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CALIFORNIA ALLIANCE OF CHILD AND FAMILY
SERVICES

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CALIFORNIA ALLIANCE OF CHILD AND
FAMILY SERVICES,

Plaintiff,

v.

CLIFF ALLENBY, Interim Director of the
California Department of Social Services, in his
official capacity; MARY AULT, Deputy Director
of the Children and Family Services Division of
the California Department of Social Services, in
her official capacity,

Defendants.

Case No. CV 06-04095-MHP

**RESPONSE TO DEFENDANTS'
FEBRUARY 26, 2010 LETTER
REQUESTING AMENDED
JUDGMENT [DOCUMENT NO. 93]**

I. INTRODUCTION

Welfare and Institutions Code section 11462(m) is an integral part of California's foster care group home payment rate-setting methodology under the Rate Classification Level ("RCL") system. WIC Section 11462(m) requires the Department of Social Services to report to the Legislature increases in certain costs that are not reflected in the California Necessities Index ("CNI"), and thus provides a way for the Legislature to adjust rates to account for such increased costs. The State now belatedly requests the Court to remove the WIC section 11462(m) reference from the Judgment in this case. Doing so would subvert the Ninth Circuit's ruling requiring the State to pay costs that group homes incur in providing foster care "in full" by increasing certain costs (not reflected in the CNI) without corresponding RCL payment rate increases accounting for such new costs. The State's request is substantively without merit and procedurally defective and should be denied.

II. FACTUAL AND PROCEDURAL BACKGROUND

On January 15, 2010, the California Alliance of Child and Family Services ("Alliance") submitted a Proposed Judgment (Docket No. 87) following the United States Court of Appeals for the Ninth Circuit's order in *California Alliance of Child & Family Services v. Allenby*, 589 F.3d 1017 (9th Cir. 2009). The California Department of Social Services (the "State" or "DSS") objected to the Proposed Judgment (Docket No. 88) and the Court heard argument on February 22, 2010. The Court issued its Judgment on February 24, 2010, (Docket No. 92), which essentially adopted the Alliance's Proposed Judgment in its entirety. On February 26, 2010, through its procedurally defective letter (Docket No. 93), the State objected to the Judgment for a *second* time and asserted new, baseless arguments not made in its original objections and thus waived.¹ Pursuant to the Court's March 12, 2010 Order, (Docket # 98), the Alliance responds only to the State's assertion that WIC section 11462(m) is not part of the RCL rate-setting

¹ The State's letter brief to amend the judgment failed to comply with Federal Rule of Civil Procedure 59(e) governing motions to amend or alter judgments, and violated the Court's standing order prohibiting letter briefs. *See* Fed. R. Civ. P. 59(e); Standing Ord. at 6.

1 methodology, and will not address the State's other arguments because they are meritless and, in
 2 all events, waived due to the State's failure to timely object to the Alliance's proposed judgment.

3 **III. WIC SECTION 11462(M) IS AN INTEGRAL PART OF THE RCL SYSTEM**

4 WIC Section 11462 establishes and describes the RCL system. WIC Section 11462(m)
 5 recognizes that group homes paid under the RCL system could incur cost increases that would
 6 not be measured by the California Necessities Index ("CNI"). WIC section 11462(m) requires
 7 the DSS to annually provide the Legislature "with a list of any new departmental requirements
 8 established during the previous fiscal year concerning the operation of group homes, and of any
 9 unusual, industrywide increase in costs associated with the provision of group care that may have
 10 significant fiscal impact on providers of group homes care." This information is available for the
 11 Legislature "to determine whether an appropriation for rate adjustments is needed in the
 12 subsequent fiscal year."

13 WIC Section 11462(m)'s requirements protect group homes from the threat of the CDSS
 14 imposing new costs on group homes that outstrip the percentage increase in the CNI (*e.g.*,
 15 increases in licensing fees or higher service requirements). It also protects group homes from
 16 other "industrywide" cost increases that are not reflected in the CNI, such as new
 17 federal/state requirements for employers to contribute substantially more than they do now for
 18 the costs of health insurance for their employees or worker's compensation premiums.²

19 The Ninth Circuit ordered the State to cover foster care group homes' costs of care "in
 20 full, not in part." *California Alliance of Child & Family Services v. Allenby*, 589 F.3d 1017.
 21 Removing the reference to WIC section 11462(m) from the Judgment would enable the State to
 22 subvert the Ninth Circuit's ruling by imposing new requirements with new costs on group homes
 23 in the future and permit the State to refuse to provide adjustments to the RCL rates to reflect such
 24 new costs. In short, the RCL rates in the future would not cover the costs of care "in full," but
 25 only "in part." Such a result would violate the Ninth Circuit's order and the Court should reject

26
 27 ² For example, in the 1990s, the California Legislature passed legislation that resulted in a
 28 dramatic increase in Workers' Compensation Insurance premiums paid by employers.

1 the State's procedurally improper attempt to do so.

2 The State contends that WIC section 11462(m) "is not part of the RCL rate-setting
3 methodology, and was never intended to be tied to the RCL." (Docket No. 93 at 2.) The State
4 argues that "[WIC section 11462(m)] was never intended to supplement the CNI adjustment
5 factor of the RCL system, but rather was created as a means to keep the State's Legislature
6 informed of *other* costs impacting the group home industry, which are costs not related to
7 federally mandated 'foster care maintenance payments' costs as defined in the Child Welfare Act
8 at 42 U.S.C. section 675(4)(A)." (*Id.*). Therefore, the State argues "this provision of the
9 Judgment is also beyond the scope of Ninth Circuit's decision, and is not properly included in
10 this Judgment." (*Id.*) (emphasis in original).

11 The State's arguments are unsupported. The Court's Judgment does not require the State
12 to adjust the Standardized Schedule of Rates to reflect the types of cost increases covered by
13 WIC section 11462(m) that occurred in prior years between the implementation of the RCL
14 system in 1990 and 2008-09. Rather, the State is required to adjust the Standardized Schedule of
15 Rates only "to the extent that the additional costs of such new departmental requirements and
16 industrywide increase in costs are excluded from the CNI calculations." (Docket No. 92.)
17 Nevertheless, the State's contentions that WIC section 11462(m) is not part of the RCL rate-
18 setting methodology, was never intended to be tied to the RCL, and was never intended to
19 supplement the CNI adjustment factor of the RCL system are incorrect.

20 *First*, WIC section 11462 establishes and describes the RCL system. The RCL system is
21 section 11462's sole subject. WIC section 11462(m) is a subdivision of 11462. Subdivision (m),
22 therefore, is clearly a part of WIC section 11462, which is, undeniably, a part of the RCL system.
23 The State's claim that section 11462(m) "is not part of the RCL rate-setting methodology"
24 requires one to suspend reality and believe that section 11462 refers to something other than the
25 RCL system. This makes no sense.

26 *Second*, the State avers that section 11462(m) "was never intended to be tied to the
27 RCL." This is also demonstrably incorrect. The requirement imposed on the DSS by WIC
28 section 11462(m) was included in the original legislation that enacted the RCL system. (*See* SB

A/73327901.3

370, Chapter 1294, Statutes of 1989.) Indeed, in Senate Bill 370 this same provision was subdivision (l), but was renumbered as section 11462 over the intervening years.

The RCL system implemented in 1990 included the CNI as a way to measure increases in the costs that group homes would incur in providing care and supervision, as defined by the Child Welfare Act, resulting from inflation in the general economy (*e.g.*, food, clothing, shelter). However, through WIC section 11462(m), the RCL system design recognized that group homes *could* experience cost increases, which would not be measured at all, or would be underestimated, by the CNI. Thus, to ensure that the Standardized Schedule of Rates continued to cover the changing costs of care over time, the State chose to make adjustments to the Standardized Schedule of Rates for costs that could evade CNI measurement through WIC section 11462(m). Accordingly, WIC section 11462(m) is a long-used mechanism for making such cost adjustments through the information DSS is required to report to the Legislature.³

Finally, the State claims that WIC section 11462(m) “was created as a means to keep the State’s Legislature informed of *other* costs impacting the group home industry, which are costs *not* related to federally mandated ‘foster care maintenance payments’ costs.” This too is incorrect. WIC section 11462(m) only concerns “allowable costs” that are affected by “new departmental requirements” and “any unusual, industrywide increase in costs associated with the provision of group care.” Cal. Welf. & Inst. Code § 11462(m). The State’s contention otherwise is proven incorrect by reference to certain reports that the DSS itself has submitted to the Legislature beginning in 1990 in accordance with WIC section 11462(m).⁴ The following two examples illustrate how the State’s reports clearly address AFDC-Foster Care “allowable” costs

³ Indeed, there are many instances since 1990 where group home costs have significantly increased because of “new departmental requirements” and “unusual, industrywide increase in costs.” The Alliance prepared and served a detailed list of such costs for the period from 1990 through 2007 on the State several years ago. (*See* Plaintiff’s Responses to Defendant’s First Set of Interrogatories to Plaintiff, Interrogatory No. 9, attached hereto as Exhibit A.)

⁴ Attached hereto as Exhibit B are certain DSS prepared reports titled: “Report to Legislature [:] New Foster Care Group Home Requirements/Increases in Industry Costs”

related to federally mandated “foster care maintenance payments”:

- October 1, 1999 DSS report cited: “submission of an annual financial audit” and “training standards for group home direct care staff and facility managers” as two of the statutory and/or regulatory changes “enacted during Fiscal Year 1998-99 that imposed new requirements that impacted the operation of group homes.”
- October 1, 2001 DSS report cited “increased utility cost” and “elimination of the exemption to the eight-hour workday as items that “may have a potential impact upon group home providers.”

As with the other items addressed in the State’s reports and in the other annual reports submitted by DSS, these examples demonstrate that WIC section 11462 addresses types of costs that are directly related to federally mandated “foster care maintenance payments.”

IV. THE STATE WAIVED ITS OBJECTIONS TO THE JUDGMENT

The Alliance filed its Proposed Judgment on January 15, 2010, (Docket No. 87), and the State filed its Response and Objections on January 29, 2010. (Docket No. 88). The State’s Response and Objections failed to raise any issue with WIC section 11462(m). The State’s failure to timely object waived its objections. *See Doi v. Halekulani Corp.*, 276 F.3d. 1131, 1140 (9th Cir. 2002) (“It follows that if a party fails to raise an objection to an issue before judgment, he or she waives the right to challenge the issue on appeal.”) On February 24, 2010, the Court entered judgment in favor of the Alliance, adopting paragraph 4(d)’s language. On February 26, 2010, the State filed its letter brief objecting to paragraph 4(d). The State fails to explain why it failed to timely object to this language in its Objections and Response. Accordingly, the State’s objections are waived and untimely, and relief should be denied.

V. CONCLUSION

Accordingly, for the foregoing reasons, the Court should deny the State’s improper and procedurally defective request to vacate and amend the Judgment.

DATED: March 22, 2010

Bingham McCutchen LLP

By: /s/ William F. Abrams

William F. Abrams
Attorneys for Plaintiff
CALIFORNIA ALLIANCE OF CHILD AND
FAMILY SERVICES

EXHIBIT A

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15 SERVICES

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 CALIFORNIA ALLIANCE OF CHILD AND
FAMILY SERVICES,

20 Plaintiff,

21 v.

22 CLIFF ALLENBY, Interim Director of the
California Department of Social Services, in his
23 official capacity; MARY AULT, Deputy Director
of the Children and Family Services Division of
24 the California Department of Social Services, in
her official capacity,

25 Defendants.
26

CASE NO. C 06-4095 MHP
The Hon. Marilyn H. Patel

**PLAINTIFF'S RESPONSES TO
DEFENDANTS' FIRST SET OF
INTERROGATORIES**

1 PROPOUNDING PARTY: Defendants Cliff Allenby and Mary Ault
 2 RESPONDING PARTY: Plaintiff California Alliance of Child and Family Services
 3 SET NUMBER: One

4 Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff California Alliance
 5 Of Child And Family Services ("the Alliance") hereby responds to Defendants' Cliff Allenby
 6 and Mary Ault First Set of Interrogatories as follows:

8 PRELIMINARY STATEMENT

9 These responses are made solely for the purpose of this action. The responses do not
 10 waive any appropriate objection, including, but not limited to, those based on competency,
 11 relevancy, materiality, attorney-client privilege, work-product or admissibility, which would
 12 require the exclusion of any statement made herein if the statement were offered into evidence in
 13 Court. All objections to the special interrogatories and any further discovery relating to the
 14 matters contained in the interrogatories are reserved and may be interposed at the time of trial or
 15 other proceeding. These general objections shall be deemed incorporated by reference into each
 16 and every response herein made to a specific request.

17
 18 The Alliance has not completed its investigation of the facts relating to this case, has not
 19 completed its discovery in this action, and has not completed its preparation for trial. All of the
 20 responses contained herein are based upon such information and documents presently available
 21 to and specifically known to the Alliance. The Alliance discloses only those contentions which
 22 presently are known. It is anticipated that further discovery, investigation, legal research and
 23 analysis will supply additional facts, add meaning to known facts, as well as establish entirely
 24 new facts or conclusions and legal contentions, all of which may lead to additions to the
 25 responses herein set forth.

26
 27 The following responses are given without prejudice to the Alliance's right to produce
 28 evidence of any subsequently discovered fact or facts which the Alliance may later uncover. The

1 answers contained herein are made in a reasonable and good faith effort to supply as much
2 factual information as is presently known, but should in no way lead to the prejudice of the
3 Alliance in relation to further discovery, research or analysis.

