

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



June 16, 2005

ALL COUNTY LETTER NO. 05-13

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL COUNTY CHIEF PROBATION OFFICERS

SUBJECT: RELATIVE AND NONRELATIVE EXTENDED FAMILY MEMBER (NREFM)
APPROVALS – FREQUENTLY ASKED QUESTIONS AND ANSWERS;
CHILD WELFARE SERVICES/CASE MANAGEMENT SYSTEM
(CWS/CMS) 5.4 RELEASE FUNCTIONALITY

**REASON FOR THIS
TRANSMITTAL**

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

This All County Letter (ACL) provides information regarding the standards for assessing, documenting, and approving relative and NREFM caregiver homes for the placement of children who are dependents or wards of the Juvenile Court.

Passage of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001) and the settlement provisions of the *Higgins v Saenz* lawsuit established the standards and requirements for assessing and approving the homes of relative and NREFM caregivers. In order for those standards and requirements to be implemented, county personnel received on-site training and technical assistance over the course of an 18-month period beginning in January 2003 and ending in June 2004.

Provided with this letter are two enclosures that will assist counties in conducting relative/NREFM approvals consistent with AB 1695 and the *Higgins* settlement. The first enclosure (Enclosure A) is a collection of questions and answers compiled from county training sessions addressing the most frequently asked questions.

The second enclosure (Enclosure B) contains a list of available informational and/or training materials related to data entry on CWS/CMS. Many existing resources have been updated to assist users with performing the relative/NREFM approval process.

Additionally, the CWS/CMS Project sent a letter to all County Welfare Directors and Single Point of Contacts on December 30, 2004. The letter provides useful information about the recent County Test Workshop for Release 5.4, and describes some pragmatic issues related to data entry that may be helpful for counties to consider as they rethink their internal procedures. The letter is referenced in Enclosure B and can be found online at www.hwcws.cahwnet.gov/County%20Logon/Correspondence/2005/CountyTesting5.4.PDF.

ALL COUNTY LETTER NO.

Page Two

In addition to previously issued ACLs and All County Information Notices regarding relative/NREFM approvals, this letter should be retained as a reference resource which your staff can consult as needed. Technical assistance regarding relative/NREFM assessment and approval continues to be available to county staff by contacting the Kinship Care Policy and Support Unit at the telephone number listed below.

If you have any questions regarding the relative/NREFM approval process, please contact the Kinship Care Policy and Support Unit at (916) 657-1858 or by e-mailing Lou Del Gaudio, Unit Manager, at Lou.DelGaudio@dss.ca.gov, or Carole Minchew, Program Analyst, at Carole.Minchew@dss.ca.gov. Questions regarding CWS/CMS may be directed to the System Support Consultant serving your county. A list of these contacts can be found at: www.hwcws.cahwnet.gov/Contactlist/SSClist.asp.

Sincerely,

BARBARA EATON
Acting Deputy Director
Children and Family Services Division

c: CWDA

**Assembly Bill 1695/Adoptions & Safe Families Act
Relative¹/NREFM Assessment/Approval**

QUESTIONS AND ANSWERS

GENERALLY

1. Who is allowed to do assessments/approvals? What is a social worker's role? A supervisor's role?

The county determines which staff completes the various steps in the approval process. The SOC 815, page 2, requires a signature of both a supervisor and assessment/approval worker that declares the home meets the standards for approval. However, if circumstances result in a supervisory level staff person performing all of the assessment/approval steps, that individual's supervisor (the supervisor's supervisor) must sign and date the forms where indicated.

2. What is the county's obligation in searching for relatives for purposes of placement and approval?

Approval and placement are two distinct processes. For purposes of approval, counties are required to complete the approval process on a relative within the fifth degree of relatedness or a NREFM who requests placement within 30 days of the request or prior to the dispositional hearing, whichever is sooner. (NOTE: an adult who is a grandparent, aunt, uncle or sibling of the child shall be given preferential consideration for placement.) Counties are not required to complete the approval process on relatives who come forward after the dispositional hearing, unless the child is proposed to be placed with the relative. While it is not part of the approval process, Family Code (FC) Section 7950 requires the placing agency to continue to search for appropriate relatives who can provide permanency for the child when the child has been placed in "stranger" care.

3. Is there a requirement that a relative or NREFM caregiver be a documented resident of the United States?

There is no statute or regulation that requires a person who is being considered for approval and placement of a child to be a legal, documented resident of the United States. However, in order to be approved, the individual must be able to obtain a criminal record clearance. Information from the Department of Justice (DOJ) advises that it is only necessary that a person have a valid photo identification in order to Live Scan; therefore, if a foreign passport or foreign driver's license is presented and is valid, it can be accepted if the operator believes the actual person is the one presenting it.

4. Does the non-custodial parent have to be assessed and approved if placement is going to be made with them?

No. Placement with a non-custodial parent does not require assessment and approval. Welfare and Institutions Code (W&IC) Section 361.2(e)(1) is the authority regarding placement with a non-custodial parent. That statute allows the court discretion to determine

¹ The term "relative" also refers to "nonrelative extended family member" or "NREFM."

if placement with a non-custodial parent would be detrimental to the child's safety, protection, physical or emotional well-being. Health and safety issues can still be addressed through the court's direction and social worker investigation/recommendation rather than through the relative approval process. (NOTE: MPP Sections 31-420.21 and 31-425.132, which require an assessment/approval of a non-custodial parent, implement prior law; W&IC Section 361.2 is controlling and therefore, assessment/approval of a non-custodial parent is not required.)

