

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



March 14, 1986

ALL-COUNTY INFORMATION NOTICE NO. I-26-86

TO: ALL COUNTY WELFARE DEPARTMENTS

SUBJECT: RECOMMENDATIONS FOR CHANGES TO CHILD WELFARE SERVICES REGULATIONS

Now that child welfare services (CWS) regulations implementing the program reforms of SB 14 (Chapter 978/82) have been in place for several years, the Department of Social Services (DSS) has committed to review the regulations and to propose changes where needed to improve program efficiency and effectiveness.

Attached are recommendations from the California Welfare Directors Association (CWDA) which were presented at a public hearing held by Senator Robert Presley in October, 1985. DSS will be working with the Association to develop regulatory changes as indicated in the attachment. If you are aware of additional issues that should be included in our review of the Manual of Policies and Procedures (MPP), Division 30 Regulations, please direct your comments to your CWDA representative, or submit them directly to Family and Children's Services Policy Bureau, Department of Social Services, 744 P Street, Mail Station 9-103, Sacramento, California 95814.

There are many issues included in CWDA's recommendations and we anticipate a productive dialogue with the Association in our efforts to improve current CWS regulations.

Questions regarding the regulations review should be directed to Mr. Larry Grandstaff at the above address or (916) 324-8703.

A handwritten signature in black ink, appearing to read 'Loren D. Suter'.

LOREN D. SUTER  
Deputy Director  
Adult and Family Services Division

cc: CWDA

Attachment

CWDA RECOMMENDATIONS FOR CHANGES  
TO CHILD WELFARE SERVICES REGULATIONS  
AND DSS RESPONSE

1. Emergency Response MPP 30-162 Case Management

CWDA Recommendation

Under the regulations, during the first twenty-one (21) days of service, county welfare departments are to conduct face-to-face contacts every seven (7) calendar days. The Association recommends that visits every seven days may not be necessary or appropriate casework practice for some cases. In the Association's view, child welfare staff should be given the professional discretion to address the needs of individual children through regulatory flexibility which broadly requires three (3) face-to-face contacts during the first twenty-one (21) days.

DSS Response

The regulations currently permit the social worker to have less frequent face-to-face contact under specific conditions (MPP 30-162.11). We are, however, willing to work with CWDA to develop an alternative to face-to-face contacts every seven calendar days. We also recommend exploring alternatives that take into consideration situations such as contact with a hospitalized, abandoned infant or other circumstances under which SW contact may not be required and case documentation to that effect may be sufficient.

2. CWDA Recommendations

The regulations require county welfare departments to conduct face-to-face visits within three days. Any child in imminent danger is seen immediately, twenty-four hours a day.

The three-day requirement causes problems because it is not based upon judicial days. For workers to drop all priorities on Fridays and Mondays to meet this requirement is an inefficient use of resources which may leave a child in a higher priority case in danger. "Meeting the clock" in this instance directs service delivery rather than the specific service needs of children and families.

DSS Response

The regulations require a three calendar day response if a law enforcement agency requests it on a nonemergency basis or the referral alleges abuse, neglect or exploitation not requiring an immediate response (MPP 30-132.22). Referrals of this type require prompt attention by the county welfare department and three calendar days should provide sufficient time for emergency social worker priorities. Further, since there is only one higher ER priority (immediate response) it is appropriate that social workers respond to these referrals to ascertain whether children are endangered before they conduct other county welfare department work.

3. CWDA Recommendation

The Association further recommends that the current fifteen (15) day visitation requirement under the Family Maintenance Program should also be amended to permit greater professional discretion so that two (2) visits are required during a monthly period, depending upon the individual case, as opposed to required visits every fifteen (15) days.

DSS Response

The regulations currently permit the social worker to have less frequent face-to-face contact under specific conditions (MPP 30-252.22). Children in the Family Maintenance Program reside at home and need frequent face-to-face contact with the social worker and/or approved alternate to ensure their safety. We are willing to work with CWDA to develop an alternative that will continue to ensure the child's safety as well as provide increased flexibility to the CWD.

4. CWDA Recommendation

The regulations require the county welfare department to see all children in a family even if the allegation of abuse concerns only one child, and when that child is seen it is clear that there is no basis to the allegation.

DSS Response

Recommend change to permit the county welfare department to have face-to-face contact with only the child alleged to be abused/neglected under specific conditions:

5. CWDA Recommendations

The regulations require face-to-face visits with the alleged victim even if the reporter is making the report for information purposes only and there is no allegation of current abuse. Under this situation a report could be made from a therapist that an adolescent was abused several years ago and the family is now in therapy and the therapist sees no risk to the adolescent.

