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**ORANGE COUNTY SOCIAL SERVICES AGENCY  
CFS OPERATIONS MANUAL**

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**Revised:** April 8, 2004  
**Revised:** November 19, 2009  
**Revised:** August 17, 2010  
**Revised:** June 21, 2016

**Policy No.:** C-0501

## **Adoption Assistance Program (AAP)**

**Purpose** To provide guidelines for determining Adoption Assistance Program (AAP) benefits for adoptive families.

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**Approved** This policy was approved by Gary Taylor, Director of CFS, on June 21, 2016. *Signature on file.*

**Most Recent Revision** Extensive changes in state regulations require revision of the entire policy and procedure.

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**Background** AAP is a financial assistance program which removes or reduces barriers to the adoption of children who otherwise would remain in foster care. The program provides necessary financial assistance to families who are willing and able to assume parental responsibility for children but are prevented from doing so by inadequate financial resources.

Two major pieces of legislation were instrumental in creating AAP:

- Adoptions and Safe Families Act (ASFA) of 1997 aligned federal and state laws as they relate to AAP
  - Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) eliminated age related increases for AAP and detached AAP from the income requirement for Title IV-E funding
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## Definitions

**At risk of dependency:** A family experiencing conditions that would qualify as child abuse or neglect under the Child Abuse and Neglect Reporting Act (CANRA).

**CFS Adoptions:** Designated staff in the Placement Focus Program tasked with implementing State Adoption regulations and legal mandates as stated in CFS Policy and Procedures. Acting in the capacity of a county adoption agency, this assigned staff is responsible for such activities to include, but not limited to, adoptive placement, AAP, adoption finalization, Permanency Planning Assessment (PPA) review and relinquishments.

**Circumstances of the Family:** A family's ability to incorporate the child into the household in relation to lifestyle, standard of living, and future plans, and the overall capacity of the family to meet the immediate and future plans and needs, including education, of the child.

The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living, or future plans.

**Host County or State:** The county or state where the child is placed.

**Qualified Alien:** An alien who is lawfully admitted for permanent residence under various sections of the Immigration and Nationality Act (INA) including: An asylee, a refugee, an individual who has been paroled into the U.S. for a period of one year, an individual who has had his/her deportation withheld, and who has been granted conditional entry. This definition also includes certain battered immigrants.

**Reassessment:** The process by which the agency and the adoptive parent determine whether there are changes in either the child's needs or the adoptive parent's circumstances which affect duration of and/or amount of adoption assistance payments.

**Responsible Public Agency:** Refers to the department or licensed county adoption agency responsible for determining a child's AAP eligibility and initial and subsequent payment amounts. The income maintenance division of each county welfare department is responsible for federal eligibility determination and payment of AAP benefits.

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## POLICY

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### **Request for Adoption Assistance**

Pursuant to California Code of Regulations (CCR), Title 22, Division 2 Section (§) 35325, Children and Family Services (CFS) Adoptions will provide the family with a *Request for Adoption Assistance Program Benefit (AAP 1)* when:

- The family indicates that they wish to apply for adoption assistance benefits
- and/or–
- CFS Adoptions places a child for adoption and believes the child to be AAP eligible

### **Responsible Public Agency**

As stated in CCR Title 22, Division 2 § 35325, the responsible public agency determines a child's AAP eligibility and initial and subsequent payment amounts.

Pursuant to Welfare and Institution Code (WIC) § 16118(e), the responsible public agency will be the county that:

- At the time of the adoptive placement, would otherwise be responsible for making a payment pursuant to WIC § 11450 under the CalWORKs program or WIC §11461 under the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program if the child were not adopted
- If the child has been voluntarily relinquished for adoption prior to a determination of eligibility for this payment, the county in which the relinquishing parent resides
- For all other eligible children, the county where the child is physically residing prior to placement with the adoptive family

Once established, the responsible county will remain unchanged for the duration of adoption assistance payments for that child.

The responsible public agency will determine whether the child meets the eligibility requirements as specified in CCR Title 22, Division 2 § 35326.

- A. If a *Request for Adoption Assistance Program Benefit (AAP 1)* is submitted on behalf of a relinquished child who is not under the supervision of CFS as the subject of a legal guardianship or a juvenile court dependency, CFS Adoptions will ask the entity responsible for providing services to children who are dependents of the court in the county that would be responsible for providing AAP benefits for a written determination as to whether the child would or would not have been at risk of dependency if the child had not been relinquished for adoption.
- B. If CFS Adoptions determines the child is not eligible for AAP benefits, CFS Adoptions will send the county responsible for payment a completed *Payment Instructions—Adoption Assistance Program (AAP 2)* indicating AAP eligibility is denied and the specific reason(s), including relevant regulatory or statutory citations, for the denial.

**Responsible  
County—In-State  
Relinquishment**

As described in CCR Title 22, Division 2 § 35325, if the child has been voluntarily relinquished for adoption in California to a licensed public or private adoption agency and placed with a California prospective adoptive family:

- A. The financially responsible county will be the county in which the relinquishing parent resides.
- B. The prospective adoptive parents will be advised to submit the completed *Request for Adoption Assistance Program Benefit (AAP 1)* and supporting documentation to the responsible public agency representing their county of residence.

If a child is relinquished to a private adoption agency in California and placed with a prospective adoptive family in another state, the public child welfare agency in the adoptive parents' state of residence is the responsible public agency for

determining the child's AAP eligibility and the financially responsible county for all AAP payments.

**Responsible  
County—Out-of-  
State  
Relinquishment**

If a child is relinquished to a private adoption agency in another state and placed with a prospective adoptive family in California:

- A. The prospective adoptive family's county of residence is financially responsible.
- B. The prospective adoptive parents will be advised to submit the completed *Request for Adoption Assistance Program Benefit (AAP 1)* and supporting documentation to the responsible public agency representing their county of residence.

