

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



January 25, 2007

Regulation Package # 0905-15

CDSS MANUAL LETTER NO. OPS-06-03

TO: HOLDERS OF THE OPERATIONS MANUAL, DIVISION 11

**Regulation Package # 0905-15****Effective 10/26/06****Sections 11-400 and 11-402**

This manual letter has been posted on the Office of Regulations Development website at [http://www.dss.cahwnet.gov/ord/Operations\\_619.htm](http://www.dss.cahwnet.gov/ord/Operations_619.htm).

Crisis nurseries, a type of temporary or emergency care for children at risk of abuse and/or neglect, were first developed in the early 1970's. Crisis nursery programs were also designed to offer an array of support services to the families and caregivers of these children.

Recognizing the effectiveness of crisis nursery care and the need for additional programs, in 1986 Congress passed the *Temporary Child Care for Children with Disabilities and Crisis Nurseries Act*. This Act established federal funding to create temporary child care demonstration projects including crisis nursery services.

Since 1988, competitive grants have been awarded to private and public agencies across the United States to assist them in developing crisis nursery services. However, federal funding for crisis nurseries was recently reduced creating a financial hardship for the few California facilities providing the crisis nursery services. As a remedy, a collaboration of these facilities that are licensed as Group Homes for Children under six years of age, requested certain waivers to the regulations to help off-set rising cost because they maintain their programs and goals are different than those of other group homes. The children placed in their facilities are voluntarily placed by a parent experiencing stress in their life. They argued that the group home requirements were making it difficult for them to remain solvent.

SB 855, Chapter 664, Statutes of 2004, creates a new community care licensing category for crisis nurseries. Crisis nurseries are defined as facilities providing short-term, 24-hour nonmedical residential care and supervision for children under six years of age who are voluntarily placed for up to 30 days by their parents/guardian due to a family crisis or stressful situation or, who are temporarily placed by a county child welfare services agency for no more than 14 days.

Some unique aspects of crisis nurseries allowed by statute are:

- Can accept voluntary and AFDC/FC children (on a limited basis)
- Fully trained volunteers may be counted in their staff-to-child ratio.
- Maximum licensed capacity of 14.
- Crisis nurseries are required to provide a monthly report to the Department indicating the total number of voluntarily placed children and those children placed by a child welfare services agency and length of stay for each child.
- Crisis nurseries may provide day care services for children less than six years of age at the same site as the crisis nursery.

As required by statute, the Department has developed emergency regulations that establish minimum health and safety standards for children cared for by crisis nurseries. The intent of developing, adopting and implementing Crisis Nursery Programs Regulations is to provide a safe and supportive environment for children as well as a non-threatening non-punitive resource for parents who may be experiencing a family crisis or stressful situation.

These regulations were adopted on October 26, 2006 and were considered at the Department's public hearings held on November 29, 2006.

### **FILING INSTRUCTIONS**

**Revisions to all manuals are shown in graphic screen.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Operations Manual regulation changes was OPS-06-02.

<u>Page(s)</u>	<u>Replace(s)</u>
43 through 48	Pages 43 through 48
57 and 58	Pages 57 and 58
67 and 68	Pages 67 and 68
86.4 and 86.5	Pages 86.4 and 86.5
118.1	Page 118.1

Attachments

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**HANDBOOK CONTINUES**

- (5) Until they complete the 8 hours of training as required in Section 84065(i)(1), new child care staff hired on or after July 1, 1999 shall perform the duties as defined in Subsections (1) through (4) above while under visual supervision.

The August 30th Report states:

**"FUNDING FROM OTHER SOURCES**

The Department recognizes that circumstances may arise when it is not clear whether staff hours associated with a particular activity fall into one of the program components used for classification purposes. Such circumstances will be determined by the Department on a case-by-case basis. As a general rule, however, the source of the revenue received by the group home provider to fund an activity will be used to make this determination.

