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Title 22@ Social Security

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Division 2@ Department of Social Services-Department of Health Services

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Part 2@ Health and Welfare Agency-Department of Health Services Regulations

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Subdivision 4@ Institutions and Boarding Homes for Persons Aged 16 and Above

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Chapter 3@ Adoptions Program Regulations [Renumbered]

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Subchapter 7@ Adoption Assistance Program/Aid for the Adoption of Children (AAP/AAC)

## **35333 Determination of Amount and Duration of AAP**

Article 3@ AAP Payments

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Section 35333@ Determination of Amount and Duration of AAP Benefit for All Children

### **Benefit for All Children**

The Adoption Assistance Program (AAP) provides benefits to facilitate the adoption of children who otherwise would not likely be adopted. The AAP benefit is a negotiated amount based upon the needs of the child and the circumstances of the adoptive family. The responsible public agency and the prospective adoptive parent(s) shall negotiate and agree on the amount of the AAP benefit according to the requirements of this section.

#### **(a)**

The responsible public agency shall make a good faith effort to negotiate the AAP benefit with the adoptive parents. (1) The agency shall 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) The agency shall base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents. (A) The agency shall 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. (3) There shall be no use of a means test of the child or the adoptive parent when determining the AAP benefit amount. (4) The amount of the negotiated AAP benefit shall be between zero and the maximum AAP benefit for

which the child is eligible. (5) The agency shall 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.

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The agency shall 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)**

The agency shall base the negotiated AAP benefit on the needs of the child and the circumstances of the family determined through discussion with the adoptive parents.

(A) The agency shall 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.

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**(3)**

There shall be no use of a means test of the child or the adoptive parent when determining the AAP benefit amount.

**(4)**

The amount of the negotiated AAP benefit shall be between zero and the maximum AAP benefit for which the child is eligible.

**(5)**

The agency shall 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)**

The responsible public agency, after consultation with the adoptive parents and the financially responsible county, if different from the agency, shall identify the child's care and supervision needs, including any special needs beyond basic care and supervision. (1) The adoption caseworker shall base the assessment of the child's needs and required level of care and supervision on all of the following information: (A) Direct observation of the child. (B) Information contained in the child's case record, including birth history and psychological, medical and other relevant assessments completed by licensed professionals. (C) Information about the child based on application of the county's foster care specialized care assessment instrument or any specialized foster care increment previously approved for the child. (D) Information provided by the adoptive parents.

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**(B)**

Information contained in the child's case record, including birth history and psychological, medical and other relevant assessments completed by licensed professionals.

**(C)**

Information about the child based on application of the county's foster care specialized care assessment instrument or any specialized foster care increment previously approved for the child.

**(D)**

Information provided by the adoptive parents.

**(c)**

The responsible public agency in consultation with the financially responsible county, if different from the agency, shall determine the maximum state-approved foster care maintenance payment that the child would have received in a foster family home if the child had remained in foster care. (1) No agency may use a Foster Family Agency (FFA) treatment rate or a payment made to a certified home by a FFA on behalf of the child for purposes of calculating the maximum AAP benefit for which the child is eligible. (A) If a child continues to require the additional services provided by the FFA, the adoptive placement shall continue to be funded by foster care payments rather than by AAP benefits until the AAP agreement is executed. (2) If the child is living in the adoptive family's home, the agency shall assume that, but for adoptive placement, the child would be living in a licensed foster family home. (A) If the child is placed for adoption within the financially responsible county, the AAP benefit shall not exceed the age-related, state-approved foster family home care rate, for which the child would otherwise be eligible. (B) If the child is placed for adoption in California but outside the financially responsible county, the AAP benefit shall not exceed the age-related, state-approved foster family home care rate of the financially responsible county

or that of the host county, whichever is higher, for which the child would otherwise be eligible. (C) If the child is placed for adoption outside California, the AAP benefit shall not exceed the applicable California age-related, state-approved foster family home care rate or the applicable rate in the host state, whichever is higher, for which the child would otherwise be eligible. (D) If the child also has any special needs which would qualify him or her for a specialized care increment (SCI), the AAP benefit shall include the applicable state-approved SCI in addition to the age-related, state-approved foster family home rate. 1. If the child requires a benefit based on a special need in addition to age-related state-approved foster family home rate, the agency shall document each special need by describing the need including the underlying problem or condition. 2. Specialized care provides a supplemental payment to a caregiver, in addition to the state-approved foster family home care rate, for the cost of supervision (and the cost of providing that supervision) to meet the additional daily care needs of a child who has a health or behavior problem. 3. If the child is placed for adoption outside the financially responsible county, the agency shall use the specialized care rate of the host county or that of the financially responsible county, whichever is higher, or that of the financially responsible county when the host county has no specialized care system. (3) If the child is a client of a California Regional Center (CRC) for the Developmentally Disabled, the maximum rate shall be pursuant to Welfare and Institutions Code Section 16121(c). Dual agency children who leave California shall be able to continue to receive AAP benefits reflected in the last AAP agreement signed prior to leaving California. (4) If the child is temporarily living away from the adoptive home and the AAP benefit is not authorized under Section 35334(a) or Section 35334(c), the agency shall consider the child to be living in the adoptive home. (5) The adoptive parents shall

provide a written statement on the form AAP 1 explaining how they plan to incorporate the adoptive child into their family and the impact, if any, on their family's lifestyle and circumstances. (6) "Circumstances of the Family" means circumstances of the family as defined in Welfare and Institutions Code Section 16119(d)(2). (A) The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living, or future plans.

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If the child is placed for adoption within the financially responsible county, the AAP benefit shall not exceed the age-related, state-approved foster family home care rate, for which the child would otherwise be eligible.

