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March 13, 2019

ALL COUNTY LETTER (ACL) NO. 19-24

TO ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CONSORTIUM PROJECT MANAGERS
ALL COUNTY CHILD WELFARE SERVICES PROGRAM
MANAGERS
ALL COUNTY ELIGIBILITY SUPERVISORS
ALL COUNTY FOSTER CARE MANAGERS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL COUNTY CALWORKS PROGRAM SPECIALIST
ALL TITLE IV-E AGREEMENT TRIBES
COUNTY WELFARE DIRECTORS ASSOCIATION

SUBJECT: **FREQUENTLY ASKED QUESTIONS (FAQS) RELATED TO
EMERGENCY CAREGIVER (EC) FUNDING PRIOR TO
RESOURCE FAMILY APPROVAL (RFA)**

REFERENCE: ASSEMBLY BILL [\(AB\) 110](#) (CHAPTER 8, STATUTES OF 2018);
[AB 1811](#) (CHAPTER 35, STATUTES OF 2018); WELFARE AND
INSTITUTIONS CODE (WIC) SECTIONS [309](#), [361.4](#), [361.45](#),
[11461.35](#), [11461.36](#) AND [16519.5](#); ALL COUNTY LETTER (ACL)
NOS. [05-38](#), [16-92](#), [17-75](#), [18-33](#), [18-75](#) AND [18-128](#); COUNTY
FISCAL LETTER (CFL) NOS. [17/18-41](#), [17/18-59](#) AND [18/19-03](#)

The purpose of this All County Letter (ACL) is for the California Department of Social Services (CDSS) to respond to FAQs it has received from county welfare departments regarding EC funding for families prior to RFA. The FAQs portion of this ACL will reference applicable ACLs and County Fiscal Letters (CFLs) issued by the CDSS. To the extent that anything in this ACL conflicts with the instructions in [ACL 05-38](#), this ACL prevails.

Background

The RFA Program implemented a unified process for approving families to care for children in foster care, including relatives, Non-Relative Extended Family Members (NREFMs), county-licensed foster parents, and Foster Family Agency (FFA) certified foster families. In some counties, the RFA process was taking longer than anticipated, so to mitigate the financial impact incurred by families caring for children with little notice and prior to approval, EC funding was established. As outlined in [ACL 18-33](#) and [ACL 18-75](#), children placed with families on an emergency or compelling reason basis and have a RFA application pending, qualify for EC funding. Following programmatic requirements outlined in these ACLs, counties are required to provide the EC with a payment equal to the basic level rate paid to resource families. The current basic level rate is \$960 ([ACL 18-89](#)).

Review of EC Funding and use of Emergency Assistance (EA)

For [AB 110](#), short-term, interim funding of EC cases that were funded either through the EA or Approved Relative Caregiver (ARC) programs, counties shall continue to fund these cases consistent with the rules described in ACL 18-75. [AB 110](#) cases funded through the ARC program, as of June 30, 2018, shall continue to receive payments using the ARC program until the RFA application is approved or denied. ECs eligible to receive [AB 110](#) funding under the EA program as of June 30, 2018, shall continue, if eligible, to receive payments through the EA program up to a total of 180 days of payments and may receive up to 365 total days of payment if all requirements are met; e.g., documenting good cause reason(s) for the delay in approving or denying RFA applicants. Counties are reminded that when an RFA application is approved, the county **must** shift payments to the appropriate Foster Care or ARC aid code. The CDSS expects that the majority of cases that were approved for AB 110 funding have been either approved or denied by the time this letter is issued.

For funding made available through [AB 1811](#) and placements made on or after July 1, 2018, EC funding is funded through the Temporary Assistance for Needy Families (TANF)-Emergency Assistance (EA) Program or for children who are determined to be ineligible for the TANF-EA Program, a combination of state and county funding is used. Rules for determining TANF-EA eligibility remain the same, however, the duration of allowable EA payments have changed (as outlined below). As a reminder, to initiate funding for EC funded cases on or after July 1, 2018, counties must follow guidance on page two of [ACL 18-75](#).

Prior to the implementation of EC funding through AB 110 and AB 1811, TANF-EA Program restricted payments for relatives to 30 days, although TANF-EA funding for NREFMs/non-relatives was available for up to a twelve-month period (for a single episode per family). This policy limited a county welfare department's access to funding for pre-approval placements with a relative. [AB 110](#) and [AB 1811](#) permit counties to fund eligible EC cases, including relatives, with TANF-EA for up to 180 days or up to 365 days if certain criteria are met (see [ACL 18-75](#)), or until the EC is approved or denied as a resource family, whichever is first.

The following is a list of FAQs CDSS has received from counties:

1. If a child is placed with an EC pending RFA and the child is subsequently moved and placed in the home of a different EC, also pending RFA, is the new caregiver entitled to receive EC funding up to 180/365 days?

