

**County of San Diego, Health and Human Services Agency (HHSA)
County Medical Services (CMS) Program Guide**

Court Appearances - Subpoenas

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Background

HHSA Staff can be served with subpoenas or subpoenas duces tecum requesting employees to appear at deposition or court proceedings.

Policy:

A: Testimony of Employees

The testimony of employees involving case records for matters not directly related to the administration of public assistance programs is an inappropriate use of case records and a violation of confidentiality. To avoid violating confidentiality and/or court orders, the following procedures will apply. These procedures apply only to subpoenas involving HHSA records and applicants or beneficiaries.

Subpoena - is a court process to compel a person to appear at a deposition or court proceeding to testify as a witness.

Subpoena duces tecum - is a court process to compel a person to appear as a witness and to compel that witness to produce all documents or records named in the subpoena.

B: District Attorney/County Counsel

HHSA staff can be served with subpoenas issued by the District Attorney's (DA) Office. It is HHSA policy to fully cooperate with the DA in the investigation or prosecution of all matters directly related to the administration of public assistance.

Procedures for staff served with a subpoena issued by the District Attorney are as follows:

Step	Action
1	A demand for witness fees and mileage should not be made.
2	The employee will notify his/her Supervisor or Manager.
3	The employee named on the subpoena is expected to appear as directed. Note: When the employee is no longer assigned to CMS, the supervisor or Manager will immediately contact the Deputy DA identified on the subpoena to provide the identity of the employee who will respond as a substitute. If there has been a change in the worker assigned to the case, the Deputy DA should be informed so that he/she may make the decision on who will be required to appear.
4	The employee's supervisor will contact the Deputy DA to discuss the case and restrictions to the employee's availability for court (planned vacation or medical leave).
5	If unsure whether the subpoena relates to a matter directly connected to HHSA programs, the employee's supervisor or Manager must contact the County Counsel for clarifications.
6	If the subpoena relates to a matter not directly related to the administration of public assistance programs, the employee will follow directions given by County Counsel.

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C: Private Attorney Subpoenas

Staff can be served with subpoenas or subpoenas duces tecum initiated by private attorneys, Legal Aid Society, or Public Defender. These subpoenas normally request the presence of staff and/or case records, and may deal with civil or criminal matters not directly related to the official administration of a public assistance program, such as divorce, child support, child custody, or property settlement matters.

Frequently these subpoenas will be for the case record (usually CMS TPL situations), rather than a specific person, and are addressed to the "**Custodian of Record.**" Staff is not to accept service of subpoenas addressed to the Custodian of Record. The server of the subpoena must be informed that the Custodian of Record for CMS is located at HHSA Appeals section and the subpoena must be served there.

All staff served with a subpoena or subpoena duces tecum from a private attorney must adhere to the previous procedures listed above when served with a subpoena issued by the District Attorney.

Other Program Impact:

None

Reference(s):

None

Sunset Date:

This policy will be reviewed for continuance by 05/31/2019

Release Date:

05/03/2016