



CDSS

WILL LIGHTBOURNE  
DIRECTOR

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

744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.  
GOVERNOR

Date 2011

ALL COUNTY LETTER NO. 11-XX

TO: ALL COUNTY WELFARE DIRECTORS  
ALL COUNTY PROBATION OFFICERS  
ALL TITLE IV-E TRIBES

SUBJECT: EXTENDED FOSTER CARE (EFC)

REFERENCE: ASSEMBLY BILL (AB) 12 (CHAPTER 559, STATUTES OF 2010)

REASON FOR THIS TRANSMITTAL

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

This All County Letter (ACL) will focus on the extension of Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits for youth that **remain** in foster care beyond the age of 18. Further, this ACL is intended to address only those youth who are in foster care at 18, and wish to continue in the foster care program beyond 18, without a break in care.

In addition, California Work Opportunity and Responsibility to Kids (CalWORKs) benefits for court dependents placed with approved relatives is extended beyond age 18, Kinship Guardianship Assistance Payments (Kin-GAP) and Adoption Assistance Payment (AAP) benefits may also be extended after the age of 18 and up to 21 for youth who entered Kin-GAP and AAP after attaining their 16<sup>th</sup> birthday. Separate ACLs will discuss the specific eligibility rules for extension of CalWORKs, Kin-GAP and AAP benefits beyond the age of 18. ACL 11-15 has already been released with information on Kin-GAP.

Counties are encouraged to immediately begin working with youth to plan continuance in foster care after January 1, 2012.

Documentation of Participation Conditions

Counties shall have the discretion as to which county file will contain the backup documentation of participation. However, the California Department of Social Services (CDSS) strongly recommends that a copy of the participation documentation be kept in the Eligibility Worker's (EW) file for audit purposes. In addition, counties should establish a reminder/tickler system for the six month certification process.

The provisions regarding how a youth can exit and later re-enter foster care are being revised by the Legislature. A separate ACL will be released detailing the re-entry procedures.

### EXTENDED FOSTER CARE ELIGIBILITY CRITERIA FOR YOUTH WHO WISH TO REMAIN IN FOSTER CARE

In order to be eligible for AFDC-FC benefits after age 18, a nonminor must meet the definition of a nonminor dependent (NMD) as defined in Welfare and Institutions Code (W&IC) 11400. The definition of a NMD is a "current or former dependent child or ward of the juvenile court who is: (1) at least 18 years but less than 21; (2) he or she is in foster care under the responsibility of the county welfare department, probation department, or IV-E Indian Tribe; and is (3) participating in a Transitional Independent Living Case Plan.

A NMD must also sign a mutual agreement that signifies that the NMD agrees to meet the following eligibility conditions. The mutual agreement will also outline what the NMD can expect to receive from the county child welfare department and is discussed further below.

The following eligibility criteria are the same for both the State and federal AFDC-FC program and include:

1. age,
2. participation conditions,
3. Transitional Independent Living Case Plan including the Transitional Independent Living Plan (TILP),
4. authority for placement, and
5. eligible facility.

Each of the above criteria are discussed in more detail below. If a NMD was eligible for federal AFDC-FC at the time the youth turns 18, they remain eligible for federal AFDC-FC as long as all other eligibility conditions are met which includes the 6 month status review hearing and the youth's permanency planning hearing. A new IVE determination is not necessary. If a NMD was previously eligible for State AFDC-FC benefits, they remain eligible for State AFDC-FC benefits.

### CHILDREN LIVING WITH NONRELATED LEGAL GUARDIANS (NRLG)

There are currently two types of children who receive State AFDC-FC as the ward of a legal guardianship. First are children who have had no contact with the foster care system prior to establishment of a probate guardianship. The second are children who were in foster care with a foster parent who eventually assumed legal guardianship of the child via the juvenile court. The former population of children are not eligible for the extension of

foster care. The latter are eligible for extended foster care benefits IF he or she is (1) at least 18 years of age but less than 21; (2) in the placement and care of the NRLG on the day the nonminor turns 18; (3) signs the Mutual Agreement For Extended Foster Care (discussed below); and (4) is participating in one of the five participation conditions discussed below pursuant to the youth's TILP.

