

## **Section 5 - LEGISLATION, REGULATIONS AND GUIDELINES FOR HCPCFC**

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## Legislation, Regulations, and Guidelines for the HCPCFC

This section provides background information regarding the state regulations and laws and federal laws for the establishment of the HCPCFC program.

- a. Enabling legislation of the HCPCFC.

**Reference:** Welfare and Institutions Code; Section 16501.3.

1. Medi-Cal regulations pertaining to the availability and reimbursement of EPSDT services through the CHDP program.

**Reference:** California Code of Regulations (CCR), Title 22, Sections 51340 and 51532.

2. Statutes and regulations defining county Social Services Department responsibilities for meeting HCPCFC requirements.

- b. Social Services Statutes

**Reference:** Welfare and Institutions Code Section 16010, 358.1, 361.5, 366.1, 366.22(b) or 366.22(d).

- c. Social Services Regulations

**Reference:** Child Welfare Services Program Standards: MPP Sections 31-002(10), 31-075 (l 1-2), 31-205 (h), 31-206.35, 31-206.351, 31-206.352, 31-206.36, 31-206.361, 31-206.362, 31-335 .1, 31-401.4, 31-401.41, 31-401.412, 31-401.413, 31-405.1(j), 31-405.1(k, l, l1), and 31-420.1(.7).

- d. Medi-Cal Regulations

**Reference:** CCR, Title 22, Sections 50031; 50157(a), (d), (e), and (f) and 50184(b).

Current interpretive releases by California Departments of Health Services and Social Services.

1. State CHDP Program Letters and Information Notices - Health Services. Specifically CHDP Program Letter 99-6 and CMS Information Notice 99-E.
2. All County Letters - Social Services. Specifically, All County Information Notice No I-55-99 and All County Letter No. 99-108.
3. Joint Letters - Health Services and Social Services
4. CHDP Program Health Assessment Guidelines - Health Services

- e. New program standards affecting local programs to be reviewed by the California Conference of Local Health Officers.

**Reference:** Health and Safety Code, Section 100925

- f. New regulations shall be adopted only after consultation and approval by the California Conference of Local Health Officers.

**Reference:** Health and Safety Code, Section 100950.

- g. Federal regulations governing States' provision of EPSDT:

**Reference:** Title 42, Code of Federal Regulations (CFR), Section 440.40 and Part 441, Subpart B.

- h. Federal statutes applying to the EPSDT program:

**Reference:** Social Security Act (42 USC Section 139(a) Sections 1902(a) (43), 1905(a)(4)(B), and 1905(r).

**Reference:** OBRA89 - Public Law 101-239, Section 6403.

### ***California Department of Social Services – All County Letters***

This link provides access to CDSS regarding policy or informational changes in the Program.

<http://www.dss.cahwnet.gov/lettersnotices/default.htm>

### ***CHDP – Program Letters and Notices***

This link provides access to CHDP Program Letters and Information Notices regarding policy or informational changes in the Program.

<http://www.dhs.ca.gov/pcfh/cms/onlinearchive/>

## Selected State Laws Relating to the HCPCFC

The following are selected sections of California laws relating to the HCPCFC. These sections have been extracted from California's Welfare and Institutions Code. For more current and complete information on State laws, please visit the Legislative Counsel of California's website at <http://www.leginfo.ca.gov/calaw.html>.

This section is not all-inclusive. Not included are other State laws, federal laws, State and federal regulations, or provisions of the CHDP Provider Manual, CHDP Program Guidance Manual, CHDP Program Letters, or CHDP Provider Information Notices.

### ***Welfare and Institutions Code Section 16501*** **16501.**

- (a) As used in this chapter, "child welfare services" means public social services which are directed toward the accomplishment of any or all the following purposes: protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; restoring to their families children who have been removed, by the provision of services to the child and the families; identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. "Child welfare services" also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family preservation services, family maintenance services, family reunification services, and permanent placement services. The individual child's case plan is the guiding principle in the provision of these services. The case plan shall be developed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the jurisdictional hearing pursuant to Section 356, whichever comes first.
  - (1) Child welfare services may include, but are not limited to, a range of service-funded activities, including case management, counseling, emergency shelter care, emergency in-home

caretakers, temporary in-home caretakers, respite care, therapeutic day services, teaching and demonstrating homemakers, parenting training, substance abuse testing, and transportation. These service-funded activities shall be available to children and their families in all phases of the child welfare program in accordance with the child's case plan and departmental regulations. Funding for services is limited to the amount appropriated in the annual Budget Act and other available county funds.

- (2) Service-funded activities to be provided may be determined by each county, based upon individual child and family needs as reflected in the service plan.
- (3) As used in this chapter, "emergency shelter care" means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their guardian or guardians. The department may establish, by regulation, the time periods for which emergency shelter care shall be funded. For the purposes of this paragraph, "emergency shelter care" may include "transitional shelter care facilities" as defined in paragraph (11) of subdivision
  - (a) of Section 1502 of the Health and Safety Code.
  - (b) As used in this chapter, "respite care" means temporary care for periods not to exceed 72 hours. This care may be provided to the child's parents or guardians. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing child care.
  - (c) The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the department. Counties may contract for service-funded activities as defined in paragraph (1) of subdivision (a). Each county shall use available private child welfare resources prior to developing new county-operated resources when the private child welfare resources are of at least equal quality and lesser or equal cost as compared with county-operated resources. Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services, except as specifically authorized in Section 16100.

- (d) Nothing in this chapter shall be construed to affect duties which are delegated to probation officers pursuant to Sections 601 and 654.
- (e) Any county may utilize volunteer individuals to supplement professional child welfare services by providing ancillary support services in accordance with regulations adopted by the State Department of Social Services.
- (f) As used in this chapter, emergency response services consist of a response system providing in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation, as required by Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of investigation pursuant to Section 11166 of the Penal Code and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. This evaluation includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.
- (g) As used in this chapter, family maintenance services are activities designed to provide in-home protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.
- (h) As used in this chapter, family reunification services are activities designed to provide time-limited foster care services to prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.
- (i) As used in this chapter, permanent placement services are activities designed to provide an alternate permanent family structure for children who because of abuse, neglect, or exploitation cannot safely remain at home and who are unlikely to ever return home. These services shall be provided on behalf of children for whom there

has been a judicial determination of a permanent plan for adoption, legal guardianship, or long-term foster care.

(j) As used in this chapter, family preservation services include those services specified in Section 16500.5 to avoid or limit out-of-home placement of children, and may include those services specified in that section to place children in the least restrictive environment possible.

(k)

(1)

- (A) In any county electing to implement this subdivision, all county welfare department employees who have frequent and routine contact with children shall, by February 1, 1997, and all welfare department employees who are expected to have frequent and routine contact with children and who are hired on or after January 1, 1996, and all such employees whose duties change after January 1, 1996, to include frequent and routine contact with children, shall, if the employees provide services to children who are alleged victims of abuse, neglect, or exploitation, sign a declaration under penalty of perjury regarding any prior criminal conviction, and shall provide a set of fingerprints to the county welfare director.
- (B) The county welfare director shall secure from the Department of Justice a criminal record to determine whether the employee has ever been convicted of a crime other than a minor traffic violation. The Department of Justice shall deliver the criminal record to the county welfare director.
- (C) If it is found that the employee has been convicted of a crime, other than a minor traffic violation, the county welfare director shall determine whether there is substantial and convincing evidence to support a reasonable belief that the employee is of good character so as to justify frequent and routine contact with children.

- (D) No exemption shall be granted pursuant to subparagraph (C) if the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in paragraph (1) of Section 273a of, or subdivision (a) or (b) of Section 368 of, the Penal Code, or has been convicted of an offense specified in subdivision (c) of Section 667.5 of the Penal Code. The county welfare director shall suspend such a person from any duties involving frequent and routine contact with children.
- (E) Notwithstanding subparagraph (D), the county welfare director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual specified in paragraph (1) or (7) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's or prospective employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the county welfare director may give the employee or prospective employee an opportunity to explain the conviction and shall consider that explanation in the evaluation of the criminal conviction record. If no criminal record information has been recorded, the county welfare director shall cause a statement of that fact to be included in that person's personnel file. (2) For purposes of this subdivision, a conviction means a plea or verdict of guilty or a conviction following a plea of no lo contendere. Any action which the county welfare director is

permitted to take following the establishment of a conviction may betaken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this subdivision, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

***Welfare and Institutions Code Section 16501.3***  
**16501.3.**

- (a) The Department of Social Services shall establish a program of public health nursing in the child welfare services program. The purpose of the public health nursing program shall be to enhance the physical, mental, dental, and developmental well being of children in the child welfare system.
- (b) As a condition of receiving funds under this section, counties shall use the services of a foster care public health nurse. The foster care public health nurse shall work with the appropriate child welfare services workers to coordinate health care services and serve as a liaison with health care professionals and other providers of health-related services. This shall include coordination with county mental health plans and local health jurisdictions, as appropriate.
- (c) The duties of a foster care public health nurse may include, but need not be limited to, the following:
  - (1) Collecting health information and other relevant data on each foster child as available, receiving all collected information to determine appropriate referral and services, and expediting referrals to providers in the community for early intervention services, specialty services, dental care, mental health services, and other health-related services required by the child.

