



## Overview of Benefits and recent Changes under AB 12 and ACA



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## Historical Context: Why are benefits for children in out-of-home care so complicated?

- 1961 Title IV-A AFDC
- 1979 Youakim (440 U.S. 125)
- 1980 Title IV-E (42 U.S.C. § 670 et seq)
- 1987 King (186 Cal.App.3d 648)
- 1992 Lipscomb (962 F.2d 1374)
- 1996 Welfare Reform PRWORA (TANF and CalWORKs) (42 U.S.C. § 601)
- 1997 ASFA (42 U.S.C. § 671)
- 1999 FCIA Chafee (P.L. 106-169)
- 2003 Rosales (321 F.3d 835)
- 2005 Deficit Reduction Act (P.L. 109-171)
- 2008 Fostering Connections to Success Act (P.L. 110-351)



## **Aid to Families with Dependent Children-Foster Care (AFDC-FC)**

- Title IV-E of the Social Security Act
  - 42 U.S.C. § 670 et seq.
  - 45 C.F.R. § 1356 et seq.
- Cal. Welf. and Inst. Code § 11400 et seq.
- California's Manual of Policy and Procedure (MPP) § 45-200 et seq.



### **AFDC-FC**

Also Available for:

- Youth in probation supervised foster care placements
- Youth living with non-related legal guardians



## Foster Care Benefits – Two ~~Different Programs with the Same~~ Name

**Federal AFDC-FC (or “IV-E”)**  
– Must meet federal eligibility  
criteria

**State AFDC-FC**  
- Available to all placements  
**except** relatives



## Foster Care Benefits (AFDC-FC): Basic Eligibility (42 U.S.C. § 672; WIC § ~~11401~~)

1. Categorical requirements of the child
    - Age, residency, immigration status, deprivation
  2. Conditions of removal from the home and placement into approved/licensed facility
  3. Financial eligibility
- For full set of the 1996 AFDC Regulations see  
<http://www.dss.cahwnet.gov/ord/PG1780.htm>



## AFDC-FC (Foster Care Benefits)



- Licensed foster family home, group home, or foster family agency\*
- Approved home of a relative, *IF eligible for federal financial participation\**
- Approved home of a nonrelative extended family member\*
- Home of a non-related legal guardian
- Supervised Independent Living Placement (SILP) – over 18

### Who is a relative?

An adult related to the child by blood, adoption, or marriage within the fifth degree of kinship.

Includes:

- Mother
- Father
- Stepparents
- Siblings
- Step-Siblings
- Grandparents (great, great-great, great-great-great)
- Aunts and Uncles (great, great-great)
- First cousins
- First cousins once-removed
- Nieces and nephews
- *Spouse of any relative on list (even if relative is divorced or deceased)*

Everyone else is a non-relative!

## Federal Foster Care Benefits: Financial Eligibility

To receive **federal** foster care benefits, the youth must meet the 1996 AFDC criteria **in the home of removal** in the month of removal or one of the six months prior to removal

- In 1996, income limit for a family of 3 to qualify for AFDC was \$723\*\*
  - **BY CONTRAST:** The income limit for the **same** family to qualify for cash assistance today is \$1,200\*\*
- **What that means:** a child can be removed from a parent receiving welfare benefits and **STILL** not qualify for federal foster care benefits

**IMPORTANT:** Federal test has **nothing** to do with the needs of the child or the needs of the relative where the child is placed



\*\* California income eligibility limits. See [ACL 13-48](#).



## Little Known Facts about Federal Eligibility



- Federal eligibility is a **one-time determination** done at removal
- Federal eligibility does **not** depend on the type of placement
  - A youth who is not federally eligible in a relative home, is also not federally eligible in a group home
- Eligibility for federal foster care benefits is distinct from meeting federal home approval standards
  - A relative in California who meets federal home approval standards is still denied foster care benefits when the child does not meet the 1996 welfare standards
- Federal eligibility has nothing to do with the home where the child is placed
- 56% of California's foster youth are NOT federally eligible



## AFDC-FC: What Do They Get?

(WIC § 11461) (ACL 13-62)



