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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF SACRAMENTO**

BENJAMIN LOU,

Petitioner,

v.

JENNIFER TROIA, Director,
 California Department of Social
 Services, in her official capacity;
 CALIFORNIA DEPARTMENT OF
 SOCIAL SERVICES; MICHELLE
 BAAS, Director, California Department
 of Healthcare services, in her official
 capacity; CALIFORNIA
 DEPARTMENT OF HEALTH CARE
 SERVICES

Respondents.

Case No. **26WVMO00241**

Verified Petition for Writ of Mandate
 Pursuant to California Code of Civil
 Procedure §§1094.5 and 1085,
 Complaint for Declaratory and
 Injunctive Relief Pursuant to
 Government Code §11135

NO FILING FEE PER CALIFORNIA
 WELFARE AND INSTITUTIONS
 CODE § 10962

INTRODUCTION

1. This case is about the wrongful termination of In-Home Support
 Services (“IHSS”) benefits for Petitioner Benjamin Lou (“Ben”) by the California

1 Department of Social Services (“CDSS”) and California Department of Health Care
2 Services (“DHCS”) (together, “Respondents”), as well as Respondents’ failure to
3 ensure their regulations, policies, and practices regarding temporary absences from
4 the state are consistent with state law. Respondents have violated their duties to
5 promulgate regulations consistent with the Welfare and Institutions Code’s
6 expansive definition of “good cause” for an IHSS recipient to be absent from
7 California for more than 60 days, as well as their duties to abide by the
8 nondiscrimination mandate of section 11135 of the Government Code.

9 2. Ben is a 23-year-old California resident who is a Ph.D. candidate at the
10 Massachusetts Institute of Technology (“MIT”), where he studies quantum gravity.
11 Ben also completed his undergraduate studies in physics and mathematics at MIT,
12 which was the only school to which Ben was admitted that provided the critical and
13 extensive disability accommodations required to make schooling accessible to Ben.

14 3. Ben has severe spinal muscular atrophy, which causes profound
15 neuromuscular weakness and severe restrictive lung disease. As a result, he requires
16 24/7 assistance with all activities of daily living. Until his benefits were unlawfully
17 terminated, Ben continuously received full-time IHSS benefits through San Diego
18 County (the “County”), as well as approximately 132 hours per month of Waiver
19 Personal Care Services (“WPCS”) through the Home and Community-Based
20 Alternatives (“HCBA”) Waiver program.

21 4. California law allows for IHSS recipients like Ben to be temporarily
22 absent from the state without losing their benefits, so long as they maintain
23 California residency and any absence beyond 60 days is for “good cause,” such as
24 “illness,” or “[s]hort-term schooling or training” necessary for the recipient to
25 “obtain self-sufficiency,” where that training “is not available or accessible in
26 California.” Welf & Inst. Code §§11100-11100.1. “Good cause” includes, “but is
27 not limited to,” these examples. *Id.*

28 5. Although Ben is temporarily out of state during school semesters, he is

1 a California resident: his family home and permanent residence is in California and
2 he returns home as often and for as long as his school breaks allow. Ben votes in
3 California, maintains a California identification card, receives Medi-Cal benefits
4 from California, relies on an extensive team of California medical providers for his
5 care, and will return to California full-time once his academic studies have ended.
6 He has never voted, applied for state identification, applied for benefits, purchased
7 real property, or leased non-student housing in Massachusetts or any other state.

8 6. On November 8, 2024, the County abruptly terminated Ben's IHSS
9 services because he had been out of the state for more than 60 days. The County's
10 termination ignored that Ben remained a resident of California and that his 60-plus-
11 day temporary absence was excused for "good cause" under the law.

12 7. Ben appealed this termination, but on October 3, 2025, CDSS affirmed
13 the termination of IHSS in its decision regarding Hearing No. 105089401. On
14 November 1, 2025, Ben's WPCS benefits were automatically suspended upon the
15 unlawful termination of IHSS.

16 8. Ben received no IHSS benefits between October 21, 2025, when aid
17 paid pending his appeal to CDSS terminated, and July 17, 2026, when he reapplied
18 for IHSS while home in California during summer break. Ben has been reevaluated
19 for WPCS, but not yet been approved for, nor received, any WPCS hours to date.

20 9. Although Ben currently receives IHSS, he remains at risk of having his
21 IHSS and WPCS benefits again unlawfully terminated as a result of his temporary
22 absences from California during the coming academic semesters. The loss of these
23 benefits threatens Ben's ability to live safely in the community and pursue long-term
24 independence.

25 10. This action seeks a writ of mandate under California Code of Civil
26 Procedure section 1094.5 to compel Respondents to: reverse its wrongful decision in
27 Hearing No. 105089401; direct the County not to terminate Ben's current IHSS
28 benefits for a temporary absence from California, as long as he maintains California

1 residence and the absence is necessary to pursue his Ph.D. program at MIT; and
2 provide back pay for wrongly denied IHSS and wrongly suspended WPCS benefits.

3 11. The action also seeks a writ of mandate under Code of Civil Procedure
4 section 1085, requiring Respondents to rescind regulations narrowly construing
5 what can constitute “good cause” for an IHSS recipient to be out of California for
6 longer than 60 days, and to adopt new regulations that comport with the broad
7 “good cause” language contained in Welfare and Institutions Code section 11100.1.

8 12. Finally, Ben seeks relief for disability discrimination under
9 Government Code section 11135. By adopting and applying an impermissibly
10 narrow definition of what constitutes “good cause” for an IHSS recipient to be out
11 of California—and failing to reasonably modify that policy or practice—
12 Respondents deny Ben and other people with disabilities full and equal access to the
13 benefits of both IHSS and Medi-Cal, in violation of state law.

14 **JURISDICTION AND VENUE**

15 13. This Court has jurisdiction over the matters alleged in this petition
16 pursuant to Article 6, section 10 of the California Constitution. Cal. Const. art. VI,
17 §10. Ben also brings this action pursuant to California Code of Civil Procedure
18 sections 525-526, 1094.5 and 1085, Welfare and Institutions Code section 10962,
19 and Government Code section 11139.