- (2) Participating in medical care planning and coordinating for the child. This may include, but is not limited to, assisting caseworkers in arranging for comprehensive health and mental health assessments, interpreting the results of health assessments or evaluations for the purpose of case planning and coordination, facilitating the acquisition of any necessary court authorizations for procedures or medications, advocating for the health care needs of the child and ensuring the creation of linkage among various providers of care.
- (3) Providing follow-up contact to assess the child's progress in meeting treatment goals.
- (d) The services provided by foster care public health nurses under this section shall be limited to those for which reimbursement may be claimed under Title XIX at an enhanced rate for services delivered by skilled professional medical personnel. Notwithstanding any other provision of law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation, as provided under Title XIX of the federal Social Security Act (42 USC Sec. 1396 et seq.), is available.

Notwithstanding Section 10101 of the Welfare and Institutions Code, there shall be no required county match of the nonfederal cost of this program.

**AB 1111 (chaptered 7/22/99) – added sec. 16501.3 to W and I Code**

CHAPTER 147

FILED WITH SECRETARY OF STATE JULY 22, 1999

APPROVED BY GOVERNOR JULY 22, 1999

PASSED THE ASSEMBLY JUNE 16, 1999

PASSED THE SENATE JUNE 15, 1999

AMENDED IN SENATE JUNE 15, 1999

INTRODUCED BY Assembly Member Aroner and Senators Chesbro and Speier

FEBRUARY 25, 1999

An act to repeal Sections 14669.16 and 15817.5 of the Government Code, to amend Sections 1596.8713 and 11970 of, and to add and repeal Article 4 (commencing with Section 11970.1) of Chapter 2 of Part 3 of Division 10.5 of, the Health and Safety Code, to amend Sections 1252.3 and 1611.5 of the Unemployment Insurance Code, to amend Sections 9564, 11370, 11450, 11450.16, 11461, 11462, 11463, 11465, 14132.90, 15200.81, 15204.3, 16164, 18358.30, 18930, 18930.5, 18932, 18934, 18938, 18940, 18944, 19091, 19092, 19355.5, 19356.6, 19356.7, and 19806 of, to add Sections 10609.4, 11371, 11372, 11373, 15766, 16501.3, and 18935 to, to repeal Section 12200.018 of, and to repeal and add Sections 11364 and 11369 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1111, Aroner. Social services.

Existing law authorizes the Director of General Services to acquire facilities currently leased and occupied by the Health and Welfare Data Center at 3301 S Street and at 1651 Alhambra Boulevard in Sacramento through the use of specified debt instruments that may be issued by the State Public Works Board.

This bill would repeal that authority of the director.

Existing law, the Drug Court Partnership Act of 1998, administered by the State Department of Alcohol and Drug Programs, provides for the award of grants to counties that develop and implement drug court programs that meet eligibility requirements. Existing law provides that the grants shall be to provide funding for 4 years, subject to appropriations in the Budget Act.

This bill would revise that provision to categorize grants awarded using funds appropriated in the Budget Act of 1998 and the Budget Act of 1999. . . . .

Existing law requires each county to provide child welfare services to children in foster care.

This bill would require the State Department of Social Services to establish a program of public health nursing in the child welfare services program. . . . .

SEC. 38. Section 16501.3 is added to the Welfare and Institutions Code, to read:

16501.3. (a) The Department of Social Services shall establish a program of public health nursing in the child welfare services program. The purpose of the public health nursing program shall be to enhance the physical, mental, dental, and developmental well-being of children in the child welfare system.

(b) As a condition of receiving funds under this section, counties shall use the services of a foster care public health nurse. The foster care public health nurse shall work with the appropriate child welfare services workers to coordinate health care services and serve as a liaison with health care professionals and other providers of health-related services. This shall include coordination with county mental health plans and local health jurisdictions, as appropriate.

(c) The duties of a foster care public health nurse may include, but need not be limited to, the following:

(1) Collecting health information and other relevant data on each foster child as available, receiving all collected information to determine appropriate referral and services, and expediting referrals to providers in the community for

early intervention services, specialty services, dental care, mental health services, and other health-related services required by the child.

(2) Participating in medical care planning and coordinating for the child. This may include, but is not limited to, assisting case workers in arranging for comprehensive health and mental health assessments, interpreting the results of health assessments or evaluations for the purpose of case planning and coordination, facilitating the acquisition of any necessary court authorizations for procedures or medications, advocating for the health care needs of the child and ensuring the creation of linkage among various providers of care.

(3) Providing follow-up contact to assess the child's progress in meeting treatment goals.

(d) The services provided by foster care public health nurses under this section shall be limited to those for which reimbursement

may be claimed under Title XIX at an enhanced rate for services delivered by skilled professional medical personnel. Notwithstanding any other provision of law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation, as provided under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), is available.

(e) Notwithstanding Section 10101 of the Welfare and Institutions Code, there shall be no required county match of the nonfederal cost of this program.

**SB 543 (9/28/99) – amended sec. 16010 and added sec. 369.5 to W and I Code**

CHAPTER 552  
FILED WITH SECRETARY OF STATE SEPTEMBER 28, 1999  
APPROVED BY GOVERNOR SEPTEMBER 28, 1999  
PASSED THE SENATE AUGUST 31, 1999  
PASSED THE ASSEMBLY AUGUST 26, 1999  
AMENDED IN ASSEMBLY AUGUST 16, 1999  
AMENDED IN ASSEMBLY JUNE 30, 1999  
AMENDED IN ASSEMBLY JUNE 22, 1999  
AMENDED IN SENATE APRIL 21, 1999  
AMENDED IN SENATE APRIL 5, 1999

INTRODUCED BY Senator Bowen

FEBRUARY 19, 1999

An act to amend Section 16010 of, and to add Section 369.5 to, the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 543, Bowen. Children: psychotropic medication: foster care. Existing law requires that the case plan of a child when he or she is placed in foster care, to the extent available and accessible, include the health and education records of the child, as specified. Existing law requires that at the time a child is placed in foster care the child's health and education records be reviewed and updated and supplied to the foster parent or foster care provider with whom the child is placed.

This bill would revise these provisions by requiring the case plan for each child and specified court reports and assessments to include a health and education summary, as specified, for each child.

The bill would require the child protection agency to provide the caretaker with a current summary, as specified. The bill would also require the child's caretaker to maintain information regarding the minor's health and education, and would require the child protection agency or its designee to inquire of the caretaker whether there is any new information to be added to the child's summary. The bill would also require the court, at the initial hearing, to direct each parent to provide the child protective agency complete health and education information, including specified information regarding the child's parents. To the extent that these requirements would

increase the duties of local public employees, this bill would impose a state-mandated local program.

This bill would also provide that if a child is adjudged a dependent child of the juvenile court and the child is taken from the physical custody of the parent, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child, except that juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. The bill would also authorize a court to permit the administration of psychotropic medication to the child only as specified, and would require the Judicial Council to adopt rules of court and develop appropriate forms for these purposes on or before July 1, 2000. It would also provide, however, that these provisions do not supersede local court rules regarding a minor's right to participate in mental health decisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 369.5 is added to the Welfare and Institutions Code, to read:

369.5. (a) If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request, a description of the child's

diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. On or before July 1, 2000, the Judicial Council shall adopt rules of court and develop appropriate forms for implementation of this section.

(b) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

(c) Nothing in this section is intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

SEC. 2. Section 16010 of the Welfare and Institutions Code is amended to read:

16010. (a) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child's health, dental, and education providers, the child's grade level performance, the child's school record, assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement, a record of the child's immunizations and allergies, the child's known medical problems, the child's current medications, past health problems and hospitalizations, a record of the child's relevant mental health history, the child's known mental health condition and medications, and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. If any other provision of law imposes more stringent information requirements, then that section shall prevail.

