Amend Section 11-425.122 to read:
Post-hearing: Amend Section 11-425.122(a) to read:

11-425 RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS 11-425

.1 The county welfare and probation departments' responsibilities shall include, but not be limited to, the following: (Continued)

.12 Recommending the establishment of a new program by a new or existing provider, or a program change which is either more than one RCL greater than the original RCL determination or a program change to RCL 13 or 14. (See Sections 11-402.41, .42, and .43). The recommendation is to include: (Continued)

.122 Provider is capable of effectively and efficiently operating the program.

(a) The county shall ~~use reasonable efforts to~~ determine whether a new or existing Board of Directors member, Executive Director, licensee and Program Administrator were employed in similar capacities in a corporation licensed to operate a group home or a foster family agency that has not fully repaid any overpayment of AFDC funds, or was the respondent in a community care license revocation accusation within the past three years. ~~Reasonable efforts~~ Counties shall ~~include~~ contact~~ing~~ the ~~department,~~ Foster Care ~~Rates and~~ Audits and Rates ~~Bureau~~ Branch, and the Statewide Children's Residential Program Office of the Community Care Licensing Division. If the county determines that one or more of these persons were employed in similar capacities in such a corporation, the county cannot determine that the provider is capable of effective and efficient program operation, unless the county finds that compelling reasons exist to believe that the person or persons so identified are now capable of effective and efficient program operation, and shall include those reasons in the recommendation. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code, Chapter 1294, Statutes of 1989, Section 23; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 32.

Reference: Sections 11462(g)(2), 11462(i)(2), 11462.01(b), and 11466.23, Welfare and Institutions Code.

Amend Section 22-001(c)(2) to read:

22-001 DEFINITIONS 22-001

The following definitions shall apply wherever the terms are used throughout Division 22. (Continued)

(c) (2) Claimant - The person who has requested a state hearing and is or has been any of the following:

(G) A foster care provider, including group homes and foster family agencies, who request a hearing to challenge a county action to recover an overpayment under Sections 45-304, 45-305, and 45-306, except for overpayments requests made by a county pursuant to Section 45-304.124. (Continued)

Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10051, 10613, 10950, 10963, 11209, 11323.6, 11323.8, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; Sections 6700, 6701, 11425.10, and 11425.60, Government Code; 45 CFR 205.10; 45 CFR 205.10(a)(4)(i)(B); and 45 CFR 255.4(j)(1) and Part 256.

Amend Section 22-003.1 to read:
Emergency Filing: Amend Section 22-003.15 to read:
Post-hearing: Amend Section 22-003.15 to read:

22-003 RIGHT TO A STATE HEARING 22-003

.1 A state hearing shall be available to a claimant who is dissatisfied with a county action and requests a hearing in the manner set forth below. (Continued)

.15 There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, ~~or where the county requested voluntary repayment~~ under ~~MPP~~ Section 45-305.231.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10613, 10950, 11209, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 235.112(c)(2); 45 CFR 255.4(j)(1) and 256.4(b); and Madrid v. McMahon (1986) 183 Cal. App. 3rd 151, In Re Jennifer G. (1990) 221 Cal App. 3rd 752 and In Re Moriah T. (1994) 23 Cal. App. 4th 1366.

Amend Section 22-009.1 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING 22-009

.1 The request for a state hearing shall be filed within 90 days after the date of the action or inaction with which the claimant is dissatisfied.

.11 Except as provided for in Section 45-306.3, if the claimant received an adequate and language-compliant notice of the county action, the request for hearing shall be filed within 90 days after the notice was mailed or given to the claimant. If adequate notice was required but a notice was not provided, or if the notice is not adequate and/or language-compliant, any hearing request (including an otherwise untimely hearing request) shall be deemed to be a timely hearing request. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10950, 10951, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code and Morales v. McMahon (1990) 223 Cal App. 3rd 184, 272 Cal. Rptr. 688.

