

DSS Policy and Procedure Guide

Division 03: Child Welfare

Chapter 05: Placement

Item 034: Presumptive Transfer

Suggested changes send to: [DSS PSOA](#) Mailbox

Issued: November 2, 2018

References: [ACL 17-77](#), [ACL 18-60](#), [AB 1299](#), [WIC 14717.1\(f\)](#)

New

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Preamble

Child Welfare Policy and Procedure Guides are meant to be used as tools to relay best practice and staff expectations. It is understood that specific case scenarios may not always align themselves with the stated practices and that at all times what is of paramount importance is the Safety and Well-being of the children we are charged to protect.

Policy

Presumptive transfer is intended to provide children and youth in foster care who are placed outside their counties of original jurisdiction timely access to Specialty Mental Health Services (SMHS), consistent with their individual strengths and needs, and consistent with Early and Periodic Screening Diagnostic Treatment requirements.

Presumptive Transfer means a prompt transfer of the responsibility for the provision of, or arranging and payment for SMHS from the county of original jurisdiction to the county in which the foster child resides. Discussion regarding presumptive transfer should occur with the child and their parent, with the Child and Family Team (CFT) members, and in consultation with other professionals who serve the child or youth, as appropriate.

Procedure

The Role of the Child and Family Team

CFTs provide meaningful opportunities for children, youth and families, and for those who provide them with physical or emotional support, to participate in the development and implementation of their individualized case or treatment plans that are designed to meet their needs. Similarly, CFTs promote collaboration and cooperation among child-serving individuals and agencies. By sharing decision-

making and working together, professionals and children, youth and families can work towards positive outcomes.

In the context of presumptive transfer requirements, the CFT provides an important opportunity for the CFT members to engage with the placing agency, in this case the Department of Social Services (DSS), to consider the length of placement and whether presumptive transfer of SMHS would benefit the foster child or youth and support family reunification efforts or if an exception to presumptive transfer exists.

Requirements for Presumptive Transfer

Effective July 1, 2017, the responsibility for authorization, provision, and payment of SMHS will transfer to the Mental Health Provider (MHP) in the foster child's county of residence for foster children placed in a county other than the county of original jurisdiction, pursuant to the timeframes outlined in statute, unless any exceptions to presumptive transfer apply, and are determined to necessitate the waiving of presumptive transfer. Upon presumptive transfer, the MHP in the county in which the foster child resides shall assume responsibility for the authorization and provision of SMHS, and the payment for services.

To provide timely provision of mental health services, the MHP in the foster child's county of residence is required to accept an assessment, if one exists, of needed SMHS for the foster child from the MHP in the county of original jurisdiction. Nothing should preclude the MHP of residence from updating the assessment or conducting a new assessment if clinically indicated, but these updates or new assessment may not delay the timely provision of SMHS to the child.

Informing Parties Concerning Presumptive Transfer and Waiver Requests

Prior to the transfer or request, the case carrying Social Worker (SW) is responsible for informing the foster child, the person or agency responsible for making mental health care decisions on behalf of the foster child, and the child's attorney, of the presumptive transfer requirement under AB1299, including a description of exceptions, the option to request a waiver of presumptive transfer if an exception exists, and how to make such a request to the placing agency (refer to [Attachment C](#)).

Conditions for Presumptive Transfer

Effective July 1, 2017, presumptive transfer applies under the following three conditions:

- Condition A: For any foster child who is placed by a placing agency out of original jurisdiction on or after July 1, 2017, the responsibility to provide or arrange for the provision of payment for SMHS will transfer to the county of residence.

- Condition B: for any foster child who resides in a county other than the county of original jurisdiction after June 30, 2017, that is not receiving SMHS consistent with their mental health needs as specified in the child's case plan, the responsibility to provide or arrange for the provision and payment for SMHS will be transferred to the MHP in the county of residence.
- Condition C: For any foster child who resides in a county other than the county of original jurisdiction after June 30, 2017, and who continues to reside outside the county of original jurisdiction after December 31, 2017, the responsibility for the provision and payment of SMHS will be transferred to the county of residence no later than the child's first regularly scheduled status review hearing conducted pursuant to Welfare and Institutions Code (WIC) Section 366 in the 2018 calendar year.

Exceptions to the Conditions of Presumptive Transfer

The foster child, the person or agency responsible for making the mental health care decisions on behalf of the foster child, or the child welfare services agency with responsibility for the care and placement of the child, or the child or youth's attorney may request that the placing agency consider a waiver of presumptive transfer. The placing agency may decide to waive presumptive transfer **on an individual, case-by-case basis only** if one or more of the four exceptions listed below exists. The waiver decision must be documented in the child's case plan, and communicated to all other members of the CFT through a CFT coordinator if one exists, or the placing agency's case carrying SW, and the MHP in the county of jurisdiction.

