



*Understanding and Accessing Benefits  
to Support Youth in Foster Care*

*April 2019*

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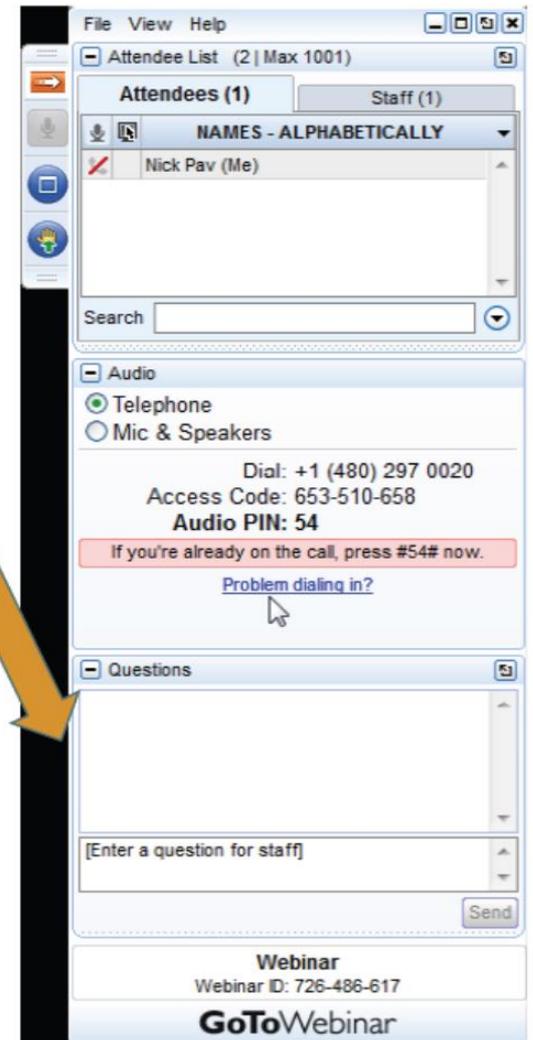
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# Today's Speakers

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**Rachel Stein**

Staff Attorney, Alliance for Children's Rights

**Angie Schwartz**

Policy Director, Alliance for Children's Rights

# Topics: *Understanding Benefits to Support Youth in Foster Care*

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## ➤ Foster Care Benefits Overview

- Eligibility
- Rates: LOC, ISFC, Dual Agency

## ➤ Supplements to foster care rate

- Specialized Care Increment
- Infant Supplement and WFFH
- Transportation to School of Origin

## ➤ Permanency

- Kin-GAP
- AAP

## ➤ Children with CPS Involvement Outside of Foster Care

- Informal caregivers
- VPAs
- NRLGs

## ➤ Benefits Available to All Low-Income Children

- Medicaid
- SSI/SSP

*Overview of the  
Administrative Fair  
Hearing Process:  
Appealing Benefits  
Decisions*

# *What is a Fair Hearing?*

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- A **Fair Hearing** is a chance for you to tell an Administrative Law Judge why you think a decision about your case made by a local social services or child welfare agency is wrong.

# Why Request a Fair Hearing?

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- ✓ To challenge a decision **denying, reducing or terminating** benefits
  - This includes a denial, termination or reduction of a Specialized Care Rate
- ✓ To challenge the county's **failure to act** on an application for benefits
- ✓ To challenge denial of **Resource Family Approval**



❖ NOTE: If your benefits are reduced, denied, or terminated WITHOUT a Notice of Action, you also may request a Fair Hearing

# *When to Request a Fair Hearing?*

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- If you received a Notice of Action that you disagree with, you must request a hearing **within 90 days of the date listed on the Notice**
- If the county didn't issue a Notice of Action, any hearing request will be considered timely
- You may request a hearing after the 90 days, but you must show that the Notice was not adequate OR good cause for making a late request

# *Adequate Notices and Good Cause*

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- Notices that are not “adequate” may include:
  - Notices that are not in the recipient’s preferred language
  - Notices that fail to inform the recipient of the action to be taken, the reasons for the action, the specific regulations supporting the action, the recipient’s right to hearing, and, if appropriate, the right to aid pending the hearing
- “Good cause” may include but is not limited to compelling reasons beyond your control

# *How to Request a Fair Hearing Regarding Benefits?*

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- You can request a hearing by phone, mail, fax, or online: State that you are requesting a hearing because the county failed to provide you with appropriate benefits
  - By **phone**: (800) 952-5253 or TDD (800)952-8349
  - By **mail**: fill out the second page of the Notice of Action and mail it to the county address on the Notice or to:  
*California Dept. of Social Services  
State Hearings Division  
PO Box 944243, MS 21-37  
Sacramento, CA*
  - By **fax**: fax the Notice to the county number or to (916)651-5210
  - **Online**: <https://secure.dss.cahwnet.gov/shd/pubintake/cdss-request.aspx>
- Note the date you made the request and keep a copy

# *How to Request a Fair Hearing to Appeal an RFA Denial?*

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- If your RFA application was denied, you may appeal that decision by requesting a Fair Hearing
- To request a Fair Hearing, fill out the Notice indicating that you wish to appeal the RFA denial and mail it to the county address listed on the Notice
- Note the date you mailed the Notice and keep a copy
- ❖ We recommend that you also call State Hearings Division or mail them a copy of the Notice to ensure they receive your hearing request timely

# *What Happens at the Hearing?*

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- **Who attends?** The County Hearing Specialist, the Claimant, the Administrative Law Judge, Authorized Representatives, and any witnesses who will provide testimony at the hearing may attend
- **What happens during the hearing?** The Administrative Law Judge will provide each side the opportunity to present their position and to provide evidence (including documents and witnesses) to the Court.
- **How long is the hearing?** The length of the hearing will vary depending on the complexity of the case, but on average it will take 30-60 minutes (could take longer if you have an AR or witnesses)
- **Will the judge make a decision during the hearing?** No. State Hearings Division should mail you a written decision within 90 days of when you requested a hearing, unless your hearing date was postponed (in which case it will take longer)

# *Tips for Preparing for a Fair Hearing*

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- Be aware that the County Hearing Specialist represents the county, not you, and he/she should not dissuade you from continuing with the hearing process
- You have the right to attend the hearing in person or by phone
- You have the right to an interpreter if needed
- You may choose someone to represent you at the hearing, although you are not required to have a representative
- You have the right to receive a copy of the county's Statement of Position **two days before the hearing**
- You have the right to review your case file before the hearing
- You may submit your own written statement to the court any time before or at the hearing, although you are not required to do so
- Bring to the hearing any evidence and witnesses that show the county made a mistake regarding your benefits/home denial

# *Appealing a Negative Hearing Decision*

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- If the judge rules against you in whole or in part, you have the right to appeal the decision:
  - You can appeal by mailing a written request for a rehearing to CDSS's Rehearing Unit **within 30 days of the date you received the decision;** and/or
  - You can appeal by filing a writ petition in Superior Court **within one year** of when you received the decision

