STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

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

March 1, 1990

ALL-COUNTY INFORMATION NOTICE NO. I-12-90

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

SUBJECT: AB 2268 and SB 1466

This is to inform you of recently enacted legislation that affects your county. AB 2268 (Bates) and SB 1466 (Seymour) were signed into law on October 2, 1989.

A. AB 2268 (Bates)

Chapter 1437, Statutes of 1989, provides the statutory authority to place dependent children of the court with special health care needs in foster care. Specifically, this law requires:

1. The State Department of Social Services (SDSS) to develop a statewide program, conducted by County Welfare Departments (CWDs), to provide foster care homes for children with special health care needs.

2. Placement of no more than two children (or three children under specified conditions) in a specialized foster care home. As specified in Section 17710(i) of AB 2268, a "'Specialized foster care home' means any licensed foster family home or certified family home where the foster parents have been trained to provide specialized in-home health care to foster children."

3. CWDs to develop comprehensive plans to place children with special health care needs in foster care. These plans must be submitted to SDSS and the State Department of Health Services (SDHS) by April 1, 1990, and must include the following:

   a. Procedures for developing individualized health care plans and individualized health care plan teams for children with special health care needs.

b. Provision for appropriate child welfare services.

c. Procedures for both preplacement and ongoing training by health care professionals for foster parents or biological parents.

d. Provision for monitoring of specialized foster care homes.

e. Provision for reassessment of individualized health care plans.

f. Provision for county coordination of sources of funding and services available to children with special health care needs.

4. A CWD that has not submitted a plan by April 1, 1990, cannot make placements of children with special health care needs until the CWD has submitted the plan. Please send your plan to:

Mr. Wesley A. Beers, Chief
Family and Children's Services Policy Bureau
Department of Social Services
744 P. Street, M.S. 9-103
Sacramento, Calif. 95814

There are local agencies, such as County Health Departments, County Alcohol and Drug Programs, and various community hospitals, that may be interested in working with you in the development of your plans.

We would welcome additional information from the CWDs to assist us in the formulation of operational guidelines regarding placement of children with special health care needs and recruitment of specialized foster parents. We are particularly interested in any of the following information, if available:

- A copy of the curriculum used to train the foster parents;

- Information regarding the background/qualifications of the trainers;

- A definition of what constitutes completed training for the foster parent who will be providing specialized in-home health care.

- A description of the population to be served--i.e., conditions associated with children requiring medical in-home health care.

- The amount(s) to be paid to the specialized foster family home and the circumstances under which a particular home receives a particular rate.

B. SB 1466 (Seymour)

Chapter 1175, Statutes of 1989, amends the Health and Safety code to allow the placement of children with special medical needs in foster family homes.

1. In-home medical care and home and community-based services may be provided in the foster family homes by a licensed home health agency.

2. The SDHS determines when the in-home care is medically appropriate.

3. The SDHS defines children with special medical needs, for the purpose of identifying those children who are to receive services.

4. The law limits placement of children with special medical needs to a maximum of two of these children in a single licensed foster family home at one time.

   - This law does not create a new licensing category, but rather limits the placement to two children with special medical needs in a single licensed home.

   - Community Care Licensing (CCL) will be issuing regulations that limit placement of children with special medical needs, as defined in this law. This has no effect on the placement status of other children in the home, as long as the licensed limit is not exceeded.

Attached you will find copies of the two laws summarized in this letter. Please call Kirsten Salomon at (916) 323-8868 if you have any questions regarding this letter or the attached legislation.

LOREN D. SUTER
Deputy Director
Adult and Family Services

Attachments

cc: County Welfare Directors Association
Elisabeth H. Lyman, S.D.H.S.

home of the prospective foster parent subsequent to training by a health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care.

(6) Specialized foster care homes shall be monitored by the county according to applicable regulations. The health care plan shall designate which health care professional shall monitor the child's ongoing health care, including in-home health care provided by the foster parent.

(7) The child's individualized health care plan shall be reassessed no less than every six months during the time the child is placed in the specialized foster care home, to ensure that specialized care payments are appropriate to meet the child's health care needs.

(8) The county shall coordinate the sources of funding and services available to children with special health care needs in order to maximize the social services provided to these children and to avoid duplication of programs and funding.

17732. The county shall place no more than two children at a time in a specialized foster care home except that a third child with special health care needs may be placed in that home when all of the following conditions have been met:

(a) No other placement is available.

(b) The psychological and social needs of the children in placement and the child to be placed will be met by the placement.

(c) The individualized health care plan team responsible for the ongoing care of each child involved has waived the two-child limit.

