

COMMISSION ON STATE MANDATES

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June 16, 2009

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor/Controller-Recorder
San Bernardino, CA 92415-0018

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Draft Staff Analysis, Proposed Statewide Cost Estimate, and Hearing Date
In Home Supportive Services II, 00-TC-23
Statutes of 2000, Chapter 445; Statutes of 1999, Chapter 90;
Statutes of 1991, Chapter 91
County of San Bernardino, Claimant

Dear Ms. Ter Keurst:

The draft staff analysis, and proposed statewide cost estimate for this program are enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis by **July 7, 2009**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This test claim is tentatively set for hearing on Friday, **July 31, 2009**, in Room 447, State Capitol, Sacramento, California. The final staff analysis will be issued on or about July 17, 2009. This matter is proposed for the Consent Calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

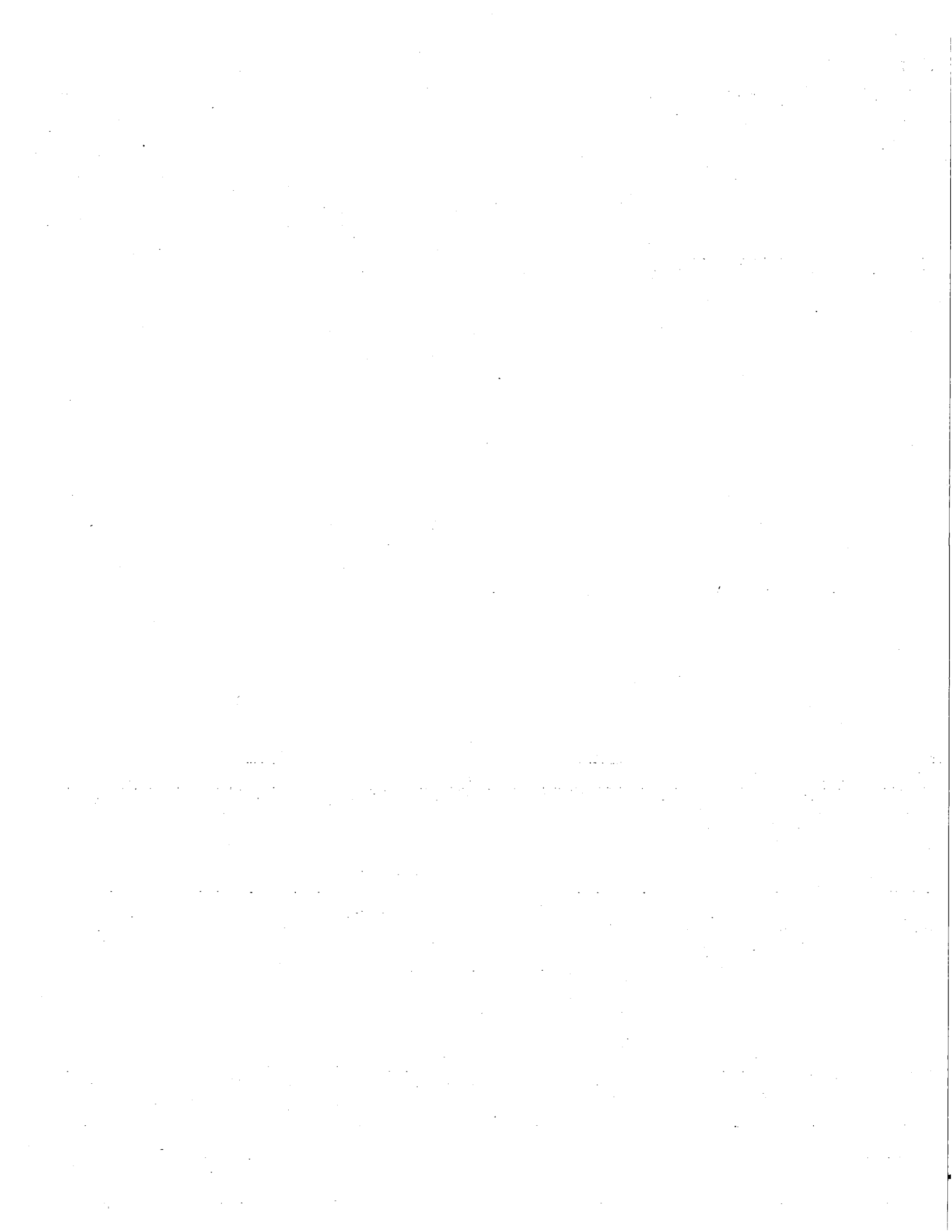
Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

