

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



FOSTER CARE AUDITS AND RATES LETTER NO. 2006-04

TO: ALL GROUP HOME PROVIDERS
ALL COMMUNITY TREATMENT FACILITY PROVIDERS
ALL FOSTER FAMILY AGENCIES
ALL REGIONAL CENTER GROUP HOMES
ALL REGIONAL CENTER FOSTER FAMILY AGENCIES
ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL COUNTY MENTAL HEALTH DIRECTORS

SUBJECT: AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE
(AFDC-FC) RATES FOR GROUP HOMES-PROGRAM INFORMATION

The purpose of this Foster Care Audits and Rates Letter (FCARL) is to provide helpful information that will assist providers in developing programs designed to deal with rising costs and occupancy fluctuations associated with AFDC-Foster Care group home (GH) programs; identify common issues in program administration that may cause audit findings and provide remedies available to providers to avoid program audit exceptions; and provide clarifying information on financial audit requirements.

This information is presented in a question and answer (Q & A) format. It is designed to support group home providers by identifying those areas where existing program flexibility can be used to improve the "purchasing power" of the program's rate classification level (RCL); identify the most common issues of audit findings for provisional and non-provisional program audits; and ensure that providers are aware of the financial audit requirements including audited cost data requirements.

PROGRAM FLEXIBILITY

Q: What types of prior experience qualify for Child Care and Supervision (CC&S) experience weighting?

A: Under existing regulations, qualifying work experience includes work in other group homes, county receiving homes or shelters, county juvenile halls or camps, juvenile detention facilities, public or private mental health day treatment programs, and being a licensed or certified foster parent. Additionally, current regulations allow qualifying work experience as a teacher of Seriously Emotionally Disturbed (SED) children, juvenile probation officer or child protective services worker, even though the work is not in a residential setting. Experience in areas such as child day care, residential adult drug and alcohol treatment programs or mental health treatment qualifies *only* when the program statement specifies that the population of children served requires this experience and it is appropriate for the population. For example, a group home program for children under six years old would not require staff with work experience from a juvenile detention facility. Consistent with existing regulations, if providers utilize staff with work experience outside of those listed, providers should ensure that the program statement indicates and justifies the type of staff experience that is required for the program. Additionally, any qualifying work experience of the child care worker must have direct relevance to the program.

Q: What documentation do I need to qualify child care and supervision staff for education weightings?

A: Formal education may be used to weight child care and supervision hours; however, providers must document college credits or degrees that are used to qualify for the educational weighting and the institution must be an accredited or state approved school. If the diploma does not show the major, official transcripts are required to verify the major. *A bachelor's or master's degree in a major **not** listed in the August 30th report, such as a criminal justice degree, qualifies for a weighting as do other disciplines approved by the Department if directly relevant to the provision of services to foster care children to be served by the group home program.* In determining whether a degree is relevant to the provision of services to foster children in the group home program, CDSS will review the provider's program statement and any justification submitted by the provider demonstrating such relevancy, any description of the degree by the granting university, and whether or not the degree is from an accredited or state approved school. Providers will be notified by their rates analyst if a degree does not qualify for any reason.

Q: Are Behavioral Science degrees limited to those identified in MPP 11-400b.(4)?

A: No. CDSS accepts any degree that meets the definition of behavioral science for rate setting purposes, even if it not listed in the regulatory definition. However, providers must ensure that if the degree is not one of those listed in the regulations, the university issuing the degree will declare the particular degree as a behavioral science degree. If there is a question about the degree meeting the behavioral science standard, providers should call the university to verify the degree field and document the conversation. Documentation should include the date of the conversation, the name and title of the person you are talking to, and a checklist of specific questions regarding the degree including whether or not the university or college views the subject degree as a behavioral science field. Auditors will check your verification.

Q: Can I double weight a direct contact contract social worker who also provides ancillary services?

A: Yes, under specific circumstances. A social worker who is a Licensed Independent Contractor can have one contract to provide direct contact services and another contract to provide ancillary services. Only the direct contact hours can be double weighted. However, in accordance with Business and Professions Code Section 4980(b) and 4996(b), the social worker “must be licensed to engage in therapy, counseling, etc.” therefore, only licensed social workers can be double weighted; this includes Licensed Clinical Social Worker (LCSW) and Licensed Marriage and Family Therapist (LMFT). Business and Professions Code Section 4980.43(b) also requires that interns and trainees be under the supervision of a licensee at all times, and supervision is defined as “responsibility for and control of services”. Additionally, independent contractors must meet the requirements of an Independent Contractor as provided in Section 3353 of the California Labor Code. The double weighted hours must be billed separately, or identified separately, from ancillary services and no more than 20 hours per week can be double weighted.

