



CDSS

WILL LIGHTBOURNE
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

August 1, 2014

ALL COUNTY INFORMATION NOTICE NO. I-42-14

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CHIEF PROBATION OFFICERS
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
 ALL COUNTY ELIGIBILITY SUPERVISORS
 ALL FOSTER CARE MANAGERS
 ALL ADMINISTRATIVE LAW JUDGES
 TITLE IV-E AGREEMENT TRIBES
 ALL CONSORTIA PROJECT MANAGERS
 CHILD WELFARE SERVICES NEW SYSTEM
 ALL COUNTY CALWORKS PROGRAM SPECIALISTS

SUBJECT: THE APPROVED RELATIVE CAREGIVER FUNDING OPTION PROGRAM

REFERENCE: SENATE BILL (SB) 855 (CHAPTER 29, STATUTES OF 2014); WELFARE AND INSTITUTIONS CODE (W&IC) SECTIONS 10950, 11401, 11404, 11450, 11460, 11461, AND 11461.3

This All County Information Notice (ACIN) provides county child welfare and probation departments with introductory information regarding the Approved Relative Caregiver (ARC) Funding Option Program enacted by SB 855. Pertinent sections of SB 855 are attached for your information. A more detailed All County Letter (ACL) about this program will be forthcoming in order for counties to operationalize this program by the January 1, 2015, effective date.

BACKGROUND

When a child is removed from the physical custody of a parent, federal and state laws require that preferential consideration be given to placing the child with a relative. Although placement with a relative is the preferred placement, the funding of that placement depends upon whether the child is eligible to receive federal Aid to Families with Dependent Children-Foster Care (AFDC-FC). While AFDC-FC payments may be made to an approved relative on behalf of a federally eligible child, an approved relative who cares for a non-federally eligible child in foster care is not eligible to receive

AFDC-FC under state law. When a non-federally eligible child is placed with an approved relative caregiver, the relative may apply for California Work Opportunity and Responsibility to Kids (CalWORKs) payments on behalf of the child. The CalWORKs benefits are not a per-child payment, but are based on the size of the family as a whole, and are less than the AFDC-FC rate. To address this issue, the Legislature has enacted the ARC Funding Option Program, which gives counties the option to provide funding equal to the basic foster care rate to an approved relative caregiver with whom a non-federally eligible child is placed. Such a non-federally eligible child must reside in California and be a dependent or ward of the juvenile court.

OPTIONAL ARC FUNDING OPTION PROGRAM

The ARC Funding Option Program, described in W&IC section 11461.3, is an optional program established to make the amount paid to an approved relative caring for a non-federally eligible dependent child the same as the basic foster care rate that an approved relative caring for a federally eligible dependent child would receive. This basic foster care rate does not include a county specialized care increment, a clothing allowance, or an infant supplement.

If a county would like to participate in the ARC Funding Option Program, the county must opt-in. Counties that opt-in will receive additional funds to make per-child, per-month payments for a population equal to all eligible children placed with an approved relative caregiver as of July 1, 2014. The payments must be made for the duration of the county's participation in the program in an amount equal to the basic rate paid to foster care providers pursuant to W&IC section 11461(g). These payments will consist of funds derived from both CalWORKs and an ongoing state general fund appropriation. While it is the Legislature's intent to fully fund the base caseload of approved relative caregivers as of July 1, 2014, a county shall be solely responsible for making full payments to eligible relative caregivers even if the funds allocated to the ARC Funding Option Program are insufficient to make all eligible payments. There will be a one-time opportunity to adjust the ongoing state general fund appropriation of \$30 million to fully fund the base caseload of approved relative caregivers as of July 1, 2014. To determine this amount, the California Department of Social Services (CDSS) is requiring specific caseload data from counties (please see Data Requirements below).

Opt-In

A county that elects to participate in the ARC Funding Option Program shall notify CDSS in writing of its decision on or before October 1, 2014. If a county does not opt-in

by that date, and cannot demonstrate good cause for missing the deadline, the county will not be eligible to participate in the program for the calendar year beginning January 1, 2015. Counties not participating as of January 1, 2015, may opt-in each year thereafter by no later than October 1 for the upcoming calendar year.