5. Paternal grandparents are interested in caring for an 11-year-old grandchild who was taken into custody. These same grandparents were approved to take care of other grandchildren but not siblings to the 11-year-old. Because the approval process is child specific, I understand that we need to evaluate the home again. Does that include DOJ , FBI and CACI checks as well?

In the situation you describe, if the previous approval was done by your department, you would not have to do DOJ, Federal Bureau of Investigation (FBI) and the Child Abuse Central Index (CACI) check again because your department should be receiving information from the subsequent arrest notification (rap back) service. The county should have procedures in place for when a subsequent arrest report is received that will ensure all assessment/approval workers that have the case(s) receive these reports. You must, on this new placement, complete all of the required documents (SOC 815, 817, 818) and include them in the newly-placed child's file. The county may transfer criminal record clearance information from the SOC 815 of the previously-placed grandchildren to the SOC 815 for the 11-year-old child.

If the approval for the child who is already placed was completed by another department or county which is unwilling to be responsible for assessment and approval for purposes of the new placement, a new criminal background clearance (DOJ, CACI, FBI and subsequent arrest notification) must be done in order to have rap-back information sent to the new county having jurisdiction.

6. If a person cannot prove relative relationship through documentation, can we approve them as a nonrelative extended family member?

Yes, as long as the prospective caregiver meets the criteria for a nonrelative extended family member as described in W&IC Section 362.7. However, documented proof of relationship is not required. Verification of relationship can be confirmed via interview of other family members or third parties who have knowledge of the relationship.

7. Does an approval apply to Voluntary Agency placements?

If the parent(s) voluntarily gives care, custody and control of a child to the child welfare or probation departments, the department must place the child into either a licensed home/facility or the approved home of a relative or NREFM.

8. If a relative has been assessed/approved and has a child in placement, then the social worker wants to place a sibling (or other relative child) at a later date, is the first assessment/approval still "good," allowing placement of the second child?

An assessment and approval of a relative or NREFM is specific to each child to be placed; therefore, for each child placed in the home, an assessment/approval is required.

Assuming no change in adult household membership and subsequent arrest notification (aka rapback) service exists for each household member, it is not necessary to do new criminal record checks; the criminal record clearance information on the initial SOC 815 may be transferred to the new SOC 815 for the subsequent placement. The placing worker must visit the home to ensure it continues to meet approval standards and complete a new SOC 817 and 818 for the subsequent placement.

9. If a licensed foster parent is moving and is planning to take the foster children with them, should they be approved, instead of licensed?

No, the relationship between the foster children and the foster parent has not changed as a result of the move to a new location. The foster parent must be licensed in order to care for the foster children. Upon rare occasion a foster parent may want to discontinue being a licensed foster parent, but wants to continue caring for a particular foster child. In such a situation, the county must determine if the former foster parent meets the definition of a NREFM only if it is perceived as in the best interests of the child and then assess and approve the former foster parent as a NREFM per the approval standards.

10. What is required when an approved foster family home caregiver moves?

If the move is within the county, or out of county and the jurisdiction does not change, the agency must assess the physical environment to ensure that the home meets the safety standards in California Code of Regulations (CCR) Title 22, Article 3. Fingerprinting persons who were initially cleared/exempted is not needed (provided subsequent arrest notification (aka rap-back) service exists); however, new adults (or new children over 14 years of age who are believed to have a criminal record) must be cleared/exempted prior to approval. The SOC 815, 817, 818 forms must be completed to document that the new residence meets approval standards. The criminal clearance dates initially done for the cleared/exempted adults (and children over 14 years of age) should be transferred to the new SOC 815 in addition to recording criminal clearance dates for new persons to the home.

If the move is out of the county due to a jurisdiction change, the county acquiring jurisdiction must perform an assessment and approve the home as if it were an initial assessment; this means fingerprinting all the adults (and children over 14 years of age with a criminal history) again in order to have rap-back service established in the "new" county. The SOC 815, 817, 818 forms must be completed to document that the new residence meets the approval standards.

Whether in or out of county, the annual reassessment date is the one year anniversary of the new location approval date (the date the assessment/approval worker certifies the relative/NREFM and home meets approval standards). Claiming to Title IV-E ceases until the new place of residence is approved.

11. If I complete a criminal clearance as part of the approval process and then do not approve the home, am I still required to retain the criminal clearance records for three years? What if I complete the approval and do not place children in the home?

All documents related to assessing and approving the home of a relative/NREFM for placement of a foster child are part of the child's case record and as such must be retained

for three years in accordance with Manual of Policies and Procedures (MPP) Section 31-075. Whether the home is approved or denied and whether or not a child is placed in the home is not determinative of retaining a document. All documentation listed in MPP Section 31-075 are case records and therefore require retention. (Please see MPP Sections 31-075(h)(2), 31-075(i) and 31-075(s)(9).)

