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CALIFORNIA ALLIANCE OF CHILD AND FAMILY
12 SERVICES

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 CALIFORNIA ALLIANCE OF CHILD AND
18 FAMILY SERVICES,

19 Plaintiff,

20 v.

21 JOHN WAGNER, Director of the California
Department of Social Services, in his official
22 capacity; GREGORY ROSE, Deputy Director of
the Children and Family Services Division of the
23 California Department of Social Services, in his
official capacity,

24 Defendants.
25

Case No. 3:09-CV-04398 MHP

**SUPPLEMENTAL DECLARATION
OF DOUG JOHNSON IN SUPPORT
OF PLAINTIFF CALIFORNIA
ALLIANCE OF CHILD AND
FAMILY SERVICES' EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE
REGARDING PRELIMINARY
INJUNCTION**

Hearing Date: October 9, 2009
Time: 2:30 p.m.
Courtroom: 15

1 I, Doug Johnson, declare as follows:

2 1. I am the Associate Executive Director of the California Alliance of Child and
3 Family Services (the "Alliance"), a statewide association of more than 115 private nonprofit
4 child and family serving agencies. I have read the papers submitted by the Department of Social
5 Services of the State of California ("DSS") (Document Nos. 25-29) in opposition to the
6 California Alliance of Child and Family Services' (the "Alliance") Ex Parte Application for a
7 Temporary Restraining Order and an Order to Show Cause Regarding Preliminary Injunction,
8 and make this supplemental declaration in response. Each of the facts stated herein are based on
9 my personal knowledge unless I state that I know that information based on information and
10 belief.

11 2. The Alliance is a non-profit organization that represents the interests of group
12 homes that provide care and supervision for foster children with significant emotional or
13 behavioral problems who cannot live safely in their own homes or in another family setting, and
14 who require more restrictive out-of-home placement environments. The Alliance's membership
15 includes approximately 115 private, non-profit member agencies that provide adoption, foster
16 care, group home, mental health treatment, family preservation and support, wrap-around,
17 educational, and other services. The Alliance's member agencies operate 87 group home
18 programs, with a licensed capacity of 3,720 beds.

19 3. I started working at the Alliance in 1998 after nearly 20 years of State service,
20 spending 18 years with the DSS. In particular, I worked as a bureau chief in the Welfare
21 Programs Division of DSS and oversaw the development and implementation of California's
22 rate-setting system for foster care group homes. During my State service, I served as Chief of
23 the Foster Care Policy Bureau, the Child Welfare Services Policy Bureau, and the Emergency
24 Assistance Program Bureau. Immediately before joining the Alliance, I was DSS's Coordinator
25 for Federal Legislation during welfare reform.

26 4. Given my background and present position at the Alliance, I have personal
27 knowledge of the following:
28

1 5. I have reviewed the Opposition to Motion for a Temporary Restraining Order and
 2 Order to Show Cause re: Preliminary Injunction (“Opposition”) filed by DSS, which argues that
 3 California’s ten-percent (10%) rate reduction will not result in any irreparable harm to foster care
 4 group homes. The Opposition states that “. . . pending legislation if [sic] anticipated that will
 5 actually increase the payments the group homes receive.” (Opposition, at 1, lines 11-12). This
 6 statement is erroneous. The following example illustrates how the 10% reduction in the
 7 standardized schedule of rates has reduced funding for a typical foster children placed in a group
 8 home at Rate Classification Level (RCL) 12.

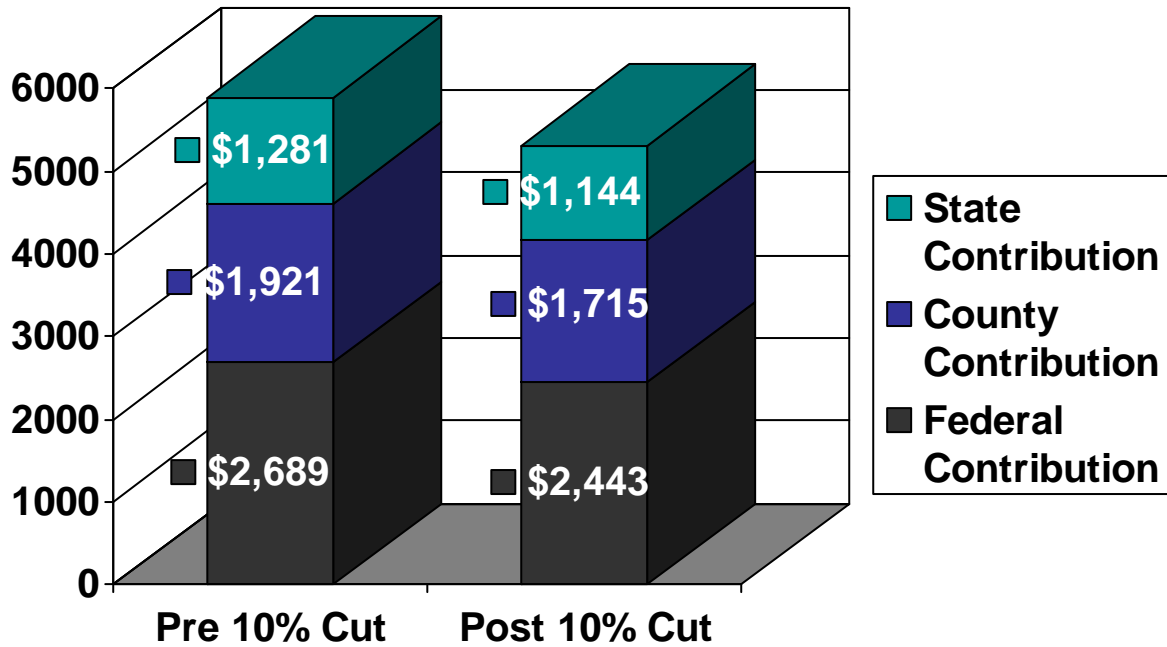
9 6. From January 1, 2008, until the implementation of the 10% rate reduction on
 10 October 1, 2009, the standard rate for a single child in an RCL 12 group home program was
 11 \$5,891. The “federally allowable” portion of the State’s cost was \$5,377.¹ The federal
 12 government pays 50% of this \$5,377, or \$2,689, for a foster child who meets the eligibility
 13 requirements of the federal Title IV-E Foster Care Program. The counties pay 30% (\$1,921) and
 14 the State pays 20% (\$1,281).

15 7. Applying the State’s 10% rate cut to the above example, the standard rate for a
 16 single child in an RCL 12 group home program is now \$5,302. The “federally allowable”
 17 portion of the State’s cost is reduced to \$4,886. The federal government pays \$2,443, the
 18 counties pay \$1,715 and the State pays the remaining \$1,144.

