



# Fostering Connections After 18



## Benefits Essentials

## Trainee's Guide

---

**Version 2.0 | August 6, 2012**

# Benefits Essentials

---

## TRAINEE CONTENT

---

### Table of Contents

Segment	Page
Background .....	3
Learning Objectives .....	4
AB12 Eligibility.....	6
Participation Conditions .....	11
Extended Foster Care Placements.....	17
AFDC-FC .....	19
CalWORKs.....	21
Eligibility Verification .....	22
Resolving Disputes.....	23
Extended Kin-GAP .....	24
Benefits for Youth with Non-Related Legal Guardians.....	27
Adoption Assistance Program (AAP).....	28
Supplemental Security Income .....	30
My Action Plan .....	34

These materials were adapted from content provided by the Alliance for Children’s Rights.

## Background

---

AB12, the California Fostering Connections to Success Act was signed into law on September 30, 2010. It was authored by Speaker Karen Bass and Assembly Member Jim Beall. AB12 is legislation that authorizes California to:

- Extend foster care until age 21
- Authorize the federal Kin-GAP benefit to our relative guardians and create a parallel state Kin-GAP program for non-federally eligible youth. The new Kin-GAP program includes several key changes:
  - The federal government will now pay a 50% share of cost for federally eligible youth
  - Only 6 months of placement with approved relative required prior to exiting foster care to Kin-GAP
  - The amount of the Kin-GAP benefit is determined through a negotiated agreement based on the needs of the child and updated at least every 2 years
  - Allows youth to enter Kin-GAP after 6 months under a Voluntary Placement Agreement
  - Makes Kin-GAP available to families who move out of state
  - Provides Kin-GAP assistance to youth with a physical or mental disability up to age 21
  - Provides extended Kin-GAP assistance and AAP assistance to eligible youth up to age 21, provided youth entered guardianship or adoption at age 16 or later and meet participation requirements.

The changes to the Kin-GAP program went into effect on January 1, 2011. The extension of foster care to age 21 goes into effect on January 1, 2012.

AB12 was co-sponsored by the following agencies:

- Judicial Council of California
- California Alliance of Child and Family Services
- California Youth Connection
- Children's Law Center of Los Angeles
- County Welfare Directors Association of California
- John Burton Foundation
- Service Employees International Union
- The Alliance for Children's Rights
- Youth Law Center

## Learning Objectives

---

### CORE COMPETENCY

The trainee will understand the changes to benefits available to non-minor dependent youth as a result of the Federal Fostering Connections to Success Act, AB 12 and the 2011 Budget Bill.

#### Knowledge:

- K1.** The trainee will recognize the definition of the term non-minor dependent.
  
- K2.** The trainee will recognize the benefits available to non-minor dependent youth in extended foster care via
  - a. AFDC-FC
  - b. AAP
  - c. Kin-GAP
  - d. SSI
  - e. CalWORKs
  - f. Medi-Cal
  
- K3.** The trainee will recognize the eligibility process for non-minor dependent youth to access benefits via
  - a. AFDC-FC
  - b. AAP
  - c. Kin-GAP
  - d. SSI
  - e. CalWORKs
  - f. Medi-Cal
  
- K4.** The trainee will recognize the basic eligibility criteria for benefits available to non-minor dependent youth, including:
  - a. Specific court findings required for each benefit program
  - b. Participation requirements for each benefit program
  - c. Supervised placement setting for each benefit program
  - d. When each benefit program terminates (age limitations)
  - e. Eligibility criteria for different specialized rates in each program including specialized care increment, dual agency rates, non-medical out of home care rate.
  
- K5.** The trainee will recognize the five Program Participation requirements for non-minor dependent youth in extended foster care, Kin-GAP and AAP.

- K6.** The trainee will recognize the differences in benefits and eligibility for Federal and state benefits via
  - a. AFDC-FC
  - b. Kin-GAP
  
- K7.** The trainee will recognize educational and training vouchers available to non-minor dependent youth.
  
- K8.** The trainee will recognize the role of the social worker as an advocate for accessing benefits for non-minor dependent youth.
  
- K9.** The trainee will recognize the grievance process for challenging:
  - a. denial of benefits
  - b. inadequacy of the amount of benefits
  - c. termination of benefits
  - d. payee issues for youth in Supervised Independent Living Placements
  - e. payee issues for youth receiving SSI benefits
  - f. disagreements about non-minor dependent youth meeting at least one participation requirement

**Values:**

- V1.** The trainee will value the role of the social worker as an advocate for accessing benefits for non-minor dependent youth.

## AB12 Eligibility

---

### **Fostering Connections Overview**

- Extends foster care until age 21
- Provides the federal Kin-GAP benefit to relative guardians and create a parallel state Kin-GAP program for non-federally eligible youth. The new Kin-GAP program includes several key changes:
  - The federal government will now pay a 50% share of cost for federally eligible youth
  - Youth can exit to Kin-GAP after only six months in placement with an approved relative
  - The amount of the Kin-GAP benefit is determined through a negotiated agreement that is based on the needs of the child and is updated at least every 2 years
  - Youth may enter Kin-GAP after 6 months in a voluntary placement agreement
  - Kin-GAP is available to families who move out of state
  - Kin-GAP assistance is available for youth with physical or mental disabilities until age 21
  - Provides Kin-GAP and AAP assistance to eligible youth up to age 21, provided youth entered guardianship or adoption at age 16 or later and meet participation requirements

Thanks to Fostering Connections, youth are allowed to remain in foster care up to age 21 as long as they meet eligibility criteria (see below).

Foster youth over age 18 are designated “non-minor dependents”.

Foster youth can decide whether or not they want to participate.

Extended foster care is an opt-out program. If the youth chooses to enter extended foster care when he or she turns 18, no special action is needed.

If the youth decides to leave care, a court hearing will be held to terminate dependency and the court retains general jurisdiction over the youth until age 21. During this time, the youth can decide to re-enter foster care at any time.

### **Basic Eligibility Requirements**

These are the main eligibility rules that a non-minor dependent youth must satisfy in order to continue to receive AFDC-FC after age 18 under AB 12.