Regarding criminal clearance documents in particular, instructions issued in All County Letter (ACL) 03-55 states that criminal background and CACI clearance results must be retained for at least 3 years *after the home is no longer in use*. In addition, any other documents related to the criminal background clearance process must be retained for three years as these documents are case records; this would include documents related to processing exemptions and investigating CACI hits.

Likewise, notice of denial and grievance requests, and the documents on which a denial or grievance was based, must also be retained for three years as these documents are also part of the child's case record.

12. When a child is placed with a relative who is already licensed or certified as a Foster Family Agency (FFA) home, how is the payment determined?

If the home is a licensed foster home, you must inform eligibility that the child is a relative and they will make the Title IV-E payment determination based on the relationship and the foster family home rate based on the child's age. Approval is not necessary because the caregiver is already a (licensed) foster family home.

If the home is a FFA certified home but you are making a relative placement directly into that home, the payment to the caregiver is based on the relative relationship and approval of the home; the payment amount would be the foster family home rate based on the child's age. The approval process must be completed before payment can be made.

If the home is a FFA certified home and you are making a placement with the FFA because the child requires that level of care, and the selected FFA home also happens to be a relative, the payment would be the FFA payment rate because you are making the placement to the FFA, not directly to the home. For additional clarification, please see ACL No. 04-28.

13. Is the one year assessment due date ("reassessment due date") counted from the certification date, the date the social worker signs the SOC 815, or the date the supervisor signs the SOC 815?

The one year reassessment due date is based on the date the assessment/approval worker certifies the relative/ NREFM meets standards. A home has to be reassessed annually on the anniversary date of the initial approval. For example, if initial approval was August 21, 2003, then reassessment is due on or before August 21, 2004. If the assessment/approval worker reassesses the home prior to August 21, say August 10, the next reassessment would be due on or before August 10 of the following year. Compliance monitoring will be looking at whether counties performed the reassessment timely.

14. Can a relative/NREFM be reassessed prior to the annual anniversary date? We approved a relative for one child initially and then for the child's sibling a few months later. Now we have two different dates on which we have to do a reassessment.

Yes. At the time of the sibling-related assessment, the county can reassess the home related to the first child in order to have one reassessment date applicable to both children. The county may use the criminal background information from the first assessment to complete the sibling-related placement; a new SOC 817 and 818 must be completed. (Please also see question 8.)

15. What are the grievance procedure requirements applicable to a NREFM who has been denied approval? ACL 02-85 only refers to relatives? Does a NREFM have a right to a grievance review? What grievance procedures should we follow?

A grievance review is available to a relative who expressed an interest in placement, and any other relative and nonrelative extended family member being considered by the county for placement, who has been denied approval. As indicated in ACL 02-85, counties must follow the grievance procedures outlined in MPP Section 31-020 et seq. The County must provide the relative/NREFM with written notice of the reason(s) for the denial and their right to a grievance review if the County denies approval or if the County rescinds an existing approval. The written notice must also include a copy of the grievance procedure regulations contained in MPP 31-020. (NOTE: MPP Section 31-440.4 also requires written notice be provided advising that the relative/NREFM does not meet standards and that they have access to the grievance procedures, and requires the relative/NREFM appeal within five days of receipt of the notice. This is in conflict with MPP Section 31-020.34 which provides ten days within which to appeal. MPP Section 31-020 should be followed in accordance with the *Higgins* settlement, allowing the relative/NREFM ten days to file a grievance.)

16. Does the county have to offer a grievance review hearing for a non-exemptible crime since nothing can be done about a denial in such a situation?

Yes. Although it is unlikely that the review hearing will result in a reversal, all relative and NREFM caregivers have a right to grieve denial decisions which are not based on MPP 31-020.2. The grievance review hearing not only addresses due process concerns, but is an opportunity to review decisions by the county as a means of ensuring the best interests of the child are met and program integrity maintained.

17. If we are doing an approval of a relative/NREFM whose home has a swimming pool surrounded by cement close to the house, is this a situation that could be approved for the use of exit alarms in lieu of a fence? Are there any pool requirements that can be waived?

There is no waiver or exception to the requirement for a fence around the swimming pool for children under ten years of age or who requires special care and supervision due to mental or developmental disability. The wording in 22 CCR, Section 89387(d)(1)(A), is specific that "the pool shall be isolated from access to a home by an enclosure..." or (d)(1)(B) "be equipped with an approved safety pool cover..." or a combination of the two. When you read (d)(1)(C) it says, "when the department determines that it is not feasible for the caregiver to comply with (A) or (B)... the residence shall be equipped with exit alarms..."

The key here is that the county should determine whether a fence or pool cover is feasible in the situation and, if neither is feasible, whether exit alarms are appropriate to meet the safety needs of the children. County personnel may find it helpful to consult the CCL Evaluator Manual for guidance related to this subject.

18. Can a caregiver's inability to pay for a fence around a pool be considered an appropriate reason to approve the use of exit alarms instead of a fence or pool cover?

