

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 35000(r)(3)

Specific Purpose/Factual Basis:

The specific purpose of this revision is to replace the term recertification with the term reassessment to provide clarity and to be consistent with the AAP regulations, statutes and the title of the AAP 3 form. It is not necessary to recertify a child's AAP eligibility, once a child is determined AAP-eligible they remain eligible until the age of 18 or 21, if there is a mental or physical disability that warrants the continuation of benefits. This change is consistent with terminology in the regulations and Welfare and Institutions Code Section 16121.05(c).

Section 35325(c)(1)

Specific Purpose/Factual Basis:

The specific purpose of this section is to change the capitalized "D" in the word department to a lower case "d." This editorial change is consistent with all other references that use the word department including the language in the Adoption Assistance Program (AAP) California (CA) statutes.

Sections 35325(c)(2) and (c)(2)(A) (Repeal)

Specific Purpose:

The specific purpose of this repeal is to allow the adoption of amended language regarding which county is financially responsible for the AAP payments when a child is relinquished for adoption to a California licensed public or private adoption agency.

Factual Basis:

Repeal of these sections is necessary to allow for the adoption of language to provide clarity and consistency with federal requirements, Social Security Act Section 473(a)(2), ACYF-CB-PA-01-01 (1/23/01) and Welfare and Institutions Code Section 16118(e).

Section 35325(c)(2) (Adopt)

Specific Purpose:

The specific purpose of this section is to provide guidance for the adoption agency when determining the financially responsible county for a child who is relinquished for adoption and placed with an adoptive family in the state of California.

Factual Basis:

This section is necessary to meet the requirements of Welfare and Institutions Code Section 16118(e). When a child is voluntarily relinquished to a public or private adoption agency and placed with an adoptive family, the financially responsible county is the county where the relinquishing parent resides. The Program Improvement Plan Primary Strategy # 7 and the Social Security Act Section 473(a)(2); ACYF-CB-PA-01-01 (1/23/01) mandates California's AAP regulations state that a child may be relinquished to a licensed public or private adoption agency.

Since current Section 32325(c)(2)(A) is being repealed, Section 32325(c)(2)(B) is renumbered to (c)(2)(A) for clarity and consistency.

Section 35325(c)(3)

Specific Purpose:

The specific purpose of this section is to provide clarity regarding which state is responsible to determine AAP eligibility, enter into the adoption assistance agreement and pay the subsidy when a child is relinquished to a private adoption agency in another state and placed with a California adoptive family.

Factual Basis:

This section is necessary to provide policy interpretation of the Social Security Act, Section 473; ACYF-CB-PA-01-01 (1/23/01). When an out of state child is relinquished to a private adoption agency in another state and placed with a prospective adoptive family in California, the responsible public agency in which the prospective adoptive parents reside is responsible for determining the child's AAP eligibility and entering into the adoption assistance agreement. The financially responsible county in California pays the subsidy. The prospective adoptive parents must apply for AAP with the responsible public agency representing their county of residence in California.

Section 35325(c)(4)

Specific Purpose:

The specific purpose of this section is to provide clarity regarding which state is responsible to determine AAP eligibility, enter into the adoption assistance agreement and pay the subsidy when a child is relinquished to a California private agency and placed with an adoptive family in another state.

Factual Basis:

This section is necessary to provide policy interpretation of the Social Security Act, Section 473; ACYF-CB-PA-01-01 (1/23/01). When a child is relinquished to a California private adoption agency and placed with a prospective adoptive family in another state, the public child welfare agency in the adoptive parents' state of residence is responsible for determining the child's AAP eligibility, entering into the adoption assistance agreement and paying the subsidy. Accordingly, the prospective adoptive parents must apply for AAP with the public child welfare agency in their state of residence, not with the county where the relinquishing birth parent resides.

Handbook Section 35325(d)

Specific Purpose/Factual Basis:

The specific purpose is to delete the Welfare and Institutions Code quotation. It is not necessary to quote the Welfare and Institutions Code in the AAP regulations. If the reader questions the regulations, it would be best for them to review the current version of the Welfare and Institutions Code Section 16118(e) referenced in the AAP regulations.

Section 35325(d)(2)

Specific Purpose/Factual Basis:

Current Section 35325(d)(2) is renumbered to Section 35325(d) for clarity and consistency. Current Section 35325(d) is being repealed.

Section 35325(e)(3) et seq.

Specific Purpose:

The specific purpose of this amendment is to repeal these sections to avoid duplication of information stated in Sections 35326; 35333; 35337; and 35341.

Factual Basis:

Repeal of these sections is necessary to provide clarity and consistency for the reader, and structure the regulations in a more logical order. The consolidation of information will encourage the reader to read the entire section related to the specific topic versus a brief synopsis stated in this section.

Section 35326 (Repeal)

Specific Purpose:

The specific purpose of this repeal is to allow the adoption of new sections which describe more clearly the methodology to be used by the responsible public agency to determine a child's AAP eligibility.

Factual Basis:

Repeal of these sections is necessary to allow the adoption of accurate methodology consistent with federal and state laws for the responsible public agency to follow when determining a child's AAP eligibility.

Section 35326 (Adopt)

Specific Purpose:

The specific purpose of the introductory paragraph is to provide an overview of the AAP eligibility determination process to be conducted by the responsible public agency.

Factual Basis:

This section is necessary to provide a description of the AAP eligibility determination process. The content of the introductory paragraph and more detailed information that follows is based on Welfare and Institutions Code Section 16120 that states AAP eligibility determination requirements. This section is consistent with federal requirements stated in Social Security Act, Sections 471(a)(19); 473(a)(2); 473(a)(2)(A); 473(a)(2)(A)(ii); 473(c); 473(e); Deficit Reduction Act of 2005; and Fostering Connections to Success and Increasing Adoptions Act of 2008. California is mandated by the AAP Program Improvement Plan to amend the AAP regulations to be consistent with federal law. The adoption of this section meets the Program Improvement Plan Primary Strategies: 1 through 6; 10; 15; and 17.

Section 35326(a)

Specific Purpose:

The specific purpose of this section is to describe the methodology to be used by the responsible public agency to determine if the child meets all three conditions of the three-part special needs criteria.

Factual Basis:

This section is necessary to provide direction to the responsible public agency when determining if a child is AAP eligible, the child must meet all three parts of the special needs criteria. The stated three-part special needs determination is consistent Welfare and Institutions Code Section 16120(a) through (c).

Sections 35326(a)(1) and (a)(1)(A)

Specific Purpose:

The specific purpose of these sections is to determine if the child meets the first criteria of the three-part special needs determination.

Factual Basis:

Section 35326(a)(1) is necessary to meet the requirement specified in Welfare and Institutions Code Section 16120(a). To meet the first criteria of the three-part special needs determination, there must be evidence in the case file stating the child cannot or should not return to the home of his or her parents.

Section 35326(a)(1)(A) is necessary to meet Welfare and Institutions Code Section 16120(a) as it provides a description of what may be considered evidence when determining if the child cannot or should not return to the home of his or her parents.

Sections 35326(a)(2) and (a)(2)(A)

Specific Purpose:

The specific purpose of these sections is to determine if the child meets the second criteria of the three-part special needs determination.

Factual Basis:

Section 35326(a)(2) is necessary to meet the requirement stated in Welfare and Institutions Code Section 16120(b). To meet the second requirement of the three-part special needs determination, the child must have at least one characteristic that is a barrier to his or her adoption.

Section 35326(a)(2)(A) is necessary to meet Welfare and Institutions Code Section 16120(b) as it provides a description of what may be considered barriers to adoption.

Section 35326(a)(3)

Specific Purpose:

The specific purpose of this section is to determine if the child meets the third criteria of the three-part special needs determination.

Factual Basis:

This section is necessary to meet the requirement stated in Welfare and Institutions Code Section 16120(c). To meet the third requirement of the three-part special needs determination, an effort must be made to place the child for adoption with appropriate parents without providing AAP unless it is against the best interest of the child.

Sections 35326(a)(3)(A) through (a)(3)(A)2.

Specific Purpose:

The specific purpose of these sections is to describe the activities to be completed by the responsible public agency when searching for an adoptive family who does request AAP benefits.

Factual Basis:

Section 35326(a)(3)(A) is necessary to meet the requirement specified in Welfare and Institutions Code Section 16120(c). The section instructs the responsible public agency to document in the case file the effort made to search for an adoptive family who does not request AAP benefits.

Sections 35326(a)(3)(A)1. and 2. describe the search activities to be considered when a responsible public agency is searching for an adoptive family who does not request AAP benefits. This section is consistent with Welfare and Institutions Code Section 16120(c).

Sections 35326(a)(3)(B) through (a)(3)(B)1.b.

Specific Purpose:

The specific purpose of these sections is to describe what factors are to be considered when a search for adoptive parents who do not request AAP benefits is not required.

Factual Basis:

Section 35326(a)(3)(B) is necessary as it describes when the responsible public agency is not required to conduct a search for adoptive parents who do not request AAP benefits. A search is not required when a child has significant emotional ties with the prospective adoptive parents while in their care as a foster child or if a relative plans to adopt the child. This section is consistent with Welfare and Institutions Code Section 16120(c).

Sections 35326(a)(3)(B)1. through (a)(3)(B)1.b. describe circumstances for the responsible public agency to consider when determining if a search for adoptive parents who are not requesting AAP benefits is not required. This information is consistent with Welfare and Institutions Code Section 16120(c).

Section 35326(b)

Specific Purpose:

The specific purpose of this section is to describe the methodology to be used by the responsible public agency to determine if the child meets one of the five paths to AAP eligibility.

Factual Basis:

This section is necessary to provide direction to the responsible public agency when determining if a child is AAP eligible; to be AAP eligible the child must meet one of the five paths to eligibility. The stated five paths to eligibility are consistent with Welfare and Institutions Code Sections 16120(i) and (j).

Sections 35326(b)(1) through (b)(1)(D)

Specific Purpose:

The specific purpose of these sections is to describe the first path of the five paths to AAP eligibility.