20 14. Venue in this Court is proper pursuant to California Code of Civil
21 Procedure section 395, because Respondents are located and operate in Sacramento
22 County.

23 **PARTIES**

24 15. Petitioner Benjamin Lou (“Ben”) is a resident of Poway, California,
25 who has paid taxes to the state of California within the last year. He has complex
26 disabilities and 24-hour care needs and has been receiving IHSS benefits since 2017.

27 16. Respondent California Department of Social Services (“CDSS”) is the
28 state agency responsible for the implementation and supervision of the In-Home

Support Services (“IHSS”) program. Ben receives IHSS services through San Diego County (the “County”), which administers the IHSS program in the County as Respondents’ agent. CDSS has a duty to administer of the IHSS Program in accord with all applicable laws and regulations. Welf. & Inst. Code §10553(e). CDSS is located in and operates out of Sacramento County.

17. Respondent Jennifer Troia (“Director Troia”) is sued in her official capacity as the Director of CDSS. Director Troia has a mandatory duty to ensure CDSS’s compliance with all applicable state and federal laws governing the IHSS program. She is required to conduct a hearing and make a final decision on an appeal from a county action adversely affecting an IHSS applicant’s request for services. Welf. & Inst. Code §§10959-10961.

18. The California Department of Health Care Services (“DHCS”) is the sole agency ultimately responsible for administering Medi-Cal programs, which includes IHSS. 42 U.S.C. §1396a(a)(5); 42 C.F.R. §431.10 (2025); Welf. & Inst. Code §14100; Cal. Code Regs. tit. 22, §50004. Through an interagency agreement, DHCS has delegated to CDSS administration of the IHSS program and Medi-Cal State Fair Hearings for IHSS eligibility determinations.¹ Welf. & Inst. Code §10600.1. While DHCS is permitted to delegate certain functions to other agencies, it has the ultimate, mandatory duty to ensure the delegated agency “complies with all relevant federal and state law, regulations and policies.” 42 C.F.R. §431.10(c)(3)(i)(A). DHCS is located in and operates out of Sacramento County.

19. Respondent Michelle Baass (“Director Baass”) is sued in her official capacity as the Director of DHCS. As such, Director Baass has a mandatory ministerial duty to ensure DHCS’s compliance with all applicable state and federal laws governing California’s Medicaid programs, including the IHSS program. Welf.

¹ See *State Plan Administration Designation and Authority*, DEP’T OF HEALTH CARE SERVICES 1, 6 (May 14, 2024), <https://www.dhcs.ca.gov/wp-content/uploads/2025/10/MedicaidAdminpgs1-9.pdf>.

1 & Inst. Code §§10721, 10725.

2 **STATUTORY AND REGULATORY FRAMEWORK**

3 **A. *Medi-Cal and the IHSS Program***

4 20. The IHSS program provides paid attendant care to assist people with
5 disabilities in a variety of activities, including services that make it possible for the
6 recipient to establish and maintain an independent living arrangement. Welf. & Inst.
7 Code §§12300(b) & (c), 14132.95(d)(1) & (2). These services may include but are
8 not limited to personal care services, including those provided at work or school,
9 assistance with travel to appointments, paramedical services (services that are
10 prescribed by a doctor and require training), domestic services, meal preparation,
11 laundry, and shopping. *Id.* The IHSS program allows recipients' family members to
12 be compensated as individual IHSS providers. CDSS Manual of Policies and
13 Procedures (hereinafter "Manual" or "MPP") §30-767.13.

14 21. The purpose of the IHSS program is to provide services for those "who
15 are unable to perform the services themselves and cannot safely remain in their
16 homes or abodes of their own choosing unless these services are provided" and to
17 enable those people to "avoid institutionalization by remaining in their homes with
18 proper supportive services." Welf. & Inst. Code §§12300(a), 12051, 12052, 14051;
19 *see also* MPP §30-700.1. These services are intended to be provided "in every
20 county based on individual need." Welf. & Inst. Code §12301(a).

21 22. As with all public aid programs, IHSS "shall be administered and
22 services so provided" in ways that "encourage self-respect, self-reliance, and the
23 desire to be a good citizen, useful to society." Welf. & Inst. Code §10000. State law
24 further directs that public social services receiving state grants-in-aid, such as IHSS,
25 should assist individuals "to develop or use whatever capacity they can maintain or
26 achieve for self-care or self-support." Welf. & Inst. Code §10001; *see also* §10051
27 (defining "public social services"); §10061 (defining "public assistance programs")
28 to include programs contained in Division 9, Part 3 of Welf. & Inst. Code, which

1 governs IHSS eligibility).

2 23. IHSS is funded by Medicaid, a cooperative federal-state program
3 established by Congress under the Federal Medicaid statute for the express purpose
4 of assisting states in providing “rehabilitation and other services to help . . .
5 individuals attain or retain capability for independence or self-care.” 42 U.S.C.
6 §1396-1. Medi-Cal is California’s Medicaid program. 42 U.S.C. §1396(a); 42
7 C.F.R. §430.12 (2026); Welf & Inst. Code §14100.1.

8 24. For targeted groups of individuals who otherwise would require
9 institutionalized care in a medical facility, the federal government authorizes
10 waivers of certain provisions of federal Medicaid law to allow states to provide
11 home and community-based services (“HCBS”) in lieu of institutionalized care. 42
12 U.S.C. §1396n(c)(1). States may apply for and receive federal financial participation
13 for HCBS “waiver” services to the same extent as provided to other Medicaid
14 services offered by the state.

15 25. DHCS is mandated to “seek all necessary waivers . . . in order to
16 provide in-home and community-based care.” Welf. & Inst. Code §§14132(t),
17 14137. HCBS Waivers in California include the Home and Community-Based
18 Alternative (“HCBA”) Waiver, of which the Waiver Personal Care Services
19 (“WPCS”) is a subcategory. The purpose of the WPCS waiver is to provide
20 additional care hours to medically fragile people who are also eligible for IHSS so
21 they can remain in their homes or community settings in lieu of institutionalization.