**Overview-AAP  
Eligibility  
Requirements**

Pursuant to CCR Title 22, Division 2 § 35326, to be eligible for AAP benefits, the child will:

- Be under the age of 18
- Meet the three part special needs determination
- Meet citizenship requirements
- Meet Title IV-E (federal) funding requirements or state funding requirements specified in WIC § 16120

**Note:** Pursuant to WIC § 16120(d), extended AAP benefits beyond age 18 are available to youth meeting certain eligibility requirements. For further information, refer to CFS Policy and Procedure (P&P) [Extended Adoption Assistance Payment \(AAP\) and Kin-GAP Benefits \(J-0106\)](#).

**Age Requirement**

The child must be under the age of 18 to be eligible for Adoption Assistance Program (AAP) benefits.

**Three Part Special  
Needs Criteria**

A child must meet all three special needs criteria to qualify for AAP:

- A. There must be evidence in the dependency file that the child cannot or should not be returned to the home of the parent(s). Evidence may include a petition to terminate parental rights, a court order terminating parental rights, a signed relinquishment, or a tribal customary adoption order.

- B. A specific factor indicates it is reasonable to conclude that the child cannot be adopted without providing AAP payments. Per WIC §16120 (b), such factors include:
- Child's ethnic background
  - Member in a minority or sibling group
  - Presence of a Medi-Cal or behavioral condition in the parent's background that would adversely affect the development of the child
  - Child has a mental, physical, emotional, or Medi-Cal disability that has been certified by a licensed professional
- C. An effort must be made to place the child with appropriate adoptive parents without providing adoption assistance unless it is against the best interest of the child.
1. The search for adoptive parents will be documented in the adoption case record and include the following:
    - A discussion of potential adoptive parents at a regional adoption agency exchange meeting

–Or–

    - Registration of the child with the department's photo-listing album
  2. The requirement for this search will be waived when:
    - The child has developed significant emotional ties with prospective adoptive parents while in their care as a foster child
    - The child is placed with a relative and has strong familial ties inherent in this type of relationship

### **Citizenship**

The child must be a United States citizen or a qualified alien as defined in Eligibility and Assistance Standards (EAS) Manual Division 42, Chapter 42-433.

- A. If the child is placed with an unqualified alien, the child must be a qualified alien or have lived in the U.S. for five years if the child entered the U.S. on or after August 22, 1996.
- B. The child is exempt from the five year residency requirement if:
  - 1. Child is placed with a U.S. citizen or qualified alien.
  - Or-**
  - 2. The child is a member of an excepted group (refugees, asylees, aliens whose deportation is withheld, veterans and those on active duty [including the spouse and unmarried dependent children of that person], Cuban or Haitian entrants, and Amerasians from Vietnam).
- C. If a child is an unqualified alien and placed outside the United States, the county may use county funds to cover the AAP costs for an otherwise AAP eligible child.

**Title IV-E Federal Funding**

Eligibility for Title IV-E Federal Funding may be met in one of two ways:

- One of the following five paths to eligibility is met
- Or-**
- The child meets the criteria for “Applicable Child” and one of the four corresponding paths is met

A. Alternative One—Five Paths to Eligibility:

- 1. At the time the child was removed from the home of a specified relative, the child would have been Aid to Families with Dependent Children (AFDC) eligible in the home of removal according to July 16, 1996 AFDC standards.
  - In an involuntary situation, when a child’s removal from the home is the result of a court action, there must also be a judicial determination that to remain in the home would be contrary to the child’s welfare
    - The “contrary to welfare” determination must be explicit and made in the first court ruling (minute order) that

sanctions (even temporarily) the removal

- For children voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state (Tribal), the following must be obtained within six months of the time the child lived with a specified relative:
  - A petition to Court to remove the child from the home of a specified relative

**–And–**

- Subsequent judicial determination that remaining in the home would be contrary to the child's welfare
2. At least one Title IV-E foster care maintenance payment has been made on behalf of the child's minor parent to cover the cost of the minor parent's child while in the foster parent's home or child care institution with the minor parent.
  3. A child received AAP benefits with respect to a prior adoption, the prior adoption dissolved, and the child is again available for adoption. To remain eligible the child must meet the following:
    - Three part special needs determination
    - Citizenship requirements
  4. Prior to the finalization of an agency adoption or an independent adoption, the child has met the requirements to receive federal Supplemental Security Income (SSI) benefits as determined and documented by the federal Social Security Administration (SSA).
  5. The child is an Indian child and the subject of an order of adoption based on tribal customary adoption, as described in WIC § 366.24. Refer to CFS P&P [Tribal Customary Adoption \(C-0705\)](#) for additional information.

B. Alternative Two:

1. Qualify as an Applicable Child:

- a. Has been in foster care for at least 60 consecutive months.
- Or–
- b. Is a sibling of an applicable child, if both are placed in the same prospective adoptive home.
- Or–
- c. Meets the minimum age requirement (see [Attachment 1—Applicable Child Minimum Age](#)) anytime before the end of the Federal Fiscal Year (FFY).

**Note:** FFY is October 1<sup>st</sup> through September 30<sup>th</sup>.

–And–

2. Meet one of four eligibility paths detailed below:
    - a. The child is in the care of a public or private child placement agency or Indian tribal organization and is the subject of either one of the following:
      - An involuntary removal from the home in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child
- Or–
- A voluntary placement agreement or voluntary relinquishment
- Note:** There does not have to be a Title IV-E foster care maintenance payment made on behalf of the applicable child nor a judicial determination that continuation in the home would be contrary to the welfare of the child.
- b. The child has met all Medi-Cal or disability eligibility requirements for federal SSI benefits.
  - c. The child was residing in a foster family home or child care institution with the child's minor parent.

- d. The child received AAP with respect to a prior adoption that dissolved.