4
5
6 **GENERAL OBJECTIONS**

7 The Alliance makes the following general objections to each and every individual
8 interrogatory and hereby incorporates such objections into each and every individual response
9 herein:

10
11 1. The Alliance objects to each interrogatory to the extent that it calls for
12 information that is not relevant to this action nor reasonably calculated to lead to the discovery of
13 admissible evidence.

14
15 2. The Alliance objects to each interrogatory to the extent that it seeks to compel the
16 production of information that is protected from disclosure by an applicable privilege, including,
17 but not limited to, the attorney-client privilege and/or the attorney work product doctrine.

18
19 3. The Alliance objects to each interrogatory to the extent that it seeks information
20 that is equally available to Defendants.

21
22 4. The Alliance objects to each interrogatory to the extent that it is grossly
23 overbroad, unduly burdensome, or oppressive.

24
25 5. The Alliance objects to each interrogatory to the extent that it is vague,
26 ambiguous, or unintelligible.

27
28 Subject to and without waiving any of the foregoing general or specific objections, the

Alliance responds as follows:

RESPONSES TO SPECIAL INTERROGATORIES

INTERROGATORY NO. 1:

Please state the name, address and telephone number of each Person who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

RESPONSE TO INTERROGATORY NO. 1:

Doug Johnson
California Alliance of Child and Family Services
2201 K Street
Sacramento, CA 95816
(916) 449-2273

Kim Janoe (Assisted in the preparation of Interrogatory No. 3 only)
California Alliance of Child and Family Services
2201 K Street
Sacramento, CA 95816
(916) 449-2273

INTERROGATORY NO. 2:

For each of YOUR responses to a request for admission served with these interrogatories that is not an unqualified admission, please provide the following:

- (a) the number of the request;
- (b) all facts upon which YOU base YOUR response;
- (c) the names, addresses, and telephone numbers of all Persons who have knowledge of those facts; and
- (d) identify all DOCUMENTS and other tangible things that support YOUR response and state the name, address, and telephone number of the Person who has each DOCUMENT or tangible thing.

RESPONSE TO INTERROGATORY NO. 2:

The Alliance objects on the grounds that this interrogatory is overbroad and unduly burdensome. The Alliance objects to this interrogatory on the grounds that it is compound and

1 that the information sought is equally available to Defendants. Subject to and without waiving
 2 any of the foregoing general or specific objections herein, or those made in reference to
 3 Defendant's First Set of Requests for Admissions, the Alliance responds as follows:

4 (a) Request for Admission No. 1

5 (b) The rates paid to group home programs under the Rate Classification Level system on
 6 behalf of eligible foster children do not comply with the Child Welfare Act.

7 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
 8 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons
 9 with knowledge or information relating to this request.

10 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 11 privileged, non-public documents in its possession, custody or control responsive to this request,
 12 if any, which have not been previously produced by the Alliance or any third party.

13
 14 (a) Request for Admission No. 2

15 (b) The rates paid to group home programs under the Rate Classification Level system on
 16 behalf of eligible foster children do not comply with the Child Welfare Act.

17 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
 18 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
 19 knowledge or information relating to this request.

20 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 21 privileged, non-public documents in its possession, custody or control responsive to this request,
 22 if any, which have not been previously produced by the Alliance or any third party.

23
 24 (a) Request for Admission No. 3

25 (b) Child Welfare Act, 42 U.S.C. §675(4)(A), as well as other federal statutes, federal
 26 regulations, and federal directives provide the basis for federal and state officials to interpret and
 27 apply 42 U.S.C. §675(4)(A), including but not limited to, 42 U.S.C. §671(a); 45 C.F.R. Part
 28 1355, 1355.20; 45 C.F.R. Part 1356, 1356.21; Office of Management and Budget Circular A-87;

1 Cost Principles for State, Local, and Indian Tribal Governments; Office of Management and
 2 Budget Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations;
 3 Directives issued by the Department of Health and Human Services, including, but not limited
 4 to, Action Transmittals, Information Memoranda, Policy Guides and Manuals, Program
 5 Instructions, and the Child Welfare Policy Manual.

6 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
 7 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
 8 knowledge or information relating to this request.

9 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 10 privileged, non-public documents in its possession, custody or control responsive to this request,
 11 if any, which have not been previously produced by the Alliance or any third party.

12
 13 (a) Request for Admission No. 4

14 (b) Child Welfare Act, 42 U.S.C. §675(4)(A), as well as other federal statutes, federal
 15 regulations, and federal directives provide the basis for federal and state officials to interpret and
 16 apply 42 U.S.C. §675(4)(A), including but not limited to, 42 U.S.C. §671(a); 45 C.F.R. Part
 17 1355, 1355.20; 45 C.F.R. Part 1356, 1356.21; Office of Management and Budget Circular A-87;
 18 Cost Principles for State, Local, and Indian Tribal Governments; Office of Management and
 19 Budget Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations;
 20 Directives issued by the Department of Health and Human Services, including, but not limited
 21 to, Action Transmittals, Information Memoranda, Policy Guides and Manuals, Program
 22 Instructions, and the Child Welfare Policy Manual.

23 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
 24 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
 25 knowledge or information relating to this request.

26 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 27 privileged, non-public documents in its possession, custody or control responsive to this request,
 28 if any, which have not been previously produced by the Alliance or any third party.

1 (a) Request for Admission No. 5

2 (b) Child Welfare Act, 42 U.S.C. §675(4)(A), as well as other federal statutes, federal
3 regulations, and federal directives provide the basis for federal and state officials to interpret and
4 apply 42 U.S.C. §675(4)(A), including but not limited to, 42 U.S.C. §671(a); 45 C.F.R. Part
5 1355, 1355.20; 45 C.F.R. Part 1356, 1356.21; Office of Management and Budget Circular A-87;
6 Cost Principles for State, Local, and Indian Tribal Governments; Office of Management and
7 Budget Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations;
8 Directives issued by the Department of Health and Human Services, including, but not limited
9 to, Action Transmittals, Information Memoranda, Policy Guides and Manuals, Program
10 Instructions, and the Child Welfare Policy Manual.

11 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
12 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
13 knowledge or information relating to this request.

14 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
15 privileged, non-public documents in its possession, custody or control responsive to this request,
16 if any, which have not been previously produced by the Alliance or any third party.

17
18 (a) Request for Admission No. 6

19 (b) Child Welfare Act, 42 U.S.C. §675(4)(A), as well as other federal statutes, federal
20 regulations, and federal directives provide the basis for federal and state officials to interpret and
21 apply 42 U.S.C. §675(4)(A), including but not limited to, 42 U.S.C. §671(a); 45 C.F.R. Part
22 1355, 1355.20; 45 C.F.R. Part 1356, 1356.21; Office of Management and Budget Circular A-87;
23 Cost Principles for State, Local, and Indian Tribal Governments; Office of Management and
24 Budget Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations;
25 Directives issued by the Department of Health and Human Services, including, but not limited
26 to, Action Transmittals, Information Memoranda, Policy Guides and Manuals, Program
27 Instructions, and the Child Welfare Policy Manual.

28 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street

1 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
2 knowledge or information relating to this request.

3 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
4 privileged, non-public documents in its possession, custody or control responsive to this request,
5 if any, which have not been previously produced by the Alliance or any third party.

6
7 (a) Request for Admission No. 7

8 (b) The provisions of California law implementing the Child Welfare Act include an
9 annual discretionary cost-of-living adjustment (COLA), subject to the availability of funds, for
10 AFDC-Foster Care rates established by the California Department of Social Services using the
11 California Necessities Index (CNI). These include Welfare and Institutions Code Sections
12 11461, 11462, 11463, 11465, and 18358.30.

13 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
14 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
15 knowledge or information relating to this request.

16 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
17 privileged, non-public documents in its possession, custody or control responsive to this request,
18 if any, which have not been previously produced by the Alliance or any third party.

19
20 (a) Request for Admission No. 8

21 (b) The provisions of California law implementing the Child Welfare Act include an
22 annual discretionary cost-of-living adjustment (COLA), subject to the availability of funds, for
23 AFDC-Foster Care rates established by the California Department of Social Services using the
24 California Necessities Index (CNI). These include Welfare and Institutions Code Sections
25 11461, 11462, 11463, 11465, and 18358.30.

26 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
27 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
28 knowledge or information relating to this request.

1 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 2 privileged, non-public documents in its possession, custody or control responsive to this request,
 3 if any, which have not been previously produced by the Alliance or any third party.

4
 5 (a) Request for Admission No. 9

6 (b) The Child Welfare Act as well as other federal statutes, federal regulations, and
 7 federal directives provide the basis for federal and state officials to interpret and apply 42 U.S.C.
 8 §675(4)(A), including but not limited to, 42 U.S.C. §671; 45 C.F.R. Part 1355, 1355.20; Office
 9 of Management and Budget Circular A-87; Cost Principles for State, Local, and Indian Tribal
 10 Governments; Office of Management and Budget Circular A-133: Audits of States, Local
 11 Governments, and Non-Profit Organizations; Directives issued by the Department of Health and
 12 Human Services, including, but not limited to, Action Transmittals, Information Memoranda,
 13 Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy Manual. (c)
 14 Doug Johnson, California Alliance of Child and Family Services, 2201 K Street Sacramento, CA
 15 95816, (916) 449-2273. Additional discovery may reveal other persons with knowledge or
 16 information relating to this request.

17 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 18 privileged, non-public documents in its possession, custody or control responsive to this request,
 19 if any, which have not been previously produced by the Alliance or any third party.

20
 21 (a) Request for Admission No. 10

22 (b) The Child Welfare Act as well as other federal statutes, federal regulations, and
 23 federal directives provide the basis for federal and state officials to interpret and apply 42 U.S.C.
 24 §675(4)(A), including but not limited to, 42 U.S.C. §671; 45 C.F.R. Part 1355, 1355.20; Office
 25 of Management and Budget Circular A-87; Cost Principles for State, Local, and Indian Tribal
 26 Governments; Office of Management and Budget Circular A-133: Audits of States, Local
 27 Governments, and Non-Profit Organizations; Directives issued by the Department of Health and
 28 Human Services, including, but not limited to, Action Transmittals, Information Memoranda,

1 Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy Manual.

2 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
3 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
4 knowledge or information relating to this request.

5 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
6 privileged, non-public documents in its possession, custody or control responsive to this request,
7 if any, which have not been previously produced by the Alliance or any third party.

8
9 (a) Request for Admission No. 11

10 (b) The provisions of California law implementing the Child Welfare Act include an
11 annual discretionary cost-of-living adjustment (COLA), subject to the availability of funds, for
12 AFDC-Foster Care rates established by the California Department of Social Services using the
13 California Necessities Index (CNI). These include Welfare and Institutions Code Sections
14 11461, 11462, 11463, 11465, and 18358.30.

15 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
16 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
17 knowledge or information relating to this request.

18 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
19 privileged, non-public documents in its possession, custody or control responsive to this request,
20 if any, which have not been previously produced by the Alliance or any third party.

21
22 (a) Request for Admission No. 12

23 (b) The provisions of California law implementing the Child Welfare Act include an
24 annual discretionary cost-of-living adjustment (COLA), subject to the availability of funds, for
25 AFDC-Foster Care rates established by the California Department of Social Services using the
26 California Necessities Index (CNI). These include Welfare and Institutions Code Sections
27 11461, 11462, 11463, 11465, and 18358.30.

28 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street

1 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
2 knowledge or information relating to this request.

3 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
4 privileged, non-public documents in its possession, custody or control responsive to this request,
5 if any, which have not been previously produced by the Alliance or any third party.

6
7 (a) Request for Admission No. 13

8 (b) The Child Welfare Act as well as other federal statutes, federal regulations, and
9 federal directives provide the basis for federal and state officials to interpret and apply 42 U.S.C.
10 §675(4)(A), including but not limited to, 42 U.S.C. §671; 45 C.F.R. Part 1355, 1355.20; Office
11 of Management and Budget Circular A-87; Cost Principles for State, Local, and Indian Tribal
12 Governments; Office of Management and Budget Circular A-133: Audits of States, Local
13 Governments, and Non-Profit Organizations; Directives issued by the Department of Health and
14 Human Services, including, but not limited to, Action Transmittals, Information Memoranda,
15 Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy Manual.

16 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
17 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
18 knowledge or information relating to this request.

19 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
20 privileged, non-public documents in its possession, custody or control responsive to this request,
21 if any, which have not been previously produced by the Alliance or any third party.

22
23 (a) Request for Admission No. 14

24 (b) The Child Welfare Act as well as other federal statutes, federal regulations, and
25 federal directives provide the basis for federal and state officials to interpret and apply 42 U.S.C.
26 §675(4)(A), including but not limited to, 42 U.S.C. §671; 45 C.F.R. Part 1355, 1355.20; Office
27 of Management and Budget Circular A-87; Cost Principles for State, Local, and Indian Tribal
28 Governments; Office of Management and Budget Circular A-133: Audits of States, Local

1 Governments, and Non-Profit Organizations; Directives issued by the Department of Health and
 2 Human Services, including, but not limited to, Action Transmittals, Information Memoranda,
 3 Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy Manual.

4 (c) Doug Johnson, California Alliance of Child and Family Services, 2201 K Street
 5 Sacramento, CA 95816, (916) 449-2273. Additional discovery may reveal other persons with
 6 knowledge or information relating to this request.

7 (d) Without waiving any of the foregoing objections, the Alliance will produce non-
 8 privileged, non-public documents in its possession, custody or control responsive to this request,
 9 if any, which have not been previously produced by the Alliance or any third party.

