

March 20, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-29

The purpose of this All County Letter is to announce new policy for child support referrals being made for families who are receiving child welfare services. This letter impacts county child welfare, juvenile probation departments and all federally recognized Tribes.



KIM JOHNSON
DIRECTOR

CALIFORNIA HEALTH & HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

March 20, 2023

ALL COUNTY LETTER NO. 23-29

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL CHILD WELFARE SERVICE PROGRAM MANAGERS
ALL FOSTER FAMILY AGENCY DIRECTORS
ALL FEDERALLY RECOGNIZED TRIBES

SUBJECT: **NEW STATEWIDE POLICY ON REFERRING FAMILIES WITH A CHILD IN FOSTER CARE TO CHILD SUPPORT AGENCIES**

REFERENCE: [ADMINISTRATION FOR CHILDREN AND FAMILIES LETTER DATED JULY 29, 2022](#); [ADMINISTRATION FOR CHILDREN FAMILIES CHILD WELFARE POLICY MANUAL SECTION 8. 4C, QUESTION #5](#); [ASSEMBLY BILL 1686](#); [TITLE IV-E OF THE SOCIAL SECURITY ACT, 42 UNITED STATES CODE SECTION 671\(A\) \(17\)](#); [FAMILY CODE SECTION 17552](#); [MANUAL OF POLICIES AND PROCEDURES 31-503](#); [ALL COUNTY LETTER 20-09](#)

Purpose

The purpose of this All County Letter (ACL) is to announce new statewide policy consistent with updated federal guidance and a new state law for referring parents, whose children are in out-of-home care and receiving child welfare services, to child support agencies. This ACL is effective January 1, 2023.

BACKGROUND

Title IV-E of the Social Security Act requires child welfare agencies “where appropriate” to refer parents of children receiving foster care maintenance payments to child support agencies to establish and enforce child support orders ([42 USC 671\(a\)\(17\)](#)). Prior federal guidance from the Administration for Children and Families (ACF) gave states discretion to determine which cases were appropriate for referral through a case-by-case determination, considering the best interests of the child. Existing state law requires the California Department of Social Services (CDSS) to promulgate

regulations that require County Welfare Departments (CWDs) to determine whether it is in the best interests of the child or nonminor to have a case referred to the local child support agency and what factors to consider in making that determination (see [Family Code section 17552\(a\)](#)). Based on the prior federal guidance and state law, the CDSS regulations in [Manual of Policy and Procedures \(MPP\) 31-503](#) require caseworkers to determine on a case-by-case basis whether referring a family who has a child placed outside of the family home, and is actively receiving family reunification (FR) services will pose a barrier to reunification efforts.

RESEARCH ON THE IMPACT OF FOSTER CARE REFERRALS TO CHILD SUPPORT ENFORCEMENT AGENCIES

Questioning the effectiveness of collecting child support from parents whose children have been removed dates back several decades. More recently, a research study by Orange County Department of Child Support Services titled [Child Support and Foster Care](#)¹ provides the following data-backed insight to several areas of concern:

- Foster care cases are fundamentally different from non-foster care cases when addressing caseloads for child support enforcement workers. Some of the fundamental differences include:
 - Foster care cases are in deeper poverty.
 - No money goes to the child.
 - At least one of the obligated parties is often working towards reunification with their child.
 - A large portion of obligors in the foster care caseload are mothers, (41percent) compared to the non-foster care caseload of (10 percent).
- Most often there is little or no collection at all on foster care child support orders.
- Foster care cases are usually more complex and for every dollar the child support collection program spends it is only recouping 41 cents.

Similarly, an article published by Dr. Jill Berrick titled [Reduce Number of CPS Families Required to Pay for Foster Care](#)² explores different impacts of making parents whose children are in foster care pay child support. One of the most striking conclusions is that referrals to child support extend children's stay in foster care and increases family poverty. One study cited in the article examined [the effects of child support enforcement](#) on the duration of children's stay in foster care, finding that for every \$100

¹ Orange County Child Support Services Research, *Child Support and Foster Care*, Second Edition, July 2020, available at <https://www.css.ocgov.com/sites/css/files/import/data/files/116568.pdf>

² Berrick, Jill, [Reduce Number of CPS Families Required to Pay for Foster Care](#), March 2022, available at <https://calmatters.org/commentary/2022/03/reduce-number-of-cps-families-required-to-pay-for-foster-care/>

increase in the monthly child support order, children's stay in out of home care lengthened by 6.6 months.