# Rehearing Request

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- If you request a rehearing, CDSS should issue a decision granting or denying your request **within 35 working days of when you made the request**
- If your rehearing request is granted, the Court may issue a ruling on the record (no in-person/phone hearing required), OR the judge may order a new in-person/phone hearing, OR some combination of the two
- If CDSS grants you a new hearing, a different judge will likely be assigned to hear it than the one who issued the negative ruling

# ***BENEFITS OVERVIEW:***

*Children with CPS*

*Involvement Outside of*

*Foster Care*

# *Kinship Care: Voluntary vs Formal*

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## **Voluntary Kinship Care (informal)**

- Child welfare system is/was involved, but **no formal foster care**
  - Child could be with relative through a Probate Court Guardianship or informal arrangement
  - Child welfare system is not involved in placement
  - Relative may be caring for a child with or without legal custody or guardianship

## **Kinship Foster Care (formal)**

- Child placed in foster care with a relative either through **court removal or Voluntary Placement Agreement**

# *How do the different kinship placements occur?*

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During or after a child abuse/neglect investigation ...

- **VPA** –child welfare agency asks parent to enter into VPA where child lives with a relative while parent receives services.
- **Informal kinship care** – child welfare agency tells family that if child lives with a relative, no dependency case will be filed.
- **Probate guardianship** - child welfare agency tells family that if relative obtains guardianship, no dependency case will be filed (NOTE: non-relative guardians through probate court get foster care benefits)

# *Legal Authority for Kinship Placements Outside of Foster Care?*

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- VPAs are authorized under California law (WIC §§ 301, 16506, 16507.3) and are limited to 6 months, after which time the child welfare agency must either close the case or file a dependency petition.
- The other forms of placements with kin outside of foster care (to informal kinship care and probate guardianship) have no explicit statutory basis. *Are they legal?*



# Voluntary Placement Agreement

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- **Definition:** “voluntary placement agreement’ means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.”
- **Who Consents:** Agreement between parent/guardian and child welfare agency
- **Care, Custody and Control:** Child’s placement into a VPA and care, custody and control transfers to child welfare agency
- **Time Limits:** Limited to 180 days – within 180 days the agency must:
  - Return the child home
  - Release the child for adoption
  - File a petition to place into foster care (child gets an attorney/parent gets an attorney/judge must assess for best interest and “reasonable efforts”)
  - Formally extend VPA for another 180 days (court must extend)

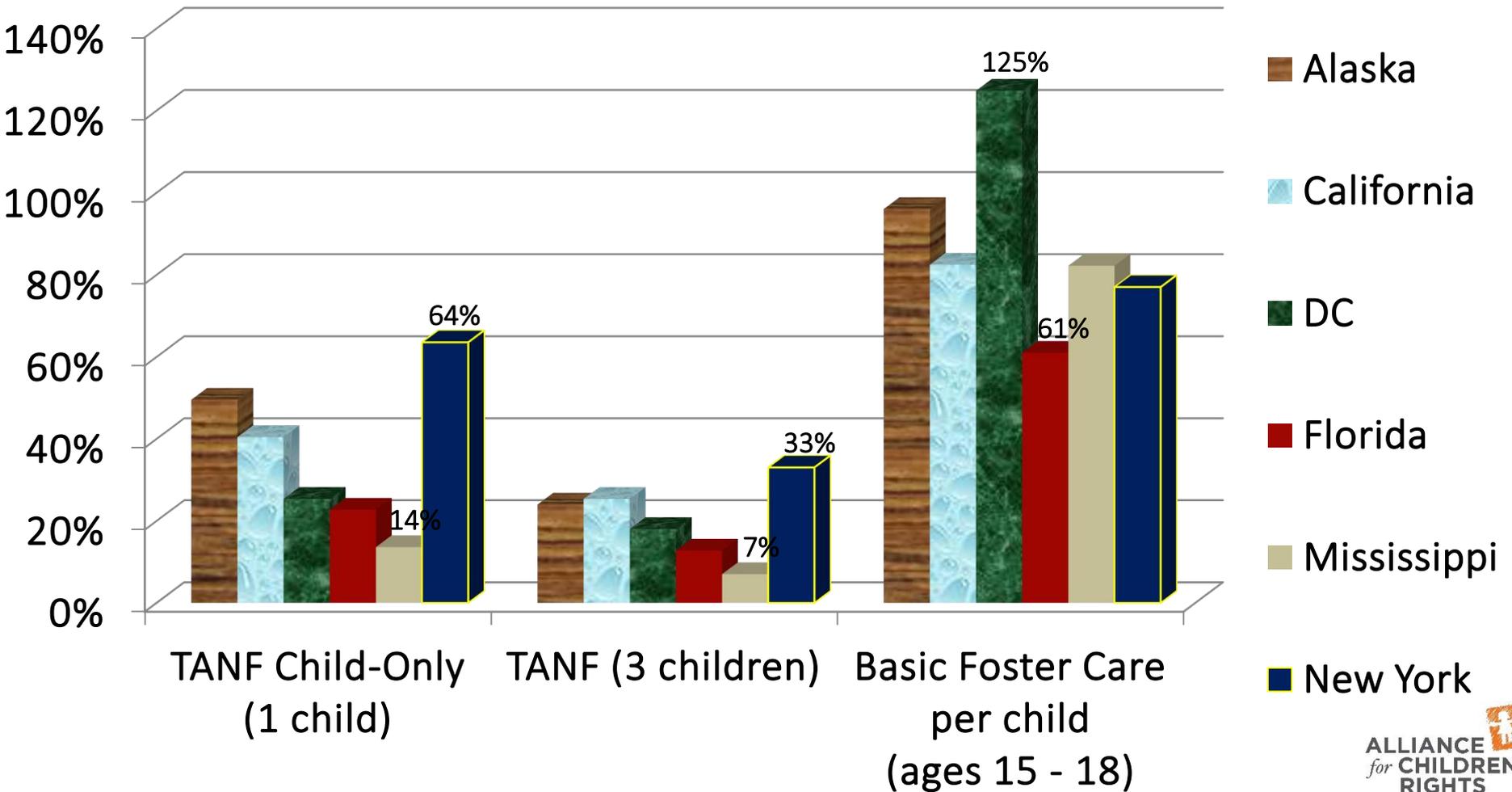
# *Funding to Support Children Outside of Foster Care*

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- **Voluntary Placement Agreements (with a relative or non-relative): Foster Care Benefits** (including everything we will discuss in the following section)
- **Informal kinship** care OR probate court guardianship for a relative: **CalWORKs**
- **Non-related legal guardianship** (including non-relatives that have guardianship through probate court): **Foster Care Benefits**

# TANF vs Foster Care Benefits

TANF child-only vs. TANF 3-child grant vs. Basic Foster Care Rate as a % of the Estimated Cost of Providing for the Needs of a 15 – 18 Year Old