Amend Section 45-302.2 to read:
Emergency Filing: Amend Section 45-302.231(b) Handbook to read:
Post-Hearing: Amend Section 45-302.2 to read:

.2 Payment Conditions (Continued)

.23 Child ~~Temporarily Absent~~ Absences

.231 When an AFDC-FC eligible child is temporarily absent from an eligible facility such as for school, work or training program, hospitalization, visiting, vacationing, emergency circumstances, the county ~~shall have the option of making~~ may make payment to the eligible facility from which the child is absent in order to meet the child's needs. The payment shall be made to one of the payees listed in Section 45-301.1 or 45-301.2.

(a) A child is determined to be temporarily absent when he/she is absent for no more than 14 days in a calendar month.

(b) (Continued)

HANDBOOK BEGINS HERE

~~Section 8.3B, Question #7, Child Welfare Policy Manual limits temporary absences to a period not to exceed 14 days:~~

~~"The State may provide a full month's title IV-E foster care maintenance payment to the licensed provider if the brief absence does not exceed 14 days and the child's placement continues with the same provider. Otherwise, the State must prorate its claims if the child is absent from the placement for more than a reasonable brief period."~~

~~The Administration for Children and Families, Region IX, has determined that a reasonable brief period is no more than 14 days in a calendar month. Below are some examples provided by Region IX that speaks to the issue of temporary absence.~~

~~EXAMPLE~~ SCENARIO #1: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th. The child returns to the same home **14** days later on February 7th. Could the county provide two full months of a foster care payment to the provider?

Because the child was not absent in January for more than 14 days and was not absent in February for more than 14 days the county could provide two full months of foster care payments to the provider.

~~**EXAMPLE**~~ **SCENARIO #2**: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th and returns to the same home **18** days later on February 11th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

The county could pay the full months of January AND February since the child was not absent more than 14 days in each month.

~~**EXAMPLE**~~ **SCENARIO #3**: The youth is in a foster home placement and runs away from placement (or is hospitalized) from January 2nd to the 14th and then again from January 20th through 27th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

Because the youth was absent from placement for more than 14 days in the calendar month, the county would have to prorate the maintenance payment to reduce the payment by the number of days exceeding 14 days in the calendar month.

HANDBOOK ENDS HERE

.24 (Continued)

Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 7911.1, Family Code; and Sections 361.21, 366, 727.1, 11017, 11056, 11400(f), 11401, 11402, 11403, 11405, 11269, 11466.24, and 16516.5, Welfare and Institutions Code; Section 472(a)(1), Social Security Act.

Amend Section 45-303 to read:
Post-hearing: Amend Section 45-303 to read:

45-303 PAYMENT DELIVERY 45-303

.1 (Continued)

.2 As a condition of Payment Delivery, provided the county has provided adequate written notification, then the county may require a foster care provider to:

.21 ~~Timely r~~ Report timely that a child received care from the provider for the entire month.

.22 ~~Timely r~~ Report timely the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and

.23 Provide all relevant verifications upon county request.

.3 In advance of the county application and operation of Section 45-303.2, the county shall include in its written notice, the deadline for provider submissions of information specified in Section 45-303.2.

.~~3~~4 Where the county has required a provider to comply with Section 45-303.2, and the county has provided adequate written notification of information required and consequences as provided in Sections 45-303.3 and .4, failure by the provider to provide the required information ~~required~~ timely may result in the payment being delayed by no later than 15 days after the information is submitted to the county.

.5 Failure of the provider to provide required confirmation may result in the county not making payment.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33.

Reference: Section 11466.235, Welfare and Institutions Code.

Amend Section 45-304 to read:
Emergency Filing: Amend Sections 45-304.113, 45-304.32 (Handbook), 45-304.42 and .421 to read:
Post-hearing: Amend Section 45-304 to read:

45-304 AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS - GENERAL 45-304

.1 Overpayment Recovery for Foster Care Providers, including but not limited to, Group Homes, Foster Family Agencies, Small Family Homes, Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians

.11 An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled, or an expenditure made by a Foster Family Agency or a Group Home provider not in conformity with Section 11-404.

.111 Each county must develop and institute a program of internal controls to avoid making overpayments.

(a) The program may include policies and activities conducted prior to the issuance of payment.

(b) As a condition of Payment Delivery, Section 45-303, the county may require a foster care provider to:

(1) Timely report that a child received care from the provider for the entire month.

(2) Timely report the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and

(3) Provide all relevant verifications upon county request.