- Youth who are **eligible** for AFDC-FC receive a monthly cash benefit based on:
  - Placement: different rates for relatives/foster homes, FFAs, Group Homes, THP-Plus Foster Care, SILPs
  - Special needs: specialized care increments and dual agency rates available in some types of placements
- Full scope Medi-Cal, no share of cost (Medicaid if they move out of state)
- Other funded services/allowances
  - County clothing allowance (if provided by county)
  - Infant supplement

## Benefits to Care for Rachel and Naomi

If Rachel and Naomi are **federally eligible**, they receive the same level of support

<b>Naomi</b> : placed with a Non-Relative Foster Parent	\$820 (federal foster care)
<b>Rachel</b> : placed with Grandma	<b>\$820 (federal foster care)</b>

\*\*The foster family home rates are based on a report from the Center for Public Policy Research at UC Davis that calculated the **Minimum Adequate Care Rates** for children in foster care

## Benefits to Care for Rachel and Naomi

If Rachel and Naomi are **not federally eligible**, their caregivers receive different benefits based on whether they are related to the child

<b>Naomi:</b> placed with a Non-Relative Foster Parent	<b>\$820 (state-only foster care)</b>
<b>Rachel:</b> placed with Grandma	<b>\$369 (CalWORKs aka TANF)</b>

FACT: The CalWORKs grant for one child is equal to just 39% of the federal poverty line



## Specialized Care Increments

(WIC § 11461(e))

- County supplement to the basic rate for the caring for children with medical or emotional/behavioral needs.
- County creates its own policy on how child qualifies and the increment amount. CDSS must approve the plan.
- Most counties provide the specialized care increment (exceptions: Modoc, Plumas and Sierra counties)



## Dual Agency Children: Regional Center Consumers in Foster Care

(WIC § 11464)

- Dual agency rate available to foster children who are Regional Center consumers AND receiving an AFDC-FC payment
  - \$2,162 (children with developmental disability diagnosed) + up to \$1,000 additional supplement (available in increments of \$250)
  - \$967 (Early Start program children 0-3 not diagnosed yet)



## Relatives Struggle to Support Youth with Special Needs

When relative foster parents care for youth with special needs who are **not** federally eligible, the relatives do **not** receive:

- Specialized Care Increments to provide for the special needs of the youth
- Dual Agency Rates for youth with developmental disabilities
- Infant Supplement for youth who are parenting

	<b>Naomi</b> (placed with non-relative)	<b>Rachel</b> (placed with grandma)
If the youth has severe emotional disturbance and qualifies for Specialized Care Increment in LA County	\$1,220	\$369
Youth with autism who is a regional center consumer	\$2,162 - \$3,162	\$369
Youth who is parenting	\$1,210	\$606



## Group Home vs. Foster Home Annual Costs

- Group Home Annual Costs
  - \$88,728/year for 1 youth at RCL 10
  - \$95,508/year for 1 youth at RCL 11
  - \$102,348/year for 1 youth at RCL 12 (**52% of youth in group homes placed in this level**)
  - \$116,028/year for 1 youth at RCL 14
- **BY CONTRAST** – it costs \$9,840/year for a 15-year old to be supported in a non-relative home or a federally-eligible relative’s home
  - **Relative foster parents caring for the same 15-year old who is non-federally eligible child receive a maximum of \$4,212/year**



### **Temporary Assistance for Needy Families (TANF) & California Work Opportunity and Responsibility to Kids (CalWORKs)**

- “Title IV-A”: Title 42 of the Social Security Act, Chapter 7, Subchapter IV, Part A
  - 42 U.S.C. § 601 et seq.
  - 45 C.F.R. § 260 et seq.
- Calf. Welf. and Inst. Code § 11200 et seq.
- California’s Manual of Policy and Procedure (MPP) § 45-200 et seq.

