REASON FOR THIS TRANSMITTAL

s[ ] State Law Change

[ ] Federal Law or Regulation

 Change

[ ] Court Order

[ ] Clarification Requested by

 One or More Counties

[X] Initiated by CDSS

May 20, 2014

ALL COUNTY LETTER NO. 14-36

TO: ALL COUNTY WELFARE DIRECTORS

 ALL COUNTY PROBATION OFFICERS

 ALL TITLE IV-E AGREEMENT TRIBES

 ALL FOSTER CARE MANAGERS

 ALL INDEPENDENT LIVING PROGRAM COORDINATORS

 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS

 ALL ADMINISTRATIVE LAW JUDGES

 ALL COUNTY CONSORTIUM PROJECT MANAGERS

SUBJECT: CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

 TITLE IV-E FOSTER CARE CANDIDACY POLICY AND PROCEDURES

REFERENCES: ADMINISTRATION OF CHILDREN, YOUTH AND FAMILIES (ACYF)-POLICY ANNOUNCEMENT (PA) 87-05; ACYF-CHILDREN’S BUREAU (CB)-PA 01-02; ACYF-POLICY INTERPRETATION QUESTION (PIQ) 96-01; DEPARTMENTAL APPEALS BOARD (DAB) DECISION NO. 1428 (1993), 471(A)(15)(B)(I) OF THE SOCIAL SECURITY ACT; 45 CODE OF FEDERAL REGULATIONS (CFR) SECTION 1356.60(C); 42 UNITED STATES CODE (USC) 675,
ALL COUNTY LETTER NO. 04-32.

The purpose of this All County Letter (ACL) is to provide new procedures for identifying and documenting administrative costs related to Title IV-E foster care candidacy and laying out the process for on-going monitoring and oversight by the California Department of Social Services (CDSS). This ACL supersedes all prior ACLs and All County Information Notices describing the Title IV-E foster care candidacy activities and requirements in existence prior to January 1, 2014.

This ACL clarifies issues that were identified as a result of a review conducted by the Federal Administration for Children and Families, Children’s Bureau Regional Office (RO) and to provide guidance to the county Child Welfare Departments (CWDs) and the County Probation Departments (CPDs).

Background

In September 2013 the RO conducted a review related to the Title IV-E administration costs claimed for activities performed on behalf of candidates for foster care youth who are under the supervision of CPDs. The period under review was April 1, 2013 through June 30, 2013.

The review consisted of the following:

* Review of state and local policies and procedures for determining foster care candidacy.
* Review of fiscal claim documents.
* Review of the methodology for allocating Title IV-E costs.
* Review of California’s Cost Allocation Plan.
* Review of cases to validate eligibility determination.
* Interview of probation staff to determine the level of understanding about the
Title IV-E funds time study survey process and candidacy eligibility determination.

The RO determined that several cases did not meet the Title IV-E foster care candidacy eligibility requirements. The RO letter detailing the findings of the review is enclosed. (See Enclosure A.) The following are key reasons noted in the RO letter associated with not having acceptable documentation:

* Case Plan included acceptable language, but was not signed by all relevant parties.
* No Case Plan at all.
* Case Plan was signed but had a different Case Plan goal.
* Child was already in a foster care placement setting.
* Child was in an unallowable placement setting – such as a detention facility.

Other findings by the RO include:

* No policy and procedure in place to identify a candidate for Foster Care.
* Counties were not able to distinguish between Title IV-E cases and

Non-Title IV-E cases.

* There was no identified CDSS program entity that provides oversight.
* Probation Officers could not distinguish between removals from the home because the home environment is harmful to the child or the youth reoffended.
* All removals were considered Title IV-E eligible by some probation officers.
* Time Study procedure was flawed.

Additionally, interviews of staff within in the selected counties under review disclosed that the current system does not permit the CPDs to remove a youth from his/her home to be placed directly into an allowable foster care placement setting. The RO indicated that this type of policy would preclude the CPDs from identifying any youth as candidates for foster care and from claiming Title IV-E costs for pre-placement activities associated with this population. To address these and other candidacy eligibility issues, CDSS is providing counties with updated policies and procedures.

Candidates for foster care

Title IV-E is administered by the Department of Health and Human Services, Administration for Children and Families and provides funding for administrative activities in the following areas as they relate to foster care or the imminent or serious need for foster care:

* Court-related functions (as related to child welfare matters and not criminal matters).
* Case management preventive (allowable case management functions associated with a Title IV-E candidate for foster care; this does not include juvenile court matters related only to crimes or supervision.)

