



WILL LIGHTBOURNE  
DIRECTOR

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

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.  
GOVERNOR

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

April 28, 2016

ALL COUNTY LETTER NO. 16-19

TO: ALL CALIFORNIA TRIBES  
 ALL COUNTY WELFARE DIRECTORS  
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
 ALL INDEPENDENT LIVING PROGRAM MANAGERS  
 ALL INDEPENDENT LIVING PROGRAM COORDINATORS  
 ALL COUNTY ELIGIBILITY SUPERVISORS

SUBJECT: INDEPENDENT LIVING PROGRAM (ILP) SERVICES FOR TRIBAL YOUTH

REFERENCE: CHAFEE FOSTER CARE INDEPENDENCE ACT OF 1999; SOCIAL SECURITY ACT (SSA) SECTIONS 477(b)(3)(A) and 477(b)(3)(G); 42 UNITED STATES CODE (USC) SECTION 677 (b)(3)(G); CHILD WELFARE POLICY MANUAL (CWPM) SECTION 3.11; MANUAL OF POLICIES AND PROCEDURES (MPP) 30-506.9 and 31-525; ALL COUNTY INFORMATION NOTICE (ACIN) I-39-12; COUNTY FISCAL LETTER (CFL) 12/14-16.

The purpose of this All County Letter is to inform federally recognized tribes, including federally recognized tribal organizations, of their entitlement, under federal law, to Independent Living Program (ILP) benefits and services for their eligible youth. It is also intended to advise counties of their obligation to provide these benefits and services to eligible tribal youth. Indian youth must be provided access to independent living programs on the same basis as other youth in the state (SSA section 477(b)(3)(G)) codified as 42 USC section 677(b)(3)(G)). County ILP coordinators are required to ensure that benefits, services, and treatment are fair and equitable to all eligible youth. Core services should be provided as identified in MPP section 31-525 based on individual needs and goals as documented in the youth's Transitional Independent Living Plan (TILP) (MPP 30-506.9).

## **Background**

The Chafee Foster Care Independence Act of 1999 created the Chafee Foster Care Independence Program. This program strives to help youth aging out of the foster care system to gain the knowledge and skills needed to successfully navigate adult independence. As designated in MPP 31-525, ILP services assist youth in gaining skills in daily living, managing finances, education, career development, medical care, mental health, and other critical areas of development. Skills learning, connections to resources and financial incentives are provided. The program is individualized for each youth based on the goals set forth in their TILP. Collaboration with community agencies to engage youth in these services is encouraged. Eligible youth can participate in ILP services and receive ILP benefits from age 16 to their 21<sup>st</sup> birthday. A few California counties have expanded their programs to include youth ages 14 and 15. For more information on the ILP program, visit: <http://www.childsworld.ca.gov/PG1350.htm>.

Federal law requires that ILP benefits and services be available to youth who are likely to remain in foster care until the age of 18. The State of California determined that youth who are dependents or wards of the juvenile court and are placed or remain in foster care (i.e. out-of-home care) based on a juvenile court order after the age of 16 meet this federal standard for eligibility. A court order for foster care placement occurs when the court sustains the allegations in the petition and declares the youth a dependent of the court, and subsequently makes a determination that continuance in the home of the parent(s) or guardian(s) would be contrary to the welfare of the youth. The court then removes physical custody of the child from the parents and orders the youth into the care and custody of the Title IV-E agency for placement in foster care. If the youth is placed, or remains, in foster care based on the court's order after age 16, the youth is eligible for ILP benefits and services. A youth placed in foster care based on a voluntary placement agreement between the county and a parent or caregiver, informal arrangements with family members to care for a youth, and youth in guardianships established in probate court, are not considered to be "likely to remain in foster care until the age of 18" and therefore do not meet the eligibility criteria for the Independent Living Program.

