

February 15, 2022

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 22-16**

The purpose of this ACL is to remind foster care placing agencies of the eligibility and redetermination rules for federal foster care from ACL 11-10, and to describe a new policy for non-federally eligible foster care payments, consistent with existing state statute.



KIM JOHNSON  
DIRECTOR

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

February 15, 2022

ALL COUNTY LETTER NO. 22-16

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

SUBJECT: AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER  
CARE PROGRAM PAYMENT ELIGIBILITY AND  
REDETERMINATIONS

REFERENCE: ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES,  
CHILDREN'S BUREAU PROGRAM INSTRUCTION 10-11  
([PI-10 11](#)); ASSEMBLY BILL ([AB 12](#)) (CHAPTER 559, STATUTES  
OF 2010); ASSEMBLY BILL ([AB 640](#)), ([CHAPTER 622](#),  
[STATUTES OF 2021](#)); WELFARE AND INSTITUTIONS CODE  
(WIC), SECTIONS [11401](#), [11401.5](#), [11402](#), [11460](#), [11461.3](#), AND  
[13750](#) ET SEQ.; ALL COUNTY LETTER (ACL) [11-10](#); ACL [16-92](#);  
AND ACL [17-112](#).

The purpose of this All County Letter (ACL) is to remind foster care placing agencies of the eligibility and redetermination rules for federal foster care from [ACL 11-10](#), and to describe an updated policy for non-federally eligible foster care payments, which will be supported by changes to eligibility forms and forthcoming regulatory changes.

## **BACKGROUND**

Title IV-E Aid to Families with Dependent Children (AFDC) redeterminations of deprivation have not been required under federal law since the issuance of program instructions ([PI-10-11](#)) on July 9, 2010. The program instructions and other federal guidance state that the Title IV-E agency must establish AFDC eligibility at the time the child is removed from the home or when a voluntary placement agreement is entered; that is, upon legal entry or re-entry to foster care. The California Department of Social Services (CDSS) issued [ACL 11-10](#) to describe the federal guidance, as well as a

relevant change to state law enacted subsequent to the federal guidance that applies to all AFDC-Foster Care (FC) eligibility determinations.

### **FOSTER CARE ELIGIBILITY DETERMINATIONS**

The [ACL 11-10](#) explained that annual deprivation redeterminations are no longer required by the Administration for Children and Families and that specific sections of the Statement of Facts Supporting Eligibility for AFDC-FC form ([FC 2](#)), used for all state and federal AFDC-FC cases, are no longer required at annual redetermination. Although [ACL 11-10](#) instructs counties that deprivation redeterminations no longer apply in California, it did not address whether income or resources are ever to be evaluated after the initial determination. Effective the date of this letter, income and resources are not to be evaluated after the initial determination for the same foster care episode to determine continued eligibility for an AFDC-FC payment.

### **Federal IV-E Eligibility Is A One-Time Determination Per Foster Care Episode**

Foster care placing agencies are reminded that no new AFDC eligibility determination is conducted following a temporary absence from placement, including trial home visits, or other change of placement. As described in federal guidance, if “the child returns home (for what is expected to be a permanent period), but is later returned to foster care, a new determination of eligibility based on circumstances at the time of that placement would be required.”<sup>1</sup> Otherwise, a new AFDC eligibility determination is only made when there is a termination of dependency and then a subsequent return to foster care. If a foster care episode was initially found to be federally eligible based on deprivation and removal factors, but the youth is not currently living in a federally eligible foster care placement, the case may resume federal funding without any additional eligibility determination or evaluation of the child’s income or resources if the youth later move to a federally eligible placement without a break in dependency.

Consistent with [ACL 11-10](#), an eligibility redetermination is not required when a minor child or nonminor dependent (NMD) in foster care receives income or property after the initial linkage determination has been completed. In other words, if a youth in foster care receives income (e.g. through an inheritance or receipt of tribal trust fund), that income is not to be evaluated and has no impact on the youth’s continued eligibility for AFDC-FC benefits. Pursuant to WIC section [11401.5](#), counties shall continue to assess the dependent and foster care provider for factors that impact eligibility for an AFDC-FC payment, such as an AFDC-FC eligible placement listed in WIC section [11402](#), continued court jurisdiction, and, for NMDs, participation in one of the employment or

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<sup>1</sup> See Federal *Child Welfare Program Manual*, including:  
[8.3A.10 TITLE IV-E, Foster Care Maintenance Payments Program, Eligibility, Redeterminations, Q2](#);  
[8.4A TITLE IV-E, General Title IV-E Requirements, AFDC Eligibility, Q24](#).

education activities, as applicable under current law. However, this annual review is not a redetermination of deprivation.

### **AFDC-FC is Available to Fund a Placement When a Case is Not Federally Eligible**

The WIC section [11401](#) provides that: “Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under 18 years of age, and to any NMD who meets the removal, placement, care, and other eligibility conditions of sections [11401](#) and [11460](#)”. The initial financial eligibility reviews necessary for a case to receive federal financial participation do not impact general eligibility for placement in foster care or extended foster care, including an AFDC-FC payment to fund the foster care placement. As of the issuance of this letter, income and resources shall not be considered at any point in the foster care episode to determine eligibility for, or the amount of, a non-federal or federal AFDC-FC payment. In other words, if a child in an authorized foster care placement is determined ineligible for a federal IV-E foster care payment for any reason (income/resources/deprivation standards), they are otherwise eligible to receive aid in the form of AFDC-FC, but without federal financial participation in the payment. Any provisions of the Manual of Policies and Procedures (MPP) conflicting with this guidance will be amended in an upcoming regulations package.

