

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



June 25, 2002

ALL COUNTY LETTER NO. 02-45

TO: ALL COUNTY WELFARE DIRECTORS  
 ALL CHIEF PROBATION OFFICERS  
 ALL JUVENILE COURT JUDGES  
 ALL COUNTY COUNSELS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: **MODIFICATIONS TO THE AID TO FAMILIES WITH DEPENDENT  
 CHILDREN-FOSTER CARE PROGRAM (AFDC-FC)**

SUPERCEDES: ALL COUNTY LETTER 02-29

Recently, the California Department of Social Services (CDSS) submitted an updated Title IV-E State Plan to the U.S. Department of Health and Human Services (DHSS) for approval. During the review process, DHHS identified three areas which required further instructions/clarification from CDSS to the counties.

**\$10,000 Property Limit**

42 United States Code 672 (a) provides that each child in foster care can have up to \$10,000 in property regardless of age or participation in the Independent Living Program (ILP). Accordingly, for State and federal AFDC-FC, any child may now retain up to \$10,000 in property. For purposes of determining whether the child would have been eligible for AFDC in the petition month as required by Eligibility and Assistance Standards (EAS) Manual 45-202.33, the family may also have up to \$10,000 in property and still qualify for AFDC. The \$10,000 is in addition to the \$1,500 vehicle limit. This increased property limit is effective December 14, 1999.

**Transitional Independent Living Plans (TILP)**

42 United States Code 675(5)(C) provides, "procedural safeguards will be applied ... to assure each child in foster care ... of a permanency hearing to be held, in a family or juvenile court ... no later than 12 months after the date the child is considered to have entered foster care... and not less frequently than every 12 months thereafter... which hearing shall determine...in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living..."

This section of federal statute requires that the court consider services available and necessary for the child to transition to adulthood. In accordance with Manual of Policy and Procedures (MPP), Division 31, Sections 31-525.1 through .5, the county social worker must develop a TILP for each eligible youth in placement by the age of 16. Once the appropriate ILP services have been identified, participation in ILP must become part of a youth's individual needs and services plan and incorporated into the child case plan

pursuant to MPP, Section 31-206.37. Pursuant to Welfare and Institutions Code, Section 366.22, the court shall review and consider the social worker's report/case plan and recommendations at each permanency review hearing when making its determination on whether to return the child to their parent or guardian. Accordingly, counties are reminded to include the TILP in the child's case plan when submitting these documents to the court so that it may consider these services at each permanency planning hearing.

### **Termination of Parental Rights**

DHHS has asked the CDSS to clarify how counties determine when to file a termination of parental rights for a child in foster care.

45 Code of Federal Regulations (CFR) 1356.20(i)(1) provides, "...the State must file a petition to terminate the parental rights (TPR) of a parent(s):

- (i) Whose child has been in foster care under the responsibility of the State for 15 of the most recent 22 months. The petition must be filed by the end of the child's fifteenth month in foster care."

The county must calculate the 15 of 22 months period from the "date the child entered foster care" as defined in Welfare and Institutions Code, Section 361.5(a). For children with multiple foster care placement episodes within the 22 month period, the county must use a cumulative method of calculating 15 months in foster care. However, the 15 month period cannot include trial home visits or runaway episodes.

TPRs need not be filed in the following circumstances [from 45 CFR 1356.21(i)(2)]:

- The child is being cared for by a relative;
- The county has documented a compelling reason for determining that filing a petition for TPR is not in the best interest of the child. Compelling reasons include, but are not limited to: adoption is not an appropriate permanent plan for the child; no grounds to file a TPR exist; the child is an unaccompanied refugee minor; there are foreign policy reasons that would preclude a TPR; or the county has NOT provided reasonable services to reunify the child.

If you have any questions about filing a TPR petition, please contact the Permanency Policy Bureau at (916) 322-4228. If you have questions about eligibility for AFDC-FC benefits or TILPs, please contact the Funding and Transitional Youth Programs Bureau at (916) 324-5809.

Sincerely,

**ORIGINAL SIGNED BY**

SYLVIA PIZZINI  
Deputy Director  
Children and Family Services Division

c: CWDA