

DEPARTMENT OF SOCIAL SERVICES

744 P Street, MS 19-74 Sacramento, CA 95814



March 6, 2003

FOSTER CARE RATES LETTER (FCRL) NO. 2003-02

**TO: ALL GROUP HOME (GH) PROVIDERS
ALL COMMUNITY TREATMENT FACILITY (CTF) PROVIDERS**

**SUBJECT: GROUP HOME RATE APPLICATION REQUIREMENTS AND NOTICE
OF IMPORTANT CHANGES TO THE FOSTER CARE RATESSETTING
PROCESS**

This letter is to advise you of the requirements for submission of this year's group home rate application. This letter also contains information about proposed legislation that would impose a biennial rate application requirement. **Please read this entire letter so that you will be aware of the changes affecting your responsibilities.**

PROPOSED LEGISLATION REGARDING BIENNIAL RATE PROCESS

Proposed statutory amendments to Welfare and Institutions Code (WIC) Section 11462 would change the requirements for submission of a group home program rate application from annually to once every two years (biennially). The change in statute also allows the California Department of Social Services (CDSS) to establish a submission schedule by which providers will submit a biennial rate application in order to continue receiving a group home program rate. Lastly, the legislation allows CDSS to develop regulations for implementation of the biennial process on an emergency basis.

It is anticipated that the legislation imposing these changes will take effect by April 1, 2003. Due to the WIC changes, it will also be necessary to revise some of the sections of the regulations regarding ratesetting contained in the Manual of Policies and Procedures (MPP) to implement the biennial rate process. CDSS is currently drafting emergency regulations to take effect shortly after the passage of the legislation. Notice of the emergency regulations will be provided via the regulation adoption process. In the interim, providers should continue to comply with existing ratesetting requirements.

The information below reiterates existing ratesetting requirements that are still in effect and also provides a summary of anticipated actions CDSS will take to implement the biennial requirement in the event this legislation is passed.

RATE APPLICATION SUBMISSION SCHEDULE

Consistent with the proposed statutory changes, CDSS has developed a rate application schedule to implement the biennial submission requirement. Under this schedule, half of the group home providers will have their rate application reviewed in one year and the remaining half in the following year. For group home program providers whose first 4 digits of their program number end in an odd number, submission of a biennial rate application will be in an odd-numbered calendar year (CY). Similarly, group home program providers whose first 4 digits end in an even number will submit a biennial rate application in even-numbered CYs. The submission schedule that will take effect upon passage of the proposed legislation is as follows:

CY 2003	Odd-numbered programs;
CY 2004	Even-numbered programs.

EXAMPLE: Provider program number **3005.00.01** is an odd number based on the last number of the first 4 digits of the program number. This provider would submit an application for each of its programs with the 3005 provider program number in odd-numbered years. A provider program number such as **2766.00.01** is an even number which requires submission of a biennial rate application in even-numbered years.

A group home provider with an odd program number will have the program rate established for a two-year period and will not be required to submit a rate application until 2005. A group home provider with an even program number will have the program rate established for one-year period and will be required to submit a rate application in 2004 in accordance with the new biennial submission requirements.

Please note that because passage of these proposed statutory amendments are scheduled to occur at approximately the same time that rate applications are due, all providers are required to submit a rate application this year.

In the event that a provider submits a rate application this year for which CDSS determines is unnecessary due to the biennial cycle, the rate application will not be reviewed, and will only be returned if the provider submits a self-addressed, stamped envelope for its return. However, the provider will receive a rate letter continuing the program rate for another year. In addition, those providers will be required to submit a rate application next year. Providers will be notified in advance of the rate application submission due date for CY 2004.

RATE APPLICATION DUE DATE

Please be aware that the application due date for this year has not changed. A complete annual GH or CTF rate application must be postmarked on or before May 1, 2003. Current regulations require that a rate application is due on or before May 1st from group home program providers. Therefore, all providers must continue to submit the rate application as required.