- The youth must:

- Have an open court case with an order for out of home placement at age 18
- Satisfy at least 1 of 5 participation requirements,
- Meet with Social Worker and update TILCP
- Participate in a court (or administrative) review every 6 months
- Live in a licensed/approved supervised setting
- Probation youth must have completed all their rehabilitation goals and be eligible for transition jurisdiction

Non-minor dependents must sign a mutual agreement within 6 months of turning 18 to remain in foster care. They must also reside in an eligible placement and agree to work with a social worker or probation officer to meet goals of their Transitional Living Plan. (Please note that signing the mutual agreement is not a condition of payment.)

Youth will be eligible for extended foster care if they meet one or more of five defined program criteria. These are:

- Being in high school or an equivalent program
- Being enrolled in college, community college or vocational education program
- Being employed at least 80 hours a month
- Participating in a program or activity designed to remove barriers to employment
- Being unable to do one of the above requirements because of a medical condition

Youth who are custodial parents have the same rights to participate in foster care after age 18 as all other youth.

Youth who are consumers of the Regional Center services can continue to receive dual agency and supplemental rates.

Youth who meet the eligibility requirements to receive SSI (Supplemental Security Income) MAY be eligible to receive both at the same time.

### ***Fostering Connections After 18 Benefits***

The benefits of this legislation are:

- It promotes permanency for foster youth
- It enables youth to maintain a safety net of support while experiencing independence in a secure supervised living environment
- It will help youth better prepare for successful transition into adulthood

### **Values, Goals and Guiding principles of Fostering Connections After 18**

- Permanency
- Helping youth transition to lifelong connections
- Creating a collaborative youth-centered process
- Working proactively with youth to develop and reach independent living goals
- Helping youth gain real life experiences with independence and allowing them to learn from their mistakes
- And, most importantly, providing a safety net for the most vulnerable youth so they can achieve success living as independent adults.

### **Extended Foster Care Placements**

Youth will be able to remain in or move into four types of placements (the youth will work with a social worker or probation officer to determine the best placement, in the end the social worker or probation officer must approve the placement and placements must meet certain criteria):

1. An approved home of a relative or non-related extended family member (NREFM), licensed foster family home, foster family agency certified home, small family home, or home of a non-related legal guardian (approved by the court). This does not have to be the same placement the youth was in prior to turning 18.
2. Group home placement (up to age 19. Group Home placement is prohibited after age 19 UNLESS the youth meets the medical condition criteria).
3. Transitional Housing Placement Program (licensed) or THP – Plus Foster Care (approved). This is only until age 19.
4. Supervised Independent Living Setting (approved) (new option).
  - Such as:
    - An apartment
    - Room and board arrangements
    - College dorms
    - Shared room mate

### **Extended Kin-GAP**

To be eligible for federal Kin-GAP, youth must:

- 1) be in a foster care placement (either through the dependency court or delinquency court),
- 2) have lived with an approved relative for at least 6 months,
- 3) have a kinship guardianship established with that relative by juvenile court,
- 4) have his or her court case dismissed by either the dependency court or the delinquency court at the same time or subsequent to the guardianship being established.



Youth living with a relative under Kin-GAP will not require finger printing. The relative caregiver will receive the payment until the youth is 21 years of age, if the Kin-GAP payment commenced when the youth was age 16 or older.

### **Re-entry**

In terms of eligibility – all youth have the right to reentry foster care at any point prior to age 20 (or age 21 if further extended). In order to reenter, the youth just has to sign a reentry agreement (county also has to sign) and the beginning date of aid is the date that the reentry agreement is signed. The payment for placement is effective the date that the agreement was signed.

### **Pregnant and Parenting Youth**

Pregnant and parenting youth are eligible for extended foster care and the benefits mirror the benefits available for pregnant and parenting teens under age 18 in foster care. There is a separate curriculum being developed about the legal rights/benefits/eligibility issues/education issues that are specific to this population. For purposes of benefits/eligibility – the take away message is that these youth are eligible for extended foster care and for the infant supplement to support their child(ren).

One new option for pregnant/parenting non-minor dependent youth is to live in a SILP – where the non-minor dependent youth can receive payment directly and also receive the infant supplement to cover the needs of the infant/child. This increases the total monthly payment for a parenting non-minor dependent youth in a SILP.

For pregnant and parenting non-minor dependent youth who live in a foster home or a relative's home – they continue to be eligible for the whole family foster home and the \$200 supplement for completing the Shared Responsibility Plan.

### **Affirmative Obligation**

While this training is not focused on the duties/responsibilities/role of the social worker/probation officers in terms of case management/supervision, there are important duties associated to eligibility which must be mentioned.

The most important eligibility related responsibility for social workers /probation officers is the AFFIRMATIVE obligation to assist non-minor dependent youth who want to remain in foster care in meeting the participation conditions. This means social workers/probation officers will assist in providing services to the participating non-minor dependent to maintain their eligibility for extended foster care. When the county requests to terminate jurisdiction at a 391 hearing, the county will have to

demonstrate reasonable efforts to assist the non-minor dependent youth in meeting a participation condition.

### ***Mutual Agreement***

In order to participate in extended foster care, youth are required to sign a mutual agreement, but it is very important to note that the mutual agreement is not a condition of payment. What this means is that lack of a signed mutual agreement within six months of the youth turning 18 will not result in a Notice of Action to terminate benefits. Rather, if the youth has not signed the mutual agreement the social worker or probation officer will schedule a 391 hearing asking the court to terminate jurisdiction due to the non-minor dependent youth's refusal to sign the mutual agreement (which indicates that he or she doesn't want to remain in care).

The purpose of the mutual agreement is to acknowledge the self determination of the young adult in extended foster care (as opposed to the parenting of children and youth under 18 in traditional foster care). The mutual agreement gives the youth a real voice – right at the outset of the new relationship with the foster care system – in choosing to remain in care, understanding what that means, and knowing what he or she can expect to receive as a result of that decision.

**More information is available at [www.After18ca.org](http://www.After18ca.org).**

## Participation Conditions

---

There are five extended foster care participation conditions. In order to participate in extended foster care, youth must meet the eligibility requirements, must be in a licensed or approved placement (described below) and must meet at least one of the following participation conditions as documented in the TILP:

- **Be in high school or a similar program** (be enrolled in at least one course in any course of study leading towards completion of a high school diploma, General Equivalency Degree, High School Proficiency Certificate, or High School Completion Certification)

In order to satisfy the criteria of completing secondary education or a program leading to an equivalent credential the non-minor dependent must be enrolled in at least one course.

