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- (2) For purposes of (c)(1) the Department may request additional information to complete the program change application process in accordance with Sections 11-402.437(a) through (c).

 - (d) Failure to report a program change, the result of which is a decreased rate, as described in Section .435, shall result in the assignment of an overpayment and the adjustment of the current rate as appropriate following a program audit as specified in Sections 11-402.5 and .6.
- .432 An application for an RCL change or a program change shall include:
- (a) A complete Group Home Program Rate Application, (SR 1).
 - (b) A complete Program Classification Report, (SR 2).
 - (c) An amended program statement reflecting the change and containing the elements specified in Sections 11-402.411(a)(1) through (6).
 - (d) Providers making program changes affecting more than one program, that is, discontinuing one program in favor of another as described in Section 11-402.435(c)(1) or otherwise discontinuing a program, shall submit the Group Home Program Days of Care Schedule (SR 5).
 - (e) The current license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6, for each facility.
 - (f) A copy of the current lease or rental agreement if not previously submitted, and an FCR 16, Group Home Shelter Costs, Self-Dealing Transactions Declaration and Survey.
 - (g) Any changes to the documentation listed in Section 11-402.35 that may have occurred during the biennial rate period. These changes must be submitted to the Department no later than 30 days of the date of change. Failure to do so may result in rate termination in accordance with Section 11-402.393.
- .433 Additional Requirements for Program Changes
- (a) A program change application projecting an increase of an RCL level to a group home program shall be accompanied by the placement agency recommendation, as specified in Section 11-425.12 and any other requirements specified in Welfare and Institutions Code Section 11462(k).

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- (b) A program change application to change a program to RCL 13 or RCL 14 shall include a recommendation, as specified in Section 11-425.12, from either the host or the primary placing county and any other requirements specified in Welfare and Institutions Code Section 11462.01.
 - (c) For fiscal year 1198-99 and any other subsequent years for which this statutory restriction applies, a program change application which increases the licensed capacity of a program with a higher RCL as a result of decreases in another program which is operated by the same provider and has a lower RCL shall be accompanied by the placement agency recommendation, as specified in Section 11-425.12 and any other requirements specified in Welfare and Institutions Code Section 11462(k)(3)(A).
 - (d) A group home program which has received a provisional rate may not apply for a program change which will result in an increase in its RCL prior to two years from the effective date of the rate for the provider unless a recommendation is received from the host county, the primary placing county, or a regional consortium of counties as specified in Section 11-425.12 and any other requirements specified by Welfare and Institutions Code Section 11462(e)(1)(A).
- .434 A program change application shall be submitted prior to the effective date of the change but no later than 30 days after the change.
- .435 For a complete rate application, the effective date of the rate for program changes, by the type of change, shall be:
- (a) For the RCL which is not changing:
 - (1) For an increase in licensed capacity greater than five in the same or a new facility, the effective date shall be the later of:
 - (A) Date of first placement; or
 - (B) Date of group home license approval.
 - (2) For a decrease in licensed capacity, the effective date shall be the date of the decrease.
 - (b) For the RCL which is changing:
 - (1) For a decrease in RCL, the effective date shall be the date implementing operation of the program at the lesser RCL.

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- (2) For an increase in RCL, the effective date of the provisional rate shall be the later of the provider's proposed effective date on the Group Home Program Rate Application, SR 1 submitted for the program change or 30 days after the postmark on the program change application. For an increase in RCL, the effective date of the rate, whether it will maintain or decrease the provisional rate, shall be the first of the month following the date of the issuance of the Department's program audit report.

- (c) For changes affecting more than one program operated by one or different providers, the effective date of the provisional rate shall be the later of the provider's proposed effective date on the SR 1 form(s) or 30 days after the postmark on the program change application(s). The effective date of the rate, whether it will maintain or decrease the provisional rate, shall be the first of the month following the date of the issuance of the Department's program audit report.

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Examples of these changes are:

- (1) Discontinuing one group home program in favor of another.
- (2) Combining of two or more providers who propose to continue operating a group home program(s) but to change the administrative or corporate structure which was characterized to the Department at the time the rates for the most recent fiscal year were established.
- (3) Assuming operation of a group home program which was formerly operated by another provider.

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.436 The rate following a program change by the type of changes shall be:

- (a) For the RCL which is not changing:
 - (1) For an increase in licensed capacity, except as specified in .431(a)(1)(A), the rate shall be the lesser of:
 - (A) The existing rate prior to the program change; or
 - (B) The standard rate for its RCL.
 - (2) For any decrease in licensed capacity, the rate shall be the existing rate.

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- (3) For a change in the type of placement or staffing pattern, the rate shall be the existing rate.

 - (b) For the RCL which is changing:
 - (1) For a decrease in RCL expected to affect the program for more than 90 days, the rate shall be the lesser of:
 - (A) The existing rate, or
 - (B) The standard rate for the new RCL.

 - (2) For an increase in the RCL, the provisional rate shall be the greater of:
 - (A) The existing rate, or
 - (B) The standard rate for the new RCL.

 - (c) For changes affecting more than one group home program, as described in Section .435(c), the provisional rate shall be determined by the Department based on the RCL for the program based on the data in the program change application submitted in compliance with Sections 11-402.431 and .433.
 - (1) The provisional rate shall be the standard rate for the RCL resulting from the program change.

 - (d) Any program change to a group home program classified at RCL 13 or RCL 14 that impacts the program's RCL and/or substantially impacts the level of care and services offered by the program shall necessitate:
 - (1) A new determination by the IPC for each child in placement that the child is in need of the level of care and services provided by the group home program, and
 - (2) A new mental health treatment program certification as referenced in Section 11-400c.(2) for the program as modified by the program change.
- .437 For an incomplete rate application the date of the rate shall be:
- (a) If the Department determines that a rate application is incomplete, the group home provider shall be allowed to submit additional information to complete the rate application. The due date for the additional information shall be 30 days from the postmark date of the Department's request for additional information.

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- (b) The effective date of the rate for a group home provider who initially submits an incomplete rate application shall be the postmark date or the date the additional information is hand-delivered to the Department but not earlier than the effective date specified in Sections 11-402.412 and 11-402.424.
- (c) A group home provider who does not submit the additional information requested by the Department shall not be eligible to have a rate established for the group home program for which the rate application was submitted.

.44 Programs Classified at RCL 12 or Below Which Fail to Maintain the RCL

- .441 A group home provider who self-reports information in any rate application that results in a failure to maintain its RCL shall be subject to the provisions of Section 11-402.443. For programs classified at RCL 13 or RCL 14 refer to Section 11-402.46.
- .442 Providers with programs classified at RCL 1 through RCL 12 which fail to maintain the projected RCL shall submit the information required by Section 11-402.432 unless:
 - (a) The RCL is expected to return to the RCL approved by the Department for the current fiscal year by the end of 90 days, and
 - (b) The average fiscal year RCL will not be affected by the temporary decrease.
- .443 The Department shall verify the self-reported information submitted in accordance with Section 11-402.441 by a group home provider that the program has failed to maintain the RCL as defined in Section 11-400f.(1) and set a new rate based on the new information provided.
- .444 The effective date of the new rate shall be the date at which the program failed to maintain the previously approved RCL.
- .445 Programs for which the actual RCL is lower than the RCL upon which the rate was established shall be subject to the provisions in Section 11-402.55, Corrective Action, and Section 11-402.6, Overpayments.
- .446 When the Department's determination of a rate based on the Department's program audit of the provisional rate is more than three levels lower than the RCL initially projected by the group home provider, the Department shall terminate the provider's rate 45 days after the date of issuance of the program audit report unless the provider timely requests a hearing on the Department's RCL determination (see Section 11-430.19 for appeal procedures).

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- (a) The Department shall deny any request for a new or increased RCL from a provider whose RCL is terminated under this section for two years from the effective date of the RCL termination; or for a shorter period of time if the provider submits the county placement agency recommendation, as specified in Section 11-425.12, has corrected any deficiencies identified in the Findings of Audit Report which resulted in the termination of their RCL, and has implemented internal controls necessary to avoid future audit deficiencies.

| .45 Program Reinstatement/Recission

- | .451 A program reinstatement is a process to re-establish a program that has been terminated as specified in Sections 11-402.38, 11-402.39, 11-402.524, 11-402.525, 11-402.526, 11-402.527, 11-402.668, 11-402.669, and 11-405.217 through .219. A program shall be reinstated when the Department determines that all appropriate requirements specified in Sections 11-402.3, 11-402.667, and 11-405.2 have been met. For programs classified at RCL 13 and RCL 14, all requirements as specified in Section 11-402.181 must be met.

