

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 11-403(a)(1)(A)Specific Purpose/Factual Basis:

This section now includes the addition of a header for "Treatment" to differentiate the services a foster family agency (FFA) provides. Welfare and Institutions Code (WIC) section 11463(b) required the Department to develop rate setting regulations for both treatment and non-treatment FFA programs. This section is also amended to correct the cross reference that occurs as a result of renumbering in this section of the regulations. This regulation is necessary for clarity in the statewide administration of the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program.

Section 11-403(a)(1)(A)2.Specific Purpose:

This section is amended to clarify that the basic rate paid to the certified foster family home (FFH) of a FFA treatment program has increased and is now based on the basic FFH rate pursuant to WIC section 11463(m)(1). In addition, this section clarifies that the certified foster home shall receive, at a minimum, the sum of the new basic rate and the increment for the child as established by the Department pursuant to the Manual of Policies and Procedures (MPP) Section 11-403(c)(1)(B). The WIC section 11463(b) requires the Department to develop rate-setting regulations for foster family agencies.

Factual Basis:

This amendment is necessary because there was a change in law that resulted in the amendment of WIC section 11463. Senate Bill (SB) 1013 (Chapter 35, Statutes of 2012) repealed in section 92 and added in section 93 an amended WIC section 11463, effective June 27, 2012. The WIC section 11463(m)(1), which was added, now ties the basic rate paid to a certified parent to the rate paid to a FFH in WIC section 11461(g)(1). This requires existing rate regulations to be amended to reflect this change in law.

Handbook Section 11-403(a)(1)(A)2.Specific Purpose/Factual Basis:

This handbook section is added for clarity and ease of reference to cite the new law that identifies the new basic rate paid to the certified home of FFA (the basic rate is the same for

treatment and non-treatment rate), which is now the same as the FFH rate found in WIC section 11461(g)(1).

Section 11-403(a)(1)(B)

Specific Purpose:

This section now includes the addition of a header for "Non-Treatment" to differentiate the services a FFA provides. This section is also amended to reflect the current statutory reference for the FFA basic rate for non-treatment services. The WIC section 11463(b) directed the Department to develop regulations for FFAs. Additionally, this section is amended to clarify that the basic rate paid to the certified FFH of a FFA non-treatment program has increased and is now based on the basic FFH rate pursuant to WIC section 11463(m)(1), which now specifies that the FFA basic rate (for both treatment and non-treatment rates) shall be based on the FFH basic rate in WIC section 11461(g)(1). This section is necessary for consistency and efficiency in the statewide administration of the AFDC-FC program.

Factual Basis:

This amendment is necessary because there was a change in law that resulted in the amendment of WIC section 11463. SB 1013 (Chapter 35, Statutes of 2012) repealed in section 92 and added in section 93 an amended WIC section 11463, effective June 27, 2012. The WIC section 11463(m)(1), which was added, now ties the basic rate paid to a certified parent to the rate paid to a FFH in WIC section 11461(g)(1). This requires existing rate regulations to be amended to reflect this change in law.

Handbook Section 11-403(a)(1)(B)

Specific Purpose/Factual Basis:

This handbook section is added for clarity and ease of reference to identify the new rate paid to a certified parent, which is now the same as the FFH rate found in WIC section 11461(g)(1).

Section 11-403(a)(1)(B)1. et seq.

Specific Purpose/Factual Basis:

This section now contains clerical corrections and the insertion of "program" to clarify that a FFA can have a treatment and/or a non-treatment program. What is defined in (B) above is a type of "program," specifically a non-treatment program. This clarifies the explanation for the changes in the rates for FFAs, e.g. the basic rates for both "program" rates are the same while only the treatment "program" receives additional payments for social work and administration.

Section 11-403(a)(1)(B)2.

Specific Purpose:

This section is adopted to clarify which specialized care increment amount the child is eligible to receive if the child, is placed by the county with a FFA providing non-treatment services, in a certified home of the agency in a county that differs from the county with payment responsibility. This language avoids having to look up the cross reference in order to understand the appropriate rate.

Factual Basis:

This section is necessary because WIC section 11461(e) provides the authority for a county to pay an additional amount above the FFH basic rate. In developing regulations for FFAs pursuant to WIC section 11463(b), the Department applied this provision to the rate-setting system for foster family agencies that provide non-treatment services. This section is necessary for consistency and efficiency in the statewide administration of the AFDC-FC program.

