

Understanding Benefits to Support Youth in Foster Care

Marymichael Smrdeli: Hello, welcome to the Judicial Council's webinar series on juvenile law. Today, we're going to be talking about understanding foster youth benefits for children in foster care. And, we have with us Angie Schwartz from the Alliance for Children's Rights, and I'm going to turn it over to her.

Angie Schwartz: Hi, thank you. I'm Angie Schwartz, I'm the policy director at the Alliance for Children's Rights. And, we are going to talk about all the different benefits that are available to support youth in foster care.

Starting with foster care benefits, going over the eligibility rules, the rates themselves, including how the basic rate is established; the Level of Care system that we're moving to in California; ISFC stands for Intensive Services Foster Care, so we'll talk about that as well; a little bit about extended foster care; also, about all the supplements to the foster care rate. So, there's quite a few different supplements to support youth that have particular specialized needs, like the Specialized Care Increment, the Infant Supplement, the Whole Family Foster Home rate, the Dual Agency Rate. There's also funding to allow you to transport a child to their school of origin or to allow the caregiver to be transporting the youth in their care back to their school of origin.

And then, we'll talk about other benefits that continue to work to support youth after they exit foster care in to permanency. So, that includes the Kin-GAP benefits and the AAP, which stands for Adoption Assistance Payments. And then, I'm going to touch on some benefits that are not particular to youth in foster care, but they're often available to support those youth, including Survivors Benefits, and SSI, which stands for Supplemental Security Income. And then, also Medi-Cal and EPSDT, which all of our youth in foster care receive. So, that's a summary of how we're going to proceed.

Starting with the foster care benefits. There's actually several different programs now to support youth in foster care, and I'm going to talk a little bit about each of them.

There's the Emergency Caregiver Program, and we'll go into details about that in a minute. That's to make sure that families get support upon placement of a child until they're approved because many relatives take in children prior to approval. And in, in the old universe they weren't getting any funding, now they do through the Emergency Caregiver Program.

Then we'll also talk about the AFDC-FC, which stands for Aid for Depend, Aid for Dependent Children Foster Care. And we'll also talk about ARC, which stands for Approved Relative Caregiver program. And, those are the two different programs are exactly identical in terms of the amount of funding available to support any individual caring for a child in foster care, relative or non-relative, I'll explain the difference and why they have different names in a minute. And then, we'll talk about all the different things that allow you to supplement those rates, the AFDC-FC rate or the ARC rate.

So, let's start with how you're eligible for foster care benefits in general. And, this is for state AFDC-FC benefits or Title IV-E benefits. So, some of our children that come into foster care are supported through the federal foster care benefits, and some of our children are not eligible for federal foster care benefits but are still supported through our state AFDC-FC program. The two programs are exactly the same; the only difference is, are we getting half the money from the federal government or not. But, in terms of eligibility, there are some *particular* rules to being eligible for the federal foster care benefits, not the reason not every child in foster care is eligible for federal foster care benefits because not every child in foster care meets the federal requirements. For both state *or* federal benefits, you have to be under the age of 21. That's because California elected to extend foster care until 21. But, for state or federal benefits you have to be under 21, if you're a resident of California for state or federal foster care benefits.

For Title IV-E eligibility, so the federal foster care benefits, you have to meet certain immigration status, you have to be legally, or you have to be a qualified resident. The child, I'm talking about the child in foster care. There's also deprivation standards for federal foster care benefits. So again, this is linked back to the old AFDC rules, the old welfare rules that existed prior to 1996 that basically said you had to be deprived of parental support through abandonment or injury or death. So, there's deprivation standards that the child has to meet. There's also conditions of removal from the home that apply to both federal and state foster care benefits. And then, for federal foster care benefits, there's a financial test. And, it's that financial test that makes many, many of our children that come into foster care not eligible for federal foster care benefits. And then, when they're not eligible for the federal benefits, we still fully cover them, we just do it through our state only program.

Okay. So, talking about the conditions of removal from the home. In order to be eligible for foster care benefits, the child has to be declared a dependent under section 300. You're all probably very familiar with how that works. Or, they have to be declared a ward under 601 or 602, or if it's a nonminor, they can be under the transition jurisdiction of the court under 450. Or, they can come into foster care through a Voluntary Placement Agreement, we'll talk a little bit more about that. They can also be detained under 319 or 636, so those are those immediate temporary placements into foster care. You're eligible for foster care benefits at that very moment. Also, under dependency jurisdiction or for our youth that re-entering foster care that are nonminors under 388, they're also eligible for foster care benefits. Or, and the last one's a little bit weird, you can be living in the home of a non-related legal guardian, or if the, you're over the age of 18, it would be your former non-related legal guardian. Those children never have to have come into foster care at all. They never had to have had a 300 or 600 petition filed. It's just because there's a non-relative that did a legal guardianship. It can be in probate court, it could be in dependency court, it doesn't matter. Those kids are also eligible for foster care benefits. We are the only state in the country that provides foster care benefits to those non-related legal guardians. It's a state only thing, there's no federal funding for those kids. For the rest of the kids on the list, there could be federal funding for those youth, it depends on those other factors that I'm going to talk about that have to do with federal eligibility.

Okay. In addition to meeting the conditions of removal from the home, you also have to have the youth put into an eligible foster care placement. So, there are certain placements that are specified in our law in WIC 11402 that say these are places that qualify for a foster care benefit, either state foster care or federal foster care. And, those things include a housing unit certified by a transitional housing provider, so that's both for our THPP, which are our 16- and 17-year-olds, and also for THP+ Foster Care, which is for our 18- to 21-year-olds. You could also be in a SILP, a supervised independent living setting. Again, that's for our nonminors. You can be placed through a licensed foster family agency into the approved home or the certified home approved by that FFA. A short-term residential therapeutic program, those are STRTPs, they've replaced our group homes largely, although we still do have some group homes; and that's on this list as well. You can be in a community treatment facility, a licensed community care facility vendorized by the regional center. Again, the home of a non-related legal guardian, that's what I was just talking about. Also, you can be in a dorm or other designated housing by a post-secondary education for minors. And so, this is a recent law change that allows our young people who are under the age of 18, so they don't qualify for those SILPs yet, to still be, if they are in college and accepted at college, they can go and live in the college housing. And, that qualifies for the foster care payment as well.

In addition, those are none of your traditional foster homes, here's all your traditional foster homes that qualify for a foster care payment. You can be in the approved home of the relative provided the child is otherwise eligible for federal financial participation. Or the approved home of a resource family, dropping down to that fourth bullet. Again, if it's a non-relative, it doesn't matter if they're federally eligible. For our relatives, they have to be otherwise federally eligible and this is to receive the AFDC-FC benefits. This is going to explain why we have an ARC program in just a minute.

So, it used to be in California for a very, very long time that our relatives only received foster care benefits if the child was federally eligible. That's not true anymore. We have the ARC program. And, for those kids that are placed with relatives that are not federally eligible, they are eligible for the ARC program. The ARC program is exactly the same as the AFDC-FC program. So, you might be like, "Well, why don't you just put them in the AFDC-FC program then? Why do you have a whole separate program?" And, it has to do with how we get federal dollars for our admin cost, so just so you know. We wanted them to be in a separate state only program, so they are. And, that's why there is these *particular* rules around federal eligibility for relatives for the AFDC-FC program.

