

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



December 5, 2005

ALL COUNTY LETTER NO. 05-38

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF FISCAL OFFICERS
ALL CHIEF PROBATION OFFICERS
ALL COUNTY LICENSING PROGRAM MANAGERS

REASON FOR THIS TRANSMITTAL

- State Law Change
 Federal Law or Regulation Change
 Court Order
 Clarification Requested by
One or More Counties
 Initiated by CDSS

SUBJECT: THE EMERGENCY ASSISTANCE PROGRAM

The purpose of this All County Letter (ACL) is to provide County Welfare Departments (CWDs) and County Probation Departments (CPDs) with information and guidance on the Emergency Assistance (EA) Program. This ACL will also provide a general overview and background information on the EA Program with a section dedicated to answering Frequently Asked Questions (FAQs). In addition, the FAQs portion of this ACL will reference applicable ACL's, All-County Information Notices (ACINs), and County Fiscal Letters (CFLs) issued by the California Department of Social Services (CDSS) governing each EA subject area.

EA PROGRAM OVERVIEW

The EA Program in California is a federally-funded program under the Temporary Assistance to Needy Families (TANF) Block Grant. Federal financial participation (FFP) is available to provide short term aid to children/families in emergency situations who meet certain specified criteria. There are two main components of the program that were initially implemented in two phases.

Phase I focused on county probation and includes juvenile assessment centers, residential treatment facilities, foster care for wards deemed ineligible for Title IV-E, and after care services. This component is known as EA Probation; additional information regarding this component can be found in CFL No. 93/94-04, dated July 13, 1993 and ACIN No. I-02-98, dated January 5, 1998. For children served by Probation Departments, an emergency is defined in California's Title IV-A State Plan as a child's behavior that results in the child's removal from the home and a judicial determination that the child must remain in out-of-home care for more than seventy-two hours.

Phase II represents the EA Child Welfare Services (EA-CWS) component that provides services to children who are determined to be at risk of abuse, neglect, abandonment, or exploitation. The EA-CWS includes Emergency Shelter Care (ESC) and foster care benefits for dependents and voluntary placements that have experienced a qualifying episode that caused removal from the home. Funding is available for no more than one episode in a

12-month period. Costs and services funded under this component include foster care maintenance payments EA-FC, ESC, crisis resolution services and case management. Please refer to ACL No. 95-06, dated February 8, 1995; CFL No. 94/95-10, dated August 25, 1994; and ACL No. 93-64, dated September 1, 1993, for specific information on crisis resolution, EA-FC, and EA case management, respectively.

Phase II also includes maintenance payments provided to qualified aliens. Expenditures made on behalf of these recipients are referred to as EA-General Assistance (EA-GA). Costs are reported separately to identify the caseload and to accommodate a difference in sharing ratio from the FC cases. For additional information please refer to CFL No. 97/98-51, dated March 26, 1998, and CFL No. 99/00-52, dated January 28, 2000.

BACKGROUND

Prior to the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) Public Law 104-193 enacted on August 22, 1996, the EA Program was an optional federal open-entitlement program under Title IV-A of the Social Security Act. It allowed states to obtain 50 percent FFP to reimburse for the cost of short-term assistance and or services, once the recipient was deemed ineligible for Title IV-E funds and met all EA eligibility requirements. On January 1, 1996, the federal Department of Health and Human Services (DHHS) terminated FFP under the EA Program for the cost of services to children in the juvenile probation system.

When PRWORA was passed in 1996, it repealed Title IV-A and eliminated EA as a separate, open-ended federal entitlement program. Federal statutes provided that TANF funds may be used for such programs that were receiving Title IV-A funds as in effect on September 30, 1995 or, at the State's option August 22, 1996. Federal Title IV-A funds that were previously used for the EA Program were subsumed into the TANF Block Grant.

California opted to continue the EA Program in effect on September 30, 1995, which included the Title IV-A Probation Program. Subsequently, in 1997 the California Legislature passed the Comprehensive Youth Services Act (CYSA) which provided TANF funds to County Probation Departments for the purposes of providing services previously provided under the old EA probation component. While the past several years TANF funds have been used for the TANF Probation Program, the program is no longer under CDSS as it is now being administered through the California Board of Corrections.

The TANF funds are currently allocated to CWDs for those services previously provided under the EA-CWS component. The CWDs are to ensure that they follow the EA Program rules that were in effect on September 30, 1995, in administering these funds to ensure continued federal eligibility.

For regulations that govern EA Program requirements, counties should refer to the Manual of Policies and Procedures (MPP) Section 31-002(e)(3)-(11), 31-410, 31-415, and Foster Care Regulations at MPP Sections 45-200 and 45-300. The instructions in this ACL become effective immediately.

