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December 9, 2011

Regulation Package # 0710-06

CDSS MANUAL LETTER NO. AD-11-01

TO: HOLDERS OF THE ADOPTION USERS MANUAL

Regulation Package #0710-06 **Effective 12/10/11**

Sections 35000, 35001, 35325, 35326, 35327, 35329, 35331, 35333, 35334, 35337, 35339, 35341, 35343, 35344, 35345, 35347, 35351, 35352, 35352.1, 35352.2, and 35352.3

This manual letter has been posted on the Office of Regulations Development website at http://www.cdss.ca.gov/ord/PG612.htm.

The Adoption Assistance Program (AAP) was created by the legislature with the intent to benefit children in foster care by providing the security and stability of a permanent home through adoption. Children may receive a federally funded subsidy under Title IV-E or a state-funded subsidy per state guidelines.

Due to public and congressional inquiries, the federal government reviewed each state Title IV-E Plans and concluded that each states' AAP was implemented in a different manner and was inconsistent with the federal requirements. California revised its Program Improvement Plan (PIP) specific to AAP and submitted to the federal government for review and approval. This plan was developed based on inquiries and discussions among CDSS staff and the U.S. Department of Health and Human Services, Administration for Children & Families, Region IX staff. The federal government approved California's PIP. Further, Assembly Bill (AB) 4 (Chapter 4, Statutes of 2009), AB 1325 (Chapter 287, Statutes of 2009), and Senate Bill 597 (Chapter 339, Statutes of 2009) mandated CDSS to amend AAP related regulations for clarity and consistency purposes and to more clearly express current policy specific to: AAP eligibility; AAP payment amounts; agreements; AAP reassessments; and nonrecurring adoption expenses.

These regulations were considered at the Department's public hearing held on February 16, 2011.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Adoption User's Manual regulation changes was AD-05-01.

Page(s)	Replace(s)
20 and 21	Pages 20 and 21
26 through 33	Pages 26 through 33
414 through 445	Pages 414 through 453

Attachments

EV

35000 DEFINITIONS (Continued) **35000**

HANDBOOK BEGINS HERE

(A) This definition also appears at Manual of Policies and Procedures Section 31-002(p)(4).

HANDBOOK ENDS HERE

(6) "Personal Knowledge" means personal knowledge as defined at Family Code Section 8801(b).

HANDBOOK BEGINS HERE

(A) Family Code Section 8801(b) states:

"'Personal knowledge' as used in this section includes, but is not limited to, substantially correct knowledge of all of the following regarding the prospective adoptive parents: their full legal names, ages, religion, race or ethnicity, length of current marriage and number of previous marriages, employment, whether other children or adults reside in their home, whether there are other children who do not reside in their home and the child support obligation for these children and any failure to meet these obligations, any health conditions curtailing their normal daily activities or reducing their normal life expectancies, any convictions for crimes other than minor traffic violations, any removals of children from their care due to child abuse or neglect, and their general area of residence or, upon request, their address."

HANDBOOK ENDS HERE

1. Substantially correct means accurate in the agency's judgment.

(7) "Petitioner" means a prospective adoptive parent who has filed an adoption petition with the superior court pursuant to Family Code Section 8802 for an independent adoption or pursuant to Family Code Section 8714 for an agency adoption.

(8) "Place for Adoption" means, for the purpose of an agency adoption, the agency's placement of a child who has been freed for adoption placement either by relinquishment to the agency or by court order.

(9) "Place for Adoption" means, for the purpose of an independent adoption, the placement of a child by a birth parent who, based on his or her personal knowledge, selected the prospective adoptive parents for the child and, if required, completed and signed the AD 924.

35000 DEFINITIONS (Continued) **35000**

(10) "Placement" means, for the purpose of the ICPC, the arrangement for the care of a child in a family that has been studied and approved for adoption or has had a preplacement interview completed by a licensed adoption agency.

(11) "Presumed Father" means a father as defined at Family Code Section 7611.

HANDBOOK BEGINS HERE

(A) The content of Family Code Section 7611 is located at Section 35029(d)(2).

HANDBOOK ENDS HERE

(12) "Prospective Adoptive Parent" means prospective adoptive parent as defined at Family Code Section 8542.

HANDBOOK BEGINS HERE

(A) Family Code Section 8542 states:

"'Prospective adoptive parent' means a person who has filed or intends to file a petition under Part 2 (commencing with Section 8600) to adopt a child who has been or who is to be placed in the person's physical care or a petition under Part 3 (commencing with Section 9300) to adopt an adult."

HANDBOOK ENDS HERE

(q) Reserved

(r) (1) "Reassessment" means the process by which the agency and the adoptive parent determine whether there are any changes in either the child's needs or the adoptive parent's circumstances which affect duration of and/or amount of adoption assistance payments.

(2) "Receiving Agency in the Independent Adoptions Program" means, for the purpose of the ICPC, the person(s) who is designated to receive a child from another party state with the intention of filing a petition to adopt that child.

(3) "Receiving Agency in the Relinquishment Adoptions Program" means, for the purpose of the ICPC, a licensed adoption agency or CDSS Adoptions district office that is designated to receive any child from another party state for the purpose of adoption.

(4) "Relative" means, for the purpose of an agency adoption with a kinship adoption agreement, an adopting relative as defined at Family Code Section 8714.7(c).

35001 DEFINITIONS - FORMS 35001

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 2, Subdivision 4, Chapter 3 (Adoption Program Regulations).

(a) (1) "AAP 1" (9/09) means the form entitled, "Request for Adoption Assistance Program Benefit."

(2) "AAP 2" (7/11) means the form entitled, "Payment Instructions - Adoption Assistance Program."

(3) "AAP 3" (7/11) means the form entitled, "Reassessment Information - Adoption Assistance Program."

(4) "AAP 4" (11/11) means the form entitled, "Eligibility Certification - Adoption Assistance Program."

(5) "AAP 6" (11/11) means the form entitled, "Adoption Assistance Program - Negotiated Benefit Amount and Approval and Form Instructions."

(6) "AAP 8" (11/11) means the form entitled, "Adoption Assistance Program - Nonrecurring Adoption Expenses Agreement."

(7) "AD 1A" (1/95) means the form entitled, "Consent to Adoption by Parent(s) in California."

(8) "AD 1C" (1/95) means the form entitled, "Consent to Adoption by Parent(s) Outside California."

(9) "AD 1F" (1/95) means the form entitled, "Consent to Adoption by Parent(s) Outside California in Armed Forces."

(10) "AD 20" (2/93) means the form entitled, "Refusal to Give Consent to Adoption."

(11) "AD 20B" (4/92) means the form entitled, "Refusal to Give Consent to Adoption by Alleged Natural Father".

(12) "AD 42 I" (7/95) means the form entitled, "Independent Adoption Program - Individual Case Report."

(13) "AD 42 ICA" (7/95) means the form entitled, "Intercountry Adoption Program - Individual Case Report."

(14) "AD 42R" (7/95) means the form entitled, "Relinquishment Adoption Program - Individual Case Report."

(15) "AD 67" (6/95) means the form entitled, "Information About the Birth Mother."

(16) "AD 67A" (6/95) means the form entitled, "Information About the Birth Father."