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- .452 The effective date of the rate is the date of the Department's written notification of reinstatement to the provider.

- .453 The rate shall be set, based on the current rate of the RCL in which the program is reinstated per Section 11-402.34.

- .454 The Department may rescind a program termination up to the date of termination as stated in the termination letter to the provider.
 - (a) All penalties as specified in Section 11-402.38 shall apply.
 - (b) No rescission will be granted if the program is subject to Section 11-402.664.

- .46 RCL 13 and RCL 14 Programs Reclassification
 - .461 If a group home program classified at RCL 13 or at RCL 14 fails to meet the requirements specified in Section 11-402.181, the Department shall:
 - (a) Reclassify the group home program at the appropriate lower RCL; and
 - (b) Reduce the group home program's rate.
 - .462 The effective date of the new rate shall be the date conditions in Section 11-402.181 occur.
 - .463 Penalties for failure to meet the requirements in Section 11-402.181(b) are specified in Sections 11-402.183(d) and 11-402.531(c).

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- .464 Welfare and Institutions Code Sections 11462.01(d)(1) through (d)(2) are summarized as follows:
 - (a) Any group home program classified at RCL 13 or RCL 14 will be reclassified at the appropriate lower RCL with a commensurate reduction in rate when either of the following occur:
 - (1) The group home program fails to maintain the level of care and services necessary to generate the requisite number of points for RCL 13 or 14.
 - (2) The group home program fails to maintain a certified mental health treatment program as required.

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.5 Program Audits

Any non provisional audit conducted on programs that have not been established on a biennial basis shall be conducted in accordance with the regulations in effect on January 1, 2005.

.51 The Department shall conduct full or partial program or fiscal audits of any program, as often as necessary, to ensure compliance with all requirements within this section. The Department shall audit the documents submitted with the rate application request and the actual program projected in the rate application and any supporting documentation used to prepare the rate application. The scope of a program audit shall focus on the hours and weightings of workers in each of the three program components and Direct Contact Contracts. Audits shall be conducted at the group home site or other sites as determined appropriate by the Department. The Department shall provide the group home program 30 calendar days' written notice prior to conducting a program or fiscal audit.

.511 The Department may conduct a program audit earlier than the normal schedule at a provider's request in order to reduce or minimize an overpayment.

.512 The purpose of program audits shall be to determine if the program's projected RCL was or was not maintained.

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Beginning January 1, 1994, unless otherwise specified in law, a program audit will follow the field work standards contained in the "Field Work Standards for Performance Audits" section of "Government Auditing Standards" by the Comptroller General of the United States, United States General Accounting Office.

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.513 Noncompliance by the Department with the "Field Work Standards for Performance Audits" section of the "Government Auditing Standards" by the Comptroller General of the United States, United States General Accounting Office, shall not preclude or bar the Department from sustaining or collecting actual overpayments, or otherwise invalidate an audit report.

.52 Providers shall maintain program records for a minimum of five years and make them easily accessible to any Departmental staff conducting program audits. Program records to be maintained include, but are not limited to the following:

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.521 Personnel records, which may include, but are not limited to:

- (a) Current licenses; diplomas/certificates; copies of official transcripts if major shown on diploma is other than those listed as an equivalent for the appropriate program component; or diploma is from a non-accredited school; dated, original applications for employment and/or resumes; time sheets; salary schedules showing hours and amount paid; employee benefits; contracts; training and development documents; job descriptions (including position title and classification, duties and responsibilities); group home organization charts; payroll register; DE 3DP Quarterly Contributions Return; IRS form #1099-Miscellaneous Income; copies of cancelled checks (front and back) and any other records that document proof of payment; and documented verification or phone verification with supporting documentation of qualified previous employment as a residential child care worker. Employment verification for previous residential child care worker experience shall show name of previous employer, phone number of previous employer, whether employee was full-time or part-time, paid or volunteer, beginning and ending dates of employment, and job description(s) (including position and title and classification, duties and responsibilities).

- (b) For provisional rate audits, unless the provider qualifies for an exception set forth in Section 11-402.521(d), the Department shall not consider any records which are relevant to the determination of the RCL which the provider has not provided to the Department by the date the provider requests a hearing on the Department's RCL determination.

- (c) For provisional rate audits, unless the provider qualifies for an exception set forth in Section 11-402.521(d), the Department shall not consider the following personnel records in determining the program's audited RCL unless the records are made available during the field work portion of the audit:
 - (1) Records of each employee's full name, home address, occupation, and social security number.

 - (2) Time records, including but not limited to records showing when the employee begins and ends each work period, as well as meal periods, split shift intervals, and total daily hours worked.

 - (3) Total wages paid each payroll period, including gross wages and net wages after payroll deductions.

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- (4) Records which must be maintained by licensed group home providers under the provisions of Title 22 of the California Code of Regulations that are relevant to the RCL determination.

- (d) Exceptions to the provisions of Sections 11-402.521(b) and (c) may be granted by the Department if all of the following conditions are met:
 - (1) The records have been lost, stolen, or are otherwise unavailable to the provider.
 - (2) The unavailability of the records is not due to a lack of due diligence by the provider to ensure the security of the records.
 - (3) Reasonable efforts have been undertaken in a timely manner to reconstruct the information contained in the records.
 - (4) Reasonable and timely efforts have been undertaken by the provider to recover the documents and report the loss to proper authorities, including, but not limited to, law enforcement agencies and insurance companies.
 - (5) The provider has submitted to the Department a letter signed by the President of the provider's Board of Directors within 10 days of discovery indicating that records are missing and which documents conditions (1) through (4), and contains a statement that the signatory understands that the information contained in the letter is correct to the best of his knowledge and that submission of false or misleading information may be prosecuted as a crime.

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.522 Case management records, which may include, but are not limited to:

- (a) Treatment plan; psychological evaluations/reports; medical evaluations/releases; mental health professional billings including Medi-Cal billings; education evaluations/information; correspondence; dictation and documentation of services provided; court orders; quarterly reports/program reports; information required by licensing regulations under Title 22; verification from the placement agency required in Section 11-402.411(a)(7); including copies of the certifications and assessments specified in Section 11-400a.(1) and Sections 11-402.181(b) and .181(c) for children placed in a group home program classified at RCL 13 or RCL 14; copies of the program certification specified in Section 11-400c.(2) and Section 11-402.181(c) for group home programs classified at RCL 13 or RCL 14; all RCL significant information pertaining to a client shall be included in the client's record; and mental health professional's daily logs and notes, including information pertaining to day treatment programs, which verify that services were provided to children in placement.

.523 Training program records which document all the information in the training log such as:

- (a) The date(s) of training; hours of duration of each training session; certification of completion; name of trainer; qualifications and certification of the trainer's qualifications; documentation showing provider paid any costs for training, including employee wages and benefits; title and a short paragraph about the subject of the training and a list of attendees with their original signatures on a sign-in sheet for training provided onsite by a group home provider or independent third-party verification for training that is provided offsite or by an entity other than the group home provider; and any information as outlined in Sections 11-400t.(1) and (2).

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.524 A group home provider shall provide or allow the Department access to group home program records needed to establish a rate pursuant to a rate application in accordance with Sections 11-402.3 and 11-402.4, conduct a program audit in accordance with Section 11-402.5, enable the Department to collect an overpayment in accordance with Section 11-402.6, evaluate cost data reported by group home providers in accordance with Section 11-402.8, or conduct a fiscal audit in accordance with Section 11-405.1.

(a) The Department shall provide written notice to a group home provider prior to conducting either a fiscal or program audit in accordance with Section 11-402.51.

(b) A group home provider who does not provide the Department with access to group home program records for either a fiscal or program audit shall have its rate terminated pursuant to Section 11-402.39.

.525 A group home provider shall provide or allow the Department immediate access to group home program records or facilities under Section 11466.1(a)(3) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.1(a)(3) states the following:

"(3) Group home providers shall allow the department immediate access to group home program information or access to a facility if the deputy director of the children and family services division of the department serves the group home provider with notice that, in the opinion of the deputy director, the immediate access to a facility or group home program information is required based on one of the following conditions or circumstances:

- (A) A temporary suspension order has been served on a group home provider.
- (B) Based on reliable evidence, the department has a valid basis for believing that proceedings have been, or will shortly be, instituted against a group home provider in a state or federal court for purposes of determining whether the provider is insolvent or bankrupt under appropriate state or federal law.
- (C) A group home provider is, or will shortly be taking, action that might reasonably hinder or defeat the department's ability to collect overpayments in the future."

