

SUMMARY

The action by Butte County (County) to authorize the claimant 76 hours and 50 minutes of the In-Home Supportive Services (IHSS) benefits effective July 16, 2021, is not sustained.

It is determined that the claimant needs 2 hours and 38 minutes per week for meal cleanup and 2 hours per week for laundry effective July 16, 2021. The County shall authorize 2 hours and 38 minutes per week for meal cleanup and 2 hours per week for routine laundry effective July 16, 2021.

The claim for additional time for domestic services; bowel and bladder care; and bathing oral hygiene and grooming is denied.

The action by the County to discontinue the claimant's protective supervision under the IHSS Program is sustained because the County met its burden of proof that the claimant did not meet the protective supervision requirements under state law/regulations. Even if the County had not met its burden of proof, based on the preponderance of the evidence, the claimant did not meet the protective supervision requirements under state law/regulations in order to remain safely in the home.

The County shall rescind the Notice of Action (NOA) dated June 28, 2021, authorizing the claimant 76 hours and 50 minutes of IHSS benefits per month effective July 16, 2021. The County shall issue a new NOA authorizing the claimant 81 hours and 44 hours of IHSS benefits per month effective July 16, 2021.

[630-3] [640-3] [641-2]

FACTS

The claimant in this matter is the IHSS recipient. The claimant's IHSS benefits are funded under the Community First Choice Option (CFCO) Program. At the time of the annual reassessment to determine the claimant's IHSS needs, the claimant was a 59-year old male diagnosed with Posttraumatic Stress Disorder (PTSD), Bipolar I, and Alcohol Abuse. The claimant lives with his mother and the mother is also the claimant's IHSS provider.

On May 6, 2021, the County social worker conducted a telephonic reassessment of the claimant's need for IHSS benefits. Present for the telephonic reassessment was the claimant, the claimant's mother and the social worker.

The County provided a NOA dated June 28, 2021, advising the claimant that the County authorized 76 hours and 50 minutes of IHSS benefits per month effective July 16, 2021. The County's action resulted in a decrease of 200 hours and 7 minutes of IHSS benefits per month.

The County's need assessment is as follows:

Services – Monthly:	Ranking	Current	Previous	Difference
Domestic Services	4	03:00	04:05	(-) 01:05

Services – Weekly Hours:	Ranking	Current	Previous	Difference
Prepare Meals	4	07:00	07:00	00:00
Meal Cleanup	4	01:45	03:30	(-) 01:45
Routine Laundry	4	01:45	01:00	(+) 00:45
Shopping for Food	3	00:30	00:30	00:00
Other Shopping/Errands	3	00:30	00:30	00:00
Respiration	1	00:00	00:00	00:00
Bowel and Bladder care	1	00:00	00:00	00:00
Feeding	2	01:30	01:32	(-) 00:02
Routine Bed Bath	3	00:00	00:00	00:00
Dressing	2	00:53	00:53	00:00
Menstrual Care	1	00:00	00:00	00:00
Ambulation	1	00:00	00:00	00:00
Transfers	1	00:00	00:00	00:00
Bathing, Oral Hygiene and Grooming	3	02:13	02:13	00:00
Rubbing Skin, Repositioning	1	00:00	00:00	00:00
Help with Prosthesis/Medication		00:28	00:28	00:00
Medical Appointments		00:29	00:23	(+) 00:06
Accompaniment to Other Services		00:00	00:00	00:00
Protective Supervision		00:00	45:02	(-) 45:02
Paramedical Services		00:00	00:00	00:00
Total Weekly Hours:		17:03		

Monthly Hours:

Domestic Services 03:00
 Total weekly hours x 4.33 73:50
Total Monthly Hours 76:50

The NOA provided the following relevant information:

As of 07/16/2021, the hours of IHSS you get are increased. Here's why:
 The reassessment of your needs done on 05/06/2021, found that your condition has changed and/or that you now need additional assistance in the these (*sic*) areas (MPP 30-756, MPP 30-757, MPP 30-761, MPP 30-763):
 Accompaniment to Medical Appointments
 Laundry

As of 07/16/2021, the hours of IHSS you get are decreased. Here's why:
The reassessment of your needs done on 05/06/2021 found that your condition has changed and/or that you now need less assistance in the these (*sic*) areas (MPP 30-756, MPP 30-757, MPP 30-761, MPP 30-763):
Domestic Services
Feeding

[¶ . . . ¶]

Because you share living arrangements with another person(s), your authorized hours for the following Services have been prorated by the amount shown in the Adjustment column on the front page of this NOA:
Meal Clean-up
Shopping for Food

This means that these tasks are being performed for other persons in the household so the time it takes to perform these tasks has been divided among each person, and you receive only your share of this time. If your provider is performing a task for you alone, there has been no proration of time. (MPP 30-763)

[¶ . . . ¶]

You cannot get Protective Supervision Service. Here's why:
An assessment of your needs done on 05/06/2021, found that you do not need 24-hour supervision to ensure your safety. (MPP 30-757.17)

You cannot get Protective Supervision Service. Here's why:
Protective Supervision Service cannot be authorized for friendly visiting or other social activities. MPP 30-757.172 Protective Supervision Service cannot be authorized when the need is caused by a medical condition and the form of the supervision needed is medical. MPP 30-757.172 Protective Supervision Service cannot be authorized in anticipation of a medical emergency. MPP 30-757.172 Protective Supervision Service cannot be authorized to prevent or control a recipient's anti-social or aggressive behavior. MPP 30-757.172 Protective Supervision Service cannot be authorized to guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself. MPP 30-757.172[.]

On July 6, 2021, the claimant's mother filed a request for hearing on behalf of the claimant to dispute the County's action. In response to the request for hearing, the County submitted a Statement of Position (SOP) setting forth the County's contentions and legal arguments.

The hearing was scheduled for a video hearing for September 9, 2021. However, the hearing was postponed to October 7, 2021. On that date the claimant, the claimant's

mother, the mother's Authorized Representative appeared by video conference, and the County hearing representative and the social worker appeared telephonically for the hearing. At the onset of the hearing, the claimant authorized his mother to be his Authorized Representative for the purposes of the hearing and the claimant did not continue to participate in the hearing.

The claimant's mother confirmed that the following services were in dispute: domestic services; meal preparation; meal cleanup; routine laundry; food shopping; other shopping errands; bowel and bladder care; feeding; dressing; bathing, oral hygiene and grooming; medical appointment; and protective supervision. All other services were not in dispute.

Based on the testimony provided the social worker, the claimant withdrew the request for hearing as to the following services: meal preparation; food shopping; other shopping errands; feeding; dressing; and medical appointment.

After the hearing was completed, the record was kept open in order for the parties to submit additional documents for the record. Both parties indicated that the documents would be uploaded to the Appeals Case Management System by the end of October 8, 2021. The parties were provided the opportunity to submit written responses regarding the documents to be submitted by the other party. Each party's written response was due on October 15, 2021. The parties submitted their written responses and the hearing record was closed.

Documentary Evidence

County's Documents

In addition to the County's SOP and the NOA dated June 28, 2021, the following relevant documents were submitted by the County:

1. In-Home Supportive Services (IHSS) Program Health Certification Form (SOC 873) dated October 15, 2012.
2. Assessment of Need for Protective Supervision for In-Home Supportive Services Program (SOC 821) forms dated May 2, 2018 and June 7, 2021.
3. IHSS Protective Supervision Guidelines and Protective Supervision Field Assessment Tool.
4. Needs Assessment Form (SOC 293) and Case Assessment Narrative for the reassessment conducted on May 6, 2021.
5. Category worksheets/screen prints.
6. IHSS Case Notes.
7. NOA dated November 14, 2019.
8. SOC 293 and Case Assessment Narrative for the reassessment conducted on November 5, 2019.
9. Letter from social worker dated May 20, 2021.
10. County In-Home Supportive Services Explanation of Assessment for Protective Supervision Services dated May 6, 2021.

11. Protective Supervision 24-Hours-a-Day Coverage Plan dated May 6, 2021.
12. Behavioral Health Documents prepared by Dr., K.A.M., dated July 20, 2021, May 19, 2021, April 7, 2021, January 29, 2021, November 2, 2020, September 21, 2020, August 12, 2020, January 27, 2020, November 12, 2019, August 20, 2019, June 18, 2019, May 14, 2019, and April 12, 2019.
13. The social worker's undated letter in response to the SOC 821 dated July 20, 2021, submitted on behalf of the claimant during the open record period.¹

Claimant's Documents

In addition to the request for hearing, the following relevant documents were submitted on behalf of the claimant:

1. Undated letter provided by the claimant's mother.
2. SOC 821 dated July 20, 2021.
3. Letter dated October 14, 2021, submitted by the claimant's mother during the open record period.

The claimant's mother submitted additional documents prior to the hearing. Based on the review of the additional documents that were submitted, the documents were determined to be not relevant as to the issues that are in dispute for this hearing. For example, the Westside Ambulance Association Signature Form dated November 25, 2018; the Medical Record, Urology discharge dated March 19, 2021; and Glenn Medical Center dated November 27, 2018, provided no relevant information as to the claimant need for services under the IHSS Program to include the claimant's eligibility for protective supervision. The claimant's mother also submitted the In-Home Supportive Services (IHSS) Program Provider Notification of Recipient Authorized Hours and Services and Maximum Weekly Hours dated December 1, 2019. However, the notification was addressed to the claimant's mother as the claimant's IHSS provider and the notification was advising the provider as to the serviced hours authorized by the County as of December 1, 2019. The notification provided no relevant regarding the claimant's need for services as a result of the reassessment conducted on May 6, 2021. As a result, these documents, along with any other nonrelevant documents were not admitted into the record.

The Administrative Law Judge considered the documents admitted into the record and any relevant information contained in said documents were referenced and incorporated accordingly in this Decision.

Summary of Relevant Documents

¹ The social worker's undated letter was uploaded to the Appeals Case Management System (ACMS) on October 14, 2021.

1. The SOC 873 dated October 15, 2012, provided the following relevant information:

1. Is this individual unable to independently perform one or more activities of daily living (e.g., eating, bathing dressing, using the toilet, walking, etc.) or instrumental activities of daily living (e.g., housekeeping, preparing meals, shopping for food, etc.)? Yes
2. In your opinion, is one or more IHSS service recommended in order to prevent the need for out-of-home care . . .? Yes
3. Provide a description of any physical and/or mental condition or functional limitation that has resulted in or contributed to this individual's need for assistance from the IHSS program: Pt (patient) has physical disability (back pain) as well on-going mental health disability. Periods of debilitating depression, anxiety and chronic periods of same as well[.] Needs assist (*sic*) with ADL's (activities of daily living), household management and medication supervision & reminders & transportation for appt (*sic*) and shopping.
4. Is the individual's condition(s) or functional limitation(s) expected to last at least 12 consecutive months OR expected to result in death within 12 months? Yes
5. Describe the nature of the services you provide to the individual (e.g., medical treatment, nursing care, discharge planning etc.): Assists ADL's, reminders re: medication, assist & transportation to appointments.
6. How long have you provided service(s) to this individual? Prior to 5/11/10
7. Describe the frequency of contact with this individual (e.g., monthly, yearly, etc.): No response.
8. Indicate the date you last provided services to this individual: 10/15/12

2. The SOC 821 dated May 2, 2018, provided the following relevant information:

Date Patient Last Seen by You: 1 May 2018
Length of Time You Have Treated Patient: Over 2 years
Diagnosis/Mental Condition: PTSD, Bipolar I, Alcoholic Abuse
Prognosis: Permanent
Memory – Moderate or intermittent deficit. Explanation: Traumatic flashbacks; memory stored by affective state and is often not accessible [unreadable entry] memory.
Orientation – Moderate disorientation/confusion. Explanation: During PTSD flash back[.]
Judgment – Mildly impaired. Explanation: Mental state affects behavior/judgment. Depression → slow thinking[.] Manic → impulsive & reckless[.]

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? None

3. The SOC 821 dated June 7, 2021, provided the following relevant information:

Date Patient Last Seen by You: 3-24-21

Length of Time You Have Treated Patient: 1-28-2019

Diagnosis/Mental Condition: PTSD, Bipolar

Prognosis: Permanent

Memory – Moderate or intermittent deficit. Explanation: Pt will often require prompts to engage in ADL's.

Orientation – No disorientation. Explanation: No response provided.

Judgment – Mildly impaired. Explanation: These changes are due to his disability from post trauma.

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? No

4. The SOC 821 dated July 20, 2021, provided the following relevant information:

Date Patient Last Seen by You: 7/20/2021

Length of Time You Have Treated Patient: Since 4/12/2019

Diagnosis/Mental Condition: Bipolar Type 1, severe PTSD

Prognosis: Permanent

Memory – Severe deficit memory. Explanation: He has persistent mental illness that impacts his functioning working memory[.]

Orientation – Severe disorientation. Explanation: When his condition worsens it has the potential to impact orientation[.]

Judgment – Severely Impaired. Explanation: During mood episodes which are frequent his judgment and impulse control are severely impaired.

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? This patient is in severe need of IHSS support in order to function.

5. The IHSS Protective Supervision Guidelines dated May 6, 2021, provided the following relevant information:

1. Does the client have the mental capacity to keep themselves safe?

(Questions: Are they alert and oriented to time and place? Are they able to follow the conversation and/or instructions? (MPP 30-757.171 and 30-756.372)

Explanation/Observations: client is diagnosed with PTSD, Bipolar I, alcohol abuse, depression, and anxiety. The client appears alert and orientated when not in a manic episode state as he is able to ask and answer simple questions. When in a manic episode state, client is not orientated, unable to follow instructions and lacks the mental capacity to keep self safe. 2021 - Manic episodes are occasional and do not present a 24/7 need.

[¶ . . . ¶]

3. Does the client have physical mobility? (MPP 30-757.174)

Explanation/Observations: SW observed recipient mobility during RV, no difficulty or DME used.

4. How does the client put themselves at risk? (Questions: What does or has client specifically done to put him/her at risk? When? How often? What resulted from this risky behavior? Eloping? Fire? Any severe injury?) (MPP 30-757.174)

Explanation: The client has occasional manic episodes. During episodes, the client displays self-injurious behaviors such as hitting self or head, or "taking it out" on inanimate objects. Mother states he is not aggressive/violent towards others. Client also has a history of eloping, and jumping out of a moving car. During episodes, the client is not aware of dangers he places himself in. 2021 – Manic episodes are occasional in nature and do not present 24/7 need. According to mpp (*sic*) 30-757.172 protective supervision can not be granted to control self-destructive behavior, anti-social, or aggressive behavior.

5. Does the risk represent the anticipation of a medical_emergency or anticipation of an environmental emergency? (Ex: falling, respiratory or heart failure, seizure, stroke, etc (*sic*) or equipment failure in anticipation of fire, flood, earthquake, etc.) (MPP 30-757.174)

Explanation: No.

6. What has been tried to keep the client safe and has it minimized the risk? (Examples: locks on doors, taken knobs off of stoves, disconnect/

disable stoves, helmets, putting gate across a stairway, installing plug covers, removing or locking up dangerous objects, certain medications and/or behavioral therapy, etc.) (MPP 30-757.174) And has this kept the client safe?