Factual Basis:

Section 35326(b)(1) is necessary to describe the criteria as stated in Welfare and Institutions Code Section 16120(j)(2) that the child would have had to have been eligible for Aid to Families with Dependent Children (AFDC) in the home of removal and at the time of removal.

Section 35326(b)(1)(A) is necessary per Welfare and Institutions Code Section 16120(j)(2) to require when a child is involuntarily removed from the home to obtain judicial determination, that it would be contrary to the child's welfare to have remained in the home of removal.

Sections 35326(b)(1)(A)1. and 2. are necessary to be consistent with Welfare and Institutions Code Section 16120(j)(2) that judicial determination must be made in the first court ruling sanctioning (even temporarily) the removal from the home and that the "contrary to welfare" finding is explicit in the first court order.

Section 35326(b)(1)(B) is necessary to state the requirements that must be obtained within six months of the date the child lived with the specified relative when a child was voluntarily relinquished to a licensed public or private adoption agency. These requirements are consistent with Welfare and Institutions Code Section 16120(j)(3).

Sections 35326(b)(1)(B)1. and 2. are necessary as they describe the specific requirements that a petition to the court to remove the child from the home of the specified relative is obtained within six months of the removal and that there is subsequent judicial determination that remaining in the home would be contrary to the child's welfare. These requirements are specified in Welfare and Institutions Code Section 16120(j)(3).

Section 35326(b)(1)(C) is necessary to be consistent with Welfare and Institutions Code Section 16120(j)(2). If a child is removed from the home pursuant to a voluntary placement agreement with the public agency there must be at least one Title IV-E Foster Care (FC) payment made on behalf of the child.

Section 35326(b)(1)(D) is necessary per Welfare and Institutions Code Section 16120(i). If the child does not meet one of the five paths to AAP eligibility, the placing agency must document the child was at risk of dependency at the time of relinquishment or removal from the home of the specified relative. The document stating the child is at risk of dependency must be certified by the responsible public child welfare agency.

Section 35326(b)(2)

Specific Purpose:

The specific purpose of this section is to describe the second path of the five paths to AAP eligibility.

Factual Basis:

This section is necessary per Welfare and Institutions Code Section 16120(j)(4). If the child is placed with their minor parent in a foster home or a child care institution, there must be at least one Title IV-E FC payment made on behalf of the child's minor parent.

Sections 35326(b)(3) through (b)(3)(B)

Specific Purpose:

The specific purpose of these sections is to describe the third path of the five paths to AAP eligibility.

Factual Basis:

Section 35326(b)(3) is necessary to describe the third path of the five paths to AAP eligibility. If the child was receiving AAP benefits in a prior adoption and later the adoption dissolved and the child is again available for adoption, the child may continue to receive AAP benefits provided two requirements are met. This section is consistent with Welfare and Institutions Code Section 16120(m).

Sections 35326(b)(3)(A) and (B) are necessary to state the requirements that a child must continue to meet, the three-part special needs determination and the citizenship requirements, to receive AAP benefits in a subsequent adoption per Welfare and Institutions Code Section 16120(m).

Section 35326(b)(4)

Specific Purpose:

The specific purpose of this section is to describe the fourth path of the five paths to AAP eligibility.

Factual Basis:

This section is necessary to describe the fourth path of the five paths to AAP eligibility per Welfare and Institutions Code Section 16120(j)(1). A child may meet this fourth path to AAP eligibility if the Social Security Administration has determined the child is eligible to receive federal Supplemental Security Income benefits.

Section 35326(b)(5)

Specific Purpose:

The specific purpose of this section is to describe the fifth path of the five paths to AAP eligibility.

Factual Basis:

This section is necessary to describe the fifth path of the five paths to AAP eligibility as stated in Welfare and Institutions Code Section 16120(j)(5). A child will meet this fifth

path to AAP eligibility if they are an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child.

Sections 35326(c) through (c)(3)

Specific Purpose:

The specific purpose of these sections is to describe the methodology to be used by the responsible public agency to determine if the child meets the "applicable child" requirements.

Factual Basis:

These sections are necessary to provide the requirements of what defines an "applicable child" for determining AAP eligibility. As stated in Welfare and Institutions Code Section 16120(n) a child may be an "applicable child" if they meet the applicable age requirements anytime before the end of the prescribed federal fiscal year; they have been in foster care for 60 consecutive months; or are a sibling of an "applicable child" and placed together in the same prospective adoptive home.

Section 35326(d)

Specific Purpose:

The specific purpose of this section is to describe the methodology to be used by the responsible public agency to determine if the "applicable child" meets one of the four paths to AAP eligibility.

Factual Basis:

This section is necessary to provide direction to the responsible public agency when determining if an "applicable child" meets one of the four paths to AAP eligibility. The stated four paths to eligibility for an "applicable child" are consistent with Welfare and Institutions Code Section 16120(k).

Section 35326(d)(1) through (d)(1)(B)2.

Specific Purpose:

The specific purpose of these sections is to describe the first path of the four paths to AAP eligibility for an "applicable child."

Factual Basis:

Section 35326(d)(1) is necessary to describe the first path of the four paths to AAP eligibility specific to an "applicable child" as stated in Welfare and Institutions Code Section

16120(k)(1). An "applicable child" in the care of a public or private child placement agency or Indian tribal organization must meet one of two factors.

Sections 35326(d)(1)(A) through (d)(1)(B)2. are necessary to describe the factors that must be met as they relate to Section 35326(d)(1): 1. Child was involuntarily removed from the home and judicial determination was made that continuation in the home was contrary to the child's welfare. 2. If a voluntary placement agreement or voluntary relinquishment was made, judicial determination does not have to be made nor does there have to have been a Title IV-E FC payment made on the child's behalf. These sections are consistent with Welfare and Institutions Code Section 16120(k)(1)(A) and (B).

Section 35326(d)(2)

Specific Purpose:

The specific purpose of this section is to describe the second path of the four paths to AAP eligibility for an "applicable child."

Factual Basis:

This section is necessary to describe the second path of the four paths to AAP eligibility per Welfare and Institutions Code Section 16120(k)(2). An "applicable child" may meet this second path to AAP eligibility if the Social Security Administration has determined the child is eligible to receive federal Supplemental Security Income benefits.

Section 35326(d)(3)

Specific Purpose:

The specific purpose of this section is to describe the third path of the four paths to AAP eligibility for an "applicable child."

Factual Basis:

This section is necessary per Welfare and Institutions Code Section 16120(k)(3). If the "applicable child" is placed with their minor parent in a foster home or a child care institution, they meet the third path of the four paths to AAP eligibility for an "applicable child."

Section 35326(d)(4)

Specific Purpose:

The specific purpose of this section is to describe the fourth path of the four paths to AAP eligibility for an "applicable child."

Factual Basis:

This section is necessary to describe the fourth path of the four paths to AAP eligibility for an "applicable child." If the child was receiving AAP benefits in a prior adoption that dissolved, the child may continue to receive AAP benefits per Welfare and Institutions Code Section 16120(m).

Sections 35326(e) through (e)(8)

Specific Purpose:

The specific purpose of these sections is to provide an example of how the age of an "applicable child" decreases every two years for each federal fiscal year.

Factual Basis:

These sections are necessary to provide an example of how the age of a child decreases by two years every federal fiscal year. A child may meet one of the "applicable children" requirements based on their age, if their age correlates with the stated federal fiscal year. This section is consistent with Welfare and Institutions Code Section 16120(n)(1).

Section 35326(f)

Specific Purpose:

The specific purpose of this section is to describe the methodology to be used by the responsible public agency to determine if the child meets the citizenship requirements for AAP eligibility.

Factual Basis:

This section is necessary to provide direction to the responsible public agency when determining if the child meets the citizenship requirements for AAP eligibility. The stated citizenship requirements that a child be a U.S. citizen or qualified alien are consistent with Welfare and Institutions Code Section 16120(l).

Sections 35326(f)(1) through (f)(3)

Specific Purpose:

The specific purpose of these sections is to describe the requirements that must be met if a child is not a U.S. citizen or qualified alien.

Factual Basis:

Section 35326(f)(1) is necessary to describe the criteria the child must meet if the child is an unqualified alien and placed with an unqualified alien family. Welfare and Institutions Code Section 16120(l) states that if a child is placed with an unqualified alien, the child must be a qualified alien or have lived in the U.S. for at least five years if the child entered the United States on or after August 22, 1996.

Section 35326(f)(2) is necessary to state that a child is exempt from the five year residency requirement if they are placed with a U.S. Citizen or qualified alien or a member of one of the stated excepted groups. This information is found in Welfare and Institutions Code Section 16120(l).

Section 35326(f)(3) is necessary to provide guidance to the responsible public agency as to the applicable funding stream when placing an unqualified alien child with an unqualified alien family in another country.

Section 35326(g)

Specific Purpose:

The specific purpose of this section is to inform the responsible public agency that there shall be no form of a means test used for determining a child's AAP eligibility.

Factual Basis:

This section is necessary to direct the responsible public agency that any form of a means test may not be used for determining a child's AAP eligibility per Welfare and Institutions Code Section 16119(d)(1).

Section 35326(h)

Specific Purpose:

The specific purpose of this section is to provide the responsible public agency with the requirements that prospective adoptive parents and any other adults living in the home must complete the criminal background check to receive AAP benefits on behalf of their AAP eligible child.

Factual Basis:

This section is necessary as there shall be no final approval for adoptive placement if one of the prospective adoptive parents or another adult living in the home has been convicted of a one of the listed felonies. This section is consistent with Welfare and Institutions Code Section 16120(h); Health and Safety Code Sections 1522 and 1522.1; and Family Code Sections 8712, 8811 and 8908.

Sections 35326(h)(1) and (2)

Specific Purpose:

The specific purpose of these sections is to describe the specific felonies and time of occurrence that would deny the approval of adoptive placement for prospective adoptive parents.

