



CDSS

WILL LIGHTBOURNE
DIRECTOR

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

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EDMUND G. BROWN JR.
GOVERNOR

November 7, 2016

ALL COUNTY LETTER (ACL) NO. 16-29

TO: ALL COUNTY WELFARE DIRECTORS
ALL ADOPTION REGIONAL AND FIELD OFFICES
ALL COUNTY PLACEMENT SUPERVISORS
ALL ADMINISTRATIVE LAW JUDGES
ALL COUNTY ADOPTION AGENCIES
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: ADOPTION ASSISTANCE PROGRAM (AAP): NOTICE OF ACTION AND IDENTIFICATION OF OVERPAYMENT

REFERENCE: WELFARE AND INSTITUTIONS CODE SECTIONS (W&IC) SECTIONS 11466.235 AND 16121.05; CALIFORNIA CODE OF REGULATIONS (CCR) TITLE 22 SUBCHAPTER 7 SECTIONS 35344 AND 35345

The purpose of this ACL is to direct counties on the proper use of the revised Notice of Action [(NOA) NA 791]. This ACL also provides policy and procedures regarding the identification of an overpayment.

NOTICE OF ACTION (NA 791)

Effective the date of this ACL, the NA 791 form is to be used for all AAP cases and substitute forms will no longer be allowed. This form is to be used for communications with the prospective or adoptive parent(s) regarding actions on the child's AAP case. The comment section of this form is to be used to provide the reason and further clarification for the specific action taken, and should also be written in a clear and concise manner. In addition, the specific regulation section must be cited to support the county's action item. The NOA is to be sent to the prospective or adoptive parent(s) in a timely manner whenever there is an action that occurs with the AAP case. Refer to Eligibility and Assistance Standards (EAS) Manual Letter NO. EAS-11-02 Section 45-806.2 and .3 for the specific timelines for when a NOA is to be sent to the prospective or

REASON FOR THIS TRANSMITTAL

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

adoptive parent(s). Actions that warrant the sending of a NOA to the prospective or adoptive parent(s) may include any one or more of the following:

- The request for AAP benefits is denied due to the child not meeting the eligibility criteria. This action may occur prior to or post finalization depending on when the request for AAP benefits was submitted to the responsible public agency.
- The prospective or adoptive parent(s) benefit request is denied. This action may occur prior to or post finalization.
- The monthly negotiated benefit has been approved. This action may occur following the signing of the initial AAP agreement or the reinstatement of benefits, as provided in the signed deferred AAP agreement.
- Medi-Cal/Medicaid has been approved. This action may occur following the signing of the initial AAP agreement or the reinstatement of benefits, per the signed deferred AAP agreement.
- The monthly negotiated rate has increased due to a renegotiation of the rate, eligible age related increase or the annual CNI increase.
- The monthly negotiated rate has decreased due to the renegotiation of the rate, the rate is greater than the maximum eligible rate, the child's out of home placement has ended or the child's Wraparound services have ended.
- The prospective or adoptive parent(s) signed a deferred AAP agreement prior to or post finalization.
- Termination of AAP benefits due to the child's age of 18 or age 21.
- Termination of AAP benefits due to the responsible public agency's determination the prospective or adoptive parent(s) are no longer legally or financially responsible for, or are no longer supporting the child.
- The identification of an AAP benefit overpayment requiring collection

Regulation CCR Title 22 Section 35351(a)(8) requires that a copy of the NOA sent to the prospective or adoptive parent(s) be filed in the AAP case file maintained by the responsible public agency and the AAP case file maintained by the county (eligibility unit).

OVERPAYMENTS

The overpayment policies and procedures stated in CCR Title 22 Section 35344 and Welfare and Institutions Code Section 16121.05 are to be followed by the responsible public agency and the county.

Collectable Overpayments:

There are three situations under which an overpayment is collectable.