Q: How can I maintain my RCL points with the recent trend of decreased county placements?

A: Recently, some providers have been experiencing a decrease in placements which results in low occupancy and may lead to failing an audit. Rather than reduce the capacity on the Community Care Licensing (CCL) license, some providers have requested that they be allowed to leave their licensed capacity on a facility unchanged, while identifying only the specific number of beds within a facility that are associated with the program for rate setting and auditing purposes.

There are no statutory or regulatory restrictions which would prohibit a provider from reducing the number of beds or facilities within a group home program for rate setting purposes. The Foster Care Audits and Rates Branch has determined that it is permissible for a provider to request that a specific facility or number of beds within a facility be removed from their program for rate setting and auditing purposes. For example, a facility may have a licensed capacity of 12 beds, while only 9 beds are associated with the AFDC-FC program. As a result, the 90 percent occupancy rule would apply to the AFDC-FC *program's* capacity of 9 beds rather than the total licensed capacity of 12 beds. However, the program capacity used for rate and audit calculations can be no less than 6 beds or 5.4 using the 90 percent occupancy factor. With respect to non AFDC-FC beds, CDSS does not restrict program use apart from placement and licensing requirements. Providers should use this flexibility to develop long-range program planning.

Q: How do I decrease my program capacity?

A: In order to decrease the program's AFDC-FC rate capacity as described above, the provider must submit an SR 1 and SR 2 requesting that the program capacity be decreased with a letter explaining the exact nature of their request, i.e., whether they intend to maintain or reduce the capacity on the CCL license. Upon receipt of the program capacity decrease application, the FCRB will issue a letter decreasing the program capacity of the group home program for purposes of AFDC-FC funding. The letter will also advise the provider that if it accepts any placements from non AFDC-FC sources, it must maintain a separate accounting system to distinguish AFDC-FC from non AFDC-FC services and funding.

Q: Can I increase the program capacity if I start receiving more county AFDC-FC placements?

A: If a provider wants to increase the program capacity back to the licensed capacity at a later date, a letter requesting that the program capacity be increased up to the licensed capacity and new SR 1 and SR 2 forms requesting a program capacity increase must be submitted. The FCRB will issue a letter increasing the program capacity of the group home program for purposes of AFDC-FC funding.

Q: How often can I make these changes to my licensed capacity?

A: Providers should use this flexibility to develop long-range program planning. The program capacity change application process may take some time to complete; therefore, the number of times a program capacity can be decreased and

increased will be limited to no more often than once every six months.

Q: What are the effective dates for program capacity decreases and increases?

A: The effective date of the program capacity decrease or increase will be the later of the date the FCRB receives your written request for a program capacity change or the proposed effective date on the SR 1 form.

Q: How will this program capacity decrease affect a program audit?

A: In the event of an audit, a provider would be audited to 90 percent of the program capacity, but no less than 5.4 beds. Additionally, a provider accepting non AFDC-FC placements will be required to provide evidence that a cost allocation methodology has been developed to distinguish between the hours and services provided for both AFDC-FC and non AFDC-FC placements as required by CDSS Manual of Policies and Procedures (MPP) Section 11-402.846.

POTENTIAL AUDIT FINDINGS

Q: What are the time allocation requirements for dual function employees?

A: The time spent by dual function staff must be allocated, or time studied, to each specific function. There are five functions: Administration, Child Care and Supervision, Mental Health Treatment, Social Work, and Other duties. For example, an Administrator of a group home can perform two or more functions such as administration, child care and supervision, and social work. The Administrator must track (time study) how much time is spent doing each of these functions. This allocation must be indicated in a manner that allows an auditor to identify those hours that can be weighted and pointable (such as a time card).

Q: Do I have to allocate time for staff working in different programs?

A: A facility may operate several programs with various funding sources. For example, a social worker might provide services for the Foster Care program, a Drug and Alcohol program, and a Prenatal program. The social worker's time must be allocated between the three programs to determine the number of hours that can be counted for points for each program.

Q: Should I be aware of other requirements for time keeping?