**State Funding**

To be eligible for State funding, the child is the subject of an agency adoption and at the time of adoptive placement, the child met one of the following requirements:

- A. Was under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.
- B. Was relinquished to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency, as certified by the responsible public child welfare agency.
- C. Was committed to the care of the department or county adoption agency pursuant Family Code (FAM) § 8805 or 8918.

**Other AAP Benefit Requirements**

As stated in CCR Title 22, Division 2 § 35326(g–h), AAP benefit eligibility also requires:

- A. A means test will not be used to determine AAP eligibility.
- B. The prospective adoptive parent and any other adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to CCR Title 22, Division 2 § 35184.

**Note:** As stated in WIC § 16121.1, the adoptive parent’s legal residence will not affect the child’s eligibility.

**Determination of the Amount and Duration of AAP Benefit**

Once the determination is made that a child is eligible for AAP, the amount of benefit will be negotiated between the CFS Adoption Program/responsible public agency and the adoptive family. The amount of AAP benefit negotiated will be based on the needs of the child and the circumstances of the adoptive family. Pursuant to CCR Title 22, Division 2 § 35333:

- A. CFS Adoptions will make a good faith effort to negotiate the AAP benefit with the adoptive parents.

1. CFS Adoptions will encourage the adoptive parents to request the AAP benefit they require in order to meet the child's needs taking into account their family circumstances.
  2. CFS Adoptions will base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents.
  3. CFS Adoptions will advise the adoptive parents that the amount of the AAP benefit determined for the child is limited to the age-related, state-approved foster family home rate and any applicable state-approved specialized care increment for which the child is eligible. Refer to CFS P&P [Foster Care Rates \(H-0112\)](#) for a determination of these rates.
  4. An income means test of the child or the adoptive parent will not be used when determining the AAP benefit amount.
  5. The amount of the negotiated AAP benefit will be between zero and the maximum AAP benefit for which the child is eligible.
  6. CFS Adoptions will advise the adoptive parents that the AAP benefit does not include payment for any specific good or service, but is intended to assist the adoptive parents in meeting the child's needs.
- B. CFS Adoptions, after consultation with the adoptive parents and the financially responsible county, if different from the agency, will identify the child's care and supervision needs, including special needs beyond basic care and supervision.

The Placement Focus Senior Social Worker (SSW) will assess the child's needs and required level of care and supervision based on all the following information:

1. Direct observation of the child.
2. Information contained in the child's case file (e.g., birth, Medi-Cal, and psychological history, and other

relevant assessments completed by licensed professionals).

3. Information contained in any specialized foster care increment application or specialized foster care increment previously approved for the child.
  4. Information provided by the adoptive parents.
- C. CFS Adoptions, in consultation with the financially responsible county, if different from the agency, will determine the maximum state-approved foster care maintenance payment. This is the rate the child would have received in a foster family home if the child had remained in foster care.
1. For placements in Orange County, the state-approved foster care payment the child would have received had the child remained in foster care.
    - The AAP cash benefit is limited to the age-related state-approved foster care rate and any applicable state-approved specialized care increment for which the child is eligible. **(Note:** There are no age-related increases available for initial agreements signed on or after January, 1, 2010)
    - A Foster Family Agency (FFA) treatment rate paid to a certified home by the FFA will not be used in calculating the maximum benefit.
  2. For placements outside of Orange County, the foster care rate schedule (Orange County versus host county) which results in the higher benefit will be used.
  3. If the child has special needs requiring a special care increment, use the special care rate schedule (Orange County versus host county or state) which would result in the higher benefit.
  4. If the child is a California Regional Center (CRC) client receiving a dual agency rate, the maximum AAP cash benefit for placements in California would be the appropriate flat rate plus rate supplement for the care the client requires. For Regional Center

clients moving outside California, the rate would remain the same.

**Note:** CRC will be responsible for securing services for the child's Individualized Family Service Plan (IFSP) or Individual Program Plan (IPP).

**Negotiated Benefit Amount and Approval**

- A. Pursuant to CDSS All County Letter (ACL) 12-18, the Placement Focus SSW or AAP SSW will document the process of assessing the child's needs and discussions with the family resulting in an approved negotiated AAP benefit.

This is accomplished by the Placement Focus or AAP SSW, Placement Focus (AAP) supervisor and the adoptive family signing the *Adoption Assistance Program Negotiated Benefit Amount and Approval (AAP 6)* prior to execution of the *Adoption Assistance Program (AAP) Agreement (AD 4320)*.

- B. The *Adoption Assistance Program Negotiated Benefit Amount and Approval (AAP 6)* will be completed in conjunction with the initial and subsequent *Adoption Assistance Program (AAP) Agreement (AD 4320)* and, where appropriate, the *Reassessment Information - Adoptions Assistance Program (AAP 3)*.

The *Adoption Assistance Program Negotiated Benefit Amount and Approval (AAP 6)* is completed for the following situations:

1. If discussions between CFS Adoption Program and the family result in an approved negotiated AAP benefit.
2. If the adoptive parents decline the AAP benefit, but wish to utilize Medi-Cal benefits, document the decision on the form and proceed with signing the AAP agreement.
3. If the adoptive parents decline the AAP benefit including Medi-Cal benefits, document this on the form and proceed with signing a deferred AAP agreement.

4. If there is no agreement on the AAP benefit, a *Payment Instructions–Adoption Assistance Program (AAP 2)* with a Notice of Action (NOA) will be sent to the adoptive family stating the requested AAP benefit is denied and the reason for the denial. The NOA provides the adoptive family instructions to request a fair hearing.