DSS Response

There is no time limit on when a referral for allegations of abuse/neglect can be made. Generally, the seriousness of the circumstances of the allegation and their implication for imminent danger to a child, not when the alleged abuse/neglect actually occurred, determines how soon the CWD must respond. We are willing to work with CWDA to develop clearer guidelines for dealing with situations such as the one described above.

6. CWDA Recommendation

The regulations require county welfare departments to conduct face-to-face visits even if the police have responded because the case was reported to them and the police found that the allegation was unfounded.

DSS Response

Statute requires that county welfare department's respond to all referrals alleging child abuse or neglect even those described above. The police and the county welfare department have different criteria for investigating/responding to reports of abuse/neglect and each agency has different goals associated with the investigation. While the presenting fact situation might not warrant law enforcement intervention and hence result in an "unfounded" report designation by responding officers, the family situation may require CWS to avoid subsequent removal of the child. Additionally, most law enforcement agencies are not trained in the field of child abuse. Family members fearful or resentful of law enforcement personnel are more likely to positively respond to a less-threatening person trying to resolve a family crisis.

We are willing to work with CWDA to develop guidelines for the CWD response time in situations such as the one described above.

## 7. CWDA Recommendation

### Difficulty in Providing Preplacement Preventive Services

In many WIC 300(d) cases, children are taken into temporary custody by Law Enforcement (LE) prior to notifying county welfare department of that fact. Some progress has been made in making joint responses with LE. In other situations LE does not want county welfare department involved, arguing that our presence may compromise a criminal investigation (Miranda rights, evidence, etc.) Often LE responds first, and refuses to wait at the scene until county welfare department can respond. In these cases, preplacement preventive services can not be provided. County welfare departments should not be penalized for not providing a service that they cannot provide.

### DSS Response

County welfare departments are required (WIC Sections 319(d), 361(5)) to provide preplacement preventive services to keep the family together. As stated in WIC Section 319(d) if the child cannot remain safely at home the court shall make a finding that the lack of preplacement preventive efforts were reasonable. If the court finds that LE acted precipitously and removal was unwarranted, the child will be returned home, affording the opportunity for preplacement preventive services as appropriate.

8. CWDA Recommendation

The regulations require county welfare departments to see cases that are being investigated or handled by Juvenile Probation or the Domestic Relations Court, even though those entities have the staff capable of making initial assessments and determining if child protective services are necessary.

DSS Response

We assume CWDA is referring to referrals regarding kids already 600's under Probation supervision or where Domestic Relations is investigating custody issues. These cases are similar to the preceding page where law enforcement has determined allegation unfounded. The county welfare department is responsible for all children who meet WIC Section 300 and all adjudicated dependents of the court. There are no DSS Child Welfare Services Regulations (MPP, Division 30) which require county welfare departments to investigate cases that do not meet the WIC Section 300 criteria. Recently legislation Chapter 1068, Statutes of 1985, AB 366 further clarified county welfare departments involvement in Domestic Relations cases by requiring that a child be in foster care to be in the Family Reunification Program.

9. CWDA Recommendation

Elimination of Arbitrary (Regulatory) Reassessment

Clearly defined case assessments and plans with realistic goals are the center of effective casework. In many families, the situation is so fluid that frequent changes of plan are needed to protect the child. In other cases, however, the initial assessment and case plan remain valid with the family actively working towards the case objective. In these cases, the ninety-day reassessment is unnecessary and simply a time drain for the caseworker.

Whether or not a reassessment is needed should be a professional caseworker's decision. Recommend that ninety-day reassessment be eliminated in favor of reassessments at six-month intervals.

Response

The requirement that a reassessment be completed once every three months is necessary because family maintenance services are time limited and the child's progress needs to be determined, at a minimum, midway through the program. In addition, any request for a three-month service extension would have to be justified based upon a reassessment of the child's continuing needs. The required reassessment for stable situations such

as that described could be satisfied by duplicating the original assessment, clearly writing "no change" above relevant sections, signing and dating the updated form. This simple procedure would sufficiently document that the case circumstances had been reassessed and found unchanged.

10. CWDA Recommendation

Broader Use of Ancillary Services to All SB 14 Programs

Existing regulations on Service Funded Activities are unnecessarily complex when they specify which Service Funded Activities can be used in which programs. This is confusing. Statute should provide that services be used in whatever program they are needed, so long as the services are directly related to the case goal. This would include the availability of appropriate ancillary services for foster parents; e.g., respite care in both the FR and PP programs.

DSS Response

ACLs 84-128 and 83-121 describe the circumstances under which Service Funded Activities can be used in each program. We will work with CWDA to incorporate the flexibility afforded by these ACL's into the regulations as well. Child Welfare Services are not appropriate for foster parents. The case plan goal in FR is reunification between the child and parent. The parent and the child, not the foster parent, are the only authorized recipients of state reimbursable CWS provided in WIC Section 16500 et seq.