See answer to question 17 above. The first consideration is the health and safety of children in care. Although the caregiver's financial ability to meet a requirement may be a factor, it should not be the sole basis for approving one option over another or permit noncompliance. If financial ability is an issue, the county may want to provide assistance to the relative/NREFM caregiver with funds from the county's Kinship/Foster Care Emergency Fund allocation.

19. Are DMV and CWS/CMS checks required as part of the approval process?

A DMV check is not required. However, if there is any concern about the caregiver's status as a licensed driver, the county should address those concerns, which could require a DMV check. The caregiver is responsible to make sure that anyone who transports a child does so appropriately (22 CCR, Section 89374, Transportation). A CWS/CMS search is required in addition to the requirement contained in H&SC Section 1522.1 and W&IC Section 361.4 to conduct a check of the Child Abuse Clearance Index. (Also see question 25.)

20. When placing a child in another state following the Interstate Compact on the Placement of Children (ICPC), what documents do we send and what should we request back from the receiving state? Is the receiving state required to do the required reassessment?

For a foster child who is placed out of state, the county will initiate the 100-A application for ICPC services. As part of the request, the county will ask for a document that states the caregiver and home meet the licensing standards in the state where the child is placed. If the state licenses their relative caregivers as part of their IV-E eligibility process, the caregiver must be licensed in that state in order for the placement to be eligible for IV-E reimbursement. Reassessment should be completed only if it is a requirement of the host state.

Conversely, if a child from out of state is placed with a relative/NREFM in California, the relative/NREFM must be assessed and approved as meeting California's approval standards. A reassessment of the relative/NREFM must be performed annually so long as the child remains in the home.

21. When making a placement under the Indian Child Welfare Act (ICWA), what state standards must be met?

ICWA authorizes Indian tribes and tribal organizations to establish and operate child and family services programs, including a system for licensing or otherwise regulating Indian foster and adoptive homes. If a tribe chooses to do so, it can establish a process/set standards for licensing/certifying/approving homes for placement of their children. Homes that complete this process and are "approved" by the tribe would be considered a tribally

approved home. The “approval” document could be a tribal resolution or some other document that has been approved by the tribe. The California relative/NREFM approval standards required by the Adoption and Safe Families Act and AB 1695 do not apply to tribally approved homes; therefore, the annual reassessment requirement does not apply as well. The only exception to this is the requirement for criminal records checks; counties are required to perform the criminal clearances/exemptions of the relative/NREFM and all other adults in the home whether the home is a tribally approved home or not. The SOC 815 should be used to record the criminal record clearance information.

Some confusion arises about tribally-approved homes and homes that are designated by the tribe as being an appropriate placement that complies with the ICWA placement preferences. Not all tribes want to approve homes or have an approval process. County workers need to be aware of these differences between the tribes. As mentioned above, tribally approved homes should have some form or document that identifies their approved status. Homes, whether relative, NREFM or other, that are not tribally approved must follow the same process/protocols as all other foster homes—obtain a license or comply with the relative/NREFM approval process.

CRIMINAL RECORD CLEARANCE

22. Must all of the caregiver criminal clearance information be received and documented before the home can be approved? For emergency placements? For non-emergency placements?

Yes. Temporary placement (aka emergency placement): A temporary placement may be made following a check and clearance of both California Law Enforcement Telecommunications System (CLETS) and CACI, and a determination that the relative/NREFM meets all other approval standards. The DOJ and FBI fingerprint/Live Scan clearances must be initiated within five days of the CLETS check. Pending receipt of the FBI clearance, a signed affidavit (Community Care Licensing (CCL) form LIC 508D) from the caregiver and each adult living in the home stating the individual has no criminal history other than a minor traffic infraction is acceptable to approve the home if all other approval standards have been met. (Authority: W&IC Section 309(d), 16504.5(b)) Foster care placement (non-temporary placement): A CLETS check, fingerprint/Live Scan DOJ, and CACI checks have to be requested and results received; a FBI clearance must be requested; and, subsequent arrest notification (rap-back) service established. If the home/relative/NREFM meets all other standards but receipt of the FBI clearance is pending, the home may be approved upon execution of an affidavit (LIC 508D) by the relative/NREFM and all other adults in the home that the individual(s) has no criminal record other than a minor traffic infraction. (Authority: W&IC Section 309(d), 361.4(a),(b) and 16504.5(b))

NOTE: If the CLETS information reveals a conviction for an exemptible crime, amendments made to W&IC Section 309(d)(1) with passage of AB 1913 (Chapter 373, Statutes of 2004) allows a county to initiate a criminal record exemption from the information obtained via CLETS. However, in order to process and approve or deny the exemption, the CLETS information must be verified by a criminal record clearance request via Live Scan within five days of the CLETS check. Additionally, the home cannot be approved until the Live Scan

results are received and the exemption processed and approved or denied for each person in the home.

23. Is a CLETS clearance required in order to approve a caregiver?

Yes. A CLETS check is required for approval of a placement prior to the home being determined to fully meet all approval requirements (W&IC Sections 309(d), 361.4(b)). If fingerprints have been submitted via Live Scan, the information contained in the CLETS report are verified when the Live Scan results are received. If the FBI report has not been received, an affidavit (LIC 508D) from all adults living in the home is required prior to approving the home.