Explanation: Mother hides dangerous or potentially dangerous items, keeps doors locked and keeps the keys on her person, controls who is his environment (visitors) and tries to ease him into outings (dr. appts) to prevent episodic behavior, is constantly being supervised. 2021- this is only needed during manic episodes. Behavior is episodic and does not present a 24/7 need.

7. Are client's behaviors currently being observed 24/7 by someone at all times? And is someone physically present with client 24/7 and available to intervene on client's behalf if client puts themselves at risk? (MPP 30-757. 17)

Describe the living arrangements: Yes. Client lives with his mother and is able to intervene on client's behalf.

8. Any additional documentation in regards to client's behaviors and how client may put themselves at risk and do these support the need for Protective Supervision? (FNRC, Psychiatrist Evaluations, IEP's, include the PS form -SOC821 (sic) in this question as well, etc.) (MPP 30-757.173)

Explanation/Observations: SOC 821 done in 2021 ranks client moderate in memory and judgment, while having no impairment in orientation – for a total score of 5. A score of 7 or higher with at least one item ranked severe is required to be eligible for ps (sic). [Claimant] has neither.

9. Any other relevant observations, statements or facts: During interview, client is on speaker phone with his mother. Client does not like questions, feels as though we are prying into his private life. He gives permission for his mother to answer on his behalf. He stays on speaker phone and intervenes when he does not agree with his mothers (sic) answers. After a few questions, client takes over interview and begins answering for himself. This shows self-directions and conscious involvement in his care plan. Her (sic) speaks up for himself and does not let his mother overstate his physical needs.

6. The Case Assessment Narrative for reassessment conducted on May 6, 2021 provided the following relevant information:

[¶ . . . ¶]

SPECIAL DIRECTIONS/ SAFETY ALERTS: Client is on speaker phone with mother during interview. He gives permission to speak to mother. However, when mother overstates his need, he intervenes and takes over interview showing self (*sic*) direction and participating in his own care.

MEDICAL DIAGNOSIS/CONDITIONS: "SOC 873: pt has physical disability (back pain) as well on-going mental health disability. Periods of debilitating depression, anxiety and chronic periods of some [illegible]. Needs assist with ADL's, household management and medication, supervision, reminders, and transportation for appts and shopping. SOC 821: PTSD, Bipolar I, Alcohol Abuse. PAST ASSESSMENTS: bi-polar, severe anxiety, depression, hx of attempted suicide, gets very agitated/ aggressive, sleeps during the day, awake from 11pm (*sic*) to 10am (*sic*) usually, manic depression, eating pxs-won't eat much as he fears that he is overweight, long term memory pxs-forgets things from childhood, has a hard time remembering days of the week/month, supraventricular tachycardia- rapid heart beats & pounding in the chest. Colon pxs- IBS, Reynaud's- no control of bowels."

[¶ . . . ¶]

OBSERVATIONS:

Recipient Appearance: Covid 19 phone renewal, the client was not observed.

Home Appearance: Covid 19 phone renewal, the home was not observed.

Risk/safety issues observed: Covid 19 phone renewal, the home was not observed for risks.

Physical Abilities: Recipient is able to ambulate, transfer, and physically able to complete personal care tasks.

Physical Limitations: Back pain, supraventricular tachycardia- rapid heart beats & pounding in the chest. Colon pxs- IBS, Reynaud's- no control of bowels.

Mental-Abilities-Recipient appears alert when not in manic episode, was to ask SW a question and answer some questions however is easily irritated/triggered.

Mental Limitations: Periods of debilitating depression, anxiety and chronic periods of some [illegible], bi-polar, severe anxiety, depression, hx of attempted suicide, gets very agitated/aggressive, sleeps during the day, awake from 11pm (*sic*) to 10am (*sic*) usually, manic depression, eating pxs- won't eat much as he fears that he is overweight, long term memory

pxs- forgets things from childhood, has a hard time remembering days of the week/month.

Durable medical equipment: None

[¶ . . . ¶]

PROTECTIVE SUPERVISION:

Is the recipient:

1. Suffering from mental impairment/mental illness? Yes
2. Non-self-directing due to mental impairment/mental illness? No
3. Likely to engage in potential (*sic*) dangerous activities? No
4. In need of 24-hour a day supervision? No

If recipient is a minor:

5. In need of more supervision than a minor of comparable age who is not mentally impaired/mentally ill? N/A
6. Were parent(s)/guardian informed of the availability of protective supervision? N/A

Any reported incidents in which the recipient places herself in any harm and/or danger? YES

2021 - Behaviors are episodic and do not present 24/7 need. Behaviors are self harming and aggressive. Client (*sic*) not qualified for PS. The client has unpredictable episodic behavior. During episodes, the client displays self-injurious behaviors such as hitting self or head, or "taking it out" on inanimate objects. Mother states he is not aggressive/violent towards others. Client also has a history of eloping, and jumping out of a moving car.

If any precautions taken to prevent future risks, describe:

Mother hides dangerous or potentially dangerous items, keeps doors locked and keeps the keys on her person, controls who is his environment (visitors) and tries to ease him into outings (dr. appts) to prevent episodic behavior, is constantly being supervised. 2021 - only needed during client's occasional manic episodes.

[¶ . . . ¶]

MEMORY: FI Rank: 2

Per SOC 821: traumatic flashbacks, memory stored by affective state and is often not accessible via memory. Client showed good memory by participating in interview. However, during manic episodes, client has trouble recalling details.

ORIENTATION: FI Rank: 2

Per SOC 821: no disorientation. SW observed that recipient appears alert/orientated when not in a manic state. May be disoriented during manic episode.

JUDGMENT: FI Rank: 2

Per SOC 821: mental health affects behavior/judgement. Occasionally bangs heads or breaks things during manic episode. Behaviors are self harming and aggressive, and do not present 24/7 need.

Upon review of all the facts, and based on policies and procedures. it has been concluded that:

Protective supervision is not needed at this time

7. The Case Notes, date selection July 12, 2021 through July 29, 2021, provided the following relevant information:

07/29/2021

[¶ . . . ¶]

AR [claimant's mother] filed a fair hearing request on behalf of Recipient with the State Hearing Department on 7/6/2021.

[Claimant's mother] states that the recipient "is mentally disabled and is suicidal. Requester states that the claimant's condition has not improved. Requester request to dispute this issue and does not agree with the county action."

[¶ . . . ¶]

QA SW J.B., observed in SW . . . documentation:

Case narrative and CMIPS case notes dated 04/20/2021 - 07/12/2021.

Documentation of SW's phone conversation with recipient and his AR on 5/6/2021.

SW's documentation of recipient's mental abilities and limitations.

SW's documentation of recipient's memory, orientation and judgment

SW's Protective Supervision Field Assessment Tool SW's Protective Supervision Guidelines

Based on the review, QA finds SW . . . IHSS Reassessment was processed correctly and accordingly to IHSS Program Regulations. SW . . . discontinued protective supervision and concluded that recipient is

self-directing (PS10 NOA) and his aggressive and self harming behavior is infrequent and episodic (PS21 NOA). *Recipient may have never qualified for protective supervision and the protective supervision rules were misapplied by the previous worker.* In addition, it appears that recipient uses his own email account to approve timesheets online. This action shows that the recipient is self-directing, able to use a computer to login to his account, review the timesheets and approve them. (Emphasis added.)

8. The Case Assessment Narrative for reassessment conducted on November 5, 2019, provided the following relevant information:

[¶ . . . ¶]

MEDICAL DIAGNOSIS/CONDITIONS:"SOC 873: pt has physical disability (back pain) as well on-going mental health disability. Periods of debilitating depression, anxiety and chronic periods of some [illegible]. Needs assist with ADL's, household management and medication, supervision, reminders, and transportation for appts and shopping. SOC 821: PTSD, Bipolar I, Alcohol Abuse. PAST ASSESSMENTS: bi-polar, severe anxiety, depression, hx of attempted suicide, gets very agitated/aggressive, sleeps during the day, awake from 11pm to 10am usually, manic depression, eating pxs- won't eat much as he fears that he is overweight, long term memory pxs- forgets things from childhood, has a hard time remembering days of the week/month, supraventricular tachycardia- rapid heart beats & pounding in the chest. Colon pxs- JBS, reynaud's (*sic*)- no control of bowels. 2019 RV: AR reports that the recipient has regressed in any sort of progress he has made with his mental health as a result of the Camp Fire (Paradise Campfire). Reports that recipient has more frequent episodes with longer durations. Reports they have added more medication to try to help. Is also having issues with an enlarged prostate."

[¶ . . . ¶]

OBSERVATIONS:

Recipient Appearance: Recipient appeared clean of person and clothing. Wore a robe during RV. SW observed recipient ambulate during RV, and kneel down to coffee table to sign AR document. Able to sign document with not (*sic*) fine motor problems noted. At the beginning of assessment recipient asked if SW needed anything from him so he could go to his room. SW informed him SW can obtain information from his mother if he was ok with it, recipient agreed. All information was provided by AR, shared some information in a lower tone so the recipient would not hear and become upset. During assessment, recipient came back out from his bedroom and appeared to have an anger episode, was yelling at SW and mother about everything that has happened to him since the Camp Fire.

Episode SW witnessed was short in duration, and recipient left back to his room after he had calmed down.

[¶ . . . ¶]

Mental Abilities Recipient appears alert when not in a manic episode, was able to ask SW a question and answer some questions however is easily irritated/triggered.

Mental Limitations: Periods of debilitating depression, anxiety and chronic periods of some [illegible], bi-polar, severe anxiety, depression, hx of attempted suicide, gets very agitated/aggressive, sleeps during the day, awake from 11pm (*sic*) to 10am (*sic*) usually, manic depression, eating pxs- won't eat much as he fears that he is overweight, long term memory pxs- forgets things from childhood, has a hard time remembering days of the week/month. AR reports that the recipient has regressed in any sort of progress he has made with his mental health as a result of the Camp Fire. Reports that recipient has more frequent episodes with longer durations, lack of follow through, combative[.]

Durable medical equipment: None

[¶ . . . ¶]

PROTECTIVE SUPERVISION:

Is the recipient:

1. Suffering from mental impairment/mental illness? Yes
2. Non-self-directing due to mental impairment/mental illness? Yes
3. Likely to engage in potential dangerous activities? Yes
4. In need of 24-hour a day supervision? Yes

If recipient is a minor:

5. In need of more supervision than a minor of comparable age who is not mentally impaired/mentally ill? N/A
6. Were parent(s)/guardian informed of the availability of protective supervision? N/A

Any reported incidents in which the recipient places himself/herself in any harm and/or danger? Yes

The client has unpredictable episodic behavior. During episodes, the client displays self-injurious behaviors such as hitting self or head, or "taking it out" on inanimate objects. Mother states he is not aggressive/violent towards others. Client also has a history of eloping, and jumping out of a moving car. During episodes, the client is not aware of dangers he places himself in.

If any precautions taken to prevent future risks, describe:

Mother hides dangerous or potentially dangerous items, keeps doors locked and keeps the keys on her person, controls who is his environment

(visitors) and tries to ease him into outings (dr. appts) to prevent episodic behavior, is constantly being supervised.

[¶ . . . ¶]

MEMORY: FI Rank: 2

Per SOC 821: traumatic flashbacks, memory stored by affective state and is often not accessible via memory. SW observed that recipient is unable to recall information from his memory, but easily shared key points of his traumatic experience during the episode SW witnessed.

ORIENTATION: FI Rank: 2

Per SOC 821: during PTSD flashback. SW observed that recipient appears alert/orientated when not in a manic state. When in the episode SW witnessed, SW noted that recipient did not appear to direct what he was saying towards anyone as he was not making eye contact. When he was in a calmer state, recipient appeared to recollect and orientate self.

JUDGMENT: FI Rank: 5

Per SOC 821: mood state affects behavior/judgement.. (*sic*) Depression → slow thinking. Manic → impulsive and reckless. Manic state is unpredictable episodic behavior, is not aware of dangers he places himself in (self-injurious behavior).

Upon review of all the facts, and based on policies and procedures, it has been conducted that:

Protective supervision will be authorized

9. The Protective Supervision 24-Hours-a-Day Coverage Plan provided the following relevant information:

[Claimant's mother] is w/[claimant] 24/7. He is never left alone. He attends no outside programs. Family is available to provide relief for [claimant's mother].

10. The mother's undated letter provided the following relevant information:

Appeal for IHSS

I am [name of claimant's mother] the Mother and caregiver to [claimant]. We are Paradise Campfire survivors and have gone through so much devastating (*sic*) in the last 32 months its inconceivable. My son suffers from severe bipolar disorder and manic depression but since the fire he has developed PTSD and things couldn't be worse. To add to this already stressful time this case worker has put him in Jeopardy (*sic*) as he needs to have 24 hour care as we have done for a long time. He has to be monitored to eat and general hygiene among so much more. Before the fire we lived in a peaceful home and his outbursts and hurting himself was

at a minimum but now it has escalated because he lost what little he had especially music his Guitars (*sic*) and art work (*sic*). Now we live in a noisy apartment and he wants all the blinds and curtains closed at all times we live in the dark. His schedule is very difficult and I set myself to his schedule, when he is sleeping I can do some chores and catch a few catnaps. I thought this would help you understand what it is like to be him and see what this case worker missed. If you go back on all the other face to face interviews you will see that they took the time to understand what he is like and what it takes to care for him and why he is in protective supervision[.]

All our documents were burned in the fire so I only have whatever we did since then. He sees his psychiatrist regularly it is a new doctor because his original doctor Dr. L., has retired so we are getting to know Dr. M., . . . And (*sic*) he is getting to know [claimant]. We see him again on the 20th of July and I will ask him for a note which I will submit to you. After the fire we were in another apartment in . . . and I got him in the shower he just flew into a rage over the water temperature and fell in the tub and broke his ribs we called the ambulance and took him to there (*sic*) little emergency place and was released the same night. There is just so much that it would take a small book to understand the workings of his mind and how he thinks. Little things to us escalates 100% in his mind, and will continue on for weeks. I hope this will help you understand and make the right decision. I feel this case worker needs to understand mental illness more than she does and what it actually takes to be with and care for a person with this illness.

11. The Behavioral Health Documents provided by Dr. K.A.M., reported the following relevant information:²

Reports dated June 20, 2021 and May 19, 2021 provided the same information

Total time spent with patient 25 minutes, over 50% of the time spent in counseling related to disease management. 16 minutes spent in therapy with patient.

[Claimant] is a 59-year-old man who presents for a follow up visit with his mother . . .

[Claimant] reports ongoing anxiety, mood swings, and irritability in the context of ongoing complicated medical conditions. He continues to

² A review of the remainder of the Behavioral Health Documents prepared by Dr. K.A.M., contained relatively the same information as the reports cited in this Decision. Therefore, referring to the remainder of the evaluations were not referenced in this Decision because the information would be cumulative and would provide no additional relevant information regarding the issues addressed by this hearing.

experience postoperative complications though says he has been told that some of the symptoms he is having can be normal following a prostate procedure. He says it affects his quality of life and has been very stressful for him not to have normal urinary function. He says the stress has caused significant anxiety symptoms including frequent worry, muscle tension, fatigue, and panic symptoms as well as mood lability, irritability, periods of low mood, anhedonia, decreased interest, lack of motivation, and feelings of hopelessness. He continues to experience chronic suicidal ideation though says he is not currently experiencing thoughts of self-harm. He is able to articulate a safety plan but says in the future if his quality of life does not improve he is concerned that he may act on the suicidal thoughts. He is trying to remain optimistic that his medical condition will improve and that eventually they will be able to move into their new home in Paradise. He and his mother say the rebuilding process has been extremely frustrating, they were recently informed that they may need to add an additional septic tank. They are also under financial strain saying that building material costs have “skyrocketed.” We reviewed coping strategies in detail including mindfulness techniques and engaged in motivational interviewing.

