

April 17, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 20-44

This All County Letter (ACL) will provide guidance regarding new resources and flexibilities intended to support the emergency care and placement needs of children and nonminor dependents at risk of sudden displacement during the Novel Coronavirus (COVID-19) state of emergency.



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



GAVIN NEWSOM
GOVERNOR

April 17, 2020

ALL COUNTY LETTER NO. 20-44

TO: ALL LICENSED CHILDREN'S RESIDENTIAL FACILITIES
ALL LICENSED CHILDREN'S RESIDENTIAL PROVIDERS
ALL FOSTER CARE MANAGERS
ALL COUNTY WELFARE DIRECTORS
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY WELFARE FISCAL OFFICERS
ALL INDEPENDENT LIVING PROGRAM MANAGERS
ALL INDEPENDENT LIVING PROGRAM COORDINATORS
ALL TRANSITIONAL HOUSING COORDINATORS
ALL COUNTY RFA AND ADOPTION PROGRAM MANAGERS
ALL CDSS ADOPTION REGIONAL OFFICES
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: EMERGENCY PLACEMENT AND RATE FLEXIBILITIES TO
SUPPORT THE EMERGENCY CARE AND PLACEMENT NEEDS
OF CHILDREN AND NONMINOR DEPENDENTS DUE TO COVID-
19 IMPACTS

REFERENCE: [GOVERNOR'S PROCLAMATION OF A STATE OF EMERGENCY,
MARCH 4, 2020](#); PLACEMENT PRESERVATION GUIDANCE
[ACL 20-33](#); PROVISION OF CHILD WELFARE SERVICES
DURING COVID-19 [ACL 20-25](#); [EXECUTIVE ORDER N-53-20](#)

The purpose of this letter is to provide county child welfare agencies, Title IV-E agreement tribes,¹ tribal partners, and probation departments with guidance regarding new placement and funding flexibilities intended to support the emergency care and placement needs of children and nonminor dependents (NMDs)² due to the current COVID-19 emergency.

¹ For the purpose of this letter, this means the tribes with a Title IV-E of the Social Security Act agreement established pursuant to Welfare and Institutions Code section 10553.1.

² For the purpose of the rest of this letter, child includes minors and nonminor dependents, as applicable.

Pursuant to the authority in the Governor's April 17, 2020 Executive Order N-53-20 (EO N-53-20), the Department is announcing the following temporary statewide waivers and flexibilities related to emergency placement criminal background checks processes and eligible caregivers, and authorized rate flexibility for specified placements. Use of these waivers and flexibilities is subject to the Waiver Terms and Conditions set forth in this ACL.

The Indian Child Welfare Act and Children in Care

County agencies and service providers are reminded that the provisions of the Indian Child Welfare Act of 1978 (ICWA) continue to be in force during this emergency, and all existing federal and state ICWA requirements must be met. Counties must contact the specific Indian child's tribe regarding the emergency care and placement needs of the Indian child. Collaborating closely with the child's tribe is essential in order to determine if an emergency placement will utilize the RFA or TAH process. Counties should contact both local tribes and any specific Indian child's tribe(s) to determine whether the tribe(s) have changed any of their own procedures in response to the COVID-19 pandemic and to ensure the accuracy of contact information for tribal representatives and service providers. Counties and tribes may need to develop or modify interim inter-governmental protocols during this emergency.

The CDSS's Office of Tribal Affairs and other programs are available to provide technical assistance to all tribes on accessing child welfare services. The Office of Tribal Affairs can be reached at (916) 657-3539 or TribalAffairs@dss.ca.gov.

Emergency Placements

Current law authorizes emergency placements of a child with a relative, nonrelative extended family member (NREFM), or in the case of an Indian child, a caregiver pending approval as a tribally approved home (TAH),³ pursuant to Welfare and Institutions Code (WIC) sections [309](#), [361.45](#), or [727.05](#).

During the effective period of EO N-53-20, if there is currently no relative, NREFM, TAH pending approval, or "compelling reason" placement pursuant to WIC section [16519.5\(e\)](#) available, and if a community family that has not yet been approved ("unapproved family")⁴ has been identified as a potential placement for a specific child and is willing and able to provide immediate care for a child, the county may utilize the emergency placement process set forth in WIC sections 361.4 or 727.05. An unapproved

³ [As defined in Welfare and Institutions Code 224.1](#)

⁴ For the purpose of this guidance, an unapproved community home means a family that is not an approved resource family or TAH, and is not a relative or NREFM.

community family includes a family that is working with a Foster Family Agency (FFA) toward approval as a resource family.