Response: Yes, so long as all the requirements for EC funding pursuant to [ACL 18-33](#) and/or [ACL 18-75](#) are met, they may receive payments up to 180 or 365 days for fiscal year 2018/19.

2. For EC funding purposes, may a county abate a TANF-EA case if the child is returned home to the parent and a new removal episode from the home subsequently occurs?

Response: If more than one removal episode occurs prior to approval of an RFA application, the county may abate the first EA out-of-home episode. For example, if the child is returned home to the parent, the initial removal episode is closed, and one month later, a new subsequent removal from the home occurs. Under this scenario, the county would need to abate the first episode by backing out one month of TANF-EA assistance payment from the prior episode and replace it with county funds. A new EA application must be processed, and the assistance authorized for the new emergency the county is choosing to claim. The new emergency consists of a new removal episode and, therefore, a new 180-day period of eligibility for TANF-EA may occur. This policy is outlined in [ACL 05-38](#) and applies to cases that are both initially and subsequently determined eligible for TANF-EA.

3. In some circumstances, a child may be placed with an applicant pending approval as a resource family and returned to a parent prior to RFA approval. If the child is subsequently removed from the parent and re-placed with the same RFA applicant, do any days of EC funding previously paid count against the total number of EC payments that may be made in the case?

Response: Generally, yes. Consistent with previous policy guidance for short-term interim funding of EC cases (ACL 18-75, Page Five), the number of days that payments were received count towards the limit of 180 days or 365 days when the child is re-placed with the same RFA applicant. There are two exceptions to this rule. First, if the child was placed with the RFA applicant more than 12 months prior, a new EA application should be made, triggering a new period of eligibility. Second and consistent with Question 2, if the placement was fewer than 12 months prior, the county may abate the prior TANF-EA payments.

4. If a child/youth is placed with an EC and is absent from the placement, how is the EC payment impacted?

Response: If the child/youth is absent for no more than 14 calendar days in a month, the EC will receive the full monthly payment amount. However, day(s) a child/youth is absent from the EC home, count toward the 180-day period of EC funding. If the child/youth is AWOL and/or absent from the home for more than 14 calendar days in a month, the EC payment must be prorated accordingly. This policy is consistent with foster care regulations under Manual of Policies and Procedures (MPP) 45-302.231(a).

5. If a child moves from one EC home to another EC home, does it require the county to complete a new EA 1 application?

Response: Under this scenario, the county does not have to complete a new EA 1 application for EC funding purposes. However, as a best practice, if a county determines completing a new EA 1 application is helpful to track EC funded cases, it may do so.

6. Do other types of cases qualify for funding? For example, if a county is unsure of child's immigration status, can the case qualify for EC funding? Also, can probation cases qualify for EC funding if they meet the requirements outlined in [ACL 18-33](#) and [ACL 18-75](#)?

Response: Yes. Regardless of their immigration status, children who meet the EC requirements outlined in [ACL 18-33](#) and [ACL 18-75](#) may receive EC funding. Probation cases that meet requirements in the ACLs listed above may also qualify for EC funding.

7. Has the TANF-EA claiming time-limit rule, which is the amount of time you can claim TANF funds, changed from a maximum duration of twelve months to six months?

Response: Yes. As a result of establishing EC funding for cases, TANF-EA was changed to a six-month period of eligibility. However, for Fiscal Year 18/19, EC cases may receive funding beyond 180 days and up to 365 days, if a county documents good cause reasons for the delay in approving or denying resource family applicants(s) created by circumstances outside the direct control of the county.

8. Are Social Security Numbers (SSNs) required to access EC Funding?

Response: Yes. When a child's SSN is not available, or the child does not have an SSN at the time an RFA and or EA application is taken, the county may use a MEDS' pseudo SSN until the SSN is identified.

9. How is the EC Funding payment determined if a child placed in an emergency or compelling reason placement is receiving Social Security benefits or other unearned income?

Response: A recipient cannot be in receipt of two federal aid payments that exceed the total amount they would be entitled to receive for the monthly family basic level rate of the home-based family care rate structure. If a child in an emergency placement is concurrently receiving TANF-EA benefits and SSI benefits, the county would have to notify the Social Security Administration (SSA) and inform them the child is receiving TANF-EA benefits. The SSA will then suspend the SSI payment. For example, if the child is receiving \$500 in SSI benefits and \$960 in TANF-EA benefits, SSA will suspend the \$500. The EC would then receive the \$960 in TANF-EA payment amount.

10. A child was placed with a NREFM on July 6, 2017, and on July 11, 2017, an RFA application was received. The county used TANF-EA funding and the 12-month EA episode with the caregiver has expired, can this case qualify for EC funding?

Response: No, based on the date of placement and RFA application, this case is not eligible for EC funding. In the scenario described above, the resource family application has been pending for more than 365 days which is significantly past the statutory allowance.

