

**11-403 FOSTER FAMILY AGENCY RATES** **11-403**

(a) Rate Determination Process

(1) The Department shall set rates for each foster family agency utilized by counties which place AFDC-FC children.

(A) Treatment: The rate for a foster family agency program which provides treatment services for children who have treatment needs shall be set in accordance with Sections 11-403(a)(2) and 11-403(b)-(j).

1. As used in (A) above, "treatment needs" means that the placement agency, as defined in Section 11-400p.(3), has determined that the child has services needs which:

(i) Cannot be provided in an available family home;

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(See family home definition specified in Section 11-400f.(3).)

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(ii) Would require group home placement if the child was not referred to a foster family agency; and

(iii) Can be met by the program offered by the foster family agency to which the child is being referred.

2. The payment to foster parents of a foster family agency shall be at least as great as the Department's schedule of foster family agency basic rates pursuant to Welfare and Institutions Code section 11463(m)(1) plus an additional increment established by the Department pursuant to Section 11-403(c)(1)(B) below in recognition of the specialized nature of the children placed in such homes.

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Welfare and Institutions Code section 11463(m)(1) provides:

On and after July 1, 2012, the basic rate payment that shall be made to the certified parent pursuant to this section for care and supervision of a child who is living in a certified home of a foster family agency, as defined in Section 11400, shall equal the basic rate for children based in a licensed or approved home, as specified in paragraph (1) of subdivision (g) of Section 11461.

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- (B) Non-Treatment: The rate for a foster family agency program which does not provide treatment services shall be the basic rates as specified in Welfare and Institutions Code section 11461(g)(1) for foster family homes.

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Welfare and Institutions Code section 11461(g)(1) provides:

Notwithstanding subdivisions (a) to (d), inclusive, for a child, or on and after January 1, 2012, a nonminor dependent, placed in a licensed or approved family home with a capacity of six or less, or placed in an approved home of a relative or the approved home of a nonrelative extended family member as described in Section 362.7, or placed on and after January 1, 2012, in a supervised independent living placement, as defined in subdivision (w) of Section 11400, the per child per month basic rate in the following schedule shall be in effect for the period commencing July 1, 2011, or the date specified in the final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association v. William Lightbourne, et al. (U.S. Dist. Ct. C 07-08056 WHA), whichever is earlier, through June 30, 2012.

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1. A specialized care rate as defined in Section 11-400s.(7) may be paid for a child placed in a certified family home of a foster family agency program as described in (B) above when the following conditions are met:
    - (i) The placing agency has determined that the child has care needs greater than those of a normal foster child; and
    - (ii) The placing county has a specialized care system as specified in Section 11-401.3.
  2. When a child is placed in a certified home in a county that is different from the county with payment responsibility, the county with payment responsibility shall pay the specialized care rate as specified in Section 11-401.42.
- (2) One rate shall be set for each program for which a rate request is received from a given foster family agency.
- (A) Each foster family agency shall identify and describe each of the programs it offers.
  - (B) The Department shall have the authority to verify the legitimacy and accuracy of the descriptions of each program offered.

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(C) Where a foster family agency submits a rate request for more than one program and the Department determines that no significant difference exists between the programs, a separate rate or set of age-based rates shall not be set.

(b) Allowable Costs

(1) Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 2 CFR Part 200 (formerly referred to as 2 CFR Part 230), 45 CFR Part 74, 45 CFR Part 1356, and Sections 11-402.8 and 11-404.

(A) Allowable costs shall include:

1. Payment to the foster parents for those items specified in Sections 11-401.11 and .12.
2. Reasonable social work activities provided by the foster family agency as defined in Section 11-400s.(4).
3. The reasonable cost of activities of recruiting and training certified family home foster parents and administration of the provision of items or services described in 1. and 2. above.
4. Executive Compensation

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 (IRS) 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.

(c) Rate Calculation

(1) The foster family agency rate per month per child shall consist of the sum of components (A) through (E) below as established in Welfare and Institutions Code section 11463(n):

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Welfare and Institutions Code section 11463(n) provides:

"Notwithstanding any other law, the changes to the basic rate payment specified in subdivision (m) shall not change the remaining components of the foster family agency rate. The new foster family agency rate shall be increased only by the amounts specified pursuant to subdivision (m). The resulting amounts shall constitute the new schedule of rates for foster family agencies, which shall be issued by all-county letters or similar instructions from the department."

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- (A) The foster family agency child basic rate shall be the rate, which varies according to the age of the child, as specified in Welfare and Institutions Code section 11461(g)(1).
- (B) An additional amount, as established in Welfare and Institutions Code section 11463(n), for each child in recognition of the specialized nature of the children.
- (C) An additional amount, as established in Welfare and Institutions Code section 11463(n), for social work services, or the actual allowable amount for the most recent program fiscal year reported by the provider, whichever is less;
- (D) An additional standard amount for recruitment, training, and administration as established in Welfare and Institutions Code section 11463(n).
- (E) An annual cost of living adjustment shall be applied to the child basic rate component of the foster family agency rate identified in (A) in accordance with Welfare and Institutions Code section 11463(m)(2).

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Welfare and Institutions Code section 11463(m)(2) provides:

"The basic rate payment to the certified parent made pursuant to paragraph (1) shall be adjusted annually on July 1, by the annual percentage change in the California Necessities Index, in accordance with paragraph (2) of subdivision (g) of Section 11461. The adjustment in this paragraph shall be in lieu of any adjustment pursuant to subdivision (e)."

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- (F) The department shall publish the Foster Family Agency Rates and identify the applicable annual cost of living adjustment to the child basic rate component of the foster family agency rate on the Department's website.

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The department's website may be accessed at:  
[http://www.childsworld.ca.gov/res/pdf/FFA\\_RatesSchedule.pdf](http://www.childsworld.ca.gov/res/pdf/FFA_RatesSchedule.pdf)

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- (d) Rate Adjustments for Existing Foster Family Agency Rates
- (1) When, based on rate calculation provisions specified in Section 11-403(c), the newly calculated rate is higher than the existing rate, any cost-of-living increases provided in accordance with Welfare and Institutions Code section 11463 shall be applied until the difference between the existing rate and the newly calculated rate is eliminated.

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- (e) On-going Foster Family Agency Rate Request Submission
  - (1) Rate Request Submission
    - (A) Each foster family agency shall submit to the Department a complete rate request for each program being provided in order to receive a rate for that program.
    - (B) A rate request shall be considered complete when all required forms, program statement, and other supporting documentation have been completed and submitted to the Department.
      - 1. A complete rate request shall include:
        - a. A complete Foster Family Agency – Data and Certification Sheet (FCR 1FFA);
        - b. A complete Program Description Checklist (FCR 2FFA);
        - c. A complete Days of Care Schedule (FCR 3FFA) for the rate period;
        - d. A copy of the license issued by CCL in accordance with Title 22, Division 6, of the California Code of Regulations, for each foster family agency, when received;
        - e. Documentation of non-profit status, e.g., the organization's tax exempt status letter from either the Internal Revenue Service (IRS) or the California Franchise Tax Board designating the provider as tax exempt; if any changes have occurred since submission of the last tax exempt status letter.
        - f. An endorsed copy of the agency's Articles of Incorporation, filed with the California Secretary of State, if any changes have occurred since submission of the last Articles of Incorporation, demonstrating the organization:
          - (i) Operates in the public interest for scientific, education, service or charitable purposes;
          - (ii) Is not organized for profit making purposes; and
          - (iii) Uses its net proceeds to maintain, improve or expand its operations.
        - g. A declaration signed by the non-profit Board of Directors that the non-profit corporation will operate during the rate period 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.

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- (i) The provider shall immediately notify the Department if the non-profit ceases to operate on a non-profit basis.
  - (ii) The provider shall immediately notify the Department whenever the non-profit becomes inactive, suspended, or otherwise is not in good standing.
  - h. A copy of the credentials submitted to Community Care Licensing for each social worker providing services for the program if not submitted with a previous rate request.
- (C) A complete rate request shall be due according to the biennial schedule determined by the Department. The Department shall provide reasonable written notice of the scheduled biennial due date.
- 1. A foster family agency that does not submit a complete rate request by the rate effective date shall not have a rate set for the new rate period, and shall not be eligible to receive AFDC-FC funds 60 days after the rate effective date.
- (D) Exceptions to these due dates are as specified in Section 11-403(f).
- (2) Effective Date of Rates
- (A) The effective date of the rate shall be the first day of the second full month following the rate request due date.

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Example: Due date is January 1

- January is not counted
- First day of second full month following January is March

Effective date is March 1

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- (B) Exceptions to the effective dates of rates are as specified in Section 11-403(f).



