



The Alliance *for*
Children's Rights



Children's Law Center
of California

California Fostering Connections to Success Act

Assembly Bill 12 Primer

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**Developed by the Alliance for Children's Rights,
the John Burton Foundation, and the Children's Law Center**

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Table of Contents

Foster Care After Age 18 – QUICK FACTS

- Q1 What is the Federal Fostering Connections to Success Act? ([p.5](#))
- Q2: What are AB 12 and AB 212 (known as the California Fostering Connections to Success Act)? ([p.5](#))
- Q3 : What does the California Fostering Connections to Success Act do? ([p.5](#))
- Q4: Which youth are eligible to participate in extended foster care after age 18? ([p.6](#))
- Q5: What must a youth do to maintain their eligibility for extended foster care? ([p.6](#))
- Q6: When will the California Fostering Connections Act be implemented? ([p.7](#))
- Q7: Are foster youth ages 18-20 required to continue in foster care? May an exited youth reenter care? ([p.7](#))
- Q8: Where can I get more information on the California Fostering Connections to Success Act? ([p.8](#))

Foster Care After Age 18 – ELIGIBILITY

- Q9: What are the basic eligibility requirements for a foster youth to receive foster care benefits after age 18 under the California Fostering Connections to Success Act? ([p.9](#))
- Q10: What is the process for a youth to voluntarily remain in foster care after age 18? Is it a “opt- in” process or an “opt-out” process? ([p.9](#))
- Q11: What does it mean for a youth over 18 to be in foster care under the jurisdiction of the juvenile court? ([p.9](#))
- Q12: What are the goals of the Transitional Independent Living Plan (TILCP) for youth age 18 to 21? ([p.10](#))
- Q13: What does a youth have to do to meet the participation conditions for extended foster care? ([p.10](#))
- Q14: What happens if a youth has a temporary break in participation in one of the conditions? ([p.11](#))
- Q15: What is the “mutual agreement” that a youth must sign? ([p.11](#))
- Q16: What about youth who are non-federally eligible? How does the California Fostering Connections to Success Act extend foster care for them? ([p.11](#))

- Q17: What about youth who are currently ages 18, 19 or 20? Do they benefit from extended foster care in any way? ([p.12](#))
- Q18: How can a youth re-enter foster care? ([p.12](#))
- Q19: When does eligibility for foster care benefits end for youth over age 18? ([p.12](#))

Foster Care After Age 18 – PLACEMENT

- Q20: Are there any limitations on where a youth can live in order to receive foster care benefits under the California Fostering Connections to Success Act? ([p.14](#))
- Q21: Does a youth have to remain in the same foster care placement when s/he turns age 18? ([p.14](#))
- Q22: How does the California Fostering Connections to Success Act affect group home placements for youth age 18 to 21? ([p.14](#))
- Q23: What is THP-Plus Foster Care and how is it different that the current THP-Plus program? ([p.14](#))
- Q24: What is a Supervised Independent Living Placement (SILP) and how is it different from the other placement options available to youth 18 to 20? ([p.15](#))
- Q25: If a youth moves from one SILP to another, will the benefits continue while the new setting is being approved? ([p.16](#))
- Q 26: Are there any categories of NMDs that cannot live in a Supervised Independent Living Placement? ([p.16](#))
- Q 27: What is a Shared Living Agreement? ([p.16](#))
- Q 28: Can a NMD reside out of county or out of state and still qualify for EFC? ([p.16](#))

Foster Care After Age 18 – BENEFITS

- Q29: What are the foster care rates paid for youth age 18 to 20? ([p.18](#))
- Q30: Can a youth receive the foster care benefits directly? ([p.18](#))
- Q31: What placement types are eligible for the specialized care increment rate, provided to youth with additional needs? ([p.19](#))
- Q32: Does a youth have to be continuing in foster care in order to receive services like Medi-Cal and Independent Living Program Services? ([p.19](#))
- Q33: What happened to the High School Completion Rule? ([p.19](#))

Foster Care After Age 18 – SPECIAL TOPICS

- Q34: How does the California Fostering Connections to Success Act impact youth on probation or youth who are under the supervision of the delinquency court? Will these youth be eligible for transitional foster care benefits under the California Fostering Connections to Success Act? ([p.20](#))
- Q35: Who provides the supervision for a ward who elects to participate in extended foster care? ([p.20](#))
- Q36: What about the case of youth who are custodial parents? How does the California Fostering Connections to Success Act provide for them? ([p.21](#))
- Q37: If the youth is a consumer of Regional Center Services, will the youth continue to receive dual agency rates and the supplemental rate for extraordinary care and supervision? ([p.21](#))
- Q38: Can a youth receive both extended foster care benefits under the California Fostering Connections to Success Act and Supplemental Security Income (SSI)? ([p.21](#))
- Q39: Under the California Fostering Connections to Success Act, the extension from age 20 to 21 is subject to budget appropriation by the state legislature. When would it happen and how can we plan for this? ([p.22](#))

Kin-GAP – ELIGIBILITY

- Q40: How does the California Fostering Connections to Success Act change California's current Kin-GAP program? ([p.23](#))
- Q41: What are the basic eligibility requirements for a youth to receive Kin-GAP under the California Fostering Connections to Success Act? ([p.23](#))
- Q42: Do all youth who are eligible for Kin-GAP benefits remain eligible after age 18 and up until age 21? ([p.24](#))
- Q43: Do the participation conditions apply to youth in the Kin-GAP program who wish to receive Kin-GAP after age 18? ([p.24](#))
- Q44: Kin-GAP doesn't include ongoing child welfare supervision. How will it be determined that youth age 18 to 20 in Kin-GAP are meeting one of the five participation conditions? ([p.25](#))
- Q45: How is the amount of the Kin-GAP benefit determined? ([p.25](#))
- Q46: Can a youth who is participating in Kin-GAP and is over age 18 receive the Kin-GAP payment directly? ([p.25](#))
- Q47: How will the conversion of current state-only Kin-GAP cases to the new federally and state Kin-GAP programs happen? ([p.25](#))

Q48: When does the new Kin-GAP program under the California Fostering Connections to Success Act get implemented? ([p.26](#))

Foster Care After Age 18 – QUICK FACTS

Q1: What is the Federal Fostering Connections to Success Act?

