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I. RELATIVE PLACEMENTS

When a child is removed from the physical custody of a parent, federal and state laws require that preferential consideration be given to placing the child with a relative. Approved or Certified Relative Caregivers in California must meet the health and safety standards that mirror those for licensed foster parents including undergoing criminal background and child abuse index checks.

A. Definition of a Relative

A ‘relative’ of a Foster Care child is a person related to the child by virtue of being one of the following:

- The father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, first cousin once removed, nephew, niece, or any such person of a preceding generation denoted by the prefixes grand-, great-, great-great-, or great-great-great
- The stepfather, stepmother, stepbrother or stepsister
- The spouse of any person named above, even after the marriage has been terminated by death or dissolution

IMPORTANT: The above requirements apply to placement in California. The definition of ‘relative’ varies from state to state. When there is an out-of-state placement, the ‘host’ state’s rules apply.

1. Chart: Caretaker Relatives of a Foster Care Child (Please refer to Appendix A)

‘Relatives’ of a Foster Care child include:

All persons listed on the chart are shown in their relationship to the Foster Care child.

NOTE: ‘1st Cousin Once Removed’ is also extended from both the ‘Great Aunt’ and ‘Great Uncle.’

2. Additional Caretaker Relative Criteria

- a. Caretaker relatives not specifically identified must obtain a foster home

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license or a Resource Family Approval (RFA) certificate in order to receive Foster Care payments for the child in their care, even if they are otherwise exempt from licensing.

- b. The spouses of blood relatives may be caretaker relatives even if the marriage has ended by death or divorce.
 - c. Once parental rights to a child are terminated, the child’s relationship to all other blood relatives also ceases for foster care purposes. (This restriction does not apply to CalWORKs.)
 - d. If a child is adopted, eligible caretaker relatives are limited to the adoptive parent(s) and their relatives as listed above.
3. When is Grandparent/Grandparent’s Spouse a ‘Relative’

Use the following chart to determine if a grandparent/grandparent’s spouse meets the definition of a caretaker relative.

If the child resides with...	Does a ‘caretaker relative’ relationship AFDC-FC relationship exist?
The spouse or former spouse of a ‘natural’ grandparent	Yes
The mother and/or father of a stepparent [step-grandparent(s)].	No (There are no blood ties to the child)
The former stepparent who is remarried	Yes

4. Documentation of Relative’s Relationship to Child

The ‘*Applicant’s Statement of Relationship to Aided Child(ren)*’, IM 16 is used to establish the caretaker relative’s relationship to the child.

Relative Placements:

- Birth certificates and/or any other documents including court orders may be requested if available.

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- The caretaker relative's sworn statement of relationship must be complete and signed. Part 3 of the IM 16, *Penalty of Perjury Statement Supporting Degree of Relationship*, or a notarized statement may be used to meet this requirement.

5. Definition of Non-Relative

A non-relative is a person whose relationship to the Foster Care child is not within the fifth degree of relatedness, as defined by the state. In order to be entitled to Foster Care payments, a non-relative must be licensed or approved and meet the criteria of an 'approved or certified home'.

B. Child in the Home of Parent or Relative from Whom Removed

- Federal or non-federal Foster Care can only be paid when the child resides in an eligible facility which is NOT a home in which the parent(s), adoptive parent or relative from whom the child was removed is living.
- When the FC EW becomes aware that a parent/relative from whom the child was removed has moved into the eligible facility with the child, the FC EW must immediately notify the Social Worker that the cash case will be discontinued.

C. Relative Home Approval/Certification

When a Foster Care child is placed with a relative, a Resource Family Approval (RFA) certification or Home Approval is required. Payment may not be authorized until the home is approved under the requirements of the RFA process. Once the SOC 158A has been received indicating the home has been approved, the payment may be paid.

D. Former Relative EAS 45-101.7(f)(4) and 45-202.518

1. Definition

'Former relative' means a person related to a child by birth or adoption by virtue of being one of the persons within the fifth degree of relationship when legal rights to the child are terminated by the filing of a relinquishment with our department or by court action.