You can also be in the approved home of a non-related extended family member, we call them "NREFMs," I don't know why, California likes to call things weird names. But, it's just an extended family member. Someone who's like a family member but isn't really in that fifth degree of kinship. You can be in the licensed home of a non-relative. Those are largely going to be going away as we convert all the way over to resource families. And then, you can also be in a

small family home and that's defined in Health and Safety Code 1502. Okay. So, those are all the eligible placements.

And, just to explain the federal eligibility a little bit. Like I said, it doesn't matter that much anymore in terms of what a young person *actually* receives, because there's the ARC program. And so, those kids that are not eligible for federal foster care benefits are *fully* funded anyways when they're with that relative through the Emergency Caregiver Program and then through the ARC program. Still, I thought I'd touch on the eligibility requirements for federal foster care just because it impacts how much money we have coming into our state in order to support young people in foster care. And so, it *is* important to understand federal eligibility just so that we make sure that those kids that *are* federally eligible, that we're claiming those federal dollars for them because that just helps us better support the system overall and support all the kids that come into care.

And, federal eligibility is a little arcane because federal eligibility is based on whether or not the child met the welfare requirements, the AFDC requirements that existed in their state in 1996. So, 1996 is the year the federal government got rid of the AFDC program as a program that actually provides financial support to dependent children living in and needing these families. They replaced it with the TANF program, we call it CalWORKs.

But, federal eligibility for foster care had always been tied to eligibility for AFDC benefits. Then, when they got rid of the AFDC program, Congress was like, "Oh, what do we do with foster care eligibility?" And, they just said, "Well, as long as they meet the requirements as of this day that we're getting rid of this program, we'll let them continue to get federal foster care benefits." And, that's been true now for 23 years. They haven't changed the rules. They've never adjusted them for inflation. So, every year, fewer and fewer children are federally eligible because fewer and fewer children meet the AFD standards that existed in their state back in 1996.

And, to just give you an example of what that means, in 1996 in California, to qualify for AFDC-FC's benefits, AFDC benefits, for a family of three, you had to have income under \$723 a month. And so, for CalWORKs today, it's significantly more than that, it's actually more than \$1,169 because this is an old slide that I've used for years and years, and we do adjust eligibility for inflation every year for CalWORKs. So, that just gives you an example of the disparity in terms of eligibility for those federal foster care benefits.

The federal income test has nothing to do with the needs of the child, it's not based on the income of the relative, where they're placed, it's based on the *home* that the child's being removed from. And, we look at the child in that home of removal, in that month of the removal, and then the sixth month prior to removal. And, if they meet that income test in one of those six months, great, they're federally eligible and then they remain federally eligible for the rest of their time in foster care. We never redetermine federal eligibility. And, if they're *not* federally eligible, then they're *never* federally eligible regardless of what happens during their time in

foster care. So, I was just saying some of that, federal eligibility is a one-time determination. It's based on what's happening in that family at the time of removal.

It has nothing to do with where the child's placed. So, a child placed in the relative's home, if that child moves into a group home and wasn't federally eligible in the relative's home, they're still not federally eligible when they go into a group home or into an STRTP. And, it's based on welfare rules for a program that no longer exists. My colleague that I often trained with on these issues likes to call it the "zombie program" for that reason because it's based on a program that has not been in existence for 23 years.

And, what it means is we get fewer federal dollars to support our youth in foster care every year. And so, that's the reason it's important to understand this. Not because it's going to impact what kids actually receive in that home where they're living, cause it's not, but it is going to impact the resources that we have as a state to care for those young people.

All right, so let's talk about the Continuum of Care Reform a little bit and how it made some of the changes that we're talking about. Because as I was just saying, it used to be in California for a long time that when I did these trainings, I had to spend a lot of time talking about federal eligibility because whether or not the child was federally eligible determined whether they would receive funding when they were in a relative's home. Because in the old system, if you were in a relative's home and you were eligible for federal foster care funding, you got foster care benefits.

And otherwise, in the old, old system, you got nothing. And then, we created the ARC program back in 2014. But, originally the ARC program didn't include any specialized benefits, so you could get the basic rate, but you couldn't get any specialized care. And, it used to be an optional program, so a bunch of counties didn't opt into ARC. And so, in those counties, you still got nothing. So, that was a confusing system and the trainings took a lot longer to do.

Because of the Continuum of Care Reform, which has been focused on moving kids out of residential treatment placements and making sure that all of our kids can be successful in family placements, one of the things we realized was in order for children to be successful in family placements, they need to have access to the entire compilation of funding and services regardless of the type of placement. And, that's especially actually true for relatives because for kids stepping down out of group homes and STRTPs, the most *likely* place they're going to step down into is a relative's home. So, if you had in the old system where that family member couldn't necessarily receive funding that wasn't going to work in order to achieve the goal of having those kids step out of those placements and be successful in those family settings.

So now, since the inception of the Continuum of Care Reform, all of our resource families, including our relatives, receive the *entire* compilation of funding. So, the ARC benefit if the child's not federally eligible, or AFDC-FC if the child is federally eligible with that relative, and inclusive of all the different specialized rates. And, the funding starts at the time of placement, which is a new thing as of just last year.

So, the Approved Relative Caregiver program is the ARC program. And, it's pretty much what I was just saying. The big eligibility requirement for ARC is that the child is placed with a relative and is not federally eligible. The program exists to cover those kids that we used to not cover because they were in a relative placement, and now we do. And we cover them through the ARC program.

ARC only exists in California, so when children are placed out of state, the ARC rules don't kick in at that point. The ICPC rules kick in, that's the Interstate Compact on the Placement of Children, that's governed by a different set of laws. So, in California when our kids move out of state, if they're placed into a home that meets the licensing standards of that state, they get the foster care benefits paid in that state. So, it's based on the foster care rates paid. Like, if they go to New Mexico and they're in an approved home in New Mexico, they would get the foster care rate paid in New Mexico, which is going to be significantly lower than our foster care rate. So, they don't get ARC, they just get foster care benefits paid at that state's rate. If they're in California and it's a relative caring for a child that's not federally eligible, then they get ARC and ARC includes all of the specialized rates as well.

The Emergency Caregiver Program came into being last year. And, the reason for Emergency Caregiver funding is as part of CCR, in addition to changing our entire rate structure and how we support families with the actual rate itself, we also change the approval structure. So, rather than having approved relatives and licensed to non-relatives and certified homes through foster family agencies, we now just have Resource Family Approval. So, all of our families, whether they're going through an FFA or through the county, whether a relative or a non-relative, have to be approved as resource families. And, that started back on January 1st of 2017.

So, the RFA process is *significantly* different than the old approval process was, and it takes significantly longer. And so, what started happening after January 1, 2017 is we would do what we always do, which is when a kids are removed from their family, the very first person we look to to place that child is in the home of a relative. Because we know it mitigates trauma. Because we know kids are more successful. Because we know there's greater placement stability with relatives. But, relatives are not approved at the point that you find them.

So, you call grandma in the middle of the night and say, "We have your grandchild, we need you to take her in." She says, "Yes." You go out and you do the Emergency Caregiver Approval of the home, which is just a CACI, a CLETS, and a walkthrough, which can be done in a matter of hours. She takes her kids in and then we say, "And now, you have to start Resource Family Approval."

On average, Resource Family Approval in California is taking 120 days. And, in that first year in 2017, it was taking closer to *290 days*. So, it's taking a really long time. And the way that the foster care benefits work is they don't start until you're approved. So, you can't get AFDC-FC

and you can't get ARC until your home is fully approved, which means now that we have Resource Family Approval, that you're fully approved as a resource family.