(b) Additionally, any court report or assessment required pursuant to subdivision (g) of Section 361.5, Section 366.1, subdivision (d) of Section 366.21, or subdivision (b) of Section 366.22 shall include a copy of the current health and education summary described in subdivision (a).

(c) As soon as possible, but not later than 30 days after initial placement of a child into foster care, the child protective agency shall provide the caretaker with the child's current health and education summary as described in subdivision (a). For each subsequent placement, the child protective agency shall provide the

caretaker with a current summary as described in subdivision (a) within 48 hours of the placement.

(d) The child's caretaker shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during the time that the child is in the care of the caretaker. On each required visit, the child protective agency or its designee family foster agency shall inquire of the caretaker whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with such information as appropriate, but not later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee family foster agency shall take all necessary steps to assist the caretaker in obtaining relevant health and education information for the child's health and education summary as described in subdivision (a).

(e) At the initial hearing, the court shall direct each parent to provide to the child protective agency complete medical, dental, mental health, and educational information, and medical background, of the child and of the child's mother and the child's biological father if known. The Judicial Council shall create a form for the purpose of obtaining health and education information from the child's parents or guardians at the initial hearing. The court shall determine at the hearing held pursuant to Section 358 whether the medical, dental, mental health, and educational information has been provided to the child protective agency.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

## Selected State Regulations

The following are selected sections of California Code of Regulations relating to the Child Health and Disability Program (CHDP) and the HCPCFC. These sections have been extracted from California's Office of Administrative Law. For more current and complete information on State regulations, please visit the Legislative Counsel of California's website at <http://www.calregs.com>.

This section is not all-inclusive. Not included are other State laws, federal laws, State and federal regulations, or provisions of the CHDP Provider Manual, CHDP Program Guidance Manual, CHDP Program Letters, or CHDP Provider Information Notices.

### ***Title 22 Social Security, Division 3 Health Care Services***

Cal. Admin. Code tit. 22, s 50031

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 22. SOCIAL SECURITY  
DIVISION 3. HEALTH CARE SERVICES  
SUBDIVISION 1. CALIFORNIA MEDICAL ASSISTANCE PROGRAM  
CHAPTER 2. DETERMINATION OF MEDI-CAL ELIGIBILITY AND SHARE OF COST  
ARTICLE 1. DEFINITIONS, ABBREVIATIONS AND PROGRAM TERMS  
This database is current through 10/13/06, Register 2006, No. 41

### ***Section 50031 – Child Health and Disability Prevention Program (CHDP).***

Child Health and Disability Prevention Program (CHDP) means the community based program for early identification and referral for treatment of persons under 21 years of age with potentially handicapping conditions.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.  
Reference: Sections 14053 and 14100.1, Welfare and Institutions Code; Section 320, Health and Safety Code.

### HISTORY

1. Editorial correction adding NOTE filed 7-7-83 (Register 83, No. 29).

s 50032. Competent.

Competent means being able to act on one's own behalf in business and personal matters.

s 50033. Contiguous Property.

Contiguous property means adjacent or adjoining property that is not separated by a road, street, right of way or in any other manner from property being considered.

Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.  
Reference: Section 14006, Welfare and Institutions Code.

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 22. SOCIAL SECURITY  
DIVISION 3. HEALTH CARE SERVICES  
SUBDIVISION 1. CALIFORNIA MEDICAL ASSISTANCE PROGRAM  
CHAPTER 3. HEALTH CARE SERVICES  
ARTICLE 2. DEFINITIONS

*Section 51184 – Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program Definitions*

(a) EPSDT Screening Services means:

- (1) An initial, periodic, or additional health assessment of a Medi-Cal eligible individual under 21 years of age provided in accordance with the requirements of the Child Health and Disability Prevention (CHDP) program as set forth in Title 17, Sections 6800 et seq.; or
- (2) A health assessment, examination, or evaluation of a Medi-Cal eligible individual under 21 years of age by a licensed health care professional acting within his or her scope of practice, at intervals other than those specified in paragraph (a)(1) to determine the existence of physical or mental illnesses or conditions; or
- (3) Any other encounter with a licensed health care professional that results in the determination of the existence of a suspected illness or condition or a change or complication in a condition for a Medi-Cal eligible person under 21 years of age.

(b) EPSDT diagnosis and treatment services means only those services provided to persons under 21 years of age that:

- (1) Are identified in section 1396d(r) of title 42 of the United States Code,
- (2) Are available under this chapter without regard to the age of the recipient or that are provided to persons under 21 years of age pursuant to any provision of federal Medicaid law other than section 1396d(a)(4)(B) and section 1396a(a)(43) of title 42 of the United States Code, and
- (3) Meet the standards and requirements of Sections 51003 and 51303, and any specific requirements applicable to a particular service that are based on the standards and requirements of those sections.

(c) EPSDT supplemental services means health care, diagnostic services, treatment, and other measures, that:

- (1) Are identified in Section 1396d(r) of Title 42 of the United States Code.
- (2) Are available only to persons under 21 years of age,
- (3) Meet any one of the standards of medical necessity as set forth in paragraphs (1), (2), or (3) of Section 51340(e), and
- (4) Are not EPSDT diagnosis and treatment services.

(d) EPSDT supplemental services include EPSDT case management services when provided by EPSDT case managers described in paragraph (h)(4).

(e) EPSDT diagnosis and treatment provider means any of the providers listed under Section 51051, other than EPSDT supplemental services providers.

(f) EPSDT Supplemental Services Provider means a person enrolled pursuant to Section 51242 to provide EPSDT supplemental services as defined in subsection (c).

(g) EPSDT case management services means services that will assist EPSDT-eligible individuals in gaining access to needed medical, social, educational, and other services.

(h) EPSDT case manager means:

(1) A targeted case management (TCM) provider under contract with a local governmental agency described in Section 14132.44 of the Welfare and Institutions Code.

(2) Entities and organizations, including Regional Centers, that provide TCM services to persons described in Section 14132.48 of the Welfare and Institutions Code.

(3) A unit within the Department designated by the Director.

(4) A child protection agency, other agency or entity serving children, or an individual provider, that the Department finds qualified by education, training, or experience, and that the Department enrolls pursuant to Section 51242 to provide EPSDT case management services.

(i) For purposes of the EPSDT program, excepting pediatric day health care EPSDT services provided as EPSDT supplemental services, the term "services" is deemed to include supplies, items, or equipment.

(j) EPSDT supplemental services include pediatric day health care EPSDT services when provided by a pediatric day health care facility.

(k) For purposes of pediatric day health care EPSDT services, the following definitions shall apply:

(1) "Pediatric day health care EPSDT services" means services that:

(A) Promote the physical, developmental and psychosocial well-being of individuals eligible for EPSDT services who are medically fragile as defined in Section 1760.2(b) of the Health and Safety Code and who live with their parent, foster parent, or legal guardian.

(B) Provide medically necessary skilled nursing care and therapeutic interventions which include occupational therapy, physical therapy, speech therapy and medical nutrition therapy provided by licensed or registered therapists and furnished in response to the attending physician's orders and in accordance with the individual's plan of treatment. These services do not include respite care pursuant to Section 14132.10(a), of the Welfare and

## Institutions Code.

(C) Are provided in a day program of less than 24 hours that is individualized and family-centered, with developmentally appropriate activities of play, learning and social interaction designed to optimize the individual's medical status and developmental functioning so that he or she can remain within the family.

(2) "Pediatric day health care facility" means a facility that is licensed pursuant to Section 1760 of the Health and Safety Code. For purposes of providing pediatric day health care EPSDT services, a pediatric day health care facility may also be referred to as the "facility".

(3) "Pharmaceutical services" means medications, including prescription and nonprescription, and total parental nutrition supplied to eligible beneficiaries by licensed nursing personnel and administered upon orders of the attending physician.

(4) "Nutrition services" means a minimum of one meal per day, between meal nourishment, and consultation services by the facility's dietitian.

Note: Authority cited: Sections 10725, 14124.5 and 14195, Welfare and Institutions Code; and Sections 100275, 125000 and 125100, Health and Safety Code. Reference: Sections 14059, 14132 and 14132.10, Welfare and Institutions Code; Sections 125000 and 125100, Health and Safety Code; and 42 U.S.C. 1396d(r).