FAQ'S AND RESPONSES

1. Q. What are the federal eligibility requirements for receiving EA and where can I find them?
 - A. Reference: ACL No. 93-64 dated September 1, 1993. The federal requirements state that an emergency must exist within the family in order for the child to be considered eligible for assistance. For EA Program purposes, a family is defined as head of household and anyone living with the head of household. An emergency is defined as "...a child who is at risk of abuse, neglect, abandonment or exploitation." The following federal eligibility criteria must be met before a family can be determined eligible for assistance:
 - The child is (or, within six months prior to the month in which assistance is requested, has been) living with any of the specified relatives: their father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, nephew, niece, stepfather, stepmother, stepbrother, stepsister, adoptive parent, or any such person of a preceding generation denoted by the prefixes grand, great, or great-great. This can include the spouse of any person named above, even after the marriage has been terminated by death or dissolution.
 - The family has not been authorized for EA during the previous 12 months in California. If the family had received EA during the previous 12 months, the next eligibility period begins 12 months after the beginning date of the previous period.
 - Based on child specific eligibility, each "eligible needy child" is considered a family or a family of one for the purposes of EA assistance and/or services provided under the EA Program. Therefore, when determining a child's income eligibility only the child's income is considered. Reference ACL No. 94-90 dated October 27, 1994, and ACIN No. I-04-95 dated January 19, 1995. The child's income cannot exceed 200 percent of California's Median Family Income, as certified by the applicant. Based on official data from the U.S. Department of Housing and Urban Development (HUD), the California Median Family Income for Fiscal Year 2005 is \$62,100. This amount when multiplied by 200 percent results in a median income of **\$124,200**. The amount is recalculated every fiscal year. For more information on the median income you may wish to visit the HUD website at: <http://www.huduser.org/search/search.asp>
 - The emergency did not arise because an adult family member refused without good cause to accept employment or training.

2. Q. Does EA fund ESC provided by a relative?

A. Yes. A child placed with a relative may receive EA-ESC for a period of 30 days, after which time there is no federal or State funding for relatives in ESC. (Refer to CFL No. 93/94-38 dated March 18, 1994). If a county decides to keep a child placed with a relative in EA-ESC beyond 30 days the county may utilize county-only funds for that placement or may refer the relative to CalWORKs for needy or nonneedy relative caretaker assistance. A relative, non-relative, or a Nonrelative Extended Family Member (NREFM) must have their home licensed and or approved to current standards before a child is placed in the home. For current information on license or approval standards for relatives, non-relatives, or NREFMs refer to ACL No. 05-13, dated June 16, 2005.

3. Q. What rate will be paid to relatives in ESC?

A. The foster care rate will be paid to relatives, non-relatives, and NREFMs who are in ESC. This is a change from previous policy and supercedes instructions issued in CFL No. 93/94-38, dated March 18, 1994.

4. Q. Does EA fund ESC provided by a non-relative or a NREFM?

A. Yes. EA will fund ESC when a child is placed with a non-relative or with a NREFM. Per Welfare and Institutions Code (W&IC) Section 362.7 the term NREFM is defined as *“any adult caregiver who has an established familial or mentoring relationship with the child.”* This may include, but not be limited to such persons as a teacher, neighbors, family friends, or medical professionals. A non-relative is a person who would not meet the definition of a relative found in MPP Section 45-101(r)(1)(A). A relative, non-relative, or a NREFM must have their home licensed and or approved to current standards before a child is placed in the home. For current information on license or approval standards for relatives, non-relatives, or NREFMs refer to ACL No. 05-13 dated June 16, 2005.

5. Q. What are the funding ratios for EA-FC, EA-CWS, and EA-ESC?

A. The sharing ratio for **EA-FC**, which pays for foster care maintenance payments is 70 percent federal and 30 percent county funds for a period of up to 11 months (1 month ESC plus 11 months FC).

EA Crisis Resolution is funded with 85 percent federal funds and 15 percent county funds. EA Crisis Resolution pays for services only and there is no time study code for social worker activities. For a more detailed listing of Crisis Resolution services refer to ACL No. 95-05, dated February 8, 1995.

EA case management is funded 50 percent federal, 35 percent State and 15 percent County for Title IV-E eligible costs. Non-federally eligible costs are funded with 85 percent State and 15 percent County funds. Section 15204.25 was added to the W&IC by AB 67, Chapter 606, Statutes of 1997 which maintains the county share of administrative costs for the EA Program at 15 percent.