-Counseled regarding lifestyle, stress reduction and behavioral interventions, sleep hygiene, relaxation strategies and adaptive coping skills.

-Encourage adaptive coping and fostering strengths toward building healthy self-esteem.

-Encourage communication between patient and family and MH providers, particularly related to warning signs of decompensation or unsafe thoughts/behaviors.

Per his last visit: He says he had a prostate procedure in March which he says was a very stressful experience. He says his mother was not informed about the details of the procedure which he says was very disappointed. He says he was not provided details of his condition including he says not being informed if there was cancer present in the tissue that was removed. He says “I spent 2 weeks thinking I had cancer, I am terribly relieved that it was not cancer.” He says the recovery has been challenging and has caused significant anxiety. He and his mother report that uncertainty about rebuilding their home has also led to stress. She says that he has been more withdrawn and rarely leaves his room. He agrees saying he needs to minimize the chances of things going wrong for him as “everything seems to be going wrong right now.” He does believe his medication has been effective at mitigating his mood and anxiety symptoms though says the stressors are overwhelming at times. He denies thoughts of self-harm. He denies substance abuse.

He describes a long history of bipolar disorder which she (*sic*) and his mother say was evident in childhood. His mother states he has a long history of mood lability, destructive behavior, self injury, and suicidal ideation. He says that he had been doing well for several years working closely with Dr. L., though following the Camp Fire which destroyed their home and belongings he has been overwhelmed. He describes frequent panic attacks and says "it's been real hell." He says his current medication regimen has been helpful in that it took several years working with Dr. L., to arrive at an effective combination of medications. He has been out of his Latuda which she (*sic*) believes has significantly contributed to his recent mood swings and irritability. He states that it was previously very effective. He and his mother are currently living in Willows noted preferred to be closer to Butte County. He has tried and failed numerous medications in the past, he admits he does not remember all of the trials but says he had adverse reactions with Lamictal and lithium and has also been treated with Abilify, Seroquel, Prozac, and Zoloft. He describes a history of mood episodes involving severe mood swings, irritability, decreased need for sleep, grandiosity, risk-taking behaviors, and impulsivity. He reports these episodes have alternated with long periods of depressed mood, decreased energy, decreased interest, suicidal ideation, and self-injurious behavior. He currently denies any suicidal ideation, he denies having intent or plan to harm himself or others. He reports the fire and the death of his grandfather as major stressors which have negatively influenced his mood and caused worsened anxiety. He states he nearly attempted suicide 15 years ago following his divorce which led him to seek psychiatric help. He denies substance abuse.

Mental Status Exam

Appearance: Pt is well-groomed and well-dressed

Behavior: Restless, irritable at times

Psychomotor Activity: Normal, gait is normal; No stereotyped movements.

Speech: normal rate, tone, loud volume; language is normal

Thought Process: linear, logical and goal directed

Thought Content: no auditory or visual hallucinations; patient is not

delusional Orientation and Cognition: Alert and fully oriented; memory is fully intact

Mood: Anxious and irritable

Affect: Anxious

Attention/Concentration: Normal

Insight: Good

Judgment: Fair

Suicidal Ideation: no passive or active SSI

Homicidal Ideation: no HI

Assessment/ Plan

1. Bipolar disorder (Bipolar disorder, unspecified, F31.9)
2. Post traumatic stress disorder (PTSD) (Post-traumatic stress disorder, chronic, F43.12)

[Claimant] is a 59 year-old man with a history of bipolar disorder and PTSD who presents with his mother for a follow-up visit. He reports feeling overwhelmed and more anxious since the Camp Fire her says he is coping the best he can with the help of his mother who is also his caregiver.

Reports dated April 7, 2021 and January 29, 2021 provided the same information

Mental Status Exam

Mental Status Examination: Speech is normal. Patient is irritable and on edge though *he becomes calmer throughout the session*. Mood: Anxious and irritable thought Process is linear. Thought Content: No suicidal ideation, no homicidal ideation, no auditory or visual hallucinations and patient is not delusional. *Attention/Concentration: normal. Insight: fair. Judgment: Fair. Language is normal. Memory is fully intact.* Fund of knowledge: average. (Emphasis added.)

12. The social worker's undated letter in response to the SOC 821 dated July 20, 2021 submitted on behalf of the claimant provided the following relevant information:

Re: Fair hearing for [claimant] 10/7/2021

After the hearing, [the claimant's mother} was able to upload a new 821 from client's Psychiatrist. This form dated 7/20/21 lists client as severely impaired in memory, orientation and judgement. This form differs from moderate problems listed on previous versions of the 821.

This does not change the counties stance on eligibility for protective supervision. In particular, the categories of orientation and judgement do not support ps (protective supervision) requirements. The reference 'when condition worsens', and 'during episodes'. These statements imply that the need is occasional and not a 24/7 need. It implies that client's condition is only severe during 'episodes', and not on a 24 hour basis. Client's behaviors are managed by regular psychiatry visits and medications.

Please see regulations:

Fluctuating/Episodic Behavior: from ACL (All County Letter)15-25

Per MPP § 30-757.173, "Protective Supervision is only available under the following conditions as determined by social service staff: (a) At the time of the initial assessment or reassessment, a need exists for twenty four-hours-a-day of supervision in order for the recipient to remain at home safely."

Protective Supervision requires a 24/7 need, so if the behavior in question is considered predictable, and the need for supervision is at certain times of the day, there is no Protective Supervision eligibility because there is not a 24 hour-a-day need.

13. Letter dated October 14, 2021, submitted by the claimant's mother provided the following relevant information:

Re: In response to the letter emailed to me on the 14th of October from the social worker . . . for the hearing on 10/7/2021

Unfortunately [the social worker] has no idea of [claimant's] condition she has never come to the home or has Meet (*sic*) [claimant] in person to actually see what he is like. When she had the telephone interview as we have discussed with the judge, I had to prepare him a week ahead of time to be able to answer the questions that she put forth. After the phone call he had another episode which is totally unpredictable. He could have an episode up to 12 time a day not knowing what time of day or when it will happen which causes adverse behavior and putting him in jeopardy. The need for 24/7 Is (*sic*) a reality. Her claim is it is only severe during an episode, well what would happen if the episode comes on and there's no one there for him? This is so unpredictable with his episodes and what he will do, even with his medication and his visits to the psychiatrist we do not know when it will happen and it does happen up to 12 times a day as I already stated.

He is a 60 year old man who tries to hide his mental illness when he is facing situation like psychiatrist or a doctor, and such he wants to appear well and "normal" but in reality he's not Dr. M., has seen through his façade and when attend the visits I could actually tell him what is going on.

To sum it up YES (*sic*) he needs 24/7 care Because (*sic*) if anything happens to him if he is left alone at anytime I will most certainly blame [the social worker] really (*sic*) does not know the reality of my sons (*sic*) condition.

Assessment of Services

1. Domestic Services

The social worker testified that the claimant needed substantial assistance with domestic service due to his mental disability; therefore, the claimant was assigned the Functional Index (FI) rank of 4 for this service. The social worker testified that the claimant's need for domestic services was determined based 1 hour per room and that the home has a total of 6 rooms. The social worker testified that it was determined that the claimant needed 1 hour solely for his own bedroom and 5 hours for the rooms shared in common which was prorated by 2 household members. As a result, the social worker authorized 3 hours per month for domestic services.

The claimant's mother testified that the claimant had recently suffered a broken arm and he only has use of one arm. The mother testified that the claimant is unable to follow instructions in order to perform any house cleaning. The claimant is unable to vacuum or sweep the floor, and the claimant is unable to perform any dusting or cleaning. The mother testified that the claimant is able to pick up and throw away tissues and/or napkins. The mother also testified that the claimant can barely take care of himself let alone perform any housecleaning. The mother further testified that the claimant cannot make his own bed and he cannot clean the bathroom or kitchen.

The Authorized Representative testified that the claimant makes 75% of the mess in the home. The claimant's mother when asked by the Administrative Law Judge whether the Authorized Representative's testimony is accurate, the mother confirmed that the claimant makes 75% of the mess in the home.

The NOA dated June 28, 2021 noted that the County authorized 3 hours per month for domestic services effective July 16, 2021, a reduction of 1 hour and 5 minutes per month from the previously authorized 4 hours and 5 minutes per month.

The Needs Assessment Form (SOC 293) conducted on May 6, 2021, provided the following relevant information:

Number of Recipient Only Rooms 1
Number of Shared Rooms 4
Number of Rooms Not In Use By Recipient 1

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

RESIDENCE TYPE: Apartment

Total number of rooms 6 Number used by Claimant (client): 5

LIVING ARRANGEMENT: Shared

Physical Abilities: Recipient is able to ambulate, transfer, and physically able to complete personal care tasks.

Physical Limitations: Back pain, supraventricular tachycardia- rapid heart beats & pounding in the chest. Colon pxs- IBS, Reynaud's- no control of bowels.

[. . .]

DOMESTIC: FI Rank: 4 - Substantial human assistance
Physically able to assist with domestic tasks, however needs substantial assistance to complete tasks such as sweeping, vacuuming, and washing floors, washing kitchen counters and sinks, cleaning the bathroom, storing food and supplies, taking out garbage, dusting and picking up, cleaning oven stove, and refrigerator, changing bed linen. Assistance needed due to mental health, unwilling to help, agitated when asked to assist, may trigger episode, lack of follow through.

PRORATED? Yes

IF YES, PRORATED BY: 2

IF NO, WHY NOT? Own bedroom not prorated.

The Needs Assessment Form (SOC 293) conducted on November 5, 2019, provided the following relevant information:

Number of Recipient Only Rooms 1
Number of Shared Rooms 4
Number of Rooms Not In Use By Recipient 1

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

Physical Abilities: Recipient is able to ambulate, transfer, and physically able to complete personal care tasks.

Physical Limitations: Back pain, supraventricular tachycardia- rapid heart beats & pounding in the chest. Colon pxs- 18S, reynaud's (*sic*) - no control of bowels.

DOMESTIC: FI Rank: 4 - Substantial human assistance
Physically able to assist with domestic tasks, however needs substantial assistance to complete tasks such as sweeping, vacuuming, and washing floors, washing kitchen counters and sinks, cleaning the bathroom, storing food and supplies, taking out garbage, dusting and picking up, cleaning oven stove, and refrigerator, changing bed linen. Assistance needed due to mental health, unwilling to help, agitated when asked to assist, may

trigger episode, lack of follow through. Extra clean up needed 3x/wk @ 5 min due to BB accidents.

PRORATED? Yes

IF YES, PRORATED BY: 2

IF NO, WHY NOT? Own bedroom not prorated.

2. Meal Cleanup

The social worker testified that the claimant was determined to need 3 hours and 30 minutes for meal cleanup; however, the time was prorated by 2 household members resulting in the County authorizing 1 hour and 45 minutes per week for meal cleanup. The social worker testified that the claimant did not have an exceptional need for meal cleanup. Although the claimant currently only has the use of one arm, the social worker testified that at the time of the assessment, the claimant was able to perform some meal cleanup such as putting his dishes in the sink.

The Administrative Law Judge asked the claimant's mother whether the claimant was on a special diet or meal plan and the mother responded "no." The mother was also asked whether the claimant has a medical condition that affects his ability to consume his meals, such that the mother is using additional cooking utensils to prepare the claimant's meals resulting in the need to wash or clean the additional utensils. For example, does the claimant require his meals to be pureed to help the claimant consume his meals and the mother has to spend additional time cleaning a blender. The mother responded that the claimant requires no additional meal cleanup due to the claimant's medical condition that impacts his ability to consume his meals.

The Authorized Representative testified that the claimant and his mother eat at different times; therefore, the meals prepared for the claimant and the mother are done at different times and as a result, meal cleanup is also done at separate times.

The social worker testified that the claimant's mother reported that the dishes are washed all at the time same time even though the claimant and the mother eat at separate times.

The claimant's mother testified that she did not report that meal cleanup is done at same times. The mother testified that meal cleanup for the claimant and herself are done separately since meal preparation for the claimant and herself are also done at separate times.

The NOA dated June 28, 2021 noted that the County authorized 1 hour and 45 minutes per week for meal cleanup effective July 16, 2021, a reduction of 1 hour and 45 minutes per week from the previously authorized 3 hours and 30 minutes per week.

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

MEAL CLEAN-UP: FI Rank: 4 - Substantial human assistance
High: physically able to assist with meal clean up, however needs substantial assistance to complete tasks such as washing, rinsing, and drying dishes, pots, pans, utensils, and culinary appliances and putting them away, storing/putting away leftover foods/liquids, wiping up tables, counters, stoves/ovens, and sinks. Assistance needed due to mental health, unwilling to help, agitated when asked to assist, may trigger episode, lack of follow through. Shared with HH (household member).

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

MEAL CLEAN-UP: FI Rank: 4 - Substantial human assistance
High: physically able to assist with meal clean up, however needs substantial assistance to complete tasks such as washing, rinsing, and drying dishes, pots, pans, utensils, and culinary appliances and putting them away, storing/putting away leftover foods/liquids, wiping up tables, counters, stoves/ovens, and sinks. Assistance needed due to mental health, unwilling to help, agitated when asked to assist, may trigger episode, lack of follow through. Separate from HH due to other HH member personal dietary restrictions.

3. Routine Laundry

The social worker testified that the regulations authorizes 1 hour per week when a washer and dryer is available in the home. The social worker testified that the use of a washer and dryer was available within the claimant's apartment complex. However, because the claimant suffers from incontinence, the social worker testified that it was determined that the claimant had an exceptional need for laundry.

The claimant's mother confirmed that the apartment complex does have on-site laundry facility. The mother testified that due to the claimant's incontinence, additional laundry is done three (3) times a week. The mother further testified that excluding wait time for the washer and dryer to complete a cycle, the mother spends approximately 5 to 10 minutes loading and unloading the washing machine, approximately 10 minutes to load and unload the dryer, and approximately 15 minutes to fold and store the laundry items away.

The NOA dated June 28, 2021 noted that the County authorized 1 hour and 45 minutes per week for laundry effective July 16, 2021, an increase of 45 minutes per week from the previously authorized 1 hour per week.

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

ROUTINE LAUNDRY: FI Rank: 4 - Substantial human assistance

Physically able to assist with laundry, however (*sic*) needs substantial assistance to complete tasks such as gaining access to machines, manipulating soap containers, reaching into machines, handling wet laundry, operating machine controls, hanging laundry to dry, folding and sorting laundry, mending, and ironing. Assistance needed due to mental health, unwilling to help, agitated when asked to assist, may trigger episode, lack of follow through. Separate from HH due to BB (bowel and bladder) accidents.