17733. All documentation prepared by the county concerning the identification of a dependent child as a child with special health care needs, the placement of such a child in a specialized foster care home, assessments and reassessments of the level of care designation, the decision to place more than two children with special health care needs in a home, and contact among the health care team plan members who are monitoring the individualized health care plan of the child, shall be made part of the child's case record. Reports of training provided by the health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care shall also be included in the case record.

17734. Each county shall report to the department on a regular basis on the conduct and effectiveness of the program provided for in this chapter. These reports shall be submitted in conformance with instructions provided by the department. These reports shall include, but not be limited to, all of the following data:

(a) An estimate of the number of children adjudicated dependents of the juvenile court under Section 300 who have special health care needs during the reporting period.

(b) The number of children with special health care needs in (1) hospitals or other institutional placements, (2) group homes, and (3) small family homes at the beginning of the reporting period.

(c) The number of children with special health care needs in

specialized foster care homes.

(d) The number of children with special health care needs placed in specialized foster care homes during the reporting period.

(e) The cost of providing specialized placements for children with special health care needs during the reporting period.

17735. Commencing in 1991, a progress report on the program provided for in this chapter shall be included in the child welfare services report to the Legislature required by Section 16512.

The department shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes.

17736. Notwithstanding any other provision of law, including Sections 1250, 1251, 1254, 1270, 1501, 1502, 1505, 1507, 1521, 1530.6 (as added by Chapter 391 of the Statutes of 1977), 1550, 11002, and 11154 of the Health and Safety Code, and Sections 2052, 2725, 2732, and 2795 of the Business and Professions Code, counties shall be permitted to place children with special health care needs in foster family homes pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and shall permit a foster parent trained by health care professionals pursuant to the discharge plan of the facility releasing the child to provide specialized in-home health care to that foster child, as described in the individualized health care plan for the child.

17737. Nothing in this chapter shall be construed to prevent children with special health care needs who have adoption as a case plan goal from receiving services under this program.

17738. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall adopt emergency regulations to implement the program provided for in this chapter. The emergency regulations shall remain in effect for no more than 120 days, unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

centers, the county mental health department, the prospective specialized foster family, and where reunification is the goal, the parent or parents, if available.

(e) "Director" means the Director of Social Services.

(f) "Level of care" means a description of the specialized in-home health care to be provided to a child with special health care needs by the foster family.

(g) Medical conditions requiring special in-home health care shall include dependency upon: internal feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, urinary catheterization, special medication regimens including injections, aerosol treatment, and intravenous or oral medication, or ministrations imposed by tracheostomy, colostomy, ileostomy, or other medical or surgical procedures rendering the child dependent upon ongoing health care and assessment.

(h) "Specialized in-home health care" includes, but is not limited to, those services identified by the child's primary physician as appropriately administered by a foster parent trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care.

(i) "Specialized foster care home" means any licensed foster family home or certified family home where the foster parents have been trained to provide specialized in-home health care to foster children.

Chapter 3. Resources for Children with Special Health Care Needs

17720. The Health and Welfare Agency shall designate a department to coordinate sources of funding and services not under the jurisdiction of the department which are available to children with special health care needs in order to maximize the health and social services provided to these children and avoid duplication of programs and funding.

Chapter 4. Foster Care

17730. The department shall develop a program to establish foster care homes for children with special health care needs with foster parents trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in foster care. The program shall conform to the requirements set forth in this chapter, and shall be integrated with the foster care and child welfare services programs authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 and Chapter 5 (commencing with Section 16500) of Part 4.

This program shall be conducted by county welfare departments in conformance with procedures established by the department in

accordance with this chapter.

17731. (a) The county shall develop a plan to place children with special health care needs in foster care. This plan shall be submitted to the State Department of Social Services and the State Department of Health Services, not later than April 1, 1990, before beginning placement of children with special health care needs in specialized foster care homes. This subdivision shall not invalidate any placement made before April 1, 1990. A county which has not submitted a plan by April 1, 1990, shall not continue to make placements of children with special health care needs until the plan has been submitted.

(b) The county plan shall meet all of the following requirements:

(1) Unless a local lead agency has been designated within the county, as described in Item 4260-113-890 of the Budget Act of 1989, the county department of social services shall be the lead agency with the responsibility of developing the plan to be submitted pursuant to subdivision (a). The county plan shall be formalized in an interagency agreement between the county department of social services and the other county and private agencies that are the involved parties.