COMPLETE RATE APPLICATION

Recent legislation contained in Assembly Bill (AB) 444 (Statutes of 2002, Chapter 1022) enacted law which has caused a change in the requirements for a complete rate application. Regulations contained in MPP Section 11-402.35 have been revised to implement the provisions of AB 444. **Commencing immediately, the documents listed below are required for a complete group home program rate application.**

A complete rate application must be submitted for each group home and CTF program in operation. Please refer to the regulations and the instructions on the reverse side of each SR form when preparing the rate application. The instructions will assist you in completing the rate application package correctly. A complete group home rate application should include:

1. A complete set of SR forms
 - Group Home Program Rate Application (SR 1) with original signature
 - Program Classification Report (SR 2)
(Use actual data, do not average or estimate. On Line 16, project your average points and RCL for fiscal year (FY) 2003/04. New providers who began operating in 2002 must report actual data from the date of first placement through December 31, 2002, as well as projected RCL for FY 2003/04 on Line 16. New providers who had a rate established in 2002, but had no placements in that calendar year, must project points for 12 months for FY 2003/04 (July 1, 2003-June 30, 2004).)
 - Group Home Program Days of Care Schedule (SR 5)

NOTE: The Group Home Program Cost Report (SR 3) and Group Home Payroll and Fringe Benefit Report (SR 4) are no longer required as part of a complete rate application. However, these forms are still required in order to receive a rate and must now be submitted with the financial audit report. Please see the section that follows entitled, "Financial Audit Report."

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(NOTE: When completing the SR forms, actual points and occupancy for calendar year 2002 must be reported.)

2. A copy of the current Community Care Licensing (CCL) license for each facility, including a provisional license issued to a new provider pursuant to WIC 11462(e), if not previously submitted.
3. A copy of the Group Home Administrator Certificate issued by CCL for the program's administrator.
4. If not previously submitted, a copy of the non-profit corporation's current tax exempt status letter from either the Internal Revenue Service (IRS) or the California Franchise Tax Board (CFTB) designating the organization as tax exempt.
5. If not previously submitted, an endorsed copy of the non-profit corporation's current Articles of Incorporation filed with the California Secretary of State, demonstrating the organization operates in the public interest for scientific, education, service or charitable purposes; is not organized for profit-making purposes; and, uses its net proceeds to maintain, improve or expand its operations.
6. A declaration that the program will operate during the fiscal year in the public interest for scientific, education, service or charitable purposes; is not organized for profit-making purposes; and, uses its net proceeds to maintain, improve or expand its operations. Each member of the Board must sign the declaration, or in the alternative, a copy of the Board resolution declaring non-profit operation certified by the Board Secretary may be submitted.
7. A training plan for FY 2003/04 for each program for which the additional .10 weighting is claimed for child care workers and supervisors. (See MPP Section 11-402.221(e) for the training plan requirements.) If the training weighting will not be claimed, a statement to that effect must be included with the rate application.
8. A list containing the name, address, telephone number, and position of the current members of the non-profit corporation's Board of Directors.
9. An approval letter from the Attorney General's (AG) Charitable Trust Section approving any self-dealing transactions for shelter costs.

Programs classified at Rate Classification Level (RCL) 13 or 14 must also submit:

- A. A written statement that the program will accept only children assessed/qualified for placement as required in MPP Section 11-402.181(b). The statement must be dated and include an original signature of the same individual whose signature appears on the SR 1.
- B. A Mental Health Program Certification for FY 2003/04 from the California Department of Mental Health, or its designee.

Providers with Internet access can obtain the SR forms online at the following address: www.dss.cahwnet.gov/cdssweb/On-lineFor_271.htm. Providers without Internet access can obtain a copy of the SR forms by contacting the Foster Care Rates Bureau (FCRB). If using SR forms other than those available via the Internet, please ensure you are using the most current form revision (see MPP Section 11-406).

GOOD CAUSE REQUESTS

A provider who is unable to submit a complete rate application by the May 1, 2003 due date because of circumstances beyond the provider's control may submit a "good cause" request to extend the due date. Typical circumstances that constitute good cause include, but are not limited to, natural disasters and emergency medical situations [MPP 11-400g.(1)].

The procedures for submitting a good cause request are contained in MPP Section 11-402.371. **A good cause request should be submitted by a provider to the FCRB separately from the rate application and must be postmarked within five calendar days of the rate application due date. For the current ratesetting period, a good cause request must be postmarked on or between April 26 and May 6, 2003.** (Please be aware that this year, April 26th is a Saturday, and the provider should take care to ensure that mail will receive a postmark on that date when depositing mail with the U.S. Postal Service.) The good cause request must contain a clear statement requesting good cause and include the specific reason(s) for submitting an incomplete or untimely rate application. The written request for good cause should also include the name, location, and program number of the affected program; the name, address and telephone number of the provider; and, the name, address and telephone number of the contact person. Please be aware that good cause requests that are granted only extend the due date an additional 30 days from the postmark date of the FCRB's letter approving the good cause request. Once the 30-day time period has expired, penalties will apply and be imposed consistent with MPP Section 11-402.38.