For example, a group home program may have a staff (sic) person with professional qualifications in education who works with the children on their school work outside of the school classroom. Many children in foster care are below grade level and need special attention. If the provider receives funding for this activity through the education system, it is considered an educational activity, which is not one of the three program components used for classification purposes.

However, if the provider is not otherwise funded for this activity, it may be considered a parental-type activity (helping one's child with his/her home work) that is allowable for funding under AFDC-FC and the hours will be counted as Child Care and Supervision for classification purposes. In "gray" areas such as this, considering the source of revenue used to fund an activity will allow the Department to avoid the possibility of duplication of funding from other public sources."

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- (5) Child Care Worker - A group home employee, identified as performing child care duties in the employee's duty statement, engaged in providing child care and supervision duties and who meets CCL licensing requirements as specified in Title 22, California Code of Regulations, Division 6. A child care worker in a Community Treatment Facility who meets CCL personnel requirements as specified in Title 22, Division 6, Chapter 5, Section 84165(d) and (e), California Code of Regulations, or who is otherwise deemed to be a child care worker by CCLD.
- (6) Community Treatment Facility - means a facility defined in Health and Safety Code Section 1502(a)(8), certified as a Community Treatment Facility by the California Department of Mental Health (CDMH) and licensed as a Community Treatment Facility by the California Department of Social Services (CDSS), Community Care Licensing Division (CCL).

**11-400** **AFDC-FOSTER CARE RATES - DEFINITIONS (Continued)** **11-400**

- (7) Community Treatment Facility Licensed Nursing Staff - means a person employed by a Community Treatment Facility and licensed as a registered nurse by the California Board of Registered Nursing; or a vocational nurse or psychiatric technician licensed by the California Board of Vocational Nurses and Psychiatric Technician Examiners to perform functions within their scope of practice.
- (8) Crisis Nursery means a facility listed in Welfare and Institutions Code Section 11402(h) which is defined as " A licensed crisis nursery as described in the Section 1516 of the Health and Safety Code and as defined in Section 11400(t) of the Welfare and Institutions Code".

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- (A) Welfare and Institutions Code Section 11400(t) defines Crisis Nursery as "a facility licensed to provide short-term, 24-hour non-medical residential care and supervision for children under six years of age, who are either voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or stressful situation for no more than 30 days or, except as provided in subdivision (e) of Section 1516 of the Health and Safety Code, who are temporarily placed by a county child welfare service agency for no more than 14 days".

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- d. (1) Date of Issuance - The date an audit report is mailed by the Department, as shown by the postmark on the envelope containing the report, or by proof of service.
- (2) Date of Mailing - The date any correspondence is mailed by the Department, as shown by the postmark on the envelope or by proof of service.
- (3) Date of Receipt - The date a group home provider or foster family agency receives a document from the Department, as shown by a signed certified mail receipt or by operation of the mailbox rule.

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**HANDBOOK BEGINS HERE**

A party is deemed to receive documents mailed through the United States Postal Service five days after the documents are deposited in a sealed envelope with postage paid at an official postal mailing site, if the place of address is within California, or 10 days if the place of address is outside California but within the United States.

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- (4) Department - the California Department of Social Services.
- (5) Direct Contact Contract - An agreement between a group home provider and a social worker, as defined in Section 11-400s.(5) exclusively for direct social work activities to children in care in accordance with Sections 11-402.212(a)(2)(A) and 11-402.222(d). The social worker that is eligible for double weighting shall be an Independent Contractor as provided by state and federal laws, including Section 3353 of the California Labor Code.