## **AAP Agreement**

Per CCR Title 22, Division 2 § 35337, the *Adoption Assistance Program (AAP) Agreement (AD 4320)* will incorporate the following key points:

- A. The amount and duration of financial assistance
  1. The agreement is effective until terminated in accordance with its terms or a new amended agreement is signed.
  2. The initial *Adoption Assistance Program (AAP) Agreement (AD 4320)* will be signed by the responsible public agency and the adopting parent(s) prior to the granting of the final decree of adoption.
  3. In adoptive placements which involve more than one agency, all agencies will sign the initial *Adoption Assistance Program (AAP) Agreement (AD 4320)*.

Subsequent amendments to *Adoption Assistance Program (AAP) Agreement (AD 4320)* will be signed by the responsible public agency and adoptive parent(s).

- B. The AAP benefit will continue unless one of the following occurs:
  1. The child has attained the age of 18, unless the child has a mental or physical handicap which warrants continuation of AAP benefits to the age of 21 years.
  2. The adoptive parents are no longer legally responsible for the support of the child.

3. The responsible public agency determines the adoptive parents are no longer providing any type of support to the child.
- C. The adoptive parent's responsibility to inform CFS Adoptions immediately if any of the following occurs:
- Change in mailing address and/or state of residence
  - The child is no longer residing in the family home
  - The adoptive parents are no longer providing any type of support to the child
  - The adoptive parents are no longer legally responsible for the support of the child
- D. If a needed service is not available in the state of residence, the financially responsible county of origin remains financially responsible for providing the needed services.
1. The responsible public agency will assist the adoptive parents by providing information and referral services offered in their state of residence.
  2. If the child is state-eligible and eligible for state-funded Medi-Cal benefits, the adoptive parents will be informed that if they move or reside in another state, access to Medi-Cal services is contingent on whether their state of residence extends COBRA-reciprocity for children receiving California state-funded Medi-Cal benefits.
- E. If the adoptive parents believe their child has a physical or mental disability that warrants continuance of assistance beyond the age of 18, prior to their child's 18<sup>th</sup> birthday, the adoptive parents are to request the responsible public agency assess and evaluate their child's needs for continuation of benefits.
- F. A failure to report the changes specified in CCR Title 22, Division 2 § 35337(a)(4)(B)–(D) may result in an overpayment which would be recovered by a direct charge or a reduction in current and future AAP benefits.

- G. Continuation of payment depends upon continued legal responsibility of the adoptive parents for the support of the child and upon continued receipt by the child of that support.
- H. The AAP benefit will be reduced if the benefit amount exceeds the foster care maintenance payment that would have been made if the child remained in a foster family home.
- I. The agreement will specify the rate for a child receiving wraparound services or placed in an out-of-home placement which may not exceed the maximum eligible state-approved facility rate. This rate is limited to 18 months per episode or condition. It is the adoptive parent's choice to request the AAP benefit be directed to the facility or to them and they pay the facility directly with the AAP funds received.
- J. The child's eligibility for Medi-Cal services.
- K. The child's eligibility for services provided pursuant to Title XX of the federal SSA.
- L. The agreement remains effective regardless of the state in which the adoptive parents reside.
- M. Details regarding eligibility for Dual Agency rates, age-related increases, procedure for reassessment, refer to CFS P&P [Foster Care Rates \(H-0112\)](#).
- N. Additional services and assistance which are to be provided as part of the agreement.

**Deferred AAP Agreement**

As stated in CCR Title 22, Division 2 § 35339, the AAP benefit may be deferred by the adoptive parent(s) when a child otherwise eligible for AAP does not require current benefits, but may require future benefits.

The *Adoption Assistance Program (AAP) Agreement (AD4320)* completed by the adoptive parent(s) will indicate that the family may request benefits at an unspecified future date.

**AAP Payment Authorization**

CCR Title 22 Division 2 § 35341 states the responsible public agency will provide the county responsible for payment with information necessary to allow the county to issue AAP payments and authorize the issuance of Medi-Cal cards.

- A. AAP payments will not begin before the *Adoptive Placement Agreement (AD 907)* and *Adoption Assistance Program Agreement (AD 4320)* are signed.
- B. When the beginning date of payment is known, the responsible public agency will complete and send the following forms to the county responsible for issuing payment:
  - 1. *Payment Instructions–Adoption Assistance Program (AAP 2)*.
  - 2. *Eligibility Certification–Adoption Assistance Program (AAP 4)*.
- C. The child's adoptive name will be used on the *Payment Instructions–Adoption Assistance Program (AAP 2)*, *Eligibility Certification–Adoption Assistance Program (AAP 4)*, and all related correspondence with the county.

Upon receipt of the *Payment Instructions–Adoption Assistance Program (AAP 2)*, the county responsible for issuing payment will issue payments as instructed.

- D. The initial payment will be delivered to the adoptive parent(s) no later than 20 days after the date the county receives the *Payment Instructions–Adoption Assistance Program (AAP 2)* from the agency authorizing payment.

**Reassessment of AAP Benefit**

A reassessment process will be completed pursuant to CCR Title 22 Division 2 § 35343 by the responsible public agency which authorized the initial payment unless one of the following is met:

- The child has attained the age of 18 years or 21 years
- The adoptive parents are no longer legally responsible for the support of the child
- The responsible public agency determines the adoptive parents are no longer providing support to the child

The reassessment process will include the following steps:

- A. The county responsible for payment will mail the adoptive parent(s) the *Reassessment Information–Adoptions Assistance Program (AAP 3)* at least 60 calendar days, and not more than 90 calendar days, prior to the date the reassessment is due and will document in the case record the date such form was mailed.
  1. The adoptive parent(s) will return the *Reassessment Information–Adoptions Assistance Program (AAP 3)* to the responsible public agency which authorized the initial payment.
    - If the family does not submit a completed *Reassessment Information–Adoptions Assistance Program (AAP 3)*, AAP will continue at the same rate reflected on the last *Adoption Assistance Program Agreement (AD 4320)* and *Payment Instructions–Adoption Assistance Program (AAP 2)*
- B. If the responsible public agency receives the completed *Reassessment Information–Adoptions Assistance Program (AAP 3)* from the adoptive parents, the agency will complete the reassessment process as follows:
  1. If the adoptive parents indicate on *Reassessment Information–Adoptions Assistance Program (AAP 3)* their desire to no longer receive an AAP benefit for their child, the agency will follow the procedures as specified in CCR Title 22, Division 2 § 35339 for completing a deferred payment agreement.
  2. If the adoptive parents indicate on *Reassessment Information–Adoptions Assistance Program (AAP 3)* their desire for the AAP benefit to continue unchanged, the agency will pay the same rate reflected on the last AAP agreement and *Payment Instructions–Adoption Assistance Program (AAP2)*.