Handwritten signature of Paula Higashi in black ink.
PAULA HIGASHI
Executive Director

Enclosures

J:mandates/2000/00tc23/corres/scedsatrans



ITEM _____
DRAFT STAFF ANALYSIS
STATEWIDE COST ESTIMATE

Welfare and Institutions Code Sections 12301.3, 12301.4 and 12302.25

Statutes 1999, Chapter 90
Statutes 2000, Chapter 445

In-Home Supportive Services II
00-TC-23

County of San Bernardino, Claimant

EXECUTIVE SUMMARY

The proposed statewide cost estimate includes nine fiscal years for a total of **\$474,912** for the *In-Home Supportive Services II* program. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1999-2000	1	\$32,985
2000-2001	2	\$112,301
2001-2002	5	\$116,534
2002-2003	4	\$132,994
2003-2004	1	\$11,904
2004-2005	1	\$17,837
2005-2006	1	\$16,040
2006-2007	1	\$15,378
2007-2008	1	\$18,939
TOTAL	17	\$474,912

Summary of the Mandate

The test claim statutes, in part, address the form in which in-home supportive services care providers are employed, referred to as the "mode of service," including requiring that all counties establish an employer of record for IHSS providers, other than the recipient of the services. The test claim statutes also provide that "[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals."

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *In-Home Supportive Services II* program (00-TC-23). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated

program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

Statewide Cost Estimate

Staff reviewed the summary report of claims data prepared by the State Controller's Office (SCO). The report showed that five counties filed 17 claims between fiscal years 1999-2000 and 2007-2008 for a total of \$474,912¹. Based on this report, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*
2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) they receive other state and federal revenues that cover the costs of the program; or (3) they did not have supporting documentation to file a reimbursement claim.*
3. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

Methodology

The proposed statewide cost estimate for fiscal years 1999-2000 through 2007-2008 was developed by totaling the 17 unaudited actual reimbursement claims filed with the SCO for these years. No projections for future fiscal years were included because funding for 2008-2009 cannot occur until fiscal year 2009-2010.

The proposed statewide cost estimate includes nine fiscal years for a total of \$474,912 for the *In-Home Supportive Services II* program. This averages to \$52,768 annually in costs for the state for this nine-year period.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$474,912** for costs incurred in complying with the *In-Home Supportive Services II* program.

¹ Summary report received from SCO on June 9, 2009.

STAFF ANALYSIS

Summary of the Mandate

The test claim statute, in part, address the form in which in-home supportive services care providers are employed, referred to as the "mode of service," including requiring that all counties establish an employer of record for IHSS providers, other than the recipient of the services. The test claim statutes also provide that "[e]ach county shall appoint an in-home supportive services advisory committee that shall be comprised of not more than 11 individuals."

The Commission on State Mandates (Commission) adopted the Statement of Decision for the *In-Home Supportive Services II* program (00-TC-23). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 29, 2001. The Commission adopted a Statement of Decision on April 16, 2007, and the parameters and guidelines on August 1, 2008. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 3, 2009, and must file late claims by February 3, 2010.

Reimbursable Activities

The Commission approved the following activities for reimbursement:

For each eligible claimant, the following activities are reimbursable:

A. One-time Activities

1. County
 - a) Establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record through a public authority, nonprofit consortium, contract, county administration of the individual provider mode, county civil service personnel, or mixed modes of service. (Reimbursement period is limited to July 12, 1999 through December 31, 2002.)
 - b) Offering an individual provider employer option; for counties with an IHSS caseload of more than 500, upon request of a recipient, and in addition to a county's selected method of establishing an employer for in-home supportive service providers. This activity is limited to the administrative costs of establishing an employer of record in the individual provider mode, upon request. (Reimbursement period begins July 12, 1999.)