Factual Basis:

Section 35326(h)(1) is necessary to describe the types of convicted felonies by a prospective adoptive parent and/or other adult living in the home that would deny the final approval of adoptive placement of an AAP eligible child. This section is consistent with Welfare and Institutions Code Section 16120(h); Health and Safety Code Sections 1522 and 1522.1; and Family Code Sections 8712, 8811 and 8908.

Section 35326(h)(2) is necessary to state that final approval for adoptive placement for an AAP eligible child will not be granted if the prospective adoptive parent or any other adult living in the home was convicted of a felony within five years related to a physical assault, battery or a drug or alcohol related offense. This section is consistent with Welfare and Institutions Code Section 16120(h); Health and Safety Code Sections 1522 and 1522.1; and Family Code Sections 8712, 8811 and 8908.

Section 35327

Specific Purpose:

The specific purpose of this repeal is to allow adoption of a new section which describes the methodology to be used by a responsible public agency when determining if the search for adoptive parents who do not require AAP has been met.

Factual Basis:

Repeal of this section is necessary because all the contents of this section are being placed in Sections 35326(a)(3) et seq. This will improve the clarity of the regulations by structuring the regulation content in a more logical order.

Section 35329(a)

Specific Purpose:

The specific purpose of this section is to state the corresponding reference related to this topic.

Factual Basis:

This section is necessary to provide the reader with the statute corresponding to the adoptive parent's legal residence, Welfare and Institutions Code section 16121.1.

Handbook Section 35329(a)(1)

Specific Purpose:

This section is repealed; it is not necessary to quote the Welfare and Institutions Code in the AAP regulations.

Factual Basis:

This repeal is necessary to provide clarity and accurate information for the reader. If the reader questions the regulations, it would be best for them to review the current version of the Welfare and Institutions Code Section 16121.1 referenced in Section 35329(a).

Section 35331(a)

Specific Purpose:

The specific purpose of this section is to add a statement regarding the completion of the FC 8 form and a copy is to be placed in the AAP case file.

Factual Basis:

This section is necessary to inform the responsible public agency that the form FC 8 needs to be completed in addition to the completion of the AAP 4 to ensure proper Federal Eligibility Certification for each AAP case.

Section 35333 (Introductory Paragraph)

Specific Purpose:

The specific purpose of this editorial change is to provide clarity and consistency in the use of terms and process for the reader.

Factual Basis:

This editorial change is necessary to clarify that the responsible public agency is required to negotiate the AAP benefit amount with the adoptive family. The AAP benefit amount is a negotiated amount based on the needs of the child and the circumstances of the family which requires the concurrence of the adoptive parents. This information is consistent with Welfare and Institutions Code Sections 16119(d)(1) and 16121.05(c)

Section 35333(a) through (a)(5)

Section 35333(a) is relocated from Section 35333(e)(2)

Section 35333(a)(1) is relocated from Section 35333(e)(3)

Sections 35333(a)(2) and (2)(A) are relocated from Sections 35333(e)(4) and (4)(A)

Section 35333(a)(3) is relocated from Section 35333(a)

Section 35333(a)(4) is relocated from Section 35333(e)(6)

Section 35333(a)(5) is relocated from Section 35333(e)(6) (A)

Specific Purpose:

The specific purpose of these sections is to relocate the language from current Sections 35333(a) and 35333(e) et seq. to structure the regulations in a more logical order.

Factual Basis:

This editorial change is necessary improve clarity of the regulations by structuring the regulation content in a more logical order.

Sections 35333(b) et seq.

Specific Purpose:

Current Sections 35333(b) and (b)(1) are combined and amended for clarity and consistency. Current Sections 35333(b)(1)(A) through (b)(1)(A)4. are renumbered for consistency.

Factual Basis:

These amendments are necessary to: allow for the regulations to be more concise, improve clarity and avoid redundant statements; to be consistent with terms throughout the regulations [Title 22 California Code of Regulations Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts. This section is consistent with Welfare and Institutions Code Sections 16118(c) and 16119(c)]. Furthermore, the amendments clarify that the AAP benefit amount is a negotiated amount based on the needs of the child and the circumstances of the family as specified in Welfare and Institutions Code Sections 16119(c), (d)(1) and (d)(2).

Sections 35333(c) and (c)(1)

Specific Purpose:

The specific purpose of these sections is to combine the sections and delete a redundant statement.

Factual Basis:

These amendments are necessary so that the regulations be more concise, improve clarity and avoid redundant statements. Title 22, CCR Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts. This section is consistent with Welfare and Institutions Code Sections 16118(c) and 16119(c).

Handbook Section 35333(c)(1)(A) (Repeal)

Specific Purpose:

The specific purpose of this repeal is to delete irrelevant information in the AAP regulations.

Factual Basis:

Repeal of this section is necessary and consistent with Welfare and Institutions Code Section 16119(c); (d)(1) and (d)(2) that states the AAP benefit amount is a negotiated amount based upon the needs of the child and the circumstances of the family. This repeal will provide clarity for the responsible public agency when negotiating the AAP benefit amount.

Sections 35333(c)(1)(A)1. and new Section 35333(c)(1)(A)

Specific Purpose:

Current Section 35333(c)(1)(A)1. is renumbered to Section 35333(c)(1). The specific purpose of new Section 35333(c)(1)(A) is to include a paragraph that provides direction to the responsible public agency when a child requires additional services from the foster family agency (FFA).

Factual Basis:

The renumbering is necessary for clarity and consistency. New Section 35333(c)(1)(A) is necessary to provide the responsible public agency with direction on how to proceed with AAP benefits, if a child requires additional services from the foster family agency. When the adoptive placement agreement is signed, the FFA is no longer eligible to receive foster care payments for the child because the adoptive placement agreement is between the responsible public agency and the adoptive family. Thus, the placement is no longer eligible to receive the services provided under the auspices of the FFA. Furthermore, AAP does not pay for specific goods or services and it is the adoptive parents' discretion as to how the AAP funds are used to meet their child's needs. This information is consistent with the Social Security Act Section 473; ACYF-CB-PA-01-01 (1/23/01).

Sections 35333(c)(1)(B) through (c)(1)(B)3. (Renumbered to 35333(c)(2) through (c)(2)(C))

Specific Purpose:

Current Sections 35333(c)(1)(B) through (c)(1)(B)3. are renumbered to Sections 35333(c)(1) through (c)(2)(C) respectively. These sections are amended to clarify that the AAP benefit payment is a negotiated amount based on the needs of the child and the circumstances of the family.

Factual Basis:

These amendments are necessary and consistent with Welfare and Institutions Code Sections 16119(c), (d)(1) and (d)(2) that state the AAP benefit amount is a negotiated amount based on the needs of the child and the circumstances of the family. These amendments will provide clarity for the responsible public agency when negotiating the AAP benefit amount.

Sections 35333(c)(1)(B)4. and (c)(1)(B)4.a. (Renumbered to 35333(c)(2)(D) and (c)(2)(D)1.)

Specific Purpose:

The specific purpose of these changes is to renumber the sections as stated, add the acronym for specialized care increment (SCI), and to clarify that the AAP payment for a child who qualifies for SCI shall include the state-approved SCI in addition to the age-related, state-approved foster family home rate.

Factual Basis:

These amendments are necessary and consistent with Welfare and Institutions Code Section 16121(a). These amendments will provide clarity for the responsible public agency when negotiating the AAP benefit amount with the adoptive parents.

Handbook Section 35333(c)(1)(B)4.b. (Adopted as Regulation Section 35333(c)(2)(D)2.)

Specific Purpose:

The specific purpose of this section is to repeal the handbook section and adopt it as regulation. It clarifies that the specialized care provides a supplemental payment to a caregiver of a child who has a health or behavior problem.

Factual Basis:

These amendments are necessary and consistent with Welfare and Institutions Code Section 16121(a). These amendments will provide clarity for the responsible public agency when negotiating the AAP benefit amount with the adoptive parents.

Section 35333(c)(1)(B)4.c. (Renumbered to 35333(c)(2)(D)3.)

Specific Purpose/Factual Basis:

This section is renumbered for clarity and consistency.

Section 35333(c)(1)(C) (Renumbered to 35333(c)(3))

Specific Purpose:

The specific purpose of this section is to update the language to language that is correct and consistent with California law.

Factual Basis:

The amendment to this section is necessary to provide the correct terminology to be consistent with Welfare and Institutions Code Section 16121(c) and to provide the reader with the correct statute reference specific to an AAP-eligible child who is also a recipient of California Regional Center (CRC) services.

Section 35333(c)(1)(D) (Renumbered to 35333(c)(4))

Specific Purpose:

The specific purpose of this section is renumber the section and to repeal the statement "when the eligibility requirements of Section 35326 continue to be met."

Factual Basis:

The repeal of this statement is necessary to be consistent with Welfare and Institutions Code Sections 16120(d) and 16121.05(c). Once a child is determined AAP-eligible, they remain eligible until the age of 18, or 21 if there is a mental or physical disability that warrants continuation of benefits; the adoptive parents are no longer legally responsible for the support of the child; or the responsible public agency determines the adoptive parents are no longer providing support to the child. It is not necessary to determine a child's AAP eligibility again when they are placed in an out-of-home placement.

Sections 35333(c)(2), (c)(2)(A), and (c)(3)

Specific Purpose:

The specific purpose of these repeals is to bring the AAP regulations into compliance with federal requirements.

Factual Basis:

The repeal of these sections are necessary to be consistent with federal requirements 45 CFR 1356.40(c), ACYF-CB-PA-01-01 (1/23/01), Welfare and Institutions Code Section 16119(d)(1), and meets the Program Improvement Plan Primary Strategy 12.

The repeal of Section 35333(c)(2) is necessary because the use of a means test is prohibited in the process of selecting a suitable adoptive family or in negotiating an adoption assistance agreement, including the amount of the payment.

The repeal of Sections 35333(c)(2)(A) and (c)(3) is necessary because the AAP benefit amount should never be determined through the use of a means test or reduced because of income from any source. The reduction of the AAP benefit amount based on any type of income the child receives from a birth parent/relative or adoptive parent is prohibited. The amount of AAP a child receives cannot be reduced to a formula and/or lessened dollar for dollar based on any resources the child, adoptive parents or family receives from any source including SSI or survivor's benefits.