11. If a county has an emergency caregiver placement case in which a child is eligible to the TANF-EA Program (eligibility established on July 28, 2017) and was placed with an emergency caregiver (relative or NREFM) pending approval of an RFA application on July 10, 2018, does this case qualify for EC funding and how is the case to be funded?

Response: Yes, placements with an emergency caregiver made on or after July 1, 2018, pursuant to ACL 18-75, qualify for EC funding. Given the date that eligibility was established and the date of the placement, this case is no longer federally eligible. Until further instructions are provided via a CFL, counties shall continue to use Aid Code 5K (EA) and to flag such case(s) in their child welfare automation system as a non-federal EA case.

12. Under [AB 110](#), do counties continue paying and using the TANF-EA funding source until the RFA is completed?

Response: Yes, with some limitations. Per Welfare and Institutions Code (WIC) 11461.36 and 11461.36(f): *An emergency caregiver eligible for payments pursuant to subdivision (b) of Section 11461.35, as that section read on June 30, 2018, shall continue to be eligible for those payments on and after July 1, 2018, until the emergency caregiver's resource family application is approved or denied.*
(2) Funding for a payment described in paragraph (1) shall be as follows:
(B) If the emergency caregiver was eligible to receive payments funded through the Emergency Assistance Program, payments shall be made through that program, subject to the following conditions: (i) Up to 180 total days or, if the conditions of subparagraph (D) are met, up to 365 total days of payments shall be made to the emergency caregiver through the Emergency Assistance Program. For the purpose of this subdivision, "total days of payments" includes all payments made to the emergency caregiver through the Emergency Assistance Program pursuant to this section and section 11461.35, as that section read on June 30, 2018.

Therefore, the emergency placement made prior to July 1, 2018 may continue to be funded with TANF-EA, up to 180 days or, if conditions are met, up to 365 days. However, the funding source for the placement must be changed to AFDC-FC or the Approved Relative Caregiver Funding Program, as appropriate and consistent with existing eligibility requirements, once the home is approved as a Resource Family.

13. How does EC funding impact a County Welfare Department (CWD) when Probation cases are eligible for payments under the TANF-EA program?

Response: There is no impact, because there is no allocation to a CWD or to a County Probation Department (CPD) for EC cases/payments. The EC payment is an assistance payment. CWDs and CPDs shall follow the instructions for funding and claiming EC cases in ACL's [18-33](#), [18-75](#), and CFL [18/19-03](#).

14. Can counties continue with prior EA policy that allows TANF-EA payments to continue up to 12 months for cases not impacted by [AB 110](#) or [AB 1811](#)?

Response: No. TANF-EA policy and funding has changed. Counties are now limited to a 180-day period of funding for placement types not impacted by AB 110 or AB 1811.

15. May a county use EC funding to provide supplemental payments such as a Specialized Care Increment (SCI)?

Response: No. EC funding is limited to the resource family basic level rate per month, per child. For fiscal year 2018-19, the current rate is \$960 per month, per child. Nothing prohibits a county from using local funds to supplement EC funding.

16. Do families qualify for emergency caregiver funding if the court ordered the placement with the emergency caregiver at the detention hearing or over the objection of the county?

Response: Yes. In some cases, the county will be unable to make the emergency placement of a child with a relative or NREFM prior to the detention hearing but will desire to do so at or after the detention hearing. In these cases, emergency caregiver funding is available to support the placement, assuming all EC eligibility conditions are met. Courts have the authority to order an emergency placement even if the county objects to the placement. In these situations, the child will be eligible for EC funding as long as the child is in the placement and care responsibility of the county child welfare or probation agency, the family has completed the WIC 361.4 assessment, an RFA 01A has been submitted, and all other eligibility conditions are met as described in [ACL 18-75](#). Families who meet the requirements outlined in [ACL 18-75](#) are eligible for emergency caregiver funding. If the family is approved as a resource family, they will continue to receive funding in the form of regular FC benefits. If RFA is denied, funding will stop immediately. If the family is denied but the child remains placed and the caregiver is a relative of the child, the caregiver should apply for CalWORKs.

As previously stated in [ACL 18-75](#), the Department has secured an aid code for cases that are not eligible for the TANF-EA program. The Department created Aid Code 5L (made effective in March), to be used for Non-Federally eligible cases. Aid Code 5K will remain for cases federally TANF-EA eligible. A CFL will provide more instruction on the use of Aid Codes 5K and 5L.

Further guidance and information regarding the EC funding for FY 2019-20 will be provided in a subsequent ACL. If you have questions related to RFA, please send an email to RFA@dss.ca.gov. Questions related to EC funding, please send an email to ECfunding@dss.ca.gov. Additionally, questions related to claiming, please send email to Fiscal.Systems@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
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Children and Family Services Division