Please also be aware that good cause requests should not be submitted and/or signed by a certified public accountant (CPA), state-licensed public accountant (PA) or consultant as it is the provider's responsibility to manage the operation of the program, be aware of all business transactions impacting the program, and to make good cause requests on behalf of the program.

TIMELINES AND PENALTIES

The timelines and penalties contained in MPP Section 11-402.38 are still in effect at this time. Until the new regulations are adopted, a complete annual GH or CTF rate application must be postmarked on or before May 1, 2003 to be considered timely. An application that is postmarked after this date, or remains incomplete after this date, is subject to the penalty procedures specified in MPP Section 11-402.38. Furthermore, **if the application is not postmarked by July 1, 2003, the program rate will be terminated.**

Under the existing regulatory requirements, an application that is late or incomplete is subject to the following penalties:

- Submitted after May 1 but completed before June 1, the effective date of the rate will be August 1, unless the new rate is less than the old rate the effective date will be retroactive to July 1;
- Submitted on or after June 1 but completed before July 2, the rate will be effective September 1, unless the new rate is less than the old rate the effective date will be retroactive to July 1;
- **Not** submitted by July 1, the program shall be subject to rate termination;
- For an incomplete rate application that remains incomplete after July 1, the FCRB will attempt to set the rate contingent upon receipt of all documents needed to set the rate. If the rate can be set based on the limited information available, the rate will be effective August 1, unless the new rate is lower than the current rate the effective date will be retroactive to July 1. However, if the rate cannot be set based on the limited information provided, the FCRB will proceed with rate termination.

A program rate which has been terminated for failure to submit a timely or complete rate application can be reinstated by meeting the requirements of MPP Section 11-402.45. However, under the existing regulatory scheme, the new rate will be set at the lesser of either the existing rate prior to termination or at the standard rate of the RCL in which the program is reinstated. As a result, if a cost of living adjustment (COLA) has been

provided pursuant to the Budget Act for that year, the reinstatement process will result in loss of the COLA for the remainder of the fiscal year.

If a private consultant or CPA completes and/or mails a rate application and/or a financial audit report on behalf of a provider, responsibility for the content of the documents filed and the date of filing remains with the provider. A private consultant's/CPA's failure to submit a timely application or financial audit report will not excuse untimely submission of a complete rate application and may result in a penalty.

Please note: It is anticipated that the proposed emergency regulations implementing the proposed biennial statutory amendment will change the penalties associated with submission of the rate application. Since the rate application period is no longer tied to a single fiscal year, the penalties will need to be modified to be consistent with the biennial process. All providers will receive notice of the emergency regulations when filed.

SELF-DEALING TRANSACTIONS, AFFILIATED LEASES FOR SHELTER COSTS

The requirements regarding self-dealing transactions and affiliated leases have not been changed by the recently passed or proposed statutory amendments. California Corporations Code Section 5233(a) defines a self-dealing transaction as a transaction to which the corporation is a party and in which one or more of its directors have a material financial interest. MPP Section 11-402.359 requires a provider to obtain a letter of approval from the AG's Charitable Trust Section for any self-dealing transactions for shelter costs. The approval letter must be submitted with the group home rate application. The WIC requires that providers have all self-dealing transactions for shelter costs reviewed and approved by the AG's Charitable Trust Section. If the corporation previously was not a party to a self-dealing transaction for shelter costs, but has changed the composition of its Board of Directors since the previous year to include an individual with a material interest in any property leased by the corporation, a letter of approval must be obtained from the AG's Charitable Trust Section. It is strongly recommended that providers submit a request for a letter of approval to the AG's Charitable Trust Section by March 1, 2003 to receive timely approval.

FINANCIAL AUDIT REPORT (FAR)

AB 444 amended WIC Section 11466.21 such that a FAR is no longer required as a component of any AFDC-FC rate application. However, a FAR is still required as a condition to receiving an AFDC-FC rate. MPP Section 11-405.2 has been revised to address the changes to the financial audit process, including auditing standards for the provider to follow and the new due dates for FARs. The regulations containing the

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changes to the financial audit requirements can be accessed at the following website:
www.dss.cahwnet.gov/getinfo/pdf/f050111r2.pdf.