- The transfer would negatively impact mental health services being provided to the child or youth or delay access to services provided to the foster child;
- The transfer would interfere with the family reunification efforts documented in the individual case plan;
- The foster child's placement in a county other than the county of original jurisdiction is expected to last less than six months; or
- The foster child's residence is within 30 minutes of travel time to his or her established SMHS care provider in the county of original jurisdiction.

A waiver processed based on an exception to presumptive transfer shall be contingent upon the MHP in the county of original jurisdiction demonstrating an existing contract with a SMHS provider, or the ability to enter into a contract with a SMHS provider within 30 days of the waiver decision, and the ability to deliver timely SMHS directly to the foster child. Such information may be obtained by the placing agency verbally or in writing from the MHP in the county of original jurisdiction. That information shall be documented in the child's case plan. The placing agency's case carrying SW is responsible for informing the child, the parent, the CFT coordinator if one exists, or the

MHP in the county of original jurisdiction and the county of residence, and the child's attorney of a waiver request.

Short-Term Residential Therapeutic Program Placements and Waiver Determinations

Placement in a Short-Term Residential Therapeutic Program (STRTP) is an example of a situation that would potentially qualify as an exception to presumptive transfer. Placements in STRTPs are intended to be short-term, with the child or youth returning to a home-based setting after treatment. If a child or youth is placed in an STRTP with a case plan indicating that the duration of his or her stay is expected to last less than six months, and the child or youth will return to the county of original jurisdiction after the STRTP placement, this placement meets the criteria of an exception to presumptive transfer. If the placing agency determines that a waiver of presumptive transfer for a child or youth placed in a STRTP is in the best interest of the child or youth and the contract requirements for approving a waiver are met, the existing waiver process (including notification requirements) must be completed. If a child or youth placed in a STRTP, whose stay was expected to last less than six months, stays longer than six months, the CFT should discuss whether the waiver should continue. The decision to continue the waiver in this case is based on an exception.

Procedural Steps for Presumptive Transfer (refer to [AB 1299 Flow Chart](#))

Presumptive Transfer: Condition A

- If no exception exists to presumptive transfer, the placing agency's case carrying SW shall inform the foster child and the CFT coordinator if one exists, or, the child's attorney, the biological parent(s) when appropriate (if they are not already a member of the CFT) of the transfer of responsibility to provide, or arrange for the provision of and payment for SMHS transfer to the county of residence within 3-business days of this decision. Notification shall include the following:
 - Name, location, and contact information of the referring placing agency;
 - The county of the placement; and
 - The date when the child will be physically placed or the date the physical placement did occur in cases where the youth's physical placement is expedited with the county of residence.
- The placing agency shall notify the MHP where the child resides through their posted single point of contact within 3-business days of the presumptive transfer decision and ensure that the foster child's residence address is updated in the Medi-Cal Eligibility Data System (MEDS) within 2-business days of making the determination. This notification shall include the following information:

- Identifying information about the child: name, date of birth, and address;
 - Name, location, and contact information of the referring placing agency;
 - Name and contact information of who can sign releases of information;
 - Name and contact information of who can sign consents;
 - Send, or arrange to have sent to, the MHP the most recent consent for services, and consent for medication, including the JV-220; and
 - Send, or arrange to have sent to, the MHP the most recent mental health records, including the most recent mental health assessment. Nothing should preclude the MHP of residence from updating the assessment or conducting a new assessment if clinically indicated, but these updates or new assessments may not delay the provision of SMHS to the child.
- All determinations regarding waiver of presumptive transfer are required to be made in consultation with the child's CFT members, and other professionals who serve the child as appropriate, and documented in the foster child's case plan.

Presumptive Transfer: Condition B

- Counties must follow steps described for Condition A above; and
- For children subject to Condition B the following additional steps shall be followed:
 - The placing agency shall ensure that the child or youth has been provided a mental health screening prior to completing the steps for presumptive transfer, unless a waiver is requested.
 - If a foster child has been screened and assessed as needing SMHS but is not receiving SMHS, the applicable placing agency will transfer the foster child utilizing steps described for Condition A above unless a waiver is requested.

Presumptive Transfer: Condition C

- At least 10-calendar days prior to the child's next status review hearing that occurs after December 31, 2017, the placing agency's case carrying SW shall notify the foster child and the CFT coordinator, if one exists, or the child's attorney, the biological parent(s) when appropriate (if they are not already a member of the CFT) of the transfer of responsibility to provide, or arrange for the provision of SMHS and payment for SMHS to the county of residence when a youth is placed outside of the county of original jurisdiction.

- All determinations regarding waiver of presumptive transfer are required to be made in consultation with the child's CFT members, and other professionals who serve the child as appropriate and documented in the foster child's case plan and client plan.
- The placing agency case carrying SW shall notify the MHP where the child resides through their posted single point of contact within 10-calendar days of the presumptive transfer decision and ensure that the foster child's residence address is updated in the MEDS.
- Placing agencies may discuss and initiate the transfer of SMHS with the foster child, CFT, child's attorney, and biological parents earlier than the next status review hearing.