Section 35333(d)

Specific Purpose:

The specific purpose of this repeal is to delete a redundant section.

Factual Basis:

Repeal of this section allows for the regulations to be more concise, to improve clarity and avoids redundant statements. This information is stated in Section 35333(a)(2).

Section 35333(d)(1)

Specific Purpose:

The specific purpose of this repeal is to delete a redundant section.

Factual Basis:

The repeal of this section is necessary to provide clarity of the regulations, the adoptive parents' are asked on the Request for Adoption Assistance Program form (AAP 1) to describe the impact, if any, that adopting may have on their family circumstances. The adoptive parents' written statement as requested on the AAP 1 form is considered sufficient written documentation.

Section 35333(d)(1)(A) (Renumbered to 35333(c)(5))

Specific Purpose:

The specific purpose of this section is to editorially change the wording of the sentences and to add reference to the form "AAP 1."

Factual Basis:

This editorial change is necessary to improve clarity and consistency in the AAP regulations. The adoptive parents' written statement as requested on the AAP 1 form is considered sufficient written documentation; it is not necessary to request further documentation.

Section 35333(d)(1)(B) (Renumbered to 35333(c)(6))

Specific Purpose/Factual Basis:

This section is renumbered for clarity and consistency.

Handbook Section 35333(d)(1)(B)1.

Specific Purpose:

The specific purpose of this section is to repeal the Welfare and Institutions Code quotation.

Factual Basis:

It is not necessary to quote the Welfare and Institutions Code in the AAP regulations. If the reader questions the regulations, it would be best for them to review the current version of the Welfare and Institutions Code Section 16119(d)(2).

Handbook Section 35333(d)(1)(B)2. (Adopted as Regulation Section 35333(c)(6)(A))

Specific Purpose:

The specific purpose of this section is to repeal the handbook section and adopt it as regulation. It clarifies that the agency should not control or participate in adoptive family's choices regarding lifestyle, standard of living, or future plans.

Factual Basis:

These amendments are necessary and consistent with Welfare and Institutions Code Section 16119(d). These amendments will provide clarity for the responsible public agency when negotiating the AAP benefit amount with the adoptive parents.

Sections 35333(e) et seq.

Section 35333(e) is relocated to the introductory paragraph of Section 35333

Section 35333(e)(2) is relocated to Section 35333(a)

Section 35333(e)(3) is relocated to Section 35333(a)(1)

Sections 35333(e)(4) and (4)(A) are relocated to Section 35333(a)(2) and (2)(A)

Section 35333(e)(6) is relocated to Section 35333(a)(4)

Section 35333(e)(6) (A) is relocated to Section 35333(a)(5)

Specific Purpose:

The specific purpose of these editorial changes is to structure the regulations in a more logical order. Sections 35333(e)(5) and (5)(A) are renumbered to 35333(d) and (d)(1) respectively. Handbook Section 35333(e)(1)(A) and (b) repeal the Welfare and Institutions Code quotations. Section 35333(e)(7) is repealed because it is redundant.

Factual Basis:

The rearrangement of the sections as stated above will improve clarity by structuring the regulations in a more logical order.

Sections 35333(e)(5) and (5)(A) are renumbered and amended to be consistent with the terms stated in the AAP regulations and Welfare and Institutions Code Section 16121(a). This is necessary to provide clarity for the responsible public agency when negotiating the AAP benefit amount with the adoptive parents.

The repeal of Handbook Sections 35333(e)(1)(A) and (B) is necessary to delete quotations from the Welfare and Institutions Code in the AAP regulations. If the reader questions the regulations, it would be best for them to review the current version of the Welfare and Institutions Code Sections 16115.5 and 16119(d)(1).

The repeal of Section 35333(e)(7) is necessary to provide clarity for the reader and to avoid redundant statements.

Sections 35333(f) and (g)

Specific Purpose/Factual Basis:

Sections 35333(f) and (g) are renumbered to 35333(e) and (f) respectively for clarity and consistency.

Handbook Section 35333(g)(1) (Adopted as Regulation Section 35333(f)(1))

Specific Purpose:

The specific purpose of this section is to repeal the handbook section and adopt it as regulation. It clarifies that if the adoptive parent does not agree with the AAP benefit, the parent may request a state hearing pursuant to MPP Section 22-004.

Factual Basis:

This amendment is necessary to alert the adoptive parents of their right to a state hearing pursuant to MPP Section 22-004 if they do not agree with the AAP benefit.

Sections 35333(h) and (h)(1)

Specific Purpose:

Section 35333(h) is renumbered to 35333(g) for consistency. Current Section 35333(h)(1) is repealed because it has incorrect information.

Factual Basis:

The repeal of Section 35333(h)(1) is necessary and consistent with Welfare and Institutions Code Section 16121.05(c) and federal requirements stated in Social Security Act Section 473(a)(4) and (a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01 (1/23/01). There are to be no automatic AAP payment adjustments whether it is an increase or decrease in AAP benefit amounts at anytime. The duration of assistance shall not be changed without the concurrence of the adoptive parents.

Section 35333(g)(1) through (g)(1)(C)

Specific Purpose:

The specific purpose of these sections is to state the three ways in which AAP may be terminated.

Factual Basis:

These sections are necessary to provide the responsible public agency with direction as to when AAP may be terminated. These sections are consistent with Welfare and Institutions Code Section 16121.05(c) and meet the Program Improvement Plan Primary Strategy 13. Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child.

Unless one of the above situations occurs, AAP payments may not be adjusted without the concurrence of the adoptive parents.

Section 35334 (Title)

Specific Purpose:

The specific purpose of this editorial change is to clarify the title of the section.

Factual Basis:

This editorial change is necessary to clarify that this section is specific to AAP benefits for an AAP eligible child placed in a temporary out-of-home placement.

Section 35334(a)

Specific Purpose:

The specific purpose of this editorial change is to state it is the responsible public agency's role is to confirm the amount of the out-of-home versus determine the amount.

Factual Basis:

The editorial change is necessary to provide clarity for the responsible public agency and is consistent with Welfare and Institutions Code Section 16121(b). The decision to place an AAP eligible child in an out-of-home placement is the adoptive parents and all placement paperwork is to be signed between the adoptive parents and the facility. The adoptive parents are legally and financially responsible for the child and have requested to utilize AAP funds to cover the costs of the out of home placement which is an AAP benefit. The county's primary role is to facilitate the AAP funding requested by the parent provided the placement meets the out-of-home placement requirements and does not exceed the maximum state-approved foster care facility rate for which the child is placed.

Section 35334(a)(2)(B)

Specific Purpose:

The specific purpose of this amendment is to make editorial changes to the section.

Factual Basis:

These editorial changes are consistent with all other references that refer to the age-related, state-approved foster family home rate and Welfare and Institutions Code Section 16121(a). The update to the cross reference is necessary due to the revisions in Section 35333.

Section 35334(a)(2)(B)1.

Specific Purpose:

The specific purpose of this adoption is to provide a description of the criteria used to determine the share of cost. This will provide clarity to the reader and explains the share of cost is not limited to the age-related state-approved foster family home rate.

Factual Basis:

This section is necessary to provide examples of what the AAP benefit amount may consist of when negotiating the share of cost of an out-of-home placement and that the share of cost is not limited to the age-related state-approved foster family home rate.

Handbook Section 35334(a)(2)(B)1. (Adopted as Regulation Section 35334(a)(2)(B)2.)

Specific Purpose:

The specific purpose of this section is to repeal the handbook section and adopt it as regulation. It states which county is responsible for mental health assessments and mental health services.

Factual Basis:

This amendment is necessary to clarify that under California Code of Regulations, Title 2, Section 60020(c), the county financially responsible for making AAP payments is also responsible for the provision of mental health assessments and mental health services.

Section 35334(e)(1)

Specific Purpose:

The specific purpose of this amendment is to clarify the AAP benefit for a child's out-of-home placement is for a limited duration.

Factual Basis:

This section is necessary to provide clarification for the responsible public agency that an out-of-home placement is limited to 18 months per episode or condition and that the AAP agreement shall state the increased benefit amount is limited to 18 months.

This information is consistent with Welfare and Institutions Code Section 16121(b) and meets the Program and Improvement Plan Primary Strategy 11. AAP may pay for an eligible out-of-home placement if the placement is justified by a specific episode or condition and does not exceed 18 months. After an initial authorized out-of-home

placement, subsequent authorizations for payment for the out-of-home placement must be based on an eligible child's subsequent and specific episode or conditions.

Section 35334(e)(1)(A)

Specific Purpose:

The specific purpose of this section is to clarify for the responsible public agency that it is the adoptive parent's choice as to who pays the out-of-home placement.

Factual Basis:

This section is necessary to provide the responsible public agency clarification that it is the adoptive parent's choice whether they pay the out-of-home placement directly or they request the financially-responsible county to directly pay the facility. This section is mandated by the Program Improvement Plan Primary Strategy 11 and is consistent with federal requirements Social Security Act Section 473; ACYF-CB-PA-01-01 (1/23/01). The adoptive parent may request the financially-responsible public county to pay the facility directly using the child's eligible AAP funds, or the adoptive parents may request the AAP check continue to be sent to them and they will pay the facility. This should be discussed and mutually agreed on by the responsible public agency and the adoptive parent(s).

Section 35337(a)(2)(A)

Specific Purpose:

The specific purpose of this section is to clarify for the responsible public agency the duration of the AAP agreement.

Factual Basis:

This section is necessary and is consistent with Welfare and Institutions Code Section 16120.05(c). The AAP agreement is effective until terminated in accordance of its terms or an amended agreement is signed.

Section 35337(a)(2)(B)

Specific Purpose:

The specific purpose of this change is to move the language from Section 35325(e)(3)(D)1. to a more logical place.

Factual Basis:

This change is necessary to improve the clarity of the regulations by structuring the regulation content in a more logical order.

Sections 35337(a)(2)(C) and (C)1.