So, this created a bit of a crisis in California to have the RFA system that was taking 200+ days and children in emergency placements that we're getting *no funding* and no support for that entire time. And as a result of that, last year in February, the legislature took action to create the Emergency Caregiver Program. They first did it through an emergency budget measure just to get through the rest of the fiscal year. And then, they made it permanent, effective July 1st, 2016. So, now we just have in statute this Emergency Caregiver Program.

And, the Emergency Caregiver Program provides that basic foster care rate, so it's none of the special rates, no Specialized Care, no Infant Supplement, none of the different Levels of Care, just a basic foster care rate, but it pays it as of the date of placement. So, that as soon as children are placed in that relative's home, or it could be an extended family member's home, it could be a non-relative's home, it's, it's not based on whether or not they're related, it's just based on the fact that they're not yet approved, and they took a child in through an emergency placement situation.

So, in order to be eligible, they have to have an emergency placement, or a placement based on compelling reason, those are just two different ways that we place children in homes prior to the homes being approved. They have to have a pending RFA application. They have to not be otherwise eligible for a foster care payment. All that means is they're not eligible for AFDC-FC because the home's not approved. Or they're not eligible for ARC because the home's not approved. And, then they also have to be placed in California. So, if we send our child out of state to another home that's not approved, there's no Emergency Caregiver funding that follows them to that other state.

So, to use my prior New Mexico example, we send the child to grandma's house in New Mexico and she hasn't yet met New Mexico's licensing standards, there is no emergency caregiver program to support her from that time of placement until she meets the licensing standards. Once she does, she'll receive New Mexico's foster care rate. But in that interim, we don't have an Emergency Caregiver Program that travels out of state.

In terms of what has to be done by the caseworker to make sure the Emergency Caregiver funding turns on, they need to make sure the family submits their RFA application. The law says it has to be submitted within five days. Practically speaking, that has *no* implication for whether or not they receive funding back to the date of placement. All it means is if you wait longer than five days to submit it, it's going to take *that* much longer to get your funding turned on. But, once your funding gets turned on, the Emergency Caregiver funding, it still accrues back to the date of placement.

They also have to submit this Emergency Assistance (EA) application because that's the program by which we're paying for emergency caregiver funding. The caregiver has nothing to do with an

EA application, that's entirely the county social worker. But, as a judge, you should make sure that both of these things have been submitted because delays in submitting either the EA application or the RFA application is just going to delay funding flowing to that family.

Foster care benefits are already paid in arrears, which means there's already going to be a bit of a gap between placement and actually receiving that first check. So, any other delays with the applications just causes that much more delay for the family getting the support they need to feed and clothe and care for the children that they've unexpectedly taken into their homes.

Okay. So, Emergency Caregiver funding lasts for up to 180 days. And then, the county is able to extend it beyond 180 days, up to 365 days as long as they can show good cause for why the RFA application is taking so long. That's only true for this fiscal year. So, absent a change in law, which I'm hoping is going to happen, starting July 1 of this year, Emergency Caregiver funding will be reduced to 90 days with no good cause exception. I don't think that that's going to be the law of the land. I do believe we'll at least get a good cause exception built in. But, it will probably be lowered from 180 days to something less than 180 days starting on July 1st that you can go without having to prove good cause. And, the reason for that is the state wants the counties to continue to make progress on getting RFA done faster and faster. And so, they don't want to have any incentives that allows them not to be getting RFA done quickly.

Okay. And then, once they're approved as a resource family, so they get that approval, then they just move seamlessly into either the AFDC-FC program or the ARC program. So, the ARC program, it's a, a relative caring for a child that's not federally eligible. The AFDC-FC program for *everybody* else in the world, including relatives caring for children who are federally eligible, there should be no gap in funding, you should go straight from Emergency Caregiver to either AFDC-FC or ARC. The only difference once you get into AFDC-FC or ARC is that now you qualify for all the supplemental benefits. Right? So, while you're in the Emergency Caregiver Program, it's the basic rate. But, as soon as you move over into one of the other two, you can get the Level of Care funding at levels two, three, four, or Intensive Services Foster Care. You can also get specialized care. You can also get the Infant Supplement. You can also get the Dual Agency Rate. So, if you have a child with special needs in your home, once you're approved, you get all of that extra support for that child, but not before.

The Level of Care funding. So, this is for homes that are fully approved, and it's not fully implemented in California at this point. The state is moving to a Level of Care system that will be the basis by which they determine what your state foster care rate is, or the ARC payment is. But, like I said, it hasn't been completely implemented yet. The idea behind it is that the funding should be based on what the child and the caregiver needs, based on some statewide standardized assessment of those needs, and that the child and family team should be included in the, that assessment.

So, in the old system, rates were based on the age of the child. So, the youngest children received the least amount of funding. The oldest children received the most amount of funding. And, that was your state rate. And, any specialized rate came from the county specialized care system.

So, when they looked at this as part of CCR, they said, "That doesn't really make sense." Cause you could have a four-year-old that's got really significant needs and you could have an adolescent that doesn't have very significant needs, and so we should have a system that's based more on what the actual child's needs are based on some kind of independent assessment.

So, they've created this Level of Care (LOC) Protocol, and there's four rates: basic, level two, level three, level four, and then there's also a fifth rate known as Intensive Services Foster Care (ISFC). And so, the idea is they will use this assessment they've developed, will a, the Level of Care Protocol and they'll do an assessment of the child. And, it will say which of those four levels or ISFC the child needs, and then that will be the rate that they get.

Like I said, it hasn't been implemented entirely yet. The basic rate is in existence, so the basic rate is at \$960 a month, that's in existence across the entire state in all placements. Levels two, three, and four have only been implemented, at this point, in new foster family agency placements.

So, we'd been using the Level of Care protocol since February of 2018 to test it in the new FFA placements. And, the reason for that is the Level of Care Protocol was something that was created by the Department of Social Services; and, we wanted to make sure that that protocol was both a reliable tool, meaning when you used it, it actually reliably predicts where the child should be. So, is it a good tool? Is it weighted correctly? Like, do we have the right distribution of kids among the different levels that you would expect to see? Is it reliable among users? So, like, if I score it, someone using the Level of Care protocol, and then my partner scores that same child using that same Level of Care Protocol, do we get the same result? So, we've been trying to test it for accuracy, reliability in whether or not it's weighted correctly.

So far to date, what they found is that the tool is not super reliable. So, in the study that was done by UC Davis that actually did a, a reliability study using, sort of, the standards of science to say that this is a good study that we can actually use to judge reliability among users, it found that the tool was not reliable among different users. Meaning different people scoring the same child got different results more often than you would want. We found that it was moderately reliable on a scale of four, with moderately reliable essentially being the two. So, it was really not a very reliable tool.

It hasn't actually ever been assessed using, by those researchers, for whether or not it's weighted correctly or whether or not it's an accurate tool. Meaning if you use the Level of Care protocol and then you use something that's validated like the CANS, do you have the child's getting essentially the same type of score utilizing both tools? So, if you score them using the CANS and it scores as a high needs child, are you also seeing that when you use the Level of Care Protocol?

No one's done that analysis, but what we do know just from testing it in the FFA homes since February, is 90% + of kids are being scored at level one. And so, that's not what you would expect. You wouldn't expect 90% + of kids to be scored at level one, you would expect there would be some different kind of distribution. That's the reason the Level of Care protocol has been delayed in implementation. So, they're trying to get, work out all the kinks, make sure it's actually a good tool, a reliable tool, and an accurate tool, before rolling it out in all the homes across the state.