3. If the adoptive parents indicate on the *Reassessment Information–Adoptions Assistance Program (AAP 3)* their desire for an increase in the amount of the AAP benefit, the adoptive parents will be requested to provide written documentation of the child’s needs justifying the increase. The agency may require additional information as necessary.

- The agency will base the reassessment of the child's needs and required level of care and supervision on the following information:
  - Information provided by the adoptive parents
  - Information about the child based on application of the county's foster care specialized care assessment instrument
  - Circumstances of the family
- The responsible public agency will follow the procedures in CCR Title 22 Division 2 § 35333 in determining the new maximum AAP benefit amount
- If the responsible public agency determines a change in the amount of payment appears appropriate, the adoptive parents' concurrence will be obtained prior to changing the amount of payment
  - The adoptive parents' concurrence is not required if the payment amount is changed to prevent the payment from exceeding the maximum foster care maintenance payment that would have been paid had the child remained in foster care
- The responsible public agency and the adoptive parents will complete an amended *Adoption Assistance Program Agreement (AD 4320)* to reflect the negotiated change in the amount of AAP benefit
  - If the agency and the adoptive parents are unable to agree on the amount of the AAP benefit, the agency will

complete a *Payment Instructions–Adoption Assistance Program (AAP 2)* instructing the county to send a Notice of Action to the adoptive parents

The Notice of Action will indicate that the request for additional AAP benefits is denied and that the AAP benefit will continue at the prior rate. The agency will specify the reason for denial as "The agency and the family cannot agree on benefits"

- The responsible public agency will complete and send a *Payment Instructions–Adoption Assistance Program (AAP 2)* to the county responsible for issuing payment within five business days of completing the reassessment process
4. If the adoptive parents indicate on the *Reassessment Information–Adoptions Assistance Program (AAP 3)*, a desire for a decrease in the amount of the AAP benefit, the agency and the adoptive parents will complete an amended *Adoption Assistance Program Agreement (AD 4320)* to reflect the change in benefit amount.
- The agency will complete and send a *Payment Instructions–Adoption Assistance Program (AAP 2)* form to the county within five business days of completing the reassessment process
- C. A reassessment of an AAP rate that results in a change requires execution of an *Adoption Assistance Program Negotiated Benefit Amount and Approval (AAP 6)* to evidence the new rate was negotiated.

**Note:** Per CDSS ACL 15-50, the only responsibility of the responsible public agency is to send the *Reassessment Information–Adoptions Assistance Program (AAP 3)* to the adoptive parent every two years.

**Out-of-Home  
Placement  
Benefits**

The reassessment process and the renegotiation of the AAP rate **are to be initiated by the adoptive parent and not the responsible public agency.** It is the adoptive parent's responsibility to initiate further contact. The county is not to initiate contact for purposes of rate reviews.

As stated in CCR Title 22, Division 2 § 35334, the responsible public agency will confirm the amount and duration of the AAP benefit when the child is placed, either on a voluntary basis or as a dependent or ward of the court, in out-of-home care to treat a condition the agency has determined to have existed before the adoptive placement.

- A. The agency will conclude the child would have been placed in the same out-of-home care facility if the child had not been placed for adoption if, after consultation with the adoptive parents, the agency has determined that:
  - 1. Out-of-home placement is necessary to meet the child's needs, **–and–**
  - 2. The specific placement is able to meet the child's needs appropriately, **–and–**
  - 3. The facility's rate classification level is appropriate to the child's needs.
  
- B. The agency will determine the maximum AAP benefit for which the child is eligible for out-of-home placement.
  - 1. If the adoptive parents are paying for the cost of the placement directly, the available AAP benefit is the state-approved foster care facility rate for which the child is eligible.
  - 2. If the placement cost is paid by another agency (e.g., county welfare department, probation office, regional center), the available AAP benefit will be either the age-related, state-approved foster family home care rate or the adoptive parent's actual share of cost (SOC) for support of the child, whichever is greater, but not to exceed the foster family home rate as determined under CCR Title 22, Division 2 § 35333(c).

The maximum share of cost is the state-approved foster family home rate, eligible Special Care Increment (SCI) rate or dual agency rate, and any applicable supplemental rate the child would have received had they remained in foster care.

- C. If the initial *Adoption Assistance Program Agreement (AD 4320)* was signed on or after October 1, 1992, the duration of a child's placement in a group home or residential treatment facility will be limited to an 18-month cumulative period of time for a specific episode or incident justifying that placement.
1. If the responsible public agency approves the provision of wraparound services, as defined in WIC § 18251(d), in lieu of out-of-home placement, the amount of the AAP benefit will be limited to the amount that would have been paid for the out-of-home placement.
  2. The AAP benefit for the child's placement in a group home or residential care treatment facility will continue to be available, provided the requirements of this section are met and the adoptive parents actively participate in a plan to return the child to the adoptive home.
  3. When the responsible public agency and the adoptive parents agree on the AAP benefit, an *Adoption Assistance Program Agreement (AD 4320)* will be completed.
- D. The agency will state in the *Adoption Assistance Program Agreement (AD 4320)* that the AAP benefit is intended for the child's out-of-home placement and is not to exceed 18 months.

