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April 16, 2019

ALL COUNTY LETTER (ACL) NO. 19-31

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL INDEPENDENT LIVING PROGRAM MANAGERS
ALL INDEPENDENT LIVING PROGRAM COORDINATORS
ALL FOSTER CARE MANAGERS
ALL TITLE IV-E AGREEMENT TRIBES
ALL TRANSITIONAL HOUSING COORDINATORS
ALL ADOPTION REGIONAL OFFICES
ALL ADMINISTRATIVE LAW JUDGES
ALL COUNTY ADOPTION AGENCIES

SUBJECT: RE-ENTRY OF ELIGIBLE NONMINORS TO EXTENDED FOSTER CARE (EFC) WHEN ADOPTIVE PARENT(S) OR FORMER LEGAL GUARDIAN(S) NO LONGER PROVIDE SUPPORT

REFERENCE: [ASSEMBLY BILL \(AB\) 12 \(CHAPTER 559, STATUTES OF 2010\), AB 787 \(CHAPTER 487, STATUTES OF 2013\), AB 212 \(CHAPTER 459, STATUTES OF 2011\), AB 2454 \(CHAPTER 769, STATUTES OF 2014\), AB 2337 \(CHAPTER 539, STATUTES OF 2018\); WELFARE AND INSTITUTION CODE \(WIC\) 388, WIC 388.1, WIC 11363, WIC 11403; ALL COUNTY LETTERS \(ACLs\) 11-61, ACL11-69, ACL11-77, ACL 12-12, ALL COUNTY INFORMATION NOTICE \(ACINs\) I-76-15, ACIN I-76-15E, 45 MANUAL OF POLICIES AND PROCEDURES \(MPP\) SECTION 607.2, AND 42 UNITED STATES CODE \(USC\) 673 \(a\)\(4\)\(A\)\(ii\)](#)

The purpose of this All County Letter (ACL) is to provide counties and other responsible entities with information for a young adult seeking re-entry into foster care because his or her adoptive parent(s) or legal guardian(s) are no longer providing support. This ACL also provides guidance and instructions regarding Assembly Bill [\(AB\) 2337](#), effective January 1, 2019, which allows youth, who are under the age of 21 and were in receipt of Supplemental Security Income (SSI) or other aid from the Social Security Administration (SSA), in lieu of Kinship Guardianship Assistance Payment (KIN-GAP) or Adoption

Assistance Program (AAP) payments, to re-enter EFC under the same conditions as those receiving Kin-GAP or AAP payments.

For further information regarding the re-entry process for youth receiving Kin-GAP, AAP, or who are in a non-related legal guardianship established through dependency proceedings, please refer to All County Information Notice (ACIN) [I-76-15](#), dated October 20, 2015, and Errata [I-76-15E](#) dated June 6, 2016. In regard to re-entry procedures for former foster youth who do not fall under these categories, please refer to [ACL 12-12](#).

BACKGROUND

The establishment of the Extended Foster Care (EFC) program via [AB 12](#) made it possible for eligible foster youth to remain in foster care to age 21, or petition the court for re-entry into foster care if they report their intent to meet one or more of the following conditions of the Welfare & Institutions Code [11403](#):

1. Completing high school or an equivalent secondary credential program;
2. Enrolled in a post-secondary or vocational education program;
3. Participating in a program or activity which promotes and/or removes barriers to employment;
4. Employed at least 80 hours a month; or,
5. Unable to complete one of the above activities due to a documented medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor.

In order to remain in EFC as a Non-Minor Dependent (NMD) until age 21, the youth must continue to meet one of these statutory conditions. For further details regarding participation criteria for an NMD in EFC, please refer to ACL's [11-61](#), [11-69](#), and [11-77](#).

RE-ENTRY OF NON-MINORS

WIC [388\(e\)](#) allows eligible youth under the age of 21 to petition the Court in which they were previously adjudicated a dependent or delinquent for a hearing to request re-entry into foster care as NMDs. [AB 787](#) expanded eligibility to include youth whose adoptive parent(s) or legal guardian(s) died after the nonminor was 18 years of age, but before he or she attained 21 years of age. [AB 2454](#) further expanded the category to include youth whose adoptive parent(s) or legal guardian(s) are receiving extended Kin-Gap or AAP benefits, but who are no longer providing financial support for the young adult.

