



CDSS

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EDMUND G. BROWN JR.
GOVERNOR

REASON FOR THIS TRANSMITTAL

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

April 28, 2016

ALL COUNTY LETTER NO. 16-35

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CHIEF PROBATION OFFICERS
 ALL FOSTER CARE MANAGERS
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
 ALL COUNTY ELIGIBILITY SUPERVISORS
 ALL TITLE IV-E AGREEMENT TRIBES
 ALL ADMINISTRATIVE LAW JUDGES
 ALL CONSORTIA PROJECT MANAGERS
 CHILD WELFARE SERVICES NEW SYSTEM

SUBJECT: ADOPTION AND LEGAL GUARDIANSHIP INCENTIVE PAYMENTS PROGRAM

REFERENCE: PUBLIC LAW (P.L.) [105-89](#), [110-351](#), AND [113-183](#)

This All County Letter (ACL) provides counties with updated information needed to qualify for payments under the Adoption and Legal Guardianship Incentive Payments Program. The enactment of the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) on September 29, 2014 amended the Adoption Incentives Program of 1997. In recognition of the important role guardianship plays in connecting children to permanent families, the current incentives program now includes incentive payments for exits from foster care to legal guardianship, as well as adoption. The program also includes improvements to the incentive payments structure itself.

BACKGROUND

The Adoption Incentives Program was created as part of the Adoption and Safe Families Act of 1997 (P.L. 105-89). The program authorized the payment of adoption incentive funds to counties when they were successful in increasing the number of children adopted from the public foster care system. In 2003, the program was amended to include additional incentives that would target older children and youth. The 2008 Fostering Connections and Increasing Adoptions Act (P.L. 110-351) further amended this program to introduce incentive awards to counties that exceeded their highest ever adoption rate.

The prior adoption incentive payment structure used an absolute number from a previous Federal Fiscal Year (FFY) as a baseline and did not take into account the fluctuating number of children in foster care annually. Payment was determined by comparing the total number of children adopted in a given year to an established baseline number from FFY 2007. The new law amends the incentive structure so that incentive payments are based on improvements in the rates of adoptions and legal guardianships, resulting in a reward to counties for the increased proportion of children moving to permanent families.

OVERVIEW

The Adoption Incentive Program is renamed to the “Adoption and Legal Guardianship Incentive Payments Program.” This amended program includes the following key changes:

- Recognizes improved performance in both adoptions and legal guardianship outcomes for children in foster care.
- Incentives may be earned in four categories:
 - Foster child adoptions;
 - Foster child legal guardianships;
 - Pre-adolescent foster child adoptions and legal guardianships (ages 9 to 13); and
 - Older child adoptions and legal guardianships (age 14 and older).
- Improves the award structure by determining incentives based on improvements in rates for each category rather than absolute numbers, and it allows for a transition period before the new incentive structure is fully implemented.
- Allows counties the ability to earn additional incentives for timely adoptions, subject to the availability of funds, in instances where the adoption is finalized in less than 24 months.
- Clarifies that counties must use the adoption and guardianship incentive payments to supplement, and not supplant, other funds (federal or non-federal) already being used for services under Titles IV-B or IV-E of the Social Security Act.
- The period for which incentives received by a county are available for expenditure is increased from 24 months to 36 months.

NOTE: Although P.L. 113-183 allows for counties to have 36 months for expenditure of funds, the award letter states the funds must be spent no later than September 30, 2018. However, because the total award amount is minimal, it is anticipated that counties will be able to utilize all funds within one year.

The payments may be allocated only for a specific period of time (July 1, 2016 – June 30, 2017). If counties are unable to utilize all funds within the one year, an additional allocation may be available for the second year (July 1, 2017 – June 30, 2018).

During the second year, costs will not be allowed for adjustment quarters.

INCENTIVE DOLLAR AMOUNTS

Federal statute prescribes specific dollar amounts for finalized adoptions and legal guardianships, as outlined below. However, due to the minimal total award amount, counties will not be able to receive the maximum dollars that are listed for each category. In the event that the total amount of incentive payments earned by the counties exceeds the amount of funds available for this program, the payments that the counties receive will be capped at the allocated amount.

Counties are eligible to receive incentive payments in any one or multiple categories, regardless of whether they make improvements in all four categories. Counties are eligible to receive varying incentive payments based on improvements they make in moving more children out of foster care and into adoption or legal guardian placements through any of the following four categories:

- **Foster Child Adoption Rate (up to \$5,000 per child above the baseline rate):** Increase in the rate of children adopted from foster care.
- **Foster Child Guardianship Rate (up to \$4,000):** Increase in the rate of children exiting foster care to legal guardianship.
- **Pre-adolescent Child Adoption and Guardianship Rate (up to \$7,500):** Increase in the rate of preadolescent (ages 9 to 13) adoptions or legal guardianships.
- **Older Child Adoption and Guardianship Rate (up to \$10,000):** Increase in the rate of older (ages 14 and older) foster child adoptions or legal guardianships.

BASE RATE

Counties receive incentives for every child who is adopted or placed with a guardian that is attributed to the state's higher rate of adoption or guardianship compared to a "base rate." The "base rate" is used to measure if a state is improving the rate of children exiting foster care to adoption or guardianship based on a county's past performances. There are two base-rate options that can be used to measure improvements in adoption and legal guardianship:

- 1) The rate of adoptions/guardianships during the immediate preceding year (e.g. for Fiscal Year (FY) 2015, the base rate would be FY 2014); or
- 2) A three-year average of the rate of adoptions/guardianships during the three immediate preceding years (e.g. for FY 2015, the base rate would be an average of FYs 2014, 2013 and 2012).

The State of California has determined that using the three-year average of the preceding years will benefit the counties.

INCENTIVES FOR TIMELY ADOPTIONS

If extra funds are available from the incentive payment appropriations, the adoption incentive payment will be increased for each county where the average number of months from the removal of a child from a home to a finalized adoption is less than 24 months. The award amount is based on the pool of extra funds available from the incentive program divided by the number of counties with timely adoptions.

SPENDING TIMELINE

Counties now have 36 months rather than 24 months to spend the incentive award money. Counties should spend their allocations in the first year (FY 2016-17), and any remaining funds may be rolled into the following FY. Any unspent funds after FY 2017-18 will no longer be available for the county's use. The allocation may be spent on any services (including post-permanency services) provided under Titles IV-B or IV-E. However, the new law clarifies that counties must use this incentive payment to supplement, not supplant, other funds already being used for these services. Please note that although P.L. 113-183 allows for counties to have 36 months for expenditure of funds, the award letter states the funds must be spent no later than September 30, 2018. If funds are allocated in FY 2017-18, the amount may only be accessed through the original claim process and not through an adjustment claim due to the funding availability. Claiming instructions will be issued in the forthcoming September Quarterly County Fiscal Letter (CFL).

QUESTIONS

Any questions regarding the program policy of this ACL should be directed to the Foster Caregiver Policy and Support Unit at (916) 651-7465 or via email at kinship.care@dss.ca.gov. If you have questions regarding fiscal issues, please direct them to fiscal.systems@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division