***BENEFITS OVERVIEW:***  
*Funding to Support*  
*Children in Foster Care*

# Foster Care Benefits Funding: *Types & Sources*

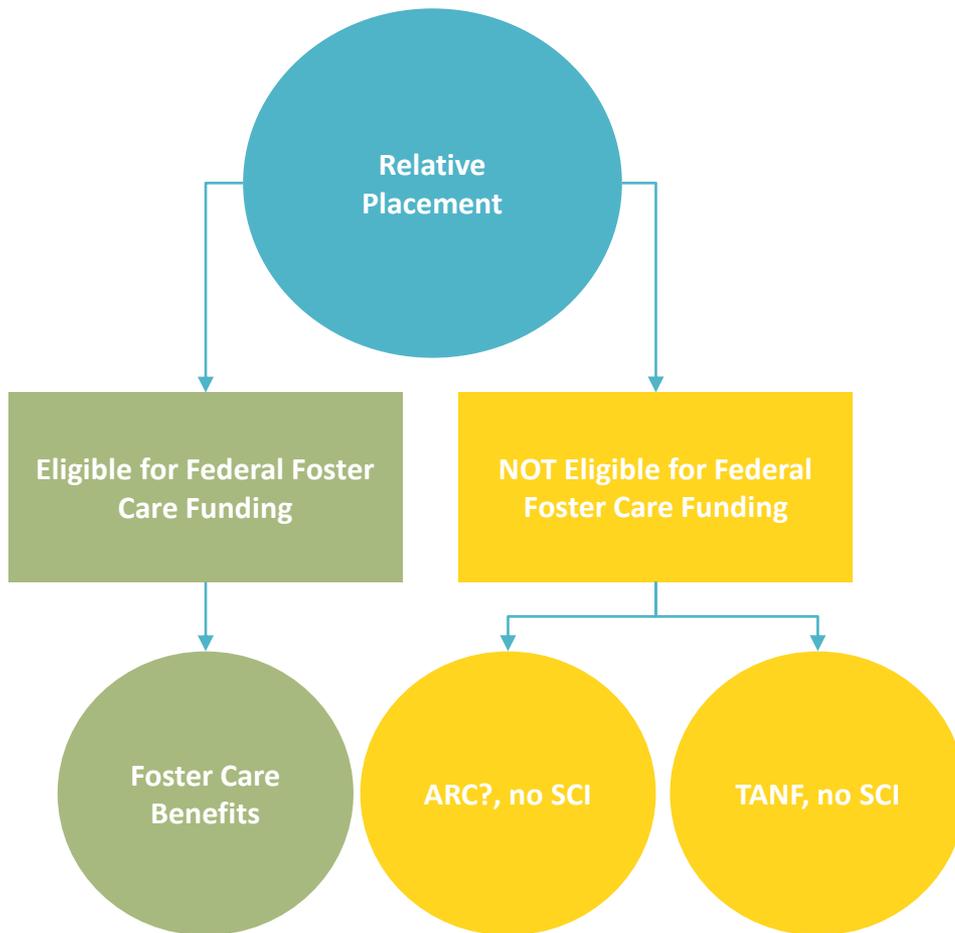
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- Emergency Caregiver
- AFDC-FC and ARC – inclusive of:
  - Level of Care rate
  - ISFC
  - SCI
  - Infant Supplement
  - Whole Family Foster Home
  - Dual Agency Rate
  - Clothing Allowance
  - Transportation to SOO

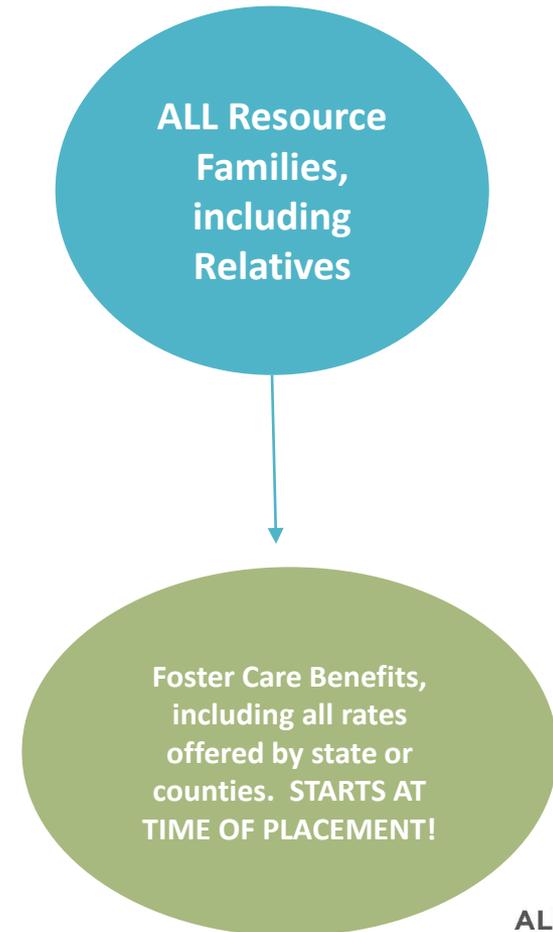


# Continuum of Care Reform – *Impact on Funding for Families*

## Old Rate System



## Home Based Family Care Rate System



# Foster Care Benefits (state AFDC-FC or Title IV-E): *Overview of Eligibility*

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## Eligibility Requirements:

- Categorical requirements of the child
  - Age – under 21
  - Residency
  - Immigration status (**for Title IV-E eligibility only**)
  - Deprivation (**for Title IV-E eligibility only**)
- Conditions of removal from the home and placement into **approved/licensed** facility
- Financial eligibility (**for Title IV-E eligibility only**)

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42 U.S.C. § 670 et seq.; 45 C.F.R. § 1356 et seq.; Cal. Welf. and Inst. Code § 11400 et seq.; Manual of Policy and Procedure (MPP) § 45-200 et seq.; 1996 AFDC Regulations -

<http://www.dss.cahwnet.gov/ord/PG1780.htm>

# Foster Care Benefits (AFDC-FC): *Conditions of Removal*

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*Youth removed from home qualify for benefits under AFDC-FC if:*

- declared a Dependent child of the court under Welfare & Institutions Code **section 300**, - or -
- declared a Ward of the court under Welfare & Institutions Code **section 601 or 602**, or the child or nonminor is under transition jurisdiction (WIC 450), - or -
- Detained under a court order pursuant to **section 319 or 636** that remains in effect
- Dependency or transition jurisdiction has been **resumed** pursuant to WIC section 450, 387(a) or 388(e)
- Put into placement as a result of a **Voluntary Placement Agreement** between the parent and CPS, - or -
- Living in the home of a **non-related legal guardian** or nonminor in home of former non-related legal guardian

# Foster Care Benefits (AFDC-FC): *Eligible Placements*

- A housing unit certified by a licensed transitional housing placement provider
- An approved supervised independent living setting for nonminor dependents.
- A licensed foster family agency for placement into a certified or approved home used exclusively by the foster family agency.
- A short-term residential therapeutic program
- An out-of-state group home
- A community treatment facility
- A licensed community care facility vendored by a regional center
- The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child or youth who is otherwise eligible for AFDC-FC has been dismissed due to the child or youth attaining 18 years of age.
- A dorm or other designated housing of a postsecondary educational institution in which a minor dependent who is enrolled at the postsecondary educational institution is living independently