## CalWORKs—What Is It?

(WIC § 11200 et seq)



- Provides monthly cash assistance to relatives who are caring for children in their home including:
  - Youth who are **NOT** in foster care living in the home of a relative– informal care
  - Youth who are **IN** foster care but do not qualify for federal foster care benefits
- NOTE: Needy relatives who qualify under the income standards can be included on the grant



## CalWORKs: Basic Eligibility

(WIC § 11250 et seq)

Child must be:

- Needy
- Living in the home of a “caretaker relative”
- Under 18 years of age (or enrolled in school and will graduate by 19)
- U.S. Citizen or Qualified Status AND
- Deprived of parental support by parent’s physical or mental incapacity, incarceration, unemployment, or continued absence from the home



## Non-needy Caregiver Benefits

- Children in the home of a relative who is not his/her parent (biological or adoptive)
- Children in foster care who are not eligible for Title IV-E AFDC



## Needy Relative Caretakers

Needy relative caregivers may receive CalWORKs for themselves if the child is receiving:

- CalWORKs
- AFDC-FC
- Kin-GAP
- SSI



## CalWORKs: What Do You Get?

REGION 1		
AU Size	MAP Exempt	MAP Non-Exempt
1	369	333
2	606	542
3	750	670
4	891	800
5	1014	909
6	1140	1021
7	1252	1122
8	1366	1222
9	1475	1321
10	1586	1419
10+	1608	1441

**Payment *Decreases* Per  
Child!**



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## CalWORKs: What Do You Get?

REGION 2		
AU Size	MAP Exempt	MAP Non-Exempt
1	351	315
2	578	515
3	715	638
4	849	761
5	969	866
6	1087	972
7	1194	1067
8	1301	1164
9	1407	1258
10	1511	1350
10+	1533	1372

**Payment *Decreases* Per  
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## CalWORKs: When Does It End?



- Age 18
- Age 19  
School completion rule
- Age 21 – Extended foster care

## Rules For Extended Foster Care



## What Must a NMD Do To Receive Extended Benefits?

1. Be enrolled in high school or equivalent program
2. Be enrolled in college/vocational school
3. Work at least 80 hours/month
4. Participate in a program/activity that helps you find a job or removes barriers to employment
5. Be unable to do one of the above because of a medical or mental health condition



## Requirements

- Have an open court case with suitable placement order at age 18
- Satisfy one participation requirement
- Sign a mutual agreement
- Agree to meet with Social Worker or Probation officer
- Agree to work on transitional independent living skills
- Live in a licensed or approved setting



## Who has an open court case with suitable placement order?

- Youth in foster care as a dependent (300) on 18<sup>th</sup> birthday who has not been returned to parent
- Youth in foster care as a delinquent (600) on 18<sup>th</sup> birthday who is on a suitable placement order with a non-parent
  - Examples of suitable placements: group homes, THPP, relatives, NREFMs
  - **NOT** suitable: juvenile hall, camp, ranch
    - But in juvenile hall awaiting placement is ok.
- Youth in foster care as a transition dependent (450) on 18<sup>th</sup> birthday who has not been returned to parent

## Participation Requirements



1. Be enrolled in high school or equivalent program
2. Be enrolled in college/vocational school
3. Work at least 80 hours/month
4. Participate in a program/activity that helps you find a job or removes barriers to employment
5. Be unable to do one of the above because of a medical or mental health condition

## Mutual Agreement



- Signed within 6 months of NMD turning 18
- Documents youth's willingness to participate in EFC
- Documents agency's responsibilities to NMD
- Mutual Agreement is NOT a condition of payment
  - NOT a reason to terminate benefits
  - If youth does not cooperate – the social worker/probation officer can request a 391 hearing

## Licensed or Approved Setting

- Same placement options as for minors
  - Limitations on group home placements for NMDs
  - Limitations on THPP for NMDs
- New placements for NMDs
  - THP-Plus Foster Care
  - SILPs
- NMDs placed out-of-state can receive ben





## Group Homes for NMDs



- Decision on group home placement is to be a youth-driven, team-based case planning process
- Youth can remain in group home if under age 19 AND continuing in group home is in NMDs best interest in order to complete high school or equivalent
- Once NMD completes high school or turns 19, whichever is first, continuing in a group home is prohibited UNLESS
  - NMD has a medical or mental health condition (participation condition #5) and continuing in group home functions as a short-term placement;
  - Treatment services to alleviate the medical condition cannot be sole basis for disqualification from group home;
  - Treatment strategies should prepare NMD for discharge to a less restrictive and more family-like setting.