10
 11 **INTERROGATORY NO. 3:**

12 Please identify every group home in the State of California that is or was one of YOUR
 13 members, or whose parent entity is or was one of YOUR members, that has ceased operating, or
 14 reduced its group home capacity, since inception of the Rates Classification Level system. For
 15 each such home, state the year it ceased operation or reduced capacity, and any reasons that were
 16 given to YOU regarding the cessation or reduction.

17 **RESPONSE TO INTERROGATORY NO. 3:**

18 The Alliance incorporates by this reference each and every General Objection as though
 19 fully set forth herein. The Alliance objects to this interrogatory to the extent it calls for
 20 documents that are not relevant to the subject matter of this action nor reasonably calculated to
 21 lead to the discovery of admissible evidence. The Alliance further objects to this interrogatory
 22 on the grounds that it is vague and ambiguous. The Alliance objects on the grounds that this
 23 interrogatory is grossly overbroad and unduly burdensome. The Alliance further objects to this
 24 interrogatory on the grounds that it is compound and that the information sought is equally
 25 available to Defendants.

26 Subject to and without waiving any of the foregoing general or specific objections, the
 27 Alliance responds as follows:

28 The Alliance previously produced to Defendants a list of group homes which are or were

1 Alliance members that have closed their agencies entirely, closed all of their foster care group
 2 homes, or made significant reductions in the licensed capacity of one or more of their foster care
 3 group home programs in its response to the Notice of Deposition of Carroll Schroeder and
 4 Request for Production of Documents. The Alliance has updated the list previously produced to
 5 Defendants, which includes additional agencies that have come to the Alliance's attention. The
 6 Alliance will produce the updated list referenced herein.

7 The Alliance does not collect information about group homes which are no longer
 8 members, thus, the Alliance lacks sufficient knowledge to further respond. Additional discovery
 9 may reveal that other members of the Alliance have reduced the licensed capacity of their group
 10 home programs which the Alliance is presently unaware.

11
 12 **INTERROGATORY NO. 4:**

13 To the fullest extent YOU can, please identify every group home in the State of
 14 California that is not or was not one of YOUR members, or whose parent entity was not one of
 15 YOUR members, that has ceased operating its group home, or reduced the capacity of its group
 16 home, since inception of the Rates Classification Level system. For each such home, state the
 17 year it ceased operation or reduced capacity, and any reasons of which YOU are aware regarding
 18 the cessation or reduction.

19 **RESPONSE TO INTERROGATORY NO. 4:**

20 The Alliance incorporates by this reference each and every General Objection as though
 21 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is
 22 irrelevant nor is it reasonably calculated to lead to the discovery of admissible evidence. The
 23 Alliance further objects to this interrogatory on the grounds that it is vague and ambiguous. The
 24 Alliance objects on the grounds that this interrogatory is grossly overbroad and unduly
 25 burdensome. The Alliance further objects to this interrogatory on the grounds that it is
 26 compound and that the information sought is equally available to Defendants.

27 Subject to and without waiving any of the foregoing general or specific objections, the
 28 Alliance responds as follows:

1 The Alliance does not collect information about group homes which are not its members.
 2 Therefore, the Alliance presently lacks sufficient information necessary to further respond to this
 3 interrogatory.

4
 5 **INTERROGATORY NO. 5:**

6 Please state what items YOU contend are compensable under the Child Welfare Act, and
 7 state all facts on which YOU base YOUR contention.

8 **RESPONSE TO INTERROGATORY NO. 5:**

9 The Alliance incorporates by this reference each and every General Objection as though
 10 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague
 11 and ambiguous as to the terms "items" and "compensable." The Alliance further objects to this
 12 interrogatory on the grounds that it is compound. The Alliance further objects on the grounds
 13 that this interrogatory is overbroad and unduly burdensome.

14 Subject to and without waiving any of the foregoing objections the Alliance responds as
 15 follows:

16 The items compensable under the Child Welfare Act include, but are not limited to, those
 17 listed in 42 USC § 675(4)(A) and (B), 42 USC §672 (c)(2), 45 CFR Part 1355(a), and the federal
 18 regulations interpreting that section, Office of Management and Budget Circular A-87, Office of
 19 Management and Budget Circular A-133, and directives issued by the Department of Health and
 20 Human Services, including, but not limited to, Action Transmittals, Information Memoranda,
 21 Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy Manual

22
 23 **INTERROGATORY NO. 6:**

24 Please state what items YOU contend are compensable under the Rates Classification
 25 System, and state all facts on which YOU base YOUR contention.

26 **RESPONSE TO INTERROGATORY NO. 6:**

27 The Alliance incorporates by this reference each and every General Objection as though
 28 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague

1 and ambiguous as to the terms “items” and “compensable.” The Alliance objects on the grounds
 2 that this interrogatory is overbroad and unduly burdensome. The Alliance further objects to this
 3 interrogatory on the grounds that the information sought is equally available to Defendants.

4 Subject to and without waiving any of the foregoing general or specific objections, the
 5 Alliance responds as follows:

6 The items compensable under California’s Rate Classification Level system for foster
 7 care group home include all of the items which are compensable under the federal Child Welfare
 8 Act, as defined and described in Response to Interrogatory No. 5. In addition, the items which
 9 are “allowable” under California’s Rate Classification Level system also include social work
 10 activities and principal and interest on mortgages, including but not limited to those items listed
 11 in Welfare and Institutions Code Section 11460 (a) and (b), and regulations promulgated by the
 12 Department of Social Services.

13
 14 **INTERROGATORY NO. 7:**

15 Please state what items YOU contend “cover the cost (and the cost of providing)” means
 16 as the term is used in 42 U.S.C. §675(4)(A).

17 **RESPONSE TO INTERROGATORY NO. 7:**

18 The Alliance incorporates by this reference each and every General Objection as though
 19 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague,
 20 ambiguous and unintelligible. The Alliance objects on the grounds that this interrogatory is
 21 grossly overbroad, unduly burdensome and duplicative. The Alliance further objects to this
 22 interrogatory on the grounds that the information sought is public information that is equally
 23 available to Defendants and that 42 U.S.C. §675(4)(A) and its implementing regulations speak
 24 for themselves.

25
 26 **INTERROGATORY NO. 8:**

27 Please state what additional costs YOU contend group homes have had levied against
 28 them due to additional county requirements for foster care group homes since fiscal year 1990-

1 1991.

2 **RESPONSE TO INTERROGATORY NO. 8:**

3 The Alliance incorporates by this reference each and every General Objection as though
4 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague
5 and ambiguous. The Alliance further objects to this interrogatory on the grounds that the
6 information sought is equally available to Defendants.

7 Subject to and without waiving any of the foregoing general or specific objections, the
8 Alliance responds as follows:

9 Additional costs levied include, but are not limited to, Los Angeles County's requirement
10 that all of the private nonprofit agencies operating group home programs in which it places foster
11 children sign an extensive formal contract. The contract imposes a wide variety of specific
12 requirements on group homes which go beyond those imposed by the State.

13
14 **INTERROGATORY NO. 9:**

15 Please state what additional costs YOU contend group homes have had levied against
16 them due to additional State requirements for foster care group homes since fiscal year 1990-
17 1991.

18 **RESPONSE TO INTERROGATORY NO. 9:**

19 The Alliance incorporates by this reference each and every General Objection as though
20 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague
21 and ambiguous. The Alliance objects on the grounds that this interrogatory is overbroad and
22 unduly burdensome. The Alliance further objects to this interrogatory on the grounds that the
23 information sought is equally available to Defendants.

24 Subject to and without waiving any of the foregoing general or specific objections, the
25 Alliance responds as follows:

26 The extensive additional State requirements implemented by the State of California since
27 fiscal year 1990-1991 which have increased the foster care "allowable" costs of group homes,
28 include, but are not limited to those described in the document titled, "Additional Requirements

1 Imposed by the State which have Increased the Foster Care "Allowable" Costs of Non-Profit
2 Agencies Operating Group Home Programs in California since July 1, 1990."

3
4 **INTERROGATORY NO. 10:**

5 Do YOU contend that the federal government, through the Child Welfare Act or by any
6 other means or directive, specifies how to quantify costs for any item or items set forth under 42
7 U.S.C. §675(4)(A)?

8 **RESPONSE TO INTERROGATORY NO. 10:**

9 The Alliance incorporates by this reference each and every General Objection as though
10 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague
11 and ambiguous as to the terms "quantify," "costs" and "item or items." The Alliance objects on
12 the grounds that this interrogatory is overbroad and unduly burdensome. The Alliance further
13 objects to this interrogatory on the grounds that the information sought is equally available to
14 Defendants and that 42 U.S.C. §675(4)(A) and its implementing regulations speak for
15 themselves.

16 Subject to and without waiving any of the foregoing general or specific objections, the
17 Alliance responds as follows:

18 The Child Welfare Act and other federal regulations, directives or other materials
19 providing guidance about the Child Welfare Act, specify how to quantify costs for any item or
20 items set forth under 42 U.S.C. §675(4)(A).

21 **INTERROGATORY NO. 11:**

22 If YOUR answer to the proceeding interrogatory is anything other than an unqualified
23 "no," please describe how the federal government, through the Child Welfare Act or by any
24 other means or directive, specifies how to quantify costs for any item or items set forth under 42
25 U.S.C. §675(4)(A).

26 **RESPONSE TO INTERROGATORY NO. 11:**

27 The Alliance incorporates by this reference each and every General Objection as though
28 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague

1 and ambiguous as to the terms “quantify,” “costs” and “item or items.” The Alliance objects on
 2 the grounds that this interrogatory is overbroad and unduly burdensome. The Alliance further
 3 objects to this interrogatory on the grounds that the information sought is equally available to
 4 Defendants and that 42 U.S.C. §675(4)(A) and its implementing regulations speak for
 5 themselves.

6 Subject to and without waiving any of the foregoing general or specific objections, the
 7 Alliance responds as follows: The Child Welfare Act as well as other federal statutes, federal
 8 regulations, and federal directives provide the basis for federal and state officials to interpret and
 9 apply 42 U.S.C. §675(4)(A), including but not limited to, 42 U.S.C. §671; 45 C.F.R. Part 1355,
 10 1355.20; Office of Management and Budget Circular A-87; Cost Principles for State, Local, and
 11 Indian Tribal Governments; Office of Management and Budget Circular A-133: Audits of States,
 12 Local Governments, and Non-Profit Organizations; Directives issued by the Department of
 13 Health and Human Services, including, but not limited to, Action Transmittals, Information
 14 Memoranda, Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy
 15 Manual.

16
 17 **INTERROGATORY NO. 12:**

18 Do YOU contend that the federal government, through the Child Welfare Act or by any
 19 other means or directive, specifies how to quantify costs for any category of items set forth under
 20 42 U.S.C. §675(4)(A)?

21 **RESPONSE TO INTERROGATORY NO. 12:**

22 The Alliance incorporates by this reference each and every General Objection as though
 23 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague
 24 and ambiguous as to the terms “quantify,” “costs,” and “category of items.” The Alliance
 25 objects on the grounds that this interrogatory is overbroad and unduly burdensome. The Alliance
 26 further objects to this interrogatory on the grounds that the information sought is equally
 27 available to Defendants and that 42 U.S.C. §675(4)(A) and its implementing regulations speak
 28 for themselves.

1 Subject to and without waiving any of the foregoing general or specific objections, the
2 Alliance responds as follows:

3 The Child Welfare Act and other federal regulations, directives or other materials
4 providing guidance about the Child Welfare Act, specify how to quantify costs for any item or
5 items set forth under 42 U.S.C. §675(4)(A).

6 **INTERROGATORY NO. 13:**

7 If YOUR answer to the proceeding interrogatory is anything other than an unqualified
8 “no,” please describe how the federal government, through the Child Welfare Act or by any
9 other means or directive, specifies how to quantify costs for any category of items set forth under
10 42 U.S.C. §675(4)(A)?

11 **RESPONSE TO INTERROGATORY NO. 13:**

12 The Alliance incorporates by this reference each and every General Objection as though
13 fully set forth herein. The Alliance objects to this interrogatory on the grounds that it is vague
14 and ambiguous as to the terms “quantify,” “costs,” and “category of items.” The Alliance
15 objects on the grounds that this interrogatory is overbroad and unduly burdensome. The Alliance
16 further objects to this interrogatory on the grounds that the information sought is equally
17 available to Defendants and that 42 U.S.C. §675(4)(A) and its implementing regulations speak
18 for themselves.

19 Subject to and without waiving any of the foregoing general or specific objections, the
20 Alliance responds as follows:

21 The Child Welfare Act as well as other federal statutes, federal regulations, and federal
22 directives provide the basis for federal and state officials to interpret and apply 42 U.S.C.
23 §675(4)(A), including but not limited to, 42 U.S.C. §671; 45 C.F.R. Part 1355, 1355.20; Office
24 of Management and Budget Circular A-87; Cost Principles for State, Local, and Indian Tribal
25 Governments; Office of Management and Budget Circular A-133: Audits of States, Local
26 Governments, and Non-Profit Organizations; Directives issued by the Department of Health and
27 Human Services, including, but not limited to, Action Transmittals, Information Memoranda,
28 Policy Guides and Manuals, Program Instructions, and the Child Welfare Policy Manual.

1 **INTERROGATORY NO. 14:**

2 Please identify each Person who has knowledge of any and all facts set forth in response
3 to Interrogatory Nos. 1-13.

4 **RESPONSE TO INTERROGATORY NO. 14:**

5 The Alliance incorporates by this reference each and every General Objection as though
6 fully set forth herein. The Alliance objects on the grounds that this interrogatory is overbroad
7 and unduly burdensome. The Alliance further objects to this interrogatory on the grounds that
8 the information sought is privileged and protected by the attorney-client privilege and/or work
9 product doctrine.