**(B)**

If the child is placed for adoption in California but outside the financially responsible county, the AAP benefit shall not exceed the age-related, state-approved foster family home care rate of the financially responsible county or that of the host county, whichever is higher, for which the child would otherwise be eligible.

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If the child is placed for adoption outside California, the AAP benefit shall not exceed the applicable California age-related, state-approved foster family home care rate or the applicable rate in the host state, whichever is higher, for which the child would otherwise be eligible.

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If the child also has any special needs which would qualify him or her for a specialized care increment (SCI), the AAP benefit shall include the applicable state-approved SCI in addition to the age-related, state-approved foster family home rate. 1. If the child requires a benefit based on a special need in addition to age-related state-approved foster family home rate, the agency shall document each special need by describing the need including the underlying problem or condition. 2. Specialized care provides a supplemental payment to a caregiver, in addition to the state-approved foster family home care rate, for the cost of supervision (and the cost of providing that supervision) to meet the additional daily care needs of a child who has a health or behavior problem. 3. If the child is placed for adoption outside the financially responsible county, the agency shall use the specialized care rate of the host county or that of the financially responsible county, whichever is higher, or that of the financially responsible county when the host county has no specialized care system.

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If the child is placed for adoption outside the financially responsible county, the agency shall use the specialized care rate of the host county or that of the financially responsible county, whichever is higher, or that of the financially responsible county when the host county has no specialized care system.

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If the child is a client of a California Regional Center (CRC) for the Developmentally Disabled, the maximum rate shall be pursuant to Welfare and Institutions Code Section 16121(c). Dual agency children who leave California shall be able to continue to receive AAP benefits reflected in the last AAP agreement signed prior to leaving California.

**(4)**

If the child is temporarily living away from the adoptive home and the AAP benefit is not authorized under Section 35334(a) or Section 35334(c), the agency shall consider the child to be living in the adoptive home.

**(5)**

The adoptive parents shall provide a written statement on the form AAP 1 explaining how they plan to incorporate the adoptive child into their family and the impact, if any, on their family's lifestyle and circumstances.

**(6)**

"Circumstances of the Family" means circumstances of the family as defined in Welfare and Institutions Code Section 16119(d)(2). (A) The agency should not control or participate in the adoptive family's choices regarding their lifestyle, standard of living, or future plans.

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lifestyle, standard of living, or future plans.

**(d)**

The agency shall complete the Adoption Assistance Program Negotiated Benefit Amount and Approval Form (AAP 6) and file in the child's AAP file. (1) When only age-related state-approved foster family home rate is requested by the family, the agency shall include a statement to that effect for retention in the child's AAP file.

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**(e)**

When agreement on the AAP benefit has been reached, the responsible public agency shall complete an Adoption Assistance Agreement (AD 4320) with the adoptive parents.(1) The agency shall complete the AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the AAP benefit is approved. (2) After completion of the Adoption Assistance Agreement (AD 4320), the adoptive parents shall have the right to use the AAP benefit to meet the child's needs as they deem appropriate without further agency approval.

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The agency shall complete the AAP 2 instructing the county to send a Notice of Action to the adoptive parents indicating that the AAP benefit is approved.

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After completion of the Adoption Assistance Agreement (AD 4320), the adoptive parents shall have the right to use the AAP benefit to meet the child's needs as they deem appropriate without further agency approval.

**(f)**

When the responsible public agency and the adoptive parents are unable to agree on an AAP benefit, the agency shall complete the AAP 2 instructing the county to send the adoptive parents a Notice of Action that the requested AAP benefit is denied. The agency shall specify the reason for denial.(1) If the adoptive parent does not agree on the AAP benefit, the parent may request a state hearing as instructed in the Notice of Action pursuant to MPP Section 22-004.

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**(g)**

A reassessment of the AAP benefit shall be required every two (2) years beginning from the date of a signed Adoption Assistance Program Agreement (AD 4320) between the agency and the adoptive parents. (1) Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless one of the following occurs:(A) The child has attained the age of 18 or 21;

1. Payment of the AAP benefit shall terminate in the month in which the child becomes 18 years of age or if the agency has determined that the child has a mental or physical disability that warrants the continuance of assistance, in the month in which the child becomes 21 years of age. a. Starting January 1, 2012, youth who have an initial AAP agreement signed on or after their 16th birthday and who meet the conditions stated in Welfare and Institutions Code Section 11403, may be eligible for the extension of AAP benefits to the age of 19, the age of 20 effective January 1, 2013, and the age of 21 effective January 1, 2014. (B) The adoptive parents are no longer legally responsible for the support of the child. (C) The responsible public agency determines the adoptive parents are no longer providing support to the child.

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Once a child is determined eligible to receive AAP, he or she remains eligible and the subsidy continues unless one of the following occurs: (A) The child has attained the age of 18 or 21; 1. Payment of the AAP benefit shall terminate in the month in which the child becomes 18 years of age or if the agency has determined that the child has a mental or physical disability that warrants the continuance of assistance, in the month in which the child becomes 21 years of age. a. Starting January 1, 2012, youth who have an initial AAP agreement signed on or after their 16th birthday and who meet the conditions stated in Welfare and Institutions Code Section 11403, may be eligible for the extension of AAP benefits to the age of 19, the age of 20 effective January 1, 2013, and the age of 21 effective January 1, 2014. (B) The adoptive parents are no longer legally responsible for the support of the child. (C) The responsible public agency determines the adoptive parents are no longer providing support to the child.

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**(B)**

The adoptive parents are no longer legally responsible for the support of the child.

**(C)**

The responsible public agency determines the adoptive parents are no longer providing support to the child.