19 8. By implementing the 10% rate cut, the State saves the difference between \$1,281
 20 and \$1,144 -- a total savings of \$137 per child per month. However, the 10% rate cut reduces the
 21 standard RCL 12 rate from \$5,891 to \$5,302. Therefore, cutting RCL rates by 10% saves the

22
 23 ¹ Under the Child Welfare Act, the federal government only pays the State for its federally
 24 allowable costs. California has chosen to include funding for social work activities in its AFDC-
 25 Foster Care rates for group homes. Since these costs are not included in the definition of “foster
 26 care maintenance payments,” under 42 U.S.C § 675. California factors those costs out before it
 27 files its claim for federal Title IV-E reimbursement. For 2008-09, DSS determined that 91.27%
 28 of the \$5,891 rate for RCL 12 was federally allowable. With the implementation of the 10% rate
 reduction effective October 1, 2009, DSS determined that 92.16% of the \$5,302 rate for RCL 12
 was federally allowable. See “Foster Care Rates Group Home Listings,” dated October 5, 2009,
 on the website of the DSS Children and Family Services Division
 (<http://www.childsworld.ca.gov/res/pdf/GHList.pdf>).

1 State \$137, but reduces the total funding to foster care group homes by \$589 per month for each
 2 child in an RCL 12 program.



15 9. I have created several charts that show the significance of the recent rate cuts on
 16 top of several years in which the State failed to provide a CNI-based COLA, or any other form of
 17 rate increase, to the standardized schedule of rates for group homes. Attached hereto as Exhibit
 18 A (“Effect of 10% Reduction on Value of Foster Care Group Home Rates”) is a chart that I
 19 created that compares the cumulative changes in the California Necessities Index (“CNI”) and
 20 Foster Care Group Home Standardized Schedule of Rates since the current group home rate-
 21 setting system was initially implemented in 1990-91. The CNI data contained in this chart was
 22 obtained from the State Department of Finance. The data on Foster Care Rates Schedule for
 23 Group Homes was obtained from the Department of Social Services. The bottom graph
 24 demonstrates the changes in purchasing power of the standardized schedule of rates starting in
 25 1990-91 and cover the time (1) when this Court issued its decision in *Alliance I*, (2) before the
 26 implementation of the rate cuts at issue in this lawsuit, and (3) after the budget cuts at issue in
 27 this lawsuit. As set forth in the chart, at the time this Court issued its opinion in *Alliance I*, the
 28 data before the Court was for fiscal years 2006-07. At that time, and as the Court found, the

1 purchasing power for group homes was 80% of the 1990-91 rates taking into account CNI
2 increases. Since that time, other than a brief increase in 2007-08, the purchasing power has
3 continued to decline. In fact, as demonstrated in the chart, for fiscal year 2008-09 and before the
4 recently enacted rate cuts went into effect on October 1, 2009, the purchasing power for group
5 homes had dropped to 77%. Now that the new rate cuts have gone into effect, the purchasing
6 power dropped to 68% of the 1990-91 rates taking into account CNI increases.

7 10. To further demonstrate the impact of the recent rate cuts, I created a chart that sets
8 forth changes in standard rates for group homes for different Rate Classification Levels (“RCL”)
9 before and after the rate cuts went into effect on October 1, 2009. A true and correct copy of this
10 chart is attached hereto as Exhibit B (Changes in Group Home Rates and Point Ranges 1990-
11 1991 to 2009-2010). As demonstrated in this chart, the October 1, 2009 rate cuts significantly
12 decrease the rates for group homes for each of the different RCLs. For example, for a group
13 home at RCL 14, the standard rate has been decreased by \$669 per child per month, from \$6,694
14 to \$6,025.

15 11. Defendants contend that the *Alliance I* opinion was based on the rates in effect as
16 of June 30, 2006 and that the State subsequently provided a five percent increase in the wages
17 and benefits for group home providers, which became effective January 1, 2008. (Opposition, at
18 4.) While this statement is accurate in isolation, it does not provide the entire picture. While the
19 State did increase, effective January 1, 2008, the amount included in the standardized schedule of
20 rates for the wages and benefits of group home staff providing child care and supervision and
21 social work activities by 5% and increased the amount included for employer-paid payroll taxes
22 and benefits from 20.325% of wages to 24%, it did not grant a CNI-based COLA for group home
23 rates for 2007-08. (See Welfare and Institutions Code Section 11462 (g)(4)). These increases
24 resulted in an increase in the standard rates ranging from 2.20% for RCL 1 to 5.07% for RCL 14,
25 with an overall average increase of approximately 4.95%. Defendants failed to mention,
26 however, that the Court’s finding in *Alliance I* was relying on data from the 2006-07 fiscal year.
27 Despite the increase by approximately 5% in 2007-08, the costs of care continued to increase
28 after 2006-07. As measured by the CNI, the costs of care increased by 3.70% for 2007-08,

1 5.26% for 2008-09, and 1.53% for 2009-10, according to data provided by the State Department
2 of Finance. When the impact of both the 5% rate increase on January 1, 2008 and the 10% rate
3 reduction on October 1, 2009 are taken into account, the cumulative increase in the standardized
4 schedule of rates from 1990-91 to 2009-10 has been approximately 19.79%. The cumulative
5 increase in the CNI for that same period is 76.25%. Therefore, the current rates, even *after* the
6 10% rate reduction, cover only 68% of the current costs of care.

7 12. The Opposition refers to a pending piece of State legislation, SB 597. SB 597
8 would add a new paragraph (3) to subdivision (f) of Welfare and Institutions Code 11462,
9 implementing reduced RCL point ranges. SB 597 would make a further reduction in the RCL
10 point ranges to reflect the 10% rate reduction that took effect on October 1, 2009. SB 597,
11 however, does not increase RCL payment rates, or reduce the RCL point ranges to reflect the
12 continuing increase in the costs of care and the lack of group home rate increases from 2003-04
13 to 2006-07 and from 2008-09 to 2009-10. As with the original 2002-03 RCL point range
14 reduction, this proposal is an emergency stop-gap measure made only after it became certain that
15 the Alliance's efforts to prevent the 10% rate reduction had failed and group homes were going
16 to be forced to cope with operating their programs with AFDC-Foster Care rates that had only
17 68% of the purchasing power that they originally had in 1990-91. The Alliance considers the
18 additional RCL point range reduction in SB 597 to be a "bad alternative," but the "least bad"
19 alternative available when the State of California reduces the already inadequate level of funding
20 for the care of foster children placed into group homes, while the costs of care continue to
21 increase. The 10% rate reduction inevitably and unavoidably will force those group homes that
22 remain in operation to reduce the levels of care and supervision that they provide. Reducing the
23 RCL point ranges through SB 597 will merely allow group homes to cut staff and other
24 administrative costs in order to continue as a going concern. Some group homes, however, will
25 not be able to reduce their staff to take advantage of the adjusted RCL point ranges in SB 597.
26 Reducing the RCL point ranges does not reduce the needs of the foster youth being placed into
27 group homes. Given the youths' needs for intensive care, supervision, and structure by qualified
28

1 caregivers, many group homes do not believe that they can provide even minimally adequate
2 care and supervision with fewer staff or with staff with lower qualifications.

