STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

November 2, 1987

ALL COUNTY INFORMATION NOTICE No. I-99-87

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY COUNSELS

SUBJECT: QUESTIONS RELATED TO THE TRAINING FOR NOTICES OF ACTION FOR RECIPIENTS OF CHILD WELFARE SERVICES.

REFERENCE: ACL 87-99 AND 87-100

This All County Information Notice (ACIN) is a follow up to the recent training for county staff on implementation of notices of action (NOAs) and State hearings (SHs) for recipients of Child Welfare Services (CWS). Although this ACIN is primarily in a question and answer format, there are a few issues which we would like to address generally.

Both the training and the information conveyed by ACL 87-99 were intended to provide minimal standards to counties for administrating NOAs in CWS. County welfare departments (CWDs) may provide NOAs in other instances where an NOA seems necessary or appropriate. SHs for CWS are to be conducted in the same manner as SHs for other programs.

Court orders take precedence in all circumstances and are to be implemented as ordered; the county is not required to observe the 10-day notice period for court-ordered services. However, if a recipient wants to file an appeal, the CWD cannot refuse to accept an appeal based on the fact that the court ordered the service(s).

Court orders are effective only after the court has signed the order, therefore NOAs should not be sent based on RECOMMENDATIONS to the juvenile court. Whether the court ordered the entire service plan or not, an NOA must be given when any new service plan or service(s) is implemented or any change is made to the service plan or CWS services or specific services are terminated.

The age of a child as related to requirements to provide NOAs was discussed in all training sessions. The following are guidelines. Children 12 years and older must be given NOAs as described in the ACL 87-99. However, if a child under 12 makes a request for services that is denied, the child must be given an

NOA. (Once again, these are minimal standards and CWDs may provide notice in other situations where the CWD considers it appropriate.)

1. Are NOAs required only for mandated CWS?
   No, any element of any service plan, whether it is a new service or service plan, a change to a specific service or service plan, a denial of a specific service or CWS or a termination of a specific service or CWS requires an NOA.

2. Must NOAs be sent when a parent/guardian's request is for any voluntary CWS?; for a particular service?; for a change in services that is denied?
   Yes, NOAs are required in all the above circumstances.

3. In ER where a service plan is developed and implemented that provides for closing the case within a stated time, are two NOAs (opening and termination) required?
   One notice may be given if it includes a closing date. If changes are made to the service plan before the case is closed, another NOA would be required.

4. Are NOAs required if services (such as emergency shelter care) are provided pending adjudication?
   Yes, an NOA must be given if emergency shelter care or any other service is provided pursuant to a service plan.

5. Are NOAs necessary if reassessments indicate that changes to service plans are not necessary?
   NOAs would be required in that circumstance only during the initial statewide implementation of NOAs to CWS cases already active.

6. At what point in an ER case does an NOA become necessary?
   When an initial investigation determines services are necessary and a service plan is developed to provide CWS.

7. Does only the foster parent receive an NOA when a request by the foster parent has been made on behalf of the child?
   Only the foster parent receives an NOA if the request is denied. If the request is accepted and the service plan is changed, NOAs must be given as indicated by specific program requirements.

8. Does a transfer from FR to PP require an NOA for the parent who will no longer be receiving services?
Yes, an NOA must be provided to the parent. (NA 982 has a box to check which informs the parent that the court ordered termination and the parent must go to court to have the order changed.)

9. Is it necessary to attempt to locate and send an NOA to a parent who is not part of the service plan (and not a recipient of CWS) whose whereabouts is unkown?
No.

10. Can NOAs be required for more than one individual for the termination of CWS?
Yes, e.g., separate notices to a child with a specified responsibility in the service plan and to the parents(s) receiving services pursuant to the service plan.

11. A service plan is developed in ER and the case is transferred to any other program, are two NOAs necessary?
Yes, except where the case was immediately transferred to another program, no service plan is developed for ER and a service plan is then developed and implemented in the new program, the only NOA required would be in the program to which the child is transferred.

12. If you have a case where the only service plan is to close the case, must an NOA be sent?
It is not clear that the circumstance in this question constitutes a "case". Please refer to ACL 87-62. If no additional services beyond initial response and evaluation are needed and no service plan is required, a notice is not required unless CWS were applied for, the parent completed an SOC 383 and services were denied.

13. What is the definition of preadoptive parent for purposes of NOAs?
For purposes of providing NOAs, a preadoptive parent is the individual with whom the child has been placed and who is identified as the prospective adoptive parent, where adoption is the stated permanent plan and the placement is for that purpose.

14. When must attorneys (including district attorneys) be noticed?
Attorneys (including district attorneys when they represent the child and not the county) must be given NOAs when requests which were made by attorneys on behalf of children are being denied.

15. If an attorney makes a request on behalf of the parents, is an NOA sent to the attorney?
Yes, the attorney as well as the parents receive an NOA.

16. What is the effective date of the service plan for purposes of providing NOAs?
When the CWD determines, based on Division 30 regulations, the date a service plan will be implemented, the CWD must either mail or give an NOA by hand to the recipient. The count for the notice period starts the date the NOA was given by hand or the day after the NOA was actually mailed.

17. Does the 10 days start from the date of issuance of the NOA or the date of receipt of the NOA?
The 10 days start the day after the mailing of the NOA (Division 22-022.4) or the date the NOA is given personally to the recipient.

18. In CWS is there a requirement, comparable to the one in income maintenance, that clients be informed of their right to an SH at the initial interview?
The right to a hearing should be explained in the first meeting at which specific services are discussed for that particular case.

