March 1, 2021

The Honorable Joaquin Arambula, M.D.
Chair, Assembly Budget Subcommittee #1
State Capitol, Room 5155
Sacramento, CA 95814

Re: IHSS Fiscal Penalty Stakeholder Proposal – Oppose

Dear Assembly Member Arambula:

On behalf of the California State Association of Counties (CSAC), California Association of Public Authorities (CAPA), County Welfare Directors Association of California (CWDA), Urban Counties of California (UCC), and Rural County Representatives of California (RCRC), we are writing to express our strong opposition to the proposal to impose a ten percent penalty on counties that have failed to reach an In-Home Supportive Services (IHSS) collective bargaining agreement. This stakeholder proposal from UDW/AFSCME Local 3930 and SEIU California ignores the progress that has been made on IHSS collective bargaining, is inconsistent with previous actions, and is counter to upcoming state law changes that are set to occur.

Counties Have Made Significant Progress on IHSS Collective Bargaining

There are numerous reasons to oppose this proposed penalty, but first and foremost is the fact that significant progress has been made on IHSS collective bargaining. Over the past couple of years, the Legislature has indicated a strong interest in seeing an increased number of collective bargaining agreements. This is exactly what has occurred since the enactment of the new IHSS Maintenance of Effort (MOE) by Senate Bill 80 (Chapter 27, Statutes of 2019). County Supervisors have demonstrated a commitment to increasing wages and benefits for IHSS providers by reaching a number of new agreements or memorandums of understanding (MOUs). Please consider the following highlights:

1. **New agreements have been reached at a faster pace** – There are new agreements in 26 counties since the new IHSS MOE was enacted on July 1, 2019. This is far above the pace of new agreements in prior years. This includes 12 agreements that have been reached even during the uncertain fiscal situation caused by the COVID-19 pandemic.
2. **Counties are dedicating tens of millions of dollars in new funding for wage increases every year** – The estimated county share of costs for wages and health

benefits increases that are going into effect in 2020-21 is $28.8 million and there are still four months left to reach additional agreements. This follows up on county investments of $43.1 million and $72.4 million in the prior two fiscal years. These are ongoing and sustained commitments of county funding for IHSS provider wages and benefits.

3. **More than 95 percent of IHSS providers work in a county that has increased wages since 2017** – A total of 46 counties have increased wages since 2017 covering more than 95 percent of IHSS providers. In all cases, these counties are permanently paying IHSS providers above the state minimum wage.

Attached is the latest *County IHSS Collective Bargaining Chart* that shows the bargaining status and IHSS provider wage in every county. There are 45 counties that have reached an MOU to increase wages under the 2017 MOE or 2019 MOE, and one county that has increased wages through a local living wage ordinance. Of the remaining 12 counties, three are currently negotiating, four are waiting for the union to respond or contact the county, two are not currently in negotiations, and three have gone through factfinding and/or mediation.

Proposal is Inconsistent with Previous Actions

Senate Bill 80 included a provision to create a one-time 1991 Realignment withholding related to IHSS collective bargaining that could potentially apply to counties without a collective bargaining agreement in place. A county would be subject to the withholding only if all of the following four conditions were met: (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. It is important to note that application of this Realignment withholding does not mean that a county has failed to bargain in good faith. It only means that a county and provider union were unable to reach an agreement. This provision became inoperative on January 1, 2021.

The Administration, Legislature, counties, and provider unions all reached agreement on the Realignment withholding provisions and the one-time one percent withholding amount. Now UDW/AFSCME Local 3930 and SEIU California are asking for a withholding amount that is ongoing and ten times greater than what was previously agreed to and more than three times greater than what they originally requested in 2019. However, since that time, the amount of IHSS collective bargaining agreements that has been achieved has more than doubled.

Counties are reaching agreements because the Administration and the Legislature enacted a more sustainable IHSS MOE and created more fiscal stability for county IHSS costs, not because of the existence of a potential IHSS collective bargaining penalty. There is no reason to enact a new penalty that is significantly more punitive than the initial penalty when counties have done exactly what was asked of them.

Proposal is Counter to Upcoming Changes in State Law

On January 1, 2022, current law will alter two of the IHSS collective bargaining funding mechanisms in a manner that will make it more difficult for counties and providers unions to reach agreements. First, the historic sharing ratio will flip, with the county becoming responsible for 65 percent of the nonfederal share and the state covering 35 percent of the nonfederal share. Second, the ten percent over three years tool, which allows counties to secure state participation above the state participation cap, will no longer be available, as current law indicates that any use of this tool must begin prior to January 1, 2022. The result is that the county costs for most future wage and benefit increases would nearly double making it significantly more difficult to reach agreements.

Our organizations are co-sponsoring a coalition proposal that would maintain the current IHSS collective bargaining funding mechanisms instead of having these changes occur on January 1, 2022. It is these fiscal tools that have been the driver of the increased number of agreements to increase wages and benefits for IHSS providers, not any sort of threat of an IHSS fiscal penalty. The way to encourage and support future agreements is to adopt the coalition budget proposal to provide a positive fiscal incentive rather than a punitive approach.

For all of the above reasons, counties are strongly opposed to the stakeholder proposal to enact an IHSS fiscal penalty on counties. Please feel free to reach out to any of our organizations with questions or if you need additional information. Thank you for your consideration.

Sincerely,

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cc: Honorable Members, Assembly Budget Subcommittee #1
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