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

ROUTINE LAUNDRY: FI Rank: 4 - Substantial human assistance
Physically able to assist with laundry, however (*sic*) needs substantial assistance to complete tasks such as gaining access to machines, manipulating soap containers, reaching into machines, handling wet laundry, operating machine controls, hanging laundry to dry, folding and sorting laundry, mending, and ironing. Assistance needed due to mental health, unwilling to help, agitated when asked to assist, may trigger episode, lack of follow through. Separate from HH due to BB accidents.

4. Bowel and Bladder Care

The social worker testified that during the assessment, initially the claimant's mother responded to the social worker's questions, but subsequently the claimant responded to the social worker's questions on his own. The social worker testified that the claimant reported that he will have accidents with his bowel and bladder movements; however, the claimant advised that he is able to clean himself. The social worker testified that time was given for cleaning the claimant's soiled clothes under the category of laundry. The social worker further testified there was no change in the time previously authorized by the County for bowel and bladder care.

The claimant's mother testified she provides assistance to the claimant when he leaks on his bed which needs to be cleaned. The mother testified that the claimant is able to clean himself; however, the mother provides assistance by ensuring that the claimant thoroughly cleans himself. The mother also testified that the claimant will have bowel and/or bladder leaks all day and that the claimant does not like to wear adult diapers. The mother testified that the claimant will have leakage at least four (4) times a day and that the mother spends approximately 10 to 15 minutes assisting the claimant with his cleaning.

The NOA dated June 28, 2021 noted that the County authorized no time for bowel and bladder care and there was no change from the previous assessment regarding the County's determination as to the claimant's need for this service.

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

BOWEL & BLADDER CARE: FI Rank: 1 – Independent
No reported need.

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

BOWEL & BLADDER CARE: FI Rank: 1 – Independent
No reported need.

5. Bathing, Oral Hygiene and Grooming

The social worker testified that at the time of the assessment, it was reported that the claimant needed some assistance with his bathing due to the claimant's mobility issues. The social worker testified that the claimant's mother provides assistance with shampooing the claimant's hair and rinsing the claimant's body parts that he is unable to reach. The social worker further testified that the claimant needs some assistance with his oral hygiene in the form of reminders and prompts; however, the claimant does not need physical assistance with performing this task.

The claimant's mother testified that due to the claimant's mobility issue, the mother provides some assistance with the claimant's bathing. The mother testified that the claimant is able to brush his teeth on his own, and the mother assists with combing the claimant's hair and clipping his finger and toenails.

The Authorized Representative testified that when the claimant suffers from an episode, it takes the longer for the claimant to complete his activities of daily living.

The NOA dated June 28, 2021 noted that the County authorized 2 hours and 13 minutes per week for bathing, oral hygiene and grooming effective July 16, 2021 and there was no change from the previous assessment regarding the County's determination as to the claimant's need for this service.

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

BATHING, ORAL HYGIENE & GROOMING: FI Rank: 3 - Some human assistance
Mid: physically able to complete bathing/drying of self, and oral hygiene with prompts. Hands on assistance needed with turning on/off faucets and adjusting water temperature, shaving, fingernail/toenail care.
Assistance needed due to mental health, lack of follow through.

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

BATHING, ORAL HYGIENE & GROOMING: FI Rank: 3 - Some human assistance

Mid: physically able to complete bathing/drying of self, and oral hygiene with prompts. Hands on assistance needed with turning on/off faucets and adjusting water temperature, shaving, fingernail/toenail care. Assistance needed due to mental health, lack of follow through.

6. Protective Supervision

Mental Impairment or Mental Illness

The social worker testified that it is undisputed that the claimant has a mental impairment or mental illness.

Mental Function

Memory

The social worker testified that claimant was assigned the FI rank of 2 for memory because the claimant was able to participate in the telephonic reassessment interview. The social worker testified that the claimant was able to express his wants and needs which exhibited the claimant's good memory. The social worker explained that the reassessment of the claimant's need for protective supervision included the use of the County's IHSS Protective Supervision Field Assessment Tool – Exhibit 4 of the County's SOP. The social worker also testified that the claimant has issues with his memory when he is suffering from (memory) flashbacks. The social worker further testified that the claimant has sufficient memory unless he is suffering a manic episode; however, the claimant has occasional and episodic issues with his memory. According to the social worker, the claimant memory issue does not occur on a frequent basis.

The claimant's mother testified that the claimant knows his immediate family and normally the claimant know his date of birth and his age. The mother also testified that the claimant knows his current address and the city they currently reside at. The mother testified that prior to the Camp Fire, which resulted in the claimant and his mother having to relocate to their current residence, the claimant's situation was improving; however, after the Camp Fire, the claimant's situation has regressed.

The mother testified that the claimant is able to recall certain events such as when the claimant was institutionalized at the age of 18-years old and when the claimant had jumped in front of a car. The mother opined that the passing of the claimant's grandfather triggered the claimant's bipolar condition. The mother testified that the claimant can communicate his favorite foods as well as his wants and needs. The mother testified that the claimant will have an episode three (3) to four (4) times a day which may last from five (5) minutes to a couple of hours. The mother further testified that the claimant can use the television and he is able to use the computer to play games.

The Administrative Law Judge asked the claimant to rank the claimant's memory level and the mother responded that she believed that the claimant's memory level is a 2.

Orientation

The social worker testified that the claimant was assigned the FI rank of 2 because on good days, the claimant has awareness, but when the claimant is suffering from a manic episode, the claimant becomes disorientated.

The claimant's mother testified that the claimant is aware of parts of the home, he has awareness of the difference between night and day, but the claimant has mixed up his nights and days, for example, the claimant will sleep during the day. The mother testified that the claimant does not like light and as a result the curtains/binds in the home are kept closed and they live in the dark. The mother testified that when it comes to the claimant's medical appointments, the mother has to prepare the claimant in order to go to the claimant's appointments. The mother testified that the claimant knows where he lives; however, the claimant cannot go outside the home alone. The mother testified that the claimant is able to tell time, but he has no awareness that he may need to change his clothes. The mother further testified that when the claimant is not suffering from a manic episode, the claimant's orientation is a 2; however, when the claimant is having a manic episode, the claimant's orientation is a 5.

The Authorized Representative testified that the claimant is having more frequent and severe manic episodes which results in the claimant falling apart.

Judgment

The social worker testified that based on the average of the claimant having good or bad days, the claimant was assigned the FI rank of 2 for judgment. The social worker testified that after the Camp Fire, the claimant needed help; however, that was three (3) years ago. The social worker testified that since 2019 to the present, the claimant's behavior has improved. The social worker referred to the SOC 821's dated May 2, 2018 and June 7, 2021 that were previously submitted for the County's consideration, and the social worker noted that both documents did not reflect that the claimant suffered from severe deficits in memory, orientation and judgment.

The claimant's mother referred to the SOC 821 dated July 20, 2021 and noted that the claimant does not have great judgment which impacts his ability to hurt himself. The mother testified that when the claimant is not having an episode, the claimant is either sleeping or watching television. The mother further testified that the claimant will elope from the home and that the claimant wants to hurt himself because he feels/believe other people are after him.

NonselF-Directing

The social worker testified that the claimant was determined to be self-directing based on the claimant's ability to participate during the telephonic reassessment and the claimant was able to express his wants and needs.

The Authorized Representative testified that jumping out of the car is a form of elopement and that the claimant's mother prevents the claimant from hurting himself. The Authorized Representative opined that the claimant has no idea why he does certain things when the claimant is suffering from a (manic) episode.

Likely to Engage in Potentially Dangerous Activities

The claimant's mother testified that if no one is around to supervise the claimant, he would hurt himself. The mother testified that the claimant cannot deny that he has a (mental) illness and he is not stupid; however, the claimant is good at hiding his mental illness. The mother testified that nine (9) weeks ago, the claimant jumped out the car; however, the mother also testified that somehow the child lock on the car door was not engaged and the mother had forgotten to engage the child lock on the car door. The mother further testified that the claimant is watched closely because he will run away for example the mother stated that the claimant had previously eloped and was found hiding in an alley.

The claimant's mother testified that in their old home, the mother had installed locks which prevented the claimant from eloping from the home. However, because they have been displaced by the Camp Fire and they had to move into an apartment, and the mother stated that she is unable to install additional locks in their current apartment. The mother testified that the claimant will punch walls and windows which has resulted in the claimant suffering cuts.

The Authorized Representative testified that when the claimant is not suffering a (manic) episodes, the claimant still requires supervision because the claimant does not understand or appreciate the consequences of his actions and he lacks awareness when exercising his judgment.

Need for 24-hours Supervision

The social worker acknowledged that the claimant engages in self-harm and that he elopes; however, the social worker opined that the claimant's behaviors are episodic and based on the current medical information submitted for the County's consideration, the notes reflect that the claimant is "ok."

The claimant's mother reiterated that the claimant will run away, and he does not know why he is eloping. The mother reiterated that the claimant is good at hiding his mental issues.

The Authorized Representative testified that the claimant's episodic behavior happens around the clock and that the claimant is good at acting as though he is normal and capable. The Authorized Representative opined that the claimant needs to be constantly supervised.

LAW

All regulations referred to herein are set forth in the Manual of Policies and Procedures (MPP) issued by the Department of Social Services unless otherwise specified.

For purposes of this decision, "Welf. & Inst. Code" is the abbreviation for the Welfare & Institutions Code.

For purposes of this decision, "Evid. Code" is the abbreviation for the California Evidence Code.

In-Home Supportive Services (IHSS)

The IHSS Program is an alternative to out-of-home care and is available to eligible aged, blind, or disabled individuals who cannot remain safely in their own homes without this assistance. Eligibility and services are limited by the availability of funds.

(MPP § 30-700.1.)

IHSS shall be authorized only in cases where the recipient would not be able to remain safely in his/her home without authorized IHSS.

(MPP § 30-700.1.)

The term IHSS is often used to refer generally to four distinct state/County programs which provided in-home services to disabled populations. The four programs are: Personal Care Services Program (PCSP), IHSS Plus Option (IPO), Community First Choice Option (CFCO), and IHSS Residual (IHSS-R).

(Welf. & Inst. Code §§ 12300, 14132.95, 14132.97; All County Letter (ACL) No. 14-60, Aug. 29, 2014.)

IHSS Needs Assessment

The county shall conduct a needs assessment of applicants and recipients. In making this assessment, the county shall determine the total amount of hours per week needed for the various services set forth in the program content.

(MPP § 30-763.2.)

No need exists for services which the applicant/recipient is able to perform safely, without an unreasonable amount of physical or emotional stress.

(MPP § 30-761.25.)

The county shall determine the recipient's level of ability and dependence upon verbal or physical assistance by another for each of the functions listed in the regulation. This assessment shall evaluate the effect of the recipient's physical, cognitive and emotional

impairment on functioning. The county shall quantify the recipient's level of functioning using the following hierarchical five-point scale:

- Rank 1: Independent: able to perform function without human assistance, although the recipient may have difficulty in performing the function, but the completion of the function, with or without a device or mobility aid, poses no substantial risk to his or her safety. A recipient who ranks a 1 in any function shall not be authorized the correlated service activity.
- Rank 2: Able to perform a function, but needs verbal assistance, such as reminding, guidance, or encouragement.
- Rank 3: Can perform the function with some human assistance, including, but not limited to, direct physical assistance from a provider.
- Rank 4: Can perform a function but only with substantial human assistance.
- Rank 5: Cannot perform the function, with or without human assistance.

(MPP § 30-756.1.)

High, Middle, or Low

To guide in determining where within the range an applicant's/recipient's needs fall and to properly assign time, consider the following ranges as indicated on the tool: 1. Low – less time needed than typical based on the applicant's/recipient's functional abilities/limitations within the range of that rank in a service category. 2. Middle – typical time needed (i.e., average level of need for assistance) based on the applicant's/recipient's functional abilities/limitations within the range of that rank in a service category. 3. High – more time needed than typical based on the applicant's/recipient's functional abilities/limitations within the range of that rank in a service category.

(All County Information Notice (ACIN) No. I-82-17, December 5, 2017, p. 7.)

Most functions are evaluated on a five-point scale. However, the functions of memory, orientation and judgment contain only three ranks. Other functions are also limited to less than five ranks. These inconsistencies in the ranking patterns exist because differing functional ability in these areas does not result in significantly different need for human assistance.

(MPP § 30-756.35.)

Effective December 5, 2017, time per task shall not be used in authorizing the following services: 1) Preparation of Meals; (2) Meal Clean-up; (3) Feeding; (4) Bowel and Bladder Care; (5) Routine Bed Baths; (6) Dressing; (7) Menstrual Care; (8) Ambulation; (9) Transfer; (10) Bathing, Grooming, and Oral Hygiene; (11) Rubbing Skin and Repositioning; and (12) Care and Assistance with Prosthetic Devices. However, social workers may still need to factor in the necessary frequency of need to determine the appropriate time, under certain circumstances for these 12 services. Such circumstances include but are not limited to: exceptions, assignment of Functional Index

(FI) rank 2, the application of Alternative Resources, Refused Services, or Voluntary Services to the total time authorized, or the consideration of Age Appropriate Guidelines when assessing minors.

(ACIN No. I-82-17, Dec. 5, 2017.)

For services in this section where time guidelines are specified, the services shall be subject to the specified time guideline unless the recipient's needs require an exception to the guideline. When assessing time for services (both within and outside the time guidelines), the time authorized shall be based on the recipient's individual level of need necessary to ensure his/her health, safety, and independence based on the scope of tasks identified for service. In accordance with Welfare and Institutions Code Section 12301.2, the dual purpose of the guidelines is to provide counties with a tool for both consistently and accurately assessing service needs and authorizing time.

(MPP § 30-757.1(a).)

An exception to the time guideline may result in receiving more or less time based on the recipient's need for each supportive service and the amount of time needed to complete the task. Exceptions to the hourly task guidelines identified in this section shall be made when necessary to enable the recipient to establish and maintain an independent living arrangement and/or remain safely in his/her home or abode of his/her own choosing and shall be considered a normal part of the authorization process. No exception shall result in the recipient's hours exceeding the maximum limits. No exceptions to hourly task guidelines shall be made due to inefficiency or incompetence of the provider. When an exception to an hourly task guideline is made in a recipient's case, the reason for the exception shall be documented in the case file.

(MPP § 30-757.1(a).)

Among the 12 hourly task guideline (HTG) services, only Meal Preparation and Meal Clean-up may result in a prorated need. The other remaining ten HTG services fall under personal care, and therefore, proration does not apply to these services.

(ACIN No. I-82-17, Dec. 5, 2017.)

Domestic Services (MPP §§ 30-757.11; 30-780.1(b)(1))

Domestic services include sweeping, vacuuming, and washing/waxing floors; washing kitchen counters and sinks; cleaning the bathroom; storing food and supplies; taking out garbage; dusting and picking up; cleaning oven and stove; cleaning and defrosting refrigerator; bringing in fuel for heating or cooking purposes from a fuel bin in the yard; changing bed linen; changing light bulbs; and wheelchair cleaning and changing/recharging wheelchair batteries.

Time Standard for Domestic Services

6:00 total per month per household unless adjustments apply.