A: Eligible hours of compensation for the program components must be compensated in accordance with the Department of Industrial Relations, Title 8, California Code of Regulations (CCR), Section 11050, Order Regulating Wages, Hours, and Working Conditions in the Public Housekeeping Industry. A copy of this order must be posted in an area frequented by employees where it can be easily read. <http://www.dir.ca.gov/lwc/IWCArticle5.html>

Q: How does this requirement affect an audit?

A: Providers recording eligible hours of compensation should be aware that this is an audit area that comes under a lot of scrutiny. Allowable hours for points includes monitoring the 54 hour cap, allocation of time, and Industrial Welfare Commission wage orders regulating minimum wage requirements, paid meal time, breaks, overtime, etc. If a provider is out of compliance with the Industrial Welfare Commission wage orders, the provider is also out of compliance with eligible hours for program components.

Example

Allocation of Dual Function Employee - A Child Care Worker who is identified as performing a dual function must allocate his/her time on timesheets. If an auditor discovers that an individual is identified as performing a dual function and there are no timesheets to document an allocation of his/her administrative time separately from CCS hours, the auditor will automatically reduce the CCS hours by twenty (20) hours per week, or 86.60 (20 hours X 4.33) per month, from the audited CCS hours for a 6-bed group home program or will disallow all hours for a 12-bed program. In addition, if the same individual is also performing Social Work and Mental Health services for a 6-bed program, as well with no timesheets or invoices to prove hours of service, all of these hours would be disallowed.

Example

Minimum Wage - Eligible CCS hours of compensation must be paid in accordance with the Department of Industrial Relations. When an auditor discovers that a CCS staff does not meet the Department of Industrial Relations compensation rules and was not paid minimum wage, by dividing the total compensation by the CCS hours reported, the auditor will then divide the CCS staff's total compensation by the minimum wage to identify the total CCS hours allowable to meet the minimum wage order. Generally, this scenario happens when a staff member is salaried or the group home did not have sufficient funds to pay for the total hours worked for the month.

Example

54-Hour Workweek Limitation - In reviewing timesheets, an auditor discovers that a provider has reported that a CCS staff has worked more than 54 hours in a given week. The auditor will review the files or request appropriate documentation to verify that the hours worked in excess of 54 hours in a week were necessary to prevent children from being in an unhealthy or unsafe situation, the employee was compensated for the additional hours in accordance with Department of Industrial Relations, and that the employee was not required to work in excess of 54 hours on a regular basis. If the auditor is unable to document that these three situations existed, the auditor would disallow the CCS hours worked in excess of 54 hours in a week.

Q: What type of records should I keep?

A: For audit purposes, time cards, time sheets, invoices, cancelled checks, and payroll documents are very important because they verify paid awake hours used to calculate the points. To ensure compliance for audit purposes, Administrators should use time keeping records that will identify the number of hours worked in the work week, any allocation of time to different activities, paid training hours, sick or vacation hours if applicable, and lunch or dinner periods. The Industrial Welfare Commission Order No. 5-2001 (Updated as of January 1, 2005) has specific requirements for meal periods and requires an employee be relieved of all duty for a 30 minute meal period. Unless the employee is relieved of all duty during the 30 minute meal period, the meal period is considered as an "on duty" meal period and counted as time worked for which the employee must be paid. On duty meal periods are only permitted when the nature of the work prevents an employee from being relieved of all duty, and in the group home setting, this would mean the employee is the sole provider of care to a child or children in the

group home.

Employers should be aware that this arrangement has to be a written agreement between the employer and employee and that it is revocable by the employee at any time.

Q: The regulations state that no more than 20 hours per week for contracted social workers and a minimum of 20 hours per week for administrative functions can be allowed. Are the 20 hours calculated on a straight 20 hour week?

A: No. Because there are 52 weeks in a year, if divided by 12 months in the year the number of weeks in a month average 4.33. Therefore, monthly hours for 20 hours per week will always be calculated by 4.33 weeks per month.

Q: For a six-bed program in which the administrator and/or the facility manager perform both child care and administrative functions and do not allocate their work hours, how are the minimum 20 hours per week of administrative hours allocated?