22 26. To qualify for WPCS services, an individual must be enrolled in the
23 HCBA Waiver, receiving personal care services through IHSS, and have a doctor’s
24 order that specifies they require WPCS to remain in their home. Welf. & Inst. Code
25 §14132.97(b).

26 27. DHCS is the single designated Medicaid state agency for California. It
27 is ultimately responsible for administering Medi-Cal programs according to state
28 and federal law. 42 U.S.C. §1396a(a)(5); 42 C.F.R. §431.10; Welf. & Inst. Code

1 §10600; Cal. Code Regs. tit. 22, §50004.

2 28. While DHCS is permitted to delegate certain functions to other
3 agencies, it retains a duty to ensure the delegated agency “complies with all relevant
4 federal and state law, regulations and policies.” 42 C.F.R. §431.10(c)(3)(i)(A).
5 DHCS has delegated responsibility for the administration of the IHSS program and
6 Medi-Cal State Fair Hearings for IHSS eligibility determinations to CDSS. Welf. &
7 Inst. Code §10950(f).

8 29. CDSS “shall adopt regulations establishing a uniform range of services
9 available to all eligible recipients based upon individual needs.” Welf. & Inst. Code
10 §12301.1(a). These regulations are available in CDSS’s Manual of Policies and
11 Procedures.

12 30. Counties are responsible for assisting recipients in establishing their
13 eligibility and need for services and correctly determining eligibility and need. MPP
14 §30-760.24.

15 **B. *Residency Requirements***

16 31. To be eligible for IHSS, a person must be “a California resident.” Welf.
17 & Inst. Code §11105(a).

18 32. When a recipient has been out of the state continuously for 30 days or
19 longer, the county must inquire with the recipient to determine whether they intend
20 to remain a resident of California or become a resident of another state. Welf. &
21 Inst. Code §11100(a). Under CDSS’s regulations, this inquiry begins by requesting
22 the recipient provide a written statement declaring their intent to return, reason for
23 absence, and information about their location. MPP §30-770.421. The county must
24 inform the recipient that failure to respond by a specified date will result in
25 termination of their benefits. MPP §30-770.422. If the recipient has been gone for
26 less than 30 days, the statement itself is acceptable to establish their intent to return.
27 MPP §30-770.431.

28 33. If the recipient remains out of the state for more than 60 days, their

1 absence is *prima facie* evidence of their intent to change residency. Welf. & Inst.
2 Code §11100(a) (hereinafter the “60-day rule”). To overcome this *prima facie* case,
3 the MPP directs the county to determine:

- 4 a. Whether the recipient’s intent to return is supported by “one or a
5 combination” of factors indicating an intent to remain a
6 California resident: the residence of the recipient’s family
7 members; the recipient’s maintenance of their California housing
8 arrangements; the recipient’s employment or business interests in
9 California; or any other act or combination of acts which
10 establishes their intent to reside in California. *See* MPP §30-770.
11 44; and
- 12 b. Whether additional evidence otherwise indicates intent to change
13 state residence including: whether the recipient has purchased or
14 leased a residence out of state; been employed out of state;
15 obtained an out-of-state driver’s license; or taken other action
16 which establishes their intent to establish residence outside of
17 California. MPP §30-770.442.

18 34. If the inquiry establishes the recipient is no longer a California resident
19 due to their intent or acts, IHSS benefits will be discontinued. Welf. & Inst. Code
20 §11100(a).

21 35. Welfare and Institutions Code section 11100 instructs that “residence
22 *shall not* be deemed to have been lost in the state” if a recipient is prevented from
23 returning to the state at the end of 60 days by illness, disaster, or other “good cause,”
24 and the recipient “and has not by act or intent established residence elsewhere.”
25 Welf. & Inst. Code §11100(b).

26 36. In addition to illness and disaster, Welfare and Institutions Code
27 section 11100.1 provides three more examples of “good cause” for an IHSS
28 recipient’s 60-plus-day temporary absence, but makes clear “good cause” “**includes,**

1 **but is not limited to**” these examples. Welf. & Inst. Code §11100.1(a)(emphasis
2 added). The three examples are: medical treatments, a court issued subpoena or
3 summons, and “[s]hort-term schooling or training necessary for the recipient to
4 obtain self-sufficiency where training which would achieve that objective is not
5 available or accessible in California.” *Id.*

6 37. The CDSS Manual clarifies that “accessible” for purposes of evaluating
7 potential “good cause” exceptions means: “attainable for the recipient in California,
8 given the dysfunctioning and needs of the recipient.” MPP §30-770.443(b).

9 38. IHSS will be suspended notwithstanding a recipient’s “good cause,”
10 only after a recipient has been continuously absent from the state for a period
11 exceeding 6 months. Welf. & Inst. Code §11100.5.

12 39. As a Medi-Cal program, WPCS benefits are also subject to California
13 residency requirements. A WPCS beneficiary’s absence from the state for more than
14 60 days is presumptive evidence of their intent to leave California, unless the person
15 declares in writing both (1) an intent to return to California, and (2) the existence of
16 one of the following: (i) illness; (ii) family members with whom the beneficiary
17 lives are California residents physically present in the State; or (iii) the beneficiary
18 maintains California housing arrangements. Cal. Code Regs. tit. 22, §50323(a).

19 40. Consistent with this regulation, DHCS has clarified that “Medi-Cal
20 beneficiaries can remain Medi-Cal eligible if they leave California temporarily to
21 attend school in another state.”²

22 **FACTUAL ALLEGATIONS**

23 41. Ben is a 23-year-old resident of Poway, California, and a theoretical
24 physicist and PhD candidate at MIT. He researches quantum gravity, math,
25 philosophy, assistive technology, and AI safety.

26
27 ² *All Cty. Welfare Dirs. Letter (“ACL”) No. 15-23, Residency for Out-of-State Students*, CAL.
28 DEP’T OF HEALTH CARE SERVS. (July 9, 2015), <https://www.dhcs.ca.gov/wp-content/uploads/2025/10/c15-23.pdf>.