## HISTORY

1. New section filed 4-4-94 as an emergency; operative 4-4-94 (Register 94, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-94 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 8-1-94 as an emergency; operative 8-1-94 (Register 94, No. 31). A Certificate of Compliance must be transmitted to OAL by 11-29-94 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-21-95 or emergency language will be repealed by operation of law on the following

day.

4. New section refiled 2-22-95; operative 2-22-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-22-95 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 2-22-95 order including amendment of section transmitted to OAL 3-16-95 and filed 4-27-95 (Register 95, No. 17).

6. Amendment of subsection (i), new subsections (j)-(k)(4) and amendment of Note filed 11-10-99 as an emergency; operative 11-10-99 (Register 99, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-9-2000 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 11-10-99 order, including further amendment of subsection (k)(1)(B) and (k)(4), transmitted to OAL 3-8-2000 and filed 4-19-2000 (Register 2000, No. 16).

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS  
TITLE 22. SOCIAL SECURITY  
DIVISION 3. HEALTH CARE SERVICES  
SUBDIVISION 1. CALIFORNIA MEDICAL ASSISTANCE PROGRAM  
CHAPTER 2. DETERMINATION OF MEDICAL ELIGIBILITY AND SHARE OF COST  
ARTICLE 7. ALIENAGE, CITIZENSHIP AND RESIDENCE  
This database is current through 10/13/06, Register 2006, No. 41

*Section 50333. Foster Children and Institutionalized Persons Placed Out-of-State*

(a) A child placed in out-of-state foster care maintains California residence if the child was placed under either of the following:

(1) Through the Interstate Compact on the Placement of Children.

(2) By a state or county agency responsible for the child's care.

(b) A person placed in an out-of-state institution by a state or county agency responsible for the person's care maintains California residence unless the other state accepts responsibility for the person.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.  
Reference: Section 14007, Welfare and Institutions Code.

## HISTORY

1. Amendment filed 10-23-81; effective thirtieth day thereafter (Register 81, No. 43).

### Section 50334 – Out-of-State Foster Children and Institutionalized Persons Placed in California

(a) An out-of-state child placed in foster care in California is a California resident if both of the following conditions are met:

(1) The child was placed by an out-of-state court directly with a guardian or foster parent in California.

(2) The other state has not adopted the Interstate Compact on the Placement of Children.

(b) An out-of-state person placed in an institution in California by another state agency, or a local government agency in another state, responsible for the person's care remains a resident of the placing state unless a California state or county agency accepts responsibility for the person.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.  
Reference: Section 14007, Welfare and Institutions Code.

## HISTORY

1. Amendment filed 10-23-81; effective thirtieth day thereafter (Register 81, No. 43).

## Selected Federal Laws

The following are selected sections of the Social Security Administration relating to foster care children. These sections have been extracted from the Social Security Administration. For more current and complete information on Federal laws, please visit the Social Security Administration's website at <http://www.ssa.gov>.

This section is not all-inclusive. Not included are other State laws, federal laws, State and federal regulations, or provisions of the CHDP Provider Manual, CHDP Program Guidance Manual, CHDP Program Letters, or CHDP Provider Information Notices.

### ***Social Security Act, Title IV***

#### Section 472(h)

[http://www.ssa.gov/OP\\_Home/ssact/title04/0472.htm](http://www.ssa.gov/OP_Home/ssact/title04/0472.htm)

SEC. 472. [42 U.S.C. 672] (a)<sup>[146]</sup> IN GENERAL.—

(1) ELIGIBILITY.—Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section [406\(a\)](#) (as in effect on July 16, 1996) into foster care if—

(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and  
(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

(2) REMOVAL AND FOSTER CARE PLACEMENT REQUIREMENTS.—The removal and foster care placement of a child meet the requirements of this paragraph if—

(A) the removal and foster care placement are in accordance with—  
(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or  
(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section [471\(a\)\(15\)](#) for a child have been made;

(B) the child's placement and care are the responsibility of—  
(i) the State agency administering the State plan approved under section [471](#);  
or  
(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and  
(C) the child has been placed in a foster family home or child-care institution.

(3) AFDC ELIGIBILITY REQUIREMENT.—

(A) IN GENERAL.—A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—  
(i) would have received aid under the State plan approved under section [402](#) (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or  
(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefor; or  
(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) RESOURCES DETERMINATION.—For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section [402](#) (as in effect on July 16, 1996), a child whose resources (determined pursuant to section [402\(a\)\(7\)\(B\)](#), as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section [402\(a\)\(7\)\(B\)](#)).

(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN.—Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996<sup>[147]</sup>, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act<sup>[148]</sup> from receiving aid under the State plan approved under section [402](#) in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or<sup>[149]</sup> private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or<sup>[150]</sup> private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term “foster care maintenance payments” (as defined in section [475\(4\)](#)).

(c) For the purposes of this part, (1) the term “foster family home” means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term “child-care institution” means a private child-care institution, or a public

child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section [422\(b\)\(10\)](#).

(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) For the purposes of this part and part B of this title, (1) the term “voluntary placement” means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term “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.

(g) In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h)(1) For purposes of titles XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section [406](#) (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in

a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section [475\(4\)\(B\)](#), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) <sup>[151]</sup> ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS.—Expenditures by a State that would be considered administrative expenditures for purposes of section [474\(a\)\(3\)](#) if made with respect to a child who was residing in a foster family home or childcare institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section [406\(a\)](#) (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or  
(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

(A) reasonable efforts are being made in accordance with section [471\(a\)\(15\)](#) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.

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<sup>[145]</sup> See Vol. II, P.L. 96-272, §102(e), with respect to the Secretary's report to Congress on the placement of children in foster care pursuant to certain voluntary agreements.

<sup>[146]</sup> P.L. 109-171, §7404(a)(1), amended subsection (a) in its entirety, effective as if enacted on October 1, 2005. For subsection (a) as it formerly read, see Vol. II, Appendix J, Superseded Provisions, P.L. 109-171.

<sup>[147]</sup> See Vol. II, P.L. 104-193.

<sup>[148]</sup> See Vol. II, P.L. 82-414, §§210(f) and 245A9(h).

[\[149\]](#) P.L. 109-113, §2, struck out “nonprofit”, effective November 22, 2005.

[\[150\]](#) P.L. 109-113, §2, struck out “nonprofit”, effective November 22, 2005.

[\[151\]](#) P.L. 109-171, §7403(a), added subsection (i), effective as if enacted on October 1, 2005.

Section 473 (b)

(These two sections relate to medical assistance for children in FC and for adopted children)

[http://www.ssa.gov/OP\\_Home/ssact/title04/0473.htm](http://www.ssa.gov/OP_Home/ssact/title04/0473.htm)

SEC. 473. [42 U.S.C. 673] (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section [475\(3\)](#)) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

(2)(A)<sup>[152]</sup> For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

(i)(I)(aa) was removed from the home of a relative specified in section [406\(a\)](#) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section [474](#) (or section [403](#), as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and (bb) met the requirements of section [472\(a\)\(3\)](#) with respect to the home referred to in item (aa) of this subclause

(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section [475\(4\)\(B\)](#); and

(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

(B) Section [472\(a\)\(4\)](#) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

(i) meets the requirements of subparagraph (A)(ii);

(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(iii) is available for adoption because—

(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

- (II) the child's adoptive parents have died; and
- (iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if—
  - (I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and
  - (II) the prior adoption were treated as never having occurred.
- (B)(i) would have received aid under the State plan approved under section [402](#) (as in effect on July 16, 1996) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or
- (ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section [406\(a\)](#) (as in effect on July 16, 1996) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or
- (iii) is a child described in subparagraph (A)(ii) or (A)(iii), and
- (C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

The last sentence of section [472\(a\)](#) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence. Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).

- (3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

- (4) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.
- (5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.
- (6)(A) For purposes of paragraph (1)(B)(i), the term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.
- (B) A State's payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section [474\(a\)\(3\)\(E\)](#).
- (b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section [406](#) (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.
- (2) For purposes of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.
- (3) A child described in this paragraph is any child—
- (A)(i) who is a child described in subsection (a)(2), and
- (ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or
- (B) with respect to whom foster care maintenance payments are being made under section [472](#).
- (4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent,

as provided in section [475\(4\)\(B\)](#), shall be considered a child with respect to whom foster care maintenance payments are being made under section [472](#).

(c) For purposes of this section, a child shall not be considered a child with special needs unless—

(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

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[\[152\]](#) P.L. 109-171, §7404(a)(2), amended paragraph (2) in its entirety, effective as if enacted on October 1, 2005. For paragraph (2) as it formerly read, see Vol. II, Appendix J, Superseded Provisions, P.L. 109-171.