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(3) Rate Reestablishment

(A) A rate reestablishment is a process to reestablish a foster family agency program rate for the remainder of the scheduled rate period that could not be established in accordance with Section 11-403(e)(1)(C)1. or was terminated for failure to submit a financial audit report as specified in Section 11-405.219. A program rate shall be reestablished when the Department determines that all applicable rate request requirements have been met.

1. The effective date of the rate for a complete rate request shall be no earlier than the first day of the second month following the rate request due date.

2. A foster family agency rate that is terminated pursuant to Section 11-405.219, shall not be reestablished until the non-profit corporation submits a financial audit report in accordance with Section 11-405.21.

(i) Once the Department has determined that the provider has satisfactorily met the financial audit requirements as specified in Section 11-405.2, the effective date for the reestablishment of the rate shall be when the Department provides written notification to the foster family agency.

(f) Deviations from the Ongoing Foster Family Agency Rate Request Process

(1) New Foster Family Agency Providers

(A) A new foster family agency provider shall be one who:

1. Has not operated a foster family agency or group home program for AFDC-FC funded children in the fiscal year preceding that for which the rate is being set; or

2. Has operated a foster family agency in the fiscal year preceding that for which the rate is being set but did not accept AFDC-FC funded children during that fiscal year; and

3. Has a program that has changed its corporate identification.

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(B) The rate for new foster family agency providers shall be determined in accordance with Section 11-403(a)(1).

1. The rate effective date for a new provider or a new program shall be the later of the:
  - a. date the Department received a complete rate request as specified in Section 11-403(e)(1)(B); or
  - b. date the license was issued; or
  - c. date of first placement

(C) In order to establish a rate, new foster family agency providers shall submit to the Department a complete rate request in accordance with Section 11-403(e)(1)(B).

(2) New Foster Family Agency Programs

(A) A new foster family agency program is one that serves a different population at a different level of service than that currently served by the foster family agency's existing program(s); and with a rate set in accordance with Section 11-403(a)(1).

(B) Foster family agencies requesting a new program rate shall obtain and submit to the Department:

1. Verification that the provisions of Section 11-403(f)(2)(A) are met; and
2. Verification that the need for the new program(s) is justified and
3. A letter of recommendation from the host county, the primary placing county, or a regional consortium of counties that the foster family agency is needed and is able to provide services at the level of care represented.

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- (g) The administrative review procedure for foster family agencies is specified in Section 11-430.
- (h) State Audit Requirements: Audit requirements for foster family agencies are specified in Section 11-405.1.
- (i) Overpayments: Overpayment requirements for foster family agencies are specified in Section 11-402.6. An overpayment shall be caused by, but is not limited to, the expenditure of AFDC-FC program funds on items not allowable as specified in paragraph (b) above.
- (j) Accounting Requirements: Accounting requirements for foster family agencies are specified in Section 11-402.84.
- (k) Good Cause for Late Foster Family Agency Rate Request
  - (1) A provider who is unable to submit a complete rate request by the due date shall be allowed to submit in writing a request for a determination of good cause as defined in Section 11-400g.(1). The good cause request shall be postmarked no later than five (5) calendar days following the rate request due date and shall contain the following:
    - (A) A clear statement that the request is for a determination of good cause;
    - (B) The specific reason(s) for submitting an untimely rate request;
    - (C) The provider's name, address and telephone number;
    - (D) The name, address and telephone number of the person to be notified regarding the determination of good cause; and
    - (E) The name, location and program number of the affected program(s).

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- (2) Within 15 calendar days of the postmarked date of a provider's request for a 30-day good cause extension, the Department shall either approve or deny the request and shall notify the provider in writing of the determination.
  - (A) When the Department approves a request for good cause for a late or incomplete filing of a rate request, a complete rate request is due within 30-days of the postmark of the Department's approval notification or 30 days after the original rate request due date, whichever is later.
  - (B) Rate requests which are not submitted in accordance with Subsection (A) shall be subject to the appropriate penalty contained in Section 11-403(e)(3).
  - (C) When the Department denies a good cause request, the provider shall submit a complete rate request prior to the first of the next calendar month and shall be subject to the applicable penalty provisions as specified in Section 11-403(e)(3). The effective date of the rate shall be set in accordance with Section 11-403(e)(1)(B).

NOTE: Authority cited: Sections 10553, 10554, 11463, 11463(1)(2) and 11466.21(c), Welfare and Institutions Code. Reference: Sections 11461(a), 11461(g)(1), 11463, 11463(b), (i), (l) and (m), 11466.21, 11466.22, 11466.24, 11468, and 11468.2, Welfare and Institutions Code; Public Laws 98-502 and 104-156; 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; 2 CFR Part 200 and 230; 45 CFR Part 74; 45 CFR Part 1356 and Internal Revenue Code Section 4958.

**11-404 USE OF FEDERAL AND STATE FOSTER CARE FUNDS** **11-404**

- .1 Federal and State AFDC-FC program funds shall be used to meet the cost of providing care and supervision and its associated administrative costs, consistent with the paid rate, for AFDC-FC eligible children as specified in Sections 11-402.82 and 11-403(c).
- .2 Once the care and supervision needs of the children commensurate with the paid rate have been rendered, any unexpended AFDC-FC funds at the end of the program's fiscal year, may be retained by the non-profit corporation operating the group home and/or FFA program, regardless of the fiscal year for which they were received. When expended, these funds shall be used to provide activities that serve or benefit California foster care children, which include, but are not limited to, the following:
  - .21 AFDC-FC allowable costs of other group home and/or FFA programs operated by a non-profit corporation, as specified in Sections 11-402.82 or 11-403(c).
  - .22 Any child-related direct services which shall include, but are not limited to orthodontia, glasses, therapeutic services, recreation therapy, and after-care services, only to the extent that those services are not fully funded from any other governmental funding source and only to the extent that those activities benefit California foster care children.
  - .23 The costs of starting new programs or expanding existing programs, and the operational costs of existing programs provided that the majority of the population to be served by the program shall be California foster care children.
  - .24 The costs of providing pre and/or post emancipation services for California foster care children up to 21 years of age, as identified in either the case plan, individual needs and services plan, or the Transitional Independent Living Plan.
- .3 For the purposes of this section, the term "foster care children" shall include any foster care child or youth who is or has been placed in out-of-home care by a California child welfare services or probation placement agency, including children who are placed out-of-state pursuant to the Interstate Compact on the Placement of Children.

NOTE: Authority Cited: Section 11460, Welfare and Institutions Code. Reference: Section 11460, Welfare and Institutions Code and CFR 45 Part 74.

**11-405 FISCAL AND FINANCIAL AUDITS 11-405**

.1 Fiscal Audits

.11 Group home and foster family agency fiscal audits shall be performed by the Department, its agents, or an audit agency of the federal government.

.111 The scope of the audits shall include, but not be limited to, compliance with all applicable federal and state laws, regulations, and instructions based on those laws and regulations in effect during the audit period.

.112 Group home programs and foster family agencies shall maintain, at a minimum, the following documentation, as applicable, to support AFDC-FC program expenditures for a period of not less than five years:

(a) Copies of all contracts and leases, time sheets/time studies, cancelled checks, payroll register/salary schedule, payroll taxes, DE 3DP Quarterly Contributions Return, IRS Form #1099-Miscellaneous Income, and cash receipts.

(b) Children's case files, and daily logs and notes of staff performing social work and mental health activities which verify that activities/services were provided to children in placement.

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.113 Beginning January 1, 1994, unless otherwise specified in law, a fiscal audit will follow the field audit standards contained in the "Field Work Standards for Financial Audits" section of "Government Auditing Standards" (Rev. 1988) by the Comptroller General of the United States, United States General Accounting Office.

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.114 Noncompliance with the "Field Work Standards for Financial Audits" section of "Government Auditing Standards" (Rev. 1988) 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.

.12 Group home programs shall maintain all cost data related to the following categories for a period of not less than five years.

.121 CCS.

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- .122 Social Work Activities.
- .123 Food.
- .124 Shelter.
- .125 Buildings and equipment.
- .126 Utilities.
- .127 Vehicles and travel.
- .128 Child related.
- .129 Administration.
  
- .13 The Group Home Program Cost Report (SR 3), Group Home Program Payroll and Fringe Benefit Report (SR 4), and Total Program Cost Display (FCR 12FFA) are used to report the following payroll and fringe benefit data:
  - .131 Payroll.
  - .132 FICA.
  - .133 Unemployment coverage.
  - .134 Medical insurance expense.
  - .135 Retirement.
  - .136 Other payroll and fringe benefit costs.
  - .137 Contractor costs.

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.14 A provider shall be responsible for making available all requested records and documents as referenced in Sections 11-405.12 and .13 during fiscal audits.