35001 DEFINITIONS - FORMS (Continued) **35001**

(17) "AD 90" (1/94) means the form entitled, "Supporting Information for Issuance of Department of Social Services Acknowledgment."

(18) "AD 100" (12/93) means the form entitled, "Authorization for Release of Information."

(19) "AD 165" (1/95) means the form entitled, "Consent to Adoption by Parent in California When Legal Father Denies He is the Natural Father."

(20) "AD 166" (1/95) means the form entitled, "Consent to Adoption by Father Outside California."

(21) "AD 501 ENG/SP" (12/91) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father)."

(22) "AD 501A ENG/SP" (12/91) means the form entitled, "Relinquishment (Out of State)."

(23) "AD 503 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of County (Birth Mother and/or Presumed Father)."

(24) "AD 504" (12/91) means the form entitled, "Relinquishment - Out of State - in-Armed Forces."

(25) "AD 508" (3/82) means the form entitled, "Rescission Request/Rescission of Relinquishment."

(26) "AD 512" (7/98) means the form entitled, "Psychosocial and Medical History of Child."

(27) "AD 551A" (3/94) means the form entitled, "Notification of Procedure in Lieu of Signing Relinquishment Waiver or Denial."

(28) "AD 558" (8/97) means the form entitled, "Notice of Placement."

(29) "AD 580" (6/97) means the form entitled, "Notice of Removal of Child from Adoptive Home."

(30) "AD 583 ENG/SP" (6/95) means the form entitled, "Relinquishment - Out of County (Presumed Father Denies He is the Birth Father)."

(31) "AD 584 ENG/SP" (8/95) means the form entitled, "Relinquishment - Out of State (Presumed Father Denies He is the Birth Father)."

(32) "AD 585 ENG/SP" (8/95) means the form entitled, "Relinquishment (Presumed Father Denies He is the Birth Father)."

(33) "AD 586 ENG/SP" (6/97) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father in California)."

(34) "AD 588 ENG/SP" (6/98) means the form entitled, "Denial of Paternity by Alleged Natural Father - In or Out of California."

35001 DEFINITIONS - FORMS (Continued) **35001**

(35) "AD 590 ENG/SP" (6/98) means the form entitled, "Waiver of Right to Further Notice of Adoption Planning (Alleged Natural Father In or Out of California)."

(36) "AD 591 ENG/SP" (12/91) means the form entitled, "Relinquishment (Alleged Natural Father) Out of State or Country."

(37) "AD 593" (12/91) means the form entitled, "Relinquishment (Alleged Natural Father) Outside of California in Armed Forces."

(38) "AD 594" (1/95) means the form entitled, "Consent to Adoption by Alleged Natural Father."

(39) "AD 824" (5/97) means the form entitled, "Consent and Joinder" for agency adoptions.

(40) "AD 830" (9/97) means the form entitled, "Summary Claim for Reimbursement Private Adoption Agency Reimbursement Program."

(41) "AD 831" (7/87) means the form entitled, "Private Adoption Agency Cost Justification for Adoptive Placement."

(42) "AD 842" (1/95) means the form entitled, "Consent to Adoptive Placement by Alleged Natural Father (Outside California in Armed Forces)."

(43) "AD 859" (1/95) means the form entitled, "Consent to Adoption of Indian Child by Parent(s) in or out of California."

(44) "AD 860" (1/95) means the form entitled, "Consent to Adoption of Indian Child by Presumed Father in or out of California."

(45) "AD 861" (6/95) means the form entitled, "Consent to Adoption of Indian Child by Alleged Natural Father (In or Outside of California)."

(46) "AD 862" (12/91) means the form entitled, "Relinquishment of Indian Child by Alleged Natural Father - Out of State or Country."

(47) "AD 863" (12/91) means the form entitled, "Relinquishment of Indian Child - Out of State."

(48) "AD 864" (1/92) means the form entitled, "Relinquishment of Indian Child (Birth Mother and/or Presumed Father)."

(49) "AD 865" (1/92) means the form entitled, "Relinquishment of Indian Child (Birth Mother and/or Presumed Father) Out of County."

35001 DEFINITIONS - FORMS (Continued) **35001**

(50) "AD 866" (8/95) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is the Birth Father)."

(51) "AD 867" (6/95) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is the Birth Father) Out of State."

(52) "AD 868" (1/92) means the form entitled, "Relinquishment of Indian Child (Alleged Natural Father in California) In/Out of County."

(53) "AD 873" (7/95) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is Birth Father) Out of County."

(54) "AD 880" (7/98) means the form entitled, "Declaration of Mother."

(55) "AD 885" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of the Child Who Is Not Detained, Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(56) "AD 885A" (9/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of a Child Who Is Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(57) "AD 885C" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of the Child Who Is Not Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(58) "AD 885D" (7/98) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father of the Child Who is Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(59) "AD 887" (3/97) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Parent Who Gave Physical Custody of the Child to the Adoptive Parents)."

(60) "AD 887A" (3/97) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents)."

(61) "AD 887B" (3/97) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Alleged Natural Father)."

35001 DEFINITIONS - FORMS (Continued) **35001**

(62) "AD 899" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of the Indian Child Who Is Not Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a legal Guardian)."

(63) "AD 899A" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Mother or a Presumed Father of the Indian Child Who Is Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(64) "AD 899C" (7/98) means the form entitled, "Statement of Understanding -Agency Adoptions Program (Alleged Natural Father of the Indian Child Who is Not Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(65) "AD 899D" (7/98) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father of the Indian Child Who Is Detained, a Juvenile Court Dependent in Out-of-Home Care, or the Ward of a Legal Guardian)."

(66) "AD 900" (1/95) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Parent Who Gave Physical Custody of the Indian Child to the Adoptive Parents)."

(67) "AD 900A" (1/95) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Indian Child to the Adoptive Parents)."

(68) "AD 900B" (1/95) means the form entitled, "Statement of Understanding -Independent Adoptions Program (Alleged Natural Father of Indian Child)."

(69) "AD 904" (2/94) means the form entitled, "Consent for Contact."

(70) "AD 904A" (1/94) means the form entitled, "Waiver of Rights to Confidentiality of Adoption Records for Siblings."

(71) "AD 907" (5/94) means the form entitled, "Adoptive Placement Agreement."

(72) "AD 908 Eng/Sp" (1/98) means the form entitled, "Adoptions Information Act Statement."

(73) "AD 909" (8/88) means the form entitled, "Photolisting Data Sheet."

(74) "AD 920 ENG/SP" (2/93) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father in California) - Parent Identifying Adopting Parent(s)."

35001 DEFINITIONS - FORMS (Continued) **35001**

(75) "AD 921 ENG/SP" (1/93) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father) - Parent Identifying Adopting Parent(s)."

(76) "AD 922 ENG/SP" (3/97) means the form entitled, "Relinquishment Addendum for Parent Identifying Adopting Parent(s)."

(77) "AD 924" (3/95) means the form entitled, "Independent Adoption Placement Agreement."

(78) "AD 925" (1/95) means the form entitled, "Independent Adoption Placement Agreement - Indian Child."

(79) "AD 926" (3/97) means the form entitled, "Statement of Understanding -Independent Adoption Program (Parent Who Signs Independent Adoption Placement Agreement)."