NOTE: If an FBI fingerprint clearance request has been rejected, a second attempt must be made to obtain the clearance. After two unsuccessful attempts, county staff must complete and send the form "Request for Applicant FBI Name Check" (available from DOJ by calling (916) 227-3823) to DOJ, who forwards the request to the FBI. The two rejections must be for the same applicant type and applicant title, and the name check must be requested within 90 days of the last rejection notice.

24. Can a home be approved if Live Scan results are still pending? If so, can we pay foster care funds to the provider?

A home cannot be approved for federal or State foster care funding purposes until Live Scan results are received from the DOJ, the FBI clearance has been requested, an affidavit (CCL form LIC 508D) affirming no criminal history has been executed, and rap-back service established. The date of the approval and the date payment of Title IV-E or State AFDC-FC begins is the date that all approval standards are documented as met. However, a child may be placed on an emergency basis (without State or federal foster care funding) based on the results of a CLETS and CACI request pending the Live Scan results and determination that the relative/NREFM otherwise meets approval standards.

25. We know that we cannot make a placement in any home where there is a criminal conviction unless/until a criminal exemption is granted, but what about Child Protective Services (CPS) hits on CWS/CMS and/or hits on the CACI for which there was no conviction?

Health and Safety Coded (H&SC) Section 1522.1 and W&IC Sections 309 and 361.4, require that a CACI hit be investigated and cleared prior to approval and placement. In response to a CACI request, the DOJ will conduct a search and respond that there is either a possible match, unable to confirm a match, or that there is no match. Penal Code (PC) Section 11170(b)(6), (b)(8)(A) and (c) require that the county confirm identification, notify the individual of a possible match in writing, obtain the initial investigation documents from the reporting child protective or law enforcement agency and draw independent conclusions regarding the quality of the evidence disclosed and its sufficiency for making a decision regarding placement. (See also EM Section 7-1400, 7-1410 and 3-2710 for guidelines for complying with PC Section 11170.)

The county must also check the CWS/CMS for any CPS hits involving the proposed caregiver. All calls made to CPS are initially entered into the CWS/CMS and are then

investigated. The outcome of the investigation is also entered into the CWS/CMS. For the relative/NREFM approval process, CPS hits from the CWS/CMS are not re-investigated prior to placement as the incident was already investigated; instead, the CPS hit information obtained from CWS/CMS is assessed and, taken with all information obtained on the proposed caregiver, is used to determine the suitability of the proposed caregiver/placement.

26. Do we need international criminal record clearances for non-natives?

The requirement for criminal records clearances under H&SC Section 1522 is that fingerprints be submitted via Live Scan. The Live Scan application form must request DOJ (which automatically requests CACI also) and FBI processing service. There is no requirement for non-natives to be cleared through international clearance methods.

27. Do fingerprints completed on relatives prior to 2002 have to be redone? Does Live Scan have to be done annually?

No, fingerprints do not have to be redone for a relative or NREFM (or other adult(s) in the household) who had them done prior to 2002 if subsequent arrest notification (rap-back) service exists for the individual. A criminal background clearance (via Live Scan or manual fingerprinting) does not have to be re-done annually. The county must determine if they are receiving subsequent arrest information on a relative/NREFM and other adults in the home at the annual reassessment. If they are not, a criminal background clearance must be redone and subsequent arrest notification service established.

28. What kind of criminal record checks have to be done during annual reassessments?

The county must determine if subsequent arrest information is being received on already cleared adults and that no other adult is living in the home without a clearance or an exemption. If other adults (or a juvenile over the age of 14 who is believed to have a criminal history (W&IC Section 361.4(b)) join the home, a criminal record check (CLETS, LiveScan (DOJ/CACI), FBI, LIC 508D Affidavit, and rapback service requested) has to be done immediately. The information would then be documented on the SOC 815.

29. Are there any allowances made for relative providers due to inability to meet criminal clearances?

Assembly Bill (AB) 1695 (Statutes of 2001, Chapter 653) made no changes to the criminal records clearance requirements. The only exemptions to criminal records clearance continue to be those in H&SC Section 1522. If a relative/NREFM has a conviction for a non-exemptible crime, approval cannot be granted.

30. What are our options for fingerprinting when a resident of a proposed relative/NREFM foster home is not ambulatory and cannot get to the Live Scan site?

The requirement is to complete the fingerprint process. If there is a medical disability, the applicant (not the county) must obtain an exemption to submit manually-rolled fingerprints.

Effective July 1, 2005, PC Section 11077.1 mandates the DOJ only accept electronically transmitted fingerprint images. The DOJ has limited statutory authority to issue an exemption. If an exemption is needed, it is the responsibility of the applicant, not the county

approval entity, to submit the exemption request. However, there is no preclusion from the county assisting the applicant with a request for a fingerprint exemption. The applicant must submit a *BCII 9004-Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement* form and the *FD-258* form containing the manually-rolled fingerprints (performed by a certified fingerprint roller or qualified law enforcement personnel) to the California Department of Justice, P.O. Box 903417, Sacramento, California 94203-4170; (916) 227-3823.