The adoptive parent(s) may request the financially responsible public agency pay the facility directly using the child's eligible AAP funds, or the AAP check may continue to be sent to them to pay the facility.

E. The agency will complete the *Payment Instructions - Adoption Assistance Program (AAP 2)* instructing the county to send the adoptive parents a Notice of Action indicating that the AAP benefit is approved.

F. The duration of an *Adoption Assistance Program Agreement (AD 4320)* for the child's out-of-home placement will be 18 months before a subsequent reassessment is required.

**Wraparound services**

A. CDSS ACL 15-50 states AAP payments for Wraparound services are a benefit for AAP eligible children/non-minors entitled to receive payments for out-of-home placement.

For AAP purposes, any type of Wraparound contract is between the adoptive parent and the Wraparound provider. The legal and financial responsibility of the child is with the adoptive parent, and not the county.

The responsible public agency's role is to confirm the Wraparound services are necessary and will appropriately meet the child's needs, and to facilitate the AAP funding per the adoptive parent's request.

B. The responsible county cannot require the adoptive parents to participate in a Team Decision Making (TDM) meeting prior to approving the AAP benefit increase request to cover the costs for an out-of-home placement and/or Wraparound services.

The adoptive parent is legally and financially responsible for the support of their adoptive child; therefore, they make the decisions regarding the child's care and supervision needs which include services, providers, out-of-home placements, and other management-related tasks.

The responsible public agency's role is to facilitate the AAP funding requested by the adoptive parent, confirm the out-of-home placement or Wraparound services are necessary and appropriately meet the child's needs, and confirm the rate classification level is appropriate to the child's needs. The approval for the AAP benefit is solely based on consultations with the adoptive parent and documentation provided by the adoptive parent.

**Role of Private Adoption Agency in Relinquishment**

Pursuant to ACL 16-38, a private adoption agency’s primary role in a relinquishment as it relates to AAP is:

- Inform prospective adoptive parents of the availability of AAP
- Assist the prospective adoptive parents with the process of requesting AAP benefits
- Assist the prospective adoptive parents with the negotiation of the AAP benefits with the responsible public agency, when needed
- Explain how to claim reimbursement of nonrecurring adoption expenses

**Determining AAP Eligibility-Private Agency Relinquishment**

The private agency is not authorized to act in the same capacity as a public child welfare agency in determining AAP eligibility.

- A. A private agency is not authorized to seek the required “contrary to the welfare” finding from the juvenile court. Only a Title IV-E agency is authorized to seek such a finding from the juvenile court.
- B. The Federal Title IV-E eligibility pathway is not applicable to children relinquished to a private adoption agency in California when:
  - 1. A relinquishment to a private adoption agency precludes juvenile court involvement.
  - 2. The required petition to the court to “remove the child from the home of a specified relative within six months of the date the child lived with the relative” is not filed.
  - 3. Subsequent judicial determination by the juvenile court that “remaining in the home would be contrary to the child’s welfare” does not occur.
- C. To be eligible for state/non-fed AAP benefits, the child must be the subject of an agency adoption, relinquished to a California private or public adoption agency, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

**Determination of  
“At Risk”-Private  
Agency  
Relinquishment**

To be eligible for AAP, the child must be determined to be at risk of dependency had the parent not made a plan for adoption by relinquishing their child to a private adoption agency.

- A. A judicial determination must be made by the juvenile court that has jurisdiction over the child, in conjunction with the public child welfare agency.
- B. A risk of dependency determination made by an entity other than a public child welfare agency does not meet this requirement per California law and regulations.
- C. The private agency is not authorized by federal or state law to seek an AAP eligibility determination within a termination of parental rights petition.
- D. A determination must be made in the juvenile court, not the family or probate court.
- E. The public child welfare agency has the discretion to make the risk of dependency determination with consideration to each of the following:
  - 1. The child would need to have been at risk of dependency had the parent not made a plan for adoption by relinquishing their child to a licensed adoption agency or public child welfare agency.
  - 2. Substantial risk to the child exists when circumstances based on WIC § 300 would support a petition to detain the child as a dependent of the court if relinquishment had not occurred.
  - 3. Substantial risk based on WIC § 300(h) is only appropriate if the county determines a need to intervene. The fact that the child is in a prospective adoptive home and no one has identified this child to be at risk for abuse or neglect indicates a petition based on WIC § 300(h) was not warranted. Simply the fact that a child has been freed for adoption more than 12 months due to a relinquishment or termination of parental rights is insufficient to determine substantial risk.

A search for child abuse referrals on the birth parents or the child during this period may aid in the determination of “at risk.”

- F. It is the private agency’s responsibility to obtain the risk of dependency certification from the public child welfare agency, and this documentation is to be included in the request for AAP benefits packet submitted to the responsible public agency.
- G. A child relinquished to a private adoption agency in another state and then placed with prospective adoptive parents in California will not meet this requirement.

**Submission of Forms by Private Agency**

The submission of AAP forms FC 8, AAP 4, AAP 6, and AAP 8 including agreements, including deferred agreements, completed and/or signed by the private adoption agency, are not valid and should be discarded by the responsible public agency.

**Extension of Benefits to Non-Minor Dependents**

Pursuant to WIC § 16120(d), extended AAP benefits will be provided to youth meeting age and eligibility requirements. Refer to CFS P&P [Extended AAP & Kin-GAP rates \(J-0106\)](#) and CFS P&P [Foster Care, AAP, and Kin-GAP rates for Young Adults \(J-0103\)](#) for detailed information regarding this program.

**Termination or Change in AAP Benefit**

CFS Adoption Program will continue providing AAP benefits unchanged until:

- A. The month in which the child turns 18 years old or, if CFS Adoption Program has determined that the child has a mental or physical disability, the month in which the child becomes 21 years old.
- B. CFS Adoption Program determines that the adoptive parents are no longer legally responsible for the financial support of the child (e.g., the child emancipates, gets married, etc.).
- C. CFS Adoption Program determines that the child is no longer receiving financial support from the adoptive parents.
- D. AAP cash benefit exceeds that which would have been provided to a licensed foster home.