Specific Purpose:

The specific purpose of this change is to move the language from Sections 35325(e)(3)(D)2. and (e)(3)(D)2.(i) to a more logical place.

Factual Basis:

These sections are more relevant in the AAP agreement section than the request for AAP section. This change is necessary to improve the clarity of the regulations by structuring the regulation content in a more consistent order.

Section 35337(a)(3)

Specific Purpose:

The specific purpose of repeal is to delete this section; it is not necessary to state the child's specific special needs on the AAP agreement.

Factual Basis:

The repeal of this section is necessary because prior to the signing of the AAP agreement, the responsible public agency has determined the child is AAP-eligible, which includes meeting the Three-part Special Needs Determination. The AAP payment is a negotiated rate based on the child's special needs and the circumstances of the family which is completed before the execution of the AAP agreement. Furthermore, there is documentation in the file such as the AAP 1 and AAP 4 forms. This information is consistent with Welfare and Institutions Code Sections 16120(a) through (c) and 16121.05(c).

Section 35337(a)(4)

Specific Purpose:

The specific purpose of this repeal is to delete this section; it is not necessary to state on the AAP agreement the child has meet the Three-part Special Needs Determination. The responsible public agency has determined the child meets the Three-part Special Needs Determination which includes this statement.

Factual Basis:

The repeal of this section is necessary because prior to the signing of the AAP agreement, the responsible public agency has determined the child is AAP-eligible, which includes meeting the Three-part Special Needs Determination that is documented on the AAP 1 and

AAP 4 forms. This information is consistent with Welfare and Institutions Code Sections 16120(a) through (c) and 16121.05(c).

Sections 35337(a)(5) through (a)(5)(D)

Specific Purpose:

The specific purpose of this repeal is to delete inconsistent information on the termination of an AAP agreement.

Factual Basis:

Repeal of these sections is necessary to delete information that is inconsistent with state and federal laws. A new section is being adopted below which states correctly the ways in which an AAP agreement may be terminated.

Section 35337(a)(3) through (a)(3)(C)

Specific Purpose:

The specific purpose of this section is to state the three ways in which AAP may be terminated.

Factual Basis:

These sections are necessary to provide the responsible public agency with direction as to when AAP may be terminated. These sections are consistent with Welfare and Institutions Code Section 16121.05(c) and meet the Program Improvement Plan Primary Strategy 13. Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child. Unless one of the above situations occurs, AAP payments may not be adjusted without the concurrence of the adoptive parents.

Sections 35337(a)(4) through (a)(4)(D)

Specific Purpose:

The specific purpose of these sections is to adopt language that details the adoptive parents' responsibilities.

Factual Basis:

These sections are necessary to describe the adoptive parents' responsibility to keep the responsible public agency informed of circumstances which would make them ineligible for

AAP payments or eligible for AAP payments in a different amount. This information is consistent with Welfare and Institutions Code Sections 16119(f), 16120.05, and 16121.05(c).

Section 35337(a)(5)

Specific Purpose:

The specific purpose of this section is to state that the financially-responsible county is responsible for needed services when the child lives in another state.

Factual Basis:

This section is necessary to clarify that the financially-responsible county is responsible for the child's needed services regardless of the child's state of residence. This section is consistent with Welfare and Institutions Code Sections 16121(d)(1), 16121.1, and 16121.2 and meets the Program Improvement Plan Primary Strategy 14. The AAP agreement is to remain in effect regardless of the adoptive parent's residence. The AAP agreement is to state a provision for services and medical care under the Interstate Compact on Adoption and Medical Assistance for the protection of the adoptive parents and child when they move to another state. The financially-responsible county/state must take measures to assure that the terms of the AAP agreements are met either directly or through agreements with other states.

Section 35337(a)(6)

Specific Purpose:

The specific purpose of this section is to require the adoptive parents' to contact the responsible public agency to request an extension of AAP benefits beyond the age of 18.

Factual Basis:

This section is necessary to state that it is the adoptive parent's responsibility to contact the responsible public agency prior to their child's 18th birthday, if they wish to have their child evaluated for AAP eligibility to the age of 21. To be eligible to receive AAP to the age of 21, the responsible public agency must determine whether the child has a mental or physical disability that warrants continuation of assistance as stated in Welfare and Institutions Code Section 16120(d).

Sections 35337(a)(7) and (a)(7)(A)

Specific Purpose:

The specific purpose of these sections is to detail the AAP rates for dual agency children.

Factual Basis:

These sections are necessary to describe the eligible AAP rates specific for children who meet the definition of a dual agency child per Welfare and Institutions Code Section 16121(c)(1) through (c)(4).

Section 35337(a)(7) is necessary to state the eligible AAP rate for a dual agency child may not exceed the maximum of \$3006. If the child received AAP benefits prior to July 1, 2007, that exceeds the maximum \$3006 rate, they may continue to receive the higher rate until the child is no longer eligible for AAP benefits or the adoption dissolves.

Section 35337(a)(7)(A) is necessary to state the eligible AAP rate for children under the age of three years and receiving services under the California Early Intervention Services Act, the maximum AAP available benefit is \$898.

Section 35337(a)(8) and (a)(8)(A)

Specific Purpose:

The specific purpose of these sections is to provide direction to the responsible public agency regarding the age-related rate increases.

Factual Basis:

These sections are necessary to provide direction to the responsible public agency regarding who is eligible to receive an age-related rate increase as stated in Welfare and Institutions Code Section 16121(a)(1) and (a)(2).

Section 35337(a)(8) is necessary to state that initial AAP agreements signed on or after January 1, 2010 for an AAP eligible child will no longer be eligible to receive an AAP age-related increase.

Section 35337(a)(8)(A) is necessary to state that for AAP-eligible children whose initial AAP agreements were signed prior to January 1, 2010, will still be eligible to receive the AAP age-related increase upon request.

Section 35337(a)(8)(B)

Specific Purpose:

The specific purpose of this change is to move the language from Section 35326(c) to a more logical place.

Factual Basis:

This section is more relevant in the AAP agreement section than the AAP eligibility section. This change is necessary to improve the clarity of the regulations by structuring the regulation content in a more consistent order.

Sections 35337(a)(6) through (a)(8) (Renumbered to 35337(a)(9) through (a)(11))

Specific Purpose/Factual Basis:

Current Sections 35337(a)(6) through (a)(8) are renumbered to 35337(a)(9) through (a)(11) respectively to accommodate the adoption of new sections.

Section 35337(a)(9)

The specific purpose of this repeal is to bring the AAP regulations into compliance with federal requirements.

Factual Basis:

The repeal of this section is necessary to be consistent with federal requirements 45 CFR 1356.40(c), ACYF-CB-PA-01-01 (1/23/01), Welfare and Institutions Code Section 16119(d)(1), and meets the Program Improvement Plan Primary Strategy 12. The use of a means test is prohibited in the process of selecting a suitable adoptive family or in negotiating an adoption assistance agreement, including the amount of the payment. The reduction of the AAP benefit amount based on any type of income the child receives from a birth parent/relative or adoptive parent is prohibited. The amount of AAP a child receives cannot be reduced to a formula and/or lessened dollar for dollar based upon any resources the child, adoptive parents or family receives from any source including SSI or survivor's benefits.

Sections 35337(a)(10) through (a)(14) (Renumbered to 35337(a)(12) through (a)(16))

Specific Purpose/Factual Basis:

Current Sections 35337(a)(10) through (a)(14) are renumbered to 35337(a)(12) through (a)(16) respectively to accommodate the adoption of new sections.

Section 35339(a)

Specific Purpose:

The specific purpose of this amendment is to provide an accurate description of the purpose of the deferred AAP agreement.

Factual Basis:

This section is necessary to provide the responsible public agency the purpose of signing a deferred AAP agreement as stated in Welfare and Institutions Code Section 16119(b). The signing of a deferred AAP agreement will retain the child's eligibility if the adoptive parents choose to access and utilize AAP benefits at a later date. If a deferred AAP Agreement is not signed prior to the finalization of the adoption, the child will not be able to access the benefits in the future, should the need arise.

To be AAP-eligible, a child would have had to meet the AAP eligibility requirements as stated in Section 35326. It is not necessary to state the specific needs on the AAP agreement as it has been established the child is AAP-eligible prior to the execution of the deferred AAP agreement.

Sections 35339(a)(1) and (2)

Specific Purpose:

The specific purpose of this repeal is to delete unnecessary regulations, it is not necessary to state the child's specific special needs on the AAP agreement.

Factual Basis:

The repeal of these sections is necessary because prior to the signing of the deferred AAP agreement, the responsible public agency has determined the child is AAP-eligible which includes meeting the Three-part Special Needs Determination. Furthermore, there is documentation in the file such as the AAP 1 and AAP 4 forms. This information is consistent with Welfare and Institutions Code Sections 16120(a) through (c) and 16121.05(c).

Sections 35339(a)(3) and (4) (Renumbered to 35339(a)(1) and (2) respectively)

Specific Purpose/Factual Basis:

These sections are renumbered to accommodate the repeals addressed above.

Section 35341(a)(2)(C)

Specific Purpose:

The specific purpose of this repeal is to delete an obsolete regulation. This form is no longer required to be completed by the Department of Health Care Services (DHCS) and DCHS no longer accepts copies of this form. Current regulation Section 35341(a)(2)(D) is renumbered to 35341(a)(2)(C) for consistency.

Factual Basis:

The repeal of this section is necessary because DHCS has stopped accepting copies of the completed Health Insurance Questionnaires. DHCS has increased tape matches with health insurance carriers, automated batch transactions from county consortiums, Department of Child Support Services, Social Security Administration, and other automated systems to receive other health coverage information in a timely manner. Title 22, California Code of Regulations, Section 50763 directs Medi-Cal beneficiaries to report other health coverage at the time of application, reapplication, or redetermination, and Section 50765 requires counties to report this information to the DHCS. This requirement will be met through the use of the Medi-Cal Eligibility Data System (MEDS). The elimination of the paper Health Insurance Questionnaire is stated in DHCS Letter No.: 09-25; Subject: Elimination of the Health Insurance Questionnaire.

