



CDSS

WILL LIGHTBOURNE  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



EDMUND G. BROWN JR.  
GOVERNOR

December 9, 2011

Regulation Package #0710-06

CDSS MANUAL LETTER NO. EAS 11-02

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

**Regulation Package # 0710-06**

**Effective 12/10/11**

**Sections 45-801, 45-802, 45-803, 45-804, 45-805, 45-806, and 45-807**

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG2836.htm>.

The Adoption Assistance Program (AAP) was created by the legislature with the intent to benefit children in foster care by providing the security and stability of a permanent home through adoption. Children may receive a federally funded subsidy under Title IV-E or a state-funded subsidy per state guidelines.

Due to public and congressional inquiries, the federal government reviewed each state Title IV-E Plans and concluded that each states' AAP was implemented in a different manner and was inconsistent with the federal requirements. California revised its Program Improvement Plan (PIP) specific to AAP and submitted to the federal government for review and approval. This plan was developed based on inquiries and discussions among CDSS staff and the U.S. Department of Health and Human Services, Administration for Children & Families, Region IX staff. The federal government approved California's PIP. Further, Assembly Bill (AB) 4 (Chapter 4, Statutes of 2009), AB 1325 (Chapter 287, Statutes of 2009), and Senate Bill 597 (Chapter 339, Statutes of 2009) mandated CDSS to amend AAP related regulations for clarity and consistency purposes and to more clearly express current policy specific to: AAP eligibility; AAP payment amounts; agreements; AAP reassessments; and nonrecurring adoption expenses. This manual letter includes the revisions made to the Sections related to AAP in the Eligibility and Assistance Standards Manual.

These regulations were considered at the Department's public hearing held on February 16, 2011.

## **FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Eligibility and Assistance Standards Manual changes was EAS-11-01.

Page(s)

Replace(s)

577 through 583

Pages 577 through 588

Attachment

EV

**TABLE OF CONTENTS**

**CHAPTER 45-800 ADOPTIONS ASSISTANCE PROGRAM (AAP)**

	<b>Section</b>
Adoptions Assistance Program (AAP) .....	45-800
Definitions.....	45-801
AAP Eligibility .....	45-802
County of Responsibility .....	45-803
Payment .....	45-804
County Actions and Payment Amount.....	.1
Beginning Date of Payment .....	.2
Payee and Delivery .....	.3
Recertification and Restoration of Payment.....	.4
Reassessment .....	45-805
Notice of Action.....	45-806
Maintenance of Case Record .....	45-807
Overpayment Recoupment.....	45-808

**This page is intentionally left blank.**

## **CHAPTER 45-800 ADOPTIONS ASSISTANCE PROGRAM (AAP)**

### **45-801 DEFINITIONS 45-801**

The definitions specified in Title 22, California Code of Regulations (CCR), Section 35000 shall apply in this chapter.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 16118, 16120 and 16120.05, Welfare and Institutions Code and 42 USC 673.

### **45-802 AAP ELIGIBILITY 45-802**

- .1 To be eligible for AAP, the child shall meet the requirements under either the federal program or the state program specified in Welfare and Institutions Code Section 16120.
- .11 (Reserved)
- .12 Adoption Assistance Agreements signed prior to October 1, 1992, shall be governed by Welfare and Institutions Code Section 16121.05(b).
- .13 After the responsible public agency has determined that the child has met the conditions of Welfare and Institutions Code Section 16120, the county shall determine for purposes of federal and state AAP eligibility whether the child meets the requirements of Welfare and Institutions Code Section 16120 at the time the adoption petition is filed.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 16120 and 16121.05(b), Welfare and Institutions Code and 42 USC 673.

### **45-803 COUNTY OF RESPONSIBILITY 45-803**

- .1 The county welfare department shall be responsible for determining federal eligibility and making payment for AAP.
- .2 The determination of the county responsible for the actions in Section 45-803.1 shall be made in accordance with Welfare and Institutions Code Section 16118(e).
- .3 Once established, the county of responsibility shall remain unchanged for the duration of adoption assistance payments for that child.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16118, Welfare and Institutions Code.

## 45-804 PAYMENT

45-804

## .1 County Actions and Payment Amount

.11 Upon receipt of the Payment Instructions - Adoption Assistance Program form (AAP 2) and the Eligibility Certification - Adoption Assistance Program form (AAP 4) from the responsible public agency, the county shall determine whether the child meets the requirement for federal or state AAP eligibility as specified in Welfare and Institutions Code Section 16120.

.111 When the child meets the requirements of Welfare and Institutions Code Sections 16120(j), (m), and (l), FFP shall be claimed in the AAP payment up to the maximum of the AFDC-FC payment for the child if in a foster family home.

.112 In those cases where the child is federally eligible, and will receive a payment greater than the payment for the child if in a foster family home, state participation shall be available to supplement the remainder of the AAP payment.

a. In no case shall state participation be available in an amount greater than that which would have been paid had the child remained or been placed in foster care.

.113 When a child meets the requirements of Welfare and Institutions Code Sections 16120(i) and (l), state participation shall be claimed for the AAP payment up to the amount which would have been paid had the child remained or been placed in foster care.

.12 The county shall issue the payment in the amount indicated on the AAP 2 except as provided in .212 below.

## .2 Beginning Date of Payment

.21 The beginning date of payment for AAP shall be the date indicated on the AAP 2.

.211 If the beginning date of the payment begins on the first day of the calendar month, payment shall be made for the full month.

.212 If the beginning date of payment begins after the first day of the calendar month, payment shall be prorated to cover only that portion of the month for which payment is authorized, including the beginning date of payment.