Section 11-403(b)

Specific Purpose:

The purpose of the repeal of this section is to clarify that the current rate system has no rate ceiling. Removing this language removes confusion from obsolete language.

Factual Basis:

This section is repealed to accurately reflect that the rate-setting system has changed and no longer has a rate ceiling as initially established by the Department for FFAs. SB 1013 (Chapter 35, Statutes of 2012) repealed the prior rate-setting system established in WIC section 11463 in section 92 and added in section 93 an amended WIC section 11463, with a new system that has no rate ceiling, effective June 27, 2012. This repeal is necessary for consistency and efficiency in the statewide administration of the AFDC-FC program.

Current Sections 11-403(c) through (f) are renumbered to Sections 11-403(b) through (e) respectfully as a result of the repeal of current Section 11-403(b).

Section 11-403(c)(1) renumbered to 11-403(b)(1)

Specific Purpose/Factual Basis:

This section is amended to add a new federal regulation enacted December 26, 2013 and effective December 26, 2014; which is comprised of current Office of Management Budget publications related to costs. A cross reference to a state regulation related to costs that was missing was added. This is necessary for consistency and efficiency in the statewide administration of the AFDC-FC program.

Section 11-403(d)(1) through (d)(1)(D) renumbered to Section 11-403(c)(1) through (c)(1)(D) respectively

Specific Purpose:

These sections are amended to clarify that the total FFA treatment rate is based on the new components of (A)-(E) below and that the rate is per child, per month. The basic rate is set the same as the FFH rate in (A), in accordance with WIC section 11461(g)(1), and is the only component that receives an annual cost of living adjustment (COLA). The other components are not subject to COLA and are set by the Department. These are the child increment (B); social worker services (C); and administrative rates (D). The rates listed are being deleted as they are now obsolete.

Factual Basis:

These amendments are necessary because there was a change in law that resulted in the amendment of WIC section 11463. SB 1013 (Chapter 35, Statutes of 2012) repealed in section 92 and added in section 93 an amended WIC section 11463, effective June 27, 2012. In doing so it repealed the prior formula and changed the way in which the FFA treatment rate is calculated. In renumbered Sections 11-403(c)(1)(A) through (E), the rate for FFAs changes annually. Removing specific amounts from the regulations allows the Department to publish the FFA rates in an All County Letter (ACL) annually and avoids the need to amend regulations annually as the rate components change.

Section 11-403(c)(1)(E)

Specific Purpose:

This section is adopted because of a change in state law that now requires the basic rate portion of the FFA rate to receive an annual COLA pursuant to WIC Section 11463(m)(2).

Factual Basis:

This section is necessary and applies only to the component of the FFH rate that is equal to the basic rate for children placed in a licensed or approved home pursuant to WIC section 11463(m)(2) and not to any other component of the FFA rate. This new language allows for changes in the rates to be updated in ACLs to avoid the need to amend regulations on an annual basis.

Handbook Section 11-403(d)(1)(E) renumbered to Handbook Section 11-403(c)(1)(E)

Specific Purpose/Factual Basis:

The language in the current handbook section is being deleted as it is no longer necessary. The rate amounts will no longer appear in regulation but in an ACL. The WIC section 11463(m)(2) is added. This WIC section clarifies that the COLA increase is to be

determined by using the California Necessities Index (CNI). This is necessary for clarity, consistency and continuity of COLA increases.

Section 11-403(c)(1)(F)

Specific Purpose:

This section is adopted to refer the user to the Department's website to access the most current FFA rates. This action will eliminate the need for amending regulations on an annual basis to reflect rate adjustments based on the annual percentage change in the CNI for the FFA basic rate and any changes made to the other components of the rate.

Factual Basis:

This section is necessary because each year the FFH basic rate is subject to an adjustment pursuant to the annual percentage change in the CNI. Additionally, other dollar amounts for components of the FFA rate may be adjusted by the Department. This regulation is necessary for consistency and efficiency in the statewide administration of the AFDC-FC program.

Sections 11-403(e) through (e)(2) renumbered to 11-403(d) through (d)(1)

Specific Purpose/Factual Basis:

Section 11-403(e)(1) is repealed because it is obsolete. There are currently no FFA rates established by the Department that are less than the rate calculation pursuant to renumbered Sections 11-403(c)(1)(A) through (D). Additionally, there are no FFAs with rates lower than that set forth in the new WIC section 11463. The WIC section 11463(p) allows the Department to amend regulations. Section 11-403(e)(2) is renumbered to 11-403(d)(1) as a result of the repeal of Section 11-403(e)(1) and a cross reference is corrected to reflect the renumbering of current Section 11-403(d). These amendments are necessary for consistency and efficiency in statewide administration of FFA rates in the AFDC-FC program.

