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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (*Division 9 added by Stats. 1965, Ch. 1784.*)

PART 5.5. CHILDREN WITH SPECIAL HEALTH CARE NEEDS [17700 - 17739] (*Part 5.5 added by Stats. 1989, Ch. 1437, Sec. 1.*)

CHAPTER 4. Foster Care [17730 - 17739] (*Chapter 4 added by Stats. 1989, Ch. 1437, Sec. 1.*)

17730. (a) The department shall develop a program to establish specialized foster care homes for children with special health care needs to receive specialized in-home health care administered by the persons specified in subdivision (h) of Section 17710. The department shall limit the use of group homes and short-term residential therapeutic programs for children with special health care needs pursuant to subdivisions (c) and (d) of Section 17732. The program shall conform to the requirements set forth in this chapter, and shall be integrated with the foster care and child welfare services programs authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 and Chapter 5 (commencing with Section 16500) of Part 4.

(b) The department, in administering the licensing program and resource family approval program, shall not evaluate or have any responsibility for the evaluation of the specialized in-home health care provided in specialized foster care homes, group homes, or short-term residential therapeutic programs.

(c) This program shall be conducted by county welfare departments in conformance with procedures established by the department in accordance with this chapter.

(Amended by Stats. 2017, Ch. 732, Sec. 115. (AB 404) Effective January 1, 2018.)

17731. (a) The county shall develop a plan to place children with special health care needs in foster care. This plan shall be submitted to the State Department of Social Services and the State Department of Health Care Services, not later than April 1, 1990, before beginning placement of children with special health care needs in specialized foster care homes. This subdivision shall not invalidate any placement made before April 1, 1990. A county that has not submitted a plan by April 1, 1990, shall not continue to make placements of children with special health care needs until the plan has been submitted.

(b) Unless a local lead agency has been designated within the county, as described in Item 4260-113-890 of the Budget Act of 1989, the county department of social services shall be the lead agency with the responsibility of developing the plan to be submitted pursuant to subdivision (a). The county plan shall be formalized in an interagency agreement between the county department of social services and the other county and private agencies that are the involved parties.

(c) The county plan shall meet all the requirements specified in this subdivision. The regional center shall not be required to submit a plan. However, all requirements specified in this subdivision shall be met prior to a regional center placement of a child who is not a court dependent and who has special health care needs.

(1) (A) Prior to the placement of a child with special health care needs, an individualized health care plan, which may be the hospital discharge plan, shall be prepared for the child and, if necessary, in-home health support services shall be arranged. The individualized health care plan team shall be convened by the county department of social services caseworker or the regional center caseworker, to discuss the specific responsibilities of the person or persons specified in subdivision (h) of Section 17710 for provision of in-home health care in accordance with the individualized health care plan developed by the child's physician or their designee. The plan may also include the identification of any available and funded medical services that are to be provided to the child in the home, including, but not limited to, assistance from registered nurses, licensed vocational nurses, public health nurses, physical therapists, and respite care workers. The individualized health care plan team shall delineate in the individualized health care plan the coordination of health and related services for the child and the appropriate number of hours needed to be provided by any health care professional designated to monitor the child's individualized health care plan pursuant to paragraph (8), including, if the child is in a certified home, the registered nurse employed by or on contract with the foster family agency to supervise and monitor the child.

(B) If the child's placement is in a Group Home for Children with Special Health Care Needs, as defined in paragraph (2) of subdivision (a) of Section 4684.50, the individualized health care plan shall include all of the requirements under subdivision (a) of Section 4684.68.

(2) A child welfare services case plan or regional center individual program plan shall be developed in accordance with applicable regulations, and arrangements made for nonmedical support services.

(3) Foster parents shall be trained by health care professionals pursuant to the discharge plan of the facility releasing the child being placed in, or currently in, foster care. Additional training shall be provided as needed during the placement of the child and to the child's biological parent or parents if the child is being reunified with the child's family.

(4) Children with special health care needs shall be placed in the home of the prospective foster parent subsequent to training by a health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care.

