

# State of California—Health and Human Services Agency



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August XX, 2022

ALL COUNTY LETTER (ACL) NO. XX-XXX  
BEHAVIORAL HEALTH INFORMATION NOTICE (BHIN) NO. XX-XXX

TO:

- ALL COUNTY WELFARE DIRECTORS
- ALL CHIEF PROBATION OFFICERS
- ALL COUNTY MENTAL HEALTH DIRECTORS
- ALL FOSTER CARE MANAGERS
- ALL TITLE IV-E AGREEMENT TRIBES
- COUNTY BEHAVIORAL HEALTH PROGRAM DIRECTORS
- COUNTY BEHAVIORAL HEALTH DIRECTORS
- ASSOCIATION OF CALIFORNIA
- COUNTY DRUG & ALCOHOL ADMINISTRATORS
- COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA
- CHIEF PROBATION OFFICERS OF CALIFORNIA
- CALIFORNIA STATE ASSOCIATION OF COUNTIES
- CALIFORNIA COUNCIL OF COMMUNITY BEHAVIORAL HEALTH AGENCIES
- COALITION OF ALCOHOL AND DRUG ASSOCIATIONS
- CALIFORNIA ASSOCIATION OF ALCOHOL & DRUG PROGRAM EXECUTIVES, INC.
- CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES

SUBJECT:

UPDATED GUIDANCE INCLUDING CLARIFICATION ON THE REQUIREMENT FOR A QI ASSESSMENT REPORT FOR EACH PLACEMENT, UPDATING A CHILD AND ADOLESCENT NEEDS AND STRENGTHS TOOL (CANS), SHARING OF THE QUALIFIED INDIVIDUAL (QI) ASSESSMENT REPORT, UPDATED QI REFERRAL FORM AND QI ASSESSMENT REPORT TEMPLATE, AND THE PROCESS FOR REQUESTING A QI WAIVER PURSUANT TO THE FAMILY FIRST PREVENTION SERVICES ACT (FFPSA) AND ASSEMBLY BILL (AB) 153 CHAPTER 86, STATUTES OF 2021)

REFERENCE: FEDERAL BIPARTISAN [BUDGET ACT OF 2018](#) (PUBLIC LAW 115-123); [ASSEMBLY BILL \(AB\) 153](#) (CHAPTER 86, STATUTES OF 2021); WELFARE AND INSTITUTIONS CODE (WIC) [WIC Section 16501](#); [WIC Section 224.1](#); [WIC Section 4096](#); [WIC Section 827](#); [WIC Section 361.22](#); [WIC Section 727.12](#); [BHIN 20-069](#); [ACIN I-73-21 BHIN 21-055](#); [ACIN I-21-18/MHSUDS IN 18-022](#); [ACL 21-113/BHIN 21-060](#); [BHIN 21-062](#)

**PURPOSE:**

The purpose of this California Department of Social Services (CDSS) All County Letter (ACL) and Department of Health Care Services (DHCS) Behavioral Health Information Notice (BHIN) is to provide county child welfare agencies, juvenile probation departments, tribes and behavioral health agencies with updated guidance regarding the Qualified Individual (QI). For purposes of this letter, the term “youth” is used to refer to children, youth, and nonminor dependents (NMDs).

**QI POLICY UPDATES**

This guidance addresses policy continuation from earlier guidance issued in [ACL 21-113/BHIN 21-060](#), including clarification on the requirement for a QI Assessment Report for each placement, updating a Child and Adolescent Needs And Strengths Tool (CANS), sharing of the QI Assessment Report, and updates to the revised QI Referral and QI Assessment Report template.

The guidance also provides a description of the process and application documents for requesting a QI Waiver that will allow qualified employees of placing agencies or individuals connected to or affiliated with placement settings in which children are placed by the State (IV-E) agency to serve as QIs.

**QI Assessment**

In addition to the circumstances indicating the need for a QI assessment found in [ACL 21-113/BHIN 21-060](#), a subsequent QI assessment is required when a youth’s Short Term Residential Therapeutic Program (STRTP) or Community Treatment Facility (CTF) placement is disrupted.