What it purports to do is judge, sort of, score a young person in these five different core domains. So, there's a physical domain; there's a behavioral/emotional domain; there's an educational domain; there's a health domain; there's permanency and family services domain. And so, in each of those, there's five different columns; and you, sort of, go and read each one. You see what the caregiver's doing, you score, you say which column's assigned to the child for each of those different domains. And then, you add up all the points and that gets you your final score and that's the level that the child would get. There's actually a link on the slides here if you distribute the slides to people. Or, you can actually look at the determination matrix that exists at the moment.

Alright. So, Intensive Services Foster Care (ISFC) is that fifth category, that fifth level. ISFC is in order to make sure that we can support young people that have the most intensive needs. Thinking about kids that are stepping out of STRTPs into family homes, also thinking about kids that we don't ever want to end up in an STRTP and the way that you can stabilize them in a family placement is by providing this much more intensive level of support and basically wrapping them with services.

So, there's two components to an ISFC rate. There's the rate that goes to the family themselves, and then there's another component that provides all the services. So, that would go to the foster family agency to provide those services or the county can also run the ISFC program independently. And then, it would be the county providing all that services. So, it's both a heightened rate and a heightened level of services.

ISFC is already in existence and it's in existence across the whole state. And so, a family can just ask, a family who otherwise doesn't qualify for levels two, three, or four utilizing the level of care protocol, can still ask that the child be assessed for ISFC. And then, the county would still use the LOC protocol to see if they score into that fifth level.

The Level of Care protocol also includes a bunch of static criteria, so things that just automatically qualify you for ISFC for a period of time. Things like, you know, pert, like, a youth that's run away more than four times or has gang involvement or CSEC youth. There's a bunch of different things included in the static criteria that just are indicators of a child with a more intensive level of need. So again, you can just request that the child be assessed for ISFC. And IFSC has been in existence since December of 2017. And, you can see all the different

Welfare and Institution Code sections and the All-County Letter that pertains to ISFC on your slides.

Okay. So, the Specialized Care Increment has been in existence for a really long time under the old system when it was an age-based rate. Specialized care was what the counties used to supplement that basic age-based rate in order to recognize that lots of kids have additional specialized needs, and so, need a different level of rates.

We've never had a statewide specialized care system. So, in California, 55 of our 58 counties have historically operated a specialized care system. Three of them didn't operate it, but those were three really tiny counties that didn't have very many youth in foster care. In addition, those 55 specialized care systems are radically different from one another. They have different amounts of funding that they supplement. They use different kinds of matrixes or tools or assessments to determine who's eligible.

And, that's going to continue to be true as we move over to the Level of Care system. So, once we implement the Level of Care system across the whole state, counties have to use a new specialized care plan that they've been required to develop. The count, the state put out, what was it called? They put out a matrix? Actually, it was CWDA that put out a matrix recommending, like, this is a preferred tool, this is something that you can base your new specialized care rate system on. The counties didn't have to use that tool, they could develop whatever they wanted. They just need to develop something that works in conjunction with the Level of Care system.

So, the reason that we wanted them to develop something new is because now that you're not just supplementing one age-based rate, but you're potentially supplementing four different levels at the state level, we wanted the county specialized care rates to kind of fit on top of that Level of Care system.

So, all the counties that plan on operating specialized care, once the new Level of Care system is rolled out, have submitted plans to the state, they've been approved by the state, they're available on the CDSS website, but they're not in operation yet. And, the counties won't switch to new, using their new specialized care systems until the state Level of Care system rolls out across the entire state. So, right now, we have Level of Care Basic in most homes and the old specialized care system is supplementing Level of Care Basic.

In our foster family agency homes, they can get all the different four levels of the Level of Care, but we're still supplementing with that old specialized care system. And, once Level of Care rolls out across the entire state, then we'll move over to the new specialized care systems that have been approved by the state.

You can look at the CDA, CWDA statewide matrix there, and like I said, you can see on the CDSS website all the different plans that have been approved and are waiting to go into implementation once the Level of Care system implements across the state.

Let's see, what, oh, that's just what I was just saying about when it takes effect, which is not right now.

Okay. So, in addition to specialized care and Level of Care, there are some other rates that are available to support certain populations. So, one of those populations is expectant and parenting youth. There's the Infant Supplement payments, that is amount equal to the basic, the Level of Care Basic rate, so right now that's \$960 a month. So, if you have a youth that's in foster care who's parenting, and their baby is with them, that baby doesn't have to be in foster care. We don't want the baby placed in foster care, but we do want to make sure there's sufficient support for both the young person, who's the parent, and the child of that young person. So, it would be the rate paid to the young person, let's just assume it's the basic rate, \$960, and then another \$960, the Infant Supplement, so combined you're getting close to \$2,000 to support that parent and their child in that foster care placement.

And, it gets paid to the provider, so to the resource parent or to the foster family agency, but there's lots of times shared responsibility plans that are entered into between the caregiver and that parenting young person. And, if you do a shared responsibility plan that Infant Supplement gets raised up by another \$200. So, instead of being the \$960 a month, it would now be \$1160 a month. So, the shared responsibility plan is just a way of encouraging the caregiver and the parenting youth to sort of talk about, like, "Okay, how are we going to do this? And, how am I going to support you as a young parent? Like, who's going to be responsible for getting up in the middle of the night? Who's buying what? And, you know, who's taking the baby to child care in the morning?" And, just so that you, kind of, have a common set of expectations.

In LA County, there's also an Early Infant Supplement. This only exists in LA County. So, it actually starts that Infant Supplement payment before the child is born, so that the young person who is about to become a parent can start preparing, buying cribs and diapers and clothing and all the other stuff that you have to buy before the baby actually arrives. So, that's not a statewide thing, that's just an LA County thing, something folks should think about trying to maybe push for statewide.

The parenting support plan and the shared responsibility plan are just two different names for the exact same thing and they both have that extra \$200 supplement to the Infant Supplement payment.

Okay, so the last thing worth mentioning just in terms, actually two more things. One of the last things worth mentioning in terms of how we support kids while they're still in foster care is there's also funding to trans, to reimburse a caregiver for transporting a child to their school of origin. So, in California and actually across the entire nation, children that come into foster care have school of origin rights, meaning they have the right to remain in the school that they were in prior to their removal. In California, your school of origin rights are in the home that you

were, in the school that you were in prior to removal *or* in the last school that you were in your last placement *or* any school that you have a connection to within the last 15 months.

And so, you can have a child who actually has multiple schools of origin. There's funding to transport that child to their school of origin, it's a set amount of money. You can see it in All County Letter 11-51. It's based on mileage. So, if you're traveling four miles one way to transport the child to a school of origin, there's one dollar amount, I think it's \$59, for the month. If you're traveling more like six miles one way, then the amount goes up. If you're traveling more than twelve miles one way, the amount goes up again. But, a lot of our caregivers do not know that there's any funding to transport the child to their school of origin. So, they may be doing it and they're just not getting any reimbursement for it. Or in many cases, they can't afford to do it and they don't know that there's funding to provide that transportation. So, it's an important thing to inquire about when you're inquiring about whether the school and whether or not the child's in their school of origin. Also inquiring about how they're getting there and is there funding being provided to the caregiver to support that transportation.

The last thing for children who are in foster care, but who are also consumers of the regional center or clients of the regional centers, and our regional centers serve young people, children with developmental disabilities. So, there are five different criteria that qualify someone for regional center services, having to do with like, mental retardation, autism, cerebral palsy, things like that that qualify you to be a lifetime member of the regional center.