# Foster Care Benefits (AFDC-FC): *Eligible Placements*

- The approved home of a relative, *provided the child or youth is otherwise eligible for federal financial participation in the AFDC-FC payment.*
- The approved home of a nonrelative extended family member, as described in Section 362.7.
- The licensed family home of a nonrelative.
- The approved home of a resource family, as defined in Section 16519.5, if either of the following is true:
  - The caregiver is a nonrelative.
  - The caregiver is a relative, and *the child or youth is otherwise eligible for federal financial participation in the AFDC-FC payment.*
- A small family home, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

# Foster Care Benefits (AFDC-FC): *Financial Eligibility (Title IV-E/Federal Foster Care Only)*

To receive **federal** foster care benefits, the youth must meet the 1996 AFDC criteria **in the home of removal** in the month of removal or one of the six months prior to removal

- In 1996, income limit for a family of 3 to qualify for AFDC was \$723
  - **BY CONTRAST:** *The income limit for the same family to qualify for CalWORKs is \$1,169*

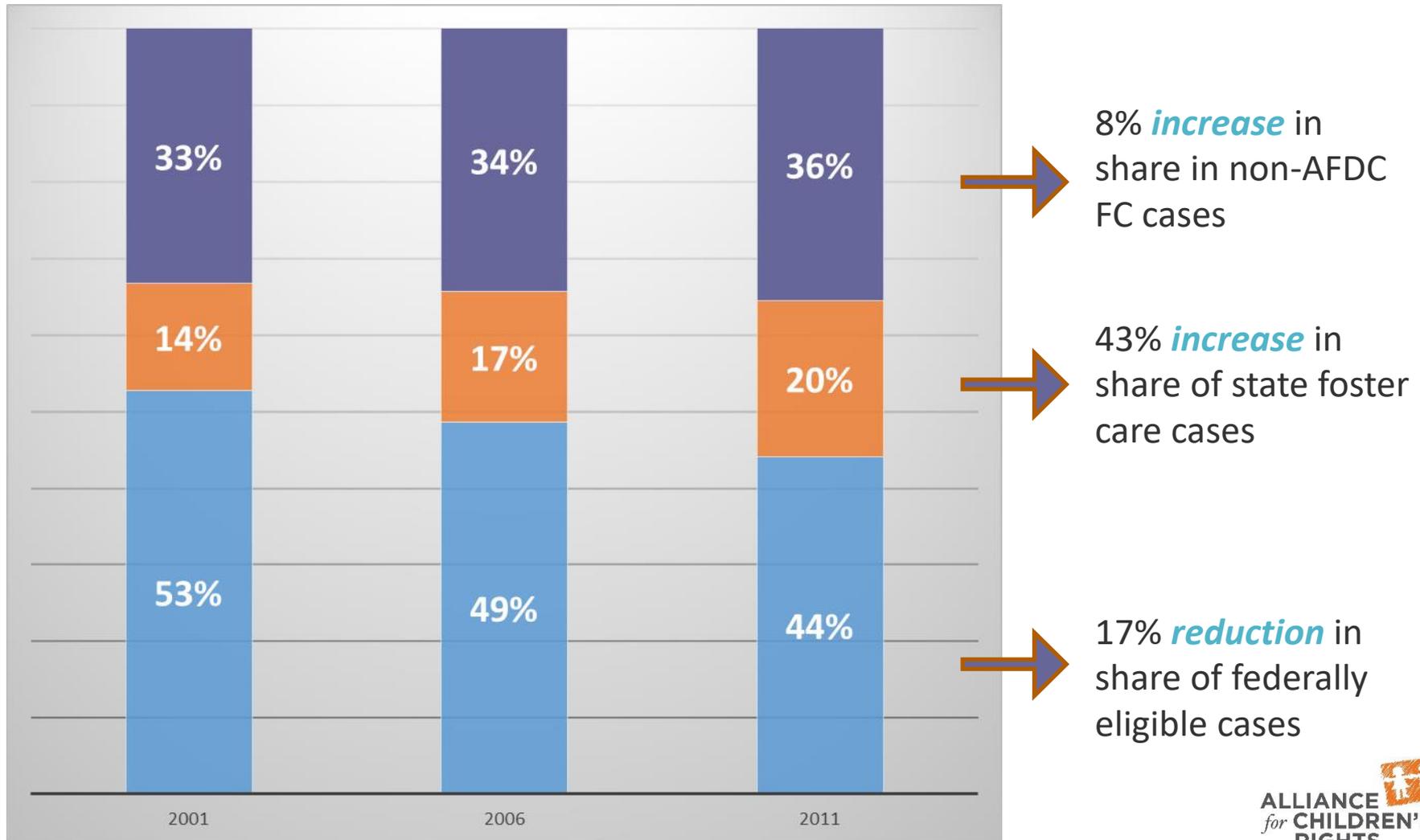
**What that means:** a child can be removed from a parent receiving CalWORKs and STILL not qualify for federal foster care benefits

**IMPORTANT:** The federal test has **nothing** to do with the needs of the child or the needs of the relative where the child is placed

# Federal Foster Care Eligibility: *Little Known Facts*

- Federal eligibility is a **one-time determination** done at the time of removal
- Federal eligibility does not depend on the type of placement
  - o A youth who is not federally eligible in a relative home, is also not federally eligible in a group home
- Federal eligibility is based on 1996 AFDC Rules
  - o The AFDC program no longer exists
  - o The income/resource rules have never been adjusted for inflation

# Fewer Youth are Federally Eligible Every Year



# Approved Relative Caregiver (ARC): *Eligibility*

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- Home must meet **approval standards**
- Child must be placed with approved relative in CA
- Child must have been removed from the home and under CWS or Probation jurisdiction
- Child is not eligible for federal financial participation for AFDC-FC payment
- ARC includes ALL the same supplements and rates as an AFDC-FC payment!

# Emergency Caregiver Funding: *Overview*

*AB 1811 (Chapter 35, Statutes of 2018)*

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- “EC funding” is funding provided to families who are caring for a child before a family is approved as a resource family
- Funding accrues back to the date of placement
- Provides eligible families completing Resource Family Approval the Basic Foster Care Rate (currently \$960/month) **effective 7/1/18**



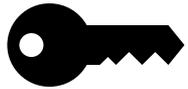
*Cal. Welf. and Inst. Code § 11461.36*

# Emergency Caregiver Funding: *Eligibility*

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- Caregiver is caring for a child or nonminor placed in the home **as an emergency placement or based on a compelling reason**;



- Caregiver has a **pending RFA application** filed with appropriate agency;



- Child or nonminor is **not otherwise eligible for a foster care payment** (criterion is met when caregiver has not yet been approved as a resource family), and



- Child or nonminor is **placed in California**.