Exceptions include, but are not limited to: if the recipient has a separate bedroom and bathroom; if there are any rooms not being used by the recipient; if the recipient has physical or mental limitations that contribute to the recipient's need for assistance; if the recipient has incontinence, frequent changes of bed linen may be necessary if the recipient does not have protective pads that protect linens. Extra changing of sheets should be assessed as Domestic Services but the washing of them is assessed as Laundry. If the home is very small (e.g., travel trailer) and whether the recipient suffer from severe asthma, so more dusting/vacuuming is necessary.

(ACIN No. I-82-17 (December 5, 2017).)

Meal Clean-up (MPP §§ 30-757.132; 30-780.1(b)(1)(4))

Meal Clean-up includes loading and unloading dishwasher; washing, rinsing, and drying dishes, pots, pans, utensils, and culinary appliances and putting them away; storing/putting away leftover foods/liquids; wiping up tables, counters, stoves/ovens, and sinks; and washing/drying hands.

Note: Meal Clean-up does not include general cleaning of the refrigerator, stove/oven, or counters and sinks. These services are assessed under Domestic Services.

Exceptions include, but are not limited to: The extent to which the recipient can assist or perform tasks safely.

- EX: A recipient with a Rank 3 in "meal cleanup" who has been determined able to wash breakfast/lunch dishes and utensils and only needs the provider to clean up after dinner would require time based on the provider performing cleanup for the dinner meal only.
- EX: A recipient who has less control of utensils and/or spills food frequently may require more time for cleanup.
- The types of meals requiring the cleanup.
- EX: A recipient who chooses to eat eggs and bacon for breakfast would require more time for cleanup than a recipient who chooses to eat toast and coffee.
- If the recipient can rinse the dishes and leave them in the sink until provider can wash them.
- The frequency that meal cleanup is necessary.
- If there is a dishwasher appliance available.
- Time for universal precautions, as appropriate.

If the recipient must eat frequent meals which require additional time for cleanup or if the recipient eats light meals that require less time for cleanup.

(ACIN No. I-82-17 (December 5, 2017).)

Laundry (MPP § 30-757.134 (a) through (e); § 30-780.1(b)(2))

Laundry includes gaining access to machines, sorting laundry, manipulating soap containers, reaching into machines, handling wet laundry, operating machine controls, hanging laundry to dry, folding and sorting laundry, mending, and ironing.

Laundry facilities are considered available in the home if, at a minimum, there exists a washing machine and a capability to dry clothes on the premises.

The need for out-of-home laundry services exists when laundry facilities are not available on the premises and it is therefore necessary to go outside the premises to accomplish this service. Included in out-of-home laundry is the time needed to travel to/from a locally available laundromat or other laundry facility.

The time guideline for laundry service where laundry facilities are available in the home shall not exceed 1.0 hours total per week per household unless the recipient's need requires an exception to exceed this limit.

An exception to grant more time than the time guidelines specified in MPP § 30-757.134(c) and (d) may be necessary for recipients who have incontinence.

Note: Ranks 2 and 3 are not applicable to determine functionality for this task.

Time Guideline for Laundry

1:00 per week (facilities within home);

1:30 per week (facilities out of home); per household

Exceptions include, but are not limited to: whether the recipient has a washer and the capability to dry clothes on the premises or in the home; whether the recipient has the capability to hand wash some items; if the recipient's laundry is washed separately from other members in the household; if the recipient has incontinence or other issues which create extra laundry; and the closest laundromat is far from client's home.

(ACIN No. I-82-17 (December 5, 2017).)

Where laundry services are available in the home, the guideline time shall not exceed 1 hour total per week per household unless the recipient's needs require an exception to exceed this limit.

(MPP § 30-758.121 renumbered to MPP § 30-757.134(c))

Laundry services are available in the home if, at a minimum, there exists a washing machine and a capability to dry clothes on the premises. (§ 30-757.134(a).) Where laundry facilities are not available in the home, the guideline time shall not exceed 1.5 hours total per week per household, unless the recipient's needs require an exception to exceed this limit.

(MPP § 30-757.135(b) and § MPP 30-758.122 renumbered to MPP § 30-757.134(d) effective September 1, 2006.)

Bowel and Bladder Care (MPP § 30-757.14(a))

Bowel and Bladder Care includes assistance with using, emptying, and cleaning bed pans/bedside commodes, urinals, ostomy, enema and/or catheter receptacles; application of diapers; positioning for diaper changes; managing clothing; changing disposable barrier pads; putting on/taking off disposable gloves; wiping and cleaning recipient; assistance with getting on/off commode or toilet; and washing/drying recipient's and provider's hands.

Note: This does not include insertion of enemas, catheters, suppositories, digital stimulation as part of a bowel program or colostomy irrigation, as these are assessed as "paramedical services" (MPP § 30-757.19).

Time Guidelines for Bowel and Bladder:

	Low	Mid	High
Rank 2	0:35	1:18	2:00
Rank 3	1:10	2:16	3:20
Rank 4	2:55	4:23	5:50
Rank 5	4:05	6:03	8:00

Exceptions include, but are not limited to: the extent to which the recipient can assist or perform tasks safely; if there are assistive devices available which result in decreased or increased need for assistance (i.e., situations where elevated toilet seats and/or Hoyer Lifts are available or where a bathroom door is not wide enough to allow for easy wheelchair access may resulting more time needed if its use results in an increased need); if the recipient has frequent urination of bowel movements; if the recipient has frequent bowel or bladder accidents; if the recipient has occasional bowel or bladder accidents that requires assistance from another person; if the recipient's morbid obesity requires more time; if the recipient has spasticity or locked limbs; and if the recipient is combative.

(ACIN No. I-82-17 (December 5, 2017).)

Bathing, Oral Hygiene, and Grooming (MPP § 30-757.14 (e))

Bathing (Bath/Shower) includes cleaning the body in a tub or shower; obtaining water/supplies and putting them away; turning on/off faucets and adjusting water temperature; assistance with getting in/out of a tub or shower; assistance with reaching all parts of the body for washing, rinsing, and drying and applying lotion, powder, deodorant; and washing/drying hands.

Oral Hygiene includes applying toothpaste, brushing teeth, rinsing mouth, caring for dentures, flossing, and washing/drying hands.

Grooming includes hair combing/brushing; hair trimming when recipient cannot get to the barber/salon; shampooing, applying conditioner, and drying hair; shaving; fingernail/toenail care when these services are not assessed as “paramedical services” for the recipient; and washing/drying hands.

Note: This does not include getting to/from the bathroom. These tasks are assessed as mobility under “ambulation” (MPP § 30-757.14(k)).

Time Guidelines for Bathing, Oral Hygiene, and Grooming

	Low	Mid	High
Rank 2	0:30	1:13	1:55
Rank 3	1:16	2:13	3:09
Rank 4	2:21	3:13	4:05
Rank 5	3:00	4:03	5:06

Exceptions include, but are not limited to: the extent to which the recipient can assist or perform tasks safely; the number of times the recipient may need help to bathe; if the recipient requires assistance in/out of tub/shower; if the recipient needs assistance with supplies; if the recipient requires assistance washing his/her body; if the provider must be present while the recipient bathes; if the recipient requires assistance drying his/her body and/or putting on lotion/powder after bathing; if the recipient showers in a wheelchair; if the provider’s constant presence is required; if the weight of the recipient requires more or less time; if the recipient has spasticity or locked limbs; and if a roll-in shower is available; and if the client is combative.

(ACIN No. I-82-17 (December 5, 2017).)

Protective Supervision (MPP § 30-757.171)

The IHSS Program content includes protective supervision. Protective supervision consists of monitoring the behavior of non-self-directing, confused, mentally impaired or mentally ill recipient/applicants in order to safeguard the recipient/applicant against injury, hazard or accident.

(MPP § 30-757.171.)

A person must be both mentally impaired or mentally ill and non-self-directing to be eligible for protective supervision. It is not sufficient for someone to just be mentally impaired/mentally ill, there must also be evidence that he/she is non-self-directing. This policy is based on the court rulings in the *Marshall v. McMahon*, (1993) 17 Cal. App. 4th 1841, and *Calderon v. Anderson*, (1996) 45 Cal. App. 4th 607. For the purpose of protective supervision eligibility, non-self-direction is an inability, due to a mental impairment/mental illness, for individuals to assess danger and the risk of harm, and therefore, the individuals would most likely engage in potentially dangerous activities that may cause self-harm.

(All County Letter 15-25, March 19, 2015.)

If a person is identified by county staff to potentially need protective supervision, the county shall request that the form SOC 821 (11/05), Assessment of Need for Protective Supervision for In-Home Supportive Services Program, be completed by a qualified physician or other appropriate medical professional to certify the need for protective supervision and returned to the county. The form shall not be determinative but shall be used in conjunction with other pertinent information to assess the person's need for protective supervision. Recipients/applicants may also request protective supervision and provide documentation (such as the SOC 821) from their physicians or other appropriate health care professionals for submission to the county social service staff to substantiate the need for protective supervision.

(MPP § 30-757.173.)

Protective supervision is not available for: friendly visiting or other social activities; when the need is due to a medical condition and the form of supervision required is medical; in anticipation of a medical emergency; to prevent or control antisocial or aggressive recipient/applicant behavior; to guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself.

(MPP § 30-757.172.)

Protective supervision is not available merely to provide constant oversight in anticipation of environmental or medical emergency or exigent circumstances. A mentally ill/mentally impaired recipient who would not know how to exit his/her home in the event of a fire is not eligible for protective supervision based on that behavior (or lack of appropriate response/behavior) alone.

(*Calderon v. Anderson* (1996) 45 Cal.App.4th 607, All County Letter 17-95, June 28, 2017.)

Although the need for protective supervision is a 24-hour need, leaving a recipient alone for some fixed short period of time, is not, by itself, a reason to deny protective supervision.

(All County Letter 15-25, March 19, 2015.)

For service authorization purposes, no need for protective supervision exists during periods when a provider is in the home to provide other services.

(MPP § 30-763.332.)

In determining whether the protective supervision need exists, the county must consider the information on the Assessment of Need for Protective Supervision for IHSS Program Form (SOC 821) as well as Regional Center services/reports, school reports, and other social service/community/medical collateral contacts.

(All County Information Notice. I-82-17, December 5, 2017.)

Protective Supervision is only available if a need exists for twenty-four hours a day of supervision in order for the recipient to remain at home safely.

(MPP § 30-757.173.)

Because protective supervision requires a continual need, if the behavior in question is predictable and the need for supervision is only at certain times of the day, there is no protective supervision eligibility because there is not a 24-hour a day need. But the 24-hour a day requirement is met if the behaviors are episodic but constant. The unpredictable episodic behavior must be frequent and long enough that constant supervision is necessary.

(All County Letter 15-25, March 19, 2015.)

Environmental modifications such as removing knobs from stove or adding safety latches can be used, and should be encouraged, to eliminate the need for protective supervision. If the modification eliminates the hazard, then there is no longer a need for protective supervision and protective supervision should not be authorized.

(All County Letter 15-25, March 19, 2015.)

Environmental modifications are not required to eliminate the need for protective supervision; however, if environmental modifications already exist, protective supervision would not be authorized if those modifications eliminate the safety hazard that puts the recipient at risk.

Environmental modifications may be discussed with the recipient or the recipient's representative, as a possible means to address these optional safeguards.

Modifications or restraints such as locking the recipient in a room, shall not be considered an appropriate modification.

(All County Letter 17-95, June 28, 2017.)

A person does not have to have an actual history of engaging in unsafe behavior if it has been established that the individual has a propensity for engaging in dangerous behaviors if supervision is not provided. Evidence of a propensity for dangerous behaviors can be obtained from the documentary evidence which established the degree of mental confusion. For example, a person with a documented history of non-self-direction, who has a tendency to open the front door and start walking away, does not necessarily have to make it into the street in order for this to be considered potentially hazardous behavior.

(All County Letter 15-25, March 19, 2015.)

Protective supervision recipients must be physically capable of harming themselves. In *Calderon v. Anderson* (1996), the court held that the plaintiff was not entitled to protective supervision under the IHSS Program because his physical condition made it

impossible for him to engage in any activities that would require observation or preventative intervention.

The *Calderon* case involved a 35-year-old man who suffered from severe mental retardation, physical deformities and cerebral palsy, which rendered him completely bedridden. He functioned at the level of a one-year-old child. He had no use of his extremities, which remained in a fixed position, could not move his head, was nonverbal, and was unable to care for himself.

(*Calderon v. Anderson* (1996) 45 Cal.App.4th 607, 616.)

Notwithstanding the holding in *Calderon v. Anderson*, a mentally impaired or mentally ill individual who is bedridden, or in a wheelchair, is not necessarily incapable of engaging in activities that would require observation or preventative intervention under protective supervision. The specific factual circumstances of the individual must be considered when determining whether the person has the physical ability to engage in potentially dangerous activities. For example, a mentally impaired/mentally ill bedridden individual may still have the physical ability to pull at his or her G-tube that requires observation or intervention under protective supervision.

(All County Letter 15-25, March 19, 2015.)

Mental functioning shall be evaluated as follows:

The extent to which the recipient's cognitive and emotional impairment (if any) impacts his/her functioning in the 11 physical functions listed in Sections 30-756.2(a) through (k) is ranked in each of those functions. The level and type of human intervention needed shall be reflected in the rank for each function. The recipient's mental function shall be evaluated on a three-point scale (Ranks 1, 2, and 5) in the functions of memory, orientation and judgment. This scale is used to determine the need for protective supervision.

(MPP § 30-756.37)

If the potential unsafe behavior for protective supervision eligibility involves the risk of falling, the reason for the fall risk must be related to the individual's mental impairment/illness. Protective supervision shall not be authorized solely due to one's inability to ambulate safely, thereby creating an increased risk of fall. But protective supervision would be authorized for a recipient considered to have fall risk tendencies if she is unable to walk unassisted and due to a mental impairment, she forgets and frequently attempts to walk on her own.

(All County Letter 17-95, June 28, 2017.)

There is no eligibility to protective supervision when the need for supervision is caused by a medical condition and the form of the supervision required is medical or in anticipation of a of a medical emergency.

(MPP § 30-757.172.)

This limitation has been upheld in the decision of *Marshall v. McMahon* issued by the California Court of Appeal. The court determined that the regulation limiting protective supervision to non-self-directing or otherwise mentally infirm persons is reasonable and consistent with the goal of IHSS to prevent inappropriate institutionalization of aged, blind, and disabled persons. The court stated: “The regulations draw a line between those who have the practical capacity to know when they are in trouble and those who do not. It is permissible to limit protective supervision to only those disabled people who are so unaware of their being and conduct as to require nonmedical oversight, akin to baby-sitting.”

(*Marshall v. McMahon* (1993) 17 Cal.App.4th 1841.)

Burden of Proof

In administrative tribunals, the party asserting the affirmative of the issue generally has the burden of proof.

(*Cornell v. Reilly* (1954) 127 Cal.App.2d 178, 273 P.2d 572; and California Administrative Agency Practice, California Continuing Education of the Bar (1970) p. 183.)

The burden of producing evidence is the obligation of a party to produce evidence sufficient to avoid a ruling against him on the issue.

(Evid. Code § 110.)

The burden of producing evidence as to a particular fact is initially on the party with the burden of proof as to that fact.

(Evid. Code, § 550.)

The burden of proof is the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court. Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.

(Evid. Code, § 115.)

A “preponderance of the evidence” means “more likely than not.”