Enrollment can be in a public high school, charter high school, an alternative high school, a nonpublic school, adult education classes, or any other course of study leading towards completion of a high school diploma, General Equivalency Degree, High School Proficiency Certificate, or High School Completion Certification. Enrollment is deemed continuous during any summer or other scheduled break in the school program.

A non-minor dependent who is participating in special education activities as described in his or her Individualized Education Plan is deemed to be in compliance with this participation condition.

Verification of enrollment can be satisfied by requesting that the participant provide proof of enrollment that indicates both the credit and non-credit courses that the student is enrolled in. Acceptable documentation could include, but is not limited to, an unofficial transcript, an electronic copy of the student's current course schedule, or a letter from the institution or other similar documentation.

OR

- **Attend college, community college or a vocational education program** (be enrolled at least half-time in a college, community college, trade school or training program)

In order to satisfy the criteria of enrollment in an institution which provides post-secondary or vocational education a non-minor dependent must be enrolled at least half time.

In most institutions, including the California public college and university systems, this will consist of enrollment in at least six course units. In some cases a different standard of tracking enrollment may be utilized by an institution, such as some vocational courses which define enrollment in “clock hours” rather than credits, and the half-time standard should be applied accordingly. Participants who are enrolled in post-secondary education or vocational training at less than half time, but in at least one course, do not qualify under this participation condition, but can qualify for EFC benefits under participation condition #3 (an activity designed to promote, or remove barriers to employment). Further, satisfaction of the enrollment requirement does not require formal admission to an institution and includes situations where a student is enrolled in individual courses without being enrolled in the institution, such as University extension courses. Courses taken at any institution which is licensed to operate in the State of California, or taken at a comparable institution located or licensed to operate in another state, shall count towards the participation requirement. Non-minor dependents can take coursework at multiple institutions to equal the half-time standard.

This provision also applies to participants on a summer or other break from school or who are awaiting admissions determinations or pending enrollment in courses. Official school breaks do not disqualify youth from meeting the eligibility criteria.

Additionally, if a student drops courses mid-term (whether considered voluntary or involuntary), this shall not result in automatic disqualification from extended foster care benefits. The non-minor dependent should be given a reasonable amount of time to start participation in a different participation category. Participation in criteria #3 is the best option to transition a non-minor dependent into another category or to bridge the gap if they want to enroll in classes again the next semester.

Verification of enrollment at a post secondary or vocational institution can be made by requesting that the participant provide proof of enrollment that indicates the credit and noncredit courses that the student is enrolled in. Acceptable documentation could include, but is not limited to, an unofficial transcript, an electronic copy of the student’s current course schedule, or a letter from the institution or other similar documentation. Official transcripts are not required.

OR

- **Work at least 80 hours a month** (have *paid* employment at one or more full or part time jobs, including paid internships, apprenticeships, Ticket to Work or work study programs)

In order to satisfy the criteria of employed for at least 80 hours a month a non-minor dependent must be engaged in full or part time employment activities which includes, but is not limited to paid internships, apprenticeships, Ticket to Work (for individuals receiving Supplemental Security Income), or work study programs. The non-minor dependent can be engaged in a combination of paid employment activities at one or more places of employment in order to meet the 80 hours a month requirement. As long as the non-minor dependent is scheduled to work at least 80 hours a month, he or she shall be deemed to meet this participation condition even if the non-minor dependent does not actually work that number of hours due to holidays, illness, approved vacation (by employer) or other circumstances beyond the non-minor's control.

Any earned income shall be disregarded for purposes of eligibility determination as specified in the non-minor dependent's Transitional Independent Living Case Plan.

Verification of employment for at least 80 hours per month may include, but not be limited to, providing a copy the non-minor dependent's work schedule, pay stubs, a statement of hiring from the employer, or a statement of acceptance from the apprenticeship or internship program. Verification should be obtained in the manner that respects the non-minor dependent's privacy and the confidentiality of their foster care status by enabling the non-minor dependent to utilize whatever verification the employer or internship commonly provides and without asking the non-minor to obtain any special documentation that may impinge on his or her privacy.

OR

- **Participate in a program or activity designed to remove barriers to employment** (This includes unpaid employment, internships, volunteer activities, vocational rehabilitation, participation in a substance abuse program and other activities as long as the youth is participating in regular meetings with the social worker/probation officer to develop and implement the Transitional Independent Living Plan)
  - This is the safety net category and very broad. It catches all youth that want to participate in AB 12 but can't yet meet the school/work requirements. It is intended to be

a transitional category where the goal is for youth to move into work/education activities (categories 1 – 3)

A program or activity designed to promote, or remove barriers to employment is an individualized program based on a youth centered assessment of skills and needs.

These activities could be self-directed, completed in conjunction with the youth's caregiver or social worker, or part of an organized program. Unpaid employment, internships, volunteer activities, vocational rehabilitation or participation in a substance abuse program also meet this participation condition.

A non-minor dependent shall be deemed participating in a program or activity designed to promote, or remove barriers to employment as long as the youth is participating in regular meetings with his or her social worker/probation officer to develop and implement his or her Transitional Independent Living Case Plan.

A non-minor dependent who is meeting eligibility requirements solely through this participation condition should be working toward developing skills that will help him/her to transition to the education or employment participation condition to ensure that he/she is adequately prepared to transition to independence at the end of his or her time in EFC. This participation condition is intended to help bridge gaps and assist a non-minor dependent's readiness for achieving more responsibility in college, vocational school or employment.

This participation condition should always be used as a back-up plan for the non-minor dependent's TILP in case the non-minor dependent intentionally or unintentionally experiences a break in participation in an educational or employment activity part way through the six month eligibility certification period. For example the non-minor dependent quits his or her job but does not have other employment lined up.

For non-minors who are re-entering foster care after a period of trial independence, the initial meeting with the social worker/probation officer to select the participation activity satisfies the requirement of removing barriers to employment. However, the non-minor must begin participating in the activity within a reasonable amount of time after re-entry, not to exceed 30 days.

OR

- **Be unable to do one of the above requirements because of a medical condition** (must have a short or long term medical condition that prevents the youth from participating in the other participation conditions, as determined by a doctor or mental health practitioner)

In order to satisfy the eligibility criteria set forth in subparagraph (b)(5) of Section 11403, two determinations must be made. First, a non-minor dependent must have a “medical condition.” Second, the medical condition must render the minor incapable of doing any of the activities described in subparagraphs (1) to (4).

