

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



March 30, 2001

ALL COUNTY LETTER NO. 01-26

TO: ALL CHIEF PROBATION OFFICERS
 ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY MENTAL HEALTH DIRECTORS
 ALL COUNTY ICPC LIAISONS
 ALL ADOPTION FIELD OFFICES

REASON FOR THIS TRANSMITTAL

- State Law Changes
- Federal Law or Regulations Change
- Court Order or Settlement Agreement
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

REFERENCE: All County Information Notice No. I-41-00

Effective the date of this letter, the California Department of Social Services (CDSS) Out-of-State Placement Policy Unit (OSPPU) comprehensive review procedures for ICPC 100A packages has been revised for proposed placements of dependents and wards in out-of-state group homes.

Out-of-State Placement Policy Unit (OSPPU) Modifications

In an effort to eliminate duplicative audits/reviews, OSPPU will cease its comprehensive review of probation ICPC 100A packages. Currently, OSPPU evaluates each of the following documents to determine if ICPC 100A packages submitted for a small subset of the total probation foster care caseload comply with statutory and regulatory requirements for the use of public funds for out-of-state group home placement costs. Those documents are: (1) a signed 100A; (2) a Multidisciplinary Assessment and Recommendation report; (3) a plan; (4) a signed court order; and (5) a financial and medical plan for each child. **Effective immediately**, OSPPU will not complete a comprehensive review of the multidisciplinary assessment and recommendation report or the case plan. The ICPC 100A package will be reviewed to assess whether the documents have been submitted to meet ICPC requirements for each proposed out-of-state group home placement. The OSPPU's review of ICPC 100A package will be considered complete if all documents are submitted and ICPC 100A package will be forwarded to the receiving state.

As such, the county placement agency has responsibility for ensuring that ICPC documents submitted to CDSS comply with all applicable statutory and regulatory requirements, including multidisciplinary assessment and recommendation report, a case plan and signed court order for each proposed out-of-state group home placement. All County Information Notice No. I-41-00 is attached as a reference.

Consequently, it is the county social services or probation department that is solely liable for the accuracy and completeness of the information.

There will be **no change** in the Unit's responsibilities for the review of serious incident reports submitted by certified out-of-state group homes and participation on the Out-of-State Certification Team.

Federal Audits

The CDSS has revised ICPC 100A package review procedures to address recommendations made by the federal government in its recent review of probation cases.

The U.S. General Accounting Office (GAO) and the U.S. Office of Inspector General (OIG) conducted Title IV-E case reviews that focused on the State's use of Title IV-E foster care funding for the board and care costs of probation placements.

The GAO review was initiated to: 1) determine the number of Title IV-E out-of-home placements made by probation agencies in Fiscal Year 1998 and the amount of federal foster care funding expended for these placements; 2) describe how selected states ensure that Title IV-E funds are not used for placements in detention facilities and that probation cases are managed as the law requires; and 3) assess the federal Department of Health and Human Services (DHHS) processes for ensuring the appropriate use of funds and case management of probation placements.

The GAO report recommended that the Secretary of DHHS when conducting its Title IV-E eligibility review of probation placements: 1) collect information needed to determine whether the purpose for which the ward was placed in a particular facility was treatment or detention, and whether or not the facility in which the ward was placed was being operated primarily for the detention of adjudicated wards; 2) ensure that a sufficient number of probation cases are reviewed to provide a reasonable degree of assurance that Title IV-E eligibility and case management requirements are being met; 3) ensure that systems the State uses to determine if the facilities in which wards are placed are eligible for Title IV-E funding, and systems used to manage Title IV-E funded probation cases, are examined.

In its preliminary report, OIG disclosed the following deficiencies:

- Case plans, if found, did not comply with requirements mandated by federal and State statutes and regulations.
- Judicial determinations, made for some cases, appeared to be inconsistent with the facts of the case; or not in the best interests of the child; or were absent from the file.
- Periodic reviews: 1) did not meet the State plan requirements; 2) were not held; or 3) were not held timely.
- Permanency hearings: 1) were not conducted in accordance with the State plan; 2) were not held; or 3) were not held timely.

Response to OIG Recommendations

The OIG report recommended increased oversight and an audit mechanism to assess probation's compliance with Title IV-E requirements. As a result, the Department, in conjunction with the Chief Probation Officers of California, has sponsored additional training in early 2001 to probation staff. The Department will also be refocusing staff resources on assuring compliance with Title IV-E mandates in preparation for a comprehensive federal compliance review scheduled in federal fiscal year 2003. Since there are approximately 6,000 probation wards receiving foster care services and the majority are placed in California group homes, the Department will redirect some of its out-of state staffing resources to this effort. An All County Letter will be issued in the future describing these reviews and when they will occur.