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2. Federal Foster Care

When parental rights are terminated and relative status ceases for federal Foster Care eligibility, a relative of the child who is within the fifth degree of relationship, is considered a ‘former relative’.

A former relative is entitled to federal Foster Care payments. The home must be approved or certified and all other Foster Care eligibility requirements are met.

3. Non-Federal Foster Care

For non-federal Foster Care, a ‘former relative’ is NOT considered a relative. In order to receive non-federal Foster Care payments, the ‘former relative’ must be licensed, approved or certified and meet all other state Foster Care eligibility requirements.

E. Relative Funding Options

Relatives may be approved for federal AFDC-FC funding, CalWORKs, the Approved Relative Caregiver (ARC) Program, and County-Only funding.

AFDC-FC: To be eligible for AFDC-FC the relative must meet the federal requirements described in the ‘Federal Eligibility Determination’ DM Section 45-202.

CalWORKs: There is no non-federal AFDC-FC funding available for relatives, however, the relative may apply for CalWORKs or ARC (see below).

ARC: Effective June 1, 2015, relatives not eligible for federal AFDC-FC can receive the basic FC rate under the ARC Program as long as all other FC requirements have been met.

County Only: When the relative does not meet the requirements for AFDC-FC, CalWORKs or ARC and the county chooses to provide funding, the relative may receive county funding.

F. Child Ineligible – County Only Funding

1. Child Ineligible for Foster Care, CalWORKs and ARC
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While it is a rare occurrence, a child placed with a relative may be ineligible for FC, CW or ARC. If so, the Social Worker may request approval for county funds. The following actions must be taken to request and process a county funded payment.

FC EW	Notifies the Social Worker immediately that the child is ineligible for Foster Care, ARC and CalWORKs funding
SW	Uses the 'County Board & Care for Children Payment Authorization', CBCC 335 to request approval to pay County funds. The SW completes the form giving the reason for the request, the amount requested and period of time needed and forwards to appropriate approving managers. Once approved, the SW forwards the completed form to the FC EW for payment
FC EW	Reviews CBCC 335 and any other approval documents and makes appropriate payment.

NOTE: Payment authorization is normally limited to six (6) months; the FC EW will cease payments once the approval period has ended. The SW must forward another CBCC 335 for approval for additional payments. The FC EW should set a tickler to remind the SW prior to the expiration of the 6 month period.

2. Undocumented Dependent Minors in a Relative Placement

They may be eligible for the Approved Relative Caregiver (ARC) Program if all the eligible requirements are met.

All eligibility requirements must be met except for eligible immigrant status (a PRUCOL application (G845, 'SAVE Document Verification Request' and G845, 'SAVE Document Verification Request Supplement' must be on file).

Any Special Care Increments or additional amount requested above the ARC rate will require an approved CBCC 335.

3. Federal Eligibility Determination

When a child is placed, federal eligibility must be determined and documented by a completed 'Determination of Federal AFDC-FC Eligibility', FC 3 and 'POEM

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Worksheet, *FC 3CC*. The EW may also use the CalWIN, *Collect Foster Care AFDC Eligibility Detail* window and ‘Linkage’, ‘Resources’, and ‘Income Details’ tabs to assist in making the determination. It is important that forms being used to verify the Federal determination are scanned into the child’s case to ensure that details used to make the determination is captured for future reference, if necessary. It is especially important when a child is placed with a relative because of the U. S. Supreme Court decision in the case of *Miller vs. Youakim*, which states that federally eligible children placed with relatives are eligible for Foster Care or CalWORKs. Prior to this decision, federally eligible children placed with relatives were not eligible for Foster Care.

Non-federally eligible children placed with relatives are not eligible for non-federal AFDC-FC. They may be eligible for either CalWORKs or ARC, or county-only funding when approved.

4. Federal Eligibility Redetermination

An annual redetermination is required for all Foster Care cases, however, for federal cases, it is not required to review the initial eligibility determination once a federal determination has established. However, this provision does not remove the other federal requirements such as licensing certification, home approvals, updated FC 2 and an updated SOC 158A.