A: The administrative hours are allocated using a calculated capped total of 86.60 administrative hours per month. This administrative capped allocation is computed as follows:

Number of weeks in a year = 52
Average number of weeks in a month = $52 \text{ weeks} / 12 = 4.333$
Minimum Administrative Hours = 20 hours per week
Allocated Administrative Hours per Month = 86.60 (20 hours per week x 4.333 average number of weeks in a month)

EXAMPLE

Allocation Among Functions: Administrator – In a provisional audit of a six-bed program, the auditor observes that the administrator is not allocating his/her hours between child care and administrative work performed. The total monthly hours worked by the administrator are 110 hours. Using the above formula, the auditor would allocate the hours for the administrator as follows:

<u>Hours Worked Per Month</u>	<u>Hours Allocated To Admin Function</u>	<u>Child Care Hours Allowed</u>
110 hrs	86.60	23.40

EXAMPLE

Allocation Among Functions: Facility Manager and Administrator -

In a provisional audit of a six-bed program, the auditor observes that the Administrator and the Facility Manager are not allocating his/her hours between child care and administrative work performed. The total monthly hours worked by the administrator are 110 hours and the Facility Manager worked 100 hours in the same month. Using the above formula, the auditor would allocate administrative hours for the Administrator and the Facility Manager as follows:

<u>Hours Worked Per Month</u>	<u>Hours Allocated To Admin Function</u>	<u>Child Care Hours Allowed</u>	
110 hrs	86.60	23.40	Administrator
100 hrs	86.60	13.40	Facility Mgr

Q: For a social worker who is a Licensed Independent Contractor and has a direct contact contract, how are the direct contact hours capped if the provider reports more than 20 hours per week?

A: The double weighted direct contact hours for a social worker who is a Licensed Independent Contractor under a direct contact contract are capped at a maximum of 86.60 hours per month. Any social work hours exceeding this allowable maximum are single weighted. The 86.60 hours per month maximum of direct contact hours is computed as follows:

Number of weeks in a year = 52

Average number of weeks in a month = $52 \text{ weeks} / 12 = 4.333$

Minimum Administrative Hours = 20 hours per week

Allocated Administrative Hours per Month = 86.60 (20 hours per week x 4.333 average number of weeks in a month)

EXAMPLE

Direct Contact Hours: Social Worker – Maximum of 20 hours per week. In auditing the social work component, the auditor observes that the provider is routinely claiming 25 hours per week of direct contact hours. The social worker meets all the qualifications and requirements of an independent contractor. How are the direct contact hours capped if the maximum allowable hours per week are exceeded? Using the above formula, the auditor would cap the double weighted direct contact hours as follows:

<u>Direct Contact Hours Claimed</u>	<u>Direct Contact Hours Capped</u>	<u>Single Weighted Hours</u>
100	86.60	13.40

FINANCIAL AUDIT REQUIREMENTS

Q: I am still confused about the requirement and due dates for Financial Audit Reports. Where can I find this information?

A: A financial audit report (FAR) and audited cost data (SR 3 and SR 4 for group homes and FCR 12 FFA for foster family agencies) are required as a condition of receiving an AFDC-FC rate. The annual FAR due date for a corporation with combined federal revenues of \$300,000 or more is specified in MPP Section 11-405.213(a) and the triennial FAR due date for a corporation with combined federal revenues below \$300,000 is specified in MPP Section 11-405.213(b). The MPP can be accessed on the web at:
http://www.dss.cahwnet.gov/ord/CDSSManual_240.htm.

Q: Do I continue to submit my FAR with my biennial rate application package?

A: Please remember that the FAR and audited cost data are not associated with the biennial rate application package and may be required for a year when a rate application is not due. The non-profit corporation must submit the required FAR and audited cost data to the CDSS Program and Financial Audits Bureau (not to the Foster Care Rates Bureau) by the required due date, which is determined by the non-profit corporation's fiscal year. The FAR must be submitted either annually or triennially depending upon the amount of federal revenues received. See MPP Section 11-405.213(a) and (b). The FAR and audited cost data should be submitted to the CDSS at the address below:

California Department of Social Services
Foster Care Audits and Rates Branch
Program and Financial Audits Bureau
ATTENTION: Financial Audits Unit Manager
744 P Street, MS 9-23
Sacramento, California 95814
FAX (916) 657-3527

Q: Are there any other documents that should be submitted with the FAR?

A: For each year that a non-profit corporation is required to submit a FAR, audited cost data must also be submitted. As specified in MPP Section 11-405.214, cost data must be audited by an independent Certified Public Accountant (CPA) and submitted using specific cost data forms (SR 3 and SR 4 for group homes, and FCR 12FFA for foster family agencies).

