

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 29, 2004

ALL COUNTY INFORMATION NOTICE NO. I-53-04

REASON FOR THIS TRANSMITTAL

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

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL COUNTY FISCAL OFFICERS

SUBJECT: Interim Instructions Pending a Further Order from the Court
Regarding Implementation of the February 20, 2004 Amended Order
of the United States District Court in Rosales v. Thompson

REFERENCE: All County Letter No. 03-43

The purpose of this All County Information Notice (ACIN) is to advise the counties that (1) subsequent events in the court case have changed the effective date to March 3, 2003, and (2) counties should immediately begin tracking all of the cases that may be affected by the Rosales Order.

On February 20, 2004, the district court issued an amended order that requires the broader eligibility criteria stated in MPP Section 45-202.332 be applied to foster care cases that were open on or after March 3, 2003. The court orders that foster care cases open on March 3, 2003 shall have the broader eligibility criteria applied retroactively back to December 23, 1997, if otherwise federally eligible. Cases closed, i.e. cases in which dependency has been dismissed and for which the agency no longer has responsibility for placement and care, on or before March 2, 2003 are not affected.

If the child in an open case (1) is not receiving foster care benefits (for example, if the child is receiving CalWORKs or Adoption Assistance Payments), (2) is receiving State foster care benefits, or (3) is an Emergency Assistance (EA) case, the county must redetermine eligibility under the new criteria stated in Manual of Policies and Procedures (MPP) Section 45-202.332. All County Letter (ACL) No. 03-43 (attached) provided instructions regarding the prospective application of the broader eligibility criteria to these cases. These instructions have not changed, except for the effective date which is now March 3, 2003, instead of April 1, 2003.

Counties should be aware that certain issues remain unresolved in the court case which prevents issuance at this time of detailed instructions regarding the application of Rosales eligibility standards to cases potentially eligible for retroactive payments based on their status as an "open case" on March 3, 2003. We anticipate that these issues will be resolved soon, and that the California Department of Social Services will be able to issue more detailed instructions in the near future. In the meantime, counties must "track" those cases in which dependency was "open" on March 3, 2003 in order to ensure timely implementation of the court's instructions when they are issued. The "tracking" should include a determination as to whether a relative caring for a child on March 3, 2003 forward has been documented as meeting approval standards. If appropriate documentation of the approval is not readily available, the county should take immediate steps to ensure that it is included in the case file.

If you have any program policy questions, please contact your county's Funding and Eligibility Unit Consultant at (916) 657-1912.

Sincerely,

Original Document Signed By:

GLENN FREITAS, Chief
Foster Care Audits and Rates Branch

c: CWDA
CPOC

Attachment

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 31, 2003

ALL COUNTY LETTER NO. 03-43

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERSREASON FOR THIS TRANSMITTAL

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

SUBJECT: Implementation of Manual of Policies and Procedures Section 45-202.332 as Approved in California's Title IV-E State Plan Amendment (California Department of Social Services and Rosales v. Thompson, 321 F. 3d 835)

The purpose of this All County Letter (ACL) is to inform counties that on July 25, 2003, the Administration for Children and Families, Department of Health and Human Services, approved the California Department of Social Services (CDSS) amendment to California's Title IV-E State Plan. This amendment adds Manual of Policies and Procedures (MPP) Section 45-202.332 to the State Plan. The approval was based on CDSS and Rosales v. Thompson, 321 F. 3d 835, and affects eligibility for the federal Aid to Families with Dependent Children-Foster Care (AFDC-FC) program for children living with relatives in the month of petition or within any of the six months prior to the petition month. This approval of the state plan amendment is effective April 1, 2003, and applies to cases in which the petition was filed on or after that date.

The MPP Section 45-202.332 states that the linkage requirement is met if "the county has information that the child resided with any relative ... during the petition month or within any of the six months prior to the month in which the petition was filed or the voluntary placement agreement was signed, and can establish that the child would have been eligible for AFDC-FG/U, based on that home, had application been made while the child was living there."

Where a child can not be linked to AFDC based on the home of legal removal [usually the parent(s)], the child may be linked for federal foster care purposes to a qualified relative's home if the child would have been eligible for AFDC in that home and lived in that home at any time during the month in which the petition was filed or in the six months prior to the petition month. This will apply to cases in which the petition was filed on or after April 1, 2003.

For cases in which the petition was filed on or after April 1, 2003, if the child (1) is not receiving foster care benefits, (2) is receiving State foster care benefits, or (3) is an Emergency Assistance (EA) case, the county must complete a second eligibility determination. If the child was living with any relative not cited in the court order during the petition month or the six months prior to the petition month, linkage may be based on the child's eligibility for AFDC in

that relative's home. Most children will be eligible for benefits with a needy or non-needy caretaker relative unless the child has significant income and resources or some other factor which would make him/her ineligible.

These children are eligible for federal foster care benefits provided all other eligibility criteria is met. As you are aware, one of the eligibility criteria that must be met before federal foster care benefits can be paid is approval of the relative's home in accordance with ACL 02-78 (dated October 24, 2002).

You should be aware that the Ninth Circuit has remanded the Rosales case, cited above, to the United States District Court for the Eastern District of California. These proceedings could result in changes to this instruction. If the court's decision impacts this ACL, we will issue further instructions at that time.

If you have any questions about this letter, please contact your county's Funding and Eligibility Unit Consultant at (916) 657-1912.

Sincerely,

Original Document Signed By:

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division