Section 475 (5) (F)

(Describes when a child is considered to have entered foster care)

[http://www.ssa.gov/OP\\_Home/ssact/title04/0475.htm](http://www.ssa.gov/OP_Home/ssact/title04/0475.htm)

SEC. 475. [42 U.S.C. 675] As used in this part or part B of this title:

(1) The term “case plan” means a written document which includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section [472\(a\)\(1\)](#).

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(C) To the extent available and accessible, the health and education records of the child, including—

- (i) the names and addresses of the child's health and educational providers;
- (ii) the child's grade level performance;
- (iii) the child's school record;
- (iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;
- (v) a record of the child's immunizations;
- (vi) the child's known medical problems;
- (vii) the child's medications; and
- (viii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) Where appropriate, for a child age 16 or over, a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems.

(2) The term “parents” means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term “adoption assistance agreement” means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term “foster care maintenance payments” means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where—

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

(5) The term “case review system” means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship,

(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents;

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care;

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to

terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

(i) at the option of the State, the child is being cared for by a relative;

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section [471\(a\)\(15\)\(B\)\(ii\)](#) are required to be made with respect to the child;

(F) a child shall be considered to have entered foster care on the earlier of—

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home; and

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a review or hearing solely on the basis of such notice and opportunity to be heard.

(6) The term “administrative review” means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term “legal guardianship” means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term “legal guardian” means the caretaker in such a relationship.

## Foster Care Aid Codes

Listed below are the foster care aid codes assigned to Medi-Cal clients with no share of cost.

<b>Program/Description</b>	
4K	Emergency Assistance (EA) Program (FFP) Covers juvenile probation cases placed in foster care.
40	AFDC-FC/Non-Fed (State FC) Provides financial assistance for those children who are in need of substitute parenting and who have been placed in foster care.
42	AFDC-FC (FFP) Provides financial assistance for those children who are in need of substitute parenting and who have been placed in foster care.
45	Children Supported by Public Funds (FFP) Children whose needs are met in whole or in part by public funds other than AFDC-FC.
46	Children supported by Public Funds/Interstate Compact of Placement of Children (ICPC)(FFP). Covers children who are placed across state lines. ICPC applies if the caretaker (not the adoptive parent) and the child move from the state that made the original placement. Children whose needs are met in whole or in part by public funds other than AFDC-FC.
5K	Emergency Assistance (EA) Program (FFP) Covers child welfare cases placed in EA foster Care.

(source: Provider Manual, Aid Codes Master Chart  
[http://files.medi-cal.ca.gov/pubsdoco/publications/masters-MTP/Part1/aidcodes\\_z01c00.doc](http://files.medi-cal.ca.gov/pubsdoco/publications/masters-MTP/Part1/aidcodes_z01c00.doc))

## Adoption Assistance Aid Codes

Listed below are the adoption assistance aid codes assigned to full scope Medi-Cal clients with no share of cost.

<b>Program/Description</b>	
03	Adoption Assistance Program (AAP) (FFP). A cash grant program to facilitate the adoption of hard-to-place children who would require permanent foster care placement without such assistance.
04	Adoption Assistance Program/Aid for Adoption of Children (AAP/AAC) (non-FFP). Covers cash grant children receiving Medi-Cal by virtue of eligibility to state only AAP/AAC benefits.
4A	Adoption Assistance Program (AAP). Program for AAP children for whom there is a state-only AAP agreement between any state other than California and the adoptive parent(s). This is a non cash/Medi-Cal only aid code for children adopted from any state other than California but now reside in California.
06	Adoption Assistance Program (AAP) (FFP). A cash grant program to facilitate the adoption of hard-to-place children who would require permanent foster care placement without such assistance, for whom there is a AAP agreement between any state other than California and the adoptive parent(s). This is a non cash/Medi-Cal only aid code for children adopted from any state other than California but now reside in California.

(source: Provider Manual, Aid Codes Master Chart  
[http://files.medi-cal.ca.gov/pubsdoco/publications/masters-MTP/Part1/aidcodes\\_z01c00.doc](http://files.medi-cal.ca.gov/pubsdoco/publications/masters-MTP/Part1/aidcodes_z01c00.doc))

## WELFARE AND INSTITUTIONS CODE SECTION 17710

17710. Unless otherwise specified in this part:

- (a) "Child with special health care needs" means a child, or a person who is 22 years of age or younger who is completing a publicly funded education program, who has a condition that can rapidly deteriorate resulting in permanent injury or death or who has a medical condition that requires specialized in-home health care, and who either has been adjudged a dependent of the court pursuant to Section 300, has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center.
- (b) "County" means the county welfare department.
- (c) "Department" means the State Department of Social Services.
- (d) "Individualized health care plan team" means those individuals who develop a health care plan for a child with special health care needs in a specialized foster care home, as defined in subdivision (i) or group home, which shall include the child's primary care physician or other health care professional designated by the physician, any involved medical team, and the county social worker or regional center worker, and any health care professional designated to monitor the child's individualized health care plan pursuant to paragraph (8) of subdivision (c) of Section 17731, including, if the child is in a certified home, the registered nurse employed by or under contract with the certifying agency to supervise and monitor the child. The child's individualized health care plan team may also include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, where the child is in a specialized foster care home, the individualized health care plan team may include the prospective specialized foster parents, who shall not participate in any team decision pursuant to paragraph (6) of subdivision (c) of Section 17731 or pursuant to paragraph (3) of subdivision (a), or subparagraph (A) of paragraph (2) of subdivision (b) of Section 17732.
- (e) "Director" means the Director of Social Services.
- (f) "Level of care" means a description of the specialized in-home health care to be provided to a child with special health care needs by the foster family.
- (g) Medical conditions requiring specialized in-home health care require dependency upon one or more of the following: enteral feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, oxygen support, urinary catheterization, renal dialysis, ministrations imposed by tracheostomy, colostomy, ileostomy, or other medical or surgical procedures or special medication regimens, including injection, and intravenous medication.
- (h) "Specialized in-home health care" includes, but is not limited to, those services identified by the child's primary physician as appropriately administered in the home by any one of the following:

(1) A parent trained by health care professionals where the child is being placed in, or is currently in, a specialized foster care home.

(2) Group home staff trained by health care professionals pursuant to the discharge plan of the facility releasing the child where the child was placed in the home as of November 1, 1993, and who is currently in the home.

(3) A health care professional, where the child is placed in a group home after November 1, 1993. The health care services provided pursuant to this paragraph shall not be reimbursable costs for the purpose of determining the group home rate under Section 11462.

(i) "Specialized foster care home" means any of the following foster homes where the foster parents reside in the home and have been trained to provide specialized in-home health care to foster children:

(1) Licensed foster family homes, as defined in paragraph (5) of subdivision (a) of Section 1502 of the Health and Safety Code.

(2) Licensed small family homes, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

(3) Certified family homes, as defined in subdivision (d) of Section 1506 of the Health and Safety Code, that have accepted placement of a child with special health care needs who is under the supervision and monitoring of a registered nurse employed by, or on contract with, the certifying agency, and who is either of the following:

(A) A dependent of the court under Section 300.

(B) Developmentally disabled and receiving services and case management from a regional center.

## **WELFARE AND INSTITUTIONS CODE SECTION 17720**

17720. The Health and Welfare Agency shall designate a department to coordinate sources of funding and services not under the jurisdiction of the department which are available to children with special health care needs in order to maximize the health and social services provided to these children and avoid duplication of programs and funding.

## **WELFARE AND INSTITUTIONS CODE SECTION 17730-17738**

17730. The department shall develop a program to establish specialized foster care homes for children with special health care needs with persons specified in subdivision (h) of Section 17710. The department shall limit the use of group homes for children with special health care needs pursuant to subdivisions (d) and (e) of Section 17732. The program shall conform to the requirements set forth in this chapter, and shall be integrated with the foster care and child welfare services programs authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 and Chapter 5 (commencing with Section 16500) of Part 4.

The department, in administering the licensing program, shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes or group homes.

This program shall be conducted by county welfare departments in conformance with procedures established by the department in accordance with this chapter.

17731. (a) The county shall develop a plan to place children with special health care needs in foster care. This plan shall be submitted to the State Department of Social Services and the State Department of Health Services, not later than April 1, 1990, before beginning placement of children with special health care needs in specialized foster care homes. This subdivision shall not invalidate any placement made before April 1, 1990. A county that has not submitted a plan by April 1, 1990, shall not continue to make placements of children with special health care needs until the plan has been submitted.

