

Chapter 5 Assessing Protective Supervision and Paramedical Services

IHSS PROTECTIVE SUPERVISION

1. What is Protective Supervision?

Protective supervision is observing people with severe mental impairments and intervening where necessary so they don't hurt themselves living at home. An IHSS provider may be paid to watch a disabled child or adult to prevent injuries or accidents, when the person needs 24-hour supervision and can remain safely at home if it is provided. MPP 30-757.17; MPP 30-757.173(a).

2. Why is Protective Supervision Important?

People eligible for protective supervision are always given the maximum number of monthly hours - at least 195 for non-severely impaired individuals of 283 for people who are "severely impaired." They get the maximum even if a county cuts their hours for some other IHSS service.

3. What are the Eligibility Conditions?

- a. A person shows some severe mental impairment; poor judgment (making bad decisions about health or safety), confusion/disorientation (wandering off, getting lost, mixing up people, days or times) or bad memory (forgetting to start or finish something). Such impairments may occur with mental retardation, autism, Alzheimer's and dementias, psychiatric disabilities. *Tip: The best way to show severe impairment is by examples of what the person does that may cause injuries. Get supporting statements from anyone who looks after the person.*
- b. A person may get hurt if left home alone (i.e., wandering out of the house, letting strangers in, turning gas on a stove, lighting fires, leaving water running, eating wrong foods or inedible things, head banging, self-biting, scratching, using knives or other sharp household objects. *Tip: Keep a log to describe all the potential accidents that would happen if the person were not supervised.*
- c. A person must be supervised 24-hours a day (friends or relatives living at home, teachers in school or day program, and drivers of car

or bus). *Tip: Keeping a daily log will show that the dangerous behaviors can occur at any time of day or night. It will also show when the caregiver provided protective supervision to prevent injuries or accidents.*

4. When is Protective Supervision Not Available?

Protective supervision is not available:

- i) For friendly visiting or social activities.
- ii) When the need is caused by a medical condition and the person needs medical supervision.
- iii) In anticipation of a medical emergency.
- iv) To control anti-social or aggressive behavior.
- v) To guard against deliberate self-destructive behavior, such as suicidal, or when an individual knowingly intended to harm him/herself.

MPP 30-757.172(a)(e)

Further, Protective Supervision no longer may be provided in part with reassurance phone calls when feasible and appropriate.

5. Can Children Get Protective Supervision?

Yes, but the child must need supervision due to his or her disability, not routine childcare. The child must need closer supervision than other children of the same age. Counties are required to follow specific procedures when assessing a child's need for protective supervision. For further discussion, see section below on "Assessing Protective Supervision for Children."

6. How Can I Show that a Person Needs Protective Supervision?

- a. Make a list of every accident or near accident in the past six months.
- b. Keep a log for two weeks that describes every action the person takes that might cause injury, and how often it happens (i.e., walks into the street without looking, turns on the stove, and forgets to turn it off.)

c. Get doctors' letters and help from the regional center to discuss the person's age and equivalent functioning level, and describe how the person has poor memory, judgment, confusion, or disorientation.

d. Show how the house can't be made completely safe for a person.

7. County Excuses and How to Answer Them.

Counties come up with many common excuses for telling someone they are not eligible. Here is a list and some ways to refute them.

County excuse	Some responses
Is there a severe mental impairment?	
Severe mental impairments not observed on home visit.	Your daily log, doctor's statement, regional center records; home visit too short, observed behavior and didn't answer guidelines questions; Form SOC 293, Line H shows 5 for one mental impairment.
Needs protective supervision because of physical impairment, not mental impairment.	Because of mental impairment does not understand physical impairments, does not understand or appreciate consequences of actions on physical impairments - i.e., tries to get up or walk without assistance when cannot do so without risk of injury, will eat sweets even though risks injury because of diabetes, will try to remove bandage or tubing or brace because it hurts or is irritating, etc.
Physical impairments cause dangerous behavior.	Mental impairments also cause it; not required to show mental is only cause.
Is there dangerous behavior at home?	
Formal diagnosis of mental condition doesn't prove need.	Doctor's statement of typical behavior for person with that diagnosis.

