

September 4, 2019

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 19-84

The purpose of the letter is to provide updated information regarding funding for emergency caregivers with placement of children or nonminor dependents prior to approval as a Resource Family or as a Tribally Approved Home.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

September 4, 2019

ALL COUNTY LETTER (ACL) NO. 19-84

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CALWORKS PROGRAM SPECIALISTS
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 TITLE IV-E AGREEMENT TRIBES
ALL FEDERALLY RECOGNIZED TRIBES
COUNTY WELFARE DIRECTORS ASSOCIATION

SUBJECT: UPDATED INFORMATION REGARDING FUNDING FOR EMERGENCY CAREGIVERS WITH PLACEMENT OF CHILDREN AND/OR NONMINOR DEPENDENTS (NMDS) PRIOR TO RESOURCE FAMILY APPROVAL (RFA) OR AS A TRIBALLY APPROVED HOME (TAH)

REFERENCE: [SENATE BILL 80](#) (CHAPTER 27, STATUTES OF 2019); [ASSEMBLY BILL \(AB\) 110](#) (CHAPTER 8, STATUTES OF 2018), [AB 1811](#) (CHAPTER 35, STATUTES OF 2018); [WELFARE AND INSTITUTIONS CODE \(W&IC\) 224.1](#), [W&IC 309](#), [W&IC 361.4](#), [W&IC 361.45](#), [W&IC 11461.36](#) AND [W&IC 16519.5](#); [ALL COUNTY LETTER \(ACL\) NOS. 05-38](#), [16-92](#), [17-75](#), [18-33](#), [18-75](#) AND [19-71](#); [COUNTY FISCAL LETTER \(CFL\) NOS. 17/18-41](#), [17/18-59](#) AND [18/19-81](#)

The purpose of this ACL is to notify county child welfare agencies, probation agencies, tribes, and other interested stakeholders about the continuation of funding, hereinafter referred to as Emergency Caregiver (EC) Funding, for families with whom a child or NMD has been placed on an emergency basis, pursuant to [W&IC 309](#) or [W&IC 361.45](#), or for a compelling reason pursuant to [W&IC 16519.5](#), who are pending approval as a Resource Family.

Another key purpose of this ACL is to notify tribes, tribal agencies, county child welfare agencies, and probation agencies that on or after July 1, 2019, EC Funding shall be paid to an emergency caregiver with whom an Indian child, as defined in [W&IC 224.1](#), has been placed on an emergency basis, pursuant to [W&IC 309](#) or [W&IC 361.45](#), who are pending approval as a TAH as defined in [W&IC 224.1](#). For purposes of this ACL, any reference to a child will also include a NMD.

BACKGROUND

For the period of March 30, 2018, through June 30, 2018, all counties were required to provide Short-Term, Interim Funding, as described in [ACL No. 18-33](#), to caregivers who had received an emergency or compelling reason placement of a child prior to completing the RFA process.

For emergency placements made on or after July 1, 2018, and through June 30, 2019, all counties were required to provide EC Funding, as described in [ACL No. 18-75](#), to caregivers who had received an emergency or compelling reason placement of a child prior to completing the RFA process.

PROVISION OF EC FUNDING FOR CAREGIVERS WHO ARE PENDING TAH APPROVAL

The EC funding, as it relates to an Indian child placed in a home pending completion of the TAH approval process, takes effect July 1, 2019, and requires each county to provide payment, equal to the basic level foster care rate, to the emergency caregiver who is pending approval as a TAH. As described more fully in [ACL No. 19-71](#), a TAH is a home that has been licensed or approved for placement of an Indian child by the Indian child's tribe, or a tribe or tribal organization designated by the Indian child's tribe, for foster care or adoptive placement using standards established by the Indian child's tribe. The core provisions of the EC funding as it relates to caregivers who are pending TAH approval are listed below:

- The placement is made pursuant to subdivision (d) of [W&IC 309](#) or [W&IC 361.45](#);
- The caregiver has been assessed pursuant to [W&IC 361.4](#);
- The child is not otherwise eligible for Aid to Families of Dependent Children-Foster Care (AFDC-FC) or the Approved Relative Caregiver Funding program (ARC), pursuant to [W&IC 11461.3](#), while placed in the home of the caregiver;
- The child resides in California;
- The tribe or tribal agency has initiated the process for the home to become tribally approved; and
- An application for the Emergency Assistance Program has been completed by the placing agency.

Information on the provision of EC Funding as it relates to the placement of an Indian child with an emergency caregiver who is pending approval as a TAH is blended throughout the ACL.