(b) Unless a local lead agency has been designated within the county, as described in Item 4260-113-890 of the Budget Act of 1989, the county department of social services shall be the lead agency with the responsibility of developing the plan to be submitted pursuant to subdivision (a). The county plan shall be formalized in an interagency agreement between the county department of social services and the other county and private agencies that are the involved parties.

(c) The county plan shall meet all the requirements specified in this subdivision. The regional center shall not be required to submit a plan. However, all requirements specified in this subdivision shall be met prior to a regional center placement of a child who is not a court dependent and who has special health care needs.

(1) Prior to the placement of a child with special health care needs, an individualized health care plan, which may be the hospital discharge plan, shall be prepared for the child and, if necessary, in-home health support services shall be arranged. The individualized health care plan team shall be convened by the county department of social services caseworker or the regional center caseworker, to discuss the specific responsibilities of the person or persons specified in subdivision (h) of Section 17710 for provision of in-home health care in accordance with the individualized health

care plan developed by the child's physician or his or her designee. The plan may also include the identification of any available and funded medical services that are to be provided to the child in the home, including, but not limited to, assistance from registered nurses, licensed vocational nurses, public health nurses, physical therapists, and respite care workers. The individualized health care plan team shall delineate in the individualized health care plan the coordination of health and related services for the child and the appropriate number of hours needed to be provided by any health care

professional designated to monitor the child's individualized health care plan pursuant to paragraph (8), including, if the child is in a certified home, the registered nurse employed by or on contract with the certifying agency to supervise and monitor the child.

(2) A child welfare services case plan or regional center individual program plan shall be developed in accordance with applicable regulations, and arrangements made for nonmedical support services.

(3) Foster parents shall be trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care. Additional training shall be provided as needed during the placement of the child and to the child's biological parent or parents when the child is being reunified with his or her family.

(4) Children with special health care needs shall be placed in the home of the prospective foster parent subsequent to training by a health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care.

(5) Assistant caregivers, on-call assistants, respite care workers, and other personnel caring for children with special health care needs shall complete training or additional training by a health care professional in accordance with paragraph (3).

(6) No foster parent who is a health care professional or staff member who is a health care professional shall be required to complete any training or additional training determined by the responsible individualized health care plan team to be unnecessary on the basis of his or her professional qualification and expertise.

(7) No health care professional shall provide in-home health care to any child with special health care needs placed in a group home after November 1, 1993, unless the individual health care plan team for the child:

(A) Documents that the health care professional has the necessary qualifications and expertise to meet the child's in-home health care needs.

(B) Updates the documentation provided pursuant to subparagraph (A) each time the child's special health care needs change.

(8) Specialized foster care homes and group homes caring for children with special health care needs shall be monitored by the county or regional center according to applicable regulations. The health care plan for each child with special health care needs shall designate which health care professional shall monitor the child's ongoing health care, including in-home health care provided by persons specified in subdivision (h) of Section 17710. Where the child is placed in a certified home, the designated health care professional shall be the registered nurse employed by or on contract with the foster family agency to supervise and monitor the child.

(9) The workload of the health care professional supervising or monitoring a child's ongoing health care in a certified home shall be based on the cumulative total hours specified in the individualized health care plans for children assigned to the health care professional. In no case shall the health care professional's regular workload based on the cumulative total hours specified in the individualized health care plans for children assigned to the health care professional be more than 40 hours per week.

(10) The child's individualized health care plan shall be reassessed at least every six months during the time the child is placed in the specialized foster care home, to ensure that specialized care payments are appropriate to meet the child's health care needs.

(11) The placement agencies shall coordinate the sources of funding and services available to children with special health care needs in order to maximize the social services provided to these children and to avoid duplication of programs and funding.

17732. No more than two foster care children shall reside in a specialized foster care home with the following exceptions:

(a) A specialized foster care home may have a third child with or without special health care needs placed in that home provided that the licensed capacity, as determined by the department pursuant to paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code is not exceeded and provided that all of the following conditions have been met:

(1) The child's placement worker has determined and documented that no other placement is available.

(2) For each child in placement and the child to be placed, the child's placement worker has determined that his or her psychological and social needs will be met by placement in the home and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in foster care children and the two-child capacity limit is exceeded.

(3) The individualized health care plan team responsible for the ongoing care of each child with special health care needs involved has determined that the two-child limit may be exceeded without jeopardizing the health and safety of that child, and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in foster care children and the two-child capacity limit is exceeded.

(b) A licensed small family home, but not a certified home, may exceed the placement limit specified in subdivision (a) and accept children with or without special health care needs up to the licensed capacity as determined by the department pursuant to paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code if the conditions in subdivision (a) have been met for both the third child and each child placed thereafter, and the following additional conditions have been met:

(1) At least one of the children in the facility is a regional center client monitored in accordance with Section 56001 and following of Title 17 of the California Code of Regulations.

(2) Whenever four or more foster care children are physically present in the facility, the licensee of the small family home has the assistance of a caregiver to provide specialized in-home health care to the children except that:

(A) Night assistance shall not be required for those hours that the individualized health care plan team for each child with special health care needs has documented that the child will not require specialized medical services during that time.

(B) The department may determine that additional assistance is required to provide appropriate care and supervision for all children in placement. The determination shall only be made after consultation with the appropriate regional center and any appropriate individual health care teams.

(3) On-call assistance is available at all times to respond in case of an emergency. The on-call assistant shall meet the requirements of paragraph (5) of subdivision (c) of Section 17731.

(4) The home is sufficient in size to accommodate the needs of all children in the home.

(c) Notwithstanding Section 1523 of the Health and Safety Code, a foster family home which has more than three children with special health care needs in its care as of January 1, 1992, and which applies for licensure as a small family home in order to continue to provide care for those children, shall be exempt from the application fee.

(d) Except for children with special health care needs placed in group homes before January 1, 1992, no child with special health care needs may be placed in any group home or combination of group homes for longer than a short-term placement of 120 calendar days. The short-term placement in the group home shall be on an emergency basis for the purpose of arranging a subsequent placement in a less restrictive setting, such as with the child's natural parents or relatives, with a foster parent or foster family agency, or with another appropriate person or facility. The 120-day limitation shall not be extended, except by the approval of the director or his or her designee. For children placed after January 1, 1992, the 120-day limitation shall begin on the effective date of the amendments to this section made during the 1993 portion of the 1993-94 Regular Session.

(e) A child with special health care needs shall not be placed in a group home unless the child's placement worker has determined and documented that the group home has a program that meets the specific needs of the child being placed and there is a commonality of needs with the other children in the group home.

17732.1. (a) It is the intent of the Legislature that minor children who are residing in specialized foster care home placements on or after January 1, 1997, be allowed to remain in those homes upon reaching majority, through 22 years of age, in order to ensure continuity of care during completion of publicly funded education.

(b) A child with special health care needs may remain in a licensed foster family home or licensed small family home that is operating as a specialized foster care home pursuant to subdivision (i) of Section 17710 after the age of 18 years, if all of the following requirements are met:

(1) The child was a resident in the home prior to the age of 18.

(2) A determination regarding whether the child may remain as a resident after the age of 18 years is made through the agreement of all parties involved, including the resident, the foster parent, the social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator, as appropriate. This determination shall include a needs and service plan that contains an assessment of the child's needs and of continued compatibility with the other children in placement. The needs and service plan shall be completed within the six months prior to the child's 18th birthday and shall be updated with any significant change and whenever there is a change in household composition. The

assessment shall be documented and maintained in the child's file, and shall be made available for inspection by the licensing staff.

(3) The regional center monitors and supervises its placements, as part of its regular and ongoing services to clients, to ensure the continued health and safety, appropriate placement, and compatibility of the developmentally disabled adult with special health care needs.

(4) The department notifies the foster care applicant, as part of its orientation process, that the state Foster Family Home and Small Family Home Insurance Fund does not expand existing coverage in Article 2.5 (commencing with Section 1527) of Chapter 3 of Division 2 of the Health and Safety Code for liability resulting from the provision of care to individuals over the age of 18 years.

17733. All documentation prepared by the county concerning the identification of a dependent child as a child with special health care needs, the placement of such a child in a specialized foster care home, assessments and reassessments of the level of care designation, the decision to place more than two children with special health care needs in a home, and contact among the health care team plan members who are monitoring the individualized health care plan of the child, shall be made part of the child's case record. Reports of training provided by the health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care shall also be included in the case record.

