



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

July 24, 2013

ALL COUNTY LETTER NO. 13-60

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY PROBATION OFFICERS  
ALL TITLE IV-E AGREEMENT TRIBES  
ALL FOSTER CARE MANAGERS  
ALL INDEPENDENT LIVING PROGRAM COORDINATORS  
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
ALL ADMINISTRATIVE LAW JUDGES  
ALL COUNTY CONSORTIUM PROJECT MANAGERS

SUBJECT: 2012 TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW RESULTS AND FINDINGS

REFERENCE: ALL COUNTY INFORMATION NOTICES NOS. I-07-12 AND I-33-12

In November 2012 the United States Department of Health and Human Services (DHHS) conducted California's fourth Title IV-E Foster Care Eligibility Review. The Period Under Review (PUR) was October 1, 2011 through March 31, 2012. More than four cases in error would be considered not in substantial compliance with federal requirements. With only two error cases, the California Department of Social Services (CDSS) was determined to be in substantial compliance with Title IV-E of the Social Security Act program requirements. Accordingly, no secondary review or Program Improvement Plan will be required and the next primary review will be held in approximately three years.

**General Requirements**

Reviewers determined whether appropriate documentation existed in each case to substantiate compliance with the following requirements: authority for placement; child welfare agency or probation responsibility for placement and care; Aid to Families with Dependent Children (AFDC) eligibility of the home of removal (based on

**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

July 16, 1996 requirements), placement in a licensed foster family home or child care institution; and criminal records check and other safety requirements for foster care providers. Counties are reminded to continue to ensure compliance with CDSS' Eligibility and Assistance Standards (EAS) Manual sections 45-100 through 45-300 for determination of foster care eligibility.

The two cases (case sample numbers 14 and 61) that were determined to be in error during the PUR are discussed below. The DHHS determined that the cases listed below were not eligible for AFDC-Foster Care (FC) during the PUR and were, therefore, cited as errors.

### **Identified Error Cases**

#### **Case Sample #14**

In the month of removal, the child had been living with and physically removed from a non-parent guardian. However, the requisite judicial findings of contrary to the welfare and reasonable efforts findings were made against the child's mother with whom the child had not lived for at least six months prior to the judicial removal.

#### **Home of Removal**

A physical removal of the child from a home other than the home identified in the court order as the home of removal must be based on either a legal or constructive removal from a home in which the child resided within the previous six months in order to be eligible for Title IV-E. (See DHHS' Child Welfare Policy Manual, section 8.3A.11, question 1 for an explanation of constructive removal.) Linkage may only be based on a physical removal that is the result of either a court order or voluntary placement agreement. In other words, the home from which the child was physically removed would be considered the home of removal for the purpose of establishing linkage only if the court order removed the child from that home. If the home where the child is physically removed, such as the grandmother's home, is different than the home that the court order identifies as the home of removal, such as the parents' home, then the child would be considered to have been "constructively removed" from the parents. In this situation, linkage cannot be based on the grandmother's home. At each subsequent annual review of a child's case, the county should determine whether the child was initially linked based on physical removal and verify that the physical removal was the result of a court order or voluntary placement. If it was not, make the case non-federal and submit the appropriate claim adjustments.

**An example of when the home of physical removal differs from the home of legal removal**

Child was living with and physically removed from grandma. However, the court order that was used when the child was physically removed from grandma didn't name her as the home of removal, but it did name the mother as the home of removal. Because the child was not living with the mother at the time of the physical removal from grandma, and the court order named the mother as the home of removal, this removal would be considered a "constructive removal" (i.e., legal or nonphysical removal) from the mother. Additionally, because the court order did not name grandma's home as the home from which the child was removed, linkage cannot be based on the physical removal of the child from grandma.

**An example of physical removal resulting from a court order or voluntary placement agreement**

Child is living with grandmother who is considered to be the child's home under the former AFDC regulations, 45 Code of Federal Regulations (CFR) section 233.90(c)(1)(v)(B). Court order names the grandmother as the home of removal. Because the physical removal of the child from the home of the grandmother is the result of the court order, linkage may be based on the home of physical removal, the grandmother's home.