EC FUNDING FOR PLACEMENTS MADE PRIOR TO APPROVAL ON OR AFTER
JULY 1, 2019¹

Effective July 1, 2019, all counties must provide a payment, equivalent to the basic level rate for a resource family, to the emergency caregiver on behalf of a child who has been placed prior to RFA or pending approval as a TAH. The EC funding will be funded through either the Emergency Assistance (EA) Program or, for children who are determined to be ineligible for the EA Program, through a combination of state and county funding. All of the following events are required to initiate the funding:

1. Placement Occurs: On or after July 1, 2019, a placement prior to approval is made in California on an emergency basis pursuant to [W&IC 309](#) or [W&IC 361.45](#) or for a compelling reason pursuant to [W&IC 16519.5](#). Please note the compelling reason placement provision only applies for caregivers pending RFA and therefore does not apply in instances where an Indian child is placed with an emergency caregiver **pending TAH approval**.

The beginning date of aid for EC funding shall be the date of placement.

2. Submission of RFA Application (RFA-01A) or Initiation of TAH Process by Tribe: The emergency caregiver submits an [RFA-01A application](#) or the tribe notifies the county that the TAH process has been initiated. When the emergency placement has been made pursuant to [W&IC 309](#) or [W&IC 361.45](#), for purposes of the RFA process, the RFA application must be submitted by the emergency caregiver within five business days of placement. In instances where the [RFA-01A application](#) is submitted late, the emergency caregiver will still be eligible for EC funding. The format of the TAH process notification by the tribe or tribal agency is not prescribed and may vary among tribes. It is incumbent upon the county and tribe to collaborate to ensure timely notification.
3. Completion of EA application (EA-1): Obtain confirmation that an [EA-1 application](#) is on file or ensure that an EA-1 application is submitted at time of placement or as soon as possible following the placement.

To initiate the payment without delay, counties are strongly encouraged to obtain a signed [RFA-01A application](#) from the emergency caregiver at time of placement and immediately verify that the child has an [EA-1 application](#) on file.

¹ Counties are reminded that all requirements and criteria of the EC Funding for fiscal year 2018-19, as described in [ACL No. 18-75](#), remain the same.

In instances where the child has been placed prior to approval with an emergency caregiver who is working with the tribe to become a TAH, the county and tribe will need to collaborate to ensure that funding is issued promptly.

EA ELIGIBILITY

The EC payments are funded through EA-TANF (Temporary Assistance for Needy Families). The EA eligibility rules as outlined in [ACL No. 05-38](#) continue to apply. However, prior rules limiting the time a child placed with a relative may receive EA are superseded by [ACL No. 18-75](#). Please refer to [ACL No. 18-75](#) for more information. Additionally, [ACL No. 19-24](#) provides frequently asked questions related to eligibility criteria and EC Funding.

The department has secured Aid Code 5L for those EC cases not eligible for EA-TANF and claiming instructions regarding Aid Code 5L can be found in [County Fiscal Letter \(CFL\) No. 18/19-81](#). Please be reminded that for cases that are EA-TANF eligible, counties must use Aid Code 5K.

FUNDING DURATION AND REQUIREMENTS

For Fiscal Year (FY) 2019-20, EC funding will be available for emergency or compelling reason placements made on or after July 1, 2019, and through June 30, 2020, and will be funded through the EA program for up to **120 days**² (or until the emergency caregiver is approved or denied as a Resource Family (RF) or a TAH, or if the child is no longer placed in the home, whichever is first). The county will be responsible for the non-federal share of the payment, and the existing share ratios described in [ACL No. 18-33](#) and [ACL No. 18-75](#) are still applicable.

In cases where the county has determined, based upon existing EA eligibility criteria, that a child is **ineligible** for EA, the child will still qualify for EC funding for up to **120 days** (or until the emergency caregiver is approved or denied as a RF or TAH, or if the child is no longer placed in the home, whichever is first). In such cases, the state will fund what would have been the federal share if the child had been eligible for EA.

| | EA Eligible | | | Non EA Eligible | | |
|-------------------|--------------------|-------|--------|------------------------|-------|--------|
| | Federal (EA-TANF) | State | County | Federal (EA-TANF) | State | County |
| 0-120 days | 70% | 0% | 30% | 0% | 70% | 30% |

² It should be noted the amended 120 day benchmark is unique to the provision of EC Funding for FY 2019-20, and does not amend the 90 day requirement to complete the approval process of a caregiver who has received placement of a child prior to approval as a RF as specified in [W&IC 16519.5\(e\)\(2\)](#).

