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



ARNOLD SCHWARZENEGGER
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October 6, 2008

ALL COUNTY LETTER NO. 08-45

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
ALL CDSS ADOPTIONS DISTRICT OFFICES
ALL DELEGATED COUNTY ADOPTION AGENCIES
ALL ADOPTION SERVICE PROVIDERS
ALL LICENSED PRIVATE ADOPTION AGENCIES
ALL COUNTY CLERKS
ACADEMY OF CALIFORNIA ADOPTION LAWYERS

SUBJECT: INCREASED FEES AND RELATED STATUTORY CHANGES IN THE
INDEPENDENT ADOPTIONS PROGRAM

The purpose of this All County Letter is to notify you of several amended Family Code Sections that affect the Independent Adoptions Program (IAP). The budget includes program fee increases and several law changes:

- 1) The main statutory change is the date the required investigation must be submitted to the court by the Department or delegated county adoption agency. Currently, the required investigation must be submitted to the court within 180 days after the filing of the petition. The changes in statute now require the 180 days to begin when the Department or delegated county adoption agency had received a copy of the filed petition and 50 percent of the adoption investigation fee. The changes do not affect the required interview with the petitioners (including a health and safety check of the child) within the 45 day period. This requirement has remained the same to ensure the safety of the child. In addition, submission of the final report to the court by the Department or delegated county adoption agency is no longer required unless, or until, all fees have been paid.
- 2) Another major change is the increase of the full fee from \$2,950 to \$4,500. For petitioners who have a valid preplacement evaluation, the fee will be \$1,550. A valid preplacement evaluation must meet the investigation requirements pursuant to Title 22 California Code of Regulation Section 35089 and must be dated within one

year of the filing of the petition. If a preplacement evaluation is older than one year but less than three years old, the evaluation may be updated. A licensed adoption agency may complete an update of the outdated evaluation by following the format for an abbreviated assessment pursuant to Title 22 California Code of Regulations Section 35183(b), and the update must include information pursuant to Sections 35183(c) through (f), as necessary.

- 3) The fee waiver is eliminated. However, petitioners who meet the "very low income" limits according to the income limits published by the Department of Housing and Community Development, will be allowed to apply for a reduced fee with at least a minimum payment of \$500. The income limits can be found at the following website <http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html>.

Furthermore, the Department and delegated county adoption agencies have developed guidelines that take into consideration a family's income as well as any assets in determining the fee reduction. Prior to filing a petition with the court, petitioners may contact the Department at (916) 651-8089 to determine whether they may qualify for a fee reduction.

The Department has developed a Fact Sheet (attached) that has been distributed throughout California to inform the public about the fee increases regarding petitions filed on and after October 1, 2008. The Fact Sheet gives details of the following statutory changes that affect the IAP.

Effective October 1, 2008, changes to the Family Code include:

- 1) Section 8807 – This section permits the 180 days to begin after 50 percent of the fee has been paid to the Department or delegated county adoption agency. It also allows the full report to the court to be submitted after the remainder of the balance has been paid.
- 2) Section 8808 – This section permits the Department or delegated county adoption agency to interview all persons from whom a consent is required as soon as 50 percent of the fee has been paid. It also indicates that 50 percent of the fee must be sent to the Department or delegated county adoption agency along with the copy of the petition filed with the court.
- 3) Section 8810 – This section requires 50 percent of payment to be paid at the time the adoption petition is filed and the remaining balance to be paid on a date determined by the Department or delegated county adoption agency. This section also changes the fees paid. The full fee has been raised to \$4,500 and

the fee for petitioners who have a valid preplacement evaluation is \$1,550. This section has also eliminated any fee waivers and has required that a reduction of the fee be no less than \$500. The Department was authorized to develop guidelines in regard to fee reduction based on income and/or assets. In addition, the income limits used to determine a fee reduction has been changed to "very low income" limits.

- 4) Section 8820 – This section provides that birth parent(s) or petitioner(s) may file an appeal if the Department or delegated county adoption agency fails or refuses to accept the consent of the birth parents after the 180-day period or extension has passed or, where the consent of the department or delegated county adoption agency is required, it fails or refuses to file or give its consent when the fee has been paid.

Finally, the IAP will be revisited during the 2009 legislative budget subcommittee hearings requiring the Department to provide an update regarding the degree to which fee collections have improved as a result of the statutory changes and the impact the fee increase on the number of independent adoptions. The Department will be collecting data from the seven California Department of Social Services' district offices and the three delegated county adoption agencies (Alameda, Los Angeles, and San Diego), in order to meet this request.

If you have any questions regarding this letter, please contact Myrna Hernandez, Program Consultant, Adoptions Services Bureau, at (916) 651-8103.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment

INDEPENDENT ADOPTION PROGRAM

FACT SHEET

CHANGES FOR ALL INDEPENDENT ADOPTION PETITIONS FILED IN CALIFORNIA ON OR AFTER OCTOBER 1, 2008:

The California Department of Social Services (CDSS) or delegated county adoption agency (Alameda, Los Angeles, San Diego) is required to investigate all Independent Adoption Petitions and submit a final report to the court with its findings within 180 calendar days, as long as full payment has been received.

After the petition is filed with the court, the petitioner must mail a copy **and** 50% of the fee to one of the seven CDSS District Offices or to one of the three delegated county adoption agencies.

- The 180-day time-frame will begin once CDSS or the delegated county adoption agency has received a copy of the filed petition **and** 50% of the fee.

The fee for the cost of the investigation of an Independent Adoption petition is \$4,500.

The fee for the cost of the investigation of an Independent Adoption petition for a family with a completed, approved pre-placement evaluation is \$1,550. The pre-placement evaluation must meet the requirements of Family Code Section 8811.5.

The remaining 50% of the fee must be paid no later than the date determined by the CDSS or the delegated county adoption agency. The CDSS or delegated county adoption agency cannot file the final court report until the remainder of the fee is paid.

The fee for all Independent Adoption investigations is non-refundable.

Requests for fee waivers will no longer be accepted.

The fee may be reduced in some cases where the prospective adoptive parent(s) is at or below the very low income limits according to the income limits published by the Department of Housing and Community Development (<http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html>), **and** making the required payment would be detrimental to the welfare of an adopted child. However, in no case will the fee be reduced to less than \$500. Prior to filing a petition with the court, petitioners may contact CDSS at (916) 651-8089 to determine if they may qualify for a fee reduction.

Adopting families may be eligible for a tax credit for qualifying expenses paid to adopt an eligible child (<http://www.irs.gov/taxtopics>). Please consult your tax advisor.

Certain criminal offenses will now **require** the CDSS or delegated county adoption agency to recommend denial of the petition. Petitioners with a history of criminal offenses should check the CDSS website to verify whether any offense listed will prevent them from receiving a favorable recommendation.

If you have any questions, please contact the CDSS Adoptions District Office or the delegated county adoption agency (Alameda, Los Angeles, or San Diego) in your area for more information. You may also check CDSS' website at www.childsworld.ca.gov.

