

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 21, 2007

ALL COUNTY LETTER NO. 07-52

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES
PROGRAM MANAGERS

SUBJECT: THE USE OF SUBSTANTIAL RISK AS AN ALLEGATION

REFERENCE: PENAL CODE SECTIONS 11165.6 AND 11169

The enactment of Assembly Bill 636 (Chapter 678, Statutes of 2001) placed increased importance on the need for accurate, timely, and complete Child Welfare Services (CWS) data. The Child Welfare Services/Case Management System (CWS/CMS) is the primary source of information for the Quarterly County Data Reports for the California Child and Family Services Review (C-CFSR) for each child welfare agency. This All County Letter (ACL) is intended to assist counties in meeting critical CWS program documentation, data reporting, and program performance measurement requirements. This and future letters will provide information to assist counties in uniformly following program policy and data entry protocols to continuously improve data in the CWS/CMS.

The purpose of this ACL is to provide direction for the use of substantial risk as an allegation. When substantial risk was created as an allegation type, it was intended to be used in instances when a caseworker planned to provide ongoing voluntary, preventative services to the family. However, it has frequently been used when another, more appropriate allegation, such as caretaker incapacity or at-risk, sibling abused should have been used. As no policy letter has been issued to counties on the use of substantial risk, it has not been used consistently statewide and is impacting data quality.

The use of substantial risk as an allegation type should only be used after the completion of an investigation, and should only be used to open a case for the purposes of providing voluntary services. The type of case needing such services can be determined by the use of the risk and safety assessment tools (Comprehensive Assessment Tool or Structured Decision Making), based on the needs of families whose

current situation does not rise to a substantiated allegation of child abuse and/or neglect.

Substantial risk should not be used as an allegation of child abuse and/or neglect at Referral Intake (the Hotline). An allegation should be used that most closely corresponds to the referral to the Hotline such as neglect, physical abuse, caretaker absence/incapacity, etc.

Substantial risk should also not be used as an allegation in the following situations:

- As a substitute for an at-risk, sibling abused allegation;
- As a substitute for a caretaker absence/incapacity allegation;
- As an initial or secondary allegation in a referral; or
- As a reason to remove a child or youth for placement in out-of-home care.

AT-RISK, SIBLING ABUSED

The at-risk, sibling abused allegation is to be used when a report has been made about a child alleging abuse and/or neglect, and the child's sibling(s) are also at-risk of abuse and/or neglect.

CARETAKER ABSENCE/INCAPACITY

The caretaker absence/incapacity allegation should be used when a child has no parent or guardian capable of providing appropriate provisions for care. In some of these cases the parent or guardian has been incarcerated or institutionalized and no provision for care has been arranged for the child for the duration of his/her absence. In other cases the parent or guardian's whereabouts are unknown at that time, and it appears the parent or guardian has no intention of returning.

BACKGROUND OF SUBSTANTIAL RISK

California Penal Code section 11165.6 defines "child abuse or neglect" to include physical injury inflicted by other than accidental means upon a child by another person, sexual abuse, neglect, the willful harming or injuring of a child or the endangering of the person or health of a child, and unlawful corporal punishment or injury.

There are several types of allegations used in a suspected child abuse and/or neglect report; they may be used singly or in tandem. Currently the allegation types that exist on CWS/CMS are sexual abuse; physical abuse; severe neglect; general neglect; exploitation; emotional abuse; caretaker absence/incapacity; at-risk, sibling abused; and substantial risk.

In 2000, the allegation type of "substantial risk" was added to CWS/CMS as a workaround, at county request, because CWS/CMS would not permit a referral without a substantiated allegation to be associated to a case.

However, no related policy on substantial risk was created or disseminated by the California Department of Social Services (CDSS). Prior to 2000, in order for a social worker to open a case in CWS/CMS, a substantiated allegation was required. With the creation of substantial risk, the requirement of CWS/CMS that a substantiated allegation exist in order for a referral to be promoted to a case could be met without substantiating actual abuse and/or neglect in order to provide services.

CHILD ABUSE CENTRAL INDEX (CACI)

Since there is no legal definition found for an allegation of substantial risk in the California Penal Code, Child Abuse and Neglect Reporting Act (section 11169), Emergency Response investigative workers are not legally required to submit SS 8583 reports (Child Abuse Summary Report) on substantiated allegations of substantial risk. For further information on the Child Abuse Central Index (CACI), an All County Information Notice will be issued soon which will contain information on the proper use of the CACI, and the reporting requirements for specific incidents of child abuse and neglect investigations to the Department of Justice.

FUTURE CHANGES TO CWS/CMS

While a case can be opened on CWS/CMS with no referral, such as in the case of the Interstate Compact on the Placement of Children (ICPC), when opening a case for voluntary services it is important to link the referral investigation/assessment and disposition to the case. Therefore, until CWS/CMS can be changed, the creation of a substantial risk allegation will be used to open a voluntary Family Maintenance case when other abuse or neglect allegations were unfounded or inconclusive. A CWS/CMS system change request has been submitted to permit a referral to be associated to a case, even if the allegations are not substantiated. Once the system change request has been implemented, the allegation of substantial risk will no longer be used.

THE CLOSING OF REFERRALS NOT BEING PROMOTED TO A CASE

In the process of researching the issue of substantial risk, a sample of referrals statewide were reviewed using CWS/CMS. In a number of cases, old referrals that were not being promoted to a case were found to still be open. Upon closer examination it was discovered that in many cases all of the work had been completed by the worker, but the referral had not been closed on CWS/CMS. A county can not be reimbursed until the referral is closed. If a referral is left open, that referral will not be

counted even though the investigation and the provision of services to the family have been completed. Counties may wish to review their open referrals that have been open for 30 days or longer to ensure that those referrals that have been completed and are not being promoted to a case have actually been closed on CWS/CMS.

For further information about funding for referrals, please refer to the SOC 291 Guide: Getting Maximum Counts for Allocation. The purpose of the user's guide is to clarify the procedures that must be followed in order to ensure that counties will get the maximum number of counts possible for allocation funding. The user's guide addresses four CWS/CMS reports used by CDSS in calculating allocation funding, and may be found on the CWS/CMS web site at:
<http://www.hwcws.cahwnet.gov/Resources/Guides/CWSApplication/CaseMgmt/>

If you have questions about this letter or need assistance, please contact me at (916) 657-2614 or you may contact, Lee Ann Kelly, of the Child Welfare Policy and Program Development Bureau at (916) 651-6160.

Sincerely,

Original Document Signed By:

MARY L. AULT
Deputy Director
Children and Family Services Division

c: County Welfare Directors Association