EXTENDED FOSTER CARE FREQUENTLY ASKED QUESTIONS (FAQs)

1. **Can a Nonminor Dependent (NMD) receive CalFresh benefits?**

   NMDs living in a Supervised Independent Living Placement (SILP) or in a Transitional Housing Placement Program for Nonminor Dependents (THPP-NMD, formerly known as THP+FC) can apply for CalFresh benefits. Eligibility for CalFresh is made on a case-by-case basis and considers the household composition, the individual's earned and/or unearned income, including the Aid to Families with Dependent Children - Foster Care (AFDC-FC) grant, assets, the amount of rent and utility expenses, student status, and other factors. Receiving a foster care payment does not make the young adult ineligible. Eligibility will be based on the combined income and resources of the NMD and may include the income and resources of other persons living in the SILP who purchase and prepare meals with the NMD. If the NMD is employed, that income will factor into the eligibility decision. Additionally, if the NMD is attending college, eligibility considerations are different. NMDs living in a SILP should be encouraged to apply for CalFresh, as they may be eligible, but should be informed that a variety of factors go into the eligibility determination, so benefits are not guaranteed.

2. **What is the difference between an Adult Residential Facility (ARF) and an Adult Residential Treatment Facility (ARTF)? Can a NMD be placed in these types of facilities?**

   ARFs are distinguished from ARTFs by the populations they serve and licensure status. ARFs are licensed by Community Care Licensing (CCL) to provide care and supervision for adults that are unable to care for themselves and are not progressing toward independence. ARTFs are facilities designed to offer treatment for a condition, such as substance use disorders or other mental health issues. They generally offer treatment for a time-limited period and are not licensed by CCL. Patients in an ARTF are typically able to function independently but for the condition being treated.

   NMDs can be placed in an ARF, however, federal and state foster care funding is not available in this placement due to requirements that all staff have background checks, including a Child Abuse Central Index check, that are not required in most ARFs. Therefore, a county must use local funds for this type of placement. The

exception is a Regional Center vendorized home where criminal background checks are performed and federal and state foster care funds can be accessed.

A NMD may reside in a SILP in an ARTF if they are determined to be ready for a SILP and participation in the ARTF program.

3. **Can a facility licensed by the state as an adult residential facility be considered a placement under Extended Foster Care (EFC)? Can youth be placed under a SILP in these facilities?**

   A regional center vendorized home, one type of adult residential facility, can be utilized as an EFC placement but not as a SILP. All other adult residential facilities (ARFs) do not meet the criteria for any type of EFC placement. ARFs are distinguished from Adult Residential Treatment Facilities (ARTFs) by the populations they serve and licensure status. ARFs are licensed by Community Care Licensing to provide care and supervision for adults that are unable to care for themselves and are not progressing toward independence. Placement in an ARF cannot qualify as a SILP because youth who require this type of placement would not be assessed as ready for independent living. Additionally, adult residential facilities, except for a regional center vendorized home, are not eligible to receive foster care funding as described in WIC Section 11402.

   If a young adult is disabled and eligible for SSI, a case plan consideration may be that the young adult exits EFC and court dependency, becomes his/her own payee for SSI, and moves into an adult board and care home funded by SSI. Depending upon the type of disability, the young adult may be eligible for case management services from the Regional Center.

4. **Can an Adult Residential Treatment Facility be considered a SILP for a NMD?**

   Yes, an Adult Residential Treatment Facility may be considered a SILP under certain conditions.

   Federal policy permits a state to consider a youth age 18 or older who is residing in a substance abuse, mental health or other residential treatment facility to be in a supervised independent living setting for title IV-E purposes, as long as that youth is living in the facility voluntarily and the arrangement is paired with supervision from the child welfare agency (Child Welfare Policy Manual, Section 8.3A.8d, Question 2). Therefore, a treatment facility may be approved as a SILP if the NMD is living independently and voluntarily within the facility and continues to be subject to the court's jurisdiction and agency supervision.

As previously stated in ACL 11-77:
"Many NMDs can benefit from the experience of a SILP prior to independent living. Although NMDs have varying levels of independence readiness, SILPs cover a wide range of living situations; therefore, NMDs do not have to be ready for complete independence to try out a SILP. The SILP settings can also have varying levels of independence. For example, for those NMDs who may require extra assistance, a SILP can consist of renting a room from a permanent connection that can assist the young adult in preparing for more independence. This can help to prepare NMDs for more independent SILPs, such as an apartment with a roommate. It is important to understand that SILP assessments are based upon the type of SILP being considered."

Therefore, and as with all other SILPs, the readiness assessment should factor in the needs of the youth and the supports offered in the SILP environment. Please refer to ACL 11-77 for additional information regarding readiness assessments and the SILP approval process.