**11-400** **AFDC-FOSTER CARE RATES - DEFINITIONS (Continued)** **11-400**

- (6) Director - the Director of the Department of Social Services.
  - (7) Due Date - The date a group home rate application, a request for good cause or an additional information request is due. If this date falls on a weekend or a legal holiday, the due date is the next business day. If this information is mailed, it shall be postmarked on or before the due date.
  - (8) Duplicate - a facsimile copy of the original produced by photocopying or some other technique of accurate reproduction.
- e. (1) Eligible Hour - The unit of time which shall be subject to the allocation requirements contained in the August 30th Report, Page 5 (See Handbook Example following Section 11-402.211(a)(5)), in CCS, social work activities, or mental health treatment services which may be weighted to determine points. The following shall not meet the criteria of an eligible hour:
- (A) Any on-call hours for any personnel.
  - (B) Any hour of service provided by an employee in direct contact with a child that is not child care and supervision, social work activities, or mental health treatment services.
- (2) Emergency Placement - The placement of a child placed prior to determination that the child qualifies as an assessed/qualified child where placement is in a certified group home program classified at RCL 13 or RCL 14. The child must be evaluated by a mental health professional as described in Section 11-400m.(3).
- f. (1) Fail to Maintain - An unplanned group home program modification which decreases the level of care and services associated with the RCL upon which the rate was established.
- (2) Family Group - means no more than six children, under the age of six years, and the houseparents.
  - (3) Family Home shall be defined in accordance with Section 45-101(f)(1).

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The term family home is defined in Section 45-101(f)(1) as follows: Family Home - the family residence of a licensee in which 24-hour care and supervision are provided for children and which is licensed by the appropriate community care licensing agency or a family residence which is approved and which provides care and supervision. For rate setting purposes, the term family home shall include homes licensed as foster family homes, or small family homes and homes which are approved. See Section 45-101(a)(2) for definition of approved home.

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**11-400** **AFDC-FOSTER CARE RATES - DEFINITIONS (Continued)** **11-400**

- (4) Financial Audit - An audit by a certified public accountant or a state-licensed public accountant that includes all the programs, and activities, and cost data of a non-profit corporation which operates a group home and/or foster family agency which provides treatment services. Submission of the financial audit report is a condition of receiving a group home program rate and/or a foster family agency treatment rate.
- (5) Financial Audit Report - A written report which contains an opinion on the corporation's internal controls and which states whether, in all material respects, the most recent financial statements are presented fairly in accordance with generally accepted accounting principles. See Section 11-405.2 for additional requirements.
- (6) First-line Supervisor - A group home employee responsible for the direct supervision of child care workers. This includes residential counselors, program specialists, nurses, and other supervisory staff, regardless of title, where there is documentation of direct supervision of child care workers.
- (7) Fiscal Audit - An audit conducted to determine whether the cost data and other financial information submitted by a group home or foster family agency is accurate and supported and to determine whether misuse or fraud has occurred.
- (8) Fiscal Year - Any consecutive 12-month period adopted as the annual accounting period.
  - (A) The state fiscal year begins July 1 and ends June 30 of the following year, unless otherwise specified.
  - (B) A provider may adopt any consecutive 12-month period as its annual accounting period. This period is the same for all accounting and reporting periods.
- (9) Formal Education - Completed college credits from an accredited or approved college or university.
- (10) Formal Hearing - (A) An administrative hearing conducted by an Administrative Law Judge to review a Report of Findings of an informal level hearing officer of audit findings disputed by a group home provider, foster family agency, or the Department; or (B) An administrative hearing to review the contention of a group home provider or foster family agency that does not concur with a rate setting protest decision letter pursuant to Sections 11-430.4 through 11-430.74; or (C) An administrative hearing conducted by an Administrative Law Judge to review a Statement of Disputed Audit Findings filed by a group home provider to protest the reduction of a provisional rate as a result of a program audit.
- (11) Foster Family Agency shall be defined in accordance with Section 45-101(f)(6).

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The term foster family agency is defined in Section 45-101(f)(6) as follows: Foster family agency means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

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- (12) Foster Family Agency Basic Rate - the minimum rate that a foster family agency is required to pay to the certified foster parents on behalf of an AFDC-FC eligible child exclusive of any additional increment.
- (13) Fraud - Fraud is an intentional misrepresentation or concealment of information in order to acquire something of value. Fraud includes the intentional false reporting of financial information or illegal acts resulting in material misstatements to the non-profit corporation's financial statements. Fraud also includes the misappropriation of assets by means of deception, theft, embezzlement, or material misrepresentation, which results in the illegal expenditure of funds.
- (14) Frozen Rate - A cost-based rate set by the Department prior to July 1, 1990 based on a program's actual historical costs which is greater than the standard rate for the group home program's rate classification level (RCL) on July 1, 1990.
- (15) Full-time Equivalent (FTE) Position- A total of 40 hours for one week or a total of 173 hours for one month filled by one or more employees.