(80) "AD 927" (1/95) means the form entitled, "Statement of Understanding -Independent Adoption Program (Parent of Indian Child Who Signs Independent Adoption Placement Agreement)."

(81) "AD 928" (3/97) means the form entitled, "Revocation of Consent -Independent Adoption Program."

(82) "AD 929" (5/97) means the form entitled, "Waiver of Right to Revoke Consent - Independent Adoption Program."

(83) "AD 930" (1/95) means the form entitled, "Independent Adoption Placement Agreement Transmittal."

(84) "AD 4310" (1/93) means the form entitled, "Adoption Programs Notice Required by Information Practices Act."

(85) "AD 4311" (1/98) means the form entitled, "Information on American Indian Child (Adoption Program)."

(86) "AD 4317" (3/82) means the form entitled, "Revocation of Relinquishment."

(87) "AD 4320" (11/11) means the form entitled, "Adoption Assistance Program Agreement."

(88) "AD 4333" (6/96) means the form entitled, "Acknowledgement and Confirmation of Receipt of Relinquishment Documents."

(89) "AD 4336" (4/97) means the form entitled, "Consent to Adoption by Presumed Father in Armed Forces - Outside of California, Denies He is Natural Father."

35001 DEFINITIONS - FORMS (Continued) **35001**

HANDBOOK BEGINS HERE

AD, AAP, BID, FC, and ICPC forms are available through the Department's Forms Warehouse at the following mailing address:

California Department of Social Services Warehouse
P.O. Box 980788
West Sacramento, CA 95798-0788

Telephone Number is (916) 371-1974

Orders may also be sent by FAX to (916) 371-3518

Counties must use Form GEN 727B when either mailing or faxing an order.

Include on your order request the following:

1) Each form number, and

2) Number of copies of each form requested, and

3) The street address where the forms are to be delivered.

For forms in languages other than English, contact the Adoptions Branch Forms Coordinator at (916) 322-4228.

HANDBOOK ENDS HERE

(b) (1) "BID 7-A" (5/90) means the fingerprint card.

(c) Reserved

(d) (1) "DHS 6155" (10/90) means the form entitled "Health Insurance Questionnaire."

(e) Reserved

(f) (1) Reserved

(2) Reserved

35001 DEFINITIONS - FORMS (Continued) **35001**

(3) "FC 3" (2/92) means the form entitled, "Determination of Federal AFDC-FC Eligibility."

(4) Reserved

(5) Reserved

(6) Reserved

(7) Reserved

(8) "FC 8" (7/11) means the form entitled, "Federal Eligibility Certification for Adoption Assistance Program."

(9) Reserved

(10) "FC 10" (8/09) means the form entitled, "Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program."

(g) Reserved

(h) Reserved

(i) (1) "ICPC 100A" (10/91) means the form entitled, "Interstate Compact Application Request to Place Child."

(2) "ICPC 100B" (7/92) means the form entitled, "Interstate Compact Report on Child's Placement Status."

(3) "I-600" (5/83) means the form entitled, "Petition to Classify Orphan as an Immediate Relative."

HANDBOOK BEGINS HERE

For the I-600 form, contact the Department of Immigration and Naturalization Service.

HANDBOOK ENDS HERE

(j) Judicial Council Forms to Finalize Adoptions

(1) "Adopt-200" (1/99) means the form entitled, "Petition for Adoption."

(2) "Adopt-210" (1/99) means the form entitled, "Petitioner Consent and Agreement to Adoption."

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 1 AAP Case Initiation

35325 REQUEST FOR ADOPTION ASSISTANCE 35325

(a) The Adoption Assistance Program (AAP) removes or reduces barriers to the adoption of children who otherwise would remain in long-term foster care. The program provides necessary financial assistance to families who are willing and able to assume parental responsibility for children but are prevented from doing so by inadequate financial resources.

(b) The agency shall provide any person who wants to apply for adoption assistance benefits with a Request for Adoption Assistance form (AAP 1).

(1) If the agency placing a child for adoption believes the child to be an AAP eligible child, the agency shall offer the family an AAP 1.

(c) The responsible public agency refers to the department or licensed county adoption agency responsible for determining a child's AAP eligibility and initial and subsequent payment amounts. The income maintenance division of each county welfare department is responsible for federal eligibility determination and payment of AAP benefits.

(1) If the child has been voluntarily relinquished for adoption to a California licensed public or private adoption agency and placed with a California prospective adoptive family, the financially responsible county shall be the county in which the relinquishing parent resides. The prospective adoptive parents shall submit the completed AAP 1 and supporting documentation to the responsible public agency representing their county of residence.

(A) The licensed private adoption agency shall submit the AAP 1 and supporting documentation, including, but not limited to, the assessment of the child required by Section 35127.1 and a description of efforts to locate a non-subsidy home for the child, as the Department or licensed county adoption agency finds necessary in the particular case.

(2) If a child is relinquished to a private adoption agency in another state and placed with a prospective adoptive family in California, the prospective adoptive family's county of residence is financially responsible. The prospective adoptive parents shall submit the completed AAP 1 and supporting documentation to the responsible public agency representing their county of residence.

(3) If a child is relinquished to a private adoption agency in California and placed with a prospective adoptive family in another state, the public child welfare agency in the adoptive parents' state of residence is responsible for determining the child's eligibility and for all AAP payments.

35325 REQUEST FOR ADOPTION ASSISTANCE 35325
(Continued)

(d) Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.

(e) The responsible public agency shall determine whether the child meets the eligibility requirements as specified in Section 35326.

(1) If an AAP 1 is submitted on behalf of a relinquished child who is not under the supervision of a county welfare department as the subject of a legal guardianship or a juvenile court dependency, the agency shall ask that entity responsible for providing services to children who are dependents of the court in the county that would be responsible for providing AAP benefits for a written determination as to whether the child would or would not have been at risk of dependency if the child had not been relinquished for adoption.

(2) If the responsible public agency determines that the child is not eligible for AAP benefits, the agency shall send the county responsible for payment a completed Payment Instructions - Adoption Assistance Program form (AAP 2) indicating that AAP eligibility is denied and the specific reason(s), including relevant regulatory or statutory citations, for the denial.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Sections 16118, 16119, 16120, and 16121, Welfare and Institutions Code; 45 CFR 1356.40; and 42 USC 673 and 675.

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 2. AAP Eligibility Requirements

35326 AAP ELIGIBILITY 35326

To be eligible for Adoption Assistance Program (AAP) benefits, the child must be under the age of 18 and meet the three part special needs determination, citizenship requirements, and Title IV-E (federal) funding requirements or state funding requirements specified in Welfare and Institutions Code Section 16120.

(a) The three-part special needs determination requires ALL of the following three conditions be met:

(1) Evidence in the file that the child cannot or should not be returned to the home of his or her parents.

(A) Sufficient evidence includes a petition to terminate parental rights, a court order terminating parental rights, a signed relinquishment or a tribal customary adoption order.

(2) A specific factor or condition makes it reasonable to conclude that the child cannot be adopted without providing AAP payments.