#### AGE CRITERIA FOR EXTENDED FOSTER CARE

In order to be eligible for extended foster care, a youth has to be in foster care under the jurisdiction of the county welfare or probation department or a IV-E tribe on his/her 18<sup>th</sup> birthday.

In addition, the nonminor must be under the age limits specified in W&IC section 11403. That is, effective January 1, 2012, a youth who was in foster care on their 18<sup>th</sup> birthday is eligible to receive Foster Care until the age of 19. Effective January 1, 2013, a youth who was in foster care on their 18<sup>th</sup> birthday is eligible to receive Foster Care benefits until age 20. The final extension to age 21 cannot occur before January 1, 2014, and requires additional action by the Legislature. If and when the Legislature approves the extension of foster care beyond age 20 up to age 21, there will be an additional ACL released.

Specifically, the following foster youth may be eligible for benefits after the age of 18:

- a dependent or delinquent who is under the authority of the county welfare or probation department or an Indian tribe on his/her 18<sup>th</sup> birthday; or
- a ward of a NRLG ordered in juvenile court receiving State AFDC-FC. (Probate guardianships, are NOT eligible for extended foster care benefits.)

#### PARTICIPATION CONDITIONS

Effective January 1, 2012, the continuing education requirements at Eligibility and Assistance Standards Manual, 45-201.11 no longer apply to foster children. Instead, a NMD must meet one of five participation conditions in order to continue to receive extended foster care benefits after age 18. The following conditions must be verified by the NMD's Social Worker (SW) and documented on the attached Six Month Certification of Participation Form (Certification Form). The Certification Form certifies that the NMD is currently in compliance and it is prospective for the following six months. If at any time during the following six month period the NMD fails to be in compliance, the SW will notify the EW so that the EW may terminate the NMD's benefits. (See Termination of Payment of AFDC-FC Benefits Section below.)

The following conditions may be combined with one or more of the other four conditions to satisfy participation requirements. The NMD is considered to be continuously participating in his or her six month TILP during periods of transition from one activity to another. In the six-month TILP, each NMD should have a primary plan for participation by meeting one or more of the eligibility conditions as well as a back-up plan in the event that the NMD is not able to carry out the primary plan.

### 1. Secondary Education

In order to satisfy the criteria of completing secondary education or a program leading to an equivalent credential, the NMD must be enrolled in a program of secondary education. Enrollment includes, but is not limited to, a public high school, charter high school, an alternative high school, a nonpublic school, adult education classes, or any other course of study leading towards completion of a high school diploma, General Equivalency Degree, High School Proficiency Certificate, or High School Completion Certification. Enrollment is deemed continuous during any summer or other scheduled break in the school program.

A NMD who is participating in special education activities as described in his/her Individualized Education Plan is also deemed to be in compliance with this participation condition.

#### SWs

SWs will obtain verification of participation. After completing the TILP with the NMD and reviewing the documentation of participation, the SW shall complete the Certification Form. Acceptable documentation may include, but is not limited to, an unofficial transcript, an electronic copy of the student's current course schedule, a letter from the institution or other similar documentation. The Certification Form must be forwarded to the EW. A copy of the Certification Form and all applicable documentation must be kept in the social worker's case file.

### **See Attachment A: Examples of How a Youth Meets Requirement for Completing High School or Secondary Education**

#### Eligibility Workers (EWs)

EWs will verify participation by reviewing the Certification Form for participation requirements. A copy of the Certification Form shall be filed in the EW's maintenance case.

### 2. Postsecondary or Vocational Education

In order to satisfy the criteria of enrollment in an institution which provides post-secondary or vocational education, a NMD must be enrolled at least half-time. Participants who are enrolled in post-secondary education or vocational training at less than half time, but in at

least one course, do not qualify under this participation condition but can qualify for extended foster care benefits under participation condition #3 (participating in an activity designed to promote or remove barriers to employment).