A: The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 made extensive policy and program changes to improve the well-being and outcomes for children in foster care system including changes related to the extension of federal funding for foster care services for nonminors from ages 18-21 if they meet certain participation criteria. Participation by states is optional.¹

Q2: What are AB 12 and AB 212 (known as the California Fostering Connections to Success Act)?

A: California chose to participate in the optional federal program described in the previous answer and enacted Assembly Bill 12 (“AB 12”), which was amended by Assembly Bill 212. AB 12 was authored by Assembly Member Jim Beall, Jr. and Speaker-Emeritus Karen Bass, and is also known as the **California Fostering Connections to Success Act**. AB 12 was signed into law by Governor Arnold Schwarzenegger on September 30, 2010 and AB 212 was signed on October 4, 2011 and was an urgency measure (meaning its provisions took immediate effect).²

Q3: What does the California Fostering Connections to Success Act do?

A: The California Fostering Connections to Success Act allows California to take advantage of several components of the federal Fostering Connections to Success and Increasing Adoptions Act to:

1. Convert California's Kinship Guardianship Assistance Program (Kin-GAP) into a federally subsidized program. By doing so, the federal government will now pay a 50% share of cost for federally-eligible participants, saving the state tens of millions of dollars of state general funds (NOTE: if the youth is not federally-eligible, there is also a new state-only Kin-GAP program that mirrors the new federal Kin-GAP program);³
2. Provide foster care benefits (also known as AFDC-FC benefits) for eligible youth beyond age 18 and, at full implementation, up until the age of 20 (and, if the Legislature takes additional action, up to age 21);⁴
3. Provide extended Kin-GAP assistance or AAP assistance to eligible youth up until age 20 (and, if the Legislature takes additional action, up to age 21), provided the Kin-GAP payments began or the initial AAP agreement was signed when the youth was age 16 or older;⁵

¹ P.L. 110-351.

² Assembly Bill 12, Chapter 559 (stat. 2010); Assembly Bill 212, Chapter 459 (stat. 2011).

³ Welf. & Inst. Code § 11360, et seq.; All County Letter 11-15.

⁴ Welf. & Inst. Code § 11400 (v)(1); Welf. & Inst. Code § 11403(b).

⁵ Welf. & Inst. Code § 11403(b).

4. Provide CalWORKs benefits to eligible youth beyond age 18 and, at full implementation, up until the age of 20 (and, if the Legislature takes additional action, up to age 21) when the youth is placed with an approved relative and is not eligible for AFDC-FC benefits.⁶

5. Provide extended foster care benefits up to age 20 (and, if the Legislature takes additional action, up to age 21) to youth living with a nonrelated legal guardian when the guardianship was created by the juvenile court (regardless of the age of the youth when guardianship was ordered);⁷

Q4: Which youth are eligible to participate in extended foster care after age 18?

A: Beginning January 1, 2012, youth can continue to participate in extended foster care until age 19. Beginning January 1, 2013, youth can continue to participate in extended foster care until age 20.

This includes all youth who:

- Turn 18 in 2011 and are in a foster care placement or under a foster care placement order under the jurisdiction of the juvenile court on January 1, 2012;
- Turn 18 in 2012 (and thereafter) while under an order for foster care placement.

After January 1, 2012 – any youth who turns 18 and who has an order for foster care placement on his/her 18th birthday is eligible to participate in extended foster care until they reach the age limit. This includes youth who are not physically in placement, including but not limited to, youth who are awaiting placement or are on runaway status. As long as there is an order for foster care placement on the youth's 18th birthday, they are eligible to participate in extended foster care.⁸

Q5: What must a youth do to maintain their eligibility for extended foster care?

If the youth falls in any of the above categories listed in Q4, they are eligible to participate in extended foster care. In order to receive benefits and services of extended foster care, the youth must meet one of the following participation criteria:

1. Completing high school (secondary education) or an equivalent program (i.e. GED);

⁶ Welf. & Inst. Code § 11403(b); All County Letter 11-78.

⁷ Welf. & Inst. Code § 11405(e).

⁸ Welf. & Inst. Code § 11400(v)(1); All County Letter 11-61; All County Letter 11-69.

2. Enrolled in college, community college or a vocational education program;
3. Participating in a program or activity designed to remove barriers to employment;
4. Employed at least 80 hours a month;
5. Unable to do one of the above requirements because of a medical condition.⁹

Q6: When will the California Fostering Connections Act be implemented?

A: The new Kin-GAP program rules became effective on January 1, 2011. This means that the conversion of existing Kin-GAP cases into the new federal or state Kin-GAP program started in January 1, 2011. Additionally, all youth entering Kin-GAP after January 1, 2011 have been subject to the new Kin-GAP eligibility rules.¹⁰

The extension of foster care benefits up to age 20 and the extension of Kin-GAP and AAP benefits (for youth whose Kin-GAP or AAP payments began after age 16) will be phased-in over 3 years starting January 1, 2012 as follows:

- Beginning January 1, 2012, extended foster care benefits, Kin-GAP and AAP are available up to age 19
- Beginning January 1, 2013, extended foster care benefits, Kin-GAP and AAP are available up to age 20 and
- Beginning January 1, 2014, extended foster care benefits, Kin-GAP and AAP are available up to age 21, contingent upon appropriation by the legislature.¹¹

Q7: Are foster youth ages 18-20 required to continue in foster care? May an exited youth reenter care?

A: Participation in foster care after age 18 under the California Fostering Connections to Success Act is voluntary. Foster youth can decide to opt-out and exit at age 18, or anytime before they turn age 19/20. However, foster youth who have exited will have the option to reenter foster care before they turn 19/20 by signing a Voluntary Reentry Agreement. There is no limit on the number of times a youth can opt-out and re-enter foster care.¹²

⁹ Welf. & Inst. Code § 11403(b); All County Letter 11-61; All County Letter 11-69.

¹⁰ Welf. & Inst. Code § 11360, et seq.; All County Letter 11-15.