.141 A provider's refusal to cooperate with the Department by not providing the requested records, documents, or allowing immediate access to the requested documents, records or facilities shall result in rate termination as specified in Sections 11-402.524, 11-402.525, and 11-402.526.

.2 Financial Audits

As a condition to receive an AFDC-FC rate, a non-profit corporation that operates a group home program and/or a foster family agency program that provides treatment services shall submit a financial audit report to the Department.

.21 Audit Report Requirements

To be accepted by the Department, a financial audit report shall meet the following requirements:

.211 The audit shall be conducted by a certified public accountant or a state-licensed public accountant.

.212 The accountant conducting the audit shall not have a direct or indirect relationship with the corporation which affects or could affect the accountant's independence, objectivity, or integrity, as defined in Rules 101 and 102 of the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct and the interpretations and ethics rulings under these rules.

.213 The audit shall be conducted according to the *Government Auditing Standards* issued by the Comptroller General of the United States [Generally Accepted Government Auditing Standards (GAGAS)] and financial accounting standards applicable to entities organized and operated on a non-profit basis.

(a) Beginning April 1, 2003, for those non-profit corporations that expend \$300,000 or more in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year, the audit must be conducted annually according to the standards contained in federal Office and Management Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. The non-profit corporation's financial audit report, including copies of any management letters issued by the independent auditor as a result of the audit, shall be submitted to the Department annually within the earlier of 30 days after receipt of the independent auditor's report or nine months after the end of the non-profit corporation's most recent fiscal year.

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- (1) For purposes of this section, federal Foster Care funds shall be deemed expended when received by the non-profit corporation.
  - (2) Corporations shall submit to the Department one copy of the complete OMB Circular A-133 report and audited cost data as specified in Section 11-405.214.
  - (3) Notwithstanding Section 11-405.213(a), a non-profit corporation which operates a group home program and/or a foster family agency program that provides treatment services whose fiscal year began prior to April 1, 2003 shall submit a financial audit report for the non-profit corporation's most recent fiscal year in accordance with *Government Auditing Standards* or OMB Circular A-133 standards, within the time frame specified in Section 11-405.213(b).
- (b) For a non-profit corporation that expends less than \$300,000 in combined federal funds for all of its programs and activities during the non-profit corporation's fiscal year, the audit must be conducted according to *Government Auditing Standards* as specified in Section 11-405.213. The non-profit corporation's financial audit report, including copies of any management letters issued by the independent auditor as a result of the audit, shall be submitted to the Department at least once every three years on a schedule determined by the Department within the earlier of 30 days after receipt of the independent auditor's report or six months after the end of the non-profit corporation's most recent fiscal year.
- (1) For each and every year in which a financial audit report is not required, the non-profit corporation shall submit to the Department cost data reported on the applicable Group Home Program Cost Report, SR 3, (12/02) Group Home Program Payroll and Fringe Benefit Report, SR 4, (12/02) and the Total Program Cost Display, FCR 12FFA, (12/02) which may be unaudited or audited. The cost data to be reported for a year in which a financial audit report is required shall be audited and submitted in accordance with Section 11-405.214.

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- (A) The reported cost data shall be consistent with the entity's most recent fiscal year and shall be submitted within six months of the non-profit corporation's fiscal year ending date.
  - (B) Completed cost data reports and other documentation to support AFDC-FC program expenditures shall be maintained for at least five years.
- (2) The Department may require the non-profit corporation which is under corrective actions as specified in a management decision letter or which has been found by the Department to have committed misuse or fraud to submit a financial audit report more frequently than once every three years on a schedule determined by the Department.
- (A) The Department shall provide prior written notice to a non-profit corporation when it is requiring submission of a financial audit report more frequently than once every three years.
  - (B) The written notice shall set forth the basis for the requirement to submit a financial audit more frequently than once every three years, the date the additional financial audit report is due to the Department, and other conditions for submitting the financial audit report.
  - (C) Any financial audit report required under this paragraph shall comply with the standards set forth in Section 11-405.21.
  - (D) A non-profit corporation who does not submit an acceptable audit report by the date specified in the Department's notice shall be subject to rate termination under Section 11-402.393.
  - (E) Financial audits required under this paragraph shall not be eligible for cost reimbursement under Section 11-405.22.
- (3) For each and every year in which a financial audit report is not required, the non-profit corporation shall provide a written certification stating that the combined federal funds received from all sources for the most recent fiscal year was less than \$300,000. The Federal Revenue Certification, SR 9, (05/03), shall be used to provide this certification. The completed SR 9 certification form shall be signed and dated by the executive director or authorized board officer and shall be submitted to the Department within six months of the non-profit corporation's fiscal year ending date.

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(4) When a non-profit corporation that is on a triennial financial audit reporting schedule receives total federal revenue in excess of \$300,000 during a fiscal year for which a financial audit report is not scheduled, it shall report this federal revenue to the Department within three months from the end of the non-profit corporation's fiscal year. A financial audit shall be conducted and the corresponding report shall be submitted to the Department in accordance with Section 11-405.213(a).

.214 The audit shall include all of the programs and activities of the non-profit corporation which operates a group home and/or a foster family agency which provides treatment services and shall not be limited to those programs and activities funded in whole or in part by AFDC-FC funds. The audit shall also include audit procedures applied to the cost data reported on the SR 3, SR 4, and FCR 12FFA. The data reported by providers in the cost reports shall be consistent with the entity's fiscal year audit period as specified in Section 11-405.215. The audited cost data may be reported together with the audit of all the programs and activities or reported separately and referenced as an attachment.

(a) A non-profit corporation which operates a group home program and/or a foster family agency program that provides treatment services whose fiscal year began prior to April 1, 2003 shall not be required to submit audited cost data. These corporations shall submit unaudited cost data with the financial audit report.

.215 The audit shall cover the corporation's most recent fiscal year, as defined by the corporation, with the following exceptions:

(a) Notwithstanding Section 11-405.21, a non-profit corporation that has been incorporated fewer than 12 calendar months by the end of its first fiscal year in which it received AFDC-FC funds shall not be required to submit a financial audit report. A financial audit shall be conducted on the non-profit corporation's next full fiscal year of operation and the financial audit report shall be submitted to the Department along with the required cost data in accordance with Section 11-405.21.

(b) If the corporation changes its fiscal year as permitted by the Internal Revenue Service, the audit conducted following the change shall cover all of the months since the last audit, even though this may include more than 12 months. If the audit period is greater than 12 months, the most recent 12 months of the audit period shall be presented separately in the audit report

.216 Financial information shall be reported in a format consistent with generally accepted accounting principles as established by the Financial Accounting Standards Board, the *Government Auditing Standards* issued by the Comptroller General of the United States (GAGAS), and with federal OMB Circular A-133 as required in Section 11-405.21.

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.217      A non-profit corporation that is unable to submit a timely audit report by the due date specified in Section 11-405.213 shall be allowed to submit a written request for determination of good cause as defined in Section 11-400g.(1) which shall be postmarked no later than the audit report due date.

- (a)      The request shall contain the following:
  - (1)      A clear statement specifying the request for determination of good cause for late submission of a financial audit report.
  - (2)      The specific reason(s) for late submission of a financial audit report.
  - (3)      The earliest date when a financial audit report can be submitted and the reason why it cannot be submitted earlier.
  - (4)      The provider's name, address and phone number.
  - (5)      The name, address and phone number of the person to be notified regarding the determination of good cause.
  - (6)      The name, location and program number of the affected program(s).
  
- (b)      Within 15 calendar days of receipt of the request for a determination of good cause, the Department shall make a determination of good cause and shall notify the non-profit corporation in writing of the determination.
  - (1)      When the Department determines that good cause exists for a late submission of the financial audit report, the Department shall notify the non-profit corporation of the revised due date.
  - (2)      When the Department determines that good cause does not exist for late submission of the financial audit report, the Department shall notify the non-profit corporation that it may be subject to rate termination for failure to submit a timely financial audit report as specified in Section 11-402.393.

**11-405**      **FISCAL AND FINANCIAL AUDITS (Continued)** **11-405**

.218      A non-profit corporation that submits an audit report which does not meet the Department's requirements set out in Sections 11-405.211 through .216 will be granted 30 days to correct any deficiencies unless the Department determines that circumstances beyond the control of the provider exist to grant a longer period.

.219      A non-profit corporation that does not submit an acceptable audit report by the end of the period specified in Section 11-405.218 or fails to submit an audit report as specified in Sections 11-405.213(a) and (b) shall be subject to rate termination under Section 11-402.393.

|      .22      (Repealed by Manual Letter No. OPS-05-02 effective 9/20/05.)