# Emergency Caregiver Funding: *Caseworker Responsibilities*

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## RFA (RFA-01A) application

Placing agency is required to work with caregiver to submit RFA application within 5 days of an emergency placement OR prior to placement for a compelling reason

## Emergency Assistance (EA) application

County worker completes and submits EA application. **Child is eligible for emergency caregiver funding (state/county funding) if the child does not meet eligibility for EA**

## How long will a family receive EC funding?

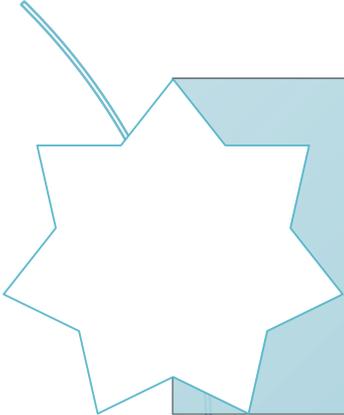
A family who had a pending RFA application AND is not approved after March 30, 2018 will receive EC funding for up to 180 days

If the application is not approved/denied by 180 days AND the county can **demonstrate good cause** for the delay, the federal/state share of funding can continue up to 365 days

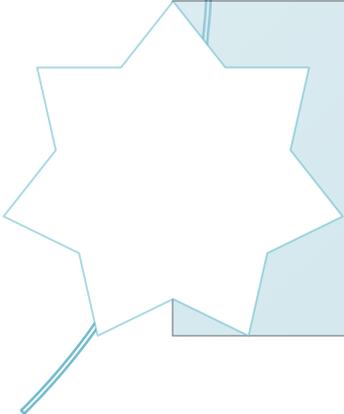
- NOTE: even if the state/federal funding stops at 180 days, the county can continue to provide funding to the family beyond 180 days and until approval

## Continued Funding: *Once Approved as a Resource Family*

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Caregivers **continue** receiving foster care funding (through AFDC-FC or ARC) **once approved as a resource family** (plus any supplemental payments - LOC, SCI, infant supplement, dual agency, etc.)



Caregivers should contact county if any gap in funding occurs after RFA is completed

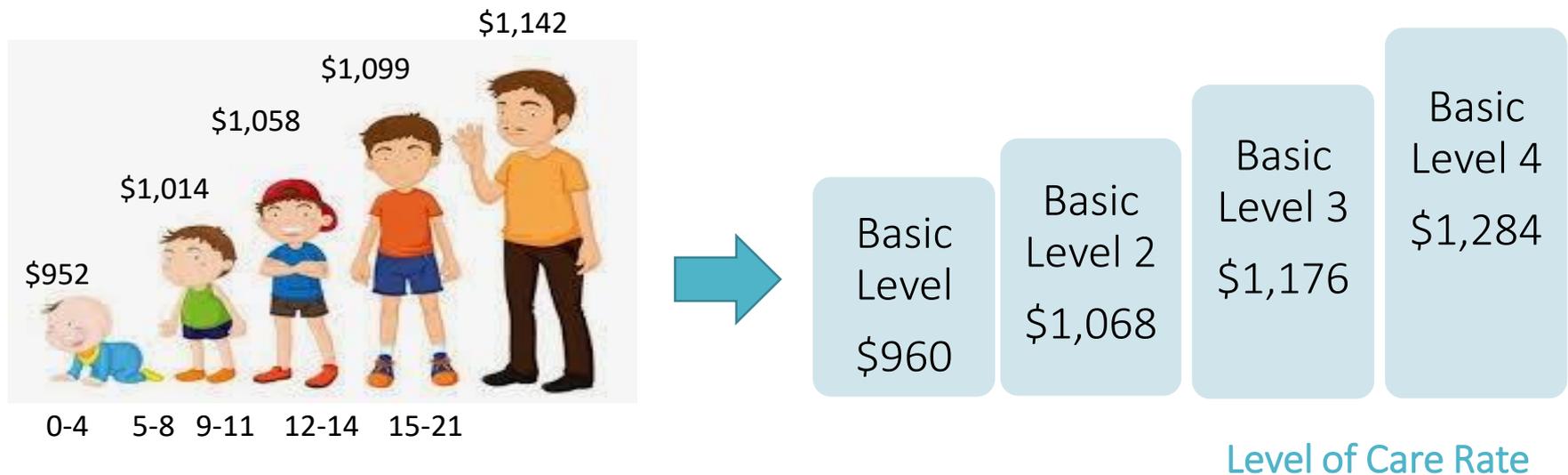
# Home-Based Family Care Rate (AFDC-FC or ARC): *What Does a Child Receive?*

## Level of Care Vision

- Establish a rate-setting system that can better support a continuum of programs and services to promote positive outcomes for children and families.
- Intended to better define the expectations of caregivers to meet child needs.
- Include the Child and Family team as part of the assessment.
- Create a statewide, standardized assessment.

# Home Based Family Care Rate: *No Longer Age Based*

- Home-based foster care rate paid to Resource Family based on amount of care and supervision needs.
- CDSS is developing a Level of Care (LOC) Protocol tool to guide county LOC determinations.



Age-based Rate

Level of Care Rate

# Home Based Family Care Rates: *Implementation Status*

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- 1/1/17 - Basic Foster Care Rate (\$960 per month)
- 12/1/17 - Intensive Services Foster Care (ISFC) implemented
- 2/1/18 - Tiered Level of Care (LOC) Protocol implemented in new FFA placements (soon to expand to all FFA placements)
- Delayed LOC Implementation for county homes



# Home Based Family Care Rates: *LOC/P Overview*

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## Level of Care Protocol & Rate Structure

*Designed to support positive outcomes for children in home-based family settings using a core practice model that engages the child/youth and families using a Child and Family Team (CFT) approach*

- ✓ Rate determinations based on LOC Protocol
  - Evaluating core domains (physical; behavioral/emotional; educational; health; permanency/family services) describing care needs for child and RFs level of expected supervision and supports
  - LOC Protocol required for determining LOC rate

[LOC Rate Determination Matrix](#)

# Home Based Family Care Rates: *Intensive Services Foster Care (ISFC)*

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ISFC was created to provide supports to children and youth who require intensive treatment, including treatment for behavioral and specialized health care needs.

- Specifically, the ISFC program is intended to **stabilize young people in foster care with the services they need in family settings**

FFAs and county agencies can deliver ISFC services if they meet program responsibilities:

- identify strategies to **recruit and train caregivers** to receive ISFC services,
- provide **thoughtful placement matching** between ISFC-eligible youth and caregivers, and
- ensure that social workers with master's degrees coordinate care for the ISFC program.