17734. Each county shall report to the department on a regular basis on the conduct and effectiveness of the program provided for in this chapter. These reports shall be submitted in conformance with instructions provided by the department. These reports shall include, but not be limited to, all of the following data:

(a) An estimate of the number of children adjudicated dependents of the juvenile court under Section 300 who have special health care needs during the reporting period.

(b) The number of children with special health care needs in (1) hospitals or other institutional placements, (2) group homes, and (3) small family homes at the beginning of the reporting period.

(c) The number of children with special health care needs in specialized foster care homes.

(d) The number of children with special health care needs placed in specialized foster care homes during the reporting period.

(e) The cost of providing specialized placements for children with special health care needs during the reporting period.

17735. Commencing in 1991, a progress report on the program provided for in this chapter shall be included in the child welfare services report to the Legislature required by Section 16512. The department shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes.

17736. Notwithstanding any other provision of law, including Sections 1250, 1251, 1254, 1270, 1501, 1502, 1505, 1507, 1521, 1530.6 (as added by Chapter 391 of the Statutes of 1977), 1550, 11002, and 11154 of the Health and Safety Code, and Sections 2052, 2725, 2732, and 2795 of the Business and Professions Code, all of the following shall apply:

(a) (1) Counties and regional centers shall be permitted to place children with special health care needs in foster family homes, small family homes, and group homes pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(2) Foster family agencies shall be permitted to place children with special health care needs in certified homes pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(b) Counties, regional centers, and foster family agencies shall permit all of the following:

(1) A foster parent, an assistant caregiver, an on-call assistant, and a respite caregiver meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a specialized foster care home, specialized in-home health care to a foster child, as described in the child's individualized health care plan.

(2) The licensee and other personnel meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in his or her individualized health care plan, provided that the child was placed as of November 1, 1993.

17737. Nothing in this chapter shall be construed to prevent children with special health care needs who have adoption as a case plan goal from receiving services under this program.

17738. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall adopt emergency regulations to implement the program provided for in this chapter. The emergency regulations shall remain in effect for no more than 120 days, unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

## Special Health Care Needs

The following are selected sections of California laws relating to special health care needs. These sections have been extracted from California's Welfare and Institutions Code.

### ***Welfare and Institutions Codes 17710***

**17710.** Unless otherwise specified in this part:

(b) "Child with special health care needs" means a child, or a person who is 22 years of age or younger who is completing a publicly funded education program, who has a condition that can rapidly deteriorate resulting in permanent injury or death or who has a medical condition that requires specialized in-home health care, and who either has been adjudged a dependent of the court pursuant to Section 300, has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center.

(b) "County" means the county welfare department.

(c) "Department" means the State Department of Social Services.

(d) "Individualized health care plan team" means those individuals who develop a health care plan for a child with special health care needs in a specialized foster care home, as defined in subdivision (i) or group home, which shall include the child's primary care physician or other health care professional designated by the physician, any involved medical team, and the county social worker or regional center worker, and any health care professional designated to monitor the child's individualized health care plan pursuant to paragraph (8) of subdivision (c) of Section 17731, including, if the child is in a certified home, the registered nurse employed by or under contract with the certifying agency to supervise and monitor the child. The child's individualized health care plan team may also include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, where the child is in a specialized foster care home, the individualized health care plan team may include the prospective specialized foster parents, who shall not participate in any team decision pursuant to paragraph (6) of subdivision (c) of Section 17731 or pursuant to paragraph (3) of subdivision (a), or subparagraph (A) of paragraph (2) of subdivision (b) of Section 17732.

(e) "Director" means the Director of Social Services.

(f) "Level of care" means a description of the specialized in-home health care to be provided to a child with special health care needs by the foster family.

(g) Medical conditions requiring specialized in-home health care require dependency upon one or more of the following: enteral feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, oxygen support, urinary catheterization, renal dialysis, ministrations imposed by

tracheostomy, colostomy, ileostomy, or other medical or surgical procedures or special medication regimens, including injection, and intravenous medication.

(h) "Specialized in-home health care" includes, but is not limited to, those services identified by the child's primary physician as appropriately administered in the home by any one of the following:

(1) A parent trained by health care professionals where the child is being placed in, or is currently in, a specialized foster care home.

(2) Group home staff trained by health care professionals pursuant to the discharge plan of the facility releasing the child where the child was placed in the home as of November 1, 1993, and who is currently in the home.

(3) A health care professional, where the child is placed in a group home after November 1, 1993. The health care services provided pursuant to this paragraph shall not be reimbursable costs for the purpose of determining the group home rate under Section 11462.

(i) "Specialized foster care home" means any of the following foster homes where the foster parents reside in the home and have been trained to provide specialized in-home health care to foster children:

(1) Licensed foster family homes, as defined in paragraph (5) of subdivision (a) of Section 1502 of the Health and Safety Code.

(2) Licensed small family homes, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

(3) Certified family homes, as defined in subdivision (d) of Section 1506 of the Health and Safety Code, that have accepted placement of a child with special health care needs who is under the supervision and monitoring of a registered nurse employed by, or on contract with, the certifying agency, and who is either of the following:

(A) A dependent of the court under Section 300.

(B) Developmentally disabled and receiving services and case management from a regional center.

### ***Welfare and Institutions Codes 17720***

**17720.** The Health and Welfare Agency shall designate a department to coordinate sources of funding and services not under the jurisdiction of the department which are available to children with special health care needs in order to maximize the health and social services provided to these children and avoid duplication of programs and funding.

### ***Welfare and Institutions Codes 17730-17738***

**17730.** The department shall develop a program to establish specialized foster care homes for children with special health care needs with persons specified in subdivision (h) of Section 17710. The department shall limit the use of group homes for children with special health care needs pursuant to subdivisions (d) and (e) of Section 17732. The program shall conform to the requirements set forth in this chapter, and shall be integrated with the foster care and child welfare services

programs authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 and Chapter 5 (commencing with Section 16500) of Part 4.

The department, in administering the licensing program, shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes or group homes.

This program shall be conducted by county welfare departments in conformance with procedures established by the department in accordance with this chapter.

**17731.** (a) The county shall develop a plan to place children with special health care needs in foster care. This plan shall be submitted to the State Department of Social Services and the State Department of Health Services, not later than April 1, 1990, before beginning placement of children with special health care needs in specialized foster care homes. This subdivision shall not invalidate any placement made before April 1, 1990. A county that has not submitted a plan by April 1, 1990, shall not continue to make placements of children with special health care needs until the plan has been submitted.

(b) Unless a local lead agency has been designated within the county, as described in Item 4260-113-890 of the Budget Act of 1989, the county department of social services shall be the lead agency with the responsibility of developing the plan to be submitted pursuant to subdivision (a). The county plan shall be formalized in an interagency agreement between the county department of social services and the other county and private agencies that are the involved parties.

(c) The county plan shall meet all the requirements specified in this subdivision. The regional center shall not be required to submit a plan. However, all requirements specified in this subdivision shall be met prior to a regional center placement of a child who is not a court dependent and who has special health care needs.

(1) Prior to the placement of a child with special health care needs, an individualized health care plan, which may be the hospital discharge plan, shall be prepared for the child and, if necessary, in-home health support services shall be arranged. The individualized health care plan team shall be convened by the county department of social services caseworker or the regional center caseworker, to discuss the specific responsibilities of the person or persons specified in subdivision (h) of Section 17710 for provision of in-home health care in accordance with the individualized health care plan developed by the child's physician or his or her designee. The plan may also include the identification of any available and funded medical services that are to be provided to the child in the home, including, but not limited to, assistance from registered nurses, licensed vocational nurses, public health nurses, physical therapists, and respite care workers. The individualized health care plan team shall delineate in the individualized health care plan the coordination of health and related services for the child and the appropriate number of hours needed to be provided by any health care professional designated to monitor the child's individualized health care plan pursuant to paragraph (8), including, if the child is in a certified home, the registered nurse employed by or on contract with the certifying agency to supervise and monitor the child.

(2) A child welfare services case plan or regional center individual program plan shall be developed in accordance with applicable regulations, and arrangements made for nonmedical support services.

(3) Foster parents shall be trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care. Additional training shall be provided as needed during the placement of the child and to the child's biological parent or parents when the child is being reunified with his or her family.

(4) Children with special health care needs shall be placed in the home of the prospective foster parent subsequent to training by a health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care.

(5) Assistant caregivers, on-call assistants, respite care workers, and other personnel caring for children with special health care needs shall complete training or additional training by a health care professional in accordance with paragraph (3).