## Supervised Independent Living Setting (SILS)

- SILP – Supervised Independent Living Placement
- THP+FC – Transitional Housing Program Plus **Foster Care**

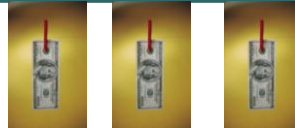


## SILP Overview

- Supervised Independent Living Placement (SILP)
- A new placement option for NMDs ready for greater independence
- Settings may include but not limited to:
  - Apartment living
  - Renting a room (*including from relative*)
  - Shared roommate settings
  - Dorms
  - Living situations with adult siblings, appropriate extended family members, tribal members, NREFM or mentors should be explored



## SILP Rate



- Basic rate (currently \$820/ month) – no specialized care
- NMD may receive the foster care benefit directly
- Clothing allowance available (if offered by county)
- Parenting NMDs receive the Infant Supplement (currently \$411.00/month)

## SILPs With Relatives: AFDC vs. CalWORKs

- SILP can be in the home of a relative



- NMD who receives CalWORKs while placed with a relative receives AFDC-FC if they move into a SILP with that relative

## Nonfederally Eligible Youth with a Relative Placement: What Do They Get?

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**Payment Decreases Per  
Child!**

## Placement with Relative vs. SILP with Relative

	Placement with Foster Parent/Relative Caregiver	SILP with a relative/former foster parent
<b>Approval Standards</b>	Must meet approval standards (same as licensing of FFH)	Basic health and safety standards
<b>Benefit Available</b>	AFDC-FC (if federally eligible) - OR - CalWORKs (if not federally eligible)	AFDC-FC (regardless of federal eligibility)
<b>Youth with Special Needs</b>	Dual Agency Rate or Specialized Care Increment	No specialized rates available

## SILP Readiness Assessment

- Example reasons for denial:
  - Rent and utilities exceed income
  - Unstable income
  - No knowledge of how to manage money
  - Unable to care for self without assistance due to a medical or mental health condition
- If NMD is not ready for a SILP, areas of improvement should be turned into goals in their TILP
- Reason for denial should be documented on the assessment and provided to NMD
- If NMD disagrees, he/she has the right to a grievance process



## Approval of SILP Site

- SILP may **not** include living with biological parent\*
- Sites are subject to health and safety inspection
  - Basic health and safety only
  - NMDs allowed to live in an unapproved SILP temporarily
  - County must inspect new SILP within 10 calendar days
- Ensuring privacy
  - Roommates and landlords not assessed
  - Social workers should arrange inspections and home visits in such a way that respects young adult's privacy
- Must be re-inspected annually



## YOUTH ALERT: Food Stamps

- Non-Minor Dependent (NMD) foster youth living in SILPs may be eligible for food stamps as long as they are otherwise eligible.
- Average grant between \$26 and \$120 depending on utilities

GROCERY SHOPPING!



## CalFresh a/k/a Food Stamps



- **Household based**
  - Living together, buying & preparing food together
- **Youth living with a foster family**
  - Treated as a boarder
  - Not included in the household
  - Foster care benefits don't count
  - Can opt in
- **Youth in a SILP**
  - Can qualify if otherwise eligible
  - Usual rules apply



## Transitional Housing Plus Foster Care

- Transitional housing for non-minor dependents
- Need to be licensed by CCL (ACL 12-44)
  - May be THPP expansion.
- No more requirement to reduce THP+ by 70%
  - If county intends to significantly reduce THP+, then decision must be affirmed in open session by BOS.



## THP-Plus Vs. THP-Plus Foster Care

### THP-PLUS

- No child welfare supervision
- Ages 18-24
- No participation conditions
- Up to 24 months
- Dependency or delinquency dismissed

### THP-PLUS FC

- Child welfare supervision
- Ages 18-21 (phase in)
- Must meet participation conditions
- No maximum time
- Remain under dependency, delinquency, or transition jurisdiction

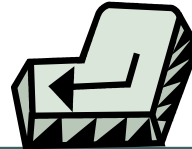


## What if a youth does not want to remain in foster care after age 18?

- Youth can opt out
- WIC 391 hearing prior to terminating jurisdiction
- Youth must be informed of
  - Right to remain in care
  - Benefits of remaining in care
  - Right to reenter care
- General jurisdiction for reentry retained by court until youth turns 21



## Re-Entry



- Youth can re-enter foster care unlimited times prior to turning 21
- Re-entry process is intended to be as accessible and easy as possible
- NMD is eligible for benefits again as of the date that the Voluntary Reentry Agreement is signed and the NMD is placed in an eligible facility