1. The responsible public agency has determined the adoptive parent(s) are no longer legally responsible for the support of the child.
2. The responsible public agency has determined the child is no longer receiving support from the adoptive parent(s).
3. The responsible public agency has determined the adoptive parent(s) may have committed fraud in the application for, or reassessment of, the AAP benefits. The adoptive parents' failure to notify the responsible public agency that the child's out of home placement or Wraparound services were terminated prior to the date identified on the AAP agreement may be applicable in this category.

ACLs 06-48 and 07-15 describe instances where improper AAP payments may have been made which require county and/or state action to maintain compliance with federal law. This ACL supersedes Eligibility and Assistance Standards (EAS) Manual Letter NO. EAS-11-02 Section 45-808.1.121.

Non-Collectable Overpayments:

The county shall not demand overpayment collection when the overpayment was due to county error.

As a reminder, to avoid overpayment issues, AAP agreements shall accurately reflect the negotiated rate, including the start date and expected ending date of eligibility, and the start and end date(s) for Wraparound services or out of home placement, for a limited duration.

USE OF THE NOTICE OF ACTION

The signed AAP agreement between the prospective or adoptive parent(s) and the responsible public agency is considered to be a contract and is effective until terminated in accordance with its terms or an amended agreement is signed. Therefore, all communication related to any AAP benefit changes, terminations, or overpayments are between the responsible public agency and county, and the prospective or adoptive parent(s). All NOAs are to be sent to the prospective or adoptive parent(s), and all

overpayments requiring collection are to be directed to the prospective or adoptive parent(s).

The completion of the Payment Instructions Adoption Assistance Program (AAP 2) form triggers the county to send a NOA. If an overpayment requiring collection has been identified, the NOA should indicate the amounts overpaid, with the dates of overpayment on page two of the NOA. The AAP 2 is not required to be completed and submitted if:

1. The AAP case is terminated due to the child's age of 18 or 21.
2. There is an application of the California Necessities Index (CNI) increase to the AAP basic rate.

The county is responsible for sending a NOA to the prospective or adoptive parent(s) when the CNI increase is applied to the AAP basic rate.

CAMERA READY COPIES AND TRANSLATIONS

For camera-ready copies in English, contact the Forms Management Unit at fmudss@dss.ca.gov. If your office has internet access you may obtain this form from the CDSS webpage at:

http://www.dss.cahwnet.gov/cdssweb/FormsandPu_271.htm.

When translations are completed per MPP Section 21-115.2, including Spanish form, they are posted on our website. Copies of the translated forms can be obtained at: http://www.dss.cahwnet.gov/cdssweb/FormsandPu_274.htm.

For questions on translated materials, please contact Language Services at (916) 651-8876. Until translations are 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.

The CWDs shall 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 shall be provided free of charge to the applicant/recipient.

In the event that CDSS does not provide translations of a form, it is the county's responsibility to provide the translation if an applicant or recipient requests it. More information regarding translations can be found in MPP Section 21-115.

INQUIRIES

Please direct all AAP questions to the Adoptions Services Bureau, at (916) 651-8089.

Sincerely,

Original Document Sign By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment

Notice of Action

If you have questions or want more information about this action, please contact your adoption worker.

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- 1. Case Name:
- 2. Case Number:
- 3. Adoption/Post Adoption Worker:
- 4. Phone:
- 5. Email:
- 6. Date:

8. **Description of the Action.** Effective _____, the following action will be taken regarding your child's Adoption Assistance Program (AAP) benefits: _____ DATE

- A. Monthly negotiated rate of \$ _____ is approved.
- B. Your child's Medi-Cal/Medicaid benefit is approved.
- C. Your child does not meet AAP eligibility criteria to receive AAP benefits. (refer to comments section)
- D. Your child is not eligible to receive the requested benefits. (refer to comments section)

9. Monthly negotiated rate is increased to \$ _____.

- A. You have signed an amended AAP Agreement
- B. Due to the California Necessities Index (CNI) Increase Fiscal Year _____.

