STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

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

September 6, 1996

ALL COUNTY LETTER NO. 96-48

REASON FOR THIS TRANSMITTAL

[ ] **State Law Change**
[ ] **Federal Law or Regulation Change**
[ ] **Court Order or Settlement Agreement**
[ ] **Clarification Requested by One or More Counties**
[X] **Initiated by CDSS**

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

SUBJECT: TERMINATION OF FEDERAL FINANCIAL PARTICIPATION FOR THE PROBATION COMPONENT OF THE EMERGENCY ASSISTANCE PROGRAM

REFERENCE: All County Letter (ACL) 95-83 and County Fiscal Letter (CFL) 95/96-25, CFL 95/96-31, CFL 95/96-32, and CFL 95/96-38

The purpose of this letter is to provide additional information regarding the close-out procedures counties must adhere to in the termination of the Probation component of California's Emergency Assistance (EA) Program.

On September 12, 1995, the Administration for Children and Families of the federal Department of Health and Human Services (DHHS) issued Action Transmittal ACF-AT-95-9. This directive notified states that effective January 1, 1996, federal financial participation would be terminated under the EA Program for the costs of benefits or services provided to children in the juvenile justice system. This policy terminated federal funding for the entire Probation component of California's EA Program including juvenile assessment centers (i.e., juvenile halls), residential group care in camps and ranches, foster care and after care. Federal EA funding remains available under the Child Welfare Services (CWS) component of California's EA program for shelter care, foster care and crisis resolution services provided to abused/neglected children.

Efforts by the State and counties to rescind or delay the implementation of ACF-AT-95-9 have been unsuccessful. A lawsuit initiated against the DHHS by the Chief Probation Officers of California (CPOC) to have ACF-AT-95-9 rescinded or its implementation delayed was filed in federal court on December 28, 1995, and was subsequently lost in March of 1996. The CPOC is currently appealing the decision.

At the request of the CPOC, counties continued to take and process EA-Probation applications and to authorize EA-Probation services after January 1, 1996. This request was based on the expectation that such an action on the part of the counties would provide a basis for claiming federal EA funds for probation services provided after the termination date in the event the appeal was successful. The CDSS was informed by CPOC in June of 1996, that counties will cease taking and processing EA-Probation applications effective July 1, 1996. In addition, it was agreed by CPOC and CDSS to allow the current Memorandum of Understanding between the two parties to expire, as scheduled, on June 30, 1996. This means that after June 30, 1996, counties may no longer continue to take or process EA-Probation applications, access the ACE system as part of the EA-Probation authorization process or claim EA-Probation services.

As stated in ACL 95-83, any county that continued to take and process EA-Probation applications after December 31, 1995, did so at their own discretion and financial risk. No State funds have been identified to offset the loss of federal EA Program funding for Probation services provided to children between January 1, 1996, and June 30, 1996, or the associated administrative costs incurred by County Probation Departments (CPD) and County Welfare Departments (CWD). Since it is unclear at this time whether the aforementioned appeal by CPOC will prove successful, CDSS is unable to address definitively the close-out or claiming procedures for any EA-Probation case which services were provided between the federal termination date of January 1, 1996, and June 30, 1996, the last date counties continued taking EA-Probation applications. However, under no circumstances will counties be allowed to claim probation services beyond June 30, 1996. Once the outcome of the CPOC appeal is known, CDSS will notify counties of that decision, as well as any new policy requirements regarding these cases.

The following information describes the impact of ACF-AT-95-9 on the Probation component of the EA Program and outlines the procedures that both the CWD and CPD must adhere to in the close-out of the EA-Probation component including: application deadlines, the Assistance to Children in Emergency (ACE) System, program claiming options, notice of action requirements, records retention and the procedures for establishing eligibility under other foster care programs. In addition, CDSS has developed a series of questions and answers designed to assist counties in understanding the requirements outlined in this letter (see attached).

Applications and Service Requirements

Under ACF-AT-95-9, federal funding will only be provided for EA-Probation services when both of the following two conditions are met:

1. The EA-Probation application was taken and services were authorized on or prior to December 31, 1995,

   and

2. The EA-Probation services were provided on or prior to December 31, 1995.

An EA-Probation application authorized on or before December 31, 1995, based on the use of presumptive eligibility will be considered valid for the purpose of meeting the condition of authorization as described in number one (1) above. However, federal and State policies regarding the appropriate use of presumptive eligibility remain in effect and must have been followed. Presumptive eligibility cases cannot be claimed until a final eligibility determination has been made.

ACE System Requirements

As of July 1, 1996, counties may no longer access the ACE system for the purpose of authorizing EA-Probation services. At this time, CDSS will not be requiring counties to retroactively remove from the ACE system all Probation cases for which an EA application was taken, authorized and services provided between January 1, 1996, and June 30, 1996. However, under certain circumstances, the CPD will be required to abate individual EA-Probation cases (see Program Claiming Options below).

Program Claiming Options

The CDSS recognizes that counties, at the request of CPOC, continued to take and process EA-Probation applications and provide services between January 1, 1996, and June 30, 1996, in an effort to provide a basis for future claiming in the event current litigation efforts are successful. Counties also continued to access the ACE system as part of the authorization process for those cases and as a result, all EA-Probation applications authorized between January 1, 1996, and June 30, 1996, are currently reflected on the ACE system as open, authorized EA-Probation cases. Additionally, those EA-Probation cases authorized prior to January 1, 1996, and for which EA services continued to be provided after that date, are also reflected as open cases.