10 Subject to and without waiving any of the foregoing general or specific objections, the
11 Alliance responds as follows:

12 Doug Johnson

13 Kim Janoe (Interrogatory No. 3 only)

14 Carroll Schroeder

15 DATED: July 2, 2007

BINGHAM MCCUTCHEN LLP

16
17
18 By: 

William F. Abrams

Roxanne Torabian-Bashardoust

Zak Smith

Michael D. Mortenson

Attorneys for Plaintiff

CALIFORNIA ALLIANCE OF CHILD AND
FAMILY SERVICES

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Executed on June 29, 2007


Douglas K. Johnson

PROOF OF SERVICE

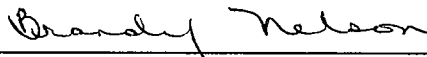
I am over eighteen years of age, not a party in this action, and employed in Orange County, California at 600 Anton Boulevard, Costa Mesa, California 92626-1924. I am readily familiar with the practice of this office for collection and processing of correspondence for mail/fax/hand delivery/next business delivery, and they are deposited that same day in the ordinary course of business. On **July 2, 2007**, I served the attached:

PLAINTIFF'S RESPONSES TO DEFENDANTS' FIRST SET OF INTERROGATORIES

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ (BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at Costa Mesa, California in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.
- ☐ (EXPRESS MAIL/OVERNIGHT DELIVERY) by causing a true and correct copy of the document(s) listed above to be delivered by _____ in sealed envelope(s) with all fees prepaid at the address(es) set forth below.
- ☐ (PERSONAL SERVICE) by causing a true and correct copy of the above documents to be hand delivered in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth below.

Edmund G. Brown, Jr., Attorney General of the State of California
 Douglas M. Press, Supervising Deputy Attorney General
 George Prince, Deputy Attorney General
 455 Golden Gate Avenue, Suite 11000
 San Francisco, CA 94102-7004
 Telephone: (415) 703-5749
 Facsimile: (415) 703-5480
 Email: george.prince@doj.ca.gov

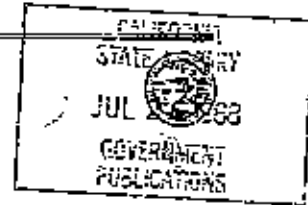
I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made and that this declaration was executed on **July 2, 2007**, at Costa Mesa, California.



Brandy Nelson

EXHIBIT B

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES



SENATE

- ☐ Mr. Darryl R. White
Secretary of the Senate
State Capitol, Room 3045
(Send 2 copies of report.)
- ☐ The Honorable David Roberti
President Pro Tempore of the Senate
State Capitol, West Wing, Room 205
- ☐ The Honorable Ken Maddy
Senate Minority Floor Leader
State Capitol, Room 3056
- ☐ Ms. Elisabeth Kersten, Director
Senate Office of Research
1100 J Street, Suite 550
- ☐ The Honorable Diane Watson, Chair
Senate Health & Human Services Committee
State Capitol, Room 2191
(Send 2 copies of report.)
- ☐ The Honorable Robert Presley, Chair
Senate Appropriations Committee
State Capitol, Room 2206
- ☐ Mr. Lee Bennett, Principal Consultant
Minority Finance Consultants
State Capitol, Room 2065

ASSEMBLY

- ☐ Mr. B. Brian Kidney
Chief Clerk of the Assembly
State Capitol, Room 3196
(Send 2 copies of report, original signature.)
- ☐ The Honorable Willie Brown, Jr.
Speaker of the Assembly
State Capitol, West Wing, Room 219
- ☐ The Honorable Patrick Nolan
Assembly Minority Floor Leader
State Capitol, Room 2126
- ☐ Mr. Steven Thompson, Director
Assembly Office of Research
1100 J Street, Suite 535
- ☐ The Honorable Tom Bates, Chair
Assembly Human Services Committee
State Capitol, Room 446
(Send 2 copies of report.)
- ☐ The Honorable John Vasconcellos, Chair
Assembly Ways and Means Committee
State Capitol, Room 5026
- ☐ Mr. Elliot Stevenson, Staff Director
Minority Ways & Means Consultants
State Capitol, Room 3013
- ☐ Mr. Jesse Huff, Director
Department of Finance
State Capitol, Room 1145
- ☒ California State Library
Government Publications Section
Library & Courts Bldg., Room 400
(Send 3 copies of report.)
- ☐ William Campbell, Chair
Joint Legislative Budget Committee
1100 J Street - Suite 522
Sacramento, CA 95814

Reference: Welfare and Institutions Code 11462(e) as enacted by SB 1137,
Chapter 1212, Statutes of 1987, "New AFDC-FC Group Home Requirements/Increases in
Industry's Costs"

Attached is a copy of the Statutory Report prepared by the Department of Social Services.

Should you have any questions, please contact Mr. Steven C. Bailey, Deputy Director,
Legislation, at 445-8956.

Sincerely,

Linda S. McMahon
Director

Bruce A. Kennedy, Chief
Foster Care Branch

Attachment

**NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**

Welfare and Institutions Code Section 11462(e) requires the Department of Social Services to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increases in costs associated with the provision of group home care which may have a significant fiscal impact on providers of group home care.

This report fulfills the requirements of Section 11462(e) for the first annual report.

EXECUTIVE SUMMARY

Welfare and Institutions Code Section 11462(a) requires the Department of Social Services to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increases in costs associated with the provision of group home care which may have significant fiscal impact on providers of group home care.

During Fiscal Year 1987/88 there were no departmental requirements that would have increased costs to group home providers.

The one identified industrywide cost to group home providers is the increase in the Old Age Survivors Disability Insurance (OASDI) Program which employers must pay on behalf of their group home employees. This percentage rate increased from 7.15 percent in 1987 to 7.51 percent beginning January 1, 1988.

Welfare and Institutions Code (WIC) Section 11462(e) (Chapter 1212, Statutes of 1987) requires the Department to provide the Joint Legislative Budget Committee with a list of:

1. any new departmental requirements established during the previous fiscal year concerning the operation of group homes; and
2. any unusual, industrywide increases in costs associated with the provision of group home care which may have significant fiscal impact on providers of group home care.

The purpose for this report was that the "committee may use the list to determine whether an appropriation for rate adjustments, in addition to any cost-of-living adjustment pursuant to Section 11462, is needed in the subsequent fiscal year."

The Department has determined that no increases in the cost of operation of group homes during Fiscal Year 1987/88 was caused by departmental actions.

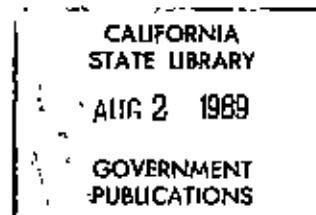
The one industrywide increase in costs to group homes that has been identified resulted from the percentage increase in the Old Age Survivors Disability Insurance (OASDI) Program from 7.15 percent in Calendar Year 1987 to 7.51 percent beginning January 1, 1988.

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1988/89
E.2

NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS

Welfare and Institutions Code Section 11462(e) requires the Department of Social Services to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increases in costs associated with the provision of group home care which may have a significant fiscal impact on providers of group home care.

This report fulfills the requirements of Section 11462(e) for the annual report.



Welfare and Institutions Code Section 11462 (e) requires the Department of Social Services to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increases in costs associated with the provision of group home care which may have significant fiscal impact on providers of group home care.

During Fiscal Year 1988/89 there were no departmental requirements that would have increased costs to group home providers.

The Department identified three industrywide costs to group home providers as follows:

1. Minimum Wage - Effective July 1, 1988, the minimum wage requirement increased from \$3.35 an hour to \$4.25 an hour. Group Home providers were required to increase the wages of any of their employees that were being paid below the minimum wage requirement to at least the new minimum wage requirement of \$4.25 an hour.
2. Workers' Compensation Rates - State Compensation Insurance rates for Workers' Compensation Insurance increased from \$8.54 to \$9.39 for each \$100.00 of salary paid as of January 1, 1989.
3. Employee Insurance Benefits - A January 1, 1989 change to the Internal Revenue Code, Section 89, requires that employers who offer insurance benefits to some highly compensated employees must also offer it to all employees. An example of the tests for determining a highly compensated employee is one who receives compensation above \$50,000 and is among the top 20 percent of employees when ranked by compensation.

State of California

Health and Welfare Agency

MEMORANDUM

To: ELOISE ANDERSON
Director

Date: September 23, 1992

Subject: SB 370 Report to
the Legislature

VIA: JOHN D. HEALY
Chief Deputy Director

From: Department of Social Services

Attached for your review and approval is the annual report to the Legislature required by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989). The Department is required by SB 370, beginning October 1, 1992, to provide a list of: (1) any new departmental requirements established during the previous fiscal year concerning the operation of group homes; and (2) of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care. This data is to be reported to the Joint Legislative Budget Committee so they may use the information to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

During Fiscal Year 1991-92 there were no departmental requirements established that increased costs to group home providers. In addition, the only identifiable increase in a cost component of the group home industry which may have had a fiscal impact on providers of group home care was the mandatory statewide sales tax increase effective July 15, 1991. However, the increase in the sales tax affected anyone doing business in California and did not impact providers of group home care to any greater degree than other businesses.

There was no requirement in SB 370 for any estimates dealing with the number of group homes affected, the total cost or the amount of appropriation necessary for rate adjustments. Therefore, this information was not detailed in the report.

If you have any questions, please contact me at 657-2614.


LOREN D. SUTER
Deputy Director
Adult and Family Services

Attachments

HWA USE ONLY:

Department: _____

HWA Log No.: _____

REQUEST FOR REPORT APPROVAL

TO: PETE WILSON
GOVERNOR

FROM: RUSSELL S. GOULD
Secretary, Health and Welfare Agency

Prepared by: ELOISE ANDERSON, Director
Department of Social Services
(916) 657-2598

Originator of report: Douglas K. Johnson, Chief
Phone Number: 445-0813

DATE: September 23, 1992

SUBJECT: AFDC-FC Group Home Cost Increases

REPORT TITLE: New AFDC-FC Group Home Requirements/Increases in
Industry's Costs

AUTHORITY/MANDATE: Welfare and Institutions Code Section
11462(1), Chapter 1294, Statutes of 1989
(SB 370)

FREQUENCY: Annually

DUE DATE TO THE LEGISLATURE: October 1, commencing October 1, 1992

POLICY ISSUES ADDRESSED: Increases in the costs of group homes
providing out-of-home care to children requiring assistance under
the AFDC-FC and Severely Emotionally Disturbed (SED) programs.

REPORT RECOMMENDATION: None. There were no increased costs to group
homes as a result of new departmental requirements during Fiscal Year
1991-92. Some industrywide group home cost increases may be expected
due to the statewide increase in the sales tax effective July 15,
1991. However, the increase in the sales tax impacted all
individuals doing business in California and did not adversely
impact providers of group home care to any greater degree than
other businesses.

APPROVED: _____

Original Signed By:

Eloise Anderson

SEP 26 1992

Director

Date

Chief of Staff

Date

Secretary

Date

Governor

Date

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



SEP 25 1992

The Honorable Pete Wilson
Governor
State Capitol
Sacramento

Dear Governor Wilson:

Attached is a copy of the statutory report entitled "New AFDC-FC Group Home Requirements/Increases in Industry's Costs" prepared by this Department in compliance with the requirement set forth in Welfare and Institutions Code Section 11462(1), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989).

Should you have any questions, please have your appropriate staff person contact Jo Frederick, Deputy Director, Legislation, at 657-2623.

Sincerely,

Original Signed By:

Eloise Anderson

ELOISE ANDERSON
Director

Enclosure

EXECUTIVE SUMMARY

Welfare and Institutions Code Section 11462(1), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the Department of Social Services, commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

The Department has determined that there were no increases in the cost of operation of group homes during Fiscal Year 1991-92 which were caused by departmental actions during that year.

With respect to industrywide cost increases associated with the provision of group home care, the only identifiable increase in a cost component of the group home industry which may have had a fiscal impact on providers of group home care was the mandatory statewide sales tax increase effective July 15, 1991. However, the increase in the sales tax affected anyone doing business in California and did not impact providers of group home care to any greater degree than other businesses.

State of California

Health and Welfare Agency

M E M O R A N D U M

To: ELOISE ANDERSON
Director

Date: September 23, 1992

Subject: SB 370 Report to
the Legislature

VIA: JOHN D. HEALY
Chief Deputy Director

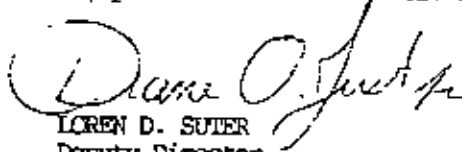
From: Department of Social Services

Attached for your review and approval is the annual report to the Legislature required by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989). The Department is required by SB 370, beginning October 1, 1992, to provide a list of: (1) any new departmental requirements established during the previous fiscal year concerning the operation of group homes; and (2) of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care. This data is to be reported to the Joint Legislative Budget Committee so they may use the information to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

During Fiscal Year 1991-92 there were no departmental requirements established that increased costs to group home providers. In addition, the only identifiable increase in a cost component of the group home industry which may have had a fiscal impact on providers of group home care was the mandatory statewide sales tax increase effective July 15, 1991. However, the increase in the sales tax affected anyone doing business in California and did not impact providers of group home care to any greater degree than other businesses.

There was no requirement in SB 370 for any estimates dealing with the number of group homes affected, the total cost or the amount of appropriation necessary for rate adjustments. Therefore, this information was not detailed in the report.