Attached is the letter template that a county must use to opt-in to the program. The program terms and conditions are included in the opt-in letter. A Microsoft Word version of the opt-in letter may be requested at ARCFO@dss.ca.gov.

Opt-Out

A participating county may choose to opt-out of the ARC Funding Option Program at any time during the calendar year. If a county chooses to opt-out, the county shall provide at least 120 days' prior written notice of that decision to CDSS. Additionally, the county shall provide at least 90 days' prior written notice to each approved relative caregiver receiving an ARC program payment that his or her per-child, per-month payment will be reduced. This notice must include the date the reduction will occur.

Data Requirements

As part of the opt-in process, CDSS is requiring specific data from counties to enable CDSS and the County Welfare Directors' Association to determine whether the base caseload of approved relative caregivers as of July 1, 2014, needs to be adjusted on or before October 1, 2015, to ensure adequate funding for the program. The county opt-in letter identifies the data being required.

QUESTIONS

The CDSS has received many implementation and operational questions concerning the ARC Funding Option Program. An ACL containing additional program implementation/participation instruction will be forthcoming. In the meanwhile, questions concerning foster care eligibility requirements should be directed to the Foster Care Funding and Eligibility Unit at (916) 651-9152. Questions concerning the ARC Funding Option Program policy should be directed to the Foster Caregiver Policy and Support Unit at (916) 657-7465, or ARCFO@dss.ca.gov. Questions concerning fiscal claiming, reporting, and aid codes should be directed to fiscal.systems@dss.ca.gov.

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Questions concerning CalWORKS policy should be directed to the CalWORKs Eligibility Bureau at (916) 654-1322.

Sincerely,

Original Document Signed By:

KAREN B. GUNDERSON
Child and Youth Permanency
Children and Family Services Division

COUNTY LETTERHEAD

**APPROVED RELATIVE CAREGIVER FUNDING OPTION PROGRAM:
COUNTY OPT-IN LETTER TEMPLATE
(Counties must use this template if they choose to opt-in.)**

California Department of Social Services
Attention: Foster Caregiver Policy and Support Unit
744 P Street, MS 8-13-78
Sacramento, CA 95814

To Whom It May Concern:

Subject: Approved Relative Caregiver Funding Option Program

The purpose of this letter is to inform the California Department of Social Services (CDSS) that _____ County elects to participate in the Approved Relative Caregiver (ARC) Funding Option Program effective January 1, 2015. By choosing to participate in this optional program, _____ County agrees to the terms and conditions of the program, as described in Welfare and Institutions Code (W&IC) section 11461.3. In addition, _____ County agrees to provide caseload data necessary for CDSS to determine the amount of funding the county is eligible to receive (please see below).

Participation Agreements

In submitting this letter to CDSS, _____ County acknowledges that it understands and agrees to all of the following conditions for participating in the ARC Funding Option Program and for accessing related state funds pursuant to W&IC section 11461.3:

- 1) A county that opts-in to the ARC Funding Option Program will participate continuously in the program unless the county decides to opt-out. A county that opts-out may opt-in again by notifying CDSS in writing of its decision to participate in the ARC Funding Option Program by October 1 of the year before participation begins. Participation begins on January 1 of the following year.
- 2) The county agrees to make per-child, per-month ARC Funding Option Program payments to approved relative caregivers on behalf of eligible children in an amount equivalent to the basic rate paid to foster care providers pursuant to W&IC section 11461(g). To be eligible, a related child must meet all of the following criteria: a) reside in California; b) be a dependent or ward of the juvenile court; and c) not be federally eligible under Title IV-E of the Social Security Act.

COUNTY LETTERHEAD

The county agrees to make these payments for the duration of the county's participation in the program.