Those children, when they're removed from their homes and placed into foster care, qualify for the Dual Agency rates. So, rather than qualifying for those other rates that I was talking about, the Level of Care rates or the Specialized Care rates, it's a special rate just to support kids in foster care who are regional center consumers.

So, the starting rate is \$2,417 a month. And then, there's also a supplement to that basic dual agency rate that goes in \$250 increments up to \$1,000. So, for the youth that have the most needs, they can actually be getting \$3,417 a month. And that amount goes up every single year with the California Necessities Index, which is true of most of our foster care rates, they go up every single year.

For a very young children, zero to three, they may also qualify for Early Start services through the regional center, so this is children that are born prematurely or that have other sort of factors at birth that say this might be a young person that needs a baby, that needs some extra help in those very, very early years. Those are not regional center consumers, they're like the Early Start kids, and it's a different rate, so it's the \$1081 a month. There's no supplement to that rate. So, you might be looking at that and say, "Hey, that zero- to three-year-old could qualify for more through the Level of Care rate plus a specialized care rate." And, if that's true, that's what they would get. So, in California if you qualify for multiple different rates, you get whichever one's the most. So, it could be that you would get the Dual Agency rate, but it could just as likely be

that those zero- to three-year-olds would get, like, Level of Care three plus a Specialized Care rate and that would be more than \$1081.

Alright. So, that brings us to the end of how we support children up to the age of 18 while they're in foster care, with the foster care rates and all the supplements to the rates.

Okay, so before we transition to this next section, there's also some sample orders that judges can make and also questions that they can ask at various hearings on the prior section, just to make sure that the young person or the caregiver is receiving the right amount of funding. That will be available on the website and also in the toolkit, so that you can see the sorts of questions you should be asking if it's an emergency placement, if it's a home that's not yet approved, when you're inquiring about school of origin that you're also inquiring to make sure that the child's getting the right support to get to that school. So, those will be included as well, just to make it a little bit easier to digest all of this information.

So, we're going to transition and talk about support for nonminor dependents. So, our nonminor dependents are covered through our extended foster care program, which was initially enacted in California back in 2012, through Assembly Bill 12, AB 12. Sometimes people call it the AB 12 program, but we've tried to move away from that and call it the extended foster care program. The Judicial Council was among the nine co-sponsors of extended foster care and has worked extensively to support young people in extended foster care along with my own organization and several, seven other different co-sponsoring organizations. In short, what the legislation did is extend foster care from 18 to 21 and provide monthly financial support, which is housing and also transitional services, to those 18- to 21-year-olds to try to improve their well-being and their outcomes.

In order to be eligible for extended foster care, the really most critical thing is that there's an order for foster care on the young person's 18th birthday, so it's, kind of, a magical birthday. If you have that order for foster care, you're in. If you don't, you're out. It's an opt-out program, it's not an opt-in program. So, 100% of kids with an order for foster care on their 18th birthday are in. They don't have to participate. They can decide to leave the program and then come back. They can lit, enter or exit and reenter as many times as they want, but that's the eligibility, having that order on their 18th birthday.

In order to be participating in extended foster care, they also have to be enrolled in school, high school, vocational school, college, or working, or unable to do one of those things because of a medical or mental health condition. But, that's to participate.

In order to be eligible for the program, they have to have that order for foster care on their 18th birthday. There have been lots of bills over the last several years to try to clarify what that means. If you hit adjudication prior to your 18th birthday, but you don't hit dispo until after your 18th birthday, are you in or are you out? Different courts have found different things about those.

We've tried to clarify it through statute, but the basic thing is you have to have that foster care order on your 18th birthday.

Some youth are also eligible for extended benefits, it's not extended foster care. And I'll talk about this more in the Kin-GAP in the AAP section once they've exited to guardianship or adoption. So, we'll talk about which of the youth in guardianship and adoptions get funding till 21 and which don't. It's not super simple, it's actually relatively complicated, but we'll talk about it when we get there. And then, youth under the jurisdiction of the delinquency court are also eligible for extended foster care. And, they don't have to stay under the jurisdiction of the delinquency court in order to participate because we have this thing called transition jurisdiction. So, as soon as the young person has finished the terms of their probation, they can switch over to transition jurisdiction and then participate in the extended foster care under the same set of standards that govern any other dependent youth rather than having to still have, sort of, terms of probation.

Okay, so youth that are in extended foster care. Just like any other child in foster care, have a right to live in a safe, healthy, and comfortable home. They have all the same rights to placement as children in foster care. That might seem like a really obvious thing to say, but Mark Courtney's study, the Chapin Hall study that's actually evaluated how our extended foster care program is doing, has found that over 30% of youth in extended foster care, so with open cases actively participating in extended foster care, are experiencing homelessness and housing instability. And so, that's not, that's actually not legal because these are dependents, like any other dependent under the age of 18. And so, the thing that they have an absolute right to is a place to live. That's what the extended foster care program is, first and foremost.

And it's a right to an appropriate placement. What does that mean? It means it's the least restrictive setting. It means it's based on their individual needs. For the young adults, based on their developmental needs. For extended foster care, there's youth voice and youth choice in that placement, so you have to engage the young person on where they want to live, it's not just offering any old housing. Remember, they have to be going to work or they have to be going to school in order to participate in extended foster care, so you can't say, "Hey, we have a placement for you three counties away," because then, they're not going to be able to go to school or go to work. You actually have to find an appropriate spot for that young person to live where they can also meet their participation requirements.

There's also a right to emergency placements. Again, this is just like how it is for young people under the age of 18. When you have a young person under 18 come into foster care, we have an *immediate* need to place that child into an appropriate home and that's also true of nonminors. So, nonminor dependents who are re-entering foster care, they decided not be in extended foster care for a period of time, they thought they can do it on their own, then it turns out they realize, *Hey, that's actually a really good program I could use that support; it's better than the street corner*. So, they have a right to re-enter, and then they have a right to emergency placement and an immediate placement as of signing that voluntary re-entry agreement, which is the document

that entitles them to be back in extended foster care. They have a right to immediate placement as of that moment. We're working on a bill this year, AB 531, that's going to try to clarify the types of placements that can meet this emergency need for young people to actually have something in statute, so that counties have a better sense of what kinds of things can be short-term emergency options for our nonminor dependents.

So, these are the different housing options to support young people in extended foster care. You still have all your regular relative and foster homes, those go all the way from birth all the way to 21-years-old. So, our nonminor dependents can be in that licensed foster home or the approved home of a relative or a resource family; they never have to move from those homes if they don't want to. Many of them do want to and so we have a couple of housing options that are just for our 18- to 21-year-olds, which are on the far end of the chart here. The Transitional Housing Program, now called THP-NMD, cause they like to switch up the acronyms; it used to be THP+FC, but now, it's THP-NMD, which stands for Transitional Housing Program-Nonminor Dependent. And, that includes scattered site housing, single site housing, and host families, those are just the different kinds of programs our transitional housing providers run.

The most independent of the housing options for extended foster youth are our SILPs, also known as the Supervised Independent Living Program, those are youth identified placements. So, they might go find an apartment on Craigslist or an apartment with a bunch of roommates or rent a room from a relative or an in-law unit in someone's backyard. Also, can be places like college dormitories or college housing. Those can all be SILPs. Also, those relative homes or those foster homes, they can just convert and have it be a SILP placement. Sometimes young people like to do that cause then the payment actually starts going to the young person. And then, they can pay rent and learn some of those budgeting skills. SILPs are really flexible. They can be all of those different kinds of placements.