(A) Factors or conditions include a child's ethnic background, age or membership in a minority or sibling group, parental background of a medical or behavioral nature that can adversely affect the development of the child, the presence of a medical condition, or physical, mental or emotional disabilities.

(3) An effort to place the child for adoption with appropriate parents without providing adoption assistance unless it is against the best interest of the child.

(A) This search for adoptive parents shall be documented in the adoption case record and include the following:

1. A discussion of potential adoptive parents at a regional adoption agency exchange meeting, or

2. Registration of the child with the department's photo-listing album.

(B) A child who develops significant emotional ties with the prospective adoptive parents while in their care as a foster child or if a relative is adopting a child, then it would be in the child's best interest to remain with them and additional efforts to place the child are not required.

35326 AAP ELIGIBILITY (Continued) **35326**

1. This search shall not be required when the current foster parents, or other persons with whom the child has been living and has established significant emotional ties, have both:

   a. Expressed interest in adopting the child, and

   b. Been determined by the agency to be suitable adoptive parents for the child.

(b) The child must be a United States citizen or a qualified alien as defined in Title 8 USC section 1641(b).

(1) If a child is placed with an unqualified alien, the child must be a qualified alien or have lived in the U.S. for five years, if the child entered the United States on or after August 22, 1996.

(2) The child is exempt from the five year residency requirement if the child is placed with a U.S. citizen or qualified alien, or the child is a member of one of the excepted groups pursuant to Title 8 USC section 1612(b): refugees, asylees, aliens whose deportation is withheld, veterans and those on active duty (as well as the spouse and unmarried dependent children of that person), Cuban or Haitian entrants and Amerasians from Vietnam.

(3) If a child is an unqualified alien and placed outside the United States, the county may use county funds to cover the AAP costs for an otherwise AAP eligible child.

(c) To be eligible for Title IV-E (federal) funding, one of the following five paths to eligibility OR the definition of an "Applicable Child" and one of the four corresponding eligibility paths must be met:

(1) At the time the child was removed from the home of a specified relative, the child would have been Aid to Families with Dependent Children (AFDC)-eligible in the home of removal according to July 16, 1996 AFDC standards.

(A) In an involuntary situation, when a child's removal from the home is the result of a court action, there must also be a judicial determination that to remain in the home would be contrary to the child's welfare.

1. The determination must be made in the first court ruling (minute order) that sanctions (even temporarily) the removal.

2, The "contrary to the welfare" finding must be explicit in the first court order.

(B) For children voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state (Tribes), the following must be obtained within six months of the time the child lived with a specified relative:

35326 AAP ELIGIBILITY (Continued) **35326**

1. A petition to the court to remove the child from the home of a specified relative within six months of the date the child lived with the relative; and

2. Subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(C) In the case of a voluntary placement agreement between the child's parent/legal guardian and the county agency, at least one Title IV-E foster care maintenance payment must have been made on behalf of the child.

(2) At least one Title IV-E foster care maintenance payment has been made on behalf of the child's minor parent to cover the cost of the minor parent's child while in the foster parent's home or child care institution with the minor parent.

(3) A child received AAP benefits with respect to a prior adoption, the prior adoption dissolved, and the child is again available for adoption. To remain eligible the child must meet the following:

(A) Three part special needs determination

(B) Citizenship requirements

(4) Prior to the finalization of an agency adoption or an independent adoption, the child has met the requirements to receive federal Supplemental Security Income (SSI) benefits as determined and documented by the federal Social Security Administration (SSA).

(5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Welfare and Institutions Code Section 366.24.

(d) An "applicable child" is a child who:

(1) Has been in foster care for at least 60 consecutive months, or

(2) Is a sibling of an "applicable child," if both are placed in the same prospective adoptive home, or

(3) Meets the applicable age requirement anytime before the end of the Federal Fiscal Year (FFY).

(A) FFY is October 1st through September 30th.

(B) A child who has or will attain the stated age or is older than the stated age in (d)(3)(B)(1) through (d)(3)(B)(8) by the end of the corresponding current FFY is considered to be an "applicable child":

(1) In FFY 2010, the applicable age is 16 years.

35326 AAP ELIGIBILITY (Continued) **35326**

(2) In FFY 2011, the applicable age is 14 years.

(3) In FFY 2012, the applicable age is 12 years.

(4) In FFY 2013, the applicable age is 10 years.

(5) In FFY 2014, the applicable age is 8 years.

(6) In FFY 2015, the applicable age is 6 years.

(7) In FFY 2016, the applicable age is 4 years.

(8) In FFY 2017, the applicable age is 2 years or younger.

(e) The "applicable child" must meet one of the four eligibility paths:

(1) The child is in the care of a public or private child placement agency or Indian tribal organization and is the subject of either one of the following:

(A) An involuntary removal from the home in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child;

(B) A voluntary placement agreement or voluntary relinquishment.

1. A Title IV-E foster care maintenance payment does not have to be made on behalf of an "applicable child," or

2. Judicial determination that continuation in the home would be contrary to the welfare of the child.

(2) The child has met all medical or disability eligibility requirements for federal supplemental security income (SSI) benefits.

(3) The child was residing in a foster family home or child care institution with the child's minor parent.

(4) The child received AAP with respect to a prior adoption that dissolved.

(f) To be eligible for State funding, the child is the subject of an agency adoption and at the time of adoptive placement, the child met one of the following requirements:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

35326 AAP ELIGIBILITY (Continued) **35326**

(2) Relinquished to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department or county adoption agency pursuant Family Code Sections 8805 or 8918.

(g) There shall be no means test used to determine AAP eligibility.

(h) The prospective adoptive parent and any other adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to Title 42 USC Section 671(a)(20)(A) and (C).

NOTE: Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code. Reference: Sections 16118, 16119, 16120, and 16121.05, Welfare and Institutions Code; 42 USC 671 and 673; and 45 CFR 1356.40(c).

35327 SEARCH FOR PARENTS NOT REQUIRING ADOPTION ASSISTANCE 35327

Repealed by CDSS Manual Letter No. AD-11-01, effective 12/10/11

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Sections 16118 and 16120, Welfare and Institutions Code; 42 USC 671 and 673.

35329 EFFECT OF ADOPTIVE PARENT'S LEGAL RESIDENCE 35329

(a) The adoptive parent's legal residence shall not affect the child's eligibility specified by Welfare and Institutions Code Section 16121.1.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code; and Section 8621, Family Code. Reference: Sections 16118, 16120, and 16121.1, Welfare and Institutions Code; 42 USC 671 and 673; and 45 CFR 1356.40(d) and (e).

35331 DOCUMENTATION OF CHILD'S ELIGIBILITY 35331

(a) The determination of the child's eligibility for adoption assistance shall be documented in the case record on the Eligibility Certification -Adoption Assistance Program form (AAP 4) and the Federal Eligibility Certification for Adoption Assistance Program (FC 8).

(1) The agency shall submit the Federal Eligibility Certification for Adoption Assistance Program form (FC 8) to the county responsible for payment.

A. The child's birth name shall be used on the FC 8.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Sections 16118 and 16120, Welfare and Institutions Code and 42 USC Sections 671 and 673.