- 3) To participate in the ARC Funding Option Program, the county must ensure that all relative caregivers with whom eligible children are placed are approved pursuant to W&IC sections 309(d) and/or 361.4.
- 4) The county will comply with paragraph no. 2 above even if the allocated state and federal funds are insufficient to make all eligible payments to approved relative caregivers.
- 5) If a county decides to opt-out of the program, the county must give CDSS at least 120 days' prior written notice. The county must also give each participating approved relative caregiver at least 90 days' prior written notice that his or her payments will be reduced, including the date the reduction will occur. In addition, the county must comply with paragraph no. 2 above for the duration of both notice periods.
- 6) Funding for the ARC Funding Option Program is contingent upon an annual appropriation of funds. If the appropriation for the ARC Funding Option Program is reduced, no matter how small the reduction may be, CDSS will presume that all counties have opted-out of the program. If a county would like to continue to provide ARC Funding Option Program funding, it must notify the CDSS of its intent to opt-in within 60 days of the enactment of the state budget authorizing the reduction. Counties that do not opt-in must give each participating approved relative caregiver at least 90 days' prior written notice that his or her payments will be reduced, including the date the reduction will occur. In addition, these counties must comply with paragraph no. 2 above for the duration of this notice period.

ARC Funding Option Program Provisions

The county also understands and agrees to the following provisions of the ARC Funding Option Program:

- Any reduction in payments to an approved relative caregiver that occurs as the result of a county's decision to opt-out of the program is exempt from the state-hearing process under W&IC section 10950.
- Funding for the ARC Funding Option Program is comprised of the applicable regional per-child California Work Opportunity and Responsibility to Kids (CalWORKs) grant from federal funds received as part of the Temporary Assistance to Needy Families (TANF) Block Grant Program, and state General Fund resources that do not count toward state maintenance-of-effort requirements.

COUNTY LETTERHEAD

- Funds are allocated to participating counties based on the number of approved relative caregiver placements in the county, using a methodology and timing developed by CDSS in consultation with county human services agencies and their representatives.
- At the end of the calendar year, if the entire amount of the funding appropriated by the State for the ARC Funding Option Program has not been fully expended, a county that has paid funds to cover amounts that exceeded the county’s allocation may ask CDSS to be reimbursed for those expenses. The CDSS’ authority to approve those requests will be limited by the amount of available unspent funds.
- An approved relative caregiver receiving payments on behalf of an eligible child under this program is not eligible to receive additional CalWORKs payments on behalf of the same child under W&IC section 11450.
- To the extent permitted by federal law, payments received by an approved relative caregiver from the ARC Funding Option Program cannot be considered income for the purpose of determining other public benefits.

Required Data on Eligible Children*

The county understands that the data it is providing below is essential in order to enable the CDSS and the County Welfare Directors’ Association to re-determine on a one-time basis the necessary state general fund appropriation to the ARC Funding Option Program. This state general fund appropriation is intended to fully fund the base caseload of approved relatives caring for a child(ren) who resides in California; who is a dependent or ward of the juvenile court; and who was not eligible to receive Aid to Families with Dependent Children-Foster Care as of July 1, 2014.

Children Eligible for the ARC Funding Option Program
in _____ County as of July 1, 2014

| <u>Age in Years</u> | <u>Current Assistance Unit (AU)</u> |
|----------------------|-------------------------------------|
| Birth to age 4 _____ | AU of 1 child _____ |
| Age 5 to 8 _____ | AU of 2 children _____ |
| Age 9 to 11 _____ | AU of 3 children _____ |
| Age 12 to 14 _____ | AU of 4 children _____ |
| Age 15 to 17 _____ | AU of 5 or more _____ |
| Age 18 to 20 _____ | children _____ |
| TOTAL: _____ | TOTAL: _____ |

In addition, the following information is needed:

COUNTY LETTERHEAD

Total number of non-federally eligible dependent children placed with an approved relative (whether receiving CalWORKs or not): _____

Total number of non-federally eligible dependent children placed with an approved relative currently receiving CalWORKs on behalf of the child(ren): _____

****Special Note to Counties:*** *As an alternative to submitting the above information with this opt-in letter, counties may provide the information to CDSS at a later date, but no later than Monday, November 3, 2014. A county that chooses this alternative should indicate in its opt-in letter its plan for submitting the required data to CDSS. In addition, counties will have an opportunity to submit revised data later, if necessary. More information will be available in a forthcoming All County Letter.*

STANDARD COUNTY CLOSING WITH CONTACT INFORMATION.