**45-804 PAYMENT (Continued) 45-804**

.3 Payee and Delivery

.31 AAP payments shall be made to the adoptive parent(s).

.311 Upon the written instruction of the adoptive parent, payment may be made on the parent's behalf to a provider of out-of-home care services if the child is placed out of the adoptive home.

.32 Except as provided in .321 below, AAP payments shall be delivered monthly in advance.

.321 The warrant shall be placed in the mail in time to be received by the first day of the calendar month.

.322 The initial payment shall be delivered to the adoptive parent(s) no later than 20 days after the date on which the county receives the AAP 2 from the agency authorizing payment.

.323 After initial authorization of payment, the county shall take action to increase, decrease, or terminate payment as instructed by the responsible public agency on the AAP 2.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Sections 16121, Welfare and Institutions Code and 42 USC 673.

**45-805 REASSESSMENT 45-805**

.1 The county shall mail the adoptive parent(s) the Reassessment Information - Adoption Assistance Program form (AAP 3) at least 60, and not more than 90, calendar days prior to the date reassessment is due and shall document in the case record the date such form was mailed.

---

**HANDBOOK BEGINS HERE**

.11 EXAMPLE: The beginning date of payment is May 13, 1993. Reassessment is due on April 30, 1995. The Reassessment Information form shall be sent to the adoptive parent(s) before March 2, 1995.

---

**HANDBOOK ENDS HERE**

---

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16120.05, Welfare and Institutions Code.

## 45-806 NOTICE OF ACTION

45-806

- .1 The county shall mail the adoptive parent(s) adequate notice as defined in MPP Section 22-001(a)(1), and if applicable Section 22-001(l)(1), after receiving notice from the responsible public agency of any of the following events:
    - .11 Denial of a request for adoption assistance benefits.
    - .12 Completion of a deferred payment agreement.
    - .13 Authorization of the initial grant.
    - .14 Completion of the recertification process.
    - .15 Payment termination.
    - .16 An overpayment requiring collection.
    - .17 Any change in grant amount.
  - .2 The county shall send adequate notice of action between 60 and 70 days prior to the ending date of payment when the child reaches the age of 18, or when the adoption assistance agreement has specified that program benefits are for a specific, time-limited duration.
  - .3 When county action would result in a termination or decrease in payment, the county shall mail adequate and timely notice as defined in MPP Sections 22-001(a)(1) and 22-001(t)(1). Such notice shall be mailed to the adoptive parent(s) at least ten days prior to the effective date of the proposed action.
  - .4 When the county sends a Notice of Action to the adoptive parent(s), the county shall also send a copy of such notice to the responsible public agency.
  - .5 State hearings shall be conducted pursuant to the provisions of MPP Chapter 22-000.
- NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16121.05, Welfare and Institutions Code and 45 CFR 205.10 and 1355.30.

**45-807 MAINTENANCE OF CASE RECORD 45-807**

- .1 The county AAP case record shall contain copies of the following:
  - .11 All Payment Instructions - Adoption Assistance Program forms (AAP 2) received from the adoption agency.
  - .12 The Eligibility Certification - Adoption Assistance Program form (AAP 4).
  - .13 The Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program form (FC 10).
  - .14 All Notices of Action sent to the adoptive parent(s) and the responsible public agency.

NOTE: Authority cited: Sections 10553 and 16118, Welfare and Institutions Code. Reference: Section 16118, Welfare and Institutions Code.

**45-808 OVERPAYMENT RECOUPMENT 45-808**

- .1 The county may attempt to recover all AAP overpayments.
  - .11 Recovery of overpayments from an adoptive parent no longer receiving assistance is not required when the cost of collection would exceed the amount of recovery.
  - .12 Recovery shall be made from the adoptive parent(s) who signed the Adoption Assistance Agreement form (AD 4320).
    - .121 If the overpayment resulted from a payment made to an out-of-home care provider upon request of the adoptive parent, as provided in Section 45-804.311, recovery of payments made for services not provided shall be made from the out-of-home care provider.
- .2 Methods of Recovery
  - .21 Grant Adjustment
    - .211 Subject to the limit in Section 45-808.212, the overpayment shall be subtracted from the current AAP payment. If the current AAP payment is insufficient to recover the entire overpayment, then the remaining amount of the overpayment shall be subtracted from the AAP payments to be received during the succeeding six months or less, or by the end of the child's eligibility for AAP benefits, whichever occurs first.

**45-808 OVERPAYMENT RECOUPMENT (Continued) 45-808**

- .212 The amount of the adjustment shall not exceed an amount which would cause the adoptive family's net income to be below the Aid to Families With Dependent Children (AFDC) Minimum Basic Standard of Adequate Care (MBSAC) as specified in Section 44-315.311.
- .22 Demand for Repayment
- .221 The county shall demand repayment of any amount not recovered by grant adjustment, or otherwise repaid using the appropriate Notice of Action form.
- .23 Civil Judgment
- .231 If the adoptive parent no longer receiving aid refuses or is unable to repay the amount demanded, the county shall refer the case to the appropriate county official for action on a civil judgment.
- (a) An abstract of civil judgment shall be recorded pursuant to Section 674, Code of Civil Procedure, in any county in which the recipient owns real property.
- (b) If a recipient is ineligible for further aid, the county shall take all appropriate action pursuant to Section 681, et seq., Code of Civil Procedure, to execute the judgment.
- .24 Nothing in Sections 45-808.21, .22 or .23 shall preclude the county from arriving at a reasonable settlement of its demand for repayment with the adoptive parent.

NOTE: Authority cited: Sections 10553, 16118 and 16121.05, Welfare and Institutions Code.  
Reference: Section 16121.05, Welfare and Institutions Code.