In the event the CWD initiates an otherwise eligible EA application under the CWS component of the EA Program and discovers a match on the ACE system to an EA-Probation case, the following procedures must be carried out:

- If the EA-CWS case matches an open EA-Probation case where probation services were authorized between January 1, 1996, and June 30, 1996, the CWD must inform the appropriate CPD. The CPD is then required to abate the probation case from the ACE system allowing for the addition of the EA-CWS case. Furthermore, it is incumbent upon the CPD to abate the case from any previous claim submitted to the State after January 1, 1996, in accordance with current State fiscal claiming requirements. These procedures are necessary to ensure that if current legal efforts are unsuccessful in extending EA-Probation funding past January 1, 1996, children will not be denied EA funding of these services under the EA-CWS component in favor

of an EA-Probation component which the federal government no longer considers to be part of the EA Program.

- If the EA-CWS case matches an EA-Probation case where probation services were authorized and provided prior to January 1, 1996, and services continued beyond this date, the CWD must contact the appropriate CPD and choose the EA component the county will claim under for the services provided to the child. If the county opts to claim the EA-CWS case, the CPD must abate the case from the ACE system allowing for the addition of the child onto ACE as an EA-CWS case. It is also incumbent upon the CPD to abate the case from any previous claim(s) submitted to the State in accordance with current State fiscal claiming requirements.

  If the county opts to claim the probation case and EA funding does not become available for the period between January 1, 1996, and June 30, 1996, the county will only be able to claim the costs of those services provided on or before December 31, 1995.

Notice of Action (NOA) Requirements

Current policy states that a NOA does not have to be sent to the parent/head of household for EA cases closed when their 12-month period of eligibility ends (ACL 93-64, page 8). In an effort to remain consistent with this policy, counties will not be required to provide a NOA to the parent/head of household for EA-Probation cases closed as a result of implementing ACF-AT-95-9.

Records Retention

Current policy requires that all EA-Probation case files must be retained for five years from the date the case is closed and EA funding is terminated (CFL 93/94-04, page 3 and ACL 93-64, errata, page 2). The implementation of ACF-AT-95-9 will not change these requirements for the retention of EA records.

Foster Care

Under ACF-AT-95-9, federal funding was terminated, effective January 1, 1996, for probation minors in foster care under aid code "4K", the Emergency Assistance-Foster Care (EA-FC) Program with a sharing ratio of 50 percent federal, 20 percent State, and 30 percent County. As previously stated, this does not effect CWS minors currently in foster care under aid code "5K", the Emergency Assistance-Foster Care (EA-FC) Program. Counties may not transfer cases from the Emergency Assistance-Foster Care Program to other funding programs by using an Interprogram Status Change (ACIN I-18-94, page 7, Q #24). Rather, counties will need to assess the eligibility of each EA-Probation case receiving 4K benefits, for other foster care programs based on the specific criteria for that particular program.

These programs may include: 1) Federal Foster Care Program (AFDC-FC FED), aid code "42", with a sharing ratio of 50% federal, 20% State and 30% County; 2) Non-federal State Foster Care Program (AFDC-FC-NON FED), aid code "40", with a sharing ratio of 40 percent State and 60 percent County; or 3) County-only funding.

The procedure for establishing eligibility under other foster care programs for probation children previously funded under EA-FC is as follows:

a) At the time of removal from the home, an Eligibility Worker should have initiated a SAWS1 application and reviewed the eligibility of the child under the AFDC-FC FED, EA-FC, and AFDC-FC NON-FED programs.

b) If a SAWS1 application was taken and denied in favor of EA-FC funding based on an authorized EA application, or if a SAWS1 application was not taken at the time of removal, the county must initiate a new SAWS1 and determine the eligibility of the child under the appropriate AFDC-FC FED; AFDC-FC NON-FED; or county-only foster care program.

We hope the information in this letter aids counties in the termination of the EA-Probation component required by ACF-AT-95-9. If you have questions regarding this letter, please contact the Emergency Assistance Program Bureau at (916) 323-2681.

Sincerely,

Marjorie Kelly

MARJORIE KELLY
Deputy Director
Children and Family Services Division

Attachment

Attachment

Questions and Answers

The following questions and answers have been developed by CDSS to more clearly illustrate to counties the impact of ACF-AT-95-9 on the EA-Probation component.

1. Q. An EA application is taken on December 31, 1995, and services are authorized on January 5, 1996. Can the case be claimed for services provided up to and including December 31, 1995?

   A. *No. In order for a case to be eligible, services must be authorized by December 31, 1995. The authorization must be based on a final determination of eligibility or a presumptive determination of eligibility.*

2. Q. Can service days provided to the minor on or after January 1, 1996, be claimed if services were authorized on or before December 31, 1995?

   A. *No. Only those services provided to the minor up to and including December 31, 1995, may be claimed.*

3. Q. A child is removed and placed in juvenile hall on October 1, 1995. The court orders detention and an application is taken on October 3, 1995. The EA application is authorized October 29, 1995. Can the county claim up to the October 30, 1996, not to exceed date?

   A. *No. The case may only be claimed for the services provided up to and including December 31, 1995.*

4. Q. A child is removed on December 1, 1995. The court orders detention and an EA application is taken on December 3, 1995. However, the EA application is not authorized until January 3, 1996. Is the case eligible for claiming?

   A. *No. In order for this case to be eligible, EA services would have had to have been authorized on or before December 31, 1995. The authorization must be based on a final determination of eligibility or a presumptive determination of eligibility.*

5. Q. A child is removed and placed in juvenile hall on December 26, 1995. The court orders detention and an EA application is taken on December 29, 1995. The case is authorized under presumptive eligibility on December 29, 1995. The final eligibility determination is made on January 10, 1996. Can the county claim for services provided between December 26, 1995, and January 10, 1996?

   A. *No. The costs of services provided from December 26, 1995, through December 31, 1995, are claimable. Services from January 1, 1996, and beyond are not eligible.*