Sincerely,

SIGNATURE
TITLE

Senate Bill No. 855

CHAPTER 29

[Approved by Governor June 20, 2014. Filed with Secretary of State June 20, 2014.]

SEC. 74.

Section 11461.3 is added to the Welfare and Institutions Code, to read:

11461.3.

(a) The Approved Relative Caregiver Funding Option Program is hereby established for the purpose of making the amount paid to approved relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments. This is an optional program for counties choosing to participate, and in so doing, participating counties agree to the terms of this section as a condition of their participation. It is the intent of the Legislature that the funding described in paragraph (1) of subdivision (e) for the Approved Relative Caregiver Funding Option Program be appropriated, and available for use from January through December of each year, unless otherwise specified.

(b) Subject to subdivision (c), effective January 1, 2015, counties shall pay an approved relative caregiver a per child per month rate in return for the care and supervision, as defined in subdivision (b) of Section 11460, of a child that is placed with the relative caregiver that is equal to the basic rate paid to foster care providers pursuant to subdivision (g) of Section 11461, if both of the following conditions are met:

(1) The county with payment responsibility has notified the department in writing by October 1 of the year before participation begins of its decision to participate in the Approved Relative Caregiver Funding Option Program.

(2) The related child placed in the home meets all of the following requirements:

(A) The child resides in the State of California.

(B) The child is described by subdivision (b), (c), or (e) of Section 11401 and is not eligible for AFDC-FC pursuant to subdivision (a) of Section 11404.

(C) The child is not eligible for AFDC-FC while placed with the approved relative caregiver because the child is not eligible for federal financial participation in the AFDC-FC payment.

(c) A county's election to participate in the Approved Relative Caregiver Funding Option Program shall affirmatively indicate that the county understands and agrees to all of the following conditions:

(1) Commencing October 1, 2014, the county shall notify the department in writing of its decision to participate in the Approved Relative Caregiver Funding Option Program. Failure to make timely notification, without good cause as determined by the department, shall preclude the county from participating in the program for the upcoming year. Annually thereafter, any county not presently participating who elects to do so shall notify the department in writing no later than October 1 of its decision to participate for the upcoming calendar year.

(2) The county shall confirm that it will make per child per month payments to all approved relative caregivers on behalf of eligible children in the amount specified in subdivision (b) for the duration of the participation of the county in this program.

(3) The county shall confirm that it will be solely responsible to pay any additional costs needed to make all payments pursuant to subdivision (b) if the state and federal funds allocated to the Approved

Relative Caregiver Funding Option Program pursuant to paragraph (1) of subdivision (e) are insufficient to make all eligible payments.

(d) (1) A county deciding to opt out of the Approved Relative Caregiver Funding Option Program shall provide at least 120 days' prior written notice of that decision to the department. Additionally, the county shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced and the date that the reduction will occur.

(2) The department shall presume all counties have opted out of the Approved Relative Caregiver Funding Option Program if the funding appropriated in subclause (II) of clause (i) of subparagraph (B) of paragraph (1) of subdivision (e), including any additional funds appropriated pursuant to clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e), is reduced, unless a county notifies the department in writing of its intent to opt in within 60 days of enactment of the state budget. The counties shall provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

(3) Any reduction in payments received by an approved relative caregiver on behalf of a child under this section that results from a decision by a county, including the presumed opt-out pursuant to paragraph (2), to not participate in the Approved Relative Caregiver Funding Option Program shall be exempt from state hearing jurisdiction under Section 10950.