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 3. AAP Payments

35333 DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN 35333

The Adoption Assistance Program (AAP) provides benefits to facilitate the adoption of children who otherwise would not likely be adopted. The AAP benefit is a negotiated amount based upon the needs of the child and the circumstances of the adoptive family. The responsible public agency and the prospective adoptive parent(s) shall negotiate and agree on the amount of the AAP benefit according to the requirements of this section.

(a) The responsible public agency shall make a good faith effort to negotiate the AAP benefit with the adoptive parents.

(1) The agency shall encourage the adoptive parents to request the AAP benefit they require in order to meet the child's needs taking into account their family circumstances.

(2) The agency shall base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents.

(A) The agency shall advise the adoptive parents that the amount of the AAP benefit determined for the child is limited to the age-related, state-approved foster family home rate and any applicable state-approved specialized care increment for which the child is eligible.

(3) There shall be no use of a means test of the child or the adoptive parent when determining the AAP benefit amount.

(4) The amount of the negotiated AAP benefit shall be between zero and the maximum AAP benefit for which the child is eligible.

(5) The agency shall advise the adoptive parents that the AAP benefit does not include payment for any specific good or service, but is intended to assist the adoptive parents in meeting the child's needs.

(b) The responsible public agency, after consultation with the adoptive parents and the financially responsible county, if different from the agency, shall identify the child’s care and supervision needs, including any special needs beyond basic care and supervision.

(1) The adoption caseworker shall base the assessment of the child’s needs and required level of care and supervision on all of the following information:

35333 DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued) **35333**

(A) Direct observation of the child.

(B) Information contained in the child's case record, including birth history and psychological, medical and other relevant assessments completed by licensed professionals.

(C) Information about the child based on application of the county's foster care specialized care assessment instrument or any specialized foster care increment previously approved for the child.

(D) Information provided by the adoptive parents.

(c) The responsible public agency in consultation with the financially responsible county, if different from the agency, shall determine the maximum state-approved foster care maintenance payment that the child would have received in a foster family home if the child had remained in foster care.

(1) No agency may use a Foster Family Agency (FFA) treatment rate or a payment made to a certified home by a FFA on behalf of the child for purposes of calculating the maximum AAP benefit for which the child is eligible.

(A) If a child continues to require the additional services provided by the FFA, the adoptive placement shall continue to be funded by foster care payments rather than by AAP benefits until the AAP agreement is executed.

(2) If the child is living in the adoptive family's home, the agency shall assume that, but for adoptive placement, the child would be living in a licensed foster family home.

(A) If the child is placed for adoption within the financially responsible county, the AAP benefit shall not exceed the age-related, state-approved foster family home care rate, for which the child would otherwise be eligible.

(B) If the child is placed for adoption in California but outside the financially responsible county, the AAP benefit shall not exceed the age-related, state-approved foster family home care rate of the financially responsible county or that of the host county, whichever is higher, for which the child would otherwise be eligible.

(C) If the child is placed for adoption outside California, the AAP benefit shall not exceed the applicable California age-related, state-approved foster family home care rate or the applicable rate in the host state, whichever is higher, for which the child would otherwise be eligible.

35333 DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued) **35333**

(D) If the child also has any special needs which would qualify him or her for a specialized care increment (SCI), the AAP benefit shall include the applicable state-approved SCI in addition to the age-related, state-approved foster family home rate.

1. If the child requires a benefit based on a special need in addition to age-related state-approved foster family home rate, the agency shall document each special need by describing the need including the underlying problem or condition.

2. Specialized care provides a supplemental payment to a caregiver, in addition to the state-approved foster family home care rate, for the cost of supervision (and the cost of providing that supervision) to meet the additional daily care needs of a child who has a health or behavior problem.

3. If the child is placed for adoption outside the financially responsible county, the agency shall use the specialized care rate of the host county or that of the financially responsible county, whichever is higher, or that of the financially responsible county when the host county has no specialized care system.

(3) If the child is a client of a California Regional Center (CRC) for the Developmentally Disabled, the maximum rate shall be pursuant to Welfare and Institutions Code Section 16121(c). Dual agency children who leave California shall be able to continue to receive AAP benefits reflected in the last AAP agreement signed prior to leaving California.

(4) If the child is temporarily living away from the adoptive home and the AAP benefit is not authorized under Section 35334(a) or Section 35334(c), the agency shall consider the child to be living in the adoptive home.

(5) The adoptive parents shall provide a written statement on the form AAP 1 explaining how they plan to incorporate the adoptive child into their family and the impact, if any, on their family's lifestyle and circumstances.

(6) "Circumstances of the Family" means circumstances of the family as defined in Welfare and Institutions Code Section 16119(d)(2).

(A) The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living, or future plans.

(d) The agency shall complete the Adoption Assistance Program Negotiated Benefit Amount and Approval Form (AAP 6) and file in the child's AAP file.

(1) When only age-related state-approved foster family home rate is requested by the family, the agency shall include a statement to that effect for retention in the child's AAP file.

35333 DETERMINATION OF AMOUNT AND DURATION OF AAP BENEFIT FOR ALL CHILDREN (Continued) **35333**

(e) When agreement on the AAP benefit has been reached, the responsible public agency shall complete an Adoption Assistance Agreement (AD 4320) with the adoptive parents.

(1) The agency shall complete the AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the AAP benefit is approved.

(2) After completion of the Adoption Assistance Agreement (AD 4320), the adoptive parents shall have the right to use the AAP benefit to meet the child's needs as they deem appropriate without further agency approval.

(f) When the responsible public agency and the adoptive parents are unable to agree on an AAP benefit, the agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action that the requested AAP benefit is denied. The agency shall specify the reason for denial.

(1) If the adoptive parent does not agree on the AAP benefit, the parent may request a state hearing as instructed in the Notice of Action pursuant to MPP Section 22-004.

(g) A reassessment of the AAP benefit shall be required every two (2) years beginning from the date of a signed Adoption Assistance Program Agreement (AD 4320) between the agency and the adoptive parents.

(1) Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless one of the following occurs:

(A) The child has attained the age of 18 or 21;

1. Payment of the AAP benefit shall terminate in the month in which the child becomes 18 years of age or if the agency has determined that the child has a mental or physical disability that warrants the continuance of assistance, in the month in which the child becomes 21 years of age.

a. Starting January 1, 2012, youth who have an initial AAP agreement signed on or after their 16th birthday and who meet the conditions stated in Welfare and Institutions Code Section 11403, may be eligible for the extension of AAP benefits to the age of 19, the age of 20 effective January 1, 2013, and the age of 21 effective January 1, 2014.

(B) The adoptive parents are no longer legally responsible for the support of the child.

(C) The responsible public agency determines the adoptive parents are no longer providing support to the child.

NOTE: Authority Cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code. Reference: Sections 11405, 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673 and 675.

35334 AAP BENEFITS FOR A CHILD IN TEMPORARY OUT-OF-HOME PLACEMENT 35334

(a) The responsible public agency shall confirm the amount and duration of the AAP benefit when the child is placed, either on a voluntary basis or as a dependent or ward of the court, in out-of-home care to treat a condition that the agency has determined to have existed before the adoptive placement.