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- (a) A group home provider who does not provide immediate access to the Department under Section 11-402.525 shall have its rate terminated.
 - (1) The Department shall provide written notice to the group home provider of the rate termination date.
 - (2) The effective date of the rate termination shall be 30 days after the postmark date of the rate termination notice.
 - (3) A copy of the termination notice shall be sent to the host county, the primary placing county, and any other counties which may be affected by the rate termination.

.526 A group home provider shall provide or allow access to group home program records needed to collect self-reported or sustained overpayments, which shall include but not be limited to, the following:

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- (a) Information pertaining to the ownership status of a group home provider's real and personal property, accounts in financial institutions, and any other assets shall be provided to the Department within 30 days of the postmark date of the Department's request.

- (b) The information which shall be provided to the Department within 30 days includes, but is not limited to, the following:
 - (1) The taxpayer identification number of the nonprofit corporation and the date of birth, social security number, and driver license number for any individual or member of a partnership owing an overpayment.
 - (2) The location and address of any real or personal property owned by the nonprofit corporation.
 - (3) A copy of the property deed for any property owned by a nonprofit corporation, individual, or member in a partnership owing an overpayment.
 - (4) Information concerning fictitious business names utilized by the corporation.

- (c) A completed Group Home Program Days of Care Schedule - SR 5 shall be submitted on a monthly basis.

- (d) A group home provider who does not provide the Department with the requested information shall have its rate terminated. In such cases, the following requirements shall be met prior to the termination of a group home program rate:
 - (1) The Department shall provide written notice to the group home provider of the rate termination date.
 - (2) The effective date of the rate termination shall be 60 days after the postmark date of the rate termination notice.
 - (3) The Department shall provide a copy of the termination notice to the host county and the primary placing county.

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.53 Conducting Program Audits

.531 Program audits of on-going programs with no program changes during the audit period shall be conducted by reviewing the provider's report of the actual RCL and program information for the audit period.

(a) The actual RCL for each month in the audit period shall be compared to the reported RCL for the same period.

(b) The Department shall:

(1) For group home programs classified at RCL 12 or below, or for programs classified at RCL 13 or 14 when an audit was conducted prior to September 14, 1992, select and review for accuracy no fewer than two months plus the most current completed month of operation, of reported data for each provider-fiscal year of the audit period.

(2) Recompute the actual eligible hours, weightings, and program points as specified in Sections 11-402.211 through .238 to determine reporting accuracy.

(3) Effective July 1, 2002, recompute the actual eligible hours, weightings and program points for a CTF using 90 percent of licensed capacity unless a waiver has been granted in accordance with Section 11-402.233(b). Eligible hours, weightings, and program points for a CTF with a waiver shall be computed using the occupancy factor specified in the waiver.

(4) Recompute the RCL and compare it to the reported RCL for the audit period.

(5) For audits conducted for group home programs classified at RCL 13 and RCL 14, the provisions specified in Welfare and Institutions Code Sections 11462.01(d), (d)(1) and (d)(2) shall also apply.

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Welfare and Institutions Code Sections 11462.01(d), (d)(1), and (d)(2) state the following:

- "(d) Any group home program that has been classified at RCL 13 or RCL 14 pursuant to the requirements of subdivision (a) shall immediately be reclassified at the appropriate lower RCL with a commensurate reduction in rate if either of the following occurs:
 - (1) The group home program fails to maintain the level of care and services necessary to generate the necessary number of points for RCL 13 or RCL 14, as required by paragraph (1) of subdivision (a). The determination of points shall be made consistent with the department's AFDC-FC ratesetting regulations, for other rate classification levels.
 - (2) The group home program fails to maintain a certified mental health treatment program as required by paragraph (3) of subdivision (a)."

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- (6) For provisional rate audits, the audit period shall consist of two full calendar months or sixty consecutive days, whichever is longer.
- (7) For audits conducted for group homes operating as crisis nurseries, recompute the actual eligible hours, weightings and program points for a crisis nursery using 90 percent of one-third of the licensed capacity.
- (c) The Department shall determine whether or not children in placement in a group home program, classified at RCL 13 or RCL 14, are assessed/qualified children, as defined in Section 11-400a.(1).
 - (1) If the group home program does not have written approval from the IPC for any AFDC-FC funded child placed, the Department shall assess a penalty against the group home provider:
 - (A) The penalty shall be in the amount of the AFDC-FC rate paid on behalf of the child;
 - (B) The penalty shall commence the 31st day of placement and shall continue until the date the provider notifies the county placing agency, in writing, requesting the county to obtain approval from the interagency placement committee or removal of the child from the program.

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.532 Provisional rate audits shall be completed with final audit reports issued no later than 13 months after the effective date of the provisional rate.

- (a) The audit process in Section 11-402.53 shall be used except as specified in (b) and (c) below.

- (b) The RCL of a program with a provisional rate shall be determined by verifying the level of care and supervision provided by the group home program during the two full calendar months or 60 consecutive days (whichever is longer) immediately preceding the first day of the program audit.

- (c) The program audit shall not cover the first six months after the effective date of the provisional rate.

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.533 Completion of audits

- (a) A program audit shall be completed and an exit interview shall be conducted within 60 days of the start of the audit.
- (b) Program audits that remain incomplete at the end of 45 days because of the unavailability of data, records, or documents shall be completed using the information available to the Department.

.534 Exit Conference and Notification

- (a) The Department shall conduct an exit conference with the provider at the conclusion of the program audit.
- (b) A draft written summary of preliminary findings shall be provided at the exit conference. The exit conference shall be subject to the provisions of Section 11-430.111.
- (c) Except for provisional rate audits, the audit report shall be mailed to the provider within 45 days after the exit conference.
 - (1) The audit report shall contain specific information concerning the program audit findings; the specified time frames for providers to take corrective action; the procedures for overpayment collection and the right to administrative review.
 - (2) The audit report shall be subject to the provisions of Section 11-430.113.
 - (3) Notification of audit findings shall be mailed to the host and/or primary placing counties 60 days after the postmarked date of the audit report required in (c) above.
 - (4) Notwithstanding Section 11-402.534(c), if additional information is submitted by the group home provider, the date the audit report is due may be extended.
- (d) In the case of provisional rate audits, the audit report will be issued no later than 13 months after the effective date of the provisional rate.

.54 Program Audit Findings

.541 Program audit findings include the following:

- (a) The program audit verifies the projected average RCL was maintained during the audit period.

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- (b) The program audit verifies the program failed to maintain the projected RCL during the audit period.

- (c) The program audit verifies the actual average RCL is higher than the projected average RCL during the audit period.
 - (1) Providers who are operating at a higher RCL than projected:
 - (A) Shall continue to receive the rate for the projected RCL or
 - (B) Shall be permitted to submit a program change application for the higher RCL. See Section 11-402.43.
 - (C) If receiving a provisional rate, shall be permitted to submit a program change application for the higher RCL subject to the restrictions in Section 11-402.433(d).

.55 Corrective Action

- .551 Except for provisional rate audits, the Department shall allow the provider to bring a current program, classified at RCL 1 through 14, into compliance with the projected RCL within 60 days of the notice of audit findings or within 30 days of the notice of a self-reported overpayment when the recomputed RCL as determined by a program audit or review of a rate application of the same program, is less than the projected RCL. See Sections 11-402.534(c) and 11-402.632.
 - (a) After 60 days following the notice of audit findings or 30 days following the notice of a self-reported overpayment the Department shall reduce the RCL and rate to minimize any current overpayment.

- .552 Evidence that corrective action has been implemented shall be supported by adequate documentation which includes, but is not limited to, the following:

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- (a) A written narrative of all changes made to the group home program which demonstrates the program is operating at the current paid RCL as requested by the group home provider or determined by the Department;
- (b) Copies of timesheets/cards, payroll register, college degrees and/or transcripts, professional licenses, and documentation to support child care experience;
- (c) Program Classification Report - SR 2;
- (d) Child Care and Supervision Component Program Worksheet - SR 2A;
- (e) Social Work Component Program Worksheet - SR 2B; and
- (f) Mental Health Component Program Worksheet - SR 2C.

.56 Audit Adjustment Process

- .561 The Department shall adjust its audit findings of a group home program audit pursuant to Section 11466.2(b)(2) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.2(b)(2) states the following:

"The department shall modify the amount of the overpayment pursuant to paragraph (1) in cases where the level of care and services provided per child in placement equals or exceeds the level associated with the program's RCL. In making this modification, the department shall determine whether services other than child care supervision were provided to children in placement in an amount that is at least proportionate on a per child basis to the amount projected in the group home's rate application. In cases where these services are provided in less than a proportionate amount, staffing for child care supervision in excess of its proportionate share shall not be substituted for non-child care supervision staff hours."