Enrollment in any for-credit or non-credit courses at an institution shall be included as qualifying under this requirement. Formal admission to an institution is not required and includes situations where a student is enrolled in individual courses without being enrolled in the institution. Courses taken at any institution which is licensed to operate in the State of California, or taken at a comparable institution located or licensed to operate in another state, will count towards the participation requirement. Enrollment is deemed continuous during an summer or other scheduled break in the school program.

This provision also applies to participants on a summer or other break from school or who are awaiting admissions determinations or pending enrollment in courses. Additionally, if a student drops courses mid-term (whether considered voluntary or involuntary), this shall not result in automatic disqualification from EFC benefits so long as the youth would qualify under another category of eligibility.

#### SWs

SWs will obtain verification of participation and after completing the TILP with the NMD and reviewing the documentation of participation, complete the Certification Form. Acceptable documentation verifying participation could include, but is not limited to, an unofficial transcript, an electronic copy of the student's current course schedule, or a letter from the institution or other similar documentation. The Certification Form must be forwarded to the EW. A copy of the Certification Form and all applicable documentation must be kept in the social worker's case file.

#### **See Attachment B: Further Examples of How A Youth Meets the Postsecondary Education/Training Requirements.**

#### EWs

EWs will verify participation by reviewing the Certification Form for participation requirements. A copy of the Certification Form shall be filed in the EW's maintenance case.

#### **3. Participating in a Program or Activity Designed to Promote, or Remove Barriers to Employment**

A program or activity designed to promote or remove barriers to employment is an individualized program based on a youth centered assessment of skills and needs. Such activities may include but not be limited to unpaid employment, volunteer activities, unpaid intern or apprenticeships. Additionally, participation in programs for drug or alcohol addiction will meet this participation criteria. These activities could be self-directed, completed in conjunction with the youth's caregiver or social worker, or part of an organized program.

A NMD shall be deemed participating in a program or activity designed to promote or remove barriers to employment as long as the youth is participating in regular meetings with his/her social worker to develop and implement his or her TILP.

### SWs

The SW will obtain verification of participation and after completing the TILP with the NMD and reviewing the documentation of participation, the SW shall complete the Certification Form. The Certification Form must be forwarded to the EW. A copy of the Certification Form and all applicable documentation must be kept in the social worker's case file.

**See Attachment C: Examples of Programs and Activities Designed to Promote or Remove Barriers to Employment.**

### EWs

EWs will verify participation by reviewing the Certification Form for participation requirements. A copy of the Certification Form shall be filed in the EW's maintenance case.

#### 4. Employed for at least 80 hours per month

In order to satisfy this criteria, NMD must be engaged in full or part time employment activities which include, but are not limited to, paid employment, paid internships, apprenticeships, Ticket to Work (for individuals receiving Supplemental Security Income), vocational rehabilitation, or work study programs. As long as the NMD is scheduled to work at least 80 hours a month, he/she shall be deemed to meet this participation condition even if the NMD does not actually work that number of hours due to holidays, illness, excused absences or other circumstances beyond the NMD's control.

As with all Independent Living Program income, earned income shall be disregarded for purposes of eligibility determination as specified in the NMD's TILP Plan.

### SWs

The SW will obtain verification of participation and after completing the TILP with the NMD and reviewing the documentation of participation, complete the Certification Form. Acceptable documentation verifying participation may include, but is not limited to, dependent's work schedule, pay stubs, a statement of hiring from the employer, or a statement of acceptance from the apprenticeship or internship program. Verification should be obtained in the manner that respects the NMD's privacy and the confidentiality of their foster care status by enabling the NMD to utilize whatever verification the employer or internship commonly provides and without asking the NMD to obtain any special documentation that may impinge on his/her privacy. The Certification Form must be forwarded to the EW. A copy of the Certification Form and all applicable documentation must be kept in the social worker's case file.

