

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 13, 2003

ALL-COUNTY LETTER NO. 03-60

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL REGIONAL CENTER DIRECTORS
ALL COUNTY ADOPTION AGENCIES
ALL CDSS ADOPTIONS DISTRICT OFFICES

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

SUBJECT: REGIONAL CENTER CONSUMERS

REFERENCE: ALL-COUNTY LETTER NO. 98-28

The purpose of this All-County Letter (ACL) is to clarify:

- (1) The Aid to Families with Dependent Children-Foster Care (AFDC-FC) and Adoption Assistance Program (AAP) rates established for children who are consumers of regional center services, and
- (2) The availability of the Personal and Incidental (P&I) Allowance to foster and adoptive children who are consumers of regional center services.

For each AFDC-FC child the provisions of this ACL go into effect immediately. For each AAP child the provisions of this ACL go into effect upon his/her next reassessment after the date of this ACL.

AFDC-FC PROGRAM

While the AFDC-FC Program provides financial assistance for the care and supervision of children in an out-of-home placement, the services authorized by a regional center are paid by the regional center. Welfare and Institutions Code (W&IC) Section 11460(a), in part, states: "Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them." The W&IC Section 11464, regarding regional consumers who receive AFDC-FC states:

“Notwithstanding any other provision of law, the California Department of Social Services (CDSS) shall use the residential facility rates established by the California Department of Developmental Services (CDDS) to determine rates to be paid for 24-hour out-of-home nonmedical care and supervision of children who are both regional center clients pursuant to Section 4684 and AFDC-FC recipients under the provisions of this chapter and placed in licensed community care facilities.

Any services authorized by a regional center for AFDC-FC recipients that are not allowable under state or federal AFDC-FC program requirements shall be paid pursuant to Section 4684.”

The funding responsibilities of CDSS with respect to foster children who are regional center consumers (dual agency children) are defined in W&IC Section 4684, which states:

“Notwithstanding any other provision of law, the cost of providing 24-hour out-of-home nonmedical care and supervision in licensed community care facilities shall be funded by AFDC-FC program pursuant to Section 11464, for children who are both AFDC-FC recipients and regional center clients.

Regional centers shall pay the cost of services which they authorize for AFDC-FC recipients but which are not allowable under state or federal AFDC-FC program requirements. Regional centers shall accept referrals for evaluations of AFDC-FC eligible children and assist county welfare and probation departments in identifying appropriate placement resources for children who are eligible for regional center services.”

The term “authorized” as used in the W&IC Sections quoted above means the regional center has identified in the child’s individual program plan or individualized family service plan that they are responsible for payment of a specific service to be provided.

AAP

The AAP removes or reduces barriers to the adoption of children who otherwise would remain in long-term foster care. According to W&IC Section 16121, the AAP benefit for which the child is eligible is based on the child’s needs otherwise covered in AFDC-FC payments and the adoptive parent’s circumstance. The AAP benefit may not exceed the age-related state-approved foster family home care rate, and any applicable specialized care increment, that the child would have received in foster care. Under Title 22 California Code of Regulations (CCR) Section 35333(c)(1)(c), the maximum AAP benefit for which a regional center child is eligible is based on the facility rates established by CDDS.

CDDS RESIDENTIAL RATES

For dual agency children who receive AFDC-FC or AAP, the CDDS establishes rates for the board and care of regional center consumers living in a residential facility. See W&IC Section 4681.1. Most of these residential rates correspond to Alternative Residential Model (ARM) rates, which are based on the level of services provided by the facility.

P&I ALLOWANCE

When the child's Supplemental Security Income/ State Supplemental Program (SSI/SSP) payment is used to pay the cost of residential services, the P&I portion of the SSI/SSP payment must be given to the regional center client. With regard to dual agency children receiving SSI beneficiary payments, Title 20 Code of Federal Regulations Section 416.640(b), in part, states:

“...If a beneficiary is receiving care in a Federal, State, or private institution because of mental or physical incapacity, current maintenance will include the customary charges for the care and services provided by an institution, expenditures for those items which will aid in the beneficiary's recovery or release from the institution, and nominal expenses for personal needs (e.g., personal hygiene items, snacks, candy) which will improve the beneficiary's condition.”

If a dual agency foster child receives a SSI/SSP payment and resides in a licensed foster home or residential care facility, he or she may receive the P&I Allowance. Likewise, an adopted child who is also a regional center consumer and receives a SSI/SSP payment and AAP benefits concurrently while living with his or her adoptive parents, may receive the value of a P&I Allowance because the AAP benefits are based on the amount that would have been paid had the child remained in foster care. Further, CDSS provided instructions to counties during the statewide AAP training in May and June 2002, that if the adopted child was in receipt of SSI/SSP, he or she may receive the P&I Allowance.

The P&I Allowance is not included in a residential care facility's basic rate. Title 22 CCR Section 80001b(1) defines the “basic rate” as:

“... the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.”

Title 17 CCR Section 56917(c) states:

“When the regional center has been appointed as the consumer's representative payee for the consumer's SSI/SSP payment, the regional center shall:

- (1) Forward that portion of the consumer's P&I Allowance which is not conserved by the regional center on the consumer's behalf to the consumer no later than the 10th day of the month in which the regional center receives the consumer's SSI/SSP payment; and
- (2) Forward the consumer's SSI/SSP payment to the residential service provider no later than the 10th day of the month following the month in which the regional center receives the consumer's SSI/SSP payment."

If you have any questions regarding this letter, please contact your Funding and Eligibility Unit County Consultant or your AAP Consultant at (916) 657-1912.

Sincerely,

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division