

July 9, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 20-81

This All County Letter (ACL) provides responses to Frequently Asked Questions received from county child welfare agencies and juvenile probation departments regarding Foster Care eligibility and funding during the declared California State of Emergency due to the outbreak of the Novel Coronavirus Disease (COVID-19).



KIM JOHNSON
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

July 9, 2020

ALL COUNTY LETTER NO. 20-81

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY ELIGIBILITY SUPERVISORS
ALL COUNTY FOSTER CARE MANAGERS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: FREQUENTLY ASKED QUESTIONS (FAQS) RELATED TO
FOSTER CARE ELIGIBILITY AND FUNDING DURING THE
DECLARED COVID-19 STATE OF EMERGENCY

REFERENCE: [ACL 11-51](#); [ACL 20-25](#); [ACL 20-31](#); [ACL 20-44](#); [ACL 20-45](#);
[EXECUTIVE ORDER \(EO\) N-29-20](#); [EMERGENCY RULES OF
COURT RELATED TO COVID-19](#); [ACYF-CB-PI-20-10](#)

The purpose of this letter is to respond to FAQs the California Department of Social Services (CDSS) has received from county welfare agencies and probation departments regarding Foster Care eligibility and funding during the COVID-19 State of Emergency. The FAQs portion of this ACL will reference other guidance issued by CDSS, as applicable.

FAQs

1. **QUESTION:** In order to determine if the federal stimulus check can be exempted as income and property for minors and NMDs who are employed in 2020, please confirm for purposes of determining eligibility that the State may disregard the stimulus check as income and property pursuant to implementing the CARES Act?

RESPONSE: The federal Children's Bureau has advised CDSS that neither the CARES Act one time stimulus payments to individuals (see 26 USC 6409), nor the benefits associated with any of the CARES Act unemployment payments (see 45 C.F.R. § 233.20(a)(3)(ii)(B) and (a)(4)(r)), are to be considered as income or resources when determining whether a family would have been

eligible for AFDC (as it was in effect on July 16, 1996) for purposes of Title IV-E eligibility.

2. **QUESTION:** Counties have received stimulus checks on behalf of foster youth who are receiving Supplemental Security Income (SSI) benefits. Can CDSS provide direction as it pertains to stimulus checks and what should happen with the funds?

RESPONSE: The Social Security Administration has issued the following [guidance](#) regarding how representative payees should use stimulus checks received on behalf of individuals.

How should a representative payee use a beneficiary's economic impact payment (EIP)?

Date: May 1, 2020

The EIP belongs to the Social Security or SSI beneficiary. It is not a Social Security or SSI benefit. A representative payee should discuss the EIP with the beneficiary. If the beneficiary wants to use the EIP independently, the representative payee should provide the EIP to the beneficiary. If the beneficiary asks the representative payee for assistance in using the EIP in a specific manner or saving it, the representative payee can provide that assistance outside the role of a representative payee.

What responsibilities does the representative payee have in managing the beneficiary's economic impact payment (EIP)?

Date: May 1, 2020

Under the Social Security Act, a representative payee is only responsible for managing Social Security or SSI benefits. An EIP is not such a benefit. A representative payee should discuss the EIP with the beneficiary. If the beneficiary wants to use the EIP independently, the representative payee should provide the EIP to the beneficiary. If the beneficiary asks the representative payee for assistance in using the EIP in a specific manner or saving it, the representative payee can provide that assistance outside the role of a representative payee.

If a county, in its capacity as a representative payee, receives a stimulus check on behalf of a foster youth, the county should work with the youth to make an appropriate plan for the stimulus funds.

If the county has received the stimulus check on behalf of a youth in error, the Internal Revenue Service has published guidance regarding return of the funds. Please see [Economic Impact Payment Information Center Question 64](#).

3. **QUESTION:** With courts scaling back hearings, certain findings required for federal funding eligibility, such as contrary to the welfare, reasonable efforts to prevent the removal, and reasonable efforts to finalize the permanency plan, could be delayed. Should counties shift from federal AFDC-FC funding to non-federal funding?

RESPONSE: If, at the initial hearing removing the child, the court does not make the required contrary to welfare finding, Title IV-E funding cannot be claimed for the case. Additionally, the court must determine whether reasonable efforts were made to prevent removal within 60 days of the date of removal. If either of these judicial findings are not made timely, counties must use non-federal funding (such as non-federal AFDC-FC or ARC) to fund the placement for the life of the case, so it is imperative that the county work diligently with the juvenile court to meet these requirements. Note that the [Emergency Rules of Court Related to COVID-19](#) direct courts to prioritize holding detention hearings at which the findings required for Title IV-E funding are made.

Further, Title IV-E requires the 'reasonable efforts to finalize the permanency plan' judicial finding to be made every 12 months until permanency is achieved. If the court does not timely make the 12-month findings, counties must shift the funding source for the case from federal to non-federal AFDC-FC until the finding is made.

4. **QUESTION:** Due to court closures, if there is no termination of dependency for youth in Extended Foster Care (EFC) who turn 21 years old, and if the court has stated previously that funding must continue, would counties be allowed to make foster care payments using federal funding?

RESPONSE: No. Even if there is no formal termination of dependency by the court, no foster care payments using federal funding may continue after a youth turns 21. Counties may use local funds as they determine appropriate to support youth who turned 21 while in EFC before EO N-53-20 was issued on April 17, 2020. However, those youth in EFC who turn 21 on or after the EO issued will be provided the support of placement and supervision through June 30, 2020 with state funding. Please reference ACL 20-45 for additional guidance and information. Additionally, for Fiscal Year 2020-21, state funding to support the placement and supervision of youth in EFC who turn 21 years of age or older, as

applicable, will continue to be provided pursuant to Assembly Bill 79 (Chapter 11, Statutes of 2020). Guidance will be forthcoming with additional information.