A “medical condition” is a physical or mental state that limits a non-minor dependent’s ability to participate in any of the activities described in subparagraphs (1) through (4), as verified by a healthcare practitioner. A healthcare practitioner is defined as any individual provider who is licensed or otherwise authorized by the state, county or city in which the provider is located to provide services related to physical or mental health. If a non-minor dependent does not undertake remedial measures to treat a verified medical condition, he or she will still be deemed to have a qualifying medical condition under this subparagraph.

A non-minor dependent is deemed “incapable of doing any of the activities described in subparagraphs (1) to (4)” if he or she cannot consistently meet the criteria of subparagraphs (1) to (4).

Verification that a non-minor cannot consistently meet the full requirements of subparagraphs (1) to (4) can be satisfied by written documentation by a healthcare practitioner which explains that one of the reasons that the non-minor is unable to meet the criteria of subparagraphs (1) to (4) is because he or she has a “medical condition” as defined in this subsection.

A non-minor dependent who is eligible for a disability program including, but not limited to, Supplemental Security Income, Social Security Disabled Adult Child benefits, State Disability Insurance, or Regional Center Services is deemed to have a medical condition that renders him/her incapable of doing one of the other activities. The non-minor dependent is deemed eligible for extended benefits under this section upon a verification of eligibility for a disability program and need not obtain additional written verification.

Verification of disability benefits status may include an award letter, notice of action or copy of the check or benefit identification card.

The non-minor dependent, unless incapable, is responsible for obtaining and providing the social worker/probation officer one of the following: (1) the written verification from a healthcare practitioner stating that the non-minor dependent has a medical condition and that he or she cannot consistently meet the full requirements of subparagraphs (1) to (4) or (2) the verification of the non-minor dependent's disability benefits status.

### ***Certification of Eligibility***

Every six months the social worker/probation officer and youth meet to complete the Six-Month Certification of Eligibility (SOC 161). During this time the participation condition and a back-up participation condition is specified and the social worker/probation officer documents that the condition is met. The youth and social worker/probation officer discuss progress and participation during their monthly meetings.

Each of these conditions may be, but does not have to be, combined with one or more of the other four conditions to satisfy participation requirements. The non-minor dependent youth's plan of participation is described in his or her Transitional Independent Living Case Plan. This provides the basis for the six month certification of eligibility made by the social worker/probation officer to the eligibility worker and the court. If the youth is transitioning from one participation condition to another, he or she is still considered to be participating in his or her 6 month Transitional Independent Living Case Plan. It is the youth's responsibility to let the social worker/probation officer know about any changes in the participation plan. The youth and social worker/probation officer should work together collaboratively to ensure ongoing eligibility as the youth assumes increasing levels of responsibility and independence.



## Extended Foster Care Placements

---

In order to participate in extended foster care, in addition to meeting the eligibility requirements and the participation conditions, youth must be in a licensed or approved placement. All the traditional placement options are included in the possible approved placement settings: foster family homes, relative caregivers, foster family agencies, etc.

Community Care Licensing (CCL) has developed new licensing rules for placements of non-minor dependent youth. These licensing rules reflect the fact that these are young adults. For example, many of the old licensing rules for those under 18 do not work for young adults, because young adults have the right to manage their own money, access and administer their own medication, go away for the weekend without telling anyone, stay out all night, etc. However, it is important to recognize that while CCL will not impose specific obligations on the provider in a home licensed for a non-minor dependent youth—such as, reporting absences, locking up knives and medication, etc.—it is important that the provider and non-minor dependent youth create a set of house rules.

CCL has developed the *Shared Living Agreement* to facilitate discussions between non-minor dependent youth and provider about house rules/expectations.

There are also two new placement categories:

- THP-Plus Foster Care – Transitional Housing Placement Plus (THP-Plus) provides affordable housing and comprehensive supportive services for up to 24 months to help former foster care and probation youth ages 18 to 24 make a successful transition from out-of-home placements to independent living.
- Supervised Independent Living (SILP). Beginning at age 18, a non-minor dependent youth is eligible for a new placement type – the SILP. A SILP is a different type of placement than an approved relative home (See WIC 11402). A SILP can be a single apartment where the youth lives alone or may be some type of shared housing (this seems more likely given the cost of housing and the benefit amount). The youth can change the type of placement from that of an approved relative caregiver to that of renting a room from a former caregiver such as a NREFM, a foster parent or a former relative. The change in placement must undergo a new approval process and the relative has to be willing to change from a caregiver and payee role to, to one in which an adult is renting from them in a landlord tenant relationship.

### **Group Home Placements**

While group homes can be eligible placements for extended foster care, there are limitations on the length of time youth in extended foster care can spend in group homes:

- Youth can remain in group homes after age 18 to finish out the school year before they turn 19 or in order to graduate before they turn 19. No verification by school required. Whether or not to stay in the group home in this circumstance is a decision based on individual needs to ensure educational stability.
- After age 19, remaining in a group home is PROHIBITED unless the youth has a medical condition that satisfies participation condition #5 and the statute specifies that participation in a treatment program is not reason on its own to prevent continuation in the group home. This is because treatment programs satisfy participation condition #4 – removing barriers to employment – but for group home purposes, a youth can be participating in a treatment program but still be categorized under #5 and remain in the group home while the social worker/probation officer works with them to transition them to another type of placement.

### **Basic Rates**

The same benefit rates apply: non-minor dependent youth are eligible for the rate they received in that setting as a minor. New rates have been established for THP-Plus FC placements. The basic rate for a SILP is limited to the basic AFDC-FC rate. There is no specialized care increment in a SILP. Youth in SILPs should be encouraged to apply for CalFRESH as they may be eligible.

### **Placement Decisions**

Youth who meet participation conditions and sign the mutual agreement (or voluntary re-entry agreement) have a right to a placement under AB 12, but that does not mean they have a right to any specific placement. Placement decisions are collaborative (youth should be consulted about placement), but ultimately, the placement has to be approved by the social worker/probation officer. There is a grievance process if youth/social worker do not agree on placement.