On January 1, 2019, [AB 2337](#) expanded the category to include youth who entered into a legal guardianship or were adopted, but did not receive Kin-GAP or AAP payments because were receiving SSI or other income from the federal SSA.

ASSESSMENT OF YOUTH IN LEGAL GUARDIANSHIP OVER THE AGE OF 18

When a young adult, under the age of 21, whose guardianship was established through dependency court or delinquency, notifies a county or other responsible entity and alleges that he or she is no longer being supported by his or her legal guardian(s), the agency shall initiate a timely assessment to gather information and determine the accuracy of the statements. The responsible entity shall first:

Determine if a young adult may be eligible to re-enter foster care as a NMD under WIC [§ 388.1\(a\)\(1\)](#) if the legal guardian(s) are no longer receiving payments on behalf of the youth. This can be verified through the Child Welfare Services/Case Management System (CWS/CMS) and/or court records.

Upon verifying the potential eligibility of a young adult for EFC, the social worker or probation officer should contact the assigned eligibility worker to determine if payments are still being received by the legal guardian(s). If payments are no longer being issued, reentry proceedings may be initiated for eligible youth.

If payments are still being issued, the responsible entity shall promptly initiate an assessment by speaking with the legal guardian(s) regarding the allegations of lack of support. If the social worker determines that an in-person assessment is necessary, a meeting shall be scheduled to complete the assessment in a timely manner.

The assessment should include an in-depth conversation with the young adult and the legal guardian(s) to better understand the dynamics of the home. During the interview(s), there should be a discussion around the relationship between the young adult and the caregiver(s) as well as age appropriate expectations.

Details about what support has been provided to the young adult and when it was last provided should be addressed. If a discrepancy remains between what is reported by the young adult and what is reported by the guardian(s), the social worker/probation officer shall assess further in an attempt to determine the facts.

The social worker/probation officer may confer with extended family members and/or other collateral(s) about any support being provided to the youth by the legal guardian(s) to further understand the situation, but also to attempt to maintain the guardianship relationship. Maintaining lifelong connections between the youth and the caregiver(s) shall remain the priority.

Reasons for finding lack of ongoing support and care may include action or inaction by the legal guardian that affects the young adult's physical safety such as denying them access to medical treatment, education, community resources, and shelter. Other reasons include refusing access to the young adult's property or preventing them from entering the home when there are no safety concerns.

If no safety issues are identified, the social worker or probation officer shall attempt to reconcile any differences between the legal guardian(s) and the young adult, as appropriate. This can be done by encouraging an honest conversation around expectations, rules and responsibilities of both the young adult and the guardian(s). The emphasis during the assessment should remain on maintaining the relationship between the young adult and the legal guardian(s) as these connections provide support and lifelong connections for youth. The social worker or probation officer should build on family strengths and support the family as they explore community services, such as counseling or mental health services, to help the legal guardian(s) and young adult work through challenges and reach an agreement.

These avenues should be explored in an expeditious manner before the county initiates re-entry proceedings, suspends or terminates payments. However, if it is determined that the guardian(s) are not providing care and support, responsible entities have the authority to temporarily suspend Kin-GAP payments pursuant to [45 MPP section 607.21](#). As a condition of receiving Kin-GAP pursuant to federal law [42 USC section 673, subdivision \(a\)\(4\)\(A\)\(iii\)](#), and state Kin-GAP regulation [45 MPP section 607.212](#), the guardian must continue to provide support and care to the young adult. Based on the agency's assessment of all the available information, including the young adult's allegations of non-support, suspension or termination may be appropriate. Prior to suspension or termination, a Notice of Action (NOA) reflecting the change must be sent to the guardian(s). The NOA must include instructions on the fair hearing request process should the guardian(s) disagree with the action.

ASSESSMENT OF AAP ELIGIBLE YOUTH OVER THE AGE OF 18

When an AAP eligible young adult who was previously found to be a dependent of the juvenile court notifies a county or other responsible entity and alleges that he or she is no longer being supported by his or her adoptive parent(s), and if no safety issues are identified, the worker should make an effort to assist the young adult and adoptive parent(s) to remain an intact family unit. Suggested activities may include an in-depth conversation with the young adult and the adoptive parent(s) to better understand the dynamics of the home, as well as a discussion around the relationship between the young adult and the adoptive parent(s). These conversations can include age appropriate expectations, as well as a list of community resources to assist the adoptive parent(s) and the young adult. In addition, the county or other responsible entity is required to contact the responsible public agency County Post-Adoption Services or the California Department of Social Services (CDSS) Regional Office) for the administration of the AAP eligible young adult's case, to report the young adult's allegations of lack of support.