County excuse	Some responses
No injuries in the recent past.	Recipient was well supervised.
No evidence of dangerous behavior on county worker's home visit.	Frequency not hourly; missed day before and after; can't generalize from one hour to 24 hours in a day.
"Complete" physical paralysis prevents recipient from doing anything dangerous.	Any purposeful action that is dangerous, pulling out catheter, G-tube, etc.
Aggressive and antisocial if hits someone or destroys property.	<p>In adults: self-injurious acts like biting oneself, head banging, destroying property causes self-injury, are common for psychiatric or mental condition.</p> <p>In children: normal behavior is often aggressive and anti-social.</p>
Is 24-hour supervision needed and received?	
Doesn't need 24 hours because unsupervised - like on the bus, in a car.	Always supervised, bus/car are controlled settings with adult driver.
Recipient is sometimes left alone so not supervised 24 hours.	Can't afford it, someone looking in, lucky no accidents, recipient's condition has worsened.
Needs physical redirection, not just watching or verbal command.	Supervision includes redirection, some intervention.
Family discourages independence overprotective of mildly retarded.	More independence caused injuries or near accidents in the past; others (regional center doctor) recommend 24-hour supervision.
Change environment to remove risks: knobs off stove, lock up tools; brace wheelchair, strapping in wheelchair; knobs off hot water; higher bed rails against night wandering; bolt down	Can't make all changes; others turn home into a nursing home or jail cell; the older the recipient, the less change possible without losing distinctive features of home.

County excuse	Some responses
furniture.	
Child plays outside with no adult supervision.	Fenced in yard; can't climb out; no hazards in yard.
Children always need to be supervised by an adult.	Parents not always physically within sight of children without mental disability; child needs much more supervision than child of same age. The younger the child, the more severe the behavior must be. Most difficult for children under 2.
Go to a behavior parenting class.	Won't solve underlying behavior, have gone and unsuccessful, will go but need it until proven.
Other Issues Is the recipient no longer eligible?	
County improperly granted protective supervision; reassessment shows no eligibility termination notice.	No change in SOC 293, Line H, on mental function rankings; no change in recipient's home or physical condition, appeal immediately to keep IHSS until decision.
Is the parent eligible as a provider (able and available)?	
Parent can work full time (40 hrs/wk) by putting child in after school daycare (able and available parent rule).	No suitable day care, can't hire baby-sitter for minimum wage, child needs special stimulation from parent.
Parent works less than 40 hours but can work full time.	Frequent trips to doctor, other emergencies, stress, prevent full time work, lost prior full time jobs.

Assessing Protective Supervision for Children

As a result of a court settlement, all counties are required to assess children for protective supervision according to specific procedures. (ACL 98-87.) Among the procedures, the settlement requires that:

- (1) County social workers must advise parents or guardians of a minor with a mental impairment of the conditions for receiving protective supervision.
- (2) County social workers must advise parents or guardians of the availability of protective supervision. A parent or guardian does not have to specifically request this information. MPP 30-757.174

In assessing the minor's need for protective supervision, if the minor has a mental impairment the county must:

- (1) Request that the parent or guardian obtain available information or documentation about the minor's mental impairment, including records from regional centers;
- (2) Determine whether a minor needs more supervision because of his/her mental impairment than a minor of the same age without such impairment;
- (3) Not deny protective supervision based solely on the minor's age;
- (4) Not deny protective supervision based solely on the fact that the minor had no injuries at home due to the mental impairment so long as the minor has the potential for injury by having the physical ability to move about the house (i.e. is not bedridden);
- (5) Not deny protective supervision solely because the parent (or guardian) leaves the child alone for some fixed period, like five minutes;
- (6) Consider factors such as age, lack of injuries and parental absence, together with all other facts, in determining whether a minor needs protective supervision.

If you applied for IHSS on behalf of your child and were not authorized protective supervision and the county social worker did not follow all of these procedures despite your child's mental impairment, you should appeal the county's decision.

Protective Supervision Forms

New forms have been put out by State to be filled out by the doctor or psychologist or therapist to verify need for protective supervision and that the need for protective supervision is because of a mental impairment. These forms are located at Appendix D and E at the end of this publication.¹

Appendix D is SOC 821 (3/06). The explanation after the address block is confusing so make certain the doctor is not confused regarding section (1), the risk of injury may be related to a physical condition such as hemiplegia from a stroke but the need for protective supervision is because the mental impairment means the IHSS recipient does not understand what he can or cannot do. Without protective supervision the recipient would be at risk of injury from trying to do things beyond his capabilities. Regarding section (3), an IHSS recipient may need protective supervision because of a medical condition (Alzheimer Syndrome, stroke, brain injury), and is entitled to get it unless the intervention is medical – i.e., something that would be done only by a nurse if in a medical facility. Lastly, the form can only be signed by a medical professional with a medical specialty or scope of practice in the area of memory, orientation and judgment. MPP 30-757.173 (a)(1)(A)

Appendix E is SOC 825 (6/06). This form is to be filled out to show how the around-the-clock protective supervision will be provided. Note that the regulations say protective supervision may be met in part by a “reassurance phone service when feasible and appropriate.” *But see* next section.