**11-405**      **FISCAL AND FINANCIAL AUDITS (Continued)** **11-405**

.23    Administrative Procedures for Recoupment

.231    Management Decision and Recoupment

- (a)    For a financial audit report submitted as a condition for receiving a Foster Care program rate, the Department shall issue a management decision on audit findings within six months of receipt of the financial audit report. The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the action expected of the corporation to repay disallowed costs, make financial adjustments, or take other action.



**11-405 FISCAL AND FINANCIAL AUDITS (Continued) 11-405**

- (b) The Department may issue a management decision upon completion of a fiscal audit if deemed necessary and appropriate. Any management decision issued as a result of a fiscal audit shall clearly describe each review finding and the action expected of the corporation to repay disallowed costs, make financial adjustments, or take other action.
  
- (c) The Department may recover those costs identified in a financial audit or fiscal audit as misuse or fraud involving AFDC-FC funds. The Department's decision on recoupment shall be based on a review of the audit findings, any responses from a non-profit corporation's management to the findings, including any actions taken to recover misused or fraudulently expended funds, and findings from any additional audits conducted by the Department or its designee. The Department shall provide written notice to the non-profit corporation of its determination in a management decision. The Department's determination of misuse or fraud and its decision on recoupment shall be final if the provider does not request a hearing within the prescribed time stated in Section 11-405.232.

**.232 Hearing**

The non-profit corporation may request a hearing of the Department's determination of misuse or fraud and its decision on recoupment no later than 30 days after the date the Department issues the management decision. The request for hearing shall identify each audit finding in dispute, and set forth the non-profit corporation's contentions for each disputed audit finding. The request for hearing shall include all supporting documentation that is relevant to the disputed audit findings. Within 60 days of the request for hearing, the Department shall conduct a hearing on the determination, in accordance with the hearing procedures set forth in Sections 11-430.5 through .69. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the Department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary report. The director shall adopt, reject or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of the issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

**11-405**      **FISCAL AND FINANCIAL AUDITS (Continued)** **11-405**

.233      Repayment Terms

The Department shall establish repayment terms in accordance with Section 11-402.66.

.234      Rate Termination

(a)      Pursuant to Section 11-402.393, the Department may terminate the rate of a non-profit corporation that is found to have committed misuse or fraud including, but not limited to the following circumstances:

- (1)      Multiple occurrences of misuse, or
- (2)      Failure to pay on amounts determined by the Department to be misuse or fraud, or
- (3)      An officer or director of a non-profit corporation is convicted of fraud, embezzlement, deception, theft and/or material misrepresentation regarding the corporation's operation of its group home or foster family agency program.

(b)      Pursuant to Section 11-402.393, the Department may terminate the rate of a non-profit corporation that has failed to substantially comply with expected corrective actions as specified in a management decision letter.

.24      Nothing in this section shall preclude counties from conducting site visits or from performing audits to verify compliance with the terms of any contract or agreement between a county placement agency and a group home and/or foster family agency relative to children in care. Such activities shall not duplicate audits conducted in accordance with OMB Circular A-133.

**11-406 DEFINITIONS - FORMS**

**11-406**

The following forms are incorporated by reference:

- (a) (Reserved)
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) (Reserved)
- (f)
  - (1) Financial Audit Report Transmittal, SR 8, (Rev. 4/03) – This form is used by a non-profit corporation to transmit the financial audit report to the Department. In addition, the form must be used by a non-profit corporation which submits a claim for the costs of a financial audit. The completed and signed form would provide the necessary certification that total federal revenue received from all sources for the corporation's most recent fiscal year was less than \$300,000.
  - (2) Federal Revenue Certification, SR 9, (05/03) – This form is used by a non-profit corporation to certify that combined federal funds received from all sources for the corporation's most recent fiscal year was less than \$300,000.
  - (3) Foster Family Agency Data and Certification Sheet (FCR 1FFA, 12/04) – This form is used by a non profit corporation to provide general identifying information and licensing information.
  - (4) Foster Family Agency Days of Care Schedule (FCR 3FFA, 7/03) – This form is used by a non profit corporation to report the number of clients who were served by a foster family agency on a month-by-month basis.
  - (5) Foster Family Agency Program Description Checklist (FCR 2FFA, Rev 2/05) – This form is used by a non profit corporation to report the type of program offered by the foster family agency.
  - (6) Foster Family Agency Total Program Cost Display (FCR 12FFA, Rev. 2/05) – This form is used by a non-profit Foster Family Agency corporations to collect cost information for a specific program.
- (g)
  - (1) Group Home Program - Cost Report (SR 3, Rev. 12/04) – This form is used by a non-profit corporation to report cost information of a specific group home program.
  - (2) Group Home Program - Days of Care Schedule (SR 5, Rev. 12/04) – This form is used by a non-profit corporation to report historical or projected monthly data on the occupancy and licensed capacity of a specific group home program.

<b>11-406</b>	<b>DEFINITIONS – FORMS (Continued)</b>	<b>11-406</b>
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- (3) Group Home Program - Payroll and Fringe Benefit Report (SR 4, Rev. 12/04) – This form is used by a non-profit corporation to capture historical or projected monthly data on payroll and fringe benefit costs for a specific group home program.
- (4) Group Home Program - Program Classification Report (SR 2, Rev. 12/04) – This form is used by a non-profit corporation to capture historical and projected monthly data, which is used to establish a rate classification level (RCL) for a specific group home program
- (5) Group Home Program - Rate Application (SR 1, Rev. 12/04) – This is the form used by a non-profit corporation to apply for a group home program rate.
- (6) Group Home Shelter Costs, Self-Dealing Transactions Declaration and Survey (FCR 16, Rev. 2/05) – This form is used by a non profit corporation to assess whether a corporation is engaged in a self-dealing transaction for shelter costs.
  
- (h) (Reserved)
- (i) (Reserved)
- (j) (Reserved)
- (k) (Reserved)
- (l) (Reserved)
- (m) (Reserved)
- (n) (Reserved)
- (o) (Reserved)
- (p) (Reserved)
- (q) (Reserved)
- (r) (Reserved)
- (s) (Reserved)
- (t) (Reserved)
- (u) (Reserved)
- (v) (Reserved)

**11-406**      **DEFINITIONS – FORMS** (Continued) **11-406**

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11462(a)(3), 11463(i), 11466.21 and 15658, Welfare and Institutions Code.

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**11-410**      **TRANSITIONAL HOUSING PLACEMENT PROGRAM RATES** **11-410**

- .1 For THPP rates, pursuant to Welfare and Institutions Code Section 11403.3(a)(1), and MPP Section 30-900 et. seq., a county whose THPP plan has been approved by the Department prior to June 30, 2001 is approved to receive the base rate approved as of that date. If a county did not have an approved THPP plan as of June 30, 2001, the base rate per participant will be \$2,100 per month. An additional amount may be paid according to the following:
  - .11 The additional amount shall not cause the total rate to exceed 75 percent of the average RCL payment the county pays to group homes for foster youth 16 to 18 years of age.
  - .12 Funding of the additional amount shall be subject to the sharing ratios specified in Welfare and Institutions Code Section 15200.
  - .13 The state portion of the additional amount shall be subject to the availability of the Transitional Housing for Foster Youth Fund.
  - .14 If the Transitional Housing for Foster Youth Fund is depleted, the county shall pay the state share of the additional amount.
  
- .2 Pursuant to Welfare and Institutions Code Section 11403.3(a)(2), the per tenant monthly rate for THP-Plus shall not exceed 70 percent of the average RCL payment the county pays to group homes for foster youth 16 to 18 years of age, contingent upon the following conditions:
  - .21 Funding shall be subject to the sharing ratios specified in Welfare and Institutions Code Section 15200.
  - .22 The state portion of the rate shall be subject to the availability of the Transitional Housing for Foster Youth Fund.
  - .23 If the Transitional Housing for Foster Youth Fund is depleted, the county shall pay the state share of the rate.
  
- .3 Special Definitions:
  - .31 "Participant" means, for the purposes of this chapter, a foster/probation youth placed in a THPP unit as specified in Welfare and Institutions Code Section 11403.2(a)(1).

**11-410**      **TRANSITIONAL HOUSING PLACEMENT PROGRAM RATES** **11-410**  
(Continued)

- .32    “Tenant” means, for the purposes of this chapter, a young adult who is a former foster/probation youth and who is participating in Transitional Housing Program (THP)-Plus pursuant to Welfare and Institutions Code Section 11403.2(a)(2).
  
- .33    “Unit” means, for the purposes of this chapter, the THPP residence where the participant or tenant resides.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10553, 10554, 11403.3, 15200, and 16522.3, Welfare and Institutions Code.