For these individuals, the county should obtain a copy of the BCII 9004 and FD-258 from the applicant in order to document on the SOC 815 the date the FD-258 was submitted to DOJ. Use the "Live Scan Fingerprints Submitted" column to record the date the FD-258 was submitted, and when the clearance is received, record the date in the "Live Scan Received" column. Keep all the documentation that pertains to the exemption and rolled prints, and note on the SOC 815 that clearance is being obtained pursuant to PC Section 11077.1.

NOTE: Some entities that perform Live Scan and fingerprinting services to the public have a mobile service available. Please see the DOJ's listing of Live Scan/fingerprinting services sites at www.ag.ca.gov/fingerprints.

31. Do you need a DOJ rap sheet in order to have a criminal record exemption request processed?

Yes. With the passage of AB 1913 (Statutes of 2004, Chapter 373) which amended W&IC Section 309(d), both the DOJ rap sheet and criminal history provided via CLETS are the sources from which you will determine if a criminal record exemption is needed. Although a criminal record exemption process can be based on CLETS results, the relative/NREFM cannot be approved until Live Scan results are received and the exemption process completed. The county is required to fully explore criminal history information regarding the need to grant an exemption. In some cases, a caregiver will indicate a criminal conviction on the LIC 508D that is not shown on the rap sheet or from CLETS. In the situation where the individual discloses a conviction on the LIC 508D and the conviction does not appear on the rap sheet or a clearance is received from DOJ, the approval agency must use the self disclosure in lieu of or in addition to the rap sheet. Treat the disclosure the same as a subsequent conviction (see EM Section 7-1820). (See question 34 for the internet address to the online manual.)

32. If a caregiver has a criminal exemption done by CCL and/or a FFA, do we still need to do an exemption for approval if we are going to place the child as a relative placement?

If the home is a licensed foster home and you are using the foster home, then you do not need to process another exemption. The exemption in this circumstance has already been completed as part of the licensing process.

If the relative/NREFM home is a FFA certified home and you are making a placement to the FFA, you would not need to process another exemption. The exemption in this circumstance has already been completed as part of the certification process.

If the relative/NREFM home is a FFA certified home but you are making placement with the relative (not through the FFA), you would need to process an exemption.

33. Does the approval process for exemptions have to follow CCL guidelines exactly?

As stated in ACL 01-85, AB 1695 (Statutes of 2001, Chapter 653), establishes that the relative caregiver approval process employ the same standards used to license foster family homes. Therefore, the exemption process established for foster family homes and contained in 22 CCR, Section 89219.1 is to be followed when processing criminal record exemptions for relatives and NREFMs. CCL has developed criminal record exemption process guidelines and are contained in the Background Check Procedures section of the Evaluator Manual. (See question 34 for the internet address to the online manual.)

34. Are counties able to utilize the simplified exemption process to clear a criminal background?

Counties may use the simplified exemption process for criminal exemptions. Guidelines have been developed by CCL and should be utilized for approval purposes. The CCL simplified exemption process guidelines can be found in the Evaluator Manual at Section 7-1720. (The Evaluator Manual can be accessed at:

ccl.dss.cahwnet.gov/res/pdf/BACKGROUNDCHECKPROCEDURES.pdf).

35. Is Child Welfare responsible for processing criminal record exemptions for the county probation department?

No. A child welfare agency is not responsible for administering exemptions on probation cases. However, the child welfare agency may process exemptions for the probation department, if they so choose. CDSS, in accordance with H&SC Section 1522, has identified, through ACL 01-69, which county department has authority to grant exemptions. These departments are typically the local health and social services departments (child welfare agencies). CDSS recommends that the health and social services department and the county probation department negotiate an agreement through a Memorandum of Understanding (MOU) to establish responsibility for criminal record exemptions for probation cases.

36. What if the criminal record contains only arrests but no convictions? How do we clear the person? At the initial stage? Subsequent to approval?

H&SC Section 1522(a)(1) and (e) requires investigation of arrest for serious crimes as part of the criminal record clearance process prior to approval. All serious crime arrests of a relative or NREFM under consideration for initial approval must be investigated following the procedures contained in EM Section 7-1811. Similarly, if the county receives a notice of an arrest subsequent to approval, the arrest must be investigated following the EM procedures. Note that the criminal record exemption process applies only to convictions, and not arrests.

DOCUMENTATION

37. On the SOC 815, page 3, must the CLETS and CACI dates be the same? And must the Live Scan, FBI Requested and DOJ Rap-Backs Requested dates be the same?

The dates recorded on the SOC 815 should be the date the activity took place, or the specified documentation was received, or the investigation was completed, whichever is appropriate. Note: when an individual submits prints via Live Scan, the date requested will be the same for DOJ, CACI, FBI and rapback.

38. If I complete an approval and then do not place a child, do I send the documents to Eligibility?

No. The only time the SOC 815 is sent to eligibility is when a placement is made and State or federal foster care funding is to be claimed. If an approval is granted and a placement is not made, documents required for approval (i.e. SOC 815, 817, 818) should be placed in the child's case file (hard copy or on CWS/CMS).

