60 cent per hour increase). Comparatively, the state minimum wage is anticipated to increase from \$14.00 to \$15.00 per hour effective January 1, 2022.

Each year, the CAO reports to your Board on any LWO findings and makes recommendations regarding a LWO wage rate COLA for the ensuing calendar year, including for IHSS providers. We are still planning a LWO Annual Report in November; however, the IHSS Authority’s negotiated \$1.45 per hour will exceed the expected COLA increase of \$0.60 per hour. **Therefore, this IHSS labor agreement will result in hourly wages of \$16.85 per hour in January 2022, \$0.85 above the expected 2022 Living wage of \$16.00 per hour, pending continued federal and state participation in the additional IHSS costs, and remain at \$16.85 through the term of the agreement (December 31, 2023).**

The chart below summarizes known hourly rates for IHSS providers among our comparison counties, as well as projected 2022 rates per our understanding of approved bargaining agreements.

Comparison County	Current 2021 Hourly Wage	Jan. 1, 2022 Hourly Wage	% Inc.
Santa Cruz	\$15.75	\$17.75	12.7%
San Mateo	\$16.70	\$17.70	6.0%
Marin (Proposed)	\$15.40	\$16.85	9.4%
Napa	\$15.45	\$16.45	6.5%
Sonoma	\$15.35	\$16.35	9.0%
Monterey	\$15.29	\$16.29	6.5%
San Luis Obispo	\$15.11	\$16.11	6.6%
Santa Barbara	\$14.77	\$15.77	6.8%

STAFF RECOMMENDATION

Given the enhanced state participation in the negotiated \$1.45 wage increase, we recommend that your Board authorize the County Administrator to certify funds to support a tentative agreement between the IHSS Public Authority of Marin and SEIU Local 2015 through December 2023. Should the state minimum wage increase beyond \$15.40 per hour effective 2023, IHSS provider hourly wages would “float” above the new state minimum wage by \$1.45 per hour at no added County cost, allowing the County to remain competitive with our comparison counties which have already taken advantage of the wage supplement tool.

Because IHSS providers are paid by the state, and the state requires a 60-day wait period for approval and implementation, staff would begin working with the California Department of Social Services to implement the change as soon as possible, targeting a January 1 effective date. Approval of the staff recommendation allows the County Administrator to certify available funding for the labor agreement and for the IHSS Public Authority to formally approve its agreement with SEIU 2015. A companion Health and Human Services item appears on your Board’s agenda today to authorize formal certification of the wage increase with the state.

Equity Impact

Marin’s 1,800 IHSS providers serve Medi-Cal eligible aged, blind or individuals with disabilities, including children, to assist them to remain safely in their own homes as an alternative to out-of-home care. The enhanced wages associated with the new labor

agreement will ensure that a diverse provider registry remains competitive with IHSS providers among our comparison counties while serving an equally diverse clientele needing services and supports.

Marin's 1,800 IHSS providers are 75 percent female and 25 percent male. While race/ethnicity data does not exist for 66 percent of providers, approximately 4 percent identify as Asian; 4 percent African American; 8 percent LatinX; and 17 percent Caucasian. Of provider languages spoken other than English, 2 percent speak Russian; 3 percent Vietnamese; and 12 percent speak Spanish.

Providers who work for IHSS recipients as a profession are registered with the Public Authority of Marin to serve non-family member clients. Over 80 percent of "registry" providers identify as people of color with 55 percent identifying English as their second language. Registry providers will be eligible for a new \$30,000 transit subsidy pilot program for providers who must travel to reach non-family member clients in less populated/distant locations such as West Marin.

Of Marin's approximately 2,100 IHSS benefit recipients, 6 percent are age 90+; 15 percent are age 80-90; 20 percent are age 70-80; 20 percent are age 60-70; 30 percent are age 18-59; and 8 percent are under 18.

Fiscal Impact

The fiscal impact of approving staff's recommendation to allow a 9.4 percent hourly wage adjustment for IHSS providers effective January 1, 2022 equates to additional General Fund costs of approximately \$326,000 for January 1 – June 30, 2022 (or an estimated \$192,000 additional cost relative to the LWO status quo for the same period). Estimated annual or ongoing costs are approximately \$653,000. Without the state's 65 percent non-federal cost share, the additional local cost of the recommended increase for IHSS providers would be approximately \$1,212,000 annually.

The FY 2021-22 general fund budget would be increased by \$326,000 in the Health and Human Services IHSS program in Munis Org Code 28041431. Staff would also plan for full-year costs of \$653,000 in the FY 2022-23 Proposed Budget.

If your Board should have any questions, please feel free to contact us directly.

Sincerely,

Daniel Eilerman
Assistant County Administrator

Cc: Dario Santiago, Executive Director, Marin IHSS Public Authority
Benita McLarin, Director, Health and Human Services