- E. The adoptive parents voluntarily reduce or terminate AAP payments.
- F. The adopted child has extraordinary needs not anticipated at the time AAP was negotiated.
- G. Original adoptive parent is deceased. As stated in CDSS ACL 15-50, the AAP benefit may not be transferred to a stepparent who subsequently adopts.

In order for the stepparent to receive AAP benefits on behalf of the child, the stepparent would have to adopt the child via an agency or independent adoption process.

Stepparent adoptions do not follow the same regulations/laws as an agency or independent adoption (such as fingerprint clearances and homestudy requirements); therefore, stepparents are not eligible to receive AAP benefits.

**Overpayments**

In accordance with CCR Title 22, Division 2 § 35344, an overpayment of AAP benefits may exist when the adoptive parent receives aid after the child becomes ineligible for assistance because:

- A. The child has attained 18 years of age, or, if the agency has determined that the child has a mental or physical condition which warrants the continuation of assistance, 21 years of age, **–or–**
- B. The adoptive parent is no longer supporting the child, **–or–**
- C. The adoptive parent is no longer legally responsible for the support of the child.

**Appeals/  
Complaints**

Adoptive parent(s) will be offered a grievance review process as detailed in “Notices and Appeals/Complaints” Policy section of CFS P&P [Foster Care Rates \(H-0112\)](#).

**Requirement for  
Notice of Action  
(NOA)**

As stated in CCR Title 22 Division 2 § 35345, a *Payment Instructions–Adoption Assistance Program form (AAP 2)* will be completed in accordance with the following events:

- A. Denial of request for adoption assistance benefits.
- B. Completion of a deferred payment agreement.
- C. Authorization of the initial grant.
- D. Completion of the reassessment process.
- E. Payment termination.
- F. An overpayment requiring collection.
- G. Any change in grant amount.

**Verification of AAP Benefits**

Pursuant to CDSS ACL 15-50, the responsible public agency is not required to provide verification of AAP benefits to parties working with the adoptive parents (e.g., banks, housing authorities, and landlords). AAP benefits are not income to the adoptive parents, but payments made on the child's behalf to meet their needs. A copy of the last signed *Adoption Assistance Program Agreement (AD 4320)* is sufficient documentation to verify receipt of AAP benefits and it is the adoptive parent's responsibility to provide a copy of this document to those requesting verification.

**Documentation**

Hard copy documents will be filed on the *Adoption Assistance Program (AAP) Acco (F063-25-1133)* in accordance with CFS P&P [Referral and Case Filing \(E-0102\)](#). Pursuant to CCR, Title 22, Division 2, § 35351, the *AAP Acco (F063-25-1133)* will be kept in a separate file from the adoption case record. The following documents will be maintained on the *AAP Acco (F063-25-1133)*:

- A. The *Request for Adoption Assistance (AAP 1)*.
- B. The *Eligibility Certification—Adoption Assistance Program (AAP 4)*, which verifies that the child meets the Adoption Assistance Program eligibility criteria specified in CCR Title 22, Division 2 § 35326.
- C. *Federal Eligibility Certification for Adoption Assistance Program (FC 8)*.

- D. Documentation supporting the determination of the amount and duration of payment made pursuant to CCR Title 22, Division 2 § 35333.
- E. The initial *Adoption Assistance Program Agreement (AD 4320)*.
- F. *Adoption Assistance Program Negotiated Benefit Amount and Approval (AAP 6)*.
- G. Completed reassessment documents, including:
  - 1. *Reassessment Information–Adoptions Assistance Program (AAP 3)*.
  - 2. The *Adoption Assistance Program Agreement (AD 4320)* used as an amendment to the initial agreement.
- H. *Payment Instructions–Adoption Assistance Program (AAP 2)*.
- I. All correspondence from the county to the adoptive parents, including notices of action.
- J. State hearing decisions.
- K. All AAP related correspondence and documentation from the adoptive parent.
- L. Any other correspondence relating to the determination of AAP eligibility or grant amount.

**Documentation of Child’s Eligibility**

As stated in CCR Title 22, Division 2 § 35331, the determination of the child’s eligibility for adoption assistance will be documented in the case record on the *Eligibility Certification–Adoption Assistance Program (AAP 4)*.

The agency will submit the *Eligibility Certification–Adoption Assistance Program (AAP 4)* to the county responsible for payment.

The child’s birth name will be used on the *Federal Eligibility Certification for Adoption Assistance Program form (FC 8)*.

**CWS/CMS Data Entry**

Data entry will be completed in accordance with [CWS/CMS Data Entry Standards—Adoptive Placement and Finalization](#) for the initial AAP application and [CWS/CMS Data Entry Standards—Adoption Assistance Program Changes, Re-certifications, Terminations](#) for all subsequent case activity.

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**REFERENCES**

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**Attachments and CWS/CMS Data Entry Standards**

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- [CWS/CMS Data Entry Standards—Adoptive Placement and Finalization](#)
  - [CWS/CMS Data Entry Standards—Adoption Assistance Program Changes, Re-certifications, Terminations](#)
  - [Attachment 1—Applicable Child Minimum Age](#)
  - [Attachment 2—Suggested Guidelines—Basic, SCI, Dual Agency Rates and Reassessment](#)
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**Hyperlinks**

Users accessing this document by computer may create a direct connection to the following references by clicking the hyperlinks provided.