Emergency placements with a relative, NREFM, or community family assessed under the additional temporary flexibility described in this letter, must be assessed pursuant to the existing emergency placement process in WIC section [361.4](#) or [727.05](#), as applicable, and must include the in-home inspection of the potential home, in addition to California Law Enforcement Telecommunications System (CLETS) and child abuse checks. For more information regarding CLETS and Child Abuse Central Index (CACI) requests, please see [ACL 20-28](#).

The requirements for an in-home inspection to assess the safety of the home and the ability of the potential caregiver to care for the child's needs set forth in WIC sections 361.4 or 727.05, as applicable, are not waived or amended. It is critical for this in-home inspection to occur in order to determine whether there are other adults residing or regularly present in the home. Such inspections may not be conducted via telephone or videoconferencing. Additionally, at the time of placement, the [RFA 01B](#), which requires criminal history disclosures and is signed under penalty of perjury, must be completed and signed by the caregiver and any other adult residing in the home. For a home pending tribal approval, the affected individuals must issue a statement indicating whether the individual has ever been convicted of a crime other than a traffic infraction pursuant to [ACL 19-71](#). The tribes or tribal agencies may choose to use the [LIC 508D](#) to complete this requirement.

Generally, a fingerprint-based criminal background check through Live Scan must be initiated within five days of the emergency placement. Due to COVID-19 related closures of some live scan sites, the availability of live scan services may be limited in certain regions. If local live scan services are not reasonably available, the timeframe within which the caregiver, or other adults residing or regularly present in the home, must submit fingerprints may be extended up to 90 days after the Department provides notice that the California Department of Public Health no longer requires physical distancing. However, to the extent that local live scan services become available sooner, county placing agencies and Title IV-E agreement tribes should prioritize the completion of background check clearances for those families with emergency placements. To determine if a live scan site within a reasonable distance from the caregiver's residence is open, please check the [Department of Justice](#) website at: <https://oag.ca.gov/fingerprints/locations>. This website is striving to maintain an up to date list of available locations.

Pre-Approval Funding

Emergency caregivers, and community families assessed under the additional temporary flexibility described above, are eligible for emergency caregiver funding pursuant to WIC section [11461.36](#). County placing agencies should still ensure that the [RFA-01A](#) and [EA-1](#) have been completed to initiate the funding pursuant to [ACL 19-84](#). For a home pending approval as a TAH, the EA-1 should be submitted and the approval process initiated under the specific tribe's standards, as outlined in [ACL 19-84](#). Absent confirmation from the tribe that the home will be assessed or approved as a TAH, the county placing agency should proceed with the RFA approval process. During the effective period of EO N-53-20, emergency caregiver funding shall not be discontinued if the approval exceeds 365 days when the determination to approve or deny the RFA application has been delayed due to the COVID-19 emergency. For cases claimed under Aid Code 5K (TANF eligible cases), counties are instructed to continue payments beyond the 365 days, and claim those payments to Aid Code 5L (Non-TANF eligible cases). Note that State and Federal Aid to Families with Dependent Children-Foster Care (AFDC-FC) funding is not available until the family is approved as a resource family or TAH, with all required background checks completed.

Temporary Authorization of Higher Rates for Placements Impacted by COVID-19

Children who have been exposed to, who present symptoms of, or who test positive for, COVID-19 may temporarily need a higher level of specialized medical care and supervision from their caregivers, and potentially a higher level of services from providers. Therefore, through this letter, CDSS authorizes the temporary use of COVID-19 as a Static criteria. The Static Rate or Family Only Rate will apply to children in the following situations:

- The child or another member of the household requires isolation or quarantine due to COVID-19 or suspected COVID-19 and, as a result, there are increased care and supervision needs.
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- The child requires a new placement due to sudden displacement brought on by the COVID-19 crisis and the child is at risk of shelter placement.

For a child who meets the criteria provided above, effective as of the date of this ACL, CDSS authorizes the temporary use of the Family Only Rate (\$2609 per child per month), which may be paid to an emergency caregiver, resource family, TAH, or a licensed or certified foster home on behalf of the child regardless of whether a Level of Care Protocol determination has been completed. If the child is placed with an FFA, the FFA Static Rate will be \$6291 (which includes \$2609 to be paid directly to the caregiver who is certified or approved by the FFA). If the child is not placed with an FFA family,

the county may authorize the Family Only Rate described above, and a payment to an FFA or community-based organization equal to the \$3,682 FFA administrative portion, to provide wraparound-like supports to the child and family.