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- .562 The Department shall adjust its audit report of a group home program audit conducted pursuant to Sections 11-402.5 and 11-402.6 and adjusted in accordance with Section 11-402.561 if all of the following requirements are met:

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- (a) The group home program hours of care and supervision provided per child in placement equal or exceed the level of care and services that are projected for the group home program's RCL;
 - (b) The group home program hours for social work activities and mental health treatment services provided to children in placement shall be provided on a proportional per child basis to the amount originally projected in a group home program's on-going rate application request, new program application request, program change application request, corrective action application request, or a program reinstatement application request;
 - (c) The group home program hours provided for child care and supervision in excess of its proportionate share shall not be substituted for staff hours provided in the areas of social work activities or mental health treatment services; and
 - (d) In order to qualify for an audit adjustment, a group home provider shall provide, at a minimum, the level of care and services projected on line 16 of the Program Classification Report (SR 2), per child per month, for children actually in placement, in each of the service components of child care and supervision, social work activities, and mental health treatment services.
 - (e) The group home program shall provide 24-hour care and supervision in accordance with subsection (a) of Section 84000 of Article 1 of Chapter 5 of Division 6 of Title 22 of the California Code of Regulations.
- .563 A group home provider who does not meet the requirements listed in Sections 11-402.561 and 11-402.562 shall not be eligible for an audit adjustment.
- .564 A group home provider who does not meet the requirements listed in Sections 11-402.561 and 11-402.562 shall not be eligible to have an overpayment amount lowered from the overpayment amount originally determined by an audit.
- .565 A group home program that substantially changes its staffing pattern shall notify all placing counties in accordance with Section 11462(e)(4) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11462(e)(4) states:

"A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern."

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.57 Disagreements

.571 Except as provided in subparagraph (b), a provider who disagrees with the findings of a program audit and requests a different rate or disagrees with the findings of a fiscal audit disallowance, may request an administrative review of an audit report with the Department as specified in Section 11-430.12.

(a) The provider's reduced RCL and rate set by the Department shall remain in effect during the administrative review process.

(b) Providers appealing a provisional rate audit which resulted in a rate reduction shall be subject to the administrative review process provided in Section 11-430.19 and shall be eligible to receive only the RCL determined by the Department during the pendency of any appeal.

.6 Overpayments

.61 The Department shall recover all overpayments resulting from a group home provider self-reporting an overpayment or a program or fiscal audit that is sustained in accordance with Section 11466.22(d)(2) of the Welfare and Institutions Code.

.611 The Department shall collect a group home provider overpayment from the licensee or the responsible party for the overpayment in accordance with Section 11466.22(b) of the Welfare and Institutions Code.

.612 The Department shall collect interest on a group home provider overpayment in accordance with Sections 11466.22(d)(3) or (4), Section 11466.22(f), Section 11466.25, and Section 11466.3(b) of the Welfare and Institutions Code.

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- .613 A group home provider who is successful in its appeal of a collected overpayment shall be reimbursed the collected overpayment plus interest in accordance with Section 11466.22(g) of the Welfare and Institutions Code.

- .614 Overpayments (according to Section 11-402.6) shall not be assessed in the following circumstances:
 - (a) The provider is able to demonstrate he/she acted prudently on erroneous information provided by an employee, and within 60 days of the notice of audit results, takes appropriate action to:
 - (1) Correct the error, or
 - (2) Adjust the RCL.

- .62 An overpayment situation shall be created when the actual average RCL falls below the projected average RCL for the same period or AFDC-FC funds are spent in a manner that is inconsistent with Section 11-404. An overpayment shall be caused by, but is not limited to, the following:
 - .621 The provider does not meet the projected average RCL because of erroneous, incomplete or misleading information provided to the Department with the rate application, such as:
 - (a) False documentation for staff education, experience or on-going training.
 - (b) An inaccurate number of staff hours claimed for any of the three program components.

 - .622 A Department administrative error is made notifying a provider of their RCL.

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Example: A provider submits an application indicating an RCL of five. The Department verifies the projected RCL five. A clerical error is made in the notification letter to the provider indicating the projected RCL is seven. In this situation, the provider is aware or should reasonably be aware that his/her program is only an RCL five. If the provider fails to notify the Department of the discrepancy, an overpayment shall be generated.

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- .623 The provider's on-going group home program rate application is submitted late and/or incomplete.
- .624 The provider fails to maintain. See Section 11-400f.(1).
- .625 A group home program classified at RCL 13 or RCL 14 is reclassified in accordance with provisions in Section 11-402.46.
- .626 The group home provider owes a penalty assessed by the Department in accordance with Sections 11-402.183(d) or 11-402.531(c).
- .627 AFDC-FC program funds are spent on items not listed in Section 11460(b) of the Welfare and Institutions Code.
- .628 AFDC-FC program funds are not spent on permissible items as specified in Section 11-404.

- .63 Overpayments shall be determined by:
 - .631 The provider reporting information to the Department related to the on-going group home program rate application, new program and RCL changes.
 - .632 The group home provider self-reporting an overpayment.
 - (a) A group home provider who self-reports an overpayment may reconcile the previously submitted information with corrected information which shall be subject to the following:
 - (1) A group home provider who modifies a self-reported overpayment shall meet the documentation requirements contained in Sections 11-402.3, 11-402.4, 11-402.5, 11-405.1, and 11-402.8.
 - (2) A group home provider who fails to reconcile in accordance with Section 11-402.632(a)(1) shall be subject to Sections 11-402.3, 11-402.5, and 11-402.6.
 - (3) A group home provider shall have 30 days from the postmark date of the letter notifying the provider of an overpayment to reconcile self-reported information that identifies the overpayment.
 - (b) The information submitted by a group home provider which identifies a self-reported overpayment shall be subject to the audit adjustment process contained in Section 11-402.56.

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- .633 The Department verifying through a fiscal audit that a group home provider expended AFDC-FC program funds on items not listed in Section 11460(b) of the Welfare and Institutions Code (see handbook example at Section 11-402.82) or Section 11-402.826 or on items listed in Section 11-402.825.

- .634 The Department verifying an actual RCL lower than projected RCL during the rate application process or a program audit; or

- .635 The Department verifying during the rate application process or a program audit, that a group home program classified at RCL 13 or RCL 14 did not meet all the requirements specified in Sections 11-402.181.

- .636 The Department determining through a management decision, that a non-profit corporation misused or fraudulently expended AFCD-FC program funds. If an overpayment exists as determined by a program audit and the Department has determined that a non-profit corporation misused or fraudulently expended funds in accordance with Section 11-405.23, then only the greater of the overpayment amounts is subject to recovery.

- .64 Overpayment Processing:
 - .641 The Department shall provide written notification to the provider and affected counties of an overpayment according to Section 11-402.534(c).

 - .642 The beginning date of an overpayment shall be the earlier of:
 - (a) The first day of the provider's fiscal year within the audit period for an on-going program, or
 - (b) The date of first placement at the incorrect RCL for new programs, program changes, or program reinstatements; or
 - (c) For a group home program classified at RCL 13 or RCL 14, the date of occurrence, as specified in Section 11-402.46 or the penalty period as specified in Sections 11-402.183(d) and 11-402.531(c).

 - .643 The amount of overpayment shall be computed by:
 - (a) Averaging the actual number of points per month for the total audit period.

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- (b) Subtracting the average in (a) from the lowest point level in the point range of the projected RCL for the audit period to determine the number of points below the projected average RCL. The number of points below the projected average RCL shall be used to determine the overpayment factor as follows:

Number of Points below projected average RCL	Overpayment Factor
(1) 1 - 5	= \$100
(2) 6 - 10	= \$200
(3) 11 - 30	= 100 percent of the difference between the rates in the projected and actual RCLs. The difference shall be determined by subtracting the dollar amount corresponding to the rate floor of the audited RCL for the audit period from the actual paid rate.

- (c) Multiplying the average group home occupancy of children who receive AFDC-FC during the audit period by the number of months in the audit period times the overpayment factor in (b).
- (d) The result is the total overpayment owed.
- (e) If the actual audited average RCL is more than one RCL below the projected average RCL, the overpayment is computed by adding the difference in the rates between the RCL(s), as computed in accordance with Section 11-402.643(b)(3), plus the overpayment factor for the partial RCL.
- (f) During the period a program received a frozen rate, any overpayments shall be assessed as specified in Section 11-402.943.
- (g) A fiscal audit overpayment amount shall be the amount determined under Section 11-402.633.