EA-ESC for a relative, non-relative, or NREFM for the first 30 days is funded at 85 percent federal and 15 percent county funds. The EA-ESC for a non-relative or a NREFM over 30 days will be funded with 50 percent federal and 50 percent county funds until the county finds a suitable placement for the child. There is no EA federal funding for a child placed with a relative in ESC after the 30 day time period.

EA-GA cases which provide maintenance payments for qualified aliens, is funded with 50 percent TANF and 50 percent county funds.

6. Q. Will the Emergency Hotline Response continue as a Title IV-E claimable activity?
 - A. No. As outlined in CFL No. 05/06-26, dated September 28, 2005, the investigation activities previously claimed to Emergency Hotline Response will be claimed to EA-ER which is funded with TANF. This change to CDSS policy is based on information from the federal DHHS, Region IX, that costs of investigations are not allowable for Title IV-E funding. Investigative activities will be time-studied to EA-ER and the remaining activities i.e., assessments and referrals, will be time-studied to CWS case management. All CWS investigative activities can be claimed to EA-ER.

7. Q. What is the relationship between EA-CWS and EA-ESC?
 - A. The EA-CWS component includes ESC and foster care for dependents and voluntary placements. Effective August 1, 1994, the EA-CWS component was expanded to include emergency response activities and crisis resolution services. The EA-ESC is primarily associated with an emergency shelter care placement until the Social Worker (SW) finds a suitable placement for the child or the emergency has been resolved and the child returns home. The EA-CWS component provides a continuum of services such as foster care maintenance payments and Crisis Resolution services which may include, but not be limited to counseling, remedial services related to drug/alcohol abuse, or information and referrals. The services must be documented in the child's case plan.

8. Q. What are the time limitations for an EA-CWS and EA-ESC case?
 - A. The EA is limited within any twelve month period to a single episode per family with a maximum duration of twelve months or less or as necessary to resolve the emergency situation. If a child is placed with a relative in ESC, the funding is limited to a 30-day

period after which time there is no federal or state funding for relatives in ESC; refer to the MPP Section 31-415.2. If the child remains placed with a relative in ESC, after 30-days, the county may utilize county-only funds, find another suitable placement for the child, or refer the relative to CalWORKs, or subsequently determine that the relative's home is eligible to receive Title IV-E funds. A relative home must be approved to current standards prior to utilizing Title IV-E funds. The EA-ESC funds may be used for non-relative placements beyond 30 days at the 50 percent federal, 50 percent county rate until a suitable placement has been found or the child is returned home. The EA-CWS component for services may be utilized for 11 months.

9. Q. What is the Beginning Date of Aid (BDOA) for EA? When does the Not-to-Exceed (NTE) date end for EA?
- A. An EA application must be taken immediately or no later than 30 calendar days from the date the child is removed from the home or the date the child is determined to be at risk. (Refer to ACL No. 93-64 and ACL No. 94-90). The BDOA begins on the date the application is signed by the parent; this is consistent with the EA State Plan. The NTE date is counted 12 months from the date the application is signed. It is in a county's best interest to process EA applications immediately. If a county SW takes 30 days to process an application and an EW takes an additional 30 days to authorize payment, then FFP may be lost if the emergency ends prior to authorization of EA. Cases aided beyond the twelve month period under EA are to be funded with 100 percent county-only funds.
10. Q. Is EA-General Assistance (EA-GA), available for qualified aliens and nonqualified aliens?
- A. The term "qualified alien" is a federal term used only to define a person's immigration status for eligibility to receive federal means-tested public benefits. An alien shall only be eligible for aid if the alien has been lawfully admitted for permanent residence, or meets one of the other criteria of 8 USC §1641 which defines a "qualified alien". For additional information on qualified aliens refer to ACL No. 99-43, dated June 15, 1999. Counties should note any "qualified aliens" who entered the country after August 22, 1996, are prohibited from receiving TANF funded services for a period of five years from their date of entry, refer to CFL No. 99/00-52, dated January 28, 2000. The EA-GA Program provides benefits to qualified aliens who meet the criteria above i.e., who have resided in the U.S. five years or more, and have met all other program eligibility requirements. The EA-GA component is TANF funded with 50 percent federal funds and 50 percent county funds.

A nonqualified alien or an undocumented alien is not eligible to receive EA-GA program benefits. The 1996 Welfare Reform Act barred most nonqualified aliens from receiving federal public benefits.