Also worth noting that 18- to 21-year-olds can be in STRTPs according to all of the same rules that govern any other child being in an STRTP. So, it wasn't true of group homes. So, for group home placements for 18- to 21-year-olds, you actually can't use group homes for the 18- to 21-year-olds if they're over the age of 19. It just became a prohibition in the law, but that's not true for STRTPs.

So, for an 18- to 21-year-old who has a mental health crisis or who needs that, sort of, therapeutic intervention for a period of time, you, they are allowed to be in the STRTP. Now, it's the same rules as anything else. It's limited to six months and if it goes for more than six months, there needs to be director or deputy director approval. It needs to be based on the therapeutic needs of the young person, but it's allowed. There is no prohibition against congregate care for our nonminor dependents in the STRTPs.

There's also housing that supports young people with closed cases. So, these are the ones that have support 18- to 21-year-olds with open cases, so these are the youth actively participating in extended foster care.

If they decide not to participate in extended foster care or if they are older than extended foster care covers, we have some other programs to support those youth. There's Independent Living Housing Programs (ILP), not every county offers ILP housing, but it's an option under the federal law. And, like, LA County does have some ILP beds, but you have to have a closed case. So, it's for 18- to 21-year-olds, but 18- to 21-year-olds with a closed case.

There's also Transitional Housing Plus, so THP+, not THP-NM, NMD. Just THP+ to support the 18- to 25-year-olds that have closed cases. So, you have a 36-month cap on your Transitional Housing Program Plus Eligibility, and you can burn through those months when you're 18 to 21, which would be silly because you can also have no clock ticking in the extended foster care program and get transitional housing through the extended foster care program and then save your 36 months until you turn 21 and there is no more extended foster care program. So, you can start burning through your 36 months when you turn 21 and age out of extended foster care. But, it's a 36-month life time limit on THP+ and it is only for kids that have closed cases.

So, in an ideal world you could go from, you know, THP+NMD into the THP+ program and actually get four, five, six years of transitional housing support. In reality, that's not how it works because we actually don't have enough transitional housing spots to meet the needs, and we especially don't have enough THP+ spots to meet the needs. We have many more youth that are eligible, especially in the 21 to 25 year age range than we do transitional housing programs to serve them.

Worth noting that there's also a provision in the law that allows for adoptions for our 18- to 21-year-olds, as well. So, we can do older youth adoptions, and then they would qualify for Adoption Assistance Benefits up until 21. LA County actually has done a lot of NMD adoptions over the years. I'm not sure how many other counties have really made a practice of it. But, the pursuit of permanency continues on through the extended foster care program.

I'm going the wrong way.

Alright. So, that's extended foster care. And now, I'm going to move on to talk about the benefits that support permanency. So, those kids that exit foster care into guardianship or into adoption also qualify for continued support through either the Kin-GAP program, which is this program, Kin-GAP stands for Kinship Guardianship Assistance Payment program. It's for kids that have their foster care case dismissed by the court after or at the same time as they're appointing a relative as the guardian. And, it's not necessarily a relative. We have this whole notion of fictive kin, so it's anyone that has a relationship with the child can be eligible for Kin-GAP benefits.

Kin-GAP goes based on the age of the child, it's complicated, we'll get there, I'll talk about it. They have to have been a dependent or a delinquent, so a 300 or a 602. The child themselves has to still meet those immigration status, so be a qualified resident or have per call or, or, you know, be here legally in some sense. And then, live with the same relative at least six consecutive

months in an approved status. This is actually an important point because of the switch over to Resource Family Approval and this has been an issue in many courts. And so, it's something for judicial officers to be aware of. In order to exit into the Kin-GAP program, the child has to be living with that relative in the home for six months as an approved home. So, remember, many of our relatives take in children before they're approved. And then, they start their Resource Family Approval process, that's why we have the Emergency Caregiver program that we talked about earlier. All of those months prior to approval *do not count* towards Kin-GAP. So, they do not count towards those six months that you have to have the child living with the relative before they can exit to Kin-GAP. So, in some of the extreme cases where Resource Family Approval is taking upwards of 250 to 260, 290, more than a year to get the home approved, which happens in some cases, none of those months count towards the durational requirement for Kin-GAP. It's important that courts know that and *don't dismiss the case* until the family's actually been in an approved status for those whole six months, which you have the ability to do. You just have to make sure that the case stays open until they've been resource approved for six continuous months.

And then, the relative, once they've been approved for those six months, can be appointed the guardian by the juvenile court. They have to enter into a Kin-GAP agreement, so you have to have that agreement written, find, negotiate a agreement, and then, you can close the case and then they move from either the foster care program or the ARC program into the Kin-GAP program.

Okay. AAP was the Adoption Assistance Program. It covers children with special needs, that doesn't mean what you think it means. Every single child in California who's in foster care qualifies as special needs. Being in foster care makes you special needs, it makes you eligible for AAP. You have to have a written and signed AAP agreement *before* the adoption is finalized.

So, if for some reason, this didn't happen, and the family failed to sign an AAP agreement before the adoption was finalized, there's no going back and redoing it. It's another one of those things that as a judicial officer, you just want to make sure that that piece has also been accounted for because it's one of those things that can't be undone.

So, you can negotiate an AAP agreement for \$0. You can say, and it's actually something you should make sure families have done because then, it protects their right 1) to get Medi-Cal benefits for that child the whole time that they are under an AAP agreement, even if it's a \$0 AAP agreement; and 2) if something happens with the family in the future, they can renegotiate and actually get a rate. So, if the family, for whatever reason, doesn't actually want a dollar amount, they can just negotiate a \$0 agreement. But, either way, they should make sure that they've negotiated something because it protects them into the future.

So, AAP, in general, is only for children being adopted out of foster care. And, that's what all of those and one of the following lists is. The only exception to that is that very first bullet. So, kids that meet the eligibility rules for SSI, even if they're going through an independent adoption as

opposed to an agency adoption, agency adoption means the child welfare agency is doing the adoption. That's for kids in foster care. But, kids that go through adoptions through an independent agency but who meet the criteria for SSI, can also get AAP benefits. Also has to be written and signed, negotiated agreement before the adoption is finalized, but that's the only exception. Otherwise, AAP is for kids being adopted out of foster care.

So, new guardianships and new adoptions are eligible for these new rates that I talked about earlier. They're eligible for the Level of Care rates. Once the Level of Care has implemented statewide, they'll be eligible for levels two, three, or four. They're eligible for Intensive Services Foster Care. For kids that are regional center clients, the amount that they would get through AAP or Kin-GAP is that dual agency rate.

Guardianships and adoptions that were established before we moved over to this new rate system and Resource Family Approval and all the rest of it, are basically locked in according to when that adoption or guardianship was negotiated. And so, there's all these different timelines and it's complicated. And, if you have questions about it, my contact information is at the end of this PowerPoint. But, it's different amounts that are, sort of, the cap for different people depending on the date when that guardianship or that adoption agreement was finalized. But, going forward from January 1st, 2017 on, it's the new rate system that I spent the first 30 minutes talking about.

Okay. So, who gets the funding beyond the age of 18? It's super simple, just follow this chart.