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Example: The actual average RCL is one RCL below the projected average RCL. A provider has a six-bed facility with an average of five actual occupancy. Projected RCL for FY(s) 90-91 and 91-92 is RCL 6, point range 180-209. The following are the actual monthly points generated by the provider:

Months:	J	F	M	A	M	J	J	A	S	O	N	D
	190	170	170	190	170	120	120	190	180	180	180	180

(a) 2040 pts./12 mos. = 170 total monthly average points for the audit year. The overpayment is: 10 pts. = \$200 X 5 actual average occupancy X 12 mos. = \$12,000.

Example B: The actual average RCL is more than one RCL below the projected average RCL. A group home provider has a six-bed facility with an average of five actual occupancy. Projected RCL for FY(s) 90-91 and 91-92 is RCL 6, point range 180-209. The following are the actual monthly points generated by the group home provider:

Months:	J	F	M	A	M	J	J	A	S	O	N	D
	145	157	133	151	141	141	151	145	133	157	145	141

1740 points/12 months = 145 (RCL 4) total monthly average points for the audit year. The overpayment is: 35 points = \$352 total overpayment factor X 5 actual average occupancy X 12 months = \$21,120.

Projected RCL Points (180) minus Audited Points (145) equals Points Below RCL (35)

Total RCL Point difference	35
Number of points between each RCL	-30
Remaining number of points below RCL	5

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Determination of Overpayment Factor:

Paid RCL (6) =	\$2,258
Less one full RCL (5)	-2,006
100 percent difference	\$252
Plus remaining overpayment factor [11-402.643(a)]	+100
Total overpayment factor	\$352

Overpayment calculation: \$352 total overpayment factor X 5 actual average occupancy X 12 months = \$21,120

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- .65 A program which experiences a second overpayment during the program's lifetime shall be assessed the full rate difference between the two RCLs X average actual occupancy X the number of months in the audit period.
- .66 Overpayment Collection
- .661 The Department shall collect group home provider overpayments in the following order of priority:
- (a) A lump sum repayment (see Section 11-402.662).
 - (1) A 12-month repayment agreement (see Section 11-402.662(a)).
 - (2) A balancing process (see Section 11-402.662(b)).
 - (b) A repayment agreement (see Section 11-402.663).
 - (c) A mandatory repayment schedule (see Section 11-402.664).
 - (1) A rate request denial (see Section 11-402.667).
 - (2) Rate termination (see Section 11-402.668).
- .662 The Department shall allow a group home provider who owes either a self-reported or sustained overpayment to repay the overpayment amount in a lump sum payment.
- (a) Notwithstanding Section 11-402.662, a group home provider may choose to repay an overpayment through a 12-month repayment agreement.

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- (1) A 12-month repayment agreement shall meet the following requirements:
 - (A) A 12-month repayment agreement shall be entered into within 30 days from the date an overpayment is sustained or 30 days from the postmark date of a letter notifying a group home provider of a self-reported overpayment that is not reconciled in accordance with Section 11-402.632(a);
 - (B) For overpayments of \$100,000 or less that are repaid within six months from the date of the executed agreement, interest shall not be assessed on the overpayment;
 - (C) For overpayments exceeding \$100,000 that are repaid within 12 months from the date of the executed agreement, interest shall not be assessed on the overpayment.

- (2) Failure to enter into a repayment agreement in accordance with the requirements listed under Section 11-402.663 or enter into a 12-month repayment agreement and repay an overpayment within the time frames established in Section 11-402.662(a)(1) shall subject a group home provider to a mandatory repayment schedule in accordance with Section 11-402.664.

- (b) The Department shall use a balancing process whenever an amount is owed to a group home provider by crediting the amount owed towards repayment of a sustained overpayment amount in accordance with Section 11-400b.(1).
 - (1) Balancing shall not affect the current approved rate.

- .663 The Department shall allow a group home provider who owes either a self-reported or sustained overpayment to repay the overpayment amount through a repayment agreement, as defined in Section 11-400r.(7). The repayment agreement shall be entered into within 30 days from the date of a sustained overpayment or 30 days from the postmark date of a letter notifying a group home provider of a self-reported overpayment and shall contain all of the following terms:
 - (a) The overpayment amount plus interest in accordance with Section 11-400r.(7) shall be repaid within 9 years from the date the repayment agreement is effective:

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- (1) The overpayment amount shall become due and payable in accordance with Section 11-400o.(4).

- (2) Interest on the overpayment amount shall become due in accordance with Section 11466.25 of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.25 states the following:

"Interest begins to accrue on a group home provider overpayment on the date of the issuance of the final audit report."

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- (b) The repayment agreement shall include the amount of the overpayment plus interest for the audit period during which the specific program incurred the overpayment.

- (c) The minimum monthly repayment amount to be used for a repayment period not to exceed 9 years for the overpayment amount including interest shall be 3 percent of the program's monthly income. The interest shall be based on the following:
 - (1) Simple interest based on Surplus Money Investment Fund for the first seven years.

 - (2) Simple interest based on the prime rate plus three percent for the eighth and ninth years.

 - (3) The interest rate is fixed using the Surplus Money Investment Fund rate in effect on the date interest begins to accrue in accordance with Welfare and Institutions Code 11466.25.

11-402 **GROUP HOME RATE SETTING** (Continued) **11-402**

- (d) Payments shall be made payable to the California Department of Social Services, or a group home provider may choose to repay the overpayment including interest in accordance with Section 11-402.664.

- (e) Monthly payments shall be sent by certified mail, domestic receipt requested, to the following address:

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
744 P Street, M.S. 14-68
Sacramento, California 95814
ATTN: Cashier

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- (f) The repayment agreement, at a minimum, shall specify the number of months of the agreement, the amount of the monthly payment, and the date the payment is due.
 - (1) The overpayment plus interest shall be repaid no later than nine years from the date the repayment agreement is effective.
 - (2) A group home provider may choose one of the following options to ensure that the requirement in Section 11-402.663(f)(1) is met.
 - (A) A lump sum repayment for any remaining overpayment amount plus remaining interest at the end of the 9-year repayment period.
 - (B) A monthly repayment amount that is higher than the minimum amount required in Section 11466.22(d)(3) of the Welfare and Institutions Code that will ensure that the overpayment amount plus interest is repaid within 9 years.

- (g) The Director may renegotiate a repayment agreement if adhering to the repayment agreement results in severe harm to children in placement and all of the following conditions exist:
 - (1) A group home provider requests that the Department renegotiate the repayment agreement because it is unable to meet its obligations under the agreement.
 - (2) A group home provider shall provide to the Department written documentation from an independent financial or accounting agency that certifies the following:
 - (A) The group home provider is unable to meet its obligation to make monthly payments to repay the overpayment plus interest in order to comply with Section 11-402.663 and also maintain the level of care and services associated with its RCL; and
 - (B) The group home provider has evaluated existing program operations and has implemented reductions, wherever possible, to current operating expenses, contracts, leases, and salary levels.

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- (3) A group home provider shall obtain and forward a declaration to the Department, signed by the Director of the host or primary county, that the following conditions exist:
 - (A) There is no other placement resource that meets the needs of the current children in placement; and
 - (B) The transfer from the current program to another program will result in the disruption of successful placements of the current children.

- .664 The Department shall apply a mandatory repayment schedule against a group home provider who owes either a self-reported or sustained overpayment if the group home provider does not enter into a repayment agreement in accordance with Section 11-402.663 or the group home provider has three outstanding payments on a repayment agreement before an overpayment is repaid. The mandatory repayment schedule shall be subject to the following requirements:
 - (a) The overpayment amount plus interest in accordance with Section 11-400m.(1) shall be repaid within 7 years from the date the mandatory repayment schedule takes effect.
 - (1) The overpayment amount shall become due and payable in accordance with Section 11-400o.(4).
 - (2) Interest on the overpayment amount shall become due and payable in accordance with Section 11466.25 of the Welfare and Institutions Code.
 - (3) The monthly repayment amount referenced in Section 11466.22(d)(4) of the Welfare and Institutions Code shall be raised to an amount that will ensure that the overpayment plus interest shall be repaid within 7 years of the effective date of the mandatory repayment schedule.
 - (b) The mandatory repayment schedule shall recover the overpayment amount plus interest for the audit period during which the specific program incurred the overpayment.
 - (c) The minimum monthly repayment amount for the overpayment amount including interest shall be 5 percent of the program's monthly income. The interest shall be based on the following:

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- (1) Simple interest based on the Surplus Money Investment Fund.