- CFS P&P [Referral and Case Filing \(E-0102\)](#)
  - CFS P&P [Foster Care Rates \(H-0112\)](#)
  - CFS P&P [Tribal Customary Adoption \(C-0705\)](#)
  - CFS P&P [Extended AAP and Kin-GAP Benefits \(J-0106\)](#)
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**Other Sources**

Other printed references include the following:

None

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## FORMS

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**Online Forms** Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

<b>Form Name</b>	<b>Form Number</b>
<a href="#">Request For Adoption Assistance Program Benefit</a>	AAP 1
<a href="#">Request For Adoption Assistance Program Benefit (Spanish)</a>	AAP 1 (SP)
<a href="#">Payment Instructions–Adoption Assistance Program</a>	AAP 2
<a href="#">Reassessment Information–Adoption Assistance Program</a>	AAP 3
<a href="#">Eligibility Certification–Adoption Assistance Program</a>	AAP 4
<a href="#">Adoption Assistance Program Negotiated Benefit Amount and Approval</a>	AAP 6
<a href="#">Adoption Assistance Program Negotiated Benefit Amount and Approval (Spanish)</a>	AAP 6 (SP)
<a href="#">Adoptive Placement Agreement</a>	AD 907
<a href="#">Adoption Assistance Program (AAP) Agreement</a>	AD 4320
<a href="#">Adoption Assistance Program (AAP) Agreement (Spanish)</a>	AD 4320 (SP)
<a href="#">Federal Eligibility Certification for Adoption Assistance Program</a>	FC 8
<a href="#">Specialized Foster Care Request</a>	F063-28-164
<a href="#">AAP Packet Request Memo</a>	F063-25-631
<a href="#">AAP Benefits Continuation Request</a>	F063-25-633
<a href="#">AAP Benefits Continuation Request (Spanish)</a>	F063-25-633SP
<a href="#">AAP Benefits Continuation Request Cover Letter</a>	F063-25-630
<a href="#">AAP Special Care Rate Request</a>	F063-25-632
<a href="#">AAP Special Care Rate Request (Spanish)</a>	F063-25-632SP
<a href="#">AAP Special Care Rate Request Cover Letter</a>	F063-25-629
<a href="#">AAP Special Care Rate Request Cover Letter (Spanish)</a>	F063-25-629SP
<a href="#">AAP Reporting Responsibilities</a>	F063-25-756
<a href="#">AAP Reporting Responsibilities (Spanish)</a>	F063-25-756SP

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**Hard Copy Forms**

Forms that may be completed in hard copy (including multi-copy NCR forms) are listed below. **For reference purposes only**, links are provided to view these hard copy forms, where available.

Form Name	Form Number
Adoption Assistance Program Acco	F063-25-1133

**CWS/CMS Forms**

Forms that may **only** be obtained in CWS/CMS are listed below. **For reference purposes only**, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
None.	

**Brochures**

Brochures to distribute in conjunction with this policy may include:

Brochure Name	Brochure Number
None.	

**LEGAL MANDATES**

[Title XX of the Federal SSA](#) is a federal block grant program that funds initiatives that seek to prevent or remedy neglect, abuse, or exploitation of children.

[Family Code \(FC\) Section \(§\) 8805](#) states that in the absence of a delegated county adoption department, the local child welfare agency will act on behalf of the state.

[FC § 8918](#) states that if the petition is denied or withdrawn, the adoption agency will arrange for the subsequent placement of the child.

[Welfare and Institutions Code \(WIC\) § 366.24](#) describes the requirements for tribal customary adoption.

[WIC § 11450](#) describes the maximum amount of assistance available under such programs as CalWORKS.

[WIC § 11451](#) authorizes the uses of county funds in providing care for the child.

[WIC § 16118](#) states the county adoption agency will be responsible for certifying that the child meets the eligibility criteria for AAP and for determining the amount of financial assistance needed by the child and adoptive family.

[WIC § 16120](#) describes the eligibility criteria that the child must meet to qualify for AAP.

[WIC § 16120\(d\)\(3\)](#) describes the age requirements for extended AAP.

[WIC § 16121.1](#) states the residence of the adoptive parents will not impact the eligibility of the child for AAP.

[WIC § 18251\(d\)](#) defines wraparound services.

[California Code of Regulations \(CCR\) Title 22, Division 2, § 35184](#) details the criminal background checks necessary for an adoption applicant.

[CCR Title 22, Division 2 § 35325](#) details the County's responsibility for administering an AAP program.

[CCR Title 22, Division 2 § 35326](#) describes the criteria for AAP eligibility.

[CCR Title 22, Division 2 § 35331](#) states the child's eligibility for adoption assistance will be documented in the case record.

[CCR Title 22, Division 2 § 35333](#) explains the determination of amount and duration of AAP benefit for all children

[CCR Title 22, Division 2 § 35334](#) explains the determination of amount and duration of AAP benefit for a child in temporary out-of-home placement.

[CCR Title 22, Division 2 § 35337](#) provides detail of the Adoption Assistance Agreement.

[CCR Title 22, Division 2 § 35339](#) discusses the deferral of AAP benefit.

[CCR Title 22, Division 2 § 35341](#) discusses the process for the initiation of AAP payments.

[CCR Title 22, Division 2 § 35343](#) details the procedure for reassessment of the child's needs.

[CCR Title 22, Division 2 § 35344](#) provides guidelines for the identification and handling of overpayments.

[CCR Title 22, Division 2 § 35345](#) discusses the requirement for Notice of Action.

[CCR Title 22, Division 2 § 35351](#) states that the AAP file will be kept separate from the adoption case record.

[CCR Title 2, Division 9 § 60200\(c\)](#) change without regulatory effect repealing article 4 (section 60200).

[Eligibility and Assistance Standards \(EAS\) Manual Division 42, Chapter 42-433](#) defines the citizenship requirements for AFDC-FC eligibility.

[All County Letter \(ACL\) 15-50](#) provides answers to frequently ask questions regarding AAP.

[ACL 16-38](#) discusses eligibility for AAP to private agency\_relinquishments.