Section 11-403(f) renumbered to Section 11-403(e)

Specific Purpose/Factual Basis:

This section is amended to replace the word "Process" with "Submission" for clarity and consistency.

Section 11-403(f)(1)(B)1. renumbered to Section 11-403(e)(1)(B)1.

Specific Purpose:

The introductory language to this section is repealed because it is contradictory to the explanation of a complete rate package. Instead it now simply states "A complete rate request shall include:"

Factual Basis:

This amendment is necessary because WIC section 11463(a) and (b) directed the Department to establish a rate-setting system for foster family agencies. Additionally, WIC section 11463(p) allows the Department to amend regulations. This section is necessary for accuracy, consistency and efficiency in statewide administration of FFA rates in the AFDC-FC program.

Section 11-403(f)(1)(B)1.e. renumbered to 11-403(e)(1)(B)1.e.

Specific Purpose/Factual Basis:

This section is amended to clarify the examples of acceptable documentation of a non-profit status in a rate request "submission" are not all inclusive or limited to corporate documentation. This reflects the fact that a FFH is defined in WIC section 11400(g) as organized and operated on a nonprofit basis, but not limited to a corporate structure. This change is necessary for accuracy, consistency and efficiency in statewide administration of FFA rates in the AFDC-FC program.

Section 11-403(f)(1)(B)1.g. et seq. renumbered to 11-403(e)(1)(B)1.g. et seq.

Specific Purpose/Factual Basis:

These sections are amended to be consistent with Health and Safety Code (HSC) section 1502(4) and WIC section 11400(g), which define a FFA as organized and operated on non-profit basis, not limited to a corporate structure.

Section 11-403(f)(1)(B)1.h. renumbered to 11-403(e)(1)(B)1.h.

Specific Purpose/Factual Basis:

This section is amended to remove the statutory reference to HSC section 1506 to clarify that these are documents requested as part of a completed rate application and to avoid confusion about the differences in the requirements of a social worker for rates and licensing purposes.

Section 11-403(f)(1)(C) renumbered to 11-403(e)(1)(C)

Specific Purpose/Factual Basis:

This section is amended to reflect current law that rate requests for FFAs shall be submitted on a biennial basis. The WIC section 11463(l)(1) requires the Department to determine and establish a rate for a FFA on a biennial basis. This section is necessary to reflect current statute and for consistency and efficiency statewide administration of FFA rates in the AFDC-FC program.

Sections 11-403(f)(1)(D) and (f)(2)(B) renumbered to 11-403(e)(1)(D) and (e)(2)(B) respectively

Specific Purpose/Factual Basis:

These sections were amended for clarity and to correct cross-references.

Section 11-403(f)(3) and handbook

Specific Purpose/Factual Basis:

These sections are repealed as the Department is not imposing penalties for late rate requests in this manner. Late submissions of requests result in a delay in eligibility for funding so there are self-imposed penalties.

Section 11-403(f)(4)(A) renumbered to 11-403(e)(3)(A)

Specific Purpose/Factual Basis:

This section was renumbered and amended to correct a cross-reference for clarity and accuracy.

Section 11-403(f)(4)(A)2. et seq.

Specific Purpose/Factual Basis:

This section and its subsections are repealed as they referred to penalties that are no longer implemented.

Section 11-403(f)(4)(A)3. renumbered to 11-403(e)(3)(A)2.

Specific Purpose/Factual Basis:

This section is renumbered as a result of the repeal of Section 11-403(e)(4)(A)2.

Section 11-403(g)(1)(A)3. renumbered to 11-403(f)(1)(A)3.

Specific Purpose/Factual Basis:

This section is amended to clarify who is considered a new FFA provider. This section is necessary for accuracy, consistency and efficiency in statewide administration of FFA rates in the AFDC-FC program.

Sections 11-403(g)(1)(B)1.a. and (g)(1)(C) renumbered to 11-403(f)(1)(B)1.a. and (f)(1)(C) respectively

Specific Purpose/Factual Basis:

These sections were amended to update cross-references.