If you have any questions, please contact me at 657-2614.


LOREN D. SUTER
Deputy Director
Adult and Family Services

Attachments

HWA USE ONLY:

Department: _____

HWA Log No.: _____

REQUEST FOR REPORT APPROVAL

TO: PETE WILSON
GOVERNOR

FROM: RUSSELL S. GOULD
Secretary, Health and Welfare Agency

Prepared by: ELOISE ANDERSON, Director
Department of Social Services
(916) 657-2598

Originator of report: Douglas K. Johnson, Chief
Phone Number: 445-0813

DATE: September 23, 1992

SUBJECT: AFDC-FC Group Home Cost Increases

REPORT TITLE: New AFDC-FC Group Home Requirements/Increases in
Industry's Costs

AUTHORITY/MANDATE: Welfare and Institutions Code Section
11462(1), Chapter 1294, Statutes of 1989
(SB 370)

FREQUENCY: Annually

DUE DATE TO THE LEGISLATURE: October 1, commencing October 1, 1992

POLICY ISSUES ADDRESSED: Increases in the costs of group homes
providing out-of-home care to children requiring assistance under
the AFDC-FC and Severely Emotionally Disturbed (SED) programs.

REPORT RECOMMENDATION: None. There were no increased costs to group
homes as a result of new departmental requirements during Fiscal Year
1991-92. Some industrywide group home cost increases may be expected
due to the statewide increase in the sales tax effective July 15,
1991. However, the increase in the sales tax impacted all
individuals doing business in California and did not adversely
impact providers of group home care to any greater degree than
other businesses.

APPROVED: _____

Original Signed By:

Eloise Anderson

SEP 26 1992

Director

Date

Chief of Staff

Date

Secretary

Date

Governor

Date

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



SEP 26 1992

The Honorable Pete Wilson
Governor
State Capitol
Sacramento

Dear Governor Wilson:

Attached is a copy of the statutory report entitled "New AFDC-FC Group Home Requirements/Increases in Industry's Costs" prepared by this Department in compliance with the requirement set forth in Welfare and Institutions Code Section 11462(1), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989).

Should you have any questions, please have your appropriate staff person contact Jo Frederick, Deputy Director, Legislation, at 657-2623.

Sincerely,

Original Signed By:

Eloise Anderson

ELOISE ANDERSON
Director

Enclosure

EXECUTIVE SUMMARY

Welfare and Institutions Code Section 11462(1), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the Department of Social Services, commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

The Department has determined that there were no increases in the cost of operation of group homes during Fiscal Year 1991-92 which were caused by departmental actions during that year.

With respect to industrywide cost increases associated with the provision of group home care, the only identifiable increase in a cost component of the group home industry which may have had a fiscal impact on providers of group home care was the mandatory statewide sales tax increase effective July 15, 1991. However, the increase in the sales tax affected anyone doing business in California and did not impact providers of group home care to any greater degree than other businesses.

NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS

Welfare and Institutions Code Section 11462(1), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the Department of Social Services, commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

This report fulfills the requirements of Section 11462(1) for the annual report.

NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS

Welfare and Institutions Code Section 11462(1) requires the Department of Social Services to provide the Joint Legislative Budget Committee with a list of:

1. any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and
2. any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

The purpose for this report was to provide the Committee with a list which could be used to "determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year".

The Department has determined that there were no increases in the cost of operation of group homes during Fiscal Year 1991-92 which were caused by departmental actions during that year.

With respect to industrywide cost increases associated with the provision of group home care, the only identifiable cost component increase which may have had a fiscal impact on providers of group home care was the mandatory statewide sales tax increase from 6 percent to 7 1/4 percent effective July 15, 1991. However, the increase in the sales tax affected anyone doing business in California and did not impact providers of group home care to any greater degree than other businesses.

WELFARE AND INSTITUTIONS CODE

§ 11462

(j) "The department shall develop regulations specifying retaxing procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services."

(k) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section.

(l) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993-94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

(m) Following the initial implementation of the group home ratesetting system described in this section, the department, with the advice and assistance of the counties and representatives of providers of group home care, may submit to the Legislature recommendations to modify the program classification point system, number of rate classification levels, amounts that make up the standardized schedule of rates, or other components of the system. These recommendations shall be based on the department's review and evaluation of the program classification system, group home cost data collected pursuant to Section 11466.3, and information from the Group Home Program Statements and Level of Care Assessments specified in Section 11467.

(n) This section shall remain in effect only until July 1, 1995, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before July 1, 1995, deletes or extends that date.

(Added by Stats.1989, c. 1294, § 8. Amended by Stats.1990, c. 46 (S.B.1176), § 3, eff. April 10, 1990; Stats.1990, c. 1049 (S.B.2223), § 3.)

For text of section operative July 1, 1995, see § 11462, post.

Historical and Statutory Notes

1989 Legislation
Severability provisions of Stats.1989, c. 1294, see Historical Note under § 5407.

Former § 11462, added by Stats.1982, c. 977, § 15, amended by Stats.1983, c. 467, § 3; Stats.1983, c. 487, § 1; Stats.1987, c. 1212, § 4, relating to similar subject matter, was repealed by Stats.1989, c. 1294, § 7.

Derivations: Former § 11462, added by Stats.1982, c. 977, § 15, amended by Stats.1983, c. 467, § 3; Stats.1983, c. 487, § 1; Stats.1987, c. 1212, § 4.

Law Review Commentaries

Senate bill 14: California foster drift solutions create new problems for the physically abused child. (1984) 18 U.S.F. L.Rev. 301.

Library References

Social Security and Public Welfare ss194.12.
U.S. Social Security and Public Welfare § 120.

§ 11462. Group homes and public child care institutions: standardized schedule of rates

Text of section operative July 1, 1995.

(a) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986-87 fiscal year, by the amount of the California Neediest Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

Additions or changes indicated by underlines; deletions by strikes . . .

§ 11462

WELFARE AND INSTITUTIONS CODE

Rate Classification Level	Point Ranges	Standard Rate	Rate Floor
7	210-239	\$2,350	\$2,508
8	240-259	2,245	2,768
9	270-289	2,539	3,008
10	300-329	2,834	3,259
11	330-359	4,127	3,508
12	360-389	4,423	3,760
13	390-419	4,720	4,012
14	420 & Up	5,013	4,261

(2) Group home programs which generate the requisite number of points for RCL 13 or 14, which only accept children with special treatment needs as determined through the assessment process in subdivision (b) of Section 11467 and which have as part of their program measurable performance standards developed by the county of placement, shall be classified at RCL 13 or 14.

(1) For fiscal year 1990-91, the standardized schedule of rates shall be implemented as follows:

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the fiscal year 1990-91 RCL shall receive their 1989-90 rate plus an amount equal to the California Necessities Index (CNI). The rate for fiscal year 1990-91 at which the state will participate shall not exceed the standard rate for the RCL.

(B) If the CNI increase to the group home program's fiscal year 1989-90 rate does not raise the group home program to the rate floor for the RCL, the group home program shall receive a rate equal to the rate floor for the RCL.

(C) A group home program which received an AFDC-FC rate for fiscal year 1989-90 at or above the standard rate for the RCL for fiscal year 1990-91 shall continue to receive that fiscal year 1989-90 rate.

(2) For fiscal year 1991-92 and fiscal year 1992-93, the standardized rate for each RCL shall be adjusted by an amount equal to CNI computed pursuant to the methodology described in Section 11453.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) A group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive that rate adjusted by an amount equal to the CNI. The rate for the current fiscal year shall not exceed the standard rate for the RCL and shall not be less than the rate floor for the RCL.

(3) Beginning with the 1993-94 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) Any group home program which received an AFDC-FC rate in the prior fiscal year below the adjusted standard rate for the RCL in the current fiscal year shall receive the adjusted RCL rate.

(1) The rate for a new group home program of a new or existing provider shall be established at the rate floor for the new program's projected RCL.

(2) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(3) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(4) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Sections 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

Additions or changes indicated by underline; deletions by strike . . .

WELFARE AND INSTITUTIONS CODE

§ 11462

Historical and Statutory Notes

1983 Legislation
Former § 11461, added by Stats.1982, c. 977, § 11, amended by Stats.1983, c. 123, § 113.1, relating to rules for children placed in licensed or approved homes, was repealed by Stats.1983, c. 123, § 113.1, operative Dec. 31, 1983.

1979 Legislation
Several provisions of Stats.1979, c. 1794, are Historical Notes under § 1407.
Derivation: Former § 11461, added by Stats.1964, c. 977, § 12, amended by Stats.1983, c. 922, § 113.1.

§ 11462. Group homes and public child care institutions; standardized schedule of rates
Text of section operative until July 1, 1995.

(a) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986-87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, the single rate established for each RCL, and the rate floor for each RCL.

(e) The standardized schedule of rates shall be phased in commencing July 1, 1990.

(1) In order to phase in the standardized schedule of rates, a "rate floor" has been established for each RCL.

(2) The rate floor for fiscal year 1990-91 shall be 85 percent of the standard rate for each RCL. The rate floor shall be increased to 92.5 percent of the standard rate for fiscal year 1991-92 for each RCL, and shall be equal to the standard rate for each RCL for fiscal year 1992-93 and beyond.

(f) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) For a group home program for which the department established a rate effective prior to June 30, 1990, that took into account the program's historical costs, the department shall establish the rate for fiscal year 1990-91 by determining the RCL on a retrospective basis, according to the level of care and services actually provided between July 1 and December 31, 1989, or between July 1, 1989, and March 31, 1990.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall "inform the department." The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(g) (1) The standardized schedule of rates for fiscal year 1990-91 is:

Rate Classification Level	Point Ranges	FY 1990-91	
		Standard Rate	Rate Floor (85%)
1	Under 60	\$1,183	\$1,006
2	60-89	1,478	1,256
3	90-119	1,773	1,507
4	120-149	2,067	1,757
5	150-179	2,360	2,006
6	180-209	2,656	2,258

Additions or changes indicated by underlining; deletions by asterisks * . . .

BY: AGENT

3-18-97 12:32

HWA-

916 65480121

REQUEST FOR REPORT APPROVAL

TO: PETE WILSON
GovernorFROM: SANDRA R. SMOLEY, R.N.
Health and Welfare AgencyPrepared by: Eloise Anderson, Director
California Department of Social Services
(916) 657-2598

DATE: March 11, 1997

SUBJECT: SB 370 REPORT TO THE LEGISLATURE

REPORT TITLE: NEW AFDC-FC GROUP HOME REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTSAUTHORITY/MANDATE: Welfare and Institutions Code Section 11462 (m), Chapter 1294,
Statutes of 1989 (SB 370)

FREQUENCY: Annually

DUE DATE TO THE LEGISLATURE: October 1, 1996

POLICY ISSUES ADDRESSED: The new AFDC-FC group home regulations: 1) prevent adverse economic impact to businesses in the repayment of sustained overpayments; 2) safeguard specific circumstances when the California Department of Social Services (CDSS) may not assess an overpayment or reduce a program's rate when a group home program maintains the level of care and supervision associated with the rate classification level for children actually residing at the facility; and 3) allow leaseback arrangements only after the provider's self-dealing transaction documents have been reviewed and approved by the Attorney General's Charitable Trust Section.

REPORT RECOMMENDATION: None. While the adoption of these regulations may affect group home providers that receive foster care maintenance payments under the AFDC-FC program, CDSS is projected to achieve local assistance savings of approximately \$1.9 million in Fiscal Year 1998-99 and annually thereafter.

APPROVED:

Director

Date

Chief of Staff

Date

Secretary

Date

Governor

Date

Cabinet Secretary

Date

CA3973/081

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF SOCIAL SERVICES



SENATE

- ☐ Mr. Greg Schmidt
Secretary of the Senate
State Capitol, Room 3044
(Send 2 copies of report.)
- ☐ The Honorable Bill Lockyer
President Pro Tempore of the Senate
State Capitol, West Wing, Room 205
- ☐ The Honorable Rob Hurtt
Senate Minority Floor Leader
State Capitol, West Wing, Room 305
- ☐ Elisabeth Kersten, Director
Senate Office of Research
1020 B Street, Room 565
- ☐ The Honorable Diane Watson, Chair
Senate Health and Human Services
Committee
State Capitol, Room 2191
(Send 2 copies of report.)
- ☐ The Honorable Patrick Johnston, Chair
Senate Appropriations Committee
State Capitol, Room 2206
- ☐ Chief of Staff
Minority Fiscal Consultants
State Capitol, Room 2209
- ☐

☐ Office of Legislative Counsel
Attention: Indexing Division
925 L Street, 11th Floor

☐ Mr. Craig Brown, Director
Department of Finance
State Capitol, Room 1145

ASSEMBLY

- ☐ Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 1196
(Send 2 copies of report,
original signature)
- ☐ The Honorable Cruz M. Bustamante
Speaker of the Assembly
State Capitol, West Wing, Room 219
- ☐ The Honorable Curt Pringle
Assembly Minority Floor Leader
State Capitol, Room 2114
- ☐ Mr. Jim Lewis, Director
Assembly Office of Research
1020 N Street, Room 408
- ☐ The Honorable Dion Aroner, Chair
Assembly Human Services Committee
State Capitol, Room 446
(Send 2 copies of report.)
- ☐ The Honorable Carole Migdon, Chair
Assembly Appropriations Committee
State Capitol, Room 6026
- ☐ Staff Director
Minority Appropriations Committee
State Capitol, Room 3013
- ☐

☐ California State Library
Government Publications Section
Library & Courts Bldg., Room 400
(Send 1 copies of report.)

