



The Humboldt County Department of Health & Human Services (“Humboldt County DHHS”) is the dedicated local agency that is responsible for providing supportive services to children and families involved in the foster care system and related child welfare services programs throughout the county. In conducting this work, DHHS follows and abides by the standards and interpretations of law provided by the California Department of Social Services (“CDSS”) – the designated agency responsible for developing and overseeing the State’s foster care system in California – and relies upon CDSS’s guidance in its published All County Letters (“ACLs”), All County Information Notices (“ACINs”), Manual of Policies and Procedures, bulletins, and other similarly state-issued directives to administer both state and federally funded child welfare programs.

One such program is the Extended Foster Care (“EFC”) Program, an initiative by the California Legislature that was intended to assist eligible minors in foster care who were approaching their 18th birthday to transition to, and remain in, foster care as nonminor dependents (“NMDs”) until they turned 21 years old. The EFC Program came to fruition as a result of the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008 by the United States Congress, which made significant changes to Title IV-E of the Social Security Act and allowed states to use Title IV-E monies to provide more support for older youth who were transitioning out of the foster care system. California established its EFC Program in 2010.

As a participant in the EFC Program, a foster youth would need to meet several eligibility requirements prior to receiving federal funding and benefits, including financial eligibility requirements. CDSS issued several ACLs to guide counties in assessing a youth’s financial eligibility, some of which were directed at the unique circumstances involving tribal youth. For instance, CDSS issued ACL No. 13-91, addressing “case management and eligibility issues related to Indian youth as Non-Minor Dependents (NMDs).” Among other things, ACL No. 13-91 included the following directions:

Questions have been raised regarding funding for the continuation of eligibility and funding for Indian youth. For purposes of maintaining Title IV-E funding, Indian youth must still meet the financial Aid to Families with Dependant (sic) Children-Foster Care (AFDC-FC) eligibility requirements as all other NMDs to receive the AFDC-FC payment. As with all NMD’s, earned income shall be disregarded, provided that it is documented in the TILP that the purpose of employment is to enable the NMD to gain work skills and the responsibilities of maintaining employment (W&IC section 11008.15). The NMDs may retain fiscal and programmatic resources with a combined value not to exceed \$10,000.

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In the resource evaluation, Indian youth may present some unique issues, as it pertains to per capita distributions made to tribal members. Depending on a tribe’s distribution criteria, tribally based financial distributions (e.g. gaming or trust funds) may become available to the youth upon reaching

the age of majority. However, it is also possible that such funds may not be fully available until an Indian youth meets tribal conditions, e.g. completion of high school, completion of college. Tribal distributions must therefore be reviewed on a case by case basis as criteria and conditions for such distributions will differ. It is important to note that depending on the tribe, funds may actually not be available to the Indian youth. In such cases, funds should not be included as a resource.

At the time, and based in part on ACL No. 13-91, Humboldt County DHHS required financial eligibility redeterminations, for both tribal and non-tribal youth, to confirm they were eligible for EFC reimbursement for Supervised Independent Living Placement (“SILP”) benefits.

In the summer of 2021, CDSS was advised by the California Tribal Families Coalition (“CTFC”) that the sections of ACL No. 13-91 quoted above violated federal law, and that most youth, including but not limited to youth that are members of federally recognized tribes, entering EFC do not require an eligibility redetermination upon reaching the age of 18 so long as they continue to remain in foster care. CDSS agreed with CTFC and, on July 14, 2021, reported that “CDSS intends to issue new program guidance to inform counties that a redetermination is not required when a child or nonminor dependent in foster care receives income or property after the initial linkage determination has been completed.”

Once Humboldt County DHHS learned of the violation of federal law and prior to CDSS’s issuance of any new program guidance, Humboldt County DHHS proactively sought and obtained guidance from CDSS to allow Humboldt County DHHS to immediately identify negatively impacted youth and to quickly restore benefits to these foster youth that had been terminated. Humboldt County DHHS sought to identify these youth even without a formal directive by CDSS to do so. As to youth from the Bear River Band of the Rohnerville Rancheria (“Bear River”) specifically that had been denied EFC reimbursement for SILP benefits, Humboldt County DHHS worked collaboratively with Bear River’s Social Services Director, as well as with CTFC, and identified at least two, and possibly three, cases of Bear River Tribal youth whose benefits had been terminated due to eligibility redeterminations. Humboldt County DHHS is not aware of any other tribal youth who were denied EFC reimbursement for SILP benefits because of the mistaken guidance issued by CDSS and resultant violation of federal law. By October 5, 2021, DHHS restored all known terminated SILP benefits where the recipient was able to accept them. Despite DHHS’s rapid response to restore benefits, it was determined that at least two Bear River youths were disqualified from receiving benefits they were entitled to, which Humboldt County DHHS regrets has caused them unnecessary hardship. The harms these youth experienced, including losing their housing, directly conflicted with DHHS’s mission to provide support to the very individuals whose interests DHHS is committed to serve.

CDSS has since issued ACL No. 22-16 which addressed, in part, the subject benefits eligibility and redeterminations for NMDs. County agencies like Humboldt County DHHS were advised that “[w]hen youth are continuously in foster care, their income and resources need not be reconsidered. The NMDs who were eligible for federal foster care funding prior to turning 18, remain federally eligible until the youth formally exit foster care via court order.” CDSS also stated in ACL No.

22-16 that the State forms relied on by local agencies for determining eligibility would be revised “to remove any references to annual fiscal redeterminations and clarify that AFDCFC payments are to be made to eligible foster care providers regardless of income or resources of the child, child’s family, or the NMD.” More recently, CDSS announced that it was in the process of issuing a new ACIN to clarify that “if a youth in foster care receives income (e.g. through an inheritance or receipt of tribal trust fund), that income is not to be evaluated and has no impact on the youth’s continued eligibility for AFDC-FC benefits.”

Moving forward, Humboldt County DHHS will adhere to the revised policy directives by CDSS and reaffirms its commitment to serving all NMDs in the county. Nonminor dependents no longer face redeterminations of eligibility for SILP benefits due to changes in income, including tribal distributions. This policy change will benefit NMDs to the extent that they will not be asked to choose between accepting income to which they are rightfully entitled, such as tribal distributions, or accepting a housing benefit designed to help them achieve independent living and prevent homelessness. Further, DHHS remains committed to working with all State and Tribal leaders to identify best practices to better serve children and families in Humboldt County.