3 13. The Opposition also states: “In fact, based on the relaxation of the adjusted RCL
4 point system and the expected passage of SB 597, the net result for group homes will be a 17-
5 18% increase in funding.” (Opposition, at 22, lines 8-9.) This statement is incorrect. Nothing in
6 SB 597 would result in any funding increases for group homes. In fact, Section 14 of SB 597
7 states: “No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be
8 made for the purposes of implementing this act.” Section 15200 addresses funding for the
9 AFDC-Foster Care program.

10 14. The implementation of the adjusted RCL point ranges in SB 597 will not result in
11 AFDC-Foster Care rates to increase for group homes that cover the costs of care, as measured by
12 the CNI since 1990-91. This is illustrated by the table entitled “Impact of a 10% Rate Reduction
13 in Foster Care Rates for 2009-10 and the Proposed Adjustment to the RCL Point Ranges,” a true
14 and correct copy of which is attached hereto as Exhibit C. This table compares the adjusted RCL
15 point ranges with the original RCL point ranges (which continue to apply to new group home
16 programs with “provisional rates”). It also compares the current group home rates after the 10%
17 rate reduction with the original group home rates schedule from 1990-91 adjusted by the
18 cumulative increase in the CNI since 1990-91. In short, this table shows that the implementation
19 of the reduced RCL point ranges in SB 597 will mean that an existing group home program
20 classified at RCL 14 could be providing a staffing pattern equivalent to RCL 11 (as measured by
21 the original RLC point ranges) but will be receiving an AFDC-Foster Care rate equivalent to
22 RCL 8 (as measured by increases in the CNI).

23 15. The Opposition also includes an entire section on “Alternative State Funding
24 Sources for Group Homes.” (Opposition, at 11-13.) One of the “alternative funding sources”
25 cited in the Opposition is the federal Medicaid program, known as Medi-Cal in California.
26 Opposition, at 12. The Opposition asserts that Medi-Cal “provides health care services to
27 eligible persons in California,” including foster youth. While it is true that Medi-Cal provides
28 health care services, it does *not* provide or fund the care and supervision for foster care children

1 in group homes as required under the Child Welfare Act. Furthermore, the Child Welfare Act
2 does not permit foster care maintenance payments to be used to pay for health care for foster
3 children.

4 16. Another of the “alternative funding sources” cited in the Opposition, is the Early
5 and Periodic Screening, Diagnosis, and Treatment (“EPSDT”) Program, which is a component of
6 Medicaid/Medi-Cal. (Opposition, at 12.) The Opposition states that EPSDT provides funding
7 for “medically necessary mental health services that are needed to correct or ameliorate the
8 child/youth’s condition.” That is true, however, agencies that operate mental health programs
9 funded by EPSDT are **strictly prohibited** from using any of the EPSDT funds they receive to
10 pay for the costs of group home care and supervision as it is defined in the federal definition of
11 “foster care maintenance payments” or for any type of costs that are not considered mental health
12 services.

13 17. DSS also claims that California’s Mental Health Services Act (“MHSA”) program
14 is another “alternative funding source.” (Opposition, at 11-12.) They argue that the “program
15 provides increased funding, personnel and other resources to support community-based county
16 mental health programs.” While that is true, this program does **not** provide, or fund the
17 provision of, care and supervision as it is defined in the federal definition of “foster care
18 maintenance payments.”

19 18. Ultimately, there is no question that funding from Medicaid/Medi-Cal health
20 services program, the Medicaid/Medi-Cal EPSDT program, and the MHSA program is not
21 available to make up the shortfall in funding provided by the AFDC-Foster Care group home
22 rates.

23 19. The Opposition also includes a section called “The Wraparound Program
24 Decreases the Need for Group Homes.” (Opposition, at 5-7.) Defendants’ assertion that
25 Wraparound programs and other initiatives over the past several years have reduced the number
26 of foster children placed in group homes. While this is true, it is totally irrelevant to the question
27 of whether the AFDC-Foster Care rates now being paid by the State cover the costs of providing
28 the “allowable” items enumerated in the federal definition of “foster care maintenance

1 payments.” The rates paid under the Wraparound program are directly linked to group home
2 rates. The 10% group home rate reduction on October 1, 2009 also resulted in a reduction in
3 Wraparound payment rates. This is reflected on page 9 of the DSS All-County Letter 09-45,
4 dated September 30, 2009, a true and correct copy of which is attached hereto as Exhibit D.

5 20. The Opposition asserts that certain agencies identified in Exhibit B to my original
6 Declaration have indicated that their closure was for reasons other than inadequate funding. My
7 original declaration states only that “I understand that underfunding was a significant factor in
8 all of the closures and reductions identified in Exhibit B,” which is evidenced by the other
9 declarations filed in support of the Ex Parte Application for a TRO.

10 21. The Opposition lists four of the nonprofit agencies identified in Exhibit B from
11 which DSS received letters indicating that they were closing their group home programs, or
12 reducing its licensed capacity, because they were receiving fewer placements from the counties.
13 (Opposition, at 9.) The implication of this list is that the inadequacy of the AFDC-Foster Care
14 rates was not a factor in the closure and reduction in licensed capacity of these four agencies and,
15 by extension, of other agencies on the list in Exhibit B. However, the inadequacy of AFDC-
16 Foster Care rates was a significant factor, along with declining placements, in the decision-
17 making process of these agencies even if this was not mentioned in the very brief letters sent to
18 the DSS notifying them of a closure or reduction in licensed capacity. For example, one of the
19 four agencies on the list, Sierra Vista Child and Family Services, did mention “rising costs,” as
20 well as “declining placements” as the reason for its closure. Additionally, Exhibit P to the
21 Declaration of Cora L. Dixon (“Dixon Decl.”) is a letter to DSS from the Director of Finance for
22 Five Acres notifying DSS of its decision to closure on its six-bed group home facilities. The
23 letter states that “We have not been receiving appropriate referrals for our girls’ group home, and
24 this program is under-funded by the current rate system by approximately \$100,000 per home
25 per year.” (Dixon Decl., Ex. P) (emphasis added).