(5) Assistant caregivers, on-call assistants, respite care workers, and other personnel caring for children with special health care needs shall complete training or additional training by a health care professional in accordance with paragraph (3).

(6) A foster parent who is a health care professional or staff member who is a health care professional shall not be required to complete any training or additional training determined by the responsible individualized health care plan team to be unnecessary on the basis of their professional qualification and expertise.

(7) No health care professional shall provide in-home health care to any child with special health care needs placed in a group home after November 1, 1993, unless the individual health care plan team for the child:

(A) Documents that the health care professional has the necessary qualifications and expertise to meet the child's in-home health care needs.

(B) Updates the documentation provided pursuant to subparagraph (A) each time the child's special health care needs change.

(8) Specialized foster care homes, group homes, and short-term residential therapeutic programs caring for children with special health care needs shall be monitored by the county or regional center according to applicable regulations. The health care plan for each child with special health care needs shall designate which health care professional shall monitor the child's ongoing health care, including in-home health care provided by persons specified in subdivision (h) of Section 17710. Where the child is placed in a certified home, the designated health care professional shall be the registered nurse employed by or on contract with the foster family agency to supervise and monitor the child.

(9) The workload of the health care professional supervising or monitoring a child's ongoing health care in a certified home shall be based on the cumulative total hours specified in the individualized health care plans for children assigned to the health care professional. In no case shall the health care professional's regular workload based on the cumulative total hours specified in the individualized health care plans for children assigned to the health care professional be more than 40 hours per week.

(10) The child's individualized health care plan shall be reassessed at least every six months during the time the child is placed in the specialized foster care home, to ensure that specialized care payments are appropriate to meet the child's health care needs.

(11) The placement agencies shall coordinate the sources of funding and services available to children with special health care needs in order to maximize the social services provided to these children and to avoid duplication of programs and funding.

(Amended by Stats. 2021, Ch. 76, Sec. 61. (AB 136) Effective July 16, 2021.)

17732. (a) No more than two children with or without special health care needs shall reside in a specialized foster care home with the following exceptions:

(1) A specialized foster care home may have a third child with or without special health care needs placed in that home provided that the capacity, as determined by the department or county pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code or Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 is not exceeded and provided that all of the following conditions have been met:

(A) The child's placement worker has determined and documented that no other placement is available.

(B) For each child in placement and the child to be placed, the child's placement worker has determined that the child's psychological and social needs will be met by placement in the home and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in children placed in the specialized foster care home and the two-child capacity limit is exceeded.

(C) The individualized health care plan team responsible for the ongoing care of each child with special health care needs involved has considered the number of adoptive, biological, and foster children, and children in guardianship living in the home and determined that the two-child limit may be exceeded without jeopardizing the health and safety of that child, and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in children placed in the specialized foster care home and the two-child capacity limit is exceeded.

(2) A licensed small family home may exceed the two-child placement limit and accept children with or without special health care needs up to capacity, as determined by the department pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, if the conditions in paragraph (1) have been met for both the third foster child and each foster child placed thereafter, and the following additional conditions have been met:

(A) At least one of the children in the facility is a regional center client monitored in accordance with Section 56001 and following of Title 17 of the California Code of Regulations.

(B) Whenever four or more children are physically present in the facility, the licensee of the small family home has the assistance of a caregiver to provide specialized in-home health care to the children except that:

(i) Night assistance shall not be required for those hours that the individualized health care plan team for each child with special health care needs has documented that the child will not require specialized medical services during that time.

(ii) The department may determine that additional assistance is required to provide appropriate care and supervision for all children in placement. The determination shall only be made after consultation with the appropriate regional center and any appropriate individual health care teams.

(C) On-call assistance is available at all times to respond in case of an emergency. The on-call assistant shall meet the requirements of paragraph (5) of subdivision (c) of Section 17731.

(D) The home is sufficient in size to accommodate the needs of all children in the home.

(b) Notwithstanding Section 1523.1 of the Health and Safety Code, a foster family home that has more than three children with special health care needs in its care as of January 1, 1992, and that applies for licensure as a small family home in order to continue to provide care for those children, shall be exempt from the application fee.

