

UPDATED INFORMATIVE DIGEST

Existing regulations provide for the county and California Department of Social Services (CDSS) Adoptions District Offices administration of the Adoption Assistance Program (AAP). Federal subsidies were created by Congress (through Public Law 96-272 – the Adoption Assistance and Child Welfare Act of 1980) to encourage the adoption of special needs children and remove the financial disincentives for families to adopt. Recognizing that adoptive parents often experience financial difficulty meeting the special needs of children who formerly were placed in California's foster care system, the state legislature created AAP. In creating the program, the legislature intended 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 Administration of Children Youth and Families (ACYF) reviewed States' respective Title IV-E Plans and concluded each States' AAP was implemented in a different manner and was inconsistent with the federal requirements. As a result of the federal review, California submitted a request to amend its Title IV-E State Plan to ACYF, in May 2007 and June 2007. The request was in response to the following program instructions (PI): ACYF-CB-PI-06-06 regarding changes made to the Social Security Act (SSA) by the Deficit Reduction Act of 2005 (DRA); ACYF-CB-PI-07-02 regarding changes made to the SSA by the Fair Access Foster Care Act of 2005, the Safe and Timely Interstate Placement of Foster Children Act of 2006, the Adam Walsh Child Protection and Safety Act of 2006; and ACYF-CB-PI-07-04 regarding the changes made by the Tax Relief and Health Care Act of 2006. In May 2008, ACYF requested the state submit a Program Improvement Plan (PIP) specific to AAP. The development of the AAP PIP was based on inquiries and discussions among CDSS staff and Region IX staff. The AAP PIP includes amendments to AAP statutes, regulations and policies and forms. The AAP PIP was approved in June 2009 and is to be completed by December 2010. The outstanding items to be completed per the PIP are the revisions of the Title 22, Division 2, Chapter 3. Adoption Program Regulations; Subchapter 7. Adoption Assistance Program/Aid for the Adoption of Children (AAP/AAC).

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. As authorized by Welfare and Institutions Code Sections 12300(b), 10553 and 10554, the proposed regulations make changes to current provisions 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.

These regulations were considered at the public hearing held on February 16, 2011 in Sacramento, California. Written testimony was received and as a result, changes were made to the regulations. Those amendments include:

- Section 35001 was amended to include the following forms, which are incorporated by reference:

AAP 1 (9/09) – Request for Adoption Assistance Program Benefit.

AAP 2 (7/11) – Payment Instructions - Adoption Assistance Program.

AAP 3 (7/11) – Reassessment Information - Adoption Assistance Program.

AAP 4 (11/11) – Eligibility Certification - Adoption Assistance Program.

AAP 6 (7/11) – Adoption Assistance Program - Negotiated Benefit Amount and Approval.

AAP 8 (7/11) – Adoption Assistance Program - Nonrecurring Adoption Expenses Agreement.

AD 4320 (11/11) – Adoption Assistance Program Agreement.

FC 8 (7/11) – Federal Eligibility Certification for Adoption Assistance Program.

FC 10" (8/09) – Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program.

- Section 35325 was amended to define the terms "responsible agency" and "county" as they relate to AAP. This section was also amended to clarify which agency the completed AAP 1 form should be submitted to when a child has been voluntarily relinquished for adoption to a California public or private adoption agency and placed with a California prospective adoptive family.
- Section 35326 was amended to include the special needs factor, adverse parental background to the Three Part Special Needs Determination; restructuring the Title IV-E (federal) funding eligibility paths and state funding eligibility paths for clarity; and the rewording of the requirement for prospective adoptive parents and any other adults living in the home to have completed a criminal background check.
- Section 35331 was amended to instruct the responsible public agency to submit the Federal Eligibility Certification for AAP form (FC 8) to the county responsible for payment.
- Section 35333 was amended to clarify that there shall be no means testing of the child or adoptive parent when determining the AAP benefit amount. Section 35333(g)(1)(A) was amended to reflect the recent change in Welfare and Institutions Code Section 16120(d)(3) enacted by the passage of AB12 (Chapter 559, Statutes of 2010). Starting January 1, 2012, youth who have an initial AAP agreement signed on or after their 16th birthday and meet the conditions stated in Welfare and Institutions Code Section 11403, may be eligible for the extension of AAP benefits to the age of 19; to the age of 20 effective January 1, 2013; and to the age of 21 effective January 1, 2014.
- Section 35334 was amended to state the various situations that may impact a child's out-of-home placement and their AAP benefits. Section 35334(c) is repealed as it contradicts existing Section 35334(a)(2)(B). The intent is to not penalize AAP eligible children of their benefits due to their out-of-home placement as a ward of the court.
- Section 35337 was amended to clarify that AAP benefits may continue beyond the age of 18, if the child has a mental or physical disability that warrants the continuation of AAP benefits to the age of 21. This section was also amended to include instructions to the responsible public agency that they shall assist the adoptive parents with information and referral services offered

in the adoptive parent's current state of residence. Adoptive parents of children who are eligible for state funded Medi-Cal benefits shall be informed that if they move or reside in another state, access to medical services in their state of residence are contingent on whether their state of residence extends COBRA-reciprocity for children receiving California state funded Medi-Cal benefits. This section was further amended to clarify that adoptive parents may request AAP benefits to continue beyond the age of 18 for their child. Lastly, this section was also amended to provide clarity regarding the dual agency rate structure for children under the age of three.

- Section 35343 was amended to clarify the negotiated AAP benefits are based on the child's needs and the circumstances of the family.
- Other amendments were made to the regulations for clarity and consistency.

Pursuant to Government Code Section 11346.8, a 15-day renofice and complete text of modifications made to the regulations after the public hearing were made available to the public. Written testimony on the modifications renoficed for public comment from August 11 to 26, 2011, was received but did not require further modifications to the proposed regulations.