**11-415**      **INFANT SUPPLEMENT** **11-415**

- .1      The infant supplement paid shall be a uniform amount to cover the cost of care and supervision of a child in addition to the rate that would otherwise be paid for the minor parent's placement.
  
- .11     The amount paid for a child living with a minor parent in a group home placement who receives AFDC-FC shall be \$768 per month per child.
  
- .12     The amount paid for a child living with a minor parent in an eligible facility other than a group home who receives AFDC-FC shall be \$354 per month per child.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11465 and 11468, Welfare and Institutions Code.



**11-420 SPECIAL NEED PAYMENTS 11-420**

- .1 Clothing Allowances
  - .11 Counties shall have the authority to make provision for the cost of additional clothing, including an initial supply of clothing and school or other uniform when not included in the rate.
  - .12 State participation in increases for clothing allowances established by the county shall not exceed the percentage cost-of-living increase granted other AFDC recipients in accordance with Welfare and Institutions Code Section 11453.
- .2 Allowance for Funeral Expenses
  - .21 When a foster parent(s) desires a funeral other than as provided by the county, the county shall reimburse the foster parent(s) for the cost of the funeral expenses up to \$5,000 for a child receiving foster care at the time of his/her death to the extent not otherwise reimbursed for costs incurred for such purposes.
    - .211 Direct payment of the claim to the funeral home and burial plot provides shall be made under the following circumstances:
      - (a) upon request by the foster parent(s); or
      - (b) when death of the foster child is due to the foster parent's alleged criminal negligence or other alleged criminal action.
    - .212 The county shall submit claims to the Department for costs incurred and paid within the above limitations.
- .3 Exclusions
  - .31 No amount shall be allowed as special need for the following:
    - .311 Items other than those specified in Sections .1 and .2 above.
    - .312 Any special need item available to the child prospective caretaker without cost.
    - .313 Service-connected expenses (see Section 10-305).

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 11212 and 11468, Welfare and Institutions Code.

**11-425**      **RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS** **11-425**

- .1    The county welfare and probation departments' responsibilities shall include, but not be limited to, the following:
  - .11    Paying the rate(s) determined by the Department on behalf of AFDC-FC eligible children placed with foster parents and providers. (See Sections 11-401, 11-402 and 11-403.)
  - .12    Recommending the establishment of a new program by a new or existing provider, or a program change which is either more than one RCL greater than the original RCL determination or a program change to RCL 13 or 14. (See Sections 11-402.41, .42, and .43). The recommendation is to include:
    - .121    Program is needed in that county.
    - .122    Provider is capable of effectively and efficiently operating the program.
      - (a)    The county shall determine whether a new or existing Board of Directors member, Executive Director, licensee and Program Administrator were employed in similar capacities in a corporation licensed to operate a group home or a foster family agency that has not fully repaid any overpayment of AFDC funds, or was the respondent in a community care license revocation accusation within the past three years. Counties shall contact the Foster Care Audits and Rates Branch, and the Statewide Children's Residential Program Office of the Community Care Licensing Division. If the county determines that one or more of these persons were employed in similar capacities in such a corporation, the county cannot determine that the provider is capable of effective and efficient program operation, unless the county finds that compelling reasons exist to believe that the person or persons so identified are now capable of effective and efficient program operation, and shall include those reasons in the recommendation.
    - .123    Provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.
  - .13    Confirming the existence and legitimacy of more than one program as appropriate. (See Section 11-402.1.)
  - .14    Reviewing children placed by the placement agency in the program which is determined to have points at RCL 13 or 14 and verifying to the Department that all the children have special treatment needs. (See Section 11-402.18)
  - .15    Upon request by the Department, counties shall report the county's understanding of the services offered by the program and the population served.

**11-425 RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS** **11-425**  
(Continued)

- .16 Cooperating with other placement agencies to form a regional consortium to review group home program requests for county recommendation.
- .17 Participating, if requested by the Department, in the rate review process. (See Section 11-402.56.)
- .18 Submitting to the Department rate payment information for each fiscal year beginning with fiscal year 1983/84, for family homes, homefinding agencies, and group homes.
- .19 Providing the Department with reasonable and applicable information and statistics as required.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code, Chapter 1294, Statutes of 1989, Section 23; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 32. Reference: Sections 11462(g)(2), 11462(i)(2), 11462.01(b), and 11466.23, Welfare and Institutions Code.

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**11-430** **AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES** **11-430**

.1 Administrative Review of Departmental Audits for Group Home Programs and Foster Family Agencies.

.11 Exit Conference and Audit Report

.111 Prior to the issuance of an audit report by the Department, a group home provider/foster family agency shall be afforded the opportunity to participate in an exit conference. The purpose of the exit conference is to:

- (a) Inform the group home provider/foster family agency of the preliminary audit findings and to review any specific situations in which the records reviewed by the Department were not found to substantiate the RCL level or rate paid to the group home provider/foster family agency.
- (b) Allow the group home provider/foster family agency an opportunity to identify and present any specific records relevant to the audit findings but not reviewed by the Department.

.112 At the conclusion of the exit conference, the Department shall provide the group home provider/foster family agency with a copy of the preliminary draft audit findings. The Department shall notify the group home provider/foster family agency that the Department will issue an audit report within 45 days after the exit conference and shall inform the group home provider/foster family agency of the administrative review procedure relative to audit findings. Within 15 calendar days of the exit conference, the group home provider/foster family agency shall submit to the Department any records which were identified by the group home provider/foster family agency at the exit conference as relevant to the audit findings but were not available for review by the Department at that time.

.113 An audit report issued by the Department shall include the following:

- (a) A complete listing of audit findings, including all items to which an exception has been taken, the RCL point or other value of each audit finding, and the authority cited for each audit finding.
- (b) Notice of the group home provider/foster family agency's right to an administrative review of certain audit findings contained in the audit report.

**HANDBOOK BEGINS HERE**

- .114 Beginning January 1, 1994, unless otherwise specified in law, an audit report for a program audit will follow the reporting standards contained in the "Reporting Standards for Performance Audits" section of "Government Auditing Standards" (Rev. 1988) by the Comptroller General of the United States, United States General Accounting Office.
- .115 Beginning January 1, 1994, unless otherwise specified in law, an audit report for a fiscal audit will follow the reporting standards contained in the "Reporting Standards for Financial Audits" section of "Government Auditing Standards" (Rev. 1988) by the Comptroller General of the United States, United States General Accounting Office.

**HANDBOOK ENDS HERE**

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- .116 Noncompliance by the Department with the "Reporting Standards for Performance Audits" and "Reporting Standards for Financial Audits" sections of "Government Auditing Standards" (Rev. 1988) 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.
- .12 Statement of Disputed Audit Findings
- .121 A group home provider/foster family agency may request an administrative review of an audit report to examine any disputed audit finding which results in an adjustment to the group home provider/foster family agency's rate for a previous audit period or that reduces the group home provider's overall RCL point total or foster family agency reimbursement for a previous audit period by submitting a written request ("Statement of Disputed Audit Findings") to the Department, as follows:
    - (a) A Statement of Disputed Audit Findings shall be filed with the Department within 60 calendar days of the receipt of the audit report.
    - (b) The Statement of Disputed Audit Findings may be amended by the group home provider/foster family agency at any time during the 60 calendar day period.
  - .122 If a Statement of Disputed Audit Findings is not filed with the Department within the 60 calendar day period, the audit report will be deemed final unless the following requirements are met:
    - (a) A group home provider/foster family agency files a request for a good cause determination under Section 11-402.371 on or before the 50th calendar day period following the receipt of the audit report.

**11-430** **AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES** **11-430**  
(Continued)

- (b) The Department makes a good cause determination in accordance with Section 11-402.372.
  
- .123 The Statement of Disputed Audit Findings shall be in writing, signed by the group home provider/foster family agency, and shall state the name, address and telephone number of the group home provider/foster family agency and of the agent, if any agent has been designated, and the date of signing of the Statement. A group home provider/foster family agency shall specify the name and address of the individual authorized on behalf of the group home provider/foster family agency to receive documents from the hearing officer or Administrative Law Judge, including the final decision of the Director, relating to the administrative review.
  
- .124 The Statement of Disputed Audit Findings shall be specific as to each audit finding in dispute, setting forth the group home provider/foster family agency's contention as to each disputed audit finding, the authority for each contention and the estimated amount or RCL point value for each disputed audit finding. The group home provider/foster family agency or the agent shall submit all supporting documentation relevant to the administrative review which may include the records maintained pursuant to Sections 11-402.521 through 11-402.523, payroll files and any other supporting documentation.
  