Regardless of the funding stream, EC payments for emergency or compelling reason placements made for FY 2019-20 may be continued past 120 days and up to 365 days if the following criteria are met:

1. On a monthly basis, document the good cause reason(s) for the delay in approving or denying applicant(s) created by circumstances outside the direct control of the county. For example, background checks and criminal exemptions, out-of-county placements, the need for additional evaluative assessments, or family emergencies, among other reasons, if outside the **direct control** of the county, may be considered a good cause for the delay. Good cause must be determined on a case-by-case basis and documentation substantiating the good cause determination must be maintained in the RFA applicant's file **or** a county file associated to the Indian child.
2. The county child welfare director (or designee) or Chief Probation Officer (or designee) is notified on a monthly basis, of each RFA application or TAH applicant with a placement prior to approval that is pending beyond 120 days and this notification is documented in the RF file **or** a county file associated to the Indian child. Counties and tribes may develop their own local processes for meeting this requirement.
3. The existing monthly reporting template sent to counties by the department will be revised to reflect the new 120-day reporting benchmark and the identification of families with placement of an Indian child, who are pending TAH approval. The county may develop their own local process with the tribe or tribal Agency to obtain the information required for this provision. The revised template and instructions will be released separately.

CLAIMING INSTRUCTIONS

Please refer to [CFL No. 18/19-81](#) for claiming instructions.

Counties are reminded that once the RFA application or the TAH is approved, the county **must** shift the funding source to federal or nonfederal AFDC-FC or the ARC program, as appropriate and consistent with existing eligibility requirements. The county must make every effort to ensure that a caregiver does not experience a break in payments in the transition from EC funding to the appropriate foster care or ARC aid code. In the case of a denial or if the child is no longer placed with the family, counties must cease the EC funding to the emergency caregiver.

CHILD WELFARE SERVICES/CASE MANAGEMENT SYSTEM (CWS/CMS) AND THE STATEWIDE AUTOMATED WELFARE SYSTEMS (SAWS)

Currently, in order for a caregiver who has received placement of a child prior to approval as a Resource Family or as a TAH to receive funding, the applicant must be

coded in the CWS/CMS or SAWS to reflect an approval status. Therefore, to work around this requirement, counties will need to utilize the date of placement as the date of approval, in order to establish the first date of payment. Once the family is approved, this date must be updated to reflect the date of final approval. Per CWS/CMS instructions listed on the RFA Website, the applicant type for an emergency or compelling reason placement should be entered as "RFA Probationary". For CWS/CMS data entry purposes, tribally approved homes should be coded as a tribal specified home in CWS/CMS.

NOTICE OF ACTION (NOA) REQUIREMENTS

Consistent with existing rate change and determination processes, due process rights will continue to be afforded to families through NOAs. Counties will notify families by issuing an NOA that explains the EC funding, as described in this ACL, to the emergency caregivers who have received emergency or compelling reason placement of a child, on or after July 1, 2019, and prior to full RFA approval or completion of the TAH approval process. Conversely, the termination of the EC funding to the emergency caregiver must be noticed as well. New versions of the NOAs to be utilized for FY 2019-20 EC Funding will be issued separately. For placements that occurred prior to July 1, 2019, the existing NOAs ([RFA 100](#) and [RFA 100A](#)) shall continue to be utilized.

OUT OF COUNTY (OOC) APPROVAL PROTOCOL

As previously explained in [ACL No. 18-75](#), the provisions of the OOC Approval Protocol (posted on the RFA webpage) are expected to be adhered to by both counties (county of child's jurisdiction and the emergency caregiver's county of residence) and both counties should collaborate to ensure that the payments described in this letter are properly administered and monitored by the child's **county of jurisdiction**.

ADDITIONAL INFORMATION

The California Department of Social Services (CDSS) is mandated to monitor the implementation of the EC funding, including tracking the usage and duration of the EA payments and evaluating the duration of time a child is in a home pending RFA or pending completion of the TAH process. In the event that CDSS determines that a county continues to experience delayed processing timeframes, not based upon good cause, it may conduct a review of the county's implementation of the EC funding. Until automation is available, CDSS may request data elements necessary to meet these monitoring requirements.

For policy or program questions related to this ACL, please email ECFunding@dss.ca.gov. Questions about the RFA program, please send to RFA@dss.ca.gov. For questions related to TAHs, please contact TAH@dss.ca.gov. For questions about tribal affairs, please contact TribalAffairs@dss.ca.gov. Questions related to claiming should be directed to Fiscal.Systems@dss.ca.gov.

Sincerely,

Original Document Signed By:

CHERYL TREADWELL FOR

GREGORY E. ROSE
Deputy Director
Children and Family Services Division