

1 EDMUND G. BROWN JR.  
 Attorney General of California  
 2 SUSAN M. CARSON  
 Supervising Deputy Attorney General  
 3 GEORGE PRINCE  
 Deputy Attorney General  
 4 State Bar No. 133877  
 455 Golden Gate Avenue, Suite 11000  
 5 San Francisco, CA 94102-7004  
 Telephone: (415) 703-5749  
 6 Fax: (415) 703-5480  
 E-mail: George.Prince@doj.ca.gov

7 *Attorneys for Defendants*

8  
 9 IN THE UNITED STATES DISTRICT COURT  
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 11  
 12

13 **CALIFORNIA ALLIANCE OF CHILD**  
 14 **AND FAMILY SERVICES,**

15 Plaintiff,

16 v.

17 **JOHN WAGNER, Director of the California**  
 18 **Department of Social Services, in his official**  
 19 **capacity; GREGORY ROSE, Deputy**  
 20 **Director of the Children and Family**  
 21 **Services Division of the California**  
 22 **Department of Social Services, in his official**  
 23 **capacity,**

24 Defendants.

CV 09-4398 MHP

**SUBMISSION RE: STATE'S PLAN FOR DETERMINING AMOUNT OF FOSTER CARE MAINTENANCE PAYMENTS FOR GROUP HOMES**

Judge: The Hon. Marilyn H. Patel

Action Filed: September 18, 2009

25 Within its November 18, 2009 Memorandum & Order Re: Plaintiff's Motion for a  
 26 Preliminary Injunction, this Court stated:

27 Counsel for the parties agreed at oral argument that the RCL system and group  
 28 homes do not distinguish between federally eligible and non-federally eligible children in the rates set or the services provided. This raises the question whether any funding scheme for foster care maintenance payments that discriminates among federally eligible and non-federally eligible children can be carried out under California's system. To ensure

1 compliance with this injunction, the State SHALL file within twenty-one (21) days of  
2 entry of this order the State's plan for determining the amount of foster care maintenance  
3 payments for each group home that will satisfy this order.

4 (*Id.*, at 14:20-26.)

5 In accordance with the directive regarding the State's plan, attached as Exhibit A is a true  
6 and correct copy of ALL COUNTY LETTER NO. 09-76 (ACL 09-76), an instructional letter to  
7 county welfare directors and other officials involved in the administration of foster care group  
8 homes programs in California's 58 counties.

9  
10 ACL 09-76 contains two tables, Table 1 and Table 2, which set forth the standardized  
11 RCL schedules of group home rates for federally eligible foster children and non-federally  
12 eligible foster children, respectively, based on the dictates of the preliminary injunction.

13  
14 Dated: December 9, 2009

Respectfully submitted,

15 EDMUND G. BROWN JR.  
16 Attorney General of California  
17 SUSAN M. CARSON  
Supervising Deputy Attorney General

18 

19 GEORGE PRINCE  
20 Deputy Attorney General

*Attorneys for Defendants*

21 SF2009404973  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT A**



CDSS

JOHN A. WAGNER  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



ARNOLD SCHWARZENEGGER  
GOVERNOR

November 25, 2009

ALL COUNTY LETTER NO. 09-76

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHIEF PROBATION OFFICERS  
ALL LOCAL MENTAL HEALTH DIRECTORS  
ALL COUNTY ADOPTION AGENCIES  
ALL ADOPTION DISTRICT OFFICES  
ALL GROUP HOME PROVIDERS  
KARUK TRIBE

SUBJECT: CALIFORNIA ALLIANCE OF CHILD AND FAMILY SERVICES v. JOHN WAGNER, et.al. PRELIMINARY INJUNCTION PROHIBITING REDUCTIONS TO GROUP HOME RATES

REFERENCE: ASSEMBLY BILL X4 4  
WELFARE AND INSTITUTIONS CODE SECTION 11462(f)(1)  
WELFARE AND INSTITUTIONS CODE SECTION 11462(g)(4)  
WELFARE AND INSTITUTIONS CODE SECTION 11462(g)(5)  
ALL COUNTY LETTER NO. 08-01  
ALL COUNTY LETTER NO. 09-45  
ALL COUNTY LETTER NO. 09-47