(1) The agency shall conclude that the child would have been placed in the same out-of-home care facility if the child had not been placed for adoption if, after consultation with the adoptive parents, the agency has determined that:

(A) Out-of-home placement is necessary to meet the child's needs,

(B) The specific placement is able to meet the child's needs appropriately, and

(C) The facility's rate classification level is appropriate to the child's needs.

(2) The agency shall determine the maximum AAP benefit for which the child is eligible for out-of-home placement.

(A) If the adoptive parents are paying for the cost of the placement directly, the available AAP benefit is the state-approved foster care facility rate for which the child is eligible.

(B) If the placement cost is paid by another agency (e.g., county welfare department, probation office, regional center), the available AAP benefit shall be either the age-related, state-approved foster family home care rate or the adoptive parent's actual share of cost for support of the child, whichever is greater, but not to exceed the foster family home rate as determined under Section 35333(c).

1. The maximum share of cost is the state-approved foster family home rate, eligible SCI rate or dual agency rate, and any applicable supplemental rate the child would have received had they remained in foster care.

2. Under Title 2 California Code of Regulations Section 60020(c), the county financially responsible for making AAP payments is responsible for the provision of mental health assessments and mental health services.

(3) If the initial Adoption Assistance Program Agreement (AD 4320) for the child was signed on or after October 1, 1992, the duration of a child's placement in a group home or residential treatment facility shall be limited to an 18-month cumulative period of time for a specific episode or incident justifying that placement.

35334 AAP BENEFITS FOR A CHILD IN TEMPORARY OUT-OF-HOME PLACEMENT (Continued) **35334**

(b) If the responsible public agency approves the provision of wrap-around services, as defined in Welfare and Institutions Code Section 18251(d), in lieu of out-of-home placement, the amount of the AAP benefit shall be limited to the amount that would have been paid for the out-of-home placement.

(c) The AAP benefit for the child's placement in a group home or residential care treatment facility shall continue to be available, provided the requirements of this section are met and the adoptive parents actively participate in a plan to return the child to the adoptive home.

(d) When the responsible public agency and the adoptive parents agree on the AAP benefit, the agency shall complete an Adoption Assistance Program Agreement (AD 4320) with the adoptive parents.

(1) The agency shall state in the agreement that the AAP benefit is intended for the child's out-of-home placement and is not to exceed 18 months.

(A) The adoptive parent(s) may request the financially-responsible public agency to pay the facility directly using the child's eligible AAP funds, or the adoptive parents may request the AAP check continue to be sent to them to pay the facility.

(2) The agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action indicating that the AAP benefit is approved.

(e) The duration of an Adoption Assistance Program Agreement (AD 4320) for the child's out-of-home placement shall be 18 months before a subsequent reassessment is required.

NOTE: Authority Cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code. Reference: Sections 16118, 16119, 16120, 16120.05, 16121, and 16121.05, Welfare and Institutions Code; 42 USC 673.

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 4. Adoption Assistance Agreement

35337 CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT 35337

(a) The Adoption Assistance Program Agreement form (AD 4320) shall contain the following:

(1) The child's adoptive name and the name(s) of the adoptive parent(s).

(2) The amount and duration of financial assistance.

(A) The agreement is effective until terminated in accordance with its terms or a new amended agreement is signed.

(B) The AD 4320 shall be signed by the responsible public agency and the adopting parent(s) prior to the granting of the final decree of adoption.

(C) In adoptive placements which involve more than one agency, all agencies shall sign the initial AD 4320.

1. Subsequent amendments to the AD 4320 shall be signed by the responsible public agency and adoptive parent(s).

(3) The AAP benefit will continue unless one of the following occurs:

(A) The child has attained the age of 18 unless the child has a mental or physical handicap which warrants continuation of AAP benefits to the age of 21 years.

(B) The adoptive parents are no longer legally responsible for the support of the child.

(C) The responsible public agency determines the adoptive parents are no longer providing any type of support to the child.

(4) It is the adoptive parent's responsibility to inform the responsible public agency immediately if any of the following occurs:

(A) Change in mailing address and/or state of residence.

(B) The child is no longer residing in the family home.

(C) The adoptive parents are no longer providing any type of support to the child.

(D) The adoptive parents are no longer legally responsible for the support of the child.

35337 CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT 35337
(Continued)

(5) If a needed service is not available in the state of residence, the financially responsible county of origin remains financially responsible for the needed services.

(A) The responsible public agency shall assist the adoptive parents by providing information and referral services offered in their state of residence.

(B) If the child is state-eligible and eligible for state-funded Medi-Cal benefits, the adoptive parents shall be informed that if they move or reside in another state, access to medical services is contingent on whether their state of residence extends COBRA-reciprocity for children receiving California state-funded Medi-Cal benefits.

(6) If the adoptive parents believe their child has a physical or mental disability that warrants the continuance of assistance beyond the age of 18, prior to their child's eighteenth birthday, the adoptive parents are to request the responsible public agency assess and evaluate their child's needs for continuation of benefits beyond the age of 18.

(7) If the child is a current consumer of California Regional Center (CRC) services, the maximum available AAP benefit is $3006. CRC consumers who have received an AAP benefit prior to July 2007, which exceeds the maximum $3006 rate, may continue to receive the higher rate until the child is no longer eligible for AAP benefits or the adoption is dissolved.

(A) If the child is under the age of three and the CRC has determined the child to have a developmental disability as defined by the Lanterman Act, the maximum AAP benefit is $2006.

(B) If the child is under the age of three and receiving services under the California Early Intervention Services Act, but not yet determined by the CRC to have a developmental disability as defined by the Lanterman Act, the maximum AAP benefit is $898 or the foster family home rate and applicable SCI rate, whichever is greater.

1. After the adoption is finalized, it is the adoptive parents' responsibility to request the CRC to evaluate the child's eligibility for CRC services and notify the responsible public agency if the child is eligible and receiving CRC services.

(8) A child with an initial AAP agreement signed on or after January 1, 2010, will no longer be eligible to receive an AAP age-related increase.

(A) A child with an initial AAP agreement signed prior to January 1, 2010 will still be eligible to receive the AAP age-related increase upon request.

(B) A child with an initial Adoption Assistance Agreement signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).

35337 CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT 35337
(Continued)

(9) That a failure to report the changes specified in Sections 35337(a)(5)(B) through (D) may result in an overpayment which would be recovered by a direct charge or a reduction in current and future AAP benefits.

(10) That continuation of payment depends upon continued legal responsibility of the adoptive parents for the support of the child and upon continued receipt by the child of that support.

(11) That the AAP benefit will be reduced if the AAP benefit amount exceeds the foster care maintenance payment that would have been made if the child had remained in a foster family home.

(12) The agreement shall specify the rate for a child receiving wraparound services or placed in an out-of-home placement which may not exceed the maximum eligible state-approved facility rate and is limited to 18 months per episode or condition. It is the adoptive parent's choice to request the AAP benefit be directed to the facility or to them and they pay the facility directly with the AAP funds received.

(13) That the child is eligible for Medi-Cal services.

(14) That the child is eligible for services provided pursuant to Title XX of the federal Social Security Act.

(A) Title XX services are public social services as described under MPP Sections 30-000 and 31-000.

(15) The procedure for reassessment of the AD 4320.

