

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



December 10, 1992

REASON FOR THIS TRANSMITTAL

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

ALL COUNTY INFORMATION NOTICE NO. I-65-92

TO: ALL OUT-OF-STATE GROUP HOME PROVIDERS
ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
LOCAL AND COUNTY MENTAL HEALTH DIRECTORS

SUBJECT: AB 1727 AND SB 485 CHANGES TO REQUIREMENTS FOR OUT-OF-STATE AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE (AFDC-FC) GROUP HOME PLACEMENTS

REFERENCE: ALL COUNTY INFORMATION NOTICE (ACIN) NO. I-08-91
ALL COUNTY LETTER (ACL) NO. 87-65
ACIN NO. I-91-83

The purpose of this letter is to provide you with information on the changes imposed by Assembly Bill (AB) 1727 (Chapter 610, Statutes of 1991) and Senate Bill (SB) 485 (Chapter 722, Statutes of 1992) relative to rate-setting requirements for out-of-state group home programs.

AB 1727 REQUIREMENTS FOR AFDC-FC PLACEMENTS OUT-OF-STATE

AB 1727 stated the intent of the California State Legislature to establish the maximum level of state participation in out-of-state foster care group home rates effective January 1, 1992. The bill also directed the California Department of Social Services (CDSS) to develop regulations which establish a method to determine the level of state participation for out-of-state group home programs used by California placing agencies.

The CDSS will be developing a methodology for out-of-state rate-setting using the direction provided by AB 1727. However, it may be some time before a methodology is developed and implemented through the adoption of regulations. In the interim, counties will be responsible for ensuring that ongoing statutory requirements and the mandates imposed by AB 1727 are met.

Specifically, AB 1727 mandates that the level of state participation for an out-of-state group home program rate shall not exceed the current fiscal year's standard rate for rate classification level (RCL) 14 or the rate determined by the rate-setting authority of the state in which a facility is located [see Welfare and Institutions Code (WIC), Section 11460, Subsections (c)(2)(A)(i)&(ii)]. Therefore, out-of-state group home program rates shall be set at the lesser of the current year's standard rate for RCL 14 or the rate determined by the out-of-state rate-setting authority. For Fiscal Year 1992/93 the standard rate for RCL 14 is \$5,013. Additionally, AB 1727 requires that the level of state participation shall not decrease for any children placed prior to January 1, 1992, so long as such children continue to be placed in the same out-of-state group home program [WIC, Section 11460, Subsection (c)(2)(A)(iii)].

It should also be noted that AB 1727 mandates that out-of-state group home programs shall be subject to CDSS information requests, program and fiscal audits [WIC, Section 11460, Subsection (c)(2)(B)].

Please note, AB 1727 repealed WIC, Section 11462.1. This section permitted County Welfare Department's to establish a rate for youths who are placed in group homes out-of-state and who would otherwise be placed in California Youth Authority facilities, without ensuring that only allowable costs were included in the rate. As such, effective January 1, 1992, counties must ensure that only allowable costs are included in an out-of-state group home program's rate in accordance with Manual of Policies and Procedures (MPP), Section 11-402.82.

SB 485 REQUIREMENTS FOR AFDC-FC PLACEMENTS OUT-OF-STATE

SB 485 redefines group home as an entity organized and operated on a nonprofit basis only [WIC, Section 11400, Subsection (h)]. Additionally, it mandates that to be eligible for AFDC-FC a child placed in a group home must be placed in one which is nonprofit [WIC, Section 11402, Subsection (c)]. Finally, SB 485 limits state reimbursement for an AFDC-FC rate paid on or after January 1, 1993, to only those out-of-state group homes which are organized and operated on a nonprofit basis [WIC, Section 11460, Subsection (c)(3)]. Therefore, county payments to out-of-state group homes which are not organized and operated on a nonprofit basis after January 1, 1993, will not be eligible for federal or state reimbursement. To the extent counties wish to continue placements in for-profit group homes, the cost of such placements must be absorbed by county only funds.

County placing agencies will be responsible for verifying the nonprofit status of all out-of-state group home programs utilized by a county as placement resources. The CDSS has developed suggested guidelines, described below, for counties to utilize in determining what constitutes sufficient proof of group home program nonprofit status.

