Court Findings and Foster Care

Number: 45-201.43
Date: 12/1/2007

PURPOSE

The purpose of this policy statement is to inform of the changes to court order requirements and the required language on the court documentation for eligibility cases.

APPROVED

This policy was approved by Mike Ryan, Director of CFS, on 2/19/2010. *Signature on file.*

POLICY

Once a child is declared a dependent of the court, a foster child must meet certain court requisites in order to be eligible and to continue to receive Aid to Families with Dependent Children-Foster Care (AFDC-FC) as required by the Adoptions and Safe Family Act (ASFA).

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FEDERAL FOSTER CARE INITIAL COURT FINDINGS

There are three initial court findings required for Federal funding for all placement types:

1. Contrary to the Welfare

The court must make a finding that continuance in the home would be contrary to the child's welfare. The finding must be made in the first court order temporarily removing the child from his/her home. If finding is not in the initial Detention Hearing Minute Order, the case is not eligible to Federal AFDC-FC.

• If the finding is not in the initial Detention Hearing Minute Order, transcripts must be requested by the Social Services Supervisor I (SSSI).

• If the finding is made in the court transcripts, the transcripts may be used in lieu of the initial detention hearing minute order.

• If the child entered foster care prior to March 27, 2000, the Contrary to Welfare finding must be made within 6 months from removal.

1. Reasonable Efforts

The court must make a finding that reasonable efforts have been made to prevent the removal of the child from the home. The finding must be made within 60 days from the date the child is removed from the home.

• Under certain circumstances, reasonable efforts are NOT required. In these cases, there must be a finding by a judicial officer that reasonable efforts were not required for one of the following reasons:

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- Parent has been convicted of:
- Murder
- Voluntary manslaughter
- Aiding or abetting, attempting, conspiring, or soliciting to commit murder or manslaughter
- Felony assault resulting in serious bodily injury to the child or sibling
- The parent has subjected the child to aggravated circumstances (as defined in WIC 361.5)
- The parental rights of the parent have been terminated involuntarily with respect to another child

1. a finding is made by a judge that reasonable efforts are not required, a permanency planning hearing must be held within 30 days.

2. Placement and Care

The court must make a finding that placement and care is vested with one of the following appropriate public agencies as defined in Eligibility and Assistance Standards (EAS) Manual Sections 45-202.6 and 45-203.5:

• A county welfare department.

• A county probation department, provided there is written agreement with the county welfare department.

• A licensed public adoption agency which is the same governmental agency as the county welfare department.

• A licensed public adoption agency which is a governmental agency separate from the county welfare department provided there is in effect a written agreement with the county welfare department.

• A district adoptions office provided the services required are performed by the adoptions office.

The finding must be made prior to approval of Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits.

ONGOING COURT ORDER FINDINGS

The court must make ongoing court findings that the county continues to make reasonable efforts to finalize the permanency plan.

• Initial Permanency Planning Hearing: finding must be made within 12 months of the "date the child entered foster care."

• If the finding is not made timely, the child is ineligible for Federal AFDC-FC at the end of the 12th month after he or she entered foster care and remains ineligible until the finding is made.

Example: Last Permanency Planning (PP) Hearing was February 15, 2006. The next PP hearing is due by February 14, 2007. The hearing was held on April 10, 2007. Case is ineligible for Federal Funding from March 1, 2007 through April 9, 2007.

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• If the finding is not made timely, look to see if a stipulation sheet introduces the Social Worker Court Report. If so, the finding made in the court report will continue to make the case eligible to federal funding. If there were no findings in the PP hearings or court report, then case will be routed to SSSI for resolution to obtain court transcripts.

DATE CHILD ENTERED FOSTER CARE

The date a child entered foster care is defined as the **earlier** of the following dates:

• The date of the first judicial finding that the child has been subjected to child abuse or neglect (generally at Jurisdictional/Dispositional hearing), or

• Sixty (60) days from the date the child is physically removed from the home. The 60-day count starts the last day the child lived with the parent or relative from whom removed.

Examples:

Child last lived with parent on March 29th. Child was removed on March 29th. At the Jurisdictional/ Dispositional Hearing no finding was made for abuse/ neglect. Date child entered FC is May 28th (60 days from the last day they lived with the parent).

