


**ALLIANCE**   
*for* **CHILDREN'S**  
**RIGHTS**

**Benefits Guide for Caregivers**

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Most Children Living With Non-Parents Qualify for Monthly Cash Benefits.

Potential sources of funding are:

- Supplemental Security Income (SSI)
- Foster Care
- CalWORKS (welfare)
- Kinship Guardianship Assistance Payment Program (Kin-GAP)
- Adoption Assistance Program (AAP)

A child in foster care should always qualify for some cash benefit.

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**SUPPLEMENTAL SECURITY  
INCOME (SSI)**

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Supplemental Security Income – What is it?

- Supplemental Security Income is a federal welfare program that pays a monthly check plus Medi-Cal to persons with qualifying disabilities.
- SSI helps these individuals acquire needed health care, and to avoid homelessness.
- The federal benefit is supplemented by some states, including California. In California an SSI recipient can currently receive up to approximately \$920.00 per month.

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Benefits to Transition Age Youth

- Avoid homelessness
- Medi-Cal
- Can leave foster care with up to \$2,000 in resources
- Can have a part-time job
- Ticket to Work program
- Recipients can also receive scholarships and ILP services without effecting SSI eligibility

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What is a Qualifying Disability?

- Physical and/or Mental impairment that has or will last 12 months or result in death
- Children- (Under 18 or under 22 and in school) – Cannot function in an age appropriate manner
- Adults – Cannot engage in substantial gainful employment

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### The Application Process

- WIC 13757 requires counties to screen all foster youth beginning at 16.5 years for SSI eligibility and to apply on behalf of those who are potentially eligible.
- In Los Angeles, the case carrying social workers are tasked with screening, using a mandatory checklist.
- When a youth is potentially eligible, the matter is then referred to the SSI unit at DCFS who submits an application to the Social Security Administration.
- If the application is denied, the matter may be referred, via the Minor's Attorney, to The Alliance for Children's Rights for administrative advocacy.

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### What can a CASA do to support an application?

- **Help the social worker gather and submit records proving disability:**
  - Regional Center Records
  - School district (IEP) records
  - Health and medical records

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## RELATIVE OR NON-RELATIVE?

*For foster care benefits, it's a big difference*

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Finding the best benefit for a child in foster care.

■ **The two most important facts/questions:**

1. Is the caregiver a relative? How related? e.g. "cousin" is not specific enough.
2. What, if any, legal authority does the caregiver have to care for the child?

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11

### WHO IS A RELATIVE?

- Relative: one related to the child by birth or adoption and within the **fifth degree of kinship**.
- This means (*aside from the parents*):
  - Brother, sister, half-brother, half-sister, uncle, aunt, first cousin, **first cousin-once-removed (e.g. your first cousin's child)**, nephew, niece; any with grand-, great-, great-great-, etc.
  - Stepfather, stepmother, stepbrother or stepsister, and spouses of the above.

**NOTE: Once parental rights are terminated, the child has NO relatives unless and until adopted.**

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### Why Does it Matter?

- **Non-Relative Foster Parents:**
  - Can get *federal* foster care benefits if they and the child meet federal eligibility requirements
  - Can get *state* foster care benefits if they are not federally eligible, as long as they are legal guardians OR have a home approved/licensed by the Department of Children and Family Services ("DCFS")
  - Other than the source of the funding, there is NO difference between federal and state foster care funding.
- **Relative caregivers:**
  - Can get *federal* foster care benefits if they and the child meet federal eligibility requirements
  - CANNOT get state foster care benefits in CA, *under any circumstances*
  - Can get CalWORKS (e.g. welfare payments) if not federally eligible

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### Foster Care Funding > CalWORKS

- **Foster Care Funding:**
  - Fixed amount per child
  - At least \$650-800/month per child
  - Additional funding available to care for children with special medical, behavioral and/or developmental needs
- **CalWORKS:**
  - Amount *decreases* for each additional child
  - Less than \$350/month per child
  - NO additional funding available to care for children with special medical, behavioral and/or developmental needs

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### Jeremiah – a case study

- Yes, the relative/non-relative distinction *really* matters!!

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### FEDERAL FOSTER CARE BENEFITS

*How to qualify – no easy task*

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### Qualifying for Federal Foster Care Benefits

- For Federal Foster Care eligibility, the child must:
  - Have an **open** case in Dependency Court, AND
  - Be placed in an **approved** foster family home, (i.e. meet the Adoption and Safe Families Act ("ASFA") criteria), AND
  - Have been removed from the biological parents' home under proper legal procedures, AND
  - Have been "deprived" of the care of one or both biological parents when removed from the parents' home.
- Also, the child's *biological* parents must meet maximum income requirements at the time of removal.

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### Home Approval Requirements

- The Caregiver's home must meet *physical* safety standards, e.g.:
  - Sufficient bedrooms
  - Childproofing
- The Caregiver's home must also meet *criminal* safety standards, e.g.
  - Criminal clearance for Caregiver
  - Criminal clearance for other adults living in Caregiver's home, or having "significant contacts" with the child.

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### Proper Removal Procedures

- Once the child is removed from the biological parents' home, DCFS *must* do one of the following within *180 days*:
  - Return the child, or
  - Remove by Dependency Court order. (Section 300 Petition)
- Any child detained by DCFS for over 180 days without a Section 300 Petition is *ineligible* for Federal Foster Care funding!
- Also, the Section 300 order must contain the following "magic language" to preserve eligibility:
  1. Remaining in current home is contrary to welfare of child.
  2. Suitable placement vested with DCFS.
  3. Reasonable efforts were made to prevent child's removal.

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### “No Deprivation” Requirement

- When placed into foster care, the child must have been “deprived” of the care of one or both biological parents. E.g.:
- Death of parent(s)
- Incarceration of parent(s)
- Lack of care due to drug/alcohol addiction

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### Biological Parents’ Income Requirement

- When the child is placed in foster care, the *biological parents’* income must not exceed 1996 poverty levels. Otherwise, no federal foster care eligibility for the child.
- Income that exceeds approximately \$9,000/year will result in ineligibility
- The foster caregiver’s income has *no* bearing on eligibility.

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### SPECIALIZED CARE RATES

*What they are, and how to qualify for them*

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### The Basics

- A child in foster care who has *special medical, developmental or emotional needs* may be eligible to receive a specialized care rate – higher than the basic rate and often higher than SSI.
- Los Angeles County has two specialized care rates (D-Rate and F-Rate), most counties have only one.
- NOTE: if a child in foster care is transferred to another county or state, that county's or state's rates – and their qualifying criteria - apply.

The Dual Agency rate is for children who are Regional Center clients (for treatment of developmental delays), applicable everywhere in California.

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### The D-Rate

- For children with severe and persistent *emotional and/or behavioral issues*
- Child must be *at least 37 months old* to potentially qualify
- D-rate assessment of child by the Department of Mental Health
- Specific qualifying diagnosis (e.g. PTSD, Bipolar Disorder, etc.)
- Suicidal/violent ideation, OR substantial impairment in at least *two* of the following life areas:
  - Home
  - Self-care
  - School
  - Community
- 16-hour D-rate class for Caregiver (or equivalent)

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### The F-Rate

- For children with *medical, physical or developmental issues*.
- E.g. Asthma, Eczema, Bedwetting (for ages 4 and up), Speech and/or Language Delays
- Specific diagnosis required
- 16-hour F-rate class for Caregiver (or equivalent)
- Rates range from F-1 (lowest) to F-4 (highest), based on the degree of need
- The F-rate can be "bumped up" one level for behavioral therapy OR multiple medical problems.
- Nature and frequency of prescribed medication is often a factor.

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### The Dual Agency Rate(s)

- For Regional Center clients who have developmental delays
- Early Intervention Rate: For most qualifying children under the age of 3
- "Full" Dual Agency Rate: For "lifetime" regional center clients with a qualifying diagnosis (e.g. autism)
- All Early Intervention children must be reassess by Regional Center by the age of 3 to see if they qualify for lifetime status.
- "Full" Dual Agency Rate children may be eligible for an additional supplement to the rate (\$250-\$1000 per month)

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### BEYOND FOSTER CARE

*Other out-of-home care possibilities*

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

- Applies to children who were formerly in foster care, but are now in a *Dependency Court* legal guardianship with a relative.
- Does *not* apply to children who are in a legal guardianship granted by *Probate Court*.
- The Kin-GAP rate structure is identical to the Foster Care rate structure.
- Kin-GAP guardians should contact DCFS at 1-888-MY-GRAND (694-7263) for funding issues, specialized care rate assessments, etc.

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### Adoption Assistance Program (AAP) Payments

- AAP benefits are available for caregivers who have adopted out of the foster care system.
- Both relative and non-relative Caregivers may receive AAP benefits.
- AAP benefits are based on an agreement called the "Adoptive Placement Agreement," signed at the time of the adoptive placement.

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### AAP Payments (continued)

- A child can receive a specialized care rate or the Dual Agency Rate through AAP.
- Once the Adoptive Placement Agreement is signed, the agreed-on benefit rate will not change.
- If the child's needs change after the adoption is finalized, you must contact Post-Adoption Services (1-800-735-4984) to request a higher rate.

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### WHEN BENEFITS ARE DENIED ...

*There IS a right to appeal!*

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### Challenging a Denial of Benefits

- DCFS is required to issue a written Notice of Action ("NOA") to the caregiver when DCFS takes *any* action that impact's the child's funding.
- Caregivers have a legal right to challenge any such NOA within **90 days** of receiving it, by filing for an administrative fair hearing with the state. Caregivers should *not* allow anyone from DCFS to dissuade them from their hearing rights!
- Caregivers now have the right to a fair hearing to challenge home approval denials or delays, in addition to funding denials.
- Caregivers can file for a fair hearing to challenge home approval or funding decisions, even when DCFS has not sent out an NOA to that effect.
- To file for a fair hearing, call: 1-800-952-5253. Or, fax: 916-651-5210.

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### At Hearing, the Burden is Generally on DCFS, *not* on the Caregiver

- DCFS must show *why* it has denied funding, failed to approve the Caregiver's home, etc.
- DCFS must do so at least 48 hours prior to hearing, by providing Caregiver with DCFS' Statement of Position, including the *documentation* which DCFS relied upon for its decision.
- Caregivers, however, should bring *all* relevant documents they have to the hearing.

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### After 90 Days, Notices of Action Can Still be Challenged Under Certain Circumstances

- The NOA did not clearly and adequately explain DCFS' decision, and/or the legal basis for that decision.
- The NOA was sent to the Caregiver well past the NOA date (save the envelope!)
- The NOA is written in a language other than Caregiver's primary language (e.g. an English NOA sent to a Spanish-speaking Caregiver)
- Caregivers can always file on an expired NOA – the burden is on DCFS to raise the expired notice issue.

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### Challenging an Alleged Overpayment at Fair Hearing

- Overpayments may occur when DCFS pays Caregivers more money than they are legally entitled to for children's care.
- Caregivers are *not* required to repay an overpayment that was DCFS' fault.
- Overpayment NOAs can also be challenged for inadequacy (see previous slide).

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### Fair Hearing Dos and Don'ts

- DO: Argue "It's not fair!" that DCFS cut off Caregiver's funding, failed to approve Caregiver's home, etc.
- DO: Bring *all* relevant documentation that you have to the hearing.
- DON'T: Let DCFS talk Caregivers out of their hearing rights!
- DO: Call the Alliance (213-368-6010) or the Legal Aid Foundation of Los Angeles (LAFLA) (213-640-3920) if you want legal assistance.
- DON'T: Hesitate to go to hearing without legal representation (this is common).

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### Alliance or LAFLA – Whom to Call?

- Call LAFLA for help with:
  - "No deprivation" eligibility issues
  - Biological parents' income eligibility issues
  - Overpayments
- Call the Alliance for help with:
  - Specialized care rate denials
  - Home denials/delays
  - Problems obtaining extended foster care (i.e. from ages 18-21)
  - Ineligibility due to lack of proper removal procedures
  - When in doubt, call us!

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### Questions?

- The Alliance for Children's Rights – General Intake  
(213) 368-6010
- Laura Streimer, Legal Director  
(213) 368-6010 ext. 152, l.streimer@kids-alliance.org
- Adam Cherensky, Benefits Program Director  
(213) 368-6010 ext. 102, a.cherensky@kids-alliance.org
- General Information on Resources:  
211 (Los Angeles County)

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