### EWs

Eligibility Workers will verify participation by reviewing the Certification Form for participation requirements. A copy of the Certification Form shall be filed in the EW's maintenance case.

#### 5. Incapable of Doing Any of the Above

Medical conditions that render a NMD incapable of doing any of activities described in subparagraphs (1) to (4) include both short-term and long-term medical conditions, as verified by a health care practitioner. A healthcare practitioner is defined as any individual provider who is licensed or otherwise authorized by the state, county or city in which the provider is located to provide services related to physical or mental health. If a NMD does not undertake remedial measures to treat a verified medical condition, he or she will still be deemed to have a qualifying medical condition under this subparagraph.

A nonminor who is eligible for a disability program including, but not limited to, Supplemental Security Income, Social Security Disabled Adult Child benefits, State Disability Insurance, or Regional Center Services is deemed to have a medical condition that renders him/her incapable of doing one of the other activities. The nonminor is deemed eligible for extended benefits under this section upon a verification of eligibility for a disability program and need not obtain additional written verification. Verification of disability benefits status may include an award letter, notice of action, copy of the check or benefit identification card.

### SWs

The social worker for the NMD is responsible for obtaining one of the following: (1) the written verification from a healthcare practitioner stating that the nonminor has a medical condition and that he or she cannot consistently meet the full requirements of subparagraphs (1) to (4); or (2) the verification of the NMD's disability benefits status. The Certification Form must be forwarded to the EW. A copy of the Certification Form and all applicable documentation must be kept in the social worker's case file.

### EWs

Eligibility Workers will verify that the Certification Form states that a youth is incapable of participating. A copy of the Certification Form shall be filed in the EW's maintenance case.

### PARTICIPATING IN A TRANSITIONAL INDEPENDENT LIVING CASE PLAN

In order to meet the participation conditions listed above, a NMD must have a TILP in place. The TILP must document which of the participation conditions the youth is participating in and, as mentioned above, should also include a backup plan should the youth fail to participate in the first activity.

### AUTHORITY FOR PLACEMENT

In order for a NMD to be eligible for extended foster care benefits, the nonminor must remain under the jurisdiction of the juvenile court as a dependent or delinquent and be under the placement and care responsibility of the county child welfare or probation department or IV-E tribe. Placement authority is evidenced by the court order of placement. It should be noted that court requirements regarding six month reviews and permanency planning hearings continue for this population.

The nonminor in a qualifying NRLG placement must sign a mutual agreement with the county for authority for placement. A new mutual agreement for nonminors is being developed and will be used for this purpose. A copy of this form must be kept in the services and eligibility file.

The mutual agreement is the document that the minor or NMD signs specifying his or her intention to remain in extended foster care and comply with program requirements and eligibility conditions. The mutual agreement further specifies what the NMD receives from the child welfare agency. The mutual agreement is not a condition of payment for AFDC-FC benefits for NMDs, but it must be completed within six months of the NMD turning 18 in order for the NMD to continue to participate in extended foster care. However, the mutual agreement IS an eligibility criteria for the nonminor residing with a NRLG.

### ELIGIBLE FACILITIES

In addition to any of the existing licensed and approved eligible facilities (foster family home, foster family agency certified home, group home, relative placement, NREFM, transitional housing placement, etc.) available to both minors and NMDs, a NMD may also live in a supervised independent living placement (SILP) or a Transitional Housing Placement Plus-Foster Care placement. A SILP must be approved by a SW and may include dormitories, shared apartments, etc. The new licensing and approval standards for these placements for NMDs will be discussed in separate ACLs.

Social workers shall use existing procedures to immediately send a SOC 158A to the EW informing of any change of placement of the NMD or nonminor placed with a NRLG to a new licensed or approved facility. Per existing procedures, the EW shall ensure the facility is eligible for an AFDC-FC payment.