¹¹ Welf. & Inst. Code § 11403(a) and (b).

¹² Welf. & Inst. Code §§11400(z), 388(e); 366.31(c).

Q8: Where can I get more information on the California Fostering Connections to Success Act?

A: The California Department of Social Services has issued several All County Letters and there will be more All County Letters forthcoming, which provide useful information on the implementation of the California Fostering Connections to Success Act. The ACLs are available at: <http://www.dss.cahwnet.gov/lettersnotices/PG931.htm>. You can also visit the California Fostering Connections project website at www.cafosteringconnections.org or contact representatives of the bill's sponsor organizations, who are listed on the front cover.

Foster Care After Age 18 – ELIGIBILITY

Q9: What are the basic eligibility requirements for a foster youth to receive foster care benefits after age 18 under the California Fostering Connections to Success Act?

A: There are four basic eligibility requirements for a youth to continue to receive support after the age of 18 under the California Fostering Connections to Success Act. The youth must (1) have an order for foster care placement on his/her 18th birthday;¹³ (2) continue under the jurisdiction of the juvenile court as a dependent, under transitional jurisdiction or as a ward;¹⁴ (3) meet one of the five participation conditions;¹⁵ and (4) agree to live in a supervised placement that is licensed or approved under new standards for 18 to 20 year olds.¹⁶ In addition, a youth has to sign a mutual agreement (note: this is not a condition of payment),¹⁷ meet with his/her social worker or probation officer every month,¹⁸ and participate in six-month review hearings.¹⁹

Q10: What is the process for a youth to voluntarily remain in foster care after age 18? Is it an “opt-in” process or an “opt-out” process?

A: The California Fostering Connections to Success Act is an “opt-out” program, providing a process for youth to voluntarily elect to exit foster care after age 18. This means that a youth’s foster care will be extended past age 18 unless s/he elects to exit care. The court must hold a hearing prior to terminating a youth’s dependency, delinquency or transition jurisdiction and the county must submit a detailed report of information and documents provided to the youth and status of the case. In addition, the court must find that a youth who wants to opt-out of extended foster care was informed of the benefits of extended foster care and their right to re-enter.²⁰

Q11: What does it mean for a youth over 18 to be in foster care under the jurisdiction of the juvenile court?

A: To receive foster care benefits after the age of 18, a youth must remain under the jurisdiction of the juvenile court (this can be under the court’s dependency, delinquency or transition jurisdiction). This means that the youth continues to have a six-month review hearing in court or an administrative review. During that hearing, the court will ensure the youth continues to meet one of the participation conditions for foster care benefits and that the social worker or probation officer is continuing to assist the youth in meeting these eligibility conditions. The court will

¹³ Welf. & Inst. Code § 11400(v).

¹⁴ Welf. & Inst. Code § 11400(v).

¹⁵ Welf. & Inst. Code § 11403(b).

¹⁶ Welf. & Inst. Code § 11402 et seq.

¹⁷ Welf. & Inst. Code §§ 303(d), 11400(u); All County Letter 11-61.

¹⁸ 42 U.S.C. § 622(b)(17); ACYF-CB-PI-10-11 (p. 11).

¹⁹ Welf. & Inst. Code §366.3(m).

²⁰ Welf. & Inst. Code §§ 366.3 (n);§ 391(c)(2).

also assess the youth's progress in meeting the goals in his or her Transitional Independent Living case Plan (TILP) and case plan efforts made by the placing worker to assist the youth to obtain permanent connections with caring and committed adults. California Fostering Connections to Success Act specifies that these case reviews shall be conducted in a manner that respects the youth's status as a legal adult. After age 18, the California Fostering Connections to Success Act uses the term "nonminor dependents" to refer to these youths who remain under the jurisdiction of the court.²¹

Q12: What are the goals of the Transitional Independent Living Case Plan (TILCP) for youth age 18 to 20?

A: The goals of the TILCP for youth 18 to 20 are: (1) to develop permanent connections with caring and committed adults (2) to develop independent living skills and have opportunities for incremental responsibility and (3) to live in the least restrictive placement. Note, each TILCP has a Transitional Independent Living Plan (TILP) attached. ²²

Q13: What does a youth have to do to meet the participation conditions for extended foster care?

A: In order to receive benefits after the age of 18, a youth must meet ONE of the following participating requirements:

1. Completing high school or equivalent program (i.e. GED) (enrollment is defined according to the definition employed by the school or program); OR
2. Enrolled in college, community college or a vocational education program (half-time enrollment, as the college, community college or vocational program defines half-time enrollment); OR
3. Employed at least 80 hours a month (this must be paid employment); OR
4. Participating in a program or activity designed to remove barriers to employment (this is the "safety net" category which is intended to capture all youth who are not eligible under the employment or education conditions) ; OR
5. Unable to do one of the above requirements because of a medical condition (short or long-term medical or mental health condition as verified by a health practitioner).²³

²¹ Welf. & Inst. Code §§ 366.3 (l) and (m). 11403(c).

²² Welf. & Inst. Code § 11400 (y); All County Letter 11-69.

²³Welf. & Inst. Code § 11403(b)(5); All County Letters 11-61 and 11-69.

Q14: What happens if a youth has a temporary break in participation in one of the conditions?

A: It is likely that a NMD may transition between participation activities during the 6 month certification period that occurs between each case review hearings. But temporarily not participating in one criteria (i.e. if the youth loses a job) does not make the youth ineligible for EFC. As long as the NMD continues to work toward their goals set out in the TILP, then they will not lose eligibility. Participation criteria Number 3 “Removing Barriers to Employment” is intended to bridge the gaps in eligibility.²⁴

In addition, the Six Month Certification of Participation should specify both a primary participation condition that the NMD will satisfy as well as a “back-up” plan as detailed in the NMD’s TILP, in order to ensure that a NMD has multiple paths to eligibility during any six-month period.²⁵

Q15: What is the “mutual agreement” that a youth must sign?

A: A youth must sign a mutual agreement with the child welfare agency within six months of turning 18 in order to participate in extended foster care. The mutual agreement is *not* a condition of payment. This means that the mutual agreement does not have to be signed in order to continue to receive foster care benefits after turning 18 and failure to sign the mutual agreement is not a basis to terminate foster care benefits. However, the mutual agreement signifies the NMD willingness to participate in extended foster care and thus must be signed within six months of turning 18 to avoid having a court hearing set to terminate the court’s jurisdiction (NOTE: if the court does terminate jurisdiction because the NMD refuses to sign the mutual agreement, the NMD has the right to re-enter at any time prior to turning 20).²⁶

Q16: What about youth who are non-federally eligible? How does the California Fostering Connections to Success Act extend foster care for them?

A: The California Fostering Connections to Success Act extends foster care for youth in the state-only foster care benefits program as well as the federal foster care benefits program. In most placements, if the NMD is not eligible for federal foster care benefits they are eligible to receive the same amount of support through state foster care benefits. The only exception is placements with approved relative caregivers because relative placements are not eligible for state-only foster care benefits. Thus, a NMD placed with an approved relative will qualify for an extended CalWORKs payment if the NMD does not meet the federal eligibility rules.²⁷ For youth participating in Kin-GAP, there is both a state and a federal Kin-GAP program.

²⁴ Welf. & Inst. Code § 11403(b); All County Letter 11-69.

²⁵ Welf. & Inst. Code § 11403(i); All County Letter 11-69.

²⁶ Welf. & Inst. Code § 11400(u); All County Letter 11-61.

²⁷ Welf. & Inst. Code § 11253.3; All County Letter 11-78.

Therefore, youth who are not federally-eligible can still receive state Kin-GAP benefits.²⁸

Q17: What about youth who are currently ages 18, 19 or 20? Do they benefit from extended foster care in any way?

A: Youth who are currently age 19 or 20, meaning they turned 19 or 20 years old in 2011, are not eligible for extended foster care.

Youth who are currently 18 years old may be eligible for extended foster care if they have an open case in juvenile court as of January 1, 2012. These youth either remain eligible or regain eligibility for foster care benefits (AFDC-FC) on January 1, 2012 until they turn 19. Once they turn 19 in 2012, these youth will lose eligibility for foster care benefits (although, the court can elect to continue jurisdiction) until January 1, 2013. Beginning January 1, 2013, these youth become eligible for AFDC-FC benefits once again until they turn 20 in 2013.²⁹

Q18: How can a youth re-enter foster care?

A: A NMD who has opted out of extended foster care has the option to re-enter foster care at a later date prior to reaching the maximum age limit. A NMD can reenter by signing a Voluntary Reentry Agreement with the county child welfare agency or by petitioning the juvenile court (through a 388(e) petition) to have the court resume dependency or transition jurisdiction. The NMD is eligible for benefits and services again as of the date that the Voluntary Reentry Agreement is signed and the NMD is placed in an eligible facility. In order to reenter, the NMD must agree to meet one of the participation criteria, agree to be placed in a supervised setting, and be under the maximum age for foster care.³⁰

Q19: When does eligibility for foster care benefits end for youth over age 18?

A: There are certain categories of youth over the age of 18 who are not eligible for extended foster care benefits including youth who join the military or who get married.³¹

For youth who are eligible to receive benefits, eligibility continues until a NMD reaches age 19/ 20, however benefits can be suspended if any of the following occurs (1) the NMD requests to be discharged from foster care; (2) the juvenile court makes a finding that the NMD is not in compliance with a reasonable plan to meet one of the five participation conditions; or (3) the NMD is not living in a supervised foster care setting. In these instances, the court may terminate dependency or transition jurisdiction and assume general jurisdiction.³² A youth under the court's general jurisdiction is not eligible for foster care benefits or case

²⁸ Welf. & Inst. Code § 11360, et seq.

²⁹ Welf. & Inst. Code §§ 11400(v), 11403(b); All County Letters 11-61 and 11-69.

³⁰ Welf. & Inst. Code §§ 11400(z), § 388(e), 366.31(c).

³¹ All County Letter 11-69.

³² Welf. & Inst. Code §§ 11403(e), 391(c).

management services but can elect to “reenter” foster care and resume receiving benefits as long as the youth opts to return, agrees to meet the participation requirements, and lives in a supervised setting. Once a youth reaches the maximum age, eligibility for extended foster care benefits ends.³³

³³ Welf. & Inst. Code §§ 388(e), 11403(e); All County Letter 11-69.

Foster Care After Age 18 – PLACEMENT

Q20: Are there any limitations on where a youth can live in order to receive extended foster care benefits under the California Fostering Connections to Success Act?

A: The placements available to youth participating in extended foster care after age 18 include:

1. Home of a relative or NREFM(approved);
2. Foster family home (licensed) – including whole family foster homes and regional center homes;
3. Foster Family Agency certified home (licensed);
4. Home of a non-related legal guardian (approved by the juvenile court).
5. Group home, (licensed) subject to new limitations discussed further below;
6. Transitional Housing Placement Program (THPP) (licensed) subject to new limitations discussed further below;
7. THP-Plus Foster Care (approved);
8. Supervised Independent Living setting (SILP) (approved).

Except for group home placements and THPP, there are no explicit limitations on where a NMD can live.³⁴

Q21: Does a youth have to remain in the same foster care placement when s/he turns age 18?

A: No. In general, a youth may continue living in the same setting that s/he was living in prior to turning 18 or the NMD can live in another placement. The goal is for the NMD to transition to the least restrictive placement in preparation for exiting foster care. As was true before the youth turned 18, the setting where the youth lives must continue to be either an approved or licensed foster care setting, depending on the type of placement or facility.³⁵

Q22: How does the California Fostering Connections to Success Act affect group home placements for youth age 18 to 21?

A: The California Fostering Connections to Success Act allows a youth to remain in a group home placement after age 18 and up to age 19 in order to promote educational stability. After the youth graduates from high school or an equivalent program (ie GED) or turns age 19, continuation in a group home is prohibited unless it is necessary due to a medical condition. Even if the youth has a medical condition,

³⁴ Welf. & Inst. Code § 11402.; All County Letter 11-77.

³⁵ Welf. & Inst. Code § 16501.1 (c)(1); All County Letter 11-77.

remaining in a group home should be a short term option until a more appropriate and permanent placement can be found.³⁶

Q23: What is THP-Plus Foster Care and how is it different that the current THP-Plus program?

A: THP-Plus Foster Care is a new supervised placement available to youth in extended foster care, ages 18 to 20. It is modeled after the exiting THP-Plus program for non-dependents, and provides youth with housing and supportive services in an age-appropriate setting. THP-Plus Foster Care differs from the current THP-Plus program in three ways: (1) participating youth are under the supervision of the county placing agency, meaning that they will have contact with a social worker; (2) participating youth are under the jurisdiction of the juvenile court, meaning that they will have review hearings every six months; and (3) THP-Plus Foster Care is a federally-eligible foster care placement. THP-Plus Foster Care will not be licensed by Community Care Licensing, instead the provider will be approved by the county placing agency and the approved provider then will certify the facility or site of placement. CDSS is currently in the process of developing the new approval standards and a statewide rate structure for THP-Plus Foster Care providers.³⁷

Q24: What is a Supervised Independent Living Placement (SILP) and how is it different from the other placement options available to youth 18 to 20?

A: The Supervised Independent Living Placement (SILP) is a new placement option for youth age 18 to 20. A SILP is a supervised setting as specified in a NMD's Transitional Independent Living Plan (TILP). This may include apartment living, room and board arrangements, college dorms and shared roommate settings.

There are two steps in approving a SILP placement for an individual NMD. First, the NMD must undergo a readiness assessment prior to being approved to live in a SILP. Second, the actual SILP placement itself must be approved by the county as meeting health and safety standards appropriate for legal adults using the SILP inspection checklist (the SOC 157B).

A youth placed in a SILP may receive the foster care benefit directly. The payment for a youth living in a Supervised Independent Living Placement is the equal to the basic foster care rate for 15 – 20 year olds, currently \$776 per month. NMDs in a SILP setting are not eligible for a specialized care increment; however, a NMD who is parenting can receive the infant supplement in addition to the basic rate.³⁸

³⁶Welf. & Inst. Code § 16501.1 (c)(1); All County Letter 11-77.

³⁷ Welf. & Inst. Code §§11400(x), 11403.2(a)(3); All County Letter 11-77.

³⁸ Welf. & Inst. Code § 11400(w); All County Letter 11-77; SOC 157B.

Q25: If a youth moves from one SILP to another, will the benefits continue while the new setting is being approved?

A: To ensure the continuity of payment, NMDs who inform the placing agency of the move are allowed to live in an unapproved SILP temporarily while awaiting approval of the new SILP. In a situation where a NMD moves unexpectedly, the county must inspect the new SILP site for approval within ten calendar days.³⁹

Q26: Are there any categories of NMDs that cannot live in a Supervised Independent Living Placement?

A: There are not any categories of NMDs that are prohibited from living in a SILP setting. In general, placement in a SILP is based on an assessment of the developmental readiness of the young adult.⁴⁰

Those youth receiving extended Kin-GAP benefits, extended AAP benefits or extended AFDC-FC benefits as a nondependent with a non-related legal guardian are not eligible for a SILP or THP-Plus Foster care (or any other kind of foster care placement) because they are not in foster care. These youth may live in a college dorm as long as the former guardians or adoptive parent(s) maintain the support of the youth. These youth cannot receive the payment directly since these placements are not considered a SILP placement.⁴¹

Q 27: What is a Shared Living Agreement?

A: A Shared Living Agreement is an agreement that a NMD can enter into with a provider or caregiver. It is not required, but is considered a best practice. The agreement documents a written understanding between the caregiver and the NMD on the various expectations for placement in a household and conditions for shared daily living (such as house rules, curfews, chores etc). The agreement is individualized as it should reflect the NMDs continued transition to adulthood. The agreement will be updated as needed and appropriate. Counties can choose to implement this as a requirement and it can be a useful tool to facilitate discussions between caregivers and NMDs.⁴²

Q 28: Can a NMD reside out of county or out of state and still qualify for EFC?

A: Yes, a NMD has the right to reside out of county or out of state and still qualify for EFC benefits. For NMDs who reside in a different county or state, the county of jurisdiction retains case management and financial responsibility for the NMDs, but the county of jurisdiction may request that the host county provide courtesy supervision or the host state provides supervision under the Interstate Compact for the Placement of Children. Counties or states are not required to provide such supervision. Monthly visits still need to occur between the social

³⁹ Welf. & Inst. Code § 11402.2; All County Letter 11-77.

⁴⁰ All County Letter 11-77.

⁴¹ All County Letter 11-69; All County Letter 11-77.

⁴² All County Letter 11-69, Attachment B; All County Letter 11-77, Attachment A..

worker and the NMD (even if the host county or state of residence refuses to provide supervision).⁴³

⁴³ Welf. & Inst. Code §§ 11403(f)(1), 16501.1(f)(4); All County Letter 11-69.

Foster Care After Age 18 – BENEFITS

Q29: What are the foster care rates paid for youth age 18 to 20?

A: Youth (or their caregiver) are eligible to receive the foster care rate that is set according to the youth's type of placement and, in some cases, the youth's special needs. The amount of the benefit depends on where the youth is living. There are different rates available for relatives, guardians, foster family homes, group homes, and foster family agencies. The same rules that currently govern the amount of the benefit for these different placements continues in effect for those youth who remain in these placements after the age 18 as NMDs. If a youth remains in one of these placements, his or her benefit will remain unchanged as a result of turning 18 and continuing in extended foster care as a NMD.⁴⁴

A parenting NMD continues to be eligible to receive the Infant Supplement in his/her placement and also continues to be eligible for the \$200 supplement if the NMD and the caregiver have completed a Shared Responsibility Plan.⁴⁵

NMDs in SILP placements are eligible for the basic foster care rate for 15 – 20 year olds, currently \$776 a month. NMDs in SILP are not eligible for specialized care increments. However, a parenting NMD is eligible to receive the Infant Supplement in the SILP.⁴⁶

The rate for the THP-Plus Foster Care program has not yet been determined. The California Fostering Connections to Success Act authorizes for approval, renewal and per site fee which is calculated into the rate. Currently there are two rates proposed for THP-Plus, one for site based and one for host family.

Youth participating in extended foster care are also eligible to receive Medi-Cal and a county clothing allowance (if available), just like they were receiving prior to turning 18.⁴⁷

Q30: Can a youth receive the foster care benefits directly?

A: A youth living in a Supervised Independent Living placement can receive the payment directly. Youth in all other types of placements (like group homes, THP-Plus Foster Care, or a foster family home) do not receive the benefit directly, but a provider may agree to give part of the benefit to the NMD to manage in order to help the NMD to develop financial skills and greater levels of responsibility.⁴⁸

⁴⁴ All County Letter 11-69, All County Letter 11-77.

⁴⁵ Welf. & Inst. Code § 11465(d)(2)

⁴⁶ Welf. & Inst. Code § 11461(e); All County Letter 11-77.

⁴⁷ Welf. & Inst. Code § 11461(f)(1)

⁴⁸ Welf. & Inst. Code § 11403(d); All County Letter 11-69; All County Letter 11-77.

Q31: What placement types are eligible for the specialized care increment rate, provided to youth with additional needs?

A: Youth age 18 to 20 living in a foster family home, nonrelated legal guardian, NREFM or with an AFDC-FC funded relative caregiver may be eligible for a specialized care increment rate based on their assessed needs.⁴⁹

Q32: Does a youth have to be continuing in foster care in order to receive services like Medi-Cal and Independent Living Program Services?

A: No. A youth who elects to exit foster care at age 18 and to forego the extended foster care benefits remains eligible for Medi-Cal up to age 21 under the Medi-Cal for Former Foster Youth program.⁵⁰ In addition, these youth remain eligible for Aftercare Independent Living Program Services and non-federally funded THP-Plus up to age 24; although, space in the program is not guaranteed.⁵¹

Q33: What happened to the Completion Rule?

A: As of January 1, 2012 there will no longer be a completion rule for NMDs participating in extended foster care (the completion rule was the rule that required that a youth have a reasonable expectation of completing high school or an equivalent program before age 19 in order to receive benefits after the age of 18). This means a NMD participating in extended foster care can continue to receive benefits beyond age 18 regardless of whether they are expected to complete a high school or an equivalent program prior to turning 19.⁵² Additionally, a NMD can continue to reside in a group home up until age 19 in order to promote the educational stability of the NMD.⁵³

The completion rule continues to exist for certain groups that do not have access to extended benefits. This includes youth who receive Kin-GAP who entered Kin-GAP prior to age 16 and youth in non-related guardianships created through the probate court.⁵⁴

⁴⁹ Welf. & Inst. Code § 11461(e); All County Letter 11-69; All County Letter 11-77.

⁵⁰ Welf. & Inst. Code §14005.28; ACWDL 00-41, 00-61, 01-41.

⁵¹ Welf. & Inst. Code §§ 10609.4, 11403.2(a)(2).

⁵² Welf. & Inst. Code § 11403(b).

⁵³ Welf. & Inst. Code § 16501.1(c)(1).

⁵⁴ All County Letter 11-69.

Foster Care After Age 18 – SPECIAL TOPICS

Q34: How does the California Fostering Connections to Success Act impact youth on probation or youth who are under the supervision of the delinquency court? Will these youth be eligible for extended foster care benefits under the California Fostering Connections to Success Act?

A: Youth who reach age 18 in a foster care placement who are on probation and supervised by the delinquency court (also known as “wards” of the court) are eligible for extended foster care services in the same manner as dependent youth.⁵⁵ In addition, the California Fostering Connections to Success Act creates a new jurisdictional status – known as “transition jurisdiction” – in order to allow former wards who meet certain requirements to participate in extended foster care without having to remain under delinquency jurisdiction.⁵⁶

Wards who are under an order for foster care placement on their 18th birthday are eligible for extended foster care and enter transition jurisdiction once they have finished the terms of their probation.⁵⁷

In addition, wards who are under 18 are eligible for transition jurisdiction if: (1) they are subject to an order for foster care placement; (2) is between 17 years old and 5 months and under 18 years; (3) the youth no longer requires the supervision of the delinquency court because they have achieved their rehabilitative goals; (4) s/he is at risk of abuse and neglect and cannot be returned to the parental home safely; and (5) the youth intends to meet the non minor dependent participation requirements.⁵⁸

In order to ensure that all eligible wards have this opportunity, AB 212 requires that the delinquency court consider whether to modify the youth’s jurisdiction to either dependency or transition jurisdiction over the youth at the status review hearing closest to the time when the youth turns 18 and at any hearing to terminate delinquency jurisdiction.⁵⁹

Q35: Who provides the supervision for a ward who elects to participate in extended foster care?

A: The county protocols established by WIC 241.1 must address which agency and court will supervise (1) a youth whose jurisdiction is modified from delinquency to dependency; (2) a NMD who is under the court’s transition jurisdiction; and (3) a NMD who becomes subject to adult probation supervision.⁶⁰

⁵⁵ Welf. & Inst. Code § 14000(v).

⁵⁶ Welf. & Inst. Code § 450 et seq.

⁵⁷ Welf. & Inst. Code § 607.2 et seq.

⁵⁸ Welf. & Inst. Code § 450 et seq.

⁵⁹ Welf. & Inst. Code §§ 451; 607.2.

⁶⁰ Welf. & Inst. Code §§ 241.1(b)(3), 451(c).

Q36: What about the case of youth who are custodial parents--How does the California Fostering Connections to Success Act provide for them?

A: Youth who are custodial parents have the same rights to participate in foster care after age 18 as all other youth. Under current law, a provider who is caring for a minor parent and her child is paid a foster care benefit that includes an amount for the care of both the minor parent and the child. This rate structure continues for nonminor parents after they turn 18. The caregiver of nonminor parent will continue to receive an “infant supplement” as part of the foster care rate for the NMD. If the nonminor parent lives in a Whole Family Home, the caregiver may be eligible for the \$200 for the Shared Responsibility Plan.⁶¹

If a nonminor parent elects to live in a Supervised Independent Living setting with her child, s/he would receive the basic rate for her own support plus the infant supplement for the care of her child.⁶²

Note, if the nonminor parent is not federally eligible for foster care benefits and is placed with an approved relative under the court’s jurisdiction, the NMD can continue to receive CalWORKs benefits. CalWORKs is available for NMDs until age 19 beginning January 1, 2012 and until age 20 beginning January 1, 2013. There is no infant supplement to the CalWORKs benefit. All pregnant or parenting youth have the option of establishing their own CalWORKs case at age 18 or remaining in extended foster care and receiving CalWORKs while living in the home of an approved relative. The nonminor parent is not subject to the CalWORKs program rules if s/he chooses to remain in extended foster care.⁶³

Q37: If the youth is a consumer of Regional Center Services, will the youth continue to receive dual agency rates and the supplemental rate for extraordinary care and supervision?

A: Yes, the dual agency and supplemental rates will apply to youth otherwise eligible for extended foster care who remain a dual agency Regional Center consumer.⁶⁴

Q38: Can a youth receive both extended foster care benefits under the California Fostering Connections to Success Act and Supplemental Security Income (SSI)?

A: A youth who meets the eligibility requirements for both extended foster care and SSI may be eligible to receive both at the same time, depending on the rules pertaining to offset between SSI and foster care benefits. SSI payments are reduced dollar-for-dollar by the amount of federal foster care benefits. A youth can receive

⁶¹ Welf. & Inst. Code § 11364(c); All County Letter 11-69.

⁶² All County Letter 11-69; All County Letter 11-77.

⁶³ All County Letter 11-78.

⁶⁴ All County Letter 11-61.

both SSI and federal foster care payments only if the SSI benefit is higher than the foster care payment. If the federal foster care benefit exceeds the SSI benefit, then the youth would receive only the foster care benefit and the SSI benefits will be placed in suspense.⁶⁵

Because a youth will lose their SSI eligibility if they do not receive a SSI payment for 12 consecutive months, AB 12 requires that county welfare agency, during at least one month of every 12-month period, beginning with the date that the SSI benefit is placed in suspense, forego the federally funded AFDC-FC or Kin-GAP benefits and instead use state AFDC-FC or Kin-GAP resources to supplement the SSI benefit that the youth receives during that month. This will ensure that the NMD actual receives a SSI payment during at least one month of every 12 month period and will ensure the NMD retains eligibility for SSI.⁶⁶

Youth who are eligible for state foster care benefits can receive both SSI and their SSI benefit as long as the foster care payment exceeds the SSI payment.

Youth who receive a SSI benefit that exceeds their foster care maintenance payment may remain in extended foster care, even though they do not receive any foster care payment. These youth will receive all the services, including case management, ILP, and court supervision, that all youth in extended care receive. However, many of these SSI eligible youth may choose to exit out of extended care because of the services and supports available in the community to SSI recipients.⁶⁷

Q39: Under the California Fostering Connections to Success Act, the extension from age 20 to 21 is subject to budget appropriation by the state legislature. When would it happen and how can we plan for this?

A: The final year of extension (from age 20 to 21) is subject to a budget appropriation by the state legislature. It is not automatic, as the first two years of the age extension are. The state legislature must take action which will be contingent upon the state budget and proven cost effectiveness of extended foster care. Until this action is taken by the Legislature, foster care in California is effectively extended only to age 20. Once the Legislature takes this action, it does not need to be taken again.⁶⁸

⁶⁵ Administration for Children and Families, Child Welfare Policy Manual, Section 8.4D, Question 1.

⁶⁶ Welf. & Inst. Code § 13757(d).

⁶⁷ Welf. & Inst. Code § 13754 et seq.; All County Letter 11-69.

⁶⁸ Welf. & Inst. Code § 11403(k); All County Letter 11-69.

Kin-GAP – ELIGIBILITY

Q40: How does the California Fostering Connections to Success Act change California’s current Kin-GAP program?

A: The California Fostering Connections to Success Act made several important changes to the Kin-GAP program. First, under the California Fostering Connections to Success Act there are now two different subsidized guardianship programs. California will have a new Kin-GAP program funded with state-only dollars, for those non-federally eligible youth who, as dependents, were placed by juvenile court in an approved home of a CalWORKs funded relative.⁶⁹ Youth who are eligible to receive federal foster care benefits while in foster care will participate in the federally-subsidized Kin-GAP program.⁷⁰ The two programs are identical in terms of eligibility requirements, benefits, and other rules.

The five big changes to the Kin-GAP eligibility rules are: (1) youth have to be residing with the relative for only 6 months prior to exiting foster care to Kin-GAP (previously it was 12 months); (2) Kin-GAP benefits are determined and adjusted periodically based on changed needs pursuant to a negotiated agreement (previously, Kin-GAP benefits were frozen at the same amount of what the youth was receiving in foster care the month before exiting to Kin-GAP); (3) youth can continue to receive Kin-GAP beyond age 18 and up to age 19/20/21 if certain conditions are met as discussed in Q41 (previously, Kin-GAP only went to age 18 or 19); (4) Kin-GAP now can be paid out of state; and (5) a child can enter Kin-GAP via the voluntary placement agreement process if juvenile court orders a guardianship at the WIC 360 hearing.⁷¹

Q41: What are the basic eligibility requirements for a youth to receive Kin-GAP under the California Fostering Connections to Success Act?

A: There are four basic eligibility requirements for a youth to receive Kin-GAP benefits. The youth must (1) have been removed from his parental home and placed into foster care supervised by either the dependency or the delinquency court; (2) reside with an approved relative guardian for at least 6 consecutive months, (3) have a kinship guardianship established with that relative by juvenile court, and (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 establishment of the guardianship.⁷²

In addition, prior to the court initiating the guardianship, the relative guardian and the county agency must enter into a Guardianship Agreement setting forth the amount of the payment. This Guardianship Agreement does **not** have to be

⁶⁹ Welf. & Inst. Code § 11360 et seq.

⁷⁰ Welf. & Inst. Code § 11385 et seq.

⁷¹ Welf. & Inst. Code §§ 11360 et seq, 11385, et seq ;All County Letter 11-15; All County Letter 11-67

⁷² Welf. & Inst. Code §§ 11363, 11386.

completed prior to the court ordering guardianship for purposes of eligibility for the state Kin-GAP program.⁷³

Q42: Do all youth who are eligible for Kin-GAP benefits remain eligible after age 18 and up until age 21?

A: No. Kin-GAP benefits terminate at different times depending on what age the youth was when the negotiated Kin-GAP benefits commenced and the special needs of the youth, as explained below.

A youth, regardless of age of entry into Kin-GAP, may continue to receive Kin-GAP up until age 21 if s/he has a physical or mental disability that warrants continuing assistance beyond age 18 and up until 21.⁷⁴

Youth who do not have a physical or mental disability and who began to receive the negotiated Kin-GAP payment prior to reaching 16 years old are eligible for Kin-GAP benefits after age 18 if they are expected to complete high school or an equivalent program before they turn 19. If they have this expectation, they can continue to receive Kin-GAP until they graduate or turn 19, whichever is sooner. If they do not have the expectation of completion by age 19, Kin-GAP benefits terminate at age 18.⁷⁵

Effective January 1, 2012, youth who turned 16 before the negotiated Kin-GAP payments commenced may be eligible for extended Kin-GAP benefits beyond age 18, and up until age 20, as long as the youth meets one of participation conditions described in Q3 and signs a mutual agreement.⁷⁶

Q43: Do the participation conditions apply to youth in the Kin-GAP program who wish to receive Kin-GAP after age 18?

A: As with youth in foster care, a youth who entered the Kin-GAP program after age 16 can continue to receive Kin-GAP assistance until age 20 as long as the youth is doing ONE of the following⁷⁷:

- (1) Completing high school or equivalent program (i.e. GED); OR
- (2) Enrolled in college, community college or a vocational education program; OR
- (3) Participating in a program designed to remove barriers to employment; OR
- (4) Employed at least 80 hours a month; OR
- (5) Unable to do one of the above requirements because of a medical condition.

⁷³ Welf. & Inst. Code §§ 11364, 11387.

⁷⁴ Welf. & Inst. Code §§ 11363(c)(2), 11386(g)(2).

⁷⁵ Welf. & Inst. Code § 11363(c)(3), 11386(g)(3); All County Letter 11-15.

⁷⁶ Welf. & Inst. Code §§ 11363(d), 11386(h).

⁷⁷ Welf. & Inst. Code §§ 11363(d), 11386(h).

Q44: Kin-GAP doesn't include ongoing case management and agency supervision. How will it be determined that youth age 18 to 20 in Kin-GAP are meeting one of the five participation conditions?

A: The relative guardian is responsible for requesting the Kin-GAP benefit extension beyond the age of 18, and providing documentation to the responsible public agency supporting that the youth meets one of the five participation criteria. Further, the relative guardian is also responsible for reporting any changes to the responsible public agency when the nonminor former dependent is no longer meeting one of the five participation criteria.⁷⁸

Q45: How is the amount of the Kin-GAP benefit determined?

A: The amount of the Kin-GAP benefit, as well as the other services and assistance the youth is entitled to receive, is determined through a negotiation between the relative guardian and the county child welfare agency, probation department or Indian tribe. The benefit amount, as well as the additional services and assistance the child will receive, is set forth in a written Guardianship Agreement that can be adjusted periodically, but no less than once every two years, as the needs of the child and the circumstances of the guardian change. The negotiated Kin-GAP benefit cannot exceed the amount of the age-related, state-approved basic foster care maintenance payment and any applicable special care increment that the youth would have received if s/he had remained in foster care. If the youth is a parent of a child placed in the same home, the teen parent rates apply. If the youth is a regional center consumer, the dual agency rates apply.⁷⁹

Q46: Can a youth who is participating in Kin-GAP and is over age 18 receive the Kin-GAP payment directly?

A: No, the Kin-GAP payment is paid directly to the relative guardian.

Q47: How will the conversion of current state-only Kin-GAP cases to the new federal and state programs happen?

A: The conversion of Kin-GAP cases that existed prior to January 1, 2011 into either the new federally-subsidized or new state funded program began on January 1, 2011. As these Kin-GAP cases come up for their annual review, they are assessed to determine if the youth was receiving a federal AFDC-FC payment prior to entering the Kin-GAP program. If the youth was receiving a federal foster care payment prior to entering Kin-GAP, then the case can be transitioned into the new federal Kin-GAP program (as long as there is documentation of the prior federal eligibility). If the youth was receiving CalWORKs as a dependent placed with an approved relative, the case will be converted into the new state funded Kin-GAP program.

⁷⁸ All County Letter 11-XX (forthcoming)

⁷⁹ Welf. & Inst. Code §§ 11364, 11387; All County Letter 11-15.

The county will inform the relative guardian of the benefits of transitioning to the new programs, including the right to negotiate the amount of Kin-GAP assistance and to re-negotiate rates as the needs of the child and circumstances of the guardian change over time. The transition from the current Kin-GAP program to the new federal or state Kin-GAP programs should be seamless for the relative guardian with no disruption in payments.⁸⁰

Q48: When does the new Kin-GAP program under the California Fostering Connections to Success Act get implemented?

Different provisions of the new Kin-GAP program get implemented at different times.

On January 1, 2011, three things happened: (1) the conversion of state-only Kin-GAP cases into new federal and state Kin-GAP programs began following the annual review schedule of the current Kin-GAP cases; (2) new applications for Kin-GAP benefits are now accepted per the new program rules described in Q34; and (3) youth with a mental or physical condition that warrants the continuation of assistance became eligible to receive Kin-GAP until age 21.⁸¹

On January 1, 2012, the provision permitting youth who entered Kin-GAP at age 16 or older to continue to receive Kin-GAP benefits after age 18 and up to age 20 will be implemented.⁸²

⁸⁰ All County Letter 11-15.

⁸¹ All County Letter 11-15.

⁸² Welf. & Inst. Code §§ 11363(d), 11386(h); All County Letter 11-15.