## Re-Entry and Youth's Income

- For non-minor dependents **re-entering** foster care:
  - A new qualification for foster care benefits is necessary
  - Qualification is based on **youth's income and property only**
  - New documentation for youth reentering is necessary



## When Do Benefits End?



### AFDC-FC (Foster Care benefits)

- 18
- 21 IF
  - Foster care placement order on 18<sup>th</sup> birthday
  - Meeting participation requirements
- 19 or HS graduation (whichever occurs first) – this is known as the “school completion rule”
  - Probate Court Guardianship



## Eligibility and Overview of Status Based Benefits – Supporting Exits to Permanence

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## Kinship Guardianship Assistance Payment Program (Kin-GAP)



## What is Kin-GAP?



- California's Kinship Guardianship Assistance Payment program
- Children in relative guardianship established by the juvenile court
- Allow youth to exit foster care to guardianship with a relative caregiver without loss of funding

## Kin-GAP: What do You Get?



- Monthly negotiated payment:
  - Up to foster family home rate, including specialized care or dual agency rates and "whole family home" rate for minor parents
  - Maximum Kin-GAP depends on date of Kin-GAP guardianship
  - Set forth in agreement - adjusted as needs of the child change
- Medi-Cal (Medicaid in other states)
- Education/Training Vouchers – if youth entered Kin-GAP at 16 or older

## Kin-GAP: When does it end?



- **Age 18:** if Kin-GAP payments started **prior** to the youth turning 16 and no physical or mental disability
  - NOTE: if youth meets the completion rule benefits can continue until 19 or completion, whichever is first)
- **Age 21:** if the child has mental or physical handicaps that warrant continuation – does not matter how old the youth was when entered Kin-GAP
- **Age 21** (in 2014): if negotiated Kin-GAP payments commenced at age 16 or older and the youth meets one of the five participation conditions

**NOTE: Kin-GAP continues if the family moves to another state**

## When Do Benefits End?

### Kin-GAP



- 18
- 21 - Mental or physical handicap that warrants continuation
- 20 (as of Jan. 1, 2013) and 21 (as of Jan. 1, 2014) if
  - Kin-GAP commenced **after** youth attains age 16
  - Meeting a Participation Requirement
- School completion rule if
  - Kin-GAP payments commenced **before** youth attains age 16

## Adoption Assistance Payments (AAP)



## What are Adoption Assistance Payments (AAP)?

- Monthly cash assistance available to relatives or nonrelatives who adopt children with “special needs”
- “Special needs” is broadly defined -- includes all youth who are adopted out of foster care
- Others – At Risk of Foster Care; SSI



## AAP: What Do You Get?



- Monthly negotiated payment:
  - Up to foster family home rate, including specialized care or dual agency rates
  - Maximum AAP depends on date the AAP agreement was signed
  - Set forth in agreement - adjusted as needs of the child change
- Residential Care or Wrap Around services
- Medi-Cal (Medicaid in other states)
- Education/Training Vouchers – if youth entered AAP at 16 or older

## AAP: When does it end?

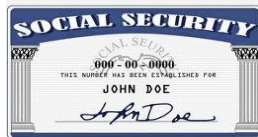


- **Age 18:** if the initial AAP agreement was signed **prior** to the youth turning 16 years old and no physical mental disability
- **Age 21:** IF the child has mental or physical handicaps that warrant continuation of benefit – does not matter how old the youth was when entered AAP program
- **Age 21** (beginning Jan. 1 2014) – if date the initial AAP Agreement was signed is when the youth was age 16 or older and the youth meets one of the five participation conditions

**NOTE: AAP continues if the family moves to another state**

## What is SSI/SSP?

- Supplemental Security Income / State Supplementary Payment
- Need-based program that provides cash aid and Medicaid to qualified individuals with low income, few resources, and who are:
  - Age 65 or older,
  - Blind, OR
  - **Disabled**



## SSI/SSP: Basic Eligibility

Children may be eligible for SSI/SSP benefits if they meet the following criteria:

- Income and resources
  - No deeming if the child is living apart from parents
  - No deeming once a child turns 18
- Citizen or certain categories of immigrant
- Disability

