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Regulation Package No. 0414-04

CDSS MANUAL LETTER NO. OPS 15-01

TO: HOLDERS OF THE OPERATIONS MANUAL, DIVISION 11

Regulation Package #0414-04

Effective 1/23/15

Section 11-403

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG609.htm>.

County placement agencies use licensed private Foster Family Agencies (FFAs) for the placement of children who require more intensive care as an alternative to group homes. Senate Bill (SB) 1013 (Chapter 35, Statutes of 2012) changed the rate-setting system to reflect increases in the basic care and supervision rates paid to foster families certified by FFAs and an annual cost-of-living adjustment to those rates, to bring them into parity with basic rates paid to licensed foster family homes. SB 1013 further specifies that these changes shall not change the remaining components of the FFA rate.

Beginning in the 2011-12 fiscal year and for each fiscal year thereafter, an annual cost of living increase based on the California Necessities Index shall occur, eliminating the prior rate ceiling. The rate amounts will no longer appear in regulation but in an All County Letter issued every fiscal year.

The original emergency regulations were effective July 1, 2014. The public hearing to consider the emergency regulations took place on September 3, 2014. This manual letter includes minor revisions to the emergency regulatory language.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Operations Manual regulation changes was OPS-10-01.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
164 through 165.1 169 and 170	164 and 165 169 and 170

Attachment

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(C) Where a foster family agency submits a rate request for more than one program and the Department determines that no significant difference exists between the programs, a separate rate or set of age-based rates shall not be set.

(b) Allowable Costs

(1) Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 2 CFR Part 200 (formerly referred to as 2 CFR Part 230), 45 CFR Part 74, 45 CFR Part 1356, and Sections 11-402.8 and 11-404.

(A) Allowable costs shall include:

1. Payment to the foster parents for those items specified in Sections 11-401.11 and .12.
2. Reasonable social work activities provided by the foster family agency as defined in Section 11-400s.(4).
3. The reasonable cost of activities of recruiting and training certified family home foster parents and administration of the provision of items or services described in 1. and 2. above.
4. Executive Compensation

All executive compensation shall be reported for each executive officer. The reasonableness standards and criteria for executive compensation are contained in Internal Revenue Code Section 4958. This rule shall apply to all individuals of the non-profit corporation deemed by the Internal Revenue Service (IRS) to be anyone in a position to exercise substantial influence over a non-profit corporation's affairs. This rule may apply to the individual's immediate family as well as to family-controlled entities. Compensation provided in accordance with Internal Revenue Code Section 4958 shall be deemed to be reasonable for the purposes of reporting AFDC-FC costs.

(c) Rate Calculation

(1) The foster family agency rate per month per child shall consist of the sum of components (A) through (E) below as established in Welfare and Institutions Code section 11463(n):

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Welfare and Institutions Code section 11463(n) provides:

"Notwithstanding any other law, the changes to the basic rate payment specified in subdivision (m) shall not change the remaining components of the foster family agency rate. The new foster family agency rate shall be increased only by the amounts specified pursuant to subdivision (m). The resulting amounts shall constitute the new schedule of rates for foster family agencies, which shall be issued by all-county letters or similar instructions from the department."

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- (A) The foster family agency child basic rate shall be the rate, which varies according to the age of the child, as specified in Welfare and Institutions Code section 11461(g)(1).
- (B) An additional amount, as established in Welfare and Institutions Code section 11463(n), for each child in recognition of the specialized nature of the children.
- (C) An additional amount, as established in Welfare and Institutions Code section 11463(n), for social work services, or the actual allowable amount for the most recent program fiscal year reported by the provider, whichever is less;
- (D) An additional standard amount for recruitment, training, and administration as established in Welfare and Institutions Code section 11463(n).
- (E) An annual cost of living adjustment shall be applied to the child basic rate component of the foster family agency rate identified in (A) in accordance with Welfare and Institutions Code section 11463(m)(2).

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Welfare and Institutions Code section 11463(m)(2) provides:

"The basic rate payment to the certified parent made pursuant to paragraph (1) shall be adjusted annually on July 1, by the annual percentage change in the California Necessities Index, in accordance with paragraph (2) of subdivision (g) of Section 11461. The adjustment in this paragraph shall be in lieu of any adjustment pursuant to subdivision (e)."

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- (F) The department shall publish the Foster Family Agency Rates and identify the applicable annual cost of living adjustment to the child basic rate component of the foster family agency rate on the Department's website.

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The department's website may be accessed at:
http://www.childsworld.ca.gov/res/pdf/FFA_RatesSchedule.pdf

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- (d) Rate Adjustments for Existing Foster Family Agency Rates
- (1) When, based on rate calculation provisions specified in Section 11-403(c), the newly calculated rate is higher than the existing rate, any cost-of-living increases provided in accordance with Welfare and Institutions Code section 11463 shall be applied until the difference between the existing rate and the newly calculated rate is eliminated.

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- (g) The administrative review procedure for foster family agencies is specified in Section 11-430.
- (h) State Audit Requirements: Audit requirements for foster family agencies are specified in Section 11-405.1.
- (i) Overpayments: Overpayment requirements for foster family agencies are specified in Section 11-402.6. An overpayment shall be caused by, but is not limited to, the expenditure of AFDC-FC program funds on items not allowable as specified in paragraph (b) above.
- (j) Accounting Requirements: Accounting requirements for foster family agencies are specified in Section 11-402.84.
- (k) Good Cause for Late Foster Family Agency Rate Request
 - (1) A provider who is unable to submit a complete rate request by the due date shall be allowed to submit in writing a request for a determination of good cause as defined in Section 11-400g.(1). The good cause request shall be postmarked no later than five (5) calendar days following the rate request due date and shall contain the following:
 - (A) A clear statement that the request is for a determination of good cause;
 - (B) The specific reason(s) for submitting an untimely rate request;
 - (C) The provider's name, address and telephone number;
 - (D) The name, address and telephone number of the person to be notified regarding the determination of good cause; and
 - (E) The name, location and program number of the affected program(s).

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- (2) Within 15 calendar days of the postmarked date of a provider's request for a 30-day good cause extension, the Department shall either approve or deny the request and shall notify the provider in writing of the determination.
 - (A) When the Department approves a request for good cause for a late or incomplete filing of a rate request, a complete rate request is due within 30-days of the postmark of the Department's approval notification or 30 days after the original rate request due date, whichever is later.
 - (B) Rate requests which are not submitted in accordance with Subsection (A) shall be subject to the appropriate penalty contained in Section 11-403(e)(3).
 - (C) When the Department denies a good cause request, the provider shall submit a complete rate request prior to the first of the next calendar month and shall be subject to the applicable penalty provisions as specified in Section 11-403(e)(3). The effective date of the rate shall be set in accordance with Section 11-403(e)(1)(B).

NOTE: Authority cited: Sections 10553, 10554, 11463, 11463(1)(2) and 11466.21(c), Welfare and Institutions Code. Reference: Sections 11461(a), 11461(g)(1), 11463, 11463(b), (i), (l) and (m), 11466.21, 11466.22, 11466.24, 11468, and 11468.2, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; *Government Auditing Standards* of the Comptroller General of the United States (Yellow Book); Department of Health and Human Services, Administration for Children and Families letters dated April 19, 2001, February 22, 2002 and May 7, 2002; 2 CFR Part 200 and 230; 45 CFR Part 74; 45 CFR Part 1356 and Internal Revenue Code Section 4958.