In addition, a collaborative report out of San Francisco called the [Pay Back Problem](#)³ concluded that, "Over half of California's arrears are owed by parents who earn less than \$10,000 a year in income but who owe more than \$20,000 in debt." It is easy to then make the connection to the negative impact on future financial stability of families and children since child support arrears can greatly impact families' ability to meet their day-to-day needs.

NEW FEDERAL GUIDANCE

In a letter dated [July 29, 2022](#), the Children's Bureau of ACF highlighted a new Child Welfare Policy Manual (CWPM) question and answer released June 8, 2022, regarding how a Title IV-E agency should determine when it is appropriate to refer a case to a child support agency in accordance with [section 671\(a\)\(17\)](#) of the Social Security Act, and withdrawing the prior guidance directing Title IV-E agencies to assess cases for referral on a case-by-case basis (see [CWPM, Section 8.4C, Question #5](#)). In the letter, ACF encourages child welfare agencies to implement across-the-board policies that require a referral to child support agencies only in very rare circumstances while carefully considering the impact of referring a family when the child is placed out of home and the family is receiving reunification services.

NEW STATE LAW

In addition to the updated federal guidance, [Assembly Bill \(AB\) 1686](#), effective January 1, 2023, amended [Family Code Section 17552](#) and requires CDSS' regulations to instruct CWDs, in making the determination of whether it is in the best interests of the child to have a case referred to the local child support agency, to presume that the payment of support by the parent "is likely to" pose a barrier to the proposed reunification. The presumption created by [AB 1686](#) is in line with the updated federal guidance and letter from ACF encouraging referrals only in very rare circumstances.

In [AB 1686](#), the Legislature declared the following:

- (1) In reunification cases, attempts to collect child support are both cost ineffective and have been proven to harm reunification efforts and destabilize families.

³ San Francisco Financial Justice Project, et al., [The Payback Problem: How Taking Parents' Child Support Payments to Pay Back the Cost of Public Assistance Harms California Low-Income Children and Families, April 2019](https://sfgov.org/financialjustice/files/2020-04/The_Payback_Problem_Final.pdf), available at https://sfgov.org/financialjustice/files/2020-04/The_Payback_Problem_Final.pdf

(2) The basic purpose of the child welfare system is to strengthen families and return children to safe and stable homes. Efforts made by counties to require parents to pay out-of-home care costs for children they are seeking to reunify with their families are inconsistent with that basic purpose.

NEW STATE POLICY

Consistent with the updated federal guidance, new state law, and the research described above, by way of this ACL, CDSS is issuing new policy regarding the referral of families involved in child welfare services to child support agencies.

Effective January 1, 2023, counties shall no longer refer parents, whose children have been removed from the home and who are receiving Child Welfare Services, to child support agencies. This policy applies to cases where family reunification services are being received or have been terminated, a parent has refused reunification services, or cases that are in any other related program including, but not limited to: family maintenance; legal guardianship (including Kinship Guardianship Assistance Payments [Kin-GAP] Placements); placement with a nonrelative extended family member; or placement in another planned permanent living arrangement (APPLA). In the case of an Indian child, whose case is under county jurisdiction, the case worker should consult with the Tribal representative to inform them of this new policy and collectively determine if a referral to child support collections is in the best interest of the child and will not be a barrier to reunification efforts. **Additionally, as of January 1, 2023, the accrual and collection of foster care related child support payments for cases that do not meet the exception below shall stop.**

The only exception to this new policy is if at the time of assessment, a parent's annual income is greater than \$100,000 annually **or** 400 percent of the federal poverty level, whichever is greater, **and** a referral to the child support agency will not pose a barrier to reunification. For this exception to apply, the caseworker must assess the parent's economic situation and be able to demonstrate that a referral to a local child support agency will not pose a barrier to any proposed reunification plan. See Appendix A for the 2023 poverty guidelines.

The CW 51 form should still be completed for all foster care cases at time of determining eligibility, noting that the referral will not be sent for child support collection unless the income exception is met by the parents at time of assessment.