## AFDC-FC

---

AFDC-FC refers to federal or state foster care benefits. There are some minor differences for state vs. federal foster care eligibility in terms of immigration status and deprivation, but we will not be looking at this in detail. The eligibility worker will make the determination about eligibility for foster care benefits (as opposed to CalWORKs or other benefits).

In order to receive foster care benefits youth must meet the same categorical requirements that minor children must meet:

- Age
- Residency
- Immigration status
- Deprivation of parental support

In addition to the categorical requirements, youth must meet statutory eligibility rules:

1. Removed prior to age 18
2. Continuing to live in the home would be contrary to welfare of the child; and
3. Reasonable efforts made to keep child in the home
4. Placement and care vested with county agency
5. Voluntary Placement Agreement (VPA) limited to 180 days under federal and state law
6. Return to home, file petition to maintain federal or state eligibility, or refer to adoption agency
7. Given up for adoption, or parental rights terminated
8. Living with a non-related legal guardian (state-only)\*

They also must meet the financial eligibility rules:

1. The home from which the child was removed must meet AFDC eligibility criteria from 1996 AFDC in the month the petition is filed OR in any of the 6 months prior to the month the petition is filed.
2. For youth re-entering extended foster care, the financial eligibility is based on the youth's income only.

If the youth does not meet this income test and is with a relative, the relative receives benefits from CalWORKs. There is no state AFDC-FC benefit available for youth placed with relatives. If the non-minor dependent youth is re-entering extended foster care, the federal eligibility test will be done based on the youth's income alone. New documentation will be required.

For both state and federal AFDC-FC benefits, the youth (or caregiver) gets a monthly cash benefit. The amount of the monthly benefit varies based on the type of placement. Youth receiving AFDC-FC benefits receive a larger monthly amount than youth receiving CalWORKs. Additionally, youth receiving AFDC-FC get additional supports such as a clothing allowance.

Youth with special needs who are receiving AFDC-FC benefits may also qualify for the Specialized Care Increment. The Specialized Care Increment is added to the basic rate and the total benefit is called the Specialized Care Rate. Eligibility for Specialized Care Increments and the amount of the SCI vary by county. The SCI only applies in relative homes (that are IVE eligible) or foster family homes. It does NOT apply in FFAs, THPP, THP-Plus FC, SILPS or group homes.

Youth who are receiving AFDC-FC benefits and Regional Center services are eligible for the dual agency rate.

When a young person is eligible for two different benefit amounts in the same setting (e.g. many regional center clients will also be eligible for SSI benefits and/or specialized care increment in addition to the dual agency rate) – then the youth receives whichever benefit is the highest.

Note: if a youth chooses to live in a SILP with a relative beginning at age 18, the youth would be eligible for a state-only AFDC-FC payment (because the SILP is not a placement with the relative and so state-only funding is available for this type of placement). This is important because a state-only AFDC-FC benefit may provide a larger benefit to the youth. It is important to think about transferring into a SILP for these youth rather than continuing to have them placed with the relative where they will receive CalWORKs.

## CalWORKs

---

There are other benefits available to transition aged youth beyond AFDC-FC and it is important to be aware of these programs including how eligibility for these programs also changed as a result of AB12 and/or Federal Fostering Connections to Success Act.

The general age requirements for youth who are not in foster care allow for youth to receive CalWORKs until 18 (and 19 if expected to graduate by the time he or she turns 19 - unless the youth has a disability and then there is no reasonable expectation of graduation). But, foster youth placed with relatives who are not IV-E eligible can continue to receive CalWORKs as a non-minor dependent, which means they can receive CalWORKs until 19 beginning January 1, 2012 and 20 beginning January 1, 2013 as long as they are continuing in foster care and meet all the other participation and eligibility requirements. Youth in extended foster care are not required to meet Welfare to Work requirements, but they are required to meet the eligibility requirements for extended foster care.

Youth receiving CalWORKs in extended foster care also receive Medi-Cal, but they are not eligible for the Specialized Care Increment, clothing allowance or dual agency rate.

If the youth chooses to live in a SILP with a relative beginning at age 18, the youth would be eligible for a state-only AFDC-FC payment (because the SILP is not a placement with the relative and so state-only funding is available for this type of placement). This is important because a state-only AFDC-FC benefit may provide a larger benefit to the youth. It is important to think about transferring into a SILP for these youth rather than continuing to have them placed with the relative where they will receive CalWORKs.

If this transition occurs, the placement is no longer a relative home, but a new placement type. The relationship of the former caregiver is no longer relevant to the placement. For funding purposes – what this means is that the youth can receive AFDC-FC (either state or federal) when in a SILP in a relative’s home – which could help ensure permanency for the young person and doesn’t require them to leave the relative’s home in order to receive appropriate (non-CalWORKs) funding.

## Eligibility Verification

---

The eligibility worker does not verify the youth's participation in one of the 5 participation conditions. That is the role of the social worker/probation officer. Furthermore, the eligibility worker will not terminate benefits based on his or her perception, belief, or decision that the non-minor dependent youth is not satisfying a participation condition. If there is any question about the youth meeting the participation conditions, benefits continue until there is a 391 hearing to terminate jurisdiction. Point out WIC 11403 (e) which states that aid under this section shall not terminate until the non-minor attains the age criteria, as set forth in subdivision (a), but aid may be suspended and resumed when the non-minor no longer resides in an eligible facility, as described in Section 11402, or terminated at the request of the non-minor or after a court terminates dependency jurisdiction pursuant to Section 391, delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452.

It is recommended that the eligibility worker maintain specific documentation in his or her file verifying the youth's participation in one of the five participation conditions. It is the responsibility of the social worker/probation officer to gather this information. ACL 11-69 states the social worker/probation officer will obtain verification of participation and after completing the TILP with the non-minor dependent youth and reviewing the documentation of participation, the social worker/probation officer shall complete the Certification Form (SOC 161). The Certification Form must be forwarded to the EW. A copy of the Certification Form and all applicable documentation must also be kept in the social worker/probation officer's case file.

The Six Month Certification Form (SOC 161) is prospective which means that it documents the youth's planned participation in one of the five participation conditions over the next 6 months. This is why it is so important to have both a primary condition as well as a backup plan. Having a back up recognizes that there may be changes in participation during the six months, but prevents those changes from disrupting eligibility because the backup plan (which will usually be participation condition #3) should cover any changes.