## **The ILP Eligibility of Tribal Youth**

Tribal courts or other tribal governing entities, such as tribal councils, also have the ability under tribal authority to remove tribal children at risk of abuse, neglect or exploitation from their parent(s) or caregiver(s), place them in out-of-home care and assume ongoing responsibility for their care. Consequently, Tribal youth from federally recognized tribes are eligible for ILP if, between the ages of 16 and 18, one of the following circumstances exists:

- The youth is a dependent or ward of a county juvenile court and placed in foster care;
- The youth is under tribal jurisdiction following the transfer of the youth's case from a county juvenile court to a tribal court after which the tribe continues to be responsible for the ongoing custody, care and control of the youth; or
- The youth was removed from the home of their parent(s) or guardian(s) through the action of a tribal governing entity and placed in out-of-home care with the tribal body maintaining ongoing responsibility for the youth's care (note that these proceedings can occur without the knowledge or involvement of county child welfare departments).

A list of the federally recognized tribes in California can be found at:

<http://www.indianaffairs.gov/WhoWeAre/RegionalOffices/Pacific/WeAre/Tribes/index.htm>. The Federal Register maintains a list of all federally recognized tribes in the United States at: <https://www.federalregister.gov/articles/2016/01/29/2016-01769/indian-entities-recognized-and-eligible-to-receive-services-from-the-united-states-bureau-of-indian#h-6>.

### **The ILP Benefits and Services for Tribal Youth**

All tribal youth, including those under tribal jurisdiction, must have the same access as youth under county jurisdiction to the Title IV-E funded benefits and services offered through county Independent Living Programs. With regard to ILP services, federal guidance mandates that each state demonstrate that:

“... the State made efforts to coordinate programs with the Tribes and that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State. Whether or not a Tribe has a title IV-E agreement with the State is immaterial.” (Child Welfare Policy Manual, section 3.1, subsection I, Question 1)

If a tribal youth is/was under tribal jurisdiction, to access county ILP benefits and services, the tribal youth or representative of the youth must provide documentation of the youth's placement in out-of-home care under the responsibility of tribal authorities to the ILP Coordinator. The type of documentation required is discussed in number four of the Questions and Answers below. Counties and tribes should work together to ensure that individualized and culturally appropriate services are available to eligible tribal youth. These entities should also work to eliminate any barriers that make it difficult for tribal youth to participate in county ILP services. While many tribal youth accessing county ILPs will be members of a tribe located within that county, ILPs must serve

eligible tribal youth residing in the county who are members of, or eligible for membership in, any federally recognized tribe.

The following Questions and Answers offer further guidance on eligibility, procedures, benefits/services and claiming:

### **Eligibility**

1. Q: Are the eligibility requirements for ILP benefits and services the same for tribal youth under tribal jurisdiction as they are for other foster youth?

A: Yes, the eligibility requirements are the same.

2. Q: Would a youth who is placed in California but is under the tribal jurisdiction of a federally recognized tribe located in another state, or who moved to California after emancipating from tribal foster care in another state, be eligible for county ILP services?

A: Yes, the youth would be eligible to participate in a county ILP subject to meeting applicable eligibility requirements and providing the necessary documentation (described in Q&A number four below). Just as a current or former foster youth from another state who is currently living in California can participate in a county ILP, a tribal youth from another state who is currently living in California can also participate in a county ILP.

### **Procedures**

3. Q: How do tribal youth gain access to a county ILP?

A: Tribes and counties can create a standardized referral and intake process for tribal youth to participate in a county's ILP. The county ILP Coordinator should collaborate on developing this process with tribal representatives from the federally recognized tribes located in that county. Tribal youth may be residing in a county other than the one(s) in which their tribe is located. Counties are encouraged to use the referral and intake process developed with local tribes when serving an eligible youth whose tribe is located in another county or state.

4. Q: What kind of documentation is needed to show that a tribal youth is/was in an eligible out-of-home placement between the ages of 16 and 18?

A: A tribal court order or a tribal council resolution stating that the youth has been removed from the home of their parent(s) or guardian(s) and placed in an out-of-home placement, with the tribe maintaining custody and care responsibility for the youth will suffice as the documentation required for participation in a county ILP. Any other form of documentation provided by the Tribe can be evaluated on a case by case basis.

5. Q: Is a TILP required for a tribal youth?

A: Yes, upon entry to a county ILP, the ILP Coordinator should develop a TILP with the youth in the same manner as it is completed with other youth participating in the program.