[Welf. and Inst. Code sections 18360; 18360.06; 18360.10; All County Letter \(ACL\) No. 18-25.](#)

# Supplements to the Home Based Family Care Rates:

## *Specialized Care Increments*

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### Specialized Care Increment (SCI)

*Supplemental payment in addition to Home Based Family Care Rate for child/youth who has emotional, physical, health and/or behavioral needs*

- Each county has SCR plan to determine SCI rate
  - Not all counties have SCR plan
- Counties may apply SCI rate in conjunction with LOC, including ISFC
  - Can apply SCI for same condition and care or supervision needs
- SCI assessment should be completed after CFT meeting, LOC/P and any other relevant assessments but may be used more immediately to stabilize placement

# Supplements to the Home Based Family Care Rates: *Specialized Care Increment (SCI) Matrix*

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Uniform SCI matrix developed to help counties align SCI rates with LOC rates (once LOC is fully implemented)

- SCI matrix includes common conditions identified in numerous county SCI plans
  - 3 issue areas (medical conditions, developmental delays or disabilities, and behavioral issues)
    - 3 tiers in each to represent acuity of different level of needs
- Counties can continue to set their own SCI rates for payments in each tier

# Supplements to the Home Based Family Care Rates:

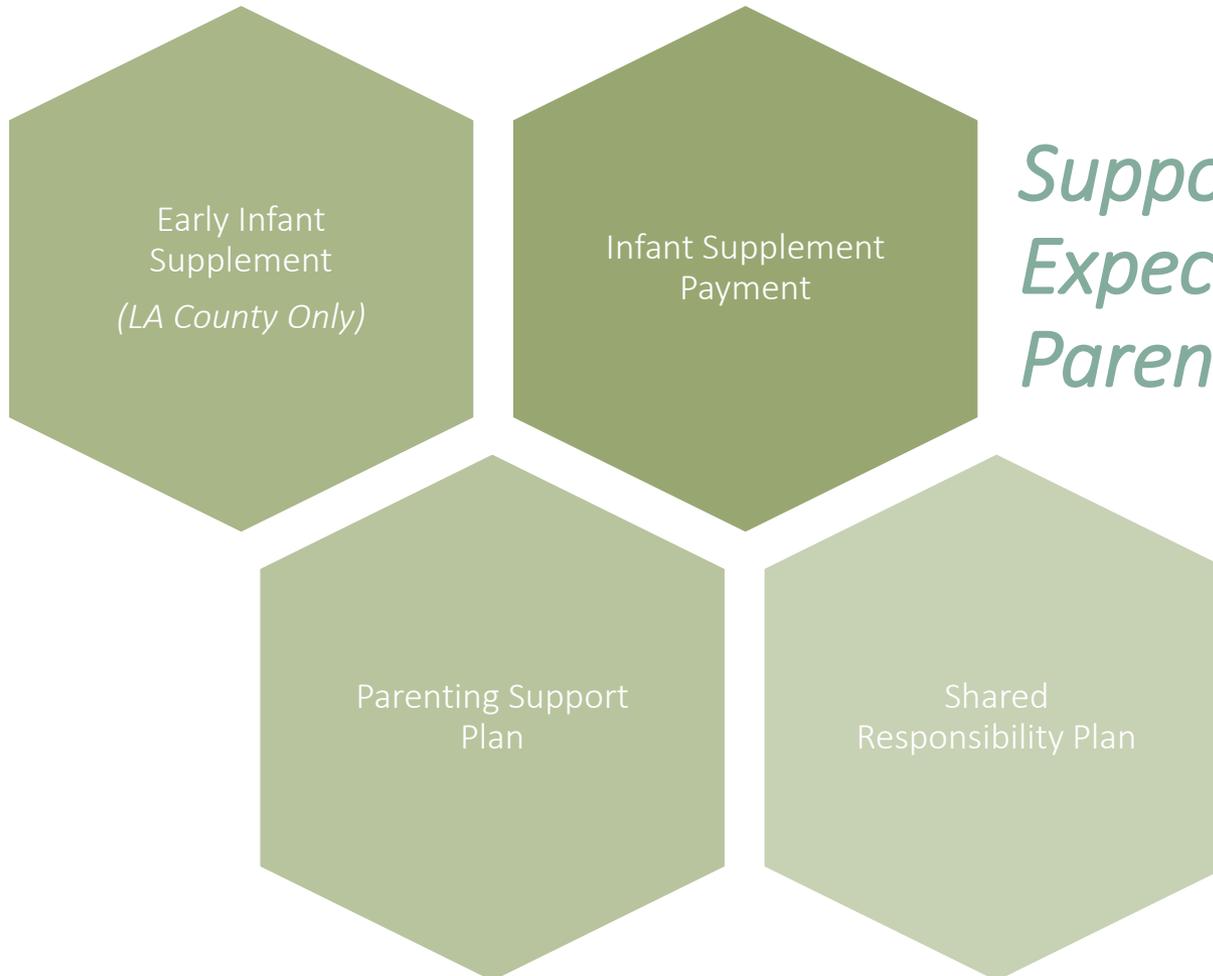
## *Implementation of New SCI Rates*

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- 6/30/18 - Counties with SCR programs submitted updated SCI plans to CDSS
  - Updated SCI plans will **not** take effect until LOC/P is implemented based on forthcoming guidance
  - Counties will continue to use existing SCI plans for resource families until LOC is implemented statewide
- TBD – Statewide implementation of LOC/P in all RFA homes
- TBD - Paring rate determinations with CANS assessments

# Supplements to the Home Based Family Care Rates: *Expectant and Parenting Teens*

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*Support for  
Expectant and  
Parenting Youth*

# Supplements to the Home Based Family Care Rates:

## *Transportation Reimbursement to School of Origin*

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- Reimbursement for travel associated with transporting youth to their school of origin



- Reimbursement rate is based on number of miles it takes to drive one-way from youth's home to school of origin

# Alternative to Home Based Family Care Rate: *Dual Agency Rate*

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*Children who are served by both California Regional Centers and California Child Welfare and Probation Agencies*

- *\$2,417/month - children with a qualifying development disability + up to \$1,000 additional supplement (available in increments of \$250)*
- *\$1,081/month - early start program for children 0-3 who have not yet been certified as having a qualifying disability*
- Not affected by LOC implementation or changes to county SCI plans

*BENEFITS to  
SUPPORT  
PERMANENCY:  
Kin-GAP & AAP*

# Other Benefits: *Kin-GAP Eligibility*

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*Foster care case dismissed by the court after (or at the same time) the court appoints relative as guardian*

## Child:

- Age
- Dependent or delinquent (WIC § 300 or 602)
- Citizenship and immigration status
- Lived with same relative at least 6 continuous months

## Relative:

- Appointed guardian by juvenile court
- Entered into written, signed negotiated agreement with child welfare agency (or probation or tribe)



# Other Benefits: *AAP Eligibility*

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- ❖ “Special needs” **AND**
- ❖ Written and signed AAP agreement with state stipulating amount of AAP entered into *before* adoption is finalized (no means test)

**AND** one of the following:

- Subject of an independent OR agency adoption and meets SSI requirements **OR**
- Subject of an agency adoption and under supervision of county welfare department **OR**
- Subject of an agency adoption and would have been at risk of dependency **OR**
- Subject of an agency adoption and committed to care of the department