- .125 A Statement of Disputed Audit Findings shall only address specific audit findings contained in the audit report. Other issues, including but not limited to the authority of the Department to set rates, determine RCL points, conduct audits or collect overpayments, shall not be included in the Statement of Disputed Audit Findings for purposes of resolution in the administrative review.
  
- .126 If an informal hearing officer determines that a Statement of Disputed Audit Findings is not specific as to each audit finding in dispute, or that necessary supporting documentation is not included with the Statement of Disputed Audit Findings, the hearing officer shall notify the group home provider/foster family agency or the agent of the group home provider/foster family agency of the insufficiency. The group home provider/foster family agency or the agent shall be granted 30 calendar days after the date of the mailing of the notice of insufficiency within which to file an amended Statement of Disputed Audit Findings or supply the necessary supporting documentation. If within the time permitted the group home provider/foster family agency or the agent fails to correct the insufficiency by amending or supplementing the Statement of Disputed Audit Findings as specified in the notice of insufficiency, the dispute as to those audit findings shall be denied.

<b>11-430</b>	<b>AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES</b>	<b>11-430</b>
	(Continued)	

- .127 A group home provider/foster family agency may appeal a determination by the Department that a Statement of Disputed Audit Findings has not been filed on a timely basis. An "Order to Show Cause" hearing solely on the timeliness issue shall be held before an Administrative Law Judge pursuant to Section 11-430.5. The remedy for a group home provider/foster family agency in an "Order to Show Cause" hearing shall be limited to the filing of a timely Statement of Disputed Audit Findings pursuant to Section 11-430.12.
  
- .13 Amended Audit Report
  - .131 An amended audit report may be issued by the Department for an audit period for which administrative review is pending if during the administrative review process the group home provider/foster family agency or its agent submits additional supporting documentation or other evidence that was not reviewed by the auditors at the time of the field audit.
  - .132 The informal hearing officer or Administrative Law Judge shall suspend the administrative review for a period not exceeding 120 days while the Department completes an amended audit report and the group home provider/foster family agency identifies any additional disputed audit findings contained in the amended audit report.
  - .133 After completion of an amended audit report by the Department, the group home provider/foster family agency may include any additional disputed audit findings in a pending administrative review by submitting an amended Statement of Disputed Audit Findings and necessary supporting documentation to the informal hearing officer or Administrative Law Judge.
  - .134 The informal hearing officer or Administrative Law Judge may dismiss the administrative review without prejudice to the right to request a subsequent administrative review under this article when he or she deems this course to be appropriate.
  
- .14 Informal Hearing
  - .141 An informal hearing on the audit findings disputed by the group home provider/foster family agency in the Statement of Disputed Audit Findings shall be scheduled within 30 days of receipt of the Statement of Disputed Audit Findings. An informal hearing officer designated by the Department, but not reporting directly to the Foster Care Branch, shall preside at the informal hearing.



**11-430 AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES 11-430**  
(Continued)

- .142 Written notice of the time and place of informal hearing will be mailed to each party by the informal hearing officer at least 15 calendar days before the date of the hearing. This period may be shortened with the consent of the parties. Any party may waive notice.
- .143 Efforts shall be made to resolve the facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Disputed audit findings contained in the Statement of Disputed Audit Findings which are not discussed at the informal hearing shall not be deemed waived.
- .144 The informal hearing shall be electronically recorded unless the parties agree otherwise. The official record of the informal hearing shall include the electronic recording and all documents received for review by the informal hearing officer.
- .145 Unless otherwise agreed by the parties, the results of the informal hearing shall be served on the parties, within a reasonable time, in the form of a written Report of Findings.
- .146 The Report of Findings shall be considered final unless the group home provider/foster family agency submits a written Request for Formal Hearing in accordance with Section 11-430.15.
- .15 Request For Formal Hearing
  - .151 Either party to an informal hearing may request a formal hearing by filing a Request for Formal Hearing within 30 calendar days of the issuance of the Report of Findings by the informal hearing officer.
  - .152 The Request for Formal Hearing shall be in writing, signed by the group home provider/foster family agency or the authorized agent, or by an authorized representative of the Department, and shall state the name, address and telephone number of the requestor and the date of signing of the request. If a group home provider/foster family agency or its agent is the requestor, it shall specify the name and address of the individual authorized on behalf of the group home provider/foster family agency to receive all documents, including the final decision of the Director, relating to the formal hearing.

<b>11-430</b>	<b>AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES</b>	<b>11-430</b>
	(Continued)	

- .153 The Request for Formal Hearing shall specify whether the requesting party is requesting an oral administrative hearing or an administrative hearing based upon the official record developed in accordance with Section 11-430.144 without the taking of oral testimony or oral argument.
- .154 The Request for Formal Hearing shall include a copy of the Statement of Disputed Issues filed pursuant to Section 11-430.12 and the Report of Findings issued by the informal hearing officer. The Request for Formal Hearing shall be specific as to each audit finding which remains in dispute, setting forth the requestor's contention as to each disputed audit finding, the authority for each contention and the estimated amount or RCL point value for each disputed audit finding. The party filing the Request for Formal Hearing shall submit all supporting documentation relevant to the administrative review which may include the records maintained pursuant to Sections 11-402.521 through 11-402.523, payroll files and any other supporting documentation.
- .155 A Request for Formal Hearing shall be submitted, via personal delivery or certified mail, domestic receipt requested, to the office and address specified in the informal hearing officer's Report of Findings or the transmittal letter included with the Report of Findings. At the same time, a copy of the Request for Formal Hearing shall be mailed, via certified mail, domestic receipt requested, to the opposing party.
- .16 Request For Settlement Conference
  - .161 Either party to a formal hearing may request that a settlement conference be held by submitting a request to the Administrative Law Judge. If the Administrative Law Judge determines that a settlement conference is appropriate, it shall be scheduled and held as soon as reasonably possible. The Administrative Law Judge shall provide written notice of the date, time, and place of the settlement conference which shall be mailed to each party at least 10 days before the date of the conference. This period may be shortened with the consent of the parties. Any party may waive notice. Efforts shall be made to resolve the facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law.
  - .162 A formal hearing may be converted into a settlement conference if the parties mutually agree, or if the Administrative Law Judge otherwise deems it appropriate. In such cases, any applicable deadlines for the completion of the administrative review shall be extended as required.
- .17 Response Documents and Administrative Record

**11-430 AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES 11-430**  
(Continued)

- .171 Within 60 days of receipt of a Request for Formal Hearing, the opposing party may submit a Response. A Response shall be specific as to each audit finding which remains in dispute, setting forth the opposing party's response to the requestor's contention as to each disputed audit finding, the authority for each response and the estimated amount or RCL point value for each disputed audit finding. A Response shall be submitted via personal delivery or certified mail, domestic receipt requested, to the address specified in the informal hearing officer's Report of Findings or the transmittal letter included with the Report of Findings. At the same time, the opposing party shall mail a copy via certified mail, domestic receipt requested, to the requestor or its authorized agent. The Administrative Law Judge may allow at a party's request, or from his/her own motion, additional information or argument from any party. The other party shall be provided a reasonable opportunity, as determined by the Administrative Law Judge, to respond to such additional submission.
  
- .172 The administrative record shall include the documents specified in Sections 11-430.12, 11-430.15, and 11-430.171, all applicable laws, regulations and procedures, and those matters of which the Administrative Law Judge takes official notice. When an oral formal hearing is conducted, evidence received at that hearing will also be included in the administrative record.
  
- .173 When a formal hearing is to be conducted based on the record without an oral hearing, the administrative record will be closed and the parties notified when the Administrative Law Judge determines that the record is complete. The Administrative Law Judge shall conclude a formal hearing based upon the written record within 180 days after filing the Request for Formal Hearing.
  
- .18 Conduct A Formal Hearing
  - .181 When an oral administrative hearing has been requested or determined by the Administrative Law Judge to be appropriate, the hearing shall be conducted in accordance with Sections 11-430.44 through 11-430.74. The formal administrative hearing shall follow the procedures specified in Sections 11-430.5 through 11-430.74.
  
- .19 Procedures for Provisional Rate Audits
  - .191 Provisional rate audits conducted in accordance with Welfare and Institutions Code Section 11462(e)(1) which result in a rate reduction may be appealed only in a formal administrative hearing.
  
  - .192 The exit conference and audit report procedures specified in MPP Section 11-430.11 shall apply to provisional rate audits. Section 11-430.112 does not apply.