Section 35341(a)(2)(C)1.

Specific Purpose:

The specific purpose of this section is to include a statement that clarifies the reason for the completion of the FC 10 form.

Factual Basis:

This statement is necessary as it meets Program Improvement Plan Primary Strategy 8 and is consistent with Welfare and Institutions Code Section 16120(j)(2). This section is to provide clarity that the FC 10 is to be used only for the purposes of determining if the child would have been AFDC-eligible in the home of removal according to July 16, 1996 standards. The federal requirements referenced are as follows: Social Security Act Sections 473(a)(2) and 473(c); The Deficit Reduction Act of 2005; and ACYF-CB-PA-01-01 (1/23/01).

Handbook Section 35341(a)(3)(A) (Adopted as Regulation Section 35334(a)(3)(A))

Specific Purpose:

The specific purpose of this section is to repeal the handbook section and adopt it as regulation. It states that the AAP 2 form triggers the creation of a new county payment case record.

Factual Basis:

This amendment is necessary to require the creation of a new and distinct county payment.

Handbook Section 35341(a)(3)(A)1.

Specific Purpose/Factual Basis:

The repeal of this handbook section is necessary to delete the reference to the Welfare and Institutions Code quotation. If the reader questions the regulations, it would be best for them to review the current version of the Welfare and Institutions Code Section 16118(e) referenced in Section 35325.

Handbook Section 35341(b)(1) (Adopted as Regulation Section 35341(b)(1))

Specific Purpose:

The specific purpose of this section is to repeal the handbook section and adopt it as regulation. It specifies when the initial AAP payment shall be delivered to the adoptive parent(s).

Factual Basis:

This amendment defines 20 days as a reasonable and timely delivery by the county of the initial AAP payment.

Section 35343(a)

Specific Purpose:

The specific purpose of this amendment is to provide clarity for the reader and to be consistent with terms throughout the regulations.

Factual Basis:

This editorial is necessary for clarity. Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts.

Section 35343(a)(1) through (a)(2)(C)

Specific Purpose:

The specific purpose of this repeal is to delete information that is incorrect.

Factual Basis:

Repeal of these sections is necessary because they are inconsistent with Welfare and Institutions Code Section 16121.05(c).

New Sections 35343(a)(1) through (a)(3)

Specific Purpose:

The specific purpose of this adoption is to include the reasons for when the reassessment process is no longer required for an AAP-eligible child.

Factual Basis:

These sections are necessary to provide the responsible public agency with direction as to when reassessments are no longer necessary to complete. These sections are consistent with Welfare and Institutions Code Section 16121.05(c) and meet the Program Improvement Plan Primary Strategy 13. Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child. Unless one of the above situations occurs, AAP payments may not be adjusted without the concurrence of the adoptive parents. This information is consistent with federal requirements at Social Security Act Section 473(a)(4); 473(a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01 (1/23/01).

Sections 35343(b)(1) and Handbook Section 35343(b)(1)(A)

Specific Purpose:

The specific purpose of these amendments is to delete the reference to the CDSS Manual of Policies and Procedures and instead include the information referred to in this regulation and to repeal the handbook section.

Factual Basis:

The repeal of reference to the CDSS Manual of Policies and Procedures is necessary because it would be better to have the actual language referred to from another manual that is not a part of the CCR. Handbook sections are not printed in the CCR and the Department is trying to stay away from them in order to maintain a user-friendly manual that is easy to follow.

Section 35343(b)(1)(B) and (b)(1)(A)1.

Specific Purpose:

Current Section 35343(b)(1)(B) is renumbered to 35343(b)(1)(A) and amended for clarity and consistency and Section 35343(b)(1)(A)1. is adopted to include directions to follow to the responsible public agency when the adoptive parents do not return the AAP 3 form.

Factual Basis:

Section 35343(b)(1)(A)1. is necessary to provide the responsible public agency with direction as to how to proceed with the reassessment process if the AAP 3 form is not returned to the agency. As stated in previous sections, AAP may not be terminated unless one of the three ways to terminate is met. Any suspension of AAP benefits is considered to be a termination and is not allowable. This is consistent with federal requirements at Social Security Act Section 473(a)(4); 473(a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01 (1/23/01) and Welfare and Institutions Code Section 16120.05. The completed reassessment form (AAP 3) is due every two years; however, if the family does not submit a reassessment form, AAP must continue at the same rate reflected on the last AAP agreement and Payment Instructions (AAP 2) form.

Section 35343(b)(2)

Specific Purpose:

This section is amended to provide consistency with terms throughout the AAP regulations and clarity for the reader.

Factual Basis:

These editorial changes are necessary to provide clarity for the reader and to be consistent with terms throughout the regulations. Title 22, CCR, Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts.

Section 35343(b)(2)(B)

Specific Purpose:

The specific purpose of these editorial changes is to provide more clarity and consistency in directions for the responsible public agency when conducting an AAP reassessment.

Factual Basis:

These editorial changes are necessary to provide consistency in the reassessment process. If there have been no changes in the AAP agreement or AAP benefit, the responsible public agency is not required to submit a new AAP 2.

Handbook Section 35343(b)(2)(B)1.

The specific purpose is to repeal this section due to inconsistencies with state and federal requirements.

Factual Basis:

This repeal is necessary as this section conflicts with the Social Security Act Section 473(a)(4); 473(a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01 (1/23/01) and Welfare and Institutions Code Section 16120.05. Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child. Unless one of the above situations occurs, AAP payments may not be adjusted without the concurrence of the adoptive parents.

Section 35343(b)(2)(C)

Specific Purpose:

This section is amended to delete a redundant sentence.

Factual Basis:

This repeal is necessary to provide clarity, relevance and avoid duplication for the reader.

Section 35343(b)(2)(C)1.c.

Specific Purpose:

The specific purpose of this section is to include "circumstances of the family" as part of the information necessary to reassess the child's needs and required level of care.

Factual Basis:

This section is necessary as the circumstances of the family must be considered when renegotiating the AAP benefit amount. The AAP benefit amount is a negotiated amount based on the needs of the child and the circumstances of the family and requires the concurrence of the adoptive parents. This information is consistent with Welfare and Institutions Code Section 16119 (d)(1) and (d)(2) and federal requirements Social Security Act-Section 473(a)(3); ACYF-CB-PA-01-01 (1/23/01).

Section 35343(b)(2)(C)2.

Specific Purpose/Factual Basis:

This editorial change is necessary to ensure the responsible public agencies are consistent in implementing AAP procedures and policies. When determining the amount of and duration of the AAP benefit, it is best to read the whole Section 35333 not just a portion of it.

Section 35343(b)(2)(C)3.a.

Specific Purpose:

The specific purpose of these editorial changes is to provide more clarity and consistency in directions for the responsible public agency when conducting an AAP reassessment and renegotiating the AAP benefit amount.

Factual Basis:

These editorial changes are necessary to provide consistency in the reassessment and renegotiation process. Although the responsible public agency is required to make a good faith effort to renegotiate the AAP benefit with the adoptive parents. The AAP benefit may not exceed the maximum foster care maintenance payment that would have been paid had the child remained in foster care. This section is consistent with Welfare and Institutions Code Section 16121(a) and Section 473(a)(3) of the Social Security Act.

Section 35343(b)(2)(C)4.

Specific Purpose:

The specific purpose of these editorial changes is to provide clarity to the regulation.

Factual Basis:

These editorial changes are necessary to provide clarity for the reader and to be consistent with terms throughout the regulations. Title 22, CCR, Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts.

Handbook Section 35343(b)(2)(C)4.b.

Specific Purpose:

The specific purpose of this repeal is to delete redundant information.

Factual Basis:

Repeal of this section is necessary to avoid duplication. This information is stated in amended Section 35333(g) and the reader is directed to Section 35333 in Section 35343(b)(2)(C)2.

Handbook Section 35343(b)(2)(C)5.a.

Specific Purpose:

The specific purpose of this repeal is to delete incorrect information that is inconsistent with state and federal requirements.

Factual Basis:

This repeal is necessary as this section conflicts with state and federal requirements. Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child. Unless one of the above situations occurs, AAP payments may not be adjusted without the concurrence of the adoptive parents.

Section 35343(b)(2)(D)

Specific Purpose:

The specific purpose of these editorial changes is to provide clarity to the regulation.

Factual Basis:

These editorial changes are necessary to provide clarity for the reader and to be consistent with terms throughout the regulations.

Sections 35343(b)(2)(E) through (E)(2)

Specific Purpose:

The specific purpose of this repeal is to delete incorrect information that is inconsistent with state and federal requirements.

Factual Basis:

Repeal of these sections is necessary because they conflict with Welfare and Institutions Code Section 16121.05(c); Social Security Act Section 473(a)(4) and 473(a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01 (1/23/01). The Adoption Assistance Program form (AAP 3) reminds parents to keep the responsible public agency informed of circumstances which may affect the receipt of AAP benefits. The completed reassessment form is due every two years; however, if the family does not submit a reassessment form, AAP must continue at the same rate reflected on the last AAP agreement and Payment Instructions (AAP 2) form.

Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child.

Section 35343(b)(3)

Specific Purpose:

The specific purpose of this repeal is to delete an obsolete regulation. This form is no longer required to be completed by the Department of Health Care Services (DHCS) and DHCS no longer accepts copies of this form.

Factual Basis:

The repeal of this section is necessary because DHCS has stopped accepting copies of the completed Health Insurance Questionnaires. DHCS has increased tape matches with health insurance carriers, automated batch transactions from county consortiums, Department of Child Support Services, Social Security Administration, and other automated systems to receive other health coverage information in a timely manner. Title 22, California Code of Regulations, Section 50763 directs Medi-Cal beneficiaries to report other health coverage at the time of application, reapplication, or redetermination, and Section 50765 requires counties to report this information to the DHCS. This requirement will be met through the use of the Medi-Cal Eligibility Data System (MEDS).

