



CCWRO Welfare News

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CHILD WELFARE/FOSTER SERVICES PROGRAM ANNUAL EXPENDITURES \$2,2 billion

California Child Welfare Services Caseload

Type of Case	Number of Cases
Getting Foster Care Payments	43,798
Emergency Response	39,802
Family Maintenance	23,663
Family Reunification	23,192
Permanent Placement	33,708
Family Reunification	23,192

NOTE: Many of these cases are a duplicated count because in a given year the same case can be emergency response, family maintenance, family reunification and and permanent placement

Payments to Children Eligible for CalWORKs/AFDC

Where AFDC/CalWORKs Eligible Children Live	Monthly Welfare Benefit Levels
Foster Care Group Home – (No TANF/CalWORKs work requirement, no asset or income test)	\$8,300
Foster Family Agency- (No TANF/CalWORKs work requirement, no asset or income test)	\$2,075
Adoption Assistance for Adoptive Parents- (No TANF/CalWORKs work requirement, no asset or income test)	\$972
Foster Family Home - (No TANF/CalWORKs work requirement, no asset or income test)	\$916
Federal Guardian Assistance - (No TANF/CalWORKs work requirement, no asset or income test)	\$790
Kinship Guardian Assistance - (No TANF/CalWORKs work requirement, no asset or income test)	\$751
Living with Natural Parents getting CalWORKs- (TANF/CalWORKs work requirement, asset and income test – the individuals getting these welfare checks are getting an average fixed income at less than 30% of the federal poverty rate.)	\$205

California Child Welfare Services Finds Easy Targets - Children from Poor Families.

Child Welfare Services program is essentially limited to poor children because federal funding is available for children who would otherwise be eligible for AFDC under the 1996 rules. This means that the child welfare system only targets poor families.

When the child is removed from the home, a petition to remove the child is filed to determine if the child should remain in or out of home placement. Upon the first appearance in court at the detention hearing, the judge will appoint a lawyer if the parent can't afford a lawyer. If CPS recommends continued out of home placement, the judge will make an order for visitation.

After the child is removed from a CalWORKs family, the parent loses eligibility for CalWORKs. CPS demands that the parent enroll in parenting classes, go to drug and alcohol counseling, take drug tests, etc. 70% of the children are removed for neglect. "Neglect" is a by-product of families subsisting on fixed incomes less than 30% of the federal poverty level.

On February 8, 2008, the San Jose Mercury posted a story about CPS. In part, the story is as follows:

"In this Sacramento courtroom, attorneys spend two minutes on the case of a 3-year-old sent to the children's shelter after being found in a filthy home. The case of a teenager anxious to reconnect with lost siblings gets three minutes, yet his desperation cannot be felt; he's absent from his own hearing. Should a mother's right to her child be terminated? The court date opens and closes in 60 seconds. Parent and child are legally severed for life.

By 11:30 a.m., 14 cases into a 21-case morning, Sacramento Superior Court Referee Daniel Horton is anxious. "C'mon folks, we can do this! Let's go, let's go, let's go!" he shouts. "OK, counsel, we can do this, let's go, let's get it done. It's like driving a car. Sit down and buckle up."

Scenes like this repeat daily in the state's juvenile dependency courts, a little-known arm of the justice system deciding the fate of families whose children have been removed by social workers. "http://www.mercurynews.com/ci_8210271

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Nothing has changed since 2008. Poor parents are still afforded third class justice in California.

In addition, poor families are not even entitled to administrative due process of law in California. California has had the unlawful policy of refusing to grant a 45 CFR §205.10 hearing to poor families whose children have been removed. When the court orders services such as "reasonable visitation" or the attendance of parenting classes, the social worker determines the parameters of the services by which the parent(s) must live by and obey. California pays for the social paid for with federal IV-B and IV-E dollars. In one case, the dependent minor was 3 years old but the worker required the mother to attend parenting classes designed for a teenager. The mother complied in order to get her child returned.

The Federal Child Welfare Services Manual clearly requires California to provide child welfare services clients with an administrative hearing to challenge the reasonableness of the social worker's decisions. Since the enactment of IV-B and IV-E California has intentionally REFUSED to afford due process to victims of the child welfare services system. Had California had the administrative hearing process, the mother of the 3 year old could have challenged the social worker's requirement.

Federal law originates from the same Due Process provisions that CalWORKs and CalFresh use--45 CFR §205.10. Due process requires that the child welfare services social worker issue an adequate notice of action, including a right to a hearing, if the recipient of the notice of action disagrees with the social workers' determination.

If the social worker decides to modify the visitation, then the social worker shall, and not may, issue a timely and adequate notice of action changing the visitation. If the recipient files for a timely request for a hearing, then the old visitation stays in effect until the matter is resolved by the hearing authorities.

And this is called DUE PROCESS of LAW? California's parents of impoverished families are enduring deep poverty living on a fixed income that less than 30% of the federal poverty level. Meanwhile the TANF State Budget takes \$1.5 billion out of the CalWORKs program as a "contribution to the State General Fund".

Finally, the constitutional rights of California's poor parents to due process have been emasculated by denying them decent court representation and access to the administrative hearing process.

"The 2015 Child Welfare Manual.

Question: Do the regulations at 45 CFR 205.10 require fair hearings for appeals related to services as well as financial claims?

Answer: Yes. The regulations at 1355.30 (p)(2) provide that the procedures for hearings found in 45 CFR 205.10 shall apply to all programs funded under titles IV-B and IV-E of the Social Security Act. Fair hearings in relation to services as well as financial claims are therefore covered under this regulation. The Department believes that the close programmatic and fiscal relationship between titles IV-E and IV-B makes a fair hearings requirement appropriate. The process for fair hearings under section 205.10 is essentially the same for services hearings as for financial hearings. However, because the substantive portion of the regulations provides no examples of service issues, the State has the option of modifying the context of the hearing to accommodate services program complaints. The hearing process under either situation requires that recipients be advised of their right to a hearing, that they may be represented by an authorized representative, and that there be a timely notice of the date and place of the hearing.

The following paragraphs, excerpted from the now obsolete section 1392.11, may be used as guidance for the hearings related to services issues. "The State must have a provision for a fair hearing, under which applicants and recipients may appeal denial of or exclusion from a service program, failure to take account of recipient choice of service or a determination that the individuals must participate in the service program. The results of appeals must be formally recorded and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal. There must be a system through which recipients may present grievances about the operation of the service program."

Examples of service issues in title IV-B that might result in a grievance or request for a hearing include: Agency failure to offer or provide appropriate pre-placement preventive services or reunification services; Agency may not have placed child in the most family-like setting in close proximity to his parents; Parents were not informed of their rights to participate in periodic administrative reviews; Agency failed to provide services agreed to in case plan; A request for a specific service is denied or not acted upon; and Agency failure to carry out terms of adoption assistance agreements.

• **Source/Date:** ACYF-CB-PIQ-83-04 (10/26/83)
Legal and Related References: 45 CFR 1355.30 (k), 205.10 and 1392.11