(c) Where the county has required a provider to comply with Section 45-303.2, failure by the provider to provide the information may result in the payment being delayed by no later than 15 days after the information is submitted to the county.

.112 If the foster care provider reports, or if the county otherwise determines, that the foster child resided in foster care placement for less than the full month, the county shall prorate the payment, unless Section 45-304.123 applies.

.113 An overpayment does not occur when the county exercises the option to make payment to an eligible facility for a~~n absent~~ child temporarily absent, for a period not to exceed 14 days in a calendar month, in accordance with Section 45-302.231.

.12 The county shall take all reasonable steps necessary to promptly assess whether an overpayment has occurred.

.121 Overpayment assessments shall include discovery of the overpayment and documentation of the overpayment.

(a) Discovery of overpayments. The county shall ensure that a written program of internal controls exists and operates on an ongoing basis to discover, in a timely manner, payments made to a foster care provider for which that provider was not eligible to receive.

(1) Methods of discovering the existence of payment errors and determining the amount of the payment error shall be implemented and include, but not be limited to: supervisorial review of payments made; reconciliation between social worker or probation officer and eligibility worker information; and a quality assurance system.

(b) Documenting overpayments. The county shall document the amount of the overpayment, the actual dates of the days overpaid, the date of discovery of the overpayment, the aid code for which the overpayment was made, and include ~~a description of the circumstances that resulted in~~ the reasons for the payment error.

(c) The overpayment is not identified until it has satisfied the requirements in Section 45-304.5.

.122 The county shall demand and collect overpayments from a Foster Family Home, an approved home of a relative or non-relative extended family member, an approved home of a nonrelated legal guardian, Group Homes, Small Family Homes and Foster Family Agencies for any period of time in which the foster child was not cared for in that home, except as provided in Sections 45-304.123 and 45.304.125.

.123 The county shall not demand collection of overpayments made to a Foster Family Home, an approved home of a relative or non-relative extended family member, or an approved home of a nonrelated legal guardian, where any of the following conditions exist:

(a) (Continued)

(b) (Continued)

(c) The provider did not have knowledge of, and did not contribute to, the cause of the overpayments.

.124 For overpayments described in Section 45-304.123, the county may request ~~that~~ the provider voluntarily return an overpayment~~, provided that~~ when the county informs the provider that ~~the provider has~~ they have no legal or other obligation to return the overpayment, and ~~that~~ failure to return the overpayment will not result in any adverse action against the provider and ~~the~~ any child~~/children~~ living in the home.

.125 The county shall not pursue collection of overpayments made to an overpaid foster care provider where the cost of the collection exceeds the amount of the overpayment.

(a) Costs which the county shall consider when determining the cost effectiveness to collect are total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable.

(b) The county shall have a written debt write-off policy approved by the ~~c~~County ~~Board of Supervisors~~ Welfare Director covering situations including, but not limited to:

(1) Where the debtor cannot be located.

(2) Where the debtor is unable to pay.

(3) Where the costs of further overpayment recovery actions will exceed estimated recovery amounts.

(4) Notwithstanding (3), the written policy may include a provision permitting write off of ~~A~~an amount not to exceed $100.

(c) The county shall maintain adequate documentation supporting its decision to write off an overpayment. Adequate documentation shall include, but not be limited to:

(1) A description of all actions, including the dates of those actions that have been taken to recover the overpayment, and the results from those actions.

~~(2) A description of reasonable steps that could be taken in the future to continue recovery efforts, unless it has been determined and~~

~~documented that the cost of recovery exceeds the collectible amount.~~

(~~3~~2) The costs and benefits of engaging in these further collection actions.

(~~4~~3) The basis for the decision to pursue/not pursue collection of the overpayment.

(~~5~~4) The date when recovery actions were terminated on the overpayment.

(~~6~~5) If Section 45-304.125(b)(4) applies to an overpayment, then adequate documentation shall consist of documenting the amount of the overpayment.

.126 The county shall not demand collection of overpayments made to non profit corporations operating group homes or foster family agencies that are no longer in business or licensed by the department.

