

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



April 25, 2006

ALL COUNTY INFORMATION NOTICE NO. I-27-06

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHIEF PROBATION OFFICERSREASON FOR THIS TRANSMITTAL

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

REFERENCE: ALL COUNTY LETTER 01-33 DATED JUNE 20, 2001  
ERRATA FOR ALL COUNTY LETTER 01-33 DATED  
FEBRUARY 13, 2002SUBJECT: COURT ORDER REQUIREMENTS IN THE AID TO FAMILIES WITH  
DEPENDENT CHILDREN—FOSTER CARE (AFDC-FC) PROGRAM

In July 2006, Department of Health and Human Services (DHHS) will once again review statewide AFDC-FC cases for compliance with Title IV-E of the Social Security Act. In preparation for that review, the California Department of Social Services (CDSS) is issuing this All County Information Notice (ACIN) to remind counties of the court order requirements in the AFDC-FC program.

Title IV-E and state statute require initial court order findings in order for a child to be eligible for AFDC-FC (see Eligibility and Assistance Standards (EAS) Manual, Section 45-202.41 and 45-203.313).

Court Order Findings at Removal**Contrary to the Welfare Finding**

County staff must verify that the court made a finding that “continuance in the home is contrary to the welfare of the minor” or a finding to that effect. Other acceptable examples include: “there is substantial danger to the welfare of the minor without removing the minor,” or “the welfare of minor requires that custody be taken from parents.”

For federal AFDC-FC, this court finding must be in the first court order which removes the child from his or her home (typically the detention hearing). **If this finding is not made at the first hearing which removes the child from his/her home, the child is ineligible for federal AFDC-FC funding for the duration of that stay in foster care.** Special attention should be made in cases where continuances are requested at the detention hearing. If the continuance is

granted without a contrary to the welfare finding, the child will be ineligible for federal AFDC-FC for the duration of that stay in foster care. If a continuance is requested, county court staff should request that the judge make the contrary to the welfare finding prior to granting the continuance.

For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be in the first court order removing the child from his or her home.

### **Placement and Care Finding**

County staff must also verify that the court made a finding that “placement and care” is vested with one of the agencies listed in EAS Manual, Section 45-202.6 (federal) or 45-203.5 (State), or a finding to that effect. Other acceptable examples include: “temporary placement and care is vested with the county” or “care, custody, and control is vested with the county.” **This finding may be in any court order, but State and federal AFDC-FC foster care cannot be granted prior to the finding being made.**

### **Reasonable Efforts Finding**

County staff must verify that the court made a finding that “reasonable efforts to prevent or eliminate the need for removal” have been made by the county. This finding must be made by the court no later than 60 days from the date the child is removed from the home; **if this finding is not made timely, the child is ineligible for federal AFDC-FC funding for the duration of that stay in foster care.** For State AFDC-FC, this finding must be made prior to the approval of State AFDC-FC, but need not be made within 60 days from the date of removal.

A finding that reasonable efforts to prevent removal and/or reunify the family is NOT required where the county obtains a finding from a judge that reasonable efforts were not necessary because:

- a. the parent has subjected the child to aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse; or
- b. the parent has been convicted of murder or voluntary manslaughter of another child of the parent; or
- c. the parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or voluntary manslaughter; or
- d. the parent has been convicted of a felony assault that results in serious bodily injury to the child or another child of the parent; or
- e. the parental rights of the parent have been terminated to a sibling of the child in foster care.

### **Other Court Order Findings (Federal AFDC-FC Only)**

The following ongoing court order requirements are required for federal AFDC-FC eligibility only:

### **First Permanency Hearing Findings**

County staff must verify on the court order that the court made a finding that the agency has made “reasonable efforts to finalize the permanency plan” within 12 months of the “date the child entered foster care”. The date the child entered foster care is defined as the earlier of the following dates: 1) the date of the first judicial finding that the child has been subjected to child abuse or neglect or 2) sixty days from the date of removal from the home. Language in a court order such as “the allegations in the petition are sustained” meets the requirement that the child has been subjected to abuse and neglect. This court finding generally occurs at the jurisdictional or dispositional court hearing (these hearings are often combined).

**If this finding is not made timely, the child ceases to be eligible for federal AFDC-FC at the end of the 12<sup>th</sup> month after he or she entered care and remains ineligible until the finding is made.**

### **Ongoing Permanency Hearing Findings**

County staff must verify on the court order that the court continues to make a finding that the agency has made “reasonable efforts to finalize the permanency plan” every 12 months from the date of the original permanency planning hearing. **If this finding is not made timely, the child ceases to be eligible for federal AFDC-FC at the end of the 12<sup>th</sup> month after the last hearing and remains ineligible until the finding is made.**

To ensure that counties are adequately prepared for the upcoming federal review in 2006, CDSS suggests that as each case comes up for annual redetermination that counties ensure that the appropriate court orders and findings have been made in each AFDC-FC case and are appropriately documented in the case file. If you have questions about this ACIN or the AFDC-FC Program in general, please contact your Foster Care Funding and Eligibility County Consultant at (916) 651-9152.

Sincerely,

MARY L. AULT  
Deputy Director  
Children and Family Services Division

c: CWDA  
CPOC