The Federal definition of a candidate for foster care is a child at "imminent” or “serious” risk of removal when placement in foster care is the planned arrangement. There are certain children and youths for whom the CWD or CPD provides supervision while in the child’s or youth’s own home who may meet the requirement of a candidate for a foster care. A child or youth may not be considered a candidate solely because of the CWD’s or CPD’s involvement with the child or youth and their family or there is a Child Protective Services (CPS) referral. In order for the child or youth to be considered a candidate for foster care, the CWD or CPD must be involved for the specific purpose of either removing the child or youth from the home or referring them to services, such that if the services are unsuccessful, the plan is to remove the child or youth from the home and place him/her into foster care.

In this case, a foster care placement is considered to be one that is licensed or approved and qualifies for Title IV-E reimbursement. This licensing or approval requirement includes placement with family members. Please note: A child or youth is not a candidate for foster care when the planned out-of-home placement for the child or youth is an arrangement outside of foster care, such as a detention facility, psychiatric

facility, or any otherwise unlicensed or unapproved placement setting. However, if placement in a detention facility for a youth otherwise planned for out-of-home foster care placement results from the youth’s commission of current delinquent action, that youth remains an eligible candidate if the detention does not result in a change in the youth’s out-of-home placement plan upon the youth’s release from detention.

Methods of documenting candidacy

In order to accurately identify a candidate, one of the three options described below must be completed. It is important to note that the CDSS and the Chief Probation Officers of California (CPOC) recognize option one, the Case Plan, as the preferred option to identify a probation youth as a Title IV-E candidate.

1. Case Plan (preferred & practiced method in California)

All children and youths at “imminent” or “serious” risk of removal will be assessed with the “Evaluation of Imminent Risk and Reasonable Candidacy” tool. (See Enclosure B.) The evaluation tool is a valuable “checklist” that will assist in accurately identifying why and how a child or a youth is considered a candidate. If the child or youth is clearly identified as a candidate, then a Case Plan must be developed and documented within it that the plan for the child or youth is placement into foster care unless preventive services are provided and effective.

1. Eligibility Determination

Initiate removal from the home by initiating eligibility documentation in order to petition the court for removal. An eligibility determination form must be completed to establish the child’s or youth’s eligibility under Title IV-E. Completing the eligibility documentation to establish a child's or youth’s Title IV-E eligibility is an indication that the state is anticipating the child's or youth’s entry into foster care and that he/she is at serious risk of removal from home. Eligibility forms used to document a child's or youth’s candidacy for foster care should include evidence that the child or youth is at serious risk of removal from home. Evidence of Aid to Families with Dependent Children eligibility in and of itself is insufficient to establish a child's or youth’s candidacy for foster care.

1. Court Removal

The CWD or CPD is actively pursuing removal of the child or youth from the home through the court to place the child or youth in a foster care setting. Evidence of court proceedings in relation to the removal of the child or youth from the home, in the form of a petition to the court, a court order or a transcript of the court proceedings is acceptable. If the state agency has initiated court proceedings to effect the child's or youth’s removal from home, he/she is at serious risk of removal from the home.

In order to claim Title IV-E for allowable pre-placement activities, the CWD or CPD
must have determined and documented that the child or youth meets the candidacy eligibility criteria and be able to readily identify candidates for foster care cases from other in-home cases that are supervised by the CWD or CPD.

Using the Case Plan to determine candidacy

When using the Case Plan to determine reasonable candidacy, the CWD or CPD must identify in the Case Plan the services that will necessitate removal of the child or youth from the home unless they are satisfactorily addressed.

As a result, the Case Plan shall contain all of the following elements:

* Description of circumstances including but not limited to behavioral issues that place the child or youth at imminent risk of removal from the home absent the indicated services. This cannot be solely a list of problems, but must include why these issues will result in out-of-home placement if services are not provided. This will include behavioral issues and obstacles related to the parents or guardian.
* Types of services needed for the child or youth to remain safely in his/her home. This must include any services aimed at the parents or guardians.
* Statement that absent the effectiveness of services, foster care is the planned arrangement for the child or youth and identify the type of planned placement setting.

