

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 20, 2000

ALL-COUNTY LETTER NO. 00-85

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY PROBATION DEPARTMENTS
 ALL COUNTY COUNSELS
 ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
 ALL CDSS ADOPTION DISTRICT OFFICES
 ALL COUNTY ELIGIBILITY SUPERVISORS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: **ADOPTIONS AND SAFE FAMILIES ACT REGULATIONS: APPROVAL OF
 RELATIVE CAREGIVERS AND CERTIFICATION PENDING LICENSURE
 OF NON-RELATIVE CAREGIVERS**

The purpose of this letter is to address the following questions related to the Adoptions and Safe Families Act (AFSA) of 1997, Public Law 105-89:

- Does a relative caregiver require licensure by the Department's Community Care Licensing?
- Can a county claim Title IV-E for a certified pending licensure non-relative foster family home?

The federal Department of Health and Human Services (DHHS), Administration on Children and Families issued regulations implementing ASFA in January 2000. The ASFA regulations became effective March 27, 2000. However, the effective date of ASFA regulations related to the approval of relative caregivers and the certification pending licensure of non-relative caregivers was September 27, 2000.

PLACEMENT WITH RELATIVE CAREGIVERS

The AFSA states that a state's priority is to ensure the safety of children in all foster care placements. The ASFA regulations do not require the licensure of relatives, but rather require that a "common standard" be used to assess and approve both relative and non-relative caregivers. It is the Department's policy that a relative caregiver will continue to be exempt from licensure as allowed for in Health and Safety Code Section 1505(k).

The Department has determined that the safety criteria contained in existing statutes and regulations relating to relative placements provide the same safety protections as statutes and regulations relating to non-relative placements. The provisions governing the

assessment and approval of relative caregivers in Welfare and Institutions Code (WIC) Sections 361.3 and 361.4 afford children placed with relatives the same protections as those placed in licensed foster family homes.

Section 361.3 of WIC requires the county social worker to consider many factors when placing a child with a relative. Those factors include, but are not limited to:

- The best interest of the child, including special physical, psychological, educational, medical, or emotional needs;
- The wishes of the parent, the relative, and child, if appropriate;
- Placement of siblings and half-siblings in the same home, if that placement is found to be in the best interest of each of the children;
- The good moral character of the relative and any other adult living in the home, including, whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect;
- The nature and duration of the relationship between the child and the relative, and the relative's desire to care for the child;
- The safety of the relative's home; and
- The ability of the relative to: provide a safe, secure and stable environment; exercise proper and effective care and control of the child; provide a home and the necessities of life for the child; facilitate court-ordered reunification efforts with the parents; facilitate visitation with the child's other relatives; facilitate implementation of all elements of the case plan; and provide legal permanence for the child if reunification fails.

Section 361.4 of WIC requires the county social worker to visit the home of the relative to ascertain the appropriateness of the placement. Prior to placement of a child with a relative, the social worker is required to:

- Complete a criminal records check through the California Law Enforcement Telecommunication System (CLETS) on anyone 18 years of age and older having a familial or intimate relationship with the child. A criminal record check may also be conducted on any person 14-18 years of age living in the home if the social worker believes the person has a criminal record;
- Complete a Child Abuse Central Index (CACI) check on all persons 18 years of age and older living in the home;
- Complete a fingerprint clearance check through the Department of Justice if CACI or CLETS check indicates that the person is a known or suspected child abuser.

The social worker can place the child in the relative's home if there is no criminal record for any person living in the relative's home. A child cannot be placed with a relative caregiver if any person in the relative's home has a criminal record that would preclude licensure. Section 361.4 of WIC does include a provision that a county may request a waiver from the Department's Director, in order for the county to grant individual criminal record exemptions pursuant to the criteria set forth in Health and Safety Code Section 1522 (g) (1).

The Department urges counties to review their policies and procedures for the placement of children with relatives to ensure compliance with current statutes. In addition, please refer to All County Information Notice No. I-18-99 dated March 1, 1999. This notice provided counties with the "Model Relative Assessment Guidelines". The Department recommends that counties utilize the Emergency Assessment Protocols, contained in the Model Relative Assessment Guidelines, to complete an assessment of a relative caregiver prior to the child's detention hearing.

CERTIFIED PENDING LICENSURE: Non Relative Homes

The ASFA regulations prohibit the claiming of Title IV-E reimbursement for foster family homes that are not fully licensed. The DHHS recognizes that there may be a difference as to when a home meets full licensing requirements and when a home receives its license. California will continue to operate within the State Plan for Title IV-E that has been approved by DHHS. Effective September 27, 2000, counties that use the "certified pending licensure" provision when placing children must continue to follow Community Care Licensing regulations, (Title 22, California Code of Regulations, Section 87007.1). Before claiming Title IV-E funding, the county must ensure that a home meets all the licensing requirements, including criminal background checks.

WORK WITH STAKEHOLDERS

The Department is also working closely with the County Welfare Directors Association and statewide stakeholder groups (relative caregivers, foster parent groups, child advocates, etc.) to review and develop recommendations, if needed, for strengthening the relative approval process, and to ensure consistency between licensing and child welfare services relative approval requirements. The Department's goal is to clearly articulate the common safety standards that apply in both these placement options. Any changes that are necessary will be made through the legislative process. The Department will provide periodic updates to inform counties of any new requirements in the process for approving a relative caregiver.

Please contact Teresa Contreras, Manager of the Kinship Care Policy Unit, Foster Care Policy Bureau at (916) 445-0813 if you have any questions regarding this letter.

Sincerely,

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

Enclosure