(*Tellabs, Inc. v. Makor Issues & Rights, Ltd.* (2007) 551 U.S. 308, 127 S.Ct. 2499, 2513, 168 L.E.2d 179, 196.)

Evidence

The direct testimony of one witness who is entitled to full credit is sufficient for proof of any fact. (Evid. Code § 411.)

The county has the burden of going forward in the state hearing to support its determination.

(MPP § 22-073.36.)

CONCLUSION

Burden of Proof for Reduction or Discontinuance of Service

When the County proposes to reduce or discontinue a recipient's service, the County must establish the factual basis for the reduction or discontinuance of a service. This means that the County has the burden of proof to support its reduction or discontinuance determination. Once the County has met its burden of proof, the burden shifts to the recipient to establish that the recipient still meets the legal requirements to be eligible such that the reduction or discontinuance of a service is not warranted.

The County can meet its burden of proof by showing that the reduction or discontinuance of a service was based on (1) a change or misapplication of law or policy; (2) the recipient's medical condition that necessitated the need for service has changed; (3) the recipient had advised the County that the recipient required less time for this service or that the service is no longer needed; or (4) the current assessment is more comprehensive, valid and reliable than the previous assessment.

Assessment of Services

1. Domestic Services

Based on the testimony of the parties and the documentary evidence, it is found that the claimant has no physical limitations that would impact the claimant's ability to perform some, or all of his domestic service needs. However, it is found that the claimant's manic episodes impact his ability to perform some, or all his activities of daily living (ADL's); therefore, the claimant needs substantial assistance with domestic services. It is found that the claimant is assigned the FI rank of 4 for domestic services.

Pursuant to state regulations and the Hourly Task Guidelines (HTG's), the range for a FI rank 4 for domestic services is 6 hours total per month unless adjustments apply.

The claimant's need for domestic services based on 6 rooms is calculated as follows:

1 room solely used by claimant (X) by 1 hour = 1 hour per month.

4 rooms shared in common (X) by 1 hours = 4 hours per month.

Proration: 4 hours for shared rooms (÷) by 2 household members = 2 hours per month.

1 room not used by the claimant (X) by 1 hours = 0 hours month.

Total hours: 1 hour solely for claimant's room (+) 2 hours for rooms shared in common and prorated = 3 hours per month.

Here, the County proposes to reduce the claimant's need for domestic services from 4 hours and 5 minutes per month to 3 hours per month effective July 16, 2021.

Based on the documentary evidence and the testimony of the parties, no evidence was provided that demonstrated that the claimant was making additional mess in the home as a result of his manic episodes which resulted in the claimant's mother spending additional time to cleanup after the claimant. Based on the preponderance of the evidence, it is found that the claimant does not have an exceptional need for domestic services. For example,

Based on the preponderance of the evidence, it is found that the claimant needs 3 hours per month for domestic services because no evidence was presented that demonstrated that the claimant had an exceptional need for domestic services.

Based on the preponderance of the evidence, it is found that the County met its burden of proof to reduce the claimant's need for domestic services because the current assessment is more comprehensive, valid and reliable than the previous assessment because the claimant needs substantial assistance for regular cleaning of the home and the claimant does not have an exceptional need for this service.

It is concluded that the County's action to authorize 3 hours per month for domestic services is sustained.

2. Meal Cleanup

Based on the testimony of the parties and the documentary evidence, it is found that the claimant has no physical limitations that would impact the claimant's ability to perform some, or all of his needs for meal cleanup. However, it is found that the claimant's manic episodes impact his ability to perform some, or all his ADL's; therefore, the claimant needs substantial assistance with meal cleanup. It is found that the claimant is assigned the FI rank of 4 for meal cleanup.

Pursuant to state regulations and the HTG's, the range for a FI rank 4 for meal cleanup is 1 hour and 45 minutes at the low range, 2 hours and 38 minutes at the middle range, and 3 hours and 30 minutes at the high range month unless adjustments apply.

The claimant's mother creditably testified that meals for the claimant and herself are prepared at different times which results in separate periods of meal cleanup for the claimant and the mother. However, the claimant's mother testified that the claimant does not require a special meal plan or that the claimant's meals take additional time to

prepare due to his medical condition, for example, the meals needs to be cut into small bite size pieces or the meals are pureed in order to assist the claimant in consuming his meals. Therefore, the claimant's mother is not spending additional time for meal cleanup because she is needs to clean and wash additional cooking items or utensils (i.e., a blender) that were used to prepare the claimant's meals. Based on the mother's testimony, it is reasonable to find that the mother is not spending a significant amount of time performing meal cleanup even though she is performing meal cleanup for herself and the claimant at different times. Based on the preponderance of the evidence, it is found that the claimant does not have not have an exceptional need for meal cleanup.

Here, the County proposes to reduce the claimant's need for meal cleanup from 3 hours and 30 minutes per week to 1hour 45 minutes per week effective July 16, 2021.

A review of the Case Assessment Narrative for the reassessments conducted on May 6, 2021 and the November 5, 2019 reported the same information. However, it is found that the Case Assessment Narrative for the reassessment conducted on May 6, 2021, failed to demonstrate the basis for the County's determination that the claimant's needs 1 hour and 45 minutes for meal cleanup. In addition, the Case Assessment Narrative for the reassessment conducted on November 5, 2019 failed to demonstrate the basis for the County's determination that the claimant needed 3 hours and 30 minutes for meal cleanup. Based on the preponderance of the evidence, it is found that 2 hours and 38 minutes per week for meal cleanup is sufficient time for the claimant to complete this task with substantial assistance from his mother in order to remain safely in the home.

Here, it is found that the County has not met its burden of proof in support of the County's action to reduce the claimant's need for meal cleanup. The County has not shown that there has been a change or misapplication of law or policy. The County has also not shown that the claimant's medical condition that necessitated the need for service has changed. In addition, the County has not demonstrated that the claimant or his mother had advised the County that the recipient required less time for this service or that the service as no longer needed. Finally, the County has provided insufficient evidence that the current assessment is more comprehensive, valid and reliable than the previous assessment.

It is concluded that the County's action to authorize 1 hour and 45 minutes per week for meal cleanup is not sustained. It is concluded that the claimant needs 2 hours and 38 minutes per week for meal cleanup in order to remain safely in the home.

3. Routine Laundry

Based on the testimony of the parties and the documentary evidence, it is found that the claimant has no physical limitations that would impact the claimant's ability to perform some, or all of his laundry needs. However, it is found that the claimant's manic episodes impact his ability to perform some, or all his ADL's; therefore, the claimant needs substantial assistance with routine laundry. It is found that the claimant is assigned the FI rank of 4 for laundry.

Pursuant to state regulations and the HTG's, the range for laundry is 1 hour per week if laundry facility is in the home and 1 hour and 30 minutes per week if laundry facility is outside the home unless adjustments apply.

Based on the testimony of the parties and the documentary evidence, it is found that the claimant suffers from incontinence which results in the claimant soiling his clothing and/or bedding items. The social worker acknowledged that the claimant has an exceptional need for laundry and additional time was authorized beyond the 1 hour authorized under the HTG's since the use of a washer and dryer are available for use within the claimant's apartment complex.

The claimant's mother confirmed the availability of a washer and dryer within the apartment complex. The claimant's mother testified that due to the claimant's continence, additional laundry is done three (3) times a week. The mother further testified that she spends approximately 5 to 10 minutes loading and unloading the washing machine, approximately 10 minutes to load and unload the dryer, and approximately 15 minutes to fold and put the laundry away.

Based on the mother's testimony, the time spent performing additional laundry during the week due to the claimant's incontinence is calculated as follows:

Loading and unloading the washer:	5 minutes
Loading and unloading the dryer:	10 minutes
Folding and putting away laundry:	<u>15 minutes</u>
Total time for 1 laundry period:	30 minutes

Total time for additional laundry for a week: 30 minutes multiplied by 3 times during the week equals 90 minutes or 1 hour and 30 minutes per week.

Based on the preponderance on the preponderance of the evidence, it is found that the claimant has an exceptional need for laundry due to the claimant's incontinence which results in the need for additional laundry.

Here, the County considered the claimant's need for additional laundry due to the claimant's incontinence and the County determined that the claimant needed 1 hour and 45 minutes per week for laundry which was an increase from the 1 hour per week previously authorized by the County.

Because laundry facility is available within the claimant's apartment complex, the claimant is eligible for 1 hour per week for laundry. However, because there are two (2) household members, the 1 hour per week for laundry is prorated resulting in the claimant needing 30 minutes per week. Because the claimant has an exceptional need due to his incontinence, the claimant's total need for laundry is calculated as follows:

Regular time for laundry on a prorated basis:	30 minutes
Exceptional need for additional laundry:	<u>90 minutes</u>
Total time for laundry per week:	120 minutes or 2 hours

Based on the preponderance of the evidence, it is found that 2 hours per week for routine laundry is sufficient time for the claimant to complete this task with substantial assistance from his mother in order to remain safely in the home.

It is concluded that the County's action to authorize 1 hour and 45 minutes per week for laundry is not sustained. It is concluded that the claimant needs 2 hours per week for laundry in order to remain safely in the home.

4. Bowel and Bladder Care

The social worker testified that the claimant reported that he will have accidents with his bowel and bladder movements; however, the claimant advised that he is able to clean himself. The social worker testified that time was given for cleaning the claimant's soiled clothes under the category of laundry. The social worker further testified there was no change in the time previously authorized by the County for claimant's need for bowel and bladder care.

The claimant's mother testified she provides assistance to the claimant when he leaks on his bed which needs to be cleaned. The mother testified that the claimant is able to clean himself; however, the mother provides assistance by ensuring that the claimant thoroughly cleans himself. The mother also testified that the claimant will have bowel and/or bladder leaks all day and that the claimant does not like to wear adult diapers. The mother subsequently testified that the claimant will have leakage at least four (4) times a day and that the mother spends approximately 10 to 15 minutes assisting the claimant with his cleaning.

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

BOWEL & BLADDER CARE: FI Rank: 1 – Independent
No reported need.

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

BOWEL & BLADDER CARE: FI Rank: 1 – Independent
No reported need.

It is undisputed that the claimant suffers from incontinence but there is a dispute whether the claimant is able to clean himself after having bowel and bladder movements. The claimant's mother admits that the claimant does have the ability to independently perform self-wiping/cleaning after the claimant has a bowel and/or bladder movement, but the mother stated that she provides assistance with additional wiping to ensure that the claimant is thoroughly clean. The mother further testified that that the claimant will have bowel and/or bladder leaks all day and that the claimant does not like to wear adult diapers. The mother testified that the claimant will have leakage

at least four (4) times a day and that the mother spends approximately 10 to 15 minutes assisting the claimant with his cleaning.

A review of the SOC 873 completed by the claimant's doctor reported that the claimant has "physical disability (backpain) as well as on-going mental health disability." It was reported that the claimant "needs assistance with ADL's household [management] and medication supervision & reminders & transportation for [appointments] and shopping." The SOC 873 provided no information that the claimant needs assistance with wiping/cleaning after he has completed a bowel and/or bladder movement.

Based on the weight of the evidence, the County correctly determined that the claimant did not need time for this service based on the previous and the current reassessments and the SOC 873 did not provide any evidence that demonstrated that the claimant needed assistance with his bowel and bladder care needs.

Based on the testimony of the parties and the documentary evidence, even though the claimant's mother testified that she provides some assistance with wiping/cleaning of the claimant after he completes a bowel and/or bladder movement, the weight of the evidence demonstrates that it is reasonable to find that the claimant is able to independently perform his bowel and bladder care and that the claimant does have the ability to wipe and clean himself.

Based on the preponderance of the evidence, it is found that the claimant is assigned the FI rank of 1 for bowel and bladder care.

It is concluded that the County's action to authorize no time for bowl and bladder care is sustained.

5. Bathing, Oral Hygiene and Grooming

The social worker testified that at the time of the assessment, it was reported that the claimant needed some assistance with his bathing due to the claimant's mobility issues. The social worker testified that the claimant's mother provides assistance with shampooing the claimant's hair and rinsing of the claimant's body parts that he is unable to reach. The social worker further testified that the claimant needs some assistance with his oral hygiene in the form of reminders and prompts; however, the claimant does not need physical assistance with performing this task.

The claimant's mother testified that due to the claimant's mobility issue, the mother provides some assistance with the claimant's bathing. The mother testified that the claimant is able to brush his teeth on his own, but he mother assists with combing the claimant's hair and clipping the claimant's finger and toenails.

The Case Assessment Narrative for the reassessment conducted on May 6, 2021, provided the following relevant information:

BATHING, ORAL HYGIENE & GROOMING: FI Rank: 3 - Some human assistance

Mid: physically able to complete bathing/drying of self, and oral hygiene with prompts. Hands on assistance needed with turning on/off faucets and adjusting water temperature, shaving, fingernail/toenail care.

Assistance needed due to mental health, lack of follow through.

The Case Assessment Narrative for the reassessment conducted on November 5, 2019, provided the following relevant information:

BATHING, ORAL HYGIENE & GROOMING: FI Rank: 3 - Some human assistance

Mid: physically able to complete bathing/drying of self, and oral hygiene with prompts. Hands on assistance needed with turning on/off faucets and adjusting water temperature, shaving, fingernail/toenail care.

Assistance needed due to mental health, lack of follow through.

Based on the preponderance of the evidence, the claimant needs some assistance with his bathing, oral hygiene and grooming; therefore, the claimant is assigned the FI rank of 3 for this service. Based on the testimony of the parties and the documentary evidence, no evidence was presented that demonstrated that the claimant had an exceptional need for this service.

Pursuant to state regulations and the HTG's, the range for bathing, oral hygiene and grooming based on the FI rank of 3 is 1 hour and 16 minutes at the low range, 2 hours and 13 minutes at the middle range and 3 hours and 9 minutes at the high range unless adjustments apply.

Based on the preponderance of the evidence, it is found that 2 hours and 13 minutes per week for bathing, oral hygiene and grooming is sufficient time for the claimant to complete this task with some assistance from his mother in order to remain safely in the home.

It is concluded that the County's action to authorize 2 hours and 13 minutes per week for bathing, oral hygiene and grooming is sustained.

6. Protective Supervision

Based on state regulations and policy, protective supervision is available for monitoring the behavior of a nonself-directing and mentally impaired or mentally ill recipient, who is likely to engage in potentially dangerous activities, and who requires a need for 24-hours-a-day supervision.

Mental Impairment or Mental Illness Assessment

It is undisputed that the claimant has been diagnosed with Bipolar I. Therefore, it is found that the claimant has a mental illness.

If the adult applicant/recipient is mentally impaired/mentally ill, the county must follow a three-step process to determine if the applicant/recipient is eligible for protective supervision. Below is the three-step analysis.

1. Nonself-Directing Assessment

The first step is to determine whether the individual is nonself-directing because of his/her mental impairment(s). "Nonself-direction" is an inability, due to a mental impairment or mental illness, for individuals to assess danger and the risk of harm, thereby causing the individuals to most likely engage in potentially dangerous activities that may cause self-harm. A person's mental function is evaluated in the areas of memory, orientation and judgment.