For existing foster care related child support referrals that do not meet the exception, including those made between January 1, 2023, and the publishing of this letter, counties should use their existing processes for notifying their child

support agencies, i.e. , forms CW 51, CW 371, or other county specific forms to terminate their referrals to child support. The CW 51 is the form that is used to indicate the beginning and end of a child support referral. See Appendix B for examples of appropriately completed CW 51 and CW 371 forms to terminate existing referrals.

Child Welfare Agencies and Child Support Collection agencies should work together to determine the county level process for enacting this new policy to assist Child Support Collection Agencies in halting the collection of child support payments for foster care related cases.

As of January 1, 2023, this letter stops the accrual process on active foster care child support cases and stops future referrals to child support agencies, unless the single income exception is met. Because this new policy halts foster care child support referrals, unless the exception is met, there will be fewer cases requiring regular reviews. Counties are reminded that periodic reviews must continue for those hearings held under [Welfare and Institutions Code Section 361.5](#) and for Kin-GAP cases on a biennial reassessment schedule as required by [MPP 31-503.2](#). The regulations will be updated to reflect this new policy. In addition, counties are encouraged to reassess cases where a parent meets the income exception and is referred to a child support agency if information is received that suggests a parent's economic situation has changed and they no longer meet the exception.

This letter does not remove obligations already assigned to families; the issue of arrears will be addressed in another letter. **This letter does not apply to probate cases, or other non-foster care related child support orders.**

For youth who are involved in probation and under supervision of the Juvenile Court, please see related information regarding wards/probation youth child support referrals in [ACL 20-09](#).

COPIES AND TRANSLATIONS

Forms referenced in this letter are available on the [CDSS Forms/Brochures](#) webpage. When CDSS completes all translations of a form, they are posted on the [Translated Forms and Publications](#) webpage. When made available by CDSS, forms translated into an individual's preferred language must be provided to the individual pursuant to [MPP Section 21-115.2](#). For questions on translated materials, please contact Language Services at (916) 651-8876. If translations are not available, recipients who have elected to receive materials in languages other than English should be sent the English version of the form or notice along with the [GEN 1365-Notice of Language Services](#) and a local contact number.

Per [Government Code Section 7290, et seq.](#), the CWDs must ensure that effective bilingual services are provided. This requirement may be met through utilization of paid interpreters, qualified bilingual employees, and qualified employees of other agencies or community resources. These services must be provided, free of charge, to the applicant/recipient. If CDSS does not provide translations of a form, it is the county's responsibility to read and interpret the form if an applicant or recipient requests it.

Additionally, the CWDs must provide auxiliary aids and services to persons who are deaf or hearing impaired, or persons with impaired speech, vision, or manual skills, where applicable. More information regarding provisions for services to applicants and recipients who have limited English proficiency or who have disabilities can be found in [MPP Section 21-115](#) and [ACL 19-45](#).

If you have any questions or need additional guidance regarding the information in this letter, contact the Permanency Policy Bureau at (916) 651-7394 or the Family Reunification and Pathways to Permanency Policy Unit at Reunification-Permanency@dss.ca.gov

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division

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APPENDIX A:

[Department of Health and Human Services: Annual Update on the HSS Poverty Guidelines](#)

[Detailed Chart of 2023 HSS Poverty Guidelines](#)

APPENDIX B:

Completed CW 371 - Referral to Local Child Support Agency

Completed CW 51 - Child Support – Good Cause Claim for Non-Compliance

REFERRAL TO LOCAL CHILD SUPPORT AGENCY (LCSA)

(Complete one form for each Noncustodial Parent or Alleged Father)