Reference:

Attached is a copy of the Statutory Report prepared by the Department of Social Services. Should you have any questions, please contact Ms. Jo Frederick, Deputy Director, Legislation, at 657-2623.

Sincerely,

Eloise Anderson
ELOISE ANDERSON
Director

Attachment

REPORT TO THE LEGISLATURE

**NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**

MARCH 1997

**NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**

REPORT MANDATE

Welfare and Institutions Code Section 11462 (m), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the California Department of Social Services to provide the Joint Legislative Budget Committee with a list of any new Departmental requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

This report fulfills the requirements of Section 11462 (m) for the annual report.

**New Aid to Families with Dependent Children - Foster Care (AFDC-FC)
Group Home Requirements/Increases in Industry's Costs**

March 11, 1997

I. Statutory Basis For Report

Welfare and Institutions Code Section 11462 (m) requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee with a list of :

- A. Any new CDSS requirements established during the previous fiscal year concerning the operation of group homes.
- B. Any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

II. Purpose

The purpose of this report is to provide the Committee with a list which could be used to "determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year."

III. New CDSS Requirements For Group Home

New CDSS requirements concerning the operation of group homes are as follows:

- o Definitions for the following terms: audit period, audit report, balancing, eligible hour, fiscal audit, leaseback, non-profit organization, overpayment and underpayment.
- o A group home program must allocate service hours between eligible and ineligible activities for program classification based on funding sources.
- o A group home program must allocate work hours for administrative staff between the Aid to Families with Dependent Children - Foster Care (AFDC-FC) program and private employment.
- o Limitation on reportable child care service hours for staff that work at the AFDC-FC program and outside employment.
- o Child care social work service hours must be compensated in accordance with Department of Industrial Relations rules and regulations.
- o A 12-month repayment option for group home providers with sustained overpayments.

- o The CDSS may use a "balancing" process to collect sustained overpayments by applying any funds owed to a group home provider against outstanding overpayments.
- o Language allowing providers flexibility when allocating program hours.
- o Child care and supervision hours are not eligible for double weighting under the program classification process.

IV. Potential Fiscal Impact Upon Group Home Providers

The following may have significant fiscal impact on providers of group home care:

- o Leaseback arrangements being allowed only after review and approval of the provider's self-dealing transaction documents by the Attorney General's Charitable Trust Section.

V. Projected Savings

While adoption of these regulations may affect group home providers that receive foster care maintenance payments under the AFDC-FC program, CDSS is projected to achieve local assistance savings of approximately \$1.9 million in Fiscal Year 1998/99 and annually thereafter.

**New Aid to Families with Dependent Children - Foster Care (AFDC-FC)
Group Home Requirements/Increases in Industry's Costs**

EXECUTIVE SUMMARY

Welfare and Institutions Code Section 11462 (m), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the California Department of Social Services (CDSS), commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new CDSS requirements established during the previous fiscal year concerning the operation of group homes; and of any unusual, industry-wide increase in costs associated with the provision of group home care.

During Fiscal Year 1995/96, CDSS amended existing regulations that may impact group home providers that receive foster care maintenance payments under the AFDC-FC program.

The amended regulations:

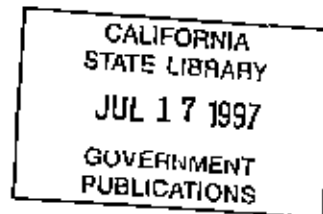
1. Prevent adverse economic impact to businesses in the repayment of sustained overpayments;
2. Safeguard specific circumstances when CDSS may not assess an overpayment or reduce a program's rate when a group home program maintains the level of care and supervision associated with the rate classification level for children actually residing at the facility; and
3. Allow leaseback arrangements (for the purposes of this report, "leaseback" refers to self-dealing transactions, as defined in California Corporations Code, Section 5233) only after the provider's self-dealing transaction documents have been reviewed and approved by the Attorney General's Charitable Trust Section.

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REPORT TO THE LEGISLATURE



**NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**



MARCH 1997

**NEW AFDC-FC GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**

REPORT MANDATE

Welfare and Institutions Code Section 11462 (m), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the California Department of Social Services to provide the Joint Legislative Budget Committee with a list of any new Departmental requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

This report fulfills the requirements of Section 11462 (m) for the annual report.

**New Aid to Families with Dependent Children - Foster Care (AFDC-FC)
Group Home Requirements/Increases in Industry's Costs**

March 11, 1997

I. Statutory Basis For Report

Welfare and Institutions Code Section 11462 (m) requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee with a list of :

- A. Any new CDSS requirements established during the previous fiscal year concerning the operation of group homes.
- B. Any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

II. Purpose

The purpose of this report is to provide the Committee with a list which could be used to "determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year."

III. New CDSS Requirements For Group Home

New CDSS requirements concerning the operation of group homes are as follows:

- o Definitions for the following terms: audit period, audit report, balancing, eligible hour, fiscal audit, leaseback, non-profit organization, overpayment and underpayment.
- o A group home program must allocate service hours between eligible and ineligible activities for program classification based on funding sources.
- o A group home program must allocate work hours for administrative staff between the Aid to Families with Dependent Children - Foster Care (AFDC-FC) program and private employment.
- o Limitation on reportable child care service hours for staff that work at the AFDC-FC program and outside employment.
- o Child care social work service hours must be compensated in accordance with Department of Industrial Relations rules and regulations.
- o A 12-month repayment option for group home providers with sustained overpayments.

- o The CDSS may use a "balancing" process to collect sustained overpayments by applying any funds owed to a group home provider against outstanding overpayments.
- o Language allowing providers flexibility when allocating program hours.
- o Child care and supervision hours are not eligible for double weighting under the program classification process.

IV. Potential Fiscal Impact Upon Group Home Providers

The following may have significant fiscal impact on providers of group home care:

- o Leaseback arrangements being allowed only after review and approval of the provider's self-dealing transaction documents by the Attorney General's Charitable Trust Section.

V. Projected Savings

While adoption of these regulations may affect group home providers that receive foster care maintenance payments under the AFDC-FC program, CDSS is projected to achieve local assistance savings of approximately \$1.9 million in Fiscal Year 1998/99 and annually thereafter.

**New Aid to Families with Dependent Children - Foster Care (AFDC-FC)
Group Home Requirements/Increases in Industry's Costs**

EXECUTIVE SUMMARY

Welfare and Institutions Code Section 11462 (m), created by Senate Bill (SB) 370 (Chapter 1294, Statutes of 1989), requires the California Department of Social Services (CDSS), commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new CDSS requirements established during the previous fiscal year concerning the operation of group homes; and of any unusual, industry-wide increase in costs associated with the provision of group home care.

During Fiscal Year 1995/96, CDSS amended existing regulations that may impact group home providers that receive foster care maintenance payments under the AFDC-FC program.

The amended regulations:

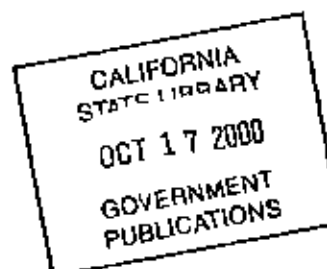
1. Prevent adverse economic impact to businesses in the repayment of sustained overpayments;
2. Safeguard specific circumstances when CDSS may not assess an overpayment or reduce a program's rate when a group home program maintains the level of care and supervision associated with the rate classification level for children actually residing at the facility; and
3. Allow leaseback arrangements (for the purposes of this report, "leaseback" refers to self-dealing transactions, as defined in California Corporations Code, Section 5233) only after the provider's self-dealing transaction documents have been reviewed and approved by the Attorney General's Charitable Trust Section.

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REPORT TO THE LEGISLATURE

NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES
IN INDUSTRY'S COSTS



OCTOBER 1999

**NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**

REPORT MANDATE

Welfare and Institutions (W&I) Code section 11462(m), created by Senate Bill (SB) 370, requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee with a list of any new Departmental requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

This report fulfills the requirements of W&I Code section 11462(m) for the annual report:

**New Foster Care Group Home
Requirements/Increases in Industry's Costs**

October 1, 1999

I. Statutory Basis for Report

Welfare and Institutions (W&I) Code section 11462(m) requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee (Committee) with a list of:

- A. Any new CDSS requirements established during the previous fiscal year concerning the operation of group homes.
- B. Any unusual, industry-wide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group home care.

II. Purpose

The purpose of this report is to provide the Committee with a list that could be used to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

III. New CDSS Requirements for Group Homes

Provisional rates for group home programs. Senate Bill (SB) 933 (Statutes of 1998, Chapter 311) added W&I Code sections 11462(e)(1)(A)-(E) that require the establishment of provisional rates for new group home programs. Emergency group home ratesetting regulations (Manual of Policies and Procedures (MPP) section 11-400, et seq.) were adopted to implement and clarify the provisional rate mandates. These regulations allow the establishment of a provisional rate for up to 13 months for a new or existing provider requesting a rate for a new program, or an existing provider seeking a Rate Classification Level (RCL) increase. No later than 13 months after the establishment of the provisional rate, CDSS must conduct a program audit to determine the RCL for the group home program. Once a program audit has been conducted by CDSS and the program audit report has been filed, CDSS will set an annual rate for the provider. The system of provisional rates is intended to prevent misrepresentation of a projected rate by a group home provider.

Provisional licenses for group homes. SB 933 added Health and Safety (H&S) Code section 1520.1(a)(1) which requires that the Community Care Licensing (CCL) Division of CDSS issue a provisional license for a new group home facility. Existing group home licensing regulations were amended to comply with the new provisional

license mandate. All new group home facilities will be closely monitored by CCL to ensure full compliance with stringent licensing provisions for group homes. Comprehensive reviews will be conducted and will include a thorough review of the physical plant and grounds; an extensive review of the facility, client, and staff records; an assessment of the facility program statement; disciplinary policies and procedures; the emergency intervention plan; and visitation policies.

Group home board of directors' responsibilities. SB 933 added H&S Code sections 1520.1(b)(1), 1520.11 and 1558.1. These provisions require that each member of a group home's Board of Directors', prior to becoming a member, sign a statement that they understand their legal duties and obligations as a member, and that the group home's operation is governed by laws and regulations that are enforced by the CDSS as outlined in a booklet produced by CDSS. New licensing regulations (Title 22, Division 6) were adopted which clarify and implement these requirements.

Submission of an annual financial audit to be eligible for an AFDC-FC rate. SB 933 added W&I Code section 11466.21 which requires that a group home or foster family agency that provides treatment services obtain an annual financial audit as a condition of receiving an AFDC-FC rate. Emergency group home ratesetting regulations (MPP section 11-400, et seq.) were adopted which implement and clarify this requirement.

A six-percent increase to the AFDC-FC group home rate. SB 933 amended existing W&I Code section 11462(g) to incorporate a six-percent increase to the AFDC-FC group home rate. Existing group home ratesetting regulations (MPP section 11-400, et seq.) were amended to reflect the new group home rates.

Group home placement restrictions for children under the age of six years. Assembly Bill (AB) 1197 (Chapter 1088, Statutes of 1993) added W&I Code section 11467.1. This statute required that standards be developed to address the specific needs of children under six years of age that are placed in out-of-home care. County placing regulations (MPP section 31-400, et seq.) were adopted which established the conditions under which children under six could be placed into group homes beginning September 24, 1998, and continuing through December 31, 1999. These regulations also require that effective January 1, 2000, placements of children under the age of six years can only be made in family-like settings. In the event that such settings are unavailable for placements after January 1, 2000, an exception process was created for county use. In such situations, the county must request approval from CDSS for any alternative placement in excess of 30 days.

Licensing requirements for group home programs accepting children under the age of six years. AB 1197 added W&I Code section 11467.1 and H&S Code section 1530.8. These statutes required that standards be developed to address the specific needs of children under six years of age who are placed in out-of-home care, and that licensing regulations be adopted for group homes and temporary shelter care facilities that serve these children. Group home licensing regulations (Title 22,

Division 6, Chapter 5, Sub-chapter 2) were adopted which established new licensing requirements for group homes that accept placements of children under the age of six years. The new requirements included physical environment, staffing, and health and safety standards that meet or exceed the State childcare standards in Titles 5 and 22 of the California Code of Regulations.

Ratesetting regulations for group homes accepting children under the age of six years. AB 1197 added W&I Code section 11467.1 and H&S Code section 1530.8. These statutes required that standards be developed to address the specific needs of children under six years of age who are placed in out-of-home care, and that licensing regulations be adopted for group homes and temporary shelter care facilities that serve these children. Group home ratesetting regulations (MPP section 11-400, et seq.) were amended to ensure consistency with CCL licensing regulations regarding personnel requirements and the duties of care-giving staff in a group home that accepts children under the age of six years.

Land and other structures to be an allowable shelter cost for group homes. AB 1575 (Chapter 728, Statutes of 1997) amended existing W&I Code section 11462.06 to include land and other structures as allowable shelter costs for group home providers. Group home ratesetting regulations (MPP section 11-400, et seq.) were adopted on an emergency basis to ensure consistency with federal law that allows, in the determination of allowable shelter costs, federal financial participation for a reasonable amount of land.

Training standards for group home direct care staff and facility managers. SB 933 requires the CDSS to develop training standards for group home direct care staff and facility managers. Emergency group home training standards were adopted to implement this mandate. These regulations require 8 hours of training before staff are counted in the required staff to child ratio, an additional 16 hours of training within the first 90 days of employment, and 20 hours of annual training.