Out of County Placement Notification Requirements

The case carrying SW is responsible for informing the following individuals about presumptive transfer requirements, a description of the exceptions, and the right to request a waiver: the foster child in care, the foster child's attorney, the person or agency responsible for making mental health care decisions on behalf of the foster child (refer to [Attachment C](#)). The SW should document these notifications in CWS/CMS. The SW must also notify all members of the CFT.

In addition, any time the decision to place a foster child in a county other than their county of jurisdiction, the county placing agency is required to provide, at least 14 days prior to the date of placement, written notification to the child's parent or legal guardian, the child's attorney, and the child, if the child is 10 years of age or older, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. Documentation of this notification must be included in the child case file.

A waiver request must be made to the placing agency within seven calendar days of the placing agency's determination to place a child, youth, or Non-minor Dependent (NMD) out of county. The date of the county's presumptive transfer informing notice starts the seven day time period for waiver requests.

Each time a child is placed outside of the county of original jurisdiction, the presumptive transfer and the waiver process apply. In the event that a child's placement status changes and the child is placed back within the county of original jurisdiction, the placing agency in the county of original jurisdiction must notify the MHP in the former county of residence as well as the MHP in the county of original jurisdiction that the responsibility for providing or arranging for the provision of SMHS is returning to the county of original jurisdiction. This notification should be made through each county MHP's designated presumptive transfer single point of contact [Presumptive Transfer Points of Contact](#).

Notification templates are as follows:

- Presumptive Transfer Informing Notice [Attachment C](#)
- Notice of Presumptive Transfer of SMHS for Foster Child or Youth Placed out of County [Attachment D](#)
- Presumptive Transfer Waiver Request Form [Attachment E](#)
- Presumptive Transfer Waiver Determination Notification [Attachment F](#)

Waiver Requests [AB 1299 Flow Chart Waiver Scenarios](#)

A request for waiver may be made by the foster child, the person or agency that is responsible for making mental health care decisions on behalf of the foster child, or the child welfare services agency with responsibility for the care and placement of the child, or the child's attorney. Once a waiver request is made, the presumptive transfer is on hold pending the final decision by the placing agency or court.

- The waiver must be made to the placing agency within 7-calendar days of the placing agency's determination of where the foster child will be placed out of county. The waiver request must include, at a minimum the following information:
 - Name of the child;
 - Name and contact information of the requestor and their legal relationship to the child;
 - A brief description of which expectation(s) are believed to apply to waive presumptive transfer.
- The placing agency shall inform the foster child, person or agency responsible for making mental health care decisions on behalf of the foster child, the child's attorney of the waiver request, and the CFT coordinator if one exists, or the placing agency's case carrying social worker.
- The placing agencies shall make their determination of the waiver request in consultation with the CFT. Once a determination is made, the person who requested the waiver of presumptive transfer, along with any other parties to the child welfare case, shall receive notice of the county placing agency's determination of whether to waive presumptive transfer.
- The individual who requested the waiver or any other party to the case who disagrees with the determination made by the placing agency may request judicial review prior to the county's determination becoming final.
- The court may set the matter for hearing and may confirm or deny the transfer of responsibility or application of an exception based on the best interest of the child.
- If the court confirms the waiver request, the responsibility for authorization of an payment for SMHS shall remain with the child's county of original jurisdiction.

- If the waiver is denied, the responsibility for authorization and payment of SMHS shall transfer to the child's county of residence. The case carrying SW shall notify the MHP of county of original jurisdiction and the MHP of the county of residence within three business days of the receipt of the judicial denial, provide the required documentation and change the foster child's residence address in the MEDS to the child's address in the county of residence. The case carrying SW will notify the MHP where the child resides that the change in MEDS has occurred within two business days of making the change. The MHP where the child resides shall include the foster child in its caseload for claiming purposes.
- The case carrying SW shall inform the MHP in the county of original jurisdiction within three business days of all final determination for a waiver regarding a foster child receiving SMHS under the responsibility of the county of original jurisdiction. The following information shall be provided:
 - Determination of the exception(s) that support the waiver; and
 - Exception(s) claimed as the basis for the request.
- A request for a waiver, the exception(s) claimed as the basis for the request, as determination of whether a waiver is determined to be appropriate, and any objections to determination shall be documented in the child's case plan.

Expedited Transfer

California WIC Section 14717.1(b)(2)(F) requires a procedure for expedited transfers within forty-eight hours of placement of the foster child or youth outside of the county of original jurisdiction. In situations when a foster child or youth is in imminent danger to themselves or others or experiencing an emergency psychiatric condition, MHPs must provide SMHS immediately, and without prior authorization.

There may be instances when a child or youth must be moved to a new placement outside of the county of original jurisdiction for their safety and a CFT meeting is unable to be convened prior to placement. In these instances, the county placing agency must immediately contact the MHP in the county of residence to notify the MHP of the placement and the need to provide or arrange and pay for SMHS to meet the needs of the child or youth. County may use the presumptive transfer county points of contact list to assist with the expedited transfer of SMHS.