Current regulatory requirements governing in-state group home programs (see MPP, Section 11-402.354) mandate that a group home program must submit to the CDSS a copy of an Internal Revenue Service (IRS) tax exemption letter in order to be considered nonprofit for rate-setting purposes. The basis for the use of the IRS tax exempt letter is that it is recognized by the federal government as a means of verification of nonprofit status and as a result ensures that federal financial participation (FFP) is available for AFDC-FC group home programs that are classified as nonprofit.

In the past, the Department of Health and Human Services (DHHS) has stated that FFP is also available if a state can verify that an organization lacking tax exempt recognition by the IRS meets the criteria of Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non Profit Organizations."

OMB Circular A-122 defines a nonprofit organization as one that: (1) operates in the public interest for scientific, educational, service or charitable purposes; (2) is not organized for profit making purposes; and, (3) uses its net proceeds to maintain, improve or expand its operations.

Because there may be an appreciable period of time between the time a group home program applies for tax exempt status under federal guidelines and the time a determination is made by the IRS, the CDSS received approval from the DHHS for the use of a proposed alternative verification methodology for nonprofit status which meets the criteria specified in OMB Circular A-122.

The proposed alternative verification methodology which was developed by the CDSS and approved for use by the DHHS allows a group home provider to present an endorsed copy of their organization's articles of incorporation, filed with their state of incorporation's Secretary of State, demonstrating that their organization is nonprofit. Contained in the articles of incorporation must be a self-certification that includes language describing the organization as one that meets the three criteria specified in OMB Circular A-122 (see above). In addition, the provider must submit a resolution signed by all of the Board of Directors that states that the nonprofit corporation is actually organized and operated on a nonprofit basis and meets the three nonprofit criteria of OMB Circular A-122.

Regardless of the method utilized to verify nonprofit status, however, counties should require out-of-state providers to submit an endorsed copy of the articles of incorporation filed with their state of incorporation's Secretary of State, by-laws, a list of board members and group home license(s) issued in the corporate name. Finally, counties should require that if the articles of incorporation are modified in any way, that the county placing agency must be notified. Counties will be responsible for submitting to the CDSS the documentation of nonprofit status of each group home program for which a rate has been established.

GENERAL REQUIREMENTS FOR GROUP HOME AFDC-FC PLACEMENTS OUT-OF-STATE

In order for counties to ensure that rates for placements made in out-of-state group home programs continue to be eligible for federal and state participation, it is recommended that counties continue to adhere to general out-of-state group home rate-setting policy requirements.

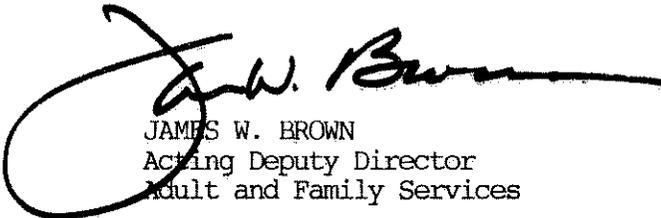
Therefore, rates for out-of-state group home programs shall continue to be established by the rate-setting authority in the state in which the group home program is located. In addition, the county shall continue to be responsible for obtaining the rate from the appropriate rate-setting authority, ensuring that the out-of-state group home facility is licensed as a child care facility by the state in which it is located and affords personal rights, and ensuring that only allowable costs are included in the rate that is reimbursed to an out-of-state group home program (see MPP, Section 11-402.82). The CDSS suggests that counties obtain documentation from the state in which a facility is located regarding the authorized rate, as well as a copy of the facility license. Furthermore, all out-of-state rates determined by the counties are to be reported to the CDSS.

This rate information should be sent to the following address:

California Department of Social Services
Foster Care Rates Bureau
744 P Street, M.S. 19-74
Sacramento, CA 95814

INFORMATION REQUESTS

County staff and out-of-state group home providers with questions should contact the Foster Care Policy Bureau at (916) 445-0813.


JAMES W. BROWN
Acting Deputy Director
Adult and Family Services

cc: CWDA