- (d) The Department shall collect overpayments under the mandatory repayment schedule by offsetting against current group home provider rate reimbursement payments under the AFDC-FC program in accordance with MPP Section 11-402.66.

- (e) The Department shall issue, to a provider and the counties, a rate letter that indicates the amount of the offset which will be applied to the monthly overpayment amount including interest and the amount of the actual rate reimbursement to the group home provider during the period the mandatory repayment schedule will be in effect.

- (f) The Department shall provide an annual report regarding the status of departmental collection activities to all counties and group home providers subject to the following:
 - (1) Repayment Agreement; and
 - (2) Mandatory Repayment Schedule.

- .665 A group home provider subject to a mandatory repayment schedule shall be subject to the following requirements:
 - (a) In addition to the monthly payment reduction amount subject to Section 11-402.664, fifty percent of any California Necessities Index (CNI) increases and any adjustments to the Standardized Schedule of Rates in the AFDC-FC program shall be withheld and applied towards a group home provider overpayment until a mandatory repayment schedule recovers any outstanding overpayments.

 - (b) Any group home provider subject to a mandatory repayment schedule in accordance with Section 11-402.664, shall be ineligible to receive a program change that results in an RCL increase until the mandatory repayment schedule recovers the overpayment or the host or primary placing county requests a waiver from the Department.
 - (1) The waiver request shall be in writing.

 - (2) The increased rate reimbursement resulting from the RCL increase shall be subject to the requirements in Section 11-402.664.

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.666 The Department may file a certificate against the real or personal property of a group home provider in accordance with Section 11466.33 of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.33 states the following:

"(a) If any amount is due and payable to the department as a result of sustained overpayment to a group home provider for care and services in the AFDC-FC program, the department may file, in the office of any county clerk of any county in which the group home provider has real or personal property, a certificate if any of the following conditions are met:

(1) No informal hearing is requested and if a provider has not submitted a voluntary repayment agreement along with the first payment, and 60 days have elapsed from the notice of audit results.

(2) No formal appeal is requested and if a provider has not submitted a voluntary repayment agreement along with the first payment, and 60 days have elapsed from the notice of the informal hearing decision.

(3) A provider has not submitted a voluntary repayment agreement along with the first payment, and 30 days have elapsed after an adverse appeal decision by a hearing officer that sustains an overpayment.

(b) The certificate provided for pursuant to subdivision (a) shall contain:

(1) The amount due, owing, and unpaid, plus simple interest on the amount owing and unpaid beginning on the date the certificate is filed.

(2) A statement that the department has complied with this section prior to the filing of the certificate.

(3) A request that a lien be recorded against the group home provider in the amount set forth in the certificate.

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(c) The county clerk immediately upon the filing of the certificate shall record the lien for the State of California against the group home provider in the amount set forth in the certificate. The lien may be filed in the chain of title of the property.

(d) The department shall pay the cost of the first lien, and group home providers shall be responsible for any subsequent liens on a sustained overpayment.

(e) For the first certificate filed by the department pursuant to this section, the county shall waive all filing fees."

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(a) The Department may establish a judgment lien in accordance with Section 11466.34 of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.34 states the following:

"(a)(1) At any time within 10 years of the recording of a lien pursuant to Section 11466.33, the department may bring an action, in a superior court in the county in which the lien is filed, seeking a judgment to establish the lien as a judgment lien.

(2) If a judgment is obtained pursuant to paragraph (1), the county recorder shall record the lien as a judgment lien.

(b) An abstract of judgment obtained pursuant to subsection (a) or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real or personal property of the group home provider in that county owned by the group home provider at the time, or that the group home provider may afterwards, but before the lien expires, acquire. The judgment lien shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subsection (a), unless sooner released or otherwise discharged.

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(c) The judgment lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner provided in this section, be extended by recording a new abstract in the office of the county recorder of any county. From the date of that recording, the lien shall be extended for 10 years, unless sooner released or otherwise discharged."

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(b) The Department may release a lien on a group home provider's property in accordance with Section 11466.34(d) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.34(d) states the following:

"(d) The department may release any lien imposed pursuant to this chapter, at the provider's cost, in which case any judgment pertaining to that lien is for all purposes null and void, if all the following conditions are met:

- (1) No temporary suspension order or license revocation actions by the department's community care licensing division is pending against a provider.
- (2) A provider has made at least three timely payments on a repayment agreement.
- (3) The provider submits to the department corroborative evidence that it is unable to obtain a loan from an institutional lender unless the lien is released."

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11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

- (1) Prior to the Department releasing a lien under this subsection, the group home provider shall forward to the Department a check made payable to the California Department of Social Services for the appropriate county filing fee, if applicable, through certified mail, domestic receipt requested, to the following address:

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
744 P Street, M.S. 14-68
Sacramento, California 95814
ATTN: Cashier

- (2) The corroborative documentation in accordance with Section 11-402.666(b) shall be in writing.

.667 Any group home provider who has its rate terminated and has any outstanding self-reported or sustained overpayments shall be ineligible to receive a rate for any group home program until all overpayments are repaid.

- (a) On-going rate applications shall not be approved for any group home provider under either of the following circumstances:

- (1) A group home provider owing either a self-reported or sustained overpayment and incurring a second overpayment shall not be eligible to receive a rate until the overpayments are repaid.
- (2) Any group home provider incurring a self-reported or sustained overpayment that constitutes more than 60 percent of the group home provider's annual rate reimbursements shall not be eligible to receive a rate until the overpayment is repaid.

- (b) Notwithstanding Section 11-402.667(a), a group home provider with an approved repayment agreement shall be eligible for a rate for either an existing or future group home program.

.668 The Department shall terminate a group home program's rate for a self-reported or sustained overpayment in accordance with Section 11466.36(a) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.36(a) states the following:

"(a) The department may terminate a group home rate if any of the following conditions are met:

(1) The director determines that, based upon the findings of a hearing officer, a rate application or information submitted by a provider was fraudulently submitted to the department.

(2) A provider with an outstanding sustained overpayment incurs a second sustained overpayment, and is unable to repay the sustained overpayments.

(3) A provider has a sustained overpayment that represents 100 percent of a provider's annual rate reimbursement."

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- .669 A group home provider that has a rate terminated under Section 11-402.668 shall have the rate terminated in accordance with Sections 11-402.393 and 11-402.394.
- .7 Renumbered to Subsections 11-405.1 through .141 by Manual Letter No. OPS-99-01, effective 1/1/99.
- .8 Cost Reporting
- .81 A provider shall report the actual allowable and reasonable costs for each program to the Department on Forms SR 3 and SR 4 based on the provider's fiscal year in accordance with Section 11-405.214.
- .811 If the provider has established a new program within the provider's previous fiscal year and has less than 12 months of data, the provider shall submit cost data for the first month the rate is effective to the end of the provider's fiscal year.
- .812 Repealed by Manual Letter No. OPS-03-01, effective 2/13/03.

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.82 Allowable Costs

Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR, Part 74 and 45 CFR, Part 1356 in addition to other costs listed in Sections 11-402.821 and .822.

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Actual allowable and reasonable costs as defined in 45 CFR, parts 74 and 1356 state in part:

- "(a) The reasonable cost of, and the cost of providing the following:
 - (1) Food.
 - (2) Clothing.
 - (3) Shelter.
 - (4) Daily supervision.
 - (5) School supplies.
 - (6) Personal incidentals.
 - (7) Travel to the child's home for visitation.
 - (8) Liability insurance which covers the child.

- (b) The reasonable cost of administration and operation necessary to provide the items described in (a) above."

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.821 The reasonable social work activities offered by providers.

.822 Reasonable, actual principal and interest on original acquisition mortgages.

- (a) If the original acquisition mortgages are refinanced, the lesser of the following shall be allowed.
 - (1) The amount of interest associated with the original acquisition loan amounts, or

11-402 **GROUP HOME RATE SETTING (Continued)** **11-402**

(2) The amount of interest associated with the remaining principals.

| .823 The reasonable, lease or rental costs for real property.

| .824 The reasonable cost incurred for vehicle and equipment leases as if owned by the provider as described in Section 11-402.827(b).

(a) Beginning July 1, 1997 vehicle and equipment costs shall not include the costs for leaseback transactions.

| .825 Costs that are not allowable shall include, but not be limited to, the following:

(a) Overhead and supervision costs associated with unallowable activities.

(b) Litigation expenses associated with suits filed against an agency of the county, state, or federal governments.

(c) Retainer fees for consultants, physicians, lawyers, and accountants.

(d) Psychiatric and psychological consultations associated with unallowable Title IV-E activities.