It depends whether or not you get funding beyond the age of 18. Let's stop, start in the top left-hand corner. Non-related legal guardianship who go through the *dependency* court. So, the non-related legal guardianships for federally eligible kids. Remember, we talked about federal eligibility. They're going to start out in the Kin-GAP program. Kin-GAP begins at age 18 most of the time, but for our non-related legal guardianships who go through the *dependency* court to have that guardianship established, we've always, we, they, they get foster care benefits. And, foster care benefits go till 21. So, if they lose their Kin-GAP at 18, they just switch over to the foster care program and when they get AFDC-FC until the child turns 21. So, basically for non-related legal guardians, that's that first two rows there, they qualify for funding until 21. It does *not matter* how old the child was when the guardianship was established; all that matters for our non-related legal guardianships to get funding until 21 is that it's a *dependency* guardianship.

Now, for probate court guardianship for non-related legal guardians, that goes till 18, and it stops at 18 and it's not on this chart because these are dependency judges and dependency attorneys that I'm talking to, so generally you're not dealing with the probate system. But we do fund our probate guardianships as well through foster care, but only until 18. For non-related legal guardianships at a dependency, it always goes till 21.

Relative guardians, not that simple. So, for true relatives and that's within the fifth degree of kinship, so it's actually important to know if this relative is within the fifth degree of kinship or not, cause if they're not, they're a non-relative and then they automatically get funding till 21.

If they are in the fifth degree of kinship, it depends. It depends on the age the child was when the guardianship started, when the Kin-GAP payment started to be paid. So, that, that month of the first Kin-GAP payment, if the child was 16 or older, they'll get funding until 21. *Otherwise*, the funding stops at 18 *unless* the child has a mental or physical disability that warrants continuation of assistance, that's the words in the statute, then it doesn't matter how old the young person was when the guardianship payments started, they get funding until 21. That mental or physical disability that warrants continuation of assistance can be determined at any time.

So, this is another thing that I think it's important for people to be paying attention to just at that moment that you're ordering someone into a guardianship, is just to talk about the fact that funding stops at different times and they should be aware of that and if the child has mental or physical needs that are going to warrant their support until 21, they should be sure to talk to their social workers about those things. This is one of those things that I think a lot of families aren't made aware of, and so the funding just automatically turns off at 18 because the guardianship started when the child was 12. And, it's not necessarily true that it has to. Many, many of our kids in foster care have mental and physical disabilities that warrant continuation of assistance until 21.

The other exception to the age 18 cutoff is if the young person is in high school and they're under the age of 19 and they're expected to graduate by the time they turn 19. And then, the funding goes till 19 or until graduation, whichever occurs first.

Okay. So, that's the relative. So, it's 18 sometimes, 21 sometimes, 19 or high school graduation sometimes. It's super simple to remember, just look at this chart, it'll help you. And, I can answer questions as well.

And then, we have AAP, which is very similar to relative guardianship, except there's no high school graduation rule. So, it's the same thing, it stops at 18 unless that AAP agreement was negotiated when the child was 16 or older. And then, it goes till 21 with the exception of the mental or physical disabilities. So, it's the exact same thing. The AAP agreement can be renegotiated at any point to say that we're going to extend it until 21 based on that mental and physical disability. But, if there isn't a showing a mental or physical disability and if the AAP agreement was signed before the child was 16, then AAP stops at 18.

Alright. There's all these other permanency things associated with different ages as well. So, I made another super simple chart to go over who, who's been adopted in the legal guardians and then long-term foster care is eligible for these different kinds of things. So, I'll just point out a few of them.

For long-term foster care, meaning if you're in foster care at 18 or older, you get all this stuff. And, oftentimes it kicks in at 16. Right? So, the education and training vouchers, that is based on being in foster care at age 16 or older. So, if you are, you can get education and training vouchers

even if you are in Kin-GAP or an Adoption Assistance. But, if you were never in foster care at 16 or older than there's no ET, there's no education and training vouchers.

Extended Medi-Cal is based on being in foster care when you turn 18. And so, our young people that exit to guardianship or exit to adoption, they don't get that extended Medi-Cal until 26. Now, the adopted youth do because the Affordable Care Act says that you can stay on your parent's insurance until they turn 26. But the guardianship kids, they don't because it's not their parent, it's their guardian, when the guardianships dissolve at age 18. And so, their Medi-Cal eligibility ends with their Kin-GAP. So, it's going to end at 18, and then sometimes 19, and sometimes 21, but it's not going to go to 26 because they don't have a parent beyond the age of 18 cause it was a guardianship.

Transitional housing is dependent on being in foster care on your 18th birthday, that's the eligibility.

And then ILP, it depends for the non-relative guardians. You get ILP if you were in foster care at age 8 or older, although services don't start till 16. So, for the relative guardians, you have to be in foster care 16 or older. Don't ask me why. We just generally prefer non-relative guardians when it comes to supports and funding. There you go.

All right. So, I'm going to quickly talk about a few other benefits. Survivor's benefits worth knowing about and inquiring about, especially for any young person who has a biological or adoptive parent who's died or who's retired or who is disabled, right? So, those kids may be eligible for what's called SSDI, it's Title II of the Social Security Act. We all pay into the Social Security system, and then, if we have dependents and we die, or we retire, or come disabled, they qualify for benefits based on our earnings and our payment into that system, and that's true of foster kids as well.

So, there's some foster kids that come into foster care because the death of a parent and they might be eligible for Survivor's Benefits; it depends on their parents earning record whether or not they would be eligible.

DCFS, or DCFS means the child welfare agency, can apply on behalf of the child and be their payee, so then they would start receiving that funding on behalf of that child. They can use that funding to pay for the cost of the foster care benefits. They can't use that funding to pay for admin costs and things like that. An adoptive placement can receive both AAP and Title II benefits, so there's no double dipping there, you get 'em both. So, that's something worth knowing as well.

SSI is different. SSI is Title 16 of the Social Security Act. It's available to adults or children, and it's based on that young person being, you know, me-, meeting a certain age. So, that's not children cause children are young, or being blind, or disabled. So, our children can qualify for SSI benefits based on their own disability.

Again, the agency can apply on behalf of the child. They can apply for SSI on behalf of the child. They can also apply to receive the funds on behalf of the child and be their payee. And, they can use the funding to pay for the foster care benefits while the child is in foster care. You don't get both SSI and AAP at the same time because SSI is basically a welfare program. It's not just based on your disability, it's also based on not having certain earnings. So, as opposed to Title II where you paid into the system, that's your money that you're getting back out based on your earnings that you paid into the system, Title 16 is also available to people with disability or who retire or who died based on never having paid into the system. But, then it's based on an income test. And so, you don't receive other types of benefits like AAP at the same time as you're receiving SSI, they get reduced by one another. And, we have a law in California that requires our child welfare agencies to submit SSI applications for foster youth prior to their exit for foster care.

But, we have rules that reply, that require the agency to apply for SSI for our kids in foster care. Before I get there, just in terms of what the eligibility and the rates are, eligibility in addition to the disability standard, like I said, you have to have little income, very few resources, be a citizen or qualified non-citizen, and that disability has to be one that's expected to last for a year or more. So, it's not a short-term disability, it's a long-term disability. The funding depends on the type of living situation. The vast, vast majority of kids in foster care are going to get that non-medical out-of-home care rate, so that highest rate because all of our foster care providers, legal guardians, relative caregivers, they're all considered non-medical out-of-home care. So, they get that particular rate when they're caring for a child who meets the standards for SSI.

Children that receive SSI need a payee, they can't receive the money directly. Like I said, the county is allowed to be the payee. They're *supposed* to be the payee of last resort, they make themselves the payee of first resort, but they're not supposed to if there's someone else who can manage that funding for that child. All other people other than the child welfare agency are preferred, especially a guardian or a relative or someone close to the child. But, really anybody can be the payee for the child including the county child welfare agency.