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Example: The ABC group home has five child care workers who work from 15 to 54 hours per week and one full-time first-line supervisor. The combined number of hours they are expected to work in the next 12-month period is 12.636. Divide the hours worked by 2080 (annualized full-time equivalent based on a 40-hour work week) = 6.075 FTE.

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- g. (1) Good Cause - The inability to respond to a required action due to circumstances beyond the control of the group home provider/foster family including, but not limited to, natural disasters and emergency medical situations.
- (2) Group home shall be defined in accordance with Welfare and Institutions Code Section 11400(h) and also includes a Community Treatment Facility for purposes of Division 11.

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- (A) The term group home is defined in Welfare and Institutions Code Section 11400(h) as follows:

"Group Home' means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code."

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**HANDBOOK CONTINUES**

1. Health and Safety Code Section 1502(a)(1) states: "Residential facility' means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual."

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- (3) Group Home Administrator Certificate - A certificate issued by Community Care Licensing (CCL) indicating completion of that program as required in Health and Safety Code Section 1522.41(b)(1).
- (4) Repealed by Manual Letter No. OPS 99-05, effective 12/10/99.
- h. (1) Host County - The county in which the majority of an agency's foster family homes or group home facilities are located. If the program has facilities in more than one county, the host county shall be that of the facility where the greatest number of children are placed.
- (2) Houseparent - means the consistent, nurturing adult who resides with the family group, provides daily care for no more than three children, and is involved in the long-range planning for those children during the group home placement, and who meets the personnel requirements stated in Title 22, Division 6, Section 84265(d), (f), (g), and (i) and who meets the Community Care Licensing requirements for a child care worker pursuant to Section 11-400c.(5).
- (3) Houseparent Duties - means: (1) teaching social skills, (2) teaching motor skills, (3) teaching self-care skills, and (4) other child care services as defined in Section 11-400(c)(3).

**11-400** **AFDC-FOSTER CARE RATES - DEFINITIONS (Continued)** **11-400**

- i. (1) Infant Supplement - the amount paid to an eligible facility in addition to the AFDC-FC payment for a minor parent for a child living with his/her minor parent(s).
- (2) Informal Hearing - An administrative review hearing conducted by a hearing officer to examine group home program audit findings disputed by the group home provider in a Statement of Disputed Audit Findings pursuant to Sections 11-430.12 through 11-430.146.
- (3) Inpatient Care in a Licensed Health Facility shall be defined in accordance with Health and Safety Code Section 1502.4(a)(2)(A) as follows:

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"Inpatient care in a licensed health facility' means care and supervision at a level greater than incidental medical services as specified in Section 1507."

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- (4) Interagency Placement Committee (IPC) - A committee established by the county, with a membership that includes at minimum a representative of the county placement agency and a mental health professional from the county department of mental health. The IPC determines whether a child whose placement is funded by AFDC-FC is an assessed placement and in need of the care and services provided by the group home program classified at RCL 13 or RCL 14.