6. Q: If a youth under tribal jurisdiction is residing in a county other than where the youth's tribe is located, who is responsible for financing the youth's participation in ILP?

A: The youth is eligible to receive ILP services in the county in which they reside. The county program in which the youth participates is the one that will pay for the benefits and services provided to the youth. Because there is no originating county and ILP benefits and services must be provided on the same basis to tribal youth as they are to all other youth in the state, tribal youth should receive the same ILP benefits and services provided to youth under that county's jurisdiction.

### **Benefits and Services**

7. Q: What benefits and services is the county ILP obligated to provide?

A: Services include skills instruction and resource referrals as described in MPP section 31-525.8. With regards to the emancipated youth stipend, the county should apply the same standards to youth under tribal jurisdiction as it uses to determine if and how this benefit is provided to out-of-county youth.

8. Q: Are tribal youth eligible for the other Chafee benefits and services?

A: Yes, tribal youth are also eligible to receive Chafee Education and Training Vouchers (ETVs) if the youth otherwise meet the eligibility criteria. Information on the Chafee ETV program can be found at:  
<http://www.childsworld.ca.gov/PG4861.htm>.

9. Q: What if there are barriers to tribal youth accessing county ILP workshops or classes, such as a lack of transportation?

A: Counties are obligated to provide individualized services as designated in each youth's TILP (MPP 31-525.75) and to address transportation needs (MPP 31-525.65), including ensuring transportation is provided and/or accessible to enable youth to participate in ILP services. Nothing prohibits counties from working with tribes to facilitate transportation for tribal youth. If a youth cannot participate in an existing services program, the county ILP must facilitate services that the youth can attend. This may involve providing the services at or near the tribal land or location where the youth is living.

10.Q: How can counties assist tribal youth in receiving culturally appropriate services?

A: County social workers and ILP Coordinators can connect with tribes to see what tribal resources and services are available that could help the youth meet the goals in their TILP. Other tribal organizations may offer programs with culturally appropriate services and should be explored as resources for these youth.

11.Q: Can youth under tribal jurisdiction participate in Extended Foster Care (EFC), which permits youth under a foster care placement order on their 18<sup>th</sup> birthday to remain in or re-enter foster care up to the age of 21?

A: The eligibility criteria for EFC are different from the eligibility criteria for ILP. For more information on EFC, including the eligibility requirements for youth under state court jurisdiction, see the California Department of Social Services Assembly Bill 12 webpage at: <http://www.childsworld.ca.gov/PG2902.htm>. Tribes with a Title IV-E agreement in effect have the ability to create their own EFC program with federal financial participation.

12.Q: Do youth under tribal jurisdiction have access to county transitional housing programs?

A: No, transitional housing programs are not included in ILP benefits and services.

13.Q: Are there other resources available to tribal youth for housing needs?

A: Counties may spend up to 30 percent of their ILP allocation on the room and board needs of youth, ages 18 to 21, who have left foster care (SSA section 477 (b)(3)(B)). Allowable expenditures include food; payment of rent and rental deposits; payment of utility deposits and bills; moving expenses; furniture and household items; costs of finding a roommate through a networking service; and emergency assistance. Counties have the flexibility to determine if and how to use the allocation on allowable expenditures. If counties are utilizing ILP funds for these types of expenditures, they must also make the funds available to eligible tribal youth in the same manner as to other youth in the ILP.

### **Claiming**

14.Q: How do counties claim for tribal youth not under county jurisdiction served by their ILP?

A: Counties can claim for costs for youth under tribal jurisdiction, including those youth who have never had involvement in a county child welfare system, in the same way they claim for costs for youth under the jurisdiction of the county juvenile court. The CFL 13/14-16 contains the most recent claiming instructions for the Chafee ILP (<http://www.dss.cahwnet.gov/lettersnotices/PG3286.htm>). Questions regarding claiming can be directed to [fiscal.systems@dss.ca.gov](mailto:fiscal.systems@dss.ca.gov).

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If you have any questions regarding this letter, please contact the Transition Age Youth Policy Unit at [TAYPolicy@dss.ca.gov](mailto:TAYPolicy@dss.ca.gov) (formerly known as the Independent Living Program Policy Unit).

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division