10. Monthly negotiated rate is decreased to \$ _____.

- A. You have signed an amended AAP agreement.
- B. You have requested Medi-Cal/Medicaid only benefits.
- C. The rate is greater than what your child would be eligible to receive had they not been placed for adoption.
- D. Your child's out of home placement has ended.
- E. Your child's Wraparound services have ended.

11. You have signed a deferred AAP agreement. If your child requires AAP benefits in the future, contact Post Adoptions Services at _____.

12. Your child's AAP benefits, including Medi-Cal coverage will be terminated:

A. Your child will be age 18.

Your child may be eligible for the extension of AAP benefits to age 21. Contact Post Adoption Services at _____ TELEPHONE

They have a mental or physical disability.

OR

The initial AAP agreement was signed on or after your child's 16th birthday and one of the five participation criteria are met:

- 1. Completing high school or an equivalency program.
- 2. Enrolling in post-secondary or vocational school.
- 3. Participating in a program or activity that promotes or removes barriers to employment.
- 4. Employed at least 80 hours per month.
- 5. Is incapable of participating in 1 through 4 above, due to a documented physical or mental condition.

B. Your child will be age 21

C. You are no longer legally responsible for your child.

- a. Your child has married.
- b. Your child has enlisted and is on active duty in the military.
- c. Your parental rights have been terminated.

D. You are no longer supporting your child.

13. An overpayment of \$ _____ had occurred for the period of _____ to _____ :

MONTH/DATE OF PAYMENT	AMOUNT RECEIVED	AMOUNT SHOULD HAVE RECEIVED

MONTH/DATE OF PAYMENT	AMOUNT RECEIVED	AMOUNT SHOULD HAVE RECEIVED

14. You were overpaid because you failed to report:
- A. You were no longer supporting your child
 - B. You were no longer legally responsible for your child
 - a. Your child has married
 - b. Your child has enlisted and is on active duty in the military
 - c. Your parental rights have been terminated

15. You may have committed fraud in your application for or reassessment of the AAP benefits, and as a result have received checks/deposits to which your child was not entitled to receive.

Description of the alleged fraud:

The county shall not demand overpayment collection when the overpayment was due to county error.

Comments:

Regulations. *This action is required by the following state regulations which are available for review at the Adoption Agency: California Code of Regulations Title 22, Division 2, Chapter 3, Subchapter 7, Articles 1-10, Sections 35325-35352.2*

State Hearing. *If you are dissatisfied with this action, your aid may continue unchanged if you ask for a State Hearing before the effective date of the action. Read the back for important information about your right to appeal this action.*

NA 791 FORM INSTRUCTIONS

1. **Case Name:** Use this line to state the child's adoptive name.
2. **Case Number:** Use this line to state the child's AAP case number.
3. **Adoption/Post Adoption Worker:** Use this line to state the worker's name who is assigned to the case.
 - If a worker is not assigned to the case state the adoption/post adoption supervisor's name who oversees post adoption services and AAP cases.
 - If the adoption/post adoption/AAP services are provided by a California Department of Social Services (CDSS) Regional or Field Office use this line to state, CDSS contact information for post adoption/AAP services.
4. **Phone:** Use this line to state the phone number for the adoption/post adoption worker/supervisor listed in number 3.
5. **Email:** Use this line to state the email address for the adoption/post adoption worker listed in number 3.
6. **Date:** State the date this Notice of Action is drafted.
7. State the adoptive parent(s) names and address in this section.
8. **Description of Action:** The effective date stated is the same date as the start date stated on the Payment Instructions (AAP 2) form for initial and renegotiated benefits. The effective date for the termination of AAP cases is the ending date of eligibility, the date of the child's 18th or 21st birthday or the date of termination per the AAP 2. One or more of the corresponding boxes must be checked to reflect the action to be taken per the AAP 2 for initial and renegotiated benefits.
 - A: This box is checked for initial AAP cases and the amount stated must be the same amount stated on the AAP 2.
 - B: This box is checked for initial AAP cases.
 - C: This box is checked when the determination is made that the child does not meet the AAP eligibility criteria to receive AAP benefits. Specify the eligibility criteria the child did not meet in the comment section of the form.
 - D: This box is checked when the adoptive parent(s) request for additional benefits is denied. Specify the reason for the denial of request benefits in the comment section of the form.
9. This box is to be checked and the amount stated must be the same amount stated on the AAP 2.
 - A: This box is checked when the increase was due to a renegotiation of the rate or an eligible age related increase was applied to the AAP basic rate.