A child or youth may be placed in-home and under the supervision of the CWD or CPD and be provided services both formally and informally and not be a Title IV-E candidate. However, when a subsequent change or an emerging issue results in his/her imminent or serious risk of removal from the home and placement in foster care, the CWD or CPD shall document the candidacy status by completing the “Evaluation of Imminent Risk and Reasonable Candidacy” document and the Case Plan. Once all required parties have signed the Case Plan, the CWD or CPD may begin claiming Title IV-E administrative costs for allowable activities.

There is no maximum length of time a child or youth may be considered a *reasonable candidate;* however, the CWD or CPD must complete a new Case Plan every six months while the child or youth remains a reasonable candidate. The new Case Plan shall document the reasons the child or youth continues to be a candidate. Likewise, if services provided have eliminated the need for a plan that would place the child in foster care, the CWD or CPD must document this in the Case Plan and cease claiming because the child or youth no longer meets the candidate for foster care criteria. It is the responsibility of the CWD and CPD to ensure that preventative services are actually being provided and that the services in fact are effective in reducing the risk of the child’s or youth’s removal. If the risk of the child’s or youth’s removal is not being reduced as a result of receipt of the preventative services established in the Case Plan, this must be reflected in a revised Case Plan. In addition, if the six month re-determination of reasonable candidacy is not made (meaning a new Case Plan that includes the aforementioned requirement), the county must stop claiming administrative costs (Social Security Act, section 472(i)(2)).

* Re-determination shall be updated no less than every six months or as a new change occurs. This will be done by completing both the “Evaluation of Imminent Risk and Reasonable Candidacy” document and new Case Plan.
* If a child or youth is determined to still be a candidate after six months but a
new Case Plan has not been jointly developed and signed by all required parties, Title IV-E claiming must cease until the new Case Plan requirement is met.

If a child or youth who is in foster care returns home with his parent(s) but circumstances warrant imminent risk of removal again, that child or youth may be considered a candidate for foster care **if the child or youth is not considered to be in foster care and the criteria mentioned above are met**. The “Evaluation of Imminent Risk and Reasonable Candidacy”document and a new Case Plan must be developed that demonstrates the intent to remove the child or youth from home and return him/her to foster care if **the pre-placement preventative services fail.**

**It is important to note that all counties will need to distinguish between those cases identified as candidates for foster care and those that are not and, only as needed for monitoring purposes, report the numbers of each to the State. Counties should develop a form or tracking method to easily identify and track these cases.**

Important notes on Case Plan

All reasonable candidates must be visited (face-to-face) at a minimum of once per month. Each visit must be documented. When Case Plan goals are accomplished it should be noted in the Case Plan. Completion of goals that stabilize the child or youth

and family may result in the child or youth no longer being a reasonable candidate for foster care. At that point, claiming for Title IV-E administrative costs should stop. Further work with the child or youth would then be documented as “county only” or “probation only” on the time study form. Therefore, CWD and CPD must be able to identify when the candidacy determination was made but also document when the child or youth no longer meets the candidacy criteria.

Case Plans are evolving documents that should be updated and modified as the needs of the child or youth and family change. It is important to maintain the Case Plan as a living document – updating objectives, completion of objectives, and new or emerging issues

**The enclosed Case Plan (see Enclosure C) developed by CPOC contains the required candidacy language and CDSS strongly recommends the use of this Case Plan as the statewide acceptable method of documenting candidacy for foster care. However, the CWD or CPD may use the attached Case Plan or ensure the Case Plan that is used has the necessary candidacy language.**

Case Plans and claiming

Allowable Title IV-E administrative costs may be claimed for activities related to cases where a child or youth is considered a candidate for foster care. Determination of a candidate for foster care is a CWD or CPD responsibility. Allowable case management time spent on the case after completion of the Case Plan may be claimed as described in the paragraph below.

The CWDs or CPDs may begin claiming in the same calendar month that the candidate determination is made only if it is determined the child is a reasonable candidate and the Case Plan has signed by all parties.

The CWDs and CPDs will need to document this time and put it on their time study after the determination has been made. Note: The Case Plan is the document that determines a youth to be a reasonable candidate. The evaluation tool is used to evaluate each child or youth on his/her caseload subject to a 300 or 602 petition to determine if he or she should take the next step to complete a Case Plan determining reasonable candidacy.