G. *Miller v. Youakim*

1. Background

On February 22, 1979, the U. S. Supreme Court decision in *Miller v. Youakim* allowed federally eligible children placed with relatives to receive Foster Care payments. Prior to this decision, Foster Care children placed with relatives could not receive AFDC-FC funding.

The *Miller v. Youakim* court decision also stated that the relative caregiver of a federally eligible dependent child is eligible for Foster Care (FC) or CalWORKs (CW); they have a choice.

Non-federally eligible children placed with a relative are NOT eligible for AFDC-FC, however, with the implementation of the Approved Relative Caregiver (ARC) Program, relatives can receive funding in the amount equal to the basic Foster Care rate or CW; they have a choice.

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2. Relative Funding Options

Because most children who are placed with a relative are eligible for federal Foster Care, they can be disadvantaged by applying for CalWORKs before a FC eligibility determination is made, as FC rates are higher. Thus, when a child is placed with a relative, the SW and/or FC EW must explain the options to the relative.

If there is no federal eligibility for Foster Care, the FC EW must deny AFDC-FC funding and advise the relative of the option of applying for CW or ARC. When the relative chooses ARC, the FC EW must determine if there is an ARC application on file. If not, the FC EW must provide the relative with a '*Statement of Facts Support Eligibility for Approved Relative Caregiver (ARC) Program*', *ARC 1*. Ensure the ARC 1 is signed, dated and returned. Refer to the ARC DM Section 45-204 for the rules and procedures of the ARC program.

3. *Miller v. Youakim* Referral Process

Whenever children are placed with a relative, the FC EW must determine if there is federal eligibility. Refer to DM Section 45-202, 'Federal Eligibility Determination', for information about how to make this determination.

Federal Eligibility for Foster Care:

If the child is federally eligible, the FC EW must:

- Offer the relative the option of either Foster Care, or CalWORKs
- Have the relative complete and sign the '*AFDC Program Choice Indicator*', *FC 4* and the '*Applicant's Statement of Relationship to Aided children*', *IM 16*

NOTE: The FC 4 only applies to federally eligible FC placements

- Request a birth certificate from the relative in order to prove relationship within the fifth degree. (If a birth certificate is not available, the relative must state why and complete the affidavit on the back of the IM 16 or a

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general affidavit. The FC EW must ensure this information is scanned into the case)

- Set up payment following the current procedures for federal AFDC-FC

Non-Federal Foster Care:

If the child is not federally eligible, the child is not eligible for AFDC-FC funding. Foster Care funding must be denied/discontinued and the relative may apply for either CalWORKs or ARC.

Although the change from Foster Care to CalWORKs is an intra program transfer, a new SAWS 1 (application) must be completed if the Relative wants CW. The Relative must be referred to the CalWORKs District Office to complete the CW Intake process. The date of application for CalWORKs is the date the SAWS 1 is signed. It cannot precede the date of the Foster Care application.

When the Relative applies for ARC the case will remain in and be managed by the Foster Care Eligibility Unit. Refer to DM Section 45-204 for ARC rules and procedures.

II. REFERENCE

DM Section 45-202, Federal Eligibility Determination

DM Section 45-204 Approved Relative Caregiver

EAS 45-101.7(f)(4) Former Relative

EAS 45-202.518 Eligible Facilities Out of State

III. FORMS

SAWS 1, Initial Application for CalFresh, Cash Aid, and/or Medi-Cal/Health Care Programs

IM 16, Applicant's Statement of Relationship to Aided Child(ren)

SOC 158A, Foster Child's Data Record and AFDC-FC Certification

FC 3, Determination of Federal AFDC-FC Eligibility

FC 3CC, POEM Worksheet

CBCC 335, County Board & Care for Children Payment Authorization

G 845, SAVE Document Verification Request

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G 845 Supplement, SAVE Document Verification Request Supplement
FC 2, Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)
ARC 1, Statement of Facts Support Eligibility for Approved Relative Caregiver (ARC) Program
FC 4, AFDC Program Choice Indicator (*Youakim vs. Miller*)

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