Examples of circumstances that may result in a disruption in STRTP or CTF placement include, but are not limited to:

- a) A change in facility organization with impact to the youth (distress experienced by the youth evaluated by the treatment team on a case by case basis).
- b) Environment or compatibility between youth within the facility (safety, trauma, interpersonal factors, etc.).
- c) STRTP or CTF program, program change, and goodness of fit with youth’s identified behavioral health needs.

- d) Youth is away from placement for more than 14 days and returns within the first 30 days of placement. A subsequent QI referral should be assigned to the same QI ensuring the youth is not over assessed and there is no duplication in services.
- e) Youth is away from placement for less than 14 days, and the youth is going to a different licensed STRTP or CTF. A subsequent QI referral should be assigned to the same QI ensuring the youth is not over assessed and there is no duplication in services.
- f) Relocation to another STRTP or CTF based on proximity to significant support person(s) and alignment with youth's permanency plan goals.

The law requires a QI assessment and report for each placement. The Administration for Children and Families (ACF) has provided guidance on the language "each placement" to be inclusive of events such as an address change. At first impression, this definition appears to exceed what we think of as youth driven indicators of need for a service. In order to better assess for impact the changes to placement have on the youth directly, CDSS and DHCS agreed that the QI should confer with the CFT, review the youth's medical record (including recent documentation regarding their treatment program) and make a clinical decision regarding the medical necessity of the assessment service. This allows for close monitoring for clinical impacts to the youth and updating the QI assessment report, which has potential to change the youth's course of care by way of a court decision regarding their placement.

Upon receipt of the QI referral, the QI will review the medical record, including the initial QI assessment and the youth's level of care and make a clinical decision regarding their course of action:

- a. The review of the medical record, including recent assessments, progress notes and Child and Family Team notes and for an Indian youth, engagement with the tribe, indicates to the QI that a medical record review is sufficient to update the QI Assessment Report form;
- Or,
- b. The review of the medical record, including recent assessments, progress notes and Child and Family Team notes and for an Indian youth, engagement with the tribe, indicates to the QI that a subsequent comprehensive biopsychosocial assessment is clinically indicated. This assessment will be used to update the QI Assessment Report form.

The QI assessment is to be performed as the assessment component of the Mental Health Services category of SMHS (QI course of action "b") when the QI reviews the youth's medical record and finds that a biopsychosocial assessment is medically necessary to evaluate the youth's needs, to make a level of care determination, and to develop both short and long terms goals and recommend services. The QI assessment

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is to be performed as the assessment component of Intensive Care Coordination (QI course of action “a”) when the QI reviews the child’s medical record and finds that the completion of a full biopsychosocial assessment is not medically necessary, such as when updating a previous assessment is clinically prudent.

#### Updating a CANS

If a current CANS has been completed as a part of the Child and Family Team within two months of the referral for a QI assessment, the QI may utilize or update those results at the discretion of the QI. If the CANS tool was completed more than two months before the referral to a qualified individual, the qualified individual shall update those results.

#### Privacy and Confidentiality and Sharing the QI Assessment Report

Part IV of the Family First Prevention Services Act (FFPSA) and [AB 153](#) determine when a QI Assessment Report is required and establish the parameters for sharing it. A QI Assessment Report is a confidential juvenile court record. Juvenile case records, including any QI assessment report, are entitled to the full protection of [WIC section 827](#), which protects juvenile records as confidential information and prohibits or limits the release of this confidential information to anyone other than those persons expressly entitled to access. Consistent with [WIC Sections 827](#) and 10850.1, members of the multidisciplinary team are entitled to share case file documents and information. The QI is a member of the multidisciplinary team pursuant to [WIC section 4096\(g\)\(8\)](#). Therefore, the caseworker may share case file documents with the QI, without a signed Release of Information (ROI) form. (Civ. Code, § 56.10(a), (c).)

County departments responsible for performing the QI role and county placing agencies should confer with their respective legal counsel regarding the extent their existing practices are consistent with federal and State law.