Q: How does my CPA certify audited cost data?

A: The independent CPA can certify that cost data has been audited by:

- Including a statement in the Independent Auditor's Report which clearly indicates that the cost data were audited as required by the CDSS, or
- Completing and signing the "Certification of Audited Cost Data" SR 10 and attaching the cost data forms that were audited. The SR 10 can be accessed on the web at <http://www.dss.cahwnet.gov/pdf/sr10.pdf>.

Q: Is it my responsibility to give FCARL information to my CPA?

A: Yes. To maximize the non-profit corporation's ability to submit a timely and acceptable FAR, copies of all FCARLs containing Financial Audits items should be given to the corporation's Independent CPA and to the individual within the corporation who is directly responsible for submitting the FAR as a condition for the corporation to continue receiving a Foster Care rate.

Q: How and when should I engage an Independent CPA to ensure submission of an acceptable and timely FAR?

A: To ensure timely submittal of a FAR, the non-profit corporation should engage an Independent CPA early enough so that the FAR can be submitted by the due date specified in MPP Section 11-405.213(a) for an annual provider (earlier of 30 days after receipt of the independent auditor's report or nine months after the end of the non-profit corporations' most recent fiscal year); or MPP Section 11-405.213(b) for a triennial provider (earlier of 30 days after receipt of the independent auditor's report or six months after the end of the non-profit corporations' most recent fiscal year). The CPA selection process should be initiated at least three (3) months prior to the FAR due date, taking into consideration the number of CPAs who may be available to perform financial audits where the non profit corporation is located.

The corporation can contact the California Board of Accountancy for general information about selecting a CPA and to ensure that the CPA selected has a valid license. This information can be accessed on their website at www.dca.ca.gov/cba

or by calling (916) 263-3680. Before engaging a CPA, the corporation should also inquire about the CPA's existing workload in determining whether the CPA can complete the audit by the required due date.

Q: If I still have questions about the FAR due date or other financial audits requirements, who should I call?

A: To ensure that an acceptable FAR is submitted on a timely basis, the non-profit corporation should contact Financial Audits staff at (916) 651-9155 regarding the due date for the non-profit corporation's next required FAR and for additional details regarding FAR and audited cost data submission requirements.

Annual and Triennial Financial Audit Reporting Reminders

- To be considered for placement on a triennial reporting schedule, a non-profit corporation that has been required to submit a FAR annually must submit (1) a written request to CDSS for consideration of placement on the triennial schedule; and (2) a FAR for the most recent fiscal year with audited financial statements documenting combined federal revenues below \$300,000. Additionally, if the audited financial statements included with the FAR submitted for the most recent fiscal year confirm that federal revenues are below \$300,000, CDSS will use this fiscal year as the base year in establishing the triennial reporting schedule. (Refer to FCARL No. 2005-02 dated June 2, 2005 for further details).
- For a non-profit corporation that is on a triennial financial audit reporting schedule, the corporation must submit for each year that a FAR is not required (1) cost data as specified in MPP Section 11-405.213(b) and (2) a completed Federal Revenue Certification form, SR 9, certifying that combined federal funds for the most recent fiscal year were less than \$300,000, as specified in MPP Section 11-405.213(b)(3).
- As specified in MPP Section 11-405.213(b)(4), when a non-profit corporation that is on a triennial financial audit reporting schedule receives total federal revenues in excess of \$300,000 during a fiscal year for which a FAR is not scheduled, it shall report this federal revenue to the CDSS within three months from the end of the corporation's fiscal year. In addition, the non-profit corporation shall submit a FAR which meets Office of Management and Budget Circular A-133 standards within nine months after the end of the corporation's fiscal year.

If you have any questions regarding the information given in this FCARL, please call (916) 651-9155. Contact your Rates Analyst for rates questions, the Program Audits Unit for audit questions, and the Financial Audits Unit for financial audit questions.

GLENN FREITAS, Chief
Foster Care Audits and Rates Branch

- c: African American Foster Parents and Group Home Association'
- Association of Community Services Agency
- Association of Minority Adolescents in Residential Care Homes
- Association of Minority Adolescents in Residential Care Homes of Los Angeles County
- California Alliance of Child and Family Services
- Community Residential Care Association of California
- County Welfare Director's Association
- Foster Care Alliance
- North Valley children and Family Services, Inc.
- Residential Care Providers Association of Los Angeles County