## SSI/SSP: Basic Eligibility



- Children (under 18)
  - Marked or severe functional limitation
  - Expected to last at least 12 months or result in death
- Adults (over age 18)
  - Inability to engage in substantial gainful employment
  - expected to last at least 12 months or result in death

## Disability Listings

- Medical criteria for the evaluation of children under 18 can be found here: <http://www.ssa.gov/disability/professionals/bluebook/ChildhoodListings.htm>
- Examples of categories of disabilities:
  - 103.00 Respiratory System
  - 111.00 Neurological
  - 112.00 Mental Disorders



## Listings

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- If the child does not meet one of the listings, then SSA looks at the Six Domains.
  - Must show marked limitation in two domains or extreme limitation in one domain in order to meet or equal the listings.

## Six Domains

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- Acquiring and Using Information
- Attending and Completing Tasks
- Interacting and Relating with Others
- Moving About and Manipulating Objects
- Caring for Yourself
- Health and Physical Well-Being

See 20 CFR 416.926a(c)(4)

## SSI/SSP: What Do They Get?

### ● Medicaid + Cash Benefit

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- Disabled child - \$784.40
- Disabled child in the home of another - \$547.50
- Independently living adult - \$877.40

### ● **Non-Medical Out of Home Care: \$1133.00**

- Children who are not living with their parents.
- Must complete the SSP 22 to get the full benefit.

## NMOHC

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- Non-Medical Out of Home Care (MPP 140.63)
  - (A) Assistance in dressing, grooming, bathing and other personal hygiene.
  - (B) Assistance with taking medication, as specified in section.
  - (C) Central storing and/or distribution of medications, as specified in section.
  - (D) Arrangement of and assistance with medical and dental care.
  - (F) Supervision of client schedules and activities.
  - (H) Monitoring food intake or special diets.
- CWD certifies and returns SSP-22 within 13 working days.

## Adult SSI/SSP: What Do You Get?



- Non-Medical Out of Home Care rate if
  - Living in a state licensed NMOHC facility OR In the home of a relative or guardian/conservator AND
  - Receiving “care and supervision” MPP 46-140.13 – 46-140.2.
- If not receiving NMOHC, then adult rates apply.

## Representative Payees



- The County should be the payee of last resort.
  - “... when no other appropriate party is available to serve.” WIC 13754
- Legal guardian or caregiver can become payee by making a request with the local Social Security Office.
- Youth can be his or her own payee.
  - Age 18 unless legally incompetent 20 CFR § 416.601
  - Age 15 - 20 CFR § § 416-610(b), 416-611
    - Capable of using benefits to provide for his or her own needs.
    - Applying within 7 months of age 18.



## SSI/SSP: When Does it End?

- Continues as long as disability, income and resources criteria are met
- Different disability standard for adults
  - Continuing Disability Review (“CDR”) to determine if the youth meets adult disability criteria
  - Benefits continue until CDR is complete – no need to reapply at 18.

## Benefit Continuation Rule for TAY (18 – 24 years)

- Benefits Continuation Rule: Allows benefits to continue even **after** SSA determines individual does not meet adult standard
  - Individuals must participate in approved programs of vocational rehabilitation that began before SSA determined that their disabilities ended.
  - Generally SSA must also determine that the completion of this program will reduce the likelihood that the recipient will need to rely on disability benefits.
  - Continuation in an IEP program is automatically considered an acceptable program that will reduce dependence on benefits. 20 C.F.R. 404.328(b), 416.1338(e)(2).

## Establishing SSI Eligibility and Using SSI to Help in Transition Planning



## Important Legislation to Assist Foster Youth with Disabilities

AB 1633



- (1) development of best practice guidelines
- (2) counties manage benefits in youth's best interests
- (3) assist youth in receiving direct payment of finding payee
- (4) Inform youth of process of maintaining eligibility as adults

AB 1331



- (1) Screen every youth for SSI eligibility between age 16.5 and 17.5
- (2) Make an SSI application on behalf of likely eligible youth
- (3) Goal to have SSI in place by age 18!