**11-400** **AFDC-FOSTER CARE RATES - DEFINITIONS (Continued)** **11-400**

- j. (Reserved)
- k. (Reserved)
- l. (1) Leaseback - For the purposes of these regulations, leasebacks are limited to the following business arrangements: affiliated leasebacks, less-than-arms' length leases, and long-term leases that create material or financial interest in land or real property.
- (2) Licensed Clinical Social Worker (LCSW) - An individual who has been licensed by the California Board of Behavioral Science Examiners to provide clinical social work services which may be defined as social work activity or mental health treatment services.
- (3) Licensed Marriage, Family and Child Counselor (LMFCC) - An individual who has been licensed by the California Board of Behavioral Science Examiners to provide marriage, family and child counseling which may be defined as social work activities or mental health treatment services.
- (4) Lien - A certificate lien established pursuant to Section 11466.33 of the Welfare and Institutions Code or any judgement lien created under Part 2, Title 9, Division 2, Chapter 2 (commencing with Section 690.010) of the California Code of Civil Procedure. If an amount is due and payable to the Department as a result of a sustained overpayment, the Department may, as one of its involuntary collection procedures, file a certificate lien with a county clerk and bring an action in superior court to seek a judgement lien.
- (5) Licensed Marriage, Family Therapist – An individual who has been licensed by the California Board of Behavioral Science Examiners to provide marriage and family therapy which may be defined as social work activities or mental health treatment services.
- m. (1) Mandatory Repayment Schedule - Shall be defined in accordance with Section 11466.22(d)(4) of the Welfare and Institutions Code.

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Welfare and Institutions Code Section 11466.22(d)(4) states:

"The department shall establish an involuntary overpayment collection procedure, that shall take into account the amount of the overpayment, projected annual income, a minimum required repayment amount, including principal and interest, of 5 percent of the annual income prorated on a monthly basis, simple interest on the overpayment amount based on the Surplus Money Investment Fund, and a maximum repayment period of seven years. The department may establish regulations permitting the director at his or her discretion to renegotiate the involuntary payment agreement if the director determines that the agreement would cause severe harm to children in placement."

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**11-400** **AFDC-FOSTER CARE RATES - DEFINITIONS** (Continued) **11-400**

- (3) Transitional Housing Placement Program (THPP) - for the purposes of this section, is a community care facility licensed by the Department and includes all components of the program that provides supervised housing and supportive services for eligible dependent foster/probation youth as specified in Welfare and Institutions Code Section 11403.2(a)(1).
- (4) Transitional Housing Program - Plus (THP-Plus) - for the purposes of this section, is a transitional housing placement program not licensed by the Department, but certified by counties to provide housing and supportive services, as needed, to emancipated youth pursuant to Welfare and Institutions Code Section 11403.2(a)(2).
- u. (1) Underpayment - An amount owed to a group home provider by the Department.
- (2) Repealed by Manual Letter No. OPS-99-05, effective 12/10/99.
- v. (Reserved)
- w. (1) Weighting/Weighted - The factor applied to the eligible hours in each of the three program components to determine the number of points.

**11-400 AFDC-FOSTER CARE RATES - DEFINITIONS (Continued)**

**11-400**

- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

NOTE: Authority cited: Sections 10553, 10554, 11400(t), 11460(b), 11462(a)(3)(B), 11462(i) and (j), 11462.06, 11463(i)(2), 11466.1, 11466.21, 11466.22, 11466.5, and 14680, Welfare and Institutions Code; Sections 1516, 1559.110, Health and Safety Code; and Chapter 1294, Statutes of 1989, Section 23. Reference: Sections 1200, 1250, 1502(a)(1) and (a)(8), 1502.4, 1502.4(a)(1), (a)(2)(A), and (b), 1516, (Senate Bill 855, Chapter 664, Statutes of 2004). 1530.8, and 1559.110, Health and Safety Code; Section 3353, California Labor Code; Sections 4096, 4096(e)(2), 4096.5, 5600.3(a)(2), 5777, 5778, 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11234, 11235, 11236, 11400(h), 11402(h), 11402.5(a), 11460, 11461.1, 11462, 11462(a)(1), 11462(a)(3), 11462.01(a)(2)(A)(i) and (ii), 11462.01(a)(2)(B)(i), 11462.03, 11463(i)(1), 11466.1, 11466.2, 11466.21, 11466.22, 11466.3, 11466.31, 11466.33, 11466.34, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468, 11468.6, 14680, 16522(a), (b), and (c), and 18350, Welfare and Institutions Code; Section 4980.08, Business and Professions Code; Public Laws 98-502 and 104-156; Assembly Bill 1575, Chapter 728, Statutes of 1997; The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050; and federal Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book) 1994 Revision, including Amendment No. 1 (May 1999) and Amendment No. 2 (July 1999) Section 4.25 and 4.26; and Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; American Institute of Certified Public Accountants Statement on Auditing Standards Number 82, Description and Characteristics of Fraud.