26 22. The Opposition also contends that “[t]he assertions of closure or reduction due to
27 asserted inadequate funding by Mr. Johnson are questionable when their Financial Audit Reports
28 reflect positive net assets and significant revenue.” (Opposition, at 9.) However, the Opposition

1 is inaccurate. A Financial Audit Report covers the assets and revenues of all of the activities of
2 the entire nonprofit agency, not just those of its group home program. All seven of the nonprofit
3 agencies listed in the Opposition as examples of agencies with “net assets and significant
4 revenues” are large diverse agencies operating multiple programs, in addition to their group
5 homes, with a variety of funding streams, including private charitable donations. The Opposition
6 provides no basis whatsoever for asserting that the net assets of these nonprofit agencies were
7 derived from their group home revenues. Based on discussions in the past with member agencies
8 of the Alliance, most have group home costs that are significantly higher than their AFDC-Foster
9 Care revenues for their group home program. Finally, the fact that an agency has large total
10 revenues does not indicate that the costs of care for its group home program are covered by its
11 AFDC-Foster Care payments. An agency with large revenues from its AFDC-Foster Care
12 payments for its group home program is most likely to have even larger costs of care which are
13 not covered by those revenues.

14 23. The Opposition lists River Oak Center for Children and Stanford Home for
15 Children as two of the agencies with large total revenues. (Opposition, at 10.) Both of these are
16 very highly respected and diverse nonprofit agencies operating in Sacramento County. In recent
17 years, both agencies closed their group home programs completely and began to focus
18 exclusively on non-residential services, including the expansion of their Wraparound programs.
19 In both cases, a significant factor in their decision to close their group homes was the fact that
20 they were incurring huge deficits every year in their group home operations. Attached hereto as
21 Exhibit E is a true and correct copy of a letter to “Community Partners” dated March 25, 2008,
22 from Mary Hargrave, the Chief Executive Officer of River Oak Center for Children, explaining
23 the reasons for their decision. Ms. Hargrove’s letter states that the inadequacy of the AFDC-
24 Foster Care rates was a significant, though not the only factor, in their decision to close their
25 group home program.

26 24. The Opposition, states that “[t]here is nothing in the language (of the Child
27 Welfare Act) that even mentions foster care providers, let alone that demonstrates that these
28 provisions are written for their benefit.” (Opposition, at 18.) However, the definition of “foster

1 care maintenance payments” from the Child Welfare Act includes the following sentence: “In
 2 the case of institutional care, such term shall include the reasonable costs of administration and
 3 operation of such institution as are necessarily required to provide the items described in the
 4 preceding sentence.” 42 U.S.C. § 675(4)(A). In California, the term “group home” is used as the
 5 label for a category of foster care provider that is called a child care “institution” by the Child
 6 Welfare Act.

7
 8 I declare under penalty of perjury under the laws of the United States of America that the
 9 foregoing is true and correct.

10 Executed on October 8, 2009, at Sacramento, California.

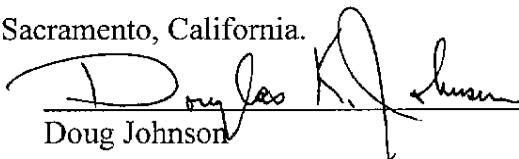
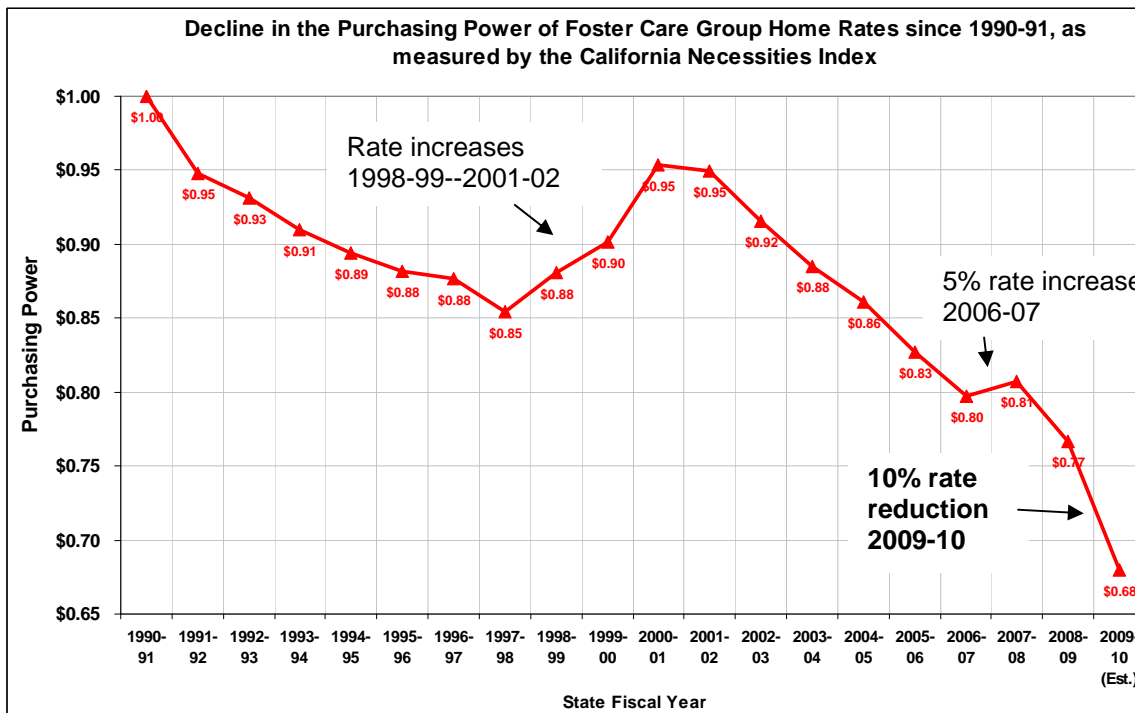
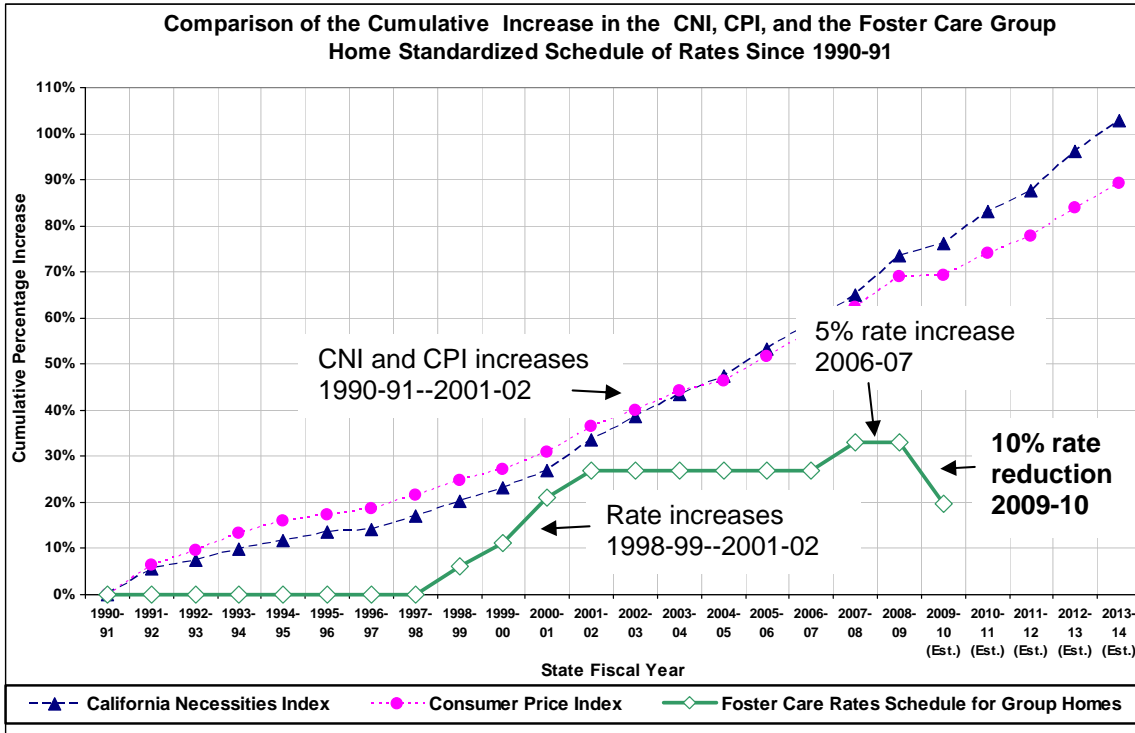
11 
 12 _____
 13 Doug Johnson