<input type="checkbox"/> TO LCSA REPRESENTATIVE				CASE NAME		AID TYPE/CASE NUMBER																			
<input type="checkbox"/> FROM CWD REPRESENTATIVE CW # PHONE				APPLICANT/RECIPIENT NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO CHILD(REN)																			
				MINOR PARENT'S NAME (IF DIFFERENT FROM APPLICANT/RECIPIENT)																					
A. This case is referred to you because: <input type="checkbox"/> Action is necessary to obtain: <input type="checkbox"/> financial support <input type="checkbox"/> medical support <input type="checkbox"/> paternity <input type="checkbox"/> Recipient is receiving direct support payments. Action needed to transfer payments to county. <input type="checkbox"/> Good Cause has been (see CW 51 attached): <input type="checkbox"/> claimed <input type="checkbox"/> granted <input type="checkbox"/> denied <input type="checkbox"/> Other (see comments) B. The following information applies to this case: <input type="checkbox"/> CA 2.1(Q) Questionnaire is attached. <input type="checkbox"/> Noncustodial parent has health insurance coverage. A copy of the DHS 6155 is attached. <input type="checkbox"/> Medi-Cal eligibility has not been determined. <input type="checkbox"/> Previously sanctioned/penalized; now agrees to cooperate/assign support rights. <input type="checkbox"/> Child no longer resides with recipient. <input type="checkbox"/> Medi-Cal Only <input type="checkbox"/> CS 909, Declaration of Paternity, is attached. <input type="checkbox"/> Other (see comments) <input type="checkbox"/> Lamb Case (minor parent not eligible as a dependent child: Family Code 4000) C. Applicant/recipient has not agreed to: <input type="checkbox"/> Assign: <input type="checkbox"/> financial support rights <input type="checkbox"/> medical support rights <input type="checkbox"/> Cooperate in: <input type="checkbox"/> obtaining financial support <input type="checkbox"/> obtaining medical support and/or <input type="checkbox"/> establishing paternity <input type="checkbox"/> Forward support payments. D. Penalty/Sanction <input type="checkbox"/> Penalty has been applied due to non-cooperation. <input type="checkbox"/> Sanction has been applied for refusal to assign rights.				E. TYPE OF APPLICATION <input type="checkbox"/> NEW <input type="checkbox"/> REAPPLICATION <input type="checkbox"/> ADD A CHILD <input type="checkbox"/> ICT <input type="checkbox"/> RENEWAL <table border="1"><tr><td>NONCUSTODIAL PARENT'S OR ALLEGED FATHER'S NAME</td><td>CHILD SUPPORT FILE NUMBER</td></tr><tr><td>CHILD'S NAME</td><td>DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES</td></tr><tr><td>CHILD'S NAME</td><td>DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES</td></tr><tr><td>CHILD'S NAME</td><td>DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES</td></tr><tr><td>CHILD'S NAME</td><td>DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES</td></tr></table> F. <input type="checkbox"/> APPLICANT PREVIOUSLY RECEIVED AID SPECIFY TYPE: <input type="checkbox"/> CASH AID <input type="checkbox"/> MEDI-CAL ONLY <input type="checkbox"/> TMC <table border="1"><tr><td>PLACE (CITY, COUNTY, STATE)</td><td>DATE LAST RECEIVED</td></tr></table> G. <input type="checkbox"/> INTER-COUNTY TRANSFER/INTERSTATE TRANSFER <table border="1"><tr><td>FROM (COUNTY/STATE)</td><td>PRIOR COUNTY'S CHILD SUPPORT FILE NUMBER (IF KNOWN)</td></tr></table> H. <input type="checkbox"/> CASH AID <table border="1"><tr><td>APPROVAL DATE</td><td>ONGOING CASH AID AMOUNT \$</td></tr></table> I. <input type="checkbox"/> MEDI-CAL ONLY <table border="1"><tr><td>DATE MEDI-CAL BEGINS/CONTINUES</td><td>DATE DISCONTINUED</td></tr></table> REASON FOR DISCONTINUANCE				NONCUSTODIAL PARENT'S OR ALLEGED FATHER'S NAME	CHILD SUPPORT FILE NUMBER	CHILD'S NAME	DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES	CHILD'S NAME	DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES	CHILD'S NAME	DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES	CHILD'S NAME	DATE OF BIRTH <input type="checkbox"/> MFG RULE APPLIES	PLACE (CITY, COUNTY, STATE)	DATE LAST RECEIVED	FROM (COUNTY/STATE)	PRIOR COUNTY'S CHILD SUPPORT FILE NUMBER (IF KNOWN)	APPROVAL DATE	ONGOING CASH AID AMOUNT \$	DATE MEDI-CAL BEGINS/CONTINUES	DATE DISCONTINUED
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<input type="checkbox"/> Applicant/recipient <u>has</u> cooperated with the law. <input type="checkbox"/> Applicant/recipient <u>has not</u> cooperated with the law: <input type="checkbox"/> Did not appear and/or provide verbal, written or documentary information <input type="checkbox"/> Rescheduled appointment on _____ <input type="checkbox"/> kept <input type="checkbox"/> failed <input type="checkbox"/> Refuses to appear as a witness at court or other hearing <input type="checkbox"/> Refuses to transmit child support payment(s) received directly from the noncustodial parent <input type="checkbox"/> Other (see comments) <input type="checkbox"/> This is a notice of renewed cooperation. <input type="checkbox"/> Paternity <input type="checkbox"/> has <input type="checkbox"/> has not been established. <input type="checkbox"/> Support order established. <input type="checkbox"/> CS 909, Declaration of Paternity, is attached. <input type="checkbox"/> Other (see comments)																									