## Resolving Disputes

---

The first step for resolving disputes is to have a meeting with the youth. This can be an informal meeting or a facilitated process such as a Team Decision Making meeting or Emancipation Conference. Mediation may also be effective for resolving differences.

The fair hearing process is the grievance process for resolving disagreements related to benefits eligibility. Fair hearings are available to resolve disputes regarding

- The amount of the AFDC-FC benefit (ie: denial of specialized care increment, retroactive payments, etc);
- Termination of AFDC-FC benefits;
- Denial of federal eligibility (ie: for youth placed with relatives).

The Notice of Action provided by the county regarding decisions based on benefit amounts, eligibility, and termination includes information about the fair hearing process.

Disagreements related to whether or not the non-minor dependent youth is satisfying a participation condition are resolved in court. When the social worker / probation officer and the youth do not agree about the youth's sufficient participation in one of the 5 conditions, the court will resolve the dispute by either:

- Finding that the youth is participating and continuing jurisdiction (benefits continue)
- Finding the youth is not participating and terminating jurisdiction (benefits end)
- Finding the youth is not participating, but not terminating jurisdiction (benefits continue until EW issues Notice of Action to terminate benefits based on the court finding)

Remember, the social worker / probation officer must make “reasonable efforts” to assist the youth in meeting one of the participation requirements.

When participation in one of the 5 conditions is disputed, payment continues unless/until the court terminates jurisdiction at a WIC 391 hearing.

## Extended Kin-GAP

---

Kin-GAP is California's Kinship Guardianship Assistance Payment program and has been available since January 1, 2000. The goal of Kin-GAP is to enhance family preservation and stability to allow youth to exit foster care to guardianship with a relative caregiver without loss of funding. The program was expanded in 2006 to include probation youth and to allow youth to receive Specialized Care Increment and clothing allowance as part of the Kin-GAP benefit. Kin-GAP is available only to youth who were adjudged dependent under WIC 300 or 602 and who are citizens, permanent legal residents or other qualified immigrants.

The old version of the Kin-GAP program was replaced on January 1, 2011 with the implementation of AB 12. As a result of AB 12 and the new federal subsidized guardianship program, new requirements have been implemented, including:

- The child must live with the same relative for at least **6 continuous months (it was previously 12 months)**
- The relative must be appointed as guardian **by juvenile court**
- Relative guardian and child welfare agency (or probation or tribe) enter into a written, signed **negotiated agreement** setting forth the amount of the Kin-GAP payment and any other services (the amount was not previously negotiable)

Before AB12, Kin-GAP was a state-only program, so children who moved out of state lost their Kin-GAP benefits. Now, Kin-GAP will continue if a child moves to another state.

In order to provide Kin-GAP benefits, the county agency must document the following in the guardianship study:

- Being returned home or placed for adoption are not appropriate permanency options for the child (the court must make this finding)
- The child demonstrates a strong attachment to the prospective relative guardian
- The relative guardian has a strong commitment to caring permanently for the child
- The child who has attained 12 years of age has been consulted regarding the kinship guardianship arrangement

These are new requirements and it is important to ensure these findings are made to ensure there is no disruption or delay in payment.

### **Kin-GAP Payment**

When determining the amount of the Kin-GAP benefit, the negotiation between the relative guardian and the county child welfare agency, probation department or Indian tribe:



- Cannot exceed what the child would have received in a foster family home, including any applicable specialized care increment
- The maximum Kin-GAP payment varies depending on the date the Kin-GAP guardianship was established
- Set forth in an agreement that can be adjusted periodically, as the needs of the child change

If the youth is a parent of a child placed in the same home the infant supplement or “whole family home” rates apply.

If the youth is a regional center consumer the dual agency rates apply.

### **Age Limits for Kin-GAP**

For youth being converted into the new Kin-GAP program this year, the timing of conversion could be important. This is because youth converted into the new federal program—because they were previously federally eligible—get Kin-GAP until age 21 if they convert when they are 16 or older. It doesn’t matter how old they were when they initially entered Kin-GAP – for the federally eligible youth, the key date is the date of the conversion.

For state-only Kin-GAP youth—those that went from CalWORKs to Kin-GAP – they are eligible for extended Kin-GAP if they *originally* entered Kin-GAP at 16 or older. In other words, the conversion date does not make a difference.

Youth with physical or mental disabilities are eligible for extended Kin-GAP regardless of when the youth entered Kin-GAP (this has typically been interpreted broadly with no state or federal definition).

### **Additional Kin-GAP Benefits**

In addition to the monthly benefit, relatives and youth participating in Kin-GAP receive:

- Clothing Allowance
- Medicaid (Medi-Cal in California)
- ILP services (regardless of what age the youth was when he/she entered Kin-GAP)
- Education and training vouchers (if the youth entered Kin-GAP after age 16)
- Reimbursement of non-recurring costs associated with guardianship – up to \$2,000

### **Eligibility requirements for Kin-GAP**

In order to receive extended Kin-GAP youth must meet the following requirements:

- Mutual Agreement (SOC 162) is a condition of payment
- Guardian must request extension of Kin-GAP after age 18, provide evidence of participation and notify county of changes in participation
- Kin-GAP cannot be paid directly to youth

- Youth may live elsewhere as long as the guardian remains financially responsible

In order to be eligible for federal Kin-GAP, the Mutual Agreement must be signed prior to the court ordering guardianship (this is a good practice for state Kin-GAP as well).

With Kin-GAP, because there is no ongoing dependency, there are no 6 month hearings or administrative reviews, no monthly social worker visits, and no case plan requirements.

## Benefits for Youth with Non-Related Legal Guardians

---

Extended benefits are also available for youth in guardianship with non-related legal guardians. Youth ages 18-20 are eligible for extended benefits if the guardianship was established by the juvenile court. It does not matter what age the youth was when the guardianship was established.

In order to receive extended benefits, youth in guardianship with a non-related legal guardian must meet the following requirements:

- Mutual Agreement is a condition of payment
- Guardian must request extension of AFDC-FC after age 18, provide evidence of participation and notify county of changes in participation
- In most cases, the AFDC-FC cannot be paid directly to youth
- Youth may live elsewhere as long as the guardian remains financially responsible

Because there is no ongoing dependency, there are no 6 month hearings or administrative reviews and no monthly social worker visits, but the youth must participate in the non-related legal guardianship case plan requirements, including the TILP.