IV. Potential Fiscal Impact Upon Group Home Providers

The group home requirements described above in Section III, may have a potential fiscal impact upon group home providers:

- Submission of an annual financial audit to be eligible for an AFDC-FC rate. These regulations should have minimal net fiscal impact on group home providers. These regulations require the submission of an annual financial audit to receive an AFDC-FC rate. However, they also allow group homes to be reimbursed for the cost of such audits. Reimbursements will be made according to a sliding scale which provides up to \$2,500 or 50% of the actual cost of the audit (whichever is less) for group home programs with a capacity of 1-6 and an RCL of 1-14 or a capacity of 7-12 and an RCL of 1-10; or \$1,500 or 50% of the actual cost of the audit (whichever is less) for group home programs with a capacity of 7-12 beds and an RCL of 11-14. The regulations

will result in an approximate cost of \$2.9 million per year to the State. This estimate is based on a projection of \$5,000 per audit for an estimated 590 group home corporations who will be required to have an annual audit. However, the provider's actual cost associated with the audit should be negligible and may vary based upon the amount of reimbursement to which they are entitled. Additionally, while larger group home programs are ineligible for reimbursement, this requirement should have no net fiscal impact. Historically, the majority of these larger programs have annual financial audits performed and have incorporated the cost of these audits as a cost of doing business.

- Placement and licensing regulations for group homes accepting children under six years of age. These regulations may have a fiscal impact on group home providers that serve this population as these regulations impose additional standards on programs serving these children. However, it is estimated that these costs will be minimal and should not impose a fiscal burden on group home providers. The CDSS will continue to assess any potential for increased costs in this area.
- Training standards for group home direct care staff and facility managers. Emergency regulations were adopted to implement this mandate. Initially, CDSS indicated there would be no significant fiscal impact to group home providers. However, CDSS has received testimony during the public comment period which indicate there may be an increase to group home operating costs to meet the new training requirements. The CDSS will be assessing the validity of these comments and preparing a cost estimate of any actual and verifiable increased costs.
- A six-percent increase to the AFCD-FC group home rates. The statute and regulations provide a six-percent increase to the AFDC-FC group home rates. This will provide group home providers with additional funds to meet operational and cost of living demands.

The following group home requirements have no potential increased cost impact upon either group home providers or the State:

- Provisional licenses for group homes;
- Group home board of directors' responsibilities;
- Ratesetting regulations for group homes accepting children under six.

V. Projected Savings

The following group home requirements may result in potential savings to the State:

- Land and other structures to be an allowable shelter costs for group homes. These statutes and emergency regulations include land and other structures

as allowable shelter costs for group home providers. As indicated in the Informative Digest portion of the regulations package, it is estimated the State will realize savings of approximately \$1.9 million in the current fiscal year. However, adoption of final regulations may change this savings projection.

- Group homes accepting children under six years of age. These statutes and regulations set forth specific placement and licensing standards for group homes accepting children under six years old. As indicated in the Informative Digest portion of the regulations package, it is estimated the State will realize savings of approximately \$1.2 million in the current budget year and approximately \$2.5 million annually thereafter.

**New Foster Care Group Home
Requirements/Increases in Industry's Costs**

EXECUTIVE SUMMARY

Welfare and Institutions (W&I) Code section 11462(m), created by Senate Bill (SB) 370, requires the California Department of Social Services (CDSS), commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new CDSS requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group home care.

Statutes and/or regulations were enacted during Fiscal Year (FY) 1998-99 that imposed new requirements that impacted the operation of group homes. These requirements included:

- 1) provisional rates for group home providers;
- 2) provisional licenses for group homes;
- 3) responsibilities of a member of a group home's Board of Directors;
- 4) submission of an annual financial audit by group homes and foster family agencies to be eligible for an Aid to Families with Dependent Children-Foster Care (AFDC-FC) rate;
- 5) six-percent rate increase to the AFDC-FC group home rate;
- 6) ratesetting regulations for group homes accepting children under the age of six years;
- 7) group home placement restrictions for children under the age of six years;
- 8) licensing requirements for group home programs accepting children under the age of six years;
- 9) land and other structures to be an allowable shelter cost for group homes; and
- 10) training standards for group home direct care staff and facility managers.

The CDSS has determined that of the new regulatory requirements adopted in FY 1998-99 there are three regulatory schemes that may increase costs for group home providers. One of the new regulatory requirements that may have a potential cost impact are the group home ratesetting regulations resulting from SB 933 requiring that group homes and foster family agencies submit yearly financial audit reports as a condition of receiving an annual AFDC-FC rate. However, these regulations specify a sliding scale of reimbursement to offset the cost of the yearly financial audit report based upon the provider's licensed capacity and gross annual revenue from all funding sources. Therefore, the provider's actual cost of the audit may be negligible depending upon the amount of reimbursement they are entitled to in accordance with the provisions of this regulation.

The second regulatory scheme that may have a potential cost impact are the Community Care Licensing and Manual of Policies and Procedures Division 31 placement regulations resulting from Assembly Bill (AB) 1197 that address specific placement and licensing standards for group homes accepting children under six years of age. The CDSS' research in developing these regulations indicated there might be a fiscal impact on group home providers. The CDSS will continue to assess any potential for increased costs in this area.

Lastly, the SB 933 training standards for group home direct care staff and facility managers may have a fiscal impact on group home providers. Initially, the CDSS estimated there would be no significant fiscal impact. However, testimony received during the public comment portion of the regulatory process indicates there may be a fiscal impact. The CDSS will be analyzing those comments and preparing a cost estimate of any actual and verifiable increased costs.

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REPORT TO THE LEGISLATURE

**NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES
IN INDUSTRY'S COSTS**

OCTOBER 2000

**NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES IN
INDUSTRY'S COSTS**

REPORT MANDATE

Welfare and Institutions Code (WIC) Section 11462(m), created by Senate Bill (SB) 370, requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee with a list of any new Departmental requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

This report fulfills the requirements of WIC Section 11462(m) for the annual report.

**NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES IN INDUSTRY'S COSTS**

EXECUTIVE SUMMARY

Welfare and Institutions Code Section 11462(m), created by Senate Bill (SB) 370, requires the California Department of Social Services (CDSS), commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new CDSS requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group home care.

Statutes and/or regulations were enacted during Fiscal Year (FY) 1999-2000 that imposed new requirements that impacted the operation of group homes. These requirements included:

- 1) Ratesetting regulations for Community Treatment Facilities;
- 2) A 2.36 percent rate increase to the AFDC-FC group home rate;
- 3) Group home administration certification training program; and
- 4) Final adoption of the following regulations:
 - a) SB 933 ratesetting changes.
 - b) Training standards for group home direct care staff and facility managers.
 - c) Land and other structures to be an allowable shelter cost for group homes.

The CDSS has determined that of the new regulations/requirements adopted in FY 1999-2000, the one regulatory requirement that may increase costs for group home providers is the SB 933 mandate that group home administrators hired on or after January 1, 2000 successfully complete an approved 40-hour training certification program. The certification will be renewable every two years, requires 40 hours of continuing education within the prior two years, and a \$100 renewal processing fee. However, no renewal cost will be realized until FY 2001-2002, because for FY 1999-2000 and FY 2000-2001, there are no renewal requirements.

**NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES IN INDUSTRY'S COSTS**

October 1, 2000

I. Statutory Basis for Report.

Welfare and Institutions (WIC) Section 11462(m) requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee (Committee) with a list of:

- A. Any new CDSS requirements established during the previous fiscal year concerning the operation of group homes.
- B. Any unusual, industry-wide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group home care.

II. Purpose

The purpose of this report is to provide the Committee with a list that could be used to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

III. New CDSS Requirements for Group Homes

Rate setting requirements for Community Treatment Facilities (CTFs). With the establishment of final CTF programmatic and licensing regulations pursuant to Assembly Bill (AB) 1288, it became necessary for CDSS to develop regulations governing a CTF's eligibility for public payments. In accordance with the provisions of WIC Sections 11462 and 11462.01, the Foster Care Branch developed emergency CTF rate setting regulations that became effective October 18, 1999.

The emergency regulations adopted definitions for CTF and CTF licensed nursing staff; expanded eligible hours to include program point calculation for the hours worked by CTF nursing staff and the allocation of those hours based on activity performed; and established weightings for CTF nursing staff based on education, experience and training.

Senate Bill (SB) 933 rate setting changes. SB 933, (Chapter 311, Statutes of 1998) added WIC Sections 11462(e)(1)(A)-(E) that requires the establishment of a provisional rate for new group home programs. SB 933 also added WIC Section 11466.21 which requires the annual submission of a financial audit for a group home

Page Two

or foster family agency as a condition of receiving an Aid to Families with Dependent Children-Foster Care (AFDC-FC) rate. Emergency group home ratesetting regulations (Manual of Policies and Procedures (MPP) Section 11-400, et seq.) for these provisions were adopted during FY 1998-99 and finalized during FY 1999-2000. These regulations and their fiscal impact were discussed, in detail, in the October 1999 SB 370 report.

Land and other structures to be an allowable shelter cost for group homes. AB 1575, (Chapter 728, Statutes of 1997) amended WIC Section 11462.06 to include land and other structures as allowable shelter costs for group home providers. Emergency group home ratesetting regulations (MPP Section 11-400, et seq.) were adopted during FY 1998-1999 and finalized during FY 1999-2000. This regulation and its projected savings impact were discussed, in detail in the October 1999 SB 370 Report.

A 2.36 percent increase to the AFDC-FC group home rate. AB 1111 (Chapter 147, Statutes of 1999) amended existing WIC Section 11462(g) to provide two increases based on the California Necessities Index to the AFDC-FC group home rate. A 2.36 percent increase was effective July 1, 1999 and January 1, 2000. Existing group home ratesetting regulations (MPP Section 11-400, et seq.) were amended to reflect the new group home rates.

Group Home Administration Certification. These standards were added by SB 933 in Health and Safety Code (HSC) Section 1522.41. Regulations were finalized in May 2000. The regulations require a group home administrator hired on or after January 1, 2000 to successfully complete a 40-hour Department-approved Initial Certification Training Program and subsequently take and pass a Department-administered written test. An individual employed as an administrator as of December 31, 1999 may take the standardized written test without the 40 hours of training. However, if a passing score is not achieved after two attempts, the individual must then take the 40-hour training and take the test again. Certification will be renewable every two years, and require a \$100 renewal fee.

Training standards for group home direct care staff and facility managers. These training standards were enacted by SB 933 and codified in HSC Section 1522.42. Emergency group home standards were adopted during FY 1998-1999 and finalized during FY 1999-2000. This regulation was discussed in detail in the October 1999 SB 370 Report.

IV. Potential Fiscal Impact Upon Group Home Providers

The following previously discussed group home requirements may have a potential fiscal impact upon group home providers:

Page Three

- Group Home Administration Certification. Regulations were finalized in May 2000. The certification will be renewable after two years, provided the certificate holder has complied with all the renewal requirements, which include 40 hours of continuing education within the past two years, and payment of a \$100 renewable processing fee. Although there will be no additional cost for the 40-hour training since group home providers require their applicants to be certified before they are hired, there may be a fiscal impact to the group home providers for the bi-annual renewal fee of \$100. However, no renewal fees will be realized until FY 2001-2002, because for FY 1999-2000 and FY 2000-2001, there are no renewal requirements.
- Training standards for group home direct care staff and facility managers. Regulations were finalized in January 2000. The CDSS received testimony during the public comment period that indicated a possible increase to group home operating costs to meet the new training requirement. The CDSS invited providers to submit documentation of actual and verifiable increased costs. To date, none has been received.
- A 2.36 percent increase to the AFDC-FC group home rate. The statute and regulations provide a 2.36 percent increase to the AFDC-FC group home rates effective July 1, 1999 and January 1, 2000. This will provide group home providers with additional funds to meet operational and cost of living demands.

The following previously discussed group home requirement has no potential increased cost impact upon either group home providers or the State:

- Ratesetting regulations for CTFs.

V. Projected Savings

None of the previously discussed group home requirements may result in potential savings to the State.

GOVERNOR'S ACTION REQUESTED

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TO: FILE

VIA: SUSAN P. KENNEDY
Deputy Chief of Staff for
Policy and Cabinet AffairsFROM: GRANTLAND JOHNSON, Secretary
Health and Human Services AgencyPrepared by: RITA SAENZ, Director
California Department of Social Services
(916) 657-2598

DATE: August 6, 2001

SUBJECT: SENATE BILL 370 REPORT TO THE LEGISLATURE

☒ Request for Approval☐ For Governor's Information☐ Request for Cabinet Discussion☐ For Governor's Signature

SUMMARY/PRO-CON ARGUMENTS: To provide the Joint Legislative Budget Committee with a list of: 1) any new Departmental requirements established during the previous fiscal year concerning the operation of group homes; and 2) any unusual industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care. This data is to be reported to the Joint Legislative Budget Committee for their use in determining whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

EFFECT ON EXISTING LAW: N/A**ESTIMATED COST:** N/A**TIME FACTOR:** Report due on October 1, 2001.**RECOMMENDATION:** Approve report for submission to the Joint Legislative Budget Committee.**APPROVED:**ORIGINAL SIGNED BY
RITA SAENZ

AUG 22 2001

RITA SAENZ, Director

Date

SUSAN P. KENNEDY
Deputy Chief of Staff for
Policy and Cabinet Affairs

Date

ORIGINAL SIGNED BY
DAVID MAXWELL-JOLLY

9/5/01

GRANTLAND JOHNSON
Secretary

Date

MICHAEL GOTCH
Legislative Secretary

Date

GRAY DAVIS
Governor

Date

STATE OF CALIFORNIA - HEALTH AND HUMAN SERVICES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



AUG 2 2 2001

The Honorable Gray Davis
Governor
State Capital
Sacramento, California 95814

Dear Governor Davis:

Enclosed is a copy of the Statutory report entitled Report to the Legislature on New Foster Care Group Home Requirements/Increases in Industry's Costs prepared by this Department in compliance with the requirements set forth in SB 370, Chapter 1294, Statutes of 1989.