[WIC section 4096\(g\)](#) describes the minimum requirements for the QI assessment and the determinations and documentation that must be provided in writing. [WIC section 4096\(g\)](#) and [ACL 21-113/BHIN 21-060](#) delineate the activities required of the QI in conducting an assessment, which must include engaging with the youth’s Child and Family Team, including the tribe in the case of an Indian youth, assessing the youth’s strengths and needs, identifying goals and treatment needs. The QI must comply with existing statutes or policies regarding waivers and consent requirements in conducting these activities. These requirements may impact the scope and content of the QI Assessment Report. Regardless of the presence of a signed ROI form, at a minimum, the QI Assessment Report must include information resulting from an evaluation of the youth’s needs and recommendations regarding medically necessary services and treatment, in the least restrictive environment. The QI must document in the assessment report their determination for the youth’s level of care and recommend the

placement setting consistent with the short- and long-term mental and behavioral health goals for the youth. [ACL 21-113/BHIN 21-060](#) provides a list of specific contents.

The QI Assessment Report must be shared in full as required by law ([Civ. Code, § 56.10\(a\), \(b\)\(1\) & \(3\)](#)). HIPAA permits disclosures of protected health information (PHI) without consent in situations that are required by law (45 C.F.R. §164.512(a)). As enacted in [AB 153, WIC section 4096\(g\)\(6\)](#) explicitly requires the QI to provide the QI Assessment Report to the county placing agency and the STRTP where the youth is or will be placed, and thus can be shared without consent consistent with HIPAA requirements.

The county caseworker must include the QI Assessment Report with their own report to the court (WIC sections 361.22 and 727.12) on all parties to the proceeding, including “(1) The child's parents and their attorneys of record, if parental rights have not been terminated, or a nonminor dependent's parents and their attorneys of record, if the parent is receiving family reunification services; (2) The child's legal guardians, if applicable, and their attorneys of record; (3) The attorney of record for the child or nonminor dependent, and the child if older than 10 years of age, or the nonminor dependent; (4) The child's or nonminor dependent's Indian tribe and any Indian custodian, in the case of an Indian child, and their attorneys of record; and (5) The child's or nonminor dependent's Court Appointed Special Advocate volunteer, if applicable.” (Cal. Rules of Court, rule 5.618(d)(2). As part of the juvenile case file, the QI Assessment Report “may not be disseminated further to any person or agency, other than a person or agency authorized to receive documents, without approval of the juvenile court.” [WIC § 827\(a\)\(4\)](#).

The court must consider the QI Assessment Report and other evidence submitted by the caseworker, make determinations and findings, approve or disapprove the placement, and provide a basis for its determinations. (WIC §§ 361.22(e) & 727.12(e), (42 U.S.C. § 675a(c)(2).

#### Updated QI Referral and QI Assessment Report Forms

CDSS and DHCS have updated the QI Referral form (Enclosure A) and QI Assessment Report form (Enclosure B), attached hereto to this letter.

#### **COUNTY/TRIBAL REQUEST FOR QI WAIVER**

The Secretary of the U.S. Department of Health and Human Services has approved California's request for a federal Title IV-E waiver, in accordance with the Section 475A(c)(1)(D) of the Social Security Act. This waiver allows the QI performing the assessment to be an employee of the Title IV-E agency and/or connected to or affiliated with any placement setting. The waiver does not eliminate the requirements set forth in

[ACL No. 21-113 / BHIN 21-060](#). CDSS will ensure that waived QIs are in compliance

with the waiver request process. This process is designed to ensure that any individual who may serve as a QI be held to a high standard for objectivity, including identification and review of any conflicts of interest which have the potential to impact the recommendations from their assessment and determining the most appropriate placement for a child in accordance with section 475A(c)(1)(A) of the FFPSA.

QI assessments performed by individuals pursuant to this waiver can only be billed as Specialty Mental Health Services (SMHS) when the provider is a Medi-Cal SMHS provider and when performed in compliance with all QI assessment requirements.