(16) That the agreement remains effective regardless of the state in which the adoptive parents reside.

(17) Any additional services and assistance which are to be provided as part of the agreement.

NOTE: Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code. Reference: 42 USC 673, 695; 45 CFR 1356.40; Sections 14051, 16119, 16120, 16120.05, 16121 and 16121.05, Welfare and Institutions Code.

35339 DEFERRED PAYMENT OF AAP 35339

(a) When a child otherwise eligible for AAP does not require current benefits but which could require future benefits, the Adoption Assistance Program Agreement form (AD 4320) shall indicate that the family may request benefits at an unspecified future date.

(1) The requirement set forth in Section 35333 shall be used to determine payment amount and duration if the family requests AAP benefits.

(2) An AD 4320 shall be used to record the revised agreement.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Sections 16118, 16119, 16120, 16121, and 16121.05, Welfare and Institutions Code; 42 USC Sections 673 and 675.

SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 5. AAP Payment Authorization

35341 PROCEDURES FOR INITIATION OF PAYMENT 35341

(a) The responsible public agency shall provide the county responsible for payment with information necessary to allow the county to issue AAP payments and authorize the issuance of Medi-Cal cards.

(1) AAP payments shall not begin before the Adoptive Placement Agreement (AD 907) and the Adoption Assistance Program Agreement (AD 4320) are signed.

(2) When the beginning date of payment is known, the agency shall complete and send the following forms to the county:

(A) Payment Instructions for Adoption Assistance Program (AAP 2),

(B) Eligibility Certification - Adoption Assistance Program (AAP 4)

(C) Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program (FC 10).

1. The FC 10 form is to be used only for the purposes of determining AFDC eligibility in the home of removal.

(3) The child's adoptive name shall be used on the AAP 2, AAP 4, and FC 10 and all related correspondence with the county.

(A) The AAP 2 requires the creation of a new county payment case record.

(b) Upon receipt of the AAP 2, the county shall issue payments as instructed.

(1) The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date the county receives the Payment Instructions – Adoption Assistance Program form (AAP 2) from the agency authorizing payment.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Sections 16118 and 16120, Welfare and Institutions Code and 42 USC 673.

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 6. AAP Reassessment

35343 PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS 35343

(a) A reassessment process shall be completed by the responsible public agency which authorized the initial payment unless one of the following is met:

(1) The child has attained the age of 18 or 21;

(2) The adoptive parents are no longer legally responsible for the support of the child.

(3) The responsible public agency determines the adoptive parents are no longer providing support to the child.

(b) The reassessment process shall include the following steps:

(1) The county responsible for payment shall mail the adoptive parent(s) the Reassessment Information Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date the reassessment is due and shall document in the case record the date such form was mailed.

(A) The adoptive parent(s) shall return the AAP 3 to the responsible public agency which authorized the initial payment.

1. If the family does not submit a completed AAP 3 form, AAP must continue at the same rate reflected on the last AAP agreement and Payment Instructions (AAP 2) form.

(2) If the responsible public agency receives the completed AAP 3 from the adoptive parents, the agency shall complete the reassessment process as follows:

(A) If the adoptive parents select box 1 on the AAP 3 indicating they no longer wish to receive an AAP benefit for their child, the agency shall follow the procedures as specified in Section 35339 for completing a deferred payment agreement.

(B) If the adoptive parents select box 2 on the AAP 3 indicating they request the AAP benefit to continue, the agency shall pay the same rate reflected on the last AAP agreement and Payment Instructions Adoption Assistance Program (AAP 2) form.

35343 PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS 35343
(Continued)

(C) If the adoptive parents select box 3 on the AAP 3, requesting an increase in the amount of the AAP benefit, the adoptive parents shall provide written documentation of the child's needs justifying the increase. The agency may require additional information as necessary.

1. The agency shall base the reassessment of the child's needs and required level of care and supervision on the following information:

   a. Information provided by the adoptive parents.

   b. Information about the child based on application of the county's foster care specialized care assessment instrument.

   c. Circumstances of the family.

2. The responsible public agency shall follow the procedures in Section 35333 in determining the new maximum AAP benefit amount.

3. If the agency determines that a change in the amount of payment appears appropriate, the adoptive parents' concurrence shall be obtained prior to changing the amount of payment.

   a. The adoptive parents' concurrence is not required if the payment amount is changed to prevent the payment from exceeding the maximum foster care maintenance payment that would have been paid had the child remained in foster care.

4. The responsible public agency and the adoptive parents shall complete an amended AD 4320 to reflect the change in the amount of AAP benefit.

   a. If the agency and the adoptive parents are unable to agree on the amount of the AAP benefit, the agency shall complete an AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the request for additional AAP benefits is denied and that the AAP benefit will continue at the prior rate. The agency shall specify the reason for denial as "The agency and the family cannot agree on benefits."

5. The agency shall complete and send a Payment Instructions Adoption Assistance Program (AAP 2) form to the county within five working days of completing the reassessment process.

35343 PROCEDURES FOR REASSESSMENT OF THE CHILD'S NEEDS 35343
(Continued)

(D) If the adoptive parents select box 4 on the AAP 3, requesting a decrease in the amount of the AAP benefit, the agency and the adoptive parents shall complete an amended AD 4320 to reflect the change in benefit amount.

1. The agency shall complete and send a Payment Instructions Adoption Assistance Program (AAP 2) form to the county within five working days of completing the reassessment process.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Sections 16120, 16121 and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; and 42 USC 673.

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 7. AAP Overpayments

35344 PROCEDURES FOR IDENTIFICATION AND RECOVERY OF OVERPAYMENTS 35344

(a) An overpayment of Adoption Assistance Program (AAP) benefits may exist in the following situations:

(1) The adoptive parent receives aid after the child becomes ineligible for assistance because:

(A) The child has attained 18 years of age, or, if the agency has determined that the child has a mental or physical condition which warrants the continuation of assistance, 21 years of age.

(B) The adoptive parent is no longer supporting the child.

(C) The adoptive parent is no longer legally responsible for the support of the child.

(2) The adoptive parent has committed fraud in his or her application for, or reassessment of, the adoption assistance benefit.

(3) The AAP payment exceeds the foster care payment which would have been paid on behalf of the child if the child had not been placed for adoption.

(b) The agency which authorized payment shall compute the overpayment amount as follows:

(1) Compute the correct AAP payment based on correct information for each month.

(2) Subtract the correct AAP payment from the amount of assistance actually provided.

(c) The agency which authorized payment shall inform the county responsible for payment of the reason for the overpayment and the computation of the overpayment amount.

(d) The county shall attempt to recover the overpayment as specified in MPP Section 45-806 and Section 45-808, which provides for recovery by grant adjustment, demand for repayment, or civil judgment.

(e) The county shall not demand overpayment collection when the overpayment was due to county error.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Sections 16120, 16121, and 16121.05, Welfare and Institutions Code; 45 CFR 1356.40; 42 USC 673.

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 8. Notice of Action

35345 WHEN NOTICE OF ACTION IS REQUIRED 35345

(a) The agency responsible for authorizing payment shall notify the county responsible for payment by using the Payment Instructions Adoption Assistance Program form (AAP 2) regarding any of the following events which require that the county send the adoptive parent a Notice of Action (NOA):

(1) Denial of request for adoption assistance benefits.