Mental Function

Memory

The social worker testified that claimant was assigned the FI rank of 2 for memory because the claimant was able to participate in the telephonic reassessment interview. The social worker testified that the claimant was able to express his wants and needs which exhibited the claimant's good memory. The social worker explained that the reassessment of the claimant's need for protective supervision included the use of the County's IHSS Protective Supervision Field Assessment Tool – Exhibit 4 of the County's SOP. The social worker also testified that the claimant has issues with his memory when he is suffering from (memory) flashbacks. The social worker further testified that the claimant has sufficient memory unless he is suffering a manic episode; however, the claimant has occasional and episodic issues with his memory. According to the social worker, the claimant memory issue does not occur on a frequent basis.

The claimant's mother testified that the claimant knows his immediate family and normally the claimant know his date of birth and his age. The mother also testified that the claimant knows his current address and the city they currently reside at. The mother testified that prior to the Camp Fire, which resulted in the claimant and his mother having to relocate to their current residence, the claimant's situation was improving; however, after the Camp Fire, the claimant's situation has regressed.

The mother testified that the claimant is able to recall certain events such as when the claimant was institutionalized at the age of 18-years old and when the claimant had jumped in front of a car. The mother opined that the passing of the claimant's grandfather triggered the claimant's bipolar condition. The mother testified that the claimant can communicate his favorite foods and his wants and needs. The mother testified that the claimant will have an episode three (3) to four (4) times a day which may last from five (5) minutes to a couple of hours. The mother further testified that the claimant can use the television and he is able to use the computer to play games.

The Administrative Law Judge asked the claimant to rank the claimant's memory level and the mother responded that she believed that the claimant's memory level is a 2.

The SOC 821 dated May 2, 2018, reported that the claimant had moderate or intermittent deficit in memory. It was explained the claimant suffers from “traumatic flashbacks; memory stored by affective state and is often not accessible [unreadable entry] memory.”

The SOC 821 dated June 7, 2021, reported that the claimant was not suffering from moderate to intermittent deficit in memory. It was explained that “[patient] will often require prompts to engage in ADL’s.”

It is noted that the SOC 821 is not solely determinative as to the claimant’s eligibility for protective supervision. The SOC 821 is to be used in conjunction with other reports and evaluations, to include the social worker’s own observations and assessment to determine the claimant’s eligibility for protective supervision.

The claimant’s mother contends that the SOC 821 dated June 7, 2021 was not completed by the claimant’s doctor but rather by a physician assistant and that the County failed to contact the claimant’s doctor regarding the completed form. However, MPP § 30 757.173(a)(1) provides that the SOC 821 be completed by a physician or other appropriate medical professional to certify the need for protective supervision. In addition, MPP § 30 754.114(a) provides that a physician assistant is considered to be a Licensed Health Care Professional for the purposes of completing the health care certification form. Therefore, the County had no additional duty to contact the claimant’s doctor when the SOC 821 was completed and signed by a physician assistant. Therefore, the social worker properly relied on the information provided by the SOC 821 dated June 7, 2021, in order to determine the claimant’s eligibility for protective supervision.

It is noted that the SOC 821 dated July 20, 2021 reported that the claimant had severe deficit in memory. It was explained that the claimant “has severe persistent mental illness that impacts his functioning working memory[.]” However, the information provided by Dr. K.A.M., is questionable in light of the other documentary evidence submitted by Dr. K.A.M., as further discussed below.

The Behavioral Health Documents provided by Dr. K.A.M dated June 20, 2021 and May 19, 2021 reported the following similar and relevant information regarding the claimant’s memory:

[Claimant] reports continued severe anxiety and mood symptoms in the context of ongoing stressors including complicated health conditions. . . . He believes his medication regimen continues to be effective and he denies side effects. He denies current passive or active suicidal ideation and is able to articulate a safety plan. He denies substance abuse.

Per his last visit: [Claimant] reports ongoing anxiety, mood swings, and irritability in the context of ongoing complicated medical conditions. . . . He is able to articulate a safety plan but says in the future if his quality of life does not improve (*sic*) he is concerned that he may act on the suicidal

thoughts. He is trying to remain optimistic that his medical condition will improve and that eventually they will be able to move into their new home in Paradise.

He describes a long history of bipolar disorder which she (sic) and his mother say was evident in childhood. His mother states he has a long history of mood lability(sic), destructive behavior, self injury, and suicidal ideation. He says that he had been doing well for several years working closely with Dr. L., though following the Camp Fire which destroyed their home and belongings he has been overwhelmed. He describes frequent panic attacks and says "it's been real hell." He says his current medication regimen has been helpful in that it took several years working with Dr. L., to arrive at an effective combination of medications. . . . He describes a history of mood episodes involving severe mood swings, irritability, decreased need for sleep, grandiosity, risk-taking behaviors, and impulsivity. He reports these episodes have alternated with long periods of depressed mood, decreased energy, decreased interest, suicidal ideation, and self-injurious behavior. He currently denies any suicidal ideation, he denies having intent or plan to harm himself or others. He reports the fire and the death of his grandfather as major stressors which have negatively influenced his mood and caused worsened anxiety. He states he nearly attempted suicide 15 years ago following his divorce which led him to seek psychiatric help. He denies substance abuse.

[¶ . . ¶]

Mental Status Exam

[¶ . . ¶]

Thought Process: *linear, logical and goal directed*

Thought Content: no auditory or visual hallucinations; *patient is not delusional*

Orientation and Cognition: Alert and fully oriented; *memory is fully intact*

(Emphasis added.)

In addition, the Behavioral Health Documents provided by Dr. K.A.M., dated April 7, 2021 and January 29, 2021 reported the following similar and relevant information regarding the claimant's memory:

Mental Status Exam

Mental Status Examination: Speech is normal. Patient is irritable and on edge though *he becomes calmer throughout the session*. Mood: Anxious and irritable thought Process is linear. Thought Content: No suicidal ideation, no homicidal ideation, no auditory or visual hallucinations and

patient is not delusional. *Attention/Concentration: normal. Insight: fair. Judgment: Fair. Language is normal. Memory is fully intact.* Fund of knowledge: average. (Emphasis added.)

Based on the preponderance of the evidence, it is found that the claimant suffers from intermittent deficit in memory as a result of his PTSD and Bipolar I condition. Although the claimant's mother has testified that the claimant suffers from frequent manic episode, the claimant is good at hiding his mental condition in order to reflect that he has normal behavior, and the SOC 821 dated July 20, 2021 reported that the claimant suffers from severe deficit in memory because the claimant "has severe persistent mental illness that impacts his functioning working memory," the weight of the other documentary evidence shows that the claimant's memory is fully intact when he is not suffering from a manic episode. Finally, the claimant's mother also testified that the claimant is able to recall his immediate family, his date of birth, his age and his current address, he is able to use, and watch television, the claimant is able to play games on the computer, and the claimant is able to recall that he was institutionalized when he was 18 years old.

Although the claimant may have some deficit in memory as a result of his mental illness, based on the weight of the evidence it cannot be found that the claimant has a severe deficit in memory.

Orientation

The social worker testified that the claimant was assigned the FI rank of 2 because on good days, the claimant has awareness, but when the claimant is suffering from a manic episode, the claimant becomes disorientated.

The claimant's mother testified that the claimant is aware of parts of the home, he has awareness of the difference between night and day, but the claimant has mixed up his nights and days, for example, the claimant will sleep during the day. The mother testified that the claimant does not like light and as a result the curtains/binds in the home are kept closed and they live in the dark. The mother testified that when it comes to the claimant's medical appointments, the mother has to prepare the claimant in order to go to the claimant's appointments. The mother testified that the claimant knows where he lives; however, the claimant cannot go outside the home alone. The mother testified that the claimant is able to tell time, but he has no awareness that he may need to change his clothes. The mother further testified that when the claimant is not suffering from a manic episode, the claimant's orientation is a 2; however, when the claimant is having a manic episode, the claimant's orientation is a 5.

The SOC 821 dated May 2, 2018, reported that the claimant had moderate or intermittent deficit in orientation. The explanation provided was "[d]uring PTSD flash back[.]"

The SOC 821 dated June 7, 2021, reported that the claimant was not suffering from any disorientation and no further explanation was provided.

The SOC 821 dated July 20, 2021, reported that the claimant was suffering from a severe disorientation. It was explained that “[w]hen his condition worsens it has the potential to impact orientation[.]”

The Behavioral Health Document provided by Dr. K.A.M., dated July 20, 2021 and the and May 19, 2021 reported the following similar and relevant information regarding the claimant’s orientation:

[Claimant] reports continued severe anxiety and mood symptoms in the context of ongoing stressors including complicated health conditions. . . . He believes his medication regimen continues to be effective and he denies side effects. He denies current passive or active suicidal ideation and is able to articulate a safety plan. He denies substance abuse.

He denies current passive or active suicidal ideation and is able to articulate a safety plan. He denies substance abuse.

Per his last visit: [Claimant] reports ongoing anxiety, mood swings, and irritability in the context of ongoing complicated medical conditions. *He continues to experience postoperative complications though says he has been told that some of the symptoms he is having can be normal following a prostate procedure. He says it affects his quality of life and has been very stressful for him not to have normal urinary function. He says the stress has caused significant anxiety symptoms including frequent worry, muscle tension, fatigue, and panic symptoms as well as mood lability (sic), irritability, periods of low mood, anhedonia, decreased interest, lack of motivation, and feelings of hopelessness. He continues to experience chronic suicidal ideation though says he is not currently experiencing thoughts of self-harm. He is able to articulate a safety plan but says in the future if his quality of life does not improve (sic) he is concerned that he may act on the suicidal thoughts. He is trying to remain optimistic that his medical condition will improve and that eventually they will be able to move into their new home in Paradise.*

He describes a long history of bipolar disorder which she and his mother say was evident in childhood. His mother states he has a long history of mood lability(sic), destructive behavior, self injury, and suicidal ideation. *He says that he had been doing well for several years working closely with Dr. L., though following the Camp Fire which destroyed their home and belongings he has been overwhelmed. He describes frequent panic attacks and says “it’s been real hell.” He says his current medication regimen has been helpful in that it took several years working with Dr. L., to arrive at an effective combination of medications. . . . He describes a history of mood episodes involving severe mood swings, irritability, decreased need for sleep, grandiosity, risk-taking behaviors, and impulsivity. He reports these episodes have alternated with long periods of depressed mood, decreased energy, decreased interest, suicidal*

ideation, and self-injurious behavior. He currently denies any suicidal ideation, he denies having intent or plan to harm himself or others. He reports the fire and the death of his grandfather as major stressors which have negatively influenced his mood and caused worsened anxiety. He states he nearly attempted suicide 15 years ago following his divorce which led him to seek psychiatric help. He denies substance abuse.

[¶ . . . ¶]

Mental Status Exam

[¶ . . . ¶]

Thought Process: linear, logical and goal directed
Thought Content: no auditory or visual hallucinations; patient is not delusional
Orientation and Cognition: Alert and fully oriented; memory is fully intact
Mood: Anxious and irritable
Affect: Anxious Attention/Concentration: Normal
Insight: Good

(Emphasis added.)

The Behavioral Health Documents provided by Dr. K.A.M., dated April 7, 2021 and January 29, 2021, reported the following similar and relevant information regarding the claimant's orientation:

Mental Status Exam

Mental Status Examination: *Speech is normal. Patient is irritable and on edge though he becomes calmer throughout the session. Mood: Anxious and irritable thought Process is linear. Thought Content: No suicidal ideation, no homicidal ideation, no auditory or visual hallucinations and patient is not delusional. Attention/Concentration: normal. Insight: fair. Judgment: Fair. Language is normal. Memory is fully intact. Fund of knowledge: average. (Emphasis added.)*

The SOC 821 dated July 20, 2021, reported that the claimant was suffering from a severe disorientation. However, the claimant's doctor clearly reported that when the claimant's condition worsens, there was *only* a potential impact on the claimant's orientation. In addition, the claimant's doctor did not provide any additional information that showed how often the claimant suffered from his worsen condition and the doctor did not describe the severity of the potential impact on the claimant's orientation.

In contrast Dr. K.A.M., reported in the various Behavioral Health Documents that the claimant was alert and fully oriented; the claimant's thought process was linear, logical and goal directed; and although the claimant was anxious and/or irritable the claimant

had the ability to calm himself. In addition, Dr. K.A.M., reported that claimant had fair insight and that he had average knowledge.

Based on the preponderance of the evidence, it is found that the claimant suffers from moderate disorientation or confusion as a result of his PTSD and Bipolar I condition. Based on the various Behavioral Health Documents as prepared by Dr. K.A.M., the claimant reported that his experience with postoperative complications has “has caused significant anxiety symptoms including frequent worry, muscle tension, fatigue, and panic symptoms as well as mood lability, irritability, periods of low mood, anhedonia, decreased interest, lack of motivation, and feelings of hopelessness.” Dr. K.A.M., also reported that the claimant has awareness of his “bipolar disorder, that he suffers from frequent panic attacks, and that his prescribed medication was helping with mental condition.” In addition, the claimant reported to describe his “history of mood episodes involving severe mood swings, irritability, decreased need for sleep, grandiosity, risk-taking behaviors, and impulsivity.” Finally, the claimant was “able to able to articulate a safety plan but says in the future if his quality of life does not improve he is concerned that he may act on the suicidal thoughts. He is trying to remain optimistic that his medical condition will improve . . .”

Although the claimant may have some deficit in orientation as a result of his mental illness, based on the weight of the evidence it cannot be found that the claimant has a severe deficit in orientation.

Judgment

The social worker testified that based on the average of the claimant having good or bad days, the claimant was assigned the FI rank of 2 for judgment. The social worker testified that after the Camp Fire, the claimant needed help; however, that was three (3) years ago. The social worker testified that since 2019 to the present, the claimant’s behavior has improved. The social worker referred to the SOC 821’s dated May 2, 2018 and June 7, 2021 that were previously submitted for the County’s consideration, and the social worker noted that both documents did not reflect that the claimant had a severe deficit in memory, orientation and judgment.

The claimant’s mother referred to the SOC 821 dated July 20, 2021 and noted that the claimant does not have great judgment which impacts his ability to hurt himself. The mother testified that when the claimant is not having an episode, the claimant is either sleeping or watching television. The mother further testified that the claimant will elope from the home and that the claimant wants to hurt himself because he feels/believe other people are after him.

The SOC 821 dated May 2, 2018, reported that the claimant’s judgment is mildly impaired. It was explained that the claimant’s “[m]ental state affects behavior/judgment. Depression → slow thinking[.] Manic → impulsive & reckless[.]”

The SOC 821 dated June 7, 2021, reported that the claimant's judgment is mildly impaired. It was explained that "[t]hese changes are due to his disability from post trauma.

The SOC 821 dated July 20, 2021, reported that the claimant's judgment was severely impaired. It was explained that "[d]uring mood episodes which are frequent his judgment and impulse control are severely impaired[.]"

The Behavioral Health Documents provided by Dr. K.A.M., dated July 20, 2021 and the and May 19, 2021 reported the following similar and relevant information regarding the claimant's judgment:

He denies current passive or active suicidal ideation and is able to articulate a safety plan. He denies substance abuse.