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- .193 Provisional rate audit findings may be protested by filing a request for hearing which meets the requirements for a Statement of Disputed Audit Findings described in MPP Section 11-430.12, with the following differences:
- (a) The request for hearing shall be filed no later than 30 days after the date the Department issues its RCL determination. The date of issuance shall be the date the audit report is mailed to the group home provider.
  - (b) The request for hearing and Statement of Disputed Audit Findings shall be submitted via personal delivery or certified mail, return receipt requested, to the office of hearings specified in the audit report. At the same time, a copy of the request for hearing shall be mailed via certified mail, return receipt requested, to the Department.
  - (c) The Department shall not consider any documents relevant to the determination of the audited program's RCL which are not made available by the date the group home provider requests a hearing unless the provider qualifies for an exception set forth in MPP Section 11-402.521(d).
  - (d) If a request for hearing is not filed within the 30-day period provided, the Department's RCL determination shall be final.
  - (e) Section 11-430.126 shall not apply.
- .194 Provisional Rate Audit Hearings
- (a) The Department shall conduct a hearing on the RCL determination within 60 days of receipt of the request for hearing.
  - (b) The standard of proof shall be the preponderance of the evidence. The burden of proof shall be on the Department to support its determination of the audited program's RCL.
  - (c) The administrative record shall include the supporting documentation submitted with the request for hearing, the Department's written response to the appeal, the Department's exhibits, all applicable laws, regulations and procedures, and those matters of which the hearing officer takes judicial notice. When an oral formal hearing is conducted, evidence received at that hearing will also be included in the administrative record.
  - (d) The hearing shall be conducted in accordance with Sections 11-430.5 through 11-430.69.

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- (e) The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record.
  - (f) The Director shall adopt, reject, or modify the proposed decision or refer the matter back to the hearing officer for additional evidence or findings within 100 days of the issuance of the proposed decision. If the Director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.
- .2 Administrative review procedures for foster family agencies rate setting procedures and AFDC-FC rate setting procedures shall include protest proceedings and appeal proceedings.
- .3 Protest Proceedings
- .31 A protest proceeding shall be available for group home providers/foster family agencies which disagree with the set rate and which request a different rate.
  - .32 A written protest shall be filed with the Department within 60 days from the date of the mailing of the notification of a set rate. The written protest shall include the following:
    - .321 The name, telephone number, signature, and date of signing of the protest of the group home provider/foster family agency or of the person representing the group home provider/foster family agency;
    - .322 Name and address of the group home provider/foster family agency and the program number;
    - .323 Reason for the protest; and
    - .324 Full supporting documentation relevant to the resolution of the protest which may include, but is not limited to the following:
      - (a) The records maintained pursuant to Sections 11-402.521 through .523.

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- (1) Personnel records, which include, but are not limited to:
  - (A) Current licenses; diplomas; 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 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); and group home organization charts.
  
- (2) Case management records, which 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/or assessments specified in Section 11-400a.(2) 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; and 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.
  
- (3) Training program records which document all the information in the training log such as:

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**HANDBOOK CONTINUES**

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- (A) The date(s) of training; hours of duration of each training session; certification of completion; name of trainer and certification; documentation showing provider paid any costs for training, including employee wages and benefits; and subject of the training.

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- (b) Payroll Files including, but not limited to, a copy of the salary schedule, a record of employee benefits and time sheets.
- .33 A group home provider may appeal a determination by the Department that a written protest regarding a departmental rate setting procedure has not been filed on a timely basis. An "Order to Show Cause" hearing solely on the timeliness issue shall be held before an Administrative Law Judge pursuant to Section 11-430.5. The remedy for a group home provider in an "Order to Show Cause" hearing shall be limited to the filing of a timely written protest pursuant to Section 11-430.31.
- .34 The Department may request additional documentation or information.
- .341 Group home providers/foster family agencies shall submit additional documentation to the Department within 30 days of each receipt of the request for such documentation.
- .35 The protest and supporting documentation/additional documentation shall be submitted via certified mail, return receipt requested, to the following address:
- California Department of Social Services  
Foster Care Rates Bureau  
744 P Street, M.S. 19-74  
Sacramento, CA 95814
- .36 Within 90 days of the receipt of the final documentation or information from the group home provider/foster family agency, the Department shall issue a decision letter via certified mail, return receipt requested.
- .361 The decision letter shall state the reasons for the Department's decision and shall include a statement of the right to appeal the decision.

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.4 Filing an Appeal and Developing the Record

.41 A group home provider/foster family agency that does not concur with the decision letter set forth in Section 11-430.36 and requests a different rate shall file a written appeal with the Department within 60 days of receipt of the decision letter. The date of mailing of the appeal shall establish the filing date.

.411 A position statement shall be submitted with the appeal and shall include:

- (a) A specific statement of disputed issues.
- (b) The relevant facts of the case.
- (c) The legal authority supporting the position of the group home provider/foster family agency.
- (d) A copy of all supporting documents and exhibits which are to be offered into evidence.

.412 The written appeal shall specify whether the group home provider/foster family agency is requesting an oral administrative hearing, or an administrative hearing based upon the written record developed in accordance with Section 11-430.42 without the taking of oral testimony or oral argument.

.413 The appeal shall be submitted, via certified mail, domestic receipt requested, to the office and address specified in the decision letter. At the same time, a copy shall be mailed, via certified mail, domestic receipt requested, to:

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

.414 The request for appeal shall specify whether or not the group home provider/foster family agency desires that an informal conference be held.

- (a) If an informal conference is requested, the reasons for the informal conference shall be included with the request for appeal.
- (b) If the Administrative Law Judge determines that an informal conference is appropriate, it shall be ordered and scheduled as soon as reasonably possible. The Administrative Law Judge shall preside at this informal conference.



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- (c) The Administrative Law Judge shall provide written notice of the date, time, and place of the informal conference which shall be mailed to each party at least 10 days before the date of the informal conference. This period may be shortened with the consent of the parties. Any party may waive notice.
- (d) Efforts shall be made to resolve the facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law.

.42 Developing the Written Record.

- .421 Within 60 days of receipt of an appeal of a rate setting protest decision letter, the Department shall submit its response to the appeal. The response shall include:
  - (a) A specific statement of disputed issues.
  - (b) The relevant facts of the case.
  - (c) The legal authority supporting the Department's position.
  - (d) A copy of all supporting documents and exhibits which are to be submitted into evidence.
- .422 The Department's response shall be submitted by personal delivery or certified mail, domestic receipt requested, to the office and address specified in Section 11-430.413. At the same time, the Department shall mail a copy via certified mail, domestic receipt requested, to the group home provider/foster family agency.
- .423 The group home provider/foster family agency may submit a written rebuttal to the Department's response within 30 days of the receipt of the Department's response. The rebuttal shall be submitted as set forth in Section 11-430.413.
- .424 The Department may submit a written rebuttal to a rebuttal filed by the group home provider/foster family agency within 30 days of the receipt of the rebuttal. The Department's rebuttal shall be filed as set forth in Section 11-430.422.
- .425 The Administrative Law Judge may allow at a party's request, or require on his/her own motion, additional information or argument from any party. The other party shall be provided a reasonable opportunity, as determined by the Administrative Law Judge, to respond to such additional submission.

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- .426 The written record shall include the documents discussed in Sections 11-430.41 through 11-430.425, all applicable laws and regulations, and those matters of which the Administrative Law Judge takes official or judicial notice. (When an oral administrative hearing is conducted, additional record material submitted for that administrative hearing will subsequently be included.)
  
- .43 When the administrative hearing is to be conducted without an oral administrative hearing, the record shall be closed and the parties notified when the Administrative Law Judge determines that the record is complete. The Administrative Law Judge shall conduct the administrative hearing upon the written record within 180 days after filing the appeal of the rate protest decision letter.
  
- .44 The following shall occur when an oral administrative hearing has been requested:
  - .441 A written notice of the date, time and place of the oral administrative hearing shall be mailed to each party at least 30 days prior to the date of the oral administrative hearing. This period may be waived by any party or shortened with the consent of all parties. The notice to the group home provider/foster family agency shall be sent by certified mail, return receipt requested.
  
  - .442 The oral administrative hearing shall be conducted within 180 days after the filing of an appeal by the group home provider or foster family agency.
  
  - .443 The Administrative Law Judge shall determine the date, time, and location of the oral administrative hearing to be held within Sacramento County, unless a different location is ordered by the Administrative Law Judge based upon the needs of a particular appeal.
  
- .5 Procedures Applicable to All Formal Administrative Hearings.
  - .51 The Administrative Law Judge on his/her own motion or the motion of any party may:
    - .511 Extend any time period in these appeal regulations for good cause, except the time period set forth in Section 11-430.41 for the filing of an appeal.
  
    - .512 Consolidate for an administrative hearing or decision any number of issues or appeals when the facts and circumstances are similar and no substantial right of any party is prejudiced.

