

DEPARTMENT OF BENEFIT PAYMENTS
744 P Street, Sacramento, CA 95814



December 30, 1974

ALL-COUNTY LETTER NO. 74-264

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: OUT-OF-STATE FOSTER CHILD

REFERENCE: 42-400

Recently enacted state legislation makes it necessary to clarify residence requirements as they relate to a child who is otherwise eligible for AFDC-BHI, but who is in foster care in another state as the result of placement from California, or who is in foster care in California as the result of placement from another state.

The AFDC-BHI eligibility of a child placed in foster care in another state from California or a child placed in California by another state will be determined in accordance with the Interstate Compact on Placement of Children (Civil Code Section 265, effective January 1, 1975) where such placements involve states which have adopted the interstate compact. Attached is a list of the states which have adopted the compact to date. Where placements are made into or by states which have not adopted the interstate compact, the residence provisions of the Welfare and Institutions Code Section 17.1 shall apply to determine financial responsibility. Both of these considerations are discussed below.

PLACEMENTS BETWEEN CALIFORNIA AND COMPACT STATES

The Interstate Compact on the Placement of Children provides for uniform application of financial responsibility for support and maintenance of children in out-of-state foster care. Under the compact, when a foster care placement is made in one state (receiving state) by a sending agency of another state, the financial responsibility is with the state in which the sending agency is located. In accordance with the compact, a child, who is placed by a California agency in foster care in another state which has adopted the compact, is considered a resident of California and is eligible for AFDC-BHI payments by California, if otherwise eligible. Conversely, a child, who is placed in California by a sending agency located in another state which has adopted the compact, is not considered a resident of California, and financial responsibility would therefore remain with the sending state.

PLACEMENTS BETWEEN CALIFORNIA AND NON-COMPACT STATES

Where the placement of a child for foster care is made between California and another state which has not adopted the Interstate compact, the Welfare and Institutions Code shall apply in determining residence. However, there are two kinds of situations which arise under these provisions.

First, when a court of competent jurisdiction places a child directly with a guardian or gives custody or care directly to a foster parent or institution, the child is considered a resident of the state in which the person or agency given care or custody is located. Therefore, if a California court places a child with a guardian or foster parent in another state for care or custody, the child is a resident of the other state for AFDC-BHI purposes. If an out-of-state court places a child directly with a guardian or foster parent for care or custody in California, the child is a resident of California and, if otherwise eligible, can receive AFDC-BHI payments from California.

Second, when a state or county agency, such as a county welfare department or county probation department, places a child into foster care in another state, either independently or as authorized by a court order, the child is considered a resident of the state in which the placing agency is located. This is in contrast to a direct court placement of a child into out-of-state foster care, as discussed in the above paragraph. If a placement is made in another state by a California state or county agency, the child is a resident of California and would receive AFDC-BHI payments from California, if otherwise eligible. If placement for foster care is made in California by an agency of another state, the child is a resident of the other state and is to receive AFDC-BHI payments from the other state, if otherwise eligible.

When the foster parents of a California foster child move out of the state and the California placing agency continues the placement, the child is considered to be placed in out-of-state placement by the California agency and remains a resident for AFDC-BHI from California if otherwise eligible.

RELINQUISHED CHILDREN

When a child has been relinquished to a California adoption agency or has been freed from custody and control of his parents and referred to a California agency for adoption purposes, the child remains a resident of the state if placed out of state for foster care prior to adoption. Conversely, a child, who is the responsibility of an adoption agency of another state and who is placed in foster care in California, is a resident of the other state and is not eligible for California BHI payments.

IMPLEMENTATION

The provisions stated in this letter are effective January 1, 1975. The Social Services Program of the Department of Health will issue instructions on procedures which are to be followed in arranging an out-of-state placement for foster care in another state or from another state which has also adopted the Interstate Compact on Placement of Children.

In instances where foster care is currently being paid for by California for children who are the responsibility of another state (as outlined in this letter), procedures should be initiated to transfer this payment responsibility to the other state as soon as administratively possible. Requests from other states should be given the same consideration.

Changes in regulations are now being prepared to reflect the changes in application of residence requirements stated in this letter. This supersedes All County Letter No. 74-23 and other prior instructions which may be in conflict.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis O. Flatt".

DENNIS O. FLATT
Deputy Director

Attachment

cc: CWDA

STATES WHICH HAVE ADOPTED THE INTERSTATE
COMPACT ON PLACEMENT OF CHILDREN

California	New Hampshire
Connecticut	New York
Delaware	North Carolina
Florida	North Dakota
Illinois	Oklahoma
Iowa	Pennsylvania
Kentucky	Rhode Island
Louisiana	South Dakota
Maine	Tennessee
Massachusetts	Vermont
Minnesota	Washington
Nebraska	Wyoming