5. **QUESTION:** Some courts have either closed or appearances have been significantly scaled back. Some foster care eligibility workers state they cannot issue an initial foster care payment without the court stamped petition and detention file attached. Eligibility workers are not receiving required court documentation. Can counties issue a foster care payment without court stamped documents?

RESPONSE: Yes, counties should continue to issue initial payments with notations made on documents explaining the absence of the court stamp. During the COVID-19 state of emergency, court minute orders are also acceptable documents, as noted in 45 CFR 1356.21.

6. **QUESTION:** Due to the COVID-19 pandemic restrictions on face-to-face contact, are there alternative means for obtaining signatures and collecting required documents as many social workers, eligibility workers and supervisors are having meetings electronically and are telecommuting?

RESPONSE: Yes, during the COVID-19 state of emergency CDSS encourages counties to explore temporary flexibility to accept and use other means to obtain a signature, such as emails of scanned documents, emails of forms indicating the sender's authorization/approval, and pictures of signed forms that are texted or emailed to county staff, until such restrictions are lifted.

7. **QUESTION:** For youth in foster care or under legal guardianships who are graduating before age 19 during the 2019-2020 school year, how will counties obtain school verification? Would a sworn statement be accepted in lieu of the school verification? Does the payment stop if verification is not received? Counties have been informed that schools cannot provide verification due to school closure.

RESPONSE: At the time this question was presented, public schools were not closed; they were operating remotely. While there may be a problem receiving documentation from some district offices, most have administrative staff operating remotely. Funding should not be discontinued due to a lack of school verification. However, counties should document the delay in receiving documents due to COVID-19 in the youth's educational case plan and continue their efforts to obtain school verification.

8. **QUESTION:** Can a caregiver whose foster child who is now living in a place other than their approved foster care placement due to the shelter-at-home orders related to the COVID-19 pandemic continue to receive funding?

RESPONSE: When an AFDC-FC eligible child is temporarily absent from their approved placement in an eligible facility or home for less than 14 days in a calendar month, the county may pay the caregiver for the full month. However, if the child or nonminor is absent from placement for more than 14 days in a calendar month, the county must pro rate the foster care aid payment to the caregiver. If the child ends up residing in another alternative placement temporarily due to COVID-19, the county should assess the appropriate payment options that have been made available to caregivers during the State of Emergency period that can support the alternative caregiver until that child is able to return back to their approved placement.

9. **QUESTION:** Can counties continue to pay a caregiver/guardian for transportation costs under the Education Travel Reimbursement (ETR) Program, when children are not attending their school of origin?

RESPONSE: At this time, even if schools are physically closed due to the COVID-19 pandemic, counties may continue to claim, and the caregiver/guardian can continue to be reimbursed, for educational travel expenses. This is consistent with existing policy found in ACL 11-51, and the current methodology which divides the education travel reimbursement over a 12-month period.

10. **QUESTION:** Can a county authorize and pay a Family-Only rate, as described in ACL 20-44, directly to a nonminor dependent (NMD) in a Supervised Independent Living Placement (SILP) or Transitional Housing Placement who has been displaced from their placement due to COVID-19?

RESPONSE: Although ACL 20-44 provides some rate flexibility to allow a county to provide additional support and care for children/youth impacted by COVID-19, this policy does not allow for rate flexibility to be extended to an NMD in a SILP or Transitional Housing Placement Program.

11. **QUESTION:** Is there an extension for Non-Related Legal Guardians (guardianship established in dependency court), to continue to receive payments for youth that have attained the age of 18, or remained in school past the age of 18 to complete their high school education and are now 19 years of age, during this COVID-19 pandemic?

RESPONSE: No, at this time there are no changes to eligibility related to payments to Non-Related Legal Guardians that would extend payment due to the COVID-19 pandemic.

12. **QUESTION:** An NMD signed the SOC 163 (Voluntary Re-Entry Agreement for Extended Foster Care), and it is about to expire. The court is not available and/or closed, thus a hearing for continuation of extended foster care will not occur within 180 days of the date the NMD signed the SOC 163. May the county continue the payment?

RESPONSE: As stated in the response to Question 3, courts have been directed to prioritize hearings where findings necessary for Title IV-E funding are made. However, if the court has not formally resumed dependency within 180 days of the date the NMD signed the SOC 163, counties cannot continue paying federal foster care funds.

13. **QUESTION:** If a Voluntary Placement Agreement (VPA) is set to expire during the COVID-19 state of emergency and courts are not holding hearings, may counties continue paying with federal foster care funds?

RESPONSE: As stated in the response to Question 3, courts have been directed to prioritize hearings where findings necessary for Title IV-E funding are made. However, CDSS has not been given federal authority to extend the VPA timeframe. Therefore, federal foster care funds must terminate unless there has been a judicial determination within the first 180 days of a voluntary placement that the placement is in the best interests of the child/NMD. For guidance, refer to the [Emergency Rules of Court Related to COVID-19](#).

If you have any questions or need additional guidance regarding the information in this letter, please contact the Funding and Eligibility Unit at (916) 651-9152.

Sincerely,

Original Document Signed By

GREGORY E. ROSE
Deputy Director
Children and Family Services Division