**11-402**      **GROUP HOME RATE SETTING** **11-402**

.1      Group Home Rate Determination Process - General Overview

- .11      The Department shall determine the RCL for each nonprofit group home program and crisis nursery utilized for AFDC-FC placements to set a rate using the standardized schedule of rates.

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Welfare and Institutions Code Section 11462.7(c) states:

- "(c)      Until the department adopts emergency regulations for establishing a rate for crisis nurseries, the rates shall be established using the foster care rate system for group homes and subject to all of the requirements of Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9."

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- .111      For the period of Fiscal Year 1992-93 from January 1, 1993, through June 30, 1993, the Department shall establish a rate for a group home which changes status from for-profit to nonprofit if the following requirements are met:
  - (a)      The group home program had a rate established prior to January 1, 1993, as a group home organized and operated as an unincorporated proprietorship, a partnership, or a for-profit corporation;
  - (b)      The group home has organized and is operating on a nonprofit basis as of January 1, 1993; and
  - (c)      The documentation in Section 11-402.354 has been submitted by January 1, 1993.
- .12      The RCL shall be determined using points which measure the number of weighted eligible hours per child per month of CCS, Social Work Activities, and Mental Health Treatment Services.
  - .121      For program classification, only those hours in the program components of CCS and Social Work Activities funded through the AFDC-FC program and unrestricted private donations shall be used to calculate program classification points.
  - .122      For the purpose of calculating points for program classification, weighted eligible hours in the program components of CCS and Social Work Activities may include hours paid by the group home with funds received from another public agency using a source other than the AFDC-FC program when the written agreement or contract between the group home and the public agency specifies that the funds will not be used to pay for additional hours, but will be used by the group home to supplement the wage which would otherwise be paid with AFDC-FC funds.

**11-402 GROUP HOME RATE SETTING (Continued) 11-402**

- .123 The weighted eligible hours of CCS and Social Work activities that a provider may include for the purpose of calculating points for program classification shall be reduced when the provider utilizes funds from a public source other than the AFDC-FC program unless the conditions specified in Section 11-402.122 are met.
  
- .124 Program hours shall be allocated based on an empirical allocation methodology which shall account for eligible and ineligible AFDC-FC program hours. The allocation methodology used to determine the total number of hours which are eligible for program classification points shall include, but not be limited to, the following: eligible and ineligible program classification funding sources; or eligible and ineligible service hours in child care and social work; or the number of AFDC-FC eligible children versus ineligible children; or an allocation based on square footage or any other allocation methodology agreed to in advance of the beginning of the fiscal year between the Department and the provider.
  
- .13 The number of points determine the RCL for each group home program.
  
- .14 There is a corresponding standard rate for each RCL.
  
- .15 The standardized schedule of rates for fiscal years 2002-03, 2003-04, and 2004-05 is specified in Welfare and Institutions Code Sections 11462(f)(1).

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Welfare and Institutions Code Section 11462(f)(1) provides:

Rate Classification Level	Point Ranges	Standard Rate FY 2002-03, 2003-04, and 2004-05
1	under 60	\$1,454
2	60- 89	1,835
3	90-119	2,210
4	120-149	2,589
5	150-179	2,966
6	180-209	3,344
7	210-239	3,723
8	240-269	4,102
9	270-299	4,479
10	300-329	4,858
11	330-359	5,234
12	360-389	5,613
13	390-419	5,994
14	420 & up	6,371

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**11-402**      **GROUP HOME RATE SETTING** (Continued) **11-402**

.233      The separate program component's weighted hours shall be divided by the greater of 90 percent of the licensed capacity of the group home program or 5.4 to determine each of the program component's point scores except as provided below:

- (a)      When the licensed capacity includes an unspecified mixture of children and minor parents and their infants in placement, divide the number of weighted hours by 90 percent of the total number of minor parents and other nonparent minors excluding child(ren) living with his/her minor parent in placement. This applies only to such programs where the licensed capacity includes the children receiving an infant supplement.
  