Access to Independent Living Program Services is limited to youth whose guardianship was created in juvenile court on or after the youth's 8<sup>th</sup> birthday.

Youth whose non-related legal guardianship was ordered in probate court are eligible for benefits up to age 19 under the high school completion rule.

## **Adoption Assistance Program (AAP)**

---

### **AAP Eligibility**

Virtually every child in the foster care system who is eligible for adoption is eligible for AAP. Children who are unlikely to be adopted without AAP financial assistance because of their age (over 3), membership in a minority or sibling group, medical condition, disability or adverse parental background—of a medical or behavioral nature that can affect the child’s development—are eligible for adoption assistance if they are under the supervision of a child welfare agency (WIC 16120 (i)) or if they meet the requirements for Supplemental Security Income (SSI) (WIC 16120). The child must be a United States citizen or a “qualified alien” to be eligible for AAP (WIC 16120 (l)). Youth who are adopted after age 18 may also qualify for AAP (Family Code 9300). AAP can also be paid following completion of a tribal customary adoption.

### **AAP Benefits**

If the initial adoption assistance agreement was signed between October 1, 1992 and December 31, 2007, the payment cannot exceed the basic foster care maintenance payment rate structure in effect on December 31, 2007, that would have been paid based on the age-related state-approved foster family home rate, and any applicable specialized care increment, for a child placed in a licensed or approved family home (WIC 16121(a)(1)).

If the initial agreement was signed between January 1, 2008 and December 31, 2009, the payment cannot exceed the basic foster care maintenance payment rate structure in effect on December 31, 2009, that would have been paid based on the age-related state-approved foster family home rate, and any applicable specialized care increment, for a child placed in a licensed or approved family home (WIC 16121(a)(2)).

If the agreement was signed between January 1, 2010 and June 30, 2011, the payment cannot exceed the basic foster care maintenance payment rate structure in effect on June 30, 2011, and any applicable specialized care increment, that the child would have received while placed in a licensed or approved family home (WIC 16121(a)(3)).

For agreements signed on or after July 1, 2011, the payment amount cannot exceed the basic foster family home rate as set forth below: (WIC 16121(a)(4))

The per child per month basic rate, effective since July 1, 2011, according to the age of the child is as follows: \$609 for each child 0-4 years old, \$660 for each child 5-8 years old, \$695 for each child 9-11 years old, \$727 for each child 12-14 years old, and \$761 for each child 15-20 years old (WIC 11461(g)(1)). These rates will be adjusted annually on July 1 by the annual percentage change in the California Necessities Index applicable to the calendar year within which each July 1 occurs (WIC 11461(g)(2)).

Families receiving AAP payments may request an increase in the AAP payment up to the maximum amount allowed under the AAP agreement if the child's needs or the family's circumstances change. However, once the adoption assistance agreement is signed, payments **cannot** be decreased or terminated without the adoptive parents' consent unless: (MPP Adoption Users Manual 35343(a)(2))

- The adoptive parents are no longer legally responsible for the child's support; or
- the department finds that the child is no longer supported financially by the adoptive parents; or (WIC 16119, MPP Adoption Users Manual 35343)
- The payments are more than the child would have received if the child were in a foster family home.

AAP benefits continue if the family moves to another state.

### ***Age Limits for AAP***

#### ***Eligibility by Age***

- Age 18 if entered AAP prior to turning 16 and no physical or mental disability
- Age 21 – regardless of when the child entered AAP IF the child has a mental or physical handicap that warrants continuation
- Age 20 (or 21 if the legislature extends) – if entered AAP at age 16 or older and meets one of the five participation conditions

There is no high school completion rule in the AAP program. So, either benefits end at 18 OR they continue to 21 if either the youth entered AAP at age 16 or older or if the youth has a mental/physical disability.

### ***Eligibility Requirements for Extended AAP Benefits***

In order to receive extended AAP benefits, the youth must meet the following eligibility requirements:

- Mutual Agreement is a condition of payment
- Adoptive parents must request extension of AAP after age 18, provide evidence of participation and notify county of changes in participation
- AAP cannot be paid directly to youth
- Youth may live elsewhere as long as the adoptive parent remains financially responsible

Because there is no ongoing dependency, there are no 6 month hearings or administrative reviews and no monthly social worker visits.

## Supplemental Security Income

---

Supplemental Security Income (SSI) is a federal income supplement program designed to help aged, blind, and disabled people, who have little or no income. It provides cash to meet basic needs for food, clothing, and shelter. The State Supplemental Payment (SSP) Program is the state program which augments SSI. Both SSI and SSP benefits are administered by the Social Security Administration (SSA). Eligibility for both programs is determined by SSA using Federal criteria. If you qualify for SSI, you qualify for SSP. The benefits are in the form of cash assistance.

Some youth in extended foster care may also be eligible for SSI. Being approved for SSI doesn't affect eligibility for extended foster care, but it may change some things about payment.

### **SSI Eligibility**

In order to be eligible, the youth must:

- Have little or no income (no deeming for children that do not live in the household of a parent), and
- Have few or no resources, and
- Be a citizen or qualified non-citizen, and
- Be disabled.

Deeming refers to the process of determining how much of the parent's income to consider in making SSI eligibility and benefit decisions. Because deeming when determining SSI for children only happens when the child lives with a biological or adoptive parent, deeming does not typically affect youth in extended foster care. This means that if a child is living in a household without her parent, Social Security only looks at the income and resources of the child in determining financial eligibility.

A claimant can be found eligible by Social Security if they meet one of the qualifying disabilities. If the SSA finds the claimant does not meet the listings, then he or she must be able to demonstrate functional limitations. For youth, these limitations include one severe or two marked limitations in six functional domains (e.g., acquiring and using information; attending and completing tasks, interacting and relating with others, moving about and manipulating objects, caring for yourself, and health and physical well-being). For adults, the limitations must prevent the claimant from being able to engage in substantial gainful activity (SGA).

### **SSI and SSP Benefit Payment Amounts**

All youth under 18 who are living with caregivers who are not their parent are eligible for the Non-medical Out-of-home Care (NMOHC) rate of \$1086. Adults (age 18 and over) are eligible for the NMOHC rate if they 1) reside in a state licensed NMOHC

facility or 2) live in the home of a relative or legal guardian / conservator (MPP 46-140.122). In order to complete the eligibility determination process, the County Welfare Department must certify the NMOHC rate by completing the SSP-22 form 13 days after it receives the request from the Social Security Administration (MPP 46-140.63).