NOTE: If the relative/NREFM assessment has been done in CWS/CMS and there is a completed approval, the assessment will be good for 365 days from the approval date in the event there is a subsequent decision to use the home for placement. It is the responsibility of the placing worker to verify with the approved relative/NREFM that there has not been any substantive change in the home that renders the home out of compliance with approval standards since initial approval prior to placing a child in the home. Substantive changes or placement beyond 365 days of the original approval will require completion of a new relative assessment in CWS/CMS in order to place a child in the home.

39. Is all of the approval paperwork kept in the minor's probation/CWS file or is it necessary to create an additional corresponding file on the caregiver? Also, are we supposed to keep the Live Scan results in our file or purge them as we do the CLETS information?

Your department may choose to keep the files in the probation/CWS case files or create a separate file. The location must be secure and confidential. All criminal clearance documents pertaining to the relative or NREFM caregiver, other adult(s) in the home, and any child(ren) over 14 years of age with a suspected criminal background for whom a clearance was sought (W&IC Section 361.4(b)) must be retained for three (3) years after the home is no longer used. (REF: ACL 03-55) For instructions regarding retention of other assessment/approval documents, please see question 41.

40. If we are placing a sibling group with a caregiver, are we required to attach the SOC 815, 817 and 818 to each child's case?

CWS/CMS Release 5.4 automated the processing of these documents. With Release 5.4, the SOC 815, 817 and 818 are generated from within the application and allow selection of multiple children placed with the same caregiver. The forms are accessible from within the child's case as appropriate. Therefore, you will no longer have to note in which file the form is located.

41. If we have approved more than one home for potential placement of the child, what do we do with the documents for those homes in which we do not make a placement? Do we attach the SOC 815, 817, and 818 for these approved but not used homes to the child's case, and if there is more than one child, to each child's case that could have been placed in the home? Finally, would we attach the denials?

These records do not need to be in the CWS/CMS; although with the CWS/CMS upgrade Release 5.4, counties will have the option of generating them within the child's case. MPP Section 31-075(h) establishes that assessments of relatives are part of the child's case record. Therefore, whether placed in the home or not, you should maintain the assessment documents, including denial letters, criminal record clearance documents, and grievance review hearing documents in the child's case file. It is the county's discretion to maintain the SOC forms of assessed but not used relatives in the CWS/CMS. (Please also see question 11 regarding record retention.)

42. All-County Information Notice (ACIN) I-56-04 gives instructions for completion of the SOC forms, and specifically instructs that the caregiver initial the statements on page 5 of the SOC 818. However, some of the statements may not be applicable to the placement. For those statements that are not applicable, can "NA" be inserted instead of the caregiver's initials?

Yes. The assessment/approval worker can insert "NA" in place of the caregiver's initials for those statements that are not applicable. The caregiver would initial only those statements that pertain to the placement. In order to meet compliance standards, the SOC 818 must be entirely filled out, which includes the caregiver's initials (or "NA" where applicable), the caregiver's signature and date signed.

43. Where in the CWS/CMS are the SOC 815, 817 and 818 located?

With Release 5.4 upgrades to the CWS/CMS, the documents have been designated as placement-related documents and are located in the Placement Notebook. For additional information on this new functionality, please see the updated training links found on Enclosure B.

CORRECTIVE ACTION PLAN (CAP) and DOCUMENTED ALTERNATIVE PLAN (DAP)

44. What is the difference between a documented alternative plan and a corrective action plan?

A Documented Alternative Plan (DAP) can be applied to only two sections of 22 CCR, Division 6, Chapter 9.5, Article 3: 89373 Telephones, and 89387(a)(1) – (10) Buildings and Grounds. A DAP is specific to a child, home and caregiver situation and does not expire until/unless the specific situation changes. An approved DAP indicates a home meets foster home licensing/approval standards. A Corrective Action Plan (CAP) is required when a caregiver or home does not meet a specific licensing/approval standard and no alternative approach to compliance is allowed. The CAP has a timeline for correction and a potential fiscal impact on funding for the caregiver placement if not corrected timely.

45. Does the Corrective Action Plan (CAP) have to be completed before the home can receive initial approval?

Yes, the CAP must be completed before the home can be approved for the initial assessment. Title IV-E (and State foster care for children placed with a NREFM) funding is not available until/unless the CAP is completed (i.e. repairs are verified as completed) and the approval granted.

46. It is unclear how the approval forms work when there is a corrective action plan (CAP). For instance, when and how are the SOC forms filled out when the child is not placed until corrective action is completed?

Whether a child is in placement does not affect completion of the SOC forms; the forms are completed similarly if a child is in placement (reassessment) or yet to be placed (initial assessment/approval). However, whether the child can remain in placement depends on the type of deficiency (see pages 3-5 of the SOC 817) and whether the approval is the initial or annual assessment (reassessment).

At the initial assessment, all deficiencies (immediate and potential) must be corrected prior to approval and placement. At reassessment (which means a child is in a previously approved placement), an immediate impact deficiency must be corrected immediately or the child removed from placement. However, if at reassessment a potential impact deficiency is found, the child may remain in the placement pending correction of the deficiency. In either case, documentation of the deficiency and/or CAP is the same whether the child is in the home or placement is pending. The county should document all deficiencies found during an assessment and prepare written CAPs.