19. When a CWD receives a verbal request for a State hearing and the written request is received on a date later than the verbal request, what is used as the date the request is received?
Counties are not authorized to receive oral requests for hearing. All oral requests shall be made to Public Inquiry and Response (PI&R) in Sacramento. A toll-free number is available for the receipt of oral hearing requests (MPP Section 22-003.2). If a recipient contacts a county to make an oral request for hearing, the county should refer them to PI&R in Sacramento and provide them with the toll-free number. The filing date of an oral request shall be the date the request is received by the Department of Social Services (MPP Section 22-001.122).

20. Should a youth receive an NOA prior to his/her 18th birthday providing notificaton of termination of CWS?
Yes, ten days prior to birthday.

21. Can the SOC 383 be mailed to the requestor to complete when a telephone request for voluntary services is denied?
Yes.

22. Must a CWS application be completed in all cases?
No, only when a request is denied and the requestor wishes to follow through and pursue the request formally. In all other cases, the initial service plan is considered the application.

23. Must an NOA be provided when requestors elect not to complete the SOC 383?
No, however the requestor may still request an SH.

24. Are waivers permissible for the 10 day notice period?
Yes, a recipient may waive the 10 day notice period but not the notice itself. Unless a signed waiver is obtained, the 10 day notice period must be observed.

25. Can a signed service plan serve as a waiver?
No, use of a signed service plan presents too many technical problems. For example, Manual of Policies and Procedures (MPP), Division 30-234.42 and 30-334.32 require that parents sign the service plan; to incorporate a waiver as a matter of practice into the service plan would require the parent to routinely waive the notice period.

26. Will SDSS provide a form for waiver of the 10 day notice period?
DSS has no plans to develop and mandate such a waiver format at this time. Counties can design a form which best fits their administrative processes. Should enough counties identify a need for such a form, it will be considered along with other recommended changes approximately six months after statewide implementation of NOAs for CWS.

27. If ER services are terminated but a recipient files for an SH within the 10 day notice period, must services be provided until the hearing is held?
Yes. The two exceptions in any CWS program to continued services pending SH when an appeal is filed during the ten day notice period are: one, when the court has ordered services started, changed or terminated; and two, when the statutory time limits for any program have expired.

28. Is CWS funding available for services which are provided pending an SH where the request was filed in the 10 day notice period?
Yes if neither of the two exceptions in the question above apply.

29. Will SDSS provide the CWDs with the appropriate Manual of Policy and Procedures cites for the county to use as the basis for the action on the NOA?
No. The Department cannot forsee the appropriate regulatory cite for each individual action taken by the county in any given case. The determination of applicable and appropriate regulation cites for circumstances of a specific case are an administrative responsibility of CWDs.

30. How often may a recipient of CWS request an SH?
A recipient can request an SH as often as services are changed or terminated as well as when services are implemented or a request is denied.

31. Can anyone, including a private citizen (not directly associated with a CWS case), request an SH?
Yes. However, only the proper claimants will be recognized and the administrative law judge (ALJ) will determine jurisdiction and eligibility for an SH in that particular case.

32. Does an ALJ make the decision of whether an issue is hearable at a hearing or prior to a hearing?
The ALJ has no authority to dismiss a claim <u>at the hearing.</u> If the ALJ determines that the "claimant" is not a proper claimant and therefore has no "standing" to file for a hearing, the matter will be dismissed by written decision. Counties should be prepared on any substantive issues as the ALJ may take evidence on all issues at the hearing and then decide the jurisdictional issue in the written decision along with the substantive issue, if necessary.

33. Will the ALJ rule in favor of the recipient if a service change is implemented one day before the date on the notice that the change is effective?
Depending on the circumstances they may. Counties should allow for internal mail processing delays and date the NOA accordingly.

34. When the court order is very specific, does the recipient have the right to a hearing?
The recipient has the right to file a request for a hearing and the ALJ will determine whether the issue is hearable.

35. When the court tells the worker to work out the service plan with Mrs. Jones, is the plan hearable?
The determination whether a specific appeal is hearable will be made by the ALJ.

36. Can the CWDs adopt a prescreening program similar to the Intentional Program Violations (IPV) in food stamps?
No, there is no statutory authority for prescreening of CWS cases.

37. Is there any funding for representatives or advocates for children at SHs?
While a child may have an advocate or representative at an SH the costs for such persons are not allowable CWS costs.

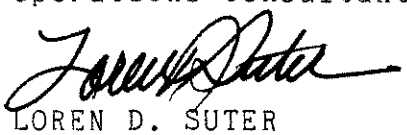
38. In the initial service plan, some requested services may be provided and some may be denied, however the NA 981 does not provide for this.
Use NA 982 whenever NA 981 does not fit.

39. Are NA 981 and 982 State-mandated forms?
Yes. As indicated in ACL 87-99, supplies are available in the warehouse and may be ordered in the usual manner.

40. Is an NOA required when a child's placement is changed?
An NOA is not required when a placement is changed because there is a grievance procedure available (Division 22-001.62). If the service plan is also changed, an NOA would be required.

In addition to the above issues that surfaced during the county training on NOAs for CWS, a correction is necessary to information conveyed in ACL 87-99, page 2, paragraph 3. The first sentence should read "If an appeal is filed prior to the date of the action, the service plan will remain unchanged until an SH is held." (For exceptions, see question 28.)

If ACL 87-99 or this ACIN did not provide information regarding your concern, please call your Adult and Family Services Operations Consultant at (916) 445-0623 or ATSS 454-0623.



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cc: CWDA