Protective supervision no longer may be provided in part with reassurance phone calls when feasible and appropriate.

In determining whether a 24-hour need exists for protective supervision, the sources of information the county social worker may draw upon in determining the need does not explicitly include consumer testimony and family and provider observations. MPP 30-757.173(a)(1)(A)(5)

¹ All IHSS forms can be found at http://www.dss.cahwnet.gov/cdssweb/FormsandPu_271.htm. The forms can be filled out on line and then printed (even though the filled in version cannot be saved on line.)

IHSS PARAMEDICAL SERVICES

1. What are Paramedical Services?

Paramedical services are prescribed by a doctor for a person's health and require some training and judgment to perform. Common services are injections, colostomy irrigation, catheter insertion/care, suctioning, G and NG tube feeding, ventilator and oxygen care, fecal impaction, range of motion to improve function, wound/decubitus ulcer care and other services requiring sterile procedures. *Biggest problem:* Providers don't ask for enough time to complete the entire service, from preparation to clean up. Providers don't ask for the extra time that may be required for record keeping – such as for diabetes testing and administration of injections.

2. Why are Paramedical Services Important?

People who need complex medical care can stay at home instead of going into nursing homes. Only doctors decide what services the county must provide and how many hours it must pay for. The county can't cut the services hours ordered by the doctor. Providers don't need any special license to perform the services.

3. What are the Eligibility Conditions?

- a. The person can't perform the service at all: Some mental or physical impairment prevents the person from doing the service, like giving an injection or changing a catheter.
- b. The activity is necessary to maintain the person's health.
- c. The service requires training and judgment to perform: such as puncturing skin, inserting a medical device into a body orifice. MPP 30-757.191(a)(c).
The provider gets training from the doctor or other health professional in what steps to take and how to do each one to complete the service. The steps require careful observation of the recipient to avoid mistakes.

4. How Should I Apply for Paramedical Services?

First talk with the treating doctor or the health professionals that work with the doctor about what services are needed and each and every step to perform them properly. If available, the doctor's plan of treatment may also be a good source for listing what paramedical services you may require. Then keep a daily log for a

week about how often each service is performed and how long it takes to complete, from the preparation through cleanup. Give the hours information to the doctor to complete Form SOC 321.

When your doctor’s office fills out paramedical form SOC 321 (11/99), make certain the time allowed includes preparation, cleanup and compliance with universal precautions. Universal precautions include the hand washing and/or use of gloves or mask whenever you touch bodily fluids and waste (urine, feces, blood, vaginal secretions, semen, pus, saliva) or handle laundry or clothing or other things soiled with bodily fluids or waste. MPP 30-757.1(a)(1)(A)1. Form SOC 321 is attached here as Appendix F.

5. County Tactics and How to Respond to Them.

Counties use several tactics to deny or change the services doctors have authorized. There are ways to stop them from working.

County tactics	How to respond
County tells you that some service may not be allowed as a paramedical service.	Discuss the service with doctor. Explain that any service billed as skilled nursing under Medi-Cal/Medicare qualifies. Doctors generally know what these are.
County tries to persuade doctor to change the order for services or hours.	Consult with doctor first and get approval of hours based on your log, discuss your conditions and the need to preserve the doctor-patient relationship from outside interference. Explain that the doctor's decision on a signed Form 321 is final and the county must comply.
County nurse observes one day and bases lower hours on her observations and calls doctor.	Log shows that time varies; average time greater than day of observation.
Home health agency will provide, apply there first.	Not alternate resource since home health agency provides time-limited services.
Range of motion is a personal care service for which county decides	When the doctor prescribes range of motion to also improve and maintain function at the

County tactics	How to respond
eligibility and hours.	same time, it is a paramedical service.
County denies monitoring for providing some specific paramedical service.	Doctor prescribes monitoring in order to provide the service. To date the state has never allowed monitoring (continuous skilled observation) as a paramedical service. For help, call PAI for its 12/30/94 memo on the subject. If the interventions to provide the service are frequent, the total hours may equal the maximum hours (283).