The county placing agency must document the increased rate in the placement agreement, send the completed SOC 500 to eligibility, and update the child's case plan. The county must track individual cases and payments until such time as the increased rate is no longer authorized. The increased rate should be paid using the child's existing aid code.

STRTP-Eligible Children Placed in a Family Home Setting with Exceptional Supports

Short-Term Residential Therapeutic Program (STRTP) placements may be impacted by facility staffing issues or capacity limits due to isolation and quarantine responses caused by COVID-19. Therefore, if the Static Rate described above is insufficient to meet the needs of a child because of COVID-19 concerns and that child was assessed as needing an STRTP level of care, the Department is authorizing counties to negotiate a rate, not to exceed the STRTP rate, with an FFA that is willing to accept placement of the child and able to provide individualized exceptional care, supervision, and services. Additionally, if the child is not placed with an FFA, a county may utilize this flexibility to pay a negotiated rate to a family and a payment to an FFA or community-based organization that has the capacity to provide a wraparound level of exceptional care and services to a family caring for a child who meets the above criteria, which combined shall not exceed the STRTP rate.

These negotiated rates are authorized to cover exceptional specified needs that are documented in the case plan and the needs and services plan. The placement agreement should reflect the negotiated rate amount. In developing a negotiated rate, county placing agencies should document the amount paid to the family for care and supervision and the administrative amount retained by the FFA based on the nature and intensity of services, supports, and any essential training that is provided by the FFA to the family.

Fiscal and Claiming Guidance

The Statewide Automated Welfare Systems (SAWs) may issue temporary foster care maintenance payments (FCMP) by utilizing the non-standard rate mechanism. The SAWs payment systems shall ensure cases are identified and tracked with a special indicator or flag. Tracking of temporary FCMP rates shall continue until such time as these rates are no longer authorized by CDSS. If a new temporary FCMP rate becomes effective during any day of a month, pursuant to standard practice, a proration

of the payment shall occur. Counties should continue to claim using the appropriate existing and corresponding aid codes within the current claiming structure for these rates. No new aid codes will be created to capture these costs.

Additional guidance will be forthcoming regarding how state general fund reimbursement will be made available. In order to ensure that counties receive the maximum eligible state General Fund reimbursement, the county must separately track and identify expenditures for placements utilizing the rate flexibilities identified in this ACL. For reconciliation purposes, and to ensure that temporary rates are made available as quickly as possible, CDSS encourages collaboration amongst county foster care program managers and fiscal officers.

The FFA provider shall use the [FCR 12FFA](#) form to report expenditures. If a county exercises the temporary rate options outlined in this letter, the county must notify the CDSS Foster Care Rates Bureau via email at LOC@dss.ca.gov to receive needed technical assistance and tracking templates.

Regional Center Rates Flexibility

On March 12, 2020, the Director of the Department of Developmental Services issued a [Directive](#) to regional centers waiving specified requirements, including delegating to regional center Executive Directors the authority to grant rate adjustments for residential services and/or supplemental services in residential settings in order to protect a consumer's health or safety as a result of the outbreak of COVID-19. County placing agencies are encouraged to contact their local Regional Center regarding the needs of children in foster care who are consumers of regional center services and impacted by COVID-19.

Effective Period of this Guidance

The Department may rescind or modify the authorizations contained in this letter based upon new federal or state directives or guidance, or if the department determines that a county does not meet the terms and conditions of this authorization. Except as otherwise specified with respect to the up to 90-day period of time for individuals who had temporary waivers to complete the background check process pursuant to this guidance, the waivers and corresponding guidance contained in this ACL shall expire on June 30, 2020, or sooner if determined by the Department, unless extended. Once the waivers in this ACL have expired, all prior statutory, regulatory, and written guidance requirements modified herein shall be reinstated.

Any policy questions regarding this ACL should be directed to RFA@dss.ca.gov. Any rates related questions should be directed to LOC@dss.ca.gov. Any licensing related

All County Letter No. 20-44
Page Seven

questions should be directed to the duty officer of the CCLD local regional office available at [Children's Residential Regional Office](#).

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division