(2) Completion of a deferred payment agreement (Section II of the AD 4320).

(3) Authorization of the initial grant.

(4) Completion of the reassessment process.

(5) Payment termination.

(6) An overpayment requiring collection.

(7) Any change in grant amount.

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Section 16121.05, Welfare and Institutions Code and Sections 45 CFR, Sections 205.10 and 1355.30.

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 9. Continuation of Aid for the Adoption of Children (AAC)

35347 STATUTORY PROVISIONS FOR AAC 35347

Repealed by CDSS Manual Letter No. AD-11-01, effective 12/10/11

NOTE: Authority cited: Sections 10553, 10554, and 16118, Welfare and Institutions Code. Reference: Section 16121.05(d), Welfare and Institutions Code.

35349 CHRONIC HEALTH CONDITION AND CONTINUATION OF THE AAC GRANT 35349

(a) For purposes of this section, a chronic health condition shall include one or more of the following conditions present at placement and of such nature as to make adoptive homes unavailable to the child without financial assistance:

(1) Physical or mental disability present at birth or resulting from disease or injury.

(2) Emotional disturbance.

(3) History of either injury prior to adoptive placement, physical disease, or emotional disturbance which may manifest itself in some form of physical, mental, or emotional disability after completion of the adoption.

NOTE: Authority cited: Section 10553, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code. Reference: Section 16121, Welfare and Institutions Code.

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 10. Documentation of AAP Eligibility

35351 MAINTENANCE OF SEPARATE RECORDS 35351

(a) To maintain confidentiality of the adoption case record, the responsible public agency shall maintain copies of the following documents separate from the adoption case record:

(1) The Request for Adoption Assistance (AAP 1).

(2) The Eligibility Certification - Adoption Assistance Program (AAP 4), which verifies that the child meets the Adoption Assistance Program eligibility criteria specified in Section 35326.

(3) The following documents relating to the determination of Federal eligibility:

(A) Federal Eligibility Certification for Adoption Assistance Program (FC 8).

(B) Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program (FC 10).

(4) Documentation supporting the determination of the amount and duration of payment made pursuant to Section 35333.

(5) The initial Adoption Assistance Program Agreement (AD 4320).

(6) Completed reassessment documents, including:

(A) Reassessment Information - Adoptions Assistance Program (AAP 3).

(B) The Adoption Assistance Program Agreement (AD 4320) used as an amendment to the initial agreement.

(7) Payment Instructions - Adoption Assistance Program (AAP 2).

(8) All correspondence from the county, including notices of action.

(9) State hearing decisions.

(10) All AAP related correspondence from the adoptive parent, including supporting documentation submitted to the agency by the parent.

(11) Any other correspondence relating to the determination of AAP eligibility or grant amount.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code and Section 1530. Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 671 and 673.

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SUBCHAPTER 7 ADOPTION ASSISTANCE PROGRAM/AID FOR THE ADOPTION OF CHILDREN (AAP/AAC)

Article 11. Reimbursement for Nonrecurring Adoption Expenses

35352 NOTIFICATION REQUIREMENTS FOR AGENCIES 35352

(a) The agency shall inform all applicants that:

(1) Reimbursement for nonrecurring adoption expenses is available to adoptive parents who adopt a child who meets the three part special needs determination and citizenship requirements set forth in Section 35326.

(2) Agreements entered into pursuant to this section shall meet the provisions of Section 35352.1(a)(7).

(3) Agreements must be signed at the time of or prior to the final decree of adoption.

(4) Claims for reimbursement must be filed with the agency responsible for payment of AAP benefits within two years of the date of the final decree of adoption.

NOTE: Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code. Reference: Sections 16119 and 16120, Welfare and Institutions Code and 45 CFR 1356.40 and 1356.41(e); 42 USC 673.

35352.1 ELIGIBILITY FOR REIMBURSEMENT 35352.1

(a) In order for a claim to be eligible for reimbursement, the responsible public agency shall:

(1) Record in the case file that the adoption took place in compliance with applicable state and local laws.

(2) Record in the case file that the child for whose adoptive costs the parents are claiming reimbursement meets the three part special needs determination and citizenship requirements.

(3) Include verification in the case file that the expenses claimed were actual expenditures. "Verification" includes, but is not limited to, copies of the following:

(A) Canceled checks;

(B) Signed and dated receipts.

(4) Record in the case file that the expenses claimed meet the definition of "nonrecurring adoption expenses" as defined in Section 35000(n).

(5) Record in the case file that the adoptive parents have not received reimbursement for the claimed expenses from other sources. "Other sources" include, but are not limited to, the following:

(A) Reimbursement from employers;

(B) Income tax deductions.

(6) Ensure that all adoptive parents sign the Adoption Assistance Program Nonrecurring Adoption Expenses Agreement (AAP 8) with the agency prior to finalization of the adoption. The completed and signed AAP 8 shall be filed in the child's AAP file. The content of all such agreements shall meet the requirements as follows:

(A) The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

(B) The agreement may be a separate document or part of an agreement for either state or federal adoption assistance payments or services.

35352.1 ELIGIBILITY FOR REIMBURSEMENT 35352.1
(Continued)

(7) Limit the maximum reimbursement for nonrecurring adoption expenses to $400.00 per placement.

(A) Reimbursement for the adoptions costs incurred for the adoption of siblings shall be paid as follows:

1. Siblings placed for adoption either separately or as a unit are treated as individual placements with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

(8) Record in the case file that reimbursement for nonrecurring adoption expenses in interstate placements shall conform to the following:

(A) When the adoption of the child involves interstate placement, the State that enters into an Adoption Assistance Agreement under Section 473(a)(1)(B)(ii) of the Social Security Act or under a state subsidy program will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other Federal or State adoption assistance, the State in which the Final Adoption Decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the requirements of 473(c).

NOTE: Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code. Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.40 and 1356.41; 42 USC 673.

35352.2 AUTHORIZATION FOR REIMBURSEMENT 35352.2

(a) Pursuant to a determination that a claim for reimbursement for nonrecurring adoption expenses meets the three part special needs determination and citizenship requirements, the responsible public agency shall authorize the appropriate county to reimburse the adoptive parents.

(1) The county responsible for reimbursement shall be the county that would otherwise provide the child's AAP payment.

(A) This reimbursement shall be separate from the child's AAP payment as stated in Welfare and Institutions Code Section 16120.1(d)

(2) Reimbursement for nonrecurring adoption expenses is contingent upon the ongoing existence of the federal program for these reimbursements as mandated by Welfare and Institutions Code Section 16120.1(c).

NOTE: Authority cited: Sections 10553, 10554, and 16120.1(a), Welfare and Institutions Code. Reference: Section 16120.1, Welfare and Institutions Code and 45 CFR 1356.40 and 1356.41(g); 42 USC 673.

35352.3 AGENCY REQUIREMENTS FOR REIMBURSEMENTS 35352.3

Repealed by CDSS Manual Letter No. AD-11-01, effective 12/10/11

NOTE: Authority cited: Sections 10553 and 16118(a), Welfare and Institutions Code. Reference: Section 16120.1, Welfare and Institutions Code.