## Timing the SSI Application Under AB 12



- Timeline for application remains the same
  - Ensuring SSI is in place at age 18 provides youth maximum flexibility and choice among benefits, services and supports
  - Youth approved for SSI have same right to participate in EFC as all other youth at age 18
  - Offsetting rules apply – youth in EFC might receive SSI, AFDC-FC, or a combination of both benefits

## Receiving AFDC-FC and SSI Concurrently

- Federal AFDC-FC
  - SSI is offset dollar for dollar
- State AFDC-FC
  - AFDC-FC is reduced by the amount of SSI benefit, which is counted as income



## SSI and Extended Foster Care: New Requirements for NMDs

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- If youth approved for SSI who actually receives a monthly SSI benefit elects to remain in EFC, county must assist youth in receiving direct payment
- If youth is approved for SSI but receives federal foster care in excess of SSI – county must maintain SSI eligibility (using workaround)



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## Recent and Upcoming Changes to CA Fostering Connections to Success Act

## Overview of Changes



- What Changed on January 1, 2013
  - Eligibility for Extended Foster Care
  - Re-Entry
  - Placements
  - Court Process and Court Involvement
  - Permanency Situations (Adoption and Kin-GAP)
  - Special Populations

## Last Year's Clean-Up Bill

- What is AB 1712?
  - AB 1712 was the “clean up” legislation that clarified specific provisions of AB 12/AB 212 – California’s *Fostering Connections to Success Act*
- Timeline:
  - AB 1712 went into effect on January 1, 2013



## AB 1712 Changes to BASIC ELIGIBILITY REQUIREMENTS

### AB 1712 Changes to Eligibility: Mutual Agreement (SOC 162) **WIC 303(d), 11400(u)**



Agreement between the youth and the county welfare agency that should be signed when the youth turns 18, but no longer than 6 months after the youth turns 18:

#### FOR NMD:

Documents youth's agreement to

- remain in "supervised placement;"
- report changes to eligibility,
- working on his/her TILP,
- participate in court hearings.

#### FOR AGENCY:

Documents agency's responsibility to

- ensure NMD remain eligible for EFC by providing supports and services.
- Help NMD develop/achieve goals
- Update TILP every 6 months

#### AB 1712 clarifies that there are 2 categories of NMDs that do not need to complete the Mutual Agreement:

- NMD in the delinquency system (602 youth) is not required to complete the mutual agreement
- A NMD who is determined "incapable of making informed agreement"

## Re-Entry for Nonminor Former Dependents WIC 11400(z)



**Non Related Legal Guardianships:** *Extended foster care benefits are provided up to age 21 to “nonminor former dependents” established by the juvenile court. If the NRLG is unable to maintain the support of the NMD due to an impaired relationship, extended benefits may terminate.*

- AB 1712 recognizes that these important relationships can be repaired and clarifies that youth can voluntarily return to the “care and support” of the former NRLG and receive extended foster care benefits (*NMD does not have to live with the former NRLG*)
- To return to the “care and support” of his/her former guardian, he/she can sign the Voluntary Re-Entry Agreement (VRA)
- This process of re-entry is an “out of court” process and does not involve court supervision or the appointment of an attorney for a NMD.

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## AB 1712 changes to PLACEMENT OPTIONS FOR NMDs

## AB 1712 Changes to Placement Options: Supervised Independent Living Placements WIC 11402.2

- A SILP is a flexible placement available only to NMDs. It is intended to provide young adults the opportunity for highly independent living experiences while receiving financial support and case management services.
- **AB 1712 specifies that regulations developed regarding the approval of SILPs shall:**
  - Ensure that a NMD who is awaiting approval of his/her new SILP placement, should not experience any gaps in placements or payments



## Inter-County Transfers WIC 17.1(g)&(f),375(b)(1)&(2)

Inter-county Transfers: A NMD is permitted to reside out of county.

AB 1712 clarifies when a NMD case can be transferred to a different jurisdiction.

- The court may transfer a NMD under dependency (WIC 300) or transition (450) jurisdiction when:
  - A non-minor dependent has a continuous physical presence in another county (the "county of residence") for 12 months as a *non-minor dependent* and the non-minor dependent has expressed an intent in remaining in that county – OR -
  - A non-minor re-entering extended foster care has had a continuous physical presence for at least 12 months in another county during their time out of care prior to filing the re-entry petition.