Handbook Sections 35344 (a)(1)(B) 1. and 2. and Regulation Section 35344(a)(1)(B)3.

Specific Purpose:

The specific purpose of this repeal is to delete incorrect information that is inconsistent with state and federal laws.

Factual Basis:

Repeal of these sections is necessary because the stated examples are limited, incorrect and do not cover all possible scenarios. As stated in Welfare and Institutions Code Section 16121.05(c), and Social Security Act Sections 473(a)(4) and 473(a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01 (1/23/01), once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless: 1) The child has attained the age of 18 or 21; 2) The adoptive parents are no longer legally responsible for the support of the child; or 3) The responsible public agency determines the adoptive parents are no longer providing support to the child.

Handbook Section 35344(e)

Specific Purpose:

The specific purpose of this repeal is to delete redundant information.

Factual Basis:

Repeal of this section is necessary to avoid duplication, provide clarity, relevance and logical order to the regulations.

Section 35344(e) (Adopt)

Specific Purpose:

The specific purpose of this adoption is to state that the county is not to demand overpayment collection when the overpayment was due to a county error.

Factual Basis:

This section is necessary to provide clarification to the reader that it is not the adoptive parent's responsibility to ensure the responsible public agency and/or financially responsible county enters data correctly or follows proper AAP policy and procedures.

Section 35345(a)(4)

Specific Purpose/Factual Basis:

The specific purpose of this revision is to replace the term "recertification" with "reassessment" to provide clarity and to be consistent with the AAP regulations, statutes and the title of the AAP 3 form. It is not necessary to recertify a child's AAP eligibility, once a child is determined AAP-eligible they remain eligible until the age of 18 or 21, if there is a mental or physical disability that warrants the continuation of benefits. This change is consistent with terminology in the regulations and Welfare and Institutions Code Section 16121.05(c).

Section 35347

Specific Purpose:

The specific purpose of this repeal is to delete information that is no longer applicable for AAP-eligible children.

Factual Basis:

Repeal of this section is necessary due to the termination of these AAP agreements based on age. Welfare and Institutions Code Section 16121.05(d) was repealed in legislative year 2009/2010. AAP eligible children whose initial AAP agreements were signed prior to October 1, 1982 are no longer eligible to receive AAP benefits due to their age. As of 2010, these children would be approximately 28 years of age.

Section 35351(a)

Specific Purpose:

The specific purpose of this amendment is to clarify that it is the responsible public agency that shall maintain separate copies of the documents.

Factual Basis:

This amendment is necessary for clarity. Title 22, CCR Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts.

Section 35351(a)(3)(B)

Specific Purpose:

The specific purpose of this repeal is to delete information that is not applicable to AAP cases. Current Section 35351(a)(3)(C) is renumbered to maintain consistency.

Factual Basis:

Repeal of this section is necessary to provide clarification to the responsible public agency. It is not necessary to determine a child's Federal AFDC-FC Eligibility (FC 3) when determining AAP eligibility. The AAP 4 and FC 8 forms are the only forms required to be completed when determining a child's AAP eligibility.

Section 35352(a)(1)

Specific Purpose:

The specific purpose of this amendment is to include a statement of the correct eligibility methodology to be applied by the responsible public agency for reimbursement of nonrecurring adoption expenses.

Factual Basis:

This amendment is necessary to be in compliance with Program Improvement Plan Primary Strategy 9; Welfare and Institutions Code Section 16120.1; Social Security Act Section 473(a)(6); 45 CFR 1356.40(i); ACYF-CB-PA-01-01 (1/23/01). The only eligibility criterion to be applied for reimbursement of nonrecurring adoption expenses is that the child meets the three-part special needs determination and citizenship requirements. The child does not have to be eligible for AFDC, Title IV-FC, SSI, or be an "applicable child" for the adoptive parents to receive reimbursement for their nonrecurring adoption expenses even when the public agency does not have responsibility for placement and care of the child.

Section 35352.1(a)(2)

Specific Purpose:

The specific purpose of this amendment is to include a statement of the correct eligibility methodology to be applied by the responsible public agency for reimbursement of nonrecurring adoption expenses.

Factual Basis:

This amendment is necessary to be in compliance with Program Improvement Plan Primary Strategy 9; Welfare and Institutions Code Section 16120.1; Social Security Act Section 473(a)(6); 45 CFR 1356.40(i); ACYF-CB-PA-01-01 (1/23/01). The only eligibility criterion to be applied for reimbursement of nonrecurring adoption expenses is that the child meets the three-part special needs determination and citizenship requirements. The child does not have to be eligible for AFDC, Title IV-FC, SSI, or be an "applicable child" for the adoptive parents to receive reimbursement for their nonrecurring adoption expenses even when the public agency does not have responsibility for placement and care of the child.

Section 35352.1(a)(3)

Specific Purpose:

The specific purpose of this repeal is to delete a redundant statement. Subsequent regulation Sections 35352.1(a)(4) through (a)(9) are renumbered to 35352.1(a)(3) through (a)(8) for consistency.

Factual Basis:

The repeal of this section is necessary to avoid redundant statements and to provide clarity for the reader. The search requirement is one of the three-part special needs determination and if the child meets the three-part special needs determination as stated in Section 35352(a)(1) and Section 35352.1(a)(2) they will have met the search requirement.

Section 35352.1(a)(8)

Specific Purpose:

The specific purpose of the amendment to this section is to delete an inconsistent statement (an AAP eligible child) due to inconsistencies with state and federal laws.

Factual Basis:

The amendment of this section is necessary to be in compliance with Program Improvement Plan Primary Strategy 9; Welfare and Institutions Code Section 16120.1; Social Security Act Section 473(a)(6); 45 CFR 1356.40(i); ACYF-CB-PA-01-01 (1/23/01). The only eligibility criterion to be applied for reimbursement of nonrecurring adoption expenses is that the child meets the three-part special needs determination and citizenship requirements. The child does not have to be eligible for AFDC, Title IV-FC, SSI, or be an "applicable child" for the adoptive parents to receive reimbursement for their nonrecurring adoption expenses even when the public agency does not have responsibility for placement and care of the child.

Section 35352.1(a)(9)(B)

Specific Purpose:

The specific purpose of this section is to repeal an incorrect statement due to inconsistencies with state and federal laws.

Factual Basis:

The repeal of this section is necessary to comply with Welfare and Institutions Code Section 16120.1; Social Security Act Sections 473(a)(1)(B)(i) and 473(a)(5); 45 CFR 1356.41(b). Payments may be made on behalf of a child in an adoptive placement prior to the finalization of adoption when all eligibility requirements are met and there is a signed agreement for nonrecurring expenses of adoption. This nonrecurring adoptions agreement may be a separate document or a part of the agreement for either federal or state adoption assistance.

Section 35352.2(a)

Specific Purpose:

The specific purpose of this amendment is to include a statement of the correct eligibility methodology to be applied by the responsible public agency for reimbursement of nonrecurring adoption expenses.

Factual Basis:

This amendment is necessary to be in compliance with Program Improvement Plan Primary Strategy 9; Welfare and Institutions Code Section 16120.1; Social Security Act Section 473(a)(6); 45 CFR 1356.40(i); ACYF-CB-PA-01-01 (1/23/01). The only eligibility criterion to be applied for reimbursement of nonrecurring adoption expenses is that the child meets the three-part special needs determination and citizenship requirements. The child does not have to be eligible for AFDC, Title IV-FC, SSI, or be an "applicable child" for the adoptive parents to receive reimbursement for their nonrecurring adoption expenses even when the public agency does not have responsibility for placement and care of the child.

Section 35352.2(a)(1)

Specific Purpose:

The specific purpose in repealing this section is to avoid redundancy and to provide clarity for the reader.

Factual Basis:

Repeal of this section is necessary to provide clarity, relevance and to avoid duplication. The information is stated in the amended Sections 35352.2(a) and (a)(1).

Section 35352.2(a)(1)(A) (Renumbered to 35352.2(a)(1))

Specific Purpose:

The specific purpose of this amendment is to renumber the section, delete an inconsistent statement, and structure the regulations in a more logical order.

Factual Basis:

These amendments are necessary because a child does not have to be AAP eligible for the adoptive parents to receive reimbursement for nonrecurring adoption expenses. The only eligibility criterion to be applied for reimbursement of nonrecurring adoption expenses is that the child meets the three-part special needs determination and citizenship requirements. The child does not have to be eligible for AFDC, Title IV-FC, SSI, or be an "applicable child" for the adoptive parents to receive reimbursement for their nonrecurring adoption expenses even when the public agency does not have responsibility for placement and care of the child.

New Section 35352.2(a)(1)(A)

Specific Purpose:

The specific purpose of the adoption of this section is to structure the regulations in a more logical order.

Factual Basis:

This section is necessary to improve the clarity of the regulations and avoid redundancy of information. Per Welfare and Institutions Code Section 16120.1(d), an AAP-eligible child's ongoing benefits are separate from the nonrecurring adoption expenses reimbursement.

Section 35352.2(a)(2)

Specific Purpose:

The specific purpose of this section is to relocate current Section 35352.3(c) here, to structure the regulations in a more logical order.

Factual Basis:

This relocation is necessary to improve clarity of the regulations by structuring the regulation content in a more consistent and logical order.

Section 35352.3

Specific Purpose:

The specific purpose of this section is to repeal regulations that have been included in a more logical place [Section 35352.3(a) and (c) to 35352.2(a)(1) and (a)(2) respectively], delete redundant information [Section 35352.3(b)], and delete reference information of the Welfare and Institutions Code Section 16120.1 [Handbook Sections 35253.3(a)(1), (b)(1) and (c)(1)].

Factual Basis:

The repeal of this section is necessary because the pertinent information was moved to a more logical place; this will improve clarity. The information that was redundant was repealed as it is not necessary and it is also not necessary to quote the Welfare and Institutions Code in the AAP regulations. If the reader questions the regulations, it would be best for them to review the current version of the Welfare and Institutions Code Section 16121.1.

