
MARCH 25, 2019

AGENDA ITEM 3
INFORMATION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

IHSS Update

Summary

For this item, staff will provide an update on efforts to evaluate the costs and logistics of including providers of in-home supportive services (IHSS) in the CalSavers Retirement Savings Program (“CalSavers” or “the Program”).

Background

There are two general approaches to IHSS provider participation in CalSavers: opt-in participation with contributions from a bank account (without facilitation by an employer) and participation with payroll contributions.

With regard to the method based on payroll contributions, Government Code Section 100046(a) compels the Board to include IHSS providers in the Program if it determines, and the Director of the California Department of Social Services (CDSS) and Director of Finance (DOF) certify:

- 1) The inclusion meets all state and federal requirements;
- 2) The appropriate employer of record has been identified;
- 3) The inclusion does not create a financial liability for the state or employer of record; and
- 4) The inclusion can be implemented at reasonable costs.

Existing Accessibility for IHSS Providers: Individual Participation (Opt-in)

The regulations adopted by the Board allow individuals to join CalSavers independent of an employment relationship. This will allow IHSS providers to participate in the Program through contributions from their bank account. Staff are beginning to work with stakeholders including CDSS and the unions representing IHSS providers on ways to do outreach and education to IHSS providers about this feature and will update the Board at future meetings.

Additional Participation Model Currently Under Review: Employer-Facilitated with Payroll Contributions

In addition to opt-in participation, staff are analyzing the ability of IHSS providers to participate through their employer and contribute through payroll deductions. While this method could help to encourage participation, it may also require substantial costs. The status of the key areas of analysis as prescribed by Government Code Section 100046(a) are described below.

1) *The inclusion meets all state and federal requirements*

Aside from impacts from pending federal rulemaking, the inclusion of IHSS providers would meet state and existing federal requirements.

In July 2018, the federal Center for Medicaid and Medicare Services (CMS) announced rulemaking that would prohibit states from making deductions from IHSS provider payments to third parties for myriad purposes including payments for benefits such as health insurance. The effect of the rulemaking, if adopted, would also likely eliminate the ability to make such deductions for retirement savings. At the time this item was written, it is not clear if CMS will adopt this rule. Former Treasurer John Chiang submitted a letter dated August 13, 2018 urging CMS not to proceed with the rulemaking and, instead, evaluate ways to improve IHSS provider access to workplace benefits (see Attachment 1).

2) *The appropriate employer of record has been identified*

Statute defines an eligible employer as one with at least five employees that does not sponsor a retirement plan and excludes any government entity from eligibility. Statute also provides employers of IHSS a unique status as an eligible employer that disregards the requirements that they employ at least five employees and excludes government entities. If the requirements of Government Code Section 100046(a) are met, IHSS employers and providers can participate through an employer facilitation.

3) *The inclusion does not create a financial liability for the state or employer of record*

Government Code Section 100046 establishes the state is prohibited from incurring liabilities associated with administering the program. Any costs incurred by a state agency required by IHSS provider inclusion would be reimbursed by the Program.

4) *The inclusion can be implemented at reasonable costs*

Staff have been working with CDSS, in conjunction with DOF, to obtain estimates of the costs necessary to include IHSS employer and employees in the Program. According to CDSS, if IHSS providers are to have any ability to contribute through payroll deductions, CDSS will likely require significant costs for technology upgrades—estimated to exceed \$3 million for startup costs.

The Program would be required to reimburse CDSS for the technology upgrades and any other costs necessary to facilitate payroll contributions. The Board would need to determine how these costs could impact the state administrative fee before further pursuing this participation model.

The State Controller's Office (SCO) processes payments for IHSS providers. There does not appear to be any new costs that would be required for the SCO due to inclusion of IHSS providers and their employers. Staff will continue to research any potential costs or impacts, if any, for the SCO.

Next Steps

Staff will continue to evaluate models for including IHSS workers and analyze associated costs and logistical impacts. Staff will also continue efforts to engage with the unions representing IHSS providers, government entities, and other stakeholders about opportunities to perform outreach and education to the IHSS provider community.

Attachments:

- Attachment 1: Comment Letter from Former State Treasurer John Chiang regarding “Medicaid Program; Reassignment of Medicaid Provider Claims,”