11. Q. Can a county place a child in a relative's home on an emergency basis prior to Title IV-E relative approval of that home and claim ESC to EA?
- A. Yes. If the SW has completed an assessment on the home per W&IC Section 309 (d)(1) to temporarily place the child in the relative's home, the placement would be considered an ESC placement and would be claimable to EA. However, when the relative's home is approved and the child meets all eligibility criteria for Title IV-E Foster Care, counties should no longer claim EA. If the relative's home is not approved within 30 days and the child remains in their home, the county must shift the funding to county-only funds. The CDSS protocol dictates that a county claim Title IV-E first, if the child is eligible. The EA is used for non-federally eligible cases/costs only.
12. Q. Is the date the child was determined to be at risk the same as the date of removal?
- A. Yes, for the CWS application, the date the SW determines the child to be at risk should be the same date as the removal date, refer to ACL No. 94-90 dated October 27, 1994. The date on the EA 1 Form should reflect the date the child was removed from the home. The EW must authorize or deny EA and/or services within 30 calendar days from the date of application which is the date the parent/relative or SW signs the EA application.
13. Q. What happened to the EA Probation Component and does the 4K Aid Code still exist for EA Probation?
- A. On September 12, 1995, the federal Administration for Children and Families, DHHS, issued an Action Transmittal ACF-AT-95-9 which notified states that, effective January 1, 1996, FFP would be terminated under the EA Program for the cost of benefits or services provided to children in the juvenile justice system. This policy terminated federal funding for the entire Probation component of California's EA Program including juvenile assessment centers, i.e., juvenile halls, residential group care in camps and ranches, foster care, and after-care. The Aid Code 4K was eliminated. However, as stated on page two under Background, the TANF program allows California to implement the EA Program as it was operated on September 30, 1995, which included Probation. Aid Code 4K was not re-established as the TANF Probation program costs were treated as direct services passed through to the County Probation Departments via the County Expense Claim. While the past several years TANF Probation funds have been distributed by the CDSS to CWDs for EA probation, effective with the 2005-2006 Fiscal Year (FY) EA Probation funds are now administered by the California Board of Corrections.

Federal TANF funds are currently used for the CWS component of California's EA Program for ESC, foster care and crisis resolution services. The EA Crisis Resolution, EA case management, and EA-ESC are claimed on the County Expense Claim. The

EA Foster Care cases are reported on the CA 800 A FED County Assistance Claim form using Aid Code 5K.

14. Q. Can counties claim the clothing allowance for a child receiving EA-ESC? If so how would counties claim this item?
- A. Currently there is no mechanism to claim a clothing allowance for a child in ESC. Counties would be able to claim the clothing allowance cost to EA only after a FC payment has been authorized. This cost would be claimed under the 5K aid code on the Assistance Claim.
15. Q. Are there age limit requirements for children receiving EA and if so, is there a link to school attendance?
- A. In accordance with provisions in the Title IV-A State Plan and ACIN No. I-18-94, dated June 28, 1994, the EA Program provides benefits and services for children up to the age of 21. There is no link with school attendance for the EA Program.
16. Q. Are NREFMs eligible to receive EA? If so for how long?
- A. The NREFMs and nonrelatives are eligible for EA-ESC and also the services component EA-CWS. The NREFMs and nonrelatives are limited within any twelve month period to a single episode per family with a maximum duration of twelve months or less or as necessary to resolve the emergency situation.
17. Q. Who can sign the EA Application (EA 1) on behalf of the child?
- A. In order of preference, the parent, or when the parent is unavailable or unwilling to apply on behalf of a child, the EA Application may be completed and signed by a relative or a county Social Worker. Refer to ACL No. 93-64, dated September 1, 1993.
18. Q. If more than one episode occurs during the year and the second episode appears likely to result in the need for more extensive services than was required by the first episode, can the first episode be abated and the second episode claimed?
- A. Yes. For example: a child is determined to be at risk, removed and placed in ESC for approximately 3 weeks and then returned to the parents and the case is closed. Six months later the child is again abused, the parent is arrested and it appears the child will be in foster care for at least 12 months. At this point the county could abate the first EA episode. A new application must be processed and the assistance authorized for the new emergency the county is choosing to claim. The new emergency consists of a new episode and, therefore, a new twelve month period of eligibility exists. Refer to ACIN No. I-41-93, dated November 4, 1993.

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Most of the ACLs, ACINs, and CFLs pertaining to the EA Program were issued years ago and as a result are not accessible on our website (www.dss.cahwnet.gov). The CDSS is working to scan these letters to make them available on our website in the near future. For your immediate needs you may request a faxed copy of an ACL, ACIN, or CFL by contacting our office using the telephone number listed below. For questions regarding this ACL please contact the Foster Care Funding and Eligibility Unit at (916) 651-9152. For questions related to EA fiscal claiming activities you may contact the Financial Services Bureau at: fiscal.systems@dss.ca.gov

Sincerely,

MARY L. AULT
Deputy Director
Children and Family Services Division

c: CWDA