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- .513 Join other parties, grant continuances, and hold additional administrative hearings, as necessary.
- .514 Hear any issue before any other issue in the proceeding if the decision on that issue could abate further proceedings.
- .515 Question any party or witness.
- .516 Prepare a proposed decision for the Director on any separately heard issue.
  - (a) Postpone hearing any remaining issues until a final decision has been submitted on any separately heard issues.
- .517 Require any party to submit written memoranda pertaining to any or all issues.
- .518 Dismiss the appeal if the group home provider/foster family agency fails to proceed with the administrative hearing process or fails to appear at an oral administrative hearing.
  - (a) A copy of such dismissal shall be mailed to each party with a statement of the group home provider/foster family agency's right to request that the administrative hearing be reopened. Notice to the group home provider/foster family agency shall be sent by certified mail, return receipt requested.
  - (b) The Administrative Law Judge may vacate any dismissal if the group home provider/foster family agency applies in writing, within 10 calendar days after receipt of such dismissal, and shows good cause for failure to proceed or to appear at the administrative hearing. Lack of good cause shall be inferred if a continuance of the administrative hearing is not requested promptly upon discovery of the reason(s) for failure to proceed or appear at the administrative hearing.
  - (c) The parties shall be given written notice of an order granting or denying any application to vacate a dismissal. Notice to the group home provider/foster family agency shall be sent by certified mail, return receipt requested.
- .52 In order to obtain additional evidence, the Administrative Law Judge may:
  - .521 Continue the administrative hearing and hold the record open for any party to produce additional evidence.
  - .522 Close the administrative hearing and hold the record open for the introduction of additional documentary evidence.

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- (a) Material submitted after the close of the administrative hearing shall be provided to each party and to the Administrative Law Judge.
  - (b) The other party shall have the opportunity to respond to additional material submitted by a party.
- .523 If the nature of the additional evidence or the rebuttal warrants, order an additional administrative hearing.
- .524 Reopen the record on his/her own motion.
- .53 An Administrative Law Judge may refuse to allow any person to represent a party in an administrative hearing when the person:
- .531 Engages in unethical, disruptive, or contemptuous conduct.
  - .532 Intentionally fails to comply with the instructions or orders of the Administrative Law Judge or the administrative hearing procedures.
- .54 The administrative hearing need not be conducted according to technical rules relating to evidence and witnesses, except as provided in these regulations.
- .541 Relevant evidence, including hearsay, shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- (a) Hearsay evidence shall be permitted to be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions.
  - (b) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized under California law in civil actions.
  - (c) Irrelevant, cumulative or unduly repetitious evidence may be excluded by the Administrative Law Judge.
  - (d) A duplicate is admissible to the same extent as an original unless:
    - (1) A genuine question is raised as to the authenticity of the original or the duplicate.

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- (2) It would be unfair to admit the duplicate in lieu of the original.
- .542 The Administrative Law Judge shall take official notice of those matters which must be judicially noticed by a court under Section 451 of the California Evidence Code, and may take official notice of those matters which may be judicially noticed by a court under Section 452 of the California Evidence Code.
- (a) The parties to the administrative hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record.
- (b) Each party shall be given a reasonable opportunity, upon request, to refute the officially noticed matters.
- .55 Procedures Governing Subpoenas
- .551 Before the administrative hearing has commenced, the agency or the assigned Administrative Law Judge shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the administrative hearing. Subpoenas and subpoenas duces tecum shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. After the administrative hearing has commenced, the Administrative Law Judge may issue subpoenas and subpoenas duces tecum.
- .552 The process issued pursuant to Subdivision (a) shall be extended to all parts of the state and shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend the administrative hearing unless the witness is a resident of the state at the time of service.
- .553 All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court (Government Code Section 68093 provides for fees of \$35 per day and mileage at \$.20 cents a mile, round trip.). Witnesses appearing pursuant to subpoena, except the parties, who attend administrative hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled in addition to fees and mileage to a per diem compensation of three dollars (\$3) for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the administrative hearing. Fees, mileage, and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

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- .6 Additional Procedures Applicable to Oral, Formal Administrative Hearings
- .61 Within 15 days after receipt of the written notice that the case has been calendared for an oral administrative hearing, each party shall mail or deliver to the other parties and the Administrative Law Judge:
- .611 The names and addresses of witnesses, including but not limited to, those intended to be called to testify; and
- .612 A copy of all written documents and exhibits which are to be offered into evidence and which were not previously made a part of the record.
- (a) An explanation shall be included of why the evidence was not previously provided. Unless good cause is shown, or the other party concurs in the submission, the Administrative Law Judge may exclude such evidence. If the evidence is allowed, the Administrative Law Judge may provide the other party additional time to respond to such evidence.
- .62 Any party proposing to object to the receipt in evidence of any proposed exhibit shall advise the presenting party of such objection prior to the commencement of the administrative hearing.
- .621 All parties shall confer with respect to any objections in advance of the administrative hearing and attempt to resolve them.
- .63 A party appearing at an administrative hearing shall have the necessary evidence and witnesses present and be ready to proceed.
- .64 Testimony shall be taken on oath, or affirmation, under penalty of perjury.
- .65 The administrative hearing shall be electronically recorded, or perpetuated by other means capable of reproduction and transcription.
- .66 Each party shall have the right to:
- .661 Call and examine parties and witnesses;
- .662 Introduce documents or exhibits;
- .663 Question opposing witnesses and parties on any matter relevant to the issues even though the matter was not covered in the direct examination;

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- .664 Impeach any witness regardless of which party first called the witness to testify; and
- .665 Rebut the evidence.
- .666 The group home provider/foster family agency shall not be called to testify during the Department's initial presentation pursuant to Section 11-430.671. A group home provider/foster family agency who thereafter fails to testify in its own behalf, may be called and examined as if under cross examination.
- .67 Subject to the discretion of the Administrative Law Judge, the order of the presentation of evidence shall be as follows:
  - .671 The Department shall present its case first.
  - .672 Once the Department has completed its case, the group home provider/foster family agency shall present its case.
  - .673 The Department shall have the opportunity to rebut the group home provider's/foster family agency's evidence.
  - .674 The group home provider/foster family agency shall have the opportunity to rebut the rebuttal presented by the Department.
- .68 The administrative hearing shall be conducted in the English language.
  - .681 The proponent of any testimony to be offered by a witness who does not speak the English language proficiently shall provide an interpreter, approved by the Administrative Law Judge as proficient in the English language and the language in which the witness will testify.
    - (a) The cost of the interpreter shall be paid by the party providing the interpreter.
    - (b) The interpreter shall swear or affirm that he/she shall translate truthfully, accurately, and completely.
- .69 The Administrative Law Judge shall grant oral and may grant written argument at the request of any party made prior to the close of the administrative hearing.
  - .691 The Administrative Law Judge shall advise the parties of the time and manner in which the written argument is to be filed.

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.7 Decision Process

- .71 A proposed decision in a format that may be adopted as the decision of the Director shall be submitted to the Director within 180 days after the closure of the record.
- .72 Within 120 days after submission of the Administrative Law Judge's proposed decision, the Director shall:
  - .721 Adopt the proposed decision with or without reading or hearing the record.
  - .722 Reject the proposed decision and adopt an alternative decision based upon the documentary and electronically recorded record, with or without taking additional evidence.
  - .723 Refer the matter to the same or a different Administrative Law Judge to take additional evidence.
    - (a) If the case is so assigned, the Administrative Law Judge shall, within 90 days, prepare a proposed decision, based upon the additional evidence and the documentary and electronically recorded record of the prior administrative hearing. The Director may then take one of the actions described in Section 11-430.72 in regard to the new proposed decision. The Director may return a proposed decision only twice on the same appeal.
- .73 The decision shall be final when the decision is mailed to the parties. However, the Director retains jurisdiction to correct clerical errors.
  - .731 Copies of the final adopted decision, or the decision of the Director and the Administrative Law Judge's proposed decision if it was not adopted by the Director, shall be mailed to the parties. Notice to the group home provider/foster family agency shall be sent by certified mail, return receipt requested.
- .74 The group home provider/foster family agency shall be permitted to request a review of the final decision of the Department in accordance with Section 1094.5 of the Code of Civil Procedure, within six months of the issuance of the Director's final decision.

| NOTE: Authority cited: Sections 10553, 10554, 11462, 11462.01, 11466.4, and 11468, Welfare and Institutions Code. Reference: Sections 11462.01(b)(2)(A)(i), 11462.01(b)(3), 11466.4, 11466.6, 11468, 11468.1, 11468.2, 11468.3, 11468.4, 11468.5, and 11468.6, Welfare and Institutions Code; and Sections 11510, 11512, and 11513, Government Code.