(c) Except for children with special health care needs placed in group homes before January 1, 1992, or placed in a group home for children with special health care needs, as defined in paragraph (22) of subdivision (a) of Section 1502 of the Health and Safety Code, a child with special health care needs shall not be placed in any group home, short-term residential therapeutic programs, or combination of group homes, or combination of short-term residential therapeutic programs, for longer than a short-term placement of 120 calendar days. The short-term placement in the group home or short-term residential therapeutic program shall be on an emergency basis for the purpose of arranging a subsequent placement in a less restrictive setting, such as with the child's natural parents or relatives, with a foster parent or foster family agency, or with another appropriate person or facility. The 120-day limitation shall not be extended, except by the approval of the director or their designee. For children placed after January 1, 1992, the 120-day limitation shall begin on the effective date of the amendments to this section made during the 1993 portion of the 1993–94 Regular Session.

(d) A child with special health care needs shall not be placed in a group home or short-term residential therapeutic program unless the child's placement worker has determined and documented that the group home or short-term residential therapeutic program has a program that meets the specific needs of the child being placed and there is a commonality of needs with the other children in the group home or short-term residential therapeutic program.

(e) The Legislature finds and declares that the amendments to this section made by the act that added this subdivision are declaratory of existing law.

(Amended by Stats. 2021, Ch. 76, Sec. 62. (AB 136) Effective July 16, 2021.)

17732.1. (a) It is the intent of the Legislature that minor children who are residing in specialized foster care home placements on or after January 1, 1997, be allowed to remain in those homes upon reaching majority, through 22 years of age, in order to ensure continuity of care during completion of publicly funded education.

(b) A child with special health care needs may remain in a specialized foster care home, as defined in subdivision (i) of Section 17710, after 18 years of age if all of the following requirements are met:

(1) The child was a resident in the home prior to 18 years of age.

(2) A determination regarding whether the child may remain as a resident after 18 years of age is made through the agreement of all parties involved, including the resident, the foster parent, the social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator, as appropriate. This determination shall include a needs and service plan that

contains an assessment of the child's needs and of continued compatibility with the other children in placement. The needs and service plan shall be completed within the six months prior to the child's 18th birthday and shall be updated with any significant change and whenever there is a change in household composition. The assessment shall be documented and maintained in the child's file, and shall be made available for inspection by the licensing staff or the county child welfare agency.

(3) The regional center monitors and supervises its placements, as part of its regular and ongoing services to clients, to ensure the continued health and safety, appropriate placement, and compatibility of the developmentally disabled adult with special health care needs.

(c) The department shall notify small family home applicants, as part of its orientation process, that the state Foster Family Home and Small Family Home Insurance Fund does not expand existing coverage in Article 2.5 (commencing with Section 1527) of Chapter 3 of Division 2 of the Health and Safety Code for liability resulting from the provision of care to individuals over 18 years of age.

(Amended by Stats. 2017, Ch. 732, Sec. 118. (AB 404) Effective January 1, 2018.)

17732.2. (a) In determining the capacity of a specialized foster care home pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code or Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4, the department or county shall consider all adoptive, biological, and foster children, and children in guardianship living in the home.

(b) The Legislature finds and declares that this section is declaratory of existing law.

(Amended by Stats. 2017, Ch. 732, Sec. 119. (AB 404) Effective January 1, 2018.)

17733. All documentation prepared by the county concerning the identification of a dependent child as a child with special health care needs, the placement of such a child in a specialized foster care home, assessments and reassessments of the level of care designation, the decision to place more than two children with special health care needs in a home, and contact among the health care team plan members who are monitoring the individualized health care plan of the child, shall be made part of the child's case record. Reports of training provided by the health care professional pursuant to the discharge plan of the facility releasing the child being placed in foster care shall also be included in the case record.

(Added by Stats. 1989, Ch. 1437, Sec. 1. Effective October 2, 1989.)