### **Redetermination for NMDs**

For youth who turn 18 while under an order for foster care placement, no redetermination shall be conducted solely due to the youth turning 18 years old. When youth are continuously in foster care, their income and resources need not be reconsidered. The NMDs who were eligible for federal foster care funding prior to turning 18, remain federally eligible until the youth formally exit foster care via court order. Only upon re-entry to foster care following a break in dependency shall a new federal AFDC deprivation determination be required to be conducted, based solely on the NMDs income and resources, without regard to other familial income and resources. Even if the NMD is not federally eligible at that time based upon current income and resources, they remain eligible for a foster care payment without federal financial participation in the payment if all other extended foster care placement, participation, and eligibility criteria are met, pursuant to WIC section [11401](#).

Operative in 2022, WIC section 388, subdivision (f), added by [AB 640](#), permits a new determination of Title IV-E eligibility for non-federally eligible youth who are attaining 18 years of age in order to gain access to federal funds to support the youth’s placement. This process will require a court-ordered break in dependency with immediate resumption of jurisdiction. Notably, if a youth is already federally eligible at the time that they turn 18, a new review of federal eligibility is not necessary. Further, if a youth is not federally eligible and it is determined that the youth would not become federally

eligible due to the youth's income or resources, completing the court process would not be necessary. Finally, if a review results in the youth remaining non-federally eligible, that will not impact the youth's ongoing eligibility for extended foster care or impact the amount of the state-only foster care payment the youth would receive, consistent with this letter. The Department will be issuing guidelines to detail how and when new determinations under AB 640 may occur, dependent on federal approvals and development of any necessary Judicial Council rules and forms.

### **Approved Relative Caregiver (ARC) Eligibility**

For a relative placement that is not eligible for an AFDC-FC payment, WIC section [11461.3](#) established the Approved Relative Caregiver (ARC) funding program "for the purpose of making the amount paid to approved relative caregivers for the in-home care of children and NMDs placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children and nonminor dependents who are eligible for AFDC-FC payments." Eligibility for ARC payments are described in section [11461.3](#), subdivision (b), including that the child has been removed, or placed by voluntary or mutual agreement, and the placing agency is responsible for placement and care, and that the case is not eligible for federal financial participation in the AFDC-FC payment. The ARC program is further described in ACLs [16-92](#) and [17-112](#).

Section [11461.3](#), subdivision (d) states that "Any income or benefits received by an eligible child or the approved relative caregiver on behalf of the eligible child or NMD that would be offset against the rate paid to a foster care provider shall be offset from any funds that are not California Work Opportunity and Responsibility for Kids (CalWORKs) funds paid to the approved relative caregiver pursuant to this section." Because there are no circumstances where income or benefits on behalf of the eligible child are offset against the rate paid to a foster care provider, this provision does not apply for ARC. The ARC benefit amounts may be reduced based on a partial month, but otherwise no offsets or prorations are permitted. If a child does not qualify for the CalWORKs portion of the payment based on income or resources, a full ARC/State General Fund payment is still made to the caregiver. To the extent this differs from guidance in ACL [16-92](#) or other ARC instructions, the portions of those letters requiring an offset of the ARC payment based on income or resources of the child are superseded.

### **Child Support Referrals and Supplemental Security Income (SSI) Coordination**

[Family Code section 17552](#) requires CDSS to have regulations regarding circumstances where the county child welfare department, including for foster care assistance or ARC payment cases, is required to refer a case to the local child support agency unless it is determined to not be in the best interests of the child. The regulations, at MPP Section

[31-503](#), are not impacted by this letter. If a case otherwise requires a referral for child support following the determination of the social worker of the best interest of the child, the child support referral and collection rules still apply. Similarly, nothing in this letter changes the rules for Supplemental Security Income benefit coordination on behalf of youth in foster care, described in [WIC sections 13750 et seq.](#)

### **FOSTER CARE ELIGIBILITY FORM UPDATES**

The [ACL 11-10](#) indicated that Sections 18-20 of the [FC 2](#) no longer apply for annual reviews. Effective with this letter, the [FC 2](#) and the Statement of Facts Supporting Eligibility for AFDC-Extended Foster Care form ([FC 2NM](#)) are re-issued to remove any references to annual fiscal redeterminations and clarify that AFDC-FC payments are to be made to eligible foster care providers regardless of income or resources of the child, child's family, or the NMD. The forms have also been amended to align with current policies and procedures. Other eligibility factors such as residing in an approved placement eligible for an AFDC-FC payment, and dependency status, are still applicable.

If you have any questions or need additional guidance regarding the information in this letter, please contact the Funding and Eligibility unit at [FC-KGEligibility@dss.ca.gov](mailto:FC-KGEligibility@dss.ca.gov)

Sincerely,

#### ***Original Document Signed By***

ANGIE SCHWARTZ  
Deputy Director  
Children and Family Services Division

c: County Welfare Directors Association of California  
Chief Probation Officers of California

Attachment