Beginning April 1, 2003, Office of Management and Budget Circular A-133 (A-133) standards will be required for a non-profit corporation that operates a group home and/or an FFA program which receives \$300,000 or more in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year. A non-profit corporation that meets the A-133 funding threshold (\$300,000 or more) will be required to submit a FAR in accordance with A-133 standards annually. A non-profit corporation whose fiscal year began prior to April 1, 2003, has the option to submit a FAR in accordance with *Government Auditing Standards* or A-133 standards. Subsequent audits, however, will be required to meet the new A-133 standards.

In accordance with WIC Section 11466.21(a)(2), a non-profit corporation that is exempt from the A-133 standards (less than \$300,000) will be required to submit a FAR once every three years. *Government Auditing Standards* (Yellow Book) will continue to be the audit standard for those group home and FFA non-profit corporations that receive less than \$300,000 in combined federal funds. On November 6, 2002, the CDSS sent a notice to each non-profit corporation identified as receiving less than \$300,000 (based on previous FARs submitted) advising them of the date that submission of the FAR is required for the first triennial period.

For all financial audits conducted, the audit must now also include cost data as reported on the December 2002 version of the Group Home Program Cost Report (SR 3) www.dss.cahwnet.gov/pdf/SR3.PDF and Group Home Program Payroll and Fringe Benefit Report (SR 4) www.dss.cahwnet.gov/pdf/SR4.PDF. For those non-profit corporations whose fiscal year began prior to April 1, 2003, audited cost data will not be required to be submitted with the FAR. These non-profit corporations will be required to submit unaudited cost data with the FAR. However, in subsequent years the cost data must be audited.

A non-profit corporation should engage a CPA or PA well enough in advance of the due date to allow sufficient time for completion of the audit. Most accountants will need at least three months to complete the audit. The California Board of Accountancy can be contacted for licensure status and general information about selecting a CPA or PA by accessing their website at www.dca.ca.gov/cba or by calling (916) 263-3680.

Although some non-profit corporations are not required to submit FARs every year, each non-profit corporation must maintain appropriate financial records at all times. MPP Section 11-402.52 requires providers to maintain program records for a minimum of five years. In addition, a non-profit corporation is responsible for preparing financial statements in accordance with Generally Accepted Accounting Principles, while the CPA or PA is responsible for auditing the financial statements and issuing an opinion on the statements. In order for the CPA or PA to complete the financial audit for the year

required and to avoid issuing a “disclaimer of opinion,” the non-profit corporation must provide the CPA/PA with complete and accurate financial documents.

AB 444 also amended WIC Section 11466.21(c) to allow group home and FFA non-profit corporations that receive less than \$300,000 and that meet other eligibility criteria to apply for and receive partial reimbursement of the costs of the financial audit. To apply for financial assistance related to the cost of the FAR, the non-profit corporation must submit to CDSS an acceptable FAR and any other relevant documents needed to validate the claim for reimbursement. Failure to submit all required documentation timely may result in the inability to provide reimbursement for the claim since funding for financial audit cost reimbursement is limited and allocated on an annual basis in the State Budget Act.

Please note that it is imperative for each non-profit corporation to submit a FAR which meets appropriate A-133 or Government Auditing Standards. A non-profit corporation that fails to submit an acceptable FAR by the required due date is subject to rate termination pursuant to MPP Section 11-405.219.

Further guidance and details on the revised financial audit requirements will be provided soon. In the interim, should you have any questions regarding the financial audit process or the due date for your non-profit corporation’s FAR, please contact the Financial Audits and Investigations Bureau at (916) 274-0445.

WHERE TO SEND APPLICATIONS

A complete rate application should be mailed to:

**California Department of Social Services
Foster Care Audits and Rates Branch
Foster Care Rates Bureau
744 P Street, M.S. 19-74
Sacramento, CA 95814**

If you have any questions about the rate application process or forms, please contact your Foster Care Rates Consultant. For any questions about the financial audit report, please call the Financial Audits and Investigations Bureau at (916) 274-0445.

Sincerely,

Original signed by

SHEILAH DUPUY, Chief
Foster Care Rates Bureau