Should you have any questions, please have your appropriate staff person contact Jo Frederick, Deputy Director, Office of Legislation at 657-2623.

Sincerely,

ORIGINAL SIGNED BY,
RITA SAENZ

RITA SAENZ
Director

Enclosure

STATE OF CALIFORNIA—CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



- ☐ Joint Legislative Budget Committee
1020 N Street, Room 583
(Also enclose 14 copies of Budget Report for
Members, Joint Legislative Budget Committee.)
- ☐ Mr. Tim Gage, Director
Department of Finance
State Capitol, Room 1145
- ☐ Budget and Fiscal Review Committee
State Capitol, Room 5013
(2 copies of report.)
- ☐ Assembly Budget Committee
State Capitol, Room 6025
(2 copies of report.)
- ☐ Senate Health and Human Services
State Capitol, Room 446
- ☐ Assembly Human Services Committee
State Capitol, Room 2163
- ☐ Ms. Elizabeth Hill
Legislative Analyst
925 L Street, Suite 1000
- ☐ Office of Legislative Counsel
Attention: Indexing Division
925 L Street, 11th Floor
- ☐ California State Library
Government Publications Section
Library & Courts Building, Room 400
(3 copies of report.)
- ☐ Department of Social Services
State Legislative Coordinator
Office of Legislation, AS 17-32

Reference

Attached is a copy of the Budget Report prepared by the Department of Social Services. Should you have any questions, please contact Ms. Jo Frederick, Deputy Director, Legislation, at 657-2623.

Sincerely,

ORIGINAL SIGNED BY
RITA SAENZ

RITA SAENZ
Director

REPORT TO THE LEGISLATURE
ON
NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES IN INDUSTRY'S COSTS

October 2001

STATE OF CALIFORNIA
Gray Davis, Governor

HEALTH AND HUMAN SERVICES AGENCY
Grantland Johnson, Secretary

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
Rita Saenz, Director

Report to the Legislature on New Foster Care Group Home
Requirements/Increases in Industry's Costs

LEGISLATIVE MANDATE

Welfare and Institutions (W&I) code section 11462(m), created by Senate Bill (SB) 370, Presley, (Chapter 1294, Statutes of 1989) requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee with a list of any new Departmental requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group home care.

Additional copies of this report can be obtained from:

California Department of Social Services
Foster Care Branch
744 P Street, Mail Station 19-73
Sacramento, California 95814
(916) 324-5809

Report to the Legislature on New Foster Care Group Home Requirements/Increases in Industry's Costs

Executive Summary

Welfare and Institutions (W&I) Code section 11462(m), created by Senate Bill (SB) 370, (Chapter 1294, Statutes of 1989) requires the California Department of Social Services (CDSS), commencing October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new CDSS requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group home care.

Statutes and/or regulations were enacted during Fiscal Year (FY) 2000-2001 that imposed new requirements that impacted the operation of group homes. These requirements included:

- 1) 10-percent wage/benefits pass-through increase for childcare workers and social workers in group homes;
- 2) 2.96 percent increase to the AFDC-FC group home rate; and
- 3) final adoption of the Community Treatment Facility regulations.

The CDSS has determined that none of the new regulations/requirements adopted in FY 2000-2001 will increase costs for group homes.

Report to the Legislature on New Foster Care Group Home Requirements/Increases in Industry's Costs

Introduction

This report is submitted to the Joint Legislative Budget Committee (Committee) to meet the mandate in Welfare and Institutions (W&I) Code section 11462(m) created by Senate Bill (SB) 370, (Chapter 1294, Statutes of 1989). This W&I Code section requires the California Department of Social Services (CDSS) to provide the Joint Legislative Budget Committee (Committee) with a list of:

- A. Any new CDSS requirements established during the previous fiscal year concerning the operation of group homes.
- B. Any unusual, industry-wide increase in costs associated with the provision of group care that may have significant fiscal impact on providers of group home care.

Purpose

The purpose of this report is to provide the Committee with a list that could be used to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

Federal Law

There is no federal law governing this report.

State Law

SB 370, (Chapter 1294, Statutes of 1989) enacted W&I Code section 11462(m), which mandates CDSS to provide the Committee with an annual report of new requirements and increases in cost impacting the operation of group homes.

New CDSS Requirements for Group Homes

A 10-percent pass-through supplemental increase for childcare workers and social workers in group homes. Assembly Bill (AB) 2876, (Chapter 108, Statutes of 2000) added W&I Code section 11462 (g)(3) to provide a 10-percent wage/benefits pass-through increase to childcare workers and social workers in group homes that was effective January 1, 2001. The statute provides group home providers with the flexibility to use the supplemental payment to increase salaries/wages, and/or increase benefits, or hire additional staff.

AB 2876 also added W&I Code section 11463 to incorporate a similar 10-percent pass-through provision for foster family agencies (FFA) social work staff only. Like the group home providers, FFA providers have the same flexibility with respect to how they utilize the additional funding.

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A 2.96 percent increase to the AFDC-FC group home rate. AB 1740 (Chapter 14, Statutes of 2000) provided a 2.96 percent increase to the AFDC-FC group home rate effective July 1, 2000 in accordance with W&I Code section 11462(g)(2) based on the California Needs Index (CNI).

Ratesetting requirements for Community Treatment Facilities (CTFs). With the establishment of final CTF programmatic and licensing regulations pursuant to AB 1288 (Chapter 89, Statutes of 1991), it became necessary for CDSS to develop regulations governing a CTF's eligibility for public payments. In conformance with the provisions of W&I Code sections 11462 and 11462.01, emergency CTF ratesetting regulations were adopted during FY 1999-2000 and finalized during FY 2000-2001. These regulations were discussed in detail in the October 2000 SB 370 report.

Potential Fiscal Impact Upon Group Home Providers

As previously discussed, the following group home requirements may have a potential fiscal impact upon group home providers:

- A 10-percent pass-through supplemental increase for childcare workers and social workers in group homes.
The statute provides a 10-percent increase for childcare workers and social workers in group homes. This will provide group home providers with additional funding for staffing costs.
- A 2.96 percent increase to the AFDC-FC group home rate.
The statute and regulations provide a 2.96 percent increase to the AFDC-FC group home rates effective July 1, 2000. This will provide group home providers with additional funds to meet operational and cost-of-living demands.

The following items, not previously discussed, may have a potential impact upon group home providers. However, there was insufficient data to accurately analyze increased cost for the prior year (FY 00-01) and the realized increased cost will be reported for subsequent fiscal years as appropriate.

- Increased utility cost.
- Elimination of the exemption to the eight-hour workday as a result of "Eight Hour-Day Restoration and Workplace Flexibility Act."

As previously discussed, the following group home requirement has no potential increased cost impact upon either group home providers or the State:

- Ratesetting regulations for CTFs.

Projected Savings

None of the previously discussed group home requirements may result in potential savings to the State.

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REPORT TO THE LEGISLATURE
ON
NEW FOSTER CARE GROUP HOME
REQUIREMENTS/INCREASES
IN INDUSTRY'S COSTS

March 2006

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Kimberly Belshé, Secretary

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
Cliff Allenby, Interim Director

Report to the Legislature on New Foster Care Group Home Requirements/Increases in Industry's Costs

Executive Summary

Welfare and Institutions Code (W&IC) Section 11462(m), created by Senate Bill (SB) 370, (Chapter 1294, Statutes of 1989) requires the California Department of Social Services (CDSS), commencing on October 1, 1992, to provide the Joint Legislative Budget Committee with a list of any new CDSS requirements established during the previous fiscal year concerning the operation of group homes and of any unusual, industry-wide increase in costs associated with the provision of group home care.

Statutes and/or regulations were enacted during FYs 2003-2004 and 2004-2005 that imposed new requirements impacting the operation of group homes. These requirements included:

Cost Increases:

- Elimination of the Financial Audit Report cost reimbursement
- Increase in civil penalties for background check violations
- Increase in Community Care Licensing application and annual fees

Cost Savings:

- Rate relief – adjusted rate classification level point rates
- Biennial application submission

This report summarizes those changes and their impact on group homes.

Report to the Legislature on New Foster Care Group Home Requirements/Increases in Industry's Costs

Introduction

This report is being submitted to the Joint Legislative Budget Committee (Committee) to meet the mandate in Welfare and Institutions Code Section 11462(m) created by Senate Bill (SB) 370, (Chapter 1294, Statutes of 1989) which requires CDSS to provide the Committee with a list of:

- A. Any new CDSS requirements established during the previous fiscal year concerning the operation of group homes.
- B. Any unusual, industry-wide increase in costs associated with the provision of group care that may have significant impact on providers of group home care.

Purpose

The purpose of this report is to provide the Committee with a list that could be used to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

Federal Law

There is no federal law governing this report.

State Law

SB 370 (Chapter 1294, Statutes of 1989) enacted W&IC Section 11462(m) which mandates CDSS to provide the Committee with an annual report of new requirements and increases in costs impacting the operation of group homes.

New CDSS Requirements for Group Homes

COST INCREASES

- **Elimination of the Financial Audit Report Cost Reimbursement:** All audit cost reimbursement provisions were eliminated with the passage of SB 1104 (Chapter 229, Statutes of 2004). In the past, group home providers with a total licensed capacity of 12 beds or fewer who received less than \$300,000 in combined federal funds in their most recent fiscal year were eligible to receive a partial reimbursement - not to exceed \$2,500 - of the costs associated with obtaining a financial audit report.

Additionally, current statutes allow any group home non profit corporation receiving less than \$300,000 in combined federal funds in a fiscal year to submit a financial audit report on its most recent fiscal year at least once every three years. The change from every year to every three years somewhat reduces the cost impact of losing the \$2,500 partial reimbursement.

- **Civil Penalty Increases for Background Check Violations:** AB 1240 (Chapter 653, Statutes of 2004) amends the Health and Safety Code increasing an existing civil penalty for allowing individuals who do not have a criminal record clearance or exemption to work or reside in a licensed facility. The penalty increased from a one-time \$100 penalty per person to \$100 per day, per person up to five days and up to 30 days if the violation is repeated in a one-year period.
- **Licensing Fees Increased—Effective August 16, 2004:** The Budget Act for 2004-05 authorized fee increases to the Community Care Licensing fee structure (except Foster Family Homes).

Application Fee increases are as follows:

<u>Capacity</u>	<u>2004-05 Application Fee</u>	<u>2003-04 Application Fee</u>
1-3	\$ 375	\$ 375
4-6	\$ 750	\$ 375
7-15	\$ 1,126	\$ 563
16-30	\$ 1,500	\$ 750
31-49	\$ 1,876	\$ 938
50-74	\$ 2,252	\$ 938
75-100	\$ 2,628	\$ 938

Annual Fee increases are as follows:

<u>Capacity</u>	<u>2004-05 Application Fee</u>	<u>2003-04 Application Fee</u>
1-3	\$ 375	\$ 375
4-6	\$ 750	\$ 375
7-15	\$ 573	\$ 563
16-30	\$ 750	\$ 750
31-49	\$ 938	\$ 750
50-74	\$ 1,126	\$ 938
75-100	\$ 1,314	\$ 938

The following new fees were added:

- **Change In Corporate Status Fee** – 50 percent of an established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.
- **Change of Capacity Fee** - \$25 fee when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.
- **Orientation Fees** – A fee will be charged to each person attending one of CDSS' sponsored orientations. The orientation fee is \$50 per person for all licensing categories (except Foster Family Homes).
- **Probation Monitoring Fee** – 100 percent of the annual fee, in addition to the annual fee for that category and capacity, for each year a licensee has been placed on probation as a result of a stipulation decision and order by CDSS.
- **Late Fee** – A late fee that represents an additional 50 percent of the annual fee will be charged to the licensee for failure to pay annual licensing fees on or before the due date.
- **Administrative Fee** – A fee to cover any costs incurred by CDSS for processing payments including, but not limited to, dishonored check charges, charges for credit and debit transactions, and postage due charges.
- **Plan of Correction Monitoring Fee** – When any licensee does not implement a plan of correction on or prior to the due date specified in the plan, a fee of \$200 will be charged for the additional visit or follow-up required.

COST SAVINGS

- **Rate Relief – Adjusted Rate Classification Level Point Ranges:** SB 1104 (Chapter 229, Statutes of 2004) provided continuation of temporary rate relief for FY 2004-05. This statute requires that for group homes that receive Aid to Families with Dependent Children-Foster Care payments for services performed during FYs 2002-03, 2003-04, and 2004-05, the adjusted rate classification level (RCL) point ranges be used for establishing the biennial rates for existing programs. The adjusted RCL point ranges are also used in performing program audits and in determining any resulting rate reduction, overpayment, assessment, or other action. The RCL point ranges were adjusted in order to allow group home providers the opportunity to make planned revisions in program operations to address funding levels.

- **Biennial Application Submission:** AB 1752 (Chapter 225, Statutes of 2003) enacted statute requiring CDSS to establish rates for group homes and foster family agencies on a biennial basis. The filing dates for rate applications/rate requests are to be on a schedule determined by CDSS. The biennial application submission results in administrative cost savings for group home providers and foster family agencies.