(6) No foster parent who is a health care professional or staff member who is a health care professional shall be required to complete any training or additional training determined by the responsible individualized health care plan team to be unnecessary on the basis of his or her professional qualification and expertise.

(7) No health care professional shall provide in-home health care to any child with special health care needs placed in a group home after November 1, 1993, unless the individual health care plan team for the child:

(A) Documents that the health care professional has the necessary qualifications and expertise to meet the child's in-home health care needs.

(B) Updates the documentation provided pursuant to subparagraph (A) each time the child's special health care needs change.

(8) Specialized foster care homes and group homes caring for children with special health care needs shall be monitored by the county or regional center according to applicable regulations. The health care plan for each child with special health care needs shall designate which health care professional shall monitor the child's ongoing health care, including in-home health care provided by persons specified in subdivision (h) of Section 17710. Where the child is placed in a certified home, the designated health care professional shall be the registered nurse employed by or on contract with the foster family agency to supervise and monitor the child.

(9) The workload of the health care professional supervising or monitoring a child's ongoing health care in a certified home shall be based on the cumulative total hours specified in the individualized health care plans for children assigned to the health care professional. In no case shall the health care professional's regular workload based on the cumulative total hours specified in the individualized health care plans for children assigned to the health care professional be more than 40 hours per week.

(10) The child's individualized health care plan shall be reassessed at least every six months during the time the child is placed in the specialized foster care home, to ensure that specialized care payments are appropriate to meet the child's health care needs.

(11) The placement agencies shall coordinate the sources of funding and services available to children with special health care needs in order to maximize the social services provided to these children and to avoid duplication of programs and funding.

**17732.** No more than two foster care children shall reside in a specialized foster care home with the following exceptions:

(a) A specialized foster care home may have a third child with or without special health care needs placed in that home provided that the licensed capacity, as determined by the department pursuant to paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code is not exceeded and provided that all of the following conditions have been met:

(1) The child's placement worker has determined and documented that no other placement is available.

(2) For each child in placement and the child to be placed, the child's placement worker has determined that his or her psychological and social needs will be met by placement in the home and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in foster care children and the two-child capacity limit is exceeded.

(3) The individualized health care plan team responsible for the ongoing care of each child with special health care needs involved has determined that the two-child limit may be exceeded without jeopardizing the health and safety of that child, and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in foster care children and the two-child capacity limit is exceeded.

(b) A licensed small family home, but not a certified home, may exceed the placement limit specified in subdivision (a) and accept children with or without special health care needs up to the licensed capacity as determined by the department pursuant to paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code if the conditions in subdivision (a) have been met for both the third child and each child placed thereafter, and the following additional conditions have been met:

(1) At least one of the children in the facility is a regional center client monitored in accordance with Section 56001 and following of Title 17 of the California Code of Regulations.

(2) Whenever four or more foster care children are physically present in the facility, the licensee of the small family home has the assistance of a caregiver to provide specialized in-home health care to the children except that:

(A) Night assistance shall not be required for those hours that the individualized health care plan team for each child with special health care needs has documented that the child will not require specialized medical services during that time.

(B) The department may determine that additional assistance is required to provide appropriate care and supervision for all children in placement. The determination shall only be made after consultation with the appropriate regional center and any appropriate individual health care teams.

(3) On-call assistance is available at all times to respond in case of an emergency. The on-call assistant shall meet the

requirements of paragraph (5) of subdivision (c) of Section 17731.

(4) The home is sufficient in size to accommodate the needs of all children in the home.

(c) Notwithstanding Section 1523 of the Health and Safety Code, a foster family home which has more than three children with special health care needs in its care as of January 1, 1992, and which applies for licensure as a small family home in order to continue to provide care for those children, shall be exempt from the application fee.

(d) Except for children with special health care needs placed in group homes before January 1, 1992, no child with special health care needs may be placed in any group home or combination of group homes for longer than a short-term placement of 120 calendar days. The short-term placement in the group home shall be on an emergency basis for the purpose of arranging a subsequent placement in a less restrictive setting, such as with the child's natural parents or relatives, with a foster parent or foster family agency, or with another appropriate person or facility. The 120-day limitation shall not be extended, except by the approval of the director or his or her designee. For children placed after January 1, 1992, the 120-day limitation shall begin on the effective date of the amendments to this section made during the 1993 portion of the 1993-94 Regular Session.

(e) A child with special health care needs shall not be placed in a group home unless the child's placement worker has determined and documented that the group home has a program that meets the specific needs of the child being placed and there is a commonality of needs with the other children in the group home.

**17732.1.** (a) It is the intent of the Legislature that minor children who are residing in specialized foster care home placements on or after January 1, 1997, be allowed to remain in those homes upon reaching majority, through 22 years of age, in order to ensure continuity of care during completion of publicly funded education.

(b) A child with special health care needs may remain in a licensed foster family home or licensed small family home that is operating as a specialized foster care home pursuant to subdivision (i) of Section 17710 after the age of 18 years, if all of the following requirements are met:

(1) The child was a resident in the home prior to the age of 18.

(2) A determination regarding whether the child may remain as a resident after the age of 18 years is made through the agreement of all parties involved, including the resident, the foster parent, the social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator, as appropriate. This determination shall include a needs and service plan that contains an assessment of the child's needs and of continued compatibility with the other children in placement. The needs and service plan shall be completed within the six months prior to the child's 18th birthday and shall be updated with any significant change and whenever there is a change in household composition. The assessment shall be documented and maintained in the child's file, and shall be made available for inspection by the licensing staff.

(3) The regional center monitors and supervises its placements, as part of its regular and ongoing services to clients, to ensure the continued health and safety, appropriate placement, and compatibility of the developmentally disabled adult with special health care needs.

(4) The department notifies the foster care applicant, as part of its orientation process, that the state Foster Family Home and Small Family Home Insurance Fund does not expand existing coverage in Article 2.5 (commencing with Section 1527) of Chapter 3 of Division 2 of the Health and Safety Code for liability resulting from the provision of care to individuals over the age of 18 years.

**17733.** All documentation prepared by the county concerning the identification of a dependent child as a child with special health care needs, the placement of such a child in a specialized foster care home, assessments and reassessments of the level of care designation, the decision to place more than two children with special health care needs in a home, and contact among the health care team plan members who are monitoring the individualized health care plan of the child, shall be made part of the child's case record. Reports of training provided by the health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care shall also be included in the case record.

**17734.** Each county shall report to the department on a regular basis on the conduct and effectiveness of the program provided for in this chapter. These reports shall be submitted in conformance with instructions provided by the department. These reports shall include, but not be limited to, all of the following data:

(a) An estimate of the number of children adjudicated dependents of the juvenile court under Section 300 who have special health care needs during the reporting period.

(b) The number of children with special health care needs in (1) hospitals or other institutional placements, (2) group homes, and (3) small family homes at the beginning of the reporting period.

(c) The number of children with special health care needs in specialized foster care homes.

(d) The number of children with special health care needs placed in specialized foster care homes during the reporting period.

(e) The cost of providing specialized placements for children with special health care needs during the reporting period.

**17735.** Commencing in 1991, a progress report on the program provided for in this chapter shall be included in the child welfare services report to the Legislature required by Section 16512. The department shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes.

**17736.** Notwithstanding any other provision of law, including Sections 1250, 1251, 1254, 1270, 1501, 1502, 1505, 1507, 1521, 1530.6 (as added by Chapter 391 of the Statutes of 1977), 1550, 11002, and 11154 of the Health and Safety Code, and

Sections 2052, 2725, 2732, and 2795 of the Business and Professions Code, all of the following shall apply:

(a) (1) Counties and regional centers shall be permitted to place children with special health care needs in foster family homes, small family homes, and group homes pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(2) Foster family agencies shall be permitted to place children with special health care needs in certified homes pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(b) Counties, regional centers, and foster family agencies shall permit all of the following:

(1) A foster parent, an assistant caregiver, an on-call assistant, and a respite caregiver meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a specialized foster care home, specialized in-home health care to a foster child, as described in the child's individualized health care plan.

(2) The licensee and other personnel meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in his or her individualized health care plan, provided that the child was placed as of November 1, 1993.

**17737.** Nothing in this chapter shall be construed to prevent children with special health care needs who have adoption as a case plan goal from receiving services under this program.

**17738.** Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall adopt emergency regulations to implement the program provided for in this chapter. The emergency regulations shall remain in effect for no more than 120 days, unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.