SSI benefits affect other benefits:

- SSI benefits are offset dollar-for-dollar by the amount of federal foster care.
- CA law counts SSI benefits as income to the youth thereby reducing state foster care dollar-for-dollar by the amount of SSI.

### **SSI Benefit Termination**

Youth receiving SSI benefits must have a Continuing Disability Review one month prior to turning 18. If SSI benefits are terminated, the person receiving SSI must appeal within 10 days in order to continue receiving benefits. If the appeal is lost, the SSA will ask the person who received the benefits to repay these continued benefits. The person who received the benefits can request a waiver of the overpayment at that time.

If a youth is still receiving services through an IEP, then he or she can continue to receive SSI benefits even if he or she is found no longer disabled. The youth does not have to pay these benefits back even if the appeal is lost. These continuing benefits will stop when the youth is no longer receiving services through the IEP because he or she turns 22 years old or completes the IEP program of study (20 C.F.R. 404.328(b), 416.1338(e)(2)).

### **County Management of SSI Benefits**

- The county can use SSI/SSP funds to pay for current care as representative payee, but the county cannot force a payee to turn over SSI/SSP to pay for foster care if county is not payee.
- The county should be the payee of last resort:  
*“The county shall apply to be appointed representative payee on behalf of a child beneficiary in its custody when no other appropriate party is available to serve” (WIC 13754).*
- Youth age 15 and older can become their own payee if they meet certain conditions, including being at least 17.5 years old, living alone and being self-supporting, and having demonstrated the ability to handle finances and no qualified payee is available (POMS GN 00502.070).
- Federal law requires that any funds not needed for the beneficiary’s current maintenance must be conserved in accordance with the rules followed by trustees (20 CFR 416.645).
- If the minor dependent receives past due SSI benefits that are more than six times the monthly SSI/SSP rate, the past-due benefits must be paid to a dedicated account, which can only be used for specific purposes benefiting the

child (POMS GN 00603.025). This dedicated account is separate from the account used to manage monthly benefits paid on behalf of the child and is exempt from the SSI resource restrictions. The restrictions on the dedicated account continue even after a child turns 18 (POMS SI 02101.010).

- As an adult, the youth may be found no longer eligible for SSI benefits due to the Continuing Disability Review (CDR) at age 18. In such a case, the county should help the youth appeal and retain eligibility for benefits to help the non-minor dependent exit care with SSI benefits intact.
- The county must manage benefits according to the youth's best interest including maintenance accounts and dedicated accounts.
- The county must assist youth in receiving direct payment or finding a new payee before emancipation.
- The county must inform youth about their SSI/SSP eligibility and explain the process for maintaining eligibility as an adult.

When a youth becomes eligible for SSI benefits, payment is made retroactively back to the month after the month in which the application was submitted. It is important to keep this in mind when appealing denials because an appeal maintains the original date of application (with potential for retroactive benefits to that date, while a reapplication move the retroactive benefit date to the date of the latest application. Not only does the likelihood of success increase with each step in the process, but also the greater the retroactive benefit amount.

### ***SSI and Transition Aged Youth***

SSI can assist foster youth in transition in the following ways:

- Monthly cash assistance often more than other available cash assistance programs (ie CalWORKs, General Assistance) – can help avoid homelessness
- SSI eligibility may qualify youth for permanent affordable housing
- Youth can work part-time and still receive SSI
- Social Security has programs to help recipients pursue education or attempt work without losing eligibility
- Youth can receive school scholarships and receive SSI simultaneously
- Youth receiving SSI have greater access to permanent affordable housing
- SSI can be an ongoing resource for youth after extended foster care
- Extended foster care allows the youth additional time to establish SSI eligibility under adult standards
- There are SSI programs designed to help individuals work or pursue their education:
  - Ticket to Work - Provides recipients of SSI increased choices for receiving employment services. SSA issues a “ticket” to recipient which he/she can then assign to an Employment Network. The Employment Network provides employment services, vocational rehabilitation, and other support services



- Plan to Achieve Self Sufficiency - A written plan of action that sets forth: Work goal; Steps the individual will take to achieve goal (education, training, transportation, child care, assistive technology); Money that will be used to meet goal; Timetable. If SSA approves the PASS, then they will not count any funds spent in furtherance of the PASS on eligibility for SSI
- Student Earned Income Exclusion - Allows child who is regularly attending school to exclude earnings from calculation of SSI benefit. In 2010, could exclude \$1,640 a month up to a yearly maximum of \$6,600. "Regularly attending school" means that the person takes one or more courses of study and attends classes:
  1. in a college or university, for at least eight hours a week; or
  2. in grades 7–12, for at least 12 hours a week; or
  3. in a training course to prepare for employment, for at least 12 hours a week (15 hours a week if the course involves shop practice); or
  4. in a home school situation, for at least 12 hours per week and in accordance with the home school law of the State or jurisdiction in which the student resides; or
  5. for less time than indicated above for reasons beyond the student's control, such as illness.

When applying for SSI with transition aged youth, it is important to know:

- The timeline for application remains the same – goal remains having SSI eligibility established at around the time the youth turns 18
- Ensuring SSI is in place provides youth maximum flexibility and choice among benefits, services and supports
- Being approved for SSI does not affect eligibility for extended foster care
- If a youth is receiving SSI and wants to stay in extended foster care, the county must help the youth to receive the SSI benefit directly or identify another payee if the youth cannot manage his or her own finances
- If youth is approved for SSI but receives federal foster care in excess of SSI – same workaround that is used to allow youth to apply for SSI will be used to maintain eligibility\*

- \* If the foster care benefits amount is higher than the SSI amount, then SSI benefits can be put in suspense for twelve months. After twelve months, the SSI benefits are terminated, requiring a new application and determination of disability. Counties may need to forego federal foster care benefits for one month in each twelve month period to maintain SSI eligibility for a non-minor dependent to ensure that the youth exits care with SSI benefits intact.

## My Action Plan

---

Use the space below to set goals for yourself in terms of applying the knowledge from today in your work every day. Think about how you can advocate for youth to receive the correct benefit based on eligibility and ensure youth and their families and caregivers are aware of the variety of benefits available.

---

---

---

---