42. Ben has severe spinal muscular atrophy, which causes profound neuromuscular weakness and severe restrictive lung disease. As a result of his disabilities, Ben has 24/7 disability-related care needs and receives assistance with his activities of daily living including dressing, feeding, bathing, toileting, positioning, transportation, respiratory care, equipment setup, and daily routines. He cannot move his limbs but has some limited use of his fingers. Ben is a full-time power wheelchair user.

43. Ben is a Medi-Cal recipient. Since 2017, Ben has received IHSS benefits through the County so that he may remain living safely at home. Ben's mother, HuiHua ("Jenny") Huang, is his full-time IHSS care provider.

44. The County's needs assessment from July 2024 placed Ben at Functional Index Rank 5, meaning total dependence on others, in most major physical-function areas. The County approved 283 IHSS hours per month and concluded that Ben would be at risk of institutionalization without IHSS services.

45. In 2021, Ben graduated from Poway Unified School District with 33 credits, as provided in his Individualized Education Plan ("IEP"), which significantly modified his academic program to accommodate his complex disability needs. As a result, Ben fell far short of the 230 credits required for a college-track diploma that is a minimum requirement for applicants to the University of California ("UC") and California State University ("CSU") schools.³ See Cal. Educ. Code §10861.

46. Ben planned to earn his diploma-equivalent alternative certification through the California High School Proficiency Exam ("CHSPE"). But the CHSPE was cancelled because of the COVID-19 pandemic, leaving Ben without a pathway

³See *Subject Requirement (A-G)*, UNIV. OF CAL., <https://admission.universityofcalifornia.edu/admission-requirements/first-year-requirements/subject-requirement-a-g.html> (last visited Sept. 16, 2026); see also *Freshman: Admission Requirements*, CAL. STATE. UNIV., https://www.calstate.edu/apply/freshman/getting_into_the_csu (last visited Sept. 16, 2026).

1 for meeting eligibility requirements for CSU or UC schools.

2 47. Ben submitted applications to four undergraduate schools that did not
3 require a college-track diploma or diploma-equivalent alternative certification:
4 Caltech and Harvey Mudd in California, as well as MIT and Harvard.

5 48. Ben was accepted to Caltech, MIT, and Harvard. Because his family
6 and extensive medical team is in California, Ben hoped to attend Caltech.

7 49. Ben submitted requests for disability accommodations to all three
8 schools. But only MIT granted the critical accommodations necessary to make
9 schooling available and accessible to Ben, including completely remote attendance
10 during his first year to limit the medical risks posed by the COVID-19 pandemic,
11 and a housing accommodation to allow his mother and full-time caretaker, Ms.
12 Huang, to live on campus with him.

13 50. For the 2021-2022 school year, Ben attended MIT completely
14 remotely from his home in California. Beginning in the fall semester of 2022, Ben
15 began attending in-person school in Massachusetts.

16 51. Although temporarily absent from California during academic
17 semesters, Ben is, and always has been, a California resident. Ben's permanent
18 residence is his home in Poway, which is owned by his parents. His parents have
19 recently made extensive structural renovations to the home for Ben's accessibility
20 needs, as Ben will return to Poway permanently and full-time once his program is
21 complete. Ben's father and sister live in California full time. The extensive medical
22 team Ben relies on for critical regular, ongoing treatment is in California. His
23 medical equipment vendors, physical therapists, and orthotics specialists are in
24 California. Ben's personal care team are based in California. He pays taxes in
25 California, votes in California, maintains a California RealID, and receives services
26 through the California Department of Rehabilitation.

27 52. Ben has never bought property, obtained an ID, purchased real
28 property, held a non-student job, or leased non-student housing in Massachusetts or

1 any state other than California. Nor has he otherwise taken any action that would
2 indicate an intent to establish residency in Massachusetts or any state other than
3 California.

4 53. From 2022 to 2024, Ben informed his IHSS workers of his temporary
5 schooling in Massachusetts and did not experience any problems with his IHSS
6 services.

7 54. This changed on July 16, 2024, when a new IHSS social worker
8 visited Ben's home in Poway to conduct an annual reassessment. As he had always
9 done with previous social workers, Ben informed the social worker he attends MIT
10 for school during the academic semesters. The social worker informed Ben and his
11 mother that IHSS could be terminated if he was absent from the state for more than
12 60 days. The County approved 283 IHSS hours per month.

13 55. On August 9, 2024, while Ben and Ms. Huang were still in California,
14 Ms. Huang emailed CDSS and requested an accommodation to the 60-day rule on
15 Ben's behalf. She noted that Ben remains a California resident and "[h]is attendance
16 at MIT is a temporary measure solely for educational purposes, aimed at becoming
17 self-supporting and avoiding long-term reliance on welfare."

18 56. Ben never received a response to this request for an accommodation to
19 the 60-day rule.

20 57. On August 20, 2024, Ms. Huang sent the IHSS caseworker a similar
21 email, requesting an accommodation to the 60-day rule.

22 58. The social worker replied the following day denying the request and
23 confirming that if Ben was out of the state for more than 60 days, his IHSS benefits
24 could be terminated. The social worker did not advise Ben or his mother of the
25 "good cause" exceptions to the 60-day rule or ask for additional information about
26 whether Ben intended to remain a California resident.

27 59. On September 2, 2024, Ben began his school year at MIT.

28 60. On November 4, 2024, the social worker sent Ms. Huang an email that

1 said: “Can you please verify location for Benjamin?”

2 61. On November 5, 2024, Ms. Huang confirmed she and Ben were in MIT
3 student housing in Massachusetts and explained they had a flight back to California
4 booked for December 13, 2024.

5 62. On November 8, 2024, the County terminated Ben’s IHSS services.

6 **PROCEDURAL HISTORY**

7 63. On November 8, 2024, CDSS sent Ben a Notice of Action (“NOAA”)
8 terminating his IHSS services. The reason listed was: “You have been out of the
9 State of California for more than 60 days in a row and it appears that you do not
10 plan to come back.” MPP §30-770.44.