B. On-going Activities

1. Board of Supervisors
 - a) Appointing an in-home supportive services advisory committee comprised of:
 - i. Not more than 11 individuals, with membership as required by section 12301.3, subdivision (a): "No less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance services paid for through

public or private funds or as recipients of services under this article.”
(Reimbursement period begins July 12, 1999.)

- ii. In counties with fewer than 500 IHSS recipients, at least one member of the advisory committee shall be a current or former provider of in-home supportive services. (Reimbursement period begins September 14, 2000.)
 - iii. In counties with 500 or more IHSS recipients, at least two members of the advisory committee shall be a current or former provider of in-home supportive services. (Reimbursement period begins September 14, 2000.)
 - iv. A county board of supervisors shall not appoint more than one county employee as a member of the advisory committee. (Reimbursement period begins September 14, 2000.)
- b) Soliciting recommendations for qualified advisory committee members through a fair and open process that includes the provision of reasonable written notice to, and reasonable response time by, members of the general public and interested persons and organizations. (Reimbursement period begins July 12, 1999.)
 - c) Soliciting recommendations from the advisory committee on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Reimbursement period is limited to July 12, 1999 through December 31, 2002.)
 - d) Taking the advice and recommendations of the in-home supportive services advisory committee, as established pursuant to Section 12301.3, prior to making policy and funding decisions about IHSS on an ongoing basis. (Reimbursement period begins July 12, 1999.)

2. Advisory Committee

- a) Submitting recommendations to the county board of supervisors on the preferred mode or modes of service to be utilized in the county for in-home supportive services. (Reimbursement period begins July 12, 1999.)
- b) Providing ongoing advice and recommendations regarding in-home supportive services to the county board of supervisors, any administrative body in the county that is related to the delivery and administration of in-home supportive services, and the governing body and administrative agency of the public authority, nonprofit consortium, contractor, and public employees. (Reimbursement period begins July 12, 1999.)

Offsetting Revenues

Each county receives \$59,000 annually in state and federal funds to assist in covering the costs of the in-home supportive services advisory committee, which must be offset from any reimbursement claims. Therefore, the parameters and guidelines include the following language:

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source,

including but not limited to service fees collected; and federal and state funds, including funds allocated for the direct costs of the IHSS advisory committee pursuant to Welfare and Institutions Code section 12301.4, subdivision (b), county fiscal letters issued by the Department of Social Services allocating state and federal funds for the IHSS advisory committee (DSS CFL Nos. Nos. 00/01-14, 00/01-33, 00/01-48, 01/02-12, 02/03-28, 02/03-73, 03/04-46, 03/04-51, 04/05-16, 04/05-22, 04/05-27, 05/06-10, 06/07-02), and future allocations of state and federal funds for the IHSS advisory committee shall be identified and deducted from this claim.

Statewide Cost Estimate

Staff reviewed the summary report of claims data prepared by the SCO.² The report showed that five counties filed 17 claims between fiscal years 1999-2000 and 2007-2008 for a total of \$474,912³ Based on this report, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 58 counties in California. Of those, only five filed reimbursement claims for this program. If other eligible claimants file reimbursement claims or late or amended claims are filed, the amount of reimbursement claims may exceed the statewide cost estimate

2. *Non-claiming local agencies did not file claims because: (1) they did not incur more than \$1000 in increased costs for this program; (2) they receive other state and federal revenues that cover the costs of the program; or (3) they did not have supporting documentation to file a reimbursement claim.*

The state Department of Social Services allocates \$59,000 annually in state and federal funds to each county to assist in the cost of the in-home supportive services advisory committee reimbursed under this program. A claimant representative reports that this amount covers all costs of the program for most counties. All five counties claimed costs during the start-up period from 1999-2000 to 2002-2003, presumably for establishing an employer for in-home supportive service providers, offering an individual provider employer option, and establishing their advisory committees.⁴ Only one county (Alameda County) continued to file reimbursement claims after 2002-2003. For the five county claimants, the average total cost claimed during the start-up period is \$98,704. The average ongoing cost/year for one county is \$16,020.

3. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced.

² Exhibit A.

³ Summary report received from SCO on June 9, 2009.

⁴ Counties of Amador, San Bernardino, Santa Barbara, and Tuolumne.

Methodology

The proposed statewide cost estimate for fiscal years 1999-2000 through 2007-2008 was developed by totaling the 17 unaudited actual reimbursement claims filed with the SCO for these years. No projections for future fiscal years were included because funding for 2008-2009 cannot occur until fiscal year 2009-2010.

The proposed statewide cost estimate includes nine fiscal years for a total of \$474,912 for the *In-Home Supportive Services II* program. For the five county claimants, the average total cost claimed during the start-up period is \$98,704. The average ongoing cost/year for one county is \$16,020.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1999-2000	1	\$32,985
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2004-2005	1	\$17,837
2005-2006	1	\$16,040
2006-2007	1	\$15,378
2007-2008	1	\$18,939
TOTAL	17	\$474,912

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$474,912** for costs incurred in complying with the *In-Home Supportive Services II* program.

Exhibit A

State Controller's Office
List of All Claims Filed
In-Home Supportive Services

June 9, 2009

289	IN-HOME SUPPORTIVE SERVICES	19992000 9936	COUNTY OF SAN BERNARDINO	32,985
		19992000 Total		32,985
289	IN-HOME SUPPORTIVE SERVICES	20002001 9901	COUNTY OF ALAMEDA	7,651
289	IN-HOME SUPPORTIVE SERVICES	20002001 9936	COUNTY OF SAN BERNARDINO	104,650
		20002001 Total		112,301
289	IN-HOME SUPPORTIVE SERVICES	20012002 9901	COUNTY OF ALAMEDA	9,808
289	IN-HOME SUPPORTIVE SERVICES	20012002 9903	COUNTY OF AMADOR	8,279
289	IN-HOME SUPPORTIVE SERVICES	20012002 9936	COUNTY OF SAN BERNARDINO	73,596
289	IN-HOME SUPPORTIVE SERVICES	20012002 9942	COUNTY OF SANTA BARBARA	18,863
289	IN-HOME SUPPORTIVE SERVICES	20012002 9955	COUNTY OF TUOLUMNE	5,988
		20012002 Total		116,534
289	IN-HOME SUPPORTIVE SERVICES	20022003 9901	COUNTY OF ALAMEDA	18,655
289	IN-HOME SUPPORTIVE SERVICES	20022003 9903	COUNTY OF AMADOR	68,060
289	IN-HOME SUPPORTIVE SERVICES	20022003 9942	COUNTY OF SANTA BARBARA	44,702
289	IN-HOME SUPPORTIVE SERVICES	20022003 9955	COUNTY OF TUOLUMNE	1,577
		20022003 Total		132,994
289	IN-HOME SUPPORTIVE SERVICES	20032004 9901	COUNTY OF ALAMEDA	11,904
		20032004 Total		11,904
289	IN-HOME SUPPORTIVE SERVICES	20042005 9901	COUNTY OF ALAMEDA	17,837
		20042005 Total		17,837
289	IN-HOME SUPPORTIVE SERVICES	20052006 9901	COUNTY OF ALAMEDA	16,040
		20052006 Total		16,040
289	IN-HOME SUPPORTIVE SERVICES	20062007 9901	COUNTY OF ALAMEDA	15,378
		20062007 Total		15,378
289	IN-HOME SUPPORTIVE SERVICES	20072008 9901	COUNTY OF ALAMEDA	18,939
		20072008 Total		18,939
289 Total				474,912

Commission on State Mandates

Original List Date: 7/6/2001
Last Updated: 6/17/2009
List Print Date: 06/17/2009
Claim Number: 00-TC-23
Issue: In Home Supportive Services II

Agenda Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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