Case Sample #61

In case #61, the county had initially determined that the child met the AFDC eligibility criteria, including that the child's father was no longer in the home and, therefore, the child was deprived of parental support. Sometime prior to the onsite review, the county reconstructed the child's initial AFDC linkage and determined that the father had, in fact, been in the home when the child was removed. Thus the case had been incorrectly determined to be Title IV-E eligible.

**Overpayments/Underpayments**

Out of the 80 cases reviewed, there were a total of five cases with overpayments and 12 cases with underpayments. Individual letters will be issued to counties regarding the recoupment of ineligible maintenance payments and related administrative costs associated with these cases during the review. The below chart identifies the five improper payments:

Sample Number	Improper Payment Reason & Ineligibility Period	Improper Payments (FFP)
6	Payments were made for the entire month but the child left the provider before the end of the month. Ineligible: 05/19/2008 through 05/31/2008	\$131 Maintenance \$87 Administration
6	The clothing allowances were paid for a child placed with an unapproved provider. Ineligible: 11/2009	\$212 Maintenance \$0 Administration
38	Foster care maintenance payment made for two providers for same period Title IV-E funds were claimed. Ineligible: 10/29/2009 through 10/31/2008	\$39 Maintenance \$23 Administration
41	Clothing allowances were paid at an unapproved rate. Ineligible: 5/2011	\$50 Maintenance \$0 Administration
52	The foster care maintenance rate paid was higher than the approved rate. Payments were made at a rate that is authorized for children older than the child in this case. Ineligible: 05/01/2011 through 09/30/2011	\$87 Maintenance \$0 Administration
77	The foster care payment rate paid was higher than the approved rate. Child was moved to a lower level placement but the payment amount was not changed. Ineligible: 06/01/2012 through 07/31/2012	\$1317 Maintenance \$0 Administration

### **Strengths and Promising Practices Identified By DHHS**

The DHSS identified several areas of strengths in the California process. First, they praised California's timely judicial determinations and other promising court activities. In all of the cases reviewed, initial findings were made timely. In addition, DHHS complimented California on its clearly written and informative detention memos.

### **Items to be Strengthened**

While California did pass the 2012 review, there are some changes that can be made to improve the efficiency of the review process.

- Of cases identified for the audit as Title IV-E but later determined non-Title IV-E, there was often a delay in providing the DHHS the necessary payment documentation to prove that the case did not receive Title IV-E funds. In order for the DHHS to drop a case from the audit and move on to the next one, payment documentation must be provided showing that no Title IV-E

payment had ever been made. This delay in providing payment documentation delayed the audit process in determining eligible Title IV-E cases. During the next three years, the CDSS will be working with counties to provide this documentation more timely.

- The CDSS experienced a high level of concern over accessing probation case documentation due to the sensitive nature of the documents. For purposes of the Title IV-E audit, all case file documentation is required including confidential information. The CDSS will continue to work with the Chief Probation Officers of California in an effort to expedite this process.
- For any child placed in an FFA, the county eligibility staff should ensure that they have a valid LIC 203A (facility license) and LIC 229 (Certificate of Approval) covering all periods of the child's placement. (The LIC 229s are issued annually by the FFA). This includes ALL placements during the PUR. In numerous cases, we had difficulty locating the above-referenced documents during the review.
- The CDSS had difficulty obtaining the fingerprint clearances of numerous cases from County Licensing Agencies during the review. Without fingerprint clearances, the CDSS is not able to prove that the child lived in an eligible facility and, therefore, a case would be ineligible for Title IV-E. It is imperative that the CDSS receive the fingerprint clearances for Title IV-E cases that are part of the review.

For audit purposes, as per Welfare and Institutions Code section 10605(c)(1), the CDSS is authorized to conduct audits and reviews in order to meet its obligations for child and welfare programs and to ensure the protection of children and families. Additionally, in order to comply with Federal and State foster care guidelines, counties are required to provide fingerprint clearances as requested by the Title IV-E State agency for audit purposes, per Penal Code section 13300 and 42 USC section 671(a).

If you have any questions about this ACL or the audit in general, please contact your county Foster Care Funding and Eligibility Consultant at (916) 651-2752.

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division