## Other Benefits: *Kin-Gap & AAP Funding*

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- New guardianships and adoptions eligible for home-based family care rates based on child's assessed level of care
- Guardianships and adoptions established before 1/1/17 rate structure (age-based Basic Rate plus SCI) depending on date of guardianship or date AAP Agreement signed



# KinGAP and AAP Availability Beyond Age 18

|   | Federal Kin-GAP   | State Kin-GAP | AAP  | AFDC-FC   |
|---|---|---------------|--|---|
| <b>Non-Related Legal Guardianship:</b><br><b>Federally eligible youth</b> exits foster care to guardianship with a non-relative (any age)   | Eligible for federal Kin-GAP until age 18   | Not eligible  | Not eligible   | Eligible for AFDC-FC from age 18 – 21 (transfers from fed Kin-GAP to state AFDC-FC at age 18) |
| <b>Non-Related Legal Guardianship:</b><br><b>Non-federally eligible youth</b> exits foster care to guardianship with non-relative (any age) | Not eligible  | Not eligible  | Not eligible   | Youth eligible for AFDC-FC until age 21   |
| <b>Relative Guardianship:</b><br>Youth exits foster care to guardianship with a relative and <b>negotiated payments begin BEFORE age 16</b> | Youth eligible for federal or state Kin-GAP (linked to youth's IV-E status while in foster care) until age 18. <b>EXCEPTIONS:</b> <ul style="list-style-type: none"> <li>Eligible until 21 IF youth has mental/physical disability</li> <li>Eligible until 19 OR graduation for high school (whichever comes first) IF youth is expected to graduate by age 19</li> </ul> |               | Not eligible   | Not eligible  |
| <b>Relative Guardianship:</b><br>Youth exits foster care to guardianship with a relative and <b>negotiated payments begin AFTER age 16</b>  | Youth eligible for federal or state Kin-GAP (linked to youth's federal eligibility status while in foster care) until age 21.   |               | Not eligible   | Not eligible  |
| <b>Adoption:</b><br>Youth exits foster care to adoption with a relative OR non-relative and <b>AAP Agreement signed BEFORE age 16</b>       | Not eligible  | Not eligible  | Youth eligible for AAP until age 18. <b>EXCEPTION:</b> <ul style="list-style-type: none"> <li>Eligible until 21 IF youth has mental/physical disability</li> </ul> | Not eligible  |
| <b>Adoption:</b><br>Youth exits foster care to adoption with a relative OR non-relative and <b>AAP Agreement signed AFTER age 16</b>        | Not eligible  | Not eligible  | Youth eligible for AAP until 21  | Not eligible  |

# Permanency Options and Other Associated Benefits

| FACTOR  | ADOPTION   | LEGAL GUARDIANSHIP   |  | PLANNED PERMANENT LIVING ARRANGEMENT— (Long Term Foster Care)   |
|---|--|--|--|---|
|   |  | RELATIVE/NREFMs GUARDIANSHIP (Supported by Kin-GAP)  | NON-RELATIVE/NREFM GUARDIANSHIP (Supported by Foster Care funds)   |   |
| Independent Living Services   | <b>Not Eligible UNLESS</b> in foster care at age 16 or later   | <b>Eligible</b> if receiving Kin-GAP (services start at age 16)  | <b>Not Eligible UNLESS</b> in foster care at age 8 or later (services start at age 16)   | <b>Eligible</b> for ILP at age 16 (or 14 in some counties)  |
| Transitional Housing <ul style="list-style-type: none"> <li>• THP-Plus FC until 21</li> <li>• THP-Plus until 24 (subject to 24 or 36 month time limit)</li> </ul> | <b>Not eligible UNLESS</b> there was an order for foster care at age 18 or later   | <b>Not eligible UNLESS</b> there was an order for foster care at age 18 or later   | <b>Not eligible UNLESS</b> there was an order for foster care at age 18 or later   | <b>Eligible</b> as long as in foster care at age 18 or older  |
| Extended Medicaid until 26  | <b>Not eligible UNLESS</b> there was an order for foster care at age 18 or later   | <b>Not eligible UNLESS</b> there was an order for foster care at age 18 or later   | <b>Eligible</b> as long as there was an AFDC-FC payment received when the youth was age 18 or later                                    | <b>Eligible</b> as long as in foster care at age 18 or older  |
| Education and Training Vouchers   | <b>Not Eligible UNLESS</b> in foster care at age 16 or later<br><br>If in foster care after age 13, considered “independent” for FAFSA | <b>Not Eligible UNLESS</b> in foster care at age 16 or later<br><br>If in foster care after age 13, considered “independent” for FAFSA | <b>Not Eligible UNLESS</b> in foster care at age 16 or later<br><br>If in foster care after age 13, considered “independent” for FAFSA | <b>Eligible</b> as long as in foster care any time after age 16<br><br>If in foster care after age 13, considered “independent” for FAFSA |

*OTHER BENEFITS:  
Survivor Benefits ,  
SSI, Medi-Cal &  
EPSDT*

# Survivor Benefits

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## SSA offers additional benefits for the child based on parents' work history

- Survivors Benefits – if a parent (biological or adoptive) died;
  - Social Security Disability Insurance (SSDI) – if a parent is disabled;
  - Retirement; etc.
- 
- DCFS can apply on behalf of the child and petition to be the representative payee while child is in foster care
  - Caregiver can also be the representative payee during foster care
  - At adoptive placement, adopting parents should become payees, and **can receive both AAP and SSA benefits**

*Courts must inquire as to the identity of all presumed or alleged fathers per Cal. WIC § 316.2(a)(5). The results of these investigations are crucial for a child's claim when there is no presumed father. DCFS/court files may include minute orders, reports, summaries of interviews, etc. that reflect paternity.*

# *What is Supplemental Security Income (“SSI”)?*

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- SSI is a federal program that pays a monthly benefit and provides Medi-Cal to persons with qualifying disabilities
- Eligibility:
  - Little or no income
  - Few or no resources
  - U.S. Citizen (or certain categories of immigrants)
  - “Disabled” —Marked or severe functional limitation expected to result in death or last for at least 12 continuous months

## *SSI: Definition of Disability*

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- Physical and/or mental impairment that has or will last 12 months or result in death AND limits functioning
- Functional Limitation Standard:
  - Children—cannot function in an age appropriate manner
  - Adults—cannot engage in substantial gainful employment

# SSI: *Representative Payees*

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County should be the payee of last resort.

“The county shall apply to be appointed representative payee on behalf of a child beneficiary in its custody when no other appropriate party is available to serve.”

- WIC 13754

- Legal guardian or caregiver can become payee by making a request with local Social Security Office.
- Good idea? When the child is receiving SSI benefits, but caregiver is receiving less than \$1,173.37 for child.



# SSI: *Dedicated Accounts*

- When a minor is found eligible for SSI, all past-due benefits must be placed in a dedicated account - a separate account in the child's name only .
- The payee should be the only person with access to the account (even though it is in the child's name).