The assessment/approval worker would document the needed CAP on the appropriate page(s) of the SOC 817 and prepare the actual plan of correction, following the instructions on page 5 of that form. Those instructions require the assessment/approval worker to provide the CAP in writing, describing the deficiency; citing the regulation section in violation; the corrective steps to be performed by the "applicant" and the assistance to be provided by the county; the date by which each deficiency must be corrected; and, the county office phone number.

The assessment/approval worker would document a CAP on page four of the SOC 815 and would mark the second check box on page two and insert the date on which the home otherwise met all other approval standards. Upon completion of the CAP, the assessment/approval worker would mark the check box indicating the plan of correction was completed and insert the date on which the CAP was completed; the assessment/approval worker would also then mark the check box indicating the caregiver meets the approval standards and insert the date the home fully meets all standards. At this point, the assessment/approval worker would sign and date the SOC 815.

If the CAP was not completed according to the written plan and/or by the completion date, the assessment/approval worker would mark the check box indicating the plan of correction was not completed and mark the check box indicating the caregiver does not meet the approval standards and insert the date.

NOTE: For monitoring purposes, page four of the SOC 815 must be filled out to conform with the SOC 817 in order for the SOC 815 to be considered complete.

47. Are there mandated forms for the Documented Alternative Plan (DAP) and Corrective Action Plan (CAP)? How do counties document these activities?

There is no official CAP or DAP forms; however, the SOC forms must capture whether a DAP exists or a CAP was done. The SOC 817, page five, has specific information that must be contained in a CAP. It is up to counties to determine how a CAP or DAP is to be documented. Some counties have developed their own forms on which they document DAPs and CAPs.

RELEASE 5.4 TRAINING MATERIALS AND RESOURCES

With each software release, the CDSS and the CWS/CMS Project provide system users with updated information about the changes. This customary practice orients users to new functionality and its use. Because these upcoming revisions are both critical and extensive, information will be available to assist users from multiple sources. The code drop for the system changes occurred on February 14, 2005. The following is a summary of the available training tools and where you can find updated information.

ON-LINE RELEASE NOTES (ORN) TOOL

This tool contains a detailed list of all the System Change Requests (SCR's), Data Processing Umbrella (DPU's), and Program Tracking System (PTS) requests along with Screen Shots for Release 5.4. The ORN document summarizes the impact of each of these system changes and where the new changes occur in the application. The ORN is available through an engaging, animated display on the Project's web site at:

www.hwcws.cahwnet.gov/training.asp.

SCENARIO MANAGER APPLICATION

This software provides users with a simulated CWS/CMS environment in a classroom setting. This application was updated to reflect the Release 5.4 changes and was mailed to each county SPOC and CDSS office approximately 60 days prior to the actual implementation on CWS/CMS. Some county instructors and Single Points of Contacts (AKA as a "SPOC") use Scenario Manager to extract screen shots for training purposes. The link for the training guide for the Scenario Manager may be found at: www.hwcws.cahwnet.gov/training.asp.

NEW USER CURRICULUM

Training manuals for new users of CWS/CMS have been revised and will be incorporated into future trainings statewide. These manuals are accessible through the CWS/CMS Project website at: www.hwcws.cahwnet.gov/training.asp. The curriculum is designed to be used in conjunction with Scenario Manager. It may also be modified for counties who have special needs or procedures.

WEB-BASED TRAINING (WBT)

Currently, there are two updated modules available for intermediate users and supervisory/managerial staff online at: www.hwcws.cahwnet.gov/training/WBT/.

COUNTY TEST WORKSHOP LETTER

The CWS/CMS Project disseminated a letter to County Welfare Directors and agency SPOC's on December 30, 2004. The letter discusses the findings of their efforts and discusses some related issues. Counties may need to examine their internal workflow procedures in light of Release 5.4. A copy of the letter can be found in the County Logon Section of the Project web site in the link for, "correspondence" at:

www.hwcws.cahwnet.gov/County%20Logon/Correspondence/2005/CountyTesting5.4.PDF

COMPUTER-BASED TRAINING (CBT)

The new version of this training tool is now web enabled and reviews many basic functions in CWS/CMS. It provides supplementary help to new users while seasoned workers can obtain a concise review. CBT can be found on the CWS/CMS web site but requires the trainee to download some enabling software (if not previously used) (known as, "Authorware") which can be found at: www.hwcws.cahwnet.gov/Training/GBTwebFiles/loadplugin.asp.

QUICK REFERENCE GUIDES

These brief reference tools are available in versions for both supervisory and line workers at the link below. Digital copies contain frequently asked questions (FAQ), application flow charts, and other commonly performed procedures.

The following materials or information can currently be found at the web page:

<http://www.hwcws.cahwnet.gov/training.asp>:

- New Training Bulletins
- Instructor's Pages For The New User
- Scenario Manager Guide
- Training Region Guide

And finally, the following updated reference material will be available on the same web page at the link provided below:

- Outcomes and Accountability Training Guide
- Instructor's Guide

You may find the items in this section under the heading, "Training Guides," on the CWS/CMS web site at: www.hwcws.cahwnet.gov/training.asp.