Please contact Mr. Robert Markell, Chief, Foster Care Policy Bureau at (916) 445-0813 if you have questions regarding information in this letter.

Sincerely,

Original Signed by:

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

Enclosure

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

**REASON FOR THIS TRANSMITTAL**

- State Law Changes
- Federal Law of Regulations Change
- Court Order or Settlement Agreement
- Clarification Requested by One or More Counties
- Initiated by CDSS

April 19, 2000

ALL COUNTY INFORMATION NOTICE NO. I-41-00

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY CHIEF PROBATION OFFICERS
 ALL COUNTY MENTAL HEALTH DIRECTORS
 ALL COUNTY ICPC LIAISONS
 ALL ADOPTION FIELD OFFICES

SUBJECT: AFDC-FC ELIGIBILITY REQUIREMENTS AND THE IMPACT ON
 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

This All County Information Notice is to provide information regarding the two on-going federal audits, the impact on ICPC, and specific examples to help expedite the ICPC review process.

The California Department of Social Services (CDSS) has been the subject of two federal reviews that have focused on the State's use of Title IV-E funding for the board and care costs of delinquent children. Both the U.S. Office of Inspector General and the U.S. General Accounting Office are in the process of compiling their findings. The audits have been conducted in Riverside, Santa Clara, Sacramento, San Diego, Alameda, Los Angeles, and San Bernardino counties. The preliminary findings are leading the federal auditors to the conclusion that when probation children become "foster children" as a result of claiming Title IV-E funds, they do not receive the same protections and services as dependent children. For example, the federal auditors have reported the lack of the Memoranda of Understanding¹ and insufficient monitoring of probation cases for appropriate services.

Senate Bill (SB) 933 (Chapter 311, Statutes of 1998) established major steps in reforming California's foster care system by implementing the recommendations presented by a Foster Care Task Force appointed by Senator Thompson. More recently, Assembly Bill 575 (Chapter 997, Statutes of 1999) revised various statutes relating to assessment of children for placement, services provided, and placement monitoring required to be performed by probation departments. This monitoring is to ensure that the needs of probation children placed in foster care through the Title IV-E and State Foster Care programs are met.

¹ Pursuant to Welfare and Institutions Code sections 727 and 11404, a written agreement must be in effect between the county probation and county welfare departments in order to claim AFDC-FC funding for foster children supervised by the probation department.

Eligibility for State or Federal AFDC-FC Funding

In light of SB 933, AB 575 and the on-going federal audits, county probation departments who continue claiming State or Federal AFDC-FC funding to pay for the board and care costs of children, placed out-of-state in group homes and residential treatment centers, must comply with the related foster care regulations and statutes set forth in Manual of Policies and Procedures (MPP), Divisions 11, 29, 31 and 45; and the Welfare and Institutions and Family Codes.

ICPC 100A packages for out-of-state foster care placements that do not satisfy these statutory and regulatory requirements will not be eligible for State or Federal AFDC-FC funding. However, in some instances, CDSS will notify counties that the ICPC 100A packages will be approved for county-only funding (see below).

I. ICPC 100A PACKAGES APPROVED FOR COUNTY-ONLY FUNDING

Based on the above regulations and statutes, ICPC 100A packages will be approved for **county-only funding** under any of the following circumstances:

- The court orders an out-of-state placement prior to the completion of a Multidisciplinary Team Assessment (MDT) and Recommendation report as required by SB 933. [MPP Division 31, sections 31-066.2, and 31-066.4 et. seq.; Family Code (FC) sections 7911(b), 7911.1(d); Welfare and Institutions (W&I) Code sections 706, 706.6(g)(2) and 727.1(a)(3); and FC section 7901 Article 1 (b) and (c), and Article 3(b)(4)].

The MDT Report must be documented in the probation officer's case plan/social study that is included as a finding in the court order for out-of-state placement. [W&I Code section 706.6(g)(2).]

- The Court Order/court findings and 100A package includes information that the proposed placement is for detention purposes and will result in the imposition of a sanction on the child. [W&I Code section 202(e) and Family Code section 7912(a)].

Punishment/sanctions include: i) payment of a fine by the child; ii) rendering of compulsory service without compensation performed for the benefit of the community; iii) limitations on the minor's liberty imposed as a condition of probation or parole; iv) commitment to a detention or treatment facility, such as a juvenile hall, camp, or ranch; or v) commitment to the California Youth Authority.

- There is an absence of documentation that appropriate in-state group homes or residential treatment centers: i) were contacted for proposed placement; ii) were provided available information sufficient to make a placement decision; iii) and completed an assessment and made a final decision whether to accept or reject the child. [W&I Code sections 361.21(a)(3), 706.6(g)(1) and (2), 727.1, 727.2, and MPP Div. 31, sections 31-066.4, 31-066.41, 31-066.511, and 31-066.512].