(a) The county shall not initiate a financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to fiscal or financial audits instituted by law enforcement ~~activities under~~ agencies as defined in the Penal Code.

(b) The county shall not take any action in furtherance of an existing financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or a foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to fiscal or financial audits instituted by law enforcement ~~activities under~~ agencies as defined in the Penal Code.

.127 Nothing in Sections 45-304.122, .123 or .124 prevents counties from collecting an overpayment which results from the payment of aid paid pending.

.2 Investigations of Overpayments

.21 When information indicates that an overpayment may have occurred, the county shall take the following actions: (Continued)

.212 Calculate the amount of the overpayment;

.213 Determine whether any of the factors in Section 45-304.123 or.124 preclude overpayment recovery. If none of the factors in Section 45-304.123 or .124 preclude recovery then:

(a) Determine from whom the overpayment may be recovered (see Section 45-304.3);

(b) Comply with the requirements in Section 45-305.

(c) The county may seek voluntary collection consistent with Section 45-305.231.

.214 If after performing the actions required under Section 45-305, full recovery of the overpayment is not achieved, then the county shall determine whether to pursue collection of the overpayment as specified in Section 45-304.125.

.3 Overpayment Recoupment (Continued)

.32 (Continued)

HANDBOOK BEGINS HERE

Section 45-304.32 does not prohibit those overpayment collection procedures detailed in Section 45-305.22 or .23.

HANDBOOK ENDS HERE

.33 For recoupment of overpayments made to group homes and foster family agencies, ~~an offset to the administrative portion of any subsequent payments shall be used to recover the amount of the overpayment~~ the counties shall reduce any subsequent payments by an amount equal to the amount of the administrative portion of the monthly payment to the provider. See Section 45-305 for offset methodology.

.4 Limitations on Recoupment of Overpayments

.41 A county shall not collect interest on the repayment of an overpayment unless Section 45-305.33 applies.

.42 A county shall not initiate overpayment recovery after one year from the date the county discovers the overpayment.

.421 ~~The county shall continue to recover an overpayment after one year from the date the county discovers the overpayment where the overpayment recovery was initiated within one year of the date the county discovered the overpayment.~~
When the overpayment recovery was initiated within one year of the date the county discovered the overpayment, the county shall continue to recover the

overpayment until fully recovered or written off pursuant under the county's write off policy.

HANDBOOK BEGINS HERE

The initial discovery of the overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought unless prohibited by Section 45-304.123. The date of discovery is controlling, not the date of the actual overpayment.

HANDBOOK ENDS HERE

.422 This section does not prohibit the county from entering into voluntary or involuntary repayment schedules which last longer than a year from the date of the initial discovery of the overpayment.

.423 (Continued)

.5 County Identification and Remittance of Overpayments (See Section 45-304.12)

.51 If the overpaid provider does not request a review of the county overpayment determination, the overpayment shall be identified two (2) days after the date the overpaid provider's time frame to request a review has elapsed.

.52 If the overpaid provider requests review of the county's overpayment determination (under Section 45-306), the date the overpayment is identified shall be the date the overpaid provider exhausts administrative due process (under Section 45-306).

.53 The county shall, no later than 20 calendar days after the end of the month in which the overpayment was identified, make an aid claim adjustment in an amount equal to 60 percent of the federal share of the overpayment amount for all overpayments identified other than overpayments specified in Sections 45-304.122, .123 and .124.

.54 The county shall not be required to remit the federal share of any overpayment that is uncollectible pursuant to statute or court order, as specified below:

.541 Overpayments which are uncollectible under Section 45-304.123.

~~.542 Overpayments which are uncollectible by operation of Section 45-304.125(b)(4).~~

.54~~3~~2 Overpayments which are uncollectible under Section 45-304.125, provided that the county maintains adequate documentation as described in Section 45-304.125(c).

.54~~4~~3 Overpayments which are uncollectible under Section 45-304.126, provided that the county complies with Section 45-304.126(a) and (b).

.55 The county shall report to the department all identified legally uncollectible overpayments and uncollected overpayments due to operation of Sections 45-304.123, .124 and .125 on a monthly basis.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; Section 338 Code of Civil Procedure; Section 472(a)(1),Social Security Act.