EXHIBIT A

Effect of 10% Reduction on Value of Foster Care Group Home Rates



With the 10% foster care group home rate reduction in 2009-10, a rate increase of nearly 53% would be needed in 2010-11 to restore the purchasing power of group home rates back to the level they originally had in 1990-91.

EXHIBIT B

RCL	1990-91 to 1997-98	1998-99	1999-2000		2000-01		2001-02 to 2008-09	2002-03	2008-09	2009-10					
	Effective July 1, 1990	Effective July 1, 1998	Effective July 1, 1999	Effective Jan. 1, 2000	Effective July 1, 2000	Effective Jan. 1, 2001	Effective July 1, 2001	Adjusted RCL points ranges to cope with no CNI increase	Effective Jan. 1, 2008	Effective Oct. 1, 2009	AB 597 adjusted RCL points ranges to cope with 10% rate cut (not signed)	What Standard Rates for 2009-10 should be if adjusted to reflect CNI increase since 1990	Foster Care group home rate shortfall		
	% Change in rate	No increase	+6%	+2.36%	+2.36%	+2.96%	+5.76%		+4.85%	+5%			<10%>	per child per month	as a % of the rate
	RCL Point Ranges		Total 4.78%		Total 8.90%										
1	Under 60	\$1,183	\$1,254	\$1,284	\$1,314	\$1,353	\$ 1,387	\$ 1,454	Under 54	\$ 1,486	\$ 1,337	Under 30	\$ 2,085	\$ (748)	-55.90%
2	60 - 89	\$1,478	\$1,567	\$1,604	\$1,642	\$1,691	\$ 1,750	\$ 1,835	54 - 81	\$ 1,889	\$ 1,700	39 - 64	\$ 2,605	\$ (905)	-53.22%
3	90 - 119	\$1,773	\$1,879	\$1,923	\$1,968	\$2,026	\$ 2,108	\$ 2,210	82 - 110	\$ 2,287	\$ 2,058	65 - 90	\$ 3,125	\$(1,067)	-51.82%
4	120 - 149	\$2,067	\$2,191	\$2,243	\$2,296	\$2,364	\$ 2,469	\$ 2,589	111 - 138	\$ 2,689	\$ 2,420	91 - 115	\$ 3,643	\$(1,223)	-50.53%
5	150 - 179	\$2,360	\$2,502	\$2,561	\$2,621	\$2,699	\$ 2,829	\$ 2,966	139 - 167	\$ 3,088	\$ 2,779	116 - 141	\$ 4,159	\$(1,380)	-49.66%
6	180 - 209	\$2,656	\$2,815	\$2,881	\$2,949	\$3,036	\$ 3,189	\$ 3,344	168 - 195	\$ 3,489	\$ 3,140	142 - 167	\$ 4,681	\$(1,541)	-49.08%
7	210 - 239	\$2,950	\$3,127	\$3,201	\$3,277	\$3,374	\$ 3,551	\$ 3,723	196 - 224	\$ 3,889	\$ 3,500	168 - 192	\$ 5,199	\$(1,699)	-48.55%
8	240 - 269	\$3,245	\$3,440	\$3,521	\$3,604	\$3,711	\$ 3,912	\$ 4,102	225 - 253	\$ 4,291	\$ 3,862	193 - 218	\$ 5,719	\$(1,857)	-48.09%
9	270 - 299	\$3,539	\$3,751	\$3,840	\$3,931	\$4,047	\$ 4,272	\$ 4,479	254 - 281	\$ 4,690	\$ 4,221	219 - 244	\$ 6,237	\$(2,016)	-47.77%
10	300 - 329	\$3,834	\$4,064	\$4,160	\$4,258	\$4,384	\$ 4,633	\$ 4,858	282 - 310	\$ 5,092	\$ 4,583	245 - 270	\$ 6,757	\$(2,175)	-47.45%
11	330 - 359	\$4,127	\$4,375	\$4,478	\$4,584	\$4,720	\$ 4,992	\$ 5,234	311 - 338	\$ 5,490	\$ 4,941	271 - 295	\$ 7,274	\$(2,333)	-47.21%
12	360 - 389	\$4,423	\$4,688	\$4,799	\$4,912	\$5,057	\$ 5,353	\$ 5,613	339 - 367	\$ 5,891	\$ 5,302	296 - 321	\$ 7,795	\$(2,494)	-47.03%
13	390 - 419	\$4,720	\$5,003	\$5,121	\$5,242	\$5,397	\$ 5,717	\$ 5,994	368 - 395	\$ 6,294	\$ 5,665	322 - 347	\$ 8,319	\$(2,654)	-46.86%
14	420 & up	\$5,013	\$5,314	\$5,439	\$5,567	\$5,732	\$ 6,076	\$ 6,371	396 & up	\$ 6,694	\$ 6,025	348 & up	\$ 8,835	\$(2,811)	-46.65%

EXHIBIT C

Comparison of Standardized Schedule of Group Home Rates with RCL Point Requirements 1990-1991 and 2009-2010

RCL	1990-1991		2009-2010			
	What was		What is (if AB 597 is signed)		What should be	
	Point ranges	Stan. Schedule of Rates	Point ranges	Stan. Schedule of Rates	Point ranges	Stan. Schedule of Rates
1	Under 60	\$1,183	Under 30	\$1,337	Under 60	\$ 2,085
2	60-89	\$1,478	39-64	\$1,700	60-89	\$ 2,605
3	90-119	\$1,773	65-90	\$2,058	90-119	\$ 3,125
4	120-149	\$2,067	91-115	\$2,420	120-149	\$ 3,643
5	150-179	\$2,360	116-141	\$2,779	150-179	\$ 4,159
6	180-209	\$2,656	142-167	\$3,140	180-209	\$ 4,681
7	210-239	\$2,950	168-192	\$3,500	210-239	\$ 5,199
8	240-269	\$3,245	193-218	\$3,862	240-269	\$ 5,719
9	270-299	\$3,539	219-244	\$4,221	270-299	\$ 6,237
10	300-329	\$3,834	245-270	\$4,583	300-329	\$ 6,757
11	330-359	\$4,127	271-295	\$4,941	330-359	\$ 7,274
12	360-389	\$4,423	296-321	\$5,302	360-389	\$ 7,795
13	390-419	\$4,720	322-347	\$5,665	390-419	\$ 8,319
14	420-up	\$5,013	348-up	\$6,025	420-up	\$ 8,835

*Even with the point range adjustments in AB 597, an RCL 14 group home program in 2009-2010 will be paid an RCL 8-9 rate for RCL 11 points, i.e., level of care and supervision.

EXHIBIT D



CDSS

JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



ARNOLD SCHWARZENEGGER
GOVERNOR

September 30, 2009

ALL COUNTY LETTER (ACL) NO. 09-45

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL LOCAL MENTAL HEALTH DIRECTORS
ALL COUNTY ADOPTION AGENCIES
ALL ADOPTION DISTRICT OFFICES
ALL GROUP HOME PROVIDERS
ALL FOSTER FAMILY AGENCIES

SUBJECT: AID TO FAMILIES WITH DEPENDENT CHILDREN-FOSTER CARE
(AFDC-FC), KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT
PROGRAM AND ADOPTION ASSISTANCE PROGRAM

REFERENCE: Assembly Bill X4 4, (Chapter 4, Statutes of 2009)
Senate Bill 84, (Chapter 177, Statutes of 2007)
Welfare and Institutions Code sections 11461(c)(6),
11461(d)(1)(C), 11461(d)(2)(A), 11461(d)(2)(B),
11461(e)(4)(A), 11461(f)(3)(A)-(C), 11461(f)(4),
11461(f)(5), 11462(f)(1), 11462(f)(2)(A), 11462(g)(4),
11465(a), 11465(c)(4), and 16121.01
Manual of Policies and Procedures, section 11-420.1(.11)

The purpose of this ACL is to provide information on the impact of the 2009/10 Budget Act, Assembly Bill (AB) X4 4, (Chapter 4, Statutes of 2009), (hereafter referred to as AB 4). Provisions of AB 4, signed by the Governor on July 28, 2009, statutorily requires for certain rates paid in the Foster Care Program be decreased effective October 1, 2009. The state-approved foster care rates for out-of-home placements and Aid to Families with Dependent Children-Foster Care (AFDC-FC) are provided on the following pages.

<p><u>REASON FOR THIS TRANSMITTAL</u></p> <p><input checked="" type="checkbox"/> State Law Change</p> <p><input type="checkbox"/> Federal Law or Regulation Change</p> <p><input type="checkbox"/> Court Order</p> <p><input type="checkbox"/> Clarification Requested by One or More Counties</p> <p><input type="checkbox"/> Initiated by CDSS</p>
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FOSTER FAMILY HOMES (FFHs)

Pursuant to AB 4, the AFDC-FC standardized basic rates for FFHs, including small family homes, are to remain at the same level as approved as of January 1, 2008. The chart below provides the Schedule of Basic Rates that remains in effect for State Fiscal Year (SFY) 2009/10:

FAMILY HOMES Schedule of Basic Rates – Effective January 1, 2008					
AGE	0-4	5-8	9-11	12-14	15-19
Basic Rate	\$446	\$485	\$519	\$573	\$627

In accordance with AB 4, the counties that have FFH basic rates, that are higher than the standardized Family Homes Schedule of Basic Rates will remain at the rate level effective January 1, 2008. The following chart reflects rates for FFHs and small family homes in Los Angeles, Marin, Orange, and Santa Clara Counties for SFY 2009/10:

FAMILY HOMES Schedule of Basic Rates – Effective January 1, 2008					
AGE	0-4	5-8	9-11	12-14	15-19
Los Angeles County	\$446	\$485	\$525	\$573	\$627
Orange County	\$446	\$485	\$519	\$659	\$659
Santa Clara County	\$446	\$485	\$525	\$573	\$627
AGE	0-4	5-6	7-12	13-19	
Marin County	\$457	\$485	\$558	\$635	

Except as specifically noted in this ACL, any county choosing to pay a rate higher than the state-approved basic rates indicated above will pay any excess dollar amount using county-only funds.

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KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS PROGRAM (Kin-GAP)

Section 11364 of the Welfare & Institutions Code (W&IC) provides for Kin-GAP Program rates paid on behalf of eligible children to be paid at an amount equal to 100 percent of the basic rate paid to a licensed or approved FFH. Please refer to the charts on page two of this ACL reflecting the standardized basic family homes rates effective for SFY 2009/10 and to the Family Homes Schedule of Basic Rates effective for SFY 2009/10, for the four counties paying higher rates than the standardized rates.

The Program permits Specialized Care Increment (SCI) payments as part of the Kin-GAP payment if the child was receiving AFDC-FC SCI payments in the month prior to when the Kin-GAP benefits began.

Effective July 1, 2009, pursuant to AB 4, if a child, while in foster care, received a dual agency rate immediately prior to his or her enrollment in the Kin-GAP Program, the Kin-GAP rate will be the amount of the dual agency rate.

If a child, while in foster care, is receiving services under the California Early Start Intervention Services Act, and is receiving AFDC-FC benefits immediately prior to his or her enrollment in the Kin-GAP Program, the child will be considered and assessed for the dual agency rate. If the child becomes a regional center client, the Kin-GAP rate will be the amount of the dual agency rate.

NOTE: The Department of Developmental Services (DDS) is revising the criteria for eligibility of services under the California Early Start Intervention Services Act. Counties should advise foster caregivers caring for children receiving Early Start Intervention Services that this criteria may change effective October 1, 2009. The CDSS will disseminate clarifying information when it becomes available.

FOSTER FAMILY AGENCIES (FFA)

Pursuant to AB 4, the FFA treatment rates have been reduced by ten percent effective October 1, 2009. The Manual of Policies and Procedures (MPP), division 11-403 delineates the FFA treatment program rates by age and requires that the certified foster family home be paid a minimum of the total of the base rate and the child increment. The base rate and child increment to be paid to the certified parent(s) is reflected in the schedule on the following page; nothing precludes the FFA from providing a payment to the certified parents in excess of the basic rate and the child increment reflected in the chart. The schedule on the following page provides the basic rates and components for FFAs providing treatment programs.

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Schedule of FFA Treatment Rates Effective October 1, 2009					
AGE	0-4	5-8	9-11	12-14	15-19
Basic Rate	\$373	\$405	\$431	\$480	\$522
Child Increment	\$189	\$189	\$189	\$189	\$189
Social Work	\$296	\$296	\$296	\$296	\$296
Administration	\$572	\$593	\$611	\$643	\$672
Total Rate	\$1,430	\$1,483	\$1,527	\$1,608	\$1,679

The FFA Non-Treatment Rates are to be reduced by ten percent as indicated in the schedule below.

Schedule of FFA Non-Treatment Rates Effective October 1, 2009					
AGE	0-4	5-8	9-11	12-14	15-19
Basic Rate	\$ 373	\$ 405	\$ 431	\$ 480	\$ 522

Please Note: The counties are not required to send a Notice of Action (NOA) for the rate reductions that apply to FFAs, Intensive Treatment Foster Care Programs or group homes unless the reason for an individual request is an incorrect grant computation. Questions about a hearing request related to the statutory ten percent reduction, which also involves an incorrect grant computation for which a NOA should be issued, should be directed to county counsel.

INTENSIVE TREATMENT FOSTER CARE PROGRAMS

Provisions of AB 4 decrease the Intensive Treatment Foster Care Program rates by ten percent effective October 1, 2009; the following chart reflects the new rates for Intensive Treatment Foster Care Programs. Pursuant to W&IC section 18358.30, the FFA is required to pay an amount not less than \$1,200 per child per month to the certified foster parent(s).

Schedule of Service and Rate Levels for FFA Intensive Treatment Foster Care Programs					
Service Level	A	B	C	D	E
Rate	\$4,028	\$3,695	\$3,349	\$3,023	\$2,687

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SPECIALIZED CARE INCREMENTS

In accordance with AB 4, the SCI will remain at the same levels effective January 1, 2008.

ADOPTION ASSISTANCE PROGRAM (AAP)

The AAP payment may not exceed the maximum state-approved foster care facility rate. AAP payments for out of home placements may not exceed 18 months per episode. (Welfare and Institutions Code section 16121[b]). Out of home placements for adopted children beginning on or after October 1, 2009, must reflect the 10 percent reduction in the state-approved foster care facility rate. Accordingly, an amended AAP agreement and AAP2, as well as a NOA, must be executed with families to reflect the change in benefit amount.

DUAL AGENCY RATES

Effective July 1, 2007, pursuant to Senate Bill (SB) 84, (Chapter 177, Statutes of 2007), dual agency rates were established for children residing in non-vendorized family homes who are served by both the California Regional Centers and California Child Welfare and Probation Agencies. These children are children receiving AFDC-FC or AAP benefits. SB 84 provides for a rate of \$2,006 for the care and supervision of dual agency children three years of age and older and a rate of \$898 for the care and supervision of children under the age of three years of age who receive services under the California Early Start Intervention Services Act, but are not determined to have a developmental disability as defined in the Lanterman Developmental Disabilities Services Act. SB 84 also established a supplement to the rate not to exceed \$1,000 for children three years of age and older with extraordinary care and supervision needs.

For foster care providers receiving an AFDC-FC rate for a dual agency child where the rate was set prior to July 1, 2007, and that rate is higher than the \$2,006 rate, (and the supplement to the rate, if applicable), the higher rate will remain in effect until a change in placement warrants a redetermination of the rate or the child is no longer AFDC-FC eligible. Please refer to ACLs No. 08-17 and No. 08-54 for more information regarding dual agency rates.

Pursuant to AB 4, effective July 1, 2009, if a child, while in foster care, received a dual agency rate immediately prior to his or her enrollment in the Kin-GAP Program, the Kin-GAP rate will be the amount of the dual agency rate.

Effective July 1, 2009, if a child, while in foster care, is receiving services under the California Early Start Intervention Services Act, and is receiving AFDC-FC benefits immediately prior to his or her enrollment in the Kin-GAP Program, the child will be

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considered and assessed for the dual agency rate. If the child becomes a regional center client, the Kin-GAP rate will be the amount of the dual agency rate.

Effective October 1, 2009, due to changes to the eligibility criteria, some AFDC-FC children may no longer be eligible to receive services under the Early Start Intervention Program. Counties may pay the basic rate plus the SCI (if applicable) to foster children under the age of three entering the system, who may have otherwise been determined to be eligible for the Early Start Intervention Program rate of \$898. Counties should not make any changes to the rate unless otherwise notified by the child's Regional Center of a change in eligibility for the child. CDSS will provide additional information when it becomes available.

CLOTHING ALLOWANCE

Pursuant to AB 4, county clothing allowances will not be reduced and they will remain at the same levels approved for January 1, 2008. Children in receipt of the dual agency rate are not eligible for county clothing allowances, but are eligible for the \$100 state clothing allowance.

EXTENSION OF STATE SUPPLEMENTAL CLOTHING ALLOWANCE

The 2001-02 Budget Act originally appropriated funds to provide a \$100 state supplemental clothing allowance per foster child per SFY to **supplement** the counties' existing clothing allowances as found in W&IC section 11461(f)(4). The Fiscal Year (FY) 2009/10 Budget Bill included continued funding to provide the state supplemental clothing allowance. The state supplemental clothing allowance does not supplant the regular county clothing allowance.

USE OF CLOTHING ALLOWANCE FUNDS FOR DISPOSABLE DIAPERS

Clothing allowance funds can be used to purchase additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing, school clothing or any other uniforms. This includes disposable diapers for infants and children who use disposable diapers as undergarments.

INFANT SUPPLEMENT

The Infant Supplement rates are to remain at the levels approved effective January 1, 2008. Children who are in receipt of Kin-GAP benefits are also entitled to

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receive the Infant Supplement. The chart below provides the rates for the Infant Supplement by placement type.

Infant Supplement Effective January 1, 2008		
Placement Type	Group Home	FFH/FFA
Rate	\$890	\$411

GROUP HOMES(GHs)

The AB 4 provides that GH rates are to be decreased by ten percent effective October 1, 2009. The decreased rates for out-of-home placements and foster care support programs are provided in the chart below.

GHs Standardized Schedule of Rates Effective October 1, 2009		
RCL	Point Ranges	Standard Rate
1	Under 60	\$1,337
2	60-89	1,700
3	90-119	2,058
4	120-149	2,420
5	150-179	2,779
6	180-209	3,140
7	210-239	3,500
8	240-269	3,862
9	270-299	4,221
10	300-329	4,583
11	330-359	4,941
12	360-389	5,302
13	390-419	5,665
14	420 & Up	6,025

EXTENSION OF TEMPORARY GH RATE CLASSIFICATION LEVEL

The AB 4 extended the temporary Rate Classification Level (RCL) rate relief for SFY 2009/10, pursuant to W&IC section 11462(f)(2)(A). This statute requires that GH programs that receive AFDC-FC payments for services performed during SFY 2009/10, the adjusted RCL point ranges reflected below will be used for establishing biennial

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rates for existing programs, in performing program audits, and in determining any resulting rate reduction, overpayment assessment, or other action.

The continued schedule for the temporary point ranges in each RCL is reflected on the following chart.

Rate Classification Level	Current Point Ranges	Adjusted Point Ranges
1	under 60	under 54
2	60-89	54-81
3	90-119	82-110
4	120-149	111-138
5	150-179	139-167
6	180-209	168-195
7	210-239	196-224
8	240-269	225-253
9	270-299	254-281
10	300-329	282-310
11	330-359	311-338
12	360-389	339-367
13	390-419	368-395
14	420 – up	396 – up

This temporary RCL point reduction is subject to the following restrictions:

1) It applies only to non-provisional program audits performed of GH services provided in SFYs 2002/03, 2003/04, 2004/05, 2005/06, 2006/07, 2007/08, 2008/09 and 2009/10, unless the Legislature extends it to additional fiscal years in the future; 2) The adjusted schedule does not apply to the establishment of provisional rates or to audits of GH programs with provisional rates; and, 3) The GH providers remain responsible for ensuring the health and safety of children in placement in their programs. The current statutory point ranges specified in W&IC section 11462(f)(1) continue to apply for provisional rate audits. Providers should be aware that if the Legislature does not extend the adjusted point schedule in any year, providers will be held to the regular point range for biennial rate setting and audit purposes.

WRAPAROUND

The Wraparound rates established in W&IC section 18254(a) will be decreased by ten percent effective October 1, 2009.

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Non-Federally Eligible Children

The chart below provides the maximum Wraparound rates for non-federally eligible children who are receiving Wraparound services effective October 1, 2009:

RCL	Rate
10/11	\$4,792
13	\$5,665

Federally Eligible Children

1. Federally eligible children can be served in Wraparound. However, the Title IV-E is not flexible and can only be claimed when a child is living in an eligible placement.
2. There are different Wraparound rates from October through December 31, 2010 due to the current FMAP of 56.2 percent.
3. The chart below provides the Wraparound rates for federally eligible children who are receiving Wraparound service from October 1, 2009 through December 31, 2010.

RCL	Rate
10/11	\$2,086
13	\$2,481

4. Effective January 1, 2011, the FMAP will revert to 50 percent.
5. The chart below provides the Wraparound rate for federally eligible children who are receiving Wraparound services effective January 1, 2011.

RCL	Rate
10/11	\$2,381
13	\$2,832

INQUIRIES

County staff should contact the Foster Care Rates Policy Unit, Foster Care Rates Bureau, with questions regarding foster care rates, infant supplement rates, clothing allowances, and/or state supplemental clothing allowances at (916) 324-4857. The GH and FFA providers with questions regarding this ACL should contact their Foster Care

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Rates Consultant at (916) 324-4857. Any questions pertaining to Kin-GAP should be directed to the Kinship Care Policy Unit at (916) 657-1858. Questions regarding SCI should be directed to the Recruitment Network Development Unit at (916) 651-7465. Any questions regarding the AAP should be directed to the Adoptions Services Bureau at (916) 651-8089. Questions pertaining to the counties with questions regarding the Wraparound rate should contact their Wraparound Consultant in the Child Protection and Family Support Branch at (916) 651-6600.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

EXHIBIT E

MEMO

3/25/08

To: Community Partners
From: Mary Hargrave, CEO

At a joint meeting of the River Oak Board Finance and Executive Committees, held 3/13/08, a staff recommendation to close the Residential and Education programs was accepted. The recommendation will be the subject of a final vote by the board at its next meeting. This is the result of a slowing of referrals, projected decrease in the Board and Care reimbursement rate, and 4 projected discharges from the program within the next few weeks. We have been operating at a larger than ever deficit in this program all year; our board has raised large sums each year to support this program. We have been discussing this program at the board level for several years and, in the past, decided to continue to support it due to the need in the community. The reimbursement rates for the program have never come close to covering the costs of delivering the service. At this point, the need has really decreased for children, ages 6-12, who have high level needs for residential placement and treatment.

Children are our first priority and we will be working diligently with placement social workers to make good plans for them. We anticipate that we will be open for the next 60 days.

So many staff have worked effectively over the years to provide our residential and day students a high quality, loving therapeutic milieu. These folks have been above and beyond in their commitment to making a difference. We have all seen wonderful success with the programs but our field has changed and we need to change with it.

As Renee Snider, our board angel, used to say during tours: "Wouldn't it be wonderful if the community didn't need this program anymore?" River Oak has been, and will continue to be, a valuable resource for children and families in Sacramento. We have many highly creative ideas for the use of our new facilities and face the future with much hope, but more than a little sadness about the loss of these programs and staff.