

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 20, 2007

ALL COUNTY LETTER NO. 07-48

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY PROBATION OFFICERS
 ALL COUNTY FISCAL OFFICERS
 ALL COUNTY AUDITOR CONTROLLERS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: CLARIFYING GUIDANCE REGARDING CANDIDATES FOR FOSTER CARE

References: Administration for Children, Youth and Families-Policy Announcement
 (ACYF-Children's Bureau)-PA 01-02,
 Department Appeals Board (DAB) Decisions No. 1428 (1993-New York)
 And No. 1783 (Missouri),
 All County Letter (ACL) Nos. 04-32, 07-14 and Errata to 07-14

The purpose of this ACL is to define when a child may be considered a candidate for foster care. While ACL No. 04-32 focused on Title IV-E funding opportunities for public agencies performing administrative preplacement prevention services for candidates of foster care, this ACL will provide more clarification on the specific criteria for establishing whether a child is a candidate for foster care.

DEFINITION OF CANDIDATE FOR FOSTER CARE

Candidacy is defined in the federal Child Welfare Policy Manual 8.1D2: "A *candidate for foster care is a child who is at serious risk of removal from home as evidenced by the state agency either pursuing his/her removal from the home or making reasonable efforts to prevent such removal.*"

In clarifying what is meant by a child who is a candidate for foster care, the Department Appeals Board (DAB), which provides guidance in this area, issued the following decisions:

DAB Decision 1783 (Missouri) states that a candidate is a child for whom "a decision has been made that [the] child should be placed in foster care if preventative services are not effective." Missouri's interpretation incorrectly only required a possibility of removal if unforeseen events

occurred or if the situation deteriorated. The decision states that Title IV-E was designed to “address the needs of a much smaller subgroup of children who face the most serious of family circumstances,” not as an uncapped program to fund case planning and other administrative services to children from troubled families who would benefit from services but who are not in such a serious situation that foster care would be the plan if the services failed.

Thus, DAB Decision 1783 emphasizes that, in order to meet the definition of candidate under Title IV-E, a decision must have been made that the next step for the child was foster care.

DAB Decision 1428 (New York), identifies the point at which a child may be considered a candidate:

- “The methods of documenting candidacy involve activities which occur at a point when the state has initiated efforts to actually remove a child from his or her home or at the point the state has made a decision that the child should be placed in foster care unless preventative services are effective.”
- A report of child abuse or neglect is insufficient for establishing a child's candidacy for foster care.
- A child cannot be considered a candidate for foster care when the state agency has no formal involvement with the child or simply because he/she has been described as “at risk” due to circumstances such as social/interpersonal problems or a dysfunctional home environment.

The Deficit Reduction Act (DRA) of 2005 codified federal policy as reflected in prior Board decisions and policy transmittals. The standards stated in these prior documents continue to be relevant.

ACCEPTABLE METHODS OF DEMONSTRATING CANDIDACY

The ACYF-CB-PA-01-02 states that the State agency (or another public agency that has entered into an agreement with the State Title IV-E Agency) is responsible for making the determination for candidacy and outlines the three acceptable methods. In California, these requirements shall be fulfilled by the County Welfare Department.

1. A defined case plan which clearly indicates that, absent effective preventive services, foster care is the planned arrangement for the child

[Note: A case plan which incorporates the requirements as defined in Manual of Policies & Procedures (MPP) 31-201 through 31-206 or its equivalent meets the definition of a defined case plan]; OR

2. Evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order or a transcript of the court's proceedings; OR
3. An eligibility determination form completed by the County Welfare Department which establishes the child's eligibility under Title IV-E. (Note: Evidence of AFDC eligibility in and of itself is insufficient to establish a child's candidacy for foster care.)

In all three of these methods, it must be clearly documented that the next step for this child is foster care. Otherwise candidacy cannot be considered to exist. It is the responsibility of the counties to ensure that adequate documentation exists to demonstrate candidacy in the event of an audit.

REDETERMINATION OF CANDIDACY STATUS

Counties are also reminded as outlined in ACL No. 07-14, the DRA, Public Law 109-171, dated February 13, 2006, requires that counties now document the status of the child who is at imminent risk of being removed. This documentation is to be made at least every six months up to the time of removal from the home or when the child is determined to no longer be at risk of removal. Children who were determined to be foster care candidates as of February 28, 2006, must have a redetermination of their candidacy completed by August 31, 2006, and every six months thereafter.

If you have any questions regarding this ACL, please contact your county Foster Care Eligibility Consultant at (916) 651-9152.

Sincerely,

Original Document Signed By:

MARY L. AULT
Deputy Director
Children And Family Services Division

c: CWDA
CPOC