Amend Section 44-305 to read:
Emergency Filing: Amend Sections 44-305.211, .212, .213, .231(d) (Handbook), .241(e) (Handbook), and .331(a) and (b) to read:
Post-hearing: Amend Sections 45-305.1, .241(d), and .331 to read:

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY 45-305

.1 Using the ~~Statewide developed~~ Notice of Action form NA 1261 (6/09), which is incorporated by reference, the county shall inform the provider of the overpayment and inform the provider that he or she is required to repay the overpayment. This form shall not be used in connection with an overpayment that the provider has no legal obligation to repay. The ~~Statewide developed~~ Notice of Action form NA 1261 shall notify the provider of:

.11 The amount of the overpayment calculated by month;

.12 The date or dates the overpayment was made, and the date the overpayment was discovered by the county;

.13 The program in which the overpayment was made, and the reason or cause for the overpayment;

.14 Voluntary Repayment Options and Procedures, including voluntary grant offset;

.15 Involuntary Repayment procedures and related consequences if voluntary repayment is not agreed to or entered into;

.16 The provider's right and time frame to request an informal hearing pursuant to MPP Section 45-306; and

.17 The provider's right and time frame to request a State hearing pursuant to MPP Division 20.

.2 Voluntary Repayment Procedures

.21 A provider may voluntarily agree to repay an assessed overpayment in the following order of priority:

.211 Voluntary Lump Sum Repayment, MPP Section 45-305.22.

.212 Voluntary Repayment Agreement, MPP Section 45-305.23.

.213 Voluntary Grant Offset, MPP Section 45-305-24.

.22 Voluntary Lump Sum Repayment

.221 A provider may voluntarily repay an assessed overpayment by making a lump sum payment to the county on or before the date the provider and county have agreed repayment would be received.

.23 Voluntary Repayment Agreement

.231 If a provider agrees to voluntarily repay the assessed overpayment, the county and the provider shall sign a written repayment agreement that includes the amount of the overpayment, the terms of repayment, including the repayment schedule, and the consequences for failure to comply with the terms of the voluntary repayment agreement.

(a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after payment.

(b) The agreement shall provide that during the period the agreement is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment under the voluntary repayment agreement may result in insufficient funds to provide adequate care and supervision to all children in care.

(c) Consequences for failure to comply with the terms of the voluntary repayment agreement may include, but are not limited to, restrictions on current and future placements, involuntary repayment, and monetary damages that relate to increased administrative costs incurred by the county due to the provider's non-compliance.

(d) The agreement shall provide that by agreeing to a voluntary repayment the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

(e) The agreement can be amended only by written consent of both parties.

.24 Voluntary Grant Offset

.241 If the provider agrees to a voluntary grant offset, the provider and the county shall sign a written voluntary grant offset agreement that includes the amount of the overpayment, the amount to be offset, and the duration of the offset.

(a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after deduction of grant offset.

(b) The amount deducted from the child's current grant be no more than 10 percent of the child's total grant.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of $400 is assessed for Joe. Joe's monthly payment is $408. The provider agrees to a voluntary grant offset. $40 is subtracted from Joe's monthly payment, for a total monthly payment of $368, for 10 months. Neither Jenny nor Johnny's payments are reduced.

$408 (monthly grant)
x .10% (maximum)

$40 (amount to be deducted from monthly grant)

$408 (monthly grant)
- $ 40

$368 (new monthly grant for 10 months)

HANDBOOK ENDS HERE

(c) Voluntary grant offset may be applied only to the grant of a child for whom the overpayment was assessed. If the provider agrees to a grant offset, at no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of $400 is

assessed for Fred who had lived in Provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

(d) The offset agreement shall provide that during the period the offset is in effect it is the responsibility of the provider to ~~timely~~ inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.

(e) The agreement shall provide that by agreeing to a voluntary grant offset the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

(f) The agreement can be amended only by written consent of both parties.

.3 Involuntary Repayment Procedures

.31 Involuntary repayment procedures shall only be used when a provider has refused to enter a voluntary repayment agreement or has failed to comply with the terms of a voluntary repayment agreement that is based on a legally collectible overpayment.

