

~~INITIAL~~ FINAL STATEMENT OF REASONS

**TITLE 17, CALIFORNIA CODE OF REGULATIONS
DIVISION 2. DEPARTMENT OF DEVELOPMENTAL SERVICES**

CHAPTER 3. COMMUNITY SERVICES

NOTE: THIS DOCUMENT IS AN AMENDMENT OF THE INITIAL STATEMENT OF REASONS (ISOR) AND CHANGES TO THE LANGUAGE OF THE ISOR ARE REFLECTED HEREIN BY STRIKEOUTS FOR LANGUAGE DELETED, AND UNDERLINING FOR LANGUAGE ADDED.

(a) Description of the Public Problem, Administrative Requirement or Other Condition or Circumstance the Regulations are Intended to Address

Respite services are unique. The respite provider is, among other things, required to: 1) Be certified in Cardio Pulmonary Resuscitation and First Aid. 2) Receive general training in developmental disabilities. 3) Have the ability to recognize and adjust to the varying needs of the consumers served. 4) Provide for the physical, social, health and safety, and developmental needs of each consumer. 5) Work intermittently with no guaranteed income. Maintaining a wage for respite workers above the minimum wage is essential to recruit and retain individuals who are willing to assume the degree of responsibility required, have the ability to provide optimal level and quality of service, and accept the sporadic/intermittent work schedule inherent in the delivery of respite service.

These regulations are intended to increase respite worker salaries and wages to \$0.81 above the minimum wage, plus 18.75% in benefits. On October 23, 2000, the Industrial Welfare Commission increased the minimum wage to \$6.75 per hour effective January 1, 2002. Currently, the reimbursement rate for respite workers is \$8.57. To retain the \$0.81 differential, a \$0.41 increase in the current rate for respite workers is required, increasing the rate to \$8.98 per hour. The rate of \$8.98 is calculated to provide for a minimum wage of \$6.75 plus \$0.81, plus benefits calculated at 18.75% (\$1.42). It is believed that if the salaries for respite workers are not maintained above the minimum wage, respite workers will seek other minimum wage positions involving less responsibility and training, making it virtually impossible for agencies and families to find and retain qualified providers.

(b) Specific Purpose and Rationale for Necessity

**SUBCHAPTER 7. NONRESIDENTIAL SERVICE VENDOR
RATE SETTING PROVISIONS**

ARTICLE 5. RATES OF REIMBURSEMENT BASED ON THE SCHEDULE OF MAXIMUM ALLOWANCE OR THE VENDOR'S USUAL AND CUSTOMARY RATE

Section 57332. Maximum Rates of Reimbursement for Non-Residential Services

Subsections (c)(3)(A) and (c)(9)(A)2.a.

Specific Purpose:

This section sets maximum rates of reimbursement for many non-residential services. The proposal in this subsection would increase the maximum reimbursement rate for in-home respite workers and respite facilities to \$0.81 above the minimum wage, plus 18.75% in benefits. This will result in a \$0.41 increase for a total rate of reimbursement for respite workers of \$8.98.

Rationale for Necessity:

A precedent for respite worker salaries and wages above the minimum wage was established in 1989 with the passage of AB 877 (Chapter 1396, Statutes of 1989) which established salaries and wages of in-home respite workers employed by in-home respite services agencies at \$5.06 per hour (\$0.81 above the \$4.25 minimum wage), plus \$0.95 in benefits for a total of \$6.01 per hour. The Department, in regulations, established the same rate for respite workers who are not employed by an agency and for respite facilities. This \$0.81 wage differential was restored in 1998-99 when the minimum wage was increased by the Federal Minimum Wage Increase Act of 1996 and Proposition 210 (a California initiative passed in November 1996). This proposed change is required to maintain respite worker salaries, wages, and benefits, above the minimum wage, thereby allowing recruitment and retention of qualified providers.

- The Summary of Comments and Responses filed in Tab J of the Final Rulemaking File is incorporated herein as if fully set forth below.

- The Department has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.

- There were no alternatives proposed by any parties during the public comment periods other than those comments summarized and responded to in Tab J of the Final Rulemaking File. The Department considered the alternative of not adopting regulations, and rejected that alternative as it did not providing the safeguards and assurances to the consumer's health and well being that the Department is seeking.

- The Department has determined that the adopted regulations do not impose any mandate on local agencies or school districts.