(e) (1) The following funding shall be used for the Approved Relative Caregiver Funding Option Program:
(A) The applicable regional per-child CalWORKs grant from federal funds received as part of the TANF block grant program.

(B) (i) General Fund resources that do not count toward the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code. For this purpose, the following money is hereby appropriated:

(I) The sum of thirty million dollars (\$30,000,000) from the General Fund for the period January 1, 2015 through December 31, 2015.

(II) The sum of thirty million dollars (\$30,000,000) from the General Fund in each calendar year thereafter, as cumulatively adjusted annually by the California Necessities Index used for each May Revision of the Governor's Budget, to be used in each respective calendar year.

(ii) To the extent that the appropriation made in subclause (I) is insufficient to fully fund the base caseload of approved relative caregivers as of July 1, 2014, for the period of time described in subclause (I), as jointly determined by the department and the County Welfare Directors' Association and approved by the Department of Finance on or before October 1, 2015, the amounts specified in subclauses (I) and (II) shall be increased in the respective amounts necessary to fully fund that base caseload. Thereafter, the adjusted amount of subclause (II), and the other terms of that provision, including an annual California Necessities Index adjustment to its amount, shall apply.

(C) County funds only to the extent required under paragraph (3) of subdivision (c).

(D) This section is intended to appropriate the funding necessary to fully fund the base caseload of approved relative caregivers, defined as the number of approved relative caregivers caring for a child who is not eligible to receive AFDC-FC payments, as of July 1, 2014.

(2) Funds available pursuant to subparagraphs (A) and (B) of paragraph (1) shall be allocated to participating counties proportionate to the number of their approved relative caregiver placements, using a methodology and timing developed by the department, following consultation with county human services agencies and their representatives.

(3) Notwithstanding subdivision (c), if in any calendar year the entire amount of funding appropriated by the state for the Approved Relative Caregiver Funding Option Program has not been fully allocated to or utilized by counties, a county that has paid any funds pursuant to subparagraph (C) of paragraph (1) of

subdivision (e) may request reimbursement for those funds from the department. The authority of the department to approve the requests shall be limited by the amount of available unallocated funds.

(f) An approved relative caregiver receiving payments on behalf of a child pursuant to this section shall not be eligible to receive additional CalWORKs payments on behalf of the same child under Section 11450.

(g) To the extent permitted by federal law, payments received by the approved relative caregiver from the Approved Relative Caregiver Funding Option Program shall not be considered income for the purpose of determining other public benefits.

(h) Prior to referral of any individual or recipient, or that person's case, to the local child support agency for child support services pursuant to Section 17415 of the Family Code, the county human services agency shall determine if an applicant or recipient has good cause for noncooperation, as set forth in Section 11477.04. If the applicant or recipient claims good cause exception at any subsequent time to the county human services agency or the local child support agency, the local child support agency shall suspend child support services until the county social services agency determines the good cause claim, as set forth in Section 11477.04. If good cause is determined to exist, the local child support agency shall suspend child support services until the applicant or recipient requests their resumption, and shall take other measures that are necessary to protect the applicant or recipient and the children. If the applicant or recipient is the parent of the child for whom aid is sought and the parent is found to have not cooperated without good cause as provided in Section 11477.04, the applicant's or recipient's family grant shall be reduced by 25 percent for the time the failure to cooperate lasts.

(i) Consistent with Section 17552 of the Family Code, if aid is paid under this chapter on behalf of a child who is under the jurisdiction of the juvenile court and whose parent or guardian is receiving reunification services, the county human services agency shall determine, prior to referral of the case to the local child support agency for child support services, whether the referral is in the best interest of the child, taking into account both of the following:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

...

SEC. 88.

(a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80, and 81 of this act through all-county letters or similar instructions until regulations are adopted.

(b) The department shall adopt emergency regulations implementing these provisions no later than January 1, 2016. The department may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, any emergency regulation previously adopted pursuant to this section. The initial adoption of regulations pursuant to this section and one readoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by

the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.