.32 Grant Adjustments

.321 Grant adjustments shall only be used where the provider is still providing foster care services to the child for whom the overpayment was assessed. An involuntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed.

(a) If the overpayment is to be recovered by grant adjustment, the county shall deduct no more than 10 percent of the total grant amount each month.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of $400 is assessed for Joe. Joe's monthly payment is $408. The provider refuses to enter into a voluntary repayment agreement; the county institutes an involuntary grant adjustment. $40 is subtracted from Joe's monthly payment, for a total monthly payment of $368. For 10 months. Neither Jenny nor Johnny's payments are reduced.

$408 (monthly grant
x .10% (maximum)
$ 40 (amount to be deducted from monthly grant)

$408 (monthly grant)
- $ 40
$368 (new monthly grant for 10 months)

HANDBOOK ENDS HERE

(b) At no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of $400 is assessed for Fred who had lived in provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

(c) The county shall reduce the grant adjustment amount if the county determines that the reduction is necessary to ensure that sufficient funds exist to provide adequate care and supervision to all children in care after the deduction.

(d) The grant adjustment shall provide that during the period the offset is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.

.33 Interest on Overpayments

.331 The county shall collect interest on overpayments in circumstances in which the overpaid provider has either failed to enter into a voluntary repayment agreement, or has failed to comply with the terms of a voluntary overpayment agreement, unless:

(a) An overpayment was made to a foster family home, an approved home of a relative, an approved home of a nonrelative extended family member, or an approved home of a nonrelative legal guardian, for any period of time in which the foster child was not cared for in that home and none of the following conditions existed:

(1) The child was temporarily absent from the home and payment was made to the provider to meet the child's needs; or

(2) The overpayment was exclusively the result of county administrative error; or

(3) The provider did not have knowledge of, and did not contribute to the cause of the overpayment.

(b) Interest collection would cause a financial hardship for the provider to provide adequate care and supervision to all children in care.

.332 The amount of interest shall be calculated in accordance with Welfare and Institutions Code Section 11466.22(d)(4).

.34 Unless otherwise provided for in this section, the county shall collect group home provider and foster family agency overpayments in accordance with the procedures established for group home overpayments pursuant to MPP Section 11-402.66. For purpose of this section, the term "county" shall be substituted for the word "department" wherever that term appears in MPP Section 11-402.66.

.35 Civil Judgment

If the provider has failed to comply with a voluntary repayment agreement, a demand for repayment, and a grant offset is not available as the provider is no longer providing services to the child for whom the overpayment was assessed, the county shall, unless the costs exceed the amount of the overpayment:

.351 Refer the case to the appropriate county official for action on a civil judgment.

.352 Record an abstract of civil judgment pursuant to Section 674, Code of Civil Procedure, in any county in which the provider or former provider owns real property.

.353 Take all appropriate actions pursuant to Section 681 et seq., Code of Civil Procedure, to execute the judgment.

.354 If the county does not pursue civil judgment because the cost for the above described actions exceed the amount of the overpayment, the county shall comply with the documentation requirements set forth in MPP Section 45-304.125(c).

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code.

Amend Section 45-306 to read:
Emergency Filing: Amend Section 45-306.27 (Handbook) to read:
Post-Hearing: Amend Sections 45-306.23, .27 (Handbook), and .3 (Handbook) to read:

45-306 INFORMAL AND FORMAL HEARING PROCEDURES 45-306

This section applies only to the appeal rights of providers subject to a collectible overpayment assessment pursuant to Section 45-304 and Section 45-305. This informal and formal hearing processes are not available to providers, who have entered into a voluntary repayment agreement, to contest the overpayment determination or the overpayment amount.

.1 The informal hearing process shall not preclude the provider's right to a state hearing.

.2 Counties shall provide informal hearings in accordance with the following procedures:

.21 Counties must provide written notice to the provider of the availability of an informal hearing process when the county notifies the provider of the overpayment. The county shall send the Statewide form NA 1261 (6/09), to the provider.

.22 An informal hearing shall be provided by the CWD to the provider only when the provider has requested an informal hearing no later than 30 calendar days after the Statewide form NA 1261 was mailed by the county to the provider.