NA 791 FORM INSTRUCTIONS

- B. This box is checked when the annual California Necessities Index (CNI) increase is applied to the AAP basic rate. Note: The AAP 2 is not required for this action to occur.
10. This box is checked and the amount stated must be the same amount stated on the AAP 2.
- A. This box is checked when the decrease was due to a renegotiation of the rate.
- B. This box is checked when adoptive parent(s) have requested Medi-Cal only (note: box A will also need to be checked).
- C. This box is checked when the AAP rate is reduced due to the rate being greater than the maximum eligible rate the child would have received had they remained in foster care and not been placed for adoption.
- If the adoptive parent(s) signed an amended AAP agreement concurring with the rate reduction box A will also need to be checked.
 - If an amended AAP agreement was not signed only box C should be checked.
- D. This box is checked when the AAP rate is decreased due to the end date of the child's out of home placement.
- If the adoptive parent(s) signed an amended AAP agreement concurring with the rate reduction box A will also need to be checked.
 - If an amended AAP agreement was not signed only box D should be checked.
- E. This box is checked when the AAP rate is decreased due to the end date of the child's Wraparound services.
- If the adoptive parent(s) signed an amended AAP agreement concurring with the rate reduction box A will also need to be checked.
 - If an amended AAP agreement was not signed only box E should be checked.
11. This box is checked when the adoptive parent(s) have signed a deferred AAP agreement. The contact number for post adoption services needs to be stated should the adoptive parent(s) request benefits at an unspecified later date.
12. This box is checked when the AAP benefits are to be terminated based on one of the following:
- A. This box is checked when the AAP benefits are terminated due to the child turning age 18. The contact number for post adoption services needs to be stated should the adoptive parent(s) wish to request the extension of AAP benefits to age 21. Note: The AAP 2 is not required for this action to occur.
- B. This box is checked when the AAP benefits are terminated due to the child turning the age of 21. Note: The AAP 2 is not required for this action to occur.
- C. This box is checked when the AAP benefits are terminated when the adoptive parent(s) are no longer legally responsible for the child. In addition, to this box one of the following three boxes must also be checked:
- a. This box is checked when the child has married.

NA 791 FORM INSTRUCTIONS

- b. This box is checked when the child has enlisted and is on active duty in the military.
 - c. This box is checked when the adoptive parent(s) parental rights have been terminated.
- D. This box is checked when the responsible public agency has determined the adoptive parent(s) are no longer providing any type of support the child.
13. This box is checked when an overpayment of the AAP benefit has occurred. The amount of the overpayment and the time period for which the overpayment occurred is to be stated.
- A. The chart is to be completed listing the month/date of payment, the amount the adoptive parent received and the corrected amount that should have been disbursed to the adoptive parent.
14. This box is checked and box A. or B. is to be checked, if the overpayment is due to the adoptive parents no longer supporting the child or they are no longer legally responsible for the child. If the adoptive parents are no longer legally responsible for the child, one box (a. b. or c.) needs to be checked.
15. This box is to be checked when the adoptive parents may have committed fraud in their application for, or reassessment of, the AAP benefit. In the lines provided, describe the alleged fraud and include the adoptive parent(s)' knowledge and intent to receive AAP benefits to which they knew they were not entitled to receive per the last signed AAP agreement. For further clarification and if the specific circumstances of this case constitutes fraud, consult with your County Counsel or the county department responsible for investigating suspected fraud.