Sections 11-403(g)(2)(A) through (g)(2)(B) renumbered to 11-403(f)(2)(A)

Specific Purpose/Factual Basis:

These sections are amended to combine their information into one section to clearly identify what a new FFA program is by changes to whom and how it serves.

Sections 11-403(g)(2)(C) through (g)(2)(C)2. renumbered to 11-403(f)(2)(B) through (f)(2)(B)2. respectively

Specific Purpose/Factual Basis:

These sections are amended to make clerical and grammatical edits and to correct a cross reference.

Section 11-403(f)(2)(B)3.

Specific Purpose:

This section is adopted to require from the FFA requesting a new program, a letter of recommendation from the host county, the primary placing county or a regional consortium of counties that the FFA is needed and is able to provide services at the level of care represented.

Factual Basis:

This section is necessary to request that the agency requesting a new program provides proof of necessity and ability. This section is consistent with what is currently required under the general authority of WIC section 11463.

Section 11-403(f)(3) et seq.

Specific Purpose/Factual Basis:

This section is repealed because it is obsolete; the FFA's rate is based on the FFH basic rate pursuant to WIC section 11463(m)(1) and additional financial amounts established by the Department for child's special needs, social work, and administration. The WIC section 11463(a) and (b) directed the Department to establish a rate-setting system for foster family agencies. Additionally, WIC section 11463(p) allows the Department to amend regulations.

This repeal is necessary for accuracy, consistency and efficiency in statewide administration of FFA rates in the AFDC-FC program.

Sections 11-403(h) and (h)(1) renumbered to 11-403(g)

Specific Purpose/Factual Basis:

These sections are combined with minor edits done for clarity.

Sections 11-403(i) and (i)(1) renumbered to 11-403(h)

Specific Purpose/Factual Basis:

These sections are combined with minor edits done for clarity.

Sections 11-403(j) and (j)(1) renumbered to 11-403(i)

Specific Purpose/Factual Basis:

These sections are combined with minor edits done for clarity. The word "permissible" is changed to "allowable" to be consistent with the way in which AFDC-FC funds shall be expended as described in paragraph (b) above. The reference to paragraph (b) was added because it includes the prior reference to "Section 11-404," which is not the sole source for determining allowable expenditures. Paragraph (b) references additional sources for allowable/unallowable expenditures. This more clearly reflects current practice for collecting overpayments from FFA providers. The amendments to these sections are necessary for consistency and efficiency in statewide administration of FFA rates in the AFDC-FC program.

Sections 11-403(k) and (k)(1) renumbered to 11-403(j)

Specific Purpose/Factual Basis:

These sections are combined with minor edits done for clarity.

Sections 11-403(l) et seq. renumbered to 11-403(k) et seq.

Specific Purpose/Factual Basis:

Renumbered Sections 11-403(k)(2)(B) and (C) are amended to correct cross references.

b) Identification of Documents Upon Which Department Is Relying

SB 1013 (Chapter 35, Statutes of 2012) Section 93

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

SB 1013 (Chapter 35, Statutes of 2012) mandates that Section 93 be implemented by adopting regulations. The CDSS did not consider any other alternatives than the one proposed because there have been no other alternatives proposed.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the statutes that established FFAs.

f) Economic Impact Assessment

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

The FFA is a nonprofit "organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home (W&I Code section 11400(g))." The treatment FFA receives a rate that includes payment for social work and administrative services as described above, and an amount paid directly to the certified foster parents for the care and supervision of the child(ren). These regulations did not increase or decrease the level of social work or administrative services to be provided by the FFA; nor did they decrease the amount paid to the FFA for those services. The regulations did increase the part of the FFA treatment rate that is paid directly to the parents of the homes certified by the FFAs. This should make it easier for FFAs to recruit and retain certified foster parents.

The adoption of the proposed amendments will benefit the health and welfare of California children in a FFA placement. Worker safety and the state's environment will not be impacted by these regulation changes, as these changes do not make changes to regulations involving worker safety or the state's environment.

The following document was relied upon in proposing the regulatory action:

SB 1013 (Chapter 35, Statutes of 2012) Section 93

g) Benefits Anticipated from Regulatory Action

These regulations will ensure that all California children placed within a FFA receiving AFDC-FC funds will receive the financial assistance and services to which they are entitled; and that the basic rate paid is on par with FFHs, Kinship Guardianship Assistance Payment and other similar foster care placements.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.