.23 The informal hearing shall be conducted by a~~n employee~~ person designated by the county ~~welfare department director~~. The designated ~~employee~~ person shall be knowledgeable in the subject area, and shall not be the person who made the initial overpayment determination.

.24 The informal hearing shall be held in an office or facility of the CWD. If agreed upon by the provider and the county, the informal hearing may be held elsewhere or conducted by telephone. (Continued)

.26 The informal hearing shall be limited to consideration of the correctness of the initial overpayment determination and whether any of the factors in Section 45-304.123 bar recovery. The county may also discuss the methods of overpayment recovery with the provider and attempt to enter into a voluntary repayment agreement, where appropriate.

.27 After the hearing, the county employee who conducted the informal hearing shall prepare a letter which contains the decision on each issue considered at the informal hearing, and identification of the regulations which support the written decision and mail the letter to the provider. The letter must inform the provider that he or she can appeal the informal hearing decision at a formal state hearing.

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Example: Through ~~implementation~~ application of procedures identified in Section 45-304.1, the county determines an overpayment was made to a group home provider on January 2nd. The county implements procedures identified in Section 45-304.2 and proceeds to Section 45-305 for collection procedures.

The county provides written notification to the provider of the overpayment in accordance with Section 45-305.1. **Hearing procedures identified in Section 45-306 only apply to the appeal rights of providers subject to collectible overpayment assessments pursuant to Section 45-304 and Section 45-305.**

The county provides appeal rights at the time the county notifies the provider of the overpayment. The provider may or may not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed.

If the provider does not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the overpayment determination is sustained upon the 91st day, and therefore identified and the federal share of the overpayment must be repaid by the county, as identified in Section 45-304.53.

If the provider requests an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the county must mail or deliver to the provider a written notice of the time and place of the informal hearing. The hearing shall be conducted in accordance with Sections 45-306.23, .24, .26, and .27.

~~Example: Overpayment discovered on January 2nd; notice to provider mailed on January 3rd; the county receives a request for an informal hearing from the provider on January 14th; the county schedules the informal hearing for January 31st; the county mails the informal hearing date and time to the provider on or before January 23rd.~~

HANDBOOK ENDS HERE

.3 If a provider requests an informal hearing, the 90-day period to request a formal hearing under MPP Section 22-009.11 shall be suspended. The 90-day period to request a formal hearing shall start when the county issues an informal hearing decision, or when the provider either withdraws their request for the informal hearing, or fails to appear for the informal hearing, whichever occurs first.

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~~Example #1:~~ ~~A provider requests an informal hearing therefore the 90-day period to request a formal hearing is suspended.~~

Example #~~2~~1: A provider requests and receives an informal hearing. The county provides a written decision mailed to the provider as identified in Section 45-306.27. The provider has a right to request a formal hearing of the written decision within 90 days of the date the decision letter was mailed.

Informal hearing held on January 31st. County prepares a letter identifying the decisions on each issue considered at the informal hearing in accordance with Section 45-306.27 and mails the decision letter on February 8th. The provider receives the letter and has 90 days from February 8th to request a formal hearing. The county must receive a request for a formal hearing from the provider no later than May 7th.

Example #~~3~~2: A provider requests an informal hearing and subsequently withdraws the request for the informal hearing. The date the provider withdraws the request for the informal hearing begins the 90-day period to request a formal hearing.

The provider was scheduled for an informal hearing on January 31st. The provider withdrew the request for an informal hearing on January 28th. The county must receive a request for a formal hearing from the provider no later than April 26th.

Example #~~4~~3: A provider requests an informal hearing and fails to appear on the scheduled date and time. The date the provider fails to appear for the scheduled informal hearing begins the 90-day period to request a formal hearing.

The hearing is scheduled for January 31st and the ~~date and time~~ provider's notice is mailed ~~no later than~~ 7 days prior to the hearing by the county. The provider fails to appear for the informal hearing. The county must receive a request for a formal hearing from the provider no later than April 29th.

HANDBOOK ENDS HERE

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33.

Reference: Sections 11466.235 and 11466.24, Welfare and Institutions Code.