## Funds that must go into account:

- If retros are equal to or more than 6 times the total benefit (FBR + state supplement)

## Funds that may go into the account:

- Under payments that are more than 1 month of FBR, but less 6 six months of FBR
- Subsequent retros which are less than 6 times the total benefit
- Any amount that is appropriately in the dedicated account is excluded from the resource rule
- Suspensions and Terminations and Resource limits

# SSI: Non-Medical Out-of-Home Care (SSP-22)

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

**AUTHORIZATION FOR NONMEDICAL OUT- OF- HOME CARE  
(BOARD AND CARE)  
(SSA COMPLETES ALL BUT SECTION 'B')**

DATE: \_\_\_\_\_

APPLICANT/RECIPIENT'S NAME: \_\_\_\_\_ SEX:  M  F DATE OF BIRTH: \_\_\_\_\_ SOCIAL SECURITY NUMBER: \_\_\_\_\_

APPLICANT/RECIPIENT'S HOME ADDRESS: \_\_\_\_\_ RECEIVING INSS: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

AGED  
 BLIND  
 DISABLED TYPE OF DISABILITY: \_\_\_\_\_

REASON FOR CERTIFICATION:  
 CHANGE OF ADDRESS  CHANGE OF LIVING ARRANGEMENT  OTHER: \_\_\_\_\_

**I. SSA OFFICE REQUEST TO COUNTY WELFARE DEPARTMENT FOR CERTIFICATION**

TO: \_\_\_\_\_

SSA REPRESENTATIVE REQUESTING INFORMATION:  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_

ADDRESS FOR WINDOW ENVELOPE: \_\_\_\_\_

**A. SSA OFFICE REQUEST**  
The above-named person may be entitled to the nonmedical out-of-home care benefit level in the home of a relative or a facility.  
(MPP Section 46-140)

NAME OF RELATIVE: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_ OR FACILITY: \_\_\_\_\_

Please certify whether or not this person is receiving nonmedical out-of-home care.

**B. COUNTY WELFARE DEPARTMENT RESPONSE**  
I certify that the above named:

IS NOT receiving nonmedical out-of-home care as authorized under DSS MPP Section 46-140.  
 IS receiving nonmedical out-of-home care as authorized under DSS MPP Section 46-140 in the arrangement described below.

**CHECK ONE:**  
 a. The home of a relative or legally appointed guardian or conservator, or,  
 b. A certified family home or foster family home

EFFECTIVE (See Reverse): \_\_\_\_\_  
MONTH / DAY / YEAR

SIGNATURE OF CERTIFYING COUNTY REPRESENTATIVE: \_\_\_\_\_ TITLE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNATURE OF SUPERVISOR: \_\_\_\_\_ TITLE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_ DATE: \_\_\_\_\_

**II. SSA OFFICE VERIFICATION OF LICENSED CARE FACILITIES CASE**

A. I have verified that the above-named person lives in a licensed nonmedical out-of-home care facility, license number \_\_\_\_\_  
The effective date of the living arrangement is \_\_\_\_\_  
MONTH / DAY / YEAR

Current residency was confirmed with \_\_\_\_\_  
NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

B. Licensure was verified by:  List supplied by State Department of Social Services.  
 Telephone contact with \_\_\_\_\_  
 Other (specify) \_\_\_\_\_

SIGNATURE OF REPRESENTATIVE: \_\_\_\_\_ TITLE: \_\_\_\_\_ OFFICE: \_\_\_\_\_ DATE: \_\_\_\_\_

RETURN TO: \_\_\_\_\_ OFFICE: \_\_\_\_\_

ADDRESS FOR WINDOW ENVELOPE: \_\_\_\_\_

SSP-22 (8/99)

- Non-Medical Out of Home Care: \$1194
    - Children who are not living with their parents (applies to youth living with a foster parent, relative caregiver, or guardian)
- Must complete the **SSP 22** to get the full benefit.



- Most of SSP-22 form is completed by Social Security Administration
- “County Welfare Department” completes Section B
- “Effective Date” for NMOHC rate comes from Page 2 of the form



# SSI for youth in foster care: county responsibilities to screen for SSI eligibility and submit application

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## County Responsibilities under AB 1331 (WIC § 13757)

1. Screen all youth who are in foster care and are between the ages of 16.5 and 17.5 years of age for a physical or mental disability using an “SSI Disability Screening Guide.”
2. Submit an SSI application on behalf of those youth who are determined likely eligible for benefits.

**Goal**: Ensure that TAY with disabilities make a safe, supported transition out of foster care



## *How Can SSI Help a NMD Transition Out of Foster Care?*

- SSI links to Medi-Cal (while in care and after the youth exits care)
- Often provides more support while a youth is in care and can help avoid homelessness once a youth exit cares
- SSI eligibility may qualify youth for permanent affordable housing – can use time in EFC to apply for these housing slots!
- Social Security has programs to help recipients pursue education or attempt work without losing eligibility
- Youth can receive school scholarships and receive SSI simultaneously
- Allows youth additional time to establish SSI eligibility under adult standards

# SSI: *Red Flags*

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Child living with non-parent who is SSI eligible but caregiver is receiving funding less than NMOHC rate.

Child is already receiving SSI benefits

- Biological parents or previous placement may still be representative payees and not directing benefits to child, or caregiver may be receiving SSI benefits and foster care benefits creating overpayment liability



## Other Benefits: *Medi-Cal & EPSDT*

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*“Such other necessary health care, diagnostic services, treatment, and other measures . . . to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State.” - 42 U.S.C. § 1396d(r)*

- Full-scope Medi-Cal while in foster care including Extended Foster Care
- Early Periodic Screening, Diagnostic and Treatment (EPSDT)
  - comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid
- Community-based mental health services available through Medi-Cal:
  - Pathways to Mental Health Services (Katie A.)
  - Therapeutic Behavioral Services (Emily Q.)
  - Multi-Systemic Therapy
  - Intensive Case Management

Full-scope Medi-Cal until 26 regardless of income, assets, or placement type if youth was in foster care at age 18 or older (in California or another state) and currently live in California

# Other Benefits: *EPSDT Mental Health Services*

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## *Medically Necessary Criteria*

Eligible for MHP services if youth meets all of the following:

- *Has an included diagnosis*
- *Services are necessary “to correct or ameliorate defects and physical and mental illnesses”*
- *Focus of the proposed treatment is to address the impairments*
- *Condition would not be responsive to physical health care-based treatment*



# Other Benefits: *EPSDT Mental Health Services Lawsuits*

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## TL v. Belshe - settled in 1995

- Resulted in California's implementation of an expanded EPSDT mental health services benefit
- Counties assumed responsibility for providing these services

## Emily Q. v. Belshe - settled in 2001

- Resulted in the creation of a new type of intensive EPSDT service called therapeutic behavioral services (TBS)

## Katie A. v. Bontà, settled in 2011

- Required statewide implementation of more intensive, individualized mental health services to youth in foster care
- Clarification by State that these services should be available to all youth with Medicaid/EPSDT who meet criteria

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