11 64. On November 18, 2024, Ms. Huang, acting as Ben’s authorized
12 representative, filed a request for a hearing on the termination, which was scheduled
13 for April 16, 2025.

14 65. On January 24, 2025, Ms. Huang made a third written request to CDSS
15 for disability-based modification to the 60-day rule. In that letter, Ms. Huang again
16 explained Ben’s temporary absences were for schooling in pursuit independence
17 because he did not have an available and accessible California option. She also
18 explained that traveling between California and Massachusetts within 60-day spans
19 would be medically dangerous for Ben, in light of his disabilities, and would disrupt
20 his education. CDSS did not respond to this request.

21 66. On April 16, 2025, CDSS held Hearing No. 105089401.

22 67. On October 3, 2025, the ALJ upheld termination of Ben’s IHSS.

23 68. On October 13, 2025, Ms. Huang timely requested a rehearing on
24 Ben’s behalf under Welfare and Institutions Code section 10960(b) and submitted
25 additional evidence in support of her request.

26 69. On October 21, 2025, Ben’s aid paid pending his appeal to CDSS
27 terminated and he stopped receiving IHSS benefits.

28 70. On November 1, 2025, Ben’s WPCS benefits were suspended as a

1 result of his terminated IHSS benefits.

2 71. In May 2025, Ben graduated MIT with a 5.0 GPA and double major in
3 Physics and Math. Ben accepted a seat in MIT's Ph.D. program in physics, as his
4 other offers were from Harvard and Caltech, which had previously refused the
5 disability accommodations he needed. In addition, Caltech was limited in
6 collaborators and advisors in Ben's area of focus, quantum gravity. Ben is expected
7 to complete his PhD program by May 2030. On January 26, 2026, CDSS denied the
8 request for rehearing.

9 72. In May 2026, Ben returned to his home in California at the end of his
10 Spring semester. On July 17, 2026, he applied for IHSS benefits, which the County
11 approved.

12 73. Ben currently receives 269 hours and 42 minutes of IHSS hours under
13 his newly approved application. Since being approved for IHSS benefits, Ben has
14 also been reevaluated for WPCS benefits, but has not received any WPCS hours
15 since November 1, 2025.

16 74. Ben has informed his IHSS caseworker of his schooling at MIT.
17 However, he remains at risk for having his IHSS benefits unlawfully terminated and
18 WPCS benefits suspended or terminated for being temporarily out-of-state during
19 this and coming semesters.

20 75. The HCBA waiver waiting list is currently about 6,500 applicants, and
21 the wait for services is approximately 2 years.⁴

22 //
23
24
25

26 ⁴ See *Home and Community-Based Alternative Waiver (HCBA) Monthly Dashboard: April 2026*,
27 *Dep't of Health Care Servs.* (Apr. 2026), [https://www.dhcs.ca.gov/wp-](https://www.dhcs.ca.gov/wp-content/uploads/2026/07/HCBA-Monthly-Dashboard-April.pdf)
28 [content/uploads/2026/07/HCBA-Monthly-Dashboard-April.pdf](https://www.dhcs.ca.gov/wp-content/uploads/2026/07/HCBA-Monthly-Dashboard-April.pdf) (this is the most recent dashboard report available).

FIRST CAUSE OF ACTION

**(Claim for Writ of Administrative Mandamus Pursuant to California
Code of Civil Procedure §1094.5 – Against CDSS and DHCS)**

76. Petitioner Benjamin Lou re-alleges and incorporates by reference every allegation and paragraph set forth previously.

77. DHCS has delegated responsibility for the administration of the IHSS program and Medi-Cal State Fair Hearings for IHSS eligibility determinations to CDSS. Welf. & Inst. Code §10950(f). While DHCS is permitted to delegate certain functions to other agencies, it is the single designated Medicaid state agency for California, and bears ultimate responsibility for administering Medi-Cal programs, like IHSS, in accordance with state and federal law. 42 U.S.C. §1396a(a)(5); 42 C.F.R. §431.10; Welf. & Inst. Code §10600; Cal. Code Regs. tit. 22, §50004.

78. Respondents' administrative decision challenged herein substantially affects a fundamental vested right of Ben to receive the services necessary for him to live safely in the community; therefore, this Court should exercise independent judgment in reviewing the evidence.

79. Respondents' final hearing decision constitutes a prejudicial abuse of discretion under California Code of Civil Procedure section 1094.5(b) because CDSS's findings are not supported by the weight of the evidence.

80. The decision found that Ben's absence from the state for more than 60 days was *prima facie* evidence of his intent to change residence but failed to consider evidence rebutting this presumption, as required by Welfare and Institutions Code section 11100(a) and the Manual of Policies and Procedures ("MPP") §§30-770.441(a-d), 30-770.442(a-d), including the following evidence that established Ben continued to be a California resident:

- a. Ben's mother and primary full-time caregiver, Ms. Huang, and Ben's father co-own the Poway home that is Ben, Ms. Huang, and Ben's father's permanent and primary residence.

- b. Ben's father and sister live full-time in California;
- c. Ben's parents recently made extensive structural renovations to their house to make it more accessible for Ben to permanently live in the home full-time after he completes his academic training;
- d. Ben's personal care team is based in California;
- e. Ben's extensive medical team is located in California and he requires continuous and ongoing care from this team throughout the year;
- f. Ben has a California RealID and has not obtained an out-of-state ID;
- g. Ben files his taxes in California;
- h. Ben votes in California;
- i. Ben receives services through the California Department of Rehabilitation;
- j. Ben has not never had a non-student job in another state;
- k. While Ben has been provided student housing in connection with his enrollment in an academic program, he has not purchased real estate, nor entered into a non-student residential lease in another state.