This All County Letter (ACL) is to provide an update to ACL No. 09-47 which provided counties with instructions and information regarding the Temporary Restraining Order (TRO) issued on November 4, 2009, in the case of California Alliance of Child and Family Services v. John Wagner, et.al. The TRO issued by the United States District Court for the Northern District of California directed the California Department of Social Services (CDSS) to halt implementation of the group home rate reductions mandated in Welfare and Institutions Code (W&IC) section 11462(g)(5) for ten days pending a hearing on the Alliance's request for a preliminary injunction. On November 13, 2009, the United States District Court for the Northern District of California issued a preliminary injunction to continue the TRO past November 14, 2009, and ongoing.

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

All County No. 09-76  
Page Two

The CDSS has filed an appeal to the Ninth Circuit court for a stay order pending appeal. The order affects only rates paid for foster children in group home placements who have been determined to be eligible for federal Title IV-E funding (federally eligible foster children). The Court is also considering whether prohibiting the rate reduction for these federally eligible foster children should be applied retroactively to services rendered beginning October 01, 2009. If there is either a stay or a decision on retroactive application, the CDSS will provide you with further information and instruction in a future ACL. Until then, below are instructions and guidance to the counties.

Until further notice, for services rendered November 04, 2009 forward, counties shall pay the rates shown in Table 1 below for all ***federally eligible children***. This represents the rates effective January 1, 2008, before the ten percent reduction mandated in W&IC Section 11462(g)(5). See ACL No. 08-01, dated January 17, 2008.

**TABLE 1**

GROUP HOMES Standardized Schedule of Rates for Federally Eligible Foster Children Effective January 1, 2008		
RCL	Point Ranges	Standard Rate
1	Under 60	\$1,486
2	60-89	1,889
3	90-119	2,287
4	120-149	2,689
5	150-179	3,088
6	180-209	3,489
7	210-239	3,889
8	240-269	4,291
9	270-299	4,690
10	300-329	5,092
11	330-359	5,490
12	360-389	5,891
13	390-419	6,294
14	420 & Up	6,694

All County No. 09-76  
Page Three

Until further notice, for services rendered November 04, 2009 forward, counties shall continue to pay the rates shown in Table 2 below for all *non-federally eligible children*. This represents the rates effective October 01, 2009, and includes the ten percent rate reduction mandated in W&IC Section 11462(g)(5). See ACL No. 09-45, dated September 30, 2009.

**TABLE 2**

GROUP HOMES Standardized Schedule of Rates for Non-Federally Eligible Foster Children Effective October 1, 2009		
RCL	Point Ranges	Standard Rate
1	Under 60	\$1,337
2	60-89	1,700
3	90-119	2,058
4	120-149	2,420
5	150-179	2,779
6	180-209	3,140
7	210-239	3,500
8	240-269	3,862
9	270-299	4,221
10	300-329	4,583
11	330-359	4,941
12	360-389	5,302
13	390-419	5,665
14	420 & Up	6,025

The counties shall pay group home rates for federally eligible children in accordance with Table 1 and for non-federally eligible children in accordance with Table 2. Each county should consider its current accounting systems and reconciliation processes to determine the most efficient manner in which to make payments under these two separate rate schedules.

All County No. 09-76  
Page Four

Until automation changes can be made to payment systems, counties may consider issuing checks to all children in group homes under the schedule in Table 2 and then issuing supplemental checks for federally eligible children in order to provide complete payments. Supplemental checks should be issued as quickly as possible in order to avoid requests for a due process hearing because of an underpayment. It is suggested that counties consider including a notice in all checks, regardless of federal eligibility, which states "a supplemental check will be issued if necessary for all federally eligible children" in order to avoid unnecessary requests for due process.

The CDSS recommends that counties make adjustments in a manner that reduces the need for overpayment recovery. Depending on the outcome of the pending court proceedings, CDSS will issue an additional ACL.

Please contact the Foster Care Rates Bureau at (916) 324-4857, if you have any questions regarding the content of this ACL.

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division

c: CWDA