5. **If a youth is on runaway status on their 18th birthday, are they eligible for EFC if they return? Can we close their juvenile court case if they cannot be located after a reasonable amount of time?**

   The court may terminate dependency for a NMD, who is supervised by child welfare and on AWOL status, if the case manager has documented the efforts to locate the NMD and, at the W&IC 391 hearing, the court finds that reasonable efforts were made to locate the NMD and inform the NMD of his or her options under EFC. When terminating dependency, the court shall maintain general jurisdiction so that the young adult would be eligible to re-enter foster care later, if still under the age limits (see ACL 12-12 regarding re-entry).

   If the NMD returns prior to the 391 hearing, then foster care benefits may be extended, provided that all eligibility conditions are met, including a foster care placement order that was in effect on the youth's 18th birthday.

6. **What eligibility criteria must a foster youth who is the client of a regional center meet in order to be eligible for EFC benefits under AB 12?**

   Regional center clients must meet the same eligibility criteria as all other foster youth. A regional center consumer who is under an order for foster care placement on his/her 18th birthday is eligible for EFC benefits as long as the youth (1) meets one of the participation conditions; (2) participates in a Transitional Independent Living Plan (TILP); and (3) resides in a licensed or approved placement. Additionally, a mutual agreement must be signed by the

Non-Minor Dependent (NMD) to participate in EFC, unless the NMD is incapable of making an informed agreement.

Participation condition number five, “medical condition,” encompasses youth who are incapable of meeting any of the other participation conditions due to a documented medical condition; this can include regional center clients per ACL 11-61.

The TILP describes the services that the NMD is receiving to support their active engagement in one of the five participation criteria. For a NMD who is participating in EFC under "medical condition", the TILP should describe the NMDs medical condition as well as the NMDs transitional goals and services that the NMD receives to support the overall case plan goals. A NMD who meets the medical condition criteria can still attempt modified work and educational activities. In this situation, the primary participation condition would be "medical condition," even if the NMD is participating in other activities to develop additional life skills. All case plan goals should be developed with the active participation and consent of the NMD, to the extent possible, including placement decisions or the decision to exit foster care to transition to an adult system of care prior to reaching 21 years of age (see ACL 11-77).

NMDs who are regional center consumers are eligible to receive additional support services, including the “dual agency” rate, in most licensed or approved foster care placements. The NMD must reside in a licensed or approved placement in order to receive payment benefits. NMDs who are regional center clients placed in a group home should be transitioned to an appropriate less restrictive placement upon turning 18 or completing high school (if before age 19). As with all NMDs, those meeting the medical condition may remain in a group home beyond age 19 only if the continued group home placement serves as a short-term transition to an adult system of care.

7. **Can a NMD live out of state and still participate in EFC? How do counties meet their requirements for supervision and service provision?**

NMDs are allowed to reside in another state and may also re-enter foster care while living in another state. If a NMD is either residing outside of California when they enter EFC, chooses to re-locate out of state after turning 18 or re-enters foster care from out of the state, the county agency should take the following steps to approve the placement and ensure monthly supervision and service delivery.

- Submit an Interstate Compact on the Placement of Children (ICPC) request to the state the NMD is living in requesting assistance with approving the placement (if it is a new placement) and providing courtesy supervision.

- If the ICPC request is denied, the county can choose to send their own staff to approve the placement and visit on a monthly basis or contract with an appropriate agency in the state the NMD is living in, such as a foster family agency. If monthly supervision is provided by an agency in the other state, the California county social worker or probation officer must still conduct an in-person visit with the NMD at least once every six months.

If the county has been made aware that there may be a prohibition on out-of-state social workers providing visitation and services to their clients in that state, the county should consult with their County Counsel to determine exactly what that state's laws allow and/or prohibit. Through contacting several states where this has been reported to be an issue, the CDSS has discovered that some states prohibit out-of-state social workers from "practicing social work" in their state but that this refers to clinical social work practiced by a licensed social worker and does not pertain to county case workers approving placements and providing visitation and services to their clients. In other states, there is an exception to the prohibition for out-of-state case workers employed by a governmental agency. The CDSS is not aware of any state that would deny an ICPC request for a California NMD, be unwilling to serve a NMD at the local level and also prohibit a county case worker from California from serving their client. If a county encounters this situation, it is requested that they contact the CDSS TAY Policy unit to report it.

8. Can a NMD Study Abroad?

Yes, a NMD may study or complete an internship abroad while residing in a SILP. If a NMD has otherwise been approved to live in a SILP and wishes to study or work abroad for a limited period of time, they may do so as long as the county agency obtains an order from the Juvenile Court allowing a placement in another country, and is able to arrange for supervision by a qualified individual in the country where the youth will be residing.

All requirements regarding monthly in-person visitation and services still apply to NMDs residing out of the country. The federal government does not allow teleconferencing applications, such as Skype or Facetime to replace in-person visitation. Arrangements for visitation and service provision can be made with an appropriate agency or other entity in the host country.