II. RETURN OF INCOMPLETE ICPC 100A PACKAGES

An ICPC 100A package will be returned to the sending county due to a lack of statutorily/regulatory required information under any of the following circumstances:

- The child's treatment needs/services documented in the ICPC 100A package are not provided by the out-of-state placement facility as stated in the facility's program statement on file with CDSS.
- The court order stipulates that specific services be provided for the child but there is no documentation in the ICPC 100A package that these services were provided in compliance with the court's order. [Example: The Court Order requires that the child have an Independent Education Plan (IEP), but the ICPC 100A package does not include documentation of this service.]
- The proposed placement is not a certified facility pursuant to Family Code sections 7911.1(a), (c), (e), (g), and (i).
- The ICPC 100A package does not include a MDT Report.
- The MDT Report does not include an assessment of all of the elements contained in MPP Division 31, section 31-066.2 and section 31-066.4 et seq. (See All County Information Notice I-51-99 for required elements that must be assessed in the MDT Report.)
- The ICPC 100A package does not include a case plan/social study.
- The case plan/social study is not included as a finding in the court order.
- The case plan/social study does not include "documentation of the recommendation of the MDT and the rationale for this particular placement." The MDT assessment must be completed prior to and incorporated in the case plan/social study, which is included as a finding in the court order. [W&I Code section 706.6(g)(2).]
- The case plan/social study does not meet all of the requirements of W&I Code sections 636.1, 706.5 and 706.6. including, but not limited to All County Letter No. 00-22, dated March 27, 2000.
- The ICPC 100A package does not contain information about the child required pursuant to W&I Code sections 706.6(j) and 706.6(o), including, but not limited to:

1. Current school records/school transcripts;
2. Immunizations, known medical problems, and any known medications the child may be taking;
3. An Independent Education Plan (IEP) if the child is eligible;
4. An Independent Living Plan (ILP) if the child will be 16 years of age or older upon the date the child is received at the placement facility.

ICPC 100A packages that do not discuss all of the information described in this Section will be returned by CDSS' Out-of-State Placement Policy Unit (OSPPU) to county probation departments. OSPPU will include, with the returned package, a letter of explanation including citations/references of the statutory/regulatory deficiencies in the package.

III. OSPPU REQUESTS FOR ADDITIONAL INFORMATION TO COMPLETE PROCESSING OF ICPC 100A PACKAGES

Where an ICPC 100A package contains all of the elements described in Section II above, but the information is incomplete, OSPPU may request additional information/documentation by telephone from county probation departments in order to complete processing of the ICPC 100A package. As has been past practice, this Information may be faxed to OSPPU to avoid unnecessary processing delays.

Attorney General Opinion

Recently, there has been an increase in the practice of juvenile court judges delegating parents to place wards and dependent children under the court's jurisdiction in out-of-state facilities. This appears to be done in an effort to avoid the purview of the ICPC. This practice in no way excuses compliance with ICPC requirements since the court is still the sending agency. This is evident in the court orders whereby the court explicitly maintains jurisdiction and places "care, custody and control with the probation department" and directs the parent to place the child out-of-state.

Such delegation does not change the court's status as the "sending agency." Pursuant to Family Code section 7901(b), a sending agency "means a party state, or officer or employee thereof, subdivision of a party state, or officer or employee thereof, a court of a party state, a person, corporation, association, charitable agency, or other entity which sends, brings, or causes to be sent or bought any child to another party state."

This delegation practice was posed as a question for an Attorney General opinion and is found in 61 Ops. Atty. Gen. 636, 12-8-78. The opinion makes it exceedingly clear that a court can not avoid the purview of the Compact by delegating a parent the authority to make the out-of-state placement of the ward or delinquent child. It further states that, "(t)o construe the Compact as excusing compliance, merely because a parent

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participates in a placement that is being affected by a juvenile court, would render the Compact readily vulnerable to evasion.” Hence, the opinion concluded that “a juvenile court, because of its causative role in the placement of the child, cannot avoid coming under the Compact by delegating to a parent the authority to make the out of state placement.”

Therefore, such placements must still meet all of the ICPC requirements including those found in Family Code section 7911 et al. pertaining to multidisciplinary team assessments.

Please telephone the following contacts should you desire additional information in specific area:

ICPC	Ms. Marika P. Wolf, Deputy Compact Administrator and Manager, Out-of-State Placement Policy Unit (916) 323-1000
Division 31 Requirements	Mr. Lou Del Gaudio, Manager, Placement Policy Unit (916) 323-2933
AFDC-FC	Ms. Karen Harmon, Manager, Title IV-E Eligibility/Funding Unit (916) 322-5949

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

C: CWDA
Chief Probation Officers of California
Judicial Review and Technical Assistance Project
California Department of Education
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