Same example as above except an abuse finding was made at the Jurisdictional Hearing on April 30th. Date child entered Foster Care is April 30th.

STATE FOSTER CARE INITIAL COURT FINDINGS

There are three initial court findings required for State funding for all placement types except relative placements:

Note: Relatives are not entitled to receive State funded AFDC-FC.

1. Contrary to the Welfare

Finding must be made before AFDC-FC is approved.

If child entered foster care prior to March 27, 2000, the Contrary to Welfare finding must be made within 6 months from removal.

1. Reasonable Efforts

Finding must be made before AFDC-FC is approved.

2. Placement and Care

Finding must be made before AFDC-FC is approved.

ONGOING COURT ORDER FINDINGS

Ongoing court order findings are not required for a State funded AFDC-FC case.

COUNTY FUNDS

If a case does not contain the required language and documentation cannot be obtained, county funds may be used to pay for placement costs as long as the child is a dependent of the Orange County Juvenile Court.

REFERENCES HYPERLINKS

Eligibility and Assistance Standards (EAS) Manual Section 45-202.6

Eligibility and Assistance Standards (EAS) Manual Section 45.203.5

REQUIRED FORMS HYPERLINKS

Form Name	Form Number
ASFA Court Findings Worksheet	F063-29-38
ASFA Ongoing Court Findings Worksheet	F063-29-39
Foster Child's Data Record and AFDC-FC Certification	SOC 158A

PROCEDURE

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REQUIRED ACTION

The following actions must be completed when the Orange County Juvenile Court establishes that a child must be detained and placed in foster care.

Responsibility	Step	Required Action
Social Worker (SW)	1.	Once a child is placed, submits a Foster Care Application (FCAPP) and sends it to the FCAPP email account.
Court Typist	1.	Enters detention hearing information into Child Welfare Services/Case Management System (CWS/CMS).
Information Processing Technician (IPT)	1.	Enters pertinent dates from detention hearing report (DHR) into CWS/CMS that populates to the SOC 158A. The court petition and the detention hearing dates must coincide with the dates on both the DHR and initial detention hearing minute order.
	1.	Sends a copy of the detention minute order to the assigned Foster Care (FC) Intake Eligibility Technician (ET).
Foster Care Intake ET	1.	Determines FC case is eligible to federal or state funding. • Federal FC funding will be approved as long as initial detention hearing minute order contains the three court order findings and all other eligibility criteria are met. Refer to Title IV-E Federal AFDC-FC Linkage policy 45-202.3. • State FC funding will be approved as long as all three court order findings are made prior to approval and all other eligibility criteria met.
	1.	Fills out first section of the Adoptions and Safe Family Act (ASFA) worksheet (F063-29-38). Sends e-mail to IPT to send Jurisdictional/Dispositional minute order to assigned ET once it's received from court. This is only needed if FC case is determined as Federally eligible. Enters alert in CalWIN for follow-up by the Continuing ET.
	1.	Fills out second section of the ASFA worksheet (F063-29-38) if abuse or neglect finding is made in Jurisdictional/Dispositional minute order. If minute order is not received, will determine date child entered foster care is 60 days from the date child is removed from the home.
Continuing ET	1.	If Intake ET does not receive Jurisdictional/ Dispositional minute order, the Continuing ET will control for minute order. Once received, will revise section two of the ASFA worksheet (F063-29-38), and determine the "date child entered foster care" only if abuse or neglect finding is made prior to 60 days from date child is removed. If case is state funded, section two does not need to be completed.

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1. Requests Permanency Planning (PP) minute orders at every annual redetermination and:

• Federal FC funding will continue as long as ongoing ASFA court findings continue to be met at least every 12 months.

• If finding is not made timely, need to look to see if a stipulation sheet introduces the Social Worker Court Report. If so, the finding made in the court report and will continue to make the case eligible to federal funding. If there were no findings in the PP hearings or court report, then case will be routed to SSSI for resolution to obtain court transcripts.

Note: PP hearings are held every six months. Therefore, once the next PP hearing is held the 12 month time limit can be reset.

Example: Initial PP hearing is held August 10, 2006. Next PP hearing is held February 27, 2007 and the reasonable efforts to finalize the PP finding is made. Therefore, the finding is not needed to be made again until February 26, 2008.

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