The NMD may receive their foster care maintenance payment while abroad but they must set up a direct deposit of their payment to their bank account, from which the funds may be withdrawn in the other country.

NMDs may also choose to exit extended foster care prior to moving out of the country and re-enter upon return as long as they remain eligible with regards to age and participation requirements.

9. According to ACL 17-83, a NMD can live in a SILP with a parent. If a youth is returned to a parent before they turn 18 or is in a family maintenance case with a parent when they turn 18, can the placement be turned into a SILP when the youth returns 18? What if family reunification services are still being offered to the youth and their parent(s) after they turn 18?

No, the eligibility requirements for EFC have not changed. Along with other eligibility conditions, a youth must have had a foster care placement order in effect on their 18th birthday in order to extend in foster care. Therefore, a youth who is back in the care of their parent(s) upon turning age 18 would not be eligible for EFC.

For a youth who is subject to a reunification plan on their 18th birthday, W&IC sections 361.6 and 727.25 allow reunification services to continue for a youth after they turn 18. If the youth is successfully reunified with the parent, the court would terminate the juvenile court case as they would if the youth was still a minor (after any needed family maintenance services were provided). At this point, the youth would no longer be a NMD and therefore would not be eligible for an EFC placement or services. However, the youth would be eligible for re-entry should the reunification fail before the youth turns 21. If the youth re-entered foster care, they may be eligible for a SILP (if assessed to be ready for this level of independence) but it would not be appropriate for them to be placed in a SILP with the parent with whom they were removed and then reunified if that reunification subsequently failed.

Furthermore, when a youth is reunified with a parent, they are being placed back in a parent's home. ACL 17-83 states "it is important to note that the NMD is not being placed with the parent, being returned home to the parent or in any way under the care or supervision of the parent."

The purpose of allowing NMDs to reside in a SILP with a parent was to open up additional placement options for NMDs and assist them in strengthening their relationship with their parent(s) while still under the supervision and support of the county agency.

ACL 17-83 describes this new SILP option for youth who are eligible for EFC and have been assessed as ready to live in a SILP. If the SILP Readiness Assessment indicates that it would be safe and appropriate for the NMD to reside

in the same home as a parent, the county agency can approve the placement and federal funds would be available for a federally eligible NMD.

The parent is looked at in the same way as any other roommate the NMD wishes to live with. This type of SILP is not intended to be a placement with a parent or to provide a parent with a place to live. The SILP facility should be one that the parent is already living in themselves or is secured by the NMD and parent together as opposed to a situation where a NMD has SILP housing but wants to move the parent in with them.

10. **When a NMD is going to college and living in university housing that closes during Winter and Summer Breaks, does a new placement need to be approved during these time periods in order for the NMD to continue receiving a foster care payment?**

For Winter Break, which usually lasts from three to five weeks, if the NMD's college housing is closed, this absence from placement can be treated in the same way as when a foster parent takes a youth on vacation for over 14 days and funding is allowed to continue. Therefore, a youth who is absent from their SILP placement for over 14 days due to Winter Break closure of their housing does not need to have a new placement approved in order for their foster care payment to continue. They may reside in a place of their choosing during this time. Their Social Worker/Probation Officer should ensure that they are staying in a safe place.

Summer Break generally lasts for a much longer period of time. Unless, the youth can remain in student housing during that time period, an alternate placement for the youth must be approved in order for the NMD to continue receiving a foster care payment.

11. **Determining which populations are eligible for re-entry to foster care from adoption or guardianship at age 18 or over is difficult. Can you provide some guidance on this?**

AB 787 and AB 2454 aimed to provide a safety net for vulnerable populations that may lose the support of their guardian(s) or adoptive parent(s) at the crucial time when youth are transitioning to adulthood. These populations were already eligible to receive extended benefits after the age of 18 so the ability to re-enter foster care provides them with the financial support they would have otherwise received from the Adoption Assistance Program (AAP), Kinship Guardian Assistance Program (Kin-GAP) or Nonrelated Legal Guardianship (NRLG) foster care payment provided to their adoptive parent or guardian.

W&IC 388.1 (a) states that former dependents, ages 18 to 21, who received aid through the Kin-GAP or NRLG programs, or adoption assistance payments, after attaining the age of 18, are eligible to re-enter foster care if their guardian or adoptive parent dies or is no longer providing ongoing support to the youth and the payments to the guardian or adoptive parent have been terminated.

AB 2337 was passed in 2018 and makes an exception for youth who received Supplementary Security Income benefits or other aid from the federal Social Security Administration instead of one of the payments listed above to qualify for re-entry if otherwise eligible.

Please see the attached matrix for a break-down of which populations are/are not eligible for re-entry to foster care under AB 787 and AB 2454.

12. **For frequently asked questions related to foster care eligibility and funding during the declared COVID-19 State of Emergency, please refer to ACL 20-81**.