## AB 1712 Changes to Court Process: Additional Changes

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- **CASA for NMD** (WIC § 101,102, 107): Clarifies that the appointment of a CASA may continue for a NMD as long as the NMD consents. The CASA may only have access to records with explicit written & informed consent of NMD.
- **NMD and Child Support** (WIC 903.4-5): Clarifies that a NMD who is a parent of a minor child in foster care is not liable for child support.

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## AB 1712 changes to AAP AND KINGAP

## AB 1712 Changes to AAP:

### Adult Adoption **WIC 366.3, 366.3(f), 366.32, 16120 et seq**



- Under prior law, an adult adoption was governed by the Family Code and it was unclear whether a NMD adopted after age 18 could qualify for Adoption Assistance Payments (AAP).
- AB 1712 creates a new type of adoption – “nonminor dependent adoption” governed by the Welfare and Institution Code (i.e. adoption of a NMD through juvenile court over the age of 18) as a permanency plan option for a NMD and creates a juvenile court process for the NMD and prospective adoptive parent to finalize the adoption in juvenile court, dismiss dependency jurisdiction.
- AB 1712 further clarifies that this process will enable the NMD to qualify for AAP payments.
- AB 1712 also clarifies that eligibility for reimbursement of reasonable nonrecurring expenses incurred as the result of the adoption extends to NMDs being adopted.

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## AB 1712 changes for SPECIAL POPULATIONS OF NMDs

## AB 1712 Changes for Special Populations: Identify Theft **WIC 16501.1(e)(16)(C)**

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- The county welfare department is required to request yearly credit report checks for youth in foster care starting at age 16 at no charge to the youth, and to assist the youth with resolving any inaccuracies.
- AB 1712 clarifies that these YEARLY consumer credit report checks should include NMDs who are participating in extended foster care. The case plan should contain documentation of the yearly checks and detail the assistance the youth or NMD received.



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**CHANGES: AB 787  
January 1, 2014**

## **Probation Youth Are Eligible for SILPs and THP-Plus FC** (amending section 727)

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- Amended section 727, which applies to probation youth, to clarify that the section applies to minors and nonminors.
- Added a new subsection to section 727 to clarify that probation youth can live in a SILP or THP-Plus FC setting



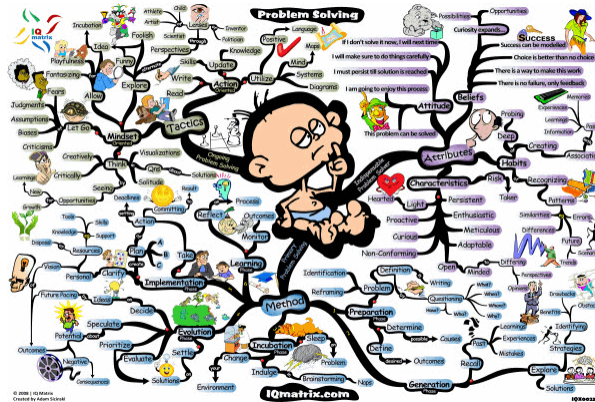
## **Death of a guardian or adoptive parent** (adding WIC 388.1)

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- AB 787 will allow a youth who exited foster care to guardianship or adoption to re-enter foster care before 21 if the former guardian or adoptive parent dies after the youth turns 18.



## AB 12 Problems, Barriers, and Suggestions



## Issue Alert: EFC vs. Subsided Permanency and AB 12

- Extended foster care  
vs.
- KinGAP post 16  
vs.
- KinGAP pre 16  
vs.
- NRLG in juvenile court  
vs.
- NRLG in probate court



## Issue Alert: SILP Amounts for Out-of-State NMDs

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- SILP rate for NMDs in out-of-state placements should be the same as the rate paid to NMDs living in SILPs in CA
  - Exception – If the state of residence has SILP placements\*

## Issue Alert: SILP Timelines

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- ACL 11-77 vs. ACIN I-29-13
  - ACL 11-77: County has 10 days to approve SILP to SILP placement
  - ACIN I-29\_13: A SILP pending approval is not federally reimbursable

## Issue Alert: County of Residence vs. Jurisdiction and Re-Entry

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- Courtesy Supervision
  - County of Residence helps non-minor complete re-entry forms and faxes/scans the **same day** of contact.
- No Courtesy Supervision
  - Phone call and blank forms.

ACL 12-12

## Presenter Contact Information

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# QUESTIONS?

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