### **QI WAIVER PROCESS**

The departments have developed a process to review requests submitted to CDSS by child welfare and juvenile probation agencies or IV-E Tribes, jointly with their county Mental Health Plan, for a waiver of the requirement under FFPSA and WIC section 16501(l)(2) that a QI is not be an employee of the IV-E agency or IV-E agreement Tribe and not be connected to, or affiliated with, any placement setting in which the IV-E agency or IV-E agreement Tribe places children.<sup>1</sup> The waiver request process is designed to ensure that each individual who performs the QI role is held to a high standard for objectivity, including identification and review of any conflicts of interest which have the potential to impact the QI assessment recommendations. The waiver request review process ensures consistency with the application of statewide standards for the QI qualifications, including competencies, training requirements, and experience in performing activities carried out by a QI, and will ensure a high standard for QI objectivity on a case-by-case basis. When a request is determined to meet the requirements (See Enclosure C), CDSS will issue written approval for one year from the time of approval to the requesting QI candidate and county partners, granting permission for the individual to serve as a waived QI. This written approval will also include any special conditions, in addition to the standard requirements provided in statewide guidance, for oversight of the QI's objectivity.

Any conflicts of interest identified in the application process will be reviewed by CDSS to ascertain QI objectivity in general (e.g. affiliation with placement setting or placing agency) and the QI will be required to self-assess for objectivity that is youth-specific

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<sup>1</sup> Connect to or affiliated with is defined as having a relationship of ownership or control with any licensed placement setting in which children are placed by the IV-E agency or have a relationship of ownership or control with a third party that has such a relationship. This includes but is not limited to licensee's (STRTP, CTF, FFA, Resource Parents), mental health service providers employed by or connected to a placing setting, and anyone working under the direction of the placement setting including employees, contractors, and others providing services to the placement setting.



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(e.g. the QI candidate is providing services to the youth in another capacity such as case management).

CDSS will monitor QI objectivity in the following ways:

- By examining the trends for placement outcomes related to the implementation of the federal waiver.
- By providing oversight using data from the Integrated Practice Child and Adolescent Need and Strengths (IP-CANS) assessment tool
- By other evaluation methods including survey style questions in the application itself to identify any factors that may compromise the QIs objectivity for each youth case assignment.
- By ensuring each waiver application contains the following:
  - 1) Identification of the type of waiver requested (employed by the IV-E agency, affiliated with a placement setting, or both)
  - 2) Rationale for the request, including a description of the reason why the MHP will not be able to perform the QI activities and identification of the steps or resources required for the applicant to provide QI assessments as SMHS, whenever possible, consistent with all State and federal Medicaid requirements.
  - 3) Attestation that the waived QI will meet the minimum QI qualifications, including a description of how the training and experience of the individual(s) who will serve as the QI meet the level of clinical competence necessary to engage in the activities of a QI including, but not limited to, expertise and training in clinical assessment, treatment planning and Intensive Care Coordination (ICC)
  - 4) Assurance from the entity making the request that any individual for whom a waiver is requested will complete all required QI training. The County child welfare agency or juvenile probation department shall submit documented certification of the individual's completed training within 30 days of the individual's designation to serve as a QI.
  - 5) The process for oversight of the QI and quality assurance of QI assessments to ensure adherence to the State model, including at a minimum: a) that data will be collected and monitored related to how many QI assessments recommend QRTP placement and how many do not, and b) how stakeholders, including youth and families, will be involved in the quality assurance process.
  - 6) A description of how objectivity in decision making is determined and ensured. This must include, but is not limited to, attestation that an individual for whom a waiver is requested will not concurrently hold responsibility as a QI for any child for whom they are also the child welfare or juvenile probation placement case carrying worker at the same time.

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- 7) Confirmation that the individual for whom a waiver is requested is not a regular employee of an STRTP facility. The individual may be affiliated with a placement setting designated as an STRTP but cannot be an employee of the STRTP working within the STRTP facility.
- 8) An attestation by the MHP that the individual(s) who will serve as a QI meet the minimum QI qualifications to provide ICC.

CDSS will maintain certification of all approved waived QIs and their waiver applications attesting to objectivity in conducting the assessment.

### **REQUESTING A WAIVER**

A county or IV-E agreement Tribe seeking a waiver may choose from two waiver options:

- 1) Waiver option one: Waiver Candidate is employed by the IV-E agency (Child Welfare or Probation) or a IV-E agreement Tribe or a community based non-profit organization that is affiliated with the IV-E agency.