Placement in a group home is restricted to nonminor dependent under the age of 19 in order to complete high school. Beyond age 19, a nonminor dependent can only be in a group home based on a qualifying medical condition as described in participation condition number 5 above. However, treatment received in the group home for the medical condition does not in and of itself disqualify the NMD from the group home placement.

### PAYMENT INFORMATION

A NMD receiving extended foster care benefits shall continue to receive the rate established for the type of placement. The NMDs receiving extended foster care benefits are also eligible for Specialized Care Increments (SCI), Regional Center Dual Agency rates, county clothing allowances, and Infant Supplements where appropriate based on the placement type. A nonminor dependent in a SILP will receive the basic foster care rate and may be authorized to be his/her own payee (and only this type of placement). The NMD youth in a SILP are not eligible for an SCI. Generally, a NMD is not eligible for CalFresh. Check with CalFresh program staff for further information.

For nonminor dependents participating in extended foster care, the county with court jurisdiction shall have payment responsibility. For nonminors who are living with a NRLG and receiving State AFDC-FC, the county of residence shall continue to have payment responsibility.

Extended foster care cases funded by AFDC-FC, are subject to the same annual review of eligibility criteria that AFDC-FC cases for minors are (see ACL 11-10). In addition to an annual review, an update of the five criteria discussed (education, employment, etc.) above shall occur every six months as part of the NMDs TILP review. The social worker will send all regular FC forms to eligibility annually at the time of the annual review and the certification form every six months in conjunction with the TILP update.

The description of aid codes 40, 42 and 5K will be modified to allow continuance of payments beyond the 19<sup>th</sup> birthday as appropriate. Aid code 43 is being developed for State AFDC-FC benefits paid to wards of probate guardians to ensure extended foster care benefits are not paid to this population.

### TERMINATION OF PAYMENT OF AFDC-FC BENEFITS

Payment of AFDC-FC benefits continues when the NMD turns 18 as long as the NMD remains under court jurisdiction and under the responsibility of the county welfare or probation department or IV-E tribe, lives in a supervised setting, and meets one of the five participation conditions.

If the NMD no longer wishes to continue participating in extended foster care, then a WIC 391 hearing is scheduled in order to terminate court jurisdiction. If the court terminates jurisdiction pursuant to a 391 hearing, then eligibility for AFDC-FC benefits ends as of the date of the court order terminating jurisdiction.

If the NMD wishes to remain in extended foster care, but there is a dispute between the NMD and the county social services agency with regard to whether the NMD is meeting one of the five participation conditions, then the dependency court must make a finding as to whether the NMD is participating or not. The SW will present the latest TILP, along with any other reports mandated by the court, showing the NMD's level of participation and efforts by

the SW to assist the NMD in maintaining eligibility. If the dependency court finds that the NMD is not successfully meeting one of the five participation conditions, then the SW shall direct the EW to issue a Notice of Action to terminate AFDC-FC benefits. If the NMD wishes to request an administrative hearing to challenge the termination of AFDC-FC benefits, he/she is afforded all the usual rights to an administrative hearing and aid paid pending.

#### CHILD SUPPORT REFERRALS

A child support referral is not required for any NMD over the age of 19.

#### MEDI-CAL

The NMDs receiving extended foster care benefits under aid code 40 or 42, will continue to be eligible for Medi-Cal benefits. Nonminors under 21 not receiving a cash payment will continue to be eligible for 4M Medi-Cal benefits.

#### OUT-OF-STATE PLACEMENTS

The NMDs in out-of-state placements are eligible to extended foster care benefits. If the child is placed out-of-state, services under the ICPC after the age of 18 will be at the discretion of the other state and counties should work cooperatively to see if the other state will agree to continue the case under the ICPC. To the extent the receiving state does not agree to continue ICPC supervision services beyond 18, then it will be the county's responsibility to provide or secure such services via contract, etc.

If you have any questions about this EFC benefits, please contact your Funding and Eligibility Consultant at 916-651-2752. If you have questions about social worker activities or responsibilities related to AB 12, please contact the Permanency Policy Bureau at 916-657-1858.

Sincerely,

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division