(e) The cost of medical diagnosis, hospital expenses, and physician services.

(f) The cost of formal educational activities.

(g) Vocational training which substitutes for formal education.

(h) Recreation costs except where it substitutes for otherwise necessary daily supervision.

(i) The cost of more than one appraisal per year per facility; the cost of an appraisal performed by an appraiser deemed by the Department not to be a qualified, professional appraiser meeting the standard specified in Section 11-402.827(a)(1)(A)(ii); and the cost of appraisals performed under a less-than-arms-length agreement or by a person or persons employed by, under contract with for purposes other than performing appraisals, or having a material interest in any group home which receives AFDC-FC funds.

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- (j) Any cost for a child living with his/her minor parent.
- (k) Beginning July 1, 1997 any costs for vehicle and equipment leaseback transactions.
- (l) Except as provided in Welfare and Institutions Code 11462.06(d)(1), commencing July 1, 2003, self-dealing lease transactions for shelter costs are not eligible for an AFDC-FC rate.

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Welfare and Institutions Code 11462.06(d)(1) states:

"Commencing July 1, 2003, any group home provider with a self-dealing lease transaction for shelter costs, as defined in Section 5233 of the Corporations Code, shall not be eligible for an AFDC-FC rate."

Welfare and Institutions Code 11462.06(d)(2) states:

"Notwithstanding paragraph (1), providers that received an approval letter for a self-dealing lease transaction for shelter costs during the 2002-03 fiscal year from the Charitable Trust Section of the Department of Justice shall be eligible to continue to receive an AFDC-FC rate until the date that the lease expires, or is modified, extended, or terminated, whichever occurs first. These providers shall be ineligible to receive an AFDC-FC rate after that date if they have entered into any self-dealing lease transactions for group home shelter costs."

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.826 Cost Components. The nine cost group definitions are as follows:

- (a) CCS. All costs related to the hours of CCS reported in the Program Classification Report (SR 2) are to be reported. These include functions of day-to-day care of the child that would be considered ordinary parental duties and supervision of the caregiver. Do not include social work activities. Include payroll, payroll taxes and employee benefits. Include contract costs if a child care worker is under contract.
- (b) Social Work Activity. All costs related to the direct social work services described in Sections 11-400s.(4) and 11-402.212, including but not limited to, payroll, payroll taxes, employee benefits, and contract costs, if a social worker is under contract.

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- (c) Food. All costs related to food planning, preparation and service, kitchen supplies, and food stuffs for children in placement including, but not limited to, food worker payroll, payroll taxes, employee benefits, food expense and kitchen supplies.
- (d) Shelter. Shelter costs include, but are not limited to, the original mortgage principal and interest for owned real property; use allowance on buildings for which no original mortgage principal or interest is claimed for owned real property; reasonable lease or rental costs of real property; use allowance for capital improvements; taxes; building insurance; and appraisals for owned, leased, or rented real property.
- (e) Buildings and Equipment. Building and equipment cost include, but are not limited to, building and equipment payroll; payroll taxes and employee benefits; building maintenance; contracts; supplies; equipment leases; equipment depreciation expense; expendable equipment; and miscellaneous building and equipment expenses.
- (f) Utilities. Utilities costs include, but are not limited to, the cost of electricity, natural gas, water, garbage, and sewer.
- (g) Vehicles & Travel. Vehicle and travel costs include vehicle leases, depreciation, operating costs and transportation of the child.
- (h) Child-Related. Child-related costs include, but are not limited to, clothing, personal and incidental expenses for the child, school supplies, planned activities, and other child-related costs. County paid clothing allowances shall offset these costs by the amount actually paid.
- (i) Administration. The costs necessary for the on-going administration and support functions of the organization include, but are not limited to, administration payroll; contracts; telephone; postage and freight; office supplies; administrative travel; conferences; meetings; in-service training; memberships; subscriptions; dues, printing and publications; bonding; general insurance; organizational costs; advertising; recruiting; and miscellaneous.

.827 For purposes of reporting AFDC-FC costs, the determination of what is reasonable shall be based upon the standards listed below and the actions a prudent person would take in similar circumstances.

- (a) Shelter costs shall be considered reasonable in relation to the fair market value limit as described below:

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- (1) Reimbursement of shelter costs shall not exceed 12 percent of the fair market value of owned, leased, or rented buildings, that are used for group home programs and activities exclusive of idle capacity and capacity used for nongroup home programs and activities.
- (A) Fair market value shall be determined by either of the following methods as chosen by the provider:
- (i) The market value shown on the last tax bill for the cost reporting period, or
 - (ii) The market value determined by an independent appraisal. The appraisal must be performed by a qualified, professional appraiser who, at a minimum, meets standards for Class III appraisers as specified in Title 10, California Administrative Code, Subchapter 2, and shall not be deemed independent if performed under a less-than-arms-length agreement or by a person or persons employed by, under contract with for purposes other than performing appraisals, or having a material interest in any group home which received AFDC-FC funds. The Department shall have the authority to determine that any appraisal does not meet the standard specified herein.

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(B) Shelter costs for the purpose of the limit specified in Section 11-402.827(a) shall include, but not be limited to, the following:

- (i) Original mortgage principal and interest, for owned property;
- (ii) Use allowance on buildings for which no original mortgage principal or interest is claimed, for owned property;
- (iii) Reasonable lease or rental costs for leased or rented real property;
- (iv) Use allowance for capital improvements, for both owned and leased or rented property;
- (v) Taxes, for both owned and leased or rented property; and
- (vi) Insurance, for both owned and leased or rented property; and
- (vii) The costs of independent appraisals, for both owned and leased or rented property.

(b) Annual vehicle costs shall be deemed reasonable subject to the following conditions:

- (1) Total annual vehicle costs may not exceed the standard rate allowed by the Internal Revenue Service for business use in effect at the time the vehicle costs are incurred.
- (2) Except as provided in Section 11-402.827(b)(1), the total annual costs for vehicles may include the reasonable costs of purchasing or leasing and operating group home vehicles, including such costs as: depreciation, insurance, fuel, maintenance and repairs, license fees, taxes, and reimbursements to employees for business use of their personal vehicles.

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- (c) All executive compensation shall be reported for each executive officer. The reasonableness standards and criteria for executive compensation are contained in Internal Revenue Code Section 4958. This rule shall apply to all individuals of the non-profit corporation deemed by the Internal Revenue Service to be anyone in a position to exercise substantial influence over a non-profit corporation's affairs. This rule may apply to the individual's immediate family as well as to family-controlled entities. Compensation provided in accordance with Internal Revenue Code Section 4958 shall be deemed to be reasonable for the purposes of reporting AFDC-FC costs.

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- .83 Charitable Donations and Governmental Payments
 - .831 Unrestricted charitable donations from nongovernmental sources shall not be used to offset reported costs.
 - .832 Payments for allowable costs shall offset reported costs.
 - .833 Costs for staff whose hours are not counted for program classification purposes, because they are reimbursed from government sources other than AFDC-FC, shall not be reported as allowable costs.
 - .834 Donor restricted donations from private sources specified to fund an allowable cost shall offset allowable costs.
 - .835 Actual payments for clothing allowances shall offset allowable costs for clothing.
- .84 Accounting Requirements
 - .841 (Reserved)
 - .842 Accounting records shall be maintained in accordance with generally accepted accounting principles.
 - .843 All accounting records shall be retained for a minimum period of five years from the date of the final claim for that annual period or until all audit issues have been resolved.

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- (a) Examples include, but are not limited to, accounting records and journals, ledgers and supporting documentation, invoices, receipts, checks and/or vouchers.

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.844 Depreciation/Use Allowance

- (a) The straight-line method of calculating depreciation shall be used for equipment with a useful life of more than two years valued at \$500 or more based on the initial acquisition cost.
 - (1) Useful life shall be:
 - (A) A minimum of three years for automobiles.

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- (i) Examples include passenger vehicles and general purpose trucks with unloaded weight less than 13,000 lbs.

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- (B) A minimum of five years for all other depreciable equipment.

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- (i) Examples include office equipment, computer equipment, buses, commercial vans, and heavy general purpose trucks with unloaded weight of 13,000 lbs. or more.

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- (b) Providers shall be permitted to convert their existing depreciation methods to schedules which are consistent with the method specified in Section 11-402.844(a).
 - (1) The total depreciation charges throughout the useful life of the equipment shall not exceed the original cost of acquisition.
- (c) Use allowance shall be applied to the acquisition cost of building, for which no original mortgage principal and interest is paid, and to improvements.

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- (1) Use allowance shall be computed at an annual rate of two percent.