A county placing agency and a IV-E agreement Tribe may request an individual employee of the IV-E agency or a IV-E agreement Tribe or a community based non-profit organization that is affiliated with the IV-E agency to be designated as a QI.

The employee cannot:

- Concurrently hold responsibility as a QI for any youth for whom they are also assigned as a child welfare or juvenile probation caseworker at the same time or,
- Be an individual in the chain of command of an individual who is directly or indirectly working on the case of a youth being evaluated by the QI.

- 2) Waiver option two: Waiver Candidate is affiliated with or connected to a Placement Setting.

Option Two is for a candidate affiliated with or connected to a placement setting in which the IV-E agency or a IV-E agreement Tribe places children pursuant to Social Security Act (42 U.S.C. 675a)(c)(D)(i), subject to FFPSA requirements STRTP/CTF/residential facility, or Foster Family Agency (FFA)).

A county placing agency or a IV-E agreement Tribe may request a waiver for an individual identified by a community based non-profit organization that is affiliated with or connected to a placement setting used by the placing agency or a IV-E agreement Tribe:



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- Is not affiliated with or connected to any STRTP/CTF/residential facility or who regularly works within such facility.
- Is not affiliated with or connected to any STRTP/CTF/residential facility or FFA where the youth is currently placed or where the child may be placed.

A waiver request must be submitted for each waiver candidate on an annual basis. A candidate must re-apply for a QI waiver before the expiration of the current waiver approval term. A change in employment or affiliation (moving to another legal entity or title IV-E agency) requires that the waived QI re-apply for a new QI waiver approval and invalidates any existing waiver approval. Each waiver request must be signed by the county placing agency (the IV-E agreement tribe, county child welfare director, chief probation officer, or their designee), and the mental health plan director. If the county is requesting a waiver for someone who will perform the role of the QI with Indian Children, tribes must be engaged.

The agency submitting the request must fill out all sections (I-IV) of complete the attached QI Waiver Request Form (Enclosure C). The completed waiver request signed by placing agency, tribe, and MHP should be submitted to CDSS at [FFPSA@dss.ca.gov](mailto:FFPSA@dss.ca.gov).

#### **WAIVER REQUEST REVIEW AND DETERMINATION**

CDSS and DHCS will review each waiver request. CDSS will determine whether the criteria are met to approve the Title IV-E waiver application. CDSS and DHCS will provide technical assistance to the requesting county to assist with clarifying their requests, as needed. CDSS will issue written approval to the requesting county partners granting permission for the individual to serve as a QI and any special conditions, in addition to the standard requirements provided in statewide guidance, for oversight of the QI's objectivity.

CDSS will work within the timelines listed below for the review and determination. Extensions to these timelines may be necessary. If an extension is needed, CDSS will notify the requesting county agency or the IV-E agreement Tribe and provide an updated timeline for the completion of the activity.

- 1) CDSS will respond to the waiver request within 30 business days after submission indicating whether the request was approved or denied. If approved, the request will be signed by CDSS.
- 2) If a request is not approved, CDSS and DHCS will schedule a technical assistance call or meeting within 10 business days of the initial response.
- 3) Requesting agencies may submit a new waiver request following the technical assistance call or meeting. The waiver request will be treated as a new request.

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When a request does not provide QI assessments as a SMHS, the CDSS will include in its written response to the waiver request the actions the applicant is expected to take in the course of the year to be in the position to provide SMHS consistent with all state and federal Medicaid requirements.

If you have any questions concerning this letter, please contact the CDSS FFPSA inbox at [FFPSA@dss.ca.gov](mailto:FFPSA@dss.ca.gov) or DHCS at [FFPSA@dhcs.ca.gov](mailto:FFPSA@dhcs.ca.gov).

Sincerely,

***Original Document Signed By***

ANGIE SCHWARTZ  
Deputy Director, Children and Family Services Division  
California Department of Social Services

TYLER SADWITH  
Deputy Director, Behavioral Health  
Department of Health Care Services

Attachments

QI Referral form (Enclosure A)  
QI Assessment Report form (Enclosure B)  
QI Waiver Request form (Enclosure C)