Reimbursable Title IV-E administrative activities

Reimbursable Title IV-E administrative activities are limited to the examples provided in 45 Code of Federal Regulations (CFR) section 1356.60(c). Counties are advised to only seek reimbursement for the Title IV-E administrative activities which occur *after reasonable* candidacy has been determined.

All the following activities are pre-placement case management services:

* **Referral to Services** – providing information to the minor, parent(s) and/or legal guardian(s) or service provider so that the individual can obtain the services.
* **Preparation for and participation in judicial determinations** – preparation of reports to the court and participation in court proceedings, except those that are crime and probation only related.
* **Placement of the child** – making arrangements for the child’s placement. It also includes discussions with agencies, parents, and foster parents regarding the need for and availability of placement.
* **Updating a Case Plan** – This activity is related to the development of the Case

Plan.

* **Case reviews** – evaluation of the continuing needs and services of the child that is completed at least once every six months.
* **Case management and supervision** –management/monitoring of the case for services provided to or on behalf of protected children. An example would be a visit to a child in his home or the steps taken by the case manager/monitor to ensure that the case service plans are adequately established and implemented in accordance with service requirements.
* **Data collection and reporting** – activities associated with the preparation and maintenance of applications, authorizations, or any other required child welfare system data/documentation.

Non-reimbursable activities

Any activity in out-of-home placement shall not be claimed as a pre-placement
activity and instead should be claimed as a placement activity. According to
45 CFR section 1356.60(c)(3) and ACYF-PA 87-05, allowable administrative costs do not include the direct provision of services which provide treatment to the child, the child’s family or foster family to resolve personal problems, behavior or home conditions. Examples of non-reimbursable services are: Physical or mental health examinations, homemaker or housing services, counseling, any activity completed on an in-home case that is not identified and documented as a candidate for foster care and any other direct services to assist in preventing placement and reuniting families.

Other non-allowable costs include:

* **Arranging for services –** arranging activities which are performed on behalf of an individual are not an allowable activity.
* **Any direct service and counseling** are not allowable costs. Staff performing these activities should claim this time to Probation Only.
* **All activities performed on behalf of a reasonable candidate while that child is in custody** – are not allowable activities.

MEMORANDUM OF UNDERSTANDING (MOU) WITH COUNTY WELFARE DEPARTMENT

A current MOU between the CWD and CPD is required as the basis for claiming both Title IV-E assistance (maintenance) and Title IV-E administrative funds. The MOU
must specify the services and placement activities performed by the CPD for wards in out-of-home foster care. It must also clarify who will assess and determine the
Title IV-E eligibility of a child who has been placed in a foster care placement setting
as well as a candidate for foster care.

Title IV-E administrative costs cannot be claimed on behalf of a child who is placed in a facility that is not a foster care facility, even if the State intends to place such child in foster care at a later date. Facilities that are outside the scope of foster care and considered ineligible for Title IV-E payment include, but are not limited to: Detention facilities, psychiatric hospitals, forestry camps, or facilities that are primarily for the detention of children who are adjudicated delinquent.

Monitoring and responsibility

The RO has recommended that the CDSS assess the extent to which CWD and CPD are claiming costs for pre-placement activities for foster care candidacy and ensure it continues to be in accordance with Federal and State requirements. The CDSS identified that the foster care funding and eligibility unit will be the oversight unit for program and the fiscal policy unit for all fiscal claiming and time study guidelines.

Additionally, the CDSS funding and eligibility unit in conjunction with the ongoing monthly county visits for Title IV-E eligibility reviews will be incorporating Case Plan reviews for both CWDs and CPDs. During these visits, the CDSS staff will question social workers and probation officers about existing procedures to gain broader understanding of the processes. Cases will be reviewed for compliance with federal Title IV-E regulations. The CDSS is also available to provide technical assistance to CWDs and CPDs to address the areas of concern identified by the RO.

**Training**

In collaboration with CPOC and University of California, Davis, the CDSS will be providing mandatory training for all Title IV-E probation staff to accurately document, determine and report candidacy. Training dates and times were transmitted in a separate letter to all CWDs and CPDs notifying them of the upcoming Manual of Policies and Procedures section 31-503 training.

If you have any eligibility questions regarding this ACL, please contact your county foster care funding and eligibility consultant at (916) 651-9152. Questions about this ACL concerning fiscal claiming should be directed to fiscal.systems@dss.ca.gov.

Sincerely,

GREGORY E. ROSE

Deputy Director

Children and Family Services Division

Enclosures