Handbook Section 45-801.1

Specific Purpose/Factual Basis:

The specific purpose is to delete the CCR Title 22, Section 35000 quotation. It is not necessary to quote the Title 22, CCR Section 35000 in the Manual of Policy and Procedures (MPP). If the reader questions a definition, it would be best for them to review the definitions in Title 22, CCR Section 35000 as referenced in Section 45-801.

Section 45-802.1

Specific Purpose:

The specific purpose of this section is to state the corresponding reference related to this topic.

Factual Basis:

The amendment to this section is necessary to provide the reader with the statute corresponding to federal or state AAP eligibility requirements, Welfare and Institutions Code Section 16120.

Sections 45-802.11 and Handbook Section 45-802.111

Specific Purpose:

The specific purpose of this repeal is to delete a redundant statement and the Welfare and Institutions Code quotation.

Factual Basis:

This repeal is necessary to be more concise, improve clarity and avoid redundant statements. The AAP eligibility requirements are stated in Welfare and Institutions Code Section 16120 as referenced in Section 45-802.1. It is not necessary to quote the Welfare and Institutions Code in the Manual of Policy and Procedures (MPP). If the reader questions the MPP, it would be best for them to review the current version of the Welfare and Institutions Code Section 16120 referenced in Section 45-802.1.

Handbook Section 45-802.121

Specific Purpose/Factual Basis:

The specific purpose of this repeal is to delete the Welfare and Institutions Code quotation. It is not necessary to quote the Welfare and Institutions Code in the Manual of Policy and Procedures (MPP). If the reader questions the MPP, it would be best for them to review the

current version of the Welfare and Institutions Code Section 16121.05(b) referenced in Section 45-802.12.

Section 45-802.13

Specific Purpose:

The specific purpose of this amendment is to clarify that the responsible public agency determines the child has met certain conditions and the county determines federal and state AAP eligibility based on Welfare and Institutions Code Section 16120 when the adoption petition is filed.

Factual Basis:

These changes are necessary to improve clarity and to be consistent with the terminology in the AAP regulations. If the reader questions the AAP eligibility requirements, it would be best for them to review the current version of the Welfare and Institutions Code Section 16120.

Sections 45-802.131 through .133

Specific Purpose/Factual Basis:

The specific purpose of repealing these sections is because they are incomplete and inconsistent with federal and state AAP eligibility requirements stated in Welfare and Institutions Code Section 16120 as referenced in Section 45-802.13.

Handbook Section 45-803.21

Specific Purpose/Factual Basis:

The specific purpose is to delete the Welfare and Institutions Code quotation. It is not necessary to quote the Welfare and Institutions Code in the Manual of Policy and Procedures (MPP). If the reader questions the MPP, it would be best for them to review the current version of the Welfare and Institutions Code Section 16118(e) referenced in Section 45-803.2.

Section 45-804.11

Specific Purpose:

This section is amended for clarity and consistency with the terminology used in the AAP regulations and the Welfare and Institutions Code.

Factual Basis:

These changes are necessary to improve clarity and to be consistent with the terminology in the AAP regulations and correspond with Welfare and Institutions Code Sections 16118(c) and 16119(c). If the reader questions the AAP eligibility requirements, it would be best for them to review the current version of the Welfare and Institutions Code Section 16120.

Section 45-804.111

Specific Purpose/Factual Basis:

The specific purpose of the amendment of this section is to reference the Welfare and Institutions Code Sections 16120(j), (m), and (l) that provide current federal AAP eligibility requirements. Sections 45-802.131, 132, or 133 are being repealed.

Section 45-804.113

Specific Purpose/Factual Basis:

The specific purpose of this section is to delete the reference to MPP Section 45-802.11 and replace it with reference to Welfare and Institutions Code Sections 16120(i) and (l). It would be best for the reader to review the current version of the Welfare and Institutions Code section that provides current state AAP eligibility requirements.

Section 45-804.4 and .41

Specific Purpose:

The specific purpose of this amendment is to delete the heading and renumber Section 45-804.41 to Section 45-804.323 and amend for clarity and consistency.

Factual Basis:

These changes are necessary to improve clarity and to be consistent with the terminology in the regulations. These changes are consistent with Welfare and Institutions Code Sections 16118(c), 16119(c) and 16121.05(c).

Section 45-805 (Title)

Specific Purpose/Factual Basis:

The specific purpose is to replace the title "Recertification of Eligibility" with "Reassessment." It is not necessary to recertify a child's AAP eligibility, once a child is determined AAP-eligible, they remain eligible until the age of 18 or 21, if there is a mental or physical disability that warrants the continuation of benefits. The title change is

consistent with terminology in the AAP regulations and Welfare and Institutions Code Section 16121.05(c).

Section 45-805.1

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to replace the term "recertification" with "reassessment" to provide clarity and to be consistent with the AAP regulations, statutes and the title of the AAP 3 form.

Sections 45-805.2 through .31

Specific Purpose:

The specific purpose of this amendment is to repeal the sections as they are inconsistent with the AAP regulations and statutes.

Factual Basis:

It is necessary to repeal these sections because AAP may not be terminated unless one of the three ways to terminate is met per Welfare and Institutions Code Section 16121.05(c). Any suspension of AAP benefits is considered to be a termination and is not allowable. This is consistent with federal requirements, Social Security Act Section 473(a)(4); 473(a)(4)(B); 45 CFR 1356.40(b); ACYF-CB-PA-01-01(1/23/01). The completed reassessment form (AAP 3) is due every two years; however, if the family does not submit a reassessment form AAP must continue at the same rate reflected on the last AAP agreement and Payment Instructions (AAP 2) form.

Handbook Section 45-805.21 (Renumbered to Handbook Section 45-805.11)

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to replace the term "recertification" with "reassessment" to provide clarity and to be consistent with the AAP regulations, statutes and the title of the AAP 3 form. This handbook section is renumbered to 45-805.11

Section 45-806.1

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to add the words "responsible public" before "agency" to be consistent with the terminology in the AAP regulations. Title 22 CCR Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent

payment amounts. This change is consistent with Welfare and Institutions Code Sections 16118(c) and 16119(c).

Section 45-806.2

Specific Purpose:

The specific purpose of this amendment is to repeal the section. It is inconsistent with the AAP regulations and statutes. Subsequent sections are renumbered for consistency.

Factual Basis:

The repeal of this section is necessary because AAP may not be terminated unless one of the three ways to terminate is met stated in Welfare and Institutions Code Section 16121.05(c). Any suspension of AAP benefits is considered to be a termination and is not allowable. This is consistent with federal requirements, Social Security Act Sections 473(a)(4) and (a)(4)(B), 45 CFR 1356.40(b), ACYF-CB-PA-01-01(1/23/01). The completed reassessment form (AAP 3) is due every two years; however, if the family does not submit a reassessment form, AAP must continue at the same rate reflected on the last AAP agreement and Payment Instructions (AAP 2) form.

Section 45-806.3 (Renumbered from 45-806.4)

Specific Purpose:

The specific purpose of this amendment is to replace the words "discontinuance and suspension" with "termination" to be consistent with the AAP regulations and statutes.

Factual Basis:

This amendment is necessary because AAP may not be terminated unless one of the three ways to terminate is met as stated in Welfare and Institutions Code Section 16121.05(c). Any suspension of AAP benefits is considered to be a termination and is not allowable. This is consistent with federal requirements, Social Security Act Sections 473(a)(4) and (a)(4)(B), 45 CFR 1356.40(b), ACYF-CB-PA-01-01(1/23/01).

Section 45-806.4 (Renumbered from 45-806.5)

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to add the words "responsible public" before "agency" to be consistent with the terminology in the AAP regulations. Title 22 CCR Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts. This change is consistent with Welfare and Institutions Code Sections 16118(c) and 16119(c).

Section 45-807.13

Specific Purpose/Factual Basis:

The specific purpose of the amendment of this section is to make an editorial change to be consistent with the AAP regulations and all other references to the FC 10 form.

Section 45-807.14

Specific Purpose/Factual Basis:

The specific purpose of this amendment is to add the words "responsible public" before "agency" to be consistent with the terminology in the AAP regulations. Title 22 CCR Section 35000(r)(10) defines responsible public agency as the department or licensed public adoption agency responsible for determining AAP eligibility and initial and subsequent payment amounts. This change is consistent with Welfare and Institutions Code Sections 16118(c) and 16119(c).

Section 45-806.15

Specific Purpose:

The specific purpose of this amendment is to repeal the section. This form is no longer required to be completed by DCHS and DCHS no longer accepts copies of this form.

Factual Basis:

The repeal of this section is necessary because DHCS has stopped accepting copies of the completed Health Insurance Questionnaires. DHCS has increased tape matches with health insurance carriers, automated batch transactions from county consortiums, Department of Child Support Services, Social Security Administration, and other automated systems to receive other health coverage information in a timely manner. Title 22, California Code of Regulations, Section 50763 directs Medi-Cal beneficiaries to report other health coverage at the time of application, reapplication, or redetermination, and Section 50765 requires counties to report this information to the DHCS. This requirement will be met through the use of the Medi-Cal Eligibility Data System (MEDS). The elimination of the paper Health Insurance Questionnaire is stated in DHCS Letter No.: 09-25; Subject: Elimination of the Health Insurance Questionnaire.

b) Identification of Documents Upon Which Department Is Relying

- Assembly Bill (AB) 4 (Chapter 4, Statutes of 2009)
- AB 1325 (Chapter 287, Statutes of 2009)
- Senate Bill 597 (Chapter 339, Statutes of 2009)
- Social Security Act Sections 471 and 473

- 45 CFR 1356.40 and .41
- Administration for Children and Families- Children's Bureau-Policy Announcement-01-01 (1/23/01) [ACYF-CB-PA-01-01 (1/23/01)]
- California Strategy Measurement Plan and Quarterly Status Report – Adoptions Assistance Program
- Deficit Reduction Act of 2005
- Fostering Connections to Success and Increasing Adoptions Act of 2008
- Department of Health Care Services Letter No.: 09-25

c) Local Mandate Statement

These regulations do constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that are not reimbursable by the state pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.