81. The decision found that Ben did not demonstrate "good cause" for a 60-plus-day temporary absence under section 11100.1's "short-term schooling" example, despite evidence that:

- a. Ben's educational program is temporary and term-limited in duration, after which he intends to return to California permanently and full-time;
- b. Ben is temporarily absent from the state only during the academic semester and returns to California for months at a time when

1 school is not in session;

2 c. Ben is attending an out-of-state program because no California
3 program was available and accessible to him; and

4 d. The academic program is necessary for him to achieve self-
5 sufficiency.

6 82. The decision found that Ben did not demonstrate “good cause” for a
7 60-plus-day absence under section 11100’s “illness” example, despite evidence that:

8 a. Ben has Spinal Muscular Atrophy, a serious genetic illness that
9 causes severe neuromuscular weakness and limited pulmonary
10 reserve;

11 b. Ben’s illness and its attendant complications prevent him from
12 making a cross-country flight every 60 days, as it exposes Ben to
13 significant medical risk;

14 c. Through his mother/full-time caretaker, Ben informed CDSS that
15 his illness prevented him from returning home within 60-day time
16 spans; and

17 d. But for his illness, Ben would return to California every 60 days.

18 83. The decision failed to consider that the evidence listed in the preceding
19 subsections establishes “other good cause” for a 60-plus-day temporary absence
20 under section 11100, even if does not meet the criteria for section 11100.1’s “short-
21 term schooling or training” example and section 11100’s “illness” example.

22 84. Respondents’ final hearing decision further constitutes a prejudicial
23 abuse of discretion pursuant to the California Code of Civil Procedure section
24 1094.5(b) by failing to proceed in a manner required by law in that:

25 a. Prior to initiating termination of Ben’s IHSS services on
26 November 8, 2024, CDSS did not comply with the notice and due
27 process requirements for determining a recipient’s residency as
28 required by Welfare and Institutions Code section 11100(a) and

1 MPP sections 30-770.42 - 30.770.44. CDSS did not request a
2 written statement providing information about his anticipated date
3 of return, reason for absence, location, and status of household
4 arrangements from Ben. *See* MPP §30-770.421. CDSS also did
5 not inform Ben that a failure to respond to the inquiry by a
6 specific date will result in ineligibility and termination of IHSS
7 benefits. *See* MPP §30-770.422.

8 b. CDSS failed to follow the legal process for evaluating residency
9 promulgated by MPP sections 30-770.42 - 30-770.44 and Welfare
10 and Institutions Code section 11100(a), which requires CDSS to
11 inquire into whether other indicia of California residency rebut
12 the *prima facie* case of intent to change residence that arises from
13 a 60-plus-day temporary absence. The October 3, 2024 hearing
14 decision terminating IHSS benefits failed to consider evidence
15 that Ben maintains residency in California as required by the law
16 and regulations. *See* MPP §30-770.44; *see also* Welf. & Inst.
17 Code §11100(a).

18 c. CDSS failed to proceed as required by Welfare and Institutions
19 Code section 11100.1 in determining Ben's education program
20 did not meet the "short-term schooling or training" example of
21 "good cause" for a 60-plus-day temporary absence. The October
22 3, 2024 hearing decision terminating IHSS benefits imposed an
23 arbitrary five-year cap on what constitutes "short-term schooling
24 or training," that is contrary to the statutory use of "short-term"
25 throughout the Welfare and Institutions Code, which consistently
26 uses that term to indicate that something is non-permanent.

27 d. CDSS failed to proceed as required by Welfare and Institutions
28 Code sections 11100(b), 11100.1(a) by failing to consider

whether Ben’s circumstances constitute “other good cause”. The October 3, 2024 hearing decision terminating IHSS benefits considered only whether Ben’s circumstances fell under the “short-term schooling or training” and “illness” example of good cause, and not whether they constituted “other good cause” under Welfare and Institutions Code section 11100.1(a). This is contrary to the statutory definition of “good cause” in this section, which is purposefully expansive and “includes but is not limited to” the listed examples of “short-term schooling or training” and “illness.”

85. Ben has exhausted all his administrative remedies and has no other plain, speedy, and adequate remedy at law.

86. Welfare and Institutions Code section 10962 expressly authorizes review of Respondents’ administrative hearing decisions by means of a writ of administrative mandamus pursuant to Code of Civil Procedure section 1094.5, without payment of any fees or costs.

SECOND CAUSE OF ACTION

(Claim for Writ of Traditional Mandate Pursuant to California Code of Civil Procedure §1085 – Against CDSS and DHCS)

87. Petitioner Benjamin Lou re-alleges and incorporates by reference every allegation and paragraph set forth previously.

88. Code of Civil Procedure section 1085 allows a court to compel the performance of a duty resulting from an office, where there is no plain speedy and adequate remedy in the ordinary course of law. Cal. Civ. Proc. Code §§1085-1086.

89. Petitioner seeks a writ requiring Respondents to adopt new regulations consistent with both the statutory language of Welfare and Institutions Code section 11100.1 and the core statutory purposes of California’s public assistance scheme.

90. DHCS is the agency ultimately and solely responsible for administering

1 Medicaid programs like IHSS. 42 U.S.C. §1396a(a)(5); 42 C.F.R. §431.10; Welf. &
 2 Inst. Code §14100; Cal. Code Regs. tit. 22, §50004. Through an interagency
 3 agreement, DHCS has delegated responsibility for the administration of the IHSS
 4 program and Medi-Cal State Fair Hearings for IHSS eligibility determinations to
 5 CDSS.⁵ Welf. & Inst. Code §10600.1. While DHCS may delegate such functions,
 6 DHCS and Director Baass retain a present, mandatory ministerial duty to ensure the
 7 delegated agency “complies with all relevant federal and state law, regulations and
 8 policies.” 42 C.F.R. §431.10(c)(3)(i)(A).

9 91. CDSS and Director Troia have a clear, present, mandatory, ministerial
 10 duty to promulgate IHSS regulations that are consistent with state and federal law.
 11 Welf. & Inst. Code §§10600, 10553, 11100.1(d).