- (b)      Effective July 1, 2002, a Community Treatment Facility provider may request a waiver to the 90 percent occupancy standard by submitting, as a component of the annual rate application process, a waiver request that meets all the requirements specified by Section 11-402.233(c) and (d).
  
- (c)      The waiver request shall:
  - (1)      Be in writing.
  
  - (2)      Include a copy of the program statement. The program statement must state that the provider has entered into an agreement with the regional/county entity(ies) to reserve or leave bed(s) vacant.
  
  - (3)      Include a copy of the contract the provider has entered into with the regional/county entity(ies) to reserve or leave bed(s) vacant. The contract must comply with the following requirements:
    - (A)      Include a specific statement that the provider has entered into an agreement with the regional/county entity(ies) to reserve or leave bed(s) vacant and specify the alternative occupancy standard which shall not be less than 80 percent or greater than 90 percent of the provider's licensed capacity.
  
    - (B)      Identify the party(ies) responsible for paying for the bed(s) the Community Treatment Facility provider has agreed to reserve or leave vacant.
  
    - (C)      Include a specific statement that the provider shall comply with CCL's Community Treatment Facility staff/child ratio of one childcare person awake and on duty for each five children, or fraction thereof, from 7 a.m. to 10 p.m. as specified in Title 22, Division 6, Chapter 5, Section 84165.5, California Code of Regulations.

**11-402** **GROUP HOME RATE SETTING** (Continued) **11-402**

- (d) The Department shall deny any waiver request for less than 80 percent or more than 90 percent of licensed capacity.
- (e) For Community Treatment Facilities that have been granted a waiver under Section 11-402.233(b), points shall be computed using the occupancy factor specified in the waiver.
- (f) For auditing purposes, in accordance with Health and Safety Code Section 1516(e), county placements in a crisis nursery, as described in subdivision (d) of Health and Safety Code Section 1516, shall be limited to no more than one-third of a crisis nursery's licensed capacity.

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Welfare and Institutions Code Sections 11462.01(d), (d)(1), and (d)(2) state the following:

- "(d) Any group home program that has been classified at RCL 13 or RCL 14 pursuant to the requirements of subdivision (a) shall immediately be reclassified at the appropriate lower RCL with a commensurate reduction in rate if either of the following occurs:
  - (1) The group home program fails to maintain the level of care and services necessary to generate the necessary number of points for RCL 13 or RCL 14, as required by paragraph (1) of subdivision (a). The determination of points shall be made consistent with the department's AFDC-FC ratesetting regulations, for other rate classification levels.
  - (2) The group home program fails to maintain a certified mental health treatment program as required by paragraph (3) of subdivision (a)."

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**HANDBOOK ENDS HERE**

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- (6) For provisional rate audits, the audit period shall consist of two full calendar months or sixty consecutive days, whichever is longer.
- (7) For audits conducted for group homes operating as crisis nurseries, recompute the actual eligible hours, weightings and program points for a crisis nursery using 90 percent of one-third of the licensed capacity.
- (c) The Department shall determine whether or not children in placement in a group home program, classified at RCL 13 or RCL 14, are assessed/qualified children, as defined in Section 11-400a.(1).
  - (1) If the group home program does not have written approval from the IPC for any AFDC-FC funded child placed, the Department shall assess a penalty against the group home provider:
    - (A) The penalty shall be in the amount of the AFDC-FC rate paid on behalf of the child;
    - (B) The penalty shall commence the 31st day of placement and shall continue until the date the provider notifies the county placing agency, in writing, requesting the county to obtain approval from the interagency placement committee or removal of the child from the program.

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