In response to the allegations of lack of support, the responsible public agency will contact the adoptive parent(s) and inquire about the type of support that is provided to the young adult. In this conversation with the adoptive parent(s), details about what support has been provided to the young adult and when it was last provided should be addressed. If a discrepancy remains between what is reported by the young adult and

what is reported by the adoptive parent(s), the responsible public agency shall assess further to determine whether the lack of support allegations are valid. If the adoptive parents are nonresponsive, the agency should attempt contact using multiple forms of communication. If contact is made, the child welfare agency is prohibited from asking the parent(s) for a list of expenditures or an accounting of how the benefits are used to meet the young adult's needs.

If the child welfare agency has reasonably determined, based on information shared by the adoptive parent(s) or the young adult, that the adoptive parents are no longer providing support to the AAP eligible young adult, WIC 16119, subdivision (f)(2) provides the responsible public agency with the ability to terminate AAP benefits. Based on the agency's assessment of all the available information, including the young adult's allegations of non-support, termination may be appropriate when adoptive parent(s) are nonresponsive to repeated attempts at contact. Prior to termination, a Notice of Action (NOA) reflecting the change must be sent to the adoptive parent(s). The NOA must include instructions on the fair hearing request process should the adoptive parent(s) disagree with the action of the AAP case.

INITIATING THE RE-ENTRY PROCESS

The re-entry process for adopted young adults and those in legal guardianship(s) returning to the foster care system at age 18 or older, is the same.

Once it has been determined that the young adult is eligible for re-entry, the county or responsible entity has the responsibility to file a WIC [§388.1](#), re-entry petition, on the young adult's behalf within fifteen (15) judicial days of when the Voluntary Re-Entry Agreement for Extended Foster Care ([SOC 163](#)) is signed by the young adult. The county then has authority to place the young adult pending the reentry hearing. In addition to authorizing the county to place the young adult in an appropriate foster care setting, the execution of the SOC 163 ensures that the young adult will be eligible for Medi-Cal with minimal interruption. Therefore, the timely execution of the SOC 163 is critical to ensure the needs of young adults. It should be noted that a young adult who believes they meet the description under [§388.1](#), subdivision (a), may choose to file the petition on his or her own behalf at any time. The county remains responsible for completing and submitting a new Case Plan and Transitional Independent Living Plan (TILP).

CWS/CMS DATA ENTRY

Young Adults in Legal Guardianships Seeking Re-Entry

Once a child or young adult enters into a legal guardianship, the placement episode is terminated and the case in CWS/CMS is closed. When the young adult is re-entering, the county who closed the case can reopen it. If the young adult is returning to the jurisdiction of a different county, a new case will need to be created using the existing client information. Please note that a county cannot re-open the closed case if the client

is a focus child in another active case. For example, County A closes their case. County B creates an active case for the same client. County A will not be allowed to re-open their case.

Adopted Young Adults Seeking Re-Entry

After an adoption has been finalized in CWS/CMS, a young adult who re-enters will do so under a new client notebook using the young adult's adoptive name. The information associated to the young adult's former client notebook should not be linked to the new client notebook. A new case without a referral will need to be created when proceeding with an adopted young adult's re-entry.

For a copy of the guide with instructions on creating a case without a referral please e-mail the Transition Age Youth (TAY) Policy unit at TAYpolicy@dss.ca.gov.

PERMANENCY

The intent of EFC was to assist young adults who did not find permanency by age 18 with their transition to adulthood and had no other assistance available to them. Efforts by counties should continue to be focused on promoting permanency for young adults in maintaining those adoptive and guardian relationships.

If you have any questions regarding this ACL on the re-entry process for former dependents/wards, please contact the Transition Age Youth (TAY) Policy unit at TAYpolicy@dss.ca.gov or (916) 651-7465. For questions regarding Kin-GAP policy, please contact the Foster Caregiver Policy and Support Unit at Kinship.Care@dss.ca.gov or (916) 651-7465. For questions regarding AAP policy, please contact the Adoption Services Bureau at (916) 651-8089. For questions regarding the CWS/CMS system, please contact the Office of System of Integration at CWS_URST@osi.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division