12 92. The Legislature has deemed that the goal of public assistance programs
 13 like IHSS are to encourage “self-respect, self-reliance, and the desire to be a good
 14 citizen, useful to society,” and that people receiving public aid “develop or use
 15 whatever capacity they can maintain or achieve for self-care or self-support,” Welf.
 16 & Inst. Code §§10000-01.

17 93. The Welfare and Institutions Code allows IHSS recipients to be out of
 18 state for more than 60 days, as long as they maintain their California residency and
 19 have “good cause” for their 60-plus-day absence. Welf. & Inst. Code §11100.

20 94. If illness, disaster, or “other good cause” prevents a recipient “from
 21 returning to the state at the end of 60 days,” and that person “has not by act or intent
 22 established residence elsewhere,” their California residence “shall not be deemed to
 23 have been lost.” *Id.*

24 95. Section 11100.1 additionally states “good cause” to be out of California
 25 for more than 60 days “**shall include, but is not limited to**” the following

26
 27 ⁵ See *State Plan Administration Designation and Authority*, DEP’T OF HEALTH CARE SERVICES 1, 6
 28 (May 14, 2024), <https://www.dhcs.ca.gov/wp-content/uploads/2025/10/MedicaidAdminpgs1-9.pdf>.

1 examples: “(1) Outpatient medical treatment necessary to maintain the recipient’s
2 health where the medical treatment is not available in California,” “(2) Short-term
3 schooling or training necessary for the recipient to obtain self-sufficiency where
4 training which would achieve that objective is not available or accessible in
5 California,” or “(3) Court-issued subpoena or summons.” Welf. & Inst. Code
6 §11100.1 (emphasis added).

7 96. Despite this expansive language, Respondents’ regulations
8 impermissibly restrict “good cause” as follows:

9 Other good cause reasons for continuing to receive IHSS benefits
10 while absent from the state for over 60 days shall be consistent
11 with the good cause reasons contained in Welfare and
12 Institutions Code Section 11100.1.

13 (1) The situation shall be of an urgent or emergency nature:

14 (2) The service required shall be necessary to maintain the
15 physical or psychological health of the recipient:

16 (3) The services required or like services shall be either not
17 available or not accessible in California.”

18 MPP §30-770.443(c).

19 97. The regulation conflicts with section 11100.1’s clear instruction that
20 “good cause” **“is not limited to”** the three examples listed in the section. Only the
21 example provided in Section 11100.1(a)(2) (“Outpatient medical treatment
22 necessary to maintain the recipient’s health where the medical treatment is not
23 available in California”) meets all three criteria required under the regulations. *See*
24 Welf. & Inst. Code §11100.1; *see also* MPP §30-770.443(c).

25 98. Respondents violate their mandatory duties by promulgating and
26 implementing regulations that conflict with section 11100.1 and with the purpose of
27 IHSS, as governed by state and federal law, to promote the independence and self-
28 sufficiency of IHSS recipients.

99. Ben has a beneficial interest in the performance of Respondents' duties.

100. Ben also has an interest as a citizen in the performance of Respondents' public duties.

101. Despite Bens' demand to Respondents to reverse their unlawful policy and practices and comply with their duties and the law, Respondents have not changed their policies and practices.

102. Unless compelled by this Court to comply with their legal obligations, Respondents will continue to violate the Welfare and Institutions Code.

103. Ben has no plain, speedy and adequate remedy at law other than that sought herein.

THIRD CAUSE OF ACTION

(Claim for Writ of Traditional Mandate Pursuant to California Code of Civil Procedure §1085, and in the alternative, for Violation of Gov't Code §11135 – Against CDSS and DHCS)

104. Petitioner Benjamin Lou re-alleges and incorporates by reference every allegation and paragraph set forth previously.

105. Petitioner Benjamin Lou seeks a writ of traditional mandate requiring Respondents to reasonably modify their policies and practices to ensure that he and other people with disabilities who rely on IHSS have full and equal access to the benefits of both IHSS and Medi-Cal, as required by California Government Code section 11135 ("section 11135").

106. In the alternative, Petitioner Benjamin Lou seeks injunctive and declaratory relief for a violation of section 11135.

107. Code of Civil Procedure section 1085 allows a court to compel the performance of a duty resulting from an office, where there is no plain speedy and adequate remedy in the ordinary course of law. Cal. Civ. Proc. Code §§1085-1086.

108. DHCS and Director Baass have a present, mandatory ministerial duty to ensure Medi-Cal programs, including IHSS, "compl[y] with all relevant federal

1 and state law, regulations and policies.” 42 C.F.R. §431.10(c)(3)(i)(A).

2 109. CDSS and Director Troia have a clear, present, mandatory, ministerial
3 duty to promulgate IHSS regulations and implement IHSS in a manner that is
4 consistent with state and federal law. Welf. & Inst. Code §§10600, 10553,
5 11100.1(d).

6 110. By adopting and applying an impermissibly narrow definition of “good
7 cause” for an IHSS recipient to be out of California for more than 60 days—and
8 failing to reasonably modify that policy or practice, when necessary—CDSS and
9 DHCS deny Ben and other people with disabilities full and equal access to the
10 benefits of IHSS and Medi-Cal, in violation of state law.

11 111. Section 11135 prohibits disability discrimination in programs or
12 activities that are “conducted, operated, or administered by the state or any state
13 agency,” that are “funded directly by the state,” or that receive “any financial
14 assistance from the state.” Cal. Gov’t Code §11135(a).

15 112. Under Section 11135, people may not be “unlawfully denied full and
16 equal access to the benefits of, or be unlawfully subjected to discrimination under,
17 any [such] program or activity” on the basis of disability. *Id.*

18 113. Section 11135’s implementing regulations define discrimination as
19 follows: “(a) to deny a person the opportunity to participate in, or benefit from an
20 aid, benefit or service; (b) to afford a person the opportunity to participate in or
21 benefit from an aid, benefit or service that is not equal to that afforded others; (c) to
22 provide a person with an aid, benefit or service that is not as effective in affording
23 an equal opportunity to obtain the same result, to gain the same benefit, or to reach
24 the same level of achievement as that provided to others...(g) to otherwise limit a
25 person in the enjoyment of any right, privilege, advantage or opportunity enjoyed by
26 others receiving any aid, benefit or service resulting from the program or activity.”
27 Cal. Code Regs. tit. 22, §98101(a)-(c), (g).