11. CWDA Recommendation

Respite Care

Allow for greater flexibility in using respite care by eliminating the 48 hour maximum and permitting respite care for less than 24 hours. This regulation is particularly cumbersome when the 48th hour falls on a weekend; additionally, issues of licensure are raised when a child is required to remain more than 23 hours.

DSS Response

Out-of-home respite care can be provided as prearranged care when it is part of a service plan to allow a temporary respite of parental duties. Unplanned circumstances which require the child to be out of the home to assure his/her safety should be dealt with through ESC. The temporary nature of out-of-home respite care requires the 48-hour time limit. We are willing to work with CWDA to develop more flexibility for the provision of out-of-home respite care. We need to ensure that any changes to the regulations do not permit defacto routine child day care.

12. CWDA Recommendation

After-Care

The 60-day regulatory limit on postplacement services should be removed so that all services which are necessary may be carried out without the continuing need for court jurisdiction. This would allow the social worker to provide those services needed to assist the family and the child to adjust, and to prevent recurrence of the circumstances that led to placement.

DSS Response

Post-placement services are to be provided only after a successful FR Program. If the county welfare department determines that more than 60 days of child welfare services are needed by the child and family then Family Maintenance Services would be more appropriate than postplacement. While case arrangement requirements in FM are more stringent, public agencies are obligated to document and justify continued need for expenditure of public resources when the court has determined FR efforts were successful and ordered the child returned home. If the return home order did not dismiss dependency, the case must be considered as falling under FM program requirements so long as the child resides at home under continued court supervision.

13. CWDA Recommendation

Administrative Reviews v. Court Reviews

Professionally staffing cases in the community rather than in court is potentially a much more humane and less damaging method for providing reviews. Unfortunately, the existing complex and cumbersome regulations do not allow counties the option of using an administrative review system. Due process requirements are also a problem to community based assessments.

DSS Response

It is essential that the state provide basic due process procedural elements in addition to objectives and goals so that federal compliance requirements for statewide uniformity of services [Section 471(a)(3) of Public Law 96-272] can be met. These regulations define the essential methods and processes believed necessary to satisfy the federal and state statutory due process requirements. Since an administrative review is conducted in lieu of a court review, it is essential that the process provide sufficient protections for the child by ensuring that the panel is aware of their responsibilities and authority, that due process is observed, and that the rights of parents are protected. We are open to suggestions to streamline the administrative review requirements while at the same time satisfying the above criteria.

14. CWDA Recommendation

Home-of-Parent In-Home Dependency Cases

Home of parent orders really do not protect children as they do not provide sufficient clout. There are really no consequences for parents who do not comply with court orders unless child is reabused. Recommend much greater regulatory flexibility to provide long-term voluntary FM services. (Santa Cruz)

DSS Response

Case plan objectives and services to accomplish them are intended to correct problems severe enough to substantiate court dependency actions. If the parent(s) fails to follow through on case plan objectives, i.e., they do not attend counseling sessions, the county welfare department can petition the court to take steps to compel the parents to cooperate, or ultimately to have the child removed from the home. The only time there are no consequences for a parent not complying with court orders is when the county welfare department fails to act. Statutes require that time limited services be provided to children and families in an effort to resolve the families' problems that required public intervention to protect the child and if these efforts are unsuccessful the child must be placed in a stable long-term alternative living situation.

15. CWDA Recommendation

Definition of "Case"

One problem which has been closely evaluated by state and county administrative staff with respect to reporting mechanisms is the definition of a "case" under each program component. If the allocations are to be based upon caseloads, it is crucial that a uniform and consistent definition of a case be developed so that it can be applied in all counties. Moreover, in order to ensure appropriate uniformity between counties, it is appropriate that the State Department monitor county welfare departments on their reporting of caseload information. CWDA's SB 14 Task Force, in coordination with the State Department of Social Services, is working to make those changes necessary to the SOC-291 reporting form so that uniform and useful caseload information can be reported to the Department.

Comments on LAO Report

The Association's second problem with the report is the report does not clearly define the term "case." While the report gives considerable attention to the issue of caseloads and the optimal number of cases which a social worker can handle, nowhere in the report is there a definition of the term "case."

Because a definition of the term "case" had not been developed by the State Department, at the time of this review in some counties a "case" was a child; in other counties a "case" was family, including all children and parents receiving services; and in still others a "case" meant each individual child or adult with whom the social worker had a written plan for social services.

Without a consistent definition of the term "case", comparisons of caseloads between counties become apples and oranges comparisons. The Association recommends that, with reference to the Analyst's evaluations of county caseload performance during the review period, the findings are questionable because of the definitional problems associated with the term "case."

While the definition of the term "case" has been a problem in the SB 14 program, information collected from county welfare department SOC-291 report forms since January, 1985, should be uniform, due to the efforts of CWDA's SB 14 Task Force and state department representatives.

#### DSS Response

This is an issue that we are willing to work on with CWDA. In addition to general case definitions, it would also be beneficial to clarify in regulatory definitions what constitutes a referral activity as contrasted to a "case" in the Emergency Response program.

Additional DSS Comments

The issue of county welfare departments' responsibility for courtesy supervision remains unresolved and we recommend that it be included as part of this review of child welfare services regulations.

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## CWDA RECOMMENDATIONS FOR STATUTORY CHANGES

Issue: Related to 18-Month Permanency Planning Hearing

### Inflexible 18-Month Permanency Planning Date

In some cases, the goal of family reunification is highly unlikely. These are cases in which the parent(s) have long prison terms, are severely developmentally disabled, or have long documented psychiatric histories. No useful purpose is served by waiting a year or longer to implement a permanent plan. Statutes and regulations should be modified to allow judges to go directly to a permanent plan if indicated.

In other situations FR cannot be accomplished within 18 months; however, there is a strong possibility that within a reasonable length of time FR would be possible. This is particularly critical for children for whom no viable permanent plan is possible (emotionally disturbed teenagers). Permanency planning cuts off perhaps the only hope for this child. Statutes and regulations should be modified to allow for extended FR services in certain situations.

Some children in permanent placement are stable (e.g., in long-term placement without problems). The supplemental 18-month permanency planning review serves little purpose for this type of child, and the court hearing is simply a required irritation for the child. These hearings often tend to stir up parents, particularly mentally ill parents, into making promises to children that cannot be realized. Statutes and regulations should be modified to permit supplementary permanency planning hearings in these cases to be held in a nonjudicial manner.

### Parents in Drug/Alcohol Treatment Programs

This is an expansion of #1 in the original list. Some parents are reluctant to enter drug treatment programs after learning that while they are in the program a permanency planning hearing will be held where they could lose their children. Recommend regulatory change to exempt parents from 18-month permanency planning hearing requirement if it can be shown that they are working on a rehabilitation plan, which if successful, could lead to the child's return home. This may conflict with Federal AFDC regulations but it is an important issue. (Santa Cruz)

### Demonstration Program

Change two sections of W&IC to make going to a permanency planning hearing easier for children returned home from FR and then redetained.

- a. Add subsection (h) to W&IC 366.25 "time limits shall not be polled if a child has been returned to the custody of his parent and is subsequently removed again."
- b. Change subsection (c) of W&IC 366.2 from 16 days to 10 days. (San Mateo)

## Court Related Issues

### Court Continuances

The number of court continuances and length of time between the detention and disposition hearing are rising. This situation works a hardship on social work staff as a high level of service is required on predisposition cases. Recommend time limits for how long a disposition hearing can be delayed or a cap on the number of continuances that may be granted. Some cases must remain in emergency response for six months or more because of this. (Santa Cruz)

### Lack of Coordination Among Juvenile, Family Law, and Criminal Courts

The various courts dealing with abusive families are poorly coordinated. Often these courts are dealing simultaneously with the same issues but have little communication among them, have quite different dates of resolution, and may in fact make conflicting orders. This often comes up with orders concerning noncustodial parents. Recommend legislative review to establish procedure to combine hearings involving these families into one court. (Santa Cruz)

### Inter-County Transfers during Permanency Planning Hearings

Some cases are transferred between counties during the time that a permanency planning hearing is due. This does not allow for the receiving county to complete required permanency planning activities. Recommend legislative change to create time limits for case transfer between counties prior to a permanency planning hearing. (Santa Cruz)

### Reabuse

Allow greater flexibility in reabuse situations to allow the case to move immediately from the Emergency Response Program to the Permanent Placement Program. (In re: John B., the court interpreted WIC 361(f) to require that Family Reunification services be provided for at least a six-month period [until the first review hearing]).

### Detention Hearing

Detention hearings are more and more becoming full fact-finding hearings. With so little time to prepare a case (72 hours), children can be returned to unsafe homes. Recommend change to judicial rules to limit what evidence can be admitted at Detention/Arrest hearing. (Santa Cruz)

### Interstate Compact on Juvenile Warrants

No mechanism exists to honor juvenile court warrants in another state. There is a system for criminal warrants. Recommend exploration by state to establish a cooperative interstate warrant agreement for juveniles. (Santa Cruz)