California law and federal law is very clear that SSI, that if you get a past-due payment and this happens all the time for kids, especially outside of foster care, because the SSI application can take a really, really, really long time to process. So, you apply for SSI. So, it takes you three years to get to the point of being approved for SSI, that's not an exaggeration, that happens all the time. Then, you get funding all the way back to the date of that initial application. So, you get three years of SSI payments all at once. Because it's more than six months of payments all at once, the funds have to go into a dedicated account. This doesn't happen a ton for kids in foster care because they're receiving a foster care payment during that entire period of time and that generally zeros out the SSI payment, so they don't get these lump sum payments. But, some kids that are coming into foster care that have SSI applications pending or kids that had SSI before they came into foster care, may have dedicated accounts because they may have gotten one of these large lump sum payments.

Dedicated account funds *cannot* be used to pay for foster, so you cannot tap into someone's dedicated account to offset the monthly cost of foster care. Dedicated accounts can only be used for certain special things that the young person needs. There's all kinds of restrictions on them, but they're not for mostly maintenance costs.

Okay, so there's a special form that you have to fill out to get that non-medical out-of-home care rate, it's called the SSP-22. Like, 10, 15 years ago when I started talking about SSI, I found this and was like, "Huh, what's this?" It turns out, like, no one knows about it, that's why we link to the form. All you have to do is fill it out. It's actually a really, really simple form to fill out. And, it basically just says you're the relative or the foster parent or the guardian of the child who receives SSI and it bumps up the rate. So, instead of receiving that other SSI rate, you get that higher non-medical out-of-home care rate.

Sometimes the Social Security offices don't know about this form, so you can, like, bring it down to them and they'd be like, "That's not a thing." But, it is a thing. It's like a real form that actually qualifies you for more money. You might have to have an argument with them, but we've been successful in getting it worked out cause it's an actual thing.

The reason it's called SSP is that's the state's supplemental payment, and so that's sometimes why people don't know about it. It's not the federal SSI payment of the grant, it's the state's supplement to that grant, but it all comes in one check and the Social Security Administration is the one that has to process it. So, it's unique to California and it's something that's, sort of, fallen by the wayside to some degree, and so that's why a lot of people have never seen these forms before. But, it's obviously more financial support for kids in foster care, so important that they get filled out.

For our older youth who have been approved for SSI and are receiving SSI at 18, 19, 20, up to 22 for the Student Earned Income Exclusion, and then, at any age, really, for the plans to achieve self-support, the Social Security Administration has these programs in place that allow a young person to basically work or be going to school and save some of their money for, and not have to, sort of, meet the otherwise pretty rigorous income test. So, it allows you to save more of your money from work or more of your money from your SSI checks so that you can hopefully, eventually get off SSI and not have to be dependent on it for your entire life. So, there are these programs in place that are worth knowing about especially for our nonminor dependents who are 18- or 19- or 20-years-old, and to try to make sure that they get signed up for some of these programs, so they can attempt school or attempt work while learning how to manage their SSI benefits. So, at the point that they turn 21 and they're exiting out of our system, they have one of these in place, and they can actually, hopefully, support themselves a bit more independently.

You can't receive AFDC-FC and SSI concurrently, I already talked about this. Because one's offset by the other cause they're both based on need. And, there's the rule about the county helping the young person apply for SSI. So, between the ages of 16 1/2 and 17 1/2, counties are

required to screen every single youth in foster care for SSI eligibility. Anyone screened is likely eligible. The county has to make an SSI application. So, they actually have to submit that initial application for the young person.

Now, that's all the law says. Almost certainly, that application is going to be denied. That's the way of the SSI benefits. You submit your SSI application. It takes six months to a year to get a decision on it, and it's almost always no. And then, you can do a redetermination. And, that redetermination goes to the same person that said no the first time, so they're probably going to say no again, but it takes another four or five months. And then, after that, you get to go to an administrative hearing. And, if you get all the way to that point, most of the time you get approved. But it takes a really long time. That's why we have it starting at 16 1/2. The goal is that counties can help young people all the way through to the point of a final decision, but the law only really says they have to assist them with the SSI application. So, it's important for the young person to know that SSI was submitted on their behalf.

There are some legal aid organizations, like Bay Area legal Aid, that does SSI advocacy and makes sure that these applications get all the way through to conclusion. Some counties have actually contracted with other agencies like PCG, I think is the name of it, and they actually do the SSI applications and see them all the way through to final decision.

I think for a judicial officer, you should be inquiring whether or not someone's had a screening at 16 1/2 or older, and then pay attention to the young people that actually have an SSI application submitted, and be inquiring at every court hearing: Have you had a decision? Did you file for redetermination? Did you file for the fair hearing? Because the goal is that for the young people with the most serious disabilities that they actually get SSI established, so at the point that they don't have an extended foster care benefit anymore, there's still something to support them into adulthood.

Kids that come into care with SSI in place might have a biological parent that's still receiving SSI benefits that can create overpayments and it can create all sorts of other issues. So, something to pay attention to. And then, also the non-medical out-of-home care rate, making sure that it actually gets turned on cause it's the higher rate.

Okay. Just a little bit on Medi-Cal and EPSDT. EPSDT stands for Early Periodic Screening, Diagnos, Diagnosis and Treatment. It is our Medi-Cal program that covers kids 0 to 21. It is really, really, really comprehensive. Essentially, it says that children who receive Medi-Cal and are under the age of 21, are eligible for *any* necessary healthcare, diagnostic services, treatment, or any other measure to correct and ameliorate defects and physical, mental illnesses and conditions discovered by the screening services, whether or not those services are covered under the state law. It's *everything*. It's *anything* a child needs, can be covered and paid for through their EPSDT benefits, and *yet*, it doesn't really work that way in practice.

Again, as a judicial officer, something to be really, really aware of because if a screening, a medical professional has said that they need it, there's probably some way to get Medi-Cal to pay for it under these EPSDT. But, there have been lots of lawsuits that have been filed over the years especially around mental health services to make sure that kids actually have access to those mental health services. The Katie A. lawsuit was about the pathways to mental health services, the Emily Q. lawsuit was about TBS, or therapeutic behavioral services.

Now, there's understanding in the state that those wraparound services and those TBS services have to be provided to every kid in foster care cause it's been litigated. But, quite honestly, it's not just those two things, it's anything, anything that the child needs to correct any condition, is eligible. Including intensive case management. Including multi-system therapy. Including any dental services the kid needs. I mean, really, it's everything.

This has to do with mental health services in California and this idea of medical necessity. But, again, for young people, for youth, that medical necessity doesn't really exist. And so, I think there's this other confusion that comes into place because of the way we operate our mental health programs. For adults, which really has to do with medical necessity, but for children, it's anything necessary to correct or ameliorate defects or physical or mental illnesses, like, anything. It's much broader. The benefit for children under the age of 21 is much broader than the benefit for adults who receive Medi-Cal services. And so, that's the big takeaway and the thing to inquire about in cases.

This is just the various lawsuits that have been decided over the years and the years that they were settled in order to expand the EPSDT benefit into these various areas. The TBS services and the wraparound and individualized mental health services that, like I said, the sky is really the limit when it comes to what you can actually get for a young person through the EPSDT program.

I'm not the Senior Director, I'm the Policy Director. I didn't make that slide, apparently. But, other than that, that's who I am and that's where you can contact me at and we will have this PowerPoint available along with those sample orders for your review.

Thank you.