28 114. It is also discrimination to utilize criteria or methods of administration

1 that: “(1) have the purpose or effect of subjecting a person to discrimination on the
2 basis of disability; [or] (2) have the purpose or effect of defeating or substantially
3 impairing the accomplishment of the objectives of the recipient’s program with
4 respect to a person with a disability...” Cal. Code Regs. tit. 22, §98101(i).

5 115. In addition, Section 11135 expressly incorporates the protections of
6 Title II of the Americans with Disabilities Act (“ADA). Cal. Gov’t Code §
7 11135(b). Title II of the ADA obligates public entities to make “reasonable
8 modifications in policies, practices, or procedures” when “necessary to avoid
9 discrimination on the basis of disability, unless the public entity can demonstrate
10 that the modifications would fundamentally alter the nature of the service, program,
11 or activity” in question. 28 C.F.R. §35.130(b)(7)(i) (2025).

12 116. As state agencies and recipients of state funding and financial
13 assistance, Respondents and their Medi-Cal and IHSS programs are covered entities
14 subject to section 11135.

15 117. Generally, Medi-Cal beneficiaries who are students attending schools
16 outside of California “can remain Medi-Cal eligible if they leave California
17 temporarily to attend school in another state.”⁶

18 118. But if Medi-Cal beneficiaries who rely on IHSS, like Ben, leave
19 California to attend school in another state, they would lose access to IHSS’s life-
20 sustaining support services because of CDSS’s impermissibly narrow application of
21 “good cause” for an IHSS recipient’s 60-plus-day absence from the state.

22 119. Respondents’ regulations, policy, and practice of impermissibly
23 limiting what constitutes “good cause” for 60-plus-day temporary absence thus
24 deprives disabled Medi-Cal recipients, like Ben, from the same opportunity as other
25 Medi-Cal recipients to benefit from Medi-Cal services while attending out-of-state
26 schools.

27 _____
28 ⁶ ACL No. 15-23, *supra* note 2.

120. Unlike Medi-Cal recipients who do not rely on IHSS, Ben must either choose an in-state school in order to retain life-sustaining IHSS benefits, or abandon California residency and continued Medi-Cal benefits to which he is otherwise entitled, to establish residency, Medicaid coverage, and benefits and services in another state. This deprives Ben and others in his position full and equal access to the benefits of Medi-Cal.

121. CDSS' refusal to reasonably modify its policies and practices regarding what constitutes "good cause," given the disability-related reasons that Ben cannot return home every 60 days (as well as the disability-related reasons he chose to pursue his short-term schooling at MIT in the first place), also denies Ben full and equal access to the benefits of IHSS, in violation of section 11135.

122. Ben has a beneficial interest in the performance of Respondents' duties.

123. Ben also has an interest as a citizen in the performance of Respondents' public duties.

124. Despite Ben's demand to Respondents to reverse their unlawful policy and practices and comply with their duties and the law, Respondents have not changed their policies and practices.

125. Unless compelled by this Court to comply with their legal obligations, Respondents will continue to violate section 11135.

126. Ben has no plain, speedy and adequate remedy at law other than that sought herein.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Benjamin Lou respectfully requests:

127. This Court exercise its independent judgment and issue a Peremptory Writ of Administrative Mandate pursuant to Cal. Civ. Proc. Code §1094.5 commanding Respondents to:

a. Set aside Hearing No. 105089401.

b. Issue a new and different decision that: (i) finds that Ben's

undergraduate and PhD programs at MIT meet the criteria to constitute “good cause” under Welfare and Institutions Code sections 11100’s “illness” example and section 11100.1’s “short-term schooling or training” example; and (ii) authorizes Petitioner the statutory maximum IHSS hours, effective December 1, 2023; and

- c. Pay Petitioner retroactive IHSS benefits with prejudgment interest from October 21, 2025, when Petitioner’s aid paid pending was terminated, to July 17, 2026, when Petitioner’s reapplication for IHSS was approved.
- d. Pay Petitioner retroactive WPCS benefits with prejudgment interest from November 1, 2025, when his WPCS benefits were automatically suspended as a result of the decision in Hearing No. 105089401.

128. This Court issue a Writ of Mandate commanding Respondents CDSS and DHCS to perform mandatory duties required by law and take all necessary steps to:

- a. Modify Respondents’ regulatory definition of “good cause” for IHSS recipients to be out of state for more than 60 days, such that it is consistent with Welfare and Institutes Code section 11100.1’s expansive definition of “good cause”; and
- b. Revise all agency policies and reform all practices accordingly

129. That the Court issue declaratory and injunctive relief as necessary under Government Code section 11135, requiring CDSS to reasonably modify its policies and practices regarding what constitutes “good cause,”

130. This Court further order:

- a. That Petitioner recover his costs incurred herein;
- b. That Petitioner be awarded attorneys’ fees, pursuant to Welf. &

1 Inst. Code §10962, Civ. Proc. Code §1021.5, or other state or
2 federal law; and

3 c. Any such further relief as the Court deems just and proper.
4
5
6

7 Respectfully submitted,

8 DATED: October 2, 2026

DISABILITY RIGHTS EDUCATION &
DEFENSE FUND

By:

Signed by:



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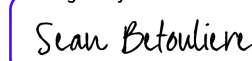
Leah Kang

Jillian MacLeod

DISABILITY RIGHTS ADVOCATES

By:

Signed by:



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Sean Betouliere

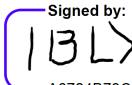
Attorneys for Petitioner Benjamin Lou

VERIFICATION

I, Benjamin Lou, have read the foregoing complaint and know its contents. The facts stated in the complaint are true based on my own knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 2, 2026

Signed by:

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 PETITIONER Benjamin Lou