Per his last visit: [Claimant] reports ongoing anxiety, mood swings, and irritability in the context of ongoing complicated medical conditions. He continues to experience postoperative complications though says he has been told that some of the symptoms he is having can be normal following a prostate procedure. He says it affects his quality of life and has been very stressful for him not to have normal urinary function. He says the stress has caused significant anxiety symptoms including frequent worry, muscle tension, fatigue, and panic symptoms as well as mood lability (sic), irritability, periods of low mood, anhedonia, decreased interest, lack of motivation, and feelings of hopelessness. *He continues to experience chronic suicidal ideation though says he is not currently experiencing thoughts of self-harm. He is able to articulate a safety plan but says in the future if his quality of life does not improve (sic) he is concerned that he may act on the suicidal thoughts. He is trying to remain optimistic that his medical condition will improve and that eventually they will be able to move into their new home in Paradise. . . . He describes a history of mood episodes involving severe mood swings, irritability, decreased need for sleep, grandiosity, risk-taking behaviors, and impulsivity. He reports these episodes have alternated with long periods of depressed mood, decreased energy, decreased interest, suicidal ideation, and self-injurious behavior. He currently denies any suicidal ideation, he denies having intent or plan to harm himself or others. He reports the fire and the death of his grandfather as major stressors which have negatively influenced his mood and caused worsened anxiety. He states he nearly attempted suicide 15 years ago following his divorce which led him to seek psychiatric help. He denies substance abuse.*

[¶ . . . ¶]

Mental Status Exam

[¶ . . ¶]

Thought Process: linear, logical and goal directed

Thought Content: no auditory or visual hallucinations; patient is not delusional

Mood: Anxious and irritable

Affect: Anxious Attention/Concentration: Normal

Insight: Good

Judgment: Fair

Suicidal Ideation: no passive or active SSI

Homicidal Ideation: no HI

(Emphasis added.)

The Behavioral Health Documents provided by Dr. K.A.M., dated April 7, 2021 and January 29, 2021, reported the following similar and relevant information regarding the claimant's judgment:

Mental Status Exam

Mental Status Examination: Speech is normal. *Patient is irritable and on edge though he becomes calmer throughout the session.* Mood: Anxious and irritable *thought Process is linear. Thought Content: No suicidal ideation, no homicidal ideation, no auditory or visual hallucinations and patient is not delusional.* Attention/Concentration: normal. Insight: fair. *Judgment: Fair.* Language is normal. Memory is fully intact. Fund of knowledge: average. (Emphasis added.)

The claimant's mother testified that the claimant's judgment is severely impaired. In contrast, the social worker testified that on average, the claimant's judgment is moderately/mildly impaired. Here, the SOC 821 dated July 20, 2021, supports the claimant's position that the claimant's judgment is severely impaired. In contrast, the SOC 821 dated June 27, 2021 and July 7, 2021 supports the social worker's position that the claimant's judgment is moderately impaired. Based on the preponderance of the evidence, it is found that the testimony of the social worker, the information provided by SOC 821 dated June 27, 2021 and July 7, 2021, as well as the information provided by the various cited Behavioral Health Documents provided by Dr. K.A.M., outweighs the testimony of the claimant's mother and the information by the SOC 821 dated July 20, 2021.

Even though the SOC 821 dated July 20, 2021 reported that "[d]uring mood episodes which are frequent [the claimant's] judgment and impulse control are severely impaired" The claimant's doctor provided no additional information as to the severity of the claimant's deficit in judgment as a result of the claimant's frequent mood episodes. A review of the Behavioral Health Documents reported that the claimant's thought process is linear, he has no suicidal or homicidal

ideations, he does not suffer from hallucinations and delusions, and the claimant's judgment is fair. Although the Behavioral Health Documents noted that the claimant had previous thoughts of suicide, Dr. K.A.M., did not report any current suicidal attempts by the claimant or that the Dr. K.A.M., was concerned that the claimant may commit suicide in the immediate future. Based on the preponderance of the evidence, it is reasonable to conclude that the claimant suffers from moderate or mild deficit in judgment.

Although the claimant may have some deficit in judgment as a result of his mental illness, based on the weight of the evidence it cannot be found that the claimant has a severe deficit in judgment.

Conclusion of Nonself-Directing Determination

A "proper interpretation" of IHSS protective supervision is that protective supervision is available for those IHSS beneficiaries "who are non-self-directing, in that they are unaware of their physical or mental condition and, therefore, cannot protect themselves from injury, and who would most likely engage in potentially dangerous activities. (*Calderon v. Anderson*, supra, 45 Cal.App.4th at p. 616, citing *Marshall v. McMahon*, supra, 17 Cal.App.4th 1841, emphasis added.)

Based on the preponderance of the evidence, it is found that the claimant is self-directing because the claimant's memory, orientation and judgment is moderate/mildly impaired. Although the claimant may suffer from frequent manic episodes, the claimant has sufficient self-awareness of his mental conditions, that he could be suicidal if his living and stress conditions continue. However, pursuant to MPP § 30-757.172 protective supervision is not available to guard against deliberate self-destructive behavior, such as suicide.

The SOC 821 dated May 2, 2018, provided the following relevant information:

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? None

The SOC 821 dated June 7, 2021, provided the following relevant information:

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? No

The SOC 821 dated July 20, 2021, provided the following relevant information:

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? This patient is in severe need of IHSS support in order to function.

Based on the various SOC 821's, the claimant has not suffered any injury or accident as a result of the claimant's deficit in memory, orientation and judgment. In addition, a review of the various Behavioral Health Documents prepared by Dr. K.A.M., provided no information that the claimant's own doctor expressed any concern that the claimant lacks the ability to appreciate and understand the risk of harm or danger as a result of the claimant's actions.

The claimant's mother has testified that the claimant is good at hiding his mental illness from his doctor. However, Dr. K.A.M noted that the claimant was able to report and demonstrate his awareness of his mental state, the events that have caused the claimant stress and anxiety, and the claimant's hope that his situation will improve once they have moved to a more private residence. Finally, Dr. K.A.M., did not include any concerned statements that the information provided by the claimant were questionable.

It is therefore concluded that the claimant is self-directing and that the claimant did not meet this requirement in order to be eligible for protective supervision. Therefore, it is concluded that claimant is not eligible for protective supervision.

Even if the claimant was determined to be non-self-directing, the claimant did not meet all of the requirements in order to be eligible for protective supervision as further discussed below.

2. Engagement in Potentially Dangerous Activities

It has been concluded that the claimant is self-directing. If the claimant was determined to be nonself-directing, a protective supervision analysis next requires a determination of whether the claimant is likely to engage in potentially dangerous activities and whether the claimant has the physical ability to put herself at risk of harm.

Here, it is undisputed that the claimant has the physical ability to place himself in harm because he is able to ambulate and transfer independently.

The SOC 821 dated May 2, 2018, provided the following relevant information:

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No

2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? None

The SOC 821 dated June 7, 2021, provided the following relevant information:

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? No

The SOC 821 dated July 20, 2021, provided the following relevant information:

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? No
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? Yes
3. Do you have any additional information or comments? This patient is in severe need of IHSS support in order to function.

The various Behavioral Health Documents prepared by Dr. K.A.M., noted that the claimant may have suicidal thoughts, the claimant had previously attempted suicide 15 year ago, but currently the claimant has no suicidal or homicidal ideation. However, the claimant did acknowledge that if his living situation does not improve, he consider suicide. It is found that even if the claimant had suicidal or homicidal ideation, pursuant to MPP § 30-757.172 protective supervision is not available to guard against deliberate self-destructive behavior such as suicide, or to prevent or control antisocial or aggressive behavior against other persons.

The claimant's mother testified that the claimant frequently elopes from the home. However, the mother also testified that when preventive measures such as additional locks were installed in their old home, the claimant was prevented from eloping behavior. The mother testified that their current residence does not allow the installation of additional locks and as a result, the mother must constantly supervise the claimant to prevent the claimant from eloping. Although the mother has testified and the County has acknowledged that the claimant engages in elopement behaviors, the SOC 821's as well as the various Behavioral Health Documents prepared by Dr. K.A.M., reported no incidents that demonstrated that the claimant has a history of frequently eloping from the home. Based on the weight of the evidence, it is found that the documentary evidence in the record does not support the claimant's testimony that the claimant has a history of eloping from the home. In addition, the documentary evidence provided no additional information that the claimant engages in other potentially

dangerous activities except for the possibility that the claimant may have suicidal thoughts.

The claimant's mother testified that the claimant wants to hurt himself because he feels/believe other people are after him. However, the Behavioral Health Documents prepared by Dr. K.A.M., reported that the claimant has no auditory or visual hallucinations and that the claimant is not delusional.

The claimant's mother testified that the claimant has attempted to jump out of the car. However, protective supervision can only be authorized to ensure that that the claimant can remain safely in the home and protective supervision cannot be authorized to protect the claimant while out in the public to include the claimant being transported by car.

The claimant's mother testified that the claimant will punch walls and windows which has resulted in the claimant suffering cuts. Again, a review of the various documentary evidence that have been admitted into the record lacks any information that the claimant engages in self-injurious behaviors as testified to by the claimant. In fact, the Behavioral Health Documents prepared by Dr. K.A.M., shows that the claimant suffers from PTSD, anxiety and stress as a result of his current living arrangement. However, there has been no reported incidents that the has punched walls and windows which has resulted in the claimant suffering cuts.

Based on the preponderance of the evidence, it is found that the claimant is not likely to engage in potentially dangerous activities except for the claimant's awareness that he may consider suicide if his living does not improve; however, the claimant has also reported to his doctor that he hopes his condition improves once they have moved to a more private residence.

It is concluded that the claimant did not meet this requirement for protective supervision; therefore, the claimant is not eligible for protective supervision.

3. 24-Hours a Day Supervision

Protective Supervision is only available if a need exists for 24-hours a day supervision in order for the recipient to remain at home safely. (MPP § 30-757.173.) Here, it has been concluded that the claimant is self-directing and that she does not engage in potentially dangerous activities. Therefore, there is no need to analyze whether the claimant needs 24-hours a day supervision since the claimant did not meet the threshold requirements for protective supervision.

However, if the claimant had satisfied the other requirement for protective supervision, there must be a showing that the claimant's needs 24-hours a day supervision in order to remain safely in the home.

Based on the preponderance of the evidence, it is found that the claimant may suffer from frequent manic episodes; however, the claimant testified that when the claimant is

not suffering from a manic episode, the claimant is sleeping or watching television. Although the claimant may suffer from frequent manic episodes, again there has been no showing that the claimant engages in self-injurious behavior and even if the claimant suffers from suicidal tendency, protective supervision cannot be authorized to prevent the claimant from attempting suicide. Although the claimant has testified that the claimant will frequently elope, the claimant has also testified that the previous installments of additional locks in their old home was sufficient remedial measures to prevent the claimant from eloping. Although the claimant is unable to currently install additional locks in their current apartment, the claimant will be able to install additional locks once they have moved in their new home in order to prevent the claimant from eloping from the home.

Burden of Proof for Discountenance of Protective Supervision

As previously noted, the County has the burden of proof to support its determination to discontinue the claimant's need for protective supervision. Based on the evidence presented, the County did not show that there was a change in law or misapplication of the law. The County did not show that the claimant's medical condition that previously warranted authorizing protective supervision had changed or improved. In addition, the claimant nor the Authorized Representative advised the County that the claimant requested a reduction in hours or that the claimant no longer required protective supervision. However, based on the preponderance of the evidence the County met its burden of proof that the current reassessment of the claimant's need for protective supervision is more comprehensive, valid and reliable than the previous assessment. The County's Case Notes reported the following relevant information:

Based on the review, QA finds SW . . . IHSS Reassessment was processed correctly and accordingly to IHSS Program Regulations. SW . . . discontinued protective supervision and concluded that recipient is self-directing (PS10 NOA) and his aggressive and self harming behavior is infrequent and episodic (PS21 NOA). *Recipient may have never qualified for protective supervision and the protective supervision rules were misapplied by the previous worker.* (Emphasis added.)

Even if it was concluded that the County did not meet its burden of proof to support the County's determination to discontinue the claimant's protective supervision, based on based on the weight of the evidence, it is found that the claimant did not meet the requirements for protective supervision under the state law/regulations.

In *Marshall v. McMahon*, the court noted:

We find it does not violate state law, federal law or constitutional law to provide a limited range of services to disabled people; that it is permissible to limit the in-home supportive service denoted as "protective supervision" to *only those disabled people who are so unaware of their being and conduct as to require nonmedical oversight, akin to baby-sitting*; and that even though similar constant watchfulness of alert but otherwise

endangered disabled people might be beneficial, the state is not constitutionally required to provide it.

(*Marshall v. McMahon*, 17 Cal. App. 4th 1841, 1851 (1993).) (Emphasis added.)

Taking into consideration the provision noted in *Marshall v. McMahon*, even taking all evidence in favorable light of the claimant, there is insufficient evidence to show that such additional need for supervision is significant to the degree that would trigger granting the extraordinary benefit of IHSS protective supervision in order for the claimant to remain safely in the home.

It is therefore concluded that the County’s action to discontinue the claimant’s need for protective supervision, is sustained.

Assessment of Services Conclusion

Based on the above findings and conclusion, the claimant’s IHSS needs effective July 17, 2021, are assessed as follows:

Services – Monthly:	Ranking	Current	Previous	Difference
Domestic Services	4	03:00	00:00	00:00

Services – Weekly Hours:	Ranking	Current	Previous	Difference
Prepare Meals	4	07:00	07:00	00:00
Meal Cleanup	4	02:38	01:45	(+) 00:53
Routine Laundry	4	02:00	01:45	(+) 00:15
Shopping for Food	3	00:30	00:30	00:00
Other Shopping/Errands	3	00:30	00:30	00:00
Respiration	1	00:00	00:00	00:00
Bowel and Bladder care	1	00:00	00:00	00:00
Feeding	2	01:30	01:30	00:00
Routine Bed Bath	3	00:00	00:00	00:00
Dressing	2	00:53	00:53	00:00
Menstrual Care	1	00:00	00:00	00:00
Ambulation	1	00:00	00:00	00:00
Transfers	1	00:00	00:00	00:00
Bathing, Oral Hygiene and Grooming	3	02:13	02:13	00:00
Rubbing Skin, Repositioning	0	00:00	00:00	00:00
Help with Prosthesis/Medication		00:28	00:28	00:00
Medical Appointments		00:29	00:00	00:00
Accompaniment to Other Services		00:00	00:00	00:00
Protective Supervision		00:00	00:00	00:00
Paramedical Services		00:00	00:00	00:00
Total Weekly Hours:		18:11		

Monthly Hours:

Domestic Services	03:00
Total weekly hours x 4.33	78:44
Total Monthly Hours	81:44

ORDER

The claim is denied in part and granted in part.

The claim for domestic services; bowel and bladder care; bathing oral hygiene and grooming; and protective supervision is denied.

The claim for meal cleanup and routine laundry is granted. Butte County shall authorize 2 hours and 38 minutes per week for meal cleanup and 2 hours per week for routine laundry effective July 16, 2021.

Butte County shall rescind the Notice of Action dated June 28, 2021, authorizing the claimant 76 hours and 50 minutes of IHSS benefits per month effective July 16, 2021. Butte County shall issue a new Notice of Action authorizing the claimant 81 hours and 44 hours of IHSS benefits per month effective July 16, 2021.

In all other respects, the claim is denied.