(2) Prior to the placement of a child with special health care needs, an individualized health care plan, which may be the hospital discharge plan, shall be prepared for the child and, if necessary, in-home health support services shall be arranged. The individualized health care plan team shall be convened by the county department of social services caseworker, to discuss the specific responsibilities of the foster parents for provision of in-home health care in accordance with the individualized health care plan developed by the child's physician or his or her designee. The plan may also include the identification of any available and funded medical services that are to be provided to the child in the home, including, but not limited to, assistance from registered nurses, licensed vocational nurses, public health nurses, physical therapists, and respite care workers. The individualized health care plan team shall delineate in the individualized health care plan the coordination of health and related services for the child. The plan shall be monitored by the county department of social services caseworker in accordance with applicable regulations.

(3) A child welfare services case plan shall be developed in accordance with applicable regulations, and arrangements made for nonmedical support services.

(4) Foster parents shall be trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care. Training shall be provided as needed during the placement of the child and to the child's biological parent or parents when the child is being reunified with his or her family.

(5) Children with special health care needs shall be placed in the

participating in the program. It would establish as a mandatory inclusion in county plans, the requirement that, prior to placement, foster parents be trained in the specialized health care needs of the child. County plans would also be required to contain provisions for monitoring of all children placed under the program, as prescribed.

The bill would require the county to report to the State Department of Social Services, on a regular basis, on the conduct and effectiveness of the foster care program, as specified.

The bill would, commencing in 1991, require the State Department of Social Services to include an annual progress report on this foster care program in a report required to be submitted to the Legislature pursuant to existing law.

The bill would require the State Department of Social Services to adopt emergency regulations implementing the foster care program.

Since the bill would impose duties upon county welfare departments concerning the implementation of this foster care program, the bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Part 5.5 (commencing with Section 17700) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 5.5. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

CHAPTER 1. FINDINGS AND DECLARATIONS

17700. The Legislature finds and declares all of the following:

(a) Many children adjudicated dependents of the juvenile court pursuant to Section 300 and following are, because of abuse, neglect, or exploitation within the family environment, unable to remain safely in their own homes.

(b) Children requiring placement in foster care are, pursuant to

Section 675 (5) (a) of Title 42 of the United States Code, entitled to placement in the least restrictive, most family-like setting in close proximity to the parent's home, consistent with the best interest and special needs of the child.

(c) A significant number of children adjudicated dependents of the juvenile court under Section 300 and following who require placement outside their own homes have special health care needs. Children with biological families who can provide health care services can be discharged from hospital care into home care when it has been determined that the child is medically stable.

(d) Children who have become dependents of the juvenile court may become, because of a lack of appropriate placement options, long-term boarders in hospitals or other health care institutions.

(e) It is, therefore, the intent of the Legislature to support expansion of existing prevention and treatment programs designed to serve the parent and child with special health care needs which are administered by the State Department of Health Services, the State Department of Social Services, and the State Department of Alcohol and Drug Programs.

Further, it is the intent of the Legislature to establish a program to place children with special health care needs in special foster care homes, licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, wherein foster parents are trained by health care professionals, pursuant to the discharge plan of the facility releasing the child being placed, or who is currently, in foster care.

It is further the intent of the Legislature to encourage, to the extent feasible, the placement of children with special health care needs with relatives trained by health care professionals.

CHAPTER 2. DEFINITIONS

17710. Unless otherwise specified in this part:

(a) "Child with special health care needs" means a child adjudged a dependent of the court pursuant to Section 300 and following who has a medical condition which requires specialized in-home health care which may be provided by nonmedical personnel, such as, a foster parent trained to provide this care.

(b) "County" means the county welfare department.

(c) "Department" means the State Department of Social Services.

(d) "Individualized health care plan team" means those individuals who develop a health care plan for a child with special health care needs in foster care, which may include, but shall not be limited to, the child's primary care physician, any involved medical team, the county social worker, a public health nurse, representatives from the California Children's Services program or the Child Health and Disability Prevention Program, regional

Assembly Bill No. 2268

CHAPTER 1437

An act to add Part 5.5 (commencing with Section 17700) to Division 9 of the Welfare and Institutions Code, relating to minors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1989. Filed with Secretary of State October 2, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2268, Bates. Minors: specialized health care needs.

Under existing law, the State Department of Social Services licenses foster families, and the department and each county provide assistance to foster parents of low-income children under the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program.

Under existing law, the State Department of Health Services administers various health services programs which provide services to children.

This bill would make findings and declarations concerning the needs of children who are judged dependents of the juvenile court who have specialized health care needs.

The bill would require the Health and Welfare Agency to designate a department to coordinate sources of funding and services not under the jurisdiction of the department which are available to children with special health care needs, as defined, in order to maximize the health and social services provided to these children and avoid duplication of programs and funding.

The bill would also require the department to develop a program, to be administered by the State Department of Social Services and county social services departments, for the establishment of foster care homes for children with special health care needs with foster parents trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care.