NOTICE OF ACTION

COUNTY OF

STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Notice Date: _____
Case Name: _____
Worker Number: _____
Worker Name: _____
Case Number: _____
Telephone: _____
Address: _____

(ADDRESSEE)

Questions? Ask your Worker.

This is to inform you that you were overpaid AFDC-Foster Care benefits for _____ for
(NAME OF CHILD)

the period of _____ to _____ .
(MM/DD/YYYY) (MM/DD/YYYY)

Reason for the overpayment:

- Child left your facility/home on _____ and you were not entitled to payments for him/her on or after this date; or
(DATE)
- The child's parents resided in your home during the period of time for which you were paid; or
- Other: _____ .

Total amount you received: $ _____
Total amount you should have received: $ _____
Total amount of Overpayment: $ _____
Date of Discovery: _____

You are required to repay the overpayment amount of $ _____ .

Please pay by check or money order, made payable to:

Send to

If you disagree with the overpayment or the amount of the overpayment, please see reverse for hearing instructions.
If you agree with the overpayment amount you must do one of the following within 90 calendar days from the day the county gave or mailed you this notice:

- Make a one time payment of the total amount;
- Reach an arrangement with the county for a written repayment agreement or a written voluntary grant offset.

If you fail to repay your overpayment in lump sum or enter into a voluntary repayment agreement, you will be subject to an involuntary repayment of the overpaid amount.

If you have any questions regarding the overpayment computation or repayment arrangements, please contact the worker at the top of this form.

Regulations cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11466.24. EAS Section 45-304, 45-305, 45-306 and 22-009.

YOUR HEARING RIGHTS

You have the right to ask for a hearing if you disagree with any county action. You have only 90 days to ask for a hearing. The 90 days started the day after the county gave or mailed you this notice.

State Hearing: If you think this action is wrong, you can ask for a hearing. Your benefits may not be changed if you ask for a hearing before this action takes place.

To request a Hearing:

If you think this action is wrong, you can ask for either an informal hearing provided by the County or a formal State hearing. Your benefits may not be changed if you ask for a hearing before this action takes place.

In order to request an informal hearing, your request must be made no later than 30 calendar days after this notice was mailed to you. You may send your request by any of the following methods.

In writing:

Email requests:

Address

Phone requests:

Address

Your request should state why you want the informal hearing and if you will need a free interpreter. If so, please indicate what language or dialect you speak.

You may appeal the informal hearing decision at a formal State hearing. You may request the formal State hearing within 90 calendar days after the informal hearing decision is mailed to you. If the informal hearing is requested but not held, the 90 days will begin 31 calendar days from the date of this notice.

If you choose a formal State hearing, please note that you must request that State hearing within 90 calendar days of the receipt of this notice.

If you have any questions, contact the worker at the top of this form.

TDD - For Hearing Impaired

TO ASK FOR A HEARING:

- **Fill out this page.**
- Make a copy of the front and back of this page for your records. If you ask, your worker will get you a copy of this page.
- **Send or take this page to:**

OR

- **Call toll free: 1-800-952-5253 or** for hearing or speech impaired who use TDD, **1-800-952-8349**.

To Get Help: You can ask about your hearing rights or for a legal aid referral at the toll-free state phone numbers listed above. You may get free legal help at your local legal aid or welfare rights office.

If you do not want to go to the hearing alone, you can bring a friend or someone with you.

HEARING REQUEST

I want a hearing due to an action by the Welfare Department of _____ County about my:

☐ Overpayment _____

Here's Why: _____

_____

_____

_____

_____

_____

☐ **If you need more space, check here and add a page.**

☐ I need the state to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing.)

My language or dialect is: _____

NAME OF PERSON WHOSE BENEFITS WERE DENIED, CHANGED OR STOPPED		
BIRTH DATE	PHONE NUMBER	
STREET ADDRESS		
CITY	STATE	ZIP CODE
SIGNATURE	DATE	
NAME OF PERSON COMPLETING THIS FORM	PHONE NUMBER	

☐ **I want the person named below to represent me at this hearing. I give my permission for this person to see my records or go to the hearing for me. (This person can be a friend or relative but cannot interpret for you.)**

NAME	PHONE NUMBER	
STREET ADDRESS		
CITY	STATE	ZIP CODE