17734. Each county shall report to the department on a regular basis on the conduct and effectiveness of the program provided for in this chapter. These reports shall be submitted in conformance with instructions provided by the department. These reports shall include, but not be limited to, all of the following data:

(a) An estimate of the number of children adjudicated dependents of the juvenile court under Section 300 who have special health care needs during the reporting period.

(b) The number of children with special health care needs in (1) hospitals or other institutional placements, (2) group homes, and (3) short-term residential therapeutic programs at the beginning of the reporting period.

(c) The number of children with special health care needs in specialized foster care homes during the reporting period.

(d) The number of children with special health care needs placed in specialized foster care homes during the reporting period.

(e) The cost of providing specialized placements for children with special health care needs during the reporting period.

(Amended by Stats. 2017, Ch. 732, Sec. 120. (AB 404) Effective January 1, 2018.)

17735. Commencing in 1991, a progress report on the program provided for in this chapter shall be included in the child welfare services report to the Legislature required by Section 16512.

The department shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes.

(Added by Stats. 1989, Ch. 1437, Sec. 1. Effective October 2, 1989.)

17736. Notwithstanding any other law, including Sections 1250, 1251, 1254, 1270, 1501, 1502, 1505, 1507, 1521, 1530.6 (as added by Chapter 391 of the Statutes of 1977), 1550, 11002, and 11154 of the Health and Safety Code, and Sections 2052, 2725, 2732, and 2795 of the Business and Professions Code, all of the following apply:

(a) (1) Counties and regional centers shall be permitted to place children with special health care needs in foster family homes, small family homes, group homes, short-term residential therapeutic programs, foster family agencies, and resource families.

(2) Foster family agencies shall be permitted to place children with special health care needs in certified family homes and resource families.

(b) Counties, regional centers, and foster family agencies shall permit all of the following:

(1) A foster parent, an assistant caregiver, an on-call assistant, and a respite caregiver meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a specialized foster care home, specialized in-home health care to a child, as described in the child's individualized health care plan.

(2) The licensee and other personnel meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in the child's individualized health care plan, provided that the child was placed as of November 1, 1993, or placed in a group home for children with special health care needs, as defined in paragraph (22) of subdivision (a) of Section 1502 of the Health and Safety Code.

(Amended by Stats. 2021, Ch. 76, Sec. 63. (AB 136) Effective July 16, 2021.)

17737. Nothing in this chapter shall be construed to prevent children with special health care needs who have adoption as a case plan goal from receiving services under this program.

(Added by Stats. 1989, Ch. 1437, Sec. 1. Effective October 2, 1989.)

17738. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall adopt emergency regulations to implement the program provided for in this chapter. The emergency regulations shall remain in effect for no more than 120 days, unless the department complies with all the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

(Added by Stats. 1989, Ch. 1437, Sec. 1. Effective October 2, 1989.)

17739. (a) When determining the placement of a foster child who is medically fragile, as defined in subdivision (b) of Section 1760.2 of the Health and Safety Code, priority consideration shall be given to placement with a foster parent who is an individual nurse provider, as defined in subdivision (m) of Section 14043.26 of the Welfare and Institutions Code, who provides health services under the federal Early and Periodic Screening, Diagnosis and Treatment program (Section 1396d(a)(4)(B) of Title 42 of the United States Code).

(b) The priority consideration described in subdivision (a) shall be subordinate to the preference granted to a relative of the child under Section 361.3, in accordance with Section 671(a)(19) of Title 42 of the United States Code.

(c) This section does not prohibit a child welfare agency or the juvenile court from placing a medically fragile foster child in a specialized foster care home with appropriate support services or another appropriate placement if it is deemed to be in the best interest of the child.

(d) For purposes of placements made pursuant to this section, a medically fragile child shall be deemed to meet the definition of a "child with special health care needs," as defined by Section 17710, and shall be subject to this chapter and any other applicable regulations adopted pursuant to this chapter.

(Added by Stats. 2013, Ch. 490, Sec. 2. (AB 1133) Effective January 1, 2014.)