- (d) Charges for use allowances or depreciation shall be supported by adequate property records, including acquisition date and cost, the depreciation period and the amount charged each cost period.

- (e) Physical inventories shall be taken and documented at least once every two years for depreciable equipment.

- .845 Gains or losses on the sale, retirement or other disposition of vehicles and other equipment shall be included as credits or charges in the year in which they occur.

- .846 Cost Allocation
 - (a) Allowable AFDC-FC overhead costs as specified in Welfare and Institutions Code Section 11460(b)(1) shall be allocated to each AFDC-FC program.
 - (1) Allocation bases may include, but not be limited to, the following:
 - (A) Direct child care hours.
 - (B) Number of children in each program.
 - (C) Square footage; or
 - (D) If applicable, the percentage of AFDC-FC revenue.
 - (2) The allocation methodology shall be documented and is subject to audit as specified in Section 11-405.2.

- .85 (Reserved)

.9 Phase-in Following Implementation

The standardized schedule of rates as specified in Section 11-402.15 shall be phased in over two state fiscal years (FY) starting with July 1, 1990 and ending June 30, 1992.

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- .91 For implementation purposes, a rate floor shall be established.
 - .911 The rate floor for FY 1990/91 shall be 85 percent of the standard rate for each RCL.
 - .912 The rate floor for FY 1991/92 shall be 92.5 percent of the standard rate for each RCL.
 - .913 The rate for the new group home program of a new or existing provider shall be established at the rate floor for the program's projected RCL.

- .92 Rates effective July 1, 1990 shall be determined as follows:
 - .921 For programs operating on June 30, 1990 with an actual cost-based rate:
 - (a) Providers shall submit a complete rate application, reporting level of care and services provided between July 1 and December 31, 1989 or between July 1, 1989 and March 31, 1990. The resulting RCL shall be the program's RCL based on the retrospective level of care.
 - (b) Providers that implemented a program change during the above stated reporting period that impacts a minimum of four reporting months shall be permitted to report only the months reflective of the program change.
 - (c) Providers shall also project, as part of the complete rate application, the RCL that each program will provide during the 1990-91 fiscal year.
 - (1) Providers shall not project an RCL for a program that is higher than the retrospective RCL reported for that program as specified in (a) or (b) above.
 - (2) Providers shall be permitted to project for a program an RCL that is lower than the retrospective RCL reported for existing programs as specified in (a) or (b) above.
 - (d) The Department shall review the rate application, determine the RCL level, and authorize the rate when the conditions specified in Section 11-402.2 have been met.
 - (1) For programs that have a projected RCL at the same level as the RCL reported as specified in (a) or (b) above, the rate shall be the higher of:

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- (A) The 1989/90 rate plus CNI up to the standard rate, or
 - (B) The rate floor, or
 - (C) The 1989/90 rate if above the standard rate.
- (2) For programs that have a projected RCL that is lower than the RCL reported as specified in (a) and (b) above, the rate shall be the lesser of:
- (A) The standard rate for the projected RCL, or
 - (B) The greater of:
 - (i) The 1989/90 rate plus CNI, or
 - (ii) The rate floor for the projected RCL.
- (e) A provider shall show evidence of their intention to complete the training requirements in fiscal year on-going 1990/91 for a program if the program chooses to claim the weighting for on-going training by submitting both of the following:
- (1) A copy of a training log for training provided between July 1, 1989 and December 31, 1989.
 - (A) The required training log need not include the names of the trainees.
 - (2) A proposed training plan for training to be provided between January 1, 1990 and June 30, 1990.
 - (A) The proposed training plan in (2) above is not required to be preapproved.
- (f) Programs continuing to receive the actual 1989/90 cost-based rate shall be frozen at that rate until the standard rate for the RCL plus COLAs is equal to or greater than the frozen 1989/90 cost-based rate.
- (g) The effective date for timely applications shall be July 1, 1990.
- (h) Good cause and penalties shall be applied as specified in Section 11-402.37 and .38.

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- .922 Programs which do not have an actual cost-based rate in effect June 30, 1990 shall have their 1990/91 fiscal year rate established as follows:
- (a) The provider must submit a complete rate application projecting level of care and services for the 1990/91 fiscal year as specified in Sections 11-402.411 and .411(a).
 - (b) The Department shall determine the RCL and authorize the rate when all required application conditions are met. The rate shall be the lesser of:
 - (1) The existing rate plus applicable CNI up to the standard rate but no less than the rate floor, or
 - (2) The standard rate.
 - (c) The effective date for timely applications shall be July 1, 1990.
 - (d) Good cause and penalties will apply as set forth in Section 11-402.37 and .38.
- .923 The Department shall not increase the RCL level for any group home program during fiscal year 1990/91. A provider wishing to increase a program's RCL must submit a complete application according to Section 11-402.3 in the annual 1991/92 application process.
- .93 Audits of group home programs for fiscal year 1990/91 for which an RCL is determined by retrospective program classification data shall be based on each of the months reported.
- .931 For providers in fiscal year 1990/91, submitting on retrospective basis, the reporting period is:
- (a) Either July 1, 1989 through December 31, 1989, or July 1, 1989 through March 31, 1990.
 - (b) The Department shall review the SR 2 (Rev. 3/90) showing retrospective program classification data to:
 - (1) Verify if projected points were maintained,
 - (2) Determine the RCL for each month,
 - (3) Average the audited points, and
 - (4) Determine if audited points affect RCL and/or rate.

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- .94 Overpayments During the Implementation Period
- .941 Providers that fail to maintain the RCL upon which the 1990/91 fiscal year rate was established shall be assessed an overpayment as specified in Section 11-402.6.
- .942 Providers who are found to have operated at a lower RCL than projected but who received a frozen rate during the implementation period which was higher than the standard for their actual RCL shall be assessed for possible determination of an overpayment. The Department shall:
- (a) Recompute the RCL based upon the actual conditions in effect at the time in question.
 - (b) Establish the new rate for the appropriate months based on the new RCL.
 - (c) Compare the actual rate paid during the affected time period to the recomputed rate to determine if an overpayment exists.
- .943 The Department shall compute an overpayment for a program which, was an on-going program with a cost-based rate before July 1, 1990; had a projected RCL which resulted in a rate higher than the cost-based rate plus CNI effective July 1, 1990; had a recomputed RCL lower than the projected RCL; and the level of care and services prior to and after July 1, 1990 remained the same, as follows:
- (a) Subtract the cost-based rate plus CNI from the actual rate paid during the affected time period.
 - (b) Multiply the average group home occupancy of children who receive AFDC-FC during the audit period by the number of months in the audit period times the result in (a).
- .944 During implementation the overpayment amount shall not exceed the difference between the rate actually paid and the rate that would have been paid if the provider had correctly reported his/her RCL.

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NOTE: Authority cited: Sections 10553, 10553(e), 10554, 11460(b), 11462, 11462(a)(3), 11462(j), 11462.06, 11466.1, 11466.2, and 11466.21, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23. Reference: Sections 1502(a)(1), 1502.4(b), and 1530.8, Health and Safety Code; Section 3353, California Labor Code; Sections 366, 4096.5, 4096.5(a), (c), (c)(1), and (2), and (d), 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11235, 11236, 11400(h), 11402.5(a), 11460, 11460(b)(1), 11462, 11462(a)(1), (a)(2) and (a)(3), 11462(d), 11462(e)(3), 11462(g)(14), 11462(i)(1)(B), 11462.01(a), (a)(1), (2), and (3), 11462.01(b), 11462.01(d), (d)(1) and (2), 11462.01(e), 11462.01(f)(1), (2), and (3), 11462.01(g)(1), (2), (3), and (4), 11462.01(h), 11462.01(i)(1), (2), and (3), 11462.01(j), 11462.03, 11462.06(d)(1) and (d)(2) (Senate Bill 1104, Chapter 229, Statutes of 2004), 11466.1, 11466.2, 11466.2(b)(2), 11466.3, 11466.4, 11466.22, 11466.25, 11466.31, 11466.32, 11466.33, 11466.34, 11466.35, 11466.36, 11467, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468 through 11468.6, 16522(a) and (b), 16501.1(d), and 18350, Welfare and Institutions Code; Sections 1502(a)(1) and (a)(8), Health and Safety Code; Section 4980.08, Business and Professions Code; Assembly Bill 1575, Chapter 728, Statutes of 1997; Public Laws 98-502 and 104-156; The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989; Title 8, California Code of Regulations, Section 11050, and Title 1, Division 2, Section 5233, California Corporations Code; and federal Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; and the Internal Revenue Code Section 4958.

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