Comments:

CHILD SUPPORT — GOOD CAUSE CLAIM FOR NONCOOPERATION

I do not want to cooperate to establish paternity and to obtain support because it is not in the best interest of the child(ren) for whom aid is requested. Here's why: Check (✓):
I expect it to result in increased risk of **harm to the child(ren)**:

- A) Physical harm
B) Sexual harm
C) ☒ Emotional harm

I do not want to cooperate because:

- D) ☒ The child(ren) was conceived due to incest/rape.
E) ☒ Increased risk of **domestic abuse**.
F) ☒ Legal court proceedings are going on for the adoption of the child(ren).

G) ☒ I am working with a public or licensed private adoption agency that is helping me decide whether to keep the child(ren) or to place them for adoption.

H) ☒ I have other credible reason(s) for not cooperating. Explain: _____

COUNTY USE ONLY

CASE NAME

CASE NUMBER

DATE OF APPLICATION

CARETAKER RELATIVE (IF DIFFERENT)

RELATIONSHIP TO CHILD(REN)

NONCUSTODIAL PARENT/ALLEGED FATHER

NAME OF CHILD(REN) OF NONCUSTODIAL PARENT/ALLEGED FATHER

CERTIFICATION

I want to claim Good Cause for refusing to cooperate for the reasons checked above. I understand I may be asked to prove that I have Good Cause for refusing to cooperate.

I declare under penalty of perjury under the laws of the United States and the State of California that the facts contained on this report are true, correct, and complete.

SIGNATURE OF APPLICANT OR RECIPIENT

DATE

EVIDENCE PROVIDED

- ☒ No investigation
☒ No evidence provided
☒ Birth certificate
☒ Medical records
☒ Court documents
☒ Social agency letter
☒ Mental health professional letter
☒ Sworn statement
☒ Other

CLAIM DETERMINATION - COUNTY USE ONLY

- ☒ The child welfare department has determined that it is not in the child's best interest to refer the case to child support per California Code of Regulations 31-503 as it would pose a barrier to the parents'/guardians' ability to meet at least one of the following:
- ☒ Reunification/case plan requirements
 - ☒ Current/future financial needs of family
 - ☒ Needs of other children in household at risk of removal
 - ☒ Permanency plan with related legal guardianship under the KinGAP program
- ☒ The child welfare department has determined that it is not contrary to the child's best interest to refer the case to child support.

SOCIAL WORKER SIGNATURE

PHONE NUMBER

DATE OF DETERMINATION

TO: **LOCAL CHILD SUPPORT AGENCY** THIS CLAIM IS FOR ☒ **CHILD SUPPORT** ☒ **MEDICAL SUPPORT**

GOOD CAUSE EXISTS AND IS BASED ON: (✓)

- A ☒ Increased risk of **physical harm** to child(ren)
B ☒ Increased risk of **sexual harm** to child(ren)
C ☒ Increased risk of **emotional harm** to child(ren)
D ☒ Incest or rape
E ☒ Increased risk of **domestic abuse** to parent/caretaker
F ☒ Legal adoption/guardianship before the court
G ☒ Preadoptive services
H ☒ Other credible reason(s) for not cooperating

Explain good cause:

1. Request for Good Cause has been denied.

Give reasons:

2. Was determination based on physical harm without evidence? ☒ YES ☒ NO

3. Was determination based solely on examination of evidence without investigation? ☒ YES ☒ NO

4. May enforcement proceed without applicant/recipient participation? YES NO

CWD REPRESENTATIVE'S SIGNATURE

WORKER NUMBER

PHONE NUMBER

DATE OF DECISION

SUPERVISOR'S SIGNATURE

DATE OF DECISION