

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, California 95814



October 30, 1998

ALL-COUNTY LETTER NO.98-87

TO: ALL-COUNTY WELFARE DIRECTORS

SUBJECT: **CLARIFYING PROCEDURES FOR ASSESSING A MINOR'S NEED FOR PROTECTIVE SUPERVISION IN THE IN-HOME SUPPORTIVE SERVICES PROGRAM**

REASON FOR THIS TRANSMITTAL

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

This All-County Letter informs counties of a clarification in the In-Home Supportive Service (IHSS) Program, which resulted from the settlements of the Garrett v. Anderson and Lam v. Anderson court cases. The clarification covers procedures for assessing a minor's need for protective supervision (PS) under Manual of Policies and Procedures (MPP) § 30- 757.17.

Under the terms of the judgment and ACL No. 98-58, we are citing the state regulations, and statutes which this ACL clarifies.

Counties should apply the substantive standards for protective supervision in MPP § 30- while following the assessment procedures clarified in this ACL.

ASSESSING MENTAL FUNCTIONING OF MINORS

- A county social worker should always assess an IHSS eligible minor for mental functioning MPP § 30-756.1, 756.2, 761.261; Welfare & Institutions Code (WIC) § 12300(d)(4), 12301.1, 12309, (b)(1)(2)(c) The following steps must be taken when assessing a minor's mental functioning:
 - The county social worker must review a minor's mental functioning on an individualized basis and must not presume a minor of any age has a mental functioning score of ³1. MPP § 30-756.372; WIC § 12301(a), 12301.1.
 - A county social worker must assess all eligible minors for a mental impairment. In doing so, the worker must request the parent or guardian to obtain available information and documentation about the existence of a minor's mental impairment. MPP § 30-756.31, 756.32. For example, is the minor SSI eligible based on mental impairment? Or is the minor eligible for regional center

- services based on mental retardation, autism, or a condition like mental retardation or needs services like someone with mental retardation?
- A county social worker must evaluate a mentally impaired minor in the functions of memory, orientation, and judgement. MPP § 30.756.372.
 - The county social worker should review the information, and documentation provided by the parent or guardian. A county social worker is not required to independently obtain such information and documentation, but should ask parents or guardians to do so if they can.

ADVISING PARENTS OF THE CONDITIONS FOR A MINOR TO RECEIVE PROTECTIVE SUPERVISION

- A county social worker must advise parents or guardians of a minor with a mental impairment of the conditions for receiving PS.
- A county social worker must advise parents or guardians of the availability of PS. A parent or guardian does not have to specifically request this information. MPP § 30- 760.21, 760.23, 760.24; WIC § 10061, 12301.1, 12309(c)(1).
- A county social worker is not to presume that services, which are otherwise compensable, will be provided voluntarily by a parent or guardian or anyone else in accordance with MPP § 30-763.622.

ASSESSING A MINOR'S NEED FOR PROTECTIVE SUPERVISION

- A county social worker must assess the minor's need for PS under MPP § 30-757.17, if the minor has a mental impairment.
- A county social worker must assess each minor with a mental impairment for PS based on individual need. MPP § 30-756.1, 756.2, 761.261; WIC § 12300(d)(4), 12301.1, 12309(b)(1), (2)(C). In doing so, request the parent or guardian to obtain available information and documentation about a minor's mental impairment, including other agency records like those from regional centers with the written consent of parents or appropriate persons, and then review such information and documentation. (MPP 30- 761.26). A county is not required to independently obtain such information and documentation, but must ask the parent or guardian to do so.
- A county social worker must determine whether a minor needs more supervision because of his/her mental impairment than a minor of the same age without such impairment. WIC § 12300(d)(4).

- A minor must not be denied PS based solely on age. WIC § 12301.1.
- A minor must not be denied PS based solely on the fact that the minor has had no injuries at home due to the mental impairment so long as the minor has the potential for injury by having the physical ability to move about the house (not bedridden). MPP § 761.26, MPP § 30- 763.1; WIC § 12300.
- A minor must not be denied PS solely because a parent leaves the child alone for some fixed period of time, like five minutes. MPP § 30-761.26, 30-760.24, 30-763.1; WIC § 12301.1.
- A county social worker must consider factors such as age, lack of injuries and parental absence, together with all the other facts, in determining whether or not a minor needs PS. WIC § 12301.1.

Any additional questions or clarification pertaining to this court case or the ACL maybe directed to the Operations and Technical Assistance Units and the analyst assigned to your county at (916) 229-4000.

Sincerely,

***Original Document Signed By Donna
L. Mandelstam on 10/30/98***

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachment: Superior Court Order