The bill would require the State Department of Social Services to develop specialized care payment rates for these specialized foster family homes for any child eligible to receive assistance under the AFDC-FC program.

The bill would require each county department of social services to develop a specified plan, to be submitted for approval to the State Department of Social Services and the State Department of Health Services, not later than April 1, 1990, for foster care placement of children with special health care needs.

The bill would require each county's plan to provide for the development of health and child welfare services plans for each child

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the cost of maintaining physically disabled people in hospitals and nursing homes continues to increase annually. Prolonged institutionalization can be detrimental to psychological and social growth, especially that of infants and children. There is a national trend to home-based health care as an alternative to prolonged institutional care. Therefore, it is the intent of the Legislature that physically disabled Californians of all ages who receive health care through the California Medical Assistance Program (Medi-Cal) and who otherwise would require institutional care, be offered alternative home- and community-based care services subject to the terms and conditions of federally approved home- and community-based care waivers as authorized by Title XIX of the Social Security Act (42 U.S.C.A. Sec. 1396, et seq.).

SEC. 2. Section 1507.5 of the Health and Safety Code is amended to read:

1507.5. (a) In-home medical care and home and community-based services, as described in subdivisions (t) and (u) of Section 14132 of the Welfare and Institutions Code, may, when deemed medically appropriate by the State Department of Health Services, be provided by a licensed home health agency to children with special medical needs, as defined by the State Department of Health Services, in foster family homes. For children described in this section, these medical services shall not be considered as a substantial component of the services provided by the licensee for the purposes of Section 1507. To be eligible under this section for placement in a foster home, a child shall be receiving medical supervision and medical case management by an agent designated by the State Department of Health Services.

(b) No more than two children eligible for services under this section may be placed in a single licensed foster family home at one time.

(c) The State Department of Social Services and its agents shall not evaluate or have any responsibility or liability for the evaluation of the medical services described in this section.

SEC. 3. The State Department of Health Services shall report to the Legislature on or before July 1, 1990, on all of the following:

(a) A description and the status of all waivers applied for or amended which serve HIV- and drug-exposed foster children, including those concerning level of care eligibility criteria.

(b) The estimated number and geographic distribution of Medi-Cal-eligible HIV- and drug-exposed children and the number and geographic distribution of those eligible for waiver services, in the foster care system and residing with their natural parents or relatives.

(c) A description of how Medi-Cal coverage can be obtained for services similar to those included in the waivers, such as case management, for those HIV- and drug-exposed children found ineligible for the waiver services based on the level of care criteria but who require ongoing health and support services in order to successfully remain at home or in foster family homes.

(d) A description of the Medicaid waiver enacted in the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360) for HIV-and drug-exposed children, the differences, if any, between this waiver and the other waivers which the department is amending, and, if the state determines there is no need to apply for this waiver, an explanation as to why it is not needed.

(e) A description as to how the department, in consultation with the State Department of Alcohol and Drug Programs, the State Department of Social Services, the State Department of Developmental Services, county welfare departments, county drug programs, and county health programs, disseminates information regarding the availability of waiver services and the service application process.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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Senate Bill No. 1466

CHAPTER 1175

An act to amend Section 1507.5 of the Health and Safety Code, relating to health services.

[Approved by Governor September 30, 1989. Filed with Secretary of State September 30, 1989.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1466, Seymour. Health services.

Under existing law, in-home medical care, as defined, may be provided to ventilator-dependent children in foster family homes. Existing law further provides that in order to be placed in a foster home, a ventilator-dependent child shall be receiving medical supervision and case management under the California Children's Services Program, and the in-home medical care shall be provided by a licensed home health care service agency.

This bill would delete the provisions relating to ventilator-dependent children, and would, instead, provide that in-home medical care and home and community-based services, as defined, may, when deemed medically appropriate by the State Department of Health Services, be provided by a licensed home health care service agency to children with special medical needs, as defined by the department, in foster family homes. The bill would require that in order to be eligible under these provisions for placement in a foster home, a child shall be receiving medical supervision and medical case management by an agent designated by the department. It would also provide that no more than 2 children eligible for services under these provisions may be placed in a single licensed foster home at one time.

This bill would require the department to report to the Legislature on or before July 1, 1990, regarding various federal waivers for HIV- and drug-exposed foster children.

This bill would make various findings and declarations in regard to its provisions.

By changing the requirements for eligibility for foster home placement, this bill would require a higher level of service for counties in administering foster home programs, thus imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for children with special health care needs to enjoy the benefits of the least restrictive, most family-like setting consistent with the best interest and special needs of the child, and to prevent these children from languishing in hospitals or other health care institutions, it is necessary for this act to take effect immediately.

O