

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Biennial Rate Application Requirement

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held September 14, 2005, as follows:

September 14, 2005
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 14, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

CDSS Manual of Policies and Procedures, Division 11 (Administrative Standards for Eligibility and Assistance Programs), Chapter 11-400 (AFDC - Foster Care Rates), Sections 11-400 (AFDC - Foster Care Rates – Definitions), 11-402 (Group Home Rate Setting), 11-403 (Foster Family Agency Rates), and 11-406 (Definitions – Forms).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These proposed regulations amend specific provisions and adopt new language in the California Department of Social Services Manual of Policies and Procedures (MPP) Sections 11-400 et seq., 11-402 et seq., 11-403 et seq., and 11-406 et seq.

The proposed emergency regulations will implement the provisions of Welfare and Institutions Code Sections 11462(a)(3), 11463(i) and 11466.2(a). Welfare and Institutions Code Section 11462(a)(3) requires CDSS to determine the rate classification level (RCL) for each group home program on a biennial basis according to a schedule established by CDSS. Similarly, Welfare and Institutions Code Section 11463(i) requires CDSS to determine the rate category for each foster family agency on a biennial basis according to a schedule established by CDSS. Welfare and Institutions Code Section 11466.2(a) specifies that a non-provisional program audit period may be less than the period for which the rate is established.

Currently, the RCL for a group home program and the rate category for a foster family agency is established on an annual basis. Existing regulations contain provisions regarding the rate application/request due date, what constitutes a complete rate application, when a rate become effective, penalty provisions for submission of an incomplete or late rate application/request, procedures for requesting a "good cause" extension to the rate application/request due date, and the rate termination and reinstatement process. These regulations constitute a scheme for setting rates on an annual basis.

The proposed regulations will amend existing policies and procedures pertaining to the current annual system and adopt additional regulations to implement a biennial system as required by statute. Proposed regulations will revise the rate application/request due date and rate effective date, revise the penalty provisions, revise the due dates related to "good cause" extensions, and add three definitions necessary for clarity. These regulatory amendments are necessary to implement a biennial rate setting system that is coherent and equitable to the persons who are subject to them.

COST ESTIMATE

1. Costs or Savings to State Agencies: Savings of approximately \$4,298,240 in the current State Fiscal Year.
2. Costs to Local Agencies or School Districts: N/A
3. Nondiscretionary Costs or Savings to Local Agencies: Savings of approximately \$1,842,124 in the current State Fiscal Year.
4. Federal Funding to State Agencies: Savings of approximately \$6,140,364 in the current State Fiscal Year.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies but not upon school districts. The mandate is not required to be reimbursed pursuant to part 7 (commencing with Section 17500) of Division 4 of the California Constitution because implementation of the regulations will result in savings.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The biennial rate application requirement affects Foster Family Agency providers and Group Home providers as non profit corporations operating as small businesses in California. Foster Family Agency and Group Home providers are legally required to comply with the regulations (biennial rate application requirements) as outlined in CDSS, MPP Division 11.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, 11462(a)(3)(B), and 11463(i)(2). Subject regulations implement and make specific Welfare and Institutions Code Sections 11462(a)(3), 11462.06(d)(1) and (2), and 11463(i); and Section 4980.08 Business and Professions Code.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Everardo Vaca (916) 657-2586
Backup: Alison Garcia (916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.