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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18996] (Division 9 added by Stats. 1965, Ch. 1784.)

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15766] (Part 3 added by Stats. 1965, Ch. 1784.)

CHAPTER 6.2. Foster Care Social Security and Supplemental Security Income Assistance Program [13750 - 13757] (Chapter 6.2 added by Stats. 2005, Ch. 641, Sec. 4.)

13750. This chapter shall be known, and may be cited, as the Foster Care Social Security and Supplemental Security Income Assistance Program.

(Added by Stats. 2005, Ch. 641, Sec. 4. Effective January 1, 2006.)

13752. The State Department of Social Services shall convene a workgroup comprised of the County Welfare Directors Association, county welfare directors, child advocacy organizations, current and former foster youth and other relevant stakeholders, as determined by the department, to develop best practice guidelines for county welfare departments to assist children residing in the state's or a county's custody who are eligible for benefits under Title II of the federal Social Security Act, pursuant to Section 402 et seq. of Title 42 of the United States Code (social security benefits) and Title XVI of the Social Security Act, pursuant to Section 1381 of Title 42 of the United States Code (supplemental security income benefits) in receiving all federal benefits for which they are eligible. The guidelines shall be established by December 31, 2006, and shall include, but not be limited to, establishing procedures for all of the following:

- (a) Determining the time and manner for conducting disability screenings for children in the custody of the county who may be eligible for social security or Supplemental Security Income/State Supplementary Payment (SSI/SSP) benefits.
- (b) Assisting in the application process for social security and SSI/SSP benefits for each child who, pursuant to the disability screening, is likely to be determined eligible for benefits.
- (c) Requesting reconsideration and appealing adverse decisions where appropriate.
- (d) Informing parents and caretakers, at the time the child leaves foster care, of potential eligibility for social security or SSI/SSP benefits for any child not receiving benefits but who may be eligible upon application for those benefits.
- (e) Maximizing the amount of federal benefits received for the current maintenance of children in the county's custody.
- (f) Informing foster youth of their rights and responsibilities for the continued receipt of SSI benefits, the sources of assistance that may be available for resolving problems youth may have with the receipt of SSI benefits, and the process for transferring accumulated SSI benefits.

(Added by Stats. 2005, Ch. 641, Sec. 4. Effective January 1, 2006.)

13753. When a foster youth who is receiving SSI payments is approaching his or her 18th birthday, the county shall do all of the following:

- (a) Provide information to the youth regarding the federal requirement that the youth establish continuing disability as an adult, if necessary, in order for SSI benefits to continue beyond his or her 18th birthday.
- (b) Provide information to the youth regarding the process for becoming his or her own payee, or designating an appropriate representative payee if benefits continue beyond his or her 18th birthday, and regarding any SSI benefits that have accumulated on his or her behalf.
- (c) Assist the youth, as appropriate, in fulfilling the requirements of subdivisions (a) and (b).

(Added by Stats. 2005, Ch. 641, Sec. 4. Effective January 1, 2006.)

13754.

(a) It is the intent of the Legislature that nothing in this section shall be interpreted to preclude a nonminor dependent from accessing the same benefits, services, and supports, and exercise the same choices available to all dependents. It is further the intent of the Legislature that nonminor dependents who receive federal Supplemental Security Income benefits can serve as their own payee, if it is determined that the nonminor dependent satisfies the criteria established by the Social Security Administration, and should be assisted in receiving direct payment by the county child welfare department. It is further the intent of the Legislature that individuals who have had their eligibility for federal Supplemental Security Income benefits established pursuant to Section 13757 be able to maintain that eligibility even when they remain in the state's care as a nonminor dependent. In order to facilitate this, it is the intent of the Legislature that the county child welfare agency ensure that the youth receives an SSI payment during at least one month of each 12-month period while the youth is a nonminor dependent. It is further the intent of the Legislature that the county child welfare agency supplement the SSI payment that a youth receives during this one-month period with nonfederal AFDC-FC benefits.

(b) (1) The county shall apply to be appointed representative payee on behalf of a child beneficiary in its custody when no other appropriate party is available to serve.

(2) When a child beneficiary reaches 18 years of age and elects to remain in the custody of the county as a nonminor dependent, the county shall provide information to the youth regarding the process for becoming his or her own payee and shall assist the youth in becoming his or her own payee pursuant to Section 13753, unless becoming his or her own payee is contrary to the best interests of the youth. In the event that a youth is unable to serve as his or her payee after attaining 18 years of age, the county shall assist the youth in finding and designating an appropriate representative payee.

(c) In its capacity as representative payee, the county shall do all of the following:

(1) Establish a no-cost, interest-bearing maintenance account for each child in the department's custody for whom the department serves as representative payee. Interest earned shall be credited to the account. The county shall keep an itemized current account, in the manner required by federal law, of all income and expense items for each child's maintenance account.

(2) Establish procedures for disbursing money from the accounts, including disbursing the net balance to the beneficiary upon release from care. The county shall use social security and SSI/SSP benefits only for the following purposes:

(A) For the use and benefit of the child.

(B) For purposes determined by the county to be in the child's best interest.

(3) Establish and maintain a dedicated account in a financial institution for past-due monthly benefits that exceed six times the maximum monthly benefit payable, in accordance with federal law. The representative payee may deposit into the account established under this section any other funds representing past due benefits to the eligible individual, provided that the amount of the past due benefits is equal to or exceeds the maximum monthly benefit payable. Funds from the dedicated account shall not be used for basic maintenance costs. The use of funds from the dedicated account must be for the benefit of the child and are limited to expenditures for the following purposes:

(A) Medical treatment.

(B) Education or job skills training.

(C) Personal needs assistance.

(D) Special equipment.

(E) Housing modification.

(F) Therapy or rehabilitation.

(G) Other items or services, deemed appropriate by the Social Security Administration.

(d) Beginning in the 2011-12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

(Amended by Stats. 2012, Ch. 35, Sec. 97. Effective June 27, 2012.)

13756. The workgroup convened pursuant to Section 13752 shall also make recommendations, by December 31, 2006, regarding the feasibility and cost-effectiveness of reserving an amount, not to exceed the federal SSI resource limit, of foster children's social security and SSI/SSP benefits in lieu of reimbursing the county and the state for care and maintenance. In making its recommendations, the workgroup shall consider that the reserved

benefits are for the purpose of assisting the child in his or her transition to self-sufficient living upon leaving foster care in a manner consistent with federal law.

(Added by Stats. 2005, Ch. 641, Sec. 4. Effective January 1, 2006.)

13757. (a) (1) Subject to paragraph (2), every youth who is in foster care and nearing emancipation shall be screened by the county for potential eligibility for the federal Supplemental Security Income (SSI) program utilizing the best practice guidelines developed pursuant to Section 13752.

(2) The screening required in paragraph (1) shall only occur when the foster youth is at least 16 years and six months of age and not older than 17 years and six months of age. An application shall be submitted to the federal Social Security Administration on behalf of a youth who is screened as being likely to be eligible for federal Supplemental Security Income benefits. To the extent possible, the application shall be timed to allow for a determination of eligibility by the Social Security Administration prior to the youth's emancipation from care including, if appropriate, the suspension of Supplemental Security Income benefits for no more than 12 months.

(b) In carrying out the requirements of subdivision (a) for a youth receiving federally funded AFDC-FC benefits, the county shall, if necessary, forego federally funded AFDC-FC and instead use nonfederal AFDC-FC resources to fund the placement in the month of application or in the month after making an application, and to subsequently reclaim federally funded AFDC-FC, in order to ensure that the youth meets all of the SSI eligibility requirements in a single month while the application is pending, as provided by federal law and regulation. Notwithstanding subdivision (a) of Section 11402, this section shall apply to a foster youth regardless of his or her federal AFDC-FC eligibility.

(c) When a nonminor dependent has been approved for SSI payments pursuant to this section but is receiving a federally funded AFDC-FC benefit in an amount that exceeds the SSI payment, causing the SSI payment to be placed in suspense, the county child welfare agency shall, during at least one month of every 12-month period, beginning with the date that the SSI benefit is placed in suspense, forego the federally funded AFDC-FC benefit and instead use nonfederal AFDC-FC resources to supplement the SSI benefit that the youth receives during that month. The county shall inform the Social Security Administration that the youth is not receiving any federal financial participation during that month in order to permit the nonminor dependent to receive an SSI benefit during a single month of every 12-month period. The county shall subsequently reclaim the federally funded AFDC-FC